

INTRODUCED: May 11, 2020

AN ORDINANCE No. 2020-121

To authorize the special use of the property known as 2100 West Cary Street for the purpose of a retail use on the ground floor, upon certain terms and conditions.

Patron – Mayor Stoney (By Request)

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: JUN 8 2020 AT 6 P.M.

WHEREAS, the owner of the property known as 2100 West Cary Street, which is situated in a R-63 Multifamily Urban Residential District, desires to use such property for the purpose of a retail use on the ground floor of a corner parcel, which use, among other things, is not currently allowed by section 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 (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 congestion in streets, roads, alleys and other public ways and places in the area involved, will not

AYES: 8 NOES: 0 ABSTAIN: _____

ADOPTED: JUN 8 2020 REJECTED: _____ STRICKEN: _____

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 2100 West Cary Street and identified as Tax Parcel No. W000-0942/020 in the 2020 records of the City Assessor, being more particularly shown on a survey entitled “Foundation Survey of The [sic] Properties Known as #2102 & #2100 W. Cary Street in the City of Richmond, VA,” prepared by Edwards, Kretz, Lohr & Associates, PLLC, and dated June 4, 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 retail use on the ground floor, hereinafter referred to as “the Special Use,” substantially as shown on the plans entitled “Apartments / Commercial, 2100-2102 W. Cary St., Richmond, VA.,” prepared by Peretz & Young, Architects, dated August 22, 2017, and last revised August 1, 2019, 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 as a retail use on the ground floor, substantially as shown on the Plans, in addition to the uses permitted by the underlying zoning district.

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

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

§ 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

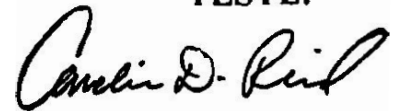
otherwise, use of the Property shall be governed thereafter by the zoning regulations prescribed for the district in which the Property is then situated.

§ 6. **Implementation.** The Zoning Administrator is authorized to issue a certificate of zoning compliance 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 certificate of zoning compliance shall be made within 730 calendar days following the date on which this ordinance becomes effective. If either the application for the certificate of zoning compliance is not made within the time period stated in the previous sentence or the certificate of zoning compliance 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.

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.2020.063

O & R Request

DATE: April 14, 2020

EDITION: 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor (Patron: Mayor, by Request)  5/7/2020
(This is no way reflects a recommendation on behalf of the Mayor.)

THROUGH: Lenora G. Reid, Acting Chief Administrative Officer  4/20/2020

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 located at 2100 W. Cary Street to allow retail use in the ground floor area of a corner parcel that is located in the R-63 Multi-Family Urban Residential District.

ORD. OR RES. No. ____

PURPOSE: To authorize the special use of the property located at 2100 W. Cary Street to allow retail use in the ground floor area of a corner parcel that is located in the R-63 Multi-Family Urban Residential District

REASON: Retail is not a permitted use on a corner lot in the R-63 Multi-Family Urban Residential District. Therefore a special use permit is 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 June 1, 2020, meeting.

BACKGROUND: The 5,000 square foot subject property is located on the corner of West Cary Street and South Rowland Street within the R-63 Multi-Family Urban Residential District. The property contains a newly constructed three-story mixed-use building. The ground floor was built for commercial uses with frontages facing W. Cary and South Rowland Streets. The upper two stories are residential. The property is located in The Fan neighborhood of the Near West Planning District.

The City Master Plan calls for a future land use recommendation for this property for single-family medium density uses. Primary uses are single-family and two-family dwellings, both detached and attached, at densities of 8 to 20 units per acre. Typical zoning classifications that may accommodate this land use category are R-5A, R-6 and R-7. The property is not within any of these zoning classifications.

The zoning ordinances states that the intent of the R-63 Multi-Family Urban Residential District is "to encourage development of medium density neighborhoods comprised of a mix of residential uses and to promote a pedestrian oriented urban environment that is primarily residential in character, but that includes limited nonresidential uses that serve many of the day-to-day convenience needs of neighborhood residents and provide opportunities for residents to live and work within the neighborhood." Within this framework a limited number of service and neighborhood type uses are allowed on corner lots, such as barber shops, grocery stores, delis, etc. However, uses designated as retail are not permitted.

The request special use will allow retail sales to occur as part of an existing café on the premises. No change in the existing building or floorplan are proposed.

All surrounding properties are located within the same R-63 District as the subject property. A mix of single-, two-, and multi-family residential, office, commercial and institutional 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: May 11, 2020

CITY COUNCIL PUBLIC HEARING DATE: June 8, 2020

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: City Planning Commission
June 1, 2020

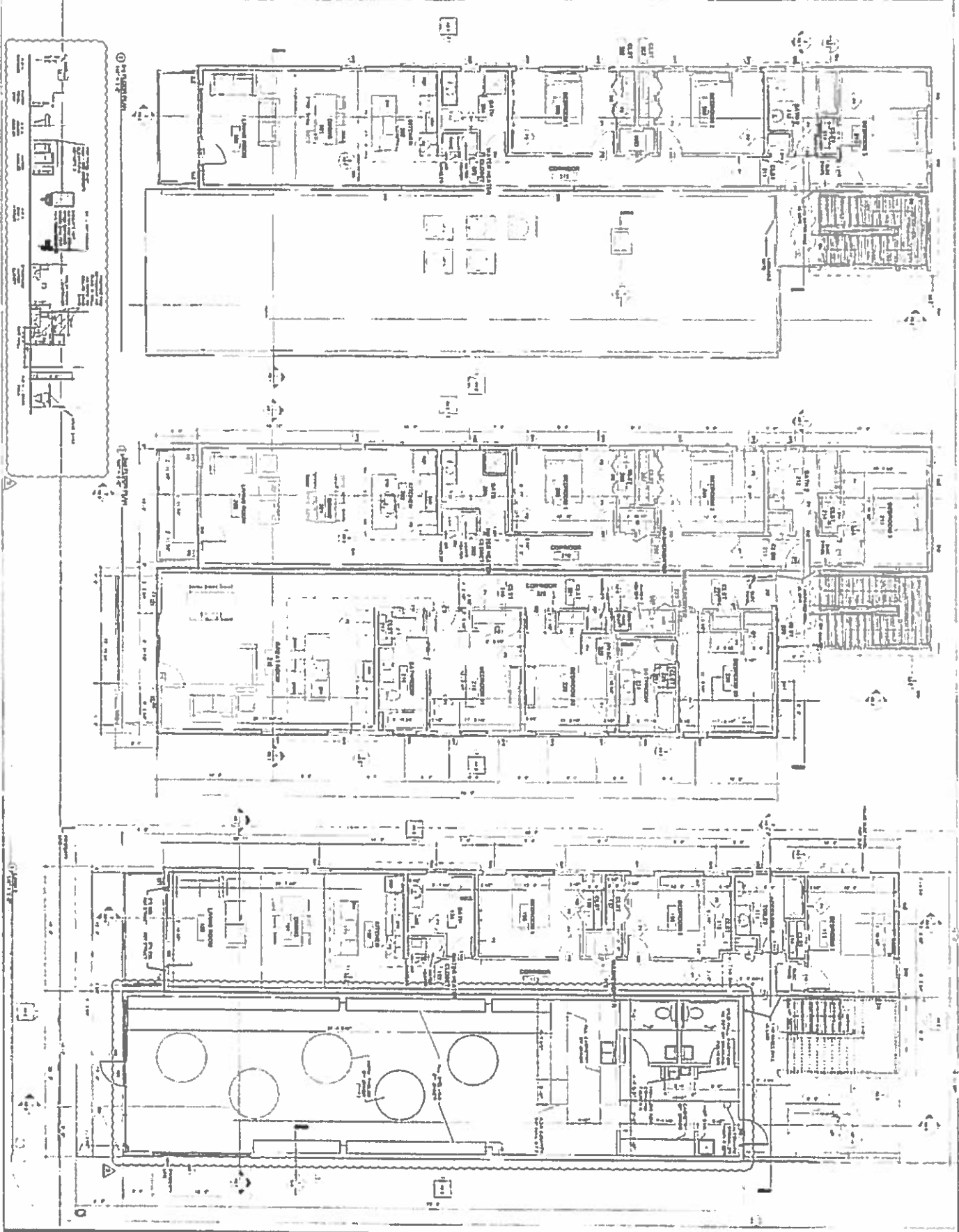
AFFECTED AGENCIES: Office of Chief Administrative Officer
Law Department (for review of draft ordinance)

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: David Watson, Senior Planner, Land Use Administration 804-646-1036



A1.0

Project Name: _____
 Project Number: 13/0441
 Date: 08/27/2010
 Scale: 1/8" = 1'-0"
 Drawing Title: FLOOR PLAN

PERRITZ & YOUNG
 ARCHITECTS
 10082 RICHARDSON ROAD
 SUITE J
 ASHLAND, VIRGINIA 23005
 (804) 550-3088
 FAX (804) 550-1217

APARTMENTS / COMMERCIAL
 2100-2102 W. CARY ST.
 RICHMOND, VA.



Address #2100 W Cary Street
 Current Owner 2100 W Cary Street, LLC
 Map Ref: W0000942020
 ID 2016 B134

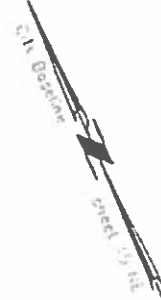
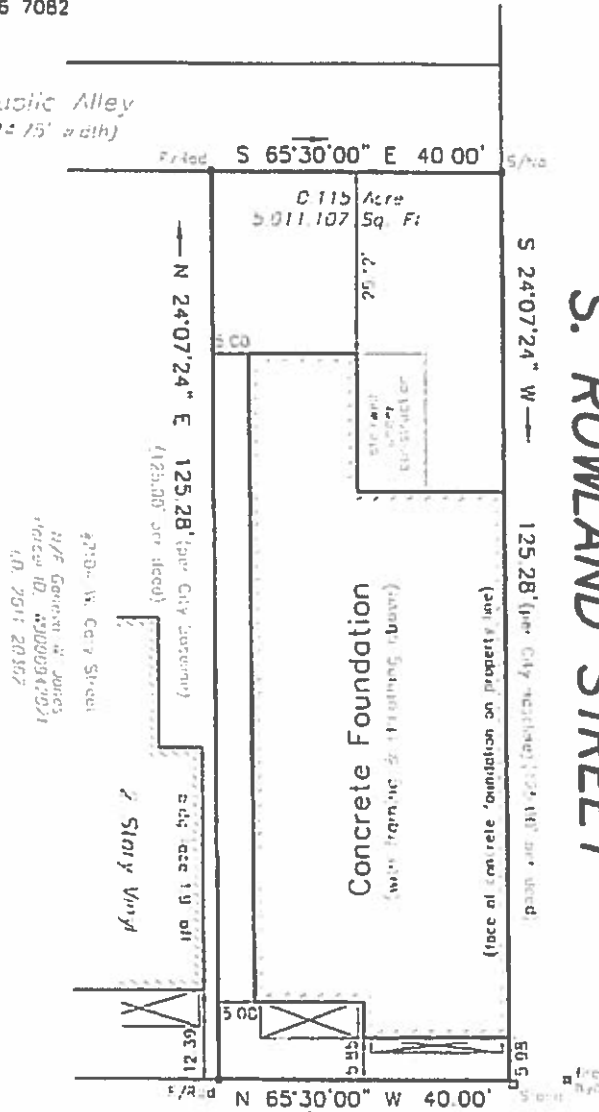
Address #2102 W Cary Street
 Current Owner 2102 W Cary Street, LLC
 Map Ref: W0000942020
 ID 2016 7082

Notes Bearings protected from City
 Baseline sheet 15 NE.

Locations at corners of concrete
 foundation

No utilities serving property at
 time of survey

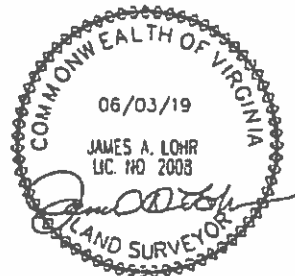
Public Alley
 (14' 75" width)



S. ROWLAND STREET

W. CARY STREET

Foundation Survey of
 The Properties Known as
 #2102 & #2100 W. Cary Street
 in the City of Richmond, VA



This is to certify that on 06/03/19 I made an accurate
 field survey of the premises shown hereon that all
 improvements and easements known or visible are shown
 hereon, that there are no encroachments by improvements
 either from adjoining premises or from subject premises
 upon adjoining premises other than shown hereon. THIS
 PLAT WAS MADE WITHOUT THE BENEFIT OF A TITLE SURVEY
 OR REPORT.

FLOOD INSURANCE NOTE: By graphics plotting only,
 this property is in ZONE X
 of the Flood Insurance Rate Map, Community Panel No.
 5101290037D effective date of 04/02/09
 Exact designations can only be determined by an Elevation
 Certificate. Based on the above information, this property
 IS NOT in a Special Flood Hazard Area.



Edwards, Kretz, Lohr & Associates, PLLC

Land Surveyors-Planners

Virginia-North Carolina

4914 Radford Avenue, Suite 206
 Richmond, Virginia, 23230
 Phone (804) 673-9666
 Fax (804) 673-9990

Scale 1"=20'
 Drawn TCJ
 Job. 1499-17

Date 06/04/19
 Checked JAL



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.richmond.gov>

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: 2100 West Cary Street

Date: JAN 21, 2020
~~Nov 13 2019~~

Tax Map #: W0000942020 Fee: \$1,800- Commercial less than 5,000 sq ft

Total area of affected site in acres: 0.115 total acres

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

Zoning

Current Zoning: R-63 Multifamily Urban Residential District

Existing Use: Mixed-use development under construction

Proposed Use

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

Mixed-use with added retail use to be included with other permitted uses on the ground floor

Existing Use: New construction in process, residential mixed-use

Is this property subject to any previous land use cases?

Yes

No

If Yes, please list the Ordinance Number: _____

Applicant/Contact Person: Lory Markham

Company: Markham Planning LLC

Mailing Address: 23 West Broad Street

City: Richmond

State: VA

Zip Code: 23241

Telephone: (804) 248-2561

Fax: ()

Email: lory@markhamplanning.com

Property Owner: 2100 W Cary Street LLC

If Business Entity, name and title of authorized signee: Cory Weiner, Manager

(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: PO Box 14609

City: Richmond

State: VA

Zip Code: 23221

Telephone: (804) 347-3251

Fax: ()

Email: cwperformancegroupplc@gmail.com

Property Owner Signature: Cory Weiner

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)



January 21, 2020

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

Re: 2100 W Cary (R-63) Applicant's Report for Special Use Permit

Dear Mr. Olinger,

Please accept this letter as the Applicant's Report for the Special Use Permit application for the property at 2100 West Cary Street. With this application the property owner, 2100 W Cary Street LLC, and the tenant are petitioning City Council for a SUP to allow an additional use in the R-63 District. This would designate the roughly 1,500 square feet of ground floor commercial space as retail.

Site

The property W0000942020 is located at the northwest corner of the West Cary and Rowland Streets intersection in the Near West Planning District. The property has a land area of 5,000 square feet. The property is currently improved with a 3-story new construction mixed-use building with active frontages facing both streets. The first floor is composed of the street level commercial space and a residential unit. There are 4 units in total.

The corner lot on this block at Shields, 2128 West Cary, is also a 4-unit multi-family with retail. A SUP was granted in 2017 for it to be built.

Zoning

The property is currently zoned R-63 Multifamily Urban Residential District, which allows for some commercial uses and a variety of residential units. Live work units are also allowed. In addition, the permitted principal uses on corner lots for this zoning district include art galleries, barbershops, laundromats, grocery stores, and restaurants, delis, cafes, etc.

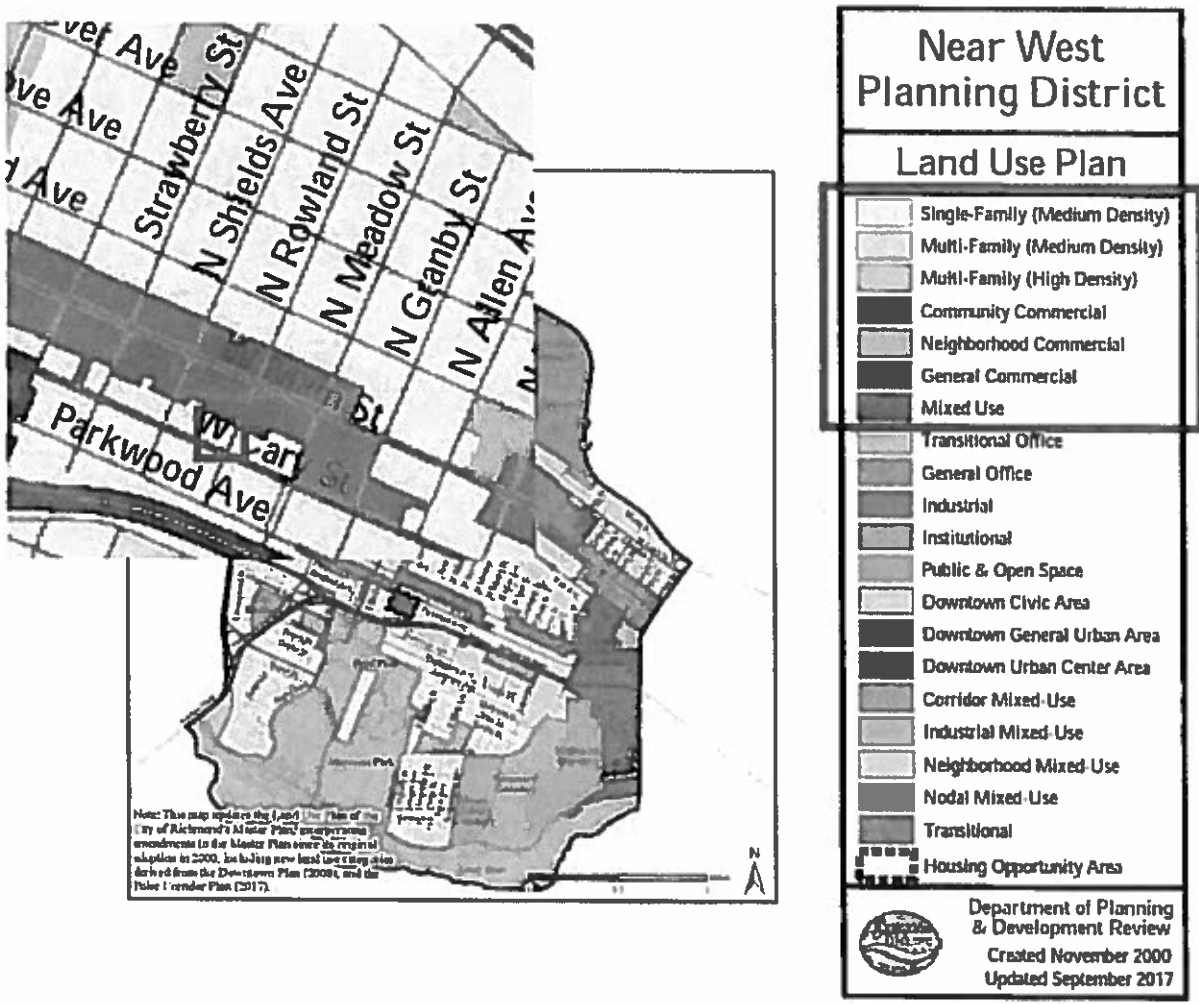


Per the current zoning ordinance:

"The intent of the R-63 district is to encourage development of medium density neighborhoods comprised of a mix of residential uses and to promote a pedestrian oriented urban environment that is primarily residential in character, but that includes limited nonresidential uses that serve many of the day-to-day convenience needs of neighborhood residents and provide opportunities for residents to live and work within the neighborhood."

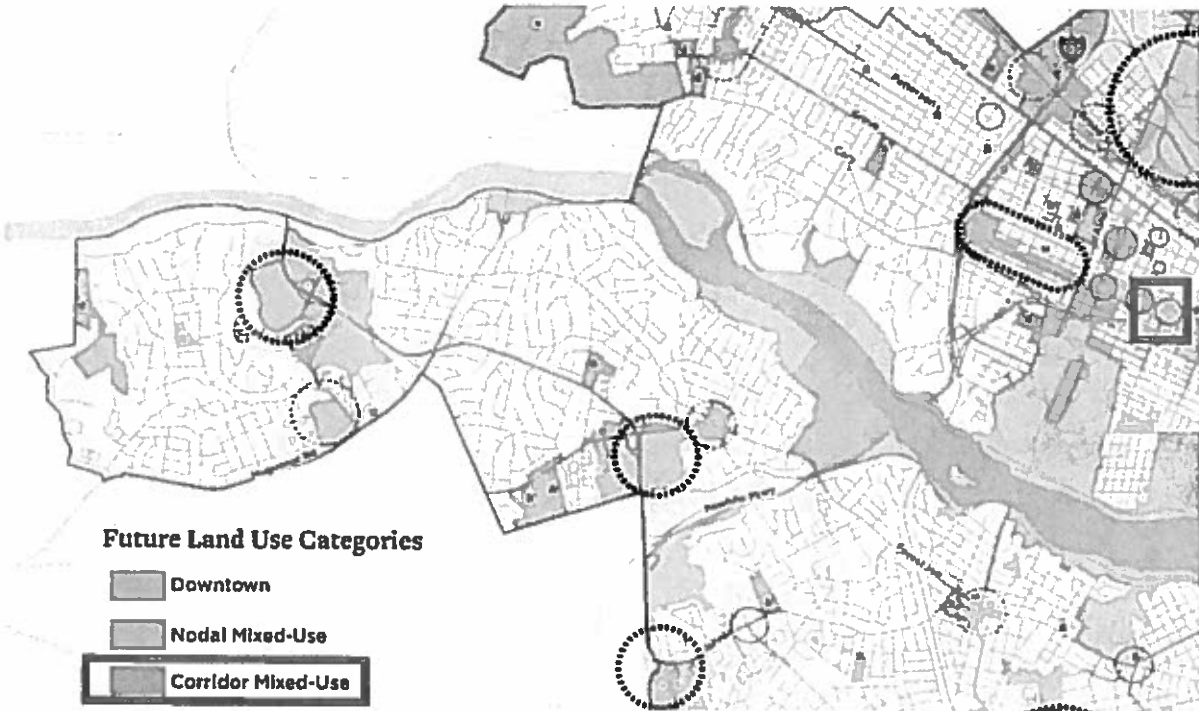
Master Plan Future Land Use

The 2000 Richmond Master Plan labels this parcel as Single Family Medium Density for future land use planning. One block away, West Main Street has Mixed-Use and Community Commercial designations.



A 2007 City initiated change changed this portion of the Cary Street corridor to the current R-63 Multifamily Urban Residential District, which allows for some commercial uses.

The drafted Richmond 300 Master Plan, which is in the process of approval for 2020, designates this parcel and most of West Cary Street as Corridor Mixed-Use.



Proposal

There are no physical changes to the property under this special use permit application. This is a request for an additional use of retail.

PlantBar (plantbar.net) is setting up shop in the commercial space as a café under a tenant fit up building permit BLDC-064400-2019. This is their first Richmond location, the first being in the Virginia Beach area. The café will serve customers who wish to create custom terrariums and potted plant arrangements in a class environment. Shelved for-purchase scratch materials will share the space with the workshop tables.

R-63 permits PlantBar to operate as a café. The property owner and tenant are requesting the approval of a formal retail designation should the business concept change to a standalone retail store selling plants and potting material.

PlantBar has an ABC license for the hours of 11am to 9pm. Customers will most likely use ride share in the evening hours or park during daytime business hours when street parking is more ample.

This use is passive in nature and should not activate the area any more than the permitted uses in this district. Multiple similar low intensity retail spaces exist on the 1900 through 2600 blocks of West Cary including a pottery studio, bicycle repair shop, hair studio, thrift store, tobacco shop and paint store. Each supports the immediate Fan neighborhood and fosters a pedestrian environment.

Neighborhood Communication

The proposed request for a special use permit was presented to the Uptown Neighborhood Association at the November 12, 2019 meeting. The Association voted unanimously in favor for the request and a letter of support is enclosed. Stephanie Lynch, who will represent the 5th voter district, was present and showed support.

City Charter Conditions

We trust that you will agree with us that this proposed SUP meets the City Charter criteria for the granting of SUPs 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 special use permit request. Please feel free to contact me at lory@markhamplanning.com or (804) 248-2561 if you have any questions or require additional materials to process the application.

Very Truly Yours,



Lory Markham

Enclosure: application form, fee payment, plat, floor plans, neighborhood letter of support

cc: Gabi Syska, Markham Planning
Matthew Ebinger, Secretary to the City Planning Commission
The Honorable Stephanie Lynch, Councilwoman for the 5th Voter District
Kevin Daley, Uptown Association
Corey Weiner, 2100 West Cary Street LLC
Kelle and Elizabeth Ryan, PlantBar