



Legislation Text

File #: ORD. 2023-351, **Version:** 1

To authorize the special use of the properties known as 6407 Midlothian Turnpike, 6413 Midlothian Turnpike, 6417 Midlothian Turnpike, and 6331 Old Warwick Road for the purpose of a multifamily development containing up to 122 dwelling units, upon certain terms and conditions. (9th District)

WHEREAS, the owner of the properties known as 6407 Midlothian Turnpike, 6413 Midlothian Turnpike, and 6417 Midlothian Turnpike, which are situated in a B-3 General Business District, and 6331 Old Warwick Road, which is situated in a OS Office-Service District, desires to use such properties for the purpose of a multifamily development containing up to 122 dwelling units, which use, among other things, is not currently allowed by section 30-450.1 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 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 30-1 050.1 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 properties known as 6407 Midlothian Turnpike, 6413 Midlothian Turnpike, 6417 Midlothian Turnpike, and 6331 Old Warwick Road and identified as Tax Parcel Nos. C007-0068/032, C007-0068/030, C007- 0068/028, and C007-0068/040, respectively, in the 2023 records of the City Assessor, being more particularly shown on a survey entitled "Topographic and Perimeter Boundary Survey of Old Warwick Road Apartments, City of Richmond, Virginia," prepared by TRC Engineers, Inc., and dated December 19, 2022, 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 multifamily development containing up to 122 dwelling units, hereinafter referred to as "the Special Use," substantially as shown on the plans entitled "SUP Plan, the Maverick, Dakota Partners, Midlothian Turnpike," prepared by TRC Engineers, Inc., dated October 3, 2023, and last revised October 13, 2023, and "The Maverick," prepared by Moseley Architects, and dated September 25, 2023, hereinafter referred to, collectively,

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 multifamily development containing up to 122 dwelling units, substantially as shown on the Plans. A playground shall also be provided on the Property.

(b) Up to 153 parking spaces shall be provided on the Property, substantially as shown on the Plans.

(c) The height of the Special Use shall not exceed four stories. The story height shall be not less than ten feet and not greater than 15 feet, except that the ground floor of a building may be of greater height.

(d) All building materials, elevations, and site improvements shall be substantially as shown on the Plans. Each parking lot island shall contain one deciduous tree having a caliper of not less than two and a half inches.

(e) AB mechanical equipment serving the Property shall be located or screened so as not to be visible from any public right-of-way.

(f) In addition to signs permitted in all districts, pursuant to section 30-505 of the Code of the City of Richmond (2020), as amended, signs substantially as shown on the Plans shall also be permitted on the Property.

(g) Prior to the issuance of any building permit for the Special Use, a plan of development for the Special Use shall be approved by the Director of Planning and Development Review, or the designee thereof, pursuant to Article X, Division 4 of the Code of the City of Richmond (2020), as amended.

§ 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 Commissioner of Buildings is authorized to issue a building pennit substantially in accordance with the Plans for the Special Use subject to the tenns 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 Transmittal

DATE: October 23, 2023

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: J.E. Lincoln Saunders, Chief Administrative Officer

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

RE: To authorize the special use of the properties known as 6407 Midlothian Turnpike, 6413 Midlothian Turnpike, 6417 Midlothian Turnpike, and 6331 Old Warwick Road for the purpose of a multifamily development containing up to 122 dwelling units, upon certain terms and conditions.

ORD. OR RES. No.

PURPOSE: The applicant is requesting a Special Use Permit to authorize constructing two multifamily buildings together totaling 122 dwelling units, which use among other things, is not currently allowed by section 30-450.1, concerning permitted principal and accessory uses, of the Code of the City of Richmond (2020), as amended. A Special Use Permit is therefore required.

BACKGROUND: The property is in the Midlothian neighborhood and contains three parcels situated Midlothian Turnpike and one parcel along Old Warwick Road. The property is currently a 141,772 sq. ft. (3.25 acre) parcel of land. The City's Richmond 300 Master Plan designates a future land use for the Old Warwick Road fronted property as Residential. The subject Midlothian Turnpike fronted properties are designated as Destination Mixed-Use, which is defined as "Key gateways featuring prominent destinations, such as retail, sports venues, and large employers, as well as housing and open space. Located at the convergence of several modes of transportation, including Pulse BRT or other planned transit improvements"

Intensity: Buildings typically a minimum height of five stories. Primary Uses: Retail/office/ personal service, multi-family residential, cultural, and open space. Secondary Uses: Institutional and government. (p. 64)

The current zoning for the property is B-3 General Business District (Midlothian fronted parcels) and OS Office-Service District (for Old Warwick Rd fronted parcels) and is situated in the Midlothian/Chippenham neighborhood/regional node which serves as a gateway into the City of Richmond from Chesterfield County.

The location is sited along a corridor of B-3 business running along the Midlothian Turnpike with office (OS) and residential (R-3) zones to the south and residential zones (R-48; R-7; R-3) to the north. The immediate area is generally made up of commercial uses, with industrial, office, multifamily and residential in the vicinity. The density of the proposed application is 122 dwelling units upon 3.25 acres or 37.54 units per acre.

COMMUNITY ENGAGEMENT: The Greater Woodstock Area Civic Association was notified of the application; additional community notification will take place after introduction.

STRATEGIC INITIATIVES AND OTHER GOVERNMENTAL: Richmond 300 Master Plan; Will be considered by Planning Commission on December 4, 2023 (tentative)

FISCAL IMPACT: \$2,400 application fee.

DESIRED EFFECTIVE DATE: Upon adoption

REQUESTED INTRODUCTION DATE: November 13, 2023

CITY COUNCIL PUBLIC HEARING DATE: December 11, 2023

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

AFFECTED AGENCIES: Office of Chief Administrative Officer
Law Department (for review of draft ordinance)

RELATIONSHIP TO EXISTING ORD. OR RES.: None

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

STAFF: Matthew J. Ebinger, Planning Supervisor - Land Use Administration 804-646-6308

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