INTRODUCED: November 13, 2017

AN ORDINANCE No. 2017-231

To authorize the special use of the property known as 2128 West Cary Street for the purpose of permitting a multifamily dwelling containing up to three dwelling units and uses permitted in the UB Urban Business District, upon certain terms and conditions.

Patron – Mayor Stoney (By Request)

Approved as to form and legality by the City Attorney

PUBLIC HEARING: DEC 11 2017 AT 6 P.M.

WHEREAS, the owner of the property known as 2128 West Cary Street, which is situated in a R-63 Multifamily Urban Residential District, desires to use such property for the purpose of a multifamily dwelling with up to three dwelling units and uses permitted in the UB Urban Business District, which uses, among other things, are not currently allowed by sections 30-419.2 and 30-419.3 of the Code of the City of Richmond (2015), 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

AYES:	9	NOES:	0	ABSTAIN:	
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ADOPTED:	DEC 11 2017	REJECTED:		STRICKEN:	

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 (2015), 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 2128 West Cary Street and identified as Tax Parcel No. W000-0942/034 in the 2017 records of the City Assessor, being more particularly shown on a survey entitled "Plat Showing the proposed easement and bldg encroachment at 2128 West Cary Street," prepared by C.E. Duncan & Associates, Inc., and dated March 22, 2012, 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 multifamily dwelling containing up to three dwelling units and uses permitted in the UB Urban Business District, hereinafter referred to as "the Special Use," substantially as shown on the plans entitled "2128 W Cary St," prepared by Johannas Design Group, dated October 17, 2017, and last revised October 30, 2017, 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 as a multifamily dwelling containing up to three dwelling units and uses permitted in the UB Urban Business District, substantially as shown on

the Plans. Uses permitted in the UB Urban Business District shall be limited to the first floor of the building. No more than two dwelling units shall be located on the second floor of the building. The dwelling unit shown on the first floor of the building may be used for uses permitted in the UB Urban Business District.

(b) A minimum of one parking space per dwelling unit shall be provided for the residential use of the Property, substantially as shown on the Plans. No parking shall be required for nonresidential uses.

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

(d) Signage on the Property shall be limited to (i) those signs permitted in all districts by section 30-505 of the Code of the City of Richmond (2015), as amended, (ii) those signs permitted in R-1, R-2, R-3, R-4, R-5, R-5A, R-6, R-7, and R-8 residential districts by section 30-506 of the Code of the City of Richmond (2015), as amended, and (iii) wall signs, suspended signs and awning and canopy signs, provided that the aggregate area of all signs directed toward or intended to be viewed from any street frontage shall not exceed one square foot for each linear foot of building frontage along such street, nor in any case 16 square feet, and projecting signs, provided that (a) no projecting sign shall exceed six square feet in area or be located within 25 feet of another projecting sign on the same building wall, (b) no projecting sign, other than a noncommercial flag, shall project greater than three feet from the face of the building or extend above the height of the wall to which it is attached, and (c) the area of all signs.

§ 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 (2015), as amended, and all future amendments to such laws.

(e) 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 (2015), 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 (2015), 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 (2015), 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 consecutive 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.



NOV 0 7 2017

OFFICE OF CITY ATTORNEY

City of Richmond

Item Request File Number: PRE. 2017.444

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

4-718

OCT **2 6** 2017

Office of the Chief Administrative Officer

EDITION:1

O & R Request

DATE: October 24, 2017

TO: The Honorable Members of City Council

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

THROUGH: Selena Cuffee-Glenn, Chief Administrative Officer 500

THROUGH: Peter L. Downey, Deputy Chief Administrative Officer for Economic Development and Planning

Mark A. Olinger, Director, Department of Planning and Development Review FROM:

To authorize the special use of the property known as 2128 West Cary Street for the purpose RE: of permitting up to three multi-family dwelling units and uses permitted in the UB Urban Business District, upon certain terms and conditions.

ORD. OR RES. No.

PURPOSE: To authorize the special use of the property known as 2128 West Cary Street for the purpose of permitting up to three multi-family dwelling units and uses permitted in the UB Urban Business District, upon certain terms and conditions.

REASON: The applicant is requesting a special use permit to authorize uses permitted in the UB Urban Business District, including up to three multi-family dwelling units, at 2128 West Cary Street. The property zoning is R-63 Multi-Family Urban Residential, which permits residential uses and principal permitted commercial uses on corner parcels but does not permit an office use.

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 4, 2017, meeting. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting.

BACKGROUND: The applicant is requesting a special use permit to authorize uses permitted in the UB

Urban Business District, including up to three multi-family dwelling units, at 2128 West Cary Street. The property is located north of West Cary Street at the intersection of West Cary Street and South Shields Avenue. The property is comprised of .055 acres (2,396 square feet). The existing building, constructed in 1940, is a two-story structure that has been historically used for restaurant uses. The property is located within the Fan neighborhood.

The applicant proposes to use the first floor for office spaces and the second floor for two dwelling units. In addition, the applicant would request that the rear office space on the first floor be authorized to be used as an optional third dwelling unit. A minimum of one parking space per dwelling unit would be provided on site. Finally, the applicant proposes that the uses permitted in the UB Urban Business district be permitted for this property.

The City of Richmond's Master Plan designates the subject property for Single Family - Medium Density land use. "Primary uses are single-family and two-family dwellings, both detached and attached, at densities of 8 to 20 units per acre. Includes residential support uses such as schools, places of worship, neighborhood parks and recreation facilities, and limited public and semi-public uses. (p. 133).

The zoning of the subject property is R-63 Multi-Family Urban Residential, which permits residential uses and principal permitted commercial uses on corner parcels but does not permit office use. The intention of the R-63 district relevant to corner properties is to provide for the convenience of neighborhood residents within walking distance, to respect the primary residential character of the neighborhood and to avoid traffic, parking, noise and other impacts that typically result from uses that draw patrons form outside the neighborhood.

Nearby properties are located in the same R-63 district, with RO-2 (Residential-Office) and R-7 (Residential Single & 2 Family Urban) Zones to the north and south respectively. A mix of single-, two-, and multi-family residential, commercial and office land uses are present in the vicinity.

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: 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 application fee

DESIRED EFFECTIVE DATE: Upon Adoption

REQUESTED INTRODUCTION DATE: November 13, 2017

CITY COUNCIL PUBLIC HEARING DATE: December 11, 2017

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: City Planning Commission, December 4, 2017

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

STAFF: Jonathan Brown, Senior Planner Land Use Administration (Room 511) 646-5734

PDR O&R No.17-40

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.richmondgoy.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 Adress: 2128 West Cary Street Date: June 26, 2017 Tax Map #: W0000942034 Fee: \$1,800 Total area of affected site in acres: .055

(See page 6 for fee schedule, please make check payable to the "City of Richmond")

Zoning

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Current Zoning: R-63

Existing Use: Vacant mixed-use building

Proposed Use

No

(Please include a detailed description of the proposed use in the required applicant's report) Up to 3 dwelling units and commercial uses permitted in the UB Urban Business District

Existing Use Vacant mixed-use building

is this property subject to any previous land use cases? Yes

If Yes, please list the Ordinance Number, BZA 1960-125

Applicant/Contact Person: Willy Thompson

Company Markham Planning			
Mailing Address: 2314 West Main Street			
City: Richmond	State: VA	Zip Code: 23220	
Telephone: _(<u>540</u>) 3,834,320	Fax: ()	
Email: willy.thompson@markhamplanning.com			

Property Owner: Goliath LLC

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 7056 Sassafra	as Landing Road			
City: Gloucester		State: VA	Zip Code: 23061	
Telephone: _()		Fax: ()	
Email:				
	Automitson		······································	
Property Owner Signature:	Carric McDaniels		*	
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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)



June 26, 2017

Mr. Mark Olinger, Director Department of Planning & Development Review 900 East Broad Street, Suite 511 Richmond, VA 23219 Mark.Olinger@richmondgov.com

RE: Applicant's Report for Special Use Permit Application at 2128 West Cary Street

Dear Mr. Olinger,

Please accept this letter as the Applicant's Report for the Special Use Permit (SUP) application for 2128 West Cary Street. With this application, Carter Snipes, owner of Snipes Properties, is petitioning the City Council for authorization to use their property at 2128 West Cary Street for the purposes of authorizing uses permitted in the UB Urban Business zoning district, which would include office space and up to three dwelling units. Currently, the R-63 Multi-Family Urban Residential district permits residential uses and principal permitted commercial uses on corner parcels but does not permit an office use and the property does not have the minimum square footage to accommodate three dwelling units.

Site

The property is located north of West Cary Street at the intersection of West Cary Street and South Shields Avenue. The property at 2128 West Cary Street is comprised of .055 acres (2,396 square feet). The existing building, constructed in 1940, is a two-story structure that has been historically used for restaurant uses. The most recent Certificate of Occupancy was issued in 2010 for a restaurant use on the first floor and no required off-street parking.

Proposal

The applicant proposes to use the first floor for two office spaces and the second floor for two dwelling units. In addition, the applicant would request that the rear office space on the first floor be authorized to be used as an optional third dwelling unit. This unit would be constructed similarly to the second floor dwelling units as substantially shown on the attached plans. Finally, the applicant proposes that the uses permitted in the UB Urban Business district be permitted for this property.

Zoning and Ordinance Conditions

The zoning is R-63 Multi-Family Urban Residential, which permits residential uses and principal permitted commercial uses on corner parcels but does not permit an office use and the property does not have the minimum square footage to accommodate three dwelling units. The existing zoning requires multi-family dwelling units be located on lot sizes of at least 4,000 square feet. The subject parcel is just under 2,400 square feet. In addition, the applicant is also requesting those uses permitted in the UB district.

MARKHAM PLANNING 2314 West Main Street - Richmond, Virginia 23220 (804) 248-2561 It should be noted that in 2007, the City rezoned this property as well as the surrounding properties along West Cary Street from B-3 General Business to the R-63 zoning district in an effort to encourage residential, commercial, and office uses.

Master Plan

The City's 2001 Master Plan recommends Single-Family (medium density) for the property, which may include single and two-family dwellings with densities up to 20 units per acre. It also includes residential support uses such as schools, places of worship, neighborhood parks and recreation facilities, and limited public and semi-public uses. A substantial mixed-use land use designation is located to rear of this property along West Main Street. In addition, the property has been historically used for commercial purposes, including a hair salon on the second floor and a restaurant on the first floor starting in 1997. The property was rezoned in 2007 by the City to encourage an appropriate mix of residential and commercial uses, which is precisely the objective of the applicant's proposal. The mix of uses proposed would enhance the value of the property and become an asset to the surrounding community.

City Charter Conditions

This is an ideal opportunity in the City's Near West End area to utilize a historically commercial property for the community's benefit. We trust that you will agree with us that this mixed-use proposal meets the City Charter criteria as the project 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.

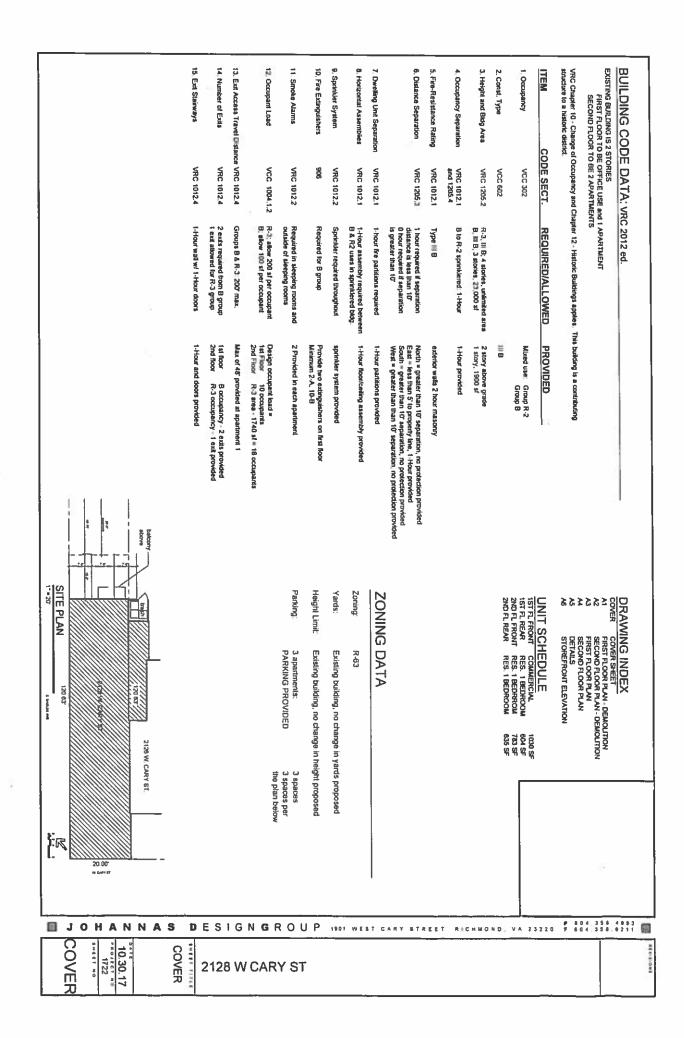
Thank you for your consideration of this application. Please feel free to contact me at <u>willy.thompson@markhamplanning.com</u> or (540) 383-4320 if you have any questions or require additional materials to process the application.

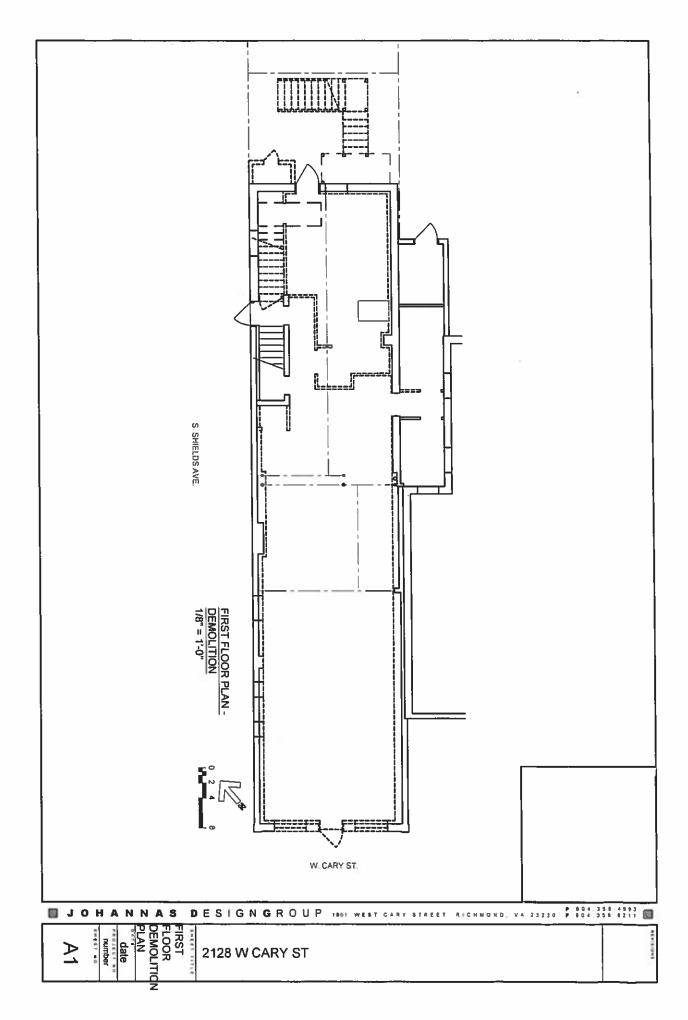
Very Truly Yours,

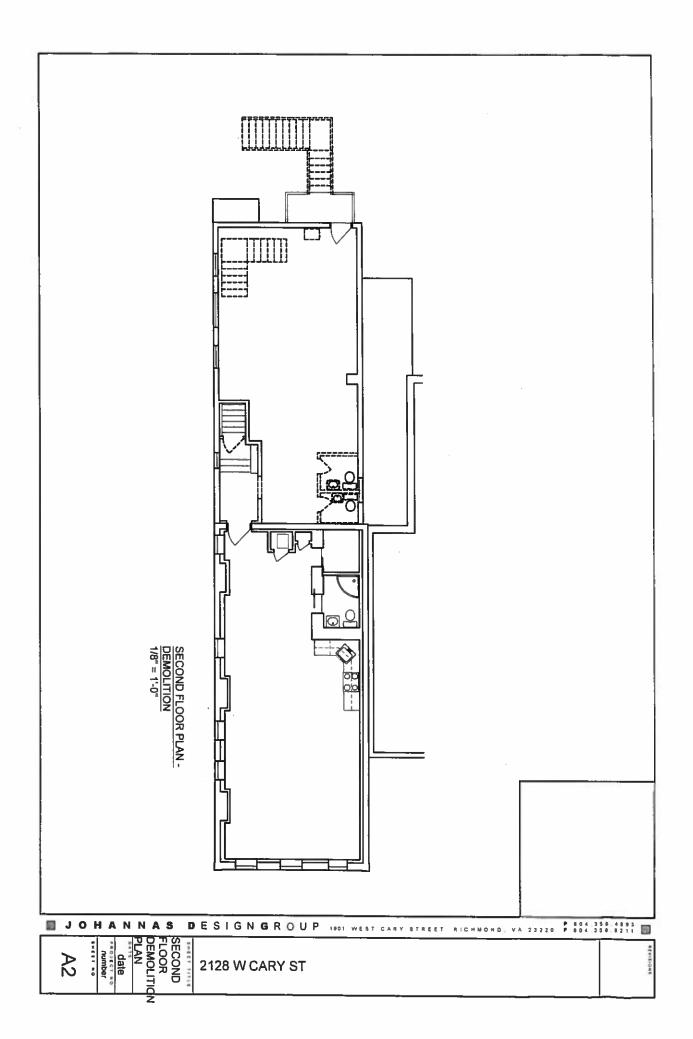
Willy Thompson, AICP

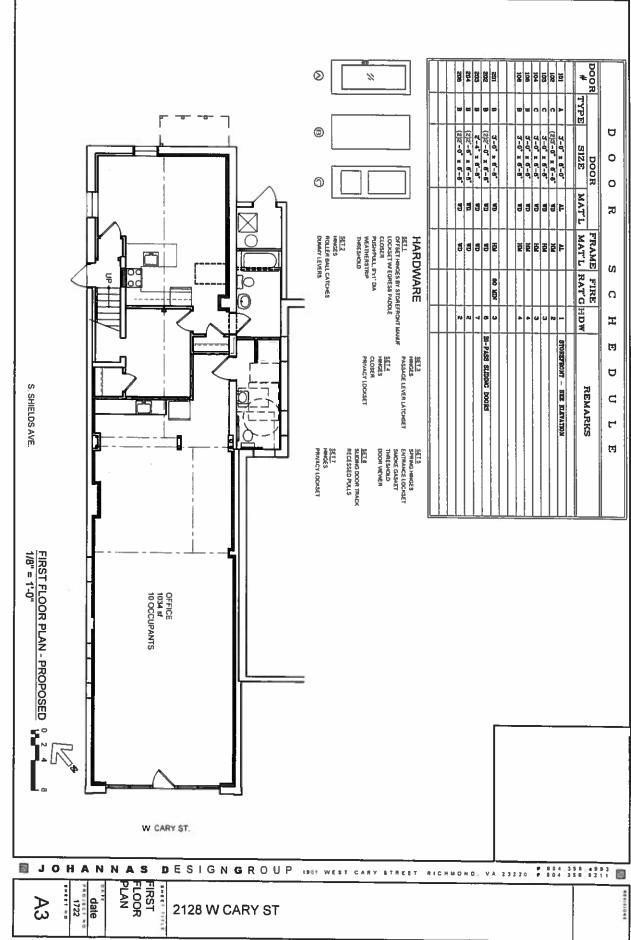
Enclosures

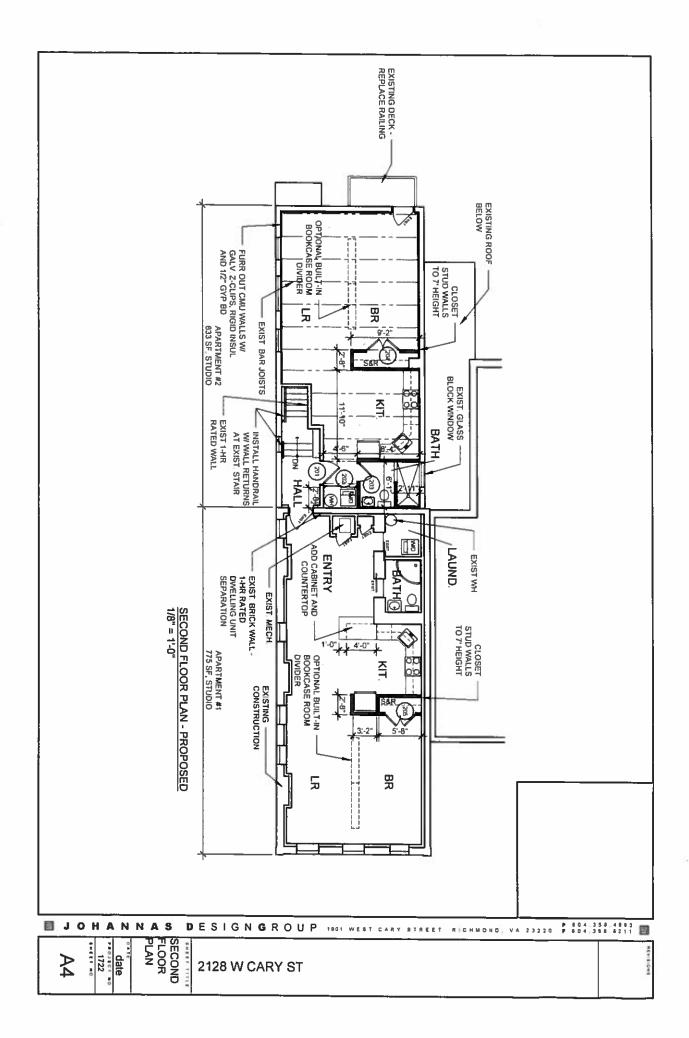
cc: The Honorable Parker Agelasto Matthew Ebinger, Secretary to the City Planning Commission

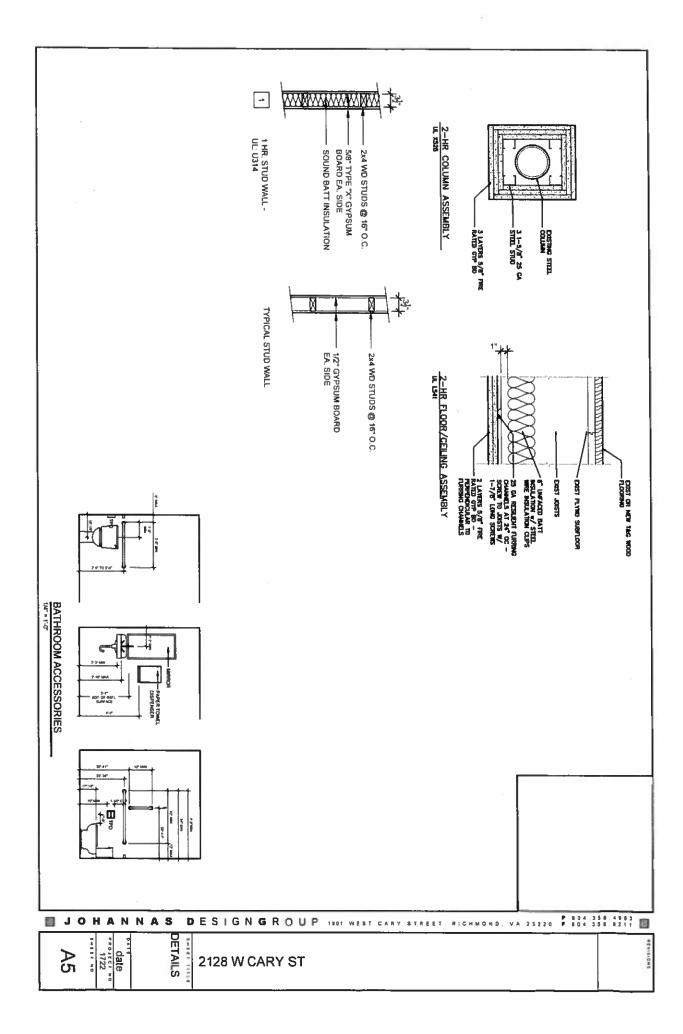


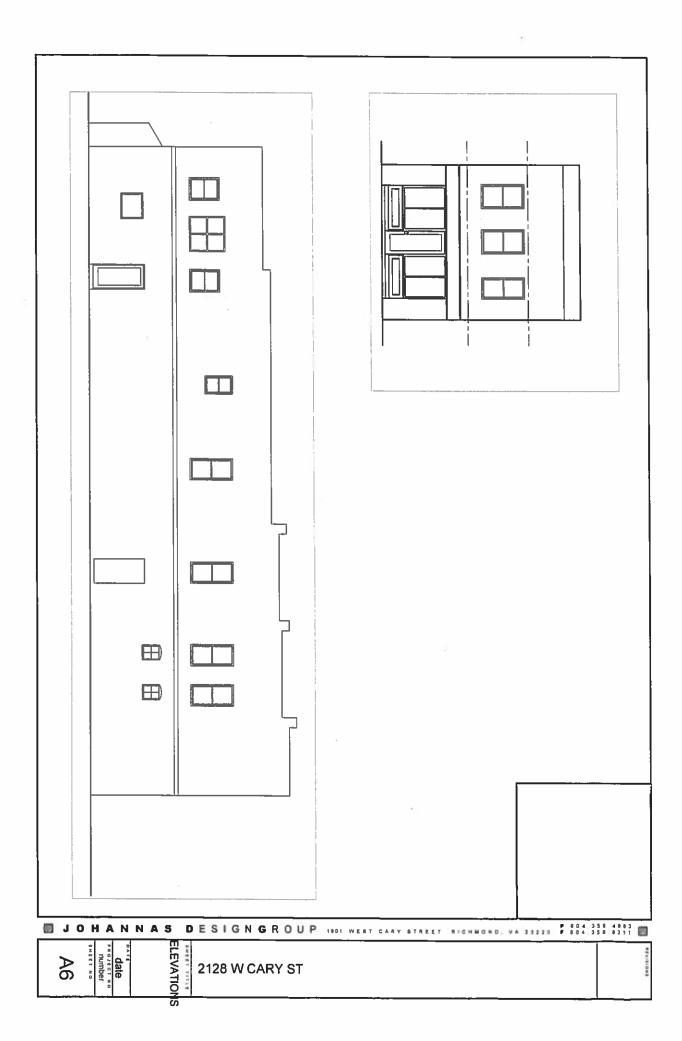


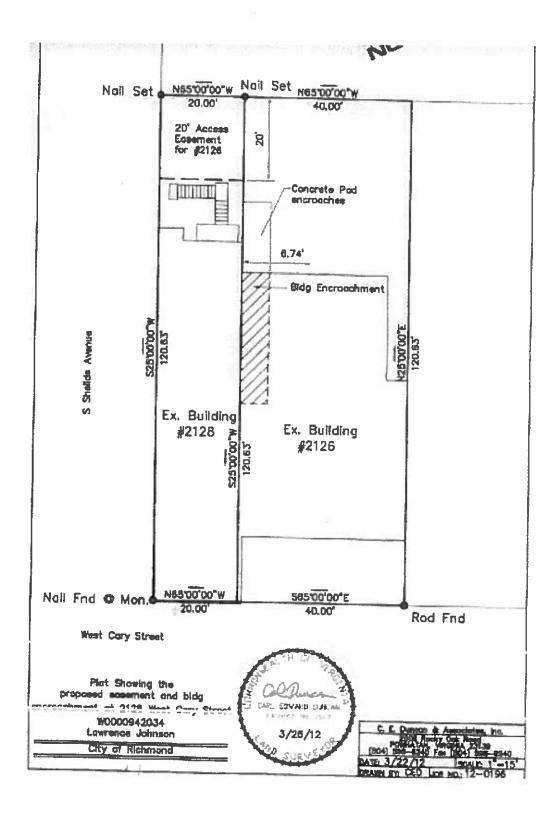












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