

INTRODUCED: November 13, 2017

AN ORDINANCE No. 2017-229

To amend Ord. No. 96-37-71, adopted May 13, 1996, as previously amended by Ord. No. 2007-315-282, adopted Dec. 10, 2007, which authorized the special use of the properties known as 3300 to 3332 Cutshaw Avenue, for the purpose of the installation of three additional freestanding accessory satellite dish antennas, to permit a modification to the dimension requirements pertaining to omnidirectional and whip antennas, upon certain terms and conditions.

Patron – Mayor Stoney

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: DEC 11 2017 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

I. That Ordinance No. 96-37-71, adopted May 13, 1996, as previously amended by Ordinance No. 2007-315-282, adopted December 10, 2007, be and is hereby amended and reordained as follows:

§ 1. That the real estate~~[properties]~~ known as 3300-3332 Cutshaw Avenue, located in the northwest corner of the intersection of Tilden Street and Cutshaw Avenue, identified as ~~[Parcel Nos. W000-1524/023-27 and 037]~~ Tax Parcel No. W000-1524/025 in the ~~[1996]~~ 2017 records of

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: JAN 8 2018 REJECTED: _____ STRICKEN: _____

City Assessor, being more completely described as follows: beginning at the point of intersection of the north right of way line of Cutshaw Avenue and the west right of way line of Tilden Street; thence extending in a westerly direction along the north right of way line of Cutshaw Avenue 406.47 feet to a point; thence extending in a northerly direction along a property line 152.52 feet to a point on the south right of way line of an east-west public alley; thence extending along said alley 408.18 feet to a point on the west right of way line of Tilden Street; thence extending in a southerly direction along the said right of way line 117.71 feet to the point of beginning, is hereby permitted to be used for the purpose of the expansion of the existing parking area for use as parking accessory to the television broadcast studio located at 3301 West Broad Street, and for the purpose of the installation of freestanding accessory satellite dishes and nonaccessory telecommunications antennas on the existing radio and television tower, substantially as shown on the landscape plan dated January 25, 1996, as revised through February 8, 1996, with such plans entitled: "WTVR-PARKING ADDITION", prepared by J.K. Timmons & Associates, P.C., a copy of which is attached to and made part of Ordinance No. 96-37-71, and amended by the plan entitled "Boundary Survey of Six Parcels Lying on the South Line of W. Broad Street and the North Line of Cutshaw Avenue," prepared by Timmons Group and dated August 27, 2007, and the plan entitled "WTVR Parking Lot Area Garden," prepared by JSRCC Horticulture and dated September 15, 2007, copies of which are attached to and made part of [~~this ordinance~~] Ordinance No. 2007-315-282, adopted December 10, 2007.

§ 2. That adoption of this ordinance shall constitute the granting of a special use permit for the real estate, which shall be transferable from the owner of the real estate to the successor or successors in fee simple title of the owner, whether acquired by operation of law, deed or otherwise, and shall run with the land.

§ 3. That the Commissioner of Buildings is hereby authorized to issue to the owner of said real estate a building permit in accordance with the above-referenced plans for such purpose(s), subject to the following terms and conditions:

(a) That the owner of the property shall be bound by, observe, and shall comply with all other laws, ordinances and rules and regulations adopted pursuant thereto, applicable to the land and building, except as otherwise provided in this ordinance;

(b) That application for a building permit, or a land disturbance permit if a building permit is not required, shall be made within twenty-four months from the effective date of this ordinance, which permit shall expire by limitation and become null and void if construction is not commenced within one hundred eighty days from the date of the building permit, or if construction is suspended or abandoned for a period of one hundred eighty days at any time after the work is commenced, as provided in applicable provisions of the Virginia Uniform Statewide Building Code. Should application for the permit not be made within twenty-four months from the effective date of this ordinance or should the building permit expire and become null and void, the privileges granted by this ordinance shall terminate and the special use permit shall become null and void;

(c) That the use of the property shall be limited to the continued use of the existing radio and television tower, the continued use of the existing building or a replacement building as a radio or television broadcast studio or other use(s) permitted by the applicable underlying zoning, together with a parking area serving other permitted uses on the property [~~and/or~~ or] the existing television studio at 3301 West Broad Street, substantially as depicted on the [~~attached~~] plans attached to Ordinance No. 2007-315-282, adopted December 10, 2007;

(d) That additional accessory and nonaccessory telecommunications antennas shall be permitted on the existing television/radio tower, provided that any such antennas comply with the

following criteria: 1) there shall be no signal source located within one-hundred (100) feet of the ground level; 2) omnidirectional or whip antennas shall be no more than twelve (12) inches in diameter and no more than [~~twenty (20)~~] 25 feet in length; 3) panel antennas shall be no more than four (4) feet wide and nine (9) feet long, and there shall be no more than four (4) such antennas within any one hundred (100) foot segment of the tower; 4) dish antennas shall not exceed fifteen (15) feet in diameter, and there shall be no more than ten (10) such antennas on the tower and no more than two (2) within any seventy-five (75) foot segment of the tower; 5) all such antennas shall either have galvanized or gray finish or cover, or shall be painted to match the section of the tower on which they are mounted; 6) there shall be no logos, trademarks, or other signs visible on any antenna mounted on the tower, and any illumination shall be limited to that necessary to meet federal or state regulations; 7) any new equipment on the property necessitated by such antennas shall be either located within the existing enclosed building, or within an addition, new building or self-contained all-weather cabinet, provided any such new addition or structure is located within the area depicted on the attached plans that is bounded by the existing fence enclosure on the north, east and west, and by the six parking spaces on the south. Any addition or new building shall be clad in brick, stucco, synthetic stucco or precast concrete with river rock facing, and shall not exceed twenty (20) feet in height. Any all-weather cabinet shall not have a footprint of more than one hundred (100) square feet and a height not exceeding eight (8) feet. Prior to the approval of a building permit for any addition, new building or self-contained cabinet, the plans shall be subject to the review and approval of the Director of [~~Community~~] Planning and Development Review to confirm compliance with the above standard; 8) a building permit or, if such permit is not required by the Commissioner of Buildings, a certificate of zoning compliance, must be received prior to the installation of any additional antenna on the tower. All such requests shall be accompanied by

a written acknowledgement of any governmental regulations that state it is the responsibility of the carrier to promptly resolve any electromagnetic interference problems created by the proposed signal source. In addition, a certification by a licensed professional engineer primarily experienced with the design and operation of communication towers and antennas shall be filed prior to the issuance of a building permit stating that the NIER (nonionizing electromagnetic radiation) emitted from the facility will not result in a level of exposure at any point beyond the property line of the facility which exceeds the lowest applicable exposure standards established by any regulatory agency of the federal government or by the American National Standards Institute. Low power transmission facilities such as personal wireless service facilities, two-way radio, telephone (cellular and VHF), microwave, government communication equipment and similar type transmitters are exempt from this requirement, but the building permit application must contain a statement that the proposed facility complies with the Federal Communication Commission's regulations concerning radio frequency emissions;

(e) That up to seven (7) satellite dish antennas, each with a diameter not exceeding eight (8) meters and a total ground level to top of dish height not exceeding thirty (30) feet, shall be permitted within the area designated for such antennas on the ~~[attached]~~ plans attached to Ordinance No. 2007-315-282, adopted December 10, 2007, dated August 27, 2007. The designated area shall be screened as depicted on the plans dated January 25, 1996 as revised through February 8, 1996 with a vegetative screen with a minimum mature height of no less than six and one-half (6.5) feet and shall be located between the designated area and Cutshaw Avenue, substantially as depicted on the ~~[attached]~~ plans attached to Ordinance No. 2007-315-282, adopted December 10, 2007, dated January 25, 1996 as revised through February 8, 1996. In addition, three (3) satellite dish antennas of a maximum thirteen (13) foot diameter and a maximum ground

level to top of dish height of fifteen (15) feet shall be permitted at the existing satellite dish location, as designated on the [~~attached~~] plans attached to Ordinance No. 2007-315-282, adopted December 10, 2007, dated August 27, 2007;

(f) That the parking area and access aisles shall be paved with a dust-free all weather surface, and parking spaces shall be delineated on the pavement surface;

(g) That 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 as not to be visible from public streets, substantially as depicted on the [~~attached~~] plans;

(h) That final grading and drainage plans shall be approved by the Director of Community Development prior to the issuance of a building permit, if such permit is required;

(i) That storm or surface water shall not be allowed to accumulate on the land and adequate facilities for drainage of storm or surface water from the land and building shall be provided and maintained at all times by the owner at its costs and expense so as not to adversely affect or damage adjacent property or public streets and alleys and the use thereof;

(j) That all entrances to public streets shall be in accordance with the requirements of the Director of Public Works;

(k) That landscaping and fencing materials shall be provided substantially as depicted on the [~~attached~~] landscape plans attached to Ordinance No. 2007-315-282, adopted December 10, 2007, dated January 25, 1996, as revised through February 8, 1996 and as amended by the [~~attached~~] plan attached to Ordinance No. 2007-315-282, adopted December 10, 2007, dated September 15, 2007.

§ 4. [~~That~~] The privileges granted by this ordinance may under certain circumstances be revoked. Upon noting that a condition of a special use permit has been violated, the Zoning

Administrator shall issue a written notice of violation to the property owner. The notice shall inform the property owner (i) which condition or conditions have been violated, (ii) the nature of the violation, and (iii) that the City Planning Commission shall hold a public hearing at which it shall review the violation and the special use permit pursuant to the provisions of sections [~~114-1050.7~~] 30-1050.7 through [~~114-1050.11~~] 30-1050.11 of the Code of the City of Richmond [~~(2004)~~] (2015), as amended, if (a) the property owner does not abate the violation within thirty (30) days of the notice or (b) three (3) notices of violation are issued to the property owner within any twelve (12) month period. No action taken pursuant to the provisions of this section shall in any way limit the City's right to pursue any other remedy at law or in equity against the property owner. Failure to comply with the terms and conditions of this ordinance shall constitute a violation of section [~~114-01080~~] 30-1080 of the Code of the City of Richmond [~~(2004)~~] (2015), as amended, or any other applicable laws or regulations.

§ 5. That when the privileges granted by this ordinance terminate and the special use permit becomes null and void or when use of the premises is abandoned for a period of twenty-four consecutive months, use of the real estate shall be governed thereafter by the zoning regulations prescribed for the district in which the real estate is then situated.

§ 6. This ordinance shall be in force and effect upon adoption.

II. This amendatory ordinance shall be in force and effect upon adoption.

RECEIVED

NOV 07 2017

City of Richmond

900 East Broad Street
2nd Floor of City Hall
Richmond, VA 23219
www.richmondgov.com

OFFICE OF CITY ATTORNEY

Item Request
File Number: PRE. 2017.433

O & R REQUEST

4-7156

OCT 23 2017

Office of the
Chief Administrative Officer

O & R Request

DATE: October 20, 2017

EDITION: 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor

JS 11/7/17

THROUGH: Selena Cuffee-Glenn, Chief Administrative Officer

SCG

THROUGH: Peter L. Downey, Deputy Chief Administrative Officer for Economic Development and Planning

PLD 10-23-17

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

MAO

RE: To amend Ord. No. 96-37-71, adopted May 13, 1996, and last amended by Ord. No. 2007-315-282, adopted December 10, 2007, which authorized the special use of the properties known as 3300 to 3332 Cutshaw Avenue, for the purpose of the installation of three additional freestanding accessory satellite dish antennas, to allow a modification to the dimension requirements pertaining to omnidirectional and whip antennas, upon certain terms and conditions.

ORD. OR RES. No. _____

PURPOSE: To amend Ord. No. 96-37-71, adopted May 13, 1996, and last amended by Ord. No. 2007-315-282, adopted December 10, 2007, which authorized the special use of the properties known as 3300 to 3332 Cutshaw Avenue, for the purpose of the installation of three additional freestanding accessory satellite dish antennas, to allow a modification to the dimension requirements pertaining to omnidirectional and whip antennas, upon certain terms and conditions.

REASON: The current special use permit pertains to the radio and television tower located at 3300 to 3332 Cutshaw Avenue (the WTVR tower) and limits the length of omnidirectional and whip antennas attached to the tower to a length of 20 feet. A new antenna is needed on the tower that would be a component of the Next Generation Capital Region Radio System utilized by Richmond City first responders. The proposed antenna exceeds the 20 foot length restriction of the special use permit. A text amendment is therefore needed.

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 December 4, 2017, meeting. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting.

BACKGROUND: The subject property is located at the northwest corner of Cutshaw Avenue and Tilden Street, and contains approximately 1.26 acres of land area. The existing parking area, tower, and the accessory antennas are utilized by the television station located across the alley to the north.

The subject property is located in the UB-2 Urban Business Zoning District and is designated for Transitional land use by the City's Pulse Corridor Plan. A mix of commercial, office, and 2-family and multi-family residential land uses are present in the vicinity of the property.

FISCAL IMPACT / COST: None

FISCAL IMPLICATIONS: None

BUDGET AMENDMENT NECESSARY: No

REVENUE TO CITY: \$1,200 application fee

DESIRED EFFECTIVE DATE: Upon adoption

REQUESTED INTRODUCTION DATE: November 13, 2017

CITY COUNCIL PUBLIC HEARING DATE: December 11, 2017

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: City Planning Commission, December 4, 2017

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 ORD. OR RES.: Amendment to Ord. No. 96-37-71, adopted May 13, 1996, and last amended by Ord. No. 2007-315-282, adopted December 10, 2007

REQUIRED CHANGES TO WORK PROGRAM(S): None

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

STAFF: Matthew J. Ebinger, AICP, Principal Planner
Land Use Administration (Room 511) 646-6308

PDR O&R No.17-39