

INTRODUCED: May 8, 2023

AN ORDINANCE No. 2023-158

To amend and reordain Ord. No. 86-81-83, adopted Apr. 28, 1986, and last amended by Ord. No. 2000-289-271, adopted Sept. 11, 2000, which authorized the special use of the property known as 1200-1206 East Cary for the purpose of a hotel containing up to 57 rooms and other uses permitted in the B-5 Central Business District and additional signs, to modify the parking requirements, upon certain terms and conditions.

Patron – Mayor Stoney (By Request)

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: JUN 12 2023 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

I. That Ordinance No. 86-81-83, adopted April 28, 1986, and last amended by Ordinance No. 2000-289-271, adopted September 11, 2000, be and is hereby amended and reordained as follows:

§ 1. That the [~~real estate~~] property known as 1200-1206 East Cary Street, containing 7,100 square feet, more or less, located on the northeast corner of East Cary Street and South 12th Street being more completely described as follows: beginning at the point of intersection of the north right of way line of East Cary Street and the east right of way line of South 12th Street;

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: JUN 12 2023 REJECTED: _____ STRICKEN: _____

thence extending in a northerly direction 79.90 feet, more or less, along said alley to a property line; thence extending in a southerly direction 79.88 feet, more or less, along said property line to the north right of way line of East Cary Street, thence extending in a westerly direction 88.85 feet, more or less, along the north right of way line of East Cary Street to the point of beginning, hereinafter known as “the Property,” is hereby permitted to be used for purposes of the construction of a hotel containing up to fifty-seven rooms and other uses permitted in the B-5 Central Business District, substantially as shown on the following plans, hereinafter referred to, collectively as “the Plans”: (i) site plan, floor plans and elevations drawings, entitled: “12th & Cary Sts., Richmond, Virginia”, dated January 28, 1987, prepared by Richard Stauffer Associates, Architect, copies of which are attached to Ordinance No. 87-38-41, adopted March 9, 1987, [~~and also in accordance with~~] (ii) the site plan prepared by the Department of Public Works Entitled: “Proposed and Existing Encroachments on the North Line of E. Cary Street Between S. 12th Street and S. 13th Street at 1200-06 E. Cary Street (Berkeley Hotel)” dated July 7, 2000, and (iii) the untitled elevation drawings and sign plans and dated May 18, 2000 containing one sheet showing the sign locations and nine sheets depicting signs 1 through 9, said sheets showing the existing and proposed signage a copy of which plans are attached to Ordinance No. 2000-298-271, adopted September 11, 2000. The Plans are incorporated in and to be read as a part of this amendatory ordinance.

§ 2. That the Commissioner of Buildings is hereby authorized to issue to the owner of [~~said real estate~~] the Property, or successor or successors in fee simple title, a building permit for the purpose of constructing the building and to permit the occupancy of the [~~property~~] Property for purposes of a hotel and other uses permitted in the B-5 Central Business District. The special use permit shall be transferable to the successor or successors in title of the owner, whether

acquired by operation of law, deed or otherwise and shall run with the land subject to the following terms and conditions:

(a) That the acceptance of the permits and the exercise of the privileges granted by this ordinance by the owner and successor or successors in title shall constitute a warranty on the part of the owner and successor or successors that title to the land and the building thereon shall be vested in the same person or persons or corporation;

(b) That the owner and occupant shall be bound by, observe and shall comply with all other laws, ordinances and rules and regulations [~~adopted pursuant thereto,~~] applicable to the [~~land~~] Property and building, except as otherwise provided in this amendatory ordinance;

(c) That off-street parking spaces [~~in a number equal to the actual number of guest rooms in the hotel shall be provided by lease agreement in accordance with Section 32-710.4 of the City of Richmond Zoning Regulations, with the exception that the parking~~] may be within 800 feet of the property. [~~Valet parking service shall be provided for the patrons of the hotel at least during the hours from 7:00 a.m. to 2:00 a.m.~~]

(d) That exterior architectural details signage, building materials, and colors shall be subject to approval by the Commission of Architectural Review;

(e) That storm or surface water shall not be allowed to accumulate on the [~~land~~] Property, and adequate facilities for drainage of storm or surface water from the [~~land~~] Property or building shall be provided and maintained at all times by the owner at its cost and expense so as not to adversely affect or damage adjacent properties or public streets and the use thereof;

(f) 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 as not to be visible from adjacent properties, public street and public alleys;

(g) That final grading and drainage plans shall be approved by the Director of Public ~~[Works]~~ Utilities prior to the issuance of a building permit;

(h) That identification of the ~~[premises]~~ Property shall be as authorized in the B-5 Central Business zoning district regulations, provided that additional projecting signs along the East Cary Street frontage shall be authorized substantially as shown on the drawings attached to ~~[this amendatory ordinance provided that such signs are subject to the area limitations applicable in the B-5 regulations]~~ Ordinance No. 2000-289-271, adopted September 11, 2000;

(i) That in all other respects, the property shall be subject to the ~~[B-5 Central Business District requirements of the City of Richmond Zoning Regulations]~~ underlying zoning regulations;

(j) The designation of on-street waiting and loading areas shall be subject to approval by the Bureau of Traffic Engineering. The owner/operator of the hotel shall take whatever action is necessary to see that the operation of the hotel does not result in the blockage of traffic lanes on the abutting streets; and

(k) ~~[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 the provisions of foregoing paragraphs (a) through (i) and does not terminate such use or comply with such provisions with sixty (60) days after written notice so to do has been given to the owner by the Zoning Administrator, the privileges granted by this ordinance shall terminate and the special use permit shall become null and void]~~ 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;

(l) 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;

(m) 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.

(n) 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;

(o) The privileges granted by this ordinance may be revoked pursuant to the provisions of sections 30-1050.7 through 30-150.11 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;

(p) 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; and

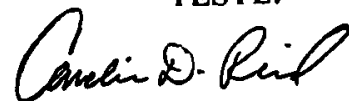
[~~(4)~~] (q) That when the privileges granted by this ordinance terminate and the special use permit becomes null and void or when the use of the [~~premises~~] Property is abandoned for a period of [~~twenty-four (24)~~] 24 consecutive months, use of the [~~real-estate~~] Property shall be governed thereafter by the zoning regulations prescribed for the district in which the [~~real-estate~~] Property is situated[~~;~~ and

(~~m~~)—~~That application for a building permit or sign permit to construct the building shall be made within twelve months from the effective date of this amendatory ordinance, which building permit shall expire by limitation and become null and void if construction of the building is not commenced within one hundred eighty days from the date of building permit, or if construction is suspended or abandoned for a period of one hundred eighty days at any time after the work is commenced, as provided in Section 109.1 of the Uniform Statewide Building Code. Should application for the building permit not made within twelve months from the effective date of this amendatory ordinance or should the building permit expire and become null and void, the privileges granted by this ordinance shall terminate and the special use shall become null and void].~~

§ 3. This amendatory 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:**



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.2022.1031

O & R Request

DATE: March 10, 2023

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.)

Handwritten signature of Levar M. Stoney in black ink.

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

Handwritten signatures of J.E. Lincoln Saunders and Sharon L. Ebert in black ink.

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

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

Handwritten signature of Kevin J. Vonck in blue ink.

RE: To amend and reordain Ordinance No. 86-81-83, adopted April 28, 1986, and last amended by Ordinance No. 2000-289-271 adopted September 11, 2000, which authorized the construction of a hotel containing up to 57 rooms and other uses permitted in the B-5 Central Business District at 1200-06 East Cary Street, to modify parking requirements, upon certain terms and conditions.

ORD. OR RES. No. ____

PURPOSE: To amend and reordain Ordinance No. 86-81-83, adopted April 28, 1986, and last amended by Ordinance No. 2000-289-271 adopted September 11, 2000, which authorized the construction of a hotel containing up to 57 rooms and other uses permitted in the B-5 Central Business District at 1200-06 East Cary Street, to modify parking requirements, upon certain terms and conditions.

REASON: The subject property is located in the B-5 Central Business District where hotels are a permitted principal use, and restaurants are permitted accessory uses. Prior to being zoned B-5, the property was zoned M-1 Light Industrial and during this time a special use permit authorized under Ord. No. 2000-289-271 was granted to authorized B-5 uses under certain terms and conditions. Conditioned requirement 2.c stipulated that a valet parking service shall be provided for patrons of the hotel. The proposed amendment will strike this requirement and parking will be provided as required for the B-5 Central Business District

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.

BACKGROUND: The .163 acre subject property, known as 1200-06 East Cary Street, is located at the corner of 12th Street and E. Cary Street in an area surrounded by commercial and mixed use buildings.

The subject property is designated for Downtown Mixed-Use land use by Richmond 300 Master Plan. This land use category is described as the Central business district of the Richmond region features high-density development with office buildings, residential buildings, and a mix of complementary uses, including regional destinations in a highly-walkable urban environment. It is also within the Downtown Core node.

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: None

BUDGET AMENDMENT NECESSARY: No

REVENUE TO CITY: \$1,800 application fee

DESIRED EFFECTIVE DATE: Upon adoption

REQUESTED INTRODUCTION DATE: April 10, 2023

CITY COUNCIL PUBLIC HEARING DATE: May 8, 2023

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: City Planning Commission
May 1, 2023

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

RELATIONSHIP TO EXISTING ORD. OR RES.: Amend Ord. 2000-289-271

REQUIRED CHANGES TO WORK PROGRAM(S): None

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

STAFF: David Watson, Senior Planner, Land Use Administration 804-626-1036

**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.richmond.gov.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: 1200 E Cary Street Richmond, VA 23219

Date: 1/12/2023

Tax Map #: E0000082024 Fee: \$1,800.00

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: B-5

Existing Use: Hotel

Proposed Use

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

Hotel

Existing Use: hotel

Is this property subject to any previous land use cases?

Yes

No



If Yes, please list the Ordinance Number: No. 2000-289-271

Applicant/Contact Person: Jennifer Mullen, Esq.

Company: Roth Jackson Gibbons Conklin, PLC

Mailing Address: 1519 Summit Ave, Suite 102

City: Richmond

State: VA

Zip Code: 23230

Telephone: (804) 977-3374

Fax: ()

Email: jmullen@rothjackson.com**Property Owner:** Berkeley Hotel Partners LLC c/o Nick Patel

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: 1519 Summit Ave, Suite 102

City: Richmond

State: VA

Zip Code: 23230

Telephone: (804) 977-3374

Fax: ()

Email: jmullen@rothjackson.com**Property Owner 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)

January 12, 2022

VIA EMAIL

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

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

Re: Special Use Permit Amendment – Berkeley Hotel
1200 E. Cary Street (the "Property")

Dear Mr. Ebinger:

This letter shall serve as the applicant's report accompanying the application for an amendment to the existing special use permit authorized by Ordinance 2000-289-271 ("SUP"). Subsequent to the approval of the SUP, the Property was rezoned to B-5 through a city-initiated rezoned in 2004. The applicant requests the amendment to the SUP to modify the requirement of Section 2.c to reflect only the ability for the required off-street parking spaces to be located within 800 feet of the Property.

The Property is located at the corner of 12th Street and E. Cary Street and surrounded by commercial and mixed-use buildings. The properties to the north and west are zoned B-4 and those to the south and east are zoned B-5. The Property is recommended for Downtown Mixed-Use and is located within the Downtown Core node by the Richmond300. It is also located in the highly-walkable, Old and Historic district of Shockoe Slip. The Property operates as the Berkely Hotel which fits well within the recommended land uses and is a key service to support the offices, restaurants and tourism in Downtown.

The requested amended to the SUP only waives a feature requirement of valet parking added by the original SUP, one that is not required under the B-5 district regulations. Therefore, this request will not be detrimental to the safety, health, morals and general welfare of the community; will not tend to create congestion in streets, roads, alleys and other public ways and places in the area; 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.

Sincerely,



Jennifer D. Mullen

Enclosure

{01499354;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