



CITY OF RICHMOND

Department of Planning & Development Review *Staff Report*

Ord. No. 2014-194: To authorize the special use of the property known as 2216 Keswick Avenue for the purposes of a single-family detached dwelling unit and a take-out restaurant, upon certain terms and conditions.

To: City Planning Commission
From: Land Use Administration
Date: March 2, 2015

PETITIONER

Tarek Hezam - Hillside Fried Chicken and Fish

LOCATION

2216 Keswick Avenue

PURPOSE

To authorize the special use of the property known as 2216 Keswick Avenue for the purposes of a single-family detached dwelling unit and a take-out restaurant, upon certain terms and conditions.

SUMMARY & RECOMMENDATION

The subject property is zoned R-5 (Single Family Residential) which does not allow commercial uses. The property fell under the "40-year" provision of Section 114-800.6(a) of the Zoning Ordinance, allowing commercial use of the existing commercial building to continue for a period of 40 years from the date of construction of the building, despite its single-family residential zoning designation. The property was also the subject of a 1973 Board of Zoning Appeals case (no. 61-73) pertaining to a minor expansion of the commercial use of the property.

A certificate of zoning compliance was issued in December of 2012 and a building permit was issued in January of 2013 regarding a convenience store use of the commercial structure based on erroneous information provided by the applicant's agent. Once the convenience store use was in operation, neighborhood complaints lead to the determination that the "40-year" provision had expired and the BZA case was no longer valid. The Director of the Department of Planning & Development Review issued a letter in April of 2013 stating the approvals for the certificate of zoning compliance and building permit were rescinded, operation of the convenience store must cease, and a special use permit would be required to bring such commercial use into conformance.

The applicant has since submitted a special use permit request that would allow a take-out restaurant in the commercial structure and a single-family detached dwelling unit that shares the subject property with the commercial structure.

Staff finds that while the layout of the commercial structure lends itself to commercial use, such a land use is not consistent with Single Family (Low Density) land use recommendation of the

Master Plan. Moreover, it is in direct opposition to the Master Plan's Land Use Strategy to phase out isolated commercial uses on the subject property, and other properties, in the Old South planning district.

Staff further finds that in the absence of the provision of off-site parking spaces and the absence of nonconforming rights pertaining to on-site parking spaces, adequate off-street parking would not be provided for the proposed takeout restaurant.

Staff further finds that the safeguard pertaining to the protection the general welfare of the community involved that is contained within the City Charter, relative to the granting of special use permits, is not met with the conditions of the ordinance. Staff therefore recommends denial of the proposed special use permit.

FINDINGS OF FACT

Site Description

The subject property consists of a 0.136 acre, triangular parcel of property containing a one-story, 1,068 square foot residential structure on the eastern portion of the property and a one-story 1,306 square foot former commercial structure on the western portion of the property (referred to in this document as "the structure"). The property is located at the corner of Keswick Avenue and Harwood Street in the Oak Grove neighborhood of the Old South planning district.

Proposed Use of the Property

The structure has historically been used as a grocery store. As stated above, a convenience store was established in the structure but its operation was ceased. The current proposal is for a take-out restaurant with limited hours, signage restrictions, and an alcohol prohibition, as explained below.

The existing single-family detached dwelling unit would be authorized to be used for residential purposes.

No parking is proposed for the property, though under current zoning standards 13 parking spaces would be required for the restaurant use.

Master Plan

The Land Use Plan of the City of Richmond's Master Plan designates the subject property for Single Family (Low Density) land use. Primary uses in this category are single-family detached dwellings at densities up to seven units per acre. More specifically for the Old South planning district, the Master Plan states "single-family residential is, and will continue to be, the major land use. Limited commercial, office, and/or mixed uses are proposed along the major transportation corridors, but should not occur to the detriment of existing, well-established residential neighborhoods" (p. 274).

In regards to corner commercial uses in the Old South district, the Master Plan further states "isolated neighborhood commercial uses (usually "corner stores") should ultimately be

phased out unless specifically identified on the Land Use Plan map. Such uses, while often providing convenience services, frequently generate neighborhood nuisances” (p. 279). As stated above, the Land Use Plan designates the subject property for Single Family (Low Density) land use and does not indicate that the subject property should be retained for commercial uses.

Zoning & Ordinance Conditions

The subject property is zoned R-5 (Single Family Residential) which does not allow commercial uses. The property fell under the “40-year” provision of Section 114-800.6(a) of the Zoning Ordinance, allowing commercial use of the existing commercial building to continue for a period of 40 years from the date of construction of the building, despite its single-family residential zoning designation. The property was also the subject of a 1973 Board of Zoning Appeals case (no. 61-73) pertaining to a minor expansion of the commercial use of the property.

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Under the proposed special use permit, the hours of operation for the take-out restaurant use would be 8:00 a.m. to 10:00 p.m., Monday through Sunday. No off-street parking spaces would be provided on the subject property. All exterior mechanical equipment shall be screened from public view. Signage pertaining to the take-out restaurant use of the subject property shall be limited to wall, awning, and canopy signs not exceeding an aggregate of 16 square feet in area. Such signs shall not be illuminated. The sale of alcohol would be prohibited on the subject property.

Surrounding Area

All properties in the vicinity are zoned R-5 (Single Family Residential). Single family residential land use predominates the vicinity, with some duplex, institutional and commercial uses present as well.

Neighborhood Participation

Letters of opposition were received from the Oak Grove Civic Association and the Bellemeade Civic Association. Petitions of opposition were received from the Oak Grove and Bellemeade communities, the Star Fellowship Baptist Church, which is located across Keswick Avenue from the subject property, and the Oak Grove Civic Association.

A petition of support was received from the applicant.

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