File #: ORD. 2019-088, **Version:** 1

To authorize the special use of the properties known as 2202 West Cary Street, 2206 West Cary Street, 2208 West Cary Street, and 10 South Shields Avenue for the purpose of up to 17 single-family attached dwellings and two single-family detached dwellings, upon certain terms and conditions.

WHEREAS, the owner of the properties known as 2202 West Cary Street, 2206 West Cary Street, 2208 West Cary Street, and 10 South Shields Avenue, which are situated in a R-63 Multifamily Urban Residential District, desires to use such properties for the purpose of up to 17 single-family attached dwellings and two single-family detached dwellings, which use, among other things, is not currently allowed by sections 30-419.5, concerning lot area and width, and 30-419.8, concerning lot coverage, 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 properties known as 2202 West Cary Street, 2206 West Cary Street, 2208 West Cary Street, and 10 South Shields Avenue and identified as Tax Parcel Nos. W000-0994/022, W000-0994/024, W000-0994/025, and W000-0994/017, respectively, in the 2019 records of the City Assessor, being more particularly shown on a survey entitled "Survey Plat Showing Existing Improvements to Five Parcels of Land Situated at the NW Corner of W. Cary St & S. Shields Ave., City of Richmond, Virginia," prepared by Shadrach & Associates LLC, and dated June 24, 2011, 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 up to 17 single-family attached dwellings and two single-family detached dwellings, hereinafter referred to as "the Special Use," substantially as shown on the plans entitled "CaryShields Mews, 2202 West Cary Street," prepared by Johannas Design Group, dated December 17, 2018, and last revised March 19, 2019, hereinafter referred to as "the Plans," copies of which are attached to and

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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 up to 17 single-family attached dwellings and two single-family detached dwellings, substantially as shown on the Plans.

(b) Parking shall be provided at a ratio of no fewer than one off-street parking space per dwelling and shall be provided on the Property for the Special Use, substantially as shown on the Plans.

(c) Bicycle storage for no fewer than five bicycles shall be provided, substantially as shown on the Plans.

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

(e) Prior to the issuance of any certificate of occupancy for the Special Use, lots shall be established on the Property, substantially as shown on the Plans, by obtaining subdivision approvals from the City and by recording the appropriate plats among the land records of the Clerk of the Circuit Court of the City of Richmond.

(f) The height of the Special Use shall not exceed the height shown on the Plans.

(g) All building materials, elevations, and site improvements shall be substantially as shown on the Plans.

§ 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) The Owner shall make improvements within the public right-of-way, including installation of one street tree along West Cary Street, substantially as shown on the Plans, which improvements may be completed in one or more phases as approved by the Director of Public Works. All improvements and work within the public right-of-way shall be (i) completed in accordance with the requirements of the Director of Public Works, (ii) considered completed only upon written confirmation by the Director of Public Works that such improvements and work are in accordance with such requirements, (iii) transferred to the City, following the written confirmation by the Director of Public Works, pursuant to a transfer of interest document approved as to form by the City Attorney and accepted by the Chief Administrative Officer or the designee thereof on behalf of the City. The Chief Administrative Officer or the designee thereof, for and on behalf of the City, is hereby authorized to accept, in the manner for which this subsection provides, all improvements and work required by and meeting the requirements of this subsection. The final certificate of occupancy shall not be

issued for the Property until all requirements of this subsection are fully satisfied.(f) 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 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.

O & R Request

DATE: February 27, 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: Selena Cuffee-Glenn, Chief Administrative Officer

THROUGH: Douglas C. Dunlap, Interim 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 properties known as 2200, 2202, 2204, 2206, and 2208 West Cary Street, as well as number 10 South Shields Avenue, for the purpose of permitting up to eighteen single-family attached and one single-family detached dwelling units, upon certain terms and conditions.

ORD. OR RES. No.

PURPOSE: To authorize the special use of the properties known as 2200, 2202, 2204, 2206, and 2208 West

Cary Street, as well as number 10 South Shields Avenue, for the purpose of permitting up to eighteen single-family attached and one single-family detached dwelling units, upon certain terms and conditions.

REASON: The applicant is requesting a special use permit to authorize the development of the above properties as single-family attached dwellings which do not meet the current lot area and lot coverage requirements of the R-63 Multi-Family Urban Residential District. 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 April 15, 2019, meeting. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting.

BACKGROUND: The subject properties consist of a contiguous assemblage of parcels totaling 23,618 SF or .7 acres of land partially improved with residential buildings, constructed, per tax assessment records, in 1910 and are located in the Near West Planning District. An ordinance adopted in 2007 changed the zoning of the property from B-3 (General Business District) to R-63 (Multi-family Urban Residential District). 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. The application calls for lot sizes to range from 1,020 to 1,520 sq. ft. The R-63 minimum lot area for single-family attached is not less than 2,200 sq. ft. The application calls for lot coverages for some of the units to exceed the allowable 65% of the lot.

Nearby properties are located in the same R-63 district, with RO-2 (Residential-Office) and R-7 (Residential Single & 2 Family Urban) Zones to the north and south, respectively. A mix of single-, two-, and multi-family residential, 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: $1,800 application fee

DESIRED EFFECTIVE DATE: Upon Adoption

REQUESTED INTRODUCTION DATE: March 25, 2019

CITY COUNCIL PUBLIC HEARING DATE: April 22, 2019

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REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: City Planning Commission, April 15, 2019

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.: 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

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