



ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item Meeting of July 8, 2006

DATE: June 21, 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:

Do not renew the subject use permit.

ISSUES: The applicant has violated conditions of the use permit.

SUMMARY: After renewing the use permit for live entertainment for two (2) months in November 2005 to allow the applicant time to remedy condition violations, the County Board heard the item in January 2006 and, based on the progress made by the applicant tempered by the concerns of the neighborhood, renewed the use permit for six (6) months. During the review process in January, staff committed to both the County Board and the neighborhood to continue to work with the applicant to ensure compliance with the conditions. An administrative review in April 2006 indicated that the applicant continued to operate in compliance with the conditions. However, following this administrative review, the applicant allowed an outside promoter to organize dance parties commencing on April 20, 2006 with live entertainment during times not permitted under the conditions of the use permit. Staff concludes that the activity was an egregious violation of the use permit conditions, and recommends that the County Board not renew the use permit.

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 (6) months. The County Board continued to review and renew the use permit according the regular schedule of one (1) year, three (3) years and five (5) 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 (6) months (May 2001) to allow the applicant time to address the concerns.

County Manager: _____

County Attorney: _____

Staff: Jill Griffin, DCPHD, Planning Division

PLA-4400

Following the May 2001 review the use permit was renewed for one (1) year (May 2002) and again for three (3) 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 (6) months and added 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, the new owner claimed he was not aware of the conditions of the use permit. The County Board renewed the use permit for two (2) months to allow the owner time to obtain a copy of and to comply with the conditions.

At its review in January 2006, the County Board renewed the use permit for six (6) months with an administrative review in three (3) months. This action reflected the County Board's general support of small business owners while respecting the concerns of the neighborhood. The County Board requested that staff continue to work with the applicant and the neighborhood regarding the subject use and the Garden City Shopping Center in general. Staff listened to the neighborhood concerns and made strong commitments to ensure compliance with the conditions. To facilitate such compliance, among other efforts, staff provided the applicant with a copy of the conditions translated into Spanish.

DISCUSSION: The applicant has generally met the conditions of the use permit. The applicant stated his understanding as to the days and times that live entertainment is permitted (Friday and Saturday, 9 p.m. – 1 a.m.). The applicant 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 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. Finally, the applicant obtained TIPS training for his staff.

Since the Last Review (January 21, 2006):

Use Permit Conditions: The applicant has generally complied with most of the conditions of the use permit. However, in late April, the applicant allowed an outside promoter to organize and promote dance parties, with live entertainment, on days and hours not permitted under the conditions of the use permit (Thursday evenings until 2 a.m.). This occurred after the applicant had been made fully aware of the use permit conditions.

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. Numerous improvements have been made to the Garden City shopping center due to this involvement. A recent site visit indicated that there were more seats than permitted in the Palladium, trash receptacle lids were open (Condition #8) and acoustic tiles in the restaurant were missing due to a water leak.

In April, Community Code Enforcement was alerted to the proposed dance party the day prior to the event. The event was marketed widely and included incentives for early arrival, targeted patrons as young as eighteen years old, and advertised music genres that include a heavy-driving bass line. The promoters advertised that the event (music) would continue until 2 a.m. Further, the promoters advertised pool tables in the downstairs – an area for which the applicant does not have an occupancy permit. Recognizing that action was required, staff provided coverage with staff from both the Police and Fire Departments, to ensure that order was maintained at the site. Community Code Enforcement provided a letter to the applicant and to the property owner highlighting this egregious violation of the use permit conditions.

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. The Police Department does not have any current concerns with this use permit.

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. At its June meeting, the Yorktown Civic Association voted that the use permit for live entertainment should be discontinued.

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 the Police Department report that the applicant is in general compliance with the County's Codes. The Alcohol Beverage Control Board (ABC) staff report no objection to renewal of this use permit.

The neighborhood maintains strong opinions about this use permit. The applicant has generally operated in compliance with the conditions of the use permit. However, because of staff's commitment to the neighborhood about compliance with the conditions, the applicant's flagrant violation of conditions for a promoter's dance party and the absence of any assurance that similar violations will not occur in the future cause staff to recommend that the County Board not renew the use permit.

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 (1) year. (May 2002)
May 18, 2002	Continued use permit (U-2694-91-3) for live entertainment with a review in three (3) 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 (6) months (November 2005).
November 15, 2005	Continued use permit (U-2694-91-3) for live entertainment with a review in two (2) months (January 2006).
January 21, 2006	Continued use permit (U-2694-91-3) for live entertainment with an administrative review in three (3) month (April 2006) and a review in six months (July 8, 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 p.m. and 1 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.