



## Legislation Details (With Text)

**File #:** ORD. 2019-032      **Version:** 4      **Name:**

**Type:** Ordinance      **Status:** Adopted

**File created:** 11/9/2018      **In control:** City Council

**On agenda:** 3/4/2019      **Final action:** 3/11/2019

**Title:** To authorize the special use of the property known as 815 North 22nd Street for the purpose of a building with commercial uses on the first floor and one dwelling unit, upon certain terms and conditions.

**Sponsors:** Mayor Stoney (By Request)

**Indexes:**

**Code sections:**

**Attachments:** 1. Ord. No. 2019-032, 2. Staff Report, 3. Application Form & Applicant's Report, 4. Plans, 5. Map

Date	Ver.	Action By	Action	Result
3/11/2019	4	City Council	adopted	Pass
3/4/2019	4	Planning Commission	recommended for approval	
2/11/2019	4	City Council	introduced and referred	

To authorize the special use of the property known as 815 North 22<sup>nd</sup> Street for the purpose of a building with commercial uses on the first floor and one dwelling unit, upon certain terms and conditions.

WHEREAS, the owner of the property known as 815 North 22<sup>nd</sup> Street which is situated in a R-63 Multifamily Urban Residential District, desires to use such property for the purpose of a building with commercial uses on the first floor and one dwelling unit, which use, among other things, is not currently allowed by section 30-419.3(b)(3), concerning permitted principal uses on corner lots, of the Code of the City of Richmond (2015), as amended; and

WHEREAS, in accordance with section 17.11 of the Charter of the City of Richmond (2018), 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 (2015), 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 815 North 22<sup>nd</sup> Street and identified as Tax Parcel No. E000-0375/012 in the 2019 records of the City Assessor, being more particularly described on the survey entitled “Survey and Plat of The Property Known as #815 N. 22<sup>nd</sup> Street in the City of Richmond, VA,” prepared by Edwards, Kretz, Lohr & Associates, PLLC, and dated September 5, 2017, 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 building with commercial uses on the first floor and one dwelling unit, hereinafter referred to as “the Special Use,” substantially as shown on the plans entitled “815 N 22<sup>nd</sup> Street,” prepared by Will Payne Architecture LLC, and dated August 1, 2018, 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 use of the Property shall be as a building with commercial uses on the first floor and one dwelling unit, substantially as shown on the Plans. The first floor of the building may contain (i) uses permitted on corner lots in the R-63 District, pursuant to section 30-419.3 of the Code of the City of Richmond (2015), as amended, (ii) office use, including business, professional and administrative offices, medical and dental offices and clinics, and studios of writers, designers and artists engaged in the graphic arts, and (iii) retail stores and shops.

(b) One off-street parking space shall be provided, substantially as shown on the Plans.

(c) The height of the Special Use shall not exceed the height shown on the Plans.

(d) All building materials and elevations shall be substantially as shown on the Plans, unless otherwise required by the Commission of Architectural Review in accordance with applicable laws and regulations.

(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 (2015), as amended, and all future amendments to such laws.

(e) The Owner shall make improvements within the right-of-way, including a new sidewalk along Burton Avenue and North 22<sup>nd</sup> Street, and a new ramp at the corner of Burton Avenue and North 22<sup>nd</sup> Street, which improvements may be completed in one or more phases as approved by the Director of Public Works. If there is any disturbance to the cobblestone right-of-way known as Burton Street, such street shall be restored to the satisfaction of the Director of Public Works. The granite curbing along the property lines shall be preserved. Except for necessary points of ingress and egress, any missing or damaged curbing shall be replaced with like dimensional granite curbing supplied by the Department of Public Works prior to the issuance of a certificate of use and occupancy. All improvements and work within the public right-of-way shall be (i) completed in accordance with the requirements of the Director of Public Works, (ii) considered completed only upon written confirmation by the Director of Public Works that such improvements and work

are in accordance with such requirements, and (iii) transferred to the City, following the written confirmation by the Director of Public Works, pursuant to a transfer of interest document approved as to form by the City Attorney and accepted by the Chief Administrative Officer or the designee thereof on behalf of the City. The Chief Administrative Officer or the designee thereof, for and on behalf of the City, is hereby authorized to accept, in the manner for which this subsection provides, all improvements and work required by and meeting the requirements of this subsection. The final certificate of occupancy shall not be issued for the Property until all requirements of this subsection are fully satisfied.

(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 (2015), 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 (2015), 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 (2015), 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:** January 15, 2019

**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:** Selena Cuffee-Glenn, Chief Administrative Officer

**THROUGH:** Douglas C. Dunlap, Interim Deputy Chief Administrative Officer for Economic Development and Planning

**FROM:** Mark A. Olinger, Director, Department of Planning and Development Review

**RE:** To authorize the special use of the property known as 815 North 22<sup>nd</sup> Street for the purpose of authorizing a mixed-use building containing up to one dwelling unit, upon certain terms and conditions.

**ORD. OR RES. No.**

**PURPOSE:** To authorize the special use of the property known as 815 North 22<sup>nd</sup> Street for the purpose of authorizing a mixed-use building containing up to one dwelling unit, upon certain terms and conditions.

**REASON:** The applicant proposes mixed use of the subject property. While mixed use is permitted by the underlying zoning, the property is a corner lot and as such a list of specific uses may occupy the property provided that “along the principal street frontage of the lot such uses shall extend no greater distance from the street corner than the equivalent of 15 percent of the total length of the block along such frontage.” The proposed use will occupy 20% of the principal street frontage. Also, one parking space can be provided on the site, which would not meet the parking requirements. Additional uses are also proposed as permitted uses that are not currently specified by the underlying zoning. 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 march 4, 2019, meeting. A letter outlining the Commission’s recommendation will be forwarded to City Council following that meeting.

**BACKGROUND:** The subject property referenced as 815 N. 22<sup>nd</sup> Street consists of a 2,040 SF (.047 acre) parcel of land with 33 linear feet of street frontage. The property contains a two-story 2,234 square foot structure. The property is located in the Union Hill neighborhood of the East Planning District, and is also located within the Union Hill City Old & Historic District.

The City of Richmond’s Master Plan designates the subject property for Mixed Use Residential uses. Primary uses in this category include “office, personal service, general commercial and service uses and, in some cases, multi-family residential and dwelling units above ground floor commercial.” (See page 134, Richmond Master Plan.)

The current zoning for this property is R-63 Multi-Family Urban Residential District. All properties in the vicinity are also within the R-63 Multi-Family Urban Residential District.

The intent of the R-63 district is to encourage development of medium density neighborhoods comprised of a mix of residential uses and to promote a pedestrian oriented urban environment that is primarily residential in character, but that includes limited nonresidential uses that serve many of the day-to-day convenience needs of neighborhood residents and provide opportunities for residents to live and work within the neighborhood.

The district is intended to be applied within or in close proximity to areas of the City that reflect an urban scale of development and afford convenient access to major employment centers and community facilities, and to encompass undeveloped or underdeveloped properties comprising areas large enough and with sufficient

residential density to enable establishment of a cohesive neighborhood.

The district regulations permit corner commercial uses that are limited in location, type and scale and are intended to provide for the convenience of neighborhood residents within walking distance, to respect the primary residential character of the neighborhood and to avoid traffic, parking, noise and other impacts that typically result from uses that draw patrons from outside a neighborhood.

Multi-family structures, undeveloped properties, churches and parking lots are the predominant land uses in the area.

**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 11, 2019

**CITY COUNCIL PUBLIC HEARING DATE:** March 11, 2019

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** None

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** City Planning Commission, March 4, 2019

**AFFECTED AGENCIES:** Office of Chief Administration Office  
Law Department (for review of draft ordinance)  
City Assessor (for preparation of mailing labels for public notice)

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

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

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

**STAFF:** David F. 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      Continue to: