



## Legislation Text

**File #:** ORD. 2019-295, **Version:** 1

To amend Ord. No. 2012-200-2013-4, adopted Jan. 28, 2013, which authorized the special use of the property known as 407 South Cherry Street for the purpose of permitting multifamily use and the property known as 811 Albemarle Street for the purpose of establishing a single-family dwelling lot and a lot to be used for surface parking accessory to a multifamily use, to modify the number of bedrooms in the multifamily dwelling and to allow balconies, upon certain terms and conditions.

### THE CITY OF RICHMOND HEREBY ORDAINS:

I. That Ordinance No. 2012-200-2013-4, adopted January 28, 2013, be and is hereby amended and reordained as follows:

§ 1. That the properties known as 407 South Cherry Street and 811 Albemarle Street[, being more particularly described as follows:

#### 407 SOUTH CHERRY STREET:

BEGINNING at a point on the eastern line of South Cherry Street, a 50' R/W, said point being 120' south of the southern line of Albemarle Street, a 66' R/W, which point is situated on the southern line of a 10' alley; thence go along said southern line of 10' alley N 89° 56' 35" E, 135.06' to a point situated on the western line of a 20' alley; thence leave said southern line and go along said western line S 00° 28' 08" W, 45.33' to a point situated on the northern line of an existing alley; thence leave said western line and continue along said northern line S 89° 51' 26" W, 134.42' to a point situated on the eastern line of said S. Cherry Street; thence leave said northern line and continue along said eastern line N 00° 20' 25" W, 44.86' to the point of beginning, and,

#### 811 ALBEMARLE STREET:

PARCEL A: ALL that certain lot, piece or parcel of land, with all improvements thereon, lying and being in the City of Richmond, Virginia, on the south side of Albemarle Street, bounded and described as follows:

BEGINNING at a point on the south line of Albemarle Street distance one hundred and eight feet three inches east of its intersection with the east line of Cherry Street; thence running eastwardly along the south line of Albemarle Street fronting thereon fifteen feet five inches, more or less, to a point, which point is in the prolongation northwardly of the eastern face of the

eastern wall of the said house No. 811 Albemarle Street; thence running back southwardly from said front between parallel lines, the eastern of which passes along and against the eastern face of the eastern wall of said house No. 811 Albemarle Street, and its prolongation northwardly and southwardly, one hundred and ten feet to an alley in the rear ten feet wide.

PARCEL B: ALL that certain lot, piece or parcel of land, with all the improvements thereon, lying and being in the City of Richmond, Virginia, bounded and described as follows:

BEGINNING at a point on the western line of a 20 foot alley running southwardly from Albemarle Street, which point is 59 feet 6-1/2 inches southwardly from the intersection of the western line of said alley with the southern line of Albemarle Street, thence extending southwardly along and fronting on the western line of said alley 50 feet 5-1/2 inches, more or less, to the northern line of a ten foot alley, thence back westwardly from said front between parallel lines (the northern line passing along the northern face of the northern wall of a certain garage referred to in Deed Book 519-B, Page 185 and the southern line being the northern line of said 10 foot alley) 13 feet 1 inch, more or less, to the eastern line of the property now or formerly known as 811 Albemarle Street.

PARCEL C: ALL that certain lot, piece or parcel of land, with all the improvements thereon, lying and being in the City of Richmond, Virginia, formerly known as designated and No. 813 Albemarle Street, bounded and described as follows:

BEGINNING at a point on the southern line of Albemarle Street 89 feet east of the point of intersection of the

southern line of Albemarle Street with the eastern line of Cherry Street, thence running eastwardly along and fronting on the southern line of Albemarle Street 19 feet 3 inches, thence back on the eastern line 110 feet to the southern line of alley in the rear 10 feet wide, thence westwardly along the southern line of said alley 19 feet 3 inches, thence

northwardly on the western line of 110 feet, said line passing in part through an alley in common between these premises and those adjoining on the west known as No. 815 Albemarle Street, to the point and place of beginning on the southern line of Albemarle Street, as shown on a plat of G.M. Stephens, Jr., Certified Surveyor, dated May 25, 1954, and recorded in the Office of the Chancery for the City of Richmond, Virginia; and as shown on the survey entitled “As Built Title Survey of Three Parcels of Land Containing 0.19 Acre of Land Situated at Cherry Street and Albemarle Street, City of Richmond, Virginia,” prepared by Townes Site Engineering, and dated December 29, 2015, a copy of which is attached to and made a part of this amendatory ordinance, are hereby permitted to be used for the purpose of a multifamily dwelling with no more than [ ~~twelve (12)~~] 12 dwelling units and no more than a total of [ ~~twenty-one (21)~~] 23 bedrooms, a single-family dwelling and accessory parking for the multifamily dwelling, substantially as shown on sheets Cover, A1.00, A1.01, A1.02, A1.03, A1.04, A2.01, A2.02, A2.03, and A3.01, of the plans entitled “Victory Apartments, Richmond, Virginia,” prepared by Edward H. Winks - James D. Snowa, Architects, P.C., dated April 5, 2012, and last revised December 27, 2012, as modified by the plans entitled “Victory Apartments Alterations, Richmond, Virginia,” prepared by Edward H. Winks, James D. Snowa, Architects, P.C., and dated April 4, 2019, copies of which are attached to and made a part of this amendatory ordinance.

§ 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 substantially in accordance with the plans referred to above for the aforementioned purposes, subject to the following terms and conditions:

- (a) The owner of the property shall be bound by, shall observe and shall comply with all other laws, ordinances, rules and regulations applicable to the property, except as otherwise provided in this ordinance.
- (b) The establishment of a single-family dwelling lot and a lot to be used for surface parking accessory to the multifamily dwelling use authorized by this ordinance on the property known as 811 Albemarle Street by recording the appropriate plats among the land records of the Clerk of the Circuit Court of the City of Richmond shall be completed within [~~twenty-four (24)~~] 24 months from the effective date of this ordinance.
- (c) An application for a building permit for the plans referred to above shall be made within [~~twenty-four (24)~~] 24 months from the effective date of this ordinance. This building permit shall expire and shall become null and void if any necessary construction has not commenced within [~~one hundred eighty (180)~~] 180 days from the date of the building permit or if construction is suspended or abandoned for a period of [~~one hundred eighty (180)~~] 180 days at any time after such construction has commenced, as provided in any applicable provisions of the Virginia Uniform Statewide Building Code. Should application for the building permit not be made within [~~twenty-four (24)~~] 24 months after 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)~~] 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.
- (d) 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 subject property have been paid.
- (e) All required final grading and drainage plans, together with all easements made necessary by such plans, shall be approved by the Director of Public Utilities prior to the issuance

of building permits.

(f) 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 adjacent property or public streets and the use thereof.

(g) 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) The use of 407 South Cherry Street shall consist of a multifamily dwelling with no more than ~~[twelve (12)]~~ 12 dwelling units and no more than ~~[twenty-one (21)]~~ 23 bedrooms, substantially as shown on the plans attached to Ordinance No. 2012-200-2013-4, adopted January 28, 2013, as modified by the plans attached to this amendatory ordinance.

(i) Eight ~~[(8)]~~ off-street parking spaces and a trash enclosure shall be provided for the multifamily dwelling on the property known as 811 Albemarle Street, substantially as shown on the ~~[attached]~~ plans attached to Ordinance No. 2012-200-2013-4, adopted January 28, 2013.

(j) Two lots shall be established on the property known as 811 Albemarle Street substantially as shown on the ~~[attached]~~ plans attached to Ordinance No. 2012-200-2013-4, adopted January 28, 2013, as modified by the plans attached to this amendatory ordinance. A single-family detached dwelling shall be constructed on the resulting lot fronting on Albemarle Street substantially as shown on the ~~[attached]~~ plans attached to Ordinance No. 2012-200-2013-4, adopted January 28, 2013. The resulting lot fronting on the alley shall contain a trash enclosure and an eight-space parking area serving as accessory parking for the multifamily dwelling located on the property known as 407 South Cherry Street substantially as shown on the ~~[attached]~~ plans attached to Ordinance No. 2012-200-2013-4, adopted January 28, 2013, as modified by the plans attached to this

amendatory ordinance.

(k) In addition to the signs permitted in all zoning districts under Chapter ~~[114]~~ 30, Article V of the Code of the City of Richmond ~~[(2004)]~~ (2015), as amended, two ~~[(2)]~~ wall signs shall be permitted, each with an area no greater than seven and one-half ~~[(7½)]~~ square feet, affixed to the northern façade of the building on the property known as 407 South Cherry Street, substantially as shown on the ~~[attached]~~ plans attached to Ordinance No. 2012-200-2013-4, adopted January 28, 2013.

(l) Any encroachments existing, proposed on the ~~[attached]~~ plans attached to Ordinance No. 2012-200-2013-4, adopted January 28, 2013, and the plans attached to this amendatory ordinance, including three balconies within a ten foot public alley, 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 ~~[(2004)]~~ (2015), as amended.

~~(m)~~ A total of seven balconies may be added to the multifamily building at 407 South Cherry Street. Three balconies may be added to the north side of the building and four balconies may be added to the south side of the building, substantially as shown on the plans attached to this amendatory ordinance, provided the balconies within the public alley shall be subject to approval as an encroachment pursuant to section 3(1) of this ordinance.

~~(n)~~ The existing dens of apartment unit numbers 103 and 201 situated within the multifamily building located at 407 South Cherry Street may be converted into second bedrooms, substantially as shown on the plans attached to this amendatory ordinance.

~~[(m)]~~ (o) In all other respects, the use of the property shall be in accordance with the applicable underlying zoning regulations.

§ 4. That the privileges granted by this ordinance may ~~[under certain circumstances]~~ 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. ~~[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~~ through ~~114-1050.11~~ of the Code of the City of Richmond (2004), 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 in any way limit the City's right to pursue any other remedy at law or in equity against the property owner.] 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 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. This ordinance shall be in force and effect upon adoption.

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

### **O & R Request**

**DATE:** September 16, 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:** Lenora Reid, Acting Chief Administrative Officer

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

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

**RE:** To amend and authorize the special use of the property known as 407 South Cherry Street for the purpose of permitting multifamily use and the property known as 811 Albemarle Street for the purpose of establishing a single-family dwelling lot and a lot to be used for surface parking accessory to a multifamily use, to modify the number of bedrooms in the multifamily dwelling and allow balconies, upon certain terms and conditions.

**ORD. OR RES. No.**

**PURPOSE:** To amend and authorize the special use of the property known as 407 South Cherry Street for the purpose of permitting multifamily use and the property known as 811 Albemarle Street for the purpose of establishing a single-family dwelling lot and a lot to be used for surface parking accessory to a multifamily use, to modify the number of bedrooms in the multifamily dwelling and allow balconies, upon certain terms and conditions.

**REASON:** The applicant is proposing to amend an existing Special Use Permit which allowed for a multifamily use and surface parking lot within an R-7 Single- and Two-Family Urban Residential District, to also allow for the addition of balconies and conversion of dens into bedrooms.

**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 November 4, meeting. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting.

**BACKGROUND:** The subject property consists of a 6,076 SF parcel of land improved with an 18,600 SF multi-family building. It is located on South Cherry Street, between Spring Street and Albemarle Street, in the Oregon Hill neighborhood of the Near West Planning District. The property is subject to a 2012 ordinance granting a Special Use Permit for a multi-family use with accessory parking. The applicant wishes to amend the ordinance to add seven individual balconies to the building as well as convert previously designated den space within two of the units into bedrooms.

The City of Richmond's Downtown Master Plan designates a future land use category for the subject property as Downtown General Urban Area which is "...characterized by medium density, mixed use development, distributed along medium sized blocks. Old Manchester is an example of the general urban condition in Richmond. This district is characterized by single family homes, side yard houses, row houses, and small multifamily buildings, such as duplexes, triplexes, and quads. These buildings have variable setbacks and landscaping, and a limited mix of commercial and civic uses." No residential density is specified for this land use category.

Adjacent properties on the 400 block of Cherry Street are primarily single-family homes with some institutional land uses and open space present as well. All surrounding properties are within the same R-7 Single- and Two-Family Urban Residential District as 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:** October 14, 2019

**CITY COUNCIL PUBLIC HEARING DATE:** November 12, 2019

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** None

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** City Planning Commission

November 4, 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.:** Amend Ordinance No. 2012-200-2013-4

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

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

**STAFF:** Jonathan Brown, Senior Planner, Land Use Administration (Room 511) 804-646-5734

**Key Issues:**

Retain on Consent Agenda

Move to Regular Agenda

Refer Back to Committee

Remove from Council Agenda

Strike

Withdrawn

Continue to: