



Legislation Text

File #: ORD. 2023-066, **Version:** 3

To authorize the special use of the property known as 310 West Brookland Park Boulevard for the purpose of a mixed-use building with outdoor dining, upon certain terms and conditions. (3rd District)

WHEREAS, the owner of the property known as 310 West Brookland Park Boulevard, which is situated in a UB Urban Business District and the PE-7 Brookland Park Boulevard / North Avenue Parking Exempt Parking Overlay 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 sections 30-433.2, concerning permitted principal and accessory uses, 30-433.5, concerning yard requirements, and 30-960.3, concerning the number of spaces required in parking exempt overlay districts, 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 30-1050.1 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 310 West Brookland Park Boulevard and identified as Tax Parcel No. N000-0971/016 in the 2023 records of the City Assessor, being more particularly shown on a survey entitled “Survey and Plat of The Western 90’ of Lots 1, 2, & 3, Block 13, Brookland Park in the City of Richmond, VA,” prepared by Edwards, Kretz, Lohr & Associates, PLLC, and dated May 29, 2018, 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 “BPB Mixed Use, 310 & 322 Brookland Park Boulevard,” prepared by fultz & singh, and dated June 4, 2021, 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 and on the plan of development entitled “BPB Mixed Use, Plan of Development Issuance - Revision 01 - 03.03.2021,” approved May 17, 2021, as such plan of development may, from time to time, be amended.

(b) No fewer than four off-street parking spaces shall be required for the Special Use.

(c) Outdoor dining shall only take place on the Property between the hours of 8:00 a.m. through 11:00 p.m., daily.

§ 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 permit substantially in accordance with the Plans 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.

O & R Request

DATE: November 14, 2022

EDITION: 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor (Patron: Mayor, by Request)
(This in no way reflects a recommendation on behalf of the Mayor.)

THROUGH: J.E. Lincoln Saunders, Chief Administrative Officer

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

FROM: Kevin Vonck, Director, Department of Planning and Development Review

RE: To authorize the special use of the property known as 310 West Brookland Park Boulevard for the purpose of a restaurant with outdoor dining, upon certain terms and conditions.

ORD. OR RES. No.

PURPOSE: To authorize the special use of the property known as 310 West Brookland Park Boulevard for the purpose of a mixed-use building with outdoor dining, upon certain terms and conditions.

REASON: The subject property is located in the UB-PE7 Urban Business Parking Exempt District. A Plan of Development was granted authorizing the construction of a two-story building containing nine dwelling units and 3,209 square feet of commercial area and six on-site parking spaces. The required parking spaces are dedicated to the residential uses. Waiving the requirement for parking will allow the parking area to be used by commercial uses. Waiving the 100 foot radius requirement for outdoor dining will allow an outdoor dining space.

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.

BACKGROUND: The subject property is located on the northern side of Brookland Park Boulevard near the intersection with Park Boulevard and Fendall Avenue. It is 90 feet wide, 95 feet deep and contains 8,550 square feet in area. The improvements consist of a paved pad leftover from a demolished car wash.

A Plan of Development approval has been granted for the construction of a two-story mixed used structure. Construction of this building is currently underway.

The Richmond 300 Master Plan designates the subject property for Community Mixed-Uses. This designation is described as a cluster of medium-density, walkable commercial and residential uses that provide neighborhood services to nearby residential communities and sometimes feature regional attractions. Primary uses are Retail, office, personal service, multi-family residential, and open space.

The adjacent properties to the east and west, as well as the properties across W. Brookland Park Boulevard are located in the same UB-PE7 Urban Business District as the subject property. These properties contain a mix of office, retail and restaurants. Adjacent to the north are properties located in the R-6 Single-Family Attached zoning district that contain single-family detached dwellings.

FISCAL IMPACT / COST: The Department of Planning and Development Review does not anticipate any impact to the City's budget for this or future fiscal years.

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

BUDGET AMENDMENT NECESSARY: No

REVENUE TO CITY: \$1,800 application fee

DESIRED EFFECTIVE DATE: Upon adoption

REQUESTED INTRODUCTION DATE: December 12, 2022

CITY COUNCIL PUBLIC HEARING DATE: January 9, 2023

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: City Planning Commission, January 3, 2023

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

RELATIONSHIP TO EXISTING ORD. OR RES.: None

REQUIRED CHANGES TO WORK PROGRAM(S): None

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

STAFF: David Watson, Senior Planner, Land Use Administration, 804-646-1036

Key Issues:

Retain on Consent Agenda

Move to Regular Agenda

Refer Back to Committee

Remove from Council Agenda

Strike

Withdrawn

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