

STAFF EVALUATION

To: Planning Commission

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727-6157

Case No.: Use Permit No. 16-00010

Date: March 2, 2017

General Information

Applicant Jeffery Moore, operator of Déjà Vu Restaurant and Lounge

Property Owner CD Ventures II, LLC

Location 2080 Nickerson Boulevard [LRSN 11003251], Déjà vu Restaurant and Lounge



Requested Use

Use Permit to allow for indoor live entertainment 2 in conjunction with a restaurant, with a capacity greater than fifty (50) people.

Description of Proposal

The applicant is proposing to provide live entertainment on the inside of the Déjà vu Restaurant and Lounge. Requested hours of indoor live entertainment are from 11AM until 2AM Tuesday through Sunday. On Mondays, the business operation will be closed.

Existing Land Use

Déjà vu Restaurant and Lounge

Zoning

The subject site is zoned C-1 (Neighborhood Commercial) District with proffered conditions.

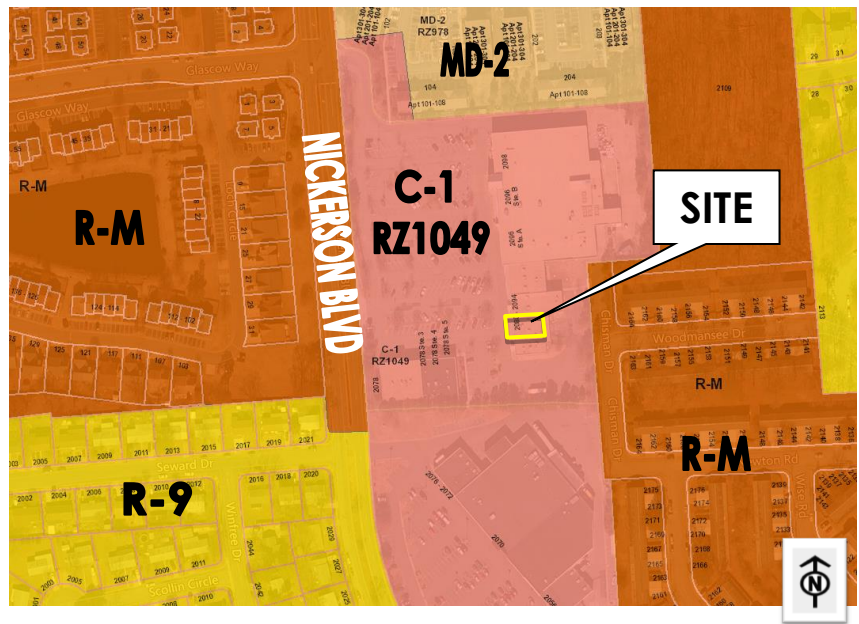
Surrounding Land Use and Zoning

North: MD-2, RZ978 (Multi-Family Residential) – Apartments

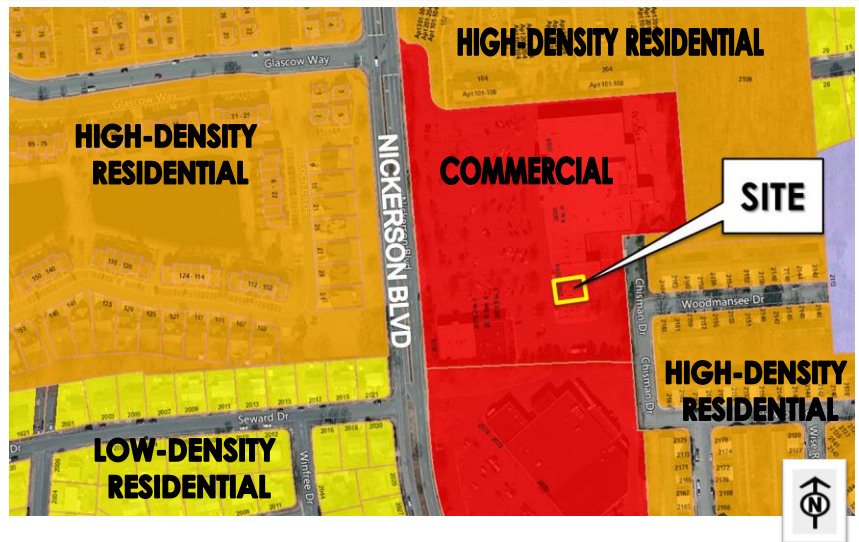
South: C-1, RZ1049 (Neighborhood Commercial) – Shopping Center

East: R-M (Multiple Residential) – Apartments, Merrimack Elementary School

West: R-M (Multiple Residential) – Townhomes & detached units



Public Policy



The Hampton Community Plan (2006, as amended) recommends commercial use for the subject property. Commercial, residential and public/semi-public uses are recommended for nearby properties.

Policies related to this request are listed below and involve making Hampton a unique regional retail and entertainment destination by supporting the City's economic development priorities:

LU-CD Policy 4: Evaluate land use proposals from a regional, city-wide, and neighborhood perspective. [pg. LU-16]

ED-5: Nurture small and start-up businesses. [pg. ED-23]

ED-6: Expand tourism, entertainment, and cultural opportunities within the city. [pg. ED-23]

Zoning History

The subject site is zoned Neighborhood Commercial (C-1) District

	with proffered conditions. The rezoning case, referred to as RZ 1049, was passed by City Council in 1996. This led to the development of the neighborhood shopping center that exists today.
<i>Applicable Regulations</i>	C-1 allows live entertainment subject to securing a Use Permit. The purpose of this Use Permit is to identify the operational characteristics of the proposal and establish the conditions under which the facility will be operated. This action is necessary to ensure the safety and welfare of the public as well as minimizing impacts on the adjoining properties.
<i>Traffic/Parking</i>	There are no foreseen negative impacts to traffic. The shopping center has 319 existing parking spaces, which is more than enough parking to accommodate the proposed use.
<i>Community Meeting</i>	A community meeting is scheduled for Tuesday, February 28, 2017 at Déjà Vu Restaurant and Lounge (the subject property).

Analysis

This is the report that was originally included in the Planning Commission package for the March 2, 2017 public hearing. At the Planning Commission public hearing, staff and Planning Commission recommended approval of the use permit with 12 conditions. Since new information has been provided to staff regarding this application, staff is now changing our recommendation to denial of Use Permit Application No. 16-00010 with twelve (12) conditions. Reasons for the change in staff's recommendation are included in the attached memo.

The Use Permit Application No. 16-00010 is a request for Live Entertainment 2 in conjunction with a restaurant establishment, with a capacity greater than fifty (50) occupants. The subject property is located at 2080 Nickerson Boulevard [LRSN 11003251] and is owned by CD Ventures II, LLC. The business operation is called Déjà Vu Restaurant and Lounge and is operated by Jeffery Moore, the applicant. The proposed site is zoned C-1 (Neighborhood Commercial) District with proffered conditions. Live Entertainment 2 in conjunction with a restaurant is a permitted use in the C-1 (Neighborhood Commercial) District, subject to City Council approval of a use permit. If approved, the use permit would apply to the retail space currently leased by the Déjà Vu Restaurant and Lounge operator (see Exhibit A and Exhibit B to reference the location of the proposed use). It is important to note that, if the business operation changes and a new restaurant/operator occupy the subject property, the use permit remains valid so long as the use does not laps for longer than two years.

The shopping center is surrounded by residential across Nickerson Boulevard, multifamily to the north of the shopping center, multifamily directly behind the restaurant space, and another shopping center directly to the south. The Hampton Community Plan (2006, as amended) recommends commercial use for the subject property. Commercial, residential, and public/semi-public uses are recommended for nearby properties. The policies in the City's comprehensive plan related to this request signify the importance of making Hampton a unique regional retail and entertainment destination, by supporting the City's economic development priorities. It also underscores the need to "nurture small and start-up businesses", [pg. ED-23] to ensure their longevity and success.

The Déjà Vu Restaurant and Lounge contains about 4,200 square feet, with about 90 square feet dedicated to the stage area where the live entertainment will take place. Some of the live

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entertainment offerings will include live bands, karaoke, and a DJ. The requested hours of indoor live entertainment are from 11AM until 2AM Tuesday through Sunday. On Mondays, the business operation will be closed.

Similar to any other use permit application, staff has identified several conditions based on the proposed use's operational characteristics. To ensure the consistency with other approved Live Entertainment 2 permits [see Table 1], staff is recommending a condition for indoor live entertainment hours are from Sunday through Thursday 11:00AM to 12:00AM and from Friday - Saturday 11:00 AM to 2:00 AM. A capacity condition will permit approximately 160 occupants or the maximum capacity determined by a City building official, whichever is lower. Based on staff analysis, the shopping center has ample parking and proper circulation to accommodate the proposed use. Sound, staffing, and other standard conditions reference various state and city codes and ordinances to ensure compliance to these standards.

The proposed use permit is consistent with the City's goals and policies, as outlined in the Hampton Community Plan (2006, as amended) and it will also serve as a neighborhood amenity for nearby residents.

Based on the analysis of this proposal, staff recommends approval of Use Permit Application No. 16-00010 with 12 conditions.

Table 1: Recently Considered Applications for Live Entertainment						
Establishment	Adjacent to Single Family	Adjacent to Multi Family	Hours of Live Entertainment	Capacity	Decision	Indoor/Outdoor
Déjà vu Restaurant & Lounge 2080 Nickerson Blvd	No	Yes	Indoor: 11:00AM- 12:00 AM Sun- Thurs 11:00 AM - 2:00AM Fri-Sat	160 or less	TBD	Indoor
The Comfort Zone 2165 Cunningham	No	Yes	Indoor: 11:00AM- 12:00 AM Sun- Thurs 2:00AM Fri-Sat	517	Approved	Indoor
The Vanguard 504 North King	Yes	No	Indoor: 11:00AM- 11:00PM Sun- Thurs 2:00AM Fri-Sat Outdoor: 4:00PM to 8:00PM Mon- Thurs 12:00PM to 8:00PM Fri-Sun	1100	Approved	Indoor/Outdoor
LV's 1565 Briarfield Road	No	Yes	Indoor: 11:00AM- 10:00PM Sun- Sat		Approved	Indoor
Papa Ciccio's 89 Lincoln	No	No	Indoor: 11:00AM- 12:00 AM Sun- Thurs 2:00AM Fri-Sat	125	Approved	Indoor
Sushi Hampton LLC	No	No	Indoor: 10:00PM Sun-	300	Approved	Indoor/Outdoor

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(Sushi King) 5101 Kilgore			Thurs 2:00 AM Fri-Sat Outdoor: 9:00PM Sun- Thurs 10:00 Fri-Sat			
Avenue Blue Piano Bar 2330 McMenamin	No	No	10:00 PM Sun- Thurs 2:00 AM Fri-Sat	168	Approved	Indoor
Stillwater Tavern (UP 14-00017) 555 Settlers Landing	No	No	12:00AM Sun. – Thurs. 2:00AM Fri. - Sat	80	Approved	Indoor
Grandview Island Grill (UP 14-00009) 155 State Park	Yes	No	Indoor: 12:00PM - 10:00PM Sun – Sat Outdoor: 4:00PM - 8:00PM Fri & Sat	134	Approved	Indoor/Outdoor
The Point (UP 1091-2013) 30 E Mellen	No	No	12:00AM Sun- Thurs 2:00AM Friday - Sat	80	Approved	Indoor
Applebee's (CP 139-2013) 2159 Coliseum	No	No	12:00AM Sun. – Thurs. 1:00AM Fri.- Sat.	165	Approved	Indoor
An Event to Remember (CP 136-2013) 2000 W Mercury	No	No	11:00PM Sun.- Thurs. 12:00AM Fri. - 1:00 AM Sat.	189	Approved	Indoor
The Turtle (CP 130-2012) 24 N Mallory	Yes	No	12:00AM Sun.-Thurs. 1:00AM Fri.-Sat.	105	Approved	Indoor
Bar Louie (CP-129-2012) 3530 Von Schilling	No	Yes	11:00 PM Sun.- Tues. 2:00 AM Wed.- Sat.	248	Approved	Indoor
The Jewish Mother (CP 128-2012) 2 Town Center	No	No	12:00AM weekdays 2:00AM weekends	80	Approved	Indoor
Mirro'z (CP 120-2011) 2710 W Mercury	Yes	No	11:00 PM weekdays 1:00 AM weekends	240	Approved	Indoor

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Terra (CP 116-2011) 2330 McMenamin	No	Yes	11PM Sun.-Tues. 2:00AM Wed.-Sat.	160	Approved	Indoor/ Outdoor
Queens Way Soul Café (CP 112) 1144 Big Bethel	No	Yes	12:00 AM weekdays 2:00 AM weekends	148	Approved	Indoor

Use Permit Application No. 16-00010**Live Entertainment 2 in Conjunction with a Restaurant****Déjà vu Restaurant | 2080 Nickerson Boulevard, Hampton, VA 23663 (LRSN 11003251)****1. Issuance of Permit**

The Use Permit applies only to the location at 2080 Nickerson Boulevard [LRSN 11003251] outlined in yellow and attached hereto as Exhibit A and is not transferable to another location.

2. Location of Live Entertainment

Live Entertainment may be conducted inside the building only and shall be limited to the 6'x15' area indicated on the attached floor plan identified as "Stage," outlined in red, and attached hereto as Exhibit B. The set up and use of any equipment shall not interfere with required clear space for safe exit in the case of emergency, per the Uniform Statewide Building Code and/or the Statewide Fire Prevention Code.

3. Hours of Operation

The hours of operation for live entertainment shall be limited to the following:

- Sunday - Thursday 11:00AM to 12:00AM
- Friday - Saturday 11:00 AM to 2:00 AM

4. Capacity

During the time that live entertainment is being provided, patronage and staff shall not exceed 160 people or the maximum capacity determined by a City building official, whichever is lower.

5. Sound

Live entertainment located at 2080 Nickerson Boulevard [LRSN 11003251] shall comply with City Code section 22-9 with respect to any sound or noise.

6. Staffing

Sufficient staff shall be provided to monitor patron behavior upon their exit of the building into the surrounding areas.

7. Licensing and Compliance with all Laws

When required by law, the restaurant must maintain a valid license from the Virginia Department of Alcoholic Beverage Control (VABC) and comply with all restrictions or requirements imposed by VABC. In addition, this Use Permit may be terminated for any violation of federal, state, or local law.

8. Dancing

The property owner shall comply with section 4-16 of the Hampton City Code with respect to dancing on the premises and dance floor area.

9. Third Party Promoters

Neither the facility nor any portion of it shall be leased, let, or used by any third party to stage an event for profit. No outside promoter shall be permitted to use, operate, rent, or host any event at the facility.

10. Revocation

Failure to comply with any conditions of this Use Permit shall constitute a violation of the provisions of Chapter 14 of the Zoning Ordinance and shall be cause for revocation of the use permit by City Council.

11. Nullification

The use permit shall automatically expire and become null and void under any of the following conditions:

(1) If, in the case of new construction, the building has not been erected, with doors, windows, roof covering and exterior finish materials in place within two (2) years of the issuance of the use permit;

(2) No building permit to construct the authorized improvements has been issued within twelve (12) months of the date of approval by the city council, or if no building permit is required, if the use is not established within twelve (12) months of the date of approval by the city council; or

(3) Once the property may be occupied, if the property is not used for the permitted purpose for a continuous two-year period unless otherwise specified in the zoning ordinance. In making this determination the city may consider such matters as the issuance of a building permit, a business license, utility connections and such related factors.

12. Review of Live Entertainment Uses

After 12 months of operation, the Use Permit will be scheduled for review by the Director of Community Development (the "Director") to consider if the continuation of the Use Permit would not be detrimental to the public health, safety, and welfare and that to continue the activities under the Use Permit would not cause public inconvenience, annoyance, disturbance, or have an undue impact on the community or be incompatible with other uses of land in the zoning district. The review will be based, in part, upon a physical site review, traffic flow and control, access to and circulation within the property, off-street parking and loading, hour and manner of operation, noise, light, neighborhood complaints, police service calls, and any violations of any federal, state, or local law. If after review, the Director determines that the Use Permit would not be detrimental to the public health, safety, and welfare and that to continue the activities under the Use Permit would not cause public inconvenience, annoyance, disturbance, or have an undue impact on the community or be incompatible with other uses of land in the zoning district, the permit shall be scheduled for the same administrative review in 5-year increments. If the Director determines that the Use Permit would be detrimental to the public health, safety, and welfare and that to continue the activities under the Use Permit would cause public inconvenience, annoyance, disturbance, or have an undue impact on the community or be incompatible with other uses of land in the zoning district, the Director will notify the Permittee in writing and may initiate the revocation

process before City Council. Nothing contained herein shall limit the City's ability to enforce City Code violations at any time during the operation.

EXHIBIT A



EXHIBIT B

