

**PLANNING COMMISSION
AGENDA
January 21, 2014 - 3:00 PM
Council Chambers - Rouss City Hall**

1. POINTS OF ORDER

- A. Roll Call **(Mr. Youmans)**
- B. Election of Officers **(Mr. Youmans)**
- C. Committee Appointments **(Commission Chairman from this point forward)**
- D. Approval of Minutes – December 17, 2013 regular meeting
- E. Correspondence
- F. Citizen Comments
- G. Report of Frederick Co Planning Commission Liaison

2. PUBLIC HEARINGS

- A. **CU-13-646** Request of Feliciano Romero dba Puerto La Union Restaurant for a conditional use permit for an Entertainment Establishment at 2832-2834 Valley Avenue (*Map Number 310-07-40*) zoned Highway Commercial (B-2) District with Corridor Enhancement (CE) District overlay. **(Mr. Grisdale)**

3. NEW BUSINESS

- A. Administrative Approval(s) **(Mr. Moore):**
 - 1) **SP-14-04** 828 Berryville Ave Navy Fed. Credit Union revision Greenway Engineering
 - 2) **SP-14-27** 412 S Loudoun St Stone Ridge Development GreyWolfe, Inc.

4. ADJOURN

CU-13-646 Request of Feliciano Romero dba Puerto La Union Restaurant for a conditional use permit for an Entertainment Establishment at 2832-2834 Valley Avenue (*Map Number 310-07-40*) zoned Highway Commercial (B-2) District with Corridor Enhancement (CE) District overlay.

REQUEST DESCRIPTION

The applicant is proposing an Entertainment Establishment at his business Puerto La Union Restaurant at 2832-2834 Valley Avenue.

AREA DESCRIPTION

The subject parcel is located on the east side of Valley Avenue and is zoned Highway Commercial (B-2) district with Corridor Enhancement (CE) district overlay. The properties along Valley Avenue to the North, West, and South are similarly zoned. The properties to the East are zoned Medium Density Residential (MR) district.



STAFF COMMENTS

The applicant intends to add occasional weekend entertainment to his restaurant business at 2832-2834 Valley Avenue. Since this addition of an Entertainment Establishment use is located within 200 feet of a residentially zoned parcel (the MR properties directly to the east), a conditional use permit is required.

The proposed use would involve bringing in entertainment, such as bands and DJs, during the weekends on Friday, Saturday and/or Sunday during the hours of 5:00 p.m. – 1:30 a.m. The primary focus of this proposal is to allow for the expansion of restaurant operations involving the hosting of various events in the restaurant and bringing in entertainment as part of those events. Such events include birthday parties, baptisms, wedding receptions, company gatherings, and family reunions.

At City Council's meeting on October 22, 2013, a text amendment to the Zoning Ordinance was adopted that changed the provisions of regulating Nightclubs and Entertainment Establishments. In several commercial districts, buildings and related parking facilities that are located at least 200 feet away from residentially zoned parcels allow for Entertainment Establishments by-right; and such uses that are located closer than 200 feet from residentially zoned parcels must obtain a conditional use permit (CUP).

Several minimal standards were included within the adopted text amendment which includes the following:

Section 18-24 Entertainment Establishments

All entertainment establishments must meet the following minimum standards. Failure to maintain compliance shall result in the operation being declared in violation of the Zoning Ordinance. If an establishment desires to deviate from any of these standards, a conditional use permit shall be required.

18-24-1 General Standards

18-24-1.1 All exterior doors and windows must remain closed during operating hours.

18-24-1.2 No more than three criminal police calls, as determined by the Chief of Police, may be attributable to the establishment within a thirty day continuous period; after which private security shall be required in a manner approved by the Chief of Police.

18-24-1.3 Hours of operation on Sundays through Thursdays shall not occur outside of 8:00 a.m. to 11:00 p.m. and Fridays and Saturdays shall not occur outside of 8:00 a.m. until 2:00 a.m. the following day.

18-24-1.4 The business shall comply with applicable noise and maximum sound level regulations per Chapter 17 of Winchester City Code, as amended.

The applicant's proposal includes the Entertainment Establishment operating on Sundays until 1:30 a.m. (Monday morning). This proposal would be a deviation from the General Standards of 18-24, which cut off the operating time at 11:00 p.m. on Sundays, and would require specific approval to expand the permitted hours of operation. The standard hours of operation in Section 18-24 were recently adopted through the recent deliberative process of Planning Commission and City Council. Staff does not recommend amending those hours for a proposed Entertainment Establishment unless there are no likely adverse effects on nearby residentially zoned parcels. There are ten residential properties located within a 200-foot radius of the subject business, and an opportunity for negative impacts on the surrounding residentially zoned properties does exist should the hours be expanded beyond 11:00 p.m. on Sundays.

In previous CUP approvals for nightclubs several of the following conditions were often included:

- *Staff review in six months and reapproval required every three years thereafter;*
- *The applicant taking into consideration the concerns of all of the neighbors and addressing them as they come up;*
- *Strict obedience with all local and state laws, especially those pertaining to ABC licensing and payment of meals tax;*
- *The applicant is responsible for cleaning up any trash outside the facility after closing.*

However, staff does not believe that any of these conditions are necessary for the subject application. Majority of these provisions are a reiteration of existing laws and requirements. The cleanup of exterior trash, adherence to ABC laws, and payment of taxes are required of the businesses independent of the Entertainment Establishment CUP approval. The exception may be the inclusion of an expiration of the permit approval if it is believed to be in the best interest of protecting health, safety or welfare.

RECOMMENDATION

For a conditional use permit to be approved, a finding must be made that the proposal as submitted or modified will not adversely affect the health, safety or welfare of persons residing or working in the neighborhood nor be detrimental to public welfare or injurious to property or improvements in the neighborhood.

A favorable motion could read:

MOVE the Commission forward **CU-13-646** to Council recommending approval because the use, as proposed, should not adversely affect the health, safety, or welfare of residents and workers in the neighborhood nor be injurious to adjacent properties or improvements in the neighborhood. The recommended approval is subject to the following conditions:

1. Maintain full compliance with Entertainment Establishments minimum standards outlined in Section 18-24 of the Winchester Zoning Ordinance;
2. The CUP shall expire if the use does not commence within one year of approval, the use ceases for at least one year, or the use of the property changes to another use permitted in the district.

OR

An unfavorable recommendation from the Planning Commission to City Council should cite the reasons why the proposal as submitted or modified could negatively impact the health, safety or welfare of those residing or working in the area and/or why it would be detrimental to public welfare or damaging to property or improvements in the neighborhood.

Puerto la Union Restaurant
2834 Valley Ave
Winchester, VA 22601

Types of events: birthdays, baptizisms, wedding receptions,
Company gatherings, and family reunion.

Days of the week: Friday, Saturday ~~and~~ Sunday
or

hours: available from 5:00pm - 1:30am :

