



ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item
Meeting of November 14, 2009

DATE: November 5, 2009

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

Applicant:

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

C. M. RECOMMENDATION:

Renew the use permit for live entertainment at Tortoise and Hare Bar, subject to all previously approved conditions and one (1) revised Condition #1, and with a County Board review in six (6) months (May 2010).

ISSUES: This is a review of live entertainment at Tortoise and Hare Bar in Crystal City and the Aurora Highlands Civic Association supports the renewal.

SUMMARY: This is a review of live entertainment at the Tortoise and Hare Bar on 23rd St. South in Crystal City. The use permit was approved on April 25, 2009 for live entertainment Fridays and Saturdays only, and with a six (6) month County Board review, at the request of the Aurora Highlands Civic Association, as a neighbor had complained of noise from the restaurant. Over the past six (6) months the applicant has been working with the civic association to ease any concerns, and, with this renewal, is requesting additional days of live entertainment. Aurora Highlands Civic Association reports that the situation has generally improved, although an immediate neighbor continues to report some noise concerns. The civic association supports live entertainment seven (7) days a week at the restaurant, with the request that the use permit again be reviewed in six (6) months to evaluate any impact. Staff recommends a County Board review in six (6) months, as it allows Tortoise and Hare Bar to have live entertainment seven (7) days with an opportunity in six (6) months for staff and the community to evaluate impacts. Therefore, staff recommends renewal of the use permit for live entertainment, subject to all previously approved conditions and one (1) revised Condition #1, and with a County Board review in six (6) months (May 2010).

County Manager: BMP/GA

Staff: Melanie Jesick, DCPHD, Planning Division

PLA-5399

13.

BACKGROUND: Tortoise and Hare Bar opened in August 2007. The restaurant is located on the far western end of “Restaurant Row” on 23rd Street South at the corner of Fern Street in Crystal City, immediately adjacent to single-family detached homes. Prior to the use permit being approved six (6) months ago, the Aurora Highlands Civic Association stated that at least three (3) neighbors within one (1) block of the restaurant complained about noise from the restaurant late at night. The civic association supported approval of live entertainment in April 2009, for two (2) days a week only, and requested that the use permit be reviewed again in six (6) months to evaluate the impacts.

DISCUSSION: This is a six (6) month review of the live entertainment use at Tortoise and Hare Bar. Over the past six (6) months the applicant has been working with the Aurora Highlands Civic Association to address noise concerns. With this renewal, the applicant is requesting additional days of live entertainment. The Aurora Highlands Civic Association supports expansion of the live entertainment use to seven (7) days a week, provided that the use is reviewed again in six (6) months. Overall, the civic association states that things have improved, but an immediate neighbor, while supportive of the additional days of live entertainment, continues to have issues related to noise (see attached letter). A six (6) month County Board review would allow the restaurant to have live entertainment seven (7) days week while giving the community the opportunity to comment in six (6) months, or sooner, if noise concerns arise.

Since use permit approval (April 25, 2009)

Use Permit Conditions: The applicant is in compliance with all use permit conditions.

Community Code Enforcement: The Code Enforcement Office reports no issues with the use. Upon request of staff, a Code Enforcement inspector conducted several noise readings outside the Tortoise and Hare Bar on a Friday evening and found that the restaurant was in compliance with the noise ordinance.

Police Department: The Police Department has not reported any issues with the use.

Fire Marshal’s Office: The Fire Marshal’s Office has not reported any issues with the use.

Civic Association: The site is located within the Aurora Highlands Civic Association. The Aurora Highlands Civic Association voted to support expansion of the live entertainment use to seven (7) days a week, with a County Board review in six (6) months to assess the impact of the use. The vote included an immediate neighbor that had complained about noise in the past from the restaurant, but voted to support the extension to seven (7) days a week. After that vote, staff was made aware of a different neighbor that does not support the live entertainment seven (7) days a week, but staff has not heard directly from that neighbor.

CONCLUSION: Although an immediate neighbor has complained of noise from the restaurant, the neighbor, along with the Aurora Highlands Civic Association, supports live entertainment seven (7) days a week with a County Board review in six (6) months to assess the noise situation. Therefore, staff recommends renewal of the use permit for live entertainment at Tortoise and

Hare Bar, subject to all previously approved conditions and one (1) revised Condition #1, and with a County Board review in six (6) months (May 2010).

Revised Condition #1:

1. The applicant agrees that live entertainment will be limited to ~~Fridays and Saturdays~~ seven (7) days a week, 6 p.m. to 1:30 a.m.

PREVIOUS COUNTY BOARD ACTIONS:

April 25, 2009

Approved use permit (U-3219-09-1) for live entertainment at Tortoise and Hare Bar, subject to proposed conditions, and with a County Board review in six (6) months (November 2010).

Approved 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.

Melanie Jesick

From: Bruce Cameron [brucecameronahca@gmail.com]
Sent: Thursday, October 15, 2009 10:35 AM
To: Melanie Jesick
Cc: mdowell9@comcast.net; CHARLES WALTER; Ted Saks; Robert Phillips
Subject: Re: live entertainment - Tortoise and Hare Bar

Dear Melanie,

Last night at our October monthly meeting, AHCA voted 17-1 to support the following position: That T&H be allowed to increase live entertainment up to 7 days a week, but that this permit be granted on a 6 month trial basis and reviewed at that point.

From the comments, my impression, things are better but not perfect. Also, there were several strong comments opposing separate special use permits for outdoor events, as these have been very loud and left trash (bottles and cups) escaping the permitted boundaries. Also, while the immediate neighbor did support the Association position she did say she still has had to call police late at night about noise and that one day on a Saturday her kids could not study because of noise coming into house, but again, she is willing to support a 6 month trial that expands the numbers of days per week of entertainment.

Bruce Cameron
President, AHCA

10/23/2009



U-3219-09-1 RENEWAL
567 23rd St S.
(RPC# 36-018-011)

Note: These maps are for property location assistance only.
 They may not represent the latest survey and other information.



Not To Scale

