



## Legislation Text

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**File #:** ORD. 2023-202, **Version:** 1

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To authorize the special use of the property known as 1410 West 43<sup>rd</sup> Street for the purpose of art gallery, office, studio, and retail uses, upon certain terms and conditions, and to repeal Ord. No. 95-281-275, adopted Nov. 13, 1995. (4<sup>th</sup> District)

WHEREAS, the owner of the property known as 1410 West 43<sup>rd</sup> Street, which is situated in a R-4 Single-Family Residential District, desires to use such property for the purpose of art gallery, office, studio, and retail uses, which uses, among other things, is not currently allowed by section 30-408.1 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 1410 West 43<sup>rd</sup> Street and identified as Tax Parcel No. S000-2794/006 in the 2023 records of the City Assessor, being more particularly shown on a survey entitled "Plat Showing Improvements on 1410 and 1412 West 43<sup>rd</sup> Street, Richmond, Virginia," prepared by Foster and Miller, P.C., and dated January 21, 1985, 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 art gallery, office, studio, and retail uses, hereinafter referred to as “the Special Use,” substantially as shown on the plans entitled “43<sup>rd</sup> Street Gallery, Sketch Plan” prepared by Robert Winthrop & Associates, Architects, and dated May 2, 1995, 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 art gallery, office, studio, and retail uses, substantially as shown on the Plans. Authorized office uses shall include business, professional, and administrative offices. Studio uses shall include studios of writers, designers, and artists engaged in the graphic and visual arts. Retail uses may take place within the space labeled “Gallery Space” on the Plans.
- (b) The Special Use may be operated by more than one operator.
- (c) Signs on the Property shall be limited to (i) signs permitted in all zoning districts, pursuant to section 30-505 of the Code of the City of Richmond (2020), as amended, (ii) one wall sign not exceeding 32 square feet in area, and (iii) signs permitted in the R-63 Multifamily Urban Residential District not exceeding 16 square feet in area pursuant to sections 30-507.1(2) and 30-507.1(3) of the Code of the City of Richmond (2020), as amended. Signs shall not be internally illuminated.
- (d) Hours of operation shall be limited to 8:00 a.m. to 9:00 p.m., daily.
- (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 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 730 calendar days following the date on which this ordinance becomes effective. If the application for the certificate of zoning compliance is not made with 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. **Repeal of Prior Ordinance.** That Ordinance No. 95-281-275, adopted November 13, 1995, be and is hereby repealed.

§ 8. **Effective Date.** This ordinance shall be in force and effect upon adoption.