AN ORDINANCE No. 2015-157-169

To authorize the special use of the property known as 718 North 23rd Street for the purpose of a mixed-use development that includes multifamily residential and commercial uses, upon certain terms and conditions.

Patron – Mayor Jones (By Request)

Approved as to form and legality by the City Attorney

PUBLIC HEARING: SEPT 14, 2015 AT 6 P.M.

WHEREAS, the owner of the property known as 718 North 23rd Street, which is situated in a R-63 Multifamily Urban Residential District, desires to use such property for the purpose of a mixed-use development that includes multifamily residential and commercial uses, which use, among other things, exceeds the minimum floor area requirements of section 114-419.5 of the Code of the City of Richmond (2004), 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 safety, health, morals and general welfare of the community involved, will AYES: <u>9</u> NOES: <u>0</u> ABSTAIN: _____

ADOPTED: SEPT 14 2015 REJECTED: STRICKEN:

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 114-1050.1 of the Code of the City of Richmond (2004), 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 718 North 23rd Street and identified as Tax Parcel No. E000-0331/012 in the 2015 records of the City Assessor, being more particularly shown on sheet CS01 of the plans entitled "New Mixed Use Structure for: 722 724 Jessamine St, LLC, at 718 N 23rd Street, Richmond, VA," prepared by ADO/Architecture Design Office, and dated February 12, 2015, as an inset entitled "Survey of 722, 724 & 726 North 23rd Street," prepared by Long Surveying, LLC, and dated January 1, 2013, a copy of which is attached to and made a part of this ordinance, hereinafter referred to as "the Property," is hereby permitted to be used for the purpose of a mixed-use development that includes multifamily residential and commercial uses, hereinafter referred to as "the Special Use," substantially as shown on sheets CS01, A101, A102, and A201 through A204 of the plans entitled "New Mixed Use Structure for: 722 724 Jessamine St, LLC, at 718 N 23rd Street, Richmond, VA," prepared by ADO/Architecture Design Office, and dated February 12, 2015, 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 a mixed-use development consisting of up to four dwelling units and one ground floor commercial space, substantially as shown on the Plans. The uses allowed within the commercial spaces shall be limited to the permitted principal uses on corner lots in the R-63 Multifamily Urban Residential District, pursuant to section 114-419.3 of the Code of the City of Richmond (2004), as amended.

(b) Signage on the Property shall be limited to (i) those signs exempt from the signage regulations of the zoning ordinance by section 114-503 of the Code of the City of Richmond (2004), as amended, (ii) those signs permitted in all zoning districts by section 114-505 of the Code of the City of Richmond (2004), as amended, and (iii) those signs permitted in the R-63 Multifamily Urban Residential District by section 114-507.1 of the Code of the City of Richmond (2004), as amended.

(c) All building materials, material colors, and site improvements shall be substantially as shown on the Plans and subject to the provisions of any applicable Old and Historic District regulations and any approvals granted by the Commission of Architectural Review.

(d) Operations of the commercial space shall cease by no later than 11:00 p.m. daily.

(e) Prior to the submission of building permit applications, the boundary lines of the Property, substantially as shown on the Plans, shall be established by recording the appropriate lot line adjustment plat among the land records of the Clerk of the Circuit Court of the City of Richmond.

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

(g) Secure storage for no fewer than four bicycles shall be provided on the Property for use by the multifamily dwelling units.

(h) No parking shall be required for the Special Use of 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, shall be approved by the Director of Public Utilities prior to the issuance of building permits.

(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 adjacent 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 (2004), as amended, and all future amendments to such laws.

(e) The Owner shall replace any street tree that dies within 365 calendar days after the issuance of a certificate of occupancy for the Property. Such 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 that such improvements and work are in accordance with such

requirements, (iii) transferred to the City, following the written confirmation by the Director of Public Works, 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.

(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 114-1220 of the Code of the City of Richmond (2004), 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 114-1050.7 through 114-1050.11 of the Code of the City of Richmond (2004), 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 114-1080 of the Code of the City of Richmond (2004), 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 or when the Special Use of the Property as authorized by this ordinance is abandoned for a period of 730 consecutive calendar days, 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.



Item Request File Number: a2015 - 209

O & R Request

DATE:	June 3, 2015	EDITION:1	IRIE	CIEIVIEID)
TO:	The Honorable Members of City Cour	ncil	J	UN 1 8 2015	, ,
THROUGH:	Dwight C. Jones, Mayor (This in no way reflects a recommend	ation on behalf	OFFICE (of the Mayor)	OF CITY ATTORNEY	
THROUGH:	Selena Cuffee-Glenn, Chief Administrative Officer				
THROUGH:	Peter L. Downey, Jr., Interim Deputy Chief Administrative Officer for Economic Development H				
FROM:	Mark A. Olinger, Director, Dept. of Plan	ning and Develo	pment Review	H.	
SUBJECT:	To authorize the special use of the prop of a mixed-use development, upon cer			Street for the purpos	se
ORD. OR RE	S. No.				

PURPOSE: To authorize the special use of the property known as 718 North 23rd Street for the purpose of a mixed-use development, upon certain terms and conditions.

REASON: The property is zoned in the R-63 Multifamily Urban Residential District, which allows first-floor restaurant use and multi-family use within the same building on corner lots. However, the proposed restaurant use exceeds 1,500 square feet in floor area and the property does not meet minimum lot size requirements for multifamily use. 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 September 8, 2015 meeting. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting.

BACKGROUND: A special use permit application has been submitted to authorize a mixed-use building on an R-63 lot (1st floor - restaurant; 2nd & 3rd floor - multifamily units). The subject property consists of a 0.078 acre (3,398 sq ft) triangular parcel of unimproved land. The property is located at the intersection of Jessamine, Cedar, and North 23rd Streets in the Union Hill neighborhood of the East planning district. The property is also located within the Union Hill City Old & Historic District and the proposed improvements have been reviewed by the Commission of Architectural Review.

The City of Richmond's Master Plan recommends Mixed Use (Residential) land use for the property. The Master Plan defines the primary uses for this category as single-, two-, and multifamily dwellings, live/work units and neighborhood-serving commercial uses developed in a traditional urban form. The typical zoning classification recommended to accommodate this land use category is R-63 (p. 304).

In regard to the East District, the Master Plan states there is a "continued need...to stabilize older low-income residential neighborhoods throughout the District, particularly north of Broad Street in the Church Hill, Oakwood/Chimborazo, and Fairmount neighborhoods" (p. 163) and that "existing historic preservation design controls should be maintained" (p. 166). "Commercial uses in the East District should be concentrated within existing commercial service centers and mixed use areas" (p. 169).

Prior to the 2010 Master Plan Amendment, the Master Plan presented concerns regarding corner commercial uses, stating they "should be restricted to neighborhood commercial uses with limitations on operating hours, number of employees, and signage...Neighborhood commercial uses are deemed appropriate only as long as ABC licenses are not included in their operation" (p. 170). However, with the expansion of mixed use areas recommended by the 2010 amendment, increased commercial activity is encouraged in the area and concerns regarding commercial uses, particularly the sale of alcohol, have been reduced.

The subject property and all adjacent properties are part of the larger R-63 district that encompasses the majority of the neighborhood. A mix of residential (single-, two-, and multi-family), commercial, institutional, and some mixed use land uses are present in the area.

FISCAL IMPACT / COST: The Department 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: \$1,800.00

DESIRED EFFECTIVE DATE: Upon Adoption

REQUESTED INTRODUCTION DATE: July 27, 2015

CITY COUNCIL PUBLIC HEARING DATE: September 14, 2015

REQUESTED AGENDA: Regular

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: City Planning Commission, September 8, 2015

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 & Survey

STAFF: Matthew J. Ebinger, AICP, Senior Planner Land Use Administration (Room 511) 646-6308

PDR O&R No. 15-10

Richmond Vignician for Special Use Permit 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: The Triangle Project Name: The Triangle Special use permit, plan amendment Special use permit, text only amendment Project Name: The Triangle Special use permit, plan amendment Special use permit, text only amendment Special use perm					
Project Name/Location					
Project Name: The Triangle Date Date Date Date Date Date Date Dat					
Property Address: 118 N 23rd St. Tax Map # F000331012					
Fee: <u>800</u> Total area of affected site in acres: <u>808</u> (See page 3 for fee schedule, please make check payable to the "City of Richmond")					
Zoning Current Zoning: <u>R-U3</u> Proposed Use (Please include a detailed description of the proposed use in the proposed use in t					
Existing Use:					
If Yes, please list the Ordinance Number: on first floor and residential					
units on 2nd + 3rd floors.					
Applicant/Contact Person: Matt Jameau					
Company: 122-124 Jessamine St LLC					
Mailing Address: 409 E Main St Suite 100					
City: <u>Richword</u> State: <u>VA</u> Zip Code: <u>23219</u>					
Telephone: (804) 304 - 9019 Fax: (
Email: matti@htrsi.com					
Property Owner: 122-734 Jessamine St LLC					
If Business Entity, name and title of authorized signee: Matt Tarreau - Member					
Mailing Address: 409 E Main St Suite 100					
City: <u>Richmand</u> State: <u>VA</u> Zip Code: <u>23219</u>					
Telephone: (84) 306-90(9 Fax: ()					
Email: Mattj@htrsi.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.)					

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

SUP Application

Write-Up for

718 N 23rd St Richmond Va 23223

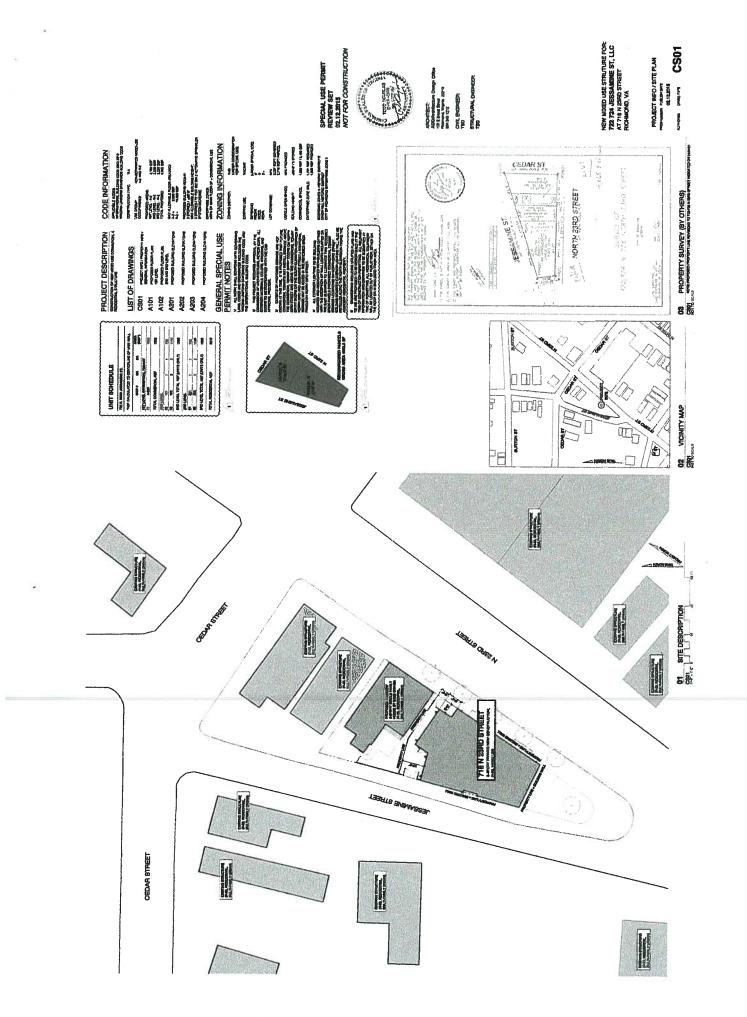
LAND USE ADMINISTRATION

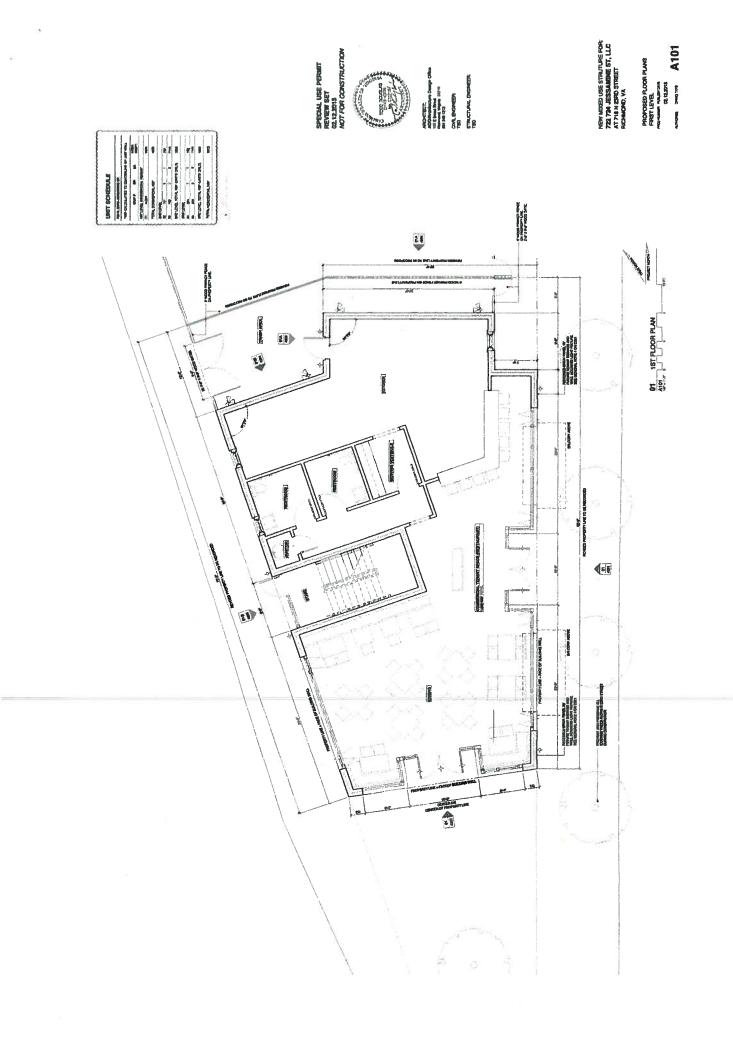
The proposed project is the "triangle lot" facing the intersection of N 23rd and M St, situated in the confluence of 700 Block of N 23rd St and the 700 Block of Jessamine St in the Union Hill Historical District. The site is currently vacant and has road frontage on N 23rd and Jessamine Streets. Currently there are 12 single family homes on the 700 Block of N 23rd ST; five of those structures are brick, seven are frame and there is one 3-story structure and one 1-story structure, 10 are 2 story structures. Cedar St Baptist Church occupies the corner of N 23rd St and Cedar St and is a 3+ story building made from brick and block.

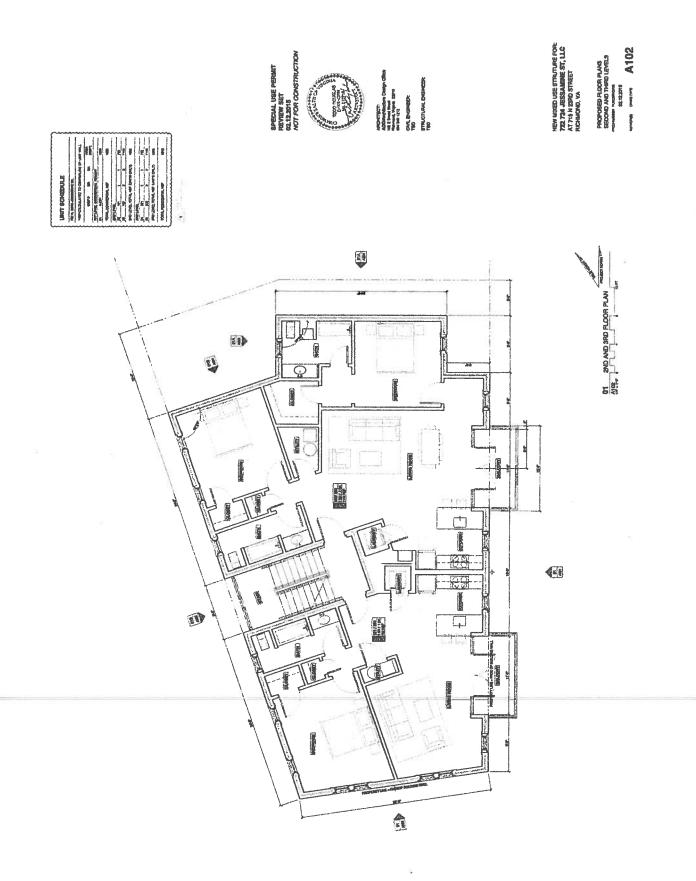
The project envisions a 3 story brick structure facing the "point" of the lot facing N 23rd and Jessamine St. The building will fit the triangular shape of the lot being narrowest at the "point" and flare out to its widest in the rear of the parcel. The street level will be comprised of a commercial space with 16 ft tall ceilings fitted out for a restaurant and the 2nd and 3rd stories will be residential units with 9 ft ceilings comprising of 1 and 2 bedrooms apartments. Each apartment will have an outdoor balcony facing N 23rd St and overhanging the sidewalk. The commercial space will have 2 entries, one at the "point" of the lot and another along N 23rd St, evenly spaced between the front and rear of the building. The commercial concentration will be focused on the "point" of the lot and N 23rd ST. The residential units will have a separate entrance off of Jessamine St, evenly spaced from the front of the building to the rear of the building.

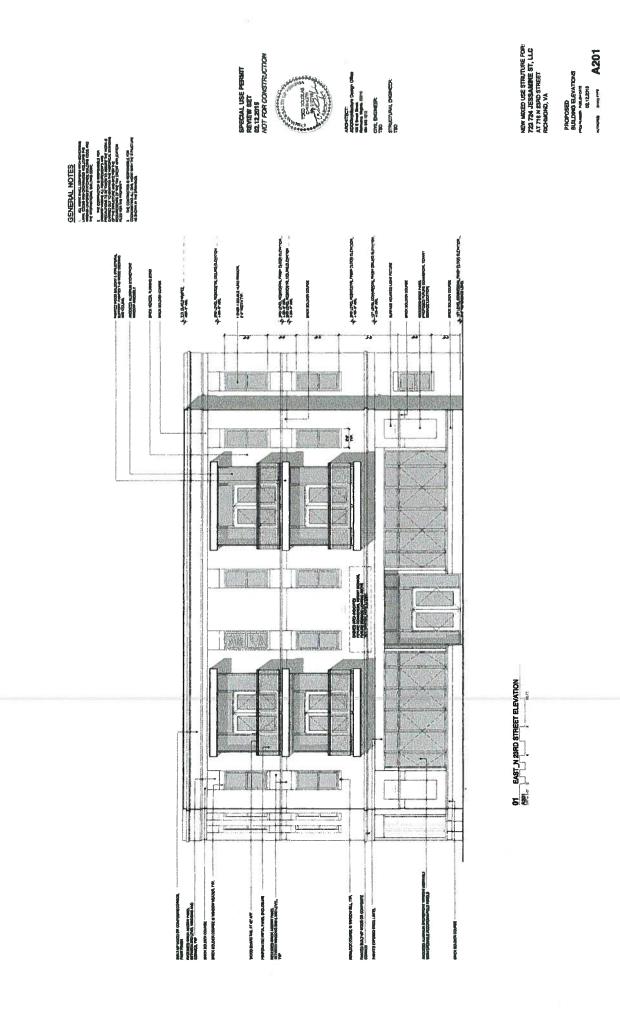
The R-63 District allows for a maximum height of 48 FT and the proposed height of the structure is 40FT and the zoning allows for 3 residential unit's vs the 4 that are proposed. Also the lot coverage is restricted to 65% vs the 81% that is being proposed. The applicant believes the increased density on the site maintains the scale and feel of the neighborhood and will contribute in a positive way to the community overall.

The commercial component of the building will be occupied by And Dim Sum which is a new Authentic Chinese Restaurant dumplings and small plates and/or shared plates. The proposed commercial space and residential units will create the necessary functional density to the neighborhood and will be a positive influence to the surrounding homes and greater community. The proposed project is very much the essence of urban renewal and has the spirit of the R-63 zoning at heart. It will not overcrowd the land or surrounding population, or interfere with adequate light and air. The building was designed in accordance to CAR's architecture requirements. Off street parking has been provided and will cause no undo stress on the roads and/or create undue congestion to the area. The proposed building will be all brick and will meet or exceed all building code requirements and will not be a fire hazard to neighboring properties.

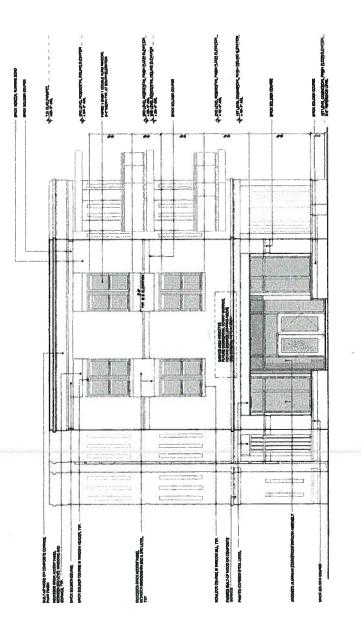








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