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BY EMAIL

Mr. Matthew Ebinger
City of Richmond Department of Planning and Development Review
Land Use Administration Division, Room 511
City Hall, 900 East Broad Street
Richmond, Virginia 23219

Re: Conditional Use Permit: 700 East Main Street

Dear Matthew:

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 700 East Main Street (the "Property"). The Property is located at the northeast corner of East Main and North 7th Street. The Property is occupied by a twenty-story commercial building containing approximately 290,000 square feet of floor area. The building is occupied by several commercial uses including two hotels, a ground floor restaurant, and a roof top (20th floor) restaurant that is the subject of this request.

The Property is zoned B-4 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 to be deemed a "nightclub" 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 vicinity downtown, which is a destination entertainment area. However, to the extent that they do, they are likely considered nonconforming (grandfathered).

My client, 700 Main, LLC, has redeveloped the Property and occupied it with a mix of uses including two hotels and an associated rooftop use that is primarily restaurant and outdoor dining as described above since the issuance of the initial certificate of occupancy, issued after the adoption of the new nightclub guidelines. The establishment has become a successful destination venue with strong brunch, lunch and dinner hour patronage as well as with an after-dinner evening crowd and related entertainment. The Property is improved consistent with a restaurant with fixed seating for dining, outdoor dining area/deck, a bar, and areas designated for standing in close proximity to the bar.

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 generally of background music and on occasion with a DJ. On select occasions live music or other live entertainment is provided. This activity qualifies as a nightclub for a total of eight hours each week from midnight until 2:00 AM Thursday through Saturday. Much of the existing use, in fact all of it taking place prior to 12:00 midnight on Wednesdays through Saturdays, is permitted by right as a restaurant. The characteristics of the use do 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 nightclub 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

the provision of music through speakers for the patrons is not permitted after 12:00 midnight. The owner was unaware that the operational characteristics of the establishment after midnight would be considered a nightclub until receiving notification from the City

As a result, the proposed use would be a “nightclub” for six (6) hours each week, Thursday through Saturday. The use of the Property is subject to a Special Use Permit, Ordinance No. 2013-229-205, which permits the “use of the building for uses permitted in the underlying zoning”. The underlying B-4 zoning permits “permitted principal and accessory uses” and “principal uses permitted by conditional use permit.” The nightclub use is enumerated as a principal use permitted by conditional use permit. Therefore, a conditional use permit is needed to authorize the use of the Property as a nightclub during those six (6) hours.

This request is consistent with the recommendations of the Downtown Plan on a variety of levels. The Downtown Plan recognizes the Property as an Urban Core Area, which suggests the area is appropriate for “an intense mix of uses”. The Downtown Plan further recognized that “Recent redevelopment and revitalization efforts have helped to spark a returned interest in transforming the City Center into a 24-hour mixed-use community...The plan for the City Center seeks to build upon this momentum and encourage more residents, visitors, and businesses to return to the area.” The proposed and existing uses of the Property collectively represent that intense mix while assisting in the transformation of the area into a vibrant “24-hour mixed-use community”. Consistent with the appropriateness of an intense mix of uses, the provision of entertainment uses in the vicinity is recognized as a positive by the Downtown Plan, which recognizes the continued success of downtown areas such as Shockoe Slip as an upscale residential, office and entertainment district. Finally, the redevelopment of the Property to include two hotels, a ground floor upscale restaurant and the rooftop restaurant/nightclub responds to Downtown Plan text relating to the City Center Area and the Convention Center. It was recognized that the Convention Center, which creates an opportunity to draw convention-goers and visitors into Downtown, would benefit from revitalization of the area around it through the addition of development that would be appealing to visitors and encourage convention-goers to venture further into Downtown. Given the close proximity of the Property to the Convention Center, its redevelopment represents the

type of revitalization the Downtown Plan referred to. The Property is ideally situated to meet the lodging needs of convention goers while adding needed appeal to downtown visitors through the provision of an upscale rooftop destination restaurant/nightclub.

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 downtown area and the recognition of the benefit of revitalization, 24-hour mixed-use, and 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 call for investment in the vicinity of the Convention Center. The proposed use is compatible with surrounding land uses. The property is surrounded predominantly by professional and government office buildings which are largely unoccupied during the hours of the nightclub's proposed operation. The closest land uses are hotels located within the same building. Given the relationship of the restaurant/nightclub to the hotels directly below it, the ownership has an added vested interest in operating it in a manner that minimizes its impacts on guests staying there. 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 permanent dance floors and stages and operation throughout the week might be more impactful than others. In this case, with a general limitation to Thursday through 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 Plan, the surrounding land uses, the specific details of this request and the specific location and 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 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,



Mark J. Kronenthal