



CITY OF RICHMOND

Department of Planning & Development Review *Staff Report*

Ord. No. 2014-94: To amend ordinance 2004-325-304, adopted Nov. 22, 2004, as previously amended by Ord. No. 2006-105-183, adopted July 10, 2006, which authorized the special use of the property known as 1619 and 1621 West Broad Street for radio broadcasting studio and offices on the second floor, including an accessory antenna and a parking waiver, for the purpose of permitting a nightclub use upon certain terms and conditions.

To: City Planning Commission
From: Land Use Administration
Date: July 7, 2014

PETITIONER

Rand Burgess
The Camel, Inc.
1621 West Broad Street, Richmond, VA 23220

LOCATION

1621 West Broad Street

PURPOSE

To amend ordinance 2004-325-304, adopted Nov. 22, 2004, as previously amended by Ord. No. 2006-105-183, adopted July 10, 2006, which authorized the special use of the property known as 1619 and 1621 West Broad Street for radio broadcasting studio and offices on the second floor, including an accessory antenna and a parking waiver, for the purpose of permitting a nightclub use upon certain terms and conditions.

SUMMARY & RECOMMENDATION

The subject property is located on the south side of West Broad Street between North Lombardy Street and North Allen Avenue and contains approximately 5,040 square feet of lot area. The site is occupied by two, two-story commercial storefront buildings that were constructed in 1925 on separate parcels. Over the years the buildings were connected with interior doorways and the two parcels were consolidated in 1990. The two buildings contain approximately 6,960 square feet of combined floor area. The first floor and basement of the building are currently used by The Camel restaurant and music venue. The second floor is used for a radio broadcasting studio and office, which was authorized by a special use permit adopted April 24, 2006 (Ord. No. 2006-105-183). A number of conditions included in this ordinance also regulate aspects of the restaurant and music uses.

The existing special use was also required to waive a number of required parking spaces. As this property is located in the PO-4 Parking Overlay District, the maximum number of spaces that would be required for the first floor and basement, calculated at a rate of 1 space for every 170 square feet of floor area, is 24.4 spaces. The use of the second floor as a radio broadcasting studio requires 6.3 spaces, bringing the total number of spaces required to 31. Twelve spaces are nonconforming (grandfathered) and four spaces are provided at the rear of the property. Therefore, the current special use permit waives 15 parking spaces.

Under the current special use permit, the first floor and basement of the building can be occupied by any principal permitted use in the UB district under certain terms and conditions, which includes entertainment uses and restaurants with accessory entertainment.

A condition of the existing special use permit limits the hours of the entertainment use, and reads, "Any principal or accessory entertainment use of the property shall cease by 11:00pm Sunday through Thursday and by 1:00am on Friday and Saturday." The petitioner requests that any principal or accessory entertainment use cease by 2:00am on Sunday through Saturday.

Since the initial SUP was granted, the zoning ordinance was amended in 2013 to establish a definition for nightclub and distinguish a nightclub from a restaurant use. A nightclub is defined as any establishment in which all of the following features are made available at any time from 12:00 midnight until 6 a.m.

1. Alcoholic beverage served or consumed on the premises;
2. Floor space provided for dancing or standing or both for patrons in conjunction with an entertainment activity;
3. Music or other sound that is amplified through speakers for the purpose of entertaining patrons, except for the following:
 - a. Sound associated with television or similar media being viewed by patrons
 - b. Music provided exclusively as background entertainment for dining patrons

The UB Urban Business District permits nightclubs lawfully existing on the effective date of this provision but does not permit new nightclub uses or expansion of existing nightclubs. The restaurant at the subject property is considered an existing nightclub between the hours of 12 a.m. and 1 a.m. Friday and Saturday nights, as permitted in the current special use permit, and when meeting the definition of a nightclub. The proposed extension of hours is considered an expansion of the existing nightclub use and requires an amendment to the special use permit. If approved, the amended special use permit would authorize a nightclub use of the property 7 days a week between the hours of 12 a.m. and 2 a.m.

The Master Plan recommends "Community Commercial" use for the subject property. "Primary uses include office, retail, personal service and other commercial and service uses, intended to provide the shopping and service needs of residents of a number of nearby neighborhoods or a section of the City. As compared to Neighborhood Commercial, this category includes a broader range of uses of greater scale and intensity, with greater vehicular access and orientation, but that are also compatible with nearby residential areas" (p. 134).

Furthermore, the Master Plan states, "Vacant buildings on the corridor should be encouraged to develop first floor commercial uses with office and/ or residential uses for upper floors. Ideally, Broad Street should be a dense urban development that is oriented to the pedestrian and compatible with adjacent residential development" (p. 239).

Finally, the Master Plan states for this area of West Broad Street, "Nightclubs and adult entertainment establishments are inappropriate" (p. 240).

Aspects of the current restaurant and entertainment uses are consistent with the Master Plan recommendations for first floor commercial uses and the Master Plan's policies for creating a high-quality and attractive land use with pedestrian-related activity along the West Broad Street Corridor. However, a nightclub use allowed to stay open until 2 a.m. seven nights a week is not compatible with nearby residential uses. Staff feels the current limit on hours of operation for the entertainment uses adequately protects the compatible relationship between the entertainment use and nearby residential uses as well as other commercial uses of lesser scale.

Staff finds that the City Charter conditions relative to the granting of special use permits, which includes not being detrimental to the safety, health, morals and general welfare of the community, have been not been met. Therefore, staff recommends denial of the special use permit request.

FINDINGS OF FACT

Site Description

The subject property is located on the south side of West Broad Street between North Lombardy Street and North Allen Avenue and contains approximately 5,040 square feet of lot area. The site is occupied by two, two-story commercial storefront buildings that were constructed in 1925 on separate parcels. Over the years the buildings were connected with interior doorways and the two parcels were consolidated in 1990. The two buildings contain approximately 6,960 square feet of combined floor area. The first floor and basement of the building are currently used by The Camel restaurant and music venue. The second floor is used for a radio broadcasting studio and office which was authorized by a special use permit adopted April 24, 2006 (Ord. No. 2006-105-183).

Proposed Use of the Property

The petitioner is requesting to amend one of the existing conditions pertaining to hours of operation. The condition currently reads, "Any principal or accessory entertainment use of the property shall cease by 11:00pm Sunday through Thursday and by 1:00am on Friday and Saturday." The petitioner requests that any principal or accessory entertainment use cease by 2:00am on Sunday through Saturday. Since the initial SUP was granted, the zoning ordinance was amended in 2013 to establish a definition for nightclub and distinguish a nightclub from a restaurant use. The proposed extension of hours would authorize a nightclub use of the property 7 days a week. Nightclubs are permitted in the UB zoning district only if they existed prior to January 14, 2013.

Master Plan

The Master Plan recommends "Community Commercial" use for the subject property. "Primary uses include office, retail, personal service and other commercial and service uses, intended to provide the shopping and service needs of residents of a number of nearby neighborhoods or a section of the City. As compared to Neighborhood Commercial, this category includes a broader range of uses of greater scale and intensity, with greater vehicular access and orientation, but that are also compatible with nearby residential areas" (p. 134). Furthermore, the Master Plan states, "Vacant buildings on the corridor should be encouraged to develop first floor commercial uses with office and/ or residential uses for upper floors. Ideally, Broad Street should be a dense urban

development that is oriented to the pedestrian and compatible with adjacent residential development” (p. 239).

Finally, the Master Plan states for this area of West Broad Street, “Nightclubs and adult entertainment establishments are inappropriate” (p. 240).

Zoning & Ordinance Conditions

The existing special use permit authorized the radio broadcast studio use for the second floor of the building and referred to the underlying UB Urban Business - PO4 (West Broad Street Parking Overlay District) for the use of the remainder of the building.

The special use was also required to waive a number of required parking spaces. As this property is located in the PO-4 Parking Overlay District, the maximum number of spaces that would be required for the first floor and basement, calculated at a rate of 1 space for every 170 square feet of floor area, is 24.4 spaces. The use of the second floor as a radio broadcasting studio requires 6.3 spaces, bringing the total number of spaces required to 31. Twelve spaces are nonconforming (grandfathered) and four spaces are provided at the rear of the property. Therefore, the current special use permit waives 15 parking spaces.

Under the current special use permit, the first floor and basement of the building can be occupied by any principal permitted use in the UB district under certain terms and conditions, which includes entertainment uses and restaurants with accessory entertainment.

A condition of the existing special use permit limits the hours of the entertainment use, and reads, “Any principal or accessory entertainment use of the property shall cease by 11:00pm Sunday through Thursday and by 1:00am on Friday and Saturday.” The petitioner requests that any principal or accessory entertainment use cease by 2:00am on Sunday through Saturday.

Since the initial SUP was granted, the zoning ordinance was amended in 2013 to establish a definition for nightclub and distinguish a nightclub from a restaurant use. A nightclub is defined as any establishment in which all of the following features are made available at any time from 12:00 midnight until 6 a.m.:

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use permit, and when meeting the definition of a nightclub. The proposed extension of hours is considered an expansion of the existing nightclub use and requires an amendment to the special use permit. If approved, the amended special use permit would authorize a nightclub use of the property 7 days a week between the hours of 12 a.m. and 2 a.m.

Surrounding Area

The property to the north across West Broad Street is zoned M-1 Light Industrial and is occupied by a large home improvement retail and warehouse use. The properties to the south across the public alley front on West Grace Street and are zoned R-48 Multi-Family Residential and occupied by a single-family and multifamily dwellings. The properties to the east and to the west are also zoned UB and are occupied by commercial uses and some second-floor residential units.

Neighborhood Participation

Staff has contacted 2nd District Council Representative, Charles Samuels, the Fan District Association, and West Grace Street Association. Staff has received a letter of no objection from the Fan District Association and two letters of support from the West Grace Street Association.

In addition, staff has received over 50 letters of support, including an online petition with approximately 2,000 signatures.

Staff has also received 8 letters in opposition from the public.

Staff Contact: Willy Thompson, Senior Planner, (804) 646-5734