INTRODUCED: July 27, 2020

AN ORDINANCE No. 2020-182

To authorize the special use of the property known as 5312 Wingfield Street for the purpose of 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: SEP 14 2020 AT 6 P.M.

WHEREAS, the owner of the property known as 5312 Wingfield Street, which is situated in a R-5 Single-Family Residential District, desires to use such property for the purpose of a single-family detached dwelling, which use, among other things, is not currently allowed by sections 30-410.5(1), concerning front yards, 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 (2019), 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

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ADOPTED:	SEP 14 2020	REJECTED:		STRICKEN:	

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 5312 Wingfield Street and identified as Tax Parcel No. E000-2039/007 in the 2020 records of the City Assessor, being more particularly shown on a survey entitled "Building Permit Plot Plan, 5312 Wingfield St, Lot 20, Powhatan Subdivision, Richmond, Virginia," prepared by Parker Design Group, Inc., dated April 12, 2019, and last revised June 24, 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 single-family detached dwelling, substantially as shown on the plans entitled "Winchester Modified," prepared by Cardinal Homes, Inc., dated January 16, 2019, and last revised March 28, 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 single-family detached dwelling, substantially as shown on the Plans and on the survey entitled "Building Permit Plot Plan, 5312 Wingfield St, Lot 20, Powhatan Subdivision, Richmond, Virginia," prepared by Parker Design Group, Inc., dated April 12, 2019, and last revised June 24, 2019, a copy of which is attached to and made a part of this ordinance.

- (b) 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 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 the application for the certificate of zoning compliance is not made with 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:

andin D. Ril

City Clerk

By Barbara Fore at 9;25 am, Jul 20, 2020

City of Richmond

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

Item Request

File Number: PRE.2020.224

O & R Request

DATE:

June 26, 2020

EDITION: I

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 hehalf of the Mayor.)

THROUGH: Lenora G. Reid, Acting Chief Administrative Officer land

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 5312 Wingfield Street for the purpose

of 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 5312 Wingfield Street for the purpose of a single-family detached dwelling, upon certain terms and conditions.

REASON: The applicant is requesting relief from the front yard set-back requirement of Section 30-630.2(a)(1) of the City's zoning ordinance which calls for front yards to have a minimum depth of not less than the average depth of the front yards of the adjacent buildings. The dwelling does not meet these requirements. 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 8, 2020. meeting.

BACKGROUND: The subject property consists of a 6,500 SF or 15 acre parcel of land improved with a 1.568 SF building recently constructed in 2019. After construction was completed, it was determined that the new building was constructed 4.2 inches off the required front yard depth. The proposed special use permit would remedy this setback issue.

The property is located in the Fulton neighborhood within the City's East Planning District. The City of Richmond's Master Plan designates the subject property for Single-Family (Low Density) land use which features primarily "...single-family detached dwellings at densities up to seven units per acre. Includes residential support uses such as schools, places of worship, neighborhood parks and recreation facilities, and limited public and semi-public uses. Typical zoning classifications that may accommodate this land use category: R-1, R-2, R-3, R-4, and R-5."(City of Richmond Master Plan)

Adjacent properties are the same R-5 district as the subject property. Single-family and vacant land uses predominate the immediate vicinity of the subject property.

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 27, 2020

CITY COUNCIL PUBLIC HEARING DATE: September 14, 2020

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: City Planning Commission

September 8, 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: 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 Div s on 900 E Broad Street, Room 51 Richmond Virginia 23219 (804) 646-6304

51 E.C. 3702000044

ax Map # E0002039007 Fee, \$300 otal area of affected site in acres 0.149 See page 6 for fee schedule please make check payable to the "Cli		
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Proposed Use		
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Existing Use Single-family dotached dwelling	H=7.7	
s this property subject to any previous land use cases?)	
<u>Yes</u> <u>No</u>		
Ir Yes, please list the Orginance Number		and the state of t
Applicant/Contact Person: Mark Baker		
Company: Baker Development Resources		
Mailing Ariciness 1519 Summit Ave., Suite 102		
City: Richmond	State: VA	Zp Code 23230
Telephone: _(804)874-6275	Fax (, and a standard population of the state of the state of the standard standard standard the standard s
Email MarkBaker@bakerdovolopmentresources.com		
Property Owner: Cava Capital, LLC	Frank Paus	
If Business Entity, name and title of authorized signee	Frank Gova	
(The person or persons executing or attesting the execution of this -	hoph at the chornal	of the Company cert fee that he o
she has or have been didy authorized and empowered to so exist the	or access?	
Mailing Address 5318 Market Hd. Suita 104	Z	Zip Code 23230
	State VA	TID FEDGE SPERM
City Richmond		
	Fax _()

The names addresses, telephone numbers and signatures of all pixters of the property are required. Flease attach additional sheets as needed. If a legal representative signs for a property pixter in ease attach an executed power of attorney. Faxed or photocopied signatures will not be accepted.

NOTE: Please attach the required plans, check ist, and a check for the application file, see Fling Procedures or special use permitting



June 12, 2020

Mr. Matthew Ebinger
City of Richmond
Department of Planning and Development Review
Land Use Administration Division, Room 511
City Hall, 900 E Broad Street
Richmond, Virginia 23219

Re: Special Use Permit: 5312 Wingfield Street

Dear Matthew.

I am representing the property owner in an application for a special use permit (SUP) for the property known as 5312 Wingfield Ave, identified as Tax Parcel E000-2039/007 (the "Property"). The Property is located on the eastern side of Winfield Street, south of Potomac Street. The Property consists of a lot which is 50 feet in width and 130 feet in depth and contains approximately 6,500 square feet of lot area. A single-family dwelling was constructed on the Property in good faith pursuant to a building permit (BLDR-055348-2019) issued on June 28, 2019 and is substantially complete.

The Property is zoned R-5 Single-Family Residential, which requires a front yard with a depth of not less than 25 feet subject to the exceptions outlined in Section 30-630.2 in instances where adjacent main buildings exist. According to Section 30-630.2(2), the front yard requirement for the Property is a minimum depth of not less than the average depth of the front yards of the adjacent buildings, resulting in a required setback of 17.55 feet.

The developer followed the appropriate steps and showed good faith throughout the pursuit of the needed approvals for the construction of the dwelling. The developer was aware of the applicable zoning requirements and the design and building placement reflected on the plans attached to the approved building permit demonstrated compliance. Unfortunately, the entire dwelling was unintentionally constructed approximately 0.35 feet (4.2 inches) closer to Wingfield Street than intended and as shown on the building permit plans. Furthermore, the error was not identified until the as-built survey was completed – after the dwelling had been constructed and was substantially complete. Based on the resulting setback of 17.2 feet, a special use permit is necessary in order to authorize the existing encroachment into the front yard of 0.35 feet.

This SUP would legitimize a newly constructed, infill dwelling that was built in good faith. The error is nor perceptible as viewed from the street and the overall project is consistent with the development pattern in the area. The dwelling design works well in the exiting development context. By providing relief for the front yard requirement, the SUP would allow for the occupancy of this quality single-family dwelling, thereby addressing objectives of the Master Plan, including:

- · The desire for new and better-quality housing that is targeted to homeowners
- The desire for increased opportunities for residential development

- The recognition that the vast majority of opportunities for new development are located in the context of existing neighborhoods
- The recognition of the difficulty that an older/aging housing stock represents in the market where new convenience/easy maintenance is desired.

The following are factors indicted in Section 17.11 of the Charter and Section 30-1050.1 of the Zoning Ordinance relative to the approval of special use permits by City Council. The proposed special use permit will not:

• Be detrimental to the safety, health, morals and general welfare of the community involved.

The proposed SUP will not impact the safety, health, morals and general welfare of the nearby community. The site improvements and density are consistent or compatible with the lot pattern existing in the vicinity. The development and its quality/benefits provided by the SUP provide positive impacts in terms of health, welfare, etc.

• Tend to create congestion in streets, roads, alleys and other public ways and places in the area involved.

The proposed SUP will not result in significant traffic impacts to nearby residential neighborhoods. This dwelling does not impact density as it replaced a previously existing home on the same lot. Ample off-street parking is provided on site. As such, the SUP will not create congestion on streets, roads, alleys or any other public right of way.

· Create hazards from fire, panic or other dangers.

The property has been developed in a manner consistent with the requirements of the building code and in accordance with the requirements of Fire and Emergency Services. The City's codes applicable to this development are designed to eliminate such hazards.

Tend to overcrowding of land and cause an undue concentration of population.

The proposed SUP will not tend to over crowd the land or create an undue concentration of population. The dwelling replaced a previously existing home on the same lot and is consistent and compatible based on the existing varied lot pattern in the vicinity.

 Adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences and improvements.

The proposed SUP would not adversely affect the above referenced City services. To the contrary, the dwelling provides positive fiscal (tax) benefits that enhance the City's ability to provide these services to the proposed development.

Interfere with adequate light and air.

The light and air available to the subject and adjacent properties is not be affected.

In summary, the applicant is seeking approval for the existing quality single-family dwelling on the Property. The improvements to the Property represent an ideal, contemporary, urban infill development for this location. The SUP would not represent a substantial variation from the approved building plans while the dwelling is respectful to the existing development pattern in the vicinity and addresses multiple objectives contained within the Master Plan.

Thank you for your time and consideration of this request. Please let me know if you have any questions.

Sincerely,

Mark R. Baker

Baker Development Resources, LLC

cc: The Honorable Cynthia Newbille

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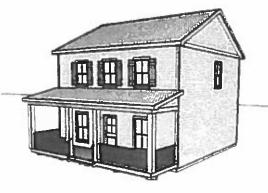
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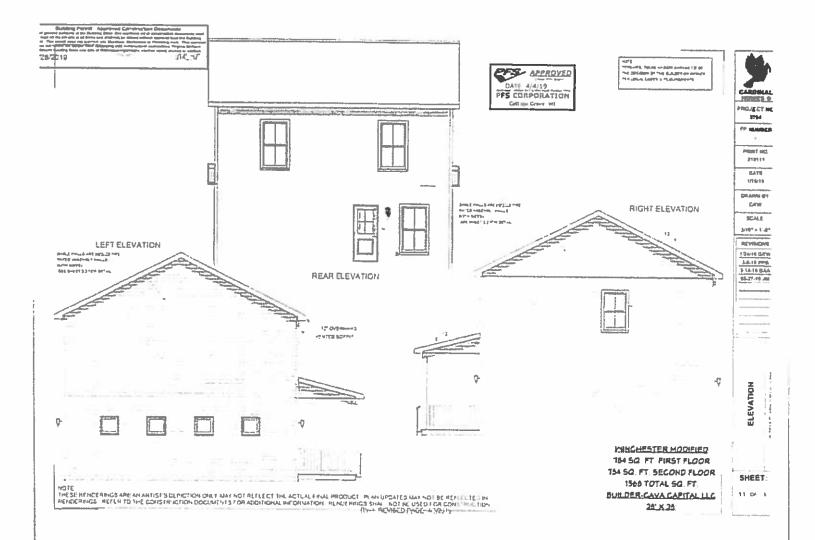
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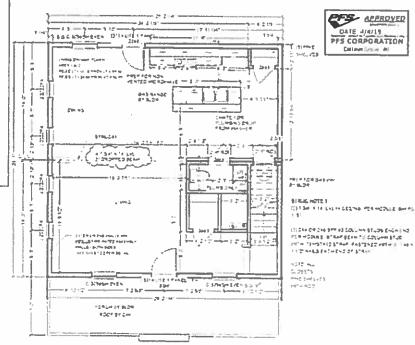
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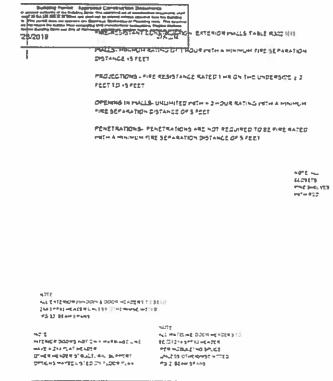






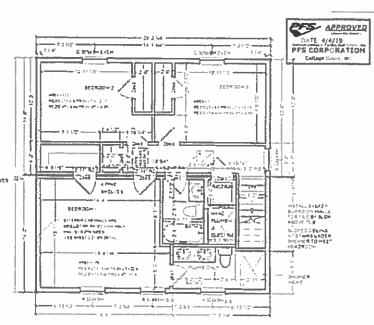
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