



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

Property Address: 309-311 East Broad Street Date: 6/2/2023
Tax Map #: W000036003 Fee: 1500
Total area of affected site in acres: 0.2678

(See **page 8** for fee schedule, please make check payable to the "City of Richmond")

Zoning

Current Zoning: B4

Existing Use: restaurant

Proposed Use

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

Restaurant with nightclub hours between 12AM and 2AM
Existing Use: restaurant

Is this property subject to any previous land use cases?

Yes No If Yes, please list the Ordinance Number: _____

Applicant/Contact Person: Mark Baker

Company: Baker Development Resources
Mailing Address: 530 East Main Street
City: Richmond State: VA Zip Code: 23219
Telephone: (804) 874-6275 Fax: ()
Email: markbaker@bakerdevelopmentresources.com

Property Owner: Dodson Dev E Broad LLC

If Business Entity, name and title of authorized signee: Dennis K Dodson II - Manager

(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: 409 E Main Street #301
City: Richmond State: VA Zip Code: 23219
Telephone: (804) 426-4148 Fax: ()
Email: duke@dodsonprop.com

Property Owner Signature: _____ 

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.**



June 2nd, 2023,
(revised 7/11/2023 per Land Use Administration comments)

BY ELECTRONIC SUBMISSION

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

Re: Conditional Use Permit: 309 East Broad Street (W-000-0036/003)

Dear Mr. Ebinger,

This letter shall serve as the Applicant's Report accompanying the application for a Conditional Use Permit (the "CUP") in order to authorize a restaurant to operate as a nightclub, as that term is defined in the City Zoning Ordinance, during specified times within a ground floor commercial space in the property known as 309 East Broad Street (the "Property"). The Property is located at the southern side of East Broad Street between its intersection with 3rd and 4th Street. The Property is a ground floor unit contained within an existing 3-story mixed-use building, which is predominately occupied by Gather co-working. This request is limited to the ground floor unit with street addresses of 309-311 E Broad Street, as shown on the attached plans.

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 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, LX Group LLC, is renovating the Property to function as a restaurant with an added flexibility to host ticketed music events. It would generally be configured as a linear space with fixed seating along one interior wall, standing space/egress in the middle of the floor area, and a box office, bar, and fixed seating area along the opposite interior wall. To the rear of the space would be the restrooms, kitchen, and utility areas—which would generally be behind an approximately 60-square foot performance platform. Appended to this request is a conceptual life safety floor plan titled “309-311 E Broad St,” completed by Walter Parks Architects and last dated 9/27/2022, for further reference.

Upon issuance of the CUP, the restaurant would only be operated as a nightclub for approximately four-to-eight hours per week depending on the number of shows scheduled. The stage is generally small and the intent is to provide an intimate environment for smaller, independent acts. The total maximum occupant load is 442 persons. Much of the existing use is permitted by right as a restaurant. 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, 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. Therefore, the proposed use would be a nightclub for approximately eight hours each week. The CUP is needed to authorize the use of the Property for approximately four-to-eight hours per week of activity between 12:00 midnight and 2:00 AM.

This request is consistent with the recommendations of the Richmond 300 Master Plan (the “Master Plan”), which recommends “Downtown Mixed-Use” for the Property. This designation, which describes the central business district of the Richmond region, suggests “vertically mixed-use” buildings and encourages “active commercial ground floor uses” that “engage with, and enliven, the street.” Cultural uses are a contemplated primary use in this future land use category. Additionally, this Property is located adjacent to three regional/national growth nodes including Downtown Core, Monroe Ward, and Jackson Ward, which are described as centers “with significant cultural, entertainment, government, and business destinations as well as shopping, housing, and unique place-based attractions.”

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 the Richmond 300 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 and the Pulse Corridor. 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, offices, and retail storefronts. 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—such as the provision of private DCJS-certified private security during nightclub hours.

The zoning nightclub definition is very loose and captures uses with varying operational characteristics. In this case, with a general limitation of about four-to-eight hours a week, 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 Richmond 300 Plan, 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 R. Baker

{Enclosures}

Ember Music Hall
309 Broad Street, LLC
309 East Broad Street
Richmond VA 23219

EMBER MUSIC HALL MANAGEMENT PLAN

May 22nd, 2023, last revised July 14th 2023

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 4-8 hours during a given week depending on how many shows we have, but will under no circumstances operate for more than fourteen (14) hours a week as a nightclub.
 - **Dates we have Live shows per our calendar 12:00 AM – 2:00 AM**

2. Type of Virginia Alcoholic Beverage Control license:

- Mixed beverage
- Wine and Beer on premises

3. 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:

See plans attached at A.130 General Info.PDF

4. Total occupant load:

Occupancy Type Total Occupants

Inside/Music Hall

Assembly (A-2) 439

Kitchen (B) 3

Total Inside 442

Total Occupants 442

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

- Entertainment would generally include, but not be limited to, a DJ with occasional live music or other live performances.
- Entertainment would be provided on selected nights from 12:00 AM until 2:00 AM.

6. 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 the code of the City of Richmond, whether or not the nightclub is required to obtain a public dance hall permit:

- On any event date while the establishment is operated as a nightclub there will be 4 - 8 private DCJS Certified security personnel, from a licensed and insured security company
- An off-duty City of Richmond officer will be hired on “Sold-Out” events to ensure additional safety for our patrons
- Security team, along with the Box Office Cashier, will monitor all occupants by using a double-clicker system, one to determine entry and the other to determine exit. We have a no-re entry policy to ensure this number stays accurate

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

- The security personnel shall be stationed at all entrances and exits at the venue and in high traffic areas to keep walkways clear and free flowing with 2 “floating” security members to assist where needed.
- Line queuing- We are using a ticketing platform called Dice for patrons to purchase tickets online prior to arriving at the venue. This platform provides multiple options for expedient entry into the venue including, phone scanners, hand held scanners, and mobile check in. The box office area will be used for general admission where approximately 50 guests can be in que at a time. The venue entrance at 311 Broad Street will also be used for express entry for patrons who have pre-purchased reserved dining tickets, which will be up to 75 guests. These two entrances will allow us to have minimal queuing outside the venue.

Direct Contacts:

General Manager

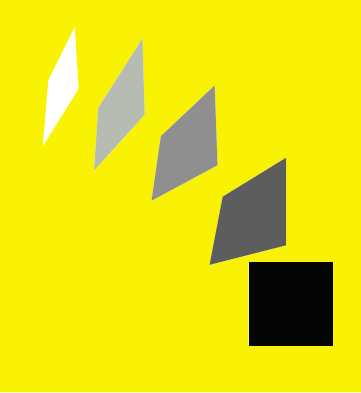
Cody Hott

804.301.3001 | cody@lxgrp.com

Managing Partner / Owner

Kunal Shah

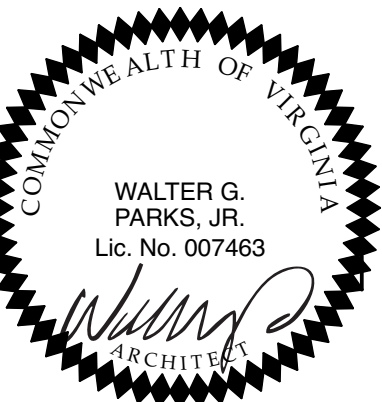
804.637.0727 | kunal@lxgrp.com



walter PARKS ARCHITECTS

ARCHITECTURE + INTERIOR DESIGN

313 N. ADAMS STREET
RICHMOND, VIRGINIA 23220
t: 804-644-4761
f: 804-644-4763
wparks.com



LIFE SAFETY NOTES

- 1 HOUR RATING - NEW AND EXISTING
- 2 HOUR RATING - NEW AND EXISTING
- EXIT ACCESS (E.A.)
- 2 HOUR FLOOR ASSEMBLY
- PATH OF EGRESS
- EGRESS STAIR
- USE GROUP
- OCCUPANCY LOAD (VCC 2018 TABLE 1004.1.1)
- EGRESS OCCUPANT LOAD CAPACITY (VCC 2018 1005.1)

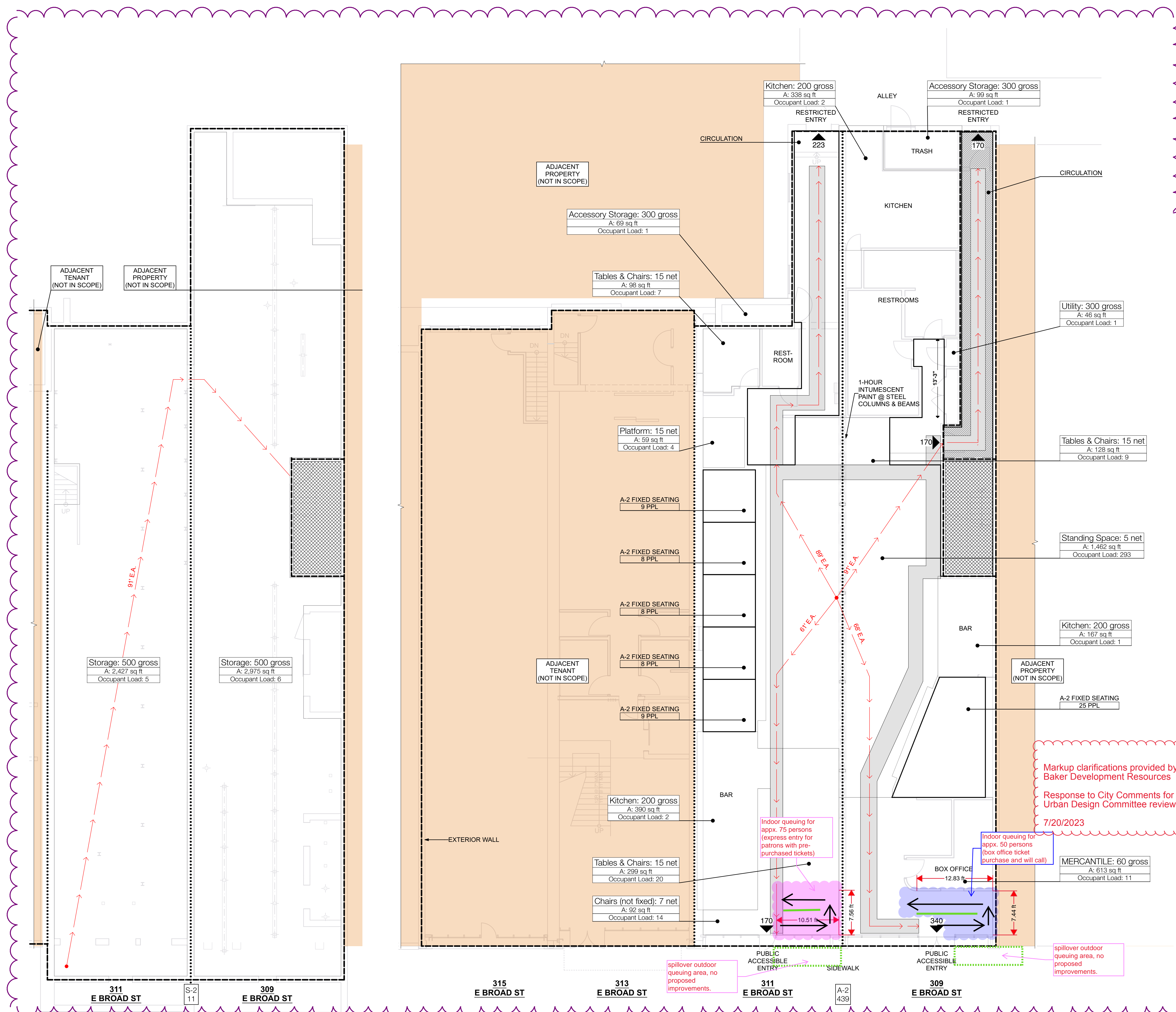
CODE INFORMATION	
APPLICABLE BUILDING CODE	2018 Virginia Construction Code 2018 Virginia Existing Building Code 2018 Virginia Fire Prevention Code 2018 Virginia Plumbing Code 2018 Virginia Mechanical Code 2018 Virginia Fuel Gas Code 2018 Virginia Energy Conservation Code 2018 Virginia Building and Fire Regulations
CONSTRUCTION TYPE	3B
USE GROUP	BASEMENT: S-2 (NO CHANGE) 1ST FL: A-2 ASSEMBLY (CHANGE OF USE)
ZONING	B-4
AUTOMATIC SPRINKLER SYSTEM (2018 VCC 903.3.1.1)	NFPA 13
ALLOWABLE AREA FACTOR (2018 VCC TABLE 506.2)	28,500
INCREASE FOR OPEN PERIMETER (SEE CALCS (2018 VCC 506.3))	NA
TOTAL ALLOWABLE AREA PER FLOOR	28,500
BASEMENT ACTUAL AREA	5,402
FIRST FLOOR ACTUAL AREA	6,093
CALCULATED OCCUPANTS	MAX 450
FIRE-RESISTANCE RATING REQUIREMENTS FOR BUILDING ELEMENTS (VCC 2018 TABLE 601)	
EXTERIOR BEARING WALLS	2
INTERIOR BEARING WALLS	0
FLOOR CONSTRUCTION	0
ROOF CONSTRUCTION	0
SHAFTS (2018 VCC 713.4)	NA
REQUIRED OCCUPANCY SEPARATIONS (2018 VCC 508.4)	
BETWEEN TENANTS A-2	0
BETWEEN A-2 (1ST FL) & S-2 (BASEMENT)	0
BETWEEN A-2 (1ST FL) & B (2ND FL)	1
REQUIRED EXITS PER BUILDING (VCC 2018 TABLE 1006)	
TRAVEL DISTANCE MAXIMUM (VCC 2018 TABLES 1006.2.1 & 1017.2)	250'
DEAD END CORRIDOR (VCC 2018 1020.4)	20'
PARKING INFORMATION	
PARKING REQUIRED (ZONING SEC. 30-710.2)	NOT REQUIRED
PLUMBING CALCULATIONS	
WATER CLOSET	6
LAVATORY	3
SERVICE SINK (VAPC Table 403.1)	1
DRINKING FOUNTAIN (VAPC 410.2)	0 (DRINKING WATER PROVIDED)

309-311 E BROAD ST
309-311 E Broad St
Richmond, VA #Site Postcode
PERMIT SET

REVISIONS		
ID	DATE	ISSUE
01	9/22/22	COORDINATION
02	9/27/22	PERMIT RESPONSE

PROJECT #: 22.03
ISSUE DATE: 6/3/22

GENERAL INFO
A.103



BASEMENT LIFE SAFETY SCALE: 1/8" = 1'-0" 3

FIRST FLOOR LIFE SAFETY PLAN SCALE: 1/8" = 1'-0" 1

Markup clarifications provided by Baker Development Resources
Response to City Comments for Urban Design Committee review
7/20/2023

spillover outdoor queuing area, no proposed improvements.

spillover outdoor queuing area, no proposed improvements.

Indoor queuing for appx. 75 persons (express entry for patrons with pre-purchased tickets)

Indoor queuing for appx. 50 persons (box office ticket purchase and will call)



City of Richmond Department of Planning & Development Review

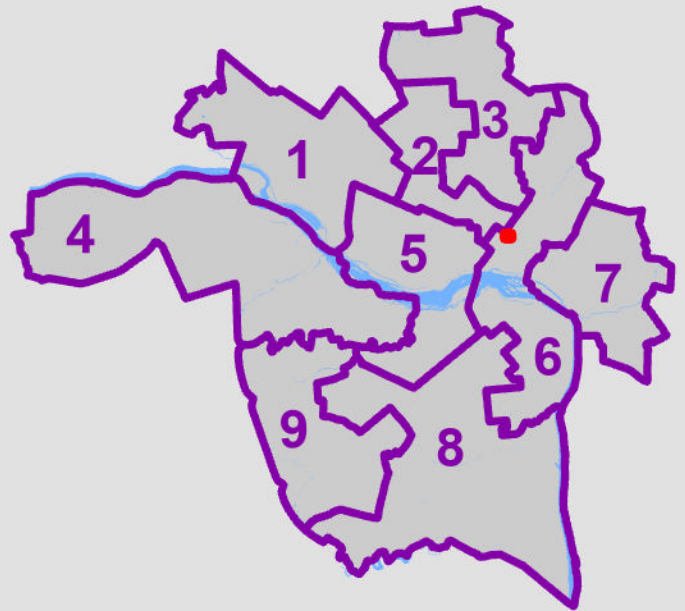
Special Use Permit

LOCATION: 309-311 E Broad Street

APPLICANT: Baker Development Resources

COUNCIL DISTRICT: 6

PROPOSAL: To authorize the special use of the property known as 309-311 E Broad Street for the purpose of authorizing a nightclub, upon certain terms and conditions.



*For questions, please contact Matthew Ebinger
at 804-646-5789 or matthew.ebinger@rva.gov*

