Legislation Details (With Text)

File #:	ORD. 2020-230	**Version:**	2	**Name:**	
Type:	Ordinance			**Status:**	Adopted
File created:	9/9/2020			**In control:**	City Council
On agenda:	11/2/2020			**Final action:**	11/9/2020
Title:	To authorize the special use of the property known as 3411 Kensington Avenue for the purpose of an existing multifamily dwelling and a new two-family detached dwelling, upon certain terms and conditions.				
Sponsors:	Mayor Stoney (By Request)				
Indexes:					
Code sections:					
Attachments:	1. Ord. No. 2020-230, 2. Staff Report, 3. Application Form and Applicant's Report, 4. Plans & Survey, 5. Map, 6. Letter of Support				

Date	Ver.	Action By	Action	Result
11/9/2020	2	City Council	adopted	Pass
11/2/2020	2	Planning Commission	recommended for approval	
10/12/2020	2	City Council	introduced and referred	

To authorize the special use of the property known as 3411 Kensington Avenue for the purpose of an existing multifamily dwelling and a new two-family detached dwelling, upon certain terms and conditions.

WHEREAS, the owner of the property known as 3411 Kensington Avenue, which is situated in a R-6 Single-Family Attached Residential District, desires to use such property for the purpose of an existing multifamily dwelling and a new two-family detached dwelling, which use, among other things, is not currently allowed by section 30-412.2 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 (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 (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 3411 Kensington Avenue and identified as Tax Parcel No. W000-1611/041 in the 2020 records of the City Assessor, being more particularly shown on a survey entitled "Plat Showing Improvements on No. 3411 and 3413 Kensington Avenue, in the City of Richmond, Virginia.," prepared by McKnight & Associates, P.C., and dated October 29, 2003, 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 an existing multifamily dwelling and a new

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two-family detached dwelling, substantially as shown on the plans entitled "Alley Duplex at 3411 & 3413 Kensington Ave, Richmond, Virginia," prepared by Johannas Design Group, and dated August 13, 2020, 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 an existing multifamily dwelling and a new two-family detached dwelling, substantially as shown on the Plans, subject to any applicable requirements of Chapter 30, Article IX, Division 5 of the Code of the City of Richmond (2015), as amended, pertaining to the West of the Boulevard Design Overlay District.

(b) The height of the Special Use shall be no greater than the existing structure, substantially as shown on the Plans.

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

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

(e) Four off-street parking spaces shall be provided on the Property.

(f) Prior to the issuance of any final certificate of occupancy for the Special Use, the primary alley access to the Property shall be named in accordance with sections 8-7 through 8-10 of the Code of the City of Richmond (2015), as amended.

(g) No permit implementing the Special Use shall be issued until written evidence that the Director

of Public Works, the Chief of Police, and the Chief of Fire and Emergency Services have confirmed that the alley access to the Property for all-weather travel by public and emergency vehicles is appropriate in accordance with all applicable laws and regulations has been submitted to the Zoning Administrator.

§ 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, 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

with 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: **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: Lenora G. Reid, Acting Chief Administrative Officer

THROUGH: Sharon L. Ebert, 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 3411 Kensington Avenue for the purpose of authorizing a two-family detached dwelling.

ORD. OR RES. No.

PURPOSE: To authorize the special use of the property known as 3411 Kensington Avenue for the purpose of authorizing a two-family detached dwelling.

REASON: The property currently contains a four unit multi-family residence. The applicant wishes to construct a duplex containing a pair of 2,200 two-story units that will be accessed via the rear alley. The current four unit multi-family residence is a legally nonconforming use. The expansion of a nonconforming use requires the approval of a special use permit.

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 October 5, 2020, meeting.

BACKGROUND: The subject property is zoned R-6 Single-Family Attached Residential and consists of a 9,708 SF parcel of land and contains a 3,520 square foot structure that contains four dwelling units. It is located in the Museum District within the City's Near West Planning District. The structure is located midblock between North Nansemond Street and Rosenheath Road. The property is accessible by means of an alley that extends between these two streets.

The City of Richmond's Master Plan designates the subject property for Single-Family (Medium Density) uses. Primary uses in this category are "single-family detached dwellings at densities between 8 and 20 units per acre. The density of the parcel if developed as proposed would be approximately 26 units per acre.

There are a variety of general housing goals contained in the Master Plan Neighborhoods and Housing chapter that are applicable to the request. These goals include, among other things, recognition of the need for neighborhoods to provide a variety of housing choices.

The properties surrounding the subject property are also located within the R-6 Single-Family Attached Residential zoning district. These properties generally contain two-family and multi-family 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: September 14, 2020

CITY COUNCIL PUBLIC HEARING DATE: October 12, 2020

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: City Planning Commission October 5, 2020

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 and Narrative, Property and Plans, 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: