

INTRODUCED: September 27, 2021

AN ORDINANCE No. 2021-277

To authorize the special use of the property known as 3401 Patterson Avenue for the purpose of a restaurant, tea room, café, delicatessen, ice cream parlor, or similar food service establishment, upon certain terms and conditions, and to repeal of Ord. No. 90-142-117, adopted May 14, 1990.

Patron – Mayor Stoney (By Request)

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: NOV 8 2021 AT 6 P.M.

WHEREAS, the owner of the property known as 3401 Patterson Avenue, which is situated in a R-48 Multifamily Residential District, desires to use such property for the purpose of a restaurant, tea room, café, delicatessen, ice cream parlor, or similar food service establishment, which use, among other things, is not currently allowed by section 30-416.1 of the Code of the City of Richmond (2020), as amended; and

WHEREAS, in accordance with section 17.11 of the Charter of the City of Richmond (2020), 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 tend to create

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: NOV 8 2021 REJECTED: _____ STRICKEN: _____

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 30-1050.1 of the Code of the City of Richmond (2020), 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 3401 Patterson Avenue and identified as Tax Parcel No. W000-1614/013 in the 2021 records of the City Assessor, being more particularly shown on a plat entitled “Improvements on PID: W000-1614/013, #3401 Patterson Avenue, City of Richmond, Virginia,” prepared by Balzer & Associates, and dated March 12, 2021, 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 a restaurant, tea room, café, delicatessen, ice cream parlor, or similar food service establishment, hereinafter referred to as “the Special Use,” substantially as shown on the plans entitled “New PJ’s Coffee Shop, 3401 Patterson Avenue, Richmond, Virginia,” prepared by Harry Baker Smith, Jr., and dated June 15, 2021, 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 Special Use of the Property shall be as a restaurant, tea room, café, delicatessen, ice cream parlor, or similar food service establishment, substantially as shown on the Plans. Live or recorded music may be played in conjunction with the Special Use.

(b) No off-street parking shall be required for the Special Use.

(c) Building modifications and site improvements, including perimeter fencing, shall be substantially as shown on the Plans, subject to applicable regulations of the West of the Boulevard Design Overlay District, pursuant to sections 30-940 through 30-940.9 of the Code of the City of Richmond (2020), as amended.

(d) All mechanical equipment serving the Property shall be located or screened so as not to be visible from any public right-of-way.

(e) Parking for no fewer than 12 bicycles shall be provided on the Property.

(f) The capacity of the outdoor seating area shall be limited to 68 patrons.

(g) The Special Use shall not be open to the public except during the hours of 6:00 a.m. to 8:00 p.m., Monday through Thursday, and 6:00 a.m. to 9:00 p.m., Friday through Sunday.

(h) In addition to the signs permitted by the underlying zoning regulations, signs permitted by section 30-507.1 of the Code of the City of Richmond (2020), as amended, shall be permitted on the Property.

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

(a) All required final grading and drainage plans, together with all easements made necessary by such plans, must be approved by the Director of Public Utilities prior to the issuance of the building permit.

(b) Storm or surface water shall not be allowed to accumulate on the land. The Owner, at its sole cost and expense, shall provide and maintain at all times adequate facilities for the drainage of storm or surface water from the Property so as not to adversely affect or damage any other property or public streets and the use thereof.

(c) 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.

(d) Any encroachments existing, proposed on the 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 (2020), as amended, and all future amendments to such laws.

(e) The Owner shall make improvements within the public right-of-way, including new street trees along Patterson Avenue and Roseneath Road and closing the curb cut along Patterson Avenue, substantially as shown on the Plans, which improvements may be completed in one or more phases as approved by the Director of Public Works. All improvements and work within the public right-of-way shall be (i) completed in accordance with the requirements of the Director of Public Works, (ii) considered completed only upon written confirmation by the Director of Public Works that such improvements and work are in accordance with such requirements, and (iii) transferred to the City, following the written confirmation by the Director of Public Works, pursuant to a transfer of interest document approved as to form by the City Attorney and accepted by the Chief Administrative Officer or the designee thereof on behalf of the City. The Chief Administrative Officer or the designee thereof, for and on behalf of the City, is hereby authorized to accept, in the manner for which this subsection provides, all improvements and work required by and meeting the requirements of this subsection. The final certificate of occupancy shall not be issued for the Property until all requirements of this subsection are fully satisfied.

(f) 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 30-1220 of the Code of the City of Richmond (2020), 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 30-1050.7 through 30-1050.11 of the Code of the City of Richmond (2020), 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 30-1080 of the Code of the City of Richmond (2020), as amended, and all future amendments to such law, or any other applicable laws or regulations.

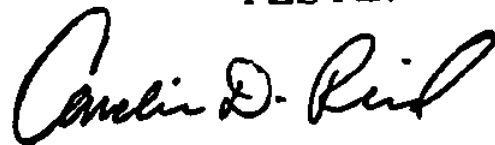
(f) When the privileges granted by this ordinance terminate and the special use permit granted hereby becomes null and void, whether as a result of the Owner relinquishing this special use permit in a writing addressed to the Director of Planning and Development Review or otherwise, use of the Property 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. **Repeal of Prior Ordinance.** That Ordinance No. 90-142-117, adopted May 14, 1990, shall be repealed upon issuance of a building permit for the Special Use in accordance with section 6 of this ordinance.

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

**A TRUE COPY:
TESTE:**

A handwritten signature in black ink, appearing to read "Carolin D. Reil". The signature is written in a cursive, flowing style.

City Clerk



City of Richmond

900 East Broad Street
2nd Floor of City Hall
Richmond, VA 23219
www.rva.gov

Item Request

File Number: PRE.2021.763

O & R Request

DATE: August 26, 2021

EDITION: 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor (By Request)
(This in no way reflects a recommendation on behalf of the Mayor.)

THROUGH: J.E. Lincoln Saunders, Acting Chief Administrative Officer

THROUGH: Sharon L. Ebert, Deputy Chief Administrative Officer for Economic Development and Planning

FROM: Kevin J. Vonck, Acting Director, Department of Planning and Development Review

RE: To authorize the special use of the property known as 3401 Patterson Avenue for the purpose of a restaurant, tea room, café, delicatessen, ice cream parlor and similar food and beverage service establishment, upon certain terms and conditions, and the repeal of Ordinance No. 90-142-117, adopted May 14, 1990.

ORD. OR RES. No. ____

PURPOSE: To authorize the special use of the property known as 3401 Patterson Avenue for the purpose of a restaurant, tea room, café, delicatessen, ice cream parlor and similar food and beverage service establishment, upon certain terms and conditions, and the repeal of Ordinance No. 90-142-117, adopted May 14, 1990.

REASON: The applicant is proposing to adapt an existing vacant building for a commercial coffee shop which use, among other things, does not meet the requirements of section 30-416.1, regarding permitted principal uses, of the Code of the City of Richmond (2020), as amended. A Special Use Permit is therefore required.

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 Commission at its October 18, 2021 meeting.

BACKGROUND: The subject property is currently zoned R-48 Multifamily Residential. The property consists of a 3,684 sq. ft., .09 acre parcel, improved with a 1,027 sq. ft. vacant building constructed, per tax assessment records, in 1965. The ordinance would allow for commercial use within a residential district. The property is within the Museum District neighborhood.

The City's Richmond 300 Master Plan designates this property as Neighborhood Mixed Use. This use is comprised of existing "...or new highly walkable urban neighborhoods that are predominantly residential with a small, but critical, percentage of parcels providing retail, office, personal service, and institutional uses." Primary Uses: Single family houses, accessory dwelling units, duplexes, small multi-family buildings (typically 3-10 units), and open space. Secondary Uses: Large multi-family buildings (10+units), retail/office/personal service, institutional, cultural, and government. (p. 56)

Properties to the east of the property in question are primarily zoned R-6 Single Family Attached whereas properties to the West are primarily R-48 Multifamily Residential. A mix of residential and some institutional uses are also present in the vicinity of the subject property.

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

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

BUDGET AMENDMENT NECESSARY: No

REVENUE TO CITY: \$1,200 Application fee

DESIRED EFFECTIVE DATE: Upon adoption

REQUESTED INTRODUCTION DATE: September 27, 2021

CITY COUNCIL PUBLIC HEARING DATE: November 8, 2021

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: City Planning Commission
October 18, 2021

AFFECTED AGENCIES: Office of Chief Administrative Officer
Law Department (for review of draft ordinance)

RELATIONSHIP TO EXISTING ORD. OR RES.: Repeal Ord. No. 90-142-117

REQUIRED CHANGES TO WORK PROGRAM(S): None

ATTACHMENTS: Draft Ordinance, Application Form, Applicant's Report, Plans, Map

STAFF: Jonathan Brown, Senior Planner, Land Use Administration (Room 511) 646-5734



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.richmondva.gov/>

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

Property Address: 3401 Patterson Ave Date: 5/16/21
 Tax Map #: W0001614013 Fee: \$1,200
 Total area of affected site in acres: 0.085

(See **page 6** for fee schedule, please make check payable to the "City of Richmond")

Zoning

Current Zoning: R-48

Existing Use: General Retail/Service

Proposed Use

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

Existing Use: former dry cleaner

Is this property subject to any previous land use cases?

Yes No If Yes, please list the Ordinance Number: SUP 90-142-117

Applicant/Contact Person: Jennifer D. Mulken, Esq.

Company: Roth Jackson Gibbons Condlin, PLC

Mailing Address: 1519 Summit Ave., Suite 102

City: Richmond State: VA Zip Code: 23230

Telephone: (804) 977-3374 Fax: ()

Email: jmulken@rothjackson.com

Property Owner: Carolyn H Loupassi, Trustee

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: 1821 Mactavish Ave

City: Richmond State: VA Zip Code: 23230

Telephone: () Fax: ()

Email: cmacphaille@gmail.com

Property Owner Signature: [Signature] by power of attorney

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)

June 25, 2021

Mr. Matthew Ebinger
Planning and Development Review
900 East Broad Street, Room 511
Richmond, VA 23219

Jennifer D. Mullen
Richmond Office
(804)977-3374
jmullen@rothjackson.com

Re: Special Use Permit Amendment Application – 3401 Patterson Avenue

Dear Mr. Ebinger:

This letter shall serve as the applicant's report accompanying a request to amend the special use permit (Ordinance 90-142-117) (the "SUP") for the property located at 3401 Patterson Avenue ("the Property"). My firm represents the contract purchaser of the Property. The SUP permitted the Property to be used for a dry cleaning establishment, amending an earlier 1964 ordinance authorizing use of the Property for a service station for automobiles. The applicant proposes to repurpose the existing building for PJ's Coffee Shop, a coffee shop founded in 1978 in New Orleans, Louisiana. PJ's sources its beans directly from farmers, improving the transparency and sustainability of the coffee economy. The proposed hours of operation are from 6 – 8 pm on the weekdays and from 6 – 9 pm on the weekends with the potential for live music outside during the same hours.

Richmond 300 Plan Designation

The Richmond 300 Plan recommends Neighborhood Mixed-Use for the Property. This land use category is described in the Richmond 300 Plan as "predominately residential with a small, but critical, percentage of parcels providing retail, office, personal service and institutional uses." This Property is well situated on the same block as a public park, across the street from Albert Hill Middle School and within a highly walkable and bikable neighborhood. The proposed use of a coffee shop with additional outside seating area is exactly the type of use the Richmond300 promotes for this land use category.

Findings of Fact

The following are factors included in Section 17.11 of the Charter and Section 30-1050.1 of the Zoning Ordinance relative to the approval of special use permits by City Council. The proposed amendment to the SUP will not:

- **Be detrimental to the safety, health, morals and general welfare of the community involved.**
The proposed SUP will not impact the safety, health, morals and general welfare of the community involved. The redevelopment of this Property as proposed will provide positive impacts in terms of health, welfare, etc.
- **Tend to create congestion in streets, roads, alleys and other public ways and places in the area involved.**

{01259866.v1}

RICHMOND

1519 Summit Avenue, Suite 102, Richmond, VA 23230

P: 804-441-8440 F: 804-441-8438

TYSONS CORNER

8200 Greensboro Drive, Suite 820, McLean, VA 22102

P: 703-485-3535 F: 703-485-3525

The proposed SUP will not result in significant traffic impacts to nearby residential neighborhoods. The anticipated traffic generation will easily be handled by the existing road network. The Property is situated at Roseneath Road between Patterson Avenue and Kensington Avenues with on-street parking along each street and low parking uses within the block. In addition, walking and biking are expected to be frequent modes of transportation. As such, the SUP will not create congestion on streets, roads, alleys or any other public right of way.

- **Create hazards from fire, panic or other dangers.**
The Property will be developed in a manner consistent with the requirements of the building code and in accordance with the requirements of Fire and Emergency Services. The City's codes applicable to this development are designed to eliminate such hazards.
- **Tend to overcrowding of land and cause an undue concentration of population.**
The proposed SUP will not tend to overcrowd the land or create an undue concentration of population.
- **Adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences and improvements.**
The proposed SUP would not adversely affect the above referenced City services. To the contrary, the proposal would provide positive fiscal (tax) benefits that would enhance the City's ability to provide these services to the proposed development.
- **Interfere with adequate light and air.**
The light and air available to the subject and adjacent properties will not be adversely affected.

Thank you for your time and consideration of this request. Should you have any further questions about this request, please do not hesitate to contact me.

Sincerely,



Jennifer D. Mullen

Enclosures

{01259866:v1}



RICHMOND

1519 Summit Avenue, Suite 102, Richmond, VA 23230
P: 804-441-8440 F: 804-441-8438

TYSONS CORNER

8200 Greensboro Drive, Suite 820, McLean, VA 22102
P: 703-485-3535 F: 703-485-3525

NEW PJ'S COFFEE SHOP

3401 PATTERSON AVENUE
RICHMOND, VIRGINIA

JUNE 15, 2021 DRAWN BY: HARRY BAKER SMITH, JR AIA ARCHITECT

