



CITY OF RICHMOND

DEPARTMENT OF
PLANNING AND DEVELOPMENT REVIEW
BOARD OF ZONING APPEALS

August 7, 2020

Willis J W Attn: Bryan Willis
P.O. Box 526
Arlington, GA 39813

Roth Jackson Gibbons Condlin PLC
1519 Summit Avenue, Suite 102
Richmond, VA 23230
Attn: Andrew M. Condlin, Esq.

To Whom It May Concern:

RE: **BZA 36-2020**

You are hereby notified that the Board of Zoning Appeals will hold an electronic public hearing on Wednesday, September 2, 2020 due to the disaster represented by the spread of COVID-19 pursuant to and in compliance with Ordinance 2020-093 to consider an application for a certificate of occupancy for a restaurant with a drive-up use at 2309 WEST BROAD STREET (Tax Parcel Number W000-1048/025), located in an UB (Urban Business) & PO4 (Parking Overlay) District.

Please be advised that the applicant or applicant's representative is required to participate in the electronic public hearing by calling 804-316-9457 and entering code 964 489 214# beginning at 1:00 p.m. For video access by computer, smart phone or tablet visit <https://richmondva.legistar.com/Calendar.aspx>. Select the Board of Zoning Appeals drop-down and 2020 drop-down, click meeting details for September 2, 2020 meeting and then click video access. In the event you have difficulty accessing a public hearing you may contact Mr. William Davidson at 804-396-5350 or by email at William.Davidson@richmondgov.com for assistance. In accordance with Ordinance No. 2020-093, please be advised that an inability to access one of the enumerated public hearing through video means shall not be considered a prerequisite for participating in the subject public hearing. It will be necessary for you to stay on the line until such time as your case is called. The Board of Zoning Appeals Rules of Procedure provides that in the case of an application for a variance or a special exception, the applicant, proponents or persons aggrieved under §15.2-2314 of the Code of Virginia, shall be permitted a total of six (6) minutes each to present their case. The Board of Zoning Appeals will withhold questions until the conclusion of the respective presentations. For the purposes of the record it also requested that before addressing the Board you identify yourself and spell your name.

Finally, when you submitted your application to the zoning office you were given an handout entitled, Suggestions for Presenting Your Case to the Board, which indicated that you should discuss your request with your neighbor(s) and neighborhood

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August 7, 2020

association(s) prior to appearing before the Board of Zoning Appeals. Contact information for civic group(s) can be found by navigating to the Civic Group webpage of the City's website at <http://www.richmondgov.com/PlanningAndDevelopmentReview/civicasociationgroupinformation.aspx> . Once there, you can search for your property using the interactive map. A dialogue box will provide you with the names of all civic groups within which your property may lie. Once you have those group names, simply scroll down the page to the appropriate group(s) to find the contact information for each. The Board understands that given the current situation it is not practical to conduct face-to-face discussions with either your neighbors or neighborhood association(s) but the Board requests that you make a good faith effort to provide them with relevant information regarding your case.

If you have any questions regarding the Board's procedures or any issue involving presentation of your case, please feel free to contact me.

Very truly yours,



Roy W. Benbow, Secretary
Phone: (804) 240-2124
Fax: (804) 646-5789
E-mail: Roy.Benbow@richmondgov.com

cc: Zoning Administrator

Notice of this meeting is being sent to the persons whom the Board of Zoning Appeals believes to be property owners in the immediate vicinity of the property concerned in this application. This notice is for their information only, and there is no need for them to appear unless they so desire. The Board will, however, welcome such views as any persons care to express during the hearing on this application.

2302 West Grace Street Condo Unit
Owners Association
6409 Old Dominion Dr
Mclean VA 22101

2311 W Broad St C/o Mary C Hyman
511 N Arthur Ashe Blvd #9
Richmond VA 23220

Ali Mohammad
14712 Parson Weems Loop
Woodbridge VA 22193

Broad Realty Corp C/o Paula Saur
P.o. Box 26846
Richmond VA 23261

Browning Faye Dale
2316 W Grace St
Richmond VA 23220

Commonwealth Of Virginia Division Of
Motor Vehicles
2300 W Broad St
Richmond VA 23269

Fgp Va LLC
4170 Waddington Rd
Columbus OH 43220

Franke David W & Polczynski Casey M
C/o Dominion Properties Of Va
Po Box 7296
Richmond VA 23221

George Jonathan A
2308 W Grace St
Richmond VA 23220

George Thomas Paul And Priscilla Ann
2306 W Grace St
Richmond VA 23220

Handy Aslam T And Hatch Joyce E
2312 W Grace St
Richmond VA 23220

Harwick Properties Llc
6409 Old Dominion Dr
Mclean VA 22101

Jain Ved P Living Trust & Jain Chaya
Living Trust
605 W Cary St
Richmond VA 23220

Moore Nancy R
2318 W Grace St
Richmond VA 23220

Oshn LLC
1400 Waters Edge Cir
Midlothian VA 23112

Shapiro Gary & Softic Tanja
2322 W Grace St
Richmond VA 23220

Williams Joseph Hayden & Anastasia
Wolf
2320 W Grace St
Richmond VA 23220

Property: 2309 W Broad St **Parcel ID:** W0001048025**Parcel**

Street Address: 2309 W Broad St Richmond, VA 23220-
Owner: WILLIS J W ATTN: BRYAN WILLIS
Mailing Address: PO BOX 526, ARLINGTON, GA 39813
Subdivision Name : NONE
Parent Parcel ID:
Assessment Area: 446 - Broad St
Property Class: 428 - B Fast Food Restaurant
Zoning District: UB-PO4 - Urban Business-Parking Overlay
Exemption Code: -

Current Assessment

Effective Date: 01/01/2020
Land Value: \$590,000
Improvement Value: \$534,000
Total Value: \$1,124,000
Area Tax: \$0
Special Assessment District: None

Land Description

Parcel Square Feet: 11997
Acreage: 0.275
Property Description 1: 0093.00X0129.00 0000.000
State Plane Coords(?): X= 11782969.000004 Y= 3728696.629869
Latitude: 37.55900363 , **Longitude:** -77.46471645

Description

Land Type: Primary Commercial/Indust Land
Topology:
Front Size: 93
Rear Size: 129
Parcel Square Feet: 11997
Acreage: 0.275
Property Description 1: 0093.00X0129.00 0000.000
Subdivision Name : NONE
State Plane Coords(?): X= 11782969.000004 Y= 3728696.629869
Latitude: 37.55900363 , **Longitude:** -77.46471645

Other

Street improvement:
Sidewalk:

Assessments

Assessment Year	Land Value	Improvement Value	Total Value	Reason
2020	\$590,000	\$534,000	\$1,124,000	Reassessment
2019	\$513,000	\$516,000	\$1,029,000	Reassessment
2018	\$480,000	\$498,000	\$978,000	Reassessment
2017	\$419,000	\$420,000	\$839,000	Reassessment
2016	\$420,000	\$386,000	\$806,000	Reassessment
2015	\$399,000	\$405,000	\$804,000	Reassessment
2014	\$336,000	\$468,000	\$804,000	Reassessment
2013	\$336,000	\$468,000	\$804,000	Reassessment
2012	\$336,000	\$466,000	\$802,000	Reassessment
2011	\$336,000	\$466,000	\$802,000	CarryOver
2010	\$336,000	\$466,000	\$802,000	Reassessment
2009	\$336,000	\$465,800	\$801,800	Reassessment
2008	\$336,000	\$482,000	\$818,000	Reassessment
2007	\$382,200	\$347,800	\$730,000	Reassessment
2006	\$191,100	\$289,800	\$480,900	Reassessment
2005	\$182,000	\$276,000	\$458,000	Reassessment
2004	\$187,700	\$374,100	\$561,800	Reassessment

Transfers

Transfer Date	Consideration Amount	Grantor Name	Deed Reference	Verified Market Sale Description
04/25/2016	\$1,710,000	KOVANES DEAN S	ID2016-7480	1 - VALID SALE-Sale Includes Multiple Parcels
10/23/2015	\$0	KOVANES ZACK K & KATINA P	ID2015-20447	2 - INVALID SALE-Relation Between Buyer/Seller
06/28/1983	\$110,000	Not Available	00813-1369	

Planning

Master Plan Future Land Use: CMU
Zoning District: UB-PO4 - Urban Business-Parking Overlay
Planning District: Near West
Traffic Zone: 1072
City Neighborhood Code: FAN
City Neighborhood Name: The Fan
Civic Code:
Civic Association Name: Fan Area Business Alliance
Subdivision Name: NONE
City Old and Historic District:
National historic District:
Neighborhoods in Bloom:
Redevelopment Conservation Area:

Economic Development

Care Area: -
Enterprise Zone: III

Environment

100 YEAR Flood Plain Flag: Contact the Water Resources Division at 646-7586.
500 YEAR Flood Plain Flag: N
Resource Protection Flag: Contact the Water Resources Division at 646-7586.
Wetland Flag: N

Census

Census Year	Block	Block Group	Tract
2000	1003	0405001	040500
1990	104	0405001	040500

Schools

Elementary School: Fox
Middle School: Hill
High School: Jefferson

Public Safety

Police Precinct: 3
Police Sector: 313
Fire District: 10
Dispatch Zone: 045A

Public Works Schedules

Street Sweep: TBD
Leaf Collection: TBD
Refuse Collection: Wednesday
Bulk Collection: TBD

Government Districts

Council District: 2
Voter Precinct: 204
State House District: 71
State Senate District: 10
Congressional District: 4

Extension 1 Details

Extension Name: C01 - Fast Food Rest
Year Built: 1987
Stories: 1
Units: 0
Number Of Rooms: 0
Number Of Bed Rooms: 0
Number Of Full Baths: 0
Number Of Half Baths: 0
Condition: good for age
Foundation Type:
1st Predominant Exterior:
2nd Predominant Exterior: N/A
Roof Style: 1
Roof Material:
Interior Wall:
Floor Finish:
Heating Type: 0 sf
Central Air: N
Basement Garage Car #: 0
Fireplace: N
Building Description (Out Building and Paving Yard Items) :

Extension 1 Dimensions

Finished Living Area: 3256 Sqft
Attic: 0 Sqft
Finished Attic: 0 Sqft
Basement: 0 Sqft
Finished Basement: 0 Sqft
Attached Garage: 0 Sqft
Detached Garage: 0 Sqft
Attached Carport: 0 Sqft
Enclosed Porch: 0 Sqft
Open Porch: 0 Sqft
Deck: 0 Sqft

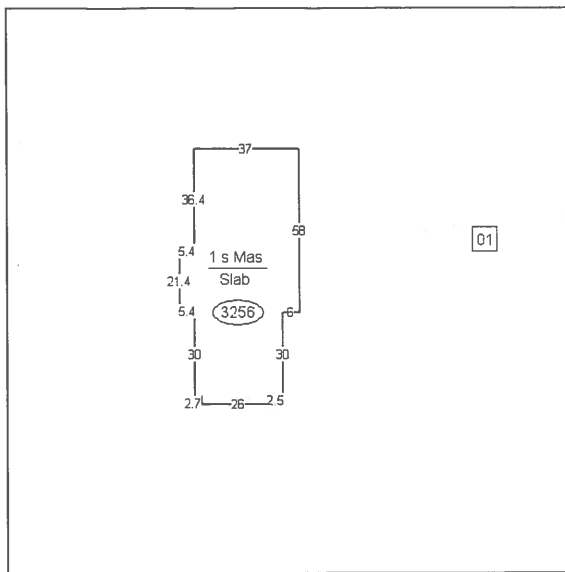
Property Images

Name:W0001048025 Desc:C01

[Click here for Larger Image](#)

Sketch Images

Name:W0001048025 Desc:C01



RICHMOND BOARD OF ZONING APPEALS APPLICATION FORM



THE RICHMOND ZONING ADMINISTRATION OFFICE
ROOM 110, CITY HALL, 900 EAST BROAD STREET
RICHMOND, VIRGINIA 23219
(804) 646-6340

TO BE COMPLETED BY THE APPLICANT

PROPERTY

OWNER: WILLIS J W ATTN: BRYAN WILLIS

PHONE: (Home) (276) 614-7200 (Mobile) ()

ADDRESS P.O. Box 526

FAX: () (Work) ()

Arlington, GA 39813

E-mail: bwillispeanuts@gmail.com

OWNER'S

REPRESENTATIVE: Andrew M. Condlin, Esq.

PHONE: (Work) (804) 977-3373 (Mobile) ()

(Name/Address) Roth Jackson Gibbons Condlin PLC

FAX: ()

1519 Summit Ave, Suite 102

E-mail: acondlin@rothjackson.com

Richmond, VA 23230

TO BE COMPLETED BY THE ZONING ADMINISTRATION OFFICE

PROPERTY ADDRESS(ES): 2309 West Broad Street

TYPE OF APPLICATION: ☐ VARIANCE ☒ SPECIAL EXCEPTION ☐ OTHER _____

ZONING ORDINANCE SECTION NUMBERS(S): 30-300, 30-433.2 & 30-800.4

APPLICATION REQUIRED FOR: A Certificate of Occupancy for a restaurant with an accessory drive-up facility.

TAX PARCEL NUMBER(S): W000-1048/025 ZONING DISTRICT: UB (Urban Business) & PO4

REQUEST DISAPPROVED FOR THE REASON THAT: The proposed use is not permitted as the previous nonconforming use rights have expired. Whenever nonconforming uses of a building are discontinued for a period of two years or longer, any subsequent use of the premises shall conform to the regulations applicable in the district in which it is located.

DATE REQUEST DISAPPROVED: July 17, 2020

FEE WAIVER: YES ☐ NO: ☒

DATE FILED: July 17, 2020 TIME FILED: 4:00 P.M. PREPARED BY: Rich Saunders RECEIPT NO. BZAC-076088-2020

AS CERTIFIED BY: [Signature] (ZONING ADMINISTRATOR)

I BASE MY APPLICATION ON:

SECTION 17.20 PARAGRAPH(S) _____ OF THE CHARTER OF THE CITY OF RICHMOND

SECTION 15.2 -2309.2 ☐ OF THE CODE OF VIRGINIA [OR]

SECTION 1040.3 PARAGRAPH(S) 14 OF THE ZONING ORDINANCE OF THE CITY OF RICHMOND

TO BE COMPLETED BY APPLICANT

I have received the handouts, *Suggestions for Presenting Your Case to the Board & Excerpts from the City Charter* ☐

I have been notified that I, or my representative, must be present at the hearing at which my request will be considered.

SIGNATURE OF OWNER OR AUTHORIZED AGENT: [Signature]

DATE: 7/30/2020

*** TO BE COMPLETED BY THE SECRETARY TO THE BOARD OF ZONING APPEALS ***

CASE NUMBER: BZA-36-2020 HEARING DATE: September 2, 2020 AT 1:00 P.M.

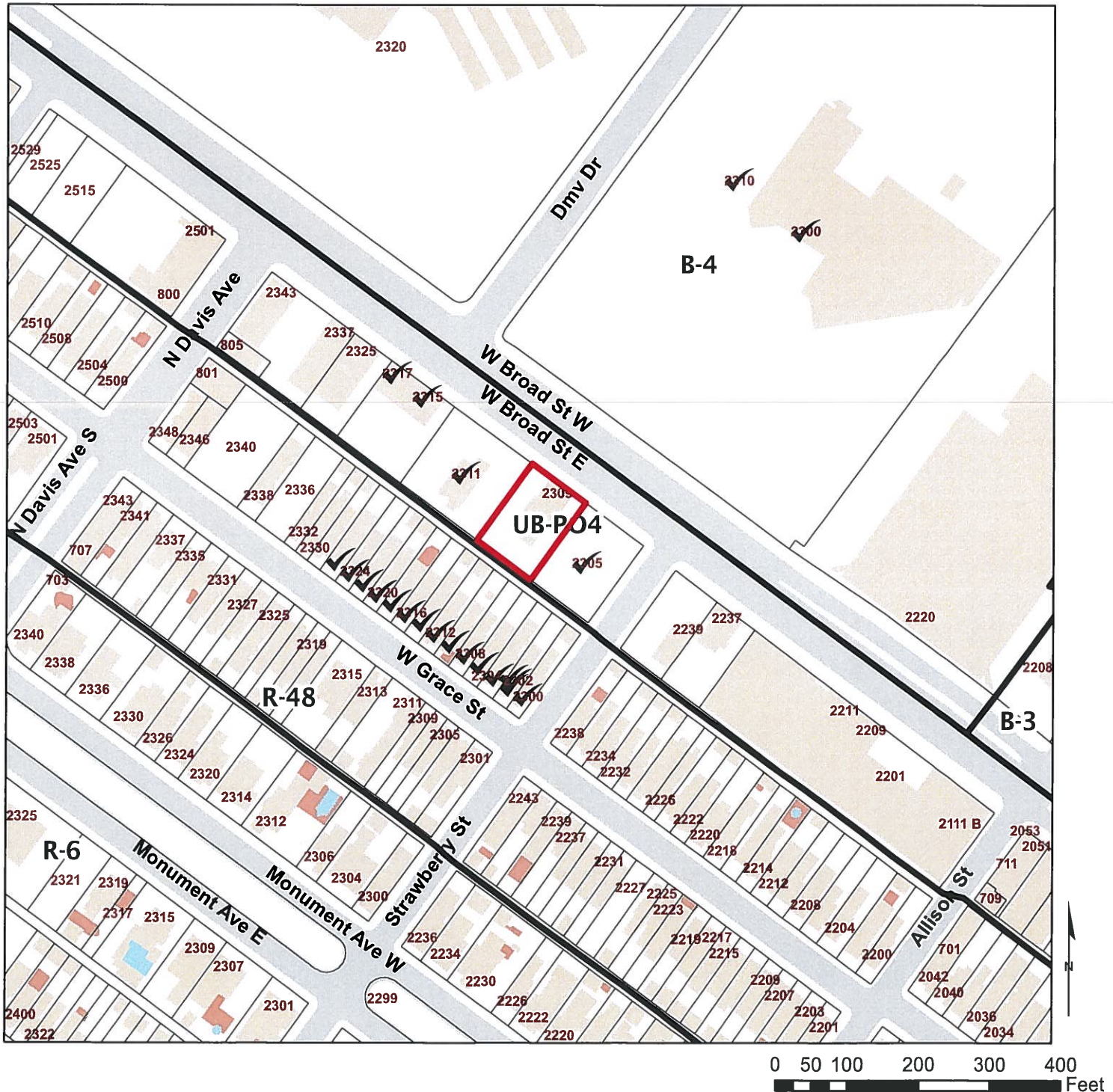
BOARD OF ZONING APPEALS CASE BZA 36-2020
150' Buffer

APPLICANT(S): Willis J W Attn: Bryan Willis

PREMISES: 2309 West Broad Street
(Tax Parcel Number W000-1048/025)

SUBJECT: A certificate of occupancy for a restaurant with a drive-up use.

REASON FOR THE REQUEST: Based on Sections 30-300, 30-433.2 & 30-800.4
of the Zoning Ordinance for the reason that:
The proposed use is not permitted as the previous nonconforming use rights have expired.





BOARD OF ZONING APPEALS PRESENTATION SUGGESTIONS

CITY OF RICHMOND, VIRGINIA

When presenting your request for a variance or exception to the Board of Zoning Appeals, it is important that you consider the points outlined below. The City Charter requires that every decision of the Board must be based upon a finding of fact that the Board must determine from sworn testimony, together with pertinent evidence, presented at its public hearing. It is essential that the Board receive thorough and complete information in order for it to adequately consider your case and make an informed decision.

1. The powers and duties of the Board of Zoning Appeals are specified in Section 17.20 of the City Charter and Article X, Division 5, of the Zoning Ordinance. The Zoning Office will assist you in identifying how your case should be filed. If you have questions regarding your case filing, please contact the Zoning Administration Office (646-6340/6701). Please review the applicable provisions of the City Charter or the Zoning Ordinance thoroughly and address them when presenting your case to the Board to show that the applicable requirements have been satisfied.
2. The Board of Zoning Appeals is a quasi-judicial board whose decisions are controlled by statutory law and also take into consideration applicable case law that has been handed down by the Richmond Circuit Court and the Virginia Supreme Court. The Board suggests that if you have any legal questions regarding statutory or case law as it may apply to your application, that those legal issues should be discussed with an attorney before you make your final decision to submit an application to the Board.
3. The Board considers it absolutely essential that you discuss your case with your neighbors (notification letters are sent to property owners within a 150-foot radius of your property) as well as your neighborhood association(s). Information regarding your neighborhood association(s) and/or contact person(s) may be obtained from the City's website at <http://www.richmondgov.com/PlanningAndDevelopmentReview/civicasociationgroupinformation.aspx>. Once on the page, you can search for your property using the interactive map. A dialogue box will provide you with the names of all civic groups within which your property may lie. Once you have those group names, scroll down the page to the appropriate group(s) to find the contact information for each.
4. **Please be advised that if you fail to discuss your request with your neighbors and neighborhood association(s), you should anticipate that your case will be continued until the Board's next regularly scheduled meeting.** It is highly recommended that you contact your neighborhood association as soon as possible to determine their meeting schedule in order to be sure you allow yourself enough time to talk to all concerned parties prior to the hearing before the Board. **The Board's Rules of Procedure require payment of a \$150.00 continuance fee if the applicant must request a continuance for the reason that the applicant failed to discuss their case with their neighbor(s) or neighborhood association(s).**
4. You are also strongly encouraged to discuss your pending case with the Secretary of the Board, Roy Benbow (804-240-2124) well before the hearing. The Secretary can be helpful by explaining the BZA public hearing process.
5. Utilizing photographs, plans, maps, diagrams and such other written or graphic evidence as needed to fully explain your request can be a great help to the Board in understanding your request and thereby improve your chances for success. Remember a picture is worth a thousand words.
6. Note that, although the Board is not authorized to grant a waiver from the zoning regulations based on financial circumstances alone, it may be a factor to be taken into consideration along with other facts in a case. If your case involves such a factor, please provide the Board with complete and relevant financial information for its review.
7. The Board's hearings are informal, although all testimony is taken under oath. You are not required to be represented by an attorney in presenting your case. However, if you choose, you may have legal representation and/or may utilize such technical experts or other persons to testify on your behalf as you feel are needed to adequately explain your request to the Board.

Acknowledgement of Receipt by Applicant or Authorized Agent: _____

(Revised: 4/28/16)

Parcel II: ALL the certain lot, piece or parcel of land, with improvements thereon and appurtenances thereto adjoining, lying and being in the City of Richmond, Virginia, known as 2305 West Broad Street, shown as a lot on a plat entitled "Improvements On Two Parcels of Land Located on the South Line of West Broad Street, Richmond, Virginia," made by Bazler and Associates, Inc., dated January 24, 2002, attached to a certain Deed recorded in the Clerk's Office, Circuit Court, City of Richmond, Virginia, as Instrument No. 02-7042, to which is made for a more particular description.

Beginning at a 10' high guard rail at the intersection of the West line of a Stranberry Street and the South line of W. Broad Street (US Route 337, US Route 250), said point being the POINT OF BEGINNING, thence, with the West line of Stranberry Street, S60°13'34"W, a distance of 129.05 feet to a 10' high guard along along the West line of Stranberry Street, thence, departing the West line of Stranberry Street, N63°49'38"W, a distance of 133.71 feet (along the West line of Stranberry Street) to a 10' high guard along the West line of Stranberry Street, thence, S78°17'07"E, a distance of 123.01 feet, to a 10' high guard along the South line of W. Broad Street (US Route 337, US Route 250), thence, with the South line of W. Broad Street (US Route 337, US Route 250), S53°48'38"E, a distance of 152.95 feet (passing through a rail round at 102.04 feet) returning to the Point of Beginning.

Described Parcel contains 0.572 acres, more or less

2311 West Broad Street, LLC
Inst #010034671
Parcel ID: W0001048018

1. **Tax for the parcel half of the year 2016, and subsequent years, not yet due and payable, NOT A SURVEY MATTER.**
 2. **For a survey entitled "11 ALMAGS LAND AND TITLE SURVEY PARCEL 1, 267 ACRES & PARCEL 2, 2.266 ACRES OF LAND LOCATED ON THE WEST SIDE OF WEST BROAD STREET & THE NORTH SIDE OF STANBERRY STREET, RICHMOND, VIRGINIA, dated February 4, 2016, prepared by Trimmans Group, Inc. MATTERS AS SHOWN**
 Utility poles and a bumper located throughout the insured premises. Disasters AS SHOWN

Flood Zone Information:
The property is located within an area having a Zone designation of "X" by the Federal Emergency Management Agency (FEMA) on Flood Insurance Rate Map No. 510122003JTD dated April 2, 2009 as delineated by a Web Map Services (WMS) connection to the National Flood Hazard Layer (NFHL), geospatial database on April 26, 2018.

Parcel 2 - WD001048029 - 2305 W. Broad Street, Richmond, VA 23220
Parcel 1 - WD001048025 - 2309 W. Broad Street, Richmond, VA 23220

No zoning report was provided to the surveyor

Inst #160007480

Parcel ID: W0001048029 (Parcel 2) & W0001048025 (Parcel 1),

Parcel Access:

Strawberry Street, a public, dedicated right-of-way.

Survey Notes:

01262-1943, date of policy April 25, 2016

3. The surveyed lands shown hereon are the same lands as described in the Title Commitment



To: CWC Food Services, LLC, Stewart Tile Guaranty Company

accordance with the 2016 Minimum Standard Detail Requirements for ALTA/ANSI Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes items 1, 2, 3, 4, 6a, 7a, 8, 18 and 20 of Table A thereof. The benchmark was completed on April 30, 2019.

Date of Plat or Map: April 30, 2019.

**TWO PARCELS OF LAND LYING AT
THE SOUTHWEST INTERSECTION OF
W. BROAD STREET AND
STRAWBERRY STREET
CITY OF RICHMOND VIRGINIA**



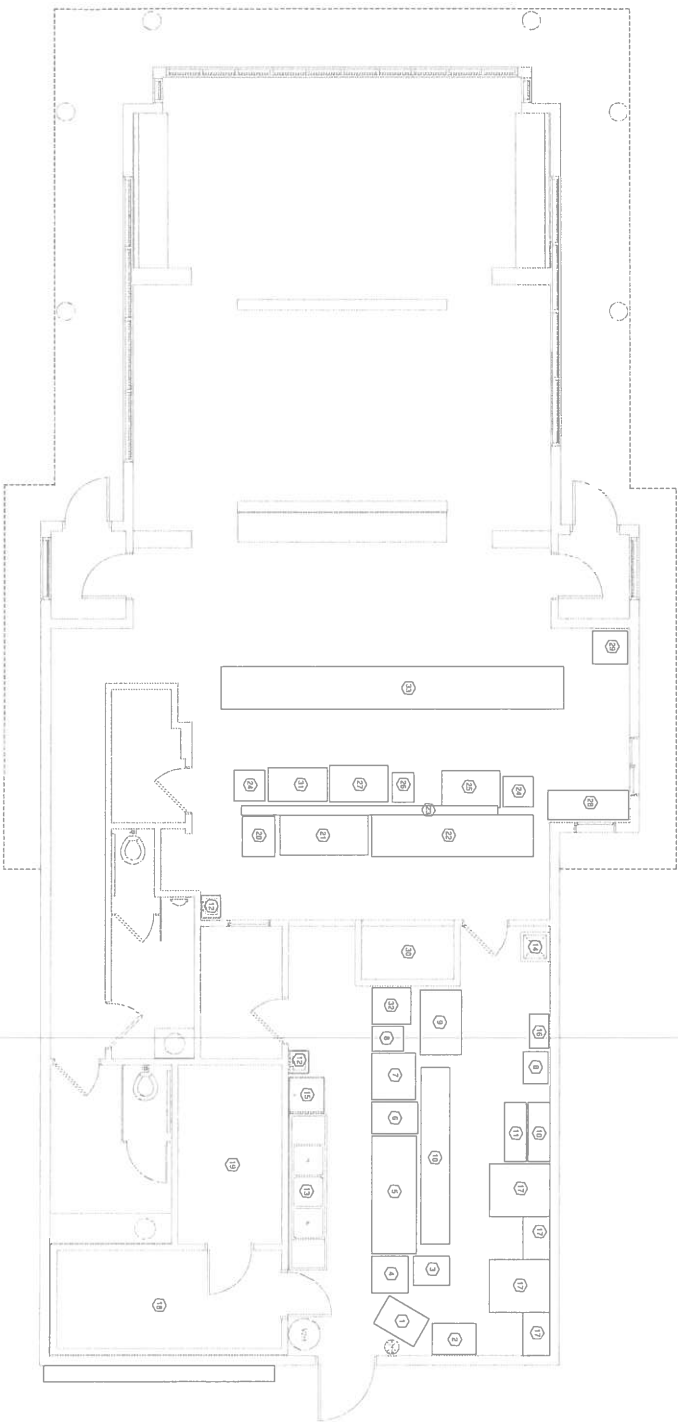
City of Richmond, Virginia	SCALE: 1" = 20'
DATE: April 30, 2019	
SHEET 1 OF 1	J.N./43636
DRAWN BY: W.R. Herx	CHECK BY: G. Delano
DESIGNED BY:	

TIMMONS GROUP 

YOUR VISION ACHIEVED THROUGH QUES.

THIS DRAWING PREPARED AT THE
CORPORATE OFFICE
1001 Boulders Parkway, Suite 300 | Richmond, VA 23225
TEL 804.200.6500 FAX 804.360.1016 www.12111001.com

Site Development	Residential	Infrastructure	Technology
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1 FLOOR PLAN
SCALE: 1/4" = 1'-0"

- EQUIPMENT LIST**
- 1. 26X36 ROLLING STAINLESS COUNTER
 - 2. 36X24 COOLING RACK
 - 3. 34X24 WINE CABINET
 - 4. 30X24 STAINLESS STEEL COUNTER
 - 5. 36X24 STAINLESS PREP SHELVING
 - 6. 26X36 ROLLING STAINLESS COUNTER
 - 7. DOUBLE OVEN
 - 8. TRAY RACK
 - 9. ICE MACHINE
 - 10. STOCK SHELVING
 - 11. 18X24 SHELVING
 - 12. HAND SINK
 - 13. THREE COMPARTMENT SINK
 - 14. MOP SINK
 - 15. SINGLE STAINLESS SINK
 - 16. BEVERAGE CENTER
 - 17. SHELVING
 - 18. WALK-IN FREEZER
 - 19. WALK-IN COOLER
 - 20. REFRIGERATOR
 - 21. SANDWICH BOARD
 - 22. STAINLESS PREP
 - 23. HALLWAY
 - 24. BEVERAGE MACHINE
 - 25. 48X24 STAINLESS COUNTER
 - 26. WARMING UNIT
 - 27. DOUBLE FRYER
 - 28. P.O.S. STATION
 - 29. STAINLESS STEEL REFRIGERATOR
 - 30. 31X72 SINGLE UNIT W/ HOOD
 - 31. 48X24 STAINLESS COUNTER
 - 32. HOLDING CABINET
 - 33. SERVICE COUNTER

REVISIONS:
DATE DESCRIPTION

PROJECT NAME:
Project Name

OWNER:
Owner

DRAWING NAME:
FLOOR PLAN

AS BUILT
DESIGNED BY: Designer
DRAWN BY: Artist
CHECKED BY: Designer
PROJECT NAME: Project Name
Date: 10 JAN 2020

A101

Applicant's Statement
Special Exception Application
2309 West Broad Street
Tax Map No. W-000-1048/025

August 13, 2020

This application is a request for a special exception by the owner of 2309 West Broad Street ("the Property"). The Property is currently improved with a building that was constructed for the purpose of a restaurant with a drive-up facility and which was formerly occupied by an Arby's restaurant. The Property is currently vacant.

The Property is zoned UB-Urban Business and is within the PO-4 West Broad Street Parking Overlay district. The UB District sets forth the following requirement pursuant to Division 18 of the City Zoning Ordinance (the "Code"):

"Sec. 30-433.2.- Permitted principal and accessory uses. The uses of buildings and premises listed in this section shall be permitted in the UB district, provided that drive-up facilities and facilities for dispensing motor fuels shall not be permitted in conjunction with any of the uses permitted in the district..."

REQUEST:

The property owner would now like to utilize the building as a coffee shop with a drive-up facility. The UB District permits the restaurant use, including coffee shops, but does not permit drive-up facilities in conjunction therewith. The use of the drive-up facility in conjunction with the former restaurant use was a permitted use until November 13, 1995 (Ordinance 95-306-272) when the Property was rezoned from B-3 General Business District to the UB District. Subsequent to the rezoning, the drive-up facility remained in operation without interruption until on or about April 21, 2016, when the Arby's restaurant closed.

A new certificate of occupancy (CO-034015-2018) was requested by the owner for a restaurant with drive-up facility on April 19, 2018. The certificate of occupancy was actually approved on September 4, 2018. It was the owner's intent that with the approval of a new certificate of occupancy, the rights associated with the then nonconforming drive-up facility would be extended for two years. The owner had originally intended to use the drive-up facility for its own use, and then as circumstances changed, to have a tenant use the drive-up facility. A second tenant is now interested in the use of the drive-up facility in conjunction with a coffee shop and the owner of the Property desires to establish the right of the drive-up facility through the special exception process. While the owner has not received a written determination from the Zoning Administrator, the processing of this special exception request supports the assumption that the nonconforming rights associated with the drive-up facility have been deemed by the City to have been lost. Accordingly, while the restaurant use (coffee shop) is still permitted by right, a special exception is now needed in order to utilize the drive-up facility, consistent with the Property's original design.

POSITION STATEMENT FOR SPECIAL EXCEPTION:

Pursuant to Code of Virginia, § 15.2-2309, the following exceptions to the district regulations or other restrictions set out in the Zoning Ordinance may be granted by the Board of Zoning Appeals ("the Board"), provided such exceptions shall by their design, construction and operation adequately safeguard the health, safety and welfare of the occupants of the adjoining and surrounding property, shall not unreasonably impair an adequate supply of light and air to adjacent property, shall not increase congestion in streets and shall not increase public danger from fire or otherwise unreasonably affect public safety and shall not diminish or impair the established property values in surrounding areas. In granting an exception, the Board shall be satisfied that it is consistent with the intent statement and the conditions as set forth in the particular exception, and the Board may attach such specific conditions and limitations as it deems necessary to satisfy the general conditions of this paragraph and the intent of the exception.

The proposed re-use of the Property for a coffee shop with drive-up facility would adequately safeguard the health, safety and welfare of the occupants of the adjoining and surrounding property, shall not unreasonably impair an adequate supply of light and air to adjacent property, shall not increase congestion in streets and shall not increase public danger from fire or otherwise unreasonably affect public safety and shall not diminish or impair the established property values in surrounding areas. The Arby's restaurant with drive-up facility occupied the Property for 48 years prior to its closing in 2016 without demonstrating any issues related to its use. The proposed user will continue to use the structure, including the drive-up facility, as it is currently constructed. This continued use of the structure will have no more impact than has occurred in the prior 48 years of its use.

Intent Statement:

Sec. 30-1040.3(14), Nonconforming use: reestablishment or change in use, identifies the intent statement as follows:

"In some cases, nonconforming uses have been discontinued and buildings have remained vacant for a period of two years or longer where there was no intent to relinquish the nonconforming rights associated with the property. In other cases, nonconforming uses have been changed to uses in violation of applicable provisions of this chapter. In many of these instances, the buildings in question have little or no potential for conforming uses, and occupancy by the last nonconforming use, or a more restricted use or other limited use would result in reasonable economic use and improvement of the property and would be in the best interest of the neighborhood and the general public."

There was no intent to relinquish the nonconforming rights associated with the Property. The Property was initially purchased in 2016 with the intent of establishing a restaurant with drive-up facility for a different user. That potential use of the Property was abandoned as the installation of the Pulse Corridor improvements limited access to the property by eliminating access for west-bound traffic on Broad Street. The subsequent request for a certificate of occupancy and other necessary permits to the owner and first tenant demonstrated an attempt to continue use of the nonconforming rights and to otherwise delay the expiration of the nonconforming rights associated with the drive-up facility. It was not learned that the nonconforming rights may have been lost until the current opportunity to occupy the Property with a coffee shop and drive-up facility presented itself earlier this year.

The portions of the building, structures, and site improvements related to the drive-up facility have no potential for a conforming use. Moreover, the companion restaurant use of the Property, while conforming, is part and parcel with the drive-up facility use. The restaurant and drive-up facility are designed to work in conjunction with one another and include purpose-built improvements specifically designed for the automobile which cannot accommodate a conforming use within the UB district. As a result, the inability to occupy the drive-up facility related improvements challenges the reasonable re-use of the entire Property. In this instance, occupancy by the last nonconforming use would result in reasonable economic use and improvement of the Property by virtue of a new tenant upfit. The resulting use would be reasonable, would be neighborhood-serving, and would be in the best interest of the public.

Conditions:

Sec. 30-1040.3(14), Nonconforming use: reestablishment or change in use, authorizes the Board to re-establish a nonconforming use of a building or structure which has been discontinued for a period of two years or longer, provided that:

- a. The property owner can show to the satisfaction of the Board that the property was acquired or the current use was established in good faith and that the building or structure cannot reasonably be devoted to a conforming use;

The Property was acquired in good faith and the need for special exception was not created by the applicant. The special exception is not sought to correct a violation of the zoning ordinance existing on the property when it was acquired by an owner who knew of the violation. The owner intended to use the drive-up facility for its own purpose. Certainly upon purchase in 2016, the drive-up facility was still able to be used as it had been inactive for less than 2 years. Further, the owner has taken action, by obtaining a certificate of occupancy in 2018, and other permits and inspections necessary for a restaurant operation with use of the drive-up facility. The attached certificate for the Food Establishment Permit was received on February 26, 2020, with an expiration date of March 31, 2021. Based on the issuance of the various permits, the owner and tenant were prepared to open a food service with the drive-through on the Property in March of 2020.

The portions of the building, structures, and site improvements related to the drive-up facility use cannot reasonably be devoted to a conforming use. The drive-up facility includes purpose-built improvements specifically designed for the automobile which cannot accommodate a conforming use within the UB district.

- b. If a nonconforming use is changed to a more restricted use or a conforming use, the Board shall not authorize re-establishment of the nonconforming use or any change to a less restricted use;

Not applicable. The use of the Property was never changed to a more restricted or confirming use.

- c. If the building or structure is vacant or the nonconforming use has been changed to an illegal use, the Board may authorize re-establishment of the last nonconforming use or change to a use that meets all of the criteria set forth in Section 30-800.3(a), except that the Board may authorize change to a use that does not meet the off-street parking criteria of that subsection if the Board finds that the change will not result in an adverse impact on the neighborhood due to an inadequate supply of parking; and

The request is to authorize re-establishment of the last nonconforming use. Off-street parking requirements would be met for the Property.

- d. In all other respects the property shall continue to be subject to the rights and limitations set forth in Article VIII of this chapter relative to nonconforming uses, except that the Board may impose such conditions and further limitations as it may deem necessary in the public interest.

The applicability of the rights and limitations set forth in Article VIII of the zoning ordinance relative to nonconforming uses are noted and will be met.

Conclusion:

It is the applicant's position that the statutory requirements of the Code of Virginia, § 15.2-2309, as well as the specific intent statement and conditions contained within the City Zoning Ordinance are met as set forth above. There was no intent to relinquish the nonconforming rights associated with the Property and in fact, the owner and its tenant, have received permission from the City to use the drive-up facility through inspections and permits.

Further, the improvements in question have little or no potential for conforming uses. Use of the building as a coffee shop or other food use, with the drive-up facility will not adversely impact the surrounding community and in fact will have the same use that has existed for almost 50 years. The restaurant and drive-up facility are designed to work in conjunction with one another and include purpose-built improvements specifically designed for the automobile which cannot accommodate a conforming use within the UB district. Occupancy by the last nonconforming use would result in reasonable economic use and improvement of the Property and would be in the best interest of the Property, the neighborhood and the general public.



CERTIFICATE OF OCCUPANCY

CITY OF RICHMOND
DEPARTMENT OF PLANNING
& DEVELOPMENT REVIEW

BUREAU OF PERMITS
& INSPECTIONS

PDRPermitsAndInspections@Richmondgov.com

To Request an inspection, call 311

ISSUE DATE: 9/4/2018

CO-034015-2018

SITE ADDRESS: 2309 W Broad St
Richmond, VA 23220

PARCEL NUMBER: W0001048025

PERMIT DESCRIPTION: CO for tenant change of existing restaurant. DBA: CWC Food Services, LLC

OCCUPANCY LOAD/FLOOR:

NO. OF PARKING SPACES:

VALUATION GROUP: A2B - Restaurant (Eat In)

VALUATION TYPE: 5B

INSPECTOR NAME: David Alley

INSPECTOR PHONE: 804-513-6939

INSPECTOR EMAIL ADDRESS: David.Alley@richmondgov.com

PERMIT CONTACT INFORMATION

OWNER NAME: J W Willis

OWNER PHONE:

LESSEE NAME: CWC FOOD SERVICES, LLC

LESSEE PHONE:

FEE INFORMATION

Certificate of Occupancy	\$263.00
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TOTAL FEES	\$263.00
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SPECIAL TERMS AND CONDITIONS

ZONING: Tenant change for existing fast food restaurant with drive-thru and accessory parking. No new signage authorized with this certificate. Nineteen (19) parking spaces required and provided on-site.

BUILDING: TENANT CHANGE FOR EXISTING SIT-DOWN RESTAURANT.
MAX OCCUPANCY 49


A. R. Abbasi
Commissioner of Buildings

RICHMOND CITY
HEALTH DISTRICT

Food Establishment Inspection Report

Richmond City Health District
400 East Cary Street Richmond, VA 23219 (804) 205-3512

Page 2 of 1
Time in: 11:15
Time out: 12:15

- Purpose:
☒ 1 Pre-opening
☐ 2 Follow-up
☐ 3 Complaint
☐ 4 Foodborne illness
☐ 5 Other

Establishment Name: CWC Foods Address: 2309 West Broad St.
 Date: 02/26/20 Certified Food Manager: Ryan Converse Exp. Date: 12/13/20 cert # 1287308
 Person in Charge: Ryan Converse

All Time/Temperature Control for Safety Foods (TCS) must satisfy safe temperature requirements during storage, preparation, display, service, and transportation. Safe temperatures include but not limited to: Cooked poultry $\geq 165^{\circ}\text{F}$; Cooked ground beef $\geq 155^{\circ}\text{F}$; Cooked pork $\geq 145^{\circ}\text{F}$; Reheating TCS foods for hot holding $\geq 165^{\circ}\text{F}$; Hot holding $\geq 135^{\circ}\text{F}$; Cold holding $\leq 41^{\circ}\text{F}$.

The following temperatures observed: WIC - water bottle 35°F

Violations noted in this report must be corrected within the time frames below, or as stated in section 2-401.1 of the Virginia Food Regulations. The regulations can be viewed at <http://www.vdh.virginia.gov/environmental-health/food-safety-in-commercial-regulations>

2830 - Core molding in WIC pulling from wall.
► fix core molding

3300 - unused equipment in back area.
► Remove unnecessary equipment.

APPROVED TO OPERATE

APPROVED FOR PERMIT

Person in Charge: X Ryan Converse Inspector: Chas. A. Crowe Date: 2/26/20

This inspection report sets forth the health department's observations, alleged violations, and recommendations for compliance, but it is not a case decision as defined in Code of Virginia §2.2-400.1. If you have additional facts you believe bear on this inspection and would like to schedule an informal fact finding conference (FFC) pursuant to Code of Virginia §2.2-401.8, please contact the Environmental Health Specialist referenced on this inspection report within fifteen days of receipt of this document. Should an FFC be scheduled and you fail to appear absent good cause, the Virginia Department of Health may issue an adverse case decision as contemplated by Code of Virginia §2.2-402.1. This form contains information that could be subject to disclosure under Code of Virginia §2.2-3700.



COMMONWEALTH of VIRGINIA
Virginia Department of Health



CERTIFIES THAT

CWC Food Services, LLC

is hereby granted a permit/license to operate a

FOOD ESTABLISHMENT

TRADING AS:

CWC FOODS

LOCATED AT

2309 W. BROAD STREET

RICHMOND, VA 23230

*In accordance with the regulations of the Board of Health of the
Commonwealth of Virginia:*

Facility Type: Fast Food Restaurant

MAXIMUM SEATING CAPACITY: 10

Expiration Date: March 31, 2021

"Concerns or Questions Call: (804) 205-3912"

Health Official

THIS PERMIT IS NOT TRANSFERABLE FROM ONE INDIVIDUAL OR LOCATION TO ANOTHER