

INTRODUCED: August 5, 2014

AN ORDINANCE No. 2014-169-162

To authorize the special use of the property known as 108 Nicholson Street for the purpose of a brewery, upon certain terms and conditions.

Patron – Mayor Jones (By Request)

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: SEPT 8 2014 AT 6 P.M.

WHEREAS, the owner of the property known as 108 Nicholson Street, which is situated in a M-1 Light Industrial Zoning District, desires to use such property for the purpose of a brewery, which use, among other things, is currently limited to producing no more than 100,000 barrels of beer per year by section 114-452.1(2)(e)(32) of the Code of the City of Richmond (2004), as amended; and

WHEREAS, in accordance with section 17.11 of the Charter of the City of Richmond (2010), 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

AYES: 8 NOES: 0 ABSTAIN: _____

ADOPTED: OCT 13 2014 REJECTED: _____ STRICKEN: _____

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 114-1050.1 of the Code of the City of Richmond (2004), 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 108 Nicholson Street and identified as Tax Parcel No. E000-1128/060 in the 2014 records of the City Assessor, being more particularly shown on a survey entitled “Williamsburg Ave – Nicholson St Property,” prepared by Timmons Group, and dated August 1, 2014, 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 brewery, 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) There shall be no limit on the number of barrels of beer produced.

(b) A Plan of Development shall be required prior to the issuance of any building permits for the brewery use.

§ 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 now 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 (2004), 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 114-1220 of the Code of the City of Richmond (2004), 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 114-1050.7 through 114-1050.11 of the Code of the City of Richmond (2004), 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 114-1080 of the Code of the City of Richmond (2004), 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 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.

RECEIVED
AUG 01 2014

O & R REQUEST



OFFICE OF CITY ATTORNEY
CITY OF RICHMOND
INTRACITY CORRESPONDENCE

AUG 1 2014

Chief Administration Office
City of Richmond

O&R REQUEST

DATE: August 1, 2014

EDITION: 1

TO: The Honorable Members of City Council

THROUGH: Dwight C. Jones, Mayor (Patron: Mayor, by Request)

DCJ
BCM

THROUGH: Byron C. Marshall, Chief Administrative Officer

THROUGH: Peter H. Chapman, Deputy Chief Administrative Officer for Economic Development and Planning

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

MAO

SUBJECT: Special use permit for a brewery at 108 Nicholson Street

ORD. OR RES. No. _____

PURPOSE: To authorize the special use of the property known as 108 Nicholson Street for the purpose of a brewery, upon certain terms and conditions.

REASON: This property is one of several properties proposed to be used for brewery operations. The subject properties are located within the City's M-1 Light Industrial zoning district. The M-1 district permits breweries, but limits their production to no more than 100,000 barrels of beer per year. The applicant would like the ability for a prospective brewery to brew in excess of 100,000 barrels of beer per year on the subject properties and has, therefore, requested a special use permit.

RECOMMENDATION: In accordance with the requirements of Section 17 of the City Charter and Article IV of the Zoning Ordinance, the City Planning Commission has scheduled a public hearing on this proposal on September 2, 2014. A resolution outlining the Commission's recommendation will be forwarded to City Council following that meeting.

BACKGROUND: The subject properties are located at the corner of Williamsburg Avenue and Nicholson Street. Combined the properties contain approximately 12.5 acres of land area and are currently unimproved. Gillies Creek bisects the northern parcel and elevated rail lines are located directly to west between the properties and the James River.

The subject properties are located within the City's M-1 Light Industrial zoning district. The M-1 district permits breweries, but limits their production to no more than 100,000 barrels of beer

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per year. The applicant would like the ability for the prospective brewery to brew over 100,000 barrels of beer per year. The proposed brewery building would enclose all brewing, packaging, and distribution operations in one minimum 130,000 square feet facility with room to expand to a maximum of 220,000 square feet.

The M-1 district requires parking spaces to accommodate all vehicles used in connection with the distribution facility plus one parking space per every two employees for manufacturing, processing, fabricating, testing, research, bottling, warehousing and distribution establishments. The proposed brewery may initially employ up to 103 full time employees for Phase I of the project. Parking for the establishment would be provided on-site in accordance with the M-1 requirements.

The proposed ordinance would require plan of development approval from the Director of Planning and Development Review prior to the issuance of any building permits for the brewery.

The subject properties are designated for industrial development in the City's Master Plan south of Gillies Creek, which includes a wide variety of manufacturing, processing, warehousing and distribution uses. The portion of the property north of Gillies Creek is located within the Downtown Plan and is designated as part of the Urban Center Area by the Plan. The Urban Center Area is characterized by a dense mix of office space, apartments, and retail located in four- to six- story brick buildings that front the street.

FISCAL IMPACT: The proposed brewery is expected to invest approximately \$47 million for machinery, equipment, and personal property within the first five years of operation, all of which are taxable by the City.

COST TO CITY: Staff time for processing the request; preparation of draft ordinance; and publishing, mailing and posting of public notices.

REVENUE TO CITY: A \$2,900 application fee is required to process this request.

DESIRED EFFECTIVE DATE: Upon adoption.

REQUESTED INTRODUCTION DATE: August 5, 2014

CITY COUNCIL PUBLIC HEARING DATE: September 8, 2014

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL AGENCIES: City Planning Commission, September 2, 2014

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

RELATIONSHIP TO EXISTING ORDINANCES: None

ATTACHMENTS: 1. Application Form
2. Survey
3. Ordinance

STAFF: Lory Markham, Principal Planner
Land Use Administration (Room 511)
646-6309

DCD O&R No. 14-27



Application for SPECIAL USE PERMIT

Department of Planning and Development Review
Land Use Administration Division
900 E. Broad Street, Room 511
Richmond, Virginia 23219
(804) 648-8304
<http://www.richmondgov.com/>

Application is hereby submitted for: (check one)

- special use permit, new
- special use permit, plan amendment
- special use permit, text only amendment

Project Name/Location

Project Name: Project Gogi Date: 07/30/2014

Property Address: 108 Nicholson St Tax Map #: E0001128060

Fee: 100.00 Total area of affected site in acres: 0.74
(See page 3 for fee schedule, please make check payable to the "City of Richmond")

Zoning

Current Zoning: M-1

Proposed Use

(Please include a detailed description of the proposed use in the required applicant's report)

Existing Use: Parking lot

Is this property subject to any previous land use cases?

- Yes
- No

If Yes, please list the Ordinance Number: _____

Brewery, distribution, packaging and associated uses

Applicant/Contact Person: Kim Wade, Real Estate Manager

Company: Titan Virginia Ready-Mix LLC

Mailing Address: 1151 Azalea Garden Rd

City: Norfolk State: VA Zip Code: 23502

Telephone: (757) 858-6514 Fax: (757) 858-6493

Email: kwade@titanamerica.com

Property Owner: Same as above

If Business Entity, name and title of authorized signee: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

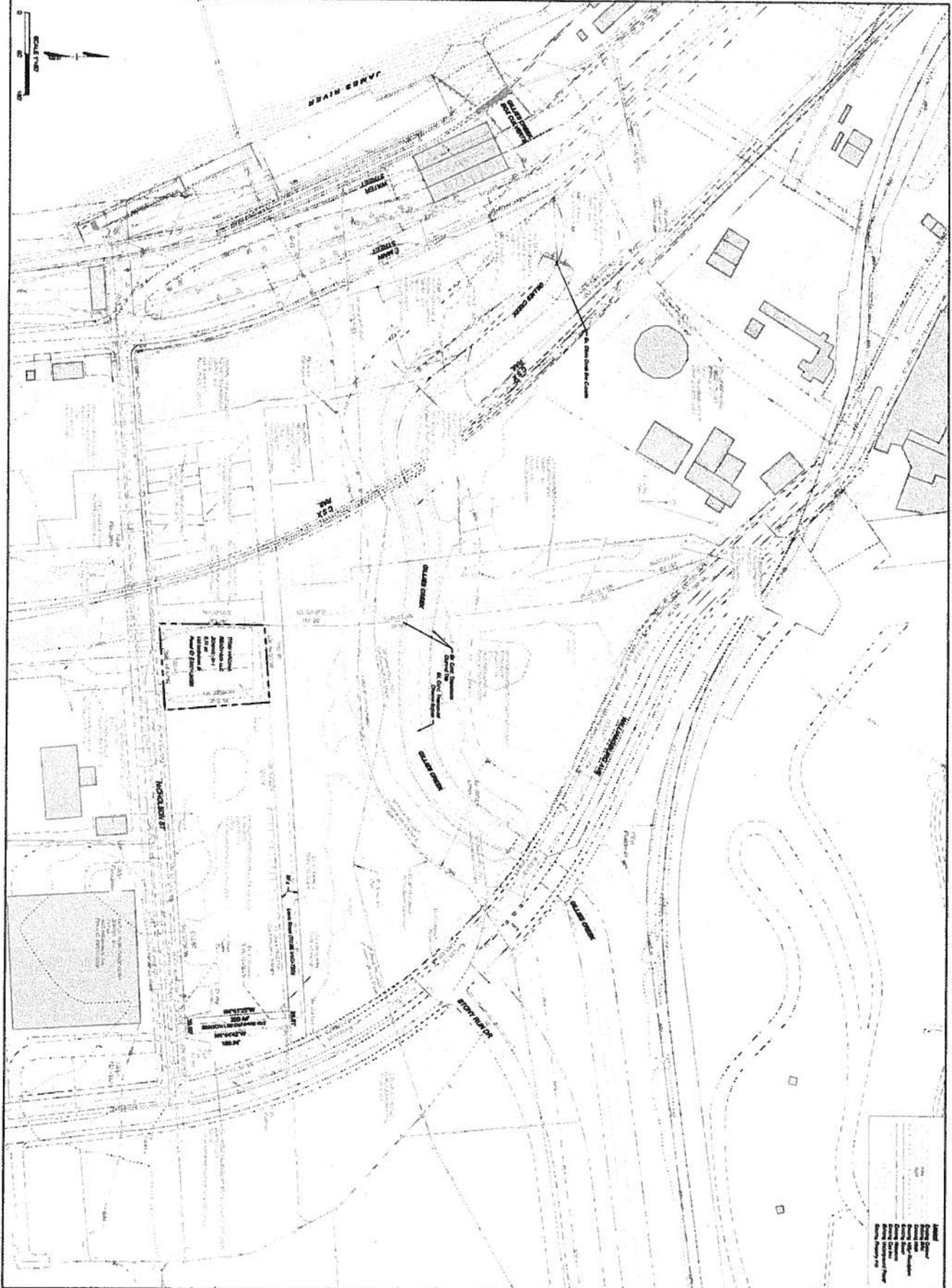
Telephone: () Fax: ()

Email: _____

Property Owner Signature: R.C. Fuchs, Vice President Titan Virginia Ready-Mix LLC

(The names, addresses, telephone numbers and signatures of all owners of the property are required. Please attach additional sheets as needed. If a legal representative signs for a property owner, please attach an executed power of attorney. Faxed or photocopied signatures will not be accepted.)

NOTE: Please attach the required plans, checklist, and a check for the application fee (see Filing Procedures for special use permits)



<h1>TIMMONS GROUP</h1>		YOUR VISION ACHIEVED THROUGH OURS.	THIS DRAWING PREPARED AT THE CORPORATE OFFICE 2001 Sandhill Parkway, Suite 300 Richmond, VA 23225 TEL: 804.281.6850 FAX: 804.281.1265 www.timmons.com
WILLIAMSBURG AVE - NICHOLSON ST PROPERTY CITY OF RICHMOND - VIRGINIA		DATE	REVISION DESCRIPTION
EXHIBIT C	DATE	DATE	DATE
DATE	DATE	DATE	DATE

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