



# 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. 2021-321, **Version:** 1

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To authorize the special use of the property known as 918 North 35<sup>th</sup> Street for the purpose of two single-family detached dwellings, upon certain terms and conditions. (7<sup>th</sup> District)

WHEREAS, the owner of the property known as 918 North 35<sup>th</sup> Street, which is situated in a R-5 Single-Family Residential District, desires to use such property for the purpose of two single-family detached dwellings, which use, among other things, is not currently allowed by sections 30-410.4, concerning lot area and width, and 30-410.5(2), concerning side yards, of the Code of the City of Richmond (2020), as amended; and

WHEREAS, in accordance with section 17.11 of the Charter of the City of Richmond (2020), 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 (2020), 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 918 North 35<sup>th</sup> Street and identified as Tax Parcel No. E000-0965/001 in the 2021 records of the City Assessor, being more particularly shown on a survey entitled “Plat Showing Physical Improvements of 918 North 35<sup>th</sup> Street for Garrett Augustine, City of Richmond, Virginia,” prepared by townes, and dated September 1, 2020, 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 two single-family detached dwellings, hereinafter referred to as “the Special Use,” substantially as shown on the plans entitled “918 North 35<sup>th</sup> Street - New Construction Plans, Garrett Augustine,” prepared by Obsidian, and dated June 24, 2021, and 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 two single-family detached dwellings, substantially as shown on the Plans.

(b) One parking space shall be required for each dwelling, substantially as shown on the Plans.

(c) All building materials and site improvements shall be substantially as shown on the Plans.

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

(e) Prior to the issuance of a certificate of occupancy for the Special Use, the division of two residential lots, substantially as shown on the Plans, shall be accomplished by obtaining the necessary approvals from the City and recording the appropriate plats and deeds among the land records of the Clerk of the Circuit Court of the City of Richmond.

§ 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 (2020), 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 (2020), 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 (2020), 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 (2020), 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:** October 8, 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 J. Vonck, Director, Dept. of Planning and Development Review

**RE:** To authorize the special use of the property known as 918 North 35th Street for the purpose of two single-family detached dwellings, upon certain terms and conditions.

**ORD. OR RES. No.**

**PURPOSE:** To authorize the special use of the property known as 918 North 35th Street for the purpose of two single-family detached dwellings, upon certain terms and conditions.

**REASON:** The applicant is requesting split the existing lot, which contains one single-family detached dwelling, and construct a new single-family detached dwelling on the new lot. The two proposed lots do not meet the lot area and lot width requirements of the R-5 Single-Family Residential District. Additionally, the proposed dwellings do not meet the side yard (setback) requirement from the proposed property line. 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 6, 2021 meeting.

**BACKGROUND:** The subject property consists a parcel containing a lot area of 7,516 square feet (0.173 acres) and is currently improved with one two-story single-family detached dwelling that has a floor area of approximately 1,900 square feet. The property is located in the Chimborazo neighborhood at the southwest corner of North 35th Street and P Street.

The subject property is located within the R-5 Single-Family Residential District. While the proposed single-family dwellings are uses permitted in the R-5 District, the lot area and lot widths for the proposed lots do not meet the minimum requirements of 6,000 square feet and 50 feet, respectively, for the R-5 District. Additionally, the proposed side yard (setback) from the each dwelling to the new interior lot line do not meet the minimum requirement of five feet (5') for the R-5 District.

Richmond 300 recommends a future land use of "Neighborhood Mixed-Use" for the property. The primary uses recommended for Neighborhood Mixed-Use are single-family houses, accessory dwelling units, duplexes, small multi-family buildings (typically 3-10 units) and open space. Secondary uses include large multi-family buildings (10+ units), retail/office/personal service, institutional, cultural and government. The intensity recommended for Neighborhood mixed-use is typically two to four stories, with more height permissible along major streets. The development style should be compatible with the existing context. Setbacks, plazas and parks can help create a sense of place and community gathering areas. New developments on larger parcels should continue or introduce a gridded street pattern. In historic neighborhoods, small-scale commercial buildings should be introduced. Ground floors should engage the street with features such as street-oriented facades. Appropriate setbacks, open space, front porches, elevated ground floors and other features that provide a sense of privacy should be provided for residential uses. Pedestrian, bicycle, and transit access must be accommodated, and bike parking must be provided.

The property is also in a location identified as a "micro node" on the Richmond 300 Nodes Map, which is a notable place in a neighborhood that provides goods and services primarily to the immediate residents but also may attract visitors.

The predominant land use in the vicinity is single-family dwellings, however the Oakwood Arts Center is located directly to the east, across N 35th Street, and a church is located one half block to the west.

**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:** \$300 application fee

**DESIRED EFFECTIVE DATE:** Upon adoption

**REQUESTED INTRODUCTION DATE:** November 8, 2021

**CITY COUNCIL PUBLIC HEARING DATE:** December 13, 2021

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** None

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** City Planning Commission  
December 6, 2021

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

**RELATIONSHIP TO EXISTING ORD. OR RES.:** None

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

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

**STAFF:** Richard Saunders, Senior Planner, Land Use Administration (Room 511) 646-5648

Key Issues:

Retain on Consent Agenda

Move to Regular Agenda

Refer Back to Committee

Remove from Council Agenda

Strike

Withdrawn

Continue to: