



Legislation Details (With Text)

**File #:** ORD. 2023-091      **Version:** 2      **Name:**

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

**File created:** 10/19/2022      **In control:** City Council

**On agenda:** 4/3/2023      **Final action:** 4/10/2023

**Title:** To amend and reordain Ord. No. 97-370-351, adopted Dec. 15, 1997, which authorized the property known as 701 German School Road for the purpose of authorizing an existing radio broadcast studio and office tower and the replacement of an existing telecommunications tower with a new tower of increased height, to remove the limitation on the number of permitted wireless communications providers, upon certain terms and conditions. (9th District)

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

**Indexes:**

**Code sections:**

**Attachments:** 1. Ord. No. 2023-091, 2. Staff Report, 3. Application & Applicant's Report, 4. Survey, 5. Structural Analysis, 6. Map

Date	Ver.	Action By	Action	Result
4/10/2023	2	City Council	adopted	Pass
4/3/2023	2	Planning Commission	recommended for approval	Pass
3/13/2023	2	City Council	introduced and referred	

To amend and reordain Ord. No. 97-370-351, adopted Dec. 15, 1997, which authorized the property known as 701 German School Road for the purpose of authorizing an existing radio broadcast studio and office tower and the replacement of an existing telecommunications tower with a new tower of increased height, to remove the limitation on the number of permitted wireless communications providers, upon certain terms and conditions. (9<sup>th</sup> District)

I. That Ordinance No. 97-370-351, adopted December 15, 1997, be and is hereby amended and reordained as follows:

§ 1. That the [~~real estate,~~] property known as 701 German School Road, located on the east side of German School Road between Seaman and Deter Roads, identified as Parcel No. C005-00753/036 in the [~~1997~~] 2023 records of the City Assessor, being more completely described as follows: beginning at a point which is the northeast corner of Lot 1, Block A, Westover Woods, and also the southeast corner of Lot 40, Norwood Park, thence along a property line S 89° 33' 53" W a distance of 657.40 feet to a

point; thence along a property line S 44° 59' 20" W a distance of 250.18 feet to a point; thence along a property line S 76° 25' 43" W a distance of 101.24 feet to a point; thence along a property line S 44° 52' 39" W a distance of 251.25 feet to a point on the north line of German School Road; thence along said right of way line N 44° 56' 37" W a distance of 593.15 feet to a point; thence along a property line N 44° 57' 10" E a distance of 189.81 feet to a point; thence along a property line N 45° 29' 48" W a distance of 119.18 feet to a point; thence along a property line N 44° 48' 51" E a distance of 637.91 feet to a point; thence along a property line S 47° 47' 05" E a distance of 565.38 feet to a point; thence along a property line S 61° 53' 02" E a distance of 693.26 feet to the point of beginning, is hereby permitted to be used for the purpose of the continued use of the existing radio broadcast studio and office on the premises, and the replacement of the existing telecommunications tower on the premises with a new tower with additional height, substantially as shown on the survey entitled "Survey of 15.8452 Acres with Improvements Thereon & Proposed New Building & New Antenna Tower Location for the Exclusive Use of David Gee and for Obtaining City Approval on the Proposed New Structures on the Property of J. D. Keatley. Richmond, Virginia", and as shown on the site plan entitled "Site Plan for Special Use Permit", with such survey and site plan prepared by A. G. Harocopos & Associates P. C. and dated April 2, 1997 and May 7, 1997 respectively, copies of which are attached to and made a part of ~~[this ordinance]~~ Ordinance No. 97-370-351, adopted December 15, 1997.

§ 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 and/or certificate of occupancy for such purposes, 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 certificate of occupancy (or certificate of zoning compliance, as may be required) for the existing radio broadcast studio and office, and the existing telecommunications tower, shall be made within [~~twelve (12)~~] 12 months of the effective date of [~~this ordinance~~] Ordinance No. 97-370-351, adopted December 15, 1997, the privileges granted by this ordinance shall terminate and the special use permit shall become null and void.

(c) The application for a building permit for the replacement of the existing telecommunications tower shall be made within [~~twenty-four (24)~~] 24 months from the effective date of [~~this ordinance~~] Ordinance No. 97-370-351, adopted December 15, 1997, which building permit shall expire by limitation and become null and void if construction is not commenced within [~~one hundred eighty (180)~~] 180 days from the date of the building permit, or if construction is suspended or abandoned for a period of [~~one hundred eighty days (180)~~] 180 days at any time after work is commenced, as provided in the applicable provisions of the Virginia Uniform Statewide Building Code. Should application for the building permit not be made within [~~twenty-four (24)~~] 24 months from the effective date of the ordinance granting the special use permit, or should the building permit expire and become null and void after the expiration of the [~~twenty-four (24) month~~] 24-month time period for making application for the building permit, the privileges granted by this ordinance with respect to the replacement of the existing telecommunications tower shall terminate and this special use permit for such replacement shall become null and void.

(d) That the radio broadcast studio and office use of the property shall be limited to the floor area depicted on the [~~attached~~] floor plan attached to Ordinance No. 97-370-351, adopted December 15, 1997, provided that an addition of up to [~~one thousand, four hundred (1,400)~~] 1,400 square feet of floor area, with an exterior matching the exterior materials of the existing building, may be constructed at the rear of the existing building. The existing telecommunications tower serving such radio broadcast studio, with a

maximum height of [~~three hundred seventy (370)~~] 370 feet and containing an accessory radio broadcast antenna(s), may remain. Ground-mounted accessory satellite dish antennas of up to [~~twelve (12)~~] 12 feet in diameter shall also be permitted for the radio broadcast studio, with any such antenna located within the enclosure depicted on the attached plans. The enclosure for satellite dish antennas shall consist of a minimum six [~~(6)~~] foot high board fence, with evergreen shrubbery planted on the exterior of the fenced enclosure at six [~~(6)~~] feet on center with a minimum plant height of four and one-half [~~(4 1/2)~~] feet. Any accessory antenna necessary for the operations of the single radio station operated on the premises shall be permitted on the tower. Nonaccessory antennas shall also be permitted, as follows: [~~up to three (3)~~] cellular or pcs antenna arrays, which may include panel antennas or whip antennas, may be installed on the tower, provided that no such array extends more than three [~~(3)~~] feet from the side of the tower; dish antennas less than three and one-half [~~(3 1/2)~~] feet in diameter, extending no more than four [~~(4)~~] feet from the side of the tower, may be installed on the tower; up to eight [~~(8)~~] dish antennas with a diameter greater than three and one-half [~~(3 1/2)~~] feet but with a maximum diameter of eight [~~(8)~~] feet, extending no more than six [~~(6)~~] feet from the side of the tower, may be installed on the tower; and up to [~~twenty (20)~~] 20 whip antennas may be installed on the tower, provided that no such whip antenna is mounted so as to be more than four [~~(4)~~] feet away from the side of the tower. Of the permitted whip antennas, authorization for three [~~(3)~~] of the [~~twenty (20)~~] shall be reserved for use by the City of Richmond.

(e) That a replacement guyed telecommunications tower for both accessory and nonaccessory antennas, may be constructed on the premises, substantially as depicted on the [~~attached~~] plans attached to Ordinance No. 97-370-351, adopted December 15, 1997. Such replacement tower, together with any antenna mounted thereon, shall not exceed a height of [~~five hundred (500)~~] 500 feet. Permitted antennas for the replacement tower shall be as specified for the existing tower in (d), above, plus one additional antenna serving an FM radio station. The building permit for the replacement tower shall include documentation demonstrating that the tower will be constructed in a manner in which any failure of the tower structure itself

or the supporting system of guy wires will not result in the tower structure falling beyond the bounds of the premises. In addition, such documentation shall demonstrate that the tower is designed to safely accommodate a minimum of three ~~[(3)]~~ cellular and/or pcs antenna arrays, and a minimum of two ~~[(2)]~~ whip antennas serving City of Richmond wireless communications systems~~;~~ and a minimum of two [(2)] additional whip antennas, in addition to two [(2)] radio broadcast antennas (one accessory antenna for AM frequencies and one nonaccessory antenna for FM frequencies). ~~The existing tower shall be dismantled and removed from the premises within six [(6)] months of the completion of the construction of the replacement tower];~~

(f) That electrical equipment required for any nonaccessory telecommunications antenna shall be located either within the main building or within the accessory building depicted on the attached plans located at the base of the tower;

(g) That the operator of any telecommunications facility shall adhere to 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;

(h) That the tower and/or antennas may be painted and/or illuminated as required by any federal and/or state regulation, provided that any light, strobe, or beacon on the tower shall be shielded from view from ground level to the extent permitted by the applicable regulation.

(i) That any antenna located on the telecommunications tower or elsewhere on premises that is not in use for a period of six months or more shall be removed from the premises;

(j) That a reservation for future dedication for public right of way purposes shall extend back from German School Road as depicted on the plans as “30’ Proposed New Right of Way Line”, and such reservation area, or a portion thereof, shall be dedicated for such purposes upon request of the Director of Public Works;

(k) That a minimum of ~~[twenty (20)]~~ 20 parking spaces shall be provided substantially as depicted on the ~~[attached]~~ attached to Ordinance No. 97-370-351, adopted December 15, 1997. Such spaces, maneuvering areas, and access aisles shall be paved with an all weather dust free surface, and parking spaces

shall be delineated on the pavement surface, and the driveway from German School Road up to a line corresponding to the northern edge of the rear parking area shall be paved with an all weather surface (the driveway from this point to the base of the antenna may be gravel). All driveway entrances shall be in accordance with the requirements of the Director of Public Works;

(l) That in all other respects, the use of the property shall be in accordance with the applicable underlying zoning regulations.

§ 4. ~~[That should the owner use the premises for any purpose which is not permitted by this ordinance, or fails, refuses or neglects to comply with all applicable terms and conditions, and does not terminate such use or comply with such terms and conditions within sixty (60) days after written notice to do so has been given by the Zoning Administrator, the privileges granted by this ordinance shall terminate and the special use permit shall become null and void, unless an application for a special use amendment is filed with the Director of the Department of Community Development, which shall stay the sixty (60) day period. Failure to comply with the terms and conditions of this ordinance shall constitute a violation of § 32-1080 of the Code of the City of Richmond, 1993, or other applicable provision]~~ 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;

§ 5. That when the privileges granted by this ordinance terminate and the special use permit becomes null and void or when the use of the premises is abandoned for a period of ~~[twenty-four (24)]~~ 24 consecutive months, the use of the ~~[real estate]~~ property governed thereafter by the zoning regulations prescribed for the district in which the ~~[real-estate]~~ property 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.