



## Legislation Details (With Text)

**File #:** ORD. 2021-191 **Version:** 1 **Name:**

**Type:** Ordinance **Status:** Adopted

**File created:** 5/11/2021 **In control:** City Council

**On agenda:** 7/19/2021 **Final action:** 7/26/2021

**Title:** To amend and reordain Ord. No. 2016-261, adopted Nov. 14, 2016, which authorized the special use of a portion of the property known as 1407 Cummings Drive for the purpose of a residential use with up to 40 units accessory to a vocational school and other permitted principal uses on the property, to authorize additional multifamily dwelling units and a nightclub use, upon certain terms and conditions. (2nd District)

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

### Indexes:

### Code sections:

**Attachments:** 1. Ord. No. 2021-191, 2. Staff Report, 3. Application, 4. Applicant's Report, 5. Plans, 6. Map

Date	Ver.	Action By	Action	Result
7/26/2021	1	City Council	adopted	Pass
7/19/2021	1	Planning Commission	recommended for approval	
6/28/2021	1	City Council	introduced and referred	

To amend and reordain Ord. No. 2016-261, adopted Nov. 14, 2016, which authorized the special use of a portion of the property known as 1407 Cummings Drive for the purpose of a residential use with up to 40 units accessory to a vocational school and other permitted principal uses on the property, to authorize additional multifamily dwelling units and a nightclub use, upon certain terms and conditions. (2<sup>nd</sup> District)

I. That Ordinance No. 2016-261, adopted November 14, 2016, be and is hereby amended and reordained as follows:

WHEREAS, the owner of the property known as 1407 Cummings Drive, which is situated in a M-1 Light Industrial District, desires to use a portion of such property as a residential use with up to 40 units that may be accessory to a vocational school, multifamily residential use, nightclub use, and other permitted uses on the property, which use, among other things, is not currently allowed by section 30-452.1 of the Code of the City of Richmond [~~(2015)~~] (2020), as amended, concerning lateral attachment of dwelling units, nightclub use, and commercial uses in new construction; and

WHEREAS, in accordance with section 17.11 of the Charter of the City of Richmond [~~(2010)~~] (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)~~] (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 1407 Cummings Drive and identified as Tax Parcel No. N000-1304/004 in the [2016] 2021 records of the City Assessor, being more particularly shown on a survey entitled “ALTA/ACSM Land Title Survey on 9.297 Acres of Land Lying on the East Line of Durham Street, City of Richmond, Virginia,” prepared by Jennings Stephenson P.C., and dated August 19, 2011, a copy of which is attached to and made a part of [this ordinance] Ordinance No. 2016-261, adopted November 14, 2016, hereinafter referred to as “the Property,” is hereby permitted to be used for the purpose of a residential use with up to 40 units that may be accessory to a vocational school, multifamily residential use, nightclub use, and other permitted principal uses on the Property, hereinafter referred to as “the Special Use,” substantially as shown on the plans entitled “Michael & Son Tower Alterations, Richmond, VA,” prepared by Walter Parks Architect, [and] dated January 11, 2016, and last revised September 14, 2018, 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 a residential use with up to 40 units that may be accessory to a vocational school, a multifamily residential use, nightclub use, and other permitted principal uses on the Property [and shall be located within the six-story tower portion of the existing building located on the Property]. The first through the [fourth] third floors [shall] within the six story tower portion of the existing building located on the Property may consist of a residential use in the form of a dormitory with a capacity of

no more than 16 beds per floor. If all or a portion of the first through the third floors within the six story tower portion of the existing building located on the Property is not used for residential use in the form of a dormitory, such floors may be used for multifamily use. The fourth, fifth, and sixth floors shall consist of a multifamily dwelling [~~containing no more than eight dwelling units~~], substantially as shown on the Plans.

(b) [~~The residential uses~~] If the first through the third floors within the six story tower portion of the existing building located on the Property are used in the form of a dormitory pursuant to section 3(a), such residential use shall not be available to the general public and shall only be available to students of a vocational school located on the Property and persons directly related to the business or operation of other permitted principal uses on the Property. Residence by students shall only take place for the duration of programs of the vocational school, ~~and residence by persons directly related to the business or operation of other permitted principal uses shall only take place for periods of no more than one week~~].

(c) The residential uses shall be served by no fewer than 18 parking spaces located on the Property or within a radius of 500 feet.

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

(e) No areas devoted to the parking or circulation of vehicles shall be located between the six-story tower portion of the existing building located on the Property and the street line. This prohibition shall extend along Cummings Drive a distance of 200 feet from its intersection with Durham Street and along Durham Street a distance of 95 feet from its intersection with Cummings Drive.

(f) A management plan detailing the operation of the nightclub use, pursuant to section 30-1045.6 (6)(a) of the Code of the City of Richmond (2020), as amended, shall be submitted to the Zoning Administrator prior to establishing the nightclub use on the Property.

(g) Short-term bicycle parking to accommodate a minimum of ten bicycles shall be provided on the Property prior to issuance of a final certificate of occupancy for the multifamily dwelling use located on the

fourth floor of the six story tower portion of the existing building located on the Property.

§ 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)~~] (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 [~~(2015)~~] (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 [~~(2015)~~] (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 [~~(2015)~~] (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 or when the Special Use of the Property as authorized by this ordinance is abandoned for a period of 730 consecutive 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, 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.

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

### **O & R Request**

**DATE:** May 28, 2021

**EDITION:** 1

**TO:** The Honorable Members of City Council

**THROUGH:** The Honorable Levar M. Stoney, Mayor (By Request)  
(This in no way reflects a recommendation on behalf of the Mayor.)

**THROUGH:** J.E. Lincoln Saunders, Acting Deputy Chief Administrative Officer

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

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

**RE:** To amend and reordain Ordinance No. 2016-261, adopted November 16, 2016, which authorized the special use of a portion of the property known as 1407 Cummings Drive for the purpose of a residential use with up to 40 units accessory to a vocational school and other permitted principal uses on the property, to authorize additional multifamily dwelling units and a nightclub use, upon certain terms and conditions.

### **ORD. OR RES. No.**

**PURPOSE:** To amend and reordain Ordinance No. 2016-261, adopted November 16, 2016, which authorized the special use of a portion of the property known as 1407 Cummings Drive for the purpose of a residential use with up to 40 units accessory to a vocational school and other permitted principal uses on the property, to authorize additional multifamily dwelling units and a nightclub use, upon certain terms and conditions.

**REASON:** The applicant is proposing to modify the arrangement of the dwellings on the fourth floor of the tower portion of the building on the property from a dormitory arrangement with sixteen beds to a multifamily dwelling with four dwelling units. The current arrangement of the tower was authorized by Ordinance No. 2016-261. The applicant is requesting that the entire tower portion of the building on the property also be permitted as multi-family residential use in the event that the vocational school no longer uses some or all of the dwellings to house its students. The applicant is also proposing to add a nightclub use to the property, which is permitted with a conditional use permit; rather than seeking a separate conditional use permit, the applicant is requesting that the nightclub use be authorized through the special use permit amendment.

**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 July 19, 2021 meeting.

**BACKGROUND:** The subject property consists of a 9.25 acre parcel of land improved with an industrial building containing call center, warehouse/distribution, and a vocational school with accessory residential uses. The property is located in The Diamond neighborhood of the Near West planning district and is bound by Interstate 95/64, Cummings Drive, and Durham Street.

A previous special use permit (Ordinance No. 2016-261) authorized the special use of a portion of the property known as 1407 Cummings Drive for the purpose of a residential use with up to 40 units accessory to a vocational school and other permitted principal uses on the property. The applicant seeks to modify the arrangement of the residential use on the property in addition to adding a nightclub use to the property. Therefore, an amendment the Ordinance No. 2016-261 is necessary.

Richmond 300 recommends a future land use of “Industrial Mixed-Use” for the property. The primary uses recommended for Industrial Mixed-Use are retail/office/personal service, multi-family residential, cultural, and open space. Secondary uses are institutional and government. The intensity recommended for Industrial Mixed-Use is typically medium-to high-density, with typical building heights ranging from three to eight stories. The development style is a mix of building types with low-scale post-industrial buildings that are adapted for a new use adjacent to new taller residential and/or office buildings. Buildings should have street-oriented facades with windows and door openings along street frontages. New developments should continue or introduce a gridded street pattern to increase connectivity. Pedestrian, bicycle and transit access must be prioritized and accommodated, and new driveway entrances are prohibited on the main street frontages with minimal driveway entrances on secondary streets as alley access should be utilized where possible. Parking area should be located to the rear of street-facing buildings.

The property is also located within the “Greater Scotts Addition” primary growth node, which envisions the subject property to be located within the Industrial Mixed-Use District, which is an area that combines entertainment, residential, office and light industrial uses.

**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:** \$1,200 application fee

**DESIRED EFFECTIVE DATE:** Upon adoption

**REQUESTED INTRODUCTION DATE:** June 28, 2021

**CITY COUNCIL PUBLIC HEARING DATE:** July 26, 2021

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** None



**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** City Planning Commission  
July 19, 2021

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

**RELATIONSHIP TO EXISTING ORD. OR RES.:** Amend Ordinance No. 2016-261

**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 5648

Key Issues:

Retain on Consent Agenda

Move to Regular Agenda

Refer Back to Committee

Remove from Council Agenda

Strike

Withdrawn

Continue to: