



# Application for **CONDITIONAL USE PERMIT**

Department of Planning and Development Review  
Land Use Administration Division  
900 E. Broad Street, Room 511  
Richmond, Virginia 23219  
(804) 646-6304  
<http://www.richmondgov.com/>

Application is hereby submitted for: (check one)

- conditional use permit, new
- conditional use permit, amendment

### Project Name/Location

Project Name: Southern Railway Taphouse Date: \_\_\_\_\_

Property Address: 100 South 14th Street, Suite 100 Tax Map #: E-000-0069/001

Fee: \$1,500.00 Total area of affected site in acres: 0.91 acres  
(See page 4 for fee schedule, please make check payable to the "City of Richmond")

### Zoning

Current Zoning: B-5 Central Business

Existing Use: Restaurant

Is this property subject to any previous land use cases?

- Yes
- No

If Yes, please list the Ordinance Number: \_\_\_\_\_

### Proposed Use

(Please include a detailed description of the proposed use in the required applicant's report)

Restaurant and Night Club

**Applicant/Contact Person:** Andrew M. Condlin, Esq.

Company: Roth Doner Jackson Gibbons Condlin, PLC

Mailing Address: 919 East Main Street, Suite 2110

City: Richmond State: VA Zip Code: 23219-4625

Telephone: ( 804 ) 977-3373 Fax: ( 804 ) 441-8438

Email: acondlin@rothdonerjackson.com

**Property Owner:** JPMCC 2006-LDP9 Office 100, LLC

If Business Entity, name and title of authorized signee: See Attached

(The person or persons executing or attesting the execution of this Application on behalf of the Company certifies that he or she has or have been duly authorized and empowered to so execute or attest.)

Mailing Address: C/O CWCapital Asset Management LLC, 7501 Wisconsin Ave. #500 West (See Attached)

City: Bethesda State: MD Zip Code: 20814

Telephone: ( ) Fax: ( )

Email: \_\_\_\_\_

**Property Owner Signature:** SEE ATTACHED

(The names, addresses, telephone numbers and signatures of all owners of the property are required. Please attach additional sheets as needed. If a legal representative signs for a property owner, please attach an executed power of attorney. **Faxed or photocopied signatures will not be accepted.**)

**ATTACHMENT**  
**TO**  
**APPLICATION FOR CONDITIONAL USE PERMIT**

**PROPERTY OWNER:**

**With a copy to:**

c/o Onyx Equities, LLC  
2200 Defense Highway, Suite 307  
Crofton, Maryland 21114  
Attn: Jonathan Lakner  
Telephone: (410) 451-0837  
Email: jlakner@onyxequities.com

**PROPERTY OWNER SIGNATURE:**

**JPMCC 2006-LDP9 Office 100, LLC,**  
a Virginia limited liability company

By: U.S. Bank National Association, successor-in-interest to  
Bank of America, N.A., as successor by merger to  
LaSalle Bank, N.A., as Trustee for the Registered  
Holders of J.P. Morgan Chase Commercial Mortgage  
Securities Trust 2006-LDP9, Commercial Mortgage Pass-  
Through Certificates, Series 2006-LDP9 (the "Trust"), its  
Sole Member/Manager

By: CWCapital Asset Management LLC, a Delaware limited  
liability company, solely in its capacity as Special  
Servicer to the Trust

By: \_\_\_\_\_

Name: \_\_\_\_\_

Kevin Thompson

Title: \_\_\_\_\_

Vice President

Date: \_\_\_\_\_

November 25, 2015



919 East Main Street, Suite 2110, Richmond, VA 23219-4625  
(804) 441-8440 (main) - (804) 441-8438 (fax)  
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**Andrew M. Condlin**  
(804) 977-3373 (direct)  
acondlin@rothdonerjackson.com

November 24, 2015

BY HAND DELIVERY

Ms. Lory Markham  
City of Richmond Department of Community Development  
Land Use Administration Division, Room 511  
City Hall, 900 East Broad Street  
Richmond, Virginia 23219

**Re: Conditional Use Permit: 100 South 14<sup>th</sup> Street**

Dear Lory:

This letter shall serve as the Applicant's Report accompanying the application for a Conditional Use Permit (the "CUP") in order to authorize an existing restaurant to operate as a nightclub, as that term is defined in the City Zoning Ordinance, during specified times for the property known as 100 South 14<sup>th</sup> Street (the "Property"). The Property is located on the west side of South 14<sup>th</sup> Street between East Canal Street and the Kanawha Canal/elevated Downtown Expressway. The Property is occupied by a five-story commercial building and an original railroad warehouse structure, which together contain 88,905 square feet of floor area. The circa 1900 railroad warehouse structure by itself contains approximately 6,700 square feet of floor area and is occupied by the restaurant that is the subject of this request.

The Property is zoned B-5 Central Business, which permits restaurants and similar food and beverage service establishments, including entertainment in conjunction therewith. Such establishments may include areas outside completely enclosed buildings and intended for service to or consumption of food and beverages by patrons. Prior to January 14, 2013, restaurants could be occupied as establishments with entertainment without restriction – meaning they could serve patrons and provide entertainment up until 2:00 AM. However, a zoning text amendment (Ordinance no. 2012-234-2013-2), adopted January 14, 2013, defined establishments with certain features operating after midnight as "Nightclubs". Specifically, the existing features that must occur after midnight include the service of alcoholic beverages, the provision of floor space for dancing or standing in conjunction with an entertainment activity, and music that is amplified through speakers for the purpose of entertaining patrons. Restaurants/establishments very commonly include these features in the Shockoe Slip district, which is a destination entertainment area. However, to the extent that they do, they are likely considered nonconforming (grandfathered).

My client, Pizza 111, LLC, has occupied the Property with a use that is primarily restaurant and outdoor dining as described above since the issuance of the initial certificate of occupancy (CO) on January 17, 2014, just three days after the adoption of the new nightclub guidelines. The establishment has become a successful destination venue with strong lunch and dinner hour patronage as well as with an after-dinner evening crowd. With their success subsequent to the initial CO, they have requested permits to modify the interior configuration and increase occupancy. Now known as the Southern Railway Taphouse, the Property is improved consistent with a restaurant/tap room with fixed seating for dining, outdoor dining area, several bars, and areas designated for standing in close proximity to the bars.

The business is most often operated as a typical restaurant and bar with background music playing through speakers. There is no stage or dance floor. So the entertainment activity consists solely of amplified music as background music and on occasion with a DJ. Much of the existing use, in fact all of it taking place prior to 12:00 midnight on Fridays and Saturdays, is permitted by right as a restaurant. The characteristics of the use does not change after 12:00 midnight. However, City Code provides that such activity after midnight, including amplified background music for standing patrons, automatically makes it a night club requiring a conditional use permit. Unfortunately, this type of entertainment activity can only be operational from 6:00 AM until 12:00 midnight per the 2013 nightclub standards. As a result, while not intuitively a nightclub with the absence of a dance floor or stage, the use of the Property including the service of alcohol associated with a tap room and the provision of music through speakers for the patrons is not permitted after 12:00 midnight.

As a result, the proposed use would be a nightclub for four hours each week. Therefore, a conditional use permit is needed to authorize the use of the Property during those 4 hours.

This request is consistent with the recommendations of the Downtown Plan and the Riverfront Plan on a variety of levels. The Downtown Plan recognizes the Property as an Urban Core Area. The ground floor, street-oriented restaurant/nightclub use of the property along with the canal-oriented outdoor dining area address the Downtown Plan recommendation for an active pedestrian presence and commercial frontage. The provision of entertainment uses in the vicinity is recognized as a positive by the Downtown Plan, which states, "Shockoe Slip has enjoyed continued success as an upscale residential, office and entertainment district within Downtown Richmond. A strong business association has assured that streets and sidewalks are maintained and that businesses appeal to residents and visitors." The Riverfront Plan recognizes that the City has invested in the vicinity in order to attract uses similar to the proposed. It notes that, "The City of Richmond completed the \$52 million Canal Walk in 1999, with the objective of catalyzing redevelopment of residential, entertainment and commercial uses." It further recognizes that, "Redevelopment has incrementally gravitated to the Canal Walk, with several residential towers, offices, and entertainment projects completed, and several more on the way." The Riverfront Plan further recognizes that "Activity along the Canal Walk appears lower than one would expect, due in part to the relative absence of adequate ground level retail, food and drinking opportunities." Situated adjacent to the Kanawha Canal, along the Canal Walk, the

Property is a keystone use in terms of providing an opportunity for an active entertainment use as contemplated by the plan. With regard to the hours of the proposed use, the Riverfront Plan suggests a desire for activity on the canal throughout the day. “Achieving a true mixed-use will be instrumental in activating the Canal Walk eighteen hours a day, balanced with residents attracted to the Riverfront living.” Finally, historic themes in the Downtown Plan and Riverfront plan are supported by the provision of a destination entertainment use in a rehabilitated historic railroad structure located in such proximity to the canal/turning basin. Visitors are able to passively experience the rich transportation history that has shaped this area of the City – first as a canal network, then as a railroad crossroads.

The conditional use provisions are intended as a means for reviewing and approving certain uses which, although generally appropriate in the district in which they are permitted, have potentially greater impacts on neighboring properties than uses which are permitted by right. The numerous existing restaurant/nightclubs in the vicinity and the recognition of the benefit of those entertainment uses in the Downtown Plan support that the proposed use is generally appropriate in the area. Given the site-specific context, the proposed use is even more appropriate at this location. City Policy supports such a use for the Property given the investment in the Canal Walk, the desire for active street level commercial and entertainment uses along it, and the limited number of development opportunities along the canal’s length. In addition, the proposed use is compatible with surrounding land uses. While many similar uses in the vicinity are located in mixed-use buildings with a residential component, the Property is located within an entirely commercial development occupying an entire block, thereby limiting conflict. Finally, while similar restaurant/nightclubs in the vicinity are nonconforming and operate without condition, this request includes a Management Plan (Exhibit A), which includes measures that are intended to ensure compatibility with the surrounding area and mitigate any unanticipated adverse impacts.

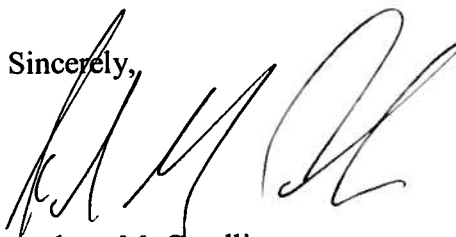
The zoning nightclub definition is very loose and captures uses with varying operational characteristics. Some of those characteristics, such as dance floors, live music venues, and operation throughout the week might be more impactful than others. In this case, with a general limitation to Friday and Saturday nights, the Management Plan, and the floor plan which is absent any dance floors or stages, the proposed operation of the Property as a nightclub is limited in impact. Unlike many venues which might rely solely on late night patronage, the existing use will remain a full service restaurant that will attract visitors to the area throughout the day. Given the recommendations of the Downtown and Riverfront Plans, the relationship of this request to the City investment in the Canal Walk, the specific details of this request and the specific attributes of the Property, the proposed use is appropriate for the Property and it meets the criteria set forth in the Charter of the City of Richmond that the use: (1) Will not be contrary to the general purposes of the chapter as stated in section 114-100; (2) Will not be in conflict with the objectives and policies of the master plan for the city; (3) Will conform with all applicable sections of Article X and other applicable requirements of the district in which it is proposed to be located; (4) Will not substantially diminish or impair the established property values in the neighborhood in which it is proposed to be located; (5) Will not have an undue

Ms. Lory Markham  
November 25, 2015  
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adverse effect on the public health, safety or general welfare; (6) Will not adversely affect the character of the surrounding area or the continued use and development of surrounding property in a manner consistent with applicable zoning regulations or master plan objectives; (7) Will not cause undue traffic congestion on public streets or significantly increase traffic volumes on minor residential streets; (8) Will be adequately served by essential public services and facilities and will not cause an undue burden on such services and facilities; (9) Will not cause the destruction, loss or damage of significant natural, scenic or historic features to any greater degree than development of the property for uses permitted by right in the district; (10) Will ensure compatibility with surrounding property through existing and proposed landscaping, screening and buffering and the location, arrangement and character of existing and proposed buildings, structures, open spaces, parking areas, vehicular circulation, driveways, signage and lighting; and (11) Will not cause or result in any significant increase in negative cumulative impact when considered in conjunction with other conditional uses in the neighborhood in which it is proposed to be located.

Thank you for your time and consideration of this request, please let me know if you have any questions.

Sincerely,



Andrew M. Condlin

Enclosures

cc: The Honorable Ellen F. Robertson



Southern Railway Taphouse Management Plan  
 PIZZA 111, LLC  
 100 S. 14<sup>th</sup> Street  
 April 14, 2016

Operational characteristics and features of the nightclub:

1. Hours of operation, and days of the week on which the establishment will be operated as a nightclub:

- Hours during which the establishment will be operated as a nightclub
  - The restaurant will be operated as a nightclub a total of 4 hours during a given week.
  - **Fridays 12:00 AM (Midnight) – 2:00 AM**
  - **Saturdays 12:00 AM (Midnight) – 2:00 AM**

2. Outdoor Speakers: No public address or speaker systems outside of the enclosed building shall be operated after 12:00 AM (Midnight).

3. Type of Virginia Alcoholic Beverage Control license:

- Mixed beverage
- Wine and Beer off premises

4. Floor plan showing the general arrangement and seating capacity of tables and bar facilities, dance floor and standing room areas and capacity, which floor plan shall be posted on the premises in a prominent location viewable by the patrons:

- The floor layout will be arranged substantially the same as the attached floor plan entitled "Southern Railway Taphouse Renovation", dated May 12, 2015 and prepared by SMBW, PLLC.
- During the time the restaurant is operated as a nightclub, the two doors opening to the patio area facing the canal shall be limited to emergency use only.

5. Total occupant load:

<u>Occupancy Type</u>	<u>Total Occupants</u>
<i>Inside</i>	
Assembly (A-2) Unconcentrated	124
Assembly (A-2) Standing Space	160
Kitchens (F-1) Commercial	15
Business (B)	2
Total Inside	301
 <i>Outside</i>	
Assembly (A-2) Unconcentrated	111
Outdoor Seating	
Assembly (A-2) Outdoor Standing	188
Total Outdoor	299
 Total Occupants	 <u>600</u>



During the time the restaurant is operated as a nightclub, the total occupant load outside will be limited to 150 people.

6. General type, frequency, and hours of entertainment to be provided:

- Entertainment would generally include, but not be limited to, a DJ on Friday and Saturday nights from 11 PM to 1:45 AM.

7. Provisions for security and crowd management, including the following:

a. Provisions for a level of security and crowd management sufficient to comply with the requirements of chapter 6, article V of this code, whether or not the nightclub is required to obtain a public dance hall permit:

- On Friday and Saturday evenings while the establishment is operated as a nightclub there will be 6 private security personnel and 1 off duty officer.

b. Procedures, features, arrangements and staffing levels for security and crowd management for both the interior and exterior of the premises:

- The private security personnel shall be stationed at all entrances and exits outside and in high traffic areas to keep walkways clear and free flowing with 1 “floating”. The off duty officer shall be at the front door.