



## Legislation Details (With Text)

**File #:** ORD. 2022-262    **Version:** 1    **Name:**  
**Type:** Ordinance    **Status:** Adopted  
**File created:** 3/4/2022    **In control:** City Council  
**On agenda:** 4/24/2023    **Final action:** 4/24/2023

**Title:** To amend and reordain Ord. No. 95-152-151, adopted Jun. 26, 1995, as amended by Ord. No. 97-222-236, adopted Jul. 28, 1997, and Ord. No. 98-335-99-20, adopted Jan. 25, 1999, which authorized a special use of the property known as 815 North 35th Street to increase the number of permitted dwelling units and to reduce the required common area for the existing multifamily dwelling for the elderly, to further increase the number of multifamily dwelling units, to permit single-family attached dwelling units and single-family detached dwelling units, and to incorporate the property known as 823 North 36th Street, upon certain terms and conditions. (As Amended) (7th District)

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

**Indexes:**

**Code sections:**

**Attachments:** 1. Ord. No. 2022-262 - Amended 20230410, 2. 04102023 Amendment of Ord. No. 2022-262, 3. Staff Report, 4. Application & Applicant's Report, 5. Plans & Survey - 03 April 2023 Planning Commission Meeting, 6. Plans (Feb 2023), 7. Survey, 8. Map, 9. Church Hill Central Civic Association - Support, 10. Letter of Concern - Augustine, 11. Letter of Concern - Abila, 12. Letter of Concern - Garrett, 13. Public Comment - 800 Block of N 35th St Homeowners, 14. Applicant Presentation

Date	Ver.	Action By	Action	Result
4/24/2023	1	City Council	adopted	Pass
4/10/2023	1	City Council	amended and continued	
4/3/2023	1	Planning Commission	recommended for approval with amendments	Pass
2/13/2023	1	City Council	continued and referred back	
2/6/2023	1	Planning Commission	recommended for continuance	
11/14/2022	1	City Council	continued and referred back	
11/7/2022	1	Planning Commission	recommended for continuance	
10/10/2022	1	City Council		
10/3/2022	1	Planning Commission	recommended for continuance	Pass
9/12/2022	2	City Council	introduced and referred	

To amend and reordain Ord. No. 95-152-151, adopted Jun. 26, 1995, as amended by Ord. No. 97-222-236, adopted Jul. 28, 1997, and Ord. No. 98-335-99-20, adopted Jan. 25, 1999, which authorized a special use of the property known as 815 North 35<sup>th</sup> Street to increase the number of permitted dwelling units and to reduce the required common area for the existing multifamily dwelling for the elderly, to further increase the number of multifamily dwelling units, to permit single-family attached dwelling units and single-family detached dwelling units, and to incorporate the property known as 823 North 36<sup>th</sup> Street, upon certain terms and conditions. (As Amended) (7<sup>th</sup> District)

I. That Ordinance No. 95-152-151, adopted June 26, 1995, as amended by Ordinance No. 97-222-236, adopted July 28, 1997, and Ordinance No. 98-335-99-20, adopted January 25, 1999, is hereby amended and reordained as follows:

§ 1. That the ~~[real estate,]~~ property known as 815 North 35<sup>th</sup> Street (Nathaniel Bacon School), located at the southeast corner of 35<sup>th</sup> Street and “O” Street, containing 3.05 acres, more or less, identified as Tax Parcel E000-1112/001 in the ~~[1995]~~ [2022] 2023 records of the City Assessor, being more completely described as follows: beginning at the point of intersection of the east right of way line of 35<sup>th</sup> Street and the south right of way line of “O” Street; thence in a southeasterly direction 264.00 feet to the point of intersection of the west right of way line of 36<sup>th</sup> Street and the south right of way line of “O” Street; thence in a southwesterly direction along the west right of way line of 36<sup>th</sup> Street 90.00 feet to a point; thence in a southeasterly direction along a property line 66.00 feet to a point; thence continuing in a southeasterly direction along a property line 124.00 feet to a point on the west right of way line of a 16-foot alley; thence in a southwesterly direction along said alley 176.13 feet to a point; thence in a southeasterly direction along the south right of way line of a 16-foot alley 140.00 feet to a point on the west right of way line of 37<sup>th</sup> Street; thence in a southwesterly direction along the west right of way line of 37<sup>th</sup> Street 51.05 feet to a point; thence in a northwesterly direction 594.08 feet to a point on the east right of way line of 35<sup>th</sup> Street; thence in a northeasterly direction along the east right of way line of 35<sup>th</sup> Street 316.12 feet to the point of beginning, as well as the property known as 823 North 36<sup>th</sup> Street, identified as Tax Parcel No. E000-1280/044 in the [2022] 2023 records of the City Assessor, which two parcels are hereinafter referred to, collectively, as the “Property,” is hereby permitted to be used for multifamily dwelling purposes, and for the conversion of the existing building for use as a maximum of ~~[fifty-eight (58)]~~ 58 multifamily dwelling units for the elderly and handicapped, and for an expansion containing up to 70 dwelling units, up to [three] two single-family detached dwellings, and up to [eight] seven single-family attached dwellings, together with an accessory dwelling unit for a staff person and accessory parking, substantially as shown on the site plan, floor plans, and elevation

drawings, entitled: “Nathaniel Bacon School” prepared by SWA Architects, P.C., consisting of Sheet SP dated June 6, 1997 and Sheets A-1, A-2, A-3, A-4 and A-5 dated June 6, 1997, which plans are attached to and made a part of Ordinance No. 97-222-236,

adopted July 28, 1997, as modified by the plans entitled: “Nathaniel Bacon School” prepared by SWA Architects, P.C., consisting of Sheet A-IA, dated September 18, 1997 as revised through February 23, 1998, and the plan entitled “Partial First Floor Plan, Bacon School,” prepared by Larry Sanford Shifflett dated September 23, 1998 which plans are attached to and made a part of Ordinance No. 98-335-99-20, adopted January 25, 1999, as modified by the plans entitled “Bacon Senior Housing, 815 N. 35<sup>th</sup> Street, Richmond, VA 23223,” prepared by SWA Architects-VA, Inc., consisting of sheet A1.00, dated [July 19, 2022] March 29, 2023, and sheet A2.01, dated [January 14, 2022] March 2, 2022, and last revised January 17, 2023, which plans are attached to and made a part of this amendatory ordinance and hereinafter referred to as the “[2022] 2023 Plans .”

§ 2. That the adoption of this amendatory ordinance shall constitute the granting of a special use permit for the [real estate] Property, which shall be transferable from the owner of the [real estate] Property to the successor or successors in fee simple title of the owner, whether acquired by operation of law, deed or otherwise, and shall run with the land.

§ 3. That the Commissioner of Buildings is hereby authorized to issue to the owner of said [real estate] Property a building permit and to permit the occupancy of the [property] Property in accordance with the above-referenced plans for such purposes(s), subject to the following terms and conditions:

(a) That the owner of the [property] Property shall be bound by, observe, and shall comply with all other laws, ordinances and rules and regulations adopted pursuant thereto, applicable to the land and building, except as otherwise provided in this ordinance;

(b) That application for a building permit for the additional dwelling unit shall be made within [twenty four (24)] 24 months from the effective date of this amendatory ordinance, which

building permit shall expire by limitation and become null and void if the conversion is not commenced within ~~[one hundred eighty]~~ 180 days from the date of the building permit, or if the conversion is suspended or abandoned for a period of ~~[one hundred eighty]~~ 180 days at any time after work is commenced, as provided in the applicable provisions of the Virginia Uniform Statewide Building Code. Should application for the building permit not be made within ~~[twenty-four (24)]~~ 24 months from the effective date of this ordinance or should the building permit expire and become null and void, the privileges granted by this amendatory ordinance shall terminate and this special use permit shall become null and void;

(c) That the use ~~[and occupancy]~~ of the ~~[building]~~ Property shall be as ~~[a]~~:

(1) A maximum of ~~[fifty-eight (58)]~~ 128 multi-family dwelling units which are limited to occupancy by handicapped persons and/or persons of a minimum of ~~[fifty-five]~~ 55 years of age, and one ~~[(1)]~~ accessory dwelling unit limited to use as a residence and office for a staff person. At a minimum, interior common areas to support the use of such building shall be provided substantially to the extent shown on the plans attached to Ordinance No. ~~[97-222-236]~~ 98-335-99-20, adopted January 25, 1999, as modified by the [attached plans] [2022] 2023 Plans attached to and incorporated into this amendatory ordinance;

(2) Up to ~~[three]~~ two single-family detached dwellings and up to ~~[eight]~~ seven single-family attached dwellings, substantially as shown on the ~~[2022] 2023 Plans attached to and incorporated into this amendatory ordinance.~~

(d) That not less than ~~[sixteen (16)]~~ [76] 71 parking spaces shall be provided, substantially as shown on the plans attached to Ordinance No. ~~[97-222-236]~~ 98-335-99-20, adopted January 25, 1999, as modified by the [2022] 2023 Plans attached to and incorporated into this amendatory ordinance;

(e) The parking area and access aisles shall be paved with a dust-free all weather surface. Parking spaces shall be delineated on the pavement surface. The parking area shall be screened from view from public

streets and adjacent properties by minimum [~~eighteen (18)~~] 18 inch high evergreen vegetative material, located substantially as depicted on the plans attached to Ordinance No. [~~97-222-236~~] 98-335-99-20, adopted January 25, 1999;

(f) That site improvements such as pedestrian walks, benches, and landscaping shall be provided of a similar character and extent as those shown on the plans attached to Ordinance No. [~~97-222-236~~] 98-335-99-20, adopted January 25, 1999, as modified by the [~~2022~~] 2023 Plans attached to and incorporated into this amendatory ordinance. [~~Actual locations may vary with final detailed plans, provided that such plans are approve by the Director of Community Development.~~] Fences may also be installed on the [~~property~~] Property, [and such fences may be] provided all fencing material shall be constructed [of] in a black [vinyl coated chain link mesh material and matching poles and hardware, provided that any chain link fence does not exceed more than five] [(5)] [feet in height, is not located closer to 35<sup>th</sup> Street than the front of the existing building on the] [property] [Property, is set back from any public sidewalk to accommodate a planting strip between the fence and the sidewalk, and the planting strip is landscaped with a minimum] [~~eighteen (18)~~] [18 inch high evergreen hedge. Otherwise, all fencing material shall be constructed in a black] metal picket style of up to six and one-half [~~(6.5)] feet in height, or a wood, or equivalent material, privacy fence for the single-family attached and single-family detached lots;~~

(g) Driveways and entrances shall be constructed in accordance with the City Driveway Policy standards, as determined by the Director of Public Works;

(h) That 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 the adjacent properties or public streets, substantially as depicted on the plans attached to Ordinance No. [~~97-222-236~~] 98-335-99-20, adopted January 25, 1999, as modified by the [~~2022~~] 2023 Plans attached to and incorporated into this amendatory ordinance [~~or in such alternative location or with such alternative screening as may be approved by the Director of Community Development as part of an overall landscape plan~~];

(i) That final grading and drainage plans shall be approved by the Director of [~~Community Development~~] Public Utilities prior to the issuance of a building permit;

(j) That storm or surface water shall not be allowed to accumulate on the land and adequate facilities for the drainage of storm or surface water from the land or building shall be provided by the owner at the owner's cost and expense so as not to adversely affect or damage adjacent properties or public streets and the use thereof;

(k) That identification of the [~~premises~~] Property shall be limited to a maximum of two signs, with an aggregate sign area not exceeding [~~twelve~~] 12 square feet. Any freestanding sign shall not be located within five feet of the street line and shall not be greater than eight feet in height. Such sign(s) may be illuminated, provided that the source of illumination is not visible from adjoining properties or public streets. The existing school sign on the front (north) elevation of the building may remain in addition to the signage herein permitted;

(l) That outdoor lighting of the [~~premises~~] Property shall be provided substantially as depicted on the plans attached to Ordinance No. 97-222-236, adopted July 28, 1997, with such lighting being provided as necessary for security, and directed or shielded so as not to shine directly on adjacent residential properties. A final lighting plan shall be submitted to demonstrate conformance with this condition prior to or concurrent with the filing of a building permit request, and issuance of the building permit shall be subject to the approval of the lighting plan by the Director of [~~Community~~] Planning and Development Review;

(m) That this ordinance shall not preclude any alteration necessary so that the project may be eligible for historic designation and/or certification for historic rehabilitation credits[~~- Such~~], except that such changes shall be subject to the review and approval of the Director of [~~Community~~] Planning and Development Review prior to the performance of the alteration to ensure such changes are generally consistent with the special use plans;

(n) ~~[That a lot line may be established to create two parcels from the existing single parcel, as depicted on the site plan drawing attached to Ordinance No. 97-222-236 showing a “Proposed Parcel 2.76+- acres zoned R-5, Reserved”. As a reserved parcel, no development of the undeveloped parcel (“Parcel 2”) is authorized by this ordinance]~~ That the single-family detached [dwelling] dwellings and single-family attached dwellings shall be substantially as shown on the [2022] 2023 Plans attached to and incorporated into this amendatory ordinance. No vinyl siding shall be permitted;

§ 4. ~~[That should the owner use the premises for any purpose which is not permitted by this ordinance, or fails, refuses or neglects to comply with all applicable terms and conditions, and does not terminate such use or comply with such terms and conditions within sixty days after written notice to do so has been given by the Zoning Administrator, the]~~ The privileges granted by this ordinance [shall terminate and the special use permit shall become null and void, unless an application for a special use amendment is filed with the Director of the Department of Community Development, which shall stay the sixty day period] 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 [§ 32-1080] section 30-1080 of the Code of the City of Richmond[, 1993] (2020), as amended, and all future amendments to such law, or any other applicable [provision] laws or regulations.

§ 5. That when the privileges granted by this amendatory ordinance terminate and the special use permit becomes null and void or when use of the ~~[premises]~~ Property is abandoned for a period of ~~[twenty-four]~~ 730 consecutive ~~[months]~~ 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, the use of the ~~[real estate]~~ Property shall be governed thereafter by the zoning regulations prescribed for the district in which the real estate is then situated.

§ 6. This amendatory ordinance shall be in force and effect upon adoption, and Ordinance No. [

~~97-222-236]~~ 98-335-99-20, adopted Jan. 25, 1999, except as modified herein, shall remain in force and effect.

II. This amendatory ordinance shall be in force and effect upon adoption.

**O & R Request**

**DATE:** March 14, 2022 **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

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

**FROM:** Kevin Vonck, Director, Department of Planning and Development Review

**RE:** To amend Ordinance No. 98-335-99-20, adopted January 25, 1999, as amended by Ordinance No. 95-152-151, adopted June 26, 1995, as amended by Ordinance No. 97- 222-236, adopted July 28, 1997, which authorized a special use of the real estate, property known as 815 North 35th Street, to increase the number of permitted dwelling units, reduce the required common area for the existing multi-family dwelling for the elderly, and authorize single-family dwellings, upon certain terms and conditions.

**ORD. OR RES. No.**

**PURPOSE:** To amend Ordinance No. 98-335-99-20, adopted January 25, 1999, as amended by Ordinance No. 95-152-151, adopted June 26, 1995, as amended by Ordinance No. 97- 222-236, adopted July 28, 1997, which authorized a special use of the real estate, property known as 815 North 35th Street, to increase the number of permitted dwelling units, reduce the required common area for the existing multi-family dwelling for the elderly, and authorize single-family dwellings, upon certain terms and conditions.

**REASON:** The subject property is located in the R-5 Single-family Residential zoning district. Multi-family dwellings are not permitted uses in this district. The previous amended special use permit, adopted in 1998, authorized up to 59 dwelling units for the elderly as part of a plan to preserve most of the former school building. The proposed amendment will add 70 dwelling units and reduce the allotted common area. An amendment to the existing special use permit is therefore requested.

**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 2, 2022 meeting.



**BACKGROUND:** The subject property is located at the southwest corner of 35<sup>th</sup> and O Streets, and contains approximately 3.05 acres of land. The public school use of the existing building located on the property was discontinued in 1988. In 1991, a special use permit was granted to authorize the conversion of the building into a 75 unit multi-family dwelling for seniors. This special use permit was never implemented and expired after two years.

In 1995 the City selected a proposal from a private developer to revive the plan to convert the building for multi-family purposes. In June 1995 a special use permit was granted authorizing the conversion of the original portion of the building into 34 dwelling units for the elderly or handicapped. The special use permit also authorized the demolition of the circa 1960 addition to the original school building, and the construction of a new building to house 60 additional dwelling units for the elderly or handicapped. At that time the proposed 94 unit redevelopment was not financially viable as proposed and a decision was made to retain the 1960 addition and an amendment authorizing this change was adopted on July 28, 1997. This amendment authorized 58 dwelling units.

On January 25, 1999 the special use was further amended in order to authorize the addition of one more dwelling unit, for a total of 59 dwelling units. The latest proposed amendment will add 70 dwelling units for a total of 129 dwelling units.

In the city's zoning ordinance, Sec. 30-710.1. - Number of spaces required for particular uses specifies that parking for multi-family housing reserved for seniors shall be provided at a ratio of one space per two dwellings, or 65 parking spaces. The site plan indicates the provision of 57 parking spaces. A request for the reduction of required parking is part of this amendment request.

**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:** \$1,800 application fee

**DESIRED EFFECTIVE DATE:** Upon adoption

**REQUESTED INTRODUCTION DATE:** April 11, 2022

**CITY COUNCIL PUBLIC HEARING DATE:** May 9, 2022

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** None

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:**

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

**RELATIONSHIP TO EXISTING ORD. OR RES.:** Amend Ordinance No. 98-335-99-20

**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

Key Issues:

Retain on Consent Agenda

Move to Regular Agenda

Refer Back to Committee

Remove from Council Agenda

Strike

Withdrawn

Continue to: