

INTRODUCED: May 10, 2021

AN ORDINANCE No. 2021-131

To authorize the special use of the property known as 212 East Clay Street for the purpose of a mixed-use building, upon certain terms and conditions.

\_\_\_\_\_  
Patron – Mayor Stoney (By Request)

\_\_\_\_\_  
Approved as to form and legality by  
the City Attorney  
\_\_\_\_\_

PUBLIC HEARING: JUN 14 2021 AT 6 P.M.

WHEREAS, the owner of the property known as 212 East Clay Street, which is situated in a B-2 Community Business District, desires to use such property for the purpose of a mixed-use building, which use, among other things, is not currently allowed by section 30-436.1(12) of the Code of the City of Richmond (2020), as amended; and

WHEREAS, in accordance with section 17.11 of the Charter of the City of Richmond (2020), 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

AYES:                  9            NOES:                  0            ABSTAIN:        \_\_\_\_\_

ADOPTED:          JUN 14 2021     REJECTED:        \_\_\_\_\_      STRICKEN:        \_\_\_\_\_

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 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 (2020), 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 212 East Clay Street and identified as Tax Parcel No. N000-0039/016 in the 2021 records of the City Assessor, being more particularly shown on a survey entitled “Condominium Plat of 212 East Clay Condominium, Being #212 East Clay Street, City of Richmond, Virginia,” prepared by Shadrach & Associates LLC, and dated September 15, 2008, 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 mixed-use building, hereinafter referred to as “the Special Use,” substantially as shown on the plans entitled “212 East Clay Street Renovations,” prepared by BAM Architects LLC, dated June 29, 2006, and last revised September 18, 2006, 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 mixed-use building. One of the dwelling units may be located below the ground floor of the building, on the basement level.

(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 (2020), 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 (2020), 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.

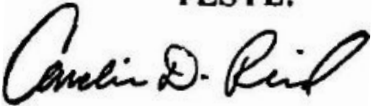
(e) The privileges granted by this ordinance may be revoked pursuant to the provisions of sections 30-1050.7 through 30-1050.11 of the Code of the City of Richmond (2020), as amended, and all future amendments to such laws. Failure to comply with the terms and conditions of this ordinance shall constitute a violation of section 30-1080 of the Code of the City of Richmond (2020), 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 building permit 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 building permit shall be made within 730 calendar days following the date on which this ordinance becomes effective. If either the application for the building permit is not made within the time period stated in the previous sentence or the building permit 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:**  
  
**City Clerk**

# City of Richmond

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

## Item Request

File Number: PRE.2021.610

### O & R Request


**DATE:** April 9, 2021

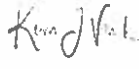
**EDITION:** 1

**TO:** The Honorable Members of City Council

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

**THROUGH:** J.E. Lincoln Saunders, Acting Chief Administrative Officer 

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

**FROM:** Kevin J. Vonck, Acting Director, Department of Planning and  
Development Review 

**RE:** To authorize the special use of the property known as 212 East Clay Street for the purpose of  
a mixed-use building, upon certain terms and conditions.

**ORD. OR RES. No.** \_\_\_\_

**PURPOSE:** To authorize the special use of the property known as 212 East Clay Street for the purpose of  
a mixed-use building, upon certain terms and conditions.

**REASON:** The applicant is requesting a Special Use Permit for the purpose of basement dwelling unit  
within a B-2 Community Business Zoning District. The proposed use is not currently allowed by section  
30-436.1(12) of the Code of the City of Richmond 2020, regarding dwelling units below the ground-floor of  
a commercial use. 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 June 7, 2021, meeting.

**BACKGROUND:** The property is currently improved with a 30,245 sq. ft. mixed-use building,  
constructed in 1908, situated on a 9,757 sq. ft. (.22 acre) parcel of land. The property is located in the City  
Center neighborhood at the intersection of East Clay Street and 3rd Street.

The City's Richmond 300 Master Plan designates a future land use for the subject property as Neighborhood Mixed-Use which is defined as "existing or new highly-walkable urban neighborhoods that are predominantly residential with a small, but critical, percentage of parcels providing retail, office, personal service, and institutional uses."

**Primary Uses:** Single-family houses, accessory dwelling units, duplexes, small multi-family buildings (typically 3-10 units), and open space.

**Secondary Uses:** Large multi-family buildings (10+units), retail/office/personal service, institutional, cultural, and government.

The current zoning for this property is B-2 Community Business Zoning District. Adjacent properties are located within the same B-2 District, as well as the B-4 Central Business, B-6 Mixed-Use District, and DCC Downtown Civic and Cultural District within close proximity 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:** May 10, 2021

**CITY COUNCIL PUBLIC HEARING DATE:** June 14, 2021

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** None

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** City Planning Commission  
June 7, 2021

**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:** Application Form, Applicant's Report, Draft Ordinance, Plans, Survey, Map

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





Application for **SPECIAL USE PERMIT**

Department of Planning and Development Review  
Land Use Administration Division  
900 E Broad Street, Room 511  
Richmond, Virginia 23219  
(804) 646-6304  
<http://www.richmondva.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: 212 E Clay Street Date: 1/20/2021  
Tax Map #: N000-0039/016 Fee: \$300  
Total area of affected site in acres: 0.224

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

**Zoning**

Current Zoning: B-2

Existing Use: Mixed-Use

**Proposed Use**

(Please include a detailed description of the proposed use in the required applicant's report)  
Addition of one (1) basement level dwelling unit within existing mixed-use building

Existing Use: Mixed-Use Building

Is this property subject to any previous land use cases?

Yes  No  If Yes, please list the Ordinance Number: \_\_\_\_\_

**Applicant/Contact Person:** Mark Baker

Company: Baker Development Resources  
Mailing Address: 1519 Summit Ave., Suite 102  
City: Richmond State: VA Zip Code: 23230  
Telephone: (804) 874-6275 Fax: ( )  
Email: markbaker@bakerdevelopmentresources.com

**Property Owner:** Robert Lee

If Business Entity, name and title of authorized signee: \_\_\_\_\_

(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: 6924 Swanhaven Dr  
City: Richmond State: VA Zip Code: 23234  
Telephone: (703) 395-4990 Fax: ( )  
Email: rlee87@gmail.com

**Property Owner Signature:**

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 15, 2021

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: 212 E Clay Street (N0000-039/016)**

Mr. Ebinger,

This letter shall serve as the Applicant's Report accompanying the application for a special use permit (the "SUP") for the property known as 212 E Clay Street, identified as Tax Parcel N-000-039/016 (the "Property"). The Property is located on the north side of E Clay Street between N 2<sup>nd</sup> and N 3<sup>rd</sup> Streets. The Property consists of approximately 0.224 acres of lot area and is occupied by a mixed-use residential building containing 24,196 square feet of floor area. The building was built in 1908 and was redeveloped as 12 multi-family dwelling units (condominiums) with 4,500 square feet of ground-floor commercial uses. The SUP would permit an additional dwelling unit on the basement level of the structure.

The applicant is proposing to build out an existing unfinished portion of the basement level that is already defined as an individual unit within the condominium documents. The area in question was envisioned as a dwelling unit as part of the original adaptive reuse of the building but was never built out as it was not permitted at the time. The Property is zoned B-2 Community Business which permits multi-family dwelling units in conjunction with ground floor commercial uses provided that the dwellings are "located above the ground floor of the building or to the rear of other permitted principal uses". Because the area subject to this request is technically below the ground floor commercial uses the requirement related to the location of dwelling units would not be met. Therefore a SUP is required.

The commercial street frontage on E Clay and N 3<sup>rd</sup> Streets would remain unchanged. The proposed dwelling unit would be located in an area of the basement level that is directly accessible from the interior of the building via the open main stair. The area is also accessible by virtue of a dedicated entrance at the rear of the building. The dwelling would include one bedroom and one bath. It would be large for a one-bedroom dwelling with approximately 773 square feet of floor area. The floor area, along with existing high ceilings for a basement level, would make for a spacious dwelling. The dwelling would provide for a practical, efficient, and livable use of the space. It would include open living/dining space, a modern kitchen layout, washer and dryer, and ample storage. While the unit would technically be located on the basement level, the dwelling would include a window that penetrates the rear exterior wall of the building. An additional window would provide light from the open interior stairwell, which is well-lit with exterior windows. As a result, the proposed unit meets the intent of the Planning Commission's 2012 resolution concerning Light and Air.

The request is respectful of future land use guidance applicable to the Property in terms of use and development character. The Richmond 300 Plan suggests the "Neighborhood Mixed Use" future land use designation for the Property. That designation recommends buildings with ground-floor retail uses that face the street creating "highly-walkable urban neighborhoods." Objective 4.1 of the High-Quality Places section of the Master Plan also promotes walkable urban neighborhoods which are "overall less-reliant on the automobile and feature non-residential destinations within a short walk, bike ride, or transit trip." The request is also consistent with the guidance provided for the Jackson Ward Priority Growth Node where the City is encouraging the comparatively more significant growth in population and development over the next 20 years. Finally, the proposal is also consistent with the housing goals contained within the Richmond300 Plan which encourages more housing types throughout the city and greater density along enhanced transit corridors and at Nodes.

In exchange for the SUP, the intent of this request is to provide for a quality dwelling unit. The request would retain the uninterrupted commercial frontage for the building and the functional and architectural compatibility of the building with the surrounding area. The proposed dwelling would further contribute to the mixed-use character of the building and support existing ground floor commercial uses. The SUP would allow for the reasonable use of an underutilized portion of the building for which commercial uses would not be viable. By permitting the proposed development, the SUP would allow for the sale of the creation of a condominium ownership opportunity, thereby addressing objectives of the Master Plan related to housing.

The following are factors included 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 proposed dwelling is consistent with what would be permitted by right within the B-2 zoning classification but for the dwelling location requirement relative to commercial uses.

- ***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. The negligible traffic generation for one additional dwelling unit will easily be handled by the existing road network. An off-street parking space would be provided for the dwelling unit and the Property is in a very walkable location and has a strong connection to public transportation. 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 will be 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 request represents a density that is consistent with what would be permitted by right

within the B-2 district. The dwelling would not require any physical expansion of the existing building on the Property.

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

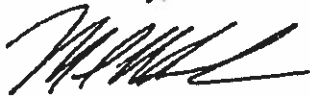
The SUP would not adversely affect the above referenced City services.

- ***Interfere with adequate light and air.***

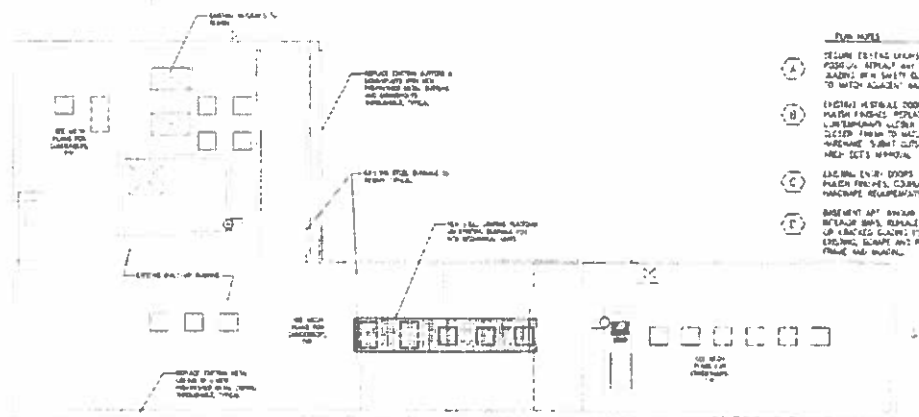
The light and air available to the subject and adjacent properties will not be affected. The proposed development would be interior to the building and would not involve any modification to the existing building footprint or massing.

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



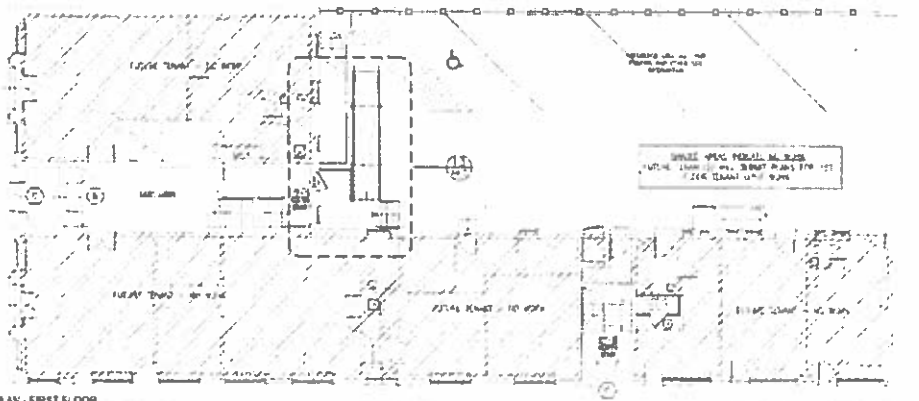
- FINISH NOTES**
- (A) REMOVE EXISTING ROOFING IN ALL AREAS. REPAIR AND PATCH ROOFING. PATCHES TO MATCH ADJACENT ROOFING.
  - (B) EXISTING METAL DOORS CLEAN AND PATCH FINISHES. REPLACE LATCHES AND HINGES. REMOVE DOORS WITH CRACKS FROM TO MATCH EXISTING. REPAIR AND PATCH FINISHES.
  - (C) EXISTING EXTERIOR DOORS CLEAN AND PATCH FINISHES. REPLACE AND NEW HINGES AS NECESSARY TO MEET CODES.
  - (D) REMOVE ALL EXISTING ROOFING. REPLACE WITH NEW ROOFING. PATCHES TO MATCH EXISTING ROOFING. PATCHES TO MATCH ADJACENT ROOFING.

**GENERAL NOTES**

1. SEE SHEET 071 FOR FINISHES AND DETAILS.

2. ALL DIMENSIONS UNLESS OTHERWISE NOTED.

R CONSTRUCTION PLAN - ROOF  
1/8" = 1'-0"



(A) REMOVES EXISTING FLOORING

(B) INDICATES EXISTING FLOORING

**FLOOR LEGEND**

EXISTING FLOORING

NEW FLOORING

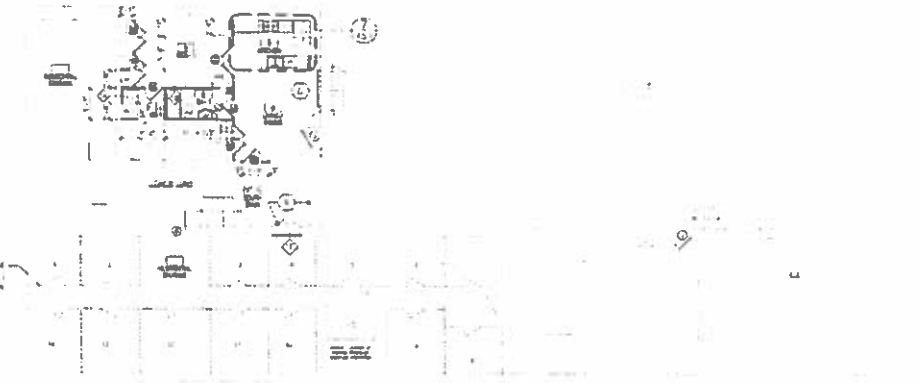
**FINISH LEGEND**

EXISTING WALL FINISHES

NEW WALL FINISHES

PLAN NORTH

1 CONSTRUCTION PLAN - FIRST FLOOR  
1/8" = 1'-0"



B CONSTRUCTION PLAN - BASEMENT  
1/8" = 1'-0"

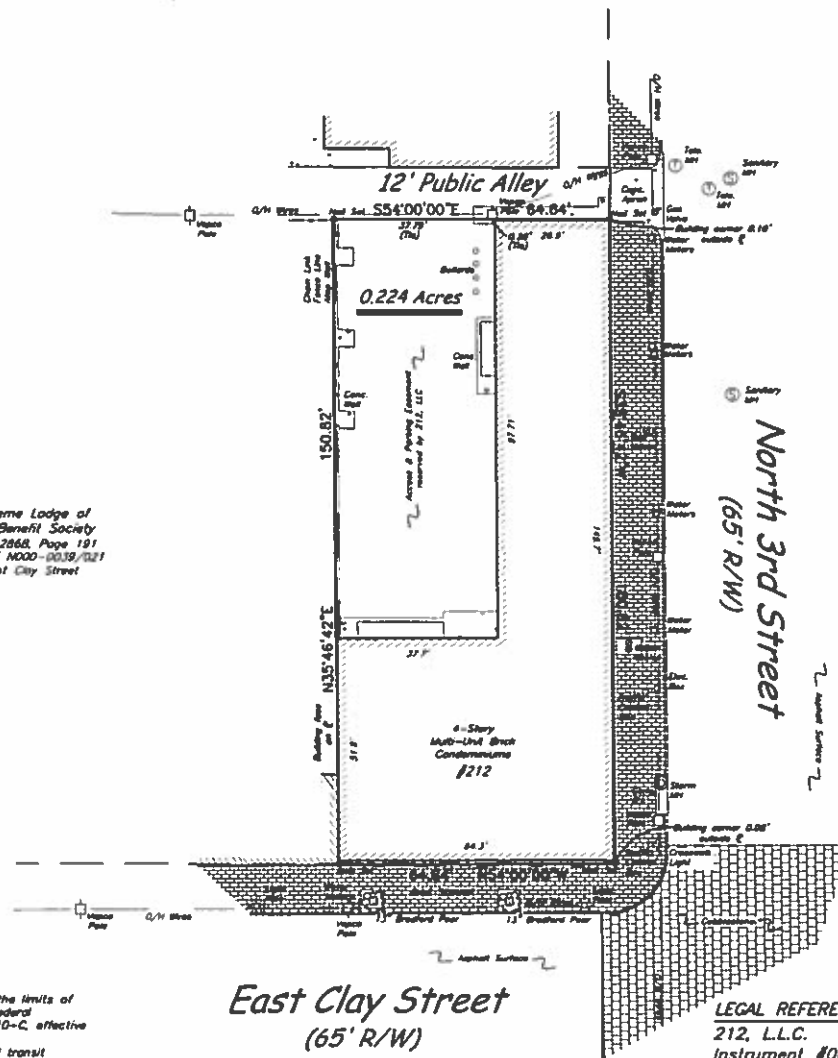
**bam**

212 East Clay Street  
Renovations

0612

CONSTRUCTION PLANS FLOORS B, 1, R

PROGRESSING TO DATE 2008



N/F Supreme Lodge of  
The Ideal Benefit Society  
Deed Book 2868, Page 191  
Tax Parcel # N000-0039/021  
#210 East Clay Street

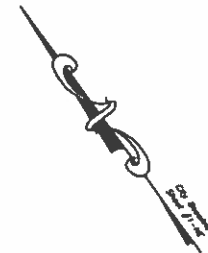
**Notes:**

1. The subject property appears not to be located within the limits of the 100 Year Flood Plain Boundary as defined by The Federal Insurance Administration Community-Panel #S10129-0010-C, effective date: July 20, 1998 (Zone X).
2. This survey plat represents a current and accurate field transit survey of the premises shown hereon.  
Date of last physical survey: May 2, 2008.
3. This survey was made without the benefit of a Title Report, therefore, there may be encroachances on the subject property which are not shown hereon.
4. Elevations based on City of Richmond Datum.
5. Any area not defined as a unit or limited common element is a common element.

I hereby certify that this boundary survey, to the best of my professional knowledge and belief, is correct and complies with the minimum procedures and standards established by the Virginia State Board of Architects, Professional Engineers, Land Surveyors, and Certified Landscape Architects.

I further certify that the information depicted hereon is shown accurately and complies with the provisions of Section 55-79.58(A) of the Virginia Condominium Act, as amended. The units depicted hereon have been substantially completed except as otherwise noted hereon.

Rodney B. Shadrach, L.S. #2274



CONDOMINIUM PLAT OF  
**212 East Clay  
Condominium**

BEING #212 EAST CLAY STREET  
CITY OF RICHMOND, VIRGINIA  
DATE: SEPTEMBER 15, 2008



Scale: 1" = 20'

**LEGAL REFERENCE**

212, L.L.C.  
Instrument #06-02-0754  
Tax ID #N000-0039/016  
#212 East Clay Street



**Shadrach & Associates LLC**

LAND SURVEYING  
430 Southside Blvd., Suite 10-B • Richmond, Virginia 23234  
Phone: (804)379-9300 • Fax: (804)379-9301