



## Legislation Details (With Text)

<b>File #:</b>	ORD. 2020-047	<b>Version:</b>	1	<b>Name:</b>	
<b>Type:</b>	Ordinance	<b>Status:</b>		Adopted	
<b>File created:</b>	12/3/2019	<b>In control:</b>		City Council	
<b>On agenda:</b>	5/4/2020	<b>Final action:</b>		5/11/2020	
<b>Title:</b>	To amend and reordain Ord. No. 2003-375-337, adopted Dec. 8, 2003, which authorized the special use of the property known as 1100-1102 West Cary Street and 20-22 South Harrison Street for the purpose of certain enumerated uses in accordance with such ordinance, to allow an outdoor pergola, upon certain terms and conditions.				
<b>Sponsors:</b>	Mayor Stoney (By Request)				
<b>Indexes:</b>					
<b>Code sections:</b>					
<b>Attachments:</b>	1. Staff Report, 2. Application Form & Applicant's Report, 3. Plans & Survey, 4. Map, 5. Letter of Support_Uptown Association, 6. Letter of No Objection_Fan Area Business Alliance, 7. Ord. No. 2020-047				

Date	Ver.	Action By	Action	Result
5/11/2020	1	City Council	adopted	Pass
5/4/2020	1	Planning Commission	recommended for approval	
4/27/2020	1	City Council	continued and referred back	
4/20/2020	1	Planning Commission	recommended for continuance	
4/13/2020	1	City Council	continued and referred back	
3/23/2020	1	City Council		
3/16/2020	1	Planning Commission		
2/24/2020	1	City Council	introduced and referred	

To amend and reordain Ord. No. 2003-375-337, adopted Dec. 8, 2003, which authorized the special use of the property known as 1100-1102 West Cary Street and 20-22 South Harrison Street for the purpose of certain enumerated uses in accordance with such ordinance, to allow an outdoor pergola, upon certain terms and conditions.

I. That Ordinance No. 2003-375-337, adopted December 8, 2003, is hereby amended and

reordained as follows:

§ 1. That the property known as 1100-1102 West Cary Street and 20-22 South Harrison Street and identified as Tax Parcel No. W000-0399/024 in the [2003] 2020 records of the City Assessor, being more particularly shown on a survey entitled "Survey Plat for Thanh Trung & Vanloan Nguyen Showing Existing Improvements to #1100-#1102 W. Cary Street City of Richmond, Virginia", prepared by Jordan Consulting

Engineers, P.C., dated March 5, 1999, and revised March 15, 1999, a copy of which is attached to and made a part of ~~[this ordinance]~~ Ordinance No. 2003-375-337, adopted December 8, 2003 is hereby permitted to be used only as set forth in section 3(f) and in accordance with the conditions set forth in this ordinance, substantially as shown on sheets A-1 and A-2 of the plans entitled “1100 West Cary Street, Bruegger’s Bagels”, prepared by Perretz and Young Architects, dated March 22, 1995, and revised June 11, 1995, copies of which are attached to and made a part of ~~[this ordinance]~~ Ordinance No. 2003-375-337, adopted December 8, 2003, and on sheets 1 through 7 of the plans entitled “Crazy Thai Restaurant,” prepared by Abigail Bishop, and dated September 26, 2019, copies of which are attached to and made a part of this amendatory ordinance.

§ 2. That the adoption of this ordinance shall constitute the granting of a special use permit for the property, which shall be transferable from the owner of the property to the successor or successors in fee simple title of the owner, whether acquired by operation of law, deed or otherwise, and which shall run with the land.

§ 3. That the Commissioner of Buildings is hereby authorized to issue to the owner of the property a building permit or certificate of occupancy substantially in accordance with the plans referred to above for the aforementioned purpose, subject to the following terms and conditions:

(a) The owner of the property shall be bound by, shall observe and shall comply with all other laws, ordinances, rules and regulations applicable to the property, except as otherwise provided in this ordinance.

(b) Application for a building permit or certificate of occupancy shall be made within ~~[twenty-four (24)]~~ 24 months from the effective date of this ordinance. This building permit shall expire and become null and void if any necessary construction has not commenced within ~~[one hundred eighty (180)]~~ 180 days from the date of the building permit or if construction is suspended or abandoned for a period of ~~[one hundred eighty (180)]~~ 180 days at any time after such construction has commenced, as provided in any applicable provisions of the Virginia Statewide Building Code. Should application for the building permit for any necessary construction not be made within ~~[twenty-four (24)]~~ 24 months after the effective date of this ordinance or should the building permit expire and become null and void after the expiration of the ~~[twenty-four (24)]~~ 24

month period for making application for the building permit, the privileges granted by this ordinance shall terminate and the special use permit shall become null and void.

(c) 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 subject property have been paid.

(d) 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.

(e) 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.

(f) The use of the ground floor shall be limited to a restaurant and one ~~[(4)]~~ dwelling unit, substantially as depicted on the ~~[attached]~~ plans attached to Ordinance No. 2003-375-337, adopted December 8, 2003. The restaurant may have an accessory outdoor dining area, including a permanent pergola structure, substantially as depicted on the ~~[attached]~~ plans attached to Ordinance No. 2003-375-337, adopted December 8, 2003, and on sheets 1 through 7 of the plans entitled "Crazy Thai Restaurant," prepared by Abigail Bishop, and dated September 26, 2019, copies of which are attached to and made a part of this amendatory ordinance. Alternatively, the restaurant space of the ground floor may be used as a delicatessen, retail bakery, catering business or non-medical office. Neither more than two ~~[(2)]~~ delivery vehicles nor any vehicle exceeding an empty weight of ~~[six thousand five hundred (6,500)]~~ 6,500 pounds shall be used for the distribution of products off the premises. The commercial use of the ground floor shall be limited to no more than eight ~~[(8)]~~ persons employed on the premises at any one time. The use of the basement shall be limited to storage only. The second floor shall be limited to a maximum of three ~~[(3)]~~ dwelling units, substantially as shown on the attached plans.

(g) Hours of operation for the ground floor commercial use shall be limited to ~~[6:00 a.m. to 9:30 p.m., Sunday through Thursday, and 6:00 a.m. to 10:30 p.m. on Friday and Saturday]~~ 11:00 a.m. to 3:00 p.m. and 5:00 p.m. to 9:30 p.m., Monday through Thursday and Saturday; 11:00 a.m. to 3:00 p.m. and 5:00 p.m. to 10:30 p.m., on Fridays; and 12:00 p.m. to 3:00 p.m. and 5:00 p.m. to 9:30 p.m., on Sundays. The hours of use of the outdoor dining area shall be limited to 9:00 a.m. to 8:00 p.m.

(h) The consumption or sale of alcoholic beverages shall ~~[not be permitted outside of the fully enclosed building]~~ be permitted inside the restaurant during regular business hours and within the outdoor dining area from the hours of 9:00 a.m. to 8:00 p.m.

(i) There shall be no live music or entertainment on the premises at any time, and there shall be no amplified music outside of the fully enclosed building.

(j) No off-street parking shall be required for the uses of the property set forth in subsection (f) above.

(k) Signage shall be in accordance with the applicable underlying zoning regulations.

(l) The outdoor dining area shall be limited to a maximum of 32 patrons, provided that such maximum does not exceed the maximum capacity allowed by the Virginia Statewide Building Code.

§ 4. That the privileges granted by this ordinance may under certain circumstances be revoked. Upon noting that a condition of a special use permit has been violated, the Zoning Administrator shall issue a written notice of violation to the property owner. The notice shall inform the property owner (i) which condition or conditions have been violated, (ii) the nature of the violation, and (iii) that the City Planning Commission shall hold a public hearing at which it shall review the violation and the special use permit pursuant to the provisions of sections ~~[32-1050.7]~~ 30-1050.7 through ~~[32-1050.11]~~ 30-1050.11 of the Code of the City of Richmond ~~[(1993)]~~ (2015), as amended, if (a) the property owner does not abate the violation within thirty (30) days of the issuance of the notice or (b) three ~~[(3)]~~ notices of violation are issued to the property owner within any ~~[twelve (12)]~~ 12 month period. No action taken pursuant to the provisions of this section shall in any way limit the

City's right to pursue any remedy at law or in equity against the property owner. Failure to comply with the terms and conditions of this ordinance shall constitute a violation of section [~~32-1080~~] 30-1080 of the Code of the City of Richmond [~~(1993)~~] (2015), as amended, or any other applicable laws or regulations.

§ 5. That when the privileges granted by this ordinance terminate and the special use permit granted hereby becomes null and void, or when the use of the premises is abandoned for a period of [~~twenty-four (24)~~] 24 consecutive months, use of the property shall be governed thereafter by the zoning regulations prescribed for the district in which the property is then situated.

§ 6. This ordinance shall be in force and effect upon adoption.

II. This amendatory ordinance shall be in force and effect upon adoption.

### **O & R Request**

**DATE:** December 18, 2019

**EDITION:** 1

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

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

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

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

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

**RE:** To amend and authorize the special use of the property known as 1100-1102 West Cary Street and 20-22 South Harrison Street for the purpose of certain enumerated uses, to include an outdoor pergola in accordance with this ordinance, upon certain terms and conditions.

**ORD. OR RES. No.**

**PURPOSE:** To amend and authorize the special use of the property known as 1100-1102 West Cary Street and 20-22 South Harrison Street for the purpose of certain enumerated uses, to include an outdoor pergola in accordance with this ordinance, upon certain terms and conditions.

**REASON:** The applicant is requesting a special use permit to authorize the amendment to an existing Special Use Permit which authorized certain enumerated uses, to authorize the use of an existing outdoor pergola. The pergola was constructed after the existing Special Use Permit was granted. An amendment to the 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 February 3, 2020 meeting. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting

**BACKGROUND:** The subject properties consist of a parcel totaling 4,598 SF or .10 acres of land improved with a mixed-use building, constructed, per tax assessment records, in 1900 and is located in the Near West Planning District. An ordinance adopted in 2003 allowed for a mix of uses on the property including residential and a restaurant with outdoor dining. A permanent outdoor pergola was constructed for the outdoor dining area after the adoption of the 2003 ordinance. The property is located within the Fan neighborhood.

The City of Richmond's Master Plan designates the subject property for Single Family Medium Density land use. "Primary uses are single family and two family dwellings, both detached and attached, at densities of 8 to 20 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."

The zoning of the subject property is R-63 Multi Family Urban Residential, which permits residential uses.

Nearby properties are located in the same R 63 district, with Urban Business and R 53 Multifamily to the West and East respectively. A mix of single, two, and multi-family residential, institutional, commercial and office land 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:** \$200 application fee

**DESIRED EFFECTIVE DATE:** Upon adoption

**REQUESTED INTRODUCTION DATE:** January 13, 2020

**CITY COUNCIL PUBLIC HEARING DATE:** February 10, 2020

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** None

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** City Planning Commission February 3, 2020

**AFFECTED AGENCIES:** Office of Chief Administrative Officer  
Law Department (for review of draft ordinance)  
City Assessor (for preparation of mailing labels for public notice)

**RELATIONSHIP TO EXISTING ORD. OR RES.:** Ord. No. 2003-375-337

**REQUIRED CHANGES TO WORK PROGRAM(S):** None

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

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

**Key Issues:**

Retain on Consent Agenda

Move to Regular Agenda

Refer Back to Committee

Remove from Council Agenda

Strike

Withdrawn

Continue to: