



Legislation Text

File #: ORD. 2022-365, **Version:** 1

To authorize the special use of the property known as 2800 3rd Avenue for the purpose of emergency housing for up to 30 individuals on a year-round basis, as a permitted accessory use, upon certain terms and conditions. (6th District)

WHEREAS, the owner of the property known as 2800 3rd Avenue, which is situated in a R-6 Single-Family Attached Residential District, desires to use such property for the purpose of emergency housing for up to 30 individuals on a year-round basis, as a permitted accessory use, which use, among other things, is not currently allowed by section 30-412.2, concerning permitted accessory uses and structures, 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 2800 3rd Avenue and identified as Tax Parcel No. N000-0808/005A in the 2022 records of the City Assessor, hereinafter referred to as “the Property,” is hereby permitted to be used for the purpose of emergency housing for up to 30 individuals on a year-round basis, as a permitted accessory use, hereinafter referred to as “the Special Use.”

(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 emergency housing for up to 30 individuals on a year-round basis, as a permitted accessory use.

(b) The Owner shall not engage in or continue to engage in the Special Use, nor shall the Owner permit their tenant or other operator of the Property to engage in or continue to engage in the Special Use until the Owner has complied with or caused its tenant or other operator of the Property to comply with section 30-698.3, concerning approvals for emergency, transitional, and permanent supportive housing, of the Code of the City of Richmond (2020), as amended.

§ 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, 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 Zoning Administrator is authorized to issue a certificate of zoning

compliance for the Special Use subject to the terms and conditions set forth in this ordinance. An application for the certificate of zoning compliance shall be made within 365 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: 14 November 2022

EDITION: 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor (by Request)
(This is 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 J. Vonck, Director, Department of Planning and Development Review

RE: To authorize the special use of the property known as 2800 3rd Avenue for the purpose of emergency housing for up to thirty (30) individuals on a year-round basis, upon certain terms and conditions.

ORD. OR RES. No.

PURPOSE: To authorize the special use of the property known as 2800 3rd Avenue for the purpose of emergency housing for up to thirty (30) individuals on a year-round basis, upon certain terms and conditions.

REASON: The applicant is requesting a special use permit (SUP) in order to provide emergency housing for up to thirty (30) individuals on a year-round basis, upon certain terms and conditions, for which use is the R-6 District is limited to “a total of seven (7) days and only within the time period beginning on October 1 of any year and ending on April 1 of the following year” by the Zoning Ordinance (§30-402.1 City Code).

RECOMMENDATION: Approve as submitted

BACKGROUND: Individuals experience homelessness for a variety of reasons, including mental illness, substance abuse, domestic violence, unemployment or underemployment, lack of a living wage, a limited supply of affordable housing, and eviction. Some factors can make it difficult for individuals to secure and

maintain a fixed, regular, and adequate residence.

In May 2020, Council adopted the *City of Richmond Strategic Plan to End Homelessness 2020-2030*, which recommended number of actions to better provide emergency, transitional, and permanent supportive housing in the City.

In March 2021, City Council amended the Zoning Ordinance to permit certain types of emergency, transitional, and permanent supportive housing options by right in a number of mixed-use zoning districts (B-1, B-2, B-3, B-4, I, M-1, OS, R-73, and RO-2) and created supplemental regulations regarding housing types, locations, capacity, and the process for administrative approvals, which includes submission of a management or operational plan (ORD. 2020-261). Property owners outside of these zoning districts interested in such uses must obtain a special use permit (SUP) to do so.

In September 2022, after posting a notice of funding opportunity, the Department of Housing and Community Development (HCD) recommended that City Council allocate money to certain entities to provide emergency housing. One of the recommended recipients, the applicant (Fifth Street Baptist Church), needs to obtain land use and zoning compliance before it can accept the funds to operate. The property, 2800 3rd Avenue, lies in a “R-6 - Residential (Single Family Attached)” district, which limits emergency housing uses to thirty (30) individuals and a total of seven (7) days and only within the time beginning on October 1 of any year and ending on April 1 of the following year. The *Richmond 300* Master Plan recommends a future land use of “Residential,” for which churches and places of worship (“institutional”) are recommended secondary uses; the parcel lies just outside the Six Points growth node.

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: None

DESIRED EFFECTIVE DATE: Upon adoption

REQUESTED INTRODUCTION DATE: Monday, 12 December 2022

CITY COUNCIL PUBLIC HEARING DATE: Monday, 9 January 2023

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: City Planning Commission on Tuesday, 3 January 2023

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

RELATIONSHIP TO EXISTING ORD. OR RES.: ORD. 2022-300

REQUIRED CHANGES TO WORK PROGRAM(S): None

ATTACHMENTS: Draft ordinance

STAFF: Kevin J. Vonck, Director, Department of Planning and Development Review
kevin.vonck@rva.gov, 804-646-3741

Key Issues:

Retain on Consent Agenda

Move to Regular Agenda

Refer Back to Committee

Remove from Council Agenda

Strike

Withdrawn

Continue to: