

INTRODUCED: July 26, 2021

AN ORDINANCE No. 2021-215

To amend Ord. No. 2020-023, adopted February 10, 2020, which authorized the special use of the property known as 821 North 25th Street for the purpose of a multifamily dwelling containing up to three live/work units, to modify the conditions for the live/work units, upon certain terms and conditions.

Patron – Mayor Stoney (By Request)

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: SEP 13 2021 AT 6 P.M.

I. That Ordinance No. 2020-023, adopted February 10, 2020, be and is hereby amended and reordained as follows:

WHEREAS, the owner of the property known as 821 North 25th Street, which is situated in a R-63 Multifamily Urban Residential District, desires to use such property for the purpose of a multifamily dwelling, which use, among other things, is not currently allowed by sections 30-419.5, concerning lot area and width, 30-419.6, concerning yards, and 30-419.7, concerning usable open space, 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 (2019), as amended, it has been made to appear that, if granted subject to the terms and conditions

AYES: 8 NOES: 0 AB0STAIN: _____

ADOPTED: SEPT 13 2021 REJECTED: _____ STRICKEN: _____

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 821 North 25th Street and identified as Tax Parcel No. E000-0380/040 in the [2020] 2021 records of the City Assessor, being more particularly shown on a survey entitled “Survey of Lot and Improvements Thereon Located at #821 N. 25th Street, Richmond, Virginia,” prepared by A.G. Harocopos & Associates, P.C., and dated December 13, 2018, provided as an inset on the plans entitled “821 N 25th St,” prepared by ArchitectureAF, dated September 9, 2019, and last revised October 3, 2019, a copy of which is attached to and made a part of [~~this ordinance~~] Ordinance No. 2020-023, adopted February 10, 2020, hereinafter referred to as “the Property,” is hereby permitted to be used for the purpose of a multifamily dwelling containing up to three live/work units, hereinafter referred to as “the Special Use,” substantially as shown on the plans entitled “821 N 25th St,” prepared by ArchitectureAF, dated September 9, 2019, and last revised October 3, 2019, hereinafter referred to as “the Plans,” copies of which are attached to and made a part of [~~this ordinance~~] Ordinance No. 2020-023, adopted February 10, 2020.

(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 multifamily dwelling containing up to three [~~live-work spaces~~] live/work units, substantially as shown on the Plans. The first floor of the live/work units may also be used for uses permitted on corner lots in the R-63 Multifamily Urban Residential District, pursuant to section 30-419.3 of the Code of the City of Richmond (2020), as amended.

(b) The live/work units must comply with Section 419 of the [~~2019 edition of the~~] 2018 Virginia Construction Code and any amendments thereto.

(c) Restrooms in the work portion of the [~~live-work spaces~~] live/work units must be accessible in compliance with Sections 419.7 and 1109.2 of the 2015 edition of the Virginia Construction Code.

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

(e) No less than two off-street parking spaces shall be provided on the Property, substantially as shown on the Plans.

(f) All elevations shall be substantially as shown on the Plans.

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

(h) Not more than five persons who do not reside in each live/work unit shall be employed at any one time in the conduct of the non-dwelling activity within each of the live/work units. The occupancy of each live/work unit shall not exceed 15 persons per unit engaged in the conduct of the non-dwelling activity of the live/work unit.

§ 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)~~ (2020)], as amended, and all future amendments to such laws.

(e) The Owner shall make improvements within the right-of-way, including the installation of a new sidewalk or the repair of the existing sidewalk along O Street, and resetting of the granite curb along North 25th Street, 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, and (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)~~ (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 [~~(2015)~~] (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 [~~(2015)~~] (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.

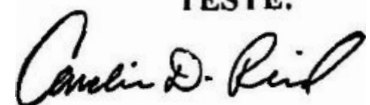
§ 6. **Implementation.** The Commissioner of Buildings is authorized to issue a building permit substantially in accordance with the Plans for the Special Use subject to the terms and conditions set forth in this ordinance. An application for the building permit shall be made within 730 calendar days 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.

II. This amendatory 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.2021.612

O & R Request

DATE: May 17, 2021

EDITION: 1

TO: The Honorable Members of City Council

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



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

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



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



RE: To amend Ord. 2020-023 authorizing the special use of the property known as 821 N. 25th Street to allow the construction of a multi-family structure containing three live-work spaces that do not conform to some of the features required in the R-63 Multi-Family Urban Residential District, to now modify certain occupancy requirements, upon certain terms and conditions.

ORD. OR RES. No. _____

PURPOSE: To amend Ord. 2020-023 authorizing the special use of the property known as 821 N. 25th Street to allow the construction of a multi-family structure containing three live-work spaces that do not conform to some of the features required in the R-63 Multi-Family Urban Residential District, upon certain terms and conditions.

REASON: The proposed amendment would modify occupancy requirements pertaining to a multi-family structure with live/work units.

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 July 6, 2021 meeting.

BACKGROUND: The subject property is .057 acres (2,470 square feet) is vacant and located on the corner of N. 25th and O Streets. The parcel is 19 feet wide and 130 feet in depth and has alley access in the rear.

The applicant proposes to develop the property with a two-story live-work building. The structure will contain three live-work buildings that will be consistent with the historic character of past live-work spaces that were located in this area in the past. The ground floors will contain commercial space and the upstairs will be residential. Such arrangements are permitted uses in the R-63 Multi-Family Urban Residential District.

The 2015 Virginia Construction Code, Section 419.1.1 Limitations states that *not more than five nonresidential workers or employees are allowed to occupy the nonresidential area at any one time*. The City of Richmond Zoning Ordinance limits occupancy to one employee. The applicant wishes to amend the ordinance authorizing the special use of the property to allow occupancy in conformance with the 2015 Virginia Construction Code.

The Richmond 300 Master Plan designates a future land use category for the subject property as Community Mixed-Use. This recommendation is described as a *cluster of medium-density, walkable commercial and residential uses that provide neighborhood services to nearby residential communities and sometimes feature regional attractions*. Primary uses include retail, office personal service and multi-family residential. Buildings generally range from two to six stories with the ground floor engaging and enlivening the street.

The subject property, as well as all the adjacent properties to the south, east and west are located in the R-63 Multi-Family Urban Residential District. Across O Street to the north is a dialysis clinic on property located in the UB PE3 District.

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: \$1,200 application fee

DESIRED EFFECTIVE DATE: Upon Adoption

REQUESTED INTRODUCTION DATE: June 14, 2021

CITY COUNCIL PUBLIC HEARING DATE: July 26, 2021

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: City Planning Commission
July 6, 2021

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

RELATIONSHIP TO EXISTING ORD. OR RES.: Amend Ord. No. 2020-023

REQUIRED CHANGES TO WORK PROGRAM(S): None

ATTACHMENTS: Application Form, Applicant's Report, Map

STAFF: David Watson, Senior Planner, Land Use Administration (Room 511) 646-1036



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.richmondgov.com/>

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: 821 North 25th Street Date: 11-23-2020
 Tax Map #: E000-0380040 Fee: 1,200.00
 Total area of affected site in acres: 0.057

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

Zoning

Current Zoning: R-63 Residential (Multi-Family Urban)

Existing Use: Vacant

Proposed Use

(Please include a detailed description of the proposed use in the required applicant's report)

R-2 live work units
 Existing Use: Vacant

Is this property subject to any previous land use cases?

Yes No If Yes, please list the Ordinance Number: Ordinance number 2020-023

Applicant/Contact Person: Mary Lonno

Company: LoCh Design
 Mailing Address: 12 North 30th Street
 City: Richmond State: VA Zip Code: 23223
 Telephone: (804) 840-9415 Fax: (804) 757-767-5470
 Email: mary@lochdesign.com

Property Owner: DeWorth Restoration Associates llc

If Business Entity, name and title of authorized signee: John Whitworth - member

(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: 2511 O Street
 City: Richmond State: VA Zip Code: 23223
 Telephone: (804) 243-2382 Fax: ()
 Email: jwhitworth@comcast.net

Property Owner Signature: J.D. Whitworth

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)



APPLICANT'S REPORT

November 23, 2020

Special Use Permit Amendment
Ordinance No. 2020-023
821 N 25th Street, Richmond, VA
Map Reference Number: E000-0380040

Submitted to: City of Richmond
Department of Planning and Development Review
Land Use Administration
900 East Broad Street, STE 511
Richmond, VA 23219

Submitted by: Deworth Restoration Associates, LLC
2511 O Street
Richmond, VA 23223

Prepared by: Loch Design
12 North 30th Street
Richmond, VA 23223

Introduction

When the ordinance No. 2020-023 was passed in early 2020, the developer of the project, Mr. John Whitworth, was under the belief that each of the Live-Work Units would be allowed several employees, visitors (customers), and various economic opportunities. He had several conversations with various officials and thought that this was the situation – the architectural drawings he had prepared reflected this understanding. In addition, he had made commitments to City Officials that he would be bringing economic opportunities to the site. It was only upon learning from his lender that he had not received his loan confirmation that he became aware of the limiting zoning definition of Live-Work Unit, which is significantly more restrictive than the building code definition. The zoning code definition allows for up to 1 outside employee and no visitors/customers. The building code definition allows up to 5 outside employees and up to 15 total persons total per unit (Maximum Occupancy). Mr. Whitworth would like to amend the SUP, such that in this scenario the zoning code definition is expanded to allow him to keep his promises to City officials, receive the loan commitment he needs to move the project forward, and maximize the opportunities for his potential tenants.

Proposed Amendment

We would like to propose that Ordinance No. 2020-023 be amended such that the zoning definition of Live-Work Unit be expanded to align with the Virginia Construction Code edition 2015 definition. This would allow each Live-Work Unit to have up to 5 outside employees as well as allow for customers / guests with a total maximum occupancy for each unit of 15 persons. Additionally each "Work" portion of the unit will be eligible for any of the newly defined R63 uses or economic opportunities.