



## Legislation Text

**File #:** ORD. 2016-242, **Version:** 1

To amend and reordain Ord. No. 97-287-289, adopted Oct. 13, 1997, as previously amended by Ord. No. 98-246-275, adopted Sept. 14, 1998, and Ord. No. 2007-115-85, adopted Apr. 23, 2007, which authorized a special use of the property known as 2418-2422 East Franklin Street to provide for a lot split, to remove the property known as 2400 East Franklin Street from the special use permit, upon certain terms and conditions.

### THAT THE CITY OF RICHMOND HEREBY ORDAINS:

I. That Ordinance No. 97-287-289, adopted October 13, 1997, as previously amended by Ordinance No. 98-246-275, adopted September 14, 1998, and Ordinance No. 2007-115-85, adopted April 23, 2007, be and is hereby amended and reordained as follows:

§ 1. That the property known as ~~[2418-2422]~~ 2418 East Franklin Street, located at the northwest intersection of East Franklin Street and North 25<sup>th</sup> Street, identified as Tax Parcel Number ~~[E000-0340/0121]~~ E000-0340/031 in the ~~[2007]~~ 2016 records of the City Assessor ~~[being more~~

~~completely described as follows: beginning at the point of intersection of the north right of way line of East Franklin Street and the west right of way line of North 25<sup>th</sup> Street; thence extending in a westerly direction along the north right of way line of East Franklin Street 265.55 feet to a point; thence extending in a northerly direction along a property line 160.00 feet to a point on the south right of way line of an east-west 20.00 foot wide public alley; thence extending in an easterly direction along said alley 265.41 feet to a point on the west right of way line of North 25<sup>th</sup> Street;~~

~~thence extending in a southerly direction along said right of way line 160.00 feet to the point of beginning]~~ and as shown on the plat entitled "The Property Known as #2400 E. Franklin Street in the City of Richmond, VA," prepared by Edwards, Kretz, Lohr & Associates, PLLC, and dated July

17, 2015, a copy of which is attached to, incorporated into, and made a part of this ordinance, is  
hereby permitted to be used for the purpose of converting the existing building for use [a] as 16  
dwelling units together with commercial space and accessory parking, substantially as shown on  
the site plan, floor plans, and elevation drawings entitled “Church Hill Gables,” prepared by Wm  
Newman Architects, dated March 26, 1998 and revised May 6, 1998, consisting of sheets A1.1,  
A1.3 , and A2.1, copies of which are attached to and made a part of Ordinance No. 98-246-275,  
adopted September 14, 1998, and the survey entitled “Plat Showing Two Parcels of Land Lying  
North of the Intersection of East Franklin Street and North 25<sup>th</sup> Street,” prepared by Balzer and  
Associates, Inc., dated February 16, 2007, a copy of which is attached hereto and made a part of  
[this  
~~ordinance~~] Ordinance No. 2007-115-85, adopted April 23, 2007.

§ 2. That the adoption of this ordinance shall constitute the granting of a special use permit for the property, which shall be transferable from the owner of the property to the successor or successors in fee simple title of the owner, whether acquired by operation of law, deed or otherwise, and which shall run with the land.

§ 3. That the Commissioner of Buildings is hereby authorized to issue to the owner of the property a building permit in accordance with the above-referenced plans for such purpose(s), subject to the following terms and conditions:

(a) The owner of the property shall be bound by, observe, and shall comply with all other laws, ordinances and rules adopted pursuant thereto, applicable to the land and building except as otherwise provided in this ordinance.

(b) ~~[Application for a building permit for construction of the building or a Certificate of Zoning Compliance to authorize the lot split shall be made within twenty-four (24) months from the~~

~~effective date of this ordinance, which building permit shall expire by limitation and become null and void if construction of the building is not commenced within one hundred eighty (180) days from the date of the building permit, or if construction is suspended or abandoned for a period of one hundred eighty days (180) at any time work is commenced, as provided in applicable provisions of the Virginia Uniform Statewide Building Code. Should application for the building permit not be made within twenty-four (24) months from the effective date of this ordinance or should the building permit expire and become null and void after the expiration of the twenty-four (24) month time period for making application for the building permit, the privileges granted by this ordinance shall terminate and the special use permit shall become null and void.~~

(e)] Use of the property shall be as a maximum of [~~sixteen (16)~~] 16 dwelling units with accessory parking, and up to 1,029 square feet of commercial floor area. The commercial area shall be limited to the location identified as "Lease Space No. 1" on the plans attached to Ordinance No. 98-246- 254, adopted September 14, 1998. Such commercial space shall be limited to business, professional and administrative offices, medical and dental offices, personal service establishments, stores and shops for the conduct of retail business, and a restaurant; provided that the hours of operation of any business within the commercial space shall be limited to 8:00 a.m. to 9:00 p.m., daily; that there shall be no live entertainment or amplified music permitted in the commercial space audible beyond the boundaries of the property; that for a restaurant, of which there shall only be one within the commercial space, the maximum seating capacity shall be [~~sixteen (16)~~] 16 seats; and that there shall be no outdoor dining permitted on the premises or permitted on the abutting City sidewalks

accessory to the restaurant on premises.

~~[(d)]~~ (c) The design of the building shall be substantially as shown on the plans attached to Ordinance No. 98-246-275, adopted September 14, 1998, provided that minor changes may be made in exterior architectural details of the building as may be necessary to meet the requirements of the Commission of Architectural Review.

~~[(e)]~~ (d) No fewer than ~~[sixteen-(16)]~~ 16 parking spaces shall be provided with six ~~[(6)]~~ on site and ten ~~[(10)]~~ on the ground floor with access for occupants of the building by remote controlled devices, such spaces shall be substantially as shown on the plans attached to Ordinance No. 98-246-275, adopted September 14, 1998. Such parking shall be available only to the occupants of the building and may not be leased to others. The parking area and access aisles shall be paved with a dust free, all weather surface and parking spaces shall be delineated on the pavement surface.

~~[(f)]~~ (e) Brick City standard sidewalk improvements shall be bonded or installed substantially as depicted on the plans attached to Ordinance No. 98-246-275, adopted September 14, 1998 prior to the issuance of the certificate of occupancy. The sidewalk shall be installed by the owner at the owners expense unless an agreement is reached where the City of Richmond will provide the sidewalks.

~~[(g)]~~ (f) 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.

~~[(h)]~~(g) Final grading and drainage plans, if required, shall be approved by the Director of ~~[Community Development]~~ Planning and Development Review prior to the issuance of building permits.

~~[(i)]~~ (h) 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 the use thereof. 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 adjacent property or public streets and the use thereof.

~~[(f)]~~ (i) The existing painted sign “United States Historical Society” may be retained and shall not be removed or altered unless approved by the Commission of Architectural Review. In addition to the existing sign, identification of the premises shall be limited to three ~~[(3)]~~ signs with a maximum aggregate sign area of ~~[twenty-seven (27)]~~ 27 square feet, and no one sign exceeding nine ~~[(9)]~~ square feet in area. Two ~~[(2)]~~ of the said signs shall be attached flat to the exterior surface of the building, and one ~~[(1)]~~ sign may project from the exterior wall as depicted on the plans. The signs shall not be illuminated by a visible source or internally illuminated. The final design and location of the signage shall be approved by the Commission of Architectural Review prior to the issuance of a sign permit.

~~[(k)]~~ (j) Any encroachments within the public right of way, including building improvements, awnings and signage shall be subject to the review and approval of the City under standard City requirements pertaining to such encroachments.

~~[(h)]~~ (k) ~~[The existing vegetation along the north alley line as depicted on the attached plans shall be protected and preserved during the development of the site. The vegetation shall be maintained to provide a buffer for the dwelling facing East Grace Street. Additional landscaping]~~  
Landscaping shall be provided substantially as shown on the ~~[attached]~~ plans attached to Ordinance

No. 98-246-275, adopted September 14, 1998.

~~[(m) The property may be split substantially as shown on the plan attached to this ordinance. Adjustment to this plan may be permitted if approved by the Director of Community Development. Any proposed easements over the existing parking area must be submitted for approval by the City Attorney prior to the issuance of a Certificate of Zoning Compliance. Any further development of the property shall require amendment of the special use permit.]~~

§ 4. That the privileges granted by this ordinance may ~~[under certain circumstances]~~ be revoked~~[. Upon noting that a condition of a special use permit has been violated, the Zoning Administrator shall issue a written notice of violation to the property owner. The notice shall inform the property owner (i) which condition or conditions have been violated, (ii) the nature of the violation, and (iii) that the City Planning Commission shall hold a public hearing at which it shall review the violation and the special use permit]~~ pursuant to the provisions of sections ~~[114-1050.7]~~ 30-1050.7 through ~~[114-1050.11]~~ 30-1050.11 of the Code of the City of Richmond ~~[(2004)]~~ (2015), as amended, ~~[if (a) the property owner does not abate the violation within thirty (30) days of the issuance of the notice or (b) three (3) notices of violation are issued to the property owner within any twelve (12) month period. No action taken pursuant to the provisions of this section shall [not] in any way limit the City's right to pursue any other remedy at law or in equity against the property owner]~~ and all future amendments to such laws. Failure to comply with the terms and conditions of this ordinance shall constitute a violation of section ~~[114-1080]~~ 30-1080 of the Code of the City of Richmond ~~[(2004)]~~ (2015), as amended, and all future amendments to such law, or any other applicable laws or regulations.

§ 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]~~ property is abandoned for a period

of ~~[twenty-four (24)]~~ 24 consecutive months, use of the property shall be governed thereafter by the zoning regulations prescribed for the district in which the property is then situated.

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

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

~~more completely described as follows: beginning at the point of intersection of the north right of way line of East Franklin Street and the west right of way line of North 25<sup>th</sup> Street;~~

~~thence~~

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July 17, 2015, a copy of which is attached to, incorporated into, and made a part of this ordinance,

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Associates, Inc., dated February 16, 2007, a copy of which is attached hereto and made a part of [this ordinance] Ordinance No. 2007-115-85, adopted April 23, 2007.

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accessory parking, and up to 1,029 square feet of commercial floor area. The commercial area shall be limited to the location identified as "Lease Space No. 1" on the plans attached to Ordinance No. 98-246-254, adopted September 14, 1998. Such commercial space shall be limited to business,

professional and administrative offices, medical and dental offices, personal service establishments, stores and shops for the conduct of retail business, and a restaurant; provided that the hours of

operation of any business within the commercial space shall be limited to 8:00 a.m. to 9:00 p.m., daily; that there shall be no live entertainment or amplified music permitted in the commercial space audible beyond the boundaries of the property; that for a restaurant, of which there shall only be one within the commercial space, the maximum seating capacity shall be [~~sixteen (16)~~] 16 seats;

and that there shall be no outdoor dining permitted on the premises or permitted on the abutting City sidewalks accessory to the restaurant on premises.

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~~Administrator shall issue a written notice of violation to the property owner. The notice shall inform the property owner (i) which condition or conditions have been violated, (ii) the nature of the violation, and (iii) that the City Planning Commission shall hold a public hearing at which it shall review the violation and the special use permit]~~ pursuant to the provisions of sections [114-1050.7] 30-1050.7 through [114-1050.11] 30-1050.11 of the Code of the City of Richmond [(2004)] (2015), as amended, [if (a) the property owner does not abate the violation within thirty (30) days of the issuance of the notice or (b) three (3) notices of violation are issued to the property owner within any twelve (12) month period. No action taken pursuant to the provisions of this section shall [not] in any way limit the City's right to pursue any other remedy at law or in equity against the property owner] and all future amendments to such laws. Failure to comply with the terms and conditions of this ordinance shall constitute a violation of section [114-1080] 30-1080 of the Code of the City of Richmond [(2004)] (2015), as amended, and all future amendments to such law, or any other applicable laws or regulations.

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### **O & R Request**

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

**THROUGH:** Dwight C. Jones, Mayor (by request)  
**(This in no way reflects a recommendation on behalf of the Mayor)**

**THROUGH:** Selena Cuffee Glenn, Chief Administrative Officer

**THROUGH:** Peter L. Downey, Jr., Deputy Chief Administrative Officer for Economic Development and Planning

**FROM:** Mark A. Olinger, Director, Dept. of Planning and Development Review

**RE:** Special use permit amendment for 2400 East Franklin Street

**ORD. OR RES. No.**

**PURPOSE:** To amend and reordain Ordinance No. 2007-115-85, adopted April 23, 2007, which authorized a special use of the real estate, property known as 2418-2422 East Franklin Street to provide for a lot split, to remove the property known as 2400 East Franklin Street from the special use permit, upon certain terms and conditions.

**REASON:** The applicant proposes to construct a single-family dwelling on the subject property. Residential uses are not permitted in the existing M-1 Light Industrial District. The subject property is also subject to a special use permit that authorized the conversion of the existing building on the adjacent property to residential use and required an amendment for any further development of the property. The applicant has requested an amendment for his property to be removed from the existing special use permit along with the requested rezoning to the R-6 zoning district in order to construct a single-family dwelling in accordance with the R-6 requirements.

**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 3, 2016, meeting. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting.

**BACKGROUND:** The subject property is located on the north side of Franklin Street between North 24th Street and North 25th Street. The site currently consists of a vacant vegetated lot of approximately 0.4 acres.

Originally, applicant's lot was part of the adjacent lot, in total consisting of approximately 42,400 square feet, with a warehouse located on the site. The first Special Use Permit (SUP), Ordinance No. 97-287-289, adopted on October 13, 1997, authorized converting and expanding the warehouse on the lot to allow for 43 dwelling units and 43 parking spaces. The first amended SUP, Ordinance No. 98-246-275, adopted on September 14, 1998, reduced the number of dwelling units and parking spaces to 16, without requiring expansion of the building. The second amended SUP, Ordinance No. 2007-115-85, separated the original lot into two lots, with parcel one containing the building and parcel two, the applicant's lot, consisting of a vacant lot. Also under that SUP, the 16 apartment units in the building on parcel one were converted to condominiums. After that SUP amendment, parcel one was given a Tax Parcel Number of E000-0340/031, and parcel two, the applicant's lot, retained the original Tax Parcel Number of E000-0340/121. That SUP amendment, however, in Section 3(m) provided that any further development of the property, without specifying parcel one or parcel two, would require an amendment of the SUP.

A proposed ordinance would rezone the property from M-1 Light Industrial to R-6 Single-Family Residential, which would allow the construction of a single-family dwelling. As the current SUP does not allow development of the property without amendment, a separate ordinance is proposed to remove the property from the SUP.

The R-6 Single-Family Residential zoning district permits single-family detached dwellings on lots not less than 5,000 square feet in area with a width of not less than 50 feet. A front yard with a depth of not less than 15 feet would be required as well as side and rear yards with depths of not less than 5 feet. One off-street parking space would be required for the dwelling, which could be provided from the alley to the north of the

property.

The property is also located in the Saint John's District City Old and Historic District and is subject to review by the Commission of Architectural Review (CAR). The CAR conceptually reviewed the applicant's proposed single-family dwelling at their April 26, 2016 meeting.

The properties to the north, west, and east are zoned R-6 Single-Family Residential. The property to the east, across North 25th Street is improved with townhomes that are also subject to a Special Use Permit. The property to the west, across unimproved North 24th Street, is part of the Bellevue Elementary School property. The properties to the north are occupied by single and two family dwellings. The property to the south, across East Franklin Street, is located in the B-5 Central Business District and is improved with the Pohlig Box Factory apartments. All of the surrounding properties are also located in the St. John's Old and Historic District. The Master Plan recommends Single-Family (medium-density) for the subject property.

**FISCAL IMPACT / COST:** The Department 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:** \$1,500.00 application fee.

**DESIRED EFFECTIVE DATE:** Upon Adoption

**REQUESTED INTRODUCTION DATE:** September 12, 2016

**CITY COUNCIL PUBLIC HEARING DATE:** October 10, 2016

**REQUESTED AGENDA:** Consent.

**RECOMMENDED COUNCIL COMMITTEE:** None.

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** City Planning Commission, October 3, 2016.

**AFFECTED AGENCIES:** Office of Chief Administrative Officer  
Law Department (for review of draft ordinance)  
City Assessor (for preparation of mailing labels for public notice)

**RELATIONSHIP TO EXISTING ORD. OR RES.:** None

**REQUIRED CHANGES TO WORK PROGRAM(S):** None

**ATTACHMENTS:** Draft Ordinance, Application Form, Applicant's Report and Survey

**STAFF:** Lory Markham, Principal Planner  
Land Use Administration (Room 511)  
804-646-6309

*O&R 16-21*

