

INTRODUCED: July 23, 2018

AN ORDINANCE No. 2018-216

To authorize the special use of the property known as 200 East Cary Street for the purpose of a single-family dwelling, upon certain terms and conditions.

Patron – Mayor Stoney (By Request)

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: SEPT 10 2018 AT 6 P.M.

WHEREAS, the owner of the property known as 200 East Cary Street, which is situated in a B-3 General Business District, desires to use such property for the purpose of a single-family dwelling, which use, among other things, does not meet the requirement that such dwelling not be located on the ground floor of a building, found in section 30-438.1(15) 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 (2018), 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 not tend to create

AYES: 8 NOES: 0 ABSTAIN: _____

ADOPTED: SEPT 10 2018 REJECTED: _____ STRICKEN: _____

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 200 East Cary Street and identified as Tax Parcel No. W000-0046/024 in the 2018 records of the City Assessor, being more particularly shown on a plat entitled “Plat Improvements on No. 200 E. Cary Street, in the City of Richmond, Virginia.,” prepared by McKnight & Associates, P.C., dated July 26, 2005, 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 single-family dwelling, hereinafter referred to as “the Special Use,” substantially as shown on the plans entitled “200 East Cary Street, Richmond, Virginia,” prepared by WLW Architect, dated August 4, 2009, and last revised October 15, 2009, 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 Special Use of the Property shall be a single-family dwelling as shown on the Plans. The Property may contain a home occupation in accordance with sections 30-694 through 30-694.2 of the Code of the City of Richmond (2015), as amended. The Property may also contain the permitted principal and accessory uses of the underlying zoning district.

(b) No parking shall be required for the Special Use.

§ 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 certificate of occupancy for the Special Use subject to the terms and conditions set forth in this ordinance. An application for the certificate of occupancy shall be made within 730 calendar days following the date on which this ordinance becomes effective. If the application for the certificate of occupancy is not made within the time period stated in the previous sentence, 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: PRE.2018.235

RECEIVED
JUL 16 2018
OFFICE OF CITY ATTORNEY

O & R REQUEST

4-7941

JUN 26 2018

O & R Request

Office of the
Chief Administrative Officer

DATE: June 26, 2018

EDITION: 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor *LS 7/16/18*
(This is no way reflects a recommendation on behalf of the Mayor.)

THROUGH: Selena Cuffee Glenn, Chief Administrative Officer *SCG*

THROUGH: Peter L. Downey, Deputy Chief Administrative Officer for Economic Development and Planning *PLD 6-26-18*

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

RE: To authorize the special use of the property known as 200 East Cary Street for the purpose of a single-family dwelling, upon certain terms and conditions.

ORD. OR RES. No. _____

PURPOSE: To authorize the special use of the property known as 200 East Cary Street for the purpose of a single-family dwelling, upon certain terms and conditions.

REASON: The applicant is requesting to use both floors of her two-story building within the B-3 General Business District to be used as her residence. The B-3 District does not permit residential use on the ground floor of the principal street frontage. 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 4, 2018, meeting. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting.

BACKGROUND: The subject property consists of a 2,223 SF or .05 acre parcel of land improved with a two (2) story, 3,224 SF mixed-use building with an office and a residence constructed, per tax assessment

records, in 1925. The property is located at the northeast corner of East Cary Street and South 2nd Street in the Monroe Ward neighborhood within the City's Downtown Planning District and the Arts District Station area of the City's Pulse Corridor Plan.

The Pulse Corridor Plan designates the subject property as Downtown Mixed-Use which "...features high-density development with office buildings, apartments, and a mix of complementary uses, including regional destinations. Higher-density pedestrian- and transit-oriented development encouraged on vacant or underutilized sites; new development should be urban in form and may be of larger scale than existing context.

Adjacent properties along the East Cary Street corridor are in the same B-3 District as the subject property. Properties to the north are located in the B-4 Central Business District. A mix of office, mixed-use, commercial, industrial, and residential 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: \$300 application fee.

DESIRED EFFECTIVE DATE: Upon adoption.

REQUESTED INTRODUCTION DATE: July 23, 2018

CITY COUNCIL PUBLIC HEARING DATE: September 10, 2018

REQUESTED AGENDA: Consent.

RECOMMENDED COUNCIL COMMITTEE: None.

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: City Planning Commission, September 4, 2018.

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, Map

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



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)
- special use permit, new
- special use permit, plan amendment
- special use permit, text only amendment

Project Name/Location

Property Address: 200 East Cary Street Date: 5/9/18
 Tax Map #: W0000046074 Fee: \$2500
 Total area of affected site in acres: .051

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

Zoning

Current Zoning: B-3 Business
 Existing Use: 450 - B Mixed Use

Proposed Use

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

Existing Use: see attached
Mixed use

Is this property subject to any previous land use cases?

Yes No If Yes, please list the Ordinance Number: _____

Applicant/Contact Person: Billie Brown
 Company: _____
 Mailing Address: 200 E. Cary Street
 City: Richmond State: VA Zip Code: 23219
 Telephone: (804) 240-4989 Fax: ()
 Email: billie.excel@verizon.net

Property Owner: Billie Brown
 If Business Entity, name and title of authorized signer: _____

(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: 200 East Cary Street
 City: Richmond State: VA Zip Code: 23219
 Telephone: (804) 240-4989 Fax: ()
 Email: billie.excel@verizon.net

Property Owner Signature: Billie Brown

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)

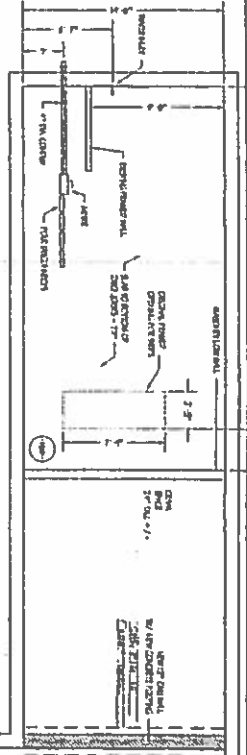
I am Billie Brown, a single, black, 66 year old, semi-retired woman who is the owner of 200 East Cary Street. The property is currently zoned B-3 – mixed use property. From 2006 – 2014, I ran EXCEL Management Services from this location as well as resided there. I semi-retired in 2017 and wish to acquire a special use permit to have my property changed from B-3 to residential property. I am requesting this because I currently hold a commercial mortgage on the property and the lender is increasing my mortgage payments by over \$300 a month starting in June 2018. I have been attempting to refinance my mortgage but most lenders only provide mortgages for residential property. I am interested in doing a “reverse mortgage” however; once again, the property must be residential to qualify for a reverse mortgage.

The increased amount of my commercial mortgage (\$2934.00 a month) will put a severe financial strain on me personally. While I am still consulting part time, my income is not sufficient to handle the steep monthly mortgage payment. The “reverse mortgage” option would eliminate this stress.

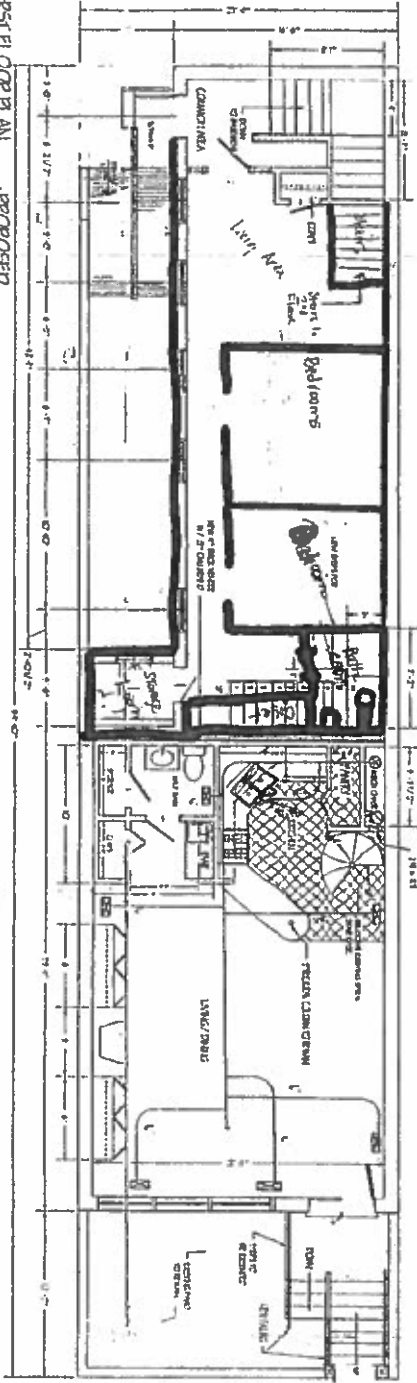
At the time when I purchased the property, I had to get City approval to reside in what was considered commercial property. I have always resided in my property. My neighbors have never had any complaints with my residing in the property for over 12 years and, therefore, I feel will have no objections to my continuing to reside there.

The proposed special use will not be detrimental to the safety, health, morals and general welfare of the community involved. The special use will not create congestion in the streets, roads, alleys and other public ways and places in the area involved. The special use will not create hazards from fire, panic or other dangers nor will it tend to cause overcrowding of land and an undue consideration of population. The special 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 nor will the special use interfere with adequate light and air.

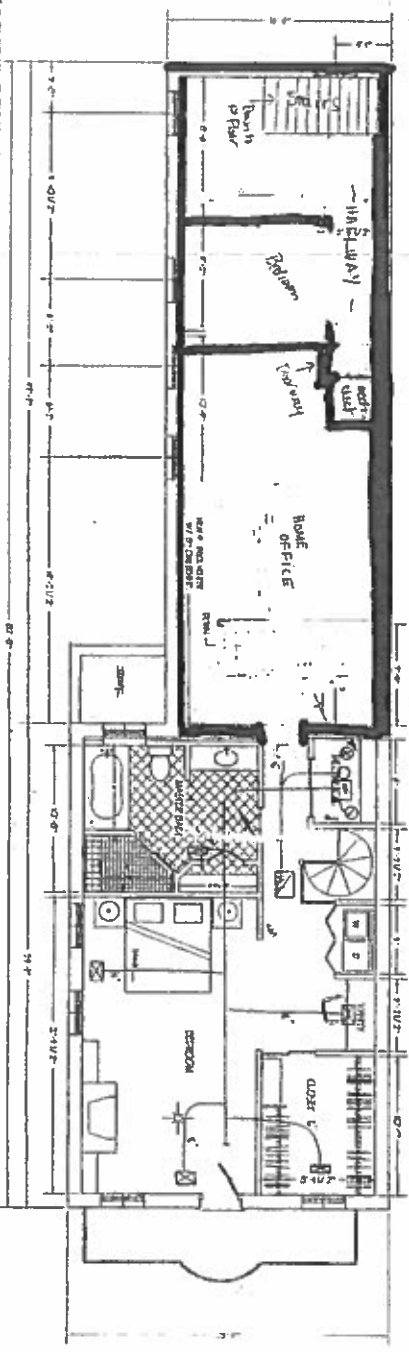
I am requesting nothing more than the ability to continue to live in my property and reduce my current mortgage debt by acquiring a reverse mortgage. In order to qualify for the reverse mortgage the property has to be considered residential.



⊖ BASEMENT PLAN PROPOSED



⊕ FIRST FLOOR PLAN PROPOSED



⊕ SECOND FLOOR PLAN PROPOSED

PROJECT NAME:
ADDRESS:
OWNER:
PHONE:

200 EAST CARY STREET
RICHMOND VIRGINIA

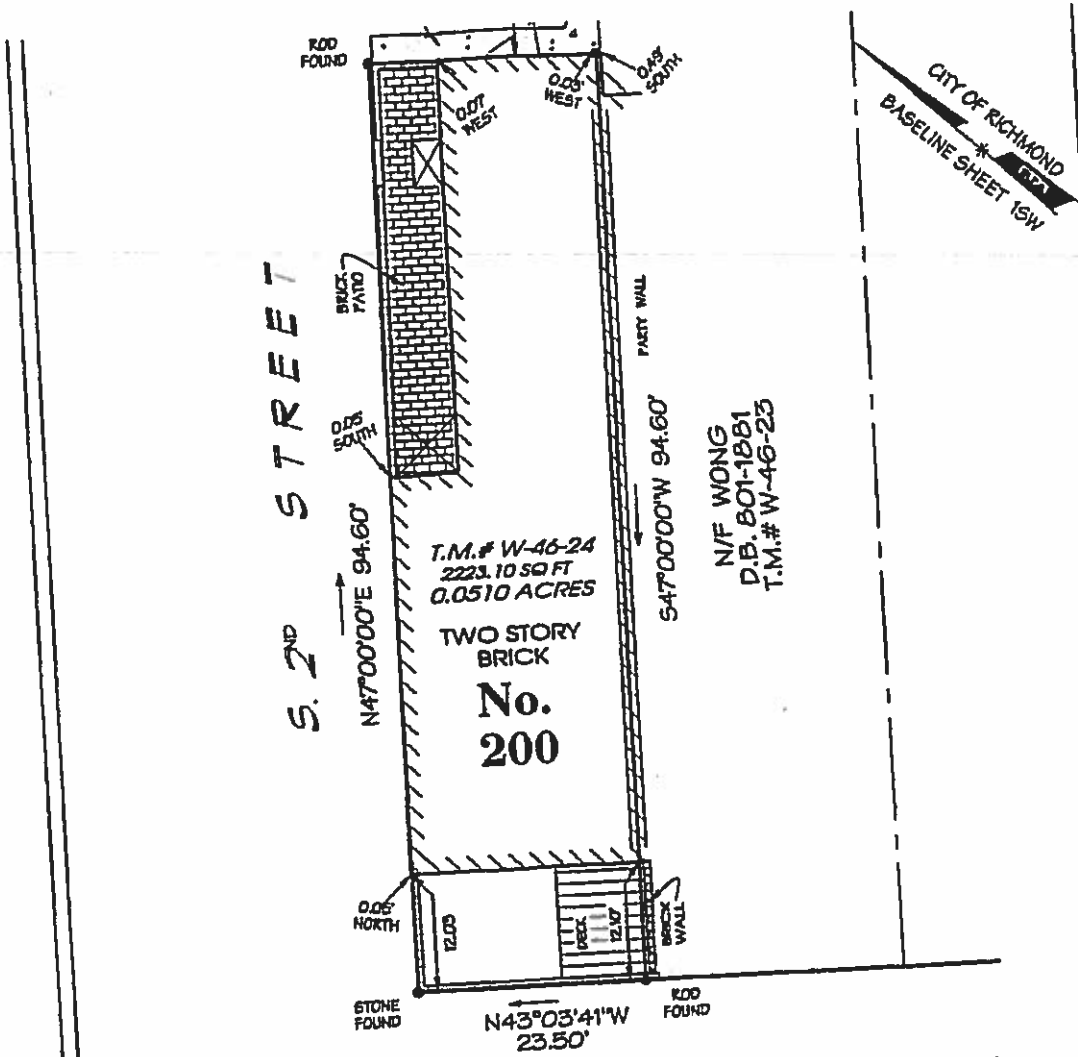
WLW ARCHITECT (804) 358-8021
WILLIAM LEE WEINCKOWSKI
2300 GROVE AVENUE
RICHMOND, VA 23220



DATE: 8-4-09
REVISION: 1 10-15-03

A-3

SHEET



CITY OF RICHMOND
 BASELINE SHEET 15W

E. CARY STREET

PLAT SHOWING IMPROVEMENTS ON No. 200 E. CARY STREET,
 IN THE CITY OF RICHMOND, VIRGINIA.

PURCHASER:
 BILLIE BROWN

THIS IS TO CERTIFY THAT ON JULY 26, 2005 I MADE AN ACCURATE
 FIELD SURVEY OF THE PREMISES SHOWN HEREON; THAT THERE ARE NO ENCROACH-
 MENTS BY IMPROVEMENTS EITHER FROM ADJOINING PREMISES OR FROM SUBJECT
 PREMISES UPON ADJOINING PREMISES, OTHER THAN AS SHOWN HEREON. THIS
 SURVEY IS BEING FURNISHED WITHOUT BENEFIT OF A TITLE REPORT. PREMISES
 SHOWN HEREON IS SUBJECT TO EASEMENTS OF RECORD OR OTHERWISE.

COMMONWEALTH OF VIRGINIA
 7-26-2005
 JAMES E. McKNIGHT
 No. 1926
James E. McKnight

McKNIGHT & ASSOCIATES, P.C.
 LAND SURVEYORS PLANNERS
 201 TWIN RIDGE LANE
 RICHMOND, VIRGINIA 23235
 TEL: (804) 370-2646

SCALE: 1" = 15'
 JOB NUMBER: 88012800