

INTRODUCED: May 22, 2023

AN ORDINANCE No. 2023-174

To authorize the special use of the property known as 3601 Seminary Avenue for the purpose of a day nursery, for up to 64 children, within a church, upon certain terms and conditions.

Patrons – Mayor Stoney (By Request), Ms. Lambert and Ms. Jordan

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: JUN 26 2023 AT 6 P.M.

WHEREAS, the owner of the property known as 3601 Seminary Avenue, which is situated in a R-48 Multifamily Residential District and a R-1 Single-Family Residential District, desires to use such property for the purpose of a day nursery, for up to 64 children, within a church, which use, among other things, does not meet the requirements of section 30-416.1(5), concerning yards for day nurseries, of the Code of the City of Richmond (2020), as amended; and

WHEREAS, in accordance with section 17.11 of the Charter of the City of Richmond (2020), 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: 7 NOES: 0 ABSTAIN:

ADOPTED: JUN 26 2023 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 (2020), 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 3601 Seminary Avenue and identified as Tax Parcel No. N000-1749/011 in the 2023 records of the City Assessor, being more particularly shown on a map entitled “Special Use Permit,” prepared by the City of Richmond Department of Planning & Development Review, and undated, a copy of which is attached to and made a part of this ordinance, hereinafter referred to as “the Property,” is hereby permitted to be used for the purpose of a day nursery, for up to 64 children, within a church, hereinafter referred to as “the Special Use,” substantially as shown on the plans entitled “Ginter Park Presbyterian Church, Richmond, Virginia,” prepared by an unknown preparer, and undated, hereinafter referred to as “the Plans,” a copy of which is attached to and made a part of this ordinance.

(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 day nursery, for up to 64 children, within a church, which may include a preschool program.

(b) The outdoor play area, substantially as shown on the Plans in the area labeled “Playground,” shall be enclosed within a continuous fence or wall not less than four feet in height.

which may be (i) located within a required front yard or a required side yard; (ii) opaque or non-opaque, or (iii) a chain-link fence.

(d) The hours of operation of the Special Use shall be limited to the hours between 6:30 a.m. and 6:30 p.m., Monday through Friday.

(e) The day nursery shall be licensed by and operated under the requirements of the Virginia Department of Education or its successor agency.

(f) In addition to signs permitted in all districts, pursuant to section 30-505 of the Code of the City of Richmond (2020), as amended, one sign not exceeding eight square feet in area shall be permitted on the Property for the Special Use. The sign shall not be internally illuminated.

§ 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.

(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 30-1220 of the Code of the City of Richmond (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 (2020), as

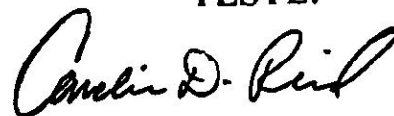
amended, and all future amendments to such laws. Failure to comply with the terms and conditions of this ordinance shall constitute a violation of section 30-1080 of the Code of the City of Richmond (2020), as amended, and all future amendments to such law, or any other applicable laws or regulations.

(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 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 730 calendar days following the date on which this ordinance becomes effective. If the application for the certificate of zoning compliance is not made within 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.

**A TRUE COPY:
TESTE:**

A handwritten signature in black ink, appearing to read "Camille D. Reed".

City Clerk



City of Richmond

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

RECEIVED
By City Attorney's Office at 6:14 pm, May 17, 2023

RECEIVED
By CAO Office at 4:04 pm, Apr 28, 2023

Item Request

File Number: Admin-2023-0212

O & R Request

DATE: April 25, 2023

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, Chief Administrative Officer

on Behalf of Lincoln Saunders

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

FROM: Kevin J. Vonck, Director, Dept. of Planning and Development Review

RE: To authorize the special use of the property known as 3601 Seminary Avenue for the purpose of a day nursery, upon certain terms and conditions.

ORD. OR RES. No. ____

PURPOSE: To authorize the special use of the property known as 3601 Seminary Avenue for the purpose of a day nursery, upon certain terms and conditions.

REASON: The applicant is requesting a special use permit to authorize a day nursery for up to 64 children in an R-1 Single-Family Residential zoning district and an R-48 Multi-family Residential District. Day nurseries are not allowed as a principal use in the R 1 District, per Section 30-402.1 of the City's Zoning Ordinance. Day nurseries are permitted as a principal use in the R-48 zoning district, however, the special terms and conditions listed in Section 30-416.1(5) cannot be met.

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.

BACKGROUND: The subject property contains a lot area of approximately 2.35 acres and is currently occupied by a place of worship. The applicant is requesting a Special Use Permit to allow for the operation of a day nursery within the existing church. However, the day nursery will be operated independently of the

church, and therefore must be considered an independent principal use. The property is located within the Ginter Park neighborhood.

The Richmond 300 Master Plan recommends a future land use of “Community Mixed Use” for the property. The primary uses recommended for Community Mixed Use are retail, office, and personal service uses, multi family residential, cultural uses, and open space. Secondary uses single family dwellings, institutional, cultural and government. The intensity recommended for Community Mixed Use is typically two to six stories, based on street width and historical context. The development style should be compatible with the existing context. Uses may be mixed horizontally in several buildings on a block or vertically within the same building. New developments on larger parcels should continue or introduce a gridded street pattern. Ground floors should engage the street with features such as street oriented facades.

The property is located within an R-1 Single-Family Residential District and an R-48 Multi-family Residential District. Properties surrounding the subject property are also located within the R-1 district to the west and the R-48 district to the east. The surrounding properties primarily contain single family and multi-family residential uses.

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: \$300 application fee

DESIRED EFFECTIVE DATE: Upon adoption

REQUESTED INTRODUCTION DATE: May 22, 2023

CITY COUNCIL PUBLIC HEARING DATE: June 26, 2023

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: City Planning Commission
June 20, 2023

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

RELATIONSHIP TO EXISTING ORD. OR RES.: None

REQUIRED CHANGES TO WORK PROGRAM(S): None

ATTACHMENTS: Draft Ordinance, Application Form, Applicant’s Report, Plans, Map

STAFF: Alyson Oliver, Planner, Land Use Administration (Room 511) 646-3709



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: 3601 Seminary Avenue Richmond, Virginia 23227 Date: 03-11-2023
Tax Map #: N0001749025 Fee: \$300.00
Total area of affected site in acres: 2.352

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

Zoning

Current Zoning: R-1 and R-48

Existing Use: Place of worship, Monastery, Abbey

Proposed Use

(Please include a detailed description of the proposed use in the required applicant's report)
Child Care Center operating as The Cottage School serving 64 children birth to 5. In collaboration with Ginter Park Presbyterian Church.

Existing Use: Education building for the church

Is this property subject to any previous land use cases?

Yes

No



If Yes, please list the Ordinance Number: It is assumed "yes" since it is dual zoned. R-1 and R-48.
Section 30-433.13

Applicant/Contact Person: Patricia Moon

Company: The Cottage School
Mailing Address: 12239 Framar Drive
City: Midlothian State: Virginia Zip Code: 23113
Telephone: (804) 310-8917 Fax: ()
Email: Pmoon873@gmail.com

Property Owner: Ginter Park Presbyterian Church, Inc.

If Business Entity, name and title of authorized signee: Amela B. Beckner, Trustee
Owen C. Sharman, Trustee

(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: 3601 Seminary Avenue
City: Richmond State: VA Zip Code: 23227
Telephone: (804) 359-5049 Fax: ()
Email: ginterparkpc@gmail.com

Property Owner Signature: Ginter Park Presbyterian Church, Inc.
By: Amela B. Beckner Owen C. Sharman
Trustee Trustee

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)

The Cottage School

Department of Planning and Development Review
Land Use Administration Division
City Hall 900 E. Broad Street, Room 511
Richmond, Virginia 23219

March 11, 2023

re: The Cottage School at Ginter Park Presbyterian Church - Special Use Permit

I. Introduction

Mary Thornton and Patricia Moon (“Applicants”), The Cottage School Board Chair and Vice Chair are applying for a special use permit to allow the opening of a new Child Care Center at Ginter Park Presbyterian Church located at 3601 Seminary Avenue. The property is bordered by Seminary and Walton Avenues at the front of the church and by Chamberlayne and Walton Avenues at the back of the church and is zoned as R1 and R48 Single Family Residential. Zoning Ordinance Section 30-402.2 indicates that Day Nurseries that are subordinate to the Church are permitted. The Cottage School will be open from 7:00 a.m. to 6:00 p.m. and will employ a maximum of 18 employees. The Applicants are requesting that The Cottage School be approved for a Special Use Permit which would allow them to operate a Child Care Center in *collaboration* with the Church.

R-1

Permitted accessory uses and structures:

- Private garages, garden, tool and storage buildings, boathouses, piers and docks;
- Swimming pools, tennis courts and similar recreational facilities;
- **Day Nurseries located in churches** or other places of worship, community centers or school buildings;

R-48

Permitted principal uses:

- Any principal use permitted in the R-1 and district as set forth in section 114-402.1;
- Single-family attached dwellings;
- Two-family detached dwellings;
- Multifamily dwellings;
- **Day Nurseries;**
- Adult day care facilities

II. Proposed Development

Permit The Cottage School (a 501[c]3 charitable organization) to open and operate a licensed Child Care Center (Day Nursery per zoning ordinance) serving 64 children and families.

Note: A Day Nursery previously operated in this same location.

According to zoning ordinance Section 30-433.13 it was deemed that the church has two front yards and a playground cannot be placed in a front yard. The church playground is already in place and has been for many years. In compliance with Section 30-433.14 The Cottage School will provide that the fence on the playground is 4 feet high and opaque. It will also ensure that a minimum of 100 square feet of play space is allotted per child on the playground at any given time. The playground has 6300 square feet of play space.

Note: This exceeds the Department of Education Licensing requirement in **Section 4.10 Outdoor Areas** of 75 square feet per child **at any one time**.

III. Factors In Section 17.1 of The City Charter and Section 30-433.13 of The Zoning Ordinance

A. Effect on Safety, Health, Morals and General Welfare of the Community

The proposed special use permit will have a positive effect on the Northside community because it will provide support for a critical need; quality care for children birth to six years of age. We are fortunate to have 3 Infant and Child Mental Health endorsed professionals on our leadership team. We plan to invite members of the surrounding community to special mentoring and coaching sessions designed to promote positive parenting skills, positive self esteem and confidence building, and positive mental health outcomes for all members of the family with whom we work through reflective practices.

B. Effect on the Streets, Roads, Alleys and Public Ways and Places

This is a church property designed to serve a large number of members consequently there will be no adverse effects on the community

C. Effect on the Hazards from Fire, Panic and Other Dangers

The church is a multi-use facility and is equipped to support safe and effective operations for a large volume of people in both the sanctuary and the education building. Consequently, there will be no adverse effects.

D. Effect of Crowding of Land and Concentration of Population

The proposed special use permit for the Cottage School's 64 children will not change the density of the underlying zoning.

E. Effect on Schools, Parks, Playgrounds, Water Supplies, Sewage Disposal, Transportation and Other Public Improvements

The property is served by public water and sewer and due to the nature of the property use the City services will not be impacted.

F. Effect on Adequate Light and Air

There will be no adverse effects on the available light and air.

IV. Conclusion

Granting the Special Use Permit for The Cottage School at Ginter Park Presbyterian Church will increase availability of quality infant and Toddler/Preschool care. It will also address a critical need for Northside and City of Richmond residents and parents, allowing them to return to the workforce while ensuring that their child is receiving quality care near their home.

Respectfully Submitted,

Patricia Moon

Ginter Park Presbyterian Church

Richmond, Virginia





**City of Richmond
Department of Planning
& Development Review**

Special Use Permit

LOCATION: 3601 Seminary Ave

APPLICANT: Shanika Christmas

COUNCIL DISTRICT: 3

PROPOSAL: To authorize the special use of the property known as 3601 Seminary Avenue for the purpose of a day nursery, upon certain terms and conditions.

*For questions, please contact Alyson Oliver at 804-646-3709
or alyson.oliver@rva.gov*

