



CITY OF RICHMOND

Department of Planning & Development Review *Staff Report*

Ord. No. 2014-160: To amend Ord. No. 2012-85-85, adopted June 11, 2012, which authorized a special use of the property known as 25 and 27 North Belmont Avenue, to permit the use of the property as a restaurant, upon certain terms and conditions.

To: City Planning Commission
From: Land Use Administration
Date: October 6, 2014

PETITIONER

Jennifer Mullen – Roth, Donner, Jackson, Gibbons, Conclin, PLC

LOCATION

25 and 27 North Belmont Avenue

PURPOSE

To amend Ord. No. 2012-85-85, adopted June 11, 2012, which authorized a special use of the property known as 25 and 27 North Belmont Avenue, to permit the use of the property as a restaurant, upon certain terms and conditions.

SUMMARY & RECOMMENDATION

The property is zoned in the R-6 Single Family Attached Residential district, which does not permit any commercial uses. A special use permit was approved in 2012 authorizing the northern portion of the building (27 N. Belmont Avenue) to be used as a restaurant and the southern portion of the building (25 N. Belmont Avenue) to maintain its nonconforming uses (i.e. a catering establishment or other commercial use of similar or lesser intensity). The applicant is seeking an amendment to the special use permit to authorize the entire property to be used for restaurant use, including outdoor dining along the front of the northern portion of the building, and use of the rear patio of the property in conjunction with the restaurant use of the southern portion of the building.

Staff finds that expanding restaurant use to encompass both portions of the building is consistent with the configuration of the building and the existing commercial uses clustered in the area. The expanded restaurant use would not pose an undue burden on parking in the area, due to the provision of off-street parking required by the special use permit amendment and the general availability of on-street parking.

However, staff maintains concerns with use of the rear patio of the property in conjunction with the restaurant use of the southern portion of the building, which is abutting or within 10' of existing residential uses. The approved location for outdoor dining at 1 N. Belmont Avenue, for reference, is along the right-of-way of N. Belmont Avenue in front of the restaurant, and over 60' away from a residential use that fronts Ellwood Avenue.

Staff further finds that with the conditions of the ordinance, the safeguards contained within the City Charter, relative to the granting of special use permits, are met, with the exception of the provision for use of the rear patio of the property in conjunction with the restaurant use of the southern portion of the building.

Staff therefore recommends approval of the request to allow restaurant use in both portions of the building at 25-27 North Belmont Avenue and the use of the front of the property along the northern portion of the building, but does not support use of the rear patio in conjunction with the restaurant use. Staff also recommends that the parking standards reflected in the ordinance amendment be revised to reflect the parking standards proposed by the applicant and described below.

FINDINGS OF FACT

Site Description

The subject property consists of a 0.08 acre parcel located in the City's Museum District neighborhood on North Belmont Avenue between Floyd Avenue and Ellwood Avenue. The property is a part of the Near West planning district and the West of Boulevard National Historic District. The property is also a part of the West of the Boulevard design overlay district, which regulates exterior changes to buildings, structures and sites within public view. Such changes are not contemplated by the proposed special use permit amendment, therefore the design overlay district requirements do not apply to this proposal.

The property is improved with a double-storefront commercial building. The northern portion of the building is known as 27 N. Belmont Avenue; the southern portion of the building is known as 25 N. Belmont Avenue.

Proposed Use of the Property

The applicant is seeking an amendment to the special use permit to authorize the entire property to be used for restaurant use, including outdoor dining along the front of the northern portion of the building, and use of the rear patio of the property in conjunction with the restaurant use of the southern portion of the building.

It should be noted that, while the amended special use permit would allow outdoor dining along the front of the northern portion of the building, this encompasses an area between the right-of-way line and façade of the building that is approximately 2' deep. In order to utilize a larger area for sidewalk dining, an encroachment permit from the Department of Public Works would be needed. A sidewalk café permit cannot be issued because 25-27 N. Belmont is not in a zoning district that permits outdoor dining.

Based on the square footage of the southern portion of the building and the three non-conforming parking spaces attributed to the use of 25 N. Belmont Avenue, seven off-street parking spaces would be required for the restaurant use of the southern portion of the building under normal circumstances. As stated below, the special use permit amendment would require three off-street parking spaces after 5:00 p.m. A parking study was conducted by the applicant which analyzed on-street parking on North Belmont Avenue, between Floyd Avenue and Ellwood Avenue.

If the three non-conforming parking spaces attributed to the use of 27 N. Belmont Avenue are credited to 25 N. Belmont Avenue on weekdays prior to 5:00 p.m. (when 27 N. Belmont Avenue is closed), the parking study indicates the general availability of on-street parking to further accommodate the parking needs of the proposed restaurant use of the southern portion of the building. Friday afternoons are shown to have the lowest availability of on-street parking, but it should be emphasized that this parking study only analyzed the portion of N. Belmont Avenue between Floyd Avenue and Ellwood Avenue, and did not consider on-street parking on surrounding blocks.

Master Plan

The City of Richmond's Master Plan recommends Single-family (Medium Density) land uses for the property. The Master Plan defines the primary uses for this category as single-family and two-family detached and attached dwellings at densities of 8 to 20 units per acre, and includes residential support uses such as schools, places of worship, and neighborhood parks, among others.

While the Master Plan does not contemplate commercial use of the property, the property was originally constructed for commercial use and is unlikely, as configured and situated, to be converted to a single or two-family dwelling as permitted by the underlying zoning and recommended by the Master Plan. Moreover, the property is located on a block on North Belmont that contains a business area with similar commercial uses, including another restaurant.

Zoning & Ordinance Conditions

The property is zoned in the R-6 Single Family Attached Residential district, which does not permit any commercial uses. However, a special use permit was approved in 2012 authorizing the northern portion of the building to be used as a 22-seat restaurant and the southern portion of the building to maintain its nonconforming uses (i.e. a catering establishment or other commercial use of similar or lesser intensity). The applicant is seeking an amendment to the special use permit to authorize the entire property to be used for restaurant use.

The amended special use permit ordinance would limit the occupancy of the restaurant use of the southern portion of the building to fifteen (15) persons and allow the rear patio of the property to be used in conjunction with the restaurant use of the southern portion of

the building. It would also allow outdoor use of the property in front of the northern portion of the building in conjunction with the restaurant use of the northern portion of the building until 10:00 p.m.. Currently, no outdoor commercial use of the property is permitted by the special use permit. No catering service independent of the restaurant use of the property would be able to utilize the southern portion of the building.

The hours of operation for the restaurant use of the northern portion of the building are 5:00 p.m. to 11:00 p.m. on Monday through Thursday; 5:00 p.m. to 12:00 a.m. on Friday and Saturday; and 7:00 a.m. to 11:00 p.m. on Sunday. The amended special use permit ordinance would maintain these hours of operation and set the hours of operation for the restaurant use in the southern portion of the building at 7:00 a.m. to 2:30 p.m. and 3:00 p.m. to 11:00 p.m. Monday through Thursday and Sunday; and 7:00 a.m. to 2:30 p.m. and 3:00 p.m. to 12:00 a.m. on Friday and Saturday. Outdoor use of the property in conjunction with the restaurant use of the southern portion of the building and the northern portion of the building would cease at 10:00 p.m.

Under the current special use permit ordinance, seven (7) off-street parking spaces are provided within three hundred (300) feet of the principal entrance to the restaurant use of the northern portion of the building. Under the amended special use permit, these seven spaces would continue to be provided for the restaurant use of the northern portion of the building, in addition to three (3) parking spaces which would be provided after 5:00 p.m. and within seven hundred twenty five (725) feet of the principal entrance to the restaurant, for use by the restaurant use of the southern portion of the building. The seven (7) off-street parking spaces provided within the 300' radius would not be available for use by the restaurant use of the southern portion of the building.

The details of this parking arrangement were not properly reflected in the language of the ordinance considered by the Planning Commission on September 2, 2014:

“A minimum of ten (10) off-street parking spaces shall be provided for the restaurant use of the property. Seven (7) of these parking spaces shall be provided within three hundred (300) feet of the principal entrance to the restaurant. Three (3) of these parking spaces shall be provided after 5:00 p.m. and within seven hundred twenty-five (725) feet of the principal entrance to the restaurant.”

To properly reflect the parking arrangement proposed by the applicant, the language should read:

“A minimum of ten (10) off-street parking spaces shall be provided for the restaurant use of the property. Seven (7) of these parking spaces shall be provided **for the restaurant use of the northern portion of the building** within three hundred (300) feet of the principal entrance to the restaurant. Three (3) of these parking spaces shall be provided

for the restaurant use of the southern portion of the building after 5:00 p.m. and within seven hundred twenty-five (725) feet of the principal entrance to the restaurant."

No music, live or otherwise, or public address system shall be played or operated outside or on the exterior of the building. Music or public address systems inside the building shall be operated in such a manner that sound produced therefrom is not audible beyond the boundaries of the property.

No additional signage is proposed and existing signage will continue to be required to comply with the signage regulations for the R-63 Multifamily Urban Residential District, provided that the aggregate area of all signs directed toward or intended to be viewed from the street shall not exceed sixteen (16) square feet for the uses of the property.

The nonconforming uses and nonconforming features, as defined by section 114-1220 of the Code of the City of Richmond (2004), as amended, existing on the southern portion of the building, known generally as 25 North Belmont Avenue, as of the date of the adoption of Ordinance No. 2012-85-85, adopted June 11, 2012, shall be retained subject to the provisions of Chapter 114, Article VIII of the Code of the City of Richmond (2004).

Surrounding Area

The properties to the north are located in the R-6 Single Family Detached residential district and consist primarily of single family attached and detached dwellings, with some duplex and multi-family uses. Properties to the west across Belmont Avenue are also located in the R-6 district and include nonconforming retail and office uses, and the Belmont Library. Properties to the south along Belmont Avenue are nonconforming commercial uses in the R-48 Multifamily Residential district that are authorized by a special use permit for commercial uses including a restaurant located at 1 N. Belmont Avenue. The Carytown Shopping District is located one block further south along Belmont Avenue.

Neighborhood Participation

Letters of support, a letter of concern, and letters of opposition, including a letter of opposition from the Museum District Association, were received.

Staff Contact: Matthew J. Ebinger, AICP, (804) 646-6308