

INTRODUCED: September 11, 2017

AN ORDINANCE No. 2017-186

To authorize the special use of the property known as 3200 Utah Place for the purpose of a day nursery for up to 12 children, upon certain terms and conditions.

Patron – Mayor Stoney (By Request)

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: OCT 9 2017 AT 6 P.M.

WHEREAS, the owner of the property known as 3200 Utah Place, which is situated in a R-6 Single-Family Attached Residential District, desires to use such property for the purpose of a day nursery for up to 12 children, which use, among other things, is not currently allowed by section 30-412.1 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 congestion in streets, roads, alleys and other public ways and places in the area involved, will not

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: OCT 9 2017 REJECTED: _____ STRICKEN: _____

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 3200 Utah Place and identified as Tax Parcel No. N000-1074/030 in the 2017 records of the City Assessor, being more particularly shown on a survey entitled “Plat of Lot with Improvements Thereon, Being Lot 1, Utah Place, Richmond, Virginia,” prepared by Foster and Miller, P.C., and dated July 25, 1983, 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 12 children, 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) The use of the Property shall be as a day nursery for up to 12 children, not including children residing on the Property. The Property may also be used for other principal or accessory uses permitted in the underlying zoning district.

(b) The operator of the day nursery shall reside on the Property.

(c) The hours of operation for the day nursery shall be limited to the hours between 6:00 a.m. and 7:00 p.m., Monday through Friday.

(d) A minimum of 50 square feet of indoor space shall be provided for each child under care within the area of the building devoted to the day nursery use.

(e) A minimum of 100 square feet of outdoor play space shall be provided for each child under care.

(f) No more than three persons employed by the day nursery shall be present on the Property at any one time.

(g) No off-street parking shall be required for the Special Use.

(h) The day nursery shall be licensed by and operated under the requirements of the Virginia Department of Social Services or successor agency.

(i) Signage on the Property shall meet the requirements of the underlying zoning district.

§ 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 (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 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. **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 180 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.



City of Richmond

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

Item Request

File Number: PRE. 2017.338

RECEIVED

AUG 31 2017

O & R REQUEST

4-6802
AUG 18 2017

O & R Request

OFFICE OF CITY ATTORNEY

DATE: August 15, 2017

EDITION: Office of the
Chief Administrative Officer

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor *LS*
(This in no way reflects a recommendation on behalf of the Mayor.)

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

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

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

SUBJECT: Special use permit to authorize the special use of the property known as 3200
Utah Place for use as a day nursery for up to 12 children, upon certain terms and
conditions.

ORD. OR RES. No. _____

PURPOSE: To authorize the special use of the property known as 3200 Utah Place for use as a day nursery for up to 12 children, upon certain terms and conditions.

REASON: The subject property is located in an R-6 Single-Family Residential district which does not permit the proposed day nursery use. The applicant is using the property as a day nursery for up to 12 children and is requesting a special use permit to legitimize the existing use of the property.

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 Planning Commission at its October 2, 2017 meeting. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting.

BACKGROUND: The subject property is located near the intersection of Utah Place and Burns Street and consists of a parcel with approximately 7,700 square feet of land area. The property is currently improved with a two-story, single-family detached dwelling constructed in 1983.

Under normal zoning requirements, property owners in the R-6 Single-Family Residential district may provide daycare for up to five children without special authorization. The applicant uses approximately 600 square feet of the existing dwelling as a day nursery for up to 12 children and provides 1,200 square feet of outdoor space for use by the children. The remaining portion of the dwelling is used as the applicant's residence.

The proposed ordinance would limit the hours of operations for the day nursery from 6:00 a.m. to 7:00 p.m. daily. The total number of day nursery employees present at the daycare at any one time would be limited to three. No off-street parking spaces will be provided for the use of the employees.

The City of Richmond's Master Plan recommends Single-Family Low Density land use for the subject property. This category includes single-family detached dwellings at densities up to seven units per acre and residential support uses such as churches, parks, and recreational facilities (p. 133).

All properties surrounding the subject property are located in the R-6 Single Family Residential district. In addition, all the surrounding adjacent properties to the subject property are all single-family detached dwellings located in the R-6 Single-Family Residential district.

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: \$300.00 application fee

DESIRED EFFECTIVE DATE: Upon adoption.

REQUESTED INTRODUCTION DATE: September 11, 2017

CITY COUNCIL PUBLIC HEARING DATE: October 9, 2017

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL AGENCIES: City Planning Commission, October 2, 2017

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 ORDINANCES: None.

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

STAFF: Leigh V. Kelley, Planner II, Land Use Administration (Room 511) 646-6384

DPDR O&R No.17-22



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.richmond.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

Property Address: 3200 Utan Place Rich. Va 23229 Date: 4/27/17
 Tax Map #: _____ Fee: \$ 300.00
 Total area of affected site in acres: _____

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

Zoning

Current Zoning: _____

Existing Use: _____

Proposed Use

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

Day care
 Existing Use: Single Family Dwelling

Is this property subject to any previous land use cases?

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

Applicant/Contact Person: Evelyn Plummer T/A
 Company: Kids R Us Day Care
 Mailing Address: 3200 Utan Place
 City: Richmond State: Va Zip Code: 23222
 Telephone: (804) 329-1969 Fax: (804) 329-1969
 Email: n/a

Property Owner: Evelyn Plummer - owner
 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: _____
 City: _____ State: _____ Zip Code: _____
 Telephone: (_____) _____ Fax: (_____) _____
 Email: _____

Property Owner Signature: Evelyn Plummer

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)

MAY 1,2017

TO WHOM IT MA CONCERN

ALL CIVIC ASSOCIATIOS AND COUNCILWOMAN ELLEN ROBERTSN WERE NOTIFIED IN MY LAST APPLICATION AND NO COMPLAINTS WERE MADE AND YOU ALSO SENT AND YOU ALSO SENT THEM LETTERS.

THE ZONING SIGN WAS PLACED IN MY FRONT YARD FOR 2 MONTHS.

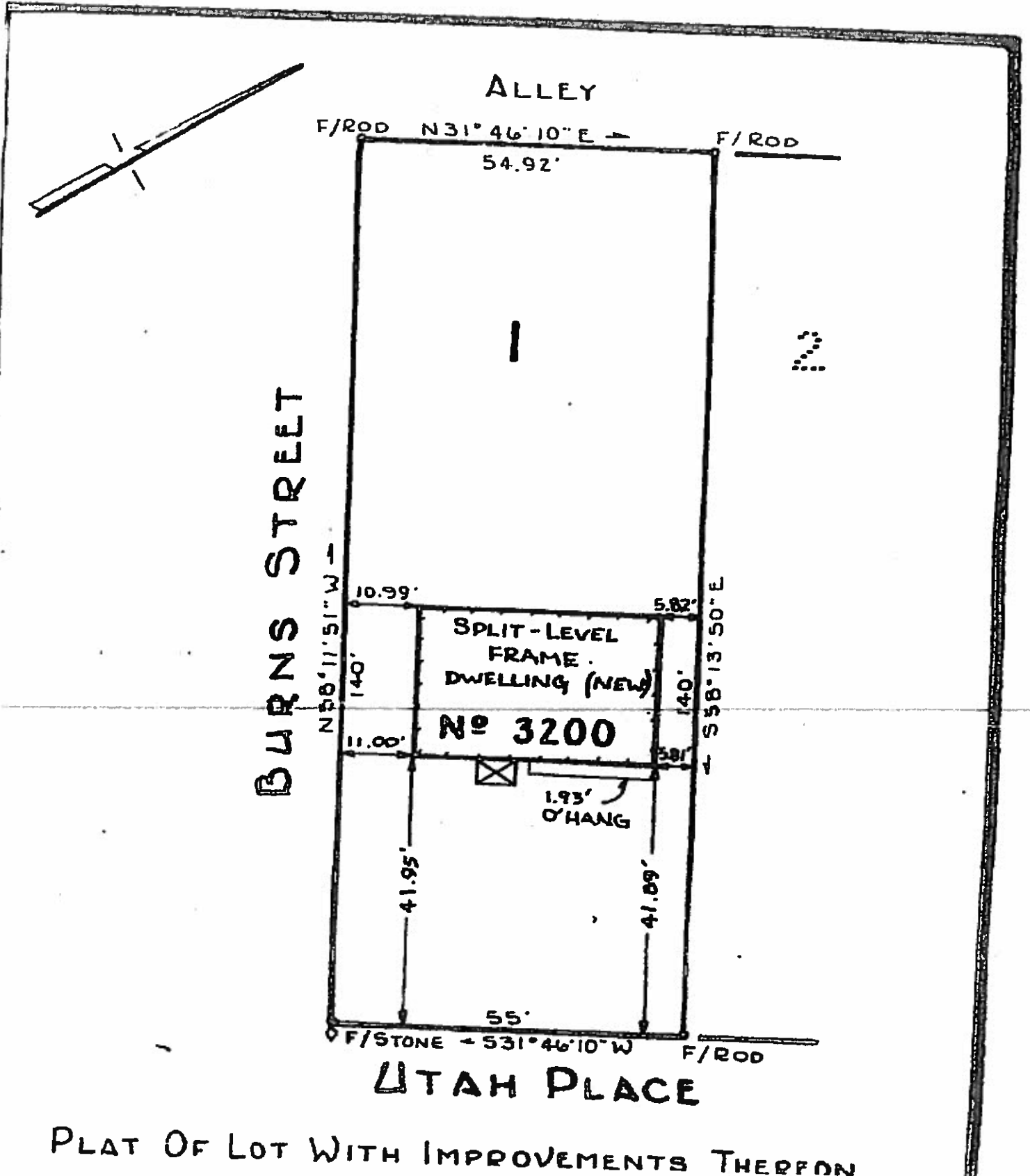
I HAD GRTC TO REROUTE THE BUS STOP THAT WAS IN FRONT OF MY DOOR SO THAT THEIR WILL BE NO CONGESTION. I LIVE ON THE CORNER LOT, SO THERE WILL BE NO CONGESTION. THE PARENTS COMES AT DIFFERENT TIMES. THERE ARE PLENTY OF PARKING SPACES,FRONT,SIDE STREET AND ACROSS THE STREET IN FRONT OF MY HOUSE.

I AM LICENSED BY THE STATE AND HAVE CERTAIN RATIO TO MEET THEIR REQUIREMENTS. I WILL HAVE AN ASSISTANCE WHEN I GO OVER MY RATIO OF 16 POINTS.

MY HOURS WILL BE 7AM TO7PM.

THANK YOU,


EVELYN PLUMMER



UTAH PLACE

PLAT OF LOT WITH IMPROVEMENTS THEREON

UTAH PLACE

PLAT OF LOT WITH IMPROVEMENTS THEREON,
BEING LOT 1, UTAH PLACE, RICHMOND, VIRGINIA.



SCALE: 1" = 20'

JULY 25, 1983
RESURVEYED: SEPT. 12,

FOSTER^{AN}, MILLER, P.C.
CERTIFIED SURVEYORS
RICHMOND, VIRGINIA

RLU 37574