



Legislation Text

File #: ORD. 2022-268, **Version:** 1

To authorize the special use of the property known as 401 South Stafford Avenue for the purpose of a mixed-use building containing up to one second floor dwelling unit and a ground floor restaurant use, upon certain terms and conditions. (As Amended) (5th District)

WHEREAS, the owner of the property known as 401 South Stafford Avenue, which is situated in a R-6 Single-Family Attached Residential District, desires to use such property for the purpose of a mixed-use building containing up to one second floor dwelling unit and a ground floor restaurant use, which use, among other things, is not currently allowed by section 30-412.1 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 401 South Stafford Avenue and identified as Tax Parcel No. W000-1031/033 in the 2022 records of the City Assessor, being more particularly shown on a survey entitled “Map Showing the Improvements on No. 401 S. Stafford Ave., in the City of Richmond, Va.,” prepared by Virginia Surveys, and dated June 4, 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 mixed-use building containing up to one second floor dwelling unit and a ground floor restaurant use, hereinafter referred to as “the Special Use,” substantially as shown on the plans entitled [~~“SK-1, 1st Floor Plan, 401 S. Stafford Ave, Richmond, VA 23220,” prepared by an unknown preparer, and dated April 8, 2022, entitled~~] “SK-1, Ground Floor Plan, 401 S. Stafford Ave, Richmond, VA 23220,” prepared by an unknown preparer, and dated [~~April 14, 2022~~] February 14, 2023, and entitled “SK-2, Second Floor Plan, 401 S. Stafford Ave, Richmond, VA 23220,” prepared by an unknown preparer, and dated April 14, 2022, and 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 mixed-use building containing up to one second floor dwelling unit and a ground floor restaurant use, substantially as shown on the Plans.

(b) Off-street parking shall not be required for the Special Use.

(c) The restaurant use of the Property shall begin no earlier than ~~[7:30]~~ 8:00 a.m. and shall cease no later than ~~[10:00]~~ 9:00 p.m. daily.

(d) Outdoor dining on the Property shall only be within the area labelled “Patio” on the Plans and shall only be in operation between the hours of 7:30 a.m. and 9:00 p.m. No less than two covered trash containers shall be provided for the outdoor dining area. The outdoor dining area shall be limited to 24 seats.

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

(f) Full cutoff lighting fixtures shall be used for exterior lighting and shall be installed so as to prevent glare on adjacent properties.

(g) No live music or entertainment use shall be permitted within the building on the Property. No live or recorded music or entertainment use shall be permitted outside of the building on the Property.

(h) Signs on the Property shall be limited to signs permitted in all districts pursuant to section 30-505 of the Code of the City of Richmond (2020), as amended, and signs permitted in the R-63 Multifamily

Urban Residential District, pursuant to section 30-507.1 of the Code of the City of Richmond (2020), as amended. Internally illuminated signs shall not be permitted.

(i) The retail sale of beer and wine^[5] for on-premises [~~or off-premises~~] consumption^[5] only may take place within the building and within the outdoor dining area, subject to the regulations of the Virginia Alcoholic Beverage Control Authority, or its successor agency. No sale of liquor shall take place on the Property.

(j) Pursuant to section 15.2-2286(A)(3) of the Code of Virginia (1950), as amended, this Special Use shall be subject to an automatic review by the City Council upon a change in possession, a change in the owner of the business, or a transfer of majority control of the business entity. Upon a review by the City Council, it may either amend or revoke the Special Use permit after notice and a public hearing as required by section 15.2-2206 of the Code of Virginia (1950), as amended.

(k) A minimum of two exterior security cameras shall be installed on the Property.

(l) A bike rack shall be installed on the Property with a capacity of no fewer than four bicycles.

§ 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.

(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 (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: August 16, 2022

EDITION: 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor (by Request)

THROUGH: J.E. Lincoln Saunders, Chief Administrative Officer

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

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

RE: To authorize the special use of the property known as 401 South Stafford Avenue as a mixed use building, upon certain terms and conditions.

ORD. OR RES. No.

PURPOSE: To authorize the special use of the property known as 401 South Stafford Avenue as a mixed use building, upon certain terms and conditions.

REASON: The property was constructed in 1920 as a mixed-use structure with ground floor retail. Since this time, the zoning has been changed to R-6 Single-family Attached Residential and the mixed-use was abandoned. The proposed SUP will authorize a commercial use in the form of a restaurant.

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 October 3, 2022, meeting.

BACKGROUND: The subject property is located on the southeast corner of South Stafford Avenue and Idlewood Avenue. It is improved with a two-story structure originally built as mixed-use with commercial use on the ground floor and a residential use upstairs. The commercial use of the property ceased in 1995 and the legally nonconforming status was removed two years later.

The proposed special use will authorize a restaurant use on the ground floor while retaining a residential use on the second floor. Each level contains approximately 684 square feet.

The City's Richmond 300 Master Plan designates a future land use for the subject property as Neighborhood Mixed Use. This designation is defined as a "Existing or new highly walkable urban neighborhoods that are predominantly residential with a small, but critical, percentage of parcels providing retail, office, personal service, and institutional uses."

The adjacent properties are in the same R-6 Single-family attached residential zoning district. The dominant land uses are single and two-family attached and detached dwellings. A church is located on the opposite end of the block from the subject property.

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: September 12, 2022

CITY COUNCIL PUBLIC HEARING DATE: October 10, 2022

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: City Planning Commission October 3, 2022

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 and Narrative, Property and Plans, Map

STAFF: David Watson, Senior Planner, Land Use Administration (Room 511) 804-646-1036

Key Issues:

Retain on Consent Agenda

Move to Regular Agenda

Refer Back to Committee

Remove from Council Agenda

Strike

Withdrawn

Continue to: