



## Legislation Text

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**File #:** ORD. 2018-308, **Version:** 1

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To authorize the special use of the property known as 1301 North 30<sup>th</sup> Street for the purpose of a building with commercial uses on the first floor and up to two dwelling units, upon certain terms and conditions. (As Amended)

WHEREAS, the owner of the property known as 1301 North 30<sup>th</sup> Street, which is situated in a R-6 Single-Family Attached Residential District, desires to use such property for the purpose of a building with commercial uses on the first floor and up to two dwelling units, which use, among other things, is not currently allowed by section 30-412.1 of the Code of the City of Richmond (2015), as amended; and

WHEREAS, in accordance with section 17.11 of the Charter of the City of Richmond (2018), 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), 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 11301 North 30<sup>th</sup> Street, and identified as Tax Parcel No. E000-0625/015 in the 2018 records of the City Assessor, being more particularly shown on a survey entitled “Physical Improvement Survey, 1301 N 30<sup>th</sup> Street, Richmond Virginia,” prepared by Parker Design Group, Inc., and dated February 13, 2018, 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 building with commercial uses on the first floor and up to two dwelling units, hereinafter referred to as “the Special Use,” substantially as shown on the plans entitled “Proposed Plans for Mixed-Use Property, 1301 N 30<sup>th</sup> Street, Richmond, VA 23223,” prepared by Penn & Co., dated June 17, 2017, and last revised May 8, 2018, and the plans entitled “1301 N. 30<sup>th</sup> Street, Site Layout Exhibit, City of Richmond, VA,” prepared by Parker Design Group, Inc., dated May 21, 2018, and last revised October 16, 2018, 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 use of the Property shall be as a building with commercial uses on the first floor and up to two dwelling units, substantially as shown on the Plans. ~~[The] Permitted uses within the area referred to as “retail space” on the Plans, may include [an office use or]~~:

i. Office;

ii. Pet grooming, provided that all facilities shall be located within the building, which shall be soundproof so that sounds produced by animals groomed therein are not audible from the outside of the building;

iii. Catering businesses, provided that not more than three persons are employed on the Property in the conduct of any such business;

iv. Any permitted principal uses on corner lots in the R-63 Multifamily Urban Residential District, pursuant to section 30-419.3 of the Code of the City of Richmond, (2015), as amended~~[- The area identified as “retail space” on the Plans may also be used as a live];~~

v. Live and work unit.

(b) The hours of operation for the commercial uses of the Property shall be limited to the hours between 7:00 a.m. through 11:00 p.m., daily.

(c) The off-premises sale of alcoholic beverages shall be subject to the following additional conditions (the “ABC Conditions”):

i. Sales shall be limited to the hours between 12:00 p.m. and 9:00 p.m., Monday through Saturday,

and to the hours between 2:00 p.m. and 9:00 p.m. on Sunday.

ii. No beer or wine coolers shall be sold as single, individual containers of 40 or fewer fluid ounces.

iii. Beer or wine coolers in containers of 40 or fewer ounces shall only be sold in packs with a minimum of four units.

iv. Wine shall be sold only in bottles of at least 750 milliliters or 25.4 fluid ounces.

v. Fortified wine (wine with an alcohol content of 14 percent or more by volume) shall not be sold.

vi. Any lease for a grocery store, convenience store or specialty food and beverage store shall include terms requiring compliance with all applicable laws for the sale and distribution of alcoholic beverages. Such lease shall be executed by tenant and landlord and be submitted to the Zoning Administrator prior to the issuance of a certificate of occupancy or certificate of zoning compliance for said tenant.

~~[(b)]~~ (d) No off-street parking spaces shall be required for the Special Use of the Property.

~~[(e)]~~ (e) Signage on the Property shall be limited to (i) signage permitted in all districts pursuant to section 30-505 of the Code of the City of Richmond (2015), as amended, and (ii) signage permitted in the R-63 Multifamily Urban Residential District as set forth in section 30-507.1 of the Code of the City of Richmond (2015), as amended.

~~[(f)]~~ (f) All building materials and elevations shall be substantially as shown on the Plans.

~~[(g)]~~ (g) The height of the Special Use shall not exceed the height as shown on the Plans.

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

**§ 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), as amended, and all future amendments to such laws.

(e) The Owner shall make improvements within the right-of-way, including installation of a new sidewalk along S Street, two street trees along S Street, and a ramp at the corner of S Street and North 30<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 the 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 (2015), 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), 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), 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:** October 16, 2018

**EDITION:** 1

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

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

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

**THROUGH:** Douglas C. Dunlap, Interim Deputy Chief Administrative Officer for Economic Development and Planning

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

**RE:** To authorize the special use of the property known as 1301 North 30<sup>th</sup> Street for the purpose of a mixed-use building containing commercial space and up to two residential dwelling units, upon certain terms and conditions.

**ORD. OR RES. No.**

**PURPOSE:** To authorize the special use of the property known as 1301 North 30<sup>th</sup> Street for the purpose of a mixed-use building containing commercial space and up to two residential dwelling units, upon certain terms and conditions.

**REASON:** The applicant has proposed to rehabilitate an existing structure in order to provide a commercial use on the first floor and residential use within the building. Commercial uses are not permitted in the R-6 Single-Family Attached Residential District. A Special Use Permit is therefore required.

**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 December 3, 2018, meeting. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting.

**BACKGROUND:** The subject property consists of a 1,996 SF (.046 acre) parcel of land containing a two-story structure. It is located in the Church Hill North Neighborhood within the City's East Planning District at the intersection of 30<sup>th</sup> Street and S Street.

The City of Richmond's Master Plan designates the subject property for Single-Family (Medium Density) uses. Primary uses in this category are "single-family detached dwellings at densities between 8 and 20 units per acre." (See page 133, Richmond Master Plan.) The density of the parcel if developed as proposed would be a ratio of approximately 43 units per acre.

Specifically for the East District, the Master Plan states notes that "there are numerous isolated single-site commercial uses," in particular corner stores. It is further noted that these "neighborhood commercial uses traditionally provided needed goods and services to adjacent residents, and when located in multi-story buildings were usually coupled with residential uses above." The Master Plan also states that expansion or conversion of these commercial uses to more intense uses should be discouraged. "In all instances, such uses should be restricted to neighborhood commercial uses with limitations on operating hours, number of employees, and signage."

All properties surrounding the subject property are located within the same R-6 Single-Family Attached Residential zoning district. A mix of single-family residential, single-family attached, and vacant land uses predominate the vicinity of the subject property.

**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 Adoption

**REQUESTED INTRODUCTION DATE:** November 13, 2018



**CITY COUNCIL PUBLIC HEARING DATE:** December 10, 2018

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** None

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** City Planning Commission, December 3, 2018

**AFFECTED AGENCIES:** Office of Chief Administration 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:** Application Form, Applicant's Report, Draft Ordinance, Plans, Survey, Map

**STAFF:** David Watson, Senior Planner  
Land Use Administration, Room (511) 840-646-1036

**Key Issues:**

Retain on Consent Agenda

Move to Regular Agenda

Refer Back to Committee

Remove from Council Agenda

Strike

Withdrawn

Continue to: