



## CITY OF RICHMOND

### **Department of Planning & Development Review** ***Staff Report***

**Ord. No. 2022-268:** To authorize the special use of the property known as 401 South Stafford Avenue for the purpose of a mixed-use building containing up to one second floor dwelling unit and a ground floor restaurant use, upon certain terms and conditions. (5<sup>th</sup> District)

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**To:** City Planning Commission  
**From:** Land Use Administration  
**Date:** February 21, 2023

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#### **PETITIONER**

Byrds Nest Building LLC, represented by Baker Development Resources

#### **LOCATION**

401 South Stafford Avenue

#### **PURPOSE**

To authorize the special use of the property known as 401 South Stafford Avenue for the purpose of a mixed-use building containing up to one second floor dwelling unit and a ground floor restaurant use, upon certain terms and conditions.

#### **SUMMARY & RECOMMENDATION**

The proposed SUP will authorize a commercial use in the form of a restaurant to be located on the first floor and a residential use on the second floor.

The structure once housed a legally nonconforming restaurant that ceased operation in 1995. The legal nonconforming status expired after two years of inactivity.

Staff finds that the proposed development would be consistent with the recommendations of the Richmond 300 master plan. The recommended land use is Neighborhood Mixed-Use where the proposed restaurant is an appropriate secondary use.

Staff finds the proposed special use would not pose an undue burden on the availability of on-street parking in the area as most business would consist of patrons walking from the nearby park and from within the neighborhood.

Staff finds that conditions limiting hours of operation as well as prohibiting live or recorded music or other forms of entertainment in the outdoor setting will mitigate the potential adverse impacts of the proposed use.

Staff also finds that conditioning the automatic review of this special use permit by City Council upon the change of ownership or majority ownership of the business occur will assure that future property owners will exist in harmony with the surrounding neighborhood.

Staff finds that with the ordinance conditions the safeguards contained within the City Charter, relative to the granting of Special Use Permits, are met. Specifically, staff finds that the proposed special use would not be detrimental to the general welfare of the community involved and would not create congestion in the streets in the area involved.

Therefore, staff recommends approval of the Special Use Permit, with the following amendments:

-Limit outdoor dining capacity to 24 seats

- Limit indoor hours of operation to 8:00AM to 9:00PM
  - Limit outdoor hours of operation to 8:00AM to 9:00PM
  - Incorporate the updated site plan
  - Only allow retail sale of beer/wine for on-premises consumption (no sale of beer/wine for off-premises consumption; no sale of liquor for on- or off-premises consumption)
  - Install security cameras
  - Install bike rack with a capacity of at least four bicycles
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## **FINDINGS OF FACT**

### **Site Description and History**

The .065 acre subject property is located on the southeast corner of South Stafford Avenue and Idlewood Avenue. It is improved with a two-story structure originally built in 1920 as mixed-use with commercial use on the ground floor and a residential use upstairs.

On June 14, 2000 the Board of Zoning Appeals heard Case No. 59-00 requesting a building permit to reestablish a nonconforming (restaurant) use on the first floor of the building. The Board denied this request with a 5-0 vote.

On March 7, 2007 the Board of Zoning Appeals heard Case No. 17-07 requesting a building permit to convert first floor area to office space. The Board voted to approve the request (4-0) for a special exception from nonconforming uses subject to the conditions that there shall not be more than four employees on the premises at any one time and the hours of operation shall generally be from 8:00 a.m. to 6:00 p.m. Monday through Friday.

### **Proposed Use of the Property**

The proposed use will authorize commercial space on the first floor and basement and a residential use on the second floor.

### **Master Plan**

The City's Richmond 300 Master Plan designates the property for Neighborhood Mixed-Use which consists 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.

**Development Style:** These areas feature 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. Future development should generally complement existing context. Setbacks, plazas, and parks create a sense of place and community gathering areas. New developments on larger parcels continue or introduce a gridded street pattern to increase connectivity within the neighborhood and to adjacent neighborhoods. In historic neighborhoods, small-scale commercial uses exist today or should be allowed to reestablish. In new neighborhoods, small scale commercial buildings should be introduced.

**Ground Floor:** Regardless of use, buildings should engage the street with features such as street-oriented façades with windows and door openings along street frontages. Appropriate

setbacks, open space, front porches, elevated ground floors, and other features that provide a sense of privacy should be provided for residential uses.

**Mobility:** Pedestrian, bicycle, and transit access are prioritized and accommodated. Bike parking is provided. New driveways are prohibited on Priority and Principal Street frontages. Vehicular access to parcels should use alleys wherever possible. Parking areas should be located to the rear of street-facing buildings

**Intensity:** Building heights are generally two to four stories. Buildings taller than four stories may be found along major streets (see Street Typologies Map). Parcels are generally between 1,500 and 5,000 sq. ft.

**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.

### **Zoning and Ordinance Conditions**

The subject property lies within an R-6 Single-Family Attached Residential District, in which only single and two-family dwellings are permitted uses. The last legal commercial use of the building was for a nonconforming restaurant. This use ceased in 1995 and the legally nonconforming status expired two years later.

In 2007, the Board of Zoning Appeals restored legal nonconforming status for an office use on the first floor of property, with residential use upstairs. A single-family dwelling is the only other potential permitted use for the property authorized by the underlying R-6 Single-family attached residential zoning.

The special use is requested in order to authorize a commercial use in the form of a restaurant with outdoor seating in this residential area.

Staff recommends the approval of the requested special use permit with the following conditions:

- (a) The Special Use of the Property shall be as a mixed-use building containing up to one second floor dwelling unit and a ground floor restaurant use, substantially as shown on the Plans.
- (b) Off-street parking shall not be required for the Special Use.
- (c) The restaurant use of the Property shall begin no earlier than 8:00 a.m. and shall cease no later than 9:00 p.m. daily.
- (d) Outdoor dining on the Property shall only be within the area labelled "Patio" on the Plans and shall only be in operation between the hours of 8:00 a.m. and 9:00 p.m. No less than two covered trash containers shall be provided for the outdoor dining area.
- (e) All mechanical equipment serving the Property shall be located or screened so as not to be visible from any public right-of-way.
- (f) Full cutoff lighting fixtures shall be used for exterior lighting and shall be installed so as to prevent glare on adjacent properties.
- (g) No live music or entertainment use shall be permitted within the building on the Property. No live or recorded music or entertainment use shall be permitted outside of the building on the Property.

- (h) Signs on the Property shall be limited to signs permitted in all districts pursuant to section 30-505 of the Code of the City of Richmond (2020), as amended, and signs permitted in the R-63 Multifamily Urban Residential District, pursuant to section 30-507.1 of the Code of the City of Richmond (2020), as amended. Internally illuminated signs shall not be permitted.
- (i) The retail sale of beer and wine, for on-premises or off-premises consumption, may take place within the building and within the outdoor dining area, subject to the regulations of the Virginia Alcoholic Beverage Control Authority, or its successor agency.
- (j) Pursuant to section 15.2-2286(A)(3) of the Code of Virginia (1950), as amended, this Special Use shall be subject to an automatic review by the City Council upon a change in possession, a change in the owner of the business, or a transfer of majority control of the business entity. Upon a review by the City Council, it may either amend or revoke the Special Use permit after notice and a public hearing as required by section 15.2-2206 of the Code of Virginia (1950), as amended.

### **Surrounding Area**

The adjacent properties are in the same R-6 Single-family attached residential zoning district. The dominant land uses are single and two-family attached and detached dwellings. A church is located on the opposite end of the block from the subject property.

### **Neighborhood Participation**

Staff notified area residents and property owners and the Byrd Park Civic League. At the time of writing this report, twenty-six letters of opposition have been received, as well as thirteen letters of support.

**Staff Contact:** David Watson, Senior Planner, PDR, Land Use Administration, 804-646-1036