

INTRODUCED: July 27, 2015

AN ORDINANCE No. 2015-153-166

To authorize the special use of the property known as 3915 Patterson Avenue for the purpose of a day nursery, upon certain terms and conditions.

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

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

PUBLIC HEARING: SEPT 14, 2015 AT 6 P.M.

WHEREAS, the owner of the property known as 3915 Patterson Avenue, which is situated in a R-5 Single-Family Residential District, desires to use such property for the purpose of operating a day nursery, which use, among other things, is not currently allowed by section 114-410.1 of the Code of the City of Richmond (2004), 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 congestion in streets, roads, alleys and other public ways and places in the area

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

ADOPTED:    SEPT 14 2015    REJECTED: \_\_\_\_\_    STRICKEN: \_\_\_\_\_

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 114-1050.1 of the Code of the City of Richmond (2004), 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 3915 Patterson Avenue and identified as Tax Parcel No. W000-1779/008 in the 2015 records of the City Assessor, as more particularly described in a deed recorded in the Clerk's Office of the Circuit Court of the City of Richmond, Virginia, in Deed Book 676C, page 696, hereinafter referred to as "the Property," is hereby permitted to be used for the purpose of a day nursery, 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) No off-street parking shall be required.

(b) A minimum outdoor play area of 100 square feet for each child enrolled shall be furnished on the Property, but not within a required front yard.

(c) The outdoor play area shall be enclosed with a continuous opaque structural fence or wall not less than four feet in height, and such fence or wall shall not be located within a front yard or a required side yard.

§ 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 (2004), as amended, and all future amendments to such laws.

(e) 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 114-1220 of the Code of the City of Richmond (2004), 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 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 and conditions of this ordinance shall constitute a violation of section 114-1080 of the Code of the City of Richmond (2004), 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 Zoning Administrator is authorized to issue a certificate of zoning compliance for the Special Use subject to the terms and conditions set forth in this ordinance. An application for the certificate of zoning compliance shall be made within 365

calendar days following the date on which this ordinance becomes effective. If the application for the certificate of zoning compliance is not made with the time period stated in the previous sentence, 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.



RECEIVED City of Richmond

JUL 15 2015

Intracity Correspondence

OFFICE OF CITY ATTORNEY Report: a2015 - 513

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

File Number: a2015 - 513

To authorize the special use of the property known as 3915 Patterson Avenue and portion of the property known as 3905 Patterson for the purpose of permitting a day nursery and accessory parking, upon certain terms and conditions.

O & R Request

EDITION: 1

4-3828  
O & R REQUEST

DATE: June 29, 2015

TO: The Honorable Members of City Council *[Signature]*

JUL 10 2015

THROUGH: Dwight C. Jones, Mayor *[Signature]*  
(This in no way reflects a recommendation on behalf of the Mayor)

Chief Administration Office  
City of Richmond

THROUGH: Selena Cuffee-Glenn, Chief Administrative Officer *[Signature]*

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

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

RE: To authorize the special use of the property known as 3915 Patterson Avenue and portion of the property known as 3905 Patterson for the purpose of permitting a day nursery and accessory parking, upon certain terms and conditions.

ORD. OR RES. No.

**PURPOSE:** To authorize the special use of the property known as 3915 Patterson Avenue and portion of the property known as 3905 Patterson for the purpose of permitting a day nursery and accessory parking, upon certain terms and conditions.

**REASON:** The existing day nursery was previously operated by the Patterson Avenue Seventh Day Adventist Church, but will now be independently operated. Day nurseries are only permitted in the Single-Family Residential District when accessory to a church or school and a special use permit is required.

**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 8, 2015, meeting. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting.

**BACKGROUND:** The property is located in the R-5 Single-Family Residential zoning district. The property is currently improved by the Patterson Avenue Child Care Program, which is not a

permitted use in the R-5 district. However, because the day nursery was historically affiliated with the Patterson Avenue Seventh Day Adventist Church, the use was permitted. The day nursery will now be operated independently of the Church.

The subject property is 0.289- acre in size and the existing building is approximately 1,940 square feet. The nursery has 10 employees and is permitted by the Virginia Department of Social Services to provide for 33 children in the age range of 6 weeks through 10 years. The Virginia Department of Social Services stipulates that services may be provided to no more than 5 children under the age of two and one-half at any time.

The Richmond Master Plan designates this property as Single-Family (low density) in the Far West Planning District. "Primary uses are single-family detached dwellings at densities up to seven units per acre. Includes residential support uses such as schools, places of worship, neighborhood parks and recreation facilities and limited public and semi-public uses (p. 133)."

**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 27, 2015

**CITY COUNCIL PUBLIC HEARING DATE:** September 14, 2015

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** None

**CONSIDERATION BY OTHER GOVERNMENTAL AGENCIES:** City Planning Commission, September 8, 2015

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**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:** Willy Thompson, Senior Planner  
Land Use Administration (Room 511)  
646-5734

*DCD O&R No.15-17*





# 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) 648-6304  
<http://www.richmondva.gov/>

- 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: Westend Preschool Center Date: 01/01/2015

Property Address: 3915 Patterson Ave. Tax Map #: \_\_\_\_\_

Fee: 300 <sup>at 3905 Patterson Ave.</sup> Total area of affected site in acres: 0.124/2015 gm wpc

(See page 3 for fee schedule, please make check payable to the "City of Richmond")

### Zoning

Current Zoning: R-5

### Proposed Use

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

Existing Use: Child Care Center

Is this property subject to any previous land use cases?

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

Parcel: W 0001779008

Applicant/Contact Person: Jeanne Marshall

Company: Westend Preschool Center

Mailing Address: 3915 Patterson Ave

City: Richmond

State: VA Zip Code: 23221

Telephone: (804) 358-2767

Fax: ( ) same

Email: r.jeanne.mm@gmail.com

Property Owner: Potomac Conference of SDA

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

(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: 3915 Patterson Ave

City: Richmond

State: VA Zip Code: 23221

Telephone: (804) 358-2767

Fax: ( )

Email: r.jeanne.mm@gmail.com

Property Owner Signature: [Signature] Vice President for Administration

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)

March 20, 2015

Name of Vendor: Westend Preschool Center  
Services to be Provided: Daycare Program Management  
Location: 3915 Patterson Ave.  
Length of Contract: January 1, 2015 – June 30, 2015

Patterson Avenue Seventh-day Adventist Church (PASDAC) is pleased to extend to Westend Preschool Center (WPC) a vendor contract. This is a contract for services and is NOT an employee/employment contract.

- A. WPC agrees to assume the responsibility for managing PASDAC's daycare program, Patterson Ave. Child Care Program (PACCP). This is a vendor contract for services, with a total gross compensation of \$88,000 paid over a six month period starting January 1, 2015 with the first payment of \$18,000 to be paid on or about January 1, 2015. The remaining \$70,000 to be paid over the remaining five months in five equal payments of \$14,000 on or about the first day of each month.
- B. WPC, in entering into this agreement, clearly understands that it is responsible for paying all costs incurred in managing PASDAC's daycare program to provide the following services: payroll, insurance, taxes, supplies, food, and janitorial.
- C. WPC agrees to provide proof of liability insurance and to maintain coverage for the term of this contract. The policy must name Potomac Conference (PC), PASDAC and PACCP as additional insured. In the following amounts, per PC guidelines:  
Each Occurrence - \$1,000,000  
Personal & Advertising Injury Aggregate - \$1,000,000  
Fire Damage - \$1,000,000 (any one fire)  
Medical Expense - \$10,000 any one person, \$25,000 any one occurrence
- D. WPC agrees to provide proof of application of, or current business license and to continue to maintain this license for the term of this contract.
- E. WPC agrees to manage PASDAC's daycare in accordance with any and all current regulations and requirements by any regulatory agencies that oversees this type of program for the state of VA.
- F. WPC agrees to comply with all Shield the Vulnerable requirements for employees, or if WPC has already implemented a similar child protection program, to provide documentation of employee participation, documentation of background checks, and documentation that the Director has personally complied with all Shield the Vulnerable requirements.

It is agreed that the conditions of this contract shall only be changed by mutual written agreement of PASDAC and WPC. This is the sole agreement between the parties and no other representations, be they oral or written, are binding between the parties.

*Jeanna Marshall*

03/26/2015

(Signature of WPC President)

(Date)

(Signature of Pastor)

(Date)

(Signature of PCC Vice President for Administration)

(Date)

3/22/15