



## Legislation Details (With Text)

<b>File #:</b>	ORD. 2021-129	<b>Version:</b>	2	<b>Name:</b>	
<b>Type:</b>	Ordinance	<b>Status:</b>		Withdrawn	
<b>File created:</b>	3/10/2021	<b>In control:</b>		City Council	
<b>On agenda:</b>	6/14/2021	<b>Final action:</b>		6/11/2021	
<b>Title:</b>	To amend Ord. No. 94-30-133, adopted Jun. 13, 1994, which authorized the special use of the properties known as 205 and 207 North Shields Avenue for the purpose of a restaurant and two dwelling units, together with accessory parking, to allow outdoor dining, upon certain terms and conditions. (2nd District)				
<b>Sponsors:</b>	Mayor Stoney (By Request)				
<b>Indexes:</b>					
<b>Code sections:</b>					
<b>Attachments:</b>	1. Ord. No. 2021-129 - Withdrawn 20210611, 2. Application Form and Applicant's Report, 3. Plans, 4. Map				

Date	Ver.	Action By	Action	Result
6/7/2021	2	Planning Commission	recommended for withdrawal	
5/10/2021	2	City Council	introduced and referred	

To amend Ord. No. 94-30-133, adopted Jun. 13, 1994, which authorized the special use of the properties known as 205 and 207 North Shields Avenue for the purpose of a restaurant and two dwelling units, together with accessory parking, to allow outdoor dining, upon certain terms and conditions. (2<sup>nd</sup> District)

I. That Ordinance No. 94-30-133, adopted June 13, 1994, be and is hereby amended and reordained as follows:

§ 1. That the ~~[real estate, property]~~ properties known as 205 and 207 North Shields Avenue, and identified as Tax Parcel Nos. W000-0948/035 and W000-0948/036 in the 2021 records of the City Assessor, respectively, ~~[located on~~ the east side of Shields Avenue between Grove and Hanover Avenues, being more completely described as follows: beginning at the point of intersection of the south right of way line of Hanover Avenue and the east right of way line of Shields Avenue; thence extending in a southerly direction along the east right of way line of Shields Avenue 135.70 feet to the true point or beginning at the intersection of the east right of way line of Shields Avenue and the south right of way line of a 10.70 foot wide public alley; thence extending in an easterly direction 150.00 feet along said alley to a point; thence extending in a southerly direction along the west right of way line of a 20.00 foot wide public alley 44.00 feet to a point thence extending in a westerly direction 150.58 feet along a 20.00 foot wide public alley to a point on the east right

of way line of Shields Avenue; thence extending in a northerly direction along said right of way line 44.00 feet to the true point of beginning,] which are situated in a R-6 Single-Family Attached Residential District, [is] are hereby permitted to be used for the continued purpose of a restaurant and two dwelling units, together with accessory parking and outdoor dining, substantially as shown on the first floor plan and site plan entitled: "Joe's Inn", prepared by William Lee Wienckowski, dated January 13, 1993, as revised November 12, 1993, and the second floor plan, prepared by William Lee Wienckowski, dated January 13, 1993, hereinafter referred to, collectively, as "the Original Plans," copies of which are (i) attached [hereto] to and made a part of [this ordinance] Ordinance No. 94-30-133, adopted June 13, 1994, and (ii) as modified by the untitled plans, prepared by an unknown preparer, and undated, copies of which are attached to and made a part of this amendatory ordinance.

§ 2. That adoption of this ordinance shall constitute the granting of a special use permit for the real estate, which shall be transferable from the owner of the real estate 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 in accordance with the [above-referenced plans for such purpose(s)] Original Plans, subject to the following terms and conditions:

(a) That the owner of the 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 restaurant use and the improvements depicted on the [attached plans] Original Plans shall be made within [sixty (60)] 730 calendar days from the effective date of this ordinance. [Any work required by this ordinance or made necessary by the building code requirements applicable to the uses authorized herein shall be completed and a certificate of occupancy requested within twelve months from the effective date of this ordinance];

(c) That the use of the first floors of the buildings on the properties known as 205 and 207 North Shields Avenue shall be as a single restaurant occupying approximately 3,065 square feet, and that the use of the

second floor of each building shall be as a single dwelling unit, each dwelling unit consisting of approximately 1000 square feet, substantially as shown on the ~~[attached plan]~~ Original Plans. Total occupancy of the restaurant as shown on the Original Plans shall not exceed 138 seats. Outdoor dining shall be permitted to the rear of 207 North Shields Avenue, substantially as shown on the untitled plans, prepared by an unknown preparer, and undated, copies of which are attached to and made a part of this amendatory ordinance. Seating capacity of the outdoor dining area shall be limited to 36 patrons. A tent may also be used to enclose the outdoor dining area, subject to all applicable building and fire code requirements;

(d) That ~~[six]~~ three parking spaces shall be provided at the rear of 207 North Shields Avenue~~;~~ and two parking spaces shall be provided at the rear of 205 North Shields Avenue, substantially as shown on the plans ]. Such parking ~~[areas]~~ area shall be paved with a dust-free, all weather surface and parking spaces shall be delineated on the pavement surface. ~~[Lighting of the parking area at the rear of 205 North Shields Avenue shall be provided substantially as shown on the plans, with the fixture shielded so that the source of illumination is not visible from adjacent properties];~~

(e) That renovations and alterations shall be as shown on the ~~[attached plans]~~ Original Plans. The design and location of the screens enclosing the compressors on the roof of the garages at 205 North Shields Avenue shall be subject to the review and approval of the Director of ~~[Community]~~ Planning and Development Review;

(f) That any encroachments within the public right of way shall be subject to the applicable requirements of the City Code regarding such encroachments;

(g) That identification of the ~~[premise]~~ properties shall be limited to the signage described on the ~~[attached plans]~~ Original Plans in the table entitled “signage” and a wall sign substantially as shown on the untitled plans, prepared by an unknown preparer, and undated, copies of which are attached to and made a part of this amendatory ordinance, provided that the authorization to permit signage on an awning encroaching within the public right of way shall be subject to approval in accordance with the City Code requirements regarding

encroachments;

(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 as not to be visible from adjacent properties and public streets;

(i) That storm or surface water shall not be allowed to accumulate on the land and adequate facilities for drainage of storm or surface water from the land and building shall be provided and maintained at all times by the owner at its costs and expense so as not to adversely affect or damage adjacent property or public streets and alleys and the use thereof;

(j) That there shall be no exterior alterations or additions to the buildings other than those shown on the ~~[attached plans]~~ Original Plans, as modified by the untitled plans, prepared by an unknown preparer, and undated, copies of which are attached to and made a part of this amendatory ordinance, and other than routine repair and maintenance;

(k) That there shall be no sales of alcoholic beverages for ~~[off-premise]~~ off-site consumption, and that any business entity occupying the ~~[premises]~~ properties shall not be a holder of a license issued by the Commonwealth to make such sales.

(l) That the owner shall provide a minimum one and one-half square foot sign, located in a conspicuous manner within the restaurant, notifying patrons of the availability of off-street parking located on the premises.

(m) That the restaurant shall close its doors to further acceptance of patrons at 12 midnight each night, except for Friday and Saturday nights, when it shall close at 2:00 a.m. the next morning. The restaurant shall open no earlier than 9:00 a.m. on Monday,

Tuesday, Wednesday and Thursday, and no earlier than 8:30 a.m. on Friday, Saturday and Sunday. Outdoor dining shall only be permitted on the property from 4:00 p.m. through 9:00 p.m., Monday through Thursday, and 10:00 a.m. through 9:00 p.m., Friday through Sunday.

(n) No less than two covered trash containers shall be provided in the outdoor dining area.

(o) No live music, amplified music, or public address system shall be permitted in conjunction with the outdoor dining use of the property.

§ 4. That should the owner use the [~~premises~~] properties 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 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~~] Planning and Development Review, which shall stay the [~~sixty day~~] 60-day period. Failure to comply with the terms 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, or other applicable provision.

§ 5. That when the privileges granted by this ordinance terminate and the special use permit becomes null and void or when use of the [~~premises~~] properties is abandoned for a period of [~~twenty-four~~] 24 consecutive months, use of the real estate shall be governed thereafter by the zoning regulations prescribed for the district in which the real estate is then situated.

§ 6. This ordinance shall be in force and affect upon adoption.

II. That application for a certificate of zoning compliance and any building permit necessary for the improvements depicted on the untitled plans, prepared by an unknown preparer, and undated, copies of which are attached to and made a part of this amendatory ordinance, shall be made within 730 calendar days from the effective date of this ordinance. If the application for the certificate of zoning compliance and any necessary building permit is not made within the time period stated in the previous sentence, this amendatory ordinance shall terminate and become null and void.

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

### **O & R Request**

**DATE:** March 16, 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 Vonck, Acting Director, Department of Planning and Development Review

**RE:** To authorize the amendment of Ord. 94-30-133 to authorize the special use of the properties known as 205 and 207 North Shields Avenue for the addition of outdoor seating, upon certain terms and conditions.

**ORD. OR RES. No.**

**PURPOSE:** To authorize the amendment of Ord. 94-30-133 to authorize the special use of the properties known as 205 and 207 North Shields Avenue for the addition of outdoor seating, upon certain terms and conditions.

**REASON:** The subject property is located in the R-6 Single-Family Attached Residential zoning district. Restaurants are not permitted uses in this zoning district and ordinance 94-30-133 was approved by City Council on June 14, 1994 authorizing a restaurant use under certain terms and conditions. These conditions did not include authorizing outdoor dining and the applicant wishes to provide outdoor dining. Therefore a special use permit amendment is 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 3, 2021 meeting.

**BACKGROUND:** The subject property consists of two parcels located on the eastern side of North Shields Lane between Hanover and Grove Avenues in The Fan neighborhood. The properties are improved with two attached mixed-use structures containing a restaurant on the ground floor and two dwelling units on the second floor. The area designated for parking in the back of 207 North Shields is proposed to be used for outdoor dining.

The Richmond 300 Master Plan designates the subject property for Neighborhood Mixed-Uses. Primary uses are single-family houses, accessory dwelling units, duplexes, small multi-family buildings and open space. Secondary uses include retail, office, and personal services.

All properties surrounding the subject property are located within the same R-6 Single-Family Attached Residential zoning district. Within the area of the subject property, properties are improved with single and two-family attached 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:** \$200 application fee

**DESIRED EFFECTIVE DATE:** Upon adoption

**REQUESTED INTRODUCTION DATE:** April 12, 2021

**CITY COUNCIL PUBLIC HEARING DATE:** May 10, 2021

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** None

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** City Planning Commission May 3, 2021

**AFFECTED AGENCIES:** Office of Chief Administration Officer

**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:** 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: