

Docket Item #3
SPECIAL USE PERMIT #2006-0009

Planning Commission Meeting
April 4, 2006

ISSUE: Consideration of a request for a special use permit to amend the hours of a movie theater.

APPLICANT: Regal Entertainment Group
by John H. Boggs

LOCATION: 3575 Jefferson Davis Highway

ZONE: CDD-1/Coordinated Development District

STAFF RECOMMENDATION: Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the recommended permit conditions found in Section III of this report.

SITE GRAPHIC
AVAILABLE IN THE PLANNING AND ZONING OFFICE

I. DISCUSSION

REQUEST

The applicant, Regal Entertainment Group, requests special use permit approval to change the hours of operation at an existing movie theater (amusement enterprise) located at 3575 Jefferson Davis Highway.

SITE DESCRIPTION

The Potomac Yard Center occupies the northern 69 acres of Potomac Yard, the portion stretching from Four Mile Run south along Jefferson Davis Highway almost to the intersection of East Glebe Road. The movie theater building is located at the eastern portion of the property, and consists of 83,000 square feet. The entrance to the theater lobby is on axis with the shopping center's main entrance drive.



BACKGROUND

On June 14, 1997, City Council granted Special Use Permit #97-0050 allowing the operation of an amusement enterprise (movie theater) at the subject property. Subsequently, on September 12, 1998, City Council granted Special Use Permit #98-0086 amending the original special use permit to allow a restaurant with alcoholic beverages. On November 13, 1999, City Council approved a review of the movie theater (SUP#99-0119). While there were some compliance issues after the theater first opened, including security issues, staff is not aware of issues with the conditions of the SUP since the last review in 1999, until a recent inspection that resulted in the filing of this application.

As part of the three-year SUP enforcement program, staff visited the theater in December 2005, and found violations to Condition #3 with movies starting prior to 11:00 a.m., and Condition #4 requiring that no shows start after 11:30 p.m. Sunday through Thursday and 12:00 midnight on Friday and Saturday. The applicant filed this application to amend the opening hours, and since the inspection has ceased offering shows later than the requirement.

PROPOSAL

The applicant proposes to amend the hours of operation. The requested change is as follows:

Existing Hours

11:00 a.m. to 2:30 a.m.

Proposed Hours

10:00 a.m. to 2:30 a.m.

The applicant proposes the earlier hours only during summer hours, Thanksgiving week, winter break and special events. No other changes are proposed to the operation.

PARKING

Parking for the movie theater was approved under Site Plan #95-0020. A 3,389 seat theater requires 847 parking spaces. The parking lot serving the theater building contains 1,312 parking spaces.

ZONING/MASTER PLAN DESIGNATION

The center was developed pursuant to the underlying zoning of the Potomac Yard Coordinated Development District (CDD) Zone: CSL, Commercial Service Low and I, Industrial. Section 4-1203(A.1) of the I zone permits a theater (amusement enterprise) subject to special use permit approval.

The proposed use is consistent with the Potomac Yard/Potomac Greens Small Area Plan chapter of the Master Plan which designates the property for commercial use.

II. STAFF ANALYSIS

Staff does not object to the proposed change of hours to allow the theater to open one hour earlier. Potential impacts from this change are negligible. Because of the negligible impacts, while the applicant has requested the extended hours only during certain times of the year, staff recommends the hour earlier opening daily. The Police have no objections to the operation or proposed change of hours. Staff recommends maintaining all of the previously approved conditions, including requiring an off-duty police officer on the premises after 5:00 p.m. While the applicant has requested the earlier hours only during certain times of the year, staff finds that it is reasonable to allow the requested hours on a daily basis. Staff recommends a one year review to ensure no issues arise.

With these conditions, staff recommends approval of the special use permit.

III. RECOMMENDED CONDITIONS

Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the following conditions:

1. The special use permit shall be granted to the applicant only or to any business or entity in which the applicant has a controlling interest. (P&Z) (SUP# 97-0050)
2. Condition deleted. (SUP# 98-0086)

3. **CONDITION AMENDED BY STAFF:** Hours of operation at the theater shall be limited to between ~~11:00~~ 10:00 A.M. and 2:30 A.M., daily. (P&Z) (~~SUP# 97-0050~~)
4. No shows shall start after 11:30 P.M. and up to 12:00 Midnight on Friday, Saturdays, evenings before Holidays and Holiday evenings upon notification to the Police Department. (Police) (PC) (SUP# 97-0050)
5. Video games shall be limited to the use of movie patrons. (Police) (SUP# 97-0050)
6. Video games shall be located against a wall, illuminated to five foot candles minimum, maintained. (Police) (SUP#99-0119)
7. To prevent the movie theater from becoming a video arcade, the front doors shall be locked from the outside and the video games shall be turned off at the start of the last show. (PC) (SUP# 97-0050)
8. To limit access and control trespassers and for employee safety and robbery prevention, closed circuit television or designated employees shall monitor all side exits. (Police) (SUP# 97-0050)
9. Signs shall be posted that read: "No trespassing or loitering unless conducting business with the theater." (Police) (SUP# 97-0050)
10. Parking lots and sidewalks shall be illuminated to two foot candles, minimum maintained. (Police) (SUP# 97-0050)
11. The applicant shall contact the Alexandria Police Department for a security survey and robbery awareness for all employees. (Police) (SUP# 97-0050)
12. The applicant shall use off-duty police officers on the inside of the theater, and on the outside of the theater, including the parking lot, every night from 5:00 p.m. until one-half hour after closing. (PC) (SUP#99-0119)
13. No alcoholic beverages shall be served, except that alcoholic beverages may be served in an area known as the VIP Lounge and restricted reserved Mezzanine seating and restricted to those who purchase a special ticket for admittance to those areas. No alcoholic beverage may be carried out of the restricted areas. (P&Z) (SUP# 98-0086)

14. In the event that public safety becomes a concern, the Chief of Police may request that this special use permit be redocketed for consideration of additional conditions related to public safety. If an ongoing security problem exists, the Chief of Police has the emergency authority to direct the applicant to provide additional security. If the additional security measures are still not sufficient to resolve the problem, the Chief of Police may deploy police resources until the situation is resolved. The City may bill the applicant for the cost of police resources if it is considered beyond normal police services. (CC) (SUP# 98-0086)
15. Any rentals of the VIP lounge or the mezzanine seating or any private receptions or parties, etc., shall be considered a special event and must be coordinated with the Special Events Coordinator of the Alexandria Police Department. (Police) (SUP 98-0086)
16. Condition deleted. (SUP# 99-0119).
17. **CONDITION AMENDED BY STAFF:** The Director of Planning and Zoning shall review the special use permit ~~one year~~ six months from approval and shall docket the matter for consideration by the Planning Commission and City Council if (a) there have been documented violations of the permit conditions which were not corrected immediately, constitute repeat violations or which create a direct and immediate adverse impact on the surrounding community;, (b) the director has received a request from any person to docket the permit for review as the result of a complaint that rises to the level of a violation of the permit conditions, or (c) the director has determined that there are problems with the operation of the use and that new or revised conditions are needed. (P&Z) ~~(SUP#99-0119)~~
18. The owners of the theater are required to schedule a meeting with the Police Chief or his designee on a monthly basis to discuss the security issues at the theater. (Police) (SUP#99-0119)
19. That the VIP restaurant/lounge portion of the theater hours of operation shall be 11:00 a.m. to 2:00 a.m. (CC) (SUP# 98-0086)
20. **CONDITION ADDED BY STAFF:** The applicant shall encourage its employees to use mass transit or to carpool when traveling to and from work, by posting information regarding DASH and METRO routes, the location where fare passes for transit are sold, and advertising of carpooling opportunities. (P&Z)

21. **CONDITION ADDED BY STAFF:** The applicant shall conduct employee training sessions on an ongoing basis, including as part of any employee orientation, to discuss all SUP provisions and requirements, and on how to prevent underage sales of alcohol. (P&Z)

22. **CONDITION ADDED BY STAFF:** Applicant shall contribute \$500.00 to the Streetscape Beautification Fund for the installation of litter receptacles along the public right-of-ways. Monetary contribution to be submitted to the Department of T&ES, Engineering Division, Room 4130, 301 King Street within 60 days of City Council approval. (T&ES)

STAFF: Eileen Fogarty, Director, Department of Planning and Zoning;
Richard Josephson, Deputy Director;
Valerie Peterson, Urban Planner.

Staff Note: In accordance with section 11-506(c) of the zoning ordinance, construction or operation shall be commenced and diligently and substantially pursued within 18 months of the date of granting of a special use permit by City Council or the special use permit shall become void.

IV. CITY DEPARTMENT COMMENTS

Legend: C - code requirement R - recommendation S - suggestion F - finding

Transportation & Environmental Services:

- R-1 Applicant shall contribute \$500.00 to the Streetscape Beautification Fund for the installation of litter receptacles along the public right-of-ways. Monetary contribution to be submitted to the Department of T&ES, Engineering Division, Room 4130, 301 King Street within 60 days of City Council approval.

Code Enforcement:

- F-1 No Comment

Health Department:

- C-1 An Alexandria Health Department Permit is required for all regulated facilities.
- C-2 Permits are non-transferable.
- C-3 This facility must meet current Alexandria City Code requirements for food establishments. A "Change of Ownership Inspection" has been completed by Environmental Health.
- C-4 If changes to the facility are to be done, five sets of plans must be submitted to and approved by this department prior to construction. Plans must comply with the Alexandria City Code, Title 11, Chapter 2, Food and Food Establishments. There is a \$135.00 fee for review of plans for food facilities.
- C-5 Permits must be obtained prior to operation.
- C-6 The facility must comply with the Alexandria City Code, Title 11, Chapter 10, Smoking Prohibitions.
- C-7 Certified Food Managers must be on duty during all hours of operation.
- F-1 This facility is currently operating as Regal Cinemas Potomac Yard without a valid Alexandria Health permit that will be issued to Regal Entertainment Group when remaining outstanding violations are corrected.

- R-1 Provide a list of foods to be handled at this facility to the Health Department prior to opening.

Police Department:

- F-1 The Police Department had no objections to the extension of the theater hours changing from 11:00 am to 10:00 am.

SUP#2006-0009
3575 Jefferson Davis Hwy

**REPORT ATTACHMENTS
AVAILABLE IN THE PLANNING AND ZONING OFFICE**