



Legislation Details (With Text)

**File #:** ORD. 2019-135    **Version:** 1    **Name:**

**Type:** Ordinance    **Status:** Adopted

**File created:** 3/11/2019    **In control:** City Council

**On agenda:** 6/3/2019    **Final action:** 6/10/2019

**Title:** To authorize the special use of the properties known as 2417 Royall Avenue, 2420 Webber Avenue, and 2408 Webber Avenue for the purpose of a day nursery for up to 130 children, upon certain terms and conditions.

**Sponsors:** Mayor Stoney (By Request)

**Indexes:**

**Code sections:**

**Attachments:** 1. Ord. No. 2019-135, 2. Staff Report, 3. Application Form & Applicant's Report, 4. Plans, 5. Map, 6. Letter of Support, 7. Petition and Letters of Support

Date	Ver.	Action By	Action	Result
6/10/2019	1	City Council	adopted	Pass
6/3/2019	1	Planning Commission	recommended for approval	
5/13/2019	1	City Council	introduced and referred	

To authorize the special use of the properties known as 2417 Royall Avenue, 2420 Webber Avenue, and 2408 Webber Avenue for the purpose of a day nursery for up to 130 children, upon certain terms and conditions.

WHEREAS, the owners of the properties known as 2417 Royall Avenue, 2420 Webber Avenue, and 2408 Webber Avenue, which are situated in a R-5 Single-Family Residential District, desires to use such properties for the purpose of a day nursery for up to 130 children, which use, among other things, is not currently allowed by sections 30-410.1 and 30-410.2(3), concerning day nurseries, 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 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 properties known as 2417 Royall Avenue, 2420 Webber Avenue, and 2408 Webber Avenue and identified as Tax Parcel Nos. S007-1528/001, S007-1528/011, and S007-1528/012, respectively, in the 2019 records of the City Assessor, being more particularly shown on a site plan entitled “Summerhill Daycare Center, City of Richmond, Virginia,”

prepared by Kimley-Horn and Associates, Inc., and dated May 1, 2019, 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 130 children, hereinafter referred to as “the Special Use,” substantially as shown on the site plan entitled “Summerhill Daycare Center, City of Richmond, Virginia,” prepared by Kimley-Horn and Associates, Inc., and dated May 1, 2019, and the three pages entitled “1<sup>st</sup> Floor - 2419 Royall Avenue,” “2<sup>nd</sup> Floor - 2419 Royall Ave,” and “3<sup>rd</sup> Floor - 2419 Royall Avenue,” prepared by an unknown preparer, and undated, hereinafter collectively referred to 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 a day nursery for up to 130 children, aged 12 years or less, located at 2417 Royall Avenue, and an accessory play area located at 2408 Webber Avenue, substantially as shown on the Plans and substantially as described in the document entitled “Faith Gospel Family Worship Center,” and dated January 2019, a copy of which is attached to and made a part of this ordinance. The church building located at 2420 Webber Avenue may be used as part of the operations of the day nursery. The Property may also be used for other principal or accessory uses permitted in the underlying zoning district.

(b) Up to 11 off-street parking spaces shall be provided for the Special Use at the portion of the Property known as 2417 Royall Avenue, and up to 26 off-street parking spaces shall be provided for the

Special Use at the portion of the Property known as 2420 Webber Ave.

(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) All mechanical equipment serving the portion of the Property known as 2417 Royall Avenue shall be located or screened so as not to be visible from any public right-of-way.

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

(f) Signs shall be permitted on the portion of the Property known as 2417 Royall Avenue and shall be limited to (i) signs permitted in all districts pursuant to section 30-505 of the Code of the City of Richmond (2015), as amended, and (ii) one wall sign, awning sign, or canopy sign no greater than 32 square feet in area.

(g) Fencing on the Property shall be substantially as shown on the Plans. At the Owner's request, the Director of Planning and Development Review may approve fencing that is not shown on the Plans and that may exceed the height restrictions imposed by section 30-630.9(b) of the Code of the City of Richmond (2015), as amended, but that is otherwise consistent with this ordinance and the Code of the City of Richmond (2015), as amended. The fence surrounding the play area may be opaque or non-opaque.

(h) The accessory buildings shown on the Plans adjacent to the play area and within the chain link fence may be situated partially within the portion of the Property known as 2420 Webber Avenue and 2408 Webber Avenue, substantially as shown on the Plans.

§ 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 Commissioner of Buildings is authorized to issue a certificate of occupancy for the Special Use subject to the terms and conditions set forth in this ordinance. An application for the certificate of occupancy shall be made within 365 calendar days following the date on which this ordinance becomes effective. If the application for the certificate of occupancy 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.

### **O & R Request**

**DATE:** March 12, 2019

**EDITION:** 1

**TO:** The Honorable Members of City Council

**THROUGH:** The Honorable Levar M. Stoney, Mayor (Patron: Mayor, by Request)  
(This is no way reflects a recommendation on behalf of the Mayor.)

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

**THROUGH:** Douglas C. Dunlap, Interim Deputy Chief Administrative Officer for Economic Development and Planning

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

**RE:** To authorize the special use of the property known as 2417 Royall Avenue, 2420 Webber Avenue and 2408 Webber Avenue, for the purpose of a childcare facility, upon certain terms and conditions.

**ORD. OR RES. No.**

**PURPOSE:** To authorize the special use of the property known as 2417 Royall Avenue, 2420 Webber Avenue and 2408 Webber Avenue, for the purpose of a childcare facility, upon certain terms and conditions.

**REASON:** The applicant has proposed to operate a childcare facility, which is not permitted by the underlying zoning of the property. A special use permit is therefore 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 6, 2019, meeting. A letter outlining the Commission’s recommendation will be forwarded to City Council following that meeting.

**BACKGROUND:** The properties known as 2417 Royall Avenue, 2420 Royall Avenue and 2408 Webber Avenue consist of a 20,286 sq. ft. (.47 acre), 25,496 sq. ft. (.585 acre), and a 26,351 sq. ft., (.60 acre) parcels of land, respectively. 2417 Royall Avenue is currently improved with a 3-story brick building with parking and has been used in the past for educational purposes and as an emergency youth shelter. The Faith Gospel Family Worship Center currently operates a childcare facility in the church building located at 2420 Webber Avenue and utilizes the playground located at 2408 Webber Avenue. The applicant wishes to move the daycare operations from the Webber Avenue location to the 2417 Royall Avenue building location and continue utilizing the playground.

The City of Richmond’s current Master Plan designates a future land use category for the subject properties as Single-Family Low Density. Primary uses for this category include “...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. Typical zoning classifications that may accommodate this land use category: R-1, R-2, R-3, R-4, and R-5.” (City of Richmond Master Plan)

The subject property and adjacent properties to the north, south, east and west are located in the R-5 Single-Family Residential Zoning District.

**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 8, 2019

**CITY COUNCIL PUBLIC HEARING DATE:** May 13, 2019

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** None

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** City Planning Commission, May 6, 2019

**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.:** None

**REQUIRED CHANGES TO WORK PROGRAM(S):** None

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

**STAFF:** Jonathan Brown, Senior Planner  
Land Use Administration (Room 511) 646-5734

Key Issues:

Retain on Consent Agenda

Move to Regular Agenda

Refer Back to Committee

Remove from Council Agenda

Strike

Withdrawn

Continue to: