Legislation Details (With Text)

File #:	ORD. 2020-121	**Version:**	1	**Name:**	
Type:	Ordinance			**Status:**	Adopted
File created:	3/9/2020			**In control:**	City Council
On agenda:	6/8/2020			**Final action:**	6/8/2020
Title:	To authorize the special use of the property known as 2100 West Cary Street for the purpose of a retail use on the ground floor, upon certain terms and conditions.				
Sponsors:	Mayor Stoney (By Request)				
Indexes:					
Code sections:					
Attachments:	1. Ord. No. 2020-121, 2. Staff Report, 3. Application Form and Applicant's Report, 4. Plans, 5. Survey, 6. Map, 7. Uptown Civic Association letter				

Date	Ver.	Action By	Action	Result
6/8/2020	1	City Council	adopted	Pass
6/1/2020	1	Planning Commission	recommended for approval	
5/11/2020	1	City Council	introduced and referred	

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

WHEREAS, the owner of the property known as 2100 West Cary Street, which is situated in a R-63 Multifamily Urban Residential District, desires to use such property for the purpose of a retail use on the ground floor of a corner parcel, which use, among other things, is not currently allowed by section 30-419.3 of the Code of the City of Richmond (2015), as amended; and

WHEREAS, in accordance with section 17.11 of the Charter of the City of Richmond (2018), as amended, it has been made to appear that, if granted subject to the terms and conditions set forth in this ordinance, the special use granted by this ordinance will not be detrimental to the safety, health, morals and general welfare of the community involved, will not tend to create congestion in streets, roads, alleys and other public ways and places in the area involved, will not 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 2100 West Cary Street and identified as Tax Parcel No. W000-0942/020 in the 2020 records of the City Assessor, being more particularly shown on a survey entitled "Foundation Survey of The [sic] Properties Known as #2102 & #2100 W. Cary Street in the City of Richmond, VA," prepared by Edwards, Kretz, Lohr & Associates, PLLC, and dated June 4, 2019, a copy of which is attached to and made a part of this ordinance, hereinafter referred to as "the Property," is hereby permitted to be used for the purpose of a retail use on the ground floor, hereinafter

referred to as "the Special Use," substantially as shown on the plans entitled "Apartments / Commercial, 2100-2102 W. Cary St., Richmond, VA.," prepared by Peretz & Young, Architects, dated August 22, 2017, and last revised August 1, 2019, hereinafter referred to as "the Plans," copies of which are attached to and made a part of this ordinance.

(b) The adoption of this ordinance shall constitute the issuance of a special use permit for the Property. The special use permit shall inure to the benefit of the owner or owners of the fee simple title to the Property as of the date on which this ordinance is adopted and their successors in fee simple title, all of which are hereinafter referred to as "the Owner." The conditions contained in this ordinance shall be binding on the Owner.

§ 3. **Special Terms and Conditions.** This special use permit is conditioned on the following special terms and conditions:

(a) The Special Use of the Property shall be as a retail use on the ground floor, substantially as shown on the Plans, in addition to the uses permitted by the underlying zoning district.

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

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

§ 4. **Supplemental Terms and Conditions.** This special use permit is conditioned on the following supplemental terms and conditions:

(a) All required final grading and drainage plans, together with all easements made necessary by such plans, must be approved by the Director of Public Utilities prior to the issuance of the building permit.

(b) Storm or surface water shall not be allowed to accumulate on the land. The Owner, at its sole cost and expense, shall provide and maintain at all times adequate facilities for the drainage of storm or surface water from the Property so as not to adversely affect or damage any other property or public streets and the use thereof.

(c) Facilities for the collection of refuse shall be provided in accordance with the requirements of the Director of Public Works. Such facilities shall be located or screened so as not to be visible from adjacent properties and public streets.

(d) Any encroachments existing, proposed on the Plans or contemplated in the future shall require separate authorization and shall be subject to the applicable provisions of the Code of the City of Richmond (2015), as amended, and all future amendments to such laws.

(e) In all other respects, the use of the Property shall be in accordance with the applicable underlying zoning regulations.

§ 5. **General Terms and Conditions.** This special use permit is conditioned on the following general terms and conditions:

(a) No permit implementing this special use permit shall be approved until satisfactory evidence has been presented to the Zoning Administrator that any delinquent real estate taxes applicable to the Property have been paid.

(b) The Owner shall be bound by, shall observe and shall comply with all other laws, ordinances, rules and regulations applicable to the Property, except as otherwise expressly provided in this ordinance.

(c) Words and phrases used in this ordinance shall be interpreted to have the meanings ascribed to them by section 30-1220 of the Code of the City of Richmond (2015), as amended, unless the context clearly indicates that a different meaning is intended.

(d) Notwithstanding any other provision of law, this special use permit is being approved due, in part, to the mitigating effects of each and every condition attached hereto; consequently, if any portion of this ordinance is determined to be invalid for any reason by a final, non-appealable order of any Virginia or federal court of competent jurisdiction, the invalidity shall cause the entire ordinance to be void and of no further effect from the effective date of such order.

(e) The privileges granted by this ordinance may be revoked pursuant to the provisions of sections

30-1050.7 through 30-1050.11 of the Code of the City of Richmond (2015), as amended, and all future amendments to such laws. Failure to comply with the terms and conditions of this ordinance shall constitute a violation of section 30-1080 of the Code of the City of Richmond (2015), as amended, and all future amendments to such law, or any other applicable laws or regulations.

(f) When the privileges granted by this ordinance terminate and the special use permit granted hereby becomes null and void, whether as a result of the Owner relinquishing this special use permit in a writing addressed to the Director of Planning and Development Review or otherwise, use of the Property shall be governed thereafter by the zoning regulations prescribed for the district in which the Property is then situated.

§ 6. **Implementation.** The Zoning Administrator is authorized to issue a certificate of zoning compliance substantially in accordance with the Plans for the Special Use subject to the terms and conditions set forth in this ordinance. An application for the certificate of zoning compliance shall be made within 730 calendar days following the date on which this ordinance becomes effective. If either the application for the certificate of zoning compliance is not made within the time period stated in the previous sentence or the certificate of zoning compliance terminates under any provision of the Virginia Statewide Building Code, this ordinance and the special use permit granted hereby shall terminate and become null and void.

§ 7. **Effective Date.** This ordinance shall be in force and effect upon adoption.

O & R Request

DATE: April 14, 2020 **EDITION:** 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor (Patron: Mayor, by Request)
(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 authorize the special use of the property located at 2100 W. Cary Street to allow retail use in the ground floor area of a corner parcel that is located in the R-63 Multi-Family Urban Residential District

ORD. OR RES. No.

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

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

RECOMMENDATION: In accordance with the requirements of the City Charter and the Zoning Ordinance, the City Planning Commission will review this request and make a recommendation to City Council. This item will be scheduled for consideration by the Commission at its June 1, 2020, meeting.

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

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

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

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

All surrounding properties are located within the same R-63 District as the subject property. A mix of single-, two-, and multi-family residential, office, commercial and institutional uses are present in the vicinity.

FISCAL IMPACT / COST: The Department of Planning and Development Review does not anticipate any impact to the City’s budget for this or future fiscal years.

FISCAL IMPLICATIONS: Staff time for processing the request; preparation of draft ordinance; and publishing, mailing and posting of public notices.

BUDGET AMENDMENT NECESSARY: No

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REVENUE TO CITY: $1,800 application fee

DESIRED EFFECTIVE DATE: Upon adoption

REQUESTED INTRODUCTION DATE: May 11, 2020

CITY COUNCIL PUBLIC HEARING DATE: June 8, 2020

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

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

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

RELATIONSHIP TO EXISTING ORD. OR RES.: None

REQUIRED CHANGES TO WORK PROGRAM(S): None

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

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

Key Issues:
Retain on Consent Agenda
Move to Regular Agenda
Refer Back to Committee
Remove from Council Agenda
Strike Withdrawn Continue to:

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