

## COUNTY OF FAIRFAX, VIRGINIA

### SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

TYSONS II LAND COMPANY, L.L.C.; TYF DEVELOPMENT COMPANY, LLC; AND TYH DEVELOPMENT COMPANY, LLC, AND TYD DEVELOPMENT COMPANY, LLLP, SP 2016-PR-036 Appl. under Sect(s). 6-204 and 8-801 of the Zoning Ordinance to permit temporary theatrical circus performance. Located at the S.W. corner of the intersection of Tysons Blvd. and Galleria Dr., 1650 Tysons Blvd., 1775 Tysons Blvd., and 1800 Tysons Blvd., McLean, 22102, on approx. 22.16 ac. of land zoned PDC, SC, and HC. Providence District. Tax Map 29-4 ((10)) 2 A2, 2D, 3 B1, 5 A, 5 B, and 5 C. Mr. Smith moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 15, 2016; and

WHEREAS, the Board has made the following findings of fact:

1. The applicants are the owners of the land.
2. The present zoning is PDC, HC, and SC.
3. The area of the lot is 22.16 acres.
4. The County is recommending approval of the application. The County has done their homework reviewing the traffic concerns, and the Board appreciates their bringing the concerns to the Board's attention. After considering the concerns, the Board does feel comfortable with the traffic report from the applicant's engineers (Wells Engineers), and the findings in that report.
5. It is compelling in this case that there is a prior history on the site. There was a special permit in 1993 through 1999, and a 2000 approval for the use in 2000, 2002, 2004, and 2006, which did include the evening uses on weekdays. There has been no testimony of any complaints or problems with the use at that time. We recognize that things have changed since that time in both directions. We have more development, but we also now have a metro system there.
6. There is no opposition to this use. There is compelling support for the use from businesses in the area.
7. This is a premier use. There is a higher comfort level knowing that Cirque Du Soleil has analyzed this use, and will be in charge of this operation.
8. The by-right use is 1.8 million square feet of additional office or hotel spaces. Therefore, there is a pretty intense use planned for the site. In that situation, traffic would be out-bound and here it is in-bound.
9. This is an intense use that requires experts who are making sure we are moving pedestrian traffic.
10. Traffic analysis discussed in-bound verses out-bound traffic; the traffic delays being less in the summer months; and that the patrons arrive earlier than the start time.

11. The applicants have read, understand, and concur with the proposed development conditions.
12. Having Tysons I and Tysons II close by may help diffuse the traffic, as people may decide to walk over to those malls and shop after a show.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED** with the following limitations:

1. This approval is granted to the applicant, Tysons II Land Company, LLC; TYF Development Company, LLC; TYH Development Company, LLC, and TYD Development Company, L.L.P., and is not transferable without further action of this Board and is for the location indicated on the application and is not transferable to other land.
2. This Special Permit is granted only for the purpose(s), structures and/or use(s) indicated on the special permit plat prepared by Timothy C. Culleiton of Dewberry Consultants, dated April 14, 2016, as revised on June 2, 2016, and approved with this application, as qualified by these development conditions.
3. A copy of this Special Permit and the Non-Residential Use Permit shall be posted in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The theatrical production use at the subject site shall be limited to a time period between June and September, biannually, including all site preparation and restoration time before and after the production. The Special Permit is approved for the 2016, 2018 and 2020 calendar years provided the use is operated in accordance with these conditions and there are no parking or other verified violations or disturbances of the surrounding area. The Zoning Administrator is granted the authority to extend the permit for six (6) additional years to allow three (3) additional bi-annual performances provided that there are no parking or other verified violations or disturbances to the surrounding area. However, the use shall cease prior to that time if the site is developed in accordance with the proffered Conceptual Development Plan/Final Development Plan, accepted by the Board of Supervisors pursuant to the approval of RZ-84-D-049, as amended, or any applicable Proffered Condition Amendments.

5. The hours of operation for the site shall be limited to 1 p.m. and 1 a.m. daily.
  - I. Performances shall occur:
    - i. Monday through Thursday – 1 show only per day, except for the Thursday afternoon shows listed in (v) below.
      - a. 7:30 p.m.
    - ii. Friday – 1 show only per day, except for the Friday afternoon shows listed in (v) below.
      - a. 8:00 p.m.
    - iii. Saturday – 2 shows only per day
      - a. 4:30 p.m. and 8:00 p.m.
    - iv. Sunday – 2 shows only per day
      - a. 1:30 p.m. and 5:00 p.m.
    - v. In addition, fourteen (14) weekday afternoon shows may occur:
      - a. Friday, July 22, 2016 at 4:30 p.m.
      - b. Friday, July 29, 2016 at 4:00 p.m.
      - c. Thursday, August 4, 2016 at 4:00 p.m.
      - d. Friday, August 5, 2016 at 4:00 p.m.
      - e. Thursday, August 11, 2016 at 4:00 p.m.
      - f. Friday, August 12, 2016 at 4:00 p.m.
      - g. Friday, August 19, 2016 at 4:00 p.m.
      - h. Thursday, August 25, 2016 at 4:00 p.m.
      - i. Friday, August 26, 2016 at 4:00 p.m.
      - j. Thursday, September 1, 2016 at 4:00 p.m.
      - k. Friday, September 2, 2016 at 4:00 p.m.
      - l. Thursday, September 8, 2016 at 4:00 p.m.
      - m. Friday, September 9, 2016 at 4:00 p.m.
      - n. Friday, September 16, 2016 at 4:00 p.m.
6. The maximum number of tickets issued per performance shall not exceed 2,606.
7. The number of employees and performers associated with this use shall be limited to 116 on-site at any one time, with the addition of temporary service personnel as needed. An adequate number of police officers, security guards, parking garage volunteers and/or production personnel shall be provided by the applicant for each performance to provide safety and traffic control for off-site traffic direction, pedestrian circulation, and on-site parking coordinator.
8. The applicant shall provide a minimum of 790 parking spaces located on Lots 2A2, 2D, and 3B1 to accommodate 2,606 patrons. Access to parking shall be clearly designated with signage.

9. The parking garage on Lot 2D shall be utilized in full (150 vehicles for weekday shows and 300 vehicles for weekend shows). The applicant shall provide proper wayfinding and pedestrian coordinators to ensure safe passage of pedestrians to the tent site from Lots 2A2, 2D, and 3B1, as necessary.
10. In consultation with the Fairfax County Police Department, the applicant shall employ police officers at the intersection of Tysons Boulevard and Galleria Drive before and after each performance.
11. Coincident with the first week of the show's opening, the applicant shall schedule a meeting on-site with VDOT Traffic Operations staff to determine whether adjustments to the signal timings of one or more of the traffic signals located along Tysons Boulevard and Galleria Drive by VDOT would improve or enhance circulation (both vehicular and/or pedestrian) through the intersections during the time of the show's operation.
12. There shall be no carnival rides or games operated on-site.
13. All trash and debris shall be contained on the site, and shall be removed periodically throughout the day.
14. The applicant shall furnish the Fairfax County Health Director with information on sanitary arrangements and facilities, and the Health Director shall advise the Zoning Administrator that such arrangements and facilities will be adequate if properly used and maintained.
15. The applicant shall remove all structures, trash, debris and signs permitted by the provisions of 3J of Sect. 13-103 within two weeks of the last show date and no later than October 2, 2016.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall take effect upon adoption of a resolution of approval by the Board of Zoning Appeals.

Ms. Theodore seconded the motion, which carried by a vote of 5-2. Mr. Byers and Mr. Hammack voted against the motion.

TYSONS II LAND COMPANY, L.L.C.; TYF DEVELOPMENT COMPANY,  
LLC; AND TYH DEVELOPMENT COMPANY, LLC, AND TYD  
DEVELOPMENT COMPANY, LLLP, SP 2016-PR-036

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A Copy Teste:

A handwritten signature in cursive script, appearing to read "Mary D. Padrutt", written over a horizontal line.

Mary D. Padrutt, Deputy Clerk  
Board of Zoning Appeals