



## ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item  
Meeting of May 22, 2010**

**DATE:** May 13, 2010

**SUBJECT:** U-3219-09-1 USE PERMIT RENEWAL for live entertainment at Tortoise and Hare Bar located at 567 23<sup>rd</sup> 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 with an administrative review in one (1) year and a County Board review in three (3) years (May 2013).

**ISSUES:** This is a review of live entertainment at Tortoise and Hare Bar in Crystal City and no issues have been identified.

**SUMMARY:** This is a review of live entertainment at the Tortoise and Hare Bar on 23<sup>rd</sup> St. South in Crystal City. The use permit for live entertainment was approved on April 25, 2009 for Fridays and Saturdays only, and with a six (6) month County Board review. This was at the request of the Aurora Highlands Civic Association, as a neighbor had complained of noise from the restaurant. In November 2009, the Civic Association reported that the situation has improved and the use permit was extended to seven (7) days a week with another six (6) month review. As there have been no noise complaints to Code Enforcement on this use, and the Police Department has not reported any issues, an administrative review in one (1) year and a County Board review in three (3) years is appropriate. The use permit can be brought back to the County Board at any time, should noise or other issues arise. Therefore, staff recommends renewal of the use permit for live entertainment at Tortoise and Hare Bar, subject to all previously approved conditions with an administrative review in one (1) year and a County Board review in three (3) years (May 2013).

County Manager: BMD/GA

Staff: Melanie Jesick, DCPHD, Planning Division

PLA-5586

18.

**BACKGROUND:** Tortoise and Hare Bar opened in August 2007. The restaurant is located on the far western end of “Restaurant Row” on 23<sup>rd</sup> Street South at the corner of Fern Street. The use permit was approved on April 25, 2009. At that time, Aurora Highlands Civic Association stated that some neighbors within a block of the restaurant complained about noise from the restaurant late at night. The civic association supported approval of live entertainment for two (2) days a week only, and requested that the use permit be reviewed again in six (6) months to evaluate the impacts. The applicant worked with the Aurora Highlands Civic Association to address noise concerns. During the use permit review in November 2009, the civic association reported noise concerns from one (1) immediate neighbor, but supported expansion of the live entertainment use to seven (7) days a week, provided that the use is reviewed again in six (6) months, May 2010.

**DISCUSSION:** This is a six (6) month review of the live entertainment use at Tortoise and Hare Bar. The use previously had some noise complaints from neighbors, but staff is not aware of any issues during the last six (6) months.

**Since the last use permit review (November 14, 2009):**

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

Community Code Enforcement: The Code Enforcement Office has not reported any issues with the use.

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 has been notified and the use permit renewal was discussed at the civic association’s May 12, 2010 meeting. A citizen from the civic association verbally told staff the civic association did not oppose continuation of the use permit with a review in one (1) year. However, to date, written comments from the civic association have not been received. Given that staff is not aware of any issues with the use permit, and the use is in compliance with the approved conditions, an administrative review in one (1) year and a County Board review in three (3) years is appropriate. An administrative review allows staff to continue monitoring the use. As stated above, if any issues arise the use permit can always be brought back to the County Board.

**CONCLUSION:** As there have been no noise complaints to Code Enforcement on this use, and the Police Department has not reported any issues, an administrative review in one (1) year and a County Board review in three (3) years is appropriate. The use permit can be brought back to the County Board at any time, should noise or other issues arise. Therefore, staff recommends renewal of the use permit for live entertainment at Tortoise and Hare Bar, subject to all previously approved conditions with an administrative review in one (1) year and a County Board review in three (3) years (May 2013).

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).

November 14, 2009

Renewed the 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 (May 2010)

Approved Conditions:

1. The applicant agrees that live entertainment will be limited to seven (7) days a week, 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.

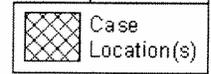


**U-3219-09-1**  
**567 23rd St. S.**  
**RPC: 36-018-011**

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



Not To Scale



Department of Community Planning, Housing and Development

Planning Division