



## Legislation Text

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**File #:** ORD. 2019-296, **Version:** 2

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To amend and reordain Ord. No. 2018-111, adopted Apr. 9, 2018, which authorized the special use of the properties known as 1208 and 1212 McDonough Street and 314, 316, 318, and 322 West 12<sup>th</sup> Street for the purpose of a mixed-use building containing up to 33 dwelling units, to modify the permitted uses of the property, upon certain terms and conditions.

THE CITY OF RICHMOND HEREBY ORDAINS:

I. That Ordinance No. 2018-111, adopted April 9, 2018, be and is hereby amended and reordained as follows:

WHEREAS, the owner of the properties known as 1208 and 1212 McDonough Street, and 314, 316, 318, and 322 West 12<sup>th</sup> Street, which are situated in a R-8 Urban Residential District, desires to use such property for the purpose of a mixed-use building containing up to 33 dwelling units, which use, among other things, is not currently allowed by section 30-413.11 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 (2010), 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 1208 and 1212 McDonough Street and 314, 316, 318, and 322 West 12<sup>th</sup> Street and identified as Tax Parcel Nos. S000-0088/004, S000-0088/003, S000-0088/010, S000-0088/009, and S000-0088/007, S000-0088/006, respectively, in the 2018 records of the City Assessor, being more particularly shown on a survey entitled “Survey Plat Workmap Showing Existing Improvements to Tax Parcel Block ‘S-88’ and Tax Parcel Block ‘S-122’, City of Richmond, Virginia,” prepared by Shadrach & Neal, Inc., dated February 17, 2006, and last revised May 3, 2013, a copy of which is attached to and made a part of [~~this ordinance~~] Ordinance No. 2018-111, adopted April 9, 2018, hereinafter referred to as “the Property,” is hereby permitted to be used for the purpose of a mixed-use building containing up to 33 dwelling units, hereinafter referred to as “the Special Use,” substantially as shown

on the plans entitled “Mixed Use Residential Development, 314-322 W. 12<sup>th</sup> Street & 1208-1212 McDonough Street, Manchester, Richmond, VA, 23224,” prepared by ADO/Architecture Design Office, PLLC, dated August 30, 2017, and last revised November 21, 2017, hereinafter referred to as “the Plans,” copies of which are attached to and made a part of [~~this ordinance~~] Ordinance No. 2018-111, adopted April 9, 2018.

(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 a mixed-use building containing up to 33 dwelling units and ground floor commercial space, substantially as shown on the Plans. The uses allowed within the commercial space may include pet shops, veterinary clinics and animal hospitals, including boarding kennels operated in conjunction therewith; provided, however, that all facilities shall be located completely within enclosed and air conditioned buildings which are soundproof to the extent that sounds produced by animals kept or treated therein are not audible from the outside of the building. Otherwise, the uses allowed within the commercial space shall be limited to office use and the permitted principal uses on corner lots in the R-63 Multifamily Urban Residential District pursuant to section 30-419.3(a) of the Code of the City of Richmond (2015), as amended.

(b) No fewer than 33 on-site parking spaces shall be provided on the Property for the Special Use, substantially as shown on the Plans.

(c) Signage pertaining to the Special Use shall comply with the requirements for signage in the R-63 Multifamily Residential District set forth in section 30-507.1 of the Code of the City of Richmond (2015), as

amended.

(d) All building materials, material colors, and site improvements including landscaping, shall be substantially as shown on the Plans.

(e) All site improvements, including installation of trees and vegetation screening on the Property, shall be substantially as shown on the Plans. The vegetation screening shall follow the planting and fence/wall requirements of Buffer “A”, Buffer “C”, or “Buffer H” as set forth in section 30-710.13(2)(b) of the Code of the City of Richmond (2015), as amended.

(f) The height of the Special Use shall not exceed the height as shown on the Plans.

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

(h) Prior to the issuance of any final certificate of occupancy for the Special Use, the Property shall be consolidated into one parcel, substantially as shown on the Plans, by recording the appropriate plats among the land records of the Clerk of the Circuit Court of the City of Richmond.

(i) Exterior bicycle parking for no fewer than 20 bicycles shall be provided on the Property.

(j) Operations of the commercial space shall cease by no later than 11:00 p.m. daily.

(k) The open space area located between the building and parking area may contain an outdoor dining area accessory to a restaurant located within the commercial space of the building, consistent with sections 30-419.3(a)(5)(c) through (e) of the Code of the City of Richmond (2015), as amended. No such outside area shall be open to patrons between the hours of 10:00 p.m. and 7:00 a.m. The occupancy of the outdoor dining area shall be limited to no more than 48 patrons. The owner shall submit a layout plan for the outdoor dining area to the Director of Planning and Development Review. The Director shall review the layout plan and, if the Director finds that the outdoor dining area as proposed in the layout plan meets the criteria set forth in section 30-1030.4 of the Code of the City of Richmond (2015), as amended, the Director shall approve the layout plan. The outdoor dining area shall not be constructed until the Director has approved the layout

plan. Any outdoor dining area constructed must conform to the approved layout plan.

§ 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 street tree, 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.

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 is 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:** The amend Ordinance 2018-111, which authorized the special use of the properties known as 1208 and 1212 McDonough Street and 314, 316, 318, and 322 West 12<sup>th</sup> Street for the purpose of a mixed-use building containing up to 33 dwelling units, to modify the permitted uses of the property, upon certain terms and conditions.

**ORD. OR RES. No.**

**PURPOSE:** The amend Ordinance 2018-111, which authorized the special use of the properties known as 1208 and 1212 McDonough Street and 314, 316, 318, and 322 West 12<sup>th</sup> Street for the purpose of a mixed-use building containing up to 33 dwelling units, to modify the permitted uses of the property, upon certain terms and conditions.

**REASON:** A special use permit is in place at 1208 and 1212 McDonough Street and 314, 316, 318, and 322 West 12<sup>th</sup> Street for the purpose of a mixed-use building containing up to 33 dwelling units, upon certain terms and conditions. The applicant wishes to amend the conditions for approval so as to allow a veterinary clinic as a permitted use.

**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, 2019, meeting. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting.

**BACKGROUND:** The properties are located in the Manchester neighborhood in the City's Old South Planning District and consist of a combined .65 acres at the intersection of McDonough Street and West 12<sup>th</sup> Street.

The City of Richmond's Downtown 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 along medium sized blocks. Old Manchester is an example of the general urban condition in Richmond. This district is characterized by single-family homes, sideyard houses, row houses, and small multi-family buildings such as duplexes, triplexes, and quads. These buildings have variable setbacks and landscaping and contain a limited mix of commercial and civic uses. (City of Richmond Downtown Master Plan, 2009, page 3.23)

The subject properties, as well as the adjacent properties to the south and west are located in the R-8 Urban Residential District. The properties to the north and east are located in the R-63 Multifamily Urban Residential District and the B-6 Mixed-Use Business District.

A mix of commercial, office, vacant, public-open space, and residential uses are located in the vicinity of the subject properties.

**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:** \$1,200 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.:** Amendment of Ord. No. 2018-111

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

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

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

**Key Issues:**

Retain on Consent Agenda

Move to Regular Agenda

Refer Back to Committee

Remove from Council Agenda

Strike

Withdrawn

Continue to: