



ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item Meeting of May 7, 2005

DATE: April 29, 2005

SUBJECT: U-3108-04-1 USE PERMIT for live entertainment located at 5157 Lee Highway (Tacos Dona Mary) (RPC #02-082-019).

Applicant:

Tacos Dona Mary

By:

Maria Figeroa Tellez
5157 Lee Highway
Arlington, Virginia 22207

C.M. RECOMMENDATION:

Approve, subject to the conditions of the staff report with a quarterly administrative review (August 2005, November 2005 and February 2006) and a County Board review in one year (May 2006).

ISSUE: The neighborhood has expressed concerns that the proposed use would create problems for the adjacent community.

SUMMARY: This is a use permit request for live entertainment on Fridays and Saturdays from 7 p.m. to 12:00 a.m. (midnight) for the Tacos Dona Mary restaurant. The applicant is proposing to have karaoke and live music in the front portion of the restaurant. A similar use, the Palladium Restaurant's live entertainment use permit, is being reviewed at the same County Board meeting. Staff has recommended and the applicant has agreed that the hours for the live entertainment be amended to match the hours proposed for the Palladium, given the close proximity of the two uses to the residential properties located along the rear of the shopping center. The neighboring civic association continues to express opposition to this use permit and renewal of the Palladium Restaurant's existing live entertainment use permit. Staff considers the limited hours and days, the agreed upon conditions, and a quarterly administrative review period to be a reasonable approach that will provide appropriate safeguards to the adjacent community. Therefore, staff recommends approval of this use permit.

BACKGROUND: The applicant has been operating the Tacos Dona Mary restaurant at this location with 49 seats and a total capacity of 79 people since January 2004. The applicant has indicated that they have use of parking spaces in front of their building and are seeking written

County Manager: _____

Staff: Marcia A. Smith, DCPHD, Planning Division

PLA-4006

permission to use other parking spaces in the surrounding commercial properties. The applicant is requesting to have live music and karaoke on Fridays and Saturdays from 7 p.m. to midnight. Dancing will not be permitted.

Site: The site is located near the intersection of North George Mason Drive and Lee Highway in the Garden City Shopping Center.

Zoning: The site is zoned "C-1," Local Commercial Districts.

Land Use: The site is designated on the General Land Use Plan as "Service Commercial" (Maximum 1.5 FAR).

Neighborhood: The use is located in the Yorktown Civic Association area.

DISCUSSION: The applicant originally requested live entertainment on Thursday, Friday, Saturday, and Sunday with hours varying up until 1 a.m. Staff spoke with the Yorktown Civic Association who stated that they had issues with this shopping center, including noise, parking and trash. Staff recommends and the applicant has agreed to limit the entertainment to Friday and Saturday evenings until midnight. In addition, the applicant has agreed to conditions that would mitigate potential impacts including picking up trash, posting signs that tell patrons where to park and identifying a liaison that would be empowered to directly address citizens' concerns. The name and telephone number of the liaison would be shared with the nearest neighbors, the Yorktown Civic Association, and the County's Zoning Administration Office. The applicant has also stated that they have use of parking spaces in front of their building and are seeking additional parking in the surrounding commercial areas where retail uses would be typically closed during the hours of live entertainment. Staff recommends that the applicant post signs in the windows and other areas of the restaurant informing patrons of the location of additional parking.

The proposed live entertainment complies with the County's Zoning Ordinance. This application for live entertainment use would be located in space designated near the front of the building along the parking lot. The music would be subdued so as not to interfere with the patrons dining experience or ongoing conversations. The applicant has stated that there will be no dancing by musicians or patrons in association with the live entertainment. In addition, the applicant has agreed to a condition specifying that all doors and windows must remain closed during the hours of live entertainment with all music being provided indoors versus outdoors. Staff has determined that the proposed location of the musicians and their instruments is situated in an area that does not impede or hamper the entrance, exit or general maneuvering of the patrons.

In addition, there is another restaurant, The Palladium, which currently operates under an approved use permit for live entertainment and dancing in this shopping center. That use permit is being reviewed on the same County Board agenda. In an effort to limit the impacts of the two uses on the nearby neighbors, staff has worked with the Palladium Restaurant to amend the hours of live entertainment so that both uses have the same hours of operation of live entertainment. Both applicants have agreed to similar conditions of use permit approval.

Code Enforcement: Code Enforcement staff inspected the site on January 4, 2005, and found several violations with the business including a broken glass panel at the front of the premises, extensive use of extension cords, and defective ceiling panels. The applicant was given notice and told to correct the violations. Staff returned to the site on February 7, 2005, and found the violations to be corrected. Code Enforcement staff again visited to the site on February 23, 2005, and did not find any violations with the site.

Civic Association: Staff, the applicant, and members of the Yorktown Civic Association met on February 8, 2005, to discuss the proposed use permit. The neighbors stated that there are ongoing issues with the shopping center that includes limited parking spaces, trash, noise and people parking in the neighborhood. They have stated that they are opposed to this type of use in this shopping center. The conditions that staff has recommended and the applicant has agreed to are designed to mitigate potential impacts on the neighborhood and to open opportunities for dialogue among the groups.

Neighborhood Meeting: On April 20, 2005 County staff representing the Police, Planning and Code Enforcement Offices attended an on-site meeting with the Palladium owner, near neighbors, and civic association representatives. Police Officers encouraged the owners of the businesses and the neighbors to participate in Police efforts in the area that would include monthly meetings with the Palladium and the Taco Dona Mary establishments. In addition, the applicants have agreed to enroll all restaurant staff in the Police Department's TIPS training and to work more closely with the Police Department.

CONCLUSION: The limitation of the hours of live entertainment to Fridays and Saturdays until midnight, along with the proposed conditions and quarterly administrative reviews, will help mitigate any significant impacts from this business. Therefore, staff recommends approval of the use permit subject to the conditions of the staff report, with a quarterly administrative review (August 2005, November 2005 and February 2006) and a County Board review in one year (May 2006).

1. The applicant agrees that the hours of live entertainment shall be limited to Fridays and Saturdays between the hours of 7 p.m. and 12:00 a.m. (midnight). The applicant further agrees that there shall be no dancing associated with the live entertainment use permit. If dancing is desired in the future, the applicant agrees to obtain County Board approval prior to offering dancing.
2. The applicant agrees to secure additional parking from adjacent businesses to support potential increased parking during the hours of live entertainment and the applicant shall make customers aware of any parking arrangements through postings in the restaurant. Customer parking shall not be permitted behind the restaurant. The applicant agrees to verify and identify, in writing, the location and permission to use any existing parking spaces and additional parking spaces that would be made available to its patrons during the hours of live entertainment. This document shall be shared with the nearest neighbors, the Yorktown Civic Association, the Leeway-Overlee Civic Association and the County's Zoning Office.

3. The applicant agrees that all requirements of County and State Ordinances, the Environmental Health Bureau, the Fire Marshal, the Police Department and the Alcohol Beverage Control Board and the Code Enforcement Office shall be met.
4. The applicant agrees to ensure that all trash is picked up along the Lee Highway frontage of the shopping center following close of business on Friday and Saturday nights. The applicant further agrees that all trash receptacles located at the rear of the site shall be well maintained and kept closed at all times.
5. The applicant agrees that live performances shall meet the limits established in the County Noise Ordinance. The applicant agrees that all windows and doors shall remain closed during the hours of live entertainment. The applicant further agrees that noise attenuation measures shall be installed in the event that noise associated with the live entertainment warrants such.
6. The applicant agrees to identify an on-site liaison that shall be available during the hours of the business operation to receive and respond to community concerns regarding the operation of the restaurant and the live entertainment. The name and telephone number of the liaison shall be shared with the nearest neighbors, the Yorktown Civic Association, the Leeway-Overlee Civic Association and the County's Zoning Office immediately.
7. The applicant agrees to ensure that all trash is removed from the parking lot along the Lee Highway frontage following close of business on Friday and Saturday nights.
8. The applicant agrees that the door to the rear of the building shall be limited to deliveries, trash removal, and emergency evacuation only. The applicant further agrees that there shall be no entry into or exit from the establishment permitted from this rear doorway by patrons.
9. The applicant agrees to ensure that all restaurant staff are enrolled in the Police Department's TIPS training and to work more closely with the Police Department. They further agree to attend monthly meetings with the Police Department that would include participation by the Palladium Restaurant to address potential issues associated with the live entertainment uses.

PREVIOUS COUNTY BOARD ACTIONS:

March 12, 2005 Deferred use permit (U-3108-04-1) for live entertainment to the
May 7, 2005 County Board meeting.