



Legislation Details (With Text)

File #: ORD. 2021-114 **Version:** 1 **Name:**

Type: Ordinance **Status:** Adopted

File created: 3/26/2021 **In control:** City Council

On agenda: 5/17/2021 **Final action:** 5/24/2021

Title: To authorize the special use of the property known as 3017 Forest Hill Avenue for the purpose of a day nursery for up to 12 children, upon certain terms and conditions. (5th District)

Sponsors: Mayor Stoney (By Request)

Indexes:

Code sections:

Attachments: 1. Ord. No. 2021-114, 2. Staff Report, 3. Application Form, 4. Applicant's Report, 5. Plans, 6. Map

Date	Ver.	Action By	Action	Result
5/24/2021	1	City Council	adopted	Pass
5/17/2021	1	Planning Commission	recommended for approval	
4/26/2021	1	City Council	introduced and referred	

To authorize the special use of the property known as 3017 Forest Hill Avenue for the purpose of a day nursery for up to 12 children, upon certain terms and conditions. (5th District)

WHEREAS, the owner of the property known as 3017 Forest Hill Avenue, which is situated in a R-5 Single-Family Residential District, desires to use such property for the purpose of a day nursery for up to 12 children, which use, among other things, is not currently allowed by section 30-410.1 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 3017 Forest Hill Avenue and identified as Tax Parcel No. S000-1233/028 in the 2021 records of the City Assessor, being more particularly shown on the plans entitled “VA7-30 Scattered Site Housing Program, 3017 Forest Hill Avenue,” prepared by an unknown preparer, and undated, 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 12 children, hereinafter referred to as “the Special Use,” substantially as shown on plans entitled “VA7-30 Scattered Site Housing Program, 3017 Forest Hill Avenue,” prepared by an unknown

preparer, and undated; the plans entitled “As We Grow Learning Center, 3017 Forest Hill Ave,” prepared by an unknown preparer, and undated; and the plans entitled “Fence,” 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 use of the Property shall be as a day nursery for up to 12 children, not including children residing on the Property, substantially as shown on the Plans.

(b) No parking shall be required for the Special Use.

(c) The hours of operation for the day nursery shall be limited to the hours between 6:00 a.m. and 6:00 p.m., daily.

(d) A minimum of 100 square feet of outdoor play space shall be provided for each child under care. The entire outdoor play area on the Property shall be no fewer than 1,200 square feet and must be enclosed with a continuous opaque structural fence or wall not less than four feet in height.

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

§ 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 (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: March 26, 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

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

FROM: Kevin J. Vonck, Acting Director, Dept. of Planning and Development Review

RE: To authorize the special use of the property known as 3017 Forest Hill Avenue for the purpose of a day nursery with up to twelve children not residing in the household between the ages of six weeks and twelve years old.

ORD. OR RES. No.

PURPOSE: To authorize the special use of the property known as 3017 Forest Hill Avenue for the purpose of a day nursery with up to twelve children not residing in the household between the ages of six weeks and twelve years old.

REASON: The applicant is requesting a special use permit to allow for the use of the family room in the dwelling for the purpose of a day nursery with up to twelve children not residing in the household. Day nurseries are not permitted in the R-5 Single-Family Residential District. Day nurseries are defined in the zoning ordinance as a “facility for the care of more than five children while separated from their parents for a portion of the day, not including children of a family residing on the premises.” 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 17, 2021, meeting.

BACKGROUND: The subject property contains a lot area of 7,500 square feet (0.172 acres) and is improved with a single-family detached dwelling. The property is located in the Woodland Heights neighborhood on Forest Hill Avenue, between W. 30th Street and W. 31st Street.

The Richmond 300 Master Plan recommends a future land use of “Residential” for the property. The primary uses envisioned for Residential are single-family houses, accessory dwelling units, and open space. Secondary uses are duplexes and small multi-family buildings (typically 3-10 units), institutional, and cultural. The development style is medium-sized and large-sized lots in a largely auto-dependent environment. Homes are setback from the street. Future developments continue and/or introduce a gridded street pattern to increase connectivity. Future single-family housing, accessory dwelling units, duplexes and small multi-family residential buildings are built to a scale and design that is consistent with existing buildings. Buildings are generally one to three stories, with lot sizes ranging up to 5,000 square feet to 20,000 square feet. Residential density is typically two to ten housing units per acre.

Properties to the east, west, north and south are all also located in the R-5 Single-Family Residential District. The property is located within a residential neighborhood and is surrounded by other single-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: 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 Administrative Office
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, Map

STAFF: Richard Saunders, Senior Planner, Land Use Administration (Room 511) 646 4856

Key Issues:

Retain on Consent Agenda

Move to Regular Agenda

Refer Back to Committee

Remove from Council Agenda

Strike

Withdrawn

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