



GOVERNMENT OF THE UNITED STATES VIRGIN ISLANDS

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DEPARTMENT OF PLANNING AND NATURAL RESOURCES

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Office of the Commissioner

**Report by the Division of Comprehensive and Coastal Zone Planning on
the Petition to Amend Official Zoning Map No. STZ-4, Application No.
ZAT-24-4**

Petition of applicant, Joseph Carty, to amend Lot No. 3 Second Street, Subdivision of Estate Thomas, Kings Quarter, St. Thomas with a use variance to the R-4 (Residential-Medium Density) zoning to allow for a restaurant and fruit bar.



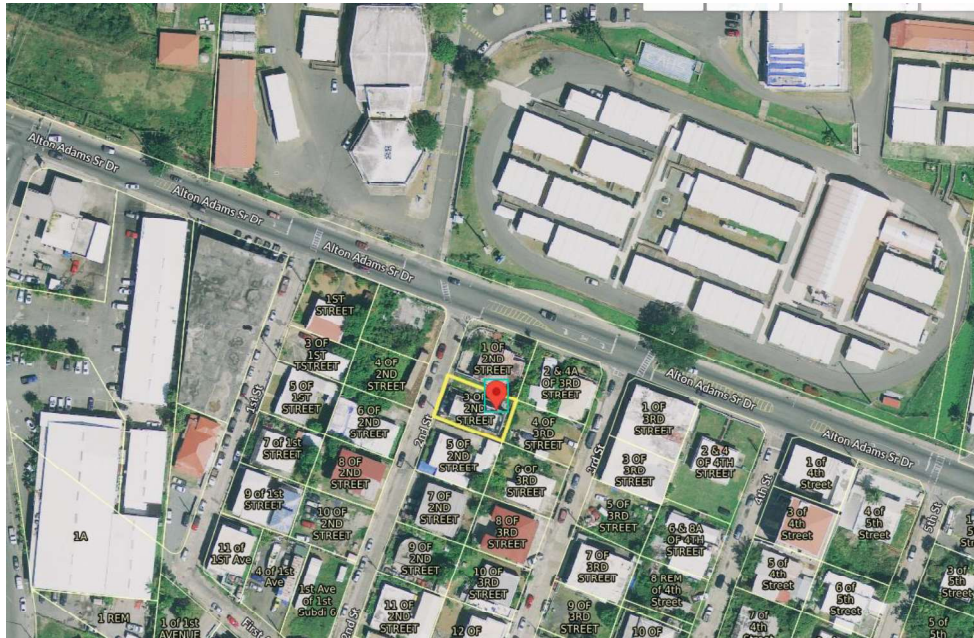
Photo of current site condition

Property Owner(s): Joseph Carty and Dionne Carty as per Deed of Gift dated September 23, 2019, Document No. 2019007176.

Applicant Representative(s): Joseph Carty, Dionne Carty (daughter of applicant), and Amos W. Carty, Jr. (nephew of applicant).

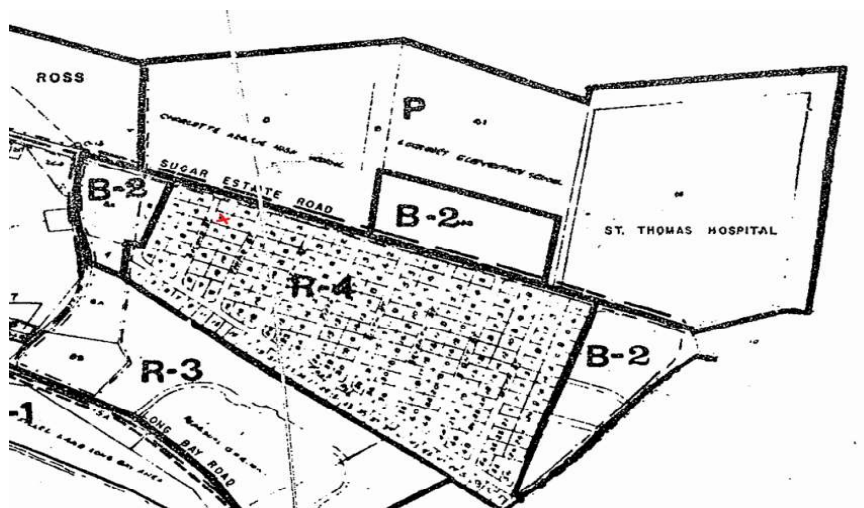
Acresage: 4,800 square feet as described in Deed of Gift and shown on survey drawing G9-2381-T74.

Surrounding Uses and Zones: To the north is a residence and the Charlotte Amalie High School. To the east is a residence and daycare. To the south are residences. To the west are undeveloped lots and residences.



MapGeo aerial view of property (marked in red)

The surrounding area is zoned R-4, B-2 (Business-Secondary/Neighborhood), and P (Public).



Official Zoning Map No. STZ-11 (property location indicated by red X)

Infrastructure: Water needs will be supplied by public water lines. Wastewater will be handled by public sewer lines.

Other needed DPNR Division reviews: None.

Project Summary: At DPNR-CCZP's public hearing, Ms. Dionne Carty testified the request is to allow a restaurant and fruit bar on the first floor of the existing two-story building. The fruit bar would provide freshly blended smoothies and not serve alcohol. There will be no dine in service from the restaurant, only take out service. Ms. Carty stated her father has been in the smoothie business for about 20 years, at another location. He would like to bring his venture onto the family property to serve nutritious juices to the surrounding community and nearby Charlotte Amalie High School students. Business hours would be Mondays to Saturdays, from 7 am to 8 pm, and no night-time entertainment. The hurricane-damaged second floor apartments will be redeveloped in the future.

Public Response at DPNR-CCZP Public Hearing held January 19, 2024: There was no opposition or concerns expressed with the proposal. A petition bearing 16 signatures, in support of the proposal, was received prior to the public hearing. No post-hearing comments were received.

Analysis of Request/Reason for Recommendation: The property was used commercially in the past, on the bottom floor. It operated under the grandfather, nonconforming status. With the 2017 storms, however, the use ended, and with it the nonconforming status. Section 234 (h) of the Zoning Code states, "Any nonconforming use of land or building which has ceased by discontinuance or abandonment for a period of three (3) years shall thereafter conform to the provisions of this subchapter."

The area's character is predominantly residential with business use mixed throughout the subdivision. There have been five rezonings, with the most impactful being the front lots. Lots 1 and 2 from 1st Street to 10th Street were rezoned in 1988 from R-4 to B-2 (Business-Secondary/Neighborhood) by Act No. 5407. This property is immediately behind one of those rezoned lots, 1 of Second Street.

The B-2 zoning district was intended to accommodate small neighborhood business districts, approaching the style of a small shopping center. The B-2 zone allows 197 uses as a matter of right and shopping centers were meant to allow neighboring areas to access goods and services within a short driving distance. The less intensive B-3 and B-4 zoning districts were intended for providing convenient shopping services within a short walking distance of neighborhoods. Several uses within the B-2, B-3, and B-4 zones tend to have the effect of

lessening the desirability of a residential area. A use variance may be more appropriate.

In analyzing a use variance request, the department must look at the requirements an applicant must meet as per Section 238a which states, “In those cases where an amendment to a zoning map is requested by a property owner for a specific use of property which is not permitted in the zoning district where the property is located, but which use would not substantially conflict with the permitted uses in the zoning district, the Legislature, in lieu of an amendment to the zoning map, may grant a variance for that specific use of the subject property; provided, however, that all other requirements of that zoning district will continue to apply to the subject property.”

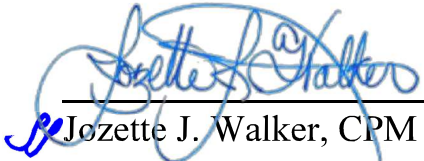
The proposal for a takeout restaurant and fruit bar would not substantially conflict, as it was noted by the applicant and representatives that a similar takeout restaurant once occurred in the neighborhood on another property. The subject property must still comply with its R-4 zoning as per Section 238a:

Section 229. Development Provisions	R-4 zone	Property’s characteristics
Uses	23 uses permitted as a matter of right. 12 uses permitted subject to conditions.	Bottom floor was used non-residentially. Top floor, residentially.
Parking	In accordance with Section 230.	A minimum of four parking spaces needed for apartments, restaurant use, and employees. Applicant will provide four spaces.
Density (maximum)	120 persons per acre.	A maximum of 14 residents would be allowed.
Lot Occupancy (maximum)	50 percent.	25 percent/1,200 square foot building.
Lot area (minimum)	3,000 square feet.	4,800 square feet.
Lot width (minimum)	40 feet.	70 feet.
Front, side, and rear yards (in feet)	None required.	There is a minimum of 5 feet on all sides.
Height limit (maximum)	3 stories.	2 stories.

The property meets its R-4 zoning requirements and complies with the standards for the granting of a use variance.

Recommendation

The Department of Planning and Natural Resources recommends that a use variance be granted to the R-4 (Residential-Medium Density) zoned Lot No. 3 Second Street, Subdivision of Estate Thomas, Kings Quarter, St. Thomas to allow for a restaurant and fruit bar.



Jozette J. Walker, CPM
Assistant Commissioner

2.7.2024

Date

Cc: Jean-Pierre L. Oriol, Commissioner