

INTRODUCED: December 9, 2019

AN ORDINANCE No. 2019-348

To amend and reordain Ord. No. 92-169-108, adopted May 26, 1992, which authorized the special use of the property known as 2820 West Cary Street for the purpose of operating a proposed 5,086 square foot shopping center within an existing building, waiving the off-street parking requirement, to modify the permitted uses, upon certain terms and conditions.

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

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

PUBLIC HEARING: JAN 13 2020 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

I. That Ordinance No. 92-169-108, adopted May 26, 1992, is hereby amended and reordained as follows:

§ 1. That the [~~real estate,~~] property known as 2820 West Cary Street, located at the northeast corner of the intersection of West Cary Street and South Colonial Avenue, being more completely described as follows: beginning at the northeast intersection of West Cary Street and South Colonial Avenue; thence extending in an easterly direction along the north line of West Cary Street 40.65 feet to a point; thence in a northerly direction

AYES:            9            NOES:            0            ABSTAIN: \_\_\_\_\_

ADOPTED:    JAN 13 2020    REJECTED: \_\_\_\_\_    STRICKEN: \_\_\_\_\_

along a property line 125.16 feet to the south line of an alley; thence along the south line of said alley in a westerly direction 40.65 feet to a point on the east line of Colonial Avenue; thence along the east line of Colonial Avenue in a southerly direction 135.16 feet to the point of beginning, is hereby permitted to be used for the purpose of operating a proposed 5,086 square foot shopping center within an existing building, waiving the off-street parking requirement, with site development substantially as shown on plans and drawings entitled: "Carillon Court", prepared by Claes Gustaf Tholand Design, copies of which are attached [~~hereto~~] to Ordinance No. 92-169-108, adopted May 26, 1992, and made a part of [~~this ordinance~~] Ordinance No. 92-169-108, adopted May 26, 1992.

§ 2. That adoption of this ordinance shall constitute the granting of a special use permit for the [~~real estate~~] property, which shall be transferable from the owner of the [~~real estate~~] property to the successor or successors in fee simple title of the owner, whether acquired by operation of law, deed or otherwise, and shall run with the land.

§ 3. That the Commissioner of Buildings is hereby authorized to issue to the owner of said [~~real estate~~] property a building permit in accordance with the above-referenced plans and drawings for such purpose(s), subject to the following terms and conditions:

(a) That the owner of the property shall be bound by, observe, and shall comply with all other laws, ordinances and rules and regulations adopted pursuant thereto, applicable to the land and building, except as otherwise provided in this ordinance;

(b) That application for a building permit for the conversion of the building to shopping center use shall be made within [~~twelve~~] 12 months from the effective date of this ordinance, which building permit shall expire by limitation and become null and void

if construction of the shopping center is not commenced within [~~one hundred eighty~~] 180 days from the date of the building permit, or if construction is suspended or abandoned for a period of [~~one hundred eighty~~] 180 days at any time after the work is commenced, as provided in applicable provisions of the Virginia Uniform Statewide Building Code. Should application for the building permit not be made within [~~twelve~~] 12 months from the effective date of this ordinance or should the building permit expire and become null and void, the privileges granted by this ordinance shall terminate and the special use permit shall become null and void;

(c) That the existing structure located at 2820 West Cary Street may be utilized as a shopping center containing [~~at least three~~] up to six separate shop spaces, substantially as shown on the [~~attached~~] plans attached to and made a part of Ordinance No. 92-169-108, adopted May 26, 1992, as modified by the plans entitled "2820 West Cary Street Building Layout," prepared by an unknown preparer, and undated, a copy of which is attached to and made a part of this amendatory ordinance, and as described in the applicant's report, attached to Ord. No. 92-169-108, adopted May 26, 1992, as modified by the applicant's report attached to and made a part of this amendatory ordinance. Uses within the shopping center shall be limited to those uses permitted within the [~~Urban Business Zoning~~] UB Urban Business District as specified in the City of Richmond Zoning Regulations[, ~~with the exception that restaurants, food stores, theatres, lodges, club meeting places, and auditoriums or assembly halls shall not be permitted, provided that no more than one "specialty food store" shall be permitted~~];

(d) That identification of the businesses on the property shall be limited to a

total of 130 square feet of signage for the shopping center, provided that an additional sign, painted or attached flat against the wall of the west façade substantially as depicted on the ~~[attached]~~ drawings and plans attached to and made a part of Ordinance No. 92-169-108, adopted May 26, 1992, the size of which shall not exceed 40 square feet, shall be permitted in excess of the 130 square foot limitation. Any illumination of the permitted signage shall be such that the source of illumination is not visible;

(e) That 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 and alleys;

(f) That the colors used on the exterior of the structure shall be substantially in accordance with the color ranges identified on the plan attached to and made a part of Ordinance No. 92-169-108, adopted May 26, 1992;

(g) That canopies, awnings, or signs may extend into the public right-of-way only upon compliance with and authorized pursuant to the encroachment policies and regulations of the City;

(h) That final grading and drainage plans, if required, shall be approved by the Director of ~~[Community Development]~~ Public Utilities prior to the issuance of building permits;

(i) That storm or surface water shall not be allowed to accumulate on the land and adequate facilities for drainage of storm and surface water from the land and building will be provided and maintained at all times by the owner at its costs and expense so as not to adversely affect or damage adjacent property or public streets and alleys and the use thereof;

(j) That there shall be no enlargement or exterior alterations to the building except for those which are shown on the ~~[attached]~~ plans attached to and made a part of Ordinance No. 92-169-108, adopted May 26, 1992, as modified by the plans entitled “2820 West Cary Street Building Layout,” prepared by an unknown preparer, and undated, a copy of which is attached to and made a part of this amendatory ordinance, and normal repair and maintenance.

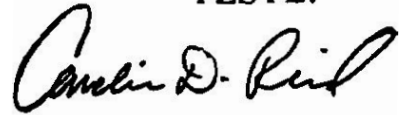
§ 4. That should the owner use the premises for any purpose which is not permitted by this ordinance, or fails, refuses or neglects to comply with all applicable terms and conditions, and does not terminate such use or comply with such terms and conditions within sixty days after written notice so to do has been given by the Zoning Administrator, the privileges granted by this ordinance shall terminate and the special use permit shall become null and void, unless an application for a special use amendment is filed with the Director of ~~[the Department of Community]~~ Planning and Development Review, which shall stay the ~~[sixty]~~ 60 day period. Failure to comply with the terms of this ordinance shall constitute a violation of section ~~[32-1080]~~ 30-1080 of the Code of the City of Richmond ~~[1985]~~ (2015), as amended, or any other applicable ~~[provision]~~ laws or regulations.

§ 5. That when the privileges granted by this ordinance terminate and the special use permit becomes null and void or when use of the ~~[premises]~~ property is abandoned for a period of ~~[twenty-four]~~ 24 consecutive months, use of the ~~[real-estate]~~ property shall be governed thereafter by the zoning regulations prescribed for the district in which the ~~[real-estate]~~ property is then situated.

§ 6. This ordinance shall be in force and effect upon adoption.

II. This amendatory ordinance shall be in force and effect upon adoption.

**A TRUE COPY:  
TESTE:**

A handwritten signature in black ink, appearing to read "Camille D. Reed". The signature is written in a cursive style with a large initial 'C'.

**City Clerk**

# City of Richmond

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

## Item Request

File Number: PRE.2019.572

O & R REQUEST

4-9393  
NOV 12 2019

RECEIVED

DEC 02 2019

### O & R Request

Office of the  
Chief Administrative Officer

DATE: OFFICE OF THE CITY ATTORNEY  
November 8, 2019

EDITION: 1

TO: The Honorable Members of City Council

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

THROUGH: Lenora G. Reid, Acting Chief Administrative Officer

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

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

RE: To amend Ord. No. 92-169-108, which authorized the use of the real estate, property known as 2820 West Cary Street, for the purpose of operating a proposed 5,586 square foot shopping center within an existing building, waiving the off-street parking requirement, upon certain terms and conditions, to modify the requirements pertaining to permitted uses, upon certain terms and conditions.

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

**PURPOSE:** To amend Ord. No. 92-169-108, which authorized the use of the real estate, property known as 2820 West Cary Street, for the purpose of operating a proposed 5,586 square foot shopping center within an existing building, waiving the off-street parking requirement, upon certain terms and conditions, to modify the requirements pertaining to permitted uses, upon certain terms and conditions.

**REASON:** On May 26, 1992 Ord. No. 92-169-108 was approved by City Council to authorize the special use of the property known as 2820 West Cary Street for the purpose of operating a 5,086 square foot shopping center within an existing building. One of the conditions for approval at that time stated that no more than one specialty food store shall be permitted. The applicant requests that this condition be removed so that more than one specialty food store is allowed on the property.

**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 January 6, 2020, meeting.

**BACKGROUND:** The subject property consists of a 5,494 SF parcel of land that contains a two-story 5,920 square foot structure located on the corner of West Cary Street and South Colonial Avenue. It is located in the Carytown neighborhood within the City's Near West Planning District and is zoned in the UB Urban Business District.

The 1935 structure was renovated to provide ground floor retail with up to six lease areas. In its current configuration three units have been combined and houses a coffee shop. The three remaining lease areas contain a hair salon, the Tokyo Market, and the proposed second specialty food store. This second food store currently operates as part of the Tokyo Market. With the approval of a special use permit amendment, it can operate from as an independent entity with its own entrance to the street.

The City of Richmond's Master Plan designates the subject property for Community Commercial uses. Primary uses 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.

To the east, west, and south are properties located in the same UB-PO2 zoning district as the subject property. These properties contain mixed uses. Properties abutting the subject property to the north are in the RO-2 Residential Office District and contain residential uses and a two-level parking deck.

**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:** December 9, 2019

**CITY COUNCIL PUBLIC HEARING DATE:** January 13, 2020

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** None

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** City Planning Commission January 6, 2020.

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

**RELATIONSHIP TO EXISTING ORD. OR RES.:** Amendment of Ord. No. 92-169-108

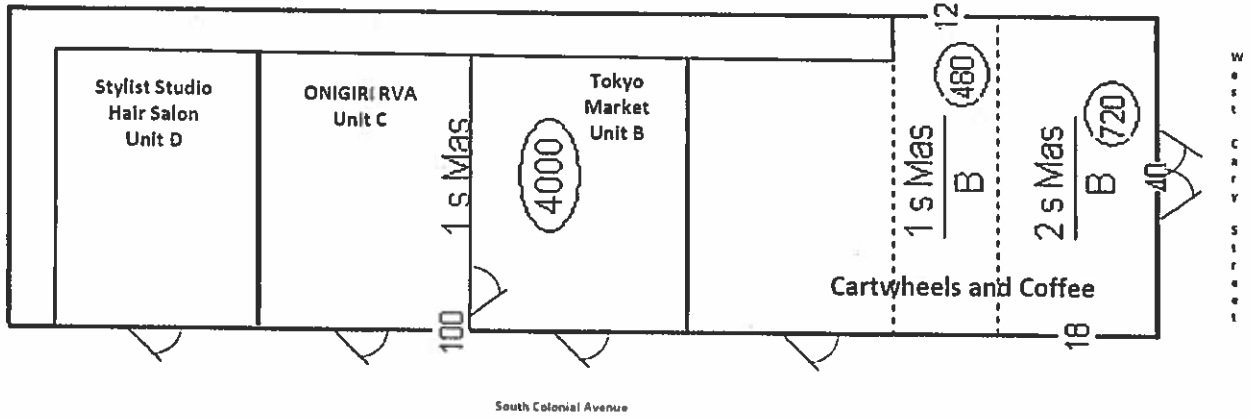


**REQUIRED CHANGES TO WORK PROGRAM(S):** None

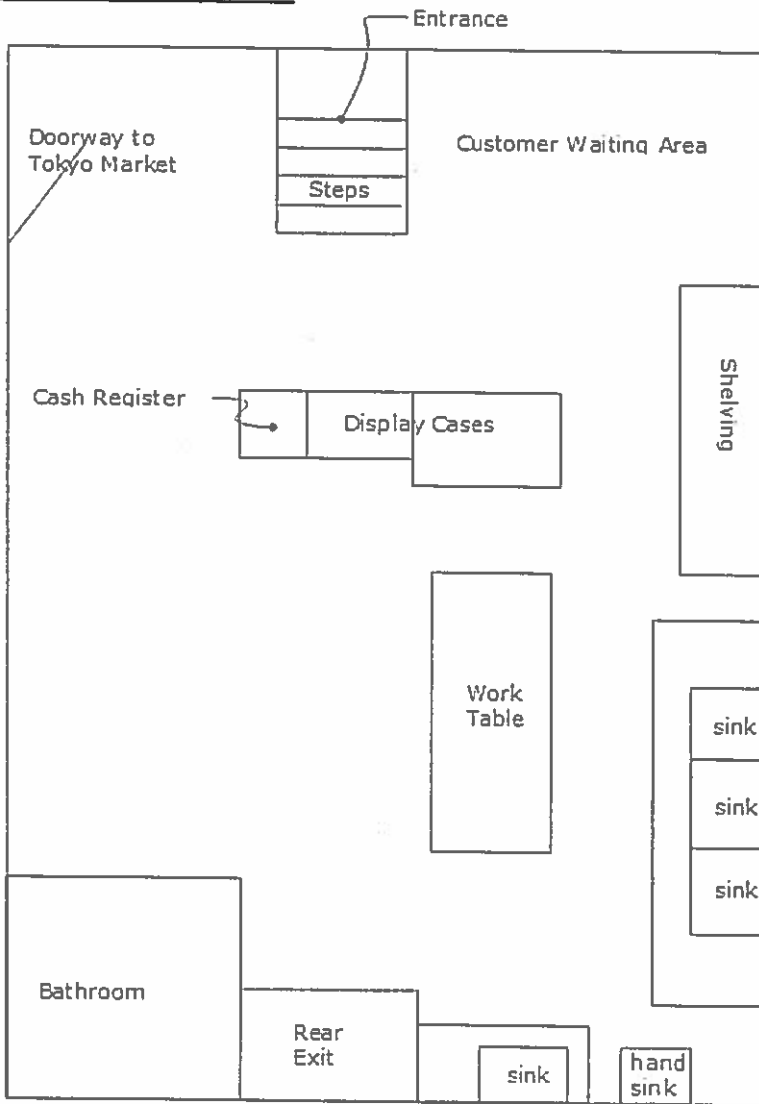
**ATTACHMENTS:** Draft Ordinance, Application Form, Applicant's Report, Plans, Map

**STAFF:** David Watson, Senior Planner, Land Use Administration, 804-646-1036

**2820 West Cary Street Building Layout**



**Unit C Layout- Onigiri RVA**





Application for **SPECIAL USE PERMIT**

Department of Planning and Development Review  
Land Use Administration Division  
300 E. Broad Street, Room 511  
Richmond, Virginia 23219  
(804) 646-3111  
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 2920 West Cary Street Date 9/11/2019  
 Tax Map # W0001243030 Fee \$1800.00  
 Total area of affected site in acres 0.126

See page 6 for fee schedule. Please make a check payable to the City of Richmond.

**Zoning**

Current Zoning: UB-PO2 - Urban Business-Parking Overlay

Existing Use: Retail/Hair Salon/Specilty Food/Offices

**Proposed Use**

Please include a detailed description of the project and conditions required and identify a **Permit ONIGIRI RVA to use the street entrance to it's own space and operate independently.**

Existing Use: ONIGIRI RVA is operating as part of the Tokyo Market. Customers access ONIGIRI RVA through the Tokyo Market.

Is this property subject to any previous land use cases?

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

**Applicant/Contact Person:** James Rosendale

Company: Cary Street Properties, LLC  
 Mailing Address: 3201 Patterson Ave  
 City: Richmond State: VA Zip Code: 23221  
 Telephone: (804) 239-8714 Fax: \_\_\_\_\_  
 Email: rosenja@verizon.net

**Property Owner:** Cary Street Properties, LLC

If Business Entity, name and title of authorized signer: James Rosendale, Managing Member

This person or persons executing or attesting the signature of this application on behalf of the Company certifies that they are the duly authorized, authorized and empowered to so execute or attest.

Mailing Address: 1635 W. Grace Street  
 City: Richmond State: VA Zip Code: 23220  
 Telephone: (804) 239-8714 Fax: \_\_\_\_\_  
 Email: rosenja@verizon.net

Property Owner Signature: James Rosendale

The names, addresses, telephone numbers and signatures of all owners of the property are required. Please attach additional sheets as needed. The legal representative of a for-profit property owner (i.e. a corporation) must execute the above information. **Faxed or photocopied signatures will not be accepted.**

**NOTE:** Please attach the required fee schedule and check for the application fee. Fees that are not required for your application type.

# Applicant's Report

## 2820 W. Cary Street Special Use Permit Amendment

James Rosendale, Managing Member, Cary Street Properties, LLC

Cary Street Properties, LLC, the owner of 2820 W Cary Street, is seeking an amendment to Special Use Permit No. 92-169-108 dated May 26, 1992. The requested amendment is to Section 3.C. of the special use permit. Section 3.C outlines the structure should be used as a shopping center, the minimum number of shop spaces in the shopping center, and the allowable uses of the shop spaces.

### Current Section 3.C of Special Use Permit No. 92-169-108:

(c) That the existing structure located at 2820 West Cary Street may be utilized as a shopping center containing at least three separate shop spaces, substantially as shown on the attached plans and as described in the applicant's report. Uses within the shopping center shall be limited to those uses permitted within the Urban Business Zoning District as specified in the City of Richmond Zoning Regulations, with the exception that restaurants, food stores, theatres, lodges, club meeting places, and auditoriums or assembly halls shall not be permitted, provided that no more than one "specialty food store" shall be permitted;

### Proposed amendment to Section 3.C:

***(c) That the existing structure located at 2820 West Cary Street may be utilized as a shopping center. Uses within the shopping center shall be limited to those uses permitted with the Urban Business Zoning District as specified in the City of Richmond Zoning Regulations.***

Cary Street Properties, LLC took ownership of 2820 West Cary Street in 2005 and has hosted a stable base of tenants over the years. We take great pride in the condition and maintenance of the property and believe the opportunity and value we offer our tenants is rare in Carytown. Our tenants enjoy available street parking and the proximity to the Colonial Avenue City Parking Deck make our property a convenient destination for our tenant's customers. As the richness and diversity of Carytown has evolved over the years, so has the mix of potential tenants seeking space in our property. The limitations on the property's use outlined in the 1992 Special Use Permit seem less relevant today.

Today, visitors to Carytown arrive with a wide variety of interests and tastes. The use limitations outlined in Section 3.C hamper our ability to market our property to tenants hoping to meet the demand of Carytown shoppers.

The most immediate impact of our proposed amendment will be to our newest tenant ONIGIRI RVA. In April 2019, ONIGIRI RVA leased Unit C facing Colonial Avenue. Due to the Special Use Permit limitations on specialty food stores, ONIGIRI RVA is currently operating its sales as part of the Tokyo Market located in Unit B (diagram page 3). All customers use the Tokyo Market entrance to Unit B to access ONIGIRI RVA through an adjoining doorway. The Tokyo Market has been a tenant since 2005.

The proposed amendment to Section 3.C would permit ONIGIRI RVA to operate independently by leveraging the street entrance to Unit C. This change should improve the viability and potential success of both businesses.

### **ONIGIRI RVA**

ONIGIRI RVA is a carry out, specialty food store that specializes in selling packaged Japanese Onigiri rice balls. In addition, Onigiri RVA sells packaged kimchi, cucumber, okra, radish and seaweed salads. They advertise as a "grab and go" specialty food store and are not a sit-down restaurant. Limited seating is provided for customers as they wait for their orders to be assembled. They do not have a stove on premises and all food items are served refrigerated. Waste generated by the business should be similar to previous uses of the space that included the original location of Carytown Cupcakes. Onigiri RVA will use the existing trash bins located on the easement at the north end of the building.

#### **Hours of operation for Onigiri RVA:**

Tuesday-Saturday 11:00AM to 7:00PM

Sunday 11:00AM to 5:00PM

Closed Mondays