

# HAMPTON VA

## MEMORANDUM

**TO:** Hampton City Council  
Mary Bunting, City Manager

**FROM:** Terry O'Neill, Director of Community Development,

**DATE:** March 24, 2017

**SUBJECT:** Déjà Vu Restaurant & Lounge, Use Permit Application #16-00010 for Live Entertainment 2

This memo is intended to update you regarding Use Permit Application #16-00010 to permit Live Entertainment at the Déjà Vu Restaurant and Lounge (Déjà Vu), located at 2080 Nickerson Boulevard, and to advise you that the staff recommendation will be to deny this application at the City Council public hearing on April 12, 2017. At the Planning Commission public hearing on March 2, 2017, staff and Planning Commission recommended approval of the use permit with 12 conditions. During the public hearing, one member from the public (a former Hampton Police Division officer) cited an incident of violence that occurred at a former restaurant location in Newport News, which was also operated by the owner and operator of Déjà Vu in Hampton, and expressed concern over the likelihood that the same would happen at the Nickerson Boulevard location. This feedback led staff to consult further with the Hampton Police Division regarding this application.

Since the Planning Commission meeting, staff has met with the Hampton Police Division to discuss concerns they had regarding incidents that have involved Déjà Vu. The incidents include: continuously hosting Live Entertainment events without a Live Entertainment 2 use permit even after receiving a Notice of Violation in December 2015 – these events occurred even as recently as January, February, and March of 2017; noise violations; and the fact that Déjà Vu is subject to a probationary Virginia ABC license for previously selling alcohol without an ABC permit (see Exhibit A – Summary of Violations). In addition, staff was informed that the 2017 business license tax for this establishment has not yet been paid.

Further details surrounding this change in the staff recommendation is as follows:

On December 16, 2015, the applicant received a zoning Notice of Violation from the Property Maintenance and Zoning Enforcement Division for hosting Live Entertainment without a use permit. Since that time, City staff have had repeated conversations with the operator about the prohibition on Live Entertainment until a use permit is obtained. The Zoning Ordinance requires a Live Entertainment 2 use permit when the capacity inside the establishment will be greater than 50 people. This action is necessary to ensure the safety and welfare of the public as well as minimize the business operation's impacts on the adjoining properties. Since the fall of 2016, staff has been guiding the applicant through the use permit process, has explained what constitutes Live Entertainment, and reminded him that it is not permitted unless he obtains an approved use permit from City Council.

As part of the land use application process, a community meeting was hosted by the applicant prior to the Planning Commission meeting. Approximately 33 individuals attended the meeting. At that time, no one spoke in opposition of the meeting; however, one individual expressed

Community Development Department, Planning & Zoning Administration Division

22 Lincoln Street | Hampton, Virginia 23669

[www.hampton.gov](http://www.hampton.gov) | Hampton's 311: 757.727.8311 | O.757.727.6140

concern for a potential decline in property values as a result of an approved Live Entertainment permit. Since the time of both the community meeting and Planning Commission public hearing, staff has been made aware of growing concerns from three citizens in the neighborhood about Déjà Vu hosting Live Entertainment events without a permit and noise coming from patrons in the parking lot where the restaurant is located.

Date	Exhibit A: Summary of Violations
8/16/2015	Noise complaint; individuals in parking lot being loud and disrupting neighbors – HPD responded
12/16/2015	Zoning Notice of Violation for illegal live entertainment
4/1/2016	ABC probationary license issued; on probation with Virginia ABC for 1 year for selling alcohol without an ABC license. The probation does not prohibit them from selling alcohol. The probation will end on 4/1/2017.
1/21/2017	Evidence of Live Entertainment with a DJ
2/4/2017	Evidence of Live Entertainment with a DJ
2/11/2017	Evidence of Live Entertainment with a DJ
2/19/2017	DAB Productions LLC applied for a bond through the Commissioner or Revenue's office for a comedy show; this is not permitted without a Live Entertainment 2 permit. Staff contacted Mr. Moore, informing him that he would be issued a criminal summons should he proceed with the event. The event never took place as a result of staff intervention.
2/26/2017	Noise complaint
3/18/2017	Evidence of Live Entertainment with a DJ

As indicated by Exhibit A: Summary of Violations, it is now evident that the applicant has demonstrated a repeated history of hosting Live Entertainment events at this location after he was cited for a violation and advised that he could not conduct such events until a Live Entertainment 2 use permit was approved by City Council. As a result of the evidence on file of the applicant's continued disregard of the rules surrounding Live Entertainment and since he indicated at the Planning Commission public hearing that he had a family-friendly restaurant in which he wanted to add live entertainment, never mentioning that he already was hosting live entertainment events, staff is now changing our recommendation to denial of Use Permit Application No. 16-00010.

Lastly, staff recognizes that it would have been advantageous to have known about some of this information prior to the Planning Commission public hearing. As such, Community Development staff and the Hampton Police Division have collaborated to establish a better process to consistently and formally inquire about operational facts that may not be readily known by Community Development as well as concerns, if any, the Police Division may have. Moving forward, all Live Entertainment applications will be vetted through the Night Club Task Force and reviewed by the Police Division's Investigative Services prior to the Community Development Department finalizing our recommendation to the Planning Commission.

If you have any questions please feel free to contact me or Tolu Ibikunle, City Planner at 757.728.5237 or [tibikunle@hampton.gov](mailto:tibikunle@hampton.gov).