



## Legislation Details (With Text)

**File #:** ORD. 2022-293    **Version:** 1    **Name:**

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

**File created:** 6/9/2022    **In control:** City Council

**On agenda:** 11/14/2022    **Final action:** 11/14/2022

**Title:** To authorize the special use of the property known as 1308 North 38th Street for the purpose of two single-family detached dwellings, upon certain terms and conditions. (7th District)

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

**Indexes:**

**Code sections:**

**Attachments:** 1. Ord. No. 2022-293, 2. Staff Report, 3. Application Form & Applicant's Report, 4. Survey, 5. Plans, 6. Letter of Support, 7. Church Hill Central Civic Association Support Letter

Date	Ver.	Action By	Action	Result
11/14/2022	2	City Council	adopted	Pass
11/7/2022	2	Planning Commission	recommended for approval	
10/10/2022	2	City Council		

To authorize the special use of the property known as 1308 North 38<sup>th</sup> Street for the purpose of two single-family detached dwellings, upon certain terms and conditions. (7<sup>th</sup> District)

WHEREAS, the owner of the property known as 1308 North 38<sup>th</sup> Street, which is situated in a R-5 Single-Family Residential District, desires to use such property for the purpose of two single-family detached dwellings, which use, among other things, is not currently allowed by section 30-410.4, concerning lot area and width, 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 1308 North 38<sup>th</sup> Street and identified as Tax Parcel No. E000-1766/038 in the 2022 records of the City Assessor, being more particularly shown on a survey entitled “Sketch Showing the Proposed Improvements on No. 1308 N 38<sup>th</sup> Street in the City of Richmond, VA.,” prepared by Virginia Surveys, dated February 4, 2022, and last revised April 20, 2022, 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 two single-family detached dwellings, hereinafter referred to as “the Special Use,” substantially as shown on a survey entitled “Sketch Showing the Proposed Improvements

on No. 1308 N 38<sup>th</sup> Street in the City of Richmond, VA.,” prepared by Virginia Surveys, dated February 4, 2022, and last revised April 20, 2022, and the plans entitled “1308 N 38<sup>th</sup> St., (New Detached Single Family), Location: Richmond, VA,” prepared by River Mill Development, and dated January 13, 2022, 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 Special Use of the Property shall be as two single-family detached dwellings, substantially as shown on the Plans.

(b) No less than one parking space per dwelling shall be provided on the Property, located to the rear of the dwellings and accessed by the alley.

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

(d) Prior to the issuance of any building permits for the Special Use, the division of the Property into two residential lots, substantially as shown on the Plans, shall be accomplished by obtaining the necessary 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) The Owner shall make improvements within the right-of-way, including the installation of one street tree along North 38<sup>th</sup> Street, substantially as shown on the Plans, which improvements may be completed in one or more phases as approved by the Director of Public Works. All improvements and work within the public right-of-way shall be (i) completed in accordance with the requirements of the Director of Public Works, (ii) considered completed only upon written confirmation by the Director of Public Works that such improvements and work are in accordance with such requirements, and (iii) transferred to the City following such written confirmation by the Director of Public Works pursuant to a transfer of interest document approved as to form by the City Attorney and accepted by the Chief Administrative Officer or the designee thereof on behalf of the City. The Chief Administrative Officer or the designee thereof, for and on behalf of the City, is hereby authorized to accept, in the manner for which this subsection provides, all improvements and work required by and meeting the requirements of this subsection. The final certificate of occupancy shall not be issued for the Property until all requirements of this subsection are fully satisfied.

(f) 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 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 29, 2022

**EDITION:** 1

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

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

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

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

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

**RE:** To authorize the special use of the property known as 1308 N 38th for the purpose of two single-family detached dwellings, upon certain terms and conditions.

**ORD. OR RES. No. 2022-**

---

**PURPOSE:** To authorize the special use of the property known as 1308 N 38th Street to subdivide the existing lot and allow the construction of an additional single family detached dwelling, upon certain terms and conditions.

**REASON:** The applicant is requesting a Special Use Permit which would allow for the construction of a single family detached dwelling within an R-5 Residential (Single Family) zone on a lot with an overall size smaller

than 6,000 square feet, lot width of less than 50 feet, and front yard less than 25 feet; whereas, dwelling units within the R-5 Residential zone are required to meet such requirements. A Special Use Permit is therefore requested.

**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 17, 2022, meeting.

**BACKGROUND:** The property is located in the Oakwood neighborhood at 1308 North 38th Street, east of Canepa Street. The property will be 3600 sqft. (0.082 acres) parcel of land after subdivision from the existing property which currently contains a single family home. The application requests to allow the construction of a single family detached dwelling that does not meet zoning code requirements for lot size and setback.

The City’s Richmond 300 Master Plan designates a future land use for the subject property as Neighborhood Mixed-Use. This designation is defined as a “Existing or new highly-walkable urban neighborhoods that are predominantly residential with a small, but critical, percentage of parcels providing retail, office, personal service, and institutional uses.”

Primary Uses: Single-family houses, accessory dwelling units, duplexes, small multi-family buildings (typically 3-10 units), and open space.

Secondary Uses: Large multifamily buildings (10+units), retail/office/personal service, institutional, cultural, and government.

The current zoning for this property is R-5 Residential (Single Family). Adjacent properties are generally the same R-5 Zone. The surrounding land uses include primarily residential. The density of the proposed development is approximately 12 units per acre.

**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 26, 2022

**CITY COUNCIL PUBLIC HEARING DATE:** November 14, 2022

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** None

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** City Planning Commission  
October 17, 2022

**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:** Ray Roakes, Planner, Land Use Administration, 804-646-5467

Key Issues:

Retain on Consent Agenda

Move to Regular Agenda

Refer Back to Committee

Remove from Council Agenda

Strike

Withdrawn

Continue to: