INTRODUCED: November 9, 2015

#### AN ORDINANCE No. 2015-249-243

To authorize the special use of the properties known as 8 West Cary Street and 10 West Cary Street for the purpose of offices and up to two accessory dwelling units, upon certain terms and conditions.

Patron – Mayor Jones (By Request)

Approved as to form and legality by the City Attorney

\_\_\_\_

#### PUBLIC HEARING: DEC 14 2015 AT 6 P.M.

WHEREAS, the owner of the property known as 8 West Cary Street and 10 West Cary Street, which is situated in a B-3 General Business District, desires to use such property for the purpose of offices and up to two accessory dwelling units, which uses, among other things, would exceed the maximum building height permitted by section 114-438.5 of the Code of the City of Richmond (2004), as amended, and would not meet the minimum number of off-street parking spaces as required by section 114-710.1 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

AYES:	9	NOES:	0	ABSTAIN:	
_					
ADOPTED:	DEC 14 2015	REJECTED:		STRICKEN:	

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 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 properties known as 8 West Cary Street and 10 West Cary Street, and identified as Tax Parcel Nos. W000-0102/022 and W000-0102/023, respectively, in the 2015 records of the City Assessor, being more particularly shown on a survey entitled "Boundary Survey MOFO Realty LLC, 8 & 10 West Cary Street, City of Richmond, Virginia," prepared by Parker Design Group, Inc., and dated June 23, 2015, 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 offices and up to two accessory dwelling units, hereinafter referred to as "the Special Use," substantially as shown on the plans entitled "8-10 West Cary Street Special Use Permit Application," prepared by Johannas Design Group, and dated September 17, 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 consist of offices and up to two accessory dwelling units, substantially as shown on the Plans. The accessory dwelling units shall not be available for occupancy by the general public.
- (b) The Special Use shall be served by no fewer than two on-site parking spaces, substantially as shown on the Plans.
  - (c) Outdoor lighting shall be located, directed or shielded so as not to shine directly on

adjoining properties or to create a traffic hazard by means of glare or similarity to or confusion with traffic signals, warning lights or lighting on emergency vehicles.

- (d) The height of the building constructed for the Special Use shall not exceed 50 feet, substantially as shown on the Plans.
- (e) Signage on the Property shall be limited to (i) exempt signage pursuant section 114-503 of the Code of the City of Richmond (2004), as amended, (ii) signage permitted in all districts pursuant to section 114-505 of the Code of the City of Richmond (2004), as amended, (iii) signage permitted in the B-5 Central Business District pursuant to section 114-517 of the Code of the City of Richmond (2004), as amended, along the Cary Street frontage of the Property, substantially as shown on the Plans, and (iv) signage on the western wall of 10 West Cary Street, substantially as shown on the document entitled "Building Graphics" and prepared by West Cary Group, a copy of which is attached to this ordinance. Signage on the Property shall not be internally illuminated.
- § 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 (2004), as amended, and all future amendments to such laws.
- (e) The Owner shall make improvements, including the installation of new street trees, a new tree well, a new granite curb, and a new brick walk, as well as the removal of an existing apron, within the right-of-way 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 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. 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 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, 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.

# City of Richmond

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

## Item Request

File Number: a2015 - 1328



OCT 2 7 2015

OFFICE OF CITY ATTORNEY

O & R Request

CHIEF ADMINISTRATIVE OFFICE CITY OF RICHMOND

DATE:

October 13, 2015

**EDITION: 1** 

TO:

The Honorable Members of City Council

THROUGH: Dwight C. Jones, Mayor

THROUGH: Selena Cuffee Glenn, Chief Administrative Officer

THROUGH: Peter L. Downey, Jr., Interim Deputy Chief Administrative Officer for Economic

Development and Planning

FROM:

Mark A. Olinger, Director, Dept. of Planning and Development Review

RE:

To authorize the special use of the property known as 8 West Cary Street and 1 West Cary

Street for the purpose of office and accessory dwelling unit use, upon certain terms and

conditions.

ORD. OR RES. No.

**PURPOSE:** To authorize the special use of the property known as 8 West Cary Street and 10 West Cary Street for the purpose of office and accessory dwelling unit use, upon certain terms and conditions.

**REASON:** The subject property is located in a B-3 General Business Zoning District. The applicant has proposed office and accessory dwelling unit use on the property, which would exceed the maximum building height permitted in the B-3 district and would not meet the minimum number of off-street parking spaces. 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 December 7, 2015, meeting. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting.

**BACKGROUND:** The subject property consists of a 0.098 acre (4,285 SF) parcel (8 West Cary Street)

improved with a minimally-screened surface parking lot, and a 0.103 acre (4,468 SF) parcel (10 West Cary Street) improved with a two-story brick structure currently used as an office. The property is located on West Cary Street between South Adams Street and South Foushee Street, in the Monroe Ward neighborhood of the downtown planning district.

The subject property falls within an Urban Center Area of the Monroe Ward district, as established by the Richmond Downtown Plan. Such areas are "characterized by higher density, mixed-use development, typically arranged on a fine-grained street network, with wide sidewalks, regular tree planting, and minimal setbacks." Moreover, the Urban Center Area demonstrates "a dense mix of office space, apartments, and retail located in four to six-story brick buildings that front the street. Pedestrians have an active presence in these neighborhoods" (pp. 3.25-3.26). The Downtown Plan's illustrative plan suggests that 8 West Cary be improved with a building, rather than a surface parking lot (p. 4.16).

The Downtown Plan provides general principles for infill development within the Downtown area and states, "At all times buildings should relate to...the scale and height [of traditional buildings in the area], even if this means stepping the building back where it rises above neighboring buildings. Infill development should respect the material and architectural vocabulary of nearby historic structures, and should address the street with entrances and windows that are consistent with the historic streetscape." The Downtown Plan goes on to state, however, that "it is essential that all infill be appropriate to its particular urban condition" (pp. 3.16-17).

Specifically for Monroe Ward, the Downtown Plan emphasizes the need to encourage compatible infill. "Monroe Ward has a high proportion of vacant lots and surface parking lots. These vacant properties should be the highest priority for Downtown infill development. All new development should respect the existing mix of uses, and include office buildings, residential apartment buildings, and retail. Buildings should respect the scale and character of the existing block...Parking in Monroe Ward can be accommodated in mid-block surface parking lots, in mid-block parking garages lined with habitable buildings, and in underground parking garages. It is important that the historic character of Monroe Ward be preserved. This can be encouraged through the creation of a local Old and Historic District or design overlay district." (p. 4.18).

All surrounding properties are located within the same B-3 zoning district as the subject property. A mix of commercial, office, mixed-use, institutional and residential 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: 2,400.00** 

**DESIRED EFFECTIVE DATE:** Upon Adoption

**REQUESTED INTRODUCTION DATE:** November 9, 2015

CITY COUNCIL PUBLIC HEARING DATE: December 14, 2015

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: City Planning Commission,

**December 7, 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.

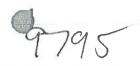
ATTACHMENTS: Draft Ordinance, Application Form, Applicant's Report, Plans & Survey

STAFF: Matthew J. Ebinger, AICP, Senior Planner

Land Use Administration (Room 511)

804 646 6308

PDR O&R No. 15-34





mits)

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)  S special use permit, new  special use permit, plan amendment special use permit, text only amendment	DMNISTRATION					
Project Name/Location						
Project Name: 8-10 WEST CARY STREE						
Property Address: 8-10 W. Cary Street						
Fee: \$2,400.00 Total area of affected site in acres:  (See page 3 for fee schedule, please make check payable to the "City of Richmond")						
Current Zoning: B-3	Proposed Use Please include a detailed description of the proposed use in the required applicant's report)					
Existing Use: OFFICE & PARKING  Is this property subject to any previous land use cases?  Yes (No)						
☐ If Yes, ☐ please list the Ordinance Number:						
Applicant/Contact Person: DAVID JOHANNAS						
Company: JOHANNAS DESIGN GROUP  Mailing Address: 1901 WEST CARY ST.						
	State: VA Zip Code: 23220					
Telephone: (804) 358-4993 Fax: (804) 358-8211  Email: dave@johannasdesign.com						
Property Owner: MOFO REALTY LLC						
If Business Entity, name and title of authorized signee: MOSES FOSTER						
(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: 5 WEST CARY STREET						
City: RICH MOND	State: <u>VA</u> Zip Code: <u>23219</u>					
Telephone: <u>(804 ) 495 - 4712</u>	Fax: (804 ) 343-2028					
Email: mfoster@ westcarygroup.com	<del>-</del>					
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 per-						



7/6/2015

8-10 West Cary Street

SPECIAL USE PERMIT APPLICATION - Applicant's Report

Moses Foster of the West Cary Group advertising agency is planning to expand his corporate presence in the zero hundred block of West Cary Street. The West Cary Group has been located at 5 West Cary Street since 2007. In 2009, Moses, a principal in the company, purchased and renovated 10 West Cary Street, directly across from 5 West Cary St. This building now houses the firm's creative staff.

The West Cary Group is now looking to expand its business. The intent is to build a new building at 8 West Cary Street, the parking lot adjacent to 10 West Cary Street. The goal of this project is to secure a small urban campus for the company at 5, 8 and 10 West Cary Street, brand the location, and show continued downtown revitalization.

The Downtown Master Plan designates this district as an Urban Center Area which translates to a "three to five story dense urban fabric" area. On page 4.16 of the Downtown Master Plan, under General Recommendations "infill buildings that create a continuous street frontage and respect the character of the neighborhood with similar massing" (are recommended). It also states that increased transit will reduce the need for parking.

8-10 West Cary Street is within four to five blocks of the following bus routes; 1, 2, 3, 4, 6, 10, 16, 19, 21, 24, 52, 53, 70 and 71. Additionally, the site will be within four and a half blocks of the Adams and Broad BRT stop.

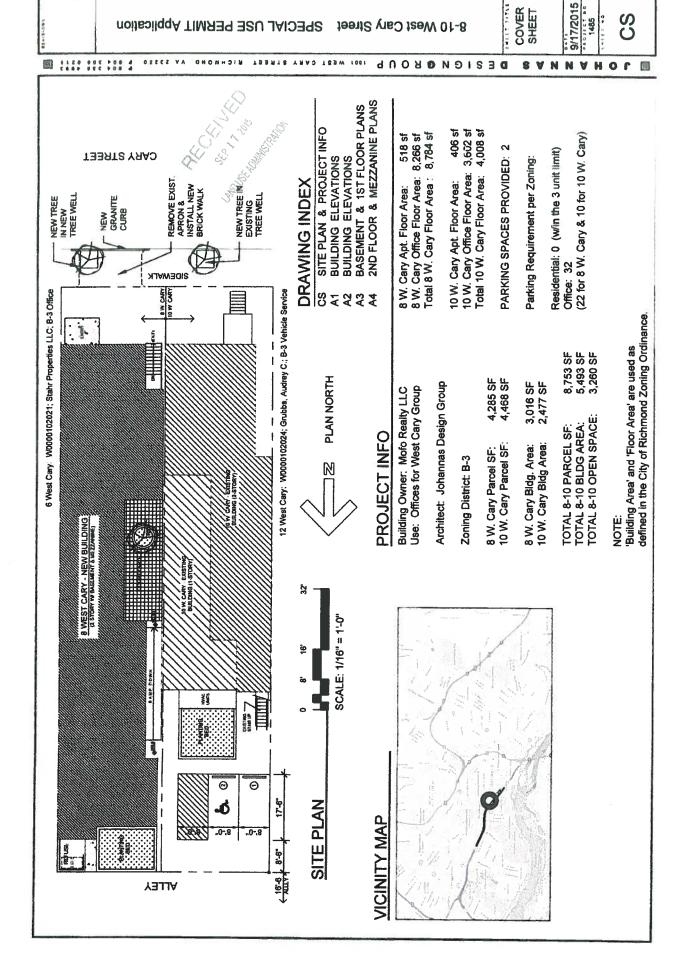
The new building will require the removal of a surface parking lot from street view. It will also eliminate onsite parking. Currently, there is surface parking available; however; the attorney, representing Moses, noted that there is no guarantee that will be access to parking if those lots are in-filled in the future. His attorney further recommend that Moses not risk the cost of the development without securing his real estate, by seeking a special use application which would not require parking for commercial uses for 8 and 10 West Cary Street.

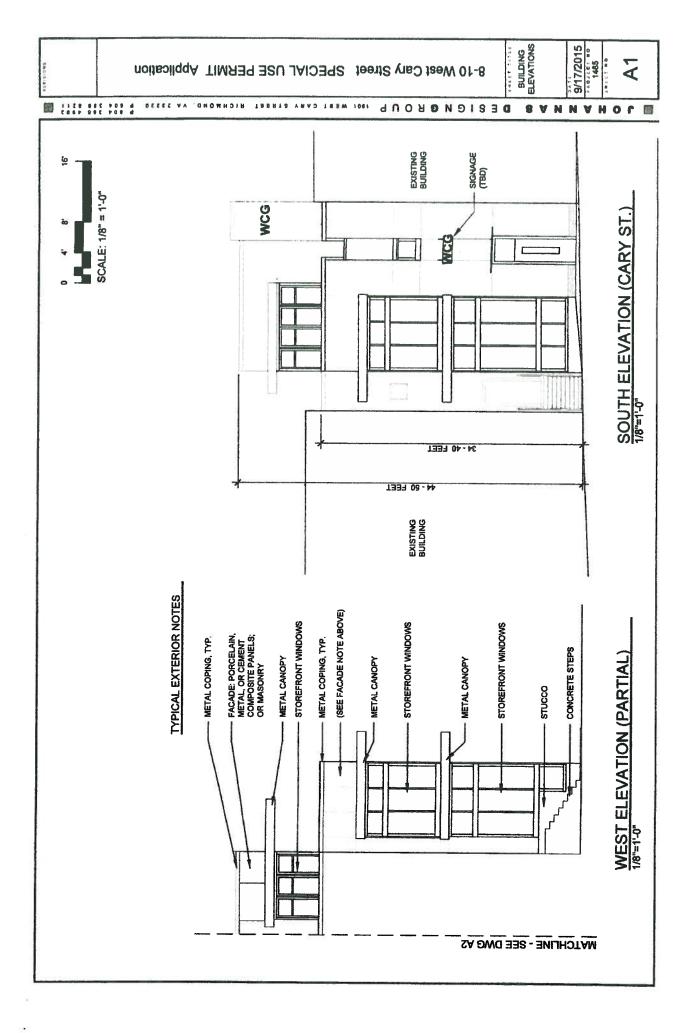
There currently is an existing micro-dwelling unit in 10 West Cary Street, used by the office executives and the proposal includes adding an additional accommodation in 8 West Cary St.

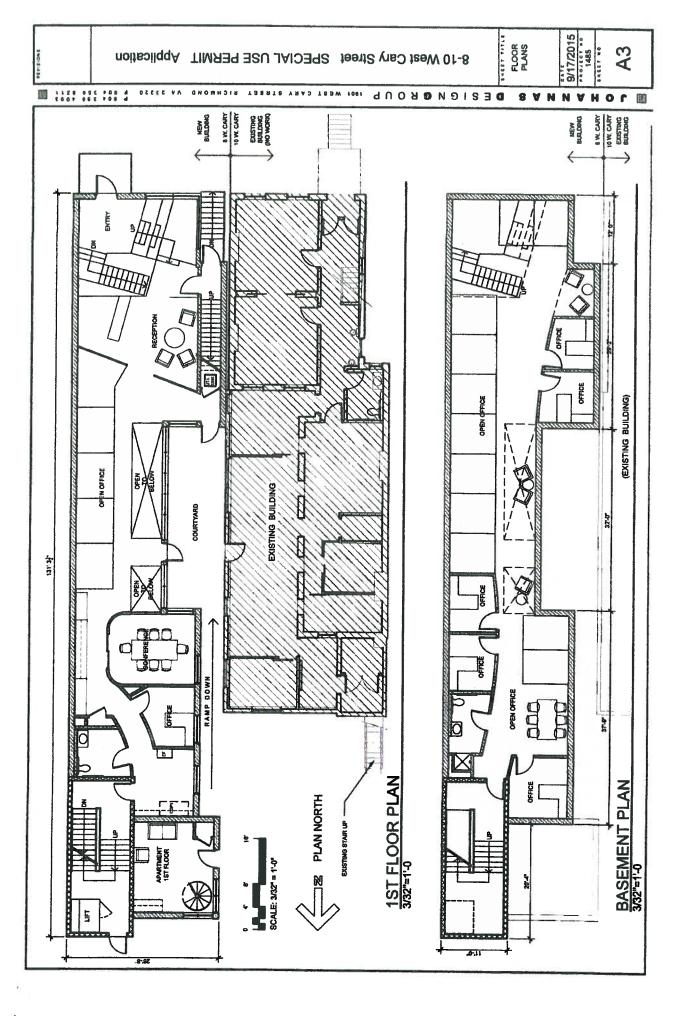
1901 WEST CARY STREET RICHMOND, VA 23220
P804.358,4993 F804.358.8211 Wighten as design, com

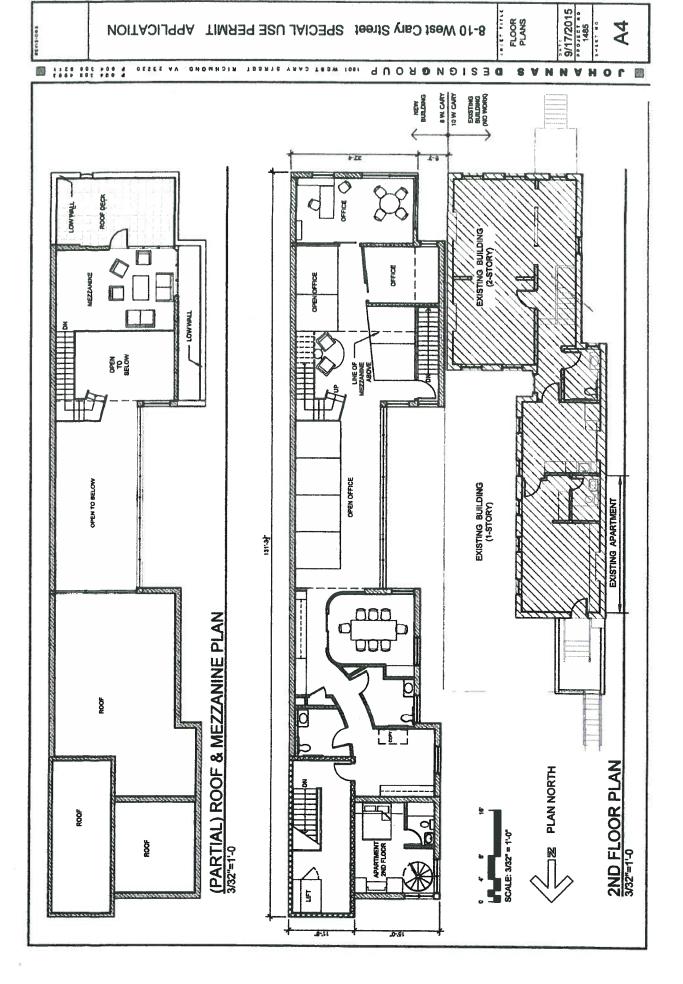
The proposed special use will not:

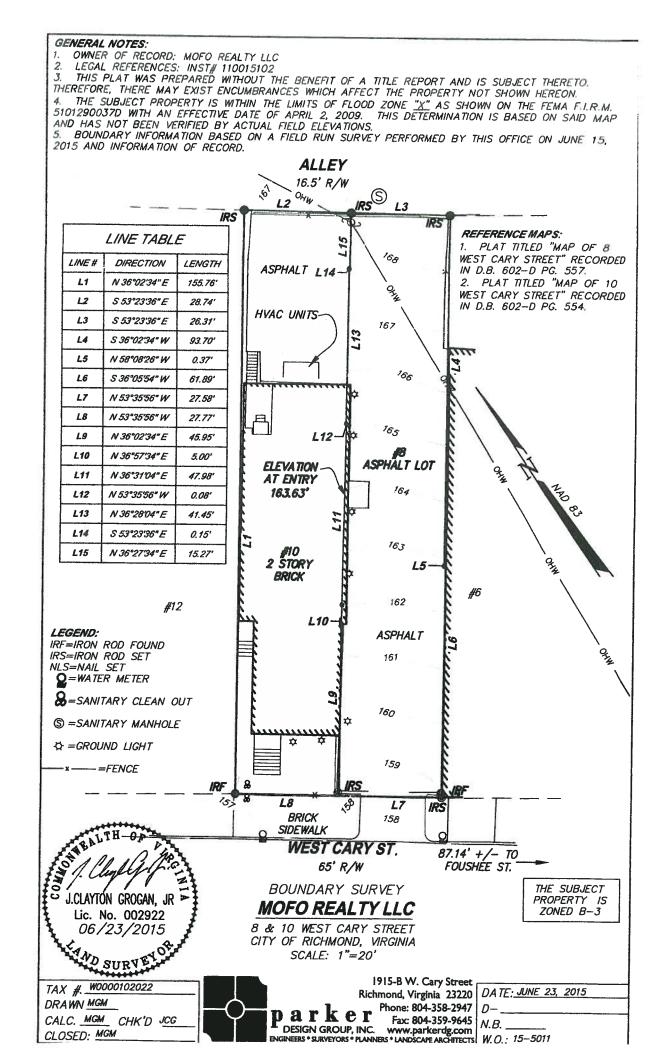
- 1. be detrimental to the safety, health, morals and general welfare of the community involved;
  - a. The new building will add to the corporate presence for the West Cary Group which will be beneficial for the city and neighborhood.
  - b. The proposed office use will not be detrimental to the safety, health, morals and general welfare of the community.
- 2. tend to create congestion in streets, roads, alleys and other public ways and places in the area involved:
  - a. the proposed use is located in a central city neighborhood and will not create congestion in the streets, roads, alleys and other public ways.
  - b. The removal of a curb cut on West Cary Street will be beneficial to the neighborhood.
- 3. create hazards from fire, panic or other dangers;
  - a. the new construction shall be in accordance with local, state and national building codes and will not create hazards from fire, panic or other dangers.
- 4. tend to cause overcrowding of land and an undue concentration of population;
  - a. the expansion of the West Cary Group will not cause overcrowding of land or an undo concentration of population to this area. The Downtown Master Plan notes this area as a dense urban fabric area.
- adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences and improvements;
  - a. the proposed use 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.
- 6. interfere with adequate light and air.
  - a. The proposed new building meets the intent of the Downtown Master Plan and will not interfere with adequate light and air.

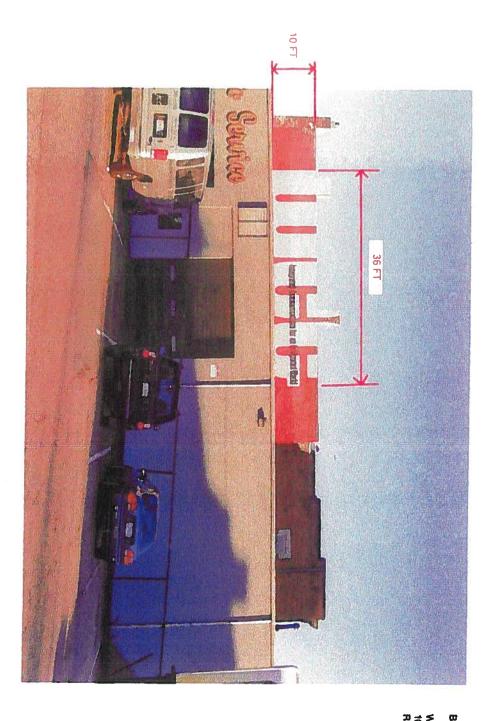












Building Graphics
West Cary Group
10 West Cary Street
Richmond, VA

