



Legislation Text

File #: ORD. 2019-204, **Version:** 1

To authorize the special use of the properties known as 224 South Cherry Street, 912 Idlewood Avenue, 914 Idlewood Avenue, 223 South Linden Street, 225 South Linden Street, and 239 South Linden Street for the purpose of a day nursery, upon certain terms and conditions.

WHEREAS, the owner of the properties known as 224 South Cherry Street, 912 Idlewood Avenue, 914 Idlewood Avenue, 223 South Linden Street, 225 South Linden Street, and 239 South Linden Street, which are situated in a R-7 Single- and Two-Family Urban Residential District, desires to use such property for the purpose of a day nursery, which use, among other things, is not currently allowed by sections 30-413.2 and 30-413.3 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 (2019), 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 properties known as 224 South Cherry Street, 912 Idlewood Avenue, 914 Idlewood Avenue, 223 South Linden Street, 225 South Linden Street, and 239 South Linden Street and identified as Tax Parcel Nos. W000-0292/009, W000-0292/017, W000-0292/018, W000-0292/028, W000-0292/026 and W000-0292/019, respectively, in the 2019 records of the City Assessor, being more particularly shown on a survey entitled “6 Parcels in the Name of St. Andrews Association in the City of Richmond, VA,” prepared by Nyfeler Associates, dated December 7, 2017, 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 day nursery, hereinafter referred to as “the Special Use,” substantially as shown on the plans entitled “St. Andrews School - Grace Arents Library,” prepared by bartzen + ball, and dated June 22, 2018, and on the plans entitled “St. Andrews School, Layout Plan, Fan/Near West District, City of Richmond, Virginia,” prepared by Silvercore, and dated April 25, 2018, 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 a day nursery, substantially as shown on the Plans.

(b) The applicant shall obtain and maintain a license for a day nursery from the Virginia Department of Social Services.

(c) The total number of children permitted in the day nursery shall be in accordance with the Virginia Uniform Statewide Building Code.

(d) The day nursery shall comply with all license requirements, standards, and regulations administered by the Virginia Department of Social Services.

(e) 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) 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: June 27, 2019

EDITION: 1

TO: The Honorable Members of City Council

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

THROUGH: Selena Cuffee-Glenn, Chief Administrative Officer

THROUGH: Sharon L. Ebert, 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 224 S. Cherry Street, 912 Idlewood Avenue, 914 Idlewood Avenue, 239 S. Linden Street, 225 S. Linden Street and 223 S. Linden Street, to authorize a day nursery as a principal use, upon certain terms and conditions.

ORD. OR RES. No.

PURPOSE: To authorize the special use of the property known as 224 S. Cherry Street, 912 Idlewood Avenue, 914 Idlewood Avenue, 239 S. Linden Street, 225 S. Linden Street and 223 S. Linden Street, to authorize a day nursery as a principal use, upon certain terms and conditions.

REASON: The subject properties are located in the R-7 Single- and Two-Family Urban Residential District. Private elementary and secondary schools are permitted uses in this district. Day nurseries are a permitted accessory use. The proposed day nursery will be staffed and operated by a second entity (YWCA) and is therefore considered a principal use. Day nurseries are not permitted as a principal use in the R-7 Single- and Two-Family Urban Residential District and therefore a special use permit is 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 September 3, 2019, meeting. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting.

BACKGROUND: The St. Andrews's School has operated at its Oregon Hill location of 227 South Cherry Street since 1894. The St. Andrews Association owns both the 227 and 224 South Cherry properties and seeks to renovate, and expand into, the 224 South Cherry Street facilities. The renovated facilities will provide additional space for both the existing St. Andrews School and a new pre-school day care program. This pre-school will be operated in partnership with the YWCA and will provide free and/or subsidized pre-school to Richmond families with limited financial resources.

The subject properties, collectively known as 224 S. Cherry Street, are comprised of approximately 1.02 acres and is located on the block bounded by the Downtown Expressway to the north, Idlewood Avenue to the south, and S. Linden Street to the west.

The properties are located in the Oregon Hill neighborhood within the Near West Planning District. The City of Richmond's Master Plan designates a future land use category for the subject property as Downtown General Urban Area. The General Urban Area is characterized by medium-density mixed-use development.

The subject property is located in the R-7 Single and Two-Family Urban Residential District. The intent of the R-7 district is to preserve and enhance the established character of older urban residential neighborhoods in the inner areas of the City. The district regulations are designed to reflect the urban nature of such neighborhoods as characterized by a mixture of detached and attached single- and two-family dwellings situated on small lots with narrow yards and modest setbacks.

The district regulations are intended to encourage redevelopment and place-making, including adaptive reuse of underutilized buildings, to create a high-quality urban realm. They are intended to improve streetscape character by providing continuity of building setbacks, to enhance public safety by encouraging an active pedestrian environment consistent with the mixed-use character of the district by providing for windows in building facades along street frontages, and to promote an environment that is safe for walking and biking.

All adjacent and nearby properties are located within the R-7 Single- and Two-Family Urban Residential District. Properties adjacent to the. A mix of residents and community facilities are in the area. The Hollywood Cemetery is located to the south across Idlewood Avenue.

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: None

BUDGET AMENDMENT NECESSARY: None

REVENUE TO CITY: \$1,800 application fee

DESIRED EFFECTIVE DATE: Upon adoption

REQUESTED INTRODUCTION DATE: July 22, 2019

CITY COUNCIL PUBLIC HEARING DATE: September 9, 2019

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: City Planning Commission, September 3, 2019

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

STAFF: David Watson, Senior Planner
Land Use Administration, 804-646-6304

Key Issues:
Retain on Consent Agenda

Move to Regular Agenda

Refer Back to Committee

Remove from Council Agenda

Strike

Withdrawn

Continue to: