



## Legislation Text

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**File #:** ORD. 2022-050, **Version:** 2

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To authorize the special use of the property known as 5 North Colonial Avenue for the purpose of a multifamily dwelling containing up to three dwelling units, upon certain terms and conditions. (1<sup>st</sup> District)

WHEREAS, the owner of the property known as 5 North Colonial Avenue, which is situated in a R-6 Single-

Family Attached Residential District, desires to use such property for the purpose of a multifamily dwelling containing up to three dwelling units, which use, among other things, is not currently allowed by sections 30-412.1, concerning permitted principal uses, and 30-412.4, concerning lot area and width, density, and unit width, 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 5 North Colonial Avenue and identified as Tax Parcel No. W000-1244/030 in the 2022 records of the City Assessor, being more particularly shown on a survey entitled “Improvements on #3 & #5 North Colonial Avenue, City of Richmond, Virginia,” prepared by Balzer & Associates, and dated July 29, 2021, 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 multifamily dwelling containing up to three dwelling units, hereinafter referred to as “the Special Use,” substantially as shown on the plans entitled “5 North Colonial Ave,” prepared by Johannas Design Group, with sheets SUP1 and SUP3 dated October 28, 2021, sheets SUP2 and SUP5 dated October 28, 2021, and last revised January 26, 2021, and sheets SUP4, SUP6 and SUP7 dated October 28, 2021, and last revised February 10, 2021, hereinafter referred to, collectively, 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 a multifamily dwelling containing up to three dwelling units, substantially as shown on the Plans.

(b) No fewer than two off-street parking spaces within a garage shall be provided on the Property.

(c) The height of the Special Use shall not exceed three stories, substantially as shown on the Plans.

(d) All building materials and elevations shall be substantially as shown on the Plans, subject to the applicable regulations of the West of the Boulevard Design Overlay District, pursuant to sections 30-940 through 30-940.9 of the Code of the City of Richmond (2020), as amended.

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

§ 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 with 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:** January 31, 2022

**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, Chief Administrative Officer

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

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

**RE:** To authorize the special use of the property known as 5 North Colonial Avenue for the purpose of a multifamily dwelling, containing up to three dwelling units, upon certain terms and conditions.

**ORD. OR RES. No.**

**PURPOSE:** To authorize the special use of the property known as 5 North Colonial Avenue for the purpose of a multifamily dwelling, containing up to three dwelling units, upon certain terms and conditions.

**REASON:** The subject property is located in the R-6 Single-family Attached Residential zoning district. Multifamily dwellings are not permitted uses in this district. Furthermore, parking is generally required at a ratio of one off-street parking space per dwelling unit. The proposed development provides two off-street parking spaces. Therefore a special use permit 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 March 21, 2022 meeting.

**BACKGROUND:** The subject property is located midblock on the eastern side of North Colonial Avenue between Ellwood Avenue and Floyd Avenue. Public alleys run along the northern and eastern property lines. The subject property is each 36 feet wide with a depth of 100 feet for a total area of 3,627 square feet. The subject property is improved with a two-story 2,496 square foot two-family (converted) dwelling which will be demolished as part of this proposal. The Assessor's office deems the condition of the structure as normal for age.

The proposed three unit multi-family dwelling will be in harmony with the existing uses in the neighborhood. Within the surrounding area, there are four multi-family buildings along with a mix of smaller multi-family, one, and two-family homes.

The proposed project conforms to the recommendations of the Richmond 300 Master Plan which designates the subject property for neighborhood Mixed-uses. Primary uses are single-family houses, accessory dwelling units, duplexes, small multi-family buildings (typically 3-10 units), and open space.

The subject property and all adjacent properties are in the same R-6 Single-family Attached Residential District as the subject property. The adjacent property to the south contains a six unit multi-family building. The properties across North Colonial Avenue to the west contain single-family attached homes. Properties located across the alley to the north contain single, two, and three family homes.

**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:** February 28, 2022

**CITY COUNCIL PUBLIC HEARING DATE:** March 28, 2022

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** None

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** City Planning Commission, March 21, 2022 meeting

**AFFECTED AGENCIES:** Office of Chief Administration 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:** 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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