



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of April 25, 2009**

DATE: April 15, 2009

SUBJECT: U-3219-09-1 USE PERMIT: live entertainment and dancing at Tortoise and Hare Bar located at 567 S. 23rd St. (RPC# 36-018-011)

Applicant:

Tortoise and Hare Bar, LLC

By:

Brian Montgomery & Erik Dahlseid, Owners
567 S. 23rd St.
Arlington, Virginia 22202

C. M. RECOMMENDATION:

Approve the subject use permit for live entertainment and dancing, subject to the proposed conditions, and with a County Board review in six (6) months (October 2009).

ISSUES: This is a request for live entertainment and dancing at Tortoise and Hare Bar and there are no outstanding issues. The Aurora Highlands Civic Association has had concerns with noise impacts from the live entertainment, and the applicant has agreed to address these concerns with limited days of live entertainment and a short review period. While a six (6) month County Board review is not typical of most new live entertainment use permits, it is an arrangement both the Civic Association and the applicant have agreed to, and will allow Tortoise and Hare Bar to have live entertainment while working through neighborhood concerns.

SUMMARY: Tortoise and Hare Bar is requesting a use permit for live entertainment and dancing. The Aurora Highlands Civic Association has responded that some neighbors within one (1) block of the restaurant have complained about previous incidents where sound from the restaurant penetrated their homes late at night. The Aurora Highlands Civic Association voted to support the live entertainment use permit at their last Civic Association meeting, but recommends it be limited to Fridays and Saturdays, and that it be reviewed again by the County Board in six (6) months. The applicant has agreed to comply with the Aurora Highlands Civic Association's recommendation, and states they will work with the Aurora Highlands Civic Association over the next several months to address concerns. Therefore, staff recommends

County Manager: _____

Staff: Melanie Wellman, DCPHD, Planning Division

PLA-5236

approval of the use permit request for live entertainment and dancing, subject to the proposed conditions, and with a County Board review in six (6) months (October 2009).

BACKGROUND: Tortoise and Hare Bar opened in August 2007.

The following provides information about the site:

Site: Tortoise and Hare Bar is the last restaurant on the north side of “Restaurant Row” on South 23rd Street.

To the north:	Behind the restaurant is a parking lot and single-family detached homes.
To the south:	Retail and commercial uses.
To the east:	Several restaurant and bar establishments.
To the west:	Fern Street and single-family detached homes.

Zoning: The site is zoned “C-2” Service Commercial – Community Business Districts. Under Section 26.B.14 of the “C-2” District, live entertainment is permitted as a special exception use permit.

Land Use: The subject site is designated “Service Commercial” (Personal and business services. Generally one (1) to four (4) stories. Maximum 1.5 F.A.R.)

Neighborhood: The site is located within the Aurora Highlands Civic Association. The Aurora Highlands Civic Association has been notified and has responded that some residents near the restaurant have concerns with noise emanating from the restaurant. The Aurora Highlands Civic Association took the position to support the live entertainment use, with the recommendation that it be limited to two (2) days a week with a six (6) month review (letter attached).

DISCUSSION: Tortoise and Hare Bar is one of several restaurants in this area of South 23rd Street. It is located on the far western end of “Restaurant Row” adjacent to single-family detached homes. Aurora Highlands Civic Association states that at least three (3) neighbors within one (1) block of the restaurant have complained about noise from the restaurant late at night to the point where it has disturbed sleep and/or conversations. The Aurora Highlands Civic Association voted to support the live entertainment request at the monthly Civic Association meeting, with the condition that it be limited to two (2) days a week only, Fridays and Saturdays, and that it be reviewed again by the County Board in six (6) months. The applicant, who was present at the Aurora Highlands Civic Association meeting, has agreed to this condition and review period, and states that they will work with the Aurora Highland’s Civic Association and neighbors over the next six (6) months. The restaurant has received two (2) support letters from nearby residents, which are attached.

CONCLUSION: The Aurora Highlands Civic Association and the applicant been working together and have come to an agreement regarding the live entertainment request. The applicant has agreed to limit live entertainment to Fridays and Saturdays, and to be reviewed by the

County Board in six (6) months. The applicant will continue to work with Aurora Highlands Civic Association and any neighbors that have concerns. Therefore, staff recommends approval of the use permit request for live entertainment and dancing, subject to the proposed conditions, and with a County Board review in six (6) months (October 2009).

Proposed Conditions:

1. The applicant agrees that live entertainment will be limited to Fridays and Saturdays, 6 p.m. to 1:30 a.m.
2. The applicant agrees to comply with all requirements of County and State Ordinances, the Environmental Health Bureau, the Fire Marshal's Office, the Police Department, Community Code Enforcement Office and the Alcohol Beverage Control Board.
3. The applicant agrees that live entertainment shall meet the noise limits established in the County Noise Ordinance.
4. The applicant agrees to ensure that all windows and doors shall remain closed when live entertainment is being offered. The applicant agrees that no live entertainment shall be permitted outdoors, and further agrees to ensure that live entertainment performances inside the restaurant will not be broadcast to the exterior of the restaurant over the restaurant's audio system.
5. No customer dancing shall occur without the applicant first obtaining approval of a dance hall permit.
6. The applicant shall designate a neighborhood liaison to communicate with nearby residents and neighbors to address concerns which may be related to the live entertainment and an onsite liaison that shall be available during the hours of the business operation to receive and respond to community concerns regarding the live entertainment. The name and telephone number shall be submitted to the Zoning Administrator and the Aurora Highlands Civic Association.
7. The restaurant live entertainment use shall terminate upon the termination of the current tenant lease or upon vacation of the current tenant from the subject site and shall not transfer to any other tenant without subsequent approval by the County Board of a new use permit request.

PREVIOUS COUNTY BOARD ACTIONS: There have been no previously approved County Board actions.