#### INTRODUCED: December 9. 2024

#### AN ORDINANCE No. 2024-326

To amend Ord. No. 2021-277, adopted Nov. 8, 2021, which authorized 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café, delicatessen, ice cream parlor, or similar food service establishment, upon certain terms and conditions, and repealed Ord. No. 90-142-117, adopted May 14, 1990, to authorize a mobile food truck use and to revise the plans, upon certain terms and conditions.

Patron – Mayor Stoney (By Request)

Approved as to form and legality by the City Attorney

#### PUBLIC HEARING: JAN 13 2025 AT 6 P.M.

I. That Ordinance No. 2021-277, adopted November 8, 2021, be and is hereby amended and reordained as follows:

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, <u>mobile food truck</u>, 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

AYES:	NOES:	ABSTAIN:
ADOPTED:	REJECTED:	STRICKEN:

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 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 <u>amendatory</u> ordinance, the property known as 3401 Patterson Avenue and identified as Tax Parcel No. W000-1614/013 in the [2021] 2024 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 <u>amendatory</u> 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, <u>mobile food truck</u>, 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,"] "Antonelli's Deli, 3401 Patterson Ave., Richmond VA 23221," prepared by [Harry Baker Smith, Jr.] James River Nurseries, Inc., and dated [June 15, 2021] September 6, 2024, hereinafter referred to as "the Plans," copies of which are attached to and made a part of this amendatory 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, <u>mobile food truck</u>, 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] 60 patrons.

(g) The Special Use shall not be open to the public except during the hours of 6:00 a.m.
to [8:00] 9:00 p.m., [Monday] Sunday through Thursday, and 6:00 a.m. to [9:00] 10:00 p.m.,
Friday through [Sunday] Saturday.

(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 or the designee thereof 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 or the designee thereof, 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 <u>amendatory</u> ordinance. An application for the building permit shall be made within [730] 1,096 calendar days following the date on which this <u>amendatory</u> 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 <u>amendatory</u> 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.

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

APPROVED AS TO FORM:

John Dickinson CITY ATTORNEY'S OFFICE

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

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### **City of Richmond**

#### Master

#### File Number: Admin-2024-1248

File ID:	Admin-2024-1248	Туре:	Request for Ordinance or Resolution	Status:	Regular Agenda
Version:	1	Reference:		In Control:	City Clerk Waiting Room
Department:	Richmond Dept of Planning & Development. Review	Cost:		File Created:	09/24/2024
Subject:				Final Action:	
Title:					
Internal Notes:					
Code Sections:				Agenda Date:	12/09/2024
Indexes:			Aç	jenda Number:	
Patron(s):			E	nactment Date:	
Attachments:	Admin-2024-1248 - AATI Admin-2024-1248_V2 - A	- ,		tment Number:	
Contact:	_			oduction Date:	
Drafter:	jonathan.brown@richmo	ndaov.com		Effective Date:	
Related Files:	<u></u>				

#### **Approval History**

Version	Seq #	Action Date	Approver	Action	Due Date	
1	1	11/7/2024	Matthew Ebinger	Approve	11/11/2024	
1	2	11/7/2024	Kris Daniel-Thiem - FYI	Notified - FYI		
1	3	11/8/2024	Kevin Vonck	Approve	11/14/2024	
1	4	11/8/2024	Alecia Blackwell - FYI	Notified - FYI		
1	5	11/8/2024	Sharon Ebert	Approve	11/12/2024	
1	6	11/8/2024	Caitlin Sedano - FYI	Notified - FYI		
1	7	11/19/2024	Jeff Gray	Approve	11/12/2024	
1	8	11/19/2024	Lincoln Saunders	Approve	11/21/2024	
1	9	11/21/2024	Mayor Stoney	Approve	11/21/2024	

#### **History of Legislative File**

Ver- Acting Body: sion:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
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Text of Legislative File Admin-2024-1248

# City of Richmond

#### **O&R** Transmittal

DATE: November 7, 2024

**TO:** The Honorable Members of City Council

**THROUGH:** The Honorable Levar M. Stoney, Mayor (by request) (This is no way reflects a recommendation on behalf of the Mayor)

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

**THROUGH:** Sharon L. Ebert, DCAO for Planning & Economic Development

**FROM:** Kevin J. Vonck, Director of Planning & Development Review

**RE:** To amend Ord. No. 2021-277, adopted Nov. 8, 2021, which authorized 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 repealed Ord. No. 90-142-117, adopted May 14, 1990, to authorize a mobile food truck use and to revise the plans, upon certain terms and conditions.

#### ORD. OR RES. No.

**PURPOSE:** To amend Ord. No. 2021-277, adopted Nov. 8, 2021, which authorized 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 repealed Ord. No. 90-142-117, adopted May 14, 1990, to authorize a mobile food truck use and to revise the plans, upon certain terms and conditions.

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.

**COMMUNITY ENGAGEMENT:** The Museum District Association was notified. Letters of notification shall be sent to nearby property owners, and a sign noting this request shall be placed on the property once the ordinance is introduced to City Council.

#### STRATEGIC INITIATIVES AND OTHER GOVERNMENTAL: Richmond 300 Master Plan

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

**DESIRED EFFECTIVE DATE:** Upon adoption

**REQUESTED INTRODUCTION DATE:** December 9, 2024

CITY COUNCIL PUBLIC HEARING DATE: January 13, 2025

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** Planning Commission (January 7, 2025)

AFFECTED AGENCIES: Law Department (for review of draft ordinance)

RELATIONSHIP TO EXISTING ORD. OR RES.: Amend Ord. No. 2021-277

ATTACHMENTS: Draft Ordinance, Application Form, Applicant's Report, Plans, Survey, 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.richmondgov.com/



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 Patters	on Ave	Date:
Tax Map #: W000-1614/013	Fee: \$200	
Total area of affected site in	acres: 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

No

(Please include a detailed description of the proposed use in the required applicant's report)	
Amend Ord. No. 2021-277 to modify outdoor seating layout and hours of operation	
Existing Use:General Retail/service	

Is this property subject to any previous land use cases?

Yes ✓

If Yes, please list the Ordinance Number:<u>BZA-1977-075, Ord. No. 64-244-247, Ord. No. 90-142-117,</u> Ord. No 2021-277

#### Applicant/Contact Person: Mark Baker

Company:Baker Development Resources		
Mailing Address: 530 E Main Street, Suite 730		
City: Richmond	State: VA	Zip Code: 23219
Telephone: (804 )874-6275	Fax: (	)
Email: markbaker@bakerdevelopmentresources.com		

#### Property Owner: LOUPASSI CAROLYN H TRS

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.)

City: Richmond	State: VA	Zip Code: 23227
Telephone: _()	Fax: _(	)
Email:		
Property Owner Signature:		
		e required. Please attach addition

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)

### **APPLICANT'S REPORT**

August 7, 2024

Special Use Permit Amendment Request 3401 Patterson Avenue, Richmond, Virginia Map Reference Number: W000-1614/013

City of Richmond
Department of Planning and Development Review
Land Use Administration
900 East Broad Street, Suite 511
Richmond, Virginia 23219
Baker Development Resources
530 East Main Street, Suite 730
Richmond, Virginia 23219

### Introduction

The property owner is requesting a special use permit amendment ("the SUPA") for the property at 3401 Patterson Avenue ("the Property"). The existing structure was authorized for use as a food service establishment by Ordinance No. 2021-277 ("the Ordinance"), which was adopted by the City Council on November 8, 2021. The proposed SUPA would modify the outdoor patio layout and amend the hours of operation for the Property.

## **Existing Conditions**

#### SITE DESCRIPTION AND EXISTING LAND USE

The Property is located at the southwest intersection of Patterson Avenue and Roseneath Road. The Property is referenced by the City Assessor as tax parcel W000-1614/013 and is currently improved with a vacant one-story building. The Property is roughly 47 feet wide by 67 feet in depth and contains approximately 3,684 square feet in lot area. Access is provided by an existing curb cut along Patterson Avenue.



A variety of uses and residential densities are present in the vicinity. Most properties are developed with a mix of single-family, two-family and multi-family dwellings. Directly across Patterson Avenue is the Albert Hill Middle School and further to the east, along Belmont Avenue, are mixed-use commercial buildings.

#### EXISTING ZONING

The Property and immediately to the west and north are zoned R-48 Multifamily Residential. Properties to the east and south are located within a R-6 Single-Family Attached Residential District. Further to the east are properties zoned B-1 Neighborhood Business District.

#### MASTER PLAN DESIGNATION

The Richmond 300 Master Plan (the "Master Plan") suggests "Neighborhood Mixed-Use" for the Property. The Master Plan describes this land use designation as "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." Recommended development styles are described as featuring "a variety of building types that are close to one another and create a unified street wall. The building size, density, and zoning districts for these areas vary depending on historical densities and neighborhood characteristics. Retail is a contemplated secondary use in this land use classification.

In addition to the Property-specific guidance offered by the Vision and Core Concepts chapter, there are a number of other goals elsewhere within the Master Plan that support this request:

- Page 164 (Diverse Economy) Objective 11.3 to "Increase the number and support the growth of small businesses, start-ups, and women-owned and minority-owned businesses."
  - d. Encourage the creation of new businesses and growth of small businesses by promoting and identifying smaller spaces (typically found along historic commercial corridors) for small businesses to start and grow.
- Page 159 (Thriving Environment Chapter) Objective 15.1 to "Reduce air pollution related to transportation."
  - a. Increase the number of Richmonders living in a development pattern that encourages density and reduces dependency on single-occupancy vehicles (see Goal 1, Goal 8, Goal 14).
- Page 86 (High-Quality Places Chapter), Objective 1.4, to "maintain and improve primarily residential areas by increasing their linkages to...corridors...and maintaining high-quality design standards"
- Page 100 (High Quality Places Chapter), Objective 4.1, to "create and preserve highquality, distinctive, and well-designed neighborhoods and nodes throughout the City," as the request introduces thoughtfully designed rehabilitation in a manner not otherwise assured by-right.

### Proposal

The previously approved SUPA permitted the use of the Property for "the purpose of a restaurant, tea room, café, delicatessen, ice cream parlor, or similar food service establishment." The proposed SUPA would generally retain the conditions approved by the previous SUP, with the only changes to the previously approved SUP being:

1. Modify the outdoor patio layout. The modified site layout would include outdoor patio space on the existing concrete slab along Roseneath Road as contemplated by the original site plan. However, the outdoor patio space would be reduced along the Patterson frontage to retain a parking/loading space for the prospective tenant's Mobile Pizza Food Truck.

This space would allow the Mobile Pizza Food Truck access to the site for purposes of serving patrons and loading/unloading.

2. Amend the hours of operation – Sec. 3(g) - from the original SUP to better serve the needs of the prospective tenant. The original applicant proposed a coffee shop whereas the prospective tenant is proposing a neighborhood pizzeria/delicatessen to be known as Antonelli's Deli. While the original hours were appropriate for the coffee shop use, the owner is requesting the hours be amended to reflect the market conditions for a pizzeria/delicatessen. Specifically, the owner is proposing 6:00 am to 9:00 pm., Monday through Thursday, and 6:00 a.m. to 10:00 p.m., Friday through Sunday.

### **Findings of Fact**

The following are factors indicated in Section 17.11 of the Charter and Section 114-1050.1 of the Zoning Ordinance relative 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 proposed SUPA will not impact the safety, health, morals and general welfare of the nearby neighborhoods.

• Tend to create congestion in streets, roads, alleys and other public ways and places in the area involved.

The proposed SUPA will not result in significant traffic impacts to nearby residential neighborhoods.

• 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 SUPA will not tend to over crowd 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.

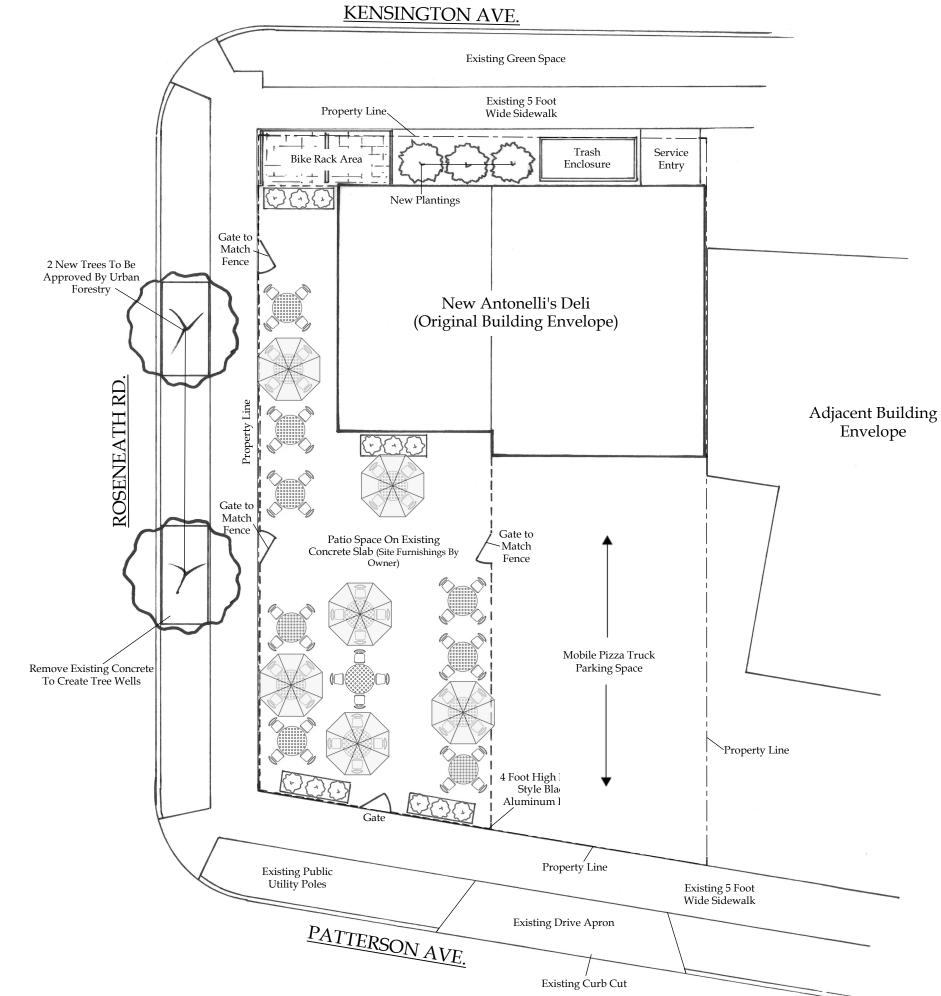
The proposed SUPA would not adversely affect the above referenced City services.

• Interfere with adequate light and air.

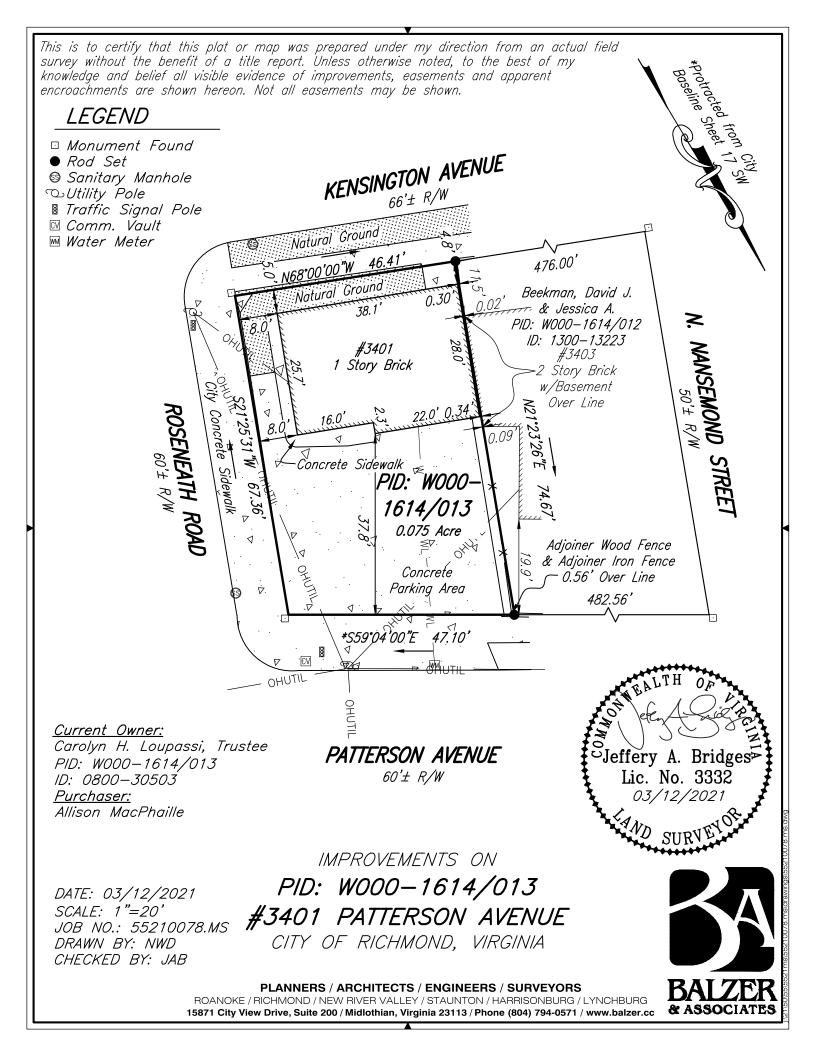
The light and air available to the subject and adjacent properties will not be affected. No new buildings are proposed. As a result, this request will not interfere with the provision of adequate light and air to the adjacent buildings.

### Summary

The applicant is enthusiastically seeking approval for the modification of the existing conditions to better suit the needs of the proposed neighborhood-serving pizzeria/delicatessen. No changes are proposed to the existing structure and absent the described changes, all other aspects of the previously approved SUP will remain unchanged. The proposed SUPA represents an ideal, small-scale urban commercial development for this location that is tailored to the needs of the market while continuing to contribute to the overall vibrancy of the neighborhood though the provision of an appropriate use that is consistent with the existing use on the parcel and development pattern of the surrounding neighborhood.









### City of Richmond Department of Planning & Development Review

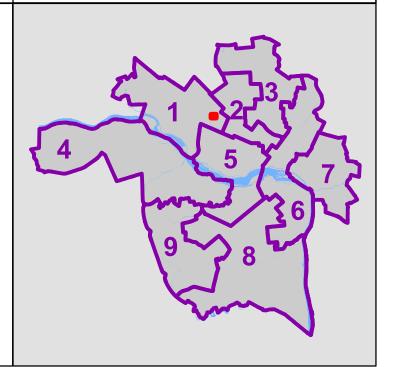
### **Special Use Permit Amendment**

**LOCATION: 3401 Patterson Avenue** 

**APPLICANT: Baker Development Resources** 

**COUNCIL DISTRICT: 1** 

PROPOSAL: To amend and reordain Ord. No. 2021-277, adopted November 8, 2021, which authorized the special use of the property known as s 3401 Patterson Avenue for the purpose of a restaurant, tearoom, café, delicatessen, ice cream parlor, or similar food service establishment, upon certain terms and conditions.



For questions, please contact Alyson Oliver at 804-646-5789 or alyson.oliver@rva.gov

