

INTRODUCED: September 25, 2017

AN ORDINANCE No. 2017-195

To authorize the special use of the property known as 15 East Brookland Park Boulevard for the purpose of permitting a café with accessory roasting, wholesale, and distribution of coffee products, upon certain terms and conditions.

\_\_\_\_\_  
Patron – Mayor Stoney (By Request)

\_\_\_\_\_  
Approved as to form and legality  
by the City Attorney  
\_\_\_\_\_

PUBLIC HEARING: NOV 13 2017 AT 6 P.M.

WHEREAS, the owner of the property known as 15 East Brookland Park Boulevard, which is situated in a UB Urban Business District and the Brookland Park Boulevard / North Avenue Parking Exempt Parking Overlay District (PE-7), desires to use such property for the purpose of permitting a café with accessory roasting, wholesale, and distribution of coffee products, which use, among other things, is not currently allowed by section 30-433.2 of the Code of the City of Richmond (2015), 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

AYES:            8            NOES:            0            ABSTAIN: \_\_\_\_\_

ADOPTED:    NOV 13 2017    REJECTED: \_\_\_\_\_    STRICKEN: \_\_\_\_\_

safety, health, morals and general welfare of the community involved, will not 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 30-1050.1 of the Code of the City of Richmond (2015), 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 15 East Brookland Park Boulevard and identified as Tax Parcel No. N000-0894/001 in the 2017 records of the City Assessor, being more particularly described in a deed recorded as instrument number 16-6195 among the land records of the Clerk of the Circuit Court of the City of Richmond, hereinafter referred to as “the Property,” is hereby permitted to be used for the purpose of a café with accessory roasting, wholesale, and distribution of coffee products, hereinafter referred to as “the Special Use,” substantially as shown on the plans entitled “15 East Brookland Park Blvd,” prepared by an unidentified preparer, and undated, 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 a café with accessory roasting, wholesale, and distribution of coffee products, substantially as shown on the Plans. The Property may also be used for other principal or accessory uses permitted by the underlying zoning district.

(b) No chain link fence shall be permitted on the Property.

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

(d) Only coffee products packaged on the Property shall be distributed on or from the Property.

(e) A fencing and landscape plan shall be approved by the Director of Planning and Development Review.

§ 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 (2015), as amended, and all future amendments to such laws.

(e) 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 (2015), 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 (2015), 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 (2015), 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

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

## Item Request

File Number: PRE. 2017.348

RECEIVED

AUG 31 2017

OFFICE OF CITY ATTORNEY O & R Request

O & R REQUEST

4-6922

AUG 18 2017

Office of the  
Chief Administrative Officer  
EDITION:1

DATE: August 17, 2017

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor *LS 8/31/17*  
(This is no way reflects a recommendation on behalf of the Mayor.)

THROUGH: Selena Cuffee-Glenn, Chief Administrative Officer *SCG*

THROUGH: Peter L. Downey, Deputy Chief Administrative Officer for Economic Development and Planning *PLD*

FROM: Mark A. Olinger, Director, Department of Planning and Development Review *MAO*

RE: Special use permit for 15 East Brookland Park Boulevard for the purpose of permitting a café with accessory roasting, wholesale, and distribution of coffee products.

ORD. OR RES. No. \_\_\_\_\_

**PURPOSE:** To authorize the special use of the property known as 15 East Brookland Park Boulevard for the purpose of permitting a café with accessory roasting, wholesale, and distribution of coffee products, upon certain terms and conditions.

**REASON:** The accessory roasting, wholesale, and distribution of coffee products from the proposed café is not permitted by the UB-Urban Business District. 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 2, 2017, meeting. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting.

**BACKGROUND:** The subject property consists of a 7,463 SF, or .17 acre, parcel of land improved with a former service center, and is a part of the Northern Barton Heights neighborhood in the North Planning District.

The City of Richmond's current Master Plan designates the subject property for Community Commercial land uses which include, "...office, retail, personal service and other commercial and service uses, intended to provide the shopping and service needs of residents of a number of nearby neighborhoods or a section of the City. As compared to Neighborhood Commercial, this category includes a broader range of uses of greater scale and intensity, with greater vehicular access and orientation, but that are also compatible with nearby residential areas" (134).

The current zoning for this property is Urban Business - Parking Exempt (UB-PE7). "The regulations within the district are intended to preserve the predominant scale and character of existing urban shopping areas, promote retention of existing structures and encourage that new development be compatible with such existing areas and structures." (ibid. Zoning Ordinance, p. 71)

Adjacent properties fronting and near this area of Brookland Park Boulevard are also UB-PE7 with R-6, Single Family Attached, districts to the north and the south of the property. A mix of commercial and residential land uses are present in the vicinity.

**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:** \$1,800 application fee

**DESIRED EFFECTIVE DATE:** Upon Adoption

**REQUESTED INTRODUCTION DATE:** September 11, 2017

**CITY COUNCIL PUBLIC HEARING DATE:** October 9, 2017

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** None

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** City Planning Commission, October 2, 2017

**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 ORD. OR RES.:** None

**REQUIRED CHANGES TO WORK PROGRAM(S):** None



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

**STAFF:** Matthew Ebinger, Principal Planner  
Land Use Administration (Room 511) 646-5734

*PDR O&R No. 17-30*



Application for **SPECIAL USE PERMIT**

Department of Planning and Development Review  
Land Use Administration Division  
9001 Broad Street, Room 511  
Richmond, Virginia 23219  
(804) 646-6304  
http://www.hrc.org/va.com

SUP-015275-2017

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: 15 EAST BROOKWOOD PARK BLVD Date: 3/23/2017  
 Tax Map #: \_\_\_\_\_ Fee: 1800.00  
 Total area of affected site in acres: \_\_\_\_\_

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

**Zoning**

Current Zoning: UPTB2W

Existing Use: RETAIL CAFE

**Proposed Use**

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

Existing Use: COFFEE HOUSE CAFE ROMANTIC

Is this property subject to any previous land use cases?

Yes  No  If Yes, please list the Ordinance Number: \_\_\_\_\_

Applicant/Contact Person: Cathy Gilbert  
 Company: BLACK HOLE COFFEE CO  
 Mailing Address: 3101 DARTMOUTH AVE  
 City: Richmond State: VA Zip Code: 23221  
 Telephone: (804) 339-9583 Fax: ( ) N/A  
 Email: Cathy@blackholecoffee.com

Property Owner: BERNARD PARTNERS LLC  
 If Business Entity, name and title of authorized signee: MR. D

(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: 2314 W. MAIN STREET  
 City: Richmond State: VA Zip Code: 23220  
 Telephone: (434) 906 0374 Fax: ( )  
 Email: \_\_\_\_\_

Property Owner Signature: [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.

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

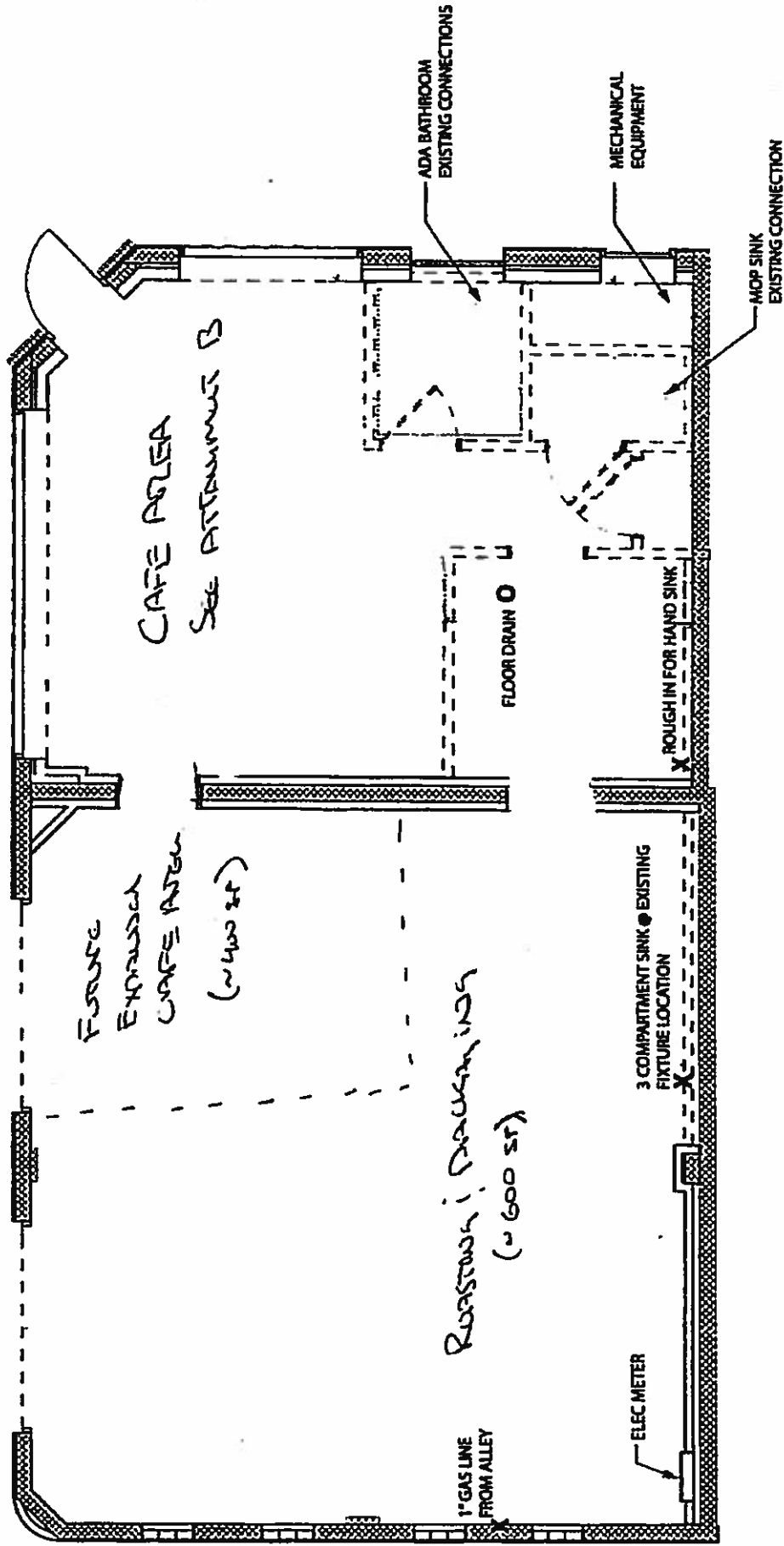
4/7/2017

Special Use Permit

- A. Site Plan- N/A
- B. Elevation Plans- N/A
- C. Floor Plans-See attached
- D.Landscape Plans-N/A
- E. Signage Plans & Details-N/A
- F. Lighting Plans & Details-N/A

The purpose of the special use permit is to allow for, in addition to those uses allowed by underlying zoning, wholesale distribution of coffee to local retail customers..The proposed area located on the attachment represents a square footage of 400 to 500 square feet dedicated to coffee roasting and packaging. The remaining approximately 800 square ft represents the designated cafe retail area. The property itself is unique in the fact that it has its own parking lot for loading and unloading. Therefore the property is making use of existing curb cuts, which provides no changes to the site or traffic circulation.

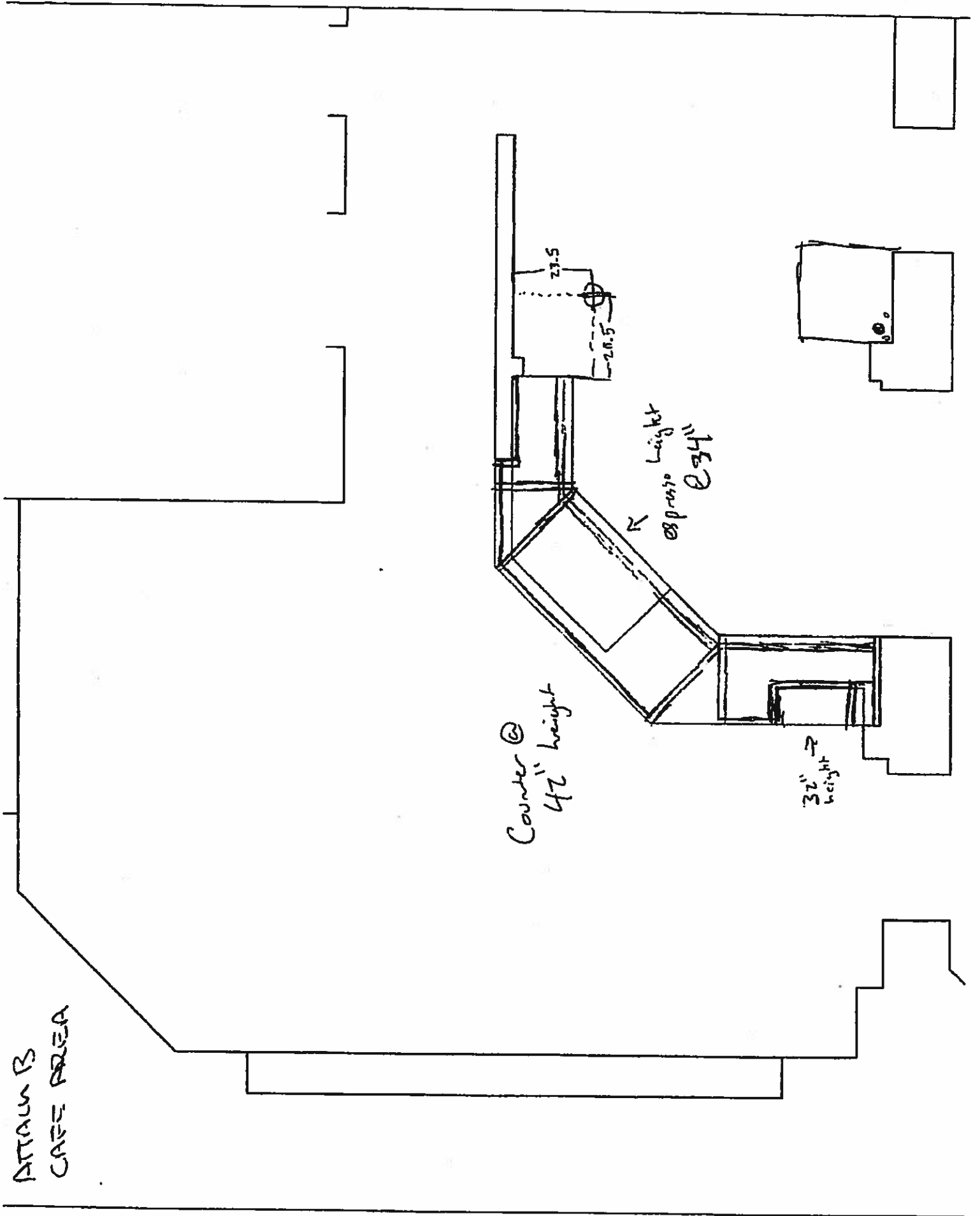
ATTACH A  
REVISION: WALKWAY AREA



1

15 EAST BROOKLAND PARK BLVD

ATTAIN B  
CAFE AREA



Counter @  
42" height

Espresso Light  
@ 34"

32"  
height

23.5  
20.5

16. 6195

Prepared By:  
Alexander N. Simon, VSB #17833  
2604 W. Main Street  
Richmond, Virginia 23220  
Map No. N000-0894-001

Consideration: \$125,000.00  
Assessed value \$99,000.00

**D E E D**

M-1339

THIS DEED, made this 24<sup>th</sup> day of March, 2016, by and between WAYNE R. TOWNS, individually, and WAYNE R. TOWNS, **SOLE MEMBER OF COMMUNITY HOUSING SOLUTION LLC**, a cancelled Virginia limited liability company, terminated in 2008, as Trustee in liquidation pursuant to Va. Code Section 13.1-1050.3/ and **Grantors** BROOKLAND PARTNERS, LLC, a Virginia Limited liability company, herein referred to as Grantee;

**W I T N E S S E T H:**

That for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration, receipt of which is hereby acknowledged, the said Grantors do hereby grant unto said Grantee, and convey with GENERAL WARRANTY, and subject to the terms hereof, with ENGLISH COVENANTS OF TITLE, the real estate described in Schedule "A", attached hereto and made a part of and recorded herewith.

This conveyance is made subject to the conditions, restrictions, easements, and reservations of record to the extent that they are applicable to the property hereby conveyed.

WITNESS the following signatures and seals:

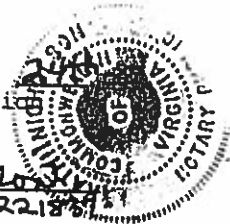
WR Towns (SEAL)  
Wayne R. Towns

Wayne R Towns (SEAL)  
Wayne R. Towns, Trustee in  
Liquidation of Community Housing  
Solution LLC

State of Virginia )  
City of Richmond ) to-wit:

The foregoing deed was acknowledged before me this  
of March, 2016, by Wayne R. Towns, in my jurisdiction  
aforesaid.

Hathi Nicholas  
Notary Public 22188151



My commission expires: 4/30/2017

State of Virginia )  
City of Richmond ) to-wit:

The foregoing deed was acknowledged before me this 24<sup>th</sup> day  
of March, 2016, by Wayne R. Towns, in his capacity as  
Trustee in Liquidation of Community Housing Solution, LLC, a  
cancelled Virginia limited liability company in my jurisdiction  
aforesaid.

Hathi Nicholas  
Notary Public 22188151



My commission expires: 4/30/2017

Grantee's address:  
2314 W. Main St.  
Richmond, VA 23220

## Schedule A

All that certain lot, piece or parcel of land, with all the improvements thereon and appurtenances thereto belonging, lying and being in the City of Richmond, Virginia, on the western line of Barton Avenue and bounded and described as follows, to-wit:

BEGINNING at the southwestern corner of Barton Avenue and Brookland Park Boulevard, thence southwardly along and fronting on the western line of Barton Avenue 55.20' to a point; thence running N. 86 degrees 58' 30" W. 83 feet; thence running S. 3 degrees 34' 30" W. 2 feet to a pipe; thence running N. 86 degrees 29' 30" W. 52 feet to a pipe in the eastern line of a 15 foot alley; thence running along the easterly side of said 15 foot alley W. 3 degrees 34' 30" E. 58 feet to the southern line of Brookland Park Boulevard; thence running along the said southern line of Brookland Park Boulevard S. 86 degrees 29' 30" E. 135 feet to a stone in the western line of Barton Avenue, the point of beginning; all as shown on plat entitled "Plat of Property Situated on the Southwest Corner of Barton Heights and Brookland Park Boulevard," dated August 14, 1945, made by Chas H. Fleet, Certified Civil Engineer, a copy of which is attached to deed recorded in the Chancery Court, City of Richmond, Virginia, in Deed Book 455C, Page 318.

BEING the same real estate conveyed to Marcy Jones and Wayne Towns by deed from Richmond Redevelopment and Housing Authority dated September 27, 2002, recorded October 25, 2002 as Instrument Number 02-033664;

AND FURTHER being the same real estate conveyed in Instrument Number 15-22358 recorded November 15, 2015;

AND FURTHER being the same real estate conveyed in Instrument Number 16-1845 recorded February 2, 2016;

AND FURTHER being the same real estate conveyed to Wayne R. Towns, by deed from March Jones, dated March , 2016, and recorded immediately prior hereto.

ALL as recorded in the Clerk's Office of the Circuit Court of the City of Richmond.



INSTRUMENT #160006195  
RECORDED IN THE CLERK'S OFFICE OF  
CITY OF RICHMOND ON  
APRIL 6, 2016 AT 01:39PM  
\$125.00 GRANTOR TAX WAS PAID AS  
REQUIRED BY SEC 58.1-802 OF THE VA. CODE  
STATE: \$62.50 LOCAL: \$62.50

EDWARD F. JENETT, CLERK  
RECORDED BY: VEB