

INTRODUCED: January 26, 2015

AN ORDINANCE No. 2015-

To amend Ord. No. 2011-20-32, adopted Mar. 14, 2011, as amended by Ord. No. 2013-75-57, adopted Apr. 22, 2013, which authorized the special use of the property known as 310 North 33rd Street for the purpose of the conversion of an existing building to a multifamily dwelling with up to 50 units and principal commercial uses permitted on corner lots in the R-63 Multifamily Urban Residential District on the property, to authorize outdoor dining, upon certain terms and conditions.

Patron – Mayor Jones (By Request)

Approved as to form and legality
by the City Attorney

PUBLIC HEARING:

AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

I. That Ordinance No. 2011-20-32, adopted March 14, 2011, as amended by Ordinance No. 2013-75-57, adopted April 22, 2013, be and is hereby amended and reordained as follows:

§ 1. That the property known as 310 North 33rd Street and identified as Tax Parcel No. E000-0811/001 in the [~~2013~~] 2015 records of the City Assessor, being more particularly shown on a survey entitled “Plat Showing Improvements on No. 312 North 33rd Street in the City of Richmond, Virginia,” prepared by Gene Watson & Associates, P.C., dated August 4, 2005, and revised June 6,

AYES: _____ NOES: _____ ABSTAIN: _____

ADOPTED: _____ REJECTED: _____ STRICKEN: _____

2006, a copy of which is attached to and made a part of Ordinance No. ~~[2011-20-32]~~ 2013-75-57, adopted April 22, 2013, is hereby authorized for the conversion of the existing building for up to fifty (50) multi-family dwelling units ~~[and]~~, for R-63 Multifamily Urban Residential District principal commercial uses permitted on corner lots and for outdoor dining, substantially as shown on sheets A1.1, A1.2, A1.2A, A1.3, A1.3A, A2.1, A2.2, A5.1, A5.2, and SP.1, dated November 10, 2010, with sheets A1.1 and SP-1 being last revised December 15, 2010, and A3.1, A3.2, A3.3, and A3.4, dated August 11, 2010, with sheet A3.2 being last revised December 15, 2010, of the plans entitled “Chimborazo Apartments” and prepared by Hower Studio, copies of which are attached to and made a part of Ordinance No. 2011-20-32, adopted on March 14, 2011, and on sheets A0.0, A1.0, and A4.0 of the plans entitled “Chimborazo Apts - Amenity Space SUP”, prepared by Hower Studio Architecture and Interior Design and dated October 4, 2012, with sheets A0.0 and A1.0 being last revised January 22, 2013 and sheet A4.0 being last revised January 24, 2013, copies of which are attached to and made a part of ~~[this ordinance]~~ Ordinance No. 2013-75-57, adopted April 22, 2013, and on sheet SP.2 of the plans entitled “Urban Farmhouse,” prepared by Hower Studio Architecture & Interior Design and dated November 20, 2014, copies of which are attached and made part of this ordinance.

§ 2. That the adoption of this ordinance shall constitute the granting of a special use permit for the property, which shall be transferable from the owner of the property to the successor or successors in fee simple title of the owner, whether acquired by operation of law, deed or otherwise, and which shall run with the land.

§ 3. That the Commissioner of Buildings is hereby authorized to issue to the owner of the property a building permit, substantially in accordance with the plans referred to above, for the aforementioned purpose, subject to the following terms and conditions:

(a) The owner of the property shall be bound by, shall observe and shall comply with all other laws, ordinances, rules and regulations applicable to the property, except as otherwise provided in this ordinance.

(b) Application for a building permit shall be made within twenty-four (24) months from the effective date of this ordinance. This building permit shall expire and shall become null and void if any necessary construction has not commenced within one hundred eighty (180) days from the date of the building permit or if construction is suspended or abandoned for a period of one hundred eighty (180) days at any time after such construction has commenced, as provided in any applicable provisions of the Virginia Uniform Statewide Building Code. Should application for the building permit not be made within twenty-four (24) months after the effective date of this ordinance or should the building permit expire and become null and void after the expiration of the twenty-four (24) month time period for making application for the building permit, the privileges granted by this ordinance shall terminate and the special use permit shall become null and void.

(c) 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 subject property have been paid.

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

(e) 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 adjacent property or public streets and the use thereof.

(f) 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.

(g) Any encroachments existing, proposed on the attached 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 (2004), as amended.

(h) A multifamily dwelling containing no more than fifty (50) dwelling units shall be permitted on the property, configured substantially as depicted on the plans attached to Ordinance No. 2011-20-32, adopted March 14, 2011. Any permitted principal commercial use on corner lots in the R-63 Multifamily Urban Residential District shall be authorized within the area in the building indicated as “Amenity Space” on the ~~[attached]~~ plans attached to Ordinance No. 2013-75-57, adopted April 22, 2013, provided that dwelling units are not permitted. Parking requirements to serve this commercial use shall be waived.

(i) A minimum of thirty-five (35) parking spaces to serve the dwelling use shall be required; however, in the event that the total number of dwelling units in the building number fewer than thirty-five, parking shall be provided at the rate of one space per dwelling unit. Seven (7) of the required parking spaces shall be provided on-site and may be counted towards the parking requirements if they meet the dimensions for compact stalls specified in section 114.710.3:1(a) of the Code of the City of Richmond (2004), as amended, and substantially as shown on the attached plans. All other required parking shall be provided in accordance with and subject to the provisions of section 114-710.4 of the Code of the City of Richmond (2004), as amended, with the exception that any required off-street parking spaces may be provided off the premises within a four hundred and fifty (450) foot radius of a principal entrance to the building

occupied by such use. However, if parking for the use on the property for which this ordinance grants a special use permit is provided on a property not held in fee simple by the owner of the property for which this ordinance grants a special use permit, evidence of a prospective tenure for such off-site parking that meets the requirements of this subsection must be approved as to terms by the Zoning Administrator before a building permit may be issued. Further, notwithstanding any provision of section 114-710.4 of the Code of the City of Richmond (2004), as amended, to the contrary, the terms of the tenure must be approved by the Zoning Administrator and the form of the tenure must be approved by the City Attorney before a Certificate of Occupancy or a Certificate of Zoning Compliance may be issued.

(j) Identification of the premises shall be as set forth in section 114-506 of the Code of the City of Richmond (2004), as amended. The existing “Chimborazo School” signs on the 33rd Street and East Marshall Street sides of the building may be retained. Signage for the commercial use shall consist of one sign provided substantially as shown on the attached plan sheet A4.0 of the plans attached to this ordinance.

(k) Outdoor dining shall be permitted as substantially shown on the plans attached to this amendatory ordinance, subject to the following conditions:

(1) The outdoor dining area shall be limited to 575 square feet, as shown on the plans attached to this amendatory ordinance.

(2) Covered trash containers shall be provided in service areas, and fences, walls or vegetative screening shall be provided around service areas, except at entrances and exits, to prevent refuse from blowing onto adjacent properties or streets.

(3) No televisions, other electronic audio or visual devices, other means of producing amplified sound, cash registers, card readers, vending machines, or similar items shall be provided within or for the patrons of the outdoor dining area.

(4) Within the outdoor dining area, there shall be no live entertainment, food or beverage preparation or service to standing patrons.

(5) Use of the outdoor dining area for all purposes shall cease by no later than ~~11:00~~ 9:00 p.m.

(6) No parking shall be required for the outdoor dining area.

(1) In order to ensure that the special use permitted by this ordinance (i) will not be detrimental to the safety, health, and general welfare of the community involved, (ii) will not create hazards from dangers in streets, roads, alleys and other public ways and places in the area involved and (iii) will not adversely affect or interfere with public requirements, conveniences and improvements, the owner shall install one or more handicap ramps and street trees within the right-of-way substantially as shown on the attached plans and shall repair or replace existing sidewalks, curbs, gutters, alley aprons, entrance ramps and pavement in the public right-of-way abutting the properties as required 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. No certificate of occupancy shall be issued for the property until all requirements of this subsection are fully satisfied.

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

§ 4. That the privileges granted by this ordinance may under certain circumstances be revoked. Upon noting that a condition of a special use permit has been violated, the Zoning Administrator shall issue a written notice of violation to the property owner. The notice shall inform the property owner (i) which condition or conditions have been violated, (ii) the nature of the violation, and (iii) that the City Planning Commission shall hold a public hearing at which it shall review the violation and the special use permit pursuant to the provisions of sections 114-1050.7 through 114-1050.11 of the Code of the City of Richmond (2004), as amended, if (a) the property owner does not abate the violation within thirty (30) days of the issuance of the notice or (b) three (3) notices of violation are issued to the property owner within any twelve (12) month period. No action taken pursuant to the provisions of this section shall in any way limit the City's right to pursue any other remedy at law or in equity against the property owner. Failure to comply with the terms and conditions of this ordinance shall constitute a violation of section 114-1080 of the Code of the City of Richmond (2004), as amended, or any other applicable laws or regulations.

§ 5. That when the privileges granted by this ordinance terminate and the special use permit becomes null and void or when use of the premises is abandoned for a period of twenty-four (24) consecutive months, use of the property shall be governed thereafter by the zoning regulations prescribed for the district in which the property is then situated.

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

II. This amendatory ordinance shall be in force and effect upon adoption.