



CITY OF MANASSAS PARK

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October 7, 2011

STAFF REPORT

Conditional Use Permit (CUP) #11-09 Clarke's Grill & Sports Emporium

Governing Body Public Hearing – October 18, 2011
Planning Commission Recommendation - Approval

OVERVIEW OF REQUEST

Request - This is a request for a conditional use permit to allow live entertainment and dancing within the existing restaurant in the PUD, Planned Unit Development zoning district. The business will operate as a restaurant with live entertainment consisting of a band with no more than three members, a Disc Jockey (DJ), Karaoke, and an associated dancing area. When weather permits, the outside patio area will provide live entertainment that will include no more than two performing artists.

Site Location - The site is located at 9103 Andrew Drive in the Manassas Park Plaza. This shopping center is on the northeast quadrant of the intersection of Manassas and Andrew Drives.

Comprehensive Plan - The site is designated as Commercial, in the Comprehensive Plan.

Zoning/Acreage - The subject property is zoned PUD, Planned Unit Development, and consists of approximately 2.8 acres, identified as tax map number 36-2-2.

Surrounding Land Use & Zoning - The site is bordered by Belmont Station to the north, Park Place Senior Apartments to the east, Manassas Drive to the south and vacant property (to be developed as Belmont Reserve, single family attached residential homes) to the west.

STAFF ANALYSIS

Conditional Use Permit (CUP) #11-09 - The purpose of a conditional use permit (CUP) is to allow the city to consider special uses that may be essential or desirable to a particular community, but which are not allowed as a matter of right within a zoning district because of the increased impact of such uses. Approval of a CUP requires public hearings before both the Planning Commission and the Governing Body. A restaurant may provide live entertainment and dancing as allowed uses in the PUD zoning district **with an approved CUP**. Please refer to Attachment A for the Proposed Development Conditions dated October 3, 2011, to Attachment B for the Proposed Security Plan dated September 23, 2011, and to Attachment C for the CUP Floor Plan dated August 16, 2011.

Land Use - The application is consistent with the Commercial designation in the Comprehensive Plan.

With conditions, the proposal is consistent with the goals and strategies outlined in the Comprehensive Plan for promoting the use of land in a manner harmonious with other uses and the environment.

Community Design - There is no change to the existing architecture of the building with this CUP.

Environment - The site does not pose an impact to the environment.

Public Safety - A monetary contribution of \$0.61 per square foot of floor area (2,800 sq. ft) has been conditioned (condition 3(f)) for public safety services.

Police - The applicant has agreed to work closely with the City's Police Department. With approval of the security plan, the applicant is required to notify the Police Department of upcoming special events, and will work with the Police Department to modify the security plan in the future if the need arises.

Transportation - There is no impact to transportation with the proposed use. Condition 3(e) states that under no circumstances shall any vehicles associated with the use be parked in drive aisles, travelways or alleys, on the sidewalks or within landscaping.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission heard this application in public hearing on October 3, 2011 and found the applicant's proposals consistent with the intent of the Land Use Section of the 2006 Comprehensive Plan and compatible with existing, adjacent land use and patterns of development. The Planning Commission recommends approval of Conditional Use Permit (CUP) #11-09, with development conditions as revised on October 3, 2011, and the CUP floor plan dated to the Governing Body.

Attachments:

- A. Proposed Development Conditions dated October 3, 2011
- B. Proposed Security Plan dated September 23, 2011
- C. CUP Floor Plan dated August 16, 2011

Attachment A

Proposed Development Conditions dated October 3, 2011

**Clarke's Grill & Sports Emporium
Manassas Park Plaza**

Conditional Use Permit
CUP #11-09

Applicants: Clarke's Grill, LLC
Property Owner: RJM Management, LLC

Proposed Development Conditions
October 3, 2011

The following development conditions are intended to offset and mitigate potential impacts of the proposed live entertainment area on the subject property located at 9103 Andrew Drive in the Manassas Park Plaza (the "Premises"). These development conditions are designed to render conditional use permit application CUP #11-09 consistent with the applicable chapters of the City's adopted Comprehensive Plan. Unless otherwise stated herein, if the conditions of this conditional use permit (this "CUP") or the conditional use permit floor plan entitled "Clarke's Grill and Sports Emporium", dated August 16, 2011 (the "CUP Floor Plan") and attached hereto, are in conflict with the requirements of the City Code, the approved proffers (if any), or the Public Facilities Manual (PFM), the more restrictive requirements shall apply.

1. Site Development

- a. The applicant shall develop the Premises in substantial conformance with the CUP Floor Plan, which is attached hereto and incorporated herein by reference. This CUP is not transferable to an entity or person other than the applicant without the express written approval of the Governing Body.
- b. The Premises shall be developed in accordance with all federal, state and local environmental requirements.
- c. All permits and minimum requirements for site plan approval shall be met.

2. Use Parameters

- a. Use Limitations - The use of the Premises shall be limited to a restaurant with live entertainment consisting of a band with no more than three members, a Disc Jockey (DJ), Karaoke, and an associated area to be used by patrons for non-professional dancing. The outside patio area will periodically have up to two performing artists playing instruments, other than drums, and/or singing.

Attachment A
Proposed Development Conditions dated October 3, 2011

- b. Hours of Operation - Hours of operation shall be limited to the hours between 11:00 a.m. and 2:00 a.m. for the restaurant, to the hours between 10:30 p.m. and 1:30 a.m. for indoor live entertainment, and to the hours between 6:00 p.m. and 10:00 p.m. for the outside patio area live entertainment, seven (7) days a week.
 - c. Minors - Minors under the age of 18 must vacate the Premises no later than 9:00 p.m. each night. Minors dining in the Restaurant prior to 9:00 p.m. may remain within the Premises until after 9:00 p.m. if accompanied by a parent or legal guardian but must vacate the Premises promptly following completion of dining. Notwithstanding the foregoing, no minors shall be allowed to remain within the Premises after 10:00 p.m.
 - d. Alcohol Sales - The sale and consumption of beer, wine and/or mixed alcoholic beverages on the Premises shall be permitted only in accordance with all applicable regulations of the Virginia Alcohol Beverage Control Board ("ABC"). The applicant must present to the City's zoning administrator a copy of the license granted by ABC.
 - e. Food Sales - The applicant must present to the City's zoning administrator a copy of the permit issued by the Prince William County office of the Virginia Department of Health.
 - f. Noise/Outdoor Speaker System - An outdoor speaker system shall be permitted in the patio area only and shall not exceed the limits set forth in the Manassas Park noise ordinance (City Code Chapter 15).
 - g. Cessation of Use - If the use of the Premises with "live entertainment" should cease for a period of more than one (1) year, this CUP will become void as to those uses. Thereafter, a new conditional use permit shall be required for any additional use with "live entertainment".
3. Community Design
- a. Architecture - No change to the existing architecture of the building is proposed with this CUP.
 - b. Signs and Parking - All signage shall comply with the standards set forth in the Manassas Park zoning ordinance (City Code Chapter 31) (the "Zoning Ordinance") and Public Facilities Manual (the "PFM"). In addition, the following shall apply to signage and advertising on the site:
 - i. Banners, pennants, streamers, balloons, figures and other attention-getting devices not permitted by the Zoning Ordinance are strictly prohibited.

Attachment A
Proposed Development Conditions dated October 3, 2011

- ii. Parking and signage for handicapped customers shall be provided in accordance with the PFM and other current federal, state and local standards.
- c. Exterior Lighting - There shall be no neon and/or free-standing spot lighting fixtures.
- d. Maintenance of Premises
 - i. The applicant shall maintain the Premises and shall pick up trash, litter and debris in and around the Premises on a daily basis.
 - ii. The applicant shall effect the removal of any graffiti from the Premises no later than five (5) days following notification by a City employee to remove said graffiti. If the applicant does not have all graffiti removed from the Premises within such 5-day period, the City shall be authorized to remove the graffiti and to receive prompt reimbursement from the applicant for the cost of such removal. For purposes of this CUP, "graffiti" means writings, drawings, inscriptions, etchings, figures or marks of paint, ink, chisel, chalk, dye, acid or other similar substances, or flyers, bills and similar materials, which have been placed on public or private property without the permission of the owner, manager or occupant of the property or otherwise deemed by the City to be a public nuisance. Among other measures to be taken, the applicant shall prevent scaling of walls by keeping dumpsters away from walls, and covering or enclosing drainpipes.
- e. Transportation - Under no circumstances shall any vehicles associated with the use be parked in drive aisles, travelways or alleys, on the sidewalks or within landscaping.
- f. Fire and Rescue - Prior to, and as a condition of, zoning approval for the occupancy permit from the Department of Building, the applicant shall contribute \$0.61 per square foot of the entertainment area, (2,800 sq. ft.) for mitigation of impacts on public safety services.

Attachment A
Proposed Development Conditions dated October 3, 2011

4. Security Plan - The uses permitted by this CUP shall not commence until a security plan, detailing operating procedures and policies, has been submitted to the City Manager. The security plan provided to the City Manager must first be approved by the Manassas Park Police Department and must be specifically tailored to address the following, each of which shall be subject to enforcement action by members of the Manassas Park Police Department and/or regional drug task forces without interference from the applicant or the owner(s) or employees of the business:
 - a. Prevention of underage drinking.
 - b. Prevention of the illegal use and/or sales of drugs.
 - c. Prevention of excessive drinking/intoxication.
 - d. Prevention of gang activity.
 - e. Prevention of fighting and disorderly conduct.
 - f. Barring of those who are found to have violated any of the activities listed in this condition for an extended period of at least one (1) year.

5. Annual Administrative Review - The applicant shall submit to the City's zoning administrator a request for an administrative review of the CUP each year for five (5) years following approval. This review will be a report to the Governing Body detailing events of the preceding year to include information from MPPD and Property Code Enforcement. Failure to request an annual administrative review as required by this condition shall constitute a *per se* violation of this CUP, in which case the zoning administrator shall act as the hearing officer and so notify the Governing Body of the violation in accordance with Condition 6 below.

6. Compliance – Upon receipt by the City Manager or his designee of an allegation that any of the conditions set forth herein have been violated, a hearing officer will be appointed by the Governing Body to review the evidence of such alleged violation. Following such review, if the hearing officer determines that a preponderance of the evidence indicates that a violation did occur, the hearing officer shall so indicate in writing to the Governing Body, which may then hold a public hearing to consider the revocation of this CUP, which public hearing will be advertised in accordance with the provisions of Chapter 22 of Title 15.2 of the Code of Virginia.

Attachment B
Proposed Security Plan dated September 23, 2011

Clarke's Grill & Sports Emporium
CUP #11-09
9301 Andrew Drive Manassas Park, VA 20111
September 23, 2011

The following proposed security measures are intended to maintain security at Clarke's Grill & Sports Emporium pursuant to the conditions for Conditional Use Permit, (CUP) #11-09.

1. The applicants/owners/managers of the establishment act as security staff at present from opening to closing.
2. The Manassas Park Police Department will be contacted any time when there is a special promotion or event planned.
3. In order to prevent drug dealing, all staff will be instructed to report any suspicious hand-to-hand activity to the manager or any off-duty police officer. The manager will report suspicious activity to the off-duty police officer or directly to the Manassas Park Police Department. Any person observed gambling will be required to leave the premises and will be barred from future entry for such period as the manager may determine, but no less than one (1) year. Enforcement of reasonable security measures, promotion of a law-abiding atmosphere inside the establishment will discourage members of the public and any gang members from acting in a disorderly or provocative manner inside the establishment. Subject to police availability, all new staff will be taken to meet with the Police Department when hired in order to discuss security matters, and police officers will be encouraged to make regular visits to the establishment, which will maintain a 100% open door policy to all law enforcement personnel.
4. Patrons perceived as causing disciplinary problems will be barred from entry according to procedures available through the Manassas Park Police Department for such time as the Police Department determines to be appropriate. The establishment will also work co-operatively with the Police Department to identify patrons whose presence at the establishment is likely to be disruptive, and take legally available actions to bar such individual.
5. All managers and persons serving alcohol will be trained in proper alcohol service techniques in order to prevent the sale of alcohol to intoxicated individuals. Careful attention to patron behavior will prevent most problems associated with drinking. Alcohol service staff will exercise diligence in inspecting identification. All new hires will be informed that a sale-to-minor violation is cause for immediate discharge.

Attachment A
Proposed Development Conditions dated October 3, 2011

6. The front windows are covered with a light tinted film to minimize the sun/light intrusion and have full horizontal wood blinds. The front and side doors have a similar film on them as well. If deemed necessary by the Manassas Park Police Department, the applicant agrees to adjust the blinds and film to their preference.

Attachment C
CUP Floor Plan dated August 16, 2011

