

INTRODUCED: September 9, 2019

AN ORDINANCE No. 2019-258

To authorize the special use of the property known as 3119 Grayland Avenue for the purpose of a swimming pool accessory to a single-family detached dwelling, upon certain terms and conditions.

Patron – Mayor Stoney (By Request)

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: OCT 14 2019 AT 6 P.M.

WHEREAS, the owner of the property known as 3119 Grayland Avenue, which is situated in a R-5 Single-Family Residential District, desires to use such property for the purpose of a swimming pool accessory to a single-family detached dwelling, which use, among other things, is not currently allowed by section 30-410.5(3) of the Code of the City of Richmond (2015), as amended, concerning rear yard regulations; 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: 9 NOES: 0 ABSTAIN: _____

ADOPTED: OCT 14 2019 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 3119 Grayland Avenue and identified as Tax Parcel No. W000-1400/020 in the 2019 records of the City Assessor, being more particularly shown on a plat entitled “Plat Showing Improvements on No. 3119 Grayland Avenue, in the City of Richmond, Virginia,” prepared by McKnight & Associates, P.C., and dated July 22, 2019, 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 swimming pool accessory to a single-family detached dwelling, hereinafter referred to as “the Special Use,” substantially as shown on the plat entitled “Plat Showing Improvements on No. 3119 Grayland Avenue, in the City of Richmond, Virginia,” prepared by McKnight & Associates, P.C., and dated July 22, 2019, hereinafter referred to as “the Plans,” a copy of which is 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 swimming pool accessory to a single-family detached dwelling, substantially as shown on the Plans.

§ 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) 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.

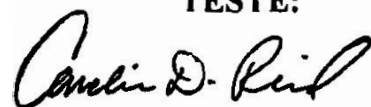
(f) When the privileges granted by this ordinance terminate and the special use permit granted hereby becomes null and void, whether as a result of the Owner relinquishing this special use permit in a writing addressed to the Director of Planning and Development Review or otherwise, use of the Property 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.

A TRUE COPY:

TESTE:

A handwritten signature in black ink, appearing to read "Carolin D. Reed".

City Clerk

City of Richmond

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

Item Request

File Number: PRE.2019.363

O & R REQUEST

RECEIVED

SEP 03 2019

AUG 13 2019

4-9066
Office of the

Chief Administrative Officer

OFFICE OF THE CITY ATTORNEY

O & R Request

DATE: August 13, 2019

EDITION: 1

TO: The Honorable Members of City Council

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

THROUGH: Selena Cuffee-Glenn, Chief Administrative Officer

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

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

RE: To authorize the special use of the property known as 3119 Grayland Avenue, for the purpose of a pool accessory to a single-family detached dwelling, upon certain terms and conditions.

ORD. OR RES. No. _____

PURPOSE: To authorize the special use of the property known as 3119 Grayland Avenue, for the purpose of a pool accessory to a single-family detached dwelling, upon certain terms and conditions.

REASON: The property is zoned in the R-5 Single-Family Residential District and was recently improved with a single-family detached dwelling and accessory swimming pool. The swimming pool does not meet the rear yard setback requirement for the R-5 District. A special use permit is therefore required in order for a final certificate of occupancy to be issued for the property.

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 October 7, 2019, meeting. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting.

BACKGROUND: The subject property consists of a 15,116 SF (0.35 acre) parcel of land located in the Carytown neighborhood of the Near West planning district at the intersection of Grayland Avenue and McCloy Street, along the Downtown Expressway (I-195).

Construction of the dwelling has been completed with an in-ground swimming pool to the rear of the dwelling. A five-foot rear yard was required, proposed, and approved for the in-ground swimming pool. An as-built survey required for the certificate of occupancy for the single-family dwelling showed the pool was constructed 4.07-4.17' from the rear property line (within the required rear yard) abutting the Downtown Expressway right-of-way. There are no zoning violations for the constructed single-family dwelling.

The City of Richmond's current Master Plan designates a future land use category for the subject property as Single-Family Residential at low densities. Primary uses for this category are "...single-family detached dwellings at densities up to seven units per acre...[and] 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 Master Plan also states for the Near West Planning District that "infill development of like density, scale and use is appropriate" (p. 230).

All adjacent properties are located within the same R-5 Single-Family Residential District as the subject property. Residential land use predominates the area.

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: September 9, 2019

CITY COUNCIL PUBLIC HEARING DATE: October 14, 2019

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: City Planning Commission
October 7, 2019

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, Plan/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/>

SUP-058394-2019

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: 3119 Grayland Avenue

Date: 7/30/2019

Tax Map #: W0001400020 Fee: 300.00

Total area of affected site in acres: 0.3402

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

Zoning

Current Zoning: R-5

Existing Use: Single family detached dwelling

Proposed Use

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

Single family detached dwelling with inground swimming pool. Pool falls approx. 1" into rear yard 5' set back line.

Existing Use: Single family detached dwelling

Is this property subject to any previous land use cases?

Yes

No

☐☒

If Yes, please list the Ordinance Number:

Applicant/Contact Person: Luke Carson

Company: Carson Homes, LLC

Mailing Address: 13281 Rivers Bend Boulevard

City: Chester

State: VA

Zip Code: 23836

Telephone: (804) 536-8060

Fax: (804) 530-2401

Email: luke@carson-homes.com

Property Owner: Carson Homes, LLC

If Business Entity, name and title of authorized signee: Luke Carson, Owner

(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: 13281 Rivers Bend Blvd

City: Chester

State: VA

Zip Code: 23836

Telephone: (804) 536-8060

Fax: (804) 530-2401

Email: luke@carson-homes.com

Property Owner Signature:

The names, addresses, telephone numbers and signature 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)

CARSON HOMES

July 30, 2019

ATT: Department of Planning and Development Review

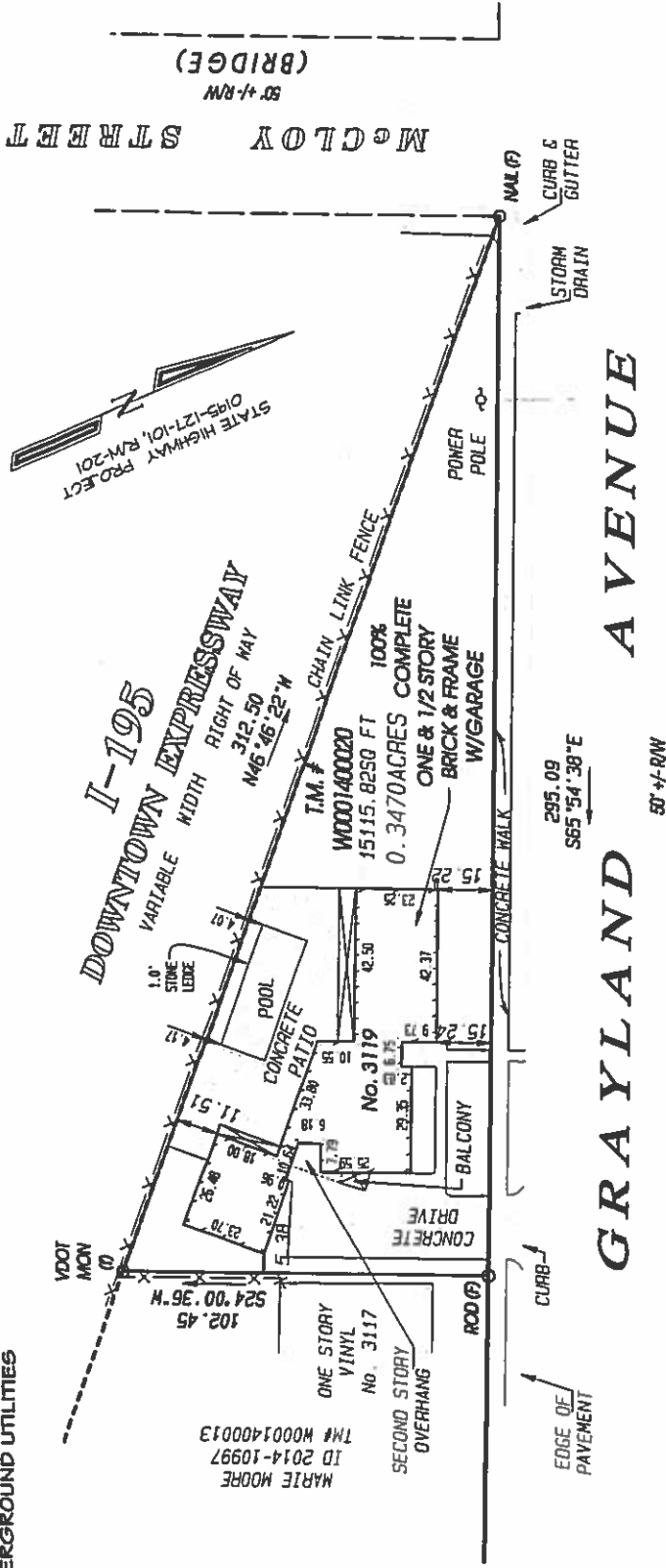
RE: Application report for 3119 Grayland Ave. BLDR-020205-2017

During construction on this property the buyers of the property contracted Pla-mor pools to install an inground pool in the rear of the lot. BLDR-049738-2019. The pool location encroaches into a rear 5' set back along the 195-downtown expressway by approximately 11" as shown on the as built survey attached with this application package. We are requesting the land use permit to validate this encroachment as the pool and pool surround are now finished and this issue was not discovered until the as built survey was completed.

Kindest Regards,

Luke Carson
Carson Homes, LLC
(804) 536-8060

NOTES: THIS PROPERTY IS LOCATED IN F.E.M.A. FLOOD ZONE "X".
 CURRENT OWNER: CARSON HOMES LLC ID 2017-25219
 UNDERGROUND UTILITIES



THIS IS TO CERTIFY THAT ON JULY 22, 2019 I MADE AN ACCURATE FIELD SURVEY OF THE PREMISES SHOWN HEREON THAT THERE ARE NO ENCROACHMENTS 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 TO THE BEST OF MY KNOWLEDGE AND BELIEF. THIS PLAT COMPLETES WITH THE MINIMUM STANDARDS ESTABLISHED BY THE VIRGINIA STATE BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, AND LAND SURVEYORS.

SCALE: 1" = 40'



PLAT SHOWING IMPROVEMENTS
 ON No. 3119 GRAYLAND AVENUE,
 IN THE CITY OF RICHMOND, VIRGINIA.

MCKNIGHT
 & ASSOCIATES, P.C.

LAND SURVEYORS PLANNERS

201 TWIN RIDGE LANE
 RICHMOND, VIRGINIA 23235
 TELEPHONE (804) 320-2646

JOB NUMBER: 93112919AB