

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

TYSONS II LAND LLC, SPA 93-P-023 Appl. under Sect(s). 6-204 of the Zoning Ordinance to amend SP 93-P-023 previously approved for a circus to permit change in development conditions and increase in land use. Located at 8025, 8075, 8108 Galleria Dr. and 1750, 1775, 1800, 1801 Tysons Blvd. on approx. 28.06 ac. of land zoned PDC, HC and SC. Providence District. Tax Map 29-4 ((10)) 3B, 3C, 5A, 5B, 5C, 2, 2A1, 2A2. Mr. Hart 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 September 19, 2000; and

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

1. The applicants are the owners of the land.

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 Sect(s). 6-204 of 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 LLC 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. Other by-right, special exception and special permit uses may be permitted on the site without special permit amendment, if such uses do not affect this special permit use.
2. This Special Permit is granted only for the purpose(s), structures and/or use(s) indicated on the special permit plat prepared by J. Thomas Tanner, P. E. of Dewberry & Davis LLC, dated July 6, 2000, 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. An opening night celebration shall be permitted to take place in the parking garage structure. The celebration shall only be permitted for one evening on or before opening night. The hours shall be limited to a maximum closing time of 2:00 A.M. The number of guests shall not exceed 800. The applicant shall comply with all applicable alcoholic beverage control laws of the Commonwealth of Virginia.

5. The theatrical production use at the subject site shall be limited to a time period between September and November, bi-annually, including all site preparation and restoration time before and after the production. The Special Permit is approved for the 2000, 2002, 2004 and 2006 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 violation 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 or any applicable Proffered Condition Amendments.
6. The hours of operation for performances shall be limited to 1:00 P.M. to 1:00 A.M. daily. There shall be a maximum of two performances per day.
7. The maximum number of tickets sold per performance shall not exceed 2,600.
8. The number of employees and performers associated with this use shall be limited to 125 on-site at any one time. In addition, temporary service personnel as needed are permitted and an adequate number of police officers, security guards or Cirque du Soleil personnel shall be provided by the applicant for each performance to provide safety and traffic control for off-site traffic direction and on-site parking coordination.
9. The applicant shall provide an adequate number of parking spaces to accommodate 2,600 patrons which shall be a minimum of 650 spaces located on site. A minimum of 163 parking spaces shall be provided on Lots 5A and 5B, 74 parking spaces on lots 3B and 3C and 413 parking spaces on Lots 2A1 and 2A2 within the parking garage. All parking shall be clearly designated an access to parking clearly signed.
10. There shall be no carnival rides or games operated on-site.
11. All trash and debris shall be contained on the site and shall be picked up two (2) to three (3) times per day and placed in thirty (30) cubic yard closed containers that will be emptied weekly.
12. Any signs, banners or advertising shall conform with Article 12 of the Zoning Ordinance and shall be approved by the Zoning Enforcement Branch.

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.

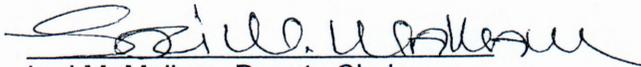
Pursuant to Sect.8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, thirty (30) months after the date of approval* unless the use has been established. The Board of Zoning Appeals may grant additional time to establish the use if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the

special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

Ms. Gibb seconded the motion which carried by a vote of 6-0. Mr. Pammel moved to waive the 8-day waiting period. Ms. Gibb seconded the motion which carried by a vote of 6-0. Mr. Kelley was not present for the vote.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 19, 2000. This date shall be deemed to be the final approval date of this special permit.

A Copy Teste:



Lori M. Mallam, Deputy Clerk
Board of Zoning Appeals