INTRODUCED: April 14, 2025

AN ORDINANCE No. 2025-077

To authorize the special use of the property known as 4701 Forest Hill Avenue for the purpose of a mixed-use building with outdoor dining, upon certain terms and conditions.

Patron – Mayor Avula (By Request)

Approved as to form and legality by the City Attorney

PUBLIC HEARING: MAY 12 2025 AT 6 P.M.

WHEREAS, the owner of the property known as 4701 Forest Hill Avenue, which is situated in a B-2 Community Business District, desires to use such property for the purpose of a mixed-use building with outdoor dining, which use, among other things, is not currently allowed by section 30-436.1 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

AYES:	NOES:	ABSTAIN:	
ADOPTED:	DE IECTED:	STDICKEN:	
ADOPTED:	REJECTED:	STRICKEN:	

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 4701 Forest Hill Avenue and identified as Tax Parcel No. S006-0296/003 in the 2025 records of the City Assessor, being more particularly shown on a survey entitled "4701 Forest Hill Avenue, Mixed Use Development, City of Richmond, VA," prepared by sekivsolutions, dated December 8, 2022, and last revised March 22, 2023, 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 with outdoor dining, hereinafter referred to as "the Special Use," substantially as shown on the plans entitled "4701 Forest Hill Ave, Richmond, VA 23225," prepared by ADO/Architecture Design Office, and dated December 6, 2023, 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 a mixed-use building with outdoor dining, substantially as shown on the Plans.
- (b) The Special Use shall be subject to the Plan of Development adopted April 19, 2023, file number POD-123052-2022.
- (c) Outdoor dining on the Property shall only be in operation between the hours of 6:00 a.m. and 11:00 p.m. daily.

- (d) No less than two covered trash containers shall be provided for the outdoor dining area. Fences, walls, or vegetative screening shall be provided around the outdoor dining area, except at entrances and exits, to prevent refuse from blowing onto adjacent properties or streets. Chain link or chain link with slats shall not be permitted.
- (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 1,096 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.

DATE: February 27, 2025

TO: The Honorable Members of City Council

THROUGH: The Honorable Dr. Danny Avula, Mayor (by request)

(This in no way reflects a recommendation on behalf of the Mayor)

THROUGH: Sabrina Joy-Hogg, Interim Chief Administrative Officer

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

Development and Planning

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

RE: To authorize the special use of the property known as 4701 Forest Hill Avenue for

the purpose of a mixed-use building with outdoor dining, upon certain terms and

conditions.

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PURPOSE: The applicant is requesting a Special Use Permit to authorize outdoor dining within a B-2 Community Business District. While outdoor dining is permitted within the district, the proposed dining is within 100 feet of a Residential district. As a result, a Special Use Permit is necessary to proceed with this request.

BACKGROUND: The property is located in the Forest Hill neighborhood on Forest Hill Avenue between Prince George Road and State Route 161. The property is currently 39,030 square foot (0.896 acre) parcel of land. The City's Richmond 300 Master Plan designates a future land use for the subject property as Community Mixed-Use, which is defined as, "Cluster of medium-density, walkable commercial and residential uses that provide neighborhood services to nearby residential communities and sometimes feature regional attractions."

<u>Intensity:</u> Buildings generally ranging from two to six stories, based on street widths and depending on the historic context and stepping down in height adjacent to residential areas, as necessary. New buildings that are taller than historical buildings should step back from the build to line after matching the height of the predominant cornice line of the block.

<u>Primary Uses:</u> Retail/office/ personal service, multi-family residential, cultural, and open space. <u>Secondary Uses:</u> Single-family houses, institutional, and government.

The current zoning for the property is B-2 - Business (Community Business). Properties to the west are located within that same district; properties to the east are in the R-5 Residential district.

COMMUNITY ENGAGEMENT: Westover Hills Neighborhood Association was notified of the application; additional community notification will take place after introduction.

STRATEGIC INITIATIVES AND OTHER GOVERNMENTAL: Richmond 300 Master

Plan; Ordinance to be considered by the Planning Commission on May 6, 2025 (tentative)

FISCAL IMPACT: \$300 application fee.

DESIRED EFFECTIVE DATE: Upon adoption

REQUESTED INTRODUCTION DATE: April 14, 2025

CITY COUNCIL PUBLIC HEARING DATE: May 12, 2025

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: Planning Commission (May 6, 2025)

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

RELATIONSHIP TO EXISTING ORD. OR RES.: None

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

STAFF: Shaianna Trump, Planner Associate, Land Use Administration (Room 511) 646-7319



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) 646-6304
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** Property Address: 4701 Forest Hill Avenue Date: Parcel I.D. #: \$0060296003 Fee: \$300 Total area of affected site in acres: 0.896 (See page 6 for fee schedule, please make check payable to the "City of Richmond") Zoning Current Zoning: B-2 Community Business Richmond 300 Land Use Designation: Community Mixed-Use **Proposed Use** (Please include a detailed description of the proposed use in the required applicant's report) Mixed-use building approved by POD-123052-2022 requiring a partial waiver of the radius requirement for outdoor dining. Existing Use: Vacant Is this property subject to any previous land use cases? Yes If Yes, please list the Ordinance Number: POD-123052-2022 Applicant/Contact Person: Will Gillette Company: Baker Development Resources Mailing Address: 530 East Main Street, Suite 730 City: Richmond State: VA Zip Code: 23219 Telephone: (864) 377-9140 Fax: (Email: will@bakerdevelopmentresources.com Property Owner: DDG FOREST HILL LLC If Business Entity, name and title of authorized signee: (The person or persons executing or attesting the execution of this Application on behalf of the Company certifies that he or she has or have been duly authorized and empowered to so execute or attest.) Mailing Address: 409 E MAIN ST #301 City: RICHMOND State: VA Zip Code: 23219 Telephone: (Fax: _(Email: **Property Owner Signature:**

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)

APPLICANT'S REPORT

February 28th, 2024

Special Use Permit

4701 Forest Hill Avenue, Richmond, Virginia

Map Reference Number: S006-0296/003

Submitted to: City of Richmond

Department of Planning and Development Review

Land Use Administration 900 East Broad Street, Suite 511 Richmond, Virginia 23219

Prepared by: Baker Development Resources

530 East Main Street

Suite 730

Richmond, Virginia 23219

Introduction

The property owner is requesting a special use permit (the "SUP") for 4701 Forest Hill Avenue (the "Property"). The current development of the Property with a mixed-use building has already been authorized by a Plan of Development approval (the "POD"). In order to permit flexibility in the occupancy of the corner commercial space within the building, the SUP would authorize a partial waiver of the radius requirement associated with outdoor dining as required by the underlying B-2 zoning district.

Existing Conditions

SITE DESCRIPTION AND EXISTING LAND USE

The Property is located at northwest corner of the intersection of Forest Hill Avenue and Prince George Road and is referenced by the City Assessor as tax map number S006-0296/003. The Property consists of 0.896 acres of land area.



The immediate vicinity is characterized by a variety of commercial, institutional, and residential uses of varying intensities and scales. Properties along Forest Hill Avenue between W 47th Street to the east and Jahnke Road to the west are primarily commercial in nature centered around the

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4701 Forest Hill Avenue

intersection of Forest Hill Avenue and Westover Hills Boulevard. Surrounding this commercial node is primarily one- and two-family dwellings interspersed with commercial and institutional uses.

EXISTING ZONING

The Property is zoned B-2 Community Business which permits small, neighborhood serving businesses in conjunction with multi-family dwellings. The use of the building for mixed-use is permitted by-right in the B-2 district. A Plan of Development was approved for the physical characteristics of the overall development as is now proposed.

The Property lies within a small B-2 commercial district or node, including properties to the west along Forest Hill Avenue and south along Westover Hills Boulevard. There is a small RO-2 Residential Office district located on Westover Hills Boulevard north of Forest Hill Avenue while outside of the B-2 district, properties to the north, east, and south are zoned R-5 Single-Family Residential.

MASTER PLAN DESIGNATION

The Richmond 300 Master Plan (the "Master Plan") designates the Property as "Community Mixed-Use". This future land use category is described as "medium-density, walkable commercial and residential uses that provide neighborhood services to nearby residential communities..." and recommends "retail/office/ personal service" as a primary use which can "complement existing context" while "prioritizing pedestrian, bike and transit access." Furthermore, Richmond 300 guidance also recommends "ground floor uses engage with, and enliven, the street. Monolithic walls are discouraged, while windows, doors, storefronts, and other features that allow transparency and interaction between building and street are encouraged." Additionally, the Property is located in the Westover Hills Neighborhood Node which suggests an area that "offers goods and services to nearby residents, employees, and visitors."



Community Mixed-Use Diagram

The building size, density, and zoning districts for these areas may vary depending on historical densities and neighborhood characteristics. The common theme among all Community Mixed-Use areas is that a mix of uses are allowed and buildings must address the street.

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FINAL - SEPTEMBER 2020

Proposal

PURPOSE OF REQUEST

The construction of the proposed mixed-use building has been authorized for the Property pursuant to the POD (POD-123052-2022) and associated amendment which was approved on August 7th, 2023. This request would permit some flexibility in the occupancy of the corner commercial space that was approved in conjunction with the POD. Specifically, the SUP would authorize a partial waiver of the radius requirement associated with outdoor dining.

PROJECT SUMMARY

The previously approved mixed-use building includes up to five total first-floor store fronts facing Forest Hill Avenue containing approximately 10,588 square feet of commercial area as well as dwelling units located on the second and third floors.

In the B-2 District, where restaurants are concerned, Section 30-433.11(22)(a.) requires that "no deck, patio, terrace or other area outside a completely enclosed building and used for the service or accommodation of patrons shall be situated within 100 feet of any property in any R district". A patio is proposed near the corner of Forest Hill Avenue and Prince George Streets, which could be utilized for the purpose of outdoor dining. Based on measurements scaled from the City's GIS system, this area is located approximately 47 feet from the closest Property located within an R district. The requested waiver of approximately 47 feet would allow for the development to better engage the prominent corner of the site with an active use, visible along the Forest Hill Avenue corridor.

Findings of Fact

The following are factors indicted in Section 17.11 of the Charter and Section 30-1050.1 of the Zoning Ordinance relative to the approval of special use permits by City Council. The proposed special use permit will not:

 Be detrimental to the safety, health, morals and general welfare of the community involved.

The proposed special use permit will not impact the safety, health, morals and general welfare of the nearby neighborhoods. The proposed development would offer needed services to the community and a safe, convenient and economically viable pedestrian environment, thereby providing positive impacts in terms of safety, welfare, etc.

• Tend to create congestion in streets, roads, alleys and other public ways and places in the area involved.

The proposed special use permit will not result in significant traffic impacts to nearby residential neighborhoods. The proposal is designed be consistent with the Property's master-plan recommendation for pedestrian-oriented development which is designed for walkability.

• Create hazards from fire, panic or other dangers.

The Property will be developed in a manner consistent with the requirements of the building code and in accordance with the requirements of Fire and Emergency Services. The City's codes applicable to this development are designed to eliminate such hazards.

• Tend to overcrowding of land and cause an undue concentration of population.

The proposed special use permit will not tend to over crowd the land or create an undue concentration of population. The proposed density and urban form are appropriate to the Property's location and consistent with the recommendations of the Master Plan and ongoing planning guidance.

• Adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences and improvements.

The special use permit would not adversely affect the above referenced City services. To the contrary, the proposal would provide positive fiscal (tax) benefits that would enhance the City's ability to provide these services to the proposed development. This benefit can be attributed to the significant investment in the property and taxes related to the commercial use of the first floor.

• Interfere with adequate light and air.

The light and air available to adjacent properties will not be affected.

Summary

The physical development of the site is permitted by virtue of an approved Plan of Development. The applicant is only seeking relief from the radius requirements relating to outdoor dining in order to allow flexibility in the occupancy of the corner commercial use within the building. The development is an ideal, small-scale urban infill development at this location. The SUP would permit the occupancy of the commercial space with an active first floor use that would be neighborhood serving while providing a better pedestrian experience and enhancing pedestrian connections within the district and to nearby neighborhoods. This would better address the goals of the Master Plan while remaining consistent with the intent of the B-2 District.



The submitted plans for your commercial or multi-family project are under review with Fire & Emergency Services. Applications which only require conceptual plans will be reviewed to the appropriate level of detail for this stage of development planning.

Per the Department of Planning & Development Review, Final Subdivision Plat site plan and Building Permit architectural plan reviews require 100% construction drawings. When applicable, the following sheets should be noted in the Table of Contents of the plan set. Any symbols, fire lines, hydrants, etc. pertaining to our review should be in noted in red.

- Site Layout
- Utility Layout
- First Floor Plan
- Life Safety Plan
- Roof Plan
- Elevation Drawings

Please respond to the checklist items below *<u>and include the corresponding sheet number when asked to provide locations*</u> to expedite our review process. Further discussion may be necessary to provide approval from this department on your application's plans.

We reserve the right to change or amend our decisions should new evidence be discovered, site conditions change during the review period, or revisions on subsequent submissions for this application modify previously approved items which fall within our scope of review.

We look forward to working with you to design a safe project for our city's residents and visitors.

Office of the Fire Marshal
City of Richmond Fire Department
201 East Franklin Street

Richmond, VA 23219

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FD LETTERHEAD FIRE & EMERGENCY PLAN REVIEW CHECKLIST

Project Summary

1. Is this new construction or a rehabilitation project? *New Construction of a mixed-use building.*

What is the height of the building(s)? How many stories? Three (3) stories.

3. Is there an accessory parking garage or parking garage levels?

NC

4. Are any levels below street level or below grade?

No

Building Occupant Egress

5. Provide locations of roof access points on the plans.

N/A

6. If there is a basement or floors below street level, provide locations for egress on the plans.

N/A

7. For projects with 6 stories or more, stairways must be noted with compass directions (North, South, etc.) and the inside of stairwells must note each floor number.

N/A

8. If a fire escape is part of the structure, it must be inspected by a design engineer and necessary repairs or replacements must be made before a Certificate of Occupancy can be issued.

N/A

Suppression Systems

9. A temporary standpipe is required on site during construction. Its operative should be on the finished floor below the next floor being constructed. Provide the location on the plans.

N/A

10. Alarm panel box. This must be in the first-floor lobby area on the street address side of the building. Provide location on the plans. **N/A**

11. Knox-Box® Rapid Entry System. One is required on any new construction or renovated enclosed multi-story building. Provide the location on the plans.

N/A

12. Fire pump(s). Provide the location on the plans.

N/A

13. Command Center. This needs to be clearly marked outside of the door. Provide the location on the plans.

N/A

14. Sprinkler shut off valve. Provide the location on the plans.

N/A

15. Sprinkler connections. There should be two on either side of the building. Provide the location on the plans.

N/A

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FD LETTERHEAD

Hydrants & Fire Department Connections

16. More than one hydrant may be required to support the project. How many existing hydrants are near the project? How many are proposed? Provide the locations on the plans.

N/A

17. The dedicated hydrant should be public. Special circumstances may allow for a private hydrant if an ISO Class 1 Rating can be maintained and the Department of Public Utilities approves of it. A private hydrant must also be maintained in accordance with NFPA 291 and the current Virginia Statewide Fire Prevention Code.

N/A

- 18. The FDC for each building. Provide the location on the plans. Signage is required around it (i.e. FDC Connection, No Parking) and curbing before it must be painted yellow. We highly recommend a Knox FDC secure system to safeguard the sprinkler system.

 N/A
- 19. The FDC should be at least 50 feet from its dedicated hydrant, but no more than 100 feet. **N/A**

Emergency Vehicle Access to Site

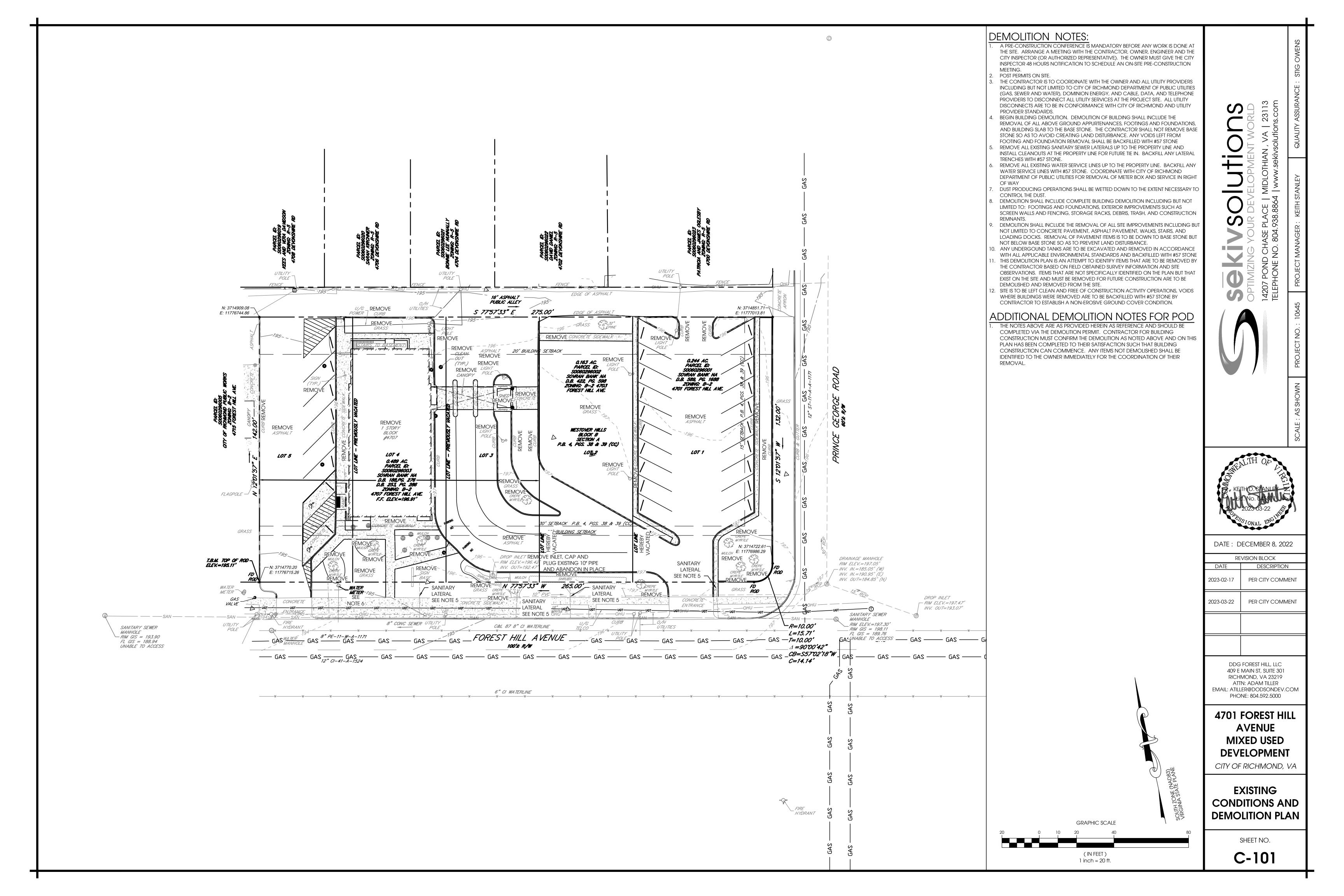
- 20. New construction projects require at least (2) two roads for emergency vehicles to access the site and shall comply with Chapter 5 of Statewide Virginia Fire Prevention Code Fire Service Features.
 - This site is accessible by public streets; as such, these public roads satisfy Chapter 5 of the Statewide Virginia Fire Prevention Code Fire Service Features.
- 21. Proposed or improved road surfaces used for emergency access must be able to support a minimum weight of 75,000 lbs. *This site is accessible by public streets; as such, these public roads will support the minimum weight.*
- 22. Proposed or improved road surfaces used for emergency access must be at least 20 feet in width. In some cases, 27 feet may be required.
 - This site is accessible by public streets; as such, these public roads are of sufficient width.
- 23. Curb cuts into and around the site for emergency access must support a fire apparatus turning radii of 36' inside and 52' outside. *This site is accessible by public streets.*
- 24. New construction projects may require *access to all sides of the building* for emergency vehicles. **N/A**

Environmental Concerns

- 25. Are you aware of any underground storage tanks (USTs) or above ground storage tanks (ASTs) which currently hold, or may have at one time held, flammable or combustible substances? If any are discovered during land disturbance, excavation, or construction activities, they must be immediately reported to the Fire Marshal's Office. A permit is required before removal or abandonment. All documents pertaining environment reports shall be forwarded to the Fire Marshal's Office.

 Noted. The owner is not currently aware of any such tanks.
- 26. Are you aware of any environmental concerns that need to be mitigated before construction, i.e. leaks, spills, etc.? **No, The owner is not currently aware of any environmental concerns.**
- 27. Will this project involve any rock blasting? A rock blasting permit shall be obtained from the Fire Marshal's Office. *No, this project will not involve any rock blasting.*

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2023-11-20 POST PERMIT SET GENERAL CONTRACTOR CLARIFICATIONS AND ADDITIONAL INFORMATION

