



ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item Meeting of December 8, 2012

DATE: November 30, 2012

SUBJECT: SP #231 SITE PLAN AMENDMENT REVIEW for live entertainment at Velocity 5; located at 2300B Clarendon Blvd. (RPC #18-005-041).

Applicant:

James Speros, Chairman and CEO
2300B Clarendon Boulevard
Arlington, Virginia 22201

C.M. RECOMMENDATION:

Adopt the attached ordinance, to renew the Site Plan Amendment for live entertainment with an administrative review in six (6) months (June 2012) and a County Board review in one (1) year (December 2013) subject to all previous conditions with one (1) additional condition specifying that the use is temporary and will expire in 2013 unless renewed by the County Board, and a modification to Condition #60.e requiring that the Archstone Courthouse Plaza be notified of the neighborhood liaison.

ISSUES: This is a one year review of live entertainment at Velocity 5. No issues have been identified by staff with the renewal of the live entertainment. However, staff is aware of concerns related to noise coming from the by-right outdoor patio.

SUMMARY: The County Board approved the live entertainment use in December 2011. Since the approval, the use has operated in conformance with the conditions of approval. In the spring of 2012, staff was notified of noise concerns related to the by-right outdoor patio, which are unrelated to the live entertainment approval. Restaurant management subsequently met with the Clarendon Courthouse Civic Association, County staff, and neighboring residents, and the noise concerns appear to have been addressed. Therefore, staff recommends renewal of the Site Plan Amendment for live entertainment with an administrative review in six (6) months and a County Board review in one (1) year (December 2013) subject to all previous conditions with one (1) additional condition specifying that the use is temporary and will expire in 2013 unless renewed by the County Board and a modification to Condition #60.e requiring that the Archstone Courthouse Plaza be notified of the neighborhood liaison.

County Manager:

BMD/GA

County Attorney:

[Signature]

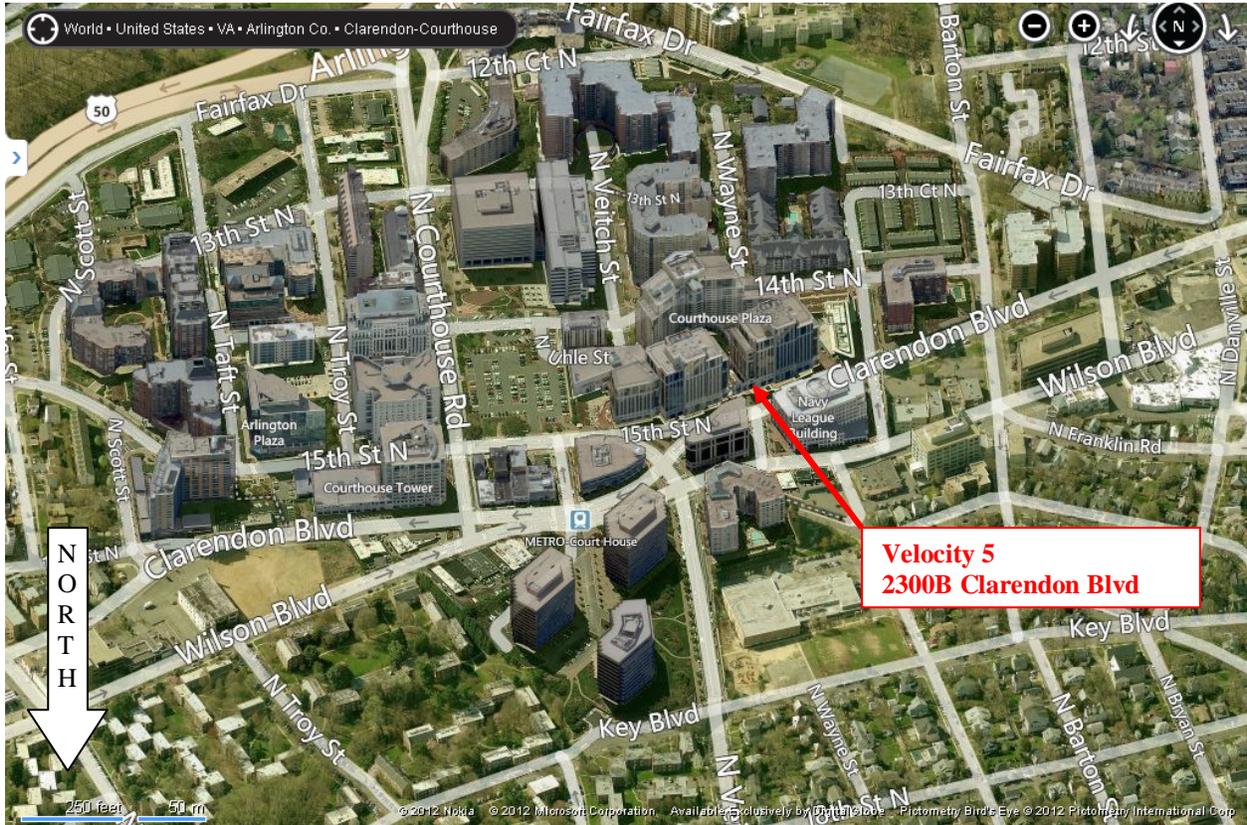
[Signature]

30.

Staff: Sophia S. Fisher, DCPHD, Planning Division

PLA-6327

BACKGROUND: The subject location is a commercial space in the Courthouse Plaza mixed use development in the Courthouse Metro Station area, constructed in the 1980s. The space is located in the ground floor of the 2300 Clarendon office building, and fronts on Clarendon Boulevard.



Source: Bing Maps

DISCUSSION: The applicant previously received approval for live entertainment (not including dancing) on Sundays through Thursdays from 4 p.m. to midnight, and on Fridays and Saturdays from 11 a.m. to 1:30 a.m. The type of entertainment the applicant has offered has been musicians, disc jockeys, trivia contests, and live talk radio broadcasts. The applicant has been in conformance with the conditions that require that live entertainment shall neither take place nor be broadcast outdoors, and that doors and windows be firmly closed during the times of live entertainment. Although not located in Clarendon, the applicant has agreed to adhere to many of the same additional conditions of approval that apply to venues that are part of the Clarendon Live Entertainment Group, and has been in compliance with those conditions as well. The applicant has further agreed to turn off the outdoor radio in the outdoor dining area at 10 p.m. nightly in response to community concerns about noise, with the patio closing at 11 p.m. Furthermore, the restaurant's location faces the commercial/office area of Clarendon Boulevard, rather than the residential area in the internal courtyard.

Staff is recommending that one (1) additional condition be added to the live entertainment approval, which specifies that the live entertainment use is temporary and will expire unless

renewed by the County Board. Staff is also recommending that the Archstone Courthouse Plaza, the apartment building in closest proximity to the live entertainment venue, be added to the list of entities that are to receive notice of the neighborhood liaison. In addition, the previously approved conditions have been renumbered in order to be consistent with other site plan amendments.

Since County Board approval (December 10, 2011):

Use Permit and Site Plan Amendment Conditions: A zoning inspection in November 2012 reported no current complaints or violations. However, there were several noise complaints in the spring and early summer of 2012. Since the restaurant management implemented procedures to address noise coming from the outdoor patio in July 2012, there has only been one (1) noise complaint.

Community Code Enforcement and the Site Plan Inspection: Community Code Enforcement and Site Plan Inspection staff report there are no issues with the location.

Police Department: The Police Department reported a high volume of calls related to noise coming from the outdoor patio prior to July 2012, but no concerns directly related to the live entertainment. There has been only one (1) noise complaint reported since the restaurant implemented better management techniques of the outdoor patio in July.

Fire Marshall: The Fire Marshall's office reports no issues with the live entertainment location.

State ABC Board: ABC Board reports no issues with the location.

Civic Associations: The Clarendon-Courthouse Civic Association (CCCA) was notified of the site plan amendment review, and has recommended that the use be renewed for a six (6) month period instead of the staff-recommended one (1) year. In response, staff has added a six (6) month administrative review, and notes that in the event that significant problems are identified either during the administrative review or at some other point prior to the County Board review, the permit for live entertainment can be brought before the County Board earlier than scheduled.

During the spring and early summer of this year, residents of the adjacent apartment building expressed concerns due to noise coming from patrons using the by-right outdoor patio of Velocity 5. This is unrelated to the live entertainment use permit. Due to the volume of complaints in the spring and early summer of 2012, representatives of the Velocity 5 management attended the July CCCA meeting to address the concerns. As a result of the meeting, the restaurant management agreed to take measures including turning off the outdoor radio at 10 p.m. and closing the outdoor patio at 11 p.m. Sunday through Wednesday and providing training for staff members on how to manage the noise. Since the restaurant management implemented the new policies, there has only been one (1) reported incident related to noise.

CONCLUSION: Staff supports the continued operation of the live entertainment so long as there are no undue impacts on the surrounding neighborhood. Although there was a period when noise concerns were raised, they were found to be unrelated to the live entertainment use. In addition, the noise complaints have been greatly diminished since management implemented new policies to address said concerns in July. Therefore, staff recommends renewal of the Site Plan Amendment for live entertainment with an administrative review in six (6) months and a County Board review in one (1) year (December 2013) subject to all previous conditions with one (1) additional condition specifying that the use is temporary and will expire in 2013 unless renewed by the County Board and a modification to Condition #60.e requiring that the Archstone Courthouse Plaza be notified of the neighborhood liaison.

New Condition

60. The applicant agrees that live entertainment permitted at Velocity 5 at 2300B Clarendon Boulevard is a temporary use only that has been approved for a limited one (1) year period (until December 31, 2013), and not longer. During the one year period, the use is permitted subject to all site plan conditions, and subject to the same reviews that could otherwise be made of any site plan use. The applicant further agrees that approval for the use will terminate after a period of one (1) year, on December 31, 2013, without further action by the County Board, unless otherwise approved prior to that date. The applicant agrees that it will cease use of the space for the purposes of live entertainment on or before December 31, 2013. The applicant acknowledges and agrees that after December 31, 2013, it shall have no right to use the space for live entertainment purposes unless specific approval for that use is obtained from the County Board. In addition to all other conditions of this site plan, the applicant specifically agrees that the live entertainment use shall be subject to the following additional conditions:

60.e. The applicant agrees to 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 a copy sent to the Clarendon-Courthouse Civic Association and the Lyon Village Citizens Association, and the Archstone Courthouse Plaza.

*** End new and modified language. The remainder of the conditions follow the site plan amendment ordinance. ***

SITE PLAN AMENDMENT ORDINANCE

WHEREAS, an application for a Site Plan Amendment dated October 14, 2011 for SP #231, was filed with the Office of the Zoning Administrator: and

WHEREAS, as indicated in Staff Report provided to the County Board for its December 8, 2012 meeting, and through comments made at the public hearing before the County Board, the County Manager recommends that the County Board approve the Site Plan Amendment subject to numerous conditions as set forth in the Staff Report; and

WHEREAS, the County Board held a duly-advertised public hearing on that Site Plan Amendment on December 8, 2012 and finds, based on thorough consideration of the public testimony and all materials presented to it and/or on file in the Office of the Zoning Administrator, that the improvements and/or development proposed by the Site Plan, as amended:

- Substantially complies with the character of the General Land Use Plan, and with the uses permitted and use regulations of the C-O Districts as set forth in the Zoning Ordinance; and
- Functionally relates to other structures permitted in the district and will not be injurious or detrimental to the property or improvements in the neighborhood; and
- Is so designed and located that the public health, safety and welfare will be promoted and protected.

NOW THEREFORE, BE IT ORDAINED that, as originally requested by an application dated October 14, 2011 for an amendment to SP #231, for a site plan amendment for live entertainment for the parcel of real property known as RPC# 18-005-041 and 2300B Clarendon Boulevard, and as such application has been modified, revised, or amended, approval is granted and the parcels so described shall be used according to all prior approvals for Site Plan #231, as amended by the Revised Site Plan

Application subject to all previously approved conditions and new condition 60 which applies solely to the request for a restaurant with live entertainment:

Conditions:

60. The applicant agrees that live entertainment permitted at Velocity 5 at 2300B Clarendon Boulevard is a temporary use only that has been approved for a limited one (1) year period (until December 31, 2013), and not longer. During the one year period, the use is permitted subject to all site plan conditions, and subject to the same reviews that could otherwise be made of any site plan use. The applicant further agrees that approval for the use will terminate after a period of one (1) year, on December 31, 2013, without further action by the County Board, unless otherwise approved prior to that date. The applicant agrees that it will cease use of the space for the purposes of live entertainment on or before December 31, 2013. The applicant acknowledges and agrees that after December 31, 2013, it shall have no right to use the space for live entertainment purposes unless specific approval for that use is obtained from the County Board. In addition to all other conditions of this site plan, the applicant specifically agrees that the live entertainment use shall be subject to the following additional conditions:

- a. ~~60.~~ The applicant agrees that live entertainment at 2300B Clarendon Boulevard shall be permitted only as approved by the County Board. The applicant agrees live entertainment shall be permitted only between the hours of 4 p.m. to 12 a.m., Sunday through Thursday, and 11 a.m. to 1:30 a.m., Friday and Saturday.
- b. ~~a.~~ The applicant agrees there shall be no dancing until a Dance Hall Permit has been obtained.
- c. ~~b.~~ Live entertainment must take place only within the building. The windows and doors to the outside shall remain closed during the times of live entertainment, and the applicant shall comply with the Arlington County Noise Ordinance. No live entertainment shall be broadcast over loudspeakers outside of the building, and under no circumstances shall live entertainment be permitted outside of the building.
- d. ~~e.~~ The applicant agrees that all requirements of County and State Ordinances, the Environmental Health Bureau, the Fire Marshal, the Police Department and the Alcohol Beverage Control Board shall be met.
- e. ~~f.~~ The applicant agrees to 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 a copy sent to the Clarendon-Courthouse Civic Association and the Lyon Village Citizens Association, and the Archstone Courthouse Plaza.
- f. ~~e.~~ The applicant agrees that the site plan amendment for live entertainment shall be reviewed by the County Board upon any change of tenancy of the subject space currently occupied by Velocity 5.
- g. ~~f.~~ The applicant agrees that on-site dedicated security shall be provided from 9:00 p.m. until closing on nights that have bands or DJ's. The on-site security may consist of "in-house" staff, so long as that staff is dedicated to security only.

- h. ~~g.~~ The applicant agrees to post signs inside the restaurant door telling patrons that free parking is available in the Courthouse Plaza garage after 5 p.m., to respect the peace of residential neighborhoods, and to please avoid parking in the residential neighborhood where possible.
- i. ~~h.~~ The applicant agrees to clean the sidewalk in front of its establishment each morning, including sweeping cigarette butts and litter that may have accumulated from any outdoor seating area.
- j. ~~i.~~ The applicant agrees that any outdoor radio in the outdoor dining area shall be turned off at 10 p.m. nightly

PREVIOUS COUNTY BOARD ACTIONS:

- May 18, 1985 Approved a rezoning from “P-S” to “C-O” and site plan (Z-2280-85-4) for a mixed use office/residential/hotel/retail project.
- December 2, 1986 Approved a site plan amendment to increase retail gross floor area by 18,439 square feet, subject to the condition requiring to provide 19 additional parking spaces are provided.
- May 2, 1987 Approved a site plan amendment to permit the subdivision of the property containing 242,260 square feet into four lots; Lot 1 having a site area of 72,615 square feet; Lot 2 having a site area of 19,447 square feet; Lot 3 having a site area of 45,322 square feet; and Parcel "A" having a site area of 104,876 square feet, subject to all previous conditions and two new conditions.
- April 7, 1990 Approved a site plan amendment request for a comprehensive sign plan, subject to all previous conditions and five (5) new Conditions #51, #52, #53, #54, and #55.
- June 2, 1990 Deferred the remainder of the signs not approved at the April 7, 1990 County Board meeting until July 7, 1990.
- July 10, 1990 Approved a site plan amendment for a freestanding cinema sign on Clarendon Boulevard, subject to all previous conditions and new Condition #56.
- September 8, 1990 Approved a site plan amendment for the remainder of the comprehensive sign plan, subject to all previous conditions and the revised Condition #54 and new Condition #57.
- August 10, 1991 Accepted withdrawal of a site plan amendment for a conversion of 3,500 square feet of first floor retail space to office use at 2250 Clarendon Boulevard.
- February 8, 1992 Approved a site plan amendment for a conversion of 2,625 square feet of area designated for community meeting space to retail use.
- February 6, 1993 Approved a site plan amendment for a special exception to amend Conditions #42, #43, and #44, to increase the ratio of compact car parking spaces, subject to all previous

conditions, revised Conditions #9, #42, and #44, and a new Condition #58.

- August 14, 1993 Approved a site plan amendment (SP #231) for live entertainment from 7:00 p.m. to 11:00 p.m. on Thursdays, (Capitol Grille) 2300 Clarendon Boulevard, from 9:00 p.m. to 1:00 a.m. on Fridays and Saturdays, and from 10:00 a.m. to 2:00 p.m., and 7:00 p.m. to 10:00 p.m. on Sundays, subject to conditions and an administrative review in one (1) year.
- September 11, 1993 Approved a site plan amendment (SP #231) to permit a dentist office (2250 Courthouse Plaza) on the plaza level in designated retail space, subject to all previous conditions and an additional condition.
- March 4, 1995 Approved a site plan amendment (SP #231) to extend the term of decorative banners and approve an alternative design depicting seasonal themes (2100 - 2400 Clarendon Blvd.) for a period of five (5) years, subject to all previous conditions and conditions #51 and #53 amended.
- January 20, 1996 Approved site plan amendment (SP #231) to convert 4,290 square feet of retail space under 2250 Clarendon Boulevard to secondary retail and medical office and law office uses for the parcels of real property known as 2100 through 2400 Clarendon Boulevard, for a period of five (5) years until January 2001.
- January 27, 2001 Continued site plan amendment (SP #231) to convert 4,290 square feet of retail space under 2250 Clarendon Boulevard to secondary retail and medical office and law office uses for the parcels of real property known as 2100 through 2400 Clarendon Boulevard, subject to all previous conditions, with a review in two (2) years (January 2003).
- March 13, 2003 Continued site plan amendment (SP #231) to convert retail space under 2250 Clarendon Boulevard to secondary retail and medical office and law office, subject to all previous conditions, with a review in two (2) years (March 2005).
- March 12, 2005 Continued site plan amendment (SP #231) to convert retail space under 2250 Clarendon Boulevard to secondary retail and medical office and law office, subject to all previous conditions, with a review in three (3) years (March 2008).

April 16, 2005	Approved site plan amendment (SP #231) for live entertainment and dancing (The Music Box), with administrative review in three (3) months (July 2005) and County Board review in one (1) year (April 2006).
February 25, 2006	Approved a major site plan amendment (SP #231) for a 176-room extended-stay hotel, 5,510 square feet of restaurant space and 3,945 square feet of retail/food service space.
October 14, 2006	Did not renew a site plan amendment (SP #231) for live entertainment and dancing (The Music Box).
May 5, 2007	Renewed a site plan amendment (SP #231) for a flea market, subject to all previous conditions, with a county board review in three (3) years (May 2010).
June 19, 2007	Approved a major site plan amendment (SP #231) to the hotel site plan for a new garage entrance and amended condition #38.
April 22, 2008	Renewed a site plan amendment for conversion of a retail space to dentist office, subject to all previous conditions and new conditions #3-6, not to extend past December 2014 with an administrative review in five (5) years (January 2013).
December 13, 2008	Approved a comprehensive sign plan for the hotel, with the exception of the proposed freestanding sign and a lighted 84-square-foot sign on the west façade, subject to all existing and new conditions.
May 19, 2009	Approved a site plan amendment to the hotel site plan to revise condition #66, re: Energy Star appliances, subject to a revised condition #66.
July 14, 2009	Approved a site plan amendment to the hotel site plan to revise condition #84, subject to all previous conditions and a revised condition #84.
September 26, 2009	Approved a site plan amendment for the hotel site plan to allow an as-built below grade parking structure, including modification of use regulations for drive isle widths and compact parking space ratio location and dimensions, and for modification of condition #84 regarding bicycle storage

facility, subject all previous conditions and revised conditions #39, 82, 84.

January 6, 2010

Accepted withdrawal of a site plan amendment for a revised comprehensive sign plan.

May 22, 2010

Discontinued a site plan amendment for the Sunday flea market.

December 10, 2011

Approved a site plan for live entertainment with a County Board review in one (1) year (December 2012). Deferred a request for electronic signs (televisions) for one month to the January 21, 2012 County Board meeting to allow for further staff review; the request was later withdrawn because the proposed televisions were found to be allowed by-right.



Clarendon-Courthouse Civic Association

November 24, 2012

Sophia S. Fisher, AICP
Associate Planner
Department of Community Planning, Housing & Development
Planning Division
2100 Clarendon Blvd., Suite 700
Arlington, VA 22201

Ms. Fisher,

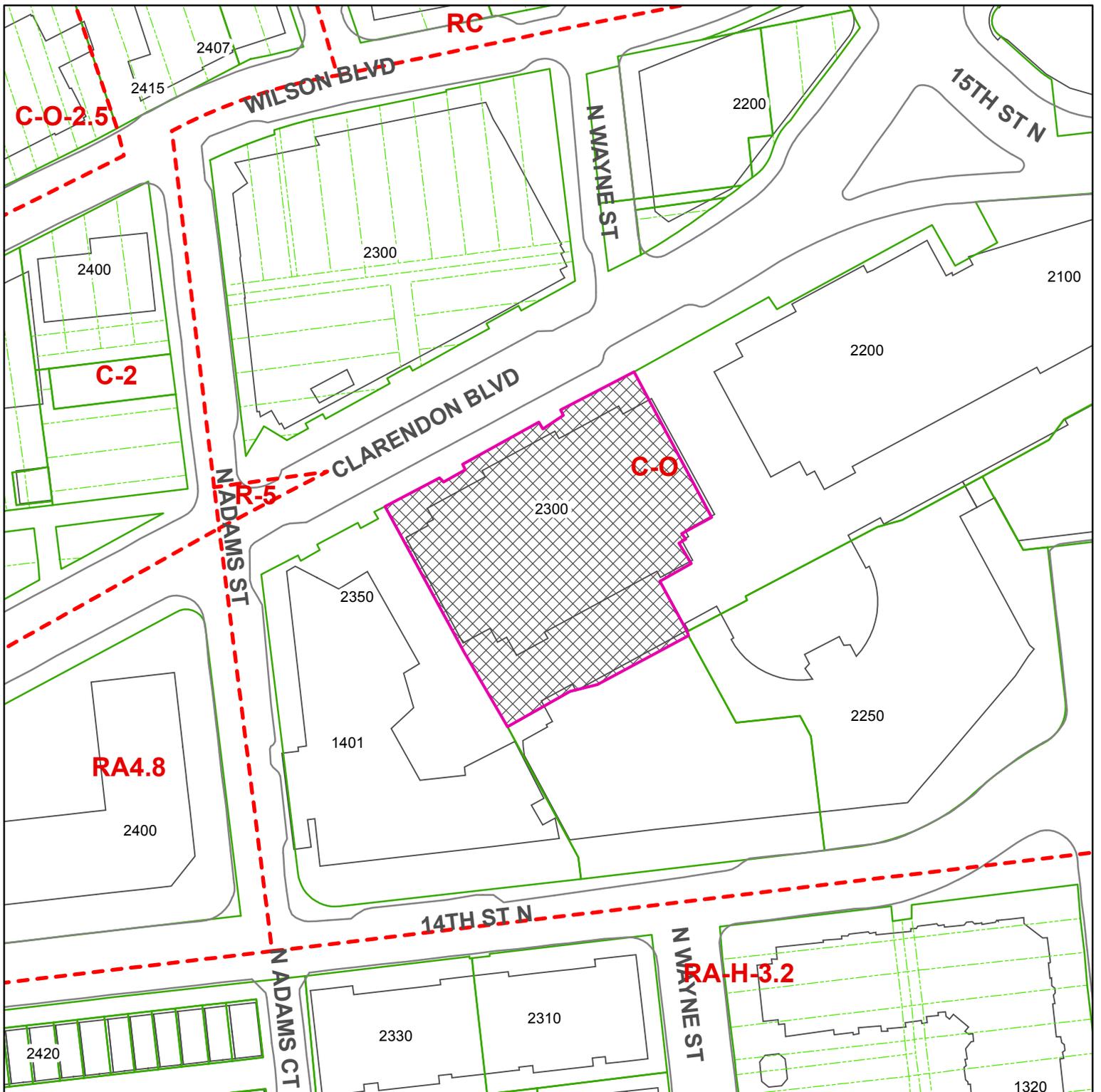
The Clarendon-Courthouse Civic Association (CCCA) does not object to a renewal of the live entertainment permit for Velocity 5, provided that the permit is subject to a six-month administrative review. In the past year, the establishment has been the subject of at least 16 formal complaints involving zoning enforcement, the Arlington Police, and County staff. In addition, the CCCA has received a large number of emails expressing concern or complaint beyond these formal complaints. While the number of complaints has declined materially since Velocity 5 management met with CCCA representatives and members, the issues have not been completely abated. Moreover, the improvement has also coincided with a change in season and a decline in outdoor dining area use by patrons. The CCCA believes that the six-month renewal followed by administrative review is warranted to ensure that the pattern of improvement persists into the early summer and more fully supports a longer review cycle.

While not directly related to the live entertainment permit, the CCCA notes that community issues are rooted in the operation of a full-service outdoor sports bar in an area of close proximity to residences. The CCCA notes further that the residential properties pre-date Velocity 5, and that restaurant management could or should have anticipated the impact of outdoor sports bar operations on the tranquility of the neighborhood. The CCCA has a long history of supporting businesses that seek a proper balance between commercial success and sensitivity to neighborhood issues. However, the CCCA also has taken a strong stance against businesses that incite or tolerate unacceptable behavior, such as loud noise into the late evening or early morning hours, drunken behavior (including public urination), and/or public littering. While these behaviors are not limited to establishments with outdoor serving areas, the challenges imposed upon management and the need for a heightened level of patron monitoring and control are greater.

Again, the CCCA notes the reduction in neighborhood complaints, both formal and informal. Our members look forward to continued improvements during a six-month review period in which Velocity 5 management further demonstrates its stated intent of being a positive participant in our vital neighborhood.

Regards,

Kenneth Fulton
CCCA President
703-243-2536
kennethfulton@yahoo.com



SP# 231

2300 B Clarendon Blvd.

RPC 18-005-041

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

Department of Community Planning, Housing and Development



 Case Location(s)
Scale: 1:1,200

Planning Division