INTRODUCED: April 26, 2021

AN ORDINANCE No. 2021-109

To authorize the special use of the property known as 415 North 35th Street for the purpose of two single-family attached dwellings, upon certain terms and conditions.

Patron – Mayor Stoney (By Request)

Approved as to form and legality by the City Attorney

PUBLIC HEARING: MAY 24 2021 AT 6 P.M.

WHEREAS, the owner of the property known as 415 North 35th Street, which is situated in a R-8 Urban Residential District, desires to use such property for the purpose of two single-family attached dwellings, which use, among other things, is not currently allowed by section 30-413.14, concerning lot area and width, 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

AYES:	8	NOES:	0	ABSTAIN:	
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ADOPTED:	MAY 24 2021	REJECTED:		STRICKEN:	

tend to create 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 415 North 35th Street and identified as Tax Parcel No. E000-1116/011 in the 2021 records of the City Assessor, being more particularly shown on a survey entitled "Plat Showing Improvements on # 415 North 35th Street, Located in the City of Richmond, VA," prepared by Gene Watson & Associates, P.C., and dated February 7, 2007, 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 two single-family attached dwellings, hereinafter referred to as "the Special Use," substantially as shown on the plans entitled "415 & 417 N 35th St.," prepared by River Mill Development, and dated, October 19, 2020, and the plans entitled "Site Plan," prepared by an unknown preparer, and undated, hereinafter referred to, collectively, as "the Plans," copies of which are 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 two single-family attached dwellings, substantially as shown on the Plans.
- (b) No less than one parking space shall be provided on the Property, substantially as shown on the Plans.

- (c) All building materials, elevations, and site improvements, including landscaping, shall be substantially as shown on the Plans.
 - (d) The height of the Special Use shall not exceed the height as shown on the Plans.
- (e) Prior to the issuance of any certificate of occupancy for the Special Use, the subdivision of the Property into two lots, substantially as shown on the Plans, shall be accomplished by obtaining the necessary approvals from the City and recording the appropriate plats among the land records of the Clerk of the Circuit Court of the City of Richmond.
- § 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 (2020), as amended, and all future amendments to such laws.
 - (e) The Owner shall make improvements within the right-of-way, including new

sidewalk and sidewalk ramps, which improvements may be completed in one or more phases as approved 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. The final certificate of occupancy shall not be issued for the Property until all requirements of this subsection are fully satisfied.

- (f) 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 Commissioner of Buildings is authorized to issue a building permit substantially in accordance with the Plans for the Special Use subject to the terms and conditions set forth in this ordinance. An application for the building permit shall be

made within 730 calendar days following the date on which this ordinance becomes effective. If either the application for the building permit is not made within the time period stated in the previous sentence or the building permit terminates under any provision of the Virginia Statewide Building Code, 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:

City Clerk

RECEIVED

2021-289

City of Richmond

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

Item Request

File Number: PRE.2021.588

O & R Request

DATE:

March 29, 2021

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, Acting Chief Administrative Officer DELS

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

Planning

FROM:

Kevin J. Vonck, Acting Director, Department of Planning and Development Review J Vol

RE:

To authorize the special use of the property known as 415 North 35th Street for the purpose

of two single-family attached dwellings, upon certain terms and conditions.

ORD. OR RES. No.

PURPOSE: To authorize the special use of the property known as 415 North 35th Street for the purpose of two single-family attached dwellings, upon certain terms and conditions.

REASON: The subject property is located in the R-8 Urban Residential zoning district. attached dwellings are permitted uses in this zoning provided that certain lot feature requirements are met. As proposed the two lots will not meet the area requirement. Therefore a special use permit amendment 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 May 17, 2021 meeting.

BACKGROUND: The 4,222 square foot subject property is located midblock on the eastern side of North 35th Street between East Marshall Street and East Clay Street. This vacant parcel is in the Chimborazzo neighborhood and is within the boundary of the Church Hill Central Civic Association.

The proposed lot split will result in two parcels 23 feet in width and contain approximately 2,111 square feet of area. A minimum lot width of 18 feet and an area of at least 2,200 square is required for a single-family dwelling in the R-8 Urban Residential District. Lots of this size and configuration are typical on the block and in the neighborhood where it is located.

The Richmond 300 Master Plan recommends Neighborhood Mixed-Uses for the Property. The development style in this designation calls for building types that are close to one another and create a unified street wall. Future development should complement the existing context. Primary uses include single-family houses, accessory dwelling units, duplexes and small multi-family dwellings.

The proposed two-story structures will be a traditional urban design that is complementary to the surrounding dwellings on the block and in the neighborhood.

All properties surrounding the subject property are located within the same R-8 Urban Residential zoning district. Within the area of the subject property, properties are improved with single-family and two-family attached dwellings.

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: April 26, 2021

CITY COUNCIL PUBLIC HEARING DATE: May 24, 2021

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: City Planning Commission

May 17, 2021

AFFECTED AGENCIES: Office of Chief Administration 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, Survey, Map

STAFF: David Watson, Senior Planner, Land Use Administration, 804-646-1036

APPLICANT'S REPORT

October 30, 2020

Special Use Permit Request 415 N 35th Street, Richmond, Virginia Map Reference Numbers: E-000-1116/011

Submitted to:

City of Richmond

Department of Planning and Development Review

Land Use Administration 900 East Broad Street, Suite 511 Richmond, Virginia 23219

Submitted by:

Mark Baker

Baker Development Resources 1519 Summit Ave., Suite 102 Richmond, VA 23230



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/

Project Name/Location Property Address: 415 N 35th Street		Date: 10/12/2020
ax Map #: E0001116011 Fee; \$300 otal area of affected site in acres: 0.097		_
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See page 6 f or fee schedule, please make check payable to	the "City of Richmond")	
Zoning .		
Current Zoning: R-8	,	
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Proposed Use		
Proposed Use Please include a detailed description of the proposed use i	n the required applicant's repor	t)
wo (2) new single-family attached dwellings		
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Applicant/Contact Person: Mark Baker Company: Baker Development Resources Mailing Address: 1519 Summit Ave., Suite 102 City: Richmond	Number:State: VA	
If Yes, please list the Ordinance Napplicant/Contact Person: Mark Baker Company: Baker Development Resources Mailing Address: 1519 Summit Ave., Suite 102 City: Richmond Telephone: (804) 874-6275	Number:	
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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)

Introduction

We represent the contract purchaser of 415 N 35th Street (the "Property"), who is requesting a special use permit (the "SUP") for the Property. The SUP would authorize the construction of two (2) single-family attached dwellings on the Property. The SUP is required to waive the lot area requirements required by the R-8 Urban Residential District for two single-family attached dwellings.

Existing Conditions

SITE DESCRIPTION AND EXISTING LAND USE

The Property is located on the east side of N 35th Street between E Marshall and E Clay Streets. The Property is referenced by the City Assessor as tax parcel E-000-1116/011. The Property is 46.92 feet in width and 90.00 feet in depth, contains approximately 4,222.8 square feet of lot area and is currently vacant.



The other properties in the immediate area to the north, east and west are occupied by a mixture of primarily one and two-family dwellings. There are several multi-family dwellings in the vicinity as well including a four-unit multi-family dwelling located to the West fronting on West Marshall Street and a 23-unit multi-family dwelling complex at the southeast corner of 35th and Glenwood. Immediately to the south lies a large, vacant parcel of land.

EXISTING ZONING

The Property, and those immediately to the east, north, and west, are currently zoned R-8 Urban Residential which generally permits single-family, single-family attached, and two-family dwellings subject to certain feature requirements. The vacant land to the south of the Property is zoned R-63 Multi-family Urban Residential. Properties to the west and south lie within the boundaries of the Chimborazo Park City Old and Historic District. Properties further to the west of the Property, at the intersection of Chimborazo Boulevard and E Marshall Street, are zoned R-63 and UB Urban Business.

MASTER PLAN DESIGNATION

The Master Plan recommends Single-Family (Medium Density) for the Property for which the "primary uses are single-family and two-family dwellings, both detached and attached, at densities of 8 to 20 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."

The Master Plan includes other written policy guidance that is applicable to the proposal, including:

- The desire for new and better-quality housing that is targeted to home owners
- The desire for increased opportunities for residential development
- The recognition that the vast majority of opportunities for new development are located in the context of existing neighborhoods
- The recognition of the difficulty that an older/aging housing stock represents in the market where new convenience/easy maintenance is desired.

The draft Richmond 300 plan, recommends "Neighborhood Mixed-Use" for the Property. The proposed use, single-family dwellings, is a primary use within that designation. That said, this designation also supports two-family and multifamily uses as well as retail, office, personal service, cultural, institutional, and civic uses on a case-by-case basis. Furthermore, within the Inclusive Housing chapter, Objective 14.5 is met by this proposal, which is to encourage more housing types throughout the City and to add density within ½ mile of public transportation routes.

Proposal

PURPOSE OF REQUEST

This SUP would permit the construction of two (2) single-family attached dwellings on the Property. The proposed development is consistent in character with other development in the vicinity. Based on the historic lot pattern, many lots in the vicinity are nonconforming with regard to lot area, lot width or unit width for attached dwellings. This request would meet all of the zoning requirements with the exception of lot area for single-family attached dwellings. The R-8 zoning district requires not less than 2,200 square feet of lot area for each single-family attached

dwelling. The Property contains approximately 4,222.8 square feet of lot area requiring a SUP to waive the approximately 178 square feet of additional lot area needed for the two dwellings. In all other regards, the proposal meets the zoning requirements applicable to the Property including the provision of off-street parking, which will be provided to the rear via access from the public alley. Interestingly, while the Property falls just shy of the land area necessary for two-attached dwelling units, the Property is of sufficient area to permit the development of a side-by-side two-family dwelling having the same physical characteristics of the proposed attached single-family dwellings. As a result, this request is more about the ability to sell each unit individually as an attached dwelling unit than it is about authorizing the development of two dwelling units on the Property, which could be built by right.

In exchange for the SUP, the intent of this request is to ensure the construction of two (2) high-quality for-sale dwellings. The proposal would not authorize any additional density as a two-family dwelling could be built by right. The proposal is consistent with the historic development pattern in the greater area. The proposal is also consistent with the recommendations of the Master Plan and the draft Richmond 300 plan in terms of both use and density. By permitting the proposed development, the SUP would allow for the sale of the proposed high-quality single-family attached dwellings as home ownership opportunities, while addressing additional objectives found in current planning guidance.

PROJECT DETAILS

The proposed for-sale, single-family attached dwellings would be two stories in height and of an urban row house design. The two dwellings would each be 20' in width and contain approximately 2,240 square feet of finished floor area. Each unit would include three bedrooms and 2 ½ bathrooms. The dwellings' floor plans are modern with open living areas, and include master bedrooms complete with en-suite master bathrooms and walk-in closets. Full length front porches are proposed for each dwelling. The dwellings would be constructed of high-quality building materials including cementitious lap siding as the primary cladding material.

Findings of Fact

The following are factors included in Section 17.11 of the Charter and Section 30-1050.1 of the Zoning Ordinance relative to the approval of special use permits by City Council. The proposed special use permit will not:

 Be detrimental to the safety, health, morals and general welfare of the community involved.

The proposed SUP will not impact the safety, health, morals and general welfare of the nearby neighborhoods. The proposed site improvements and density are consistent with other development in the vicinity. This request would not increase the permitted density as a two-family dwelling would be permitted as a matter of right. This request would allow for development of the Property in a manner that is both of quality as well as consistent with the neighborhood. The redevelopment of this underutilized Property in conjunction with the high quality/benefits provided by the SUP will provide positive impacts in terms of health, welfare, etc.

 Tend to create congestion in streets, roads, alleys and other public ways and places in the area involved.

The proposed SUP will not result in significant traffic impacts to nearby residential neighborhoods. The traffic generation for two dwelling units would equal to that of the two-family dwelling, which could be built by right. In addition, proposed parking meets that required by zoning. As such, the SUP will not create congestion on streets, roads, alleys or any other public right of way.

Create hazards from fire, panic or other dangers.

The Property will be developed in a manner consistent with the requirements of the building code and in accordance with the requirements of Fire and Emergency Services. The City's codes applicable to this development are designed to eliminate such hazards.

• Tend to overcrowding of land and cause an undue concentration of population.

The proposed SUP will not tend to over crowd the land or create an undue concentration of population. The request is reflective of the historic lot pattern and uses found in the neighborhood, and is no more intense than the density found in the immediate vicinity. The density is equal to that which could be established by right with the permitted two-family dwelling use.

 Adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences and improvements.

The SUP would not adversely affect the above referenced City services. To the contrary, the proposal would provide positive fiscal (tax) benefits that would enhance the City's ability to provide these services to the proposed development.

• Interfere with adequate light and air.

The light and air available to the subject and adjacent properties will not be affected. New construction would be consistent with the preexisting buildings and provide setbacks that are consistent with character of the immediate neighbors and the surrounding area.

Summary

In summary, the applicant is enthusiastically seeking approval for the construction of two (2) single-family attached dwellings on the Property. This proposal represents an ideal, small-scale urban infill development for this location. This request would not authorize any greater density than that which could be established by right through the development of a two-family dwelling. The SUP is consistent with current planning guidance applicable to the neighborhood and the City at large. In exchange, the quality assurances conditioned through the SUP would guarantee the construction of new, for sale single-family attached dwellings that are of a higher quality than what might otherwise be developed by-right. The proposed development would contribute to the

vibrancy of the block though the provision of a traditional neighborhood design that is consistent with the historic development pattern of the surrounding neighborhood.











