



# City of Richmond

900 East Broad Street  
2nd Floor of City Hall  
Richmond, VA 23219  
www.rva.gov

## Legislation Text

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**File #:** ORD. 2021-130, **Version:** 2

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To amend Ord. No. 2011-009-23, adopted Feb. 28, 2011, which authorized the special use of the property known as 405 Brook Road as a restaurant on a portion of the ground level of the building with a waiver of parking requirements, to allow a brewery, upon certain terms and conditions. (2<sup>nd</sup> District)

I. That Ordinance No. 2011-009-23, adopted February 28, 2011, be and is hereby amended and reordained as follows:

§ 1. That the property known as 405 Brook Road and identified as Tax Parcel No. N000-0120/040 in the [2011] 2021 records of the City Assessor, being more particularly shown on a survey entitled “Plat of No. 405 Brook Road, Richmond, Virginia,” prepared by Foster and Miller, P.C., and dated July 31, 2001, a copy of which is attached to and made a part of [~~this ordinance~~] Ordinance No. 2011-009-23, adopted February 28, 2011, is hereby permitted to be used for the purpose of a restaurant and brewery on [~~a portion of~~] the ground level of the building substantially as shown on sheet A2.1 of the plans entitled “Proposed Floor Plans Construction Documents 405 Brook Road Richmond Virginia,” prepared by 3 North, dated June 8, 2010, and last revised November 21, 2010, copies of which were attached to and made a part of Ordinance No. 2011-009-23, adopted February 28, 2011, as modified by the plans entitled “Richmond Seltzer Company & Stoplight Gelato Café,” prepared by Iain Gordon, EIT, and dated January 22, 2021, a copy of which is attached to and made a part of this amendatory ordinance[-], hereinafter referred to, collectively, as “the Plans.”

§ 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 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 purpose, 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) Application for a building permit 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.

(c) 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.

(d) 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.

(e) 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.

(f) The [~~street frontage portion of the~~] ground level as substantially indicated on the [~~attached plan~~] Plans shall be permitted for use as a restaurant and brewery.

(g) Parking shall not be required for the uses of the property.

(h) Signs for the special use shall meet the requirements for signs identifying other permitted uses, pursuant to section 30-509(2) of the Code of the City of Richmond (2020), as amended.

(i) In all other respects, the property shall be subject to the applicable underlying zoning district regulations.

§ 4. The privileges granted by this ordinance may [~~under certain circumstances~~] be revoked[~~]. 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] 30-1050.7 through [114-1050.11] 30-1050.11 of the Code of the City of Richmond [(2004)] (2020), 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.] and all future amendments to such laws. 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)] (2020), as amended, and all future amendments to such law, or any other applicable laws or regulations.

§ 5. [That when] When the privileges granted by this ordinance terminate and the special use permit granted hereby becomes null and void [ or when use of the premises is abandoned for a period of twenty-four (24) consecutive months], 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:** March 29, 2021

**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:** J.E. Lincoln Saunders, Acting Chief Administrative Officer

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

**FROM:** Kevin Vonck, Acting Director, Department of Planning and Development Review

**RE:** To authorize the amendment of Ord. 2011-9-23 to authorize the property known as 405 Brook Road for the operation of a restaurant and brewery, upon certain terms and conditions.

**ORD. OR RES. No.**

**PURPOSE:** To authorize the amendment of Ord. 2011-9-23 to authorize the property known as 405 Brook Road for the operation of a restaurant and brewery, upon certain terms and conditions.

**REASON:** The subject property is located in the R-02 Residential Office where restaurants and breweries are not permitted uses. On February 28, 2011 City Council approved Ord. 2011-9-23 authorizing a restaurant use on the ground floor of the structure with residential use on the second floor. The proposal requests the additional authorization of a brewery on the ground floor. Therefore a special use permit amendment 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 May 17, 2021 meeting.

**BACKGROUND:** The subject property is located on the northeast side of Brook Road near the intersection with West Marshall Street 31 feet in width and 2,263 square feet in area. The improvements consist of a 4,610 square foot two-story structure build in 1910 that encompasses the entire parcel. The Special Use Permit authorizing the restaurant use also waived parking requirements for both the commercial and residential uses.

The brewery operations will utilize ground floor area in the rear of the building and a tasting room and restaurant will operate in the front of the building. The second floor shall remain as a residential use.

The Richmond 300 Master Plan designates the subject property for Neighborhood Mixed-Uses. Primary uses are single-family houses, accessory dwelling units, duplexes, small multi-family buildings and open space. Secondary uses include retail, office, and personal services. The Master Plan also notes that the property is located in the Downtown-Jackson Ward Priority Growth Node which includes a goal to provide for business growth.

The adjacent properties to the east and west are also located in the RO-2 district and consist of a mix of residential and office uses. To the north of the subject property is an R-6 Single Family Attached Residential district comprised primarily of single family attached and detached dwellings. South across West Marshall Street is a B-4 Central Business district which contains a mix of uses including commercial and multi-family uses.

**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:** April 26, 2021

**CITY COUNCIL PUBLIC HEARING DATE:** May 24, 2021

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** None

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** City Planning Commission, May 17, 2021

**AFFECTED AGENCIES:** Office of Chief Administration Officer  
Law Department (for review of draft ordinance)

**RELATIONSHIP TO EXISTING ORD. OR RES.:** Amend Ord. 2011-9-23

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

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

**STAFF:** David Watson, Senior Planner, Land Use Administration, 804-646-1036

Key Issues:

Retain on Consent Agenda

Move to Regular Agenda

Refer Back to Committee

Remove from Council Agenda

Strike

Withdrawn

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