




STAFF REPORT COVER SHEET

September 18, 2019

Addresses:	111 Church St NW, Suite 101	Case Number:	PF-37-19-CUP
Public Meeting Date:	9/18/2019	Applicant:	Hugo Vasquez of Blend 111
Board/Commission:	Board of Zoning Appeals	Owners:	Wedderburn Homes LC,
Existing Zoning:	C-1B	Existing Land Use:	Commercial
Brief Summary of Request:	Board of Zoning Appeals to review a conditional use permit application for live entertainment.		
Site Improvements:	None		
Size of Property:	16,592 square feet / 0.38 acres		
Public Notice Requirements:	Advertisement for two successive weeks of meeting in a newspaper having paid general circulation in the Town prior to Board of Zoning Appeals meeting	Published in Washington Times on September 4, 2019 and September 11, 2019. BZA meeting scheduled for September 18, 2019.	
	Written notice by registered or certified mail of hearing to property owners of subject site and property owners/agents/occupants abutting and immediately across from subject site at least 5 days prior to public hearing	Seventy (70) letters were sent on September 5, 2019 to adjacent, abutting and immediately across the street property owners/agents/occupants and subject property owners notifying them of the Board of Zoning Appeals hearing.	
	Posting of the property at least ten days prior to the public hearing	One sign posted in front of the building along Church Street NW on August 6, 2019 with dates of Planning Commission meeting and Board of Zoning Appeals hearing.	
Brief Analysis			
<p>PROPERTY HISTORY</p> <p>The subject property consists of a 2-story, commercial building built in 2006. The building has three suites on the ground floor and four suites on the second floor, for a total of 15,313 square feet in floor area.</p> <p>COMPATIBILITY WITH THE COMPREHENSIVE PLAN</p> <p>One of the goals listed in the Comprehensive Plan (Page 19) is to encourage a vibrant Central Business District. Staff believes that live entertainment will enhance a restaurant of this size and help encourage a more vibrant Central Business District.</p> <p>COMPATIBILITY WITH THE ZONING ORDINANCE</p> <p>The existing restaurant use is allowed. The proposal is compatible with the Zoning Ordinance with the approval of a conditional use permit per Section 18-210.S for live entertainment.</p>			
Attachments:	Application <input checked="" type="checkbox"/> Statement of Justification <input checked="" type="checkbox"/> Approved Site Plan <input checked="" type="checkbox"/> PC Memo <input checked="" type="checkbox"/> Proposed Performance Area Floor Plan <input checked="" type="checkbox"/> Live Music Schedule <input checked="" type="checkbox"/> Photographs <input checked="" type="checkbox"/>		
Author: Kelly O'Brien, AICP, Principal Planner & Frank Simeck, CZA, Zoning Administrator			

ITEM NO. 1:

Consideration of a conditional use permit for live entertainment for a restaurant use, located at 111 Church Street Northwest, in the C-1B Pedestrian Commercial zoning district. Application filed by Hugo Vasquez of Blend 111.

Introductory Comments & Background:

The subject property consists of a 2-story commercial building built in 2006. The building consists of 15,313 square feet in floor area and includes three (3) suites on the ground floor and four (4) suites on the second floor. The building fronts Church Street Northwest and is located near the center of the Church Street Commercial Corridor.

The building site is zoned C-1B Pedestrian Commercial. The building is surrounded by commercial uses on either side and across Church Street, and residential properties to the rear. The other current tenants of the building include restaurants Bazin's on Church and Bazin's Next Door on the first floor, and Anytime Fitness, Phoenix Rehabilitation and Health Services, Green Spa and Tiber Creek Partners, LLC on the second floor.

Current Proposal:

The applicant is currently operating a restaurant on the first floor of the building, which includes approximately 2,300 square feet. The restaurant includes indoor seating only. The applicant is requesting a conditional use permit to allow live entertainment to set up in the front bar area.

The applicant has submitted a "Live Music Schedule & Description" and statement of justification that detail the type of entertainment and times proposed. The restaurant does not intend to become a music venue. The purpose of the live entertainment, as stated in the CUP application, is to add to the overall ambience of the restaurant. The proposed location of the performers is shown in a red circle on the floor plan.

Required Commission/Board approvals:

The Planning Commission is tasked with making a recommendation to Board of Zoning Appeals for conditional use permits per Section [18-210.S](#) for live entertainment. The Board of Zoning Appeals may grant a conditional use permit for live entertainment and impose conditions that it deems necessary in the public interest.

Relevant Regulations:

Town Code

Sec. 18-209. - Use permit subject to certain conditions.

The board of zoning appeals may issue a use permit for any of the uses enumerated in section 18-210 in response to an application therefor, provided the use for which the permit is sought:

- (1) Will not affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use;
- (2) Will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood; and
- (3) Will be in accord with the purposes of the Town's master plan.

In granting any use permit, the board of zoning appeals may impose such conditions as it may deem in the public interest, including limiting the duration of a permit, and as will ensure that the use will conform to the foregoing requirements and that it will continue to do so, and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with. The board may revoke a use permit if the board determines that there has not been compliance with the terms and conditions of the permit. No permit may be revoked except after notice and hearing as provided by Code of Virginia, § 15.2-2204.

Virginia State Code

§ 15.2-2309. Powers and duties of boards of zoning appeals.

6. To hear and decide applications for special exceptions as may be authorized in the ordinance. The board may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest, including limiting the duration of a permit, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

No special exception may be granted except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

Staff Analysis:

The restaurant use is permitted per Section [18-87.1.A](#) through reference to Section [18-72.A](#). Staff believes that the live entertainment proposed will not create a nuisance based on the times proposed, type of entertainment, and location of the business. The music is proposed to be played in the front of the restaurant near Church Street and not near the rear adjacent to residential properties.

Planning Commission Recommendation:

The Planning Commission made a recommendation at its regular meeting on August 14, 2019 on a 8-0 vote to approve the request to permit live music at Blend 111, a wine bar and restaurant located at 111 Church Street, NW. The Commission included a motion to recommend the approval of the conditional use permit for live entertainment consistent with the “live music description” provided by the applicant in their justification statement. That description says, “Our focus would be on vocalists and string instruments.” The music would be primarily acoustic, though some artists may require an amplifier. The applicant added that there would be no amplification of percussion instruments.

Commissioners also noted that an 11 pm ending time for music avoids the kind of problems previously experienced at venues where live music was performed well after midnight.

A memo from the Planning Commisison Chairman, Michael Gelb, is provided with this application.