

INTRODUCED: November 9, 2015

AN ORDINANCE No. 2015-250-244

To amend and reordain Ord. No. 2001-262-248, adopted Sep. 10, 2001, which authorized the special use of the property known as 3101 Kensington Avenue for the conversion of the existing building for either 40 or 42 multifamily dwelling units and accessory parking, upon certain terms and conditions, to reflect the subdivision of the property into two parcels, now known as 3101 Kensington Avenue and 3131 Kensington Avenue, and to remove the condition that all dwelling units shall be converted to condominiums within five years of the issuance of the certificate of occupancy.

Patron – Mayor Jones (By Request)

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: DEC 14 2015 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

I. That Ordinance No. 2001-262-248, adopted September 10, 2001, be and is hereby amended and reordained as follows:

§ 1. That the [~~real estate, property~~] properties known as 3101 Kensington Avenue and 3131 Kensington Avenue, located on the block bounded by Cleveland Street, Kensington Avenue and Belmont Avenue [~~, containing approximately 84,000 square feet of land area~~] and identified as Tax Parcel [No.] Nos. W000-1411/023 and W000-1411/024 in the [~~2001~~] 2015

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: DEC 14 2015 REJECTED: _____ STRICKEN: _____

records of the City Assessor, being more particularly described as follows: *beginning* at the point of intersection of the south right-of-way line of Kensington Avenue and the west right-of-way line of Belmont Avenue; thence extending in an southerly direction 179.83 feet along the west right-of-way line of Belmont Avenue to a point on the north right-of-way line of an east-west 20.00 foot wide public alley; thence extending in a westerly direction along said alley line 115.00 feet to a point along a property line; thence extending in a southerly direction 62.83 along the west right-of-way line of a north-south 10.00 wide public alley to a point on the north right-of-way line of east-west 10.00 foot public alley; thence extending 216.26 feet along said right-of-way line to a point on the east line of a north-south 10.00 foot wide public alley; thence extending in a northerly direction along the east right-of-way line of said alley to a point on the north right-of-way line of an east-west 20.00 foot wide public alley; thence extending in a westerly direction along the north right-of-way line of said alley to a point on the east right-of-way line of Cleveland Street; thence extending in a northerly direction 179.83 feet along said right-of-way to a point on the south right-of-way line of Kensington Avenue; thence extending in an easterly direction 391.44 foot along said right-of-way line to the point of *beginning*, is hereby permitted to be used for the purpose of converting the existing building for either forty (40) multi-family dwelling units and accessory parking, substantially as shown on the site plan, the floor plans, and the elevation drawing entitled “Lofts at Lee School,” prepared by Freeman Solt, PLLC, dated May 31, 2001, consisting of sheets SU-1 through SU-10, or forty-two (42) multi-family dwelling units and accessory parking, substantially as shown on the site plan entitled “Lofts at Lee School,” prepared by Freeman Solt, PLLC, dated May 31, 2001, consisting of sheets SU-1 through SU-5; the floor plans entitled “Lofts at Lee School Alternated Floor Plans July 3, 2001,” prepared by Freeman Solt, PLLC, dated May 31, 2001, consisting of sheets SU-6

through SU-9; and the elevation drawing entitled “Lofts at Lee School,” prepared by Freeman Solt, PLLC, dated May 31, 2001, consisting of sheet SU-10, copies of which are attached ~~[hereto]~~ and made a part of ~~[this ordinance]~~ Ordinance No. 2001-262-248, adopted September 10, 2001.

§ 2. That the adoption of this ordinance shall constitute the granting of a special use permit for the ~~[real estate]~~ properties, which shall be transferable from the owner of the ~~[real estate]~~ properties 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 ~~[said real estate]~~ the properties a building permit in accordance with the above-referenced plans for such purposes, subject to the following terms and conditions:

(a) The owner of the ~~[property]~~ properties shall be bound by, shall observe, and shall comply with all other laws, ordinances, rules and regulations adopted pursuant thereto, applicable to the ~~[land and building]~~ properties, except as otherwise provided in this ordinance; and

(b) ~~[That application for a building permit for the building shall be made within twenty four (24) months from the effective date of this ordinance, which building permit shall expire by limitation and become null and void if conversion of the building is not commenced within one hundred eighty days (180) from the date of the building permit, or if construction is suspended or abandoned for a period of one hundred eight days (180) at any time after the work is commenced, as provided in applicable provisions of the Virginia Uniform Statewide Building Code. Should application for the building permit not be made with twenty four (24) months from the effective date of this ordinance, or should the building permit expire and become null~~

~~and void after the expiration of 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; and~~

(e)] That either forty (40) multi-family dwelling units and accessory parking, substantially as shown on the site plan, the floor plans, and the elevation drawing entitled “Lofts at Lee School,” prepared by Freeman Solt, PLLC, dated May 31, 2001, consisting of sheets SU-1 through SU-10, or forty-two (42) multi-family dwelling units and accessory parking, substantially as shown on the site plan entitled “Lofts at Lee School,” prepared by Freeman Solt, PLLC, dated May 31, 2001, consisting of sheets SU-1 through SU-5; the floor plans entitled “Lofts at Lee School Alternate Floor Plans July 3, 2001,” prepared by Freeman Solt, PLLC, dated May 31, 2001, consisting of sheets SU-6 through SU-9; and the elevation drawing entitled “Lofts at Lee School,” prepared by Freeman Solt, PLLC, dated May 31, 2001, consisting of sheet SU-10, shall be established on the ~~[real estate]~~ properties. In both instances, units with a minimum of 675 square feet shall be permitted within the existing building, with renovations and amenities substantially as depicted on the ~~[attached]~~ plans attached to Ordinance No. 2001-262-248, adopted September 10, 2001, including a building security system, HVAC, ceiling fans, dishwashers, and disposals in each unit. The existing auditorium space may be used for dwelling units or as common space for the exclusive use of the tenants. ~~[Within five (5) years of the issuance of the certificate of occupancy for the entire building, all of the dwelling units shall be converted to condominiums]; and~~

(d)] (c) That ~~[not less]~~ no fewer than sixty-three (63) parking spaces shall be provided. Parking spaces shall be paved with an all weather dust free surface, and parking spaces shall be delineated on the pavement surface. All driveway entrances shall be in accordance with the requirements of the Director of Public Works and shall be designed so as to permit continued

access to the north-south 10.00 foot wide public alleys. The parking area shall be landscaped substantially as depicted on the ~~[attached]~~ plans attached to Ordinance No. 2001-262-248, adopted September 10, 2001. A final lighting plan, fencing plan and landscaping plan must be approved by the Director of ~~[Community]~~ Planning and Development Review prior to the issuance of a building permit; and

~~[(e)]~~ (d) The 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 as not to be visible from adjacent properties and public streets; and

~~[(f)]~~ (e) That final grading and drainage plans, if required, shall be approved by the Director of ~~[Community]~~ Planning and Development Review prior to the issuance of building permits; and

~~[(g)]~~ (f) That storm or surface water shall not be allowed to accumulate on the land and adequate facilities for drainage of storm or surface water from the land and building shall be provided and maintained at all times by the owner at its costs and expense so as not to adversely affect or damage adjacent property or public streets and the use thereof; and

~~[(h)]~~ (g) Signage shall be in accordance with the applicable underlying zoning regulations.

§ 4. That ~~[should the owner use the premises for any purpose which is not permitted by this ordinance or fails, refuses or neglects to comply with all applicable terms and conditions and does not terminate such use or comply with such terms and conditions within sixty (60) days after written notice to do so has been given by the Zoning Administrator, the privileges granted by this ordinance shall terminate and the special use permit shall be null and void, unless an application for a special use amendment is filed with the Director of Community Development, which shall stay the sixty (60) day period.]~~ the privileges granted by this ordinance may be revoked pursuant to the

provisions of sections 114-1050.7 through 114-1050.11 of the Code of the City of Richmond (2004), as amended, and all future amendments to such laws. Failure to comply with the terms of this ordinance shall constitute a violation of section [~~32-1-1080~~] 114-1080 of the Code of the City of Richmond[~~, 1993~~] (2004), as amended, and all future amendments to such law, or any other applicable [~~provision~~] 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~~] properties is abandoned for a period of twenty-four (24) consecutive months, use of the [~~real-estate~~] properties shall be governed thereafter by the zoning regulations prescribed for the district in which the [~~property is~~] properties are 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.



City of Richmond

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

Intracity Correspondence

Ordinance: a2015 - 982

RECEIVED

AUG 20 2015

File Number: a2015 - 982

OFFICE OF CITY ATTORNEY

To amend and reordain Ord. No. 2001-262-248, adopted Sep. 10, 2001, which authorized the special use of the properties known as 3101 Kensington Avenue and 3131 Kensington Avenue, for the conversion of the existing building for either 40 or 42 multi-family dwelling units and accessory parking, to authorize the multi-family dwelling units to remain as rental units, upon certain terms and conditions.

O & R Request

4-4001
O & R REQUEST

DATE: August 19, 2015

EDITION: 1

AUG 19 2015

TO: The Honorable Members of City Council

Chief Administration Office
City of Richmond

THROUGH: Dwight C. Jones, Mayor

THROUGH: Selena Cuffee-Glenn, Chief Administrative Officer

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

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

RE: To amend and reordain Ord. No. 2001-262-248, adopted Sep. 10, 2001, which authorized the special use of the properties known as 3101 Kensington Avenue and 3131 Kensington Avenue, for the conversion of the existing building for either 40 or 42 multi-family dwelling units and accessory parking, to authorize the multi-family dwelling units to remain as rental units, upon certain terms and conditions.

ORD. OR RES. No.

PURPOSE: To amend and reordain Ord. No. 2001-262-248, adopted Sep. 10, 2001, which authorized the special use of the properties known as 3101 Kensington Avenue and 3131 Kensington Avenue, for the conversion of the existing building for either 40 or 42 multi-family dwelling units and accessory parking, to authorize the multi-family dwelling units to remain as rental units, upon certain terms and conditions.

REASON: A condition of Ord. No. 2001-262-248 currently states that within five years of the issuance of a certificate of occupancy for the entire building, all of the dwelling units shall be

converted to condominiums. The five-year time period has expired since the certificate of occupancy was issued and the applicant has requested that the requirement to convert the rental units to condominium units be removed.

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 October 5, 2015, meeting. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting.

BACKGROUND: An application has been received for an amendment to the existing special use permit for an existing multi-family structure that would remove the requirement that "within five years of the issuance of a certificate of occupancy for the entire building, all of the dwelling units shall be converted to condominiums".

The subject property consists of a 0.275 acre (11,979 sq. ft.) parcel of unimproved land (3131 Kensington Avenue) and a 1.652 acre (71,961 sq. ft.) parcel (3101 Kensington Avenue) improved with a former school constructed, per tax assessment records, in 1917 and converted to a 40-unit multi-family structure after approval of the 2001 special use permit. The property is located at the intersection of Kensington Avenue, N. Belmont Avenue, and N. Cleveland Street, in The Museum District neighborhood of the Near West planning district.

Currently, the subject property is zoned in the R-6 Single-Family Attached Residential District, which does not allow multi-family use, and is located within the West of the Boulevard overlay district. The property is subject to the above referenced special use permit (Ordinance No. 2001-262-248) which authorized multi-family use of the property.

The City of Richmond's Master Plan recommends Single-family (Medium Density) land use for the property. The Master Plan defines the primary uses for this category as single-family and two-family detached and attached dwellings at densities of 8 to 20 units per acre, and includes residential support uses such as schools, places of worship, and neighborhood parks, among others (p. 133).

All surrounding properties are located within the same R-6 zoning district as the subject property, with the exception of a B-1 parcel across Kensington Avenue from the subject property. A mix of single-, two-, and multi-family residential land uses are present in the area, with some commercial, mixed-use, and institutional land uses present as well.

FISCAL IMPACT / COST: The Department 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: \$1,800.00

DESIRED EFFECTIVE DATE: Upon Adoption

REQUESTED INTRODUCTION DATE: September 14, 2015

CITY COUNCIL PUBLIC HEARING DATE: October 12, 2015

REQUESTED AGENDA: Consent.

RECOMMENDED COUNCIL COMMITTEE: None.

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: City Planning Commission,
October 5, 2015

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.: Amend and reordain Ord. No. 2001-262-248,
adopted September 10, 2001

REQUIRED CHANGES TO WORK PROGRAM(S): None.

ATTACHMENTS: Draft Ordinance, Application Form, Applicant's Report

STAFF: Matthew J. Ebinger, AICP, Senior Planner
Land Use Administration (Room 511)
646-6308

PDR O&R No. 15-28

RECEIVED

OCT 25 2015



USE ADMINISTRATION

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) 646-8304
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

Project Name: Lee School Lofts Date: September 15, 2015

Property Address: 3101 Kensington Avenue / 3131 Kensington Tax Map #: W0001411/023 and /024

Fee: \$1800.00 Total area of affected site in acres: approx. 1.9 acres
(See page 3 for fee schedule, please make check payable to the "City of Richmond")

Zoning Current Zoning: R-6

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

Existing Use: multifamily dwellings

Is this property subject to any previous land use cases? amend section 3(c)

Yes No
If Yes, please list the Ordinance Number: 2001-262-248

Applicant/Contact Person: Jennifer D. Mullen, Esq.

Company: Roth Doner Jackson Gibbons Condlin, PLC

Mailing Address: 919 E. Main Street, Suite 2110

City: Richmond State: VA Zip Code: 23219

Telephone: (804) 977-3374 Fax: ()

Email: jmullen@rothdonerjackson.com

Property Owner: Lee School Lofts, LP and BKM, LLC

If Business Entity, name and title of authorized signer: Robert W. Miller Jr, MANAGER, BKM LLC

(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: PO Box 240

City: Richmond State: VA Zip Code: 23218

Telephone: (804) 321-2471 Fax: ()

Email: Robin Miller @ Robin Miller Associates . Com

Property Owner Signature: [Signature]

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)

8844A



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) 648-8304
<http://www.richmondgov.com/>

RECEIVED

JUL 22 2015

LAND USE ADMINISTRATION

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

Project Name: Lee School Lofts Date: July 16, 2015

Property Address: 3101 Kensington Avenue Tax Map #: W0001411023

Fee: \$1800.00 Total area of affected site in acres: 1.7 acres
(See page 3 for fee schedule, please make check payable to the "City of Richmond")

Zoning

Current Zoning: R-6

Proposed Use

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

Existing Use: Multi-Family Dwellings

Is this property subject to any previous land use cases? Amend section 3(c)

Yes No

If Yes, please list the Ordinance Number:
2001-262-248

Applicant/Contact Person: Jennifer D. Mullen, Esq.

Company: Roth Doner Jackson Gibbons Conklin, PLC

Mailing Address: 919 East Main Street, Suite 2110

City: Richmond State: VA Zip Code: 23219-4625

Telephone: (804) 977-3374 Fax: (804) 441-8438

Email: jmullen@rothdonerjackson.com

Property Owner: Lee School Lofts, LP

If Business Entity, name and title of authorized signer: Jennifer D. Mullen by special limited power of attorney

(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: 515 S. Capital of Texas Highway, Suite 103

City: Austin State: TX Zip Code: 23219

Telephone: () Fax: ()

Email: _____

Property Owner Signature: [Signature] by power of attorney

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)

SPECIAL LIMITED POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the undersigned has made, constituted and appointed, and by these presents does make, constitute and appoint each of Jennifer D. Mullen and Andrew M. Condlin as its true and lawful attorneys, for it and in its name, place or stead, to perform any and all acts which they, or any one of them, deem appropriate relating to the process of obtaining rezoning, special use, conditional use, special exceptions and/or site plan approval (the "Approvals"), for the property owned by the undersigned and located in the City of Richmond, Virginia as designed as tax map number W0001411023, known as 3101 Kensington Avenue (the "Property"). Subject to the foregoing, the above-named attorneys, or any one of them, are authorized to do, execute and perform all and every act, matter and thing in law, or in the judgment of all or any one of them, needful or desirable to be done in relation to the Approvals on the Property as fully and amply, and with the same effect, as the undersigned might or could do if acting itself. Without limiting the generality of the foregoing, these acts shall include, but not be limited to, the signing of any application for special use permit, rezoning, conditional use, special exceptions, the offering of voluntarily proffered conditions, the submission of a plan of development, and any additions, amendments, modifications or deletions thereto.

This Special Limited Power of Attorney shall not terminate on disability of the Principal. This Special Limited Power of Attorney shall automatically expire without further act of the undersigned within two (2) years of the date set forth below or such earlier date as this Special Limited Power of Attorney may be otherwise rescinded or modified by the undersigned.

[SIGNATURE APPEARS ON THE NEXT PAGE]

This Special Limited Power of Attorney has been executed pursuant to due authorization as of July 20th, 2015.

Lee School Lofts LP
a Virginia Limited Partnership

By: AMTX Lee School GP, Inc., its general partner

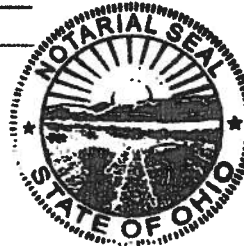
By: TM
Name: Thomas Mangum
Title: Vice President

STATE OF OHIO,
CITY/COUNTY OF Licking, To-wit:

This instrument was acknowledged before me in the above-stated jurisdiction this 20th day of July, 2015 by Thomas Mangum, who is the Vice President of the general partner of Lee School Lofts, LP, a Virginia Limited Partnership.

Brian K. Yates
Notary Public

My commission expires: 1-2-18
Notary registration no.: _____



Brian K. Yates
Notary Public, State of Ohio
My Commission Expires 01-02-18



roth doner jackson gibbons condlin, plc

attorneys at law

919 East Main Street, Suite 2110, Richmond, VA 23219-4625
(804) 441-8440 (main) - (804) 441-8438 (fax)
www.rothdonerjackson.com

Jennifer D. Mullen
(804) 977-3374 (direct)
jmullen@rothdonerjackson.com

July 22, 2015

Ms. Lory Markham
City of Richmond Department of Community Development
Land Use Administration Division, Room 511
City Hall, 900 East Broad Street
Richmond, Virginia 23219

Re: Special Use Permit Text Amendment: 3101 Kensington Avenue

Dear Lory:

This letter shall serve the Applicant's Report accompanying the application for a Special Use Permit Amendment (the "SUP amendment") for the property known as 3101 Kensington Avenue (the "Property") and located on the south side of Kensington Avenue between North Cleveland and North Belmont Streets. In 2001, ordinance number 2001-262-248 (the "Ordinance") authorized the adaptive reuse of the building on the Property as 40 multi-family dwelling units with accessory parking.

Consistent with the Ordinance and under the requirements of the federal and state rehabilitation tax credit programs, the Property was converted to multi-family dwelling units. A certificate of occupancy for 40 dwelling units was issued in November 2002 and the building has been continuously occupied as such since that time. Section 3(c) of the Ordinance requires that "within five (5) years of the issuance of a certificate of occupancy for the entire building, all of the dwelling units shall be converted to condominiums." The Property was subjected to the provisions Chapter 4.2 of Title 55 of the Code of Virginia of 1950, as amended (the Condominium Act") pursuant to that certain Declaration for Lee School Lofts Condominium, recorded in the Clerk's Office, Circuit Court, City of Richmond, Virginia as Instrument #090003820 (the "Condominium"). No units in the Condominium were sold and the Condominium was subsequently terminated. The units remain as high quality as at the time of the Ordinance and the Applicant seeks to remove the restriction requiring the Property be subjected to the Condominium Act.

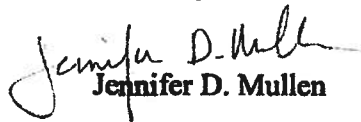
No other changes to the Ordinance are proposed other than the removal of the restriction requiring the dwellings be condominium units. The request would not impact the use of the Property in any way from a land use perspective as the dwelling could be occupied as rental units with or without the Condominium regime. However, the Condominium regime presents a number of adverse financial implications. The current use of the Property was found to be consistent with the Master Plan's specific recommendation of multi-family dwellings for the site. It allowed for the quality rehabilitation and preservation of the historic Lee Elementary School under Department of the Interior and State Department of Historic Resources guidelines. This

Ms. Lory Markham
July 22, 2015
Page 2

request would not alter the use of the Property or any of the operational characteristics. As such, this use continues to be appropriate for the Property and it meets the criteria set forth in the Charter of the City of Richmond that the use 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 cause overcrowding of land and 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.

Thank you for your time and consideration of this request, please let me know if you have any questions.

Sincerely,


Jennifer D. Mullen

Enclosures

cc: The Honorable Jonathan T. Baliles
Andrew M. Condlin, Esq.



roth doner jackson gibbons condlin, plc

affiliated with

McLean • Richmond • Norfolk