



## Legislation Text

File #: ORD. 2022-026, Version: 1

To authorize the special use of the property known as 2117 Fairfax Avenue for the purpose of two two-family detached dwellings and one single-family detached dwelling, upon certain terms and conditions. (8<sup>th</sup> District) WHEREAS, the owner of the property known as 2117 Fairfax Avenue, which is situated in a R-5 Single-Family Residential District, desires to use such property for the purpose of two two-family detached dwellings and one single-family detached dwelling, which use, among other things, is not currently allowed by sections 30-410.1, concerning permitted principal uses, and 30-410.4, 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 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 2117 Fairfax Avenue and identified as Tax Parcel No. S000-0458/019 in the 2022 records of the City Assessor, being more particularly shown on a survey entitled "Map Showing the Improvements on Lots 11, 12, and 13, Block 11, 'Mason Park,' in the City of Richmond, VA.," prepared by Virginia Surveys, and dated October 23, 2020, 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 two-family detached dwellings and one single-family detached dwelling, hereinafter referred to as "the Special Use," substantially as shown on the plans entitled "2117 Fairfax Ave. Development, 2117 Fairfax Avenue, Richmond, Virginia 23224," prepared by Chris Wolf

Architecture, PLLC, and dated September 22, 2021, and hereinafter 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 two two-family detached dwellings and one single-family detached dwelling, substantially as shown on the Plans.

(b) A minimum of two off-street parking spaces shall be provided for each two-family detached dwelling and one off-street parking space shall be provided for the single-family detached dwelling.

(c) All building materials, elevations, and site improvements shall be substantially as shown on the Plans.

(d) Prior to the issuance of any certificate of occupancy for the Special Use, the subdivision of three residential lots, substantially as shown on the Plans, shall be accomplished by obtaining the necessary approvals from the City and recording the appropriate plats and deeds 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) 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.

### O & R Request

**DATE:** December 10, 2021

**EDITION:** 1

**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 J. Vonck, Director, Dept. of Planning and Development Review

**RE:** To authorize the special use of the property known as 2117 Fairfax Avenue for the purpose of two two-family detached dwellings and one single-family detached dwelling, upon certain terms and conditions.

**ORD. OR RES. No.**

**PURPOSE:** To authorize the special use of the property known as 2117 Fairfax Avenue for the purpose of two two-family detached dwellings and one single-family detached dwelling, upon certain terms and conditions.

**REASON:** The applicant is requesting subdivide the existing single lot, which is improved with a two-family dwelling, into three lots in order to construct one new two-family detached dwelling and one new single-family detached dwelling on the two new lots. The existing two-family dwelling is proposed to be retained. The

proposed two-family dwelling is not a permitted use in the R-5 Single-Family Residential District. The three proposed lots do not meet the lot area and lot width requirements of the R-5 Single-Family Residential District. Off-street parking, yard, and height requirements would be met with the proposal.

**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 February 7, 2022 meeting.

**BACKGROUND:** The subject property consists a parcel containing a lot area of 14,157 square feet (0.325 acres) and is currently improved with one two-story two-family detached dwelling that has a floor area of approximately 2,400 square feet. The property is located in the Oak Grove neighborhood at the northeast corner of Fairfax Avenue and East 22<sup>nd</sup> Street.

The subject property is located within the R-5 Single-Family Residential District. The proposed new two-family dwelling is not a use permitted in the R-5 District, and each of the three proposed lots do not meet the lot area or lot width for single-family dwellings in the R-5 District.

Richmond 300 recommends a future land use of “Residential” for the property. The primary uses recommended for Residential are single-family homes, accessory dwelling units and open space. Secondary uses include duplexes and small multi-family buildings (3-10 units), institutional and cultural uses. These uses should typically be located on major streets. The development style for Residential is houses on medium or large sized lots with homes setback from the street. Future development should continue or introduce a gridded pattern of development and new buildings should be built to a scale and design that is consistent with existing buildings. Buildings are generally one to three stories, with lots generally ranging up to 5,000 SF to 20,000 SF. General density should be 2-10 units per acre.

The property is located one-tenth of a mile from a high frequency (every 15 minutes on weekdays and Saturdays) GRTC bus line.

The predominant land use in the vicinity is single-family dwellings, however there are two other two-family detached dwellings located within the block of the subject property.

**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:** January 10, 2022

**CITY COUNCIL PUBLIC HEARING DATE:** February 14, 2022

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** None

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** City Planning Commission  
February 7, 2022

**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, Survey, Map

**STAFF:** Richard Saunders, Senior Planner, Land Use Administration (Room 511) 646-5648

Key Issues:

Retain on Consent Agenda

Move to Regular Agenda

Refer Back to Committee

Remove from Council Agenda

Strike

Withdrawn

Continue to: