

INTRODUCED: September 12, 2016

AN ORDINANCE No. 2016-238

To authorize the special use of the property known as 2925 West Leigh Street for the purpose of a single-family attached dwelling, upon certain terms and conditions.

\_\_\_\_\_  
Patron – Mayor Jones (By Request)

\_\_\_\_\_  
Approved as to form and legality  
by the City Attorney  
\_\_\_\_\_

PUBLIC HEARING: OCT 10 2016 AT 6 P.M.

WHEREAS, the owner of the property known as 2925 West Leigh Street, which is situated in a M-1 Light Industrial District, desires to use such property for the purpose of a single-family attached dwelling if damaged, which use, among other things, is not currently allowed by sections 30-452.1 and 30-800.8 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 (2010), 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

AYES:            9            NOES:            0            ABSTAIN: \_\_\_\_\_

ADOPTED:    OCT 10 2016    REJECTED: \_\_\_\_\_    STRICKEN: \_\_\_\_\_

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 2925 West Leigh Street and identified as Tax Parcel No. N000-1592/012 in the 2016 records of the City Assessor, being more particularly described in a deed recorded in the Clerk's Office of the Circuit Court of the City of Richmond, Virginia, as Instrument No. 15-23445, hereinafter referred to as "the Property," is hereby permitted to be used for the purpose of a single-family attached dwelling, hereinafter referred to as "the Special Use."

(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) One off-street parking space accessed from the alley shall be provided for the single-family use of the property.

(b) All requirements of Chapter 30 of the Code of the City of Richmond (2015), as amended, applicable to the R-7 Single- and Two-Family Urban Residential District shall apply to the Special Use, except that the requirements of section 30-413.5 of the Code of the City of Richmond (2015), as amended, shall not apply to the Special Use.

§ 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.

§ 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 or when the Special Use of the Property as authorized by this ordinance is abandoned for a period of 730 consecutive calendar days, 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. **Effective Date.** This ordinance shall be in force and effect upon adoption.

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



# City of Richmond

900 East Broad Street  
2nd Floor of City Hall  
Richmond, VA 23219  
www.richmondgov.com

## Intracity Correspondence

Pre Introduction to Council: PRE. 2016-187

**RECEIVED**

JUL 22 2016

File Number: PRE. 2016-187

To authorize the special use of the property known as 2925 West Leigh Street for the purpose of a single-family attached dwelling, upon certain terms and conditions.

OFFICE OF CITY ATTORNEY

4-5356

**O & R REQUEST**

JUN 29 2016

Chief Administration Office  
City of Richmond

### O & R Request

**DATE:** June 29, 2016 **EDITION:** 1

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

**THROUGH:** Dwight C. Jones, Mayor (Patron: Mayor, by Request)  
(This in no way reflects a recommendation on behalf of the Mayor)

**THROUGH:** Selena Cuffee-Glenn, Chief Administrative Officer

**THROUGH:** Peter L. Downey, Deputy Chief Administrative Officer for Economic Development and Planning

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

**SUBJECT:** Special use permit for 2925 West Leigh Street for the continuation of single-family dwelling use

ORD. OR RES. No.

**PURPOSE:** To authorize the special use of the property known as 2925 West Leigh Street for the purpose of a single-family attached dwelling, upon certain terms and conditions.

**REASON:** The subject property is zoned M-1 Light Industrial, which does not permit residential uses. The property retains nonconforming rights as a single-family dwelling as it was constructed in 1923 prior to zoning regulations. However, according to the Zoning Ordinance should a building devoted to a nonconforming use be damaged by fire, explosion, act of God or the public enemy to the extent of 60 percent or less of its replacement value it cannot be rebuilt and used for a nonconforming use. The applicant has requested a special use permit to memorialize the existing single-family use as a conforming use that would not be subject to this provision.

**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 September 6, 2016, meeting. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting.

**BACKGROUND:** The subject property is a 0.056 acre parcel improved with a single-family

attached dwelling constructed in 1923. The property is located in the Scott's Addition neighborhood in the block bound by West Leigh Street, North Boulevard, West Clay Street and Altamont Avenue. The property is served by a public alley that provides access to a parking space at the rear of the property.

The property is currently located in the M-1 Light Industrial zoning district, which does not permit residential uses. There are two blocks of similar residential buildings in Scott's Addition that were constructed prior to the prohibition on residential uses by the adoption of the M-1 district. These properties retain nonconforming rights to continue to be used for residential purposes under the nonconforming regulations in the Zoning Ordinance. One of these regulations states that a building cannot be rebuilt and used for a nonconforming use if the building devoted to a nonconforming use is damaged by fire, explosion, act of God or the public enemy to the extent of 60 percent or less of its replacement value. The applicant would like to remove the nonconforming status of the existing single-family attached dwelling because it has prevented the property owner from being able to obtain a Fannie Mae mortgage.

The subject property is surrounded by single-family attached dwellings to the east and west. Industrial and commercial uses are located to the north and south of the subject property. All of the surrounding property is also located in the M-1 Light Industrial zoning district.

The Master Plan designates the subject property and all of the Scott's Addition neighborhood for Industrial land uses. Primary uses for the Industrial designation include "a wide variety of manufacturing, processing, research and development, warehousing, distribution office-warehouse and service uses. Office, retail and other uses that complement industrial areas are often secondary support uses" (p. 135).

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

**COST TO CITY:** Staff time for processing the request; preparation of draft ordinance; and publishing, mailing and posting of public notices.

**REVENUE TO CITY:** \$300 application fee

**DESIRED EFFECTIVE DATE:** Upon adoption.

**REQUESTED INTRODUCTION DATE:** July 25, 2016

**CITY COUNCIL PUBLIC HEARING DATE:** September 12, 2016

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** None

**CONSIDERATION BY OTHER GOVERNMENTAL AGENCIES:** City Planning Commission, September 6, 2016

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

**RELATIONSHIP TO EXISTING ORDINANCES:** None.

**ATTACHMENTS:** Application Form, Applicant's Letter, Draft Ordinance, Survey

**STAFF:** Lory Markham, Principal Planner, Land Use Administration (Room 511); 646-6309

*PDR O&R No. 16-17*



# 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/>

RECEIVED

JUN 20 2016

Application is hereby submitted for: (check one)

- special use permit, new
- special use permit, plan amendment
- special use permit, text only amendment

LAND USE ADMINISTRATION

### Project Name/Location

Project Name: 2925 W LEIGH ST (HOME) Date: 6/20/16

Property Address: 2925 W LEIGH ST Tax Map #: N0001592012

Fee: \$300.00 Total area of affected site in acres: \_\_\_\_\_  
(See page 3 for fee schedule, please make check payable to the "City of Richmond")

### Zoning

Current Zoning: M-1

### Proposed Use

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

Existing Use: RESIDENTIAL HOME

Is this property subject to any previous land use cases?

- Yes No
- If Yes,  please list the Ordinance Number:

TWO STORY / TWO BEDROOM HOME. NOTE: DUE TO NON CONFORMING USE RESIDENTIAL THE HOUSE DOES NOT QUALIFY FOR FANNIE MAE FINANCING BECAUSE THE HOUSE CANNOT BE REBUILT IF DESTROYED.

Applicant/Contact Person: HL SALOMONSKY

Company: \_\_\_\_\_

Mailing Address: 1553 E. MAIN ST

City: RICHMOND State: VA Zip Code: 23219

Telephone: (804) 2378247 Fax: (804) 239 3546

Email: HL.SALOMONSKY@SWA-CO.COM

Property Owner: GARY & LINDAY LINSAY

If Business Entity, name and title of authorized signee: \_\_\_\_\_

(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: SAME

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone: (\_\_\_\_\_) \_\_\_\_\_ Fax: (\_\_\_\_\_) \_\_\_\_\_

Email: \_\_\_\_\_

Property Owner Signature: G. Lindsay Kimberly Lindsay

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)

SAP-002116-2016

E: 6050

**Applicant's Report**

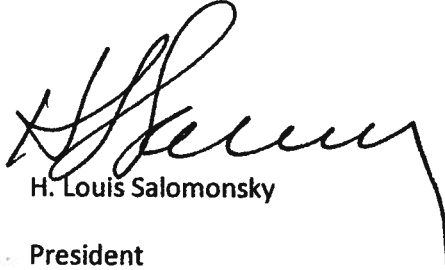
2927 W. Leigh St.

Richmond, VA

**Answers to questions 1-6:**

This existing home is masonry with private parking off the alley in the rear. The existing water, sewer, gas and electric utilities as well as shopping, parks, schools, and transportation has adequately served the area for over a century. The home has windows front and rear for air and light. This will be a private home.

Please note there is no formal survey of the property. The deed schedule of improvements is attached. The house is fully renovated.

A handwritten signature in black ink, appearing to read 'H. Salomonsky', with a long, sweeping underline that extends to the right.

H. Louis Salomonsky

President

Sky Management Inc.