Legislation Details (With Text)

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Type:	Ordinance	**Status:**	Adopted
File created:	7/10/2023	**In control:**	City Council
On agenda:	2/12/2024	**Final action:**	2/12/2024
Title:	To authorize the special use of the properties known as 901 North 36th Street and 909 North 36th Street for the purpose of up to ten single-family attached dwellings, upon certain terms and conditions. (As Amended) (7th District)		
Sponsors:	Mayor Stoney (By Request)		
Indexes:			
Code sections:			
Attachments:	1. Ord. No. 2023-346 - Amended 202240122, 2. 20240122 Amendment of Ord. No. 2023-346, 3. Staff Report, 4. Updated Plans (1/10/2024), 5. Public Comment		

Date	Ver.	Action By	Action	Result
2/12/2024	1	City Council		
1/22/2024	1	City Council	amended and continued	
1/16/2024	1	Planning Commission		
1/8/2024	1	City Council	continued and referred back	
1/2/2024	1	Planning Commission		
12/11/2023	1	City Council	continued and referred back	
12/4/2023	1	Planning Commission	recommended for continuance	Pass
11/13/2023	1	City Council	introduced and referred	

To authorize the special use of the properties known as 901 North 36th Street and 909 North 36th Street for the purpose of up to ten single-family attached dwellings, upon certain terms and conditions. (As Amended) (7th District)

WHEREAS, the owner of the properties known as 901 North 36th Street and 909 North 36th Street, which are situated in a R-5 Single-Family Residential District, desires to use such properties for the purpose of up to ten single-family attached dwellings, 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 properties known as 901 North 36th Street and 909 North 36th Street and identified as Tax Parcel Nos. E000-1279/001 and E000-

1279/008, respectively, in the 2023 records of the City Assessor, being more particularly shown on as a survey description entitled "Survey of #901 & #909 N. 36th Street, City of Richmond, Virginia," prepared by Long Surveying, LLC, and dated September 1, 2020, 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 up to ten single-family attached dwellings, hereinafter referred to as "the Special Use," substantially as shown on the plans entitled "Proposes [sic] Layout, #901 - #909 1/2 N. 36th Street, City of Richmond, Virginia" prepared by Long Surveying, LLC, and dated [~~June 23, 2023~~] January 10, 2024, and "[~~901/901.5 -~~] 905/905.5 - 909/909.5 N 36th St.," prepared by River Mill Development, and dated January 24, 2023, "903/903.5 - 907/907.5 N 36th St." prepared by River Mill Development, and dated January 24, 2023, "901 N 36th St.," prepared by River Mill Development, dated January 24, 2023, and last revised April 13, 2022, "901.5 N. 36th St. Garage," prepared by River Mill Development, and dated January 24, 2023, [~~and~~] "903/903.5 - 905/905.5 - 907/907.5, 909/909.5 N 36TH St. Garages," prepared by River Mill Development, and dated January 24, 2023, "911 N 36th St.," prepared by River Mill Development, dated January 24, 2023, and last revised April 13, 2022, and "901 & 911 N 36th St. Garage," prepared by River Mill Development, and dated January 24, 2023, 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 up to ten single-family attached dwellings, substantially as shown on the Plans. No more than two dwellings shall be attached in a series,

(b) No fewer than ten off-street parking spaces shall be provided for the Special Use, substantially as shown on the Plans.

(c) The height of the Special Use shall not exceed two stories, substantially as shown on the Plans.

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

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

(f) Prior to the issuance of any building permit for the Special Use, the establishment of up to ten 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.

(g) The attic vents on the front and rear façades at 901 and 909 North 36th Street shall be wrapped in one-inch by four-inch trim.

(h) All landscaping shrubs shall be a minimum size of three gallons.

(i) All trees used in landscaping and in the right-of-way shall be a minimum of 1.5-inch caliper.

(j) Wall-mounted lights shall be affixed to the garages at the house-side pedestrian doors and on the alley façades.

(k) Front porches shall be a minimum of six feet deep with painted railings.

(l) The foundation height shall be a minimum of two feet.

(m) The existing garage at 901 North 36th Street shall remain and be rehabilitated for use by the owner of 901 North 36th Street.

(n) The retaining wall shall either be (i) repaired to be level and plumb, with steps cut in for each unit, and resurfaced in a smooth stucco or (ii) replaced with a new split-block wall with individual steps incorporated. Textured landscape blocks with brick caps shall be utilized.

§ 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 new sidewalk and three street trees along O Street and one street tree along North 36th 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 or his designee that such improvements and work are in accordance with such requirements, and (iii) transferred to the City, following the written confirmation by the Director of Public Works or his designee, 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 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 Transmittal

DATE: October 18, 2023

TO: The Honorable Members of City Council

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

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

FROM: Kevin J. Vonck, Director of Planning & Development Review

RE: To authorize the special use of the property known as 901 North 36th Street and 909 North 36th Street for the purpose of up to ten single-family attached dwellings, upon certain terms and conditions.

ORD. OR RES. No.

PURPOSE: The applicant is requesting a Special Use Permit to authorize ten, single-family attached

dwellings within an R-5 Single-Family Residential District. Single-Family Attached dwellings are not a permitted use within the R-5 District. A Special Use Permit is therefore required.

BACKGROUND: The property is located in the Chimborazo neighborhood on North 36th between O & P Streets. The properties are currently a combined 27,402 sq. ft. (.62 acre) improved parcels of land, including a 3,290, two-family dwelling constructed in 1925. The City's Richmond 300 Master Plan designates a future land use for the subject property as Neighborhood Mixed Use, which is defined as "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."

Intensity: Building heights are generally two to four stories. Buildings taller than four stories may be found along major streets. Parcels are generally between 1,500 and 5,000 sq. ft. 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. (p. 56)

The current zoning for this property is R-5 Single-Family Residential District. All adjacent and nearby properties are located within the same R-5 zone. The area is primarily single family residential, with some two family residential and institutional uses present in the vicinity. The proposed density of the parcel is 10 units upon .62 acres, or 16 units per acre.

COMMUNITY ENGAGEMENT: Church Hill Central Civic Association was notified of the application; additional community notification will take place after introduction.

STRATEGIC INITATIVES AND OTHER GOVERNMENTAL: Richmond 300 Master Plan; Will be considered by Planning Commission on December 4, 2023 (tentative)

FISCAL IMPACT: $300 application fee

DESIRED EFFECTIVE DATE: Upon adoption

REQUESTED INTRODUCTION DATE: November 13, 2023

CITY COUNCIL PUBLIC HEARING DATE: December 11, 2023

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

AFFECTED AGENCIES: Office of Chief Administrative Officer

Law Department (for review of draft ordinance)

RELATIONSHIP TO EXISTING ORD. OR RES.: None

ATTACHMENTS: Draft Ordinance, Application Form, Applicant's Report, Plans, Survey, Map

STAFF:

Matthew Ebinger, Planning Supervisor, Land Use Administration (Room 511) 646-6308

Jonathan Brown, Senior Planner, Land Use Administration (Room 511) 646-5734