



## ARLINGTON COUNTY, VIRGINIA

### County Board Agenda Item Meeting of January 21, 2006

**DATE:** January 11, 2006

**SUBJECT:** U-2694-91-3 USE PERMIT REVIEW for live entertainment; 5169 and 5171 Lee Highway (Palladium) (RPC #02-082-026).

**Applicant:**

Palladium Restaurant and Night Club

**By:**

Jose Luis Rodriguez  
5171 Lee Highway  
Arlington, Virginia 22207-1603

**C.M. RECOMMENDATION:**

Renew, subject to all previous conditions, with an administrative review in three (3) months (April 22, 2006) and a County Board review in six (6) months (July 8, 2006). In addition, an administrative review will occur within 60 days of the issuance of any new Certificate of Occupancy.

**ISSUES:** The neighborhood has expressed concerns that the use creates ongoing problems for the adjacent community, including parking, noise, trash and inappropriate patron behavior.

**SUMMARY:** In November 2005 the County Board renewed the use permit for a period of two (2) months to allow the applicant time to meet the conditions. The Palladium Restaurant assumed the use permit in 2004. A new owner purchased the restaurant in September 2005 after the last review of the use permit (May 2005). During that review period, nearby residents continued to express concerns about this use permit and the Garden City shopping center in general. Staff met with the new owner to explain the conditions and has been in contact with the nearby civic associations. The owner has been working through these previous issues. Staff recommends another short review period to allow the continued monitoring of the applicant's compliance with the conditions of use permit approval. Therefore, it is recommended that this use permit for live entertainment be renewed, subject to all previous conditions, with an administrative review in three (3) months (April 22, 2006) and a County Board review in six (6) months (July 8, 2006). In addition, an administrative review will occur within 60 days of the issuance of any new Certificate of Occupancy.

**BACKGROUND:** This use permit was originally approved in May 1991 for live entertainment including dancing, in conjunction with an existing restaurant with a review in six months. The

County Manager: \_\_\_\_\_

Staff: Jill Griffin, DCPHD, Planning Division

PLA-4225

County Board continued to review and renew the use permit according the regular schedule of one year, three years and five years through November 2000. At the November 2000 review, residents identified issues including noise, parking and trash and the use permit was renewed for six months (May 2001) to allow the applicant time to address the concerns. Following the May 2001 review the use permit was renewed for one year (May 2002) and again for three years in May 2002. At the scheduled review in May 2005 residents identified similar issues to those raised previously including noise, parking and trash. The County Board renewed the use permit for a period of six months with numerous new conditions to mitigate these issues. Between the renewal and the scheduled review in November 2005, a new owner took over the management of the restaurant. In preparation for the November 2005 review, it became apparent that this new owner was not aware of the conditions of the use permit. Therefore, the County Board renewed the use permit for two months to allow the owner time to comply with the conditions.

**DISCUSSION:** The applicant has been trying to meet the conditions of the use permit. The applicant has recognized the days and times that live entertainment is permitted (Friday and Saturday, 9 p.m. – 1 a.m.). The applicant has screened the dumpster and ensures that the trash is picked up on a regular basis twice a week (it had been only once a week) on Mondays and Fridays. In addition to this trash pickup, the applicant has restaurant staff pick up any trash within the front parking area of the shopping center. The applicant has been keeping the doors and windows closed, to the best of his ability, to limit the noise from the establishment. The applicant has passed along his contact information as the neighborhood liaison. The applicant has worked with the business owner across the street (Craven Tire) to obtain additional parking spaces on Friday and Saturday nights. Staff confirmed with the manager of Craven Tire of this arrangement and verified that on average, on Friday and Saturday nights, between 20 to 30 parking spaces would be available. Finally, the applicant has worked closely with the Arlington County Police Department to obtain TIPS training for his staff; this is scheduled for January 24, 2006.

**Since the Last Review (November 15, 2005):**

Use Permit Conditions: The applicant has generally complied with all of the conditions. The applicant is still waiting to obtain TIPS training for his staff; this delay is primarily due to scheduling difficulties. As stated above, the TIPS training will be held on January 24, 2006.

Community Code Enforcement: Community Code Enforcement has been very involved with this particular use as well as with the Garden City shopping center in general. Staff will continue to work with the applicant to ensure that the continual compliance with the conditions.

In addition to the work that Community Code Enforcement has done pertaining to the subject use permit; they have also scheduled an interdepartmental full code inspection for the entire Garden City shopping center. This shopping center is older, has multiple landowners and has received numerous complaints from nearby residents over the years. It is anticipated that this full code inspection will allow staff to work with the property

owners to address many of these concerns including property maintenance, proper use and compliance with County codes.

Fire Marshal's Office: Staff report that the use is in compliance with the County's fire codes.

Police Department: The Police Department continues to work with the applicant and the applicant has made a commitment to work closely with the Police. In fulfilling the conditions, the applicant has scheduled for all restaurant staff to participate in the Police Department's TIPS training. This training will be on January 24, 2006. It was anticipated that the training would be complete by the time of the review – however there was some scheduling difficulty on behalf of the County.

Civic Associations: The use is located in the Yorktown Civic Association. Other nearby associations include the John M. Langston Citizens Association, the Leeway-Overlee Civic Association, and the Old Dominion Civic Association. The Yorktown Civic Association and the nearest neighbors continue to express strong opinions about this use permit and the Garden City shopping center in general. While not in full support of such a use, the civic association understands that the applicant has been conscientious of the conditions and is striving to be a good neighbor. A short review time with additional language to address the concerns of changing ownership was deemed acceptable to some members of the association. Staff has created an electronic note that will be linked to the subject property that would trigger an administrative review of the use permit within 60 days of the issuance of any new Certificate of Occupancy.

Neighborhood Meetings: County staff, representing the Police, Planning and Code Enforcement Offices, has attended two neighborhood meetings: November 9, 2005 and January 9, 2006. These meetings have first focused on the Palladium and then shifted to a broader discussion on the larger concerns with the Garden City shopping center. Another meeting is planned for mid-February to discuss the outcome of the full code, as mentioned above, and to continue the discussion of long-term development potentials of the site. Staff has committed to continue to work with the neighborhood on more long-term solutions for future plans and development along this portion of the Lee Highway corridor.

**CONCLUSION:** This site has operated with a live entertainment use permit including dancing since 1991. The County's public safety agencies including the Fire Department and Code Enforcement report that the applicant is in compliance with the County's Codes. The Alcohol Beverage Control Board (ABC) staff report no objection to renewal of this use permit. Police want to ensure that the new owner and his staff receive the appropriate TIPS training.

The neighborhood maintains strong opinions about this use permit. A short review of the use permit will allow the applicant to continue to establish himself with the neighborhood and address the concerns pertaining to this use. Further, staff will continue to meet with the neighborhood and land owners to discuss the future of the Garden City shopping center. Therefore, it is recommended that the use permit be renewed subject to all previous conditions,

with an administrative review in three (3) months (April 22, 2006) and a County Board review in six (6) months (July 8, 2006). In addition, an administrative review will occur within 60 days of the issuance of any new Certificate of Occupancy.

PREVIOUS COUNTY BOARD ACTIONS:

November 22, 1988	Deferred use permit (U-2604-88-1) for live entertainment, including dancing in an existing restaurant.
January 7, 1989	Accepted withdrawal of use permit (U-2604-88-1) for live entertainment, including dancing in an existing restaurant.
January 6, 1990	Deferred use permit (U-2657-89-2) for live entertainment, including dancing in an existing restaurant to February 10, 1990.
February 10, 1990	Deferred use permit (U-2657-89-2) for live entertainment including dancing in an existing restaurant to March 10, 1990.
March 10, 1990	Approved use permit (U-2657-89-2) for live entertainment, including dancing in an existing restaurant.
March 11, 1991	Approved use permit (U-2694-91-3) for live entertainment, including dancing with a six (6) month review.
November 16, 1991	Continued use permit (U-2694-91-3) for live entertainment, including dancing with a review in one (1) year. (November 1992)
November 14, 1992	Continued use permit (U-2694-91-3) for live entertainment, including dancing with a review in three (3) years. (November 1995)
November 21, 1995	Continued use permit (U-2694-91-3) for live entertainment, including dancing with a review in five (5) years. (November 2000)
November 18, 2000	Continued use permit (U-2694-91-3) for live entertainment with a review in six (6) months. (May 2001)
May 19, 2001	Continued use permit (U-2694-91-3) for live entertainment with a review in one year. (May 2002)
May 18, 2002	Continued use permit (U-2694-91-3) for live entertainment with a review in three years. (May 2005)

May 7, 2005

Continued use permit (U-2694-91-3) for live entertainment with an administrative review in three months (August 2005) and a review in six months (November 2005).

November 15, 2005

Continued use permit (U-2694-91-3) for live entertainment with a review in two months (January 2006).

Approved (U-2694-91-3) Use Permit Review Conditions:

1. The applicant agrees that live entertainment shall be permitted only between the hours of 9:00 p.m. and 1:00 a.m., Friday and Saturday.
2. The applicant shall screen the trash dumpsters with a solid wood fence and ensure that all trash generated by the subject restaurant is appropriately stored in trash receptacles until such time as it is removed from the premises and that debris and discarded or unwanted items are not allowed to collect at the rear of the property.
3. The applicant shall ensure that all windows and doors to the subject site are kept closed at all times and shall soundproof the rear windows if necessary.
4. 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. A minimum of 20 total spaces must be available to patrons.
5. 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 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.
6. 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.
7. 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.
8. 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.
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.