



## Legislation Text

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**File #:** ORD. 2019-325, **Version:** 1

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To authorize the special use of the property known as 1803 North 28<sup>th</sup> Street for the purpose of a church, day nursery, office, adult day care, and educational uses within an existing building, upon certain terms and conditions.

WHEREAS, the owner of the property known as 1803 North 28<sup>th</sup> Street, which is situated in a R-5 Single-Family Residential District, desires to use such property for the purpose of a church, day nursery, office, adult day care, and educational uses within an existing building, which use, among other things, is not currently allowed by section 30-410.1 of the Code of the City of Richmond (2019), 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 property known as 1803 North 28<sup>th</sup> Street and identified as Tax Parcel No. E012-0427/013 in the 2019 records of the City Assessor, being more particularly shown on a survey entitled “Survey Plat Showing Existing Improvements to #1803 North 28<sup>th</sup> Street, City of Richmond, Virginia,” prepared by Shadrach & Associates LLC, and dated July 3, 2019, 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 church, day nursery, office, adult day care, and educational uses within an existing building, hereinafter referred to as “the Special Use,” substantially as shown on the survey entitled “Survey Plat Showing Existing Improvements to #1803 North 28<sup>th</sup> Street City of Richmond, Virginia,” prepared by Shadrach & Associates LLC, and dated July 3, 2019, hereinafter referred to as “the Plans,” a copy of which is 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 an existing building with permitted uses which may include:

- (1) Adult daycare facilities;
- (2) Churches and other places of worship;
- (3) Day nurseries licensed by and subject to the requirements of the Virginia Department of Social Services;
- (4) Office use, including business, professional and administrative offices, medical and dental offices and clinics, and studios of writers, designers and artists engaged in the graphic arts; provided that no retailing, wholesaling or servicing of merchandise shall be permitted on the premises nor shall the storage or display of merchandise to be serviced or offered for sale elsewhere be permitted on the premises;
- (5) Public and private nonprofit business, professional and vocational schools not involving the use of heavy machinery, welding equipment or internal combustion engines; and
- (6) Public and private nonprofit schools and educational institutions.
- (7) Signs for the Special Use shall meet the requirements of section 30-507.1 of the Code of the City of Richmond (2015), as amended, concerning signs permitted in the R-63 Multifamily Urban Residential District and the requirements of section 30-505 of the Code of the City of Richmond (2015), as amended, concerning signs permitted in all districts.

(b) If any of the uses above are operated in such a manner as to be classified as a social service delivery use, a management program, pursuant to Sec. 30-1045.6(1)(e) of the Code of Richmond (2015), as

amended, shall be approved by the Zoning Administrator prior to such operation.

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

(d) No off-street parking shall be required for the Special Use.

(e) Bicycle storage for four bicycles shall be provided on the Property, substantially as shown on the Plans.

§ 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.

(e) The Owner shall make improvements within the right-of-way, including the installation of a street tree along North 28<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, 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 Zoning Administrator is authorized to issue a certificate of zoning compliance subject to the terms and conditions set forth in this ordinance. An application for the certificate of zoning compliance shall be made within 730 calendar days following the date on which this ordinance becomes effective. If the application for the certificate of zoning compliance is not made within the time period stated in the previous sentence, 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 11, 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 G. Reid, Acting 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 1803 North 28<sup>th</sup> Street for the purposes of a mixed-use building, upon certain terms and conditions.

**ORD. OR RES. No.**

**PURPOSE:** To authorize the special use of the property known as 1803 North 28<sup>th</sup> Street for the purposes of a mixed-use building, upon certain terms and conditions.

**REASON:** The applicant is proposing to use a vacant building at 1803 North 28<sup>th</sup> Street for the purposes of a variety of uses that are not permitted as principal uses within this zone. 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 2, 2019 meeting. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting.

**BACKGROUND:** The subject property consists of a parcel totaling 4,529 SF, or .10 acres, of land. The property is a part of the Church Hill North neighborhood in the East Planning District. The property is located at the northeast corner of Y Street and North 28<sup>th</sup> Street.

The property was previously used as an educational facility and subject to Special Use Permit Ordinance No. 1988-277-248, which has lapsed due to the building being vacant for more than two years.

The City of Richmond's current Master Plan designates the subject property for Single-Family Medium Density (SF-MD). Primary uses are single family and two family dwellings, both detached and attached, at densities of 8 to 20 units per acre. Includes residential support uses such as schools, places of worship, neighborhood parks and recreation facilities, and limited public and semi-public uses.

Surrounding properties are within the same R-5 Single-Family Residential District. A mix of residential, vacant, institutional, and commercial land uses are present in the area.

**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 12, 2019

**CITY COUNCIL PUBLIC HEARING DATE:** December 9, 2019

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** None

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** City Planning Commission, December 2, 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:** Draft Ordinance, Application Form, Applicant's Report, Survey, Map

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

**Key Issues:**

Retain on Consent Agenda

Move to Regular Agenda

Refer Back to Committee

Remove from Council Agenda

Strike

Withdrawn

Continue to: