



Legislation Details (With Text)

**File #:** ORD. 2019-301    **Version:** 1    **Name:**

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

**File created:** 8/1/2019    **In control:** City Council

**On agenda:** 11/4/2019    **Final action:** 11/12/2019

**Title:** To authorize the special use of the property known as 126 West Brookland Park Boulevard for the purpose of a café with accessory production, wholesale, and certain distribution uses, upon certain terms and conditions.

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

**Indexes:**

**Code sections:**

**Attachments:** 1. Ord. No. 2019-301, 2. Staff Report, 3. Application Form & Applicant's Report, 4. Plans & Survey, 5. Map, 6. Letter of Support\_Brookland Park Area Association dba Historic Brookland Park Collective

Date	Ver.	Action By	Action	Result
11/12/2019	1	City Council	adopted	Pass
11/4/2019	1	Planning Commission	recommended for approval	
10/14/2019	1	City Council	introduced and referred	

To authorize the special use of the property known as 126 West Brookland Park Boulevard for the purpose of a café with accessory production, wholesale, and certain distribution uses, upon certain terms and conditions.

WHEREAS, the owner of the property known as 126 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 café with accessory production, wholesale, and distribution of specialty beverages uses, which use, among other things, is not currently allowed by section 30-433.2 of the Code of the City of Richmond (2015), as amended; and

WHEREAS, in accordance with section 17.11 of the Charter of the City of Richmond (2018), 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 (2015), 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 126 West Brookland Park Boulevard and identified as Tax Parcel No. N000-0973/026 in the 2019 records of the City Assessor, being more particularly shown on a survey entitled “Survey and Plat of Parts of Lots 17 & 18, Block 15 of Brookland Park, in the City of Richomnd [sic], VA,” prepared by Edwards, Kretz, Lohr & Associates, PLLC, and dated June 11, 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 café with accessory production, wholesale, and distribution of specialty beverages uses, hereinafter referred to as “the Special Use,” substantially as shown on a survey entitled “Survey and Plat of Parts of Lots 17 & 18, Block 15 of Brookland Park, in the City of Richmond [sic], VA,” prepared by Edwards, Kretz, Lohr & Associates, PLLC, and dated June 11, 2018, and the plans entitled “126 W Brookland Park Blvd, Richmond, VA 23222, Proposed Layout,” prepared by Cory Weiner, and dated March 20, 2019, 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 café with accessory production, wholesale, and distribution of specialty beverages uses, substantially as shown on the Plans. The Property may also be used for other principal or accessory uses permitted by the zoning regulations prescribed for the UB Urban Business District and the PE-7 Brookland Park Boulevard/North Avenue Parking Exempt Parking Overlay District.

(b) No chain link fence shall be permitted on the Property.

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

(d) Only specialty beverages produced and packaged on the Property shall be distributed on or from the Property.

§ 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 (2015), 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 (2015), 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 (2015), 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 (2015), 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:** September 13, 2019 **EDITION:** 1

**TO:** The Honorable Members of City Council

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

**THROUGH:** Lenora Reid, Acting Chief Administrative Officer

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

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

**RE:** To authorize the special use of the property known as 126 West Brookland Park Boulevard for the purpose of a café with accessory production, wholesale, and distribution of specialty beverages, upon certain terms and conditions.

**ORD. OR RES. No.**

**PURPOSE:** To authorize the special use of the property known as 126 West Brookland Park Boulevard for the purpose of a café with accessory production, wholesale, and distribution of specialty beverages, upon certain terms and conditions.

**REASON:** The applicant has proposed a kombucha tea café that would produce specialty beverages for consumption on the property as well as for distribution elsewhere. The UB District does not permit accessory production, wholesale, and distribution of specialty beverages. A special use permit is therefore required.

**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 November 4, 2019 meeting. A letter outlining the Commission’s recommendation will be forwarded to City Council following that meeting.

**BACKGROUND:** The property is located in the Brookland Park neighborhood at the intersection of West Brookland Park Boulevard and Hanes Avenue. The subject property consists of a 2,187 SF or .05 acre parcel of land improved with a 2,128 SF commercial building constructed, per tax assessment records, in 1920 as a commercial building and is located in the North Planning District.

The property is located in the UB-PE7 Urban Business (Parking Exempt Overlay) District, which encompasses the West Brookland Park Boulevard corridor in the area. Properties to the north of the subject property are located in the R-6 Single-Family Attached Residential District. A mix of commercial, mixed-use, vacant and residential land uses are present along the West Brookland Park Boulevard corridor in the vicinity of the subject property. The residential neighborhood to the north of the corridor consists mainly of single- and two-family

residential uses.

Per the Zoning Ordinance, the intent of the UB Urban Business District is to encourage business areas with a densely developed pedestrian oriented urban shopping character, compatible with adjacent residential neighborhoods, and with minimal disruption from vehicle oriented land uses and features that would detract from a safe, convenient and economically viable pedestrian environment. The district is intended to promote continuity of storefront character along principal street frontages, with minimum interruption by driveways and vehicle traffic across public sidewalk areas. The regulations within the district are intended to preserve the predominant scale and character of existing urban shopping areas, promote retention of existing structures and encourage that new development be compatible with such existing areas and structures.

The proposed production and sale of tea products within the café will be sold and consumed onsite in a tasting room with a limited amount sold for offsite distribution and consumption. Anticipated production will be limited to 50 barrels per week.

The City's Master Plan recommends Community Commercial land uses for the property. Primary uses included office, retail, personal service and other commercial and service uses, intended to provide the shopping and service needs of residents of a number of nearby neighborhoods or a section of the City. This category includes a broader range of uses of greater scale and intensity but are also compatible with nearby residential areas (page 134). Recommended zoning districts to accommodate this land use classification include the UB District.

**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:** October 14, 2019

**CITY COUNCIL PUBLIC HEARING DATE:** November 12, 2019

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** None

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** City Planning Commission, November 4, 2019

**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.:** None

**REQUIRED CHANGES TO WORK PROGRAM(S):** None

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

**STAFF:** Jonathan Brown, Senior Planner  
Land Use Administration (Room 511) 646-5734

Key Issues:

Retain on Consent Agenda

Move to Regular Agenda

Refer Back to Committee

Remove from Council Agenda

Strike

Withdrawn

Continue to: