

INTRODUCED: November 9, 2015

AN ORDINANCE No. 2015-248-242

To authorize the special use of the property known as 701 West Clay Street for the purpose of permitting up to three dwelling units and a restaurant, upon certain terms and conditions.

Patron – Mayor Jones (By Request)

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: DEC 14 2015 AT 6 P.M.

WHEREAS, the owner of the property known as 701 West Clay Street, which is situated in a R-7 Single- and Two-Family Urban Residential District, desires to use such property for the purpose of three dwelling units and a restaurant, which uses, among other things, are not currently allowed by section 114-410.1 of the Code of the City of Richmond (2004), as amended; and

WHEREAS, in accordance with section 17.11 of the Charter of the City of Richmond (2010), as amended, it has been made to appear that, if granted subject to the terms and conditions set forth in this ordinance, the special use granted by this ordinance will not be detrimental to the safety, health, morals and general welfare of the community involved, will not

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: DEC 14 2015 REJECTED: _____ STRICKEN: _____

tend to create congestion in streets, roads, alleys and other public ways and places in the area involved, will not create hazards from fire, panic or other dangers, will not tend to overcrowding of land and cause an undue concentration of population, will not adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences and improvements, and will not interfere with adequate light and air; and

WHEREAS, (i) the City Planning Commission has conducted a public hearing to investigate the circumstances and conditions upon which the Council is empowered to authorize such use, (ii) the City Planning Commission has reported to the Council the results of such public hearing and investigation and its recommendations with respect thereto, and (iii) the Council has conducted a public hearing on this ordinance at which the person in interest and all other persons have had an opportunity to be heard;

NOW, THEREFORE,

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. **Finding.** Pursuant to section 114-1050.1 of the Code of the City of Richmond (2004), as amended, the Council hereby finds that the special use set forth in and subject to the terms and conditions of this ordinance will not (i) be detrimental to the safety, health, morals and general welfare of the community involved, (ii) tend to create congestion in streets, roads, alleys and other public ways and places in the area involved, (iii) create hazards from fire, panic or other dangers, (iv) tend to overcrowding of land and cause an undue concentration of population, (v) adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences and improvements, or (vi) interfere with adequate light and air.

§ 2. **Grant of Special Use Permit.**

(a) Subject to the terms and conditions set forth in this ordinance, the property known as 701 West Clay Street and identified as Tax Parcel No. N000-0306/017 in the 2015 records of the City Assessor, being more particularly shown on a plan entitled “Nuttty Buttery 701 W. Clay St., Richmond, Virginia,” prepared by Johannas Design Group, and dated September 17, 2015, a copy of which is attached to and made a part of this ordinance, hereinafter referred to as “the Property,” is hereby permitted to be used for the purpose of three dwelling units and a restaurant, hereinafter referred to as “the Special Use,” substantially as shown on sheets CS, A1, and A2 of the plans entitled “Nuttty Buttery 701 W. Clay St., Richmond, Virginia,” prepared by Johannas Design Group, and dated September 17, 2015, hereinafter referred to as “the Plans,” copies of which are attached to and made a part of this ordinance.

(b) The adoption of this ordinance shall constitute the issuance of a special use permit for the Property. The special use permit shall inure to the benefit of the owner or owners of the fee simple title to the Property as of the date on which this ordinance is adopted and their successors in fee simple title, all of which are hereinafter referred to as “the Owner.” The conditions contained in this ordinance shall be binding on the Owner.

§ 3. **Special Terms and Conditions.** This special use permit is conditioned on the following special terms and conditions:

(a) The use of the Property shall be as no more than two dwelling units located in the existing building fronting on Munford Street, a restaurant use on the ground floor of the existing building fronting on the corner of West Clay Street and Munford Street, and no more than one dwelling unit or an office use on the second floor of the building fronting on the corner of West Clay Street and Munford Street.

(b) The hours of operation for the restaurant shall be Monday through Friday, 9:00 a.m. to 9:00 p.m., Saturday, 10:00 a.m. to 10:00 p.m., and Sunday 11:00 a.m to 7:00 p.m.

(c) No off-street parking spaces shall be required for the use of the Property.

(d) The restaurant may include areas outside the building intended for service to or consumption of food and beverages by patrons, provided that no music or public address system shall be operated in such a manner that sound produced therefrom is audible beyond the boundaries of the Property.

§ 4. **Supplemental Terms and Conditions.** This special use permit is conditioned on the following supplemental terms and conditions:

(a) Facilities for the collection of refuse shall be provided in accordance with the requirements of the Director of Public Works. Such facilities shall be located or screened so as not to be visible from adjacent properties and public streets.

(b) Any encroachments existing, proposed on the attached plans or contemplated in the future shall require separate authorization and shall be subject to the applicable provisions of the Code of the City of Richmond (2004), as amended.

(c) In all other respects, the use of the Property shall be in accordance with the applicable underlying zoning regulations.

§ 5. **General Terms and Conditions.** This special use permit is conditioned on the following general terms and conditions:

(a) No permit implementing this special use permit shall be approved until satisfactory evidence has been presented to the Zoning Administrator that any delinquent real estate taxes applicable to the Property have been paid.

(b) The Owner shall be bound by, shall observe and shall comply with all other laws, ordinances, rules and regulations applicable to the Property, except as otherwise expressly provided in this ordinance.

(c) Words and phrases used in this ordinance shall be interpreted to have the meanings ascribed to them by section 114-1220 of the Code of the City of Richmond (2004), as amended, unless the context clearly indicates that a different meaning is intended.

(d) Notwithstanding any other provision of law, this special use permit is being approved due, in part, to the mitigating effects of each and every condition attached hereto; consequently, if any portion of this ordinance is determined to be invalid for any reason by a final, non-appealable order of any Virginia or federal court of competent jurisdiction, the invalidity shall cause the entire ordinance to be void and of no further effect from the effective date of such order.

(e) The privileges granted by this ordinance may be revoked pursuant to the provisions of sections 114-1050.7 through 114-1050.11 of the Code of the City of Richmond (2004), as amended, and all future amendments to such laws. Failure to comply with the terms and conditions of this ordinance shall constitute a violation of section 114-1080 of the Code of the City of Richmond (2004), as amended, and all future amendments to such law, or any other applicable laws or regulations.

(f) When the privileges granted by this ordinance terminate and the special use permit granted hereby becomes null and void, whether as a result of the Owner relinquishing this special use permit in a writing addressed to the Director of Planning and Development Review or otherwise, use of the Property shall be governed thereafter by the zoning regulations prescribed for the district in which the Property is then situated.

§ 6. **Implementation.** The Commissioner of Buildings is authorized to issue a building permit substantially in accordance with the Plans for the Special Use subject to the terms and conditions set forth in this ordinance. An application for the building permit shall be made within 730 calendar days following the date on which this ordinance becomes effective. If either the application for the building permit is not made within the time period stated in the previous sentence or the building permit terminates under any provision of the Virginia Statewide Building Code, this ordinance and the special use permit granted hereby shall terminate and become null and void.

§ 7. **Effective Date.** This ordinance shall be in force and effect upon adoption.



CITY OF RICHMOND
INTRACITY CORRESPONDENCE

RECEIVED
4-4293
OCT 14 2015

CHIEF ADMINISTRATIVE OFFICE
CITY OF RICHMOND

RECEIVED

OCT 27 2015

O&R REQUEST

DATE: October 8, 2015
TO: The Honorable Members of City Council
THROUGH: Dwight C. Jones, Mayor (Patron: Mayor, by Request)
(This in no way reflects a recommendation on behalf of the Mayor.)
THROUGH: Selena Cuffee-Glenn, Chief Administrative Officer
THROUGH: P. Lee Downey, Interim Deputy Chief Administrative Officer for Economic Development and Planning
FROM: Mark A. Olinger, Director, Department of Planning and Development Review
SUBJECT: Special use permit for up to three dwelling units and a restaurant at 701 West Clay Street.

OFFICE OF CITY ATTORNEY

Handwritten signatures: PCJ, SLO

Handwritten initials: RLD

Handwritten signature: M.A.O.

ORD. OR RES. No. _____

PURPOSE: To authorize the special use of the property known as 701 West Clay Street for the purpose of permitting up to three dwelling units and a restaurant use, upon certain terms and conditions.

REASON: The subject property is located in the R-7 Residential zoning district, which does not permit multifamily, restaurant or commercial uses. Therefore, the applicant is requesting a special use permit.

RECOMMENDATION: In accordance with the requirements of the City Charter and the Zoning Ordinance, the City Planning Commission will review this request and make a recommendation to City Council. This item will be scheduled for consideration by the Planning Commission at its December 7, 2015 meeting. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting.

BACKGROUND: The subject property is a 2,963 square foot corner lot, which is situated on the southeast side of the intersection of West Clay and Munford streets. Situated on the lot are two, two story brick buildings measuring 2,479 square foot and 3,764 square feet. The structure that fronts at the corner of West Clay and Munford Streets is vacant on the first floor with one apartment unit on the second floor. The structure that fronts on Munford Street

has one dwelling unit on the first floor and one dwelling unit on the second floor. The applicant proposes converting the structure on the corner of Munford and West Clay Streets into a restaurant with outdoor dining on the first floor and a dwelling unit or office space on the second floor. The structure that fronts Munford Street will remain unchanged, making two dwelling units. No off-street parking exists to serve the existing use or proposed uses of the property. The City of Richmond's Master Plan designates the subject property at the intersection of West Clay and Munford Streets for Single Family (medium density) land use. Primary uses in this category are single-family and two-family dwellings, both detached and attached, at densities of 8 to 20 units per acre. Includes residential support uses such as schools, places of worship, neighborhood parks and recreation facilities, and limited public and semi-public uses. (p. 133). In addition, within the Near West District there are numerous, isolated single-site commercial uses or the traditional "corner store". Neighborhood commercial uses historically provided needed goods and services to adjacent residents, and when located in multi-story buildings were usually coupled with residential uses above. (p. 236)

Surrounding properties are all in the R-7 Residential Zoning District including single- and two-family homes.

FISCAL IMPACT: The Department Planning and Development Review does not anticipate any impact to the City's budget for this or future fiscal years.

COST TO CITY: Staff time for processing the request; preparation of draft ordinance; and publishing, mailing and posting of public notices.

REVENUE TO CITY: \$1,800 application fee.

DESIRED EFFECTIVE DATE: Upon adoption.

REQUESTED INTRODUCTION DATE: November 9, 2015.

CITY COUNCIL PUBLIC HEARING DATE: December 14, 2015.

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL AGENCIES: City Planning Commission, December 7, 2014.

AFFECTED AGENCIES: Office of Chief Administrative Officer
Law Department (for review of draft ordinance)
City Assessor (for preparation of mailing labels for public notice)

RELATIONSHIP TO EXISTING ORDINANCES: None.

ATTACHMENTS: Application Form, Applicant's Letter, Draft Ordinance, Survey

STAFF: Leigh V. Kelley, Planner II
Land Use Administration (Room 511)

O&R Request
October 8, 2015
Page 3 of 4

646-6384

DPDR O&R No.15-32

SUP Applicant's Report - Sept 17, 2015

701 W. Clay Street

Carver Community

RECEIVED
SEP 21 2015
LAND USE ADMINISTRATION

Proposed Use

701 W. Clay St. is comprised of two 2-story brick structures on a 2963 sq ft lot at the corner of West Clay Street and Munford Street in the Carver Neighborhood. One structure faces Clay Street and one face Munford Street. The applicant is proposing to use the first floor of 701 W. Clay St. for a commercial use.

701 W. Clay First Floor - The proposed use for 701 W. Clay Street is a retail/cafe/market space called the Nutty Buttery (NB), an old-fashioned ice cream parlor, café and market. NB will offer hand-dipped ice cream and assorted toppings, sundaes, milk shakes, floats, pastries, soda, coffee and tea. The café will offer soups, sandwiches, salads and other lite fare. No grilling or frying will be done onsite. The market will offer roasted nuts and candies, fresh popped popcorn, drinks, refrigerated ethnic entrees, healthy snacks, jams, marinades, sauces, dips, jellies, cheeses, other canned, bottled, packaged condiments, other food items, novelties, gifts and wine and beer. Artisan, locally made, produced and prepared items will be preferred. The interior will offer tables and chairs, counters, soft-seating for lounging, Wi-Fi, television, games, reading and conversation, and will lend to browsing and lingering. The Nutty Buttery will attract residents from Carver and adjacent Jackson Ward, as well as tourists, students and visitors to downtown attractions, festivals, races, the ICA (VCU Institute of Contemporary Art) and Siegel Center events. Customers will be able to walk to the Nutty Buttery to and from their activities, hotels and restaurants, and home. There is space on the Clay Street side of the building between the property line and building for a few tables and chairs al fresco. Plans are to apply for a retail ABC license for the Nutty Buttery.

The Nutty Buttery will employ at least 1 full-time employee-equivalent and 2 to 3 part-time, in addition to the owner/employee. The hours of operation will mostly be determined by the clientele, but should be 9 or 10am to 8 or 9pm Monday through Friday, at least for the summer months; possibly closing earlier for the winter months. Saturday hours will be 10 or 11am to 9 or 10pm. Sunday hours will be 11am to 6 or 7pm.

701 W. Clay Second Floor - The existing second floor is currently used as a dwelling unit and will remain that use for the near term. The applicant requests that the SUP provide the option that the second floor can be used in the future as commercial or retail space.

410 Munford - A separate 2-story structure is located at the rear of the lot. This building currently contains 2 dwelling units. There is no change proposed for this structure.

Rationale of Features and Characteristics

The first floor of 701 W. Clay Street has a history of being a neighborhood communal space. In the past it has been used as a restaurant, rental space for functions, and a

venue for CACIL (Carver Area Civic Improvement League) meetings during the tenure of community activists Ms. Smith and Ms. Peters for which Carver's neighborhood park is named. Ironically, the Nutty Buttery owner/employee has been a CACIL member, and President and Vice-President at various times since moving to Carver over 10 years ago. The building is situated on a very visible corner conducive to a small retail, neighborhood venue. It has a beautiful brick and window façade facing both W. Clay and Belvidere (Munford) Streets and is compatible with the other buildings on both streets. The storefront space has been empty for some time as the zoning changed while it was being used as an apartment; however, the façade and interior layout is most conducive to a retail use. 701 is a typical corner commercial/residential building that is seen throughout Richmond with corner storefront windows at sidewalk level, close to the street. The second floor contains one vacant apartment.

Specific Conditions for City Council Approval

The Carver neighborhood has recently embraced several retail establishments including Black Sheep Restaurant, The Magpie and Sugar Shack Donuts. It was a previous home to the Corner Bar and Grill, formerly at the space occupied by the Magpie; and a proposed Market is planned for the western end of Carver. Establishments like the aforementioned and the Nutty Buttery will help to overcome the negativities associated with several of the convenience stores in the neighborhood and lend to actual walkability of Carver by providing a real destination. The Nutty Buttery will not have an undue negative impact on transportation, schools, parks, public utilities, population, safety, health, morals or other dangers in Carver. Conversely, it will light up an otherwise empty and unoccupied corner, provide a spot of beauty at an entrance into Carver and be a beacon for Carver neighbors. The lighting and façade improvement will be a deterrent to crime and litter along Clay Street.

CACIL members have long desired a space where the community can come together. The Nutty Buttery will offer that. The community has wanted a coffee shop and a moderately-priced eatery. The Nutty Buttery will offer that. The community has wanted a space that they can walk to and commune with each other in a safe and comfortable environment.

Features and Characteristics of Proposed Use

As mentioned, the storefront windows will be reopened so passersby can see people inside dining, browsing and communing. The new enlarged windows will be of clear glass and will not be blocked by display cases or equipment. Embellishments will also include a fresh coat of paint on the exterior (colors to remain the same), repaired exterior brick and tile, outdoor lighting, minimal landscaping, and fencing surrounding a few outdoor tables and chairs. The existing city brick sidewalk will be repaired to provide a safe walking surface. The Nutty Buttery will provide an active and attractive use for an underutilized building.

Signage

The commercial space at 701 W Clay will have decal signage on each of the Clay St and Munford St. facades. The applicant proposes that the area of the decals will encompass no more than 15 sf on each street face. The letters will be a maximum of 8" in height. A possible rendition is shown on the elevation drawings, final signage style may vary from what is shown as store branding has not been finalized yet. In addition to the decals, a neon "OPEN" sign will be provided above the entry door. This sign will be hung on the inside above the angled entry door behind the transom glass window and will be no larger than 5 sf.

Parking

An exception to the required onsite parking for this property is requested to be part of this SUP.

There is currently no on-site parking and there are no parking areas available within 300 feet of the site. Automobile traffic should be minimal, as mostly walking folks and neighborhood locals will frequent the Nutty Buttery; however, this block of Clay St. is in the Carver parking district and is limited to 1 hour parking, which will be a reasonable time for NB offerings. Parking in the immediate area has been observed at various times and days. Several spaces are always available within the vicinity of the Nutty Buttery.

Neighborhood Support

This project has been presented to the Carver Area Civic Improvement League (CACIL) twice. Once to the Real Estate Committee and once at the June 30th membership meeting. There was widespread support at both meetings and a letter of support has been provided by CACIL. Surrounding neighbors and property owners have been informed about this proposal.

Findings of Fact:

The following are factors indicated in City of Richmond Zoning Ordinance with regard to the approval of Special Use Permits by City Council. The proposed **Special Use Permit will not:**

- Be detrimental to the safety, health, morals and general welfare of the community involved.
 - The small commercial use is compatible with the neighborhood and will not be detrimental to the safety, health, morals and general welfare of the community.
- Tend to create congestion in streets, roads, alleys and other public ways and places in the area involved.
 - This project is a low impact project that will not create congestion in streets, roads, alleys or other public ways and places.
 - The active use of the first floor commercial space will improve aesthetics in this area of Carver.
- Create hazards from fire, panic or other dangers.
 - All work will be done in accordance with all local, state and national building codes and regulations and will not create hazards from fire, panic, or other dangers.
- Tend to overcrowding of land and cause an undue concentration of population.

- There is no proposed increase in building area and no additional residential use is proposed.
- Adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences and improvements.
 - There will be no adverse effect on public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences, and improvements.
- Interfere with adequate light and air.
 - This project will make no changes to the current building footprint and therefore will not impact light and air of any adjacent property.

Sincerely submitted by,

H. Charleen Baylor,
Owner, Nutty Buttery

997



Application for SPECIAL 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/>

RECEIVED
JUL 27 2015

LAND USE ADMINISTRATION / 20/15

Application is hereby submitted for: (check one)

- special use permit, new
- special use permit, plan amendment
- special use permit, text only amendment

Project Name/Location

Project Name NUTTY BUTTERY Date 7/20/15

Property Address 701 W. CLAY ST (1st. floor) Tax Map #: N0000306017

Fee: \$1800 Total area of affected site in acres: 0.068
(See page 3 for fee schedule, please make check payable to the "City of Richmond")

Zoning

Current Zoning: R-7

Proposed Use

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

Existing Use: VACANT COMM. / APT

Is this property subject to any previous land use cases?

Yes No

If Yes, please list the Ordinance Number:

ICE CREAM PARLOR / MARKET

Applicant/Contact Person: CHARLEEN BAYLOR

Company: NUTTY BUTTERY

Mailing Address: 1001 W. LEIGH ST.

City: RICHMOND State: VA Zip Code: 23220

Telephone: (804) 916-0179 Fax: ()

Email: charleenb@gmail.com

Property Owner: VASHON D. BOWERS

If Business Entity, name and title of authorized signee: _____

(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: 735 ROYAL CRESCENT DR.

City: RICHMOND State: VA Zip Code: 23236

Telephone: (804) 386-6852 Fax: ()

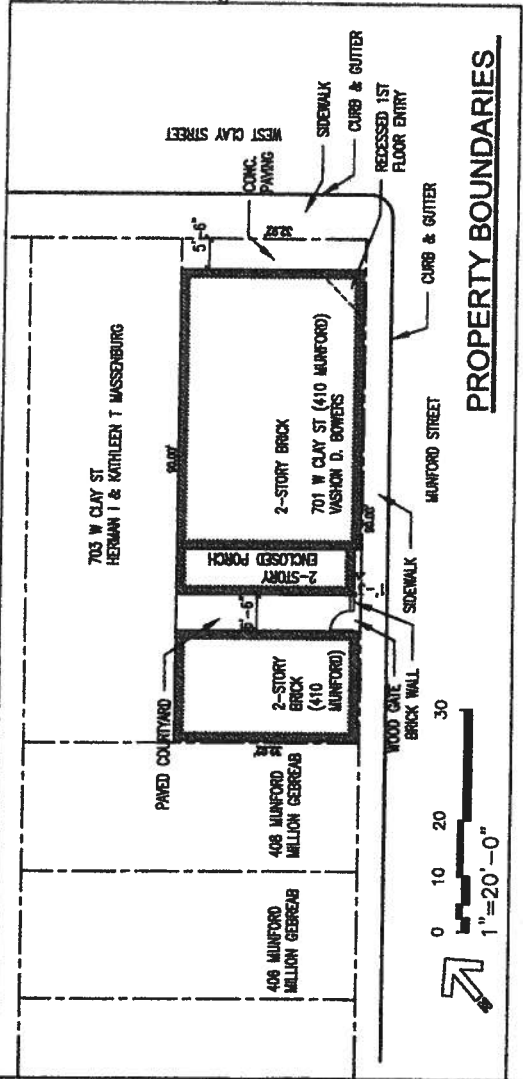
Email: _____

Property Owner Signature: Vashon Bowers

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.

NOTE: Please attach the required plans, checklist, and a check for the application fee (see Filing Procedures for special use permits)

RECEIVED
 SEP 21 2015
 LAND USE ADMINISTRATION



PROPERTY BOUNDARIES

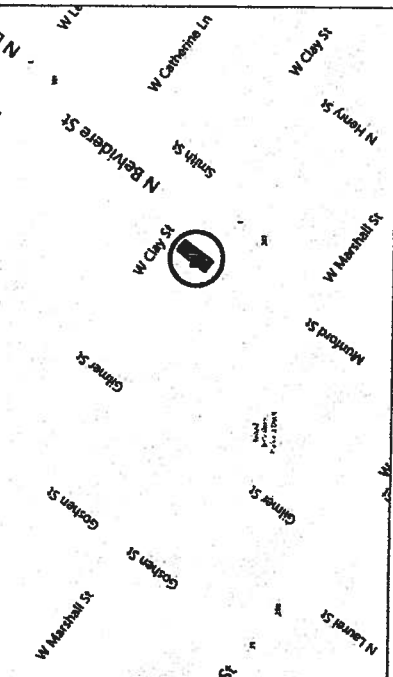
PROJECT INFO

Project: First floor commercial space to be an ice cream shop/neighborhood market. No change to existing 2nd floor apartment and separate 2 story 2-unit apartment at rear of lot.

Building Owner:	Vashon D. Bowers
Architect:	Johannas Design Group
Zoning District:	R-7
Area of SUP:	1,834 SF, 1st floor
Parcel SF:	2,963 SF
Bldg. Footprint Area:	2,479 SF
Open Space:	483 SF
Bldg. Total GSF:	5,008 GSF

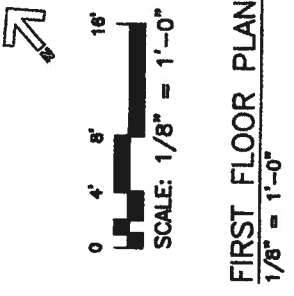
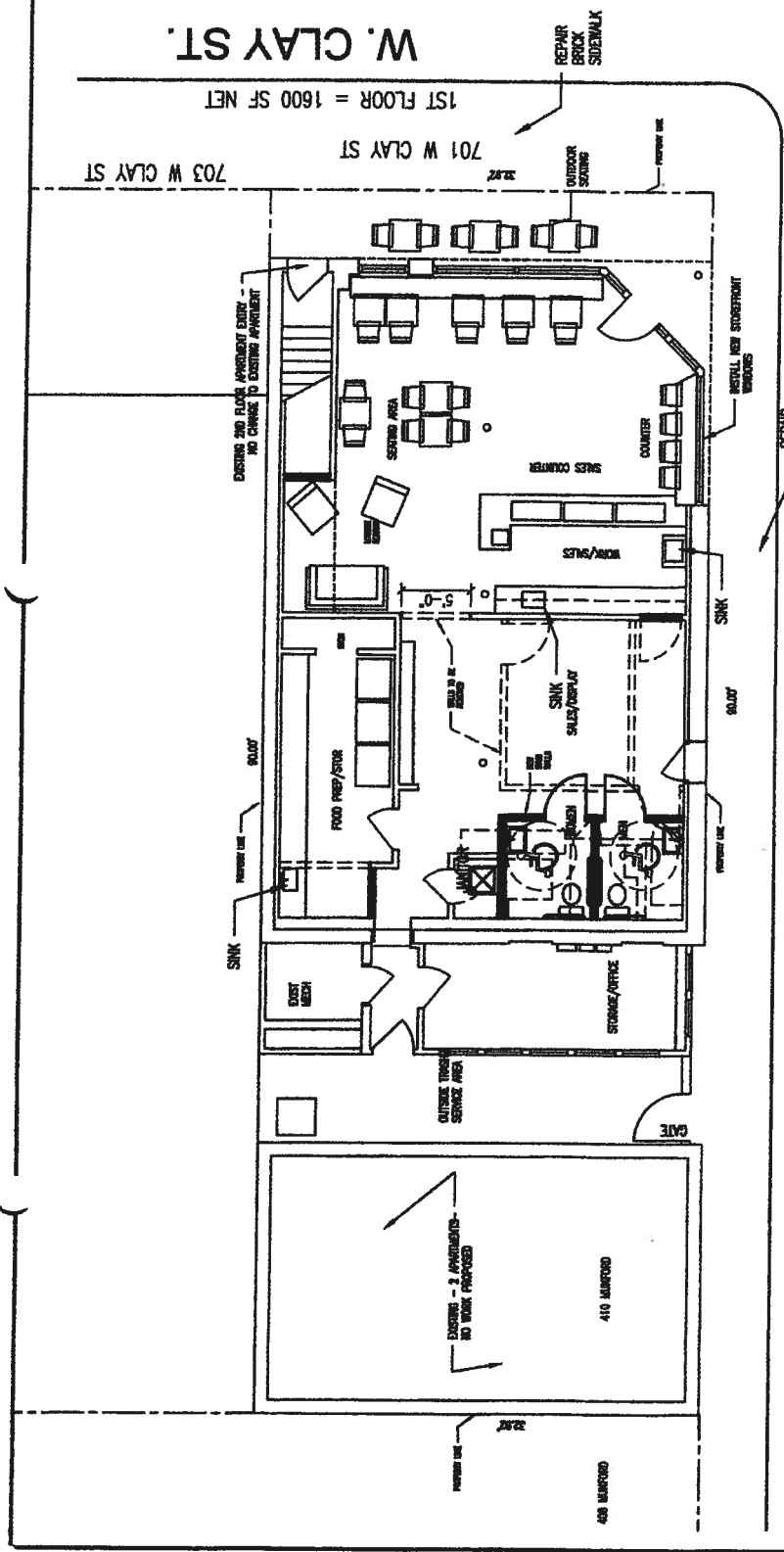
Parking: Existing = 0 spaces
 Proposed = 0 spaces

VICINITY MAP



DRAWING INDEX

- CS SITE PLAN & PROJECT INFO
- A1 1ST FLOOR PLAN
- A2 PHOTO OF EXISTING & ELEVATIONS



FIRST FLOOR PLAN
1/8" = 1'-0"

MUNFORD ST.

OCCUPANT LOADS
1st Floor Commercial Area
(PER BUILDING CODE)

- SEATING/LOUNGE AREA 525 SF = 35 OCC
- WORK/SALES AREA 125 SF = 1 OCC
- FOOD PREP/STOR 175 SF = 1 OCC
- SALES/DISPLAY 245 SF = 8 OCC
- STORAGE AREAS 180 SF = 1 OCC
- [OUTDOOR SEATING AREA 96 SF = 6 OCC]
- TOTAL INDOOR OCCUPANT LOAD = 46

