



Legislation Details (With Text)

**File #:** ORD. 2021-273    **Version:** 1    **Name:**  
**Type:** Ordinance    **Status:** Adopted  
**File created:** 8/13/2021    **In control:** City Council  
**On agenda:** 10/18/2021    **Final action:** 11/8/2021

**Title:** To authorize the special use of the property known as 419 Brook Road for the purpose of a (i) mixed-use building containing uses permitted in the B-1 Neighborhood Business District on the ground floor and one dwelling unit on the second floor or (ii) two-family dwelling, upon certain terms and conditions. (2nd District)

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

**Indexes:**

**Code sections:**

**Attachments:** 1. Ord. No. 2021-273, 2. Staff Report 419 Brook Road, 3. Application, 4. Applicant's Report, 5. Plans, 6. Survey, 7. Map

Date	Ver.	Action By	Action	Result
11/8/2021	1	City Council	adopted	Pass
10/18/2021	1	Planning Commission	recommended for approval	
9/27/2021	1	City Council	introduced and referred	

To authorize the special use of the property known as 419 Brook Road for the purpose of a (i) mixed-use building containing uses permitted in the B-1 Neighborhood Business District on the ground floor and one dwelling unit on the second floor or (ii) two-family dwelling, upon certain terms and conditions. (2<sup>nd</sup> District)

WHEREAS, the owner of the property known as 419 Brook Road, which is situated in a R-6 Single-Family Attached Residential District and a B-1 Neighborhood Business District, desires to use such property for the purpose of a (i) mixed-use building containing uses permitted in the B-1 Neighborhood Business District on the ground floor and one dwelling unit on the second floor or (ii) two-family dwelling, which use, among other things, is not currently allowed by sections 30-412.1, concerning permitted principal uses in the R-6 Single-Family attached Residential District, and 30-434.1, concerning permitted principal and accessory uses in the B-1 Neighborhood Business District, 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 419 Brook Road and identified as Tax Parcel No. N000-0120/045 in the 2021 records of the City Assessor, being more

particularly shown on a survey entitled “Parcel Line Modification Between Two Parcels Situated on the East Line of Brook Road, in the City of Richmond, Virginia.,” prepared by McKnight & Associates, P.C., and dated March 18, 2021, 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 (i) mixed-use building containing uses permitted in the B-1 Neighborhood Business District on the ground floor and one dwelling unit on the second floor or (ii) two-family dwelling, hereinafter referred to together or individually as “the Special Use,” substantially as shown on the plans entitled “419-421 Brook Rd, 419 Brook Rd, Richmond, VA 23220,” prepared by Walter Parks Architecture, with sheets A. 101, A.201, and D.201 dated November 20, 2017, and sheets A.301, A.302, and D.202 dated March 26, 2021, 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 (i) a mixed-use building containing uses permitted in the B-1 Neighborhood Business District on the ground floor and one dwelling unit on the second floor, or as (ii) a two-family dwelling, substantially as shown on the Plans.

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

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

(d) All building materials shall be substantially as shown on the Plans, unless otherwise approved

by the Commission of Architectural Review.

(e) Prior to issuance of any certificate of occupancy for the Special Use, the boundary line between the Property and the property known as 207-A West Clay Street and identified as Tax Parcel No. N000-0120/047 shall be adjusted as shown on the survey entitled “Parcel Line Modification Between Two Parcels Situated on the East Line of Brook Road, in the City of Richmond, Virginia.,” prepared by McKnight & Associates, P.C., and dated March 18, 2021, a copy of which is attached to and made a part of this ordinance, and shall be accomplished by obtaining subdivision or other appropriate 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:** August 26, 2021

**EDITION:** 1

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

**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 419 Brook Road for the purpose of a mixed-use building or two-family dwelling, upon certain terms and conditions.

**ORD. OR RES. No.**

**PURPOSE:** To authorize the special use of the property known as 419 Brook Road for the purpose of a mixed-use building or two-family dwelling, upon certain terms and conditions.

**REASON:** The applicant is requesting to authorize the special use of the property known as 419 Brook Road for the purpose of a mixed-use building or two-family dwelling, upon certain terms and conditions. The property is located in both an R-6 Single-Family Attached Residential District and a B-1 Neighborhood Business District, as well as the Jackson Ward City Old & Historic District. The proposed commercial use is not permitted within the portion of the property zoned R-6, while the proposed dwelling use is not permitted on the ground floor in the portion of the property zoned B-1. A special use permit is therefore necessary to authorize either of the proposed uses. 27.02 square feet of the subject property are proposed to be deeded to the

adjacent property with an address of 207-A W Clay Street through a boundary line adjustment. The boundary line adjustment is necessary to align the property line with the center line of the masonry wall between the subject building and the building at 207-A W Clay Street.

**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 18, 2021, meeting.

**BACKGROUND:** The subject property consists of a single parcel of land that has a lot area of 1,783 square feet (0.041 acres) and is currently improved with a single-story building containing approximately 1,500 square feet of floor area that previously housed a dry cleaning building. 27.02 square feet of the subject property are proposed to be deeded to the adjacent property with an address of 207-A W Clay Street through a boundary line adjustment. The boundary line adjustment is necessary to align the property line with the center line of the masonry wall between the subject building and the building at 207-A W Clay Street. The property is located in the Jackson Ward neighborhood on the west side of Brook Road, midblock between W Marshall Street and W Clay Street, and a half block away from the recently renovated Abner Clay Park.

The subject property is located within both the R-6 Single-Family Attached Residential District and the B-1 Neighborhood Business District, as well as the Jackson Ward City Old & Historic District. The proposed commercial use is not permitted within the portion of the property zoned R-6, while the proposed dwelling use is not permitted on the ground floor in the portion of the property zoned B-1. The yard (setback) requirements are also not being met for the proposed second story addition.

Richmond 300 recommends a future land use of “Neighborhood Mixed-Use” for the property. The primary uses recommended for Neighborhood Mixed-Use are single-family houses, accessory dwelling units, duplexes, small multi-family buildings (typically 3-10 units) and open space. Secondary uses include large multi-family buildings (10+ units), retail/office/personal service, institutional, cultural and government. The intensity recommended for Neighborhood mixed-use is typically two to four stories, with more height permissible along major streets. The development style should be compatible with the existing context. Setbacks, plazas and parks can help create a sense of place and community gathering areas. New developments on larger parcels should continue or introduce a gridded street pattern. In historic neighborhoods, small-scale commercial buildings should be introduced. Ground floors should engage the street with features such as street-oriented facades. Appropriate setbacks, open space, front porches, elevated ground floors and other features that provide a sense of privacy should be provided for residential uses. Pedestrian, bicycle, and transit access must be accommodated, and bike parking must be provided.

The property is also located within the Downtown-Jackson Ward Priority Growth Node, which envisions that Jackson Ward “continues to be a residential neighborhood with non-residential uses scattered throughout at corners and along major roads...new infill developments incorporate high-quality architecture and complement the character of historic buildings.”

Other buildings that front Brook Road within the block house a variety of uses, including warehouse, mixed-use and residential. To the north of the property are predominantly single- and two-family residential uses that front on W Clay Street. Properties to the north and east are located within the R-6 Single-Family Attached Residential District. Properties to the east are located within the B-1 Neighborhood Business District. Properties to the south are located within the RO-2 Residential Office District.

**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:** \$1,800 application fee

**DESIRED EFFECTIVE DATE:** Upon

**REQUESTED INTRODUCTION DATE:** September 27, 2021

**CITY COUNCIL PUBLIC HEARING DATE:** November 8, 2021

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** None

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** City Planning Commission  
October 18, 2021

**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: