



## Legislation Details (With Text)

<b>File #:</b>	ORD. 2021-096	<b>Version:</b>	1	<b>Name:</b>	
<b>Type:</b>	Ordinance	<b>Status:</b>	Withdrawn		
<b>File created:</b>	3/8/2021	<b>In control:</b>	City Council		
<b>On agenda:</b>	5/10/2021	<b>Final action:</b>	5/10/2021		
<b>Title:</b>	To authorize the special use of the property known as 1301 North Arthur Ashe Boulevard for the purpose of a drive-in theater, upon certain terms and conditions. (2nd District)				
<b>Sponsors:</b>	Mayor Stoney (By Request)				
<b>Indexes:</b>					
<b>Code sections:</b>					
<b>Attachments:</b>	1. Ord. No. 2021-096 - Withdrawn 20210510, 2. Application, 3. Applicant's Report, 4. Plans, 5. Survey, 6. Map				

Date	Ver.	Action By	Action	Result
4/12/2021	1	City Council	introduced and referred	

To authorize the special use of the property known as 1301 North Arthur Ashe Boulevard for the purpose of a drive-in theater, upon certain terms and conditions. (2<sup>nd</sup> District)

WHEREAS, the owner of the property known as 1301 North Arthur Ashe Boulevard, which is situated in a TOD-1 Transit-Oriented Nodal District, desires to use such property for the purpose of a drive-in theater, which use, among other things, is not currently allowed by section 30-457.2 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 1301 North Arthur Ashe Boulevard and identified as Tax Parcel N000-1396/028 in the 2021 records of the City Assessor, being more particularly shown on a survey entitled “Movieland at Boulevard Square, BTP Boulevard Square, LLC, Iron Foundry,” prepared by Timmons Group, dated July 6, 2007, and last revised July 16, 2008, 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 drive-in theater, hereinafter referred to as “the Special Use,” substantially as shown on plans entitled “Bow-Tie Cinemas, Proposed Drive-In Theater, Movieland at Boulevard Square, 1301 N. Arthur Ashe Blvd., Richmond, VA 23230,” prepared by CPA Architecture, and dated February 12, 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 drive-in theater, substantially as shown on the Plans.
- (b) The location of the Special Use is limited to the location as shown on the Plans.
- (c) A maximum of 312 parking spaces may be reserved for the Special Use at any given time and of those 312 parking spaces, a maximum of 80 spaces may be devoted to vehicles parked for the purpose of viewing movies outside of the buildings on the Property at any given time.
- (d) The height, dimensions, screen materials, and elevations shall be substantially as shown on the Plans.
- (e) The Special Use shall be limited to a total of three movies per day.
- (f) The Special Use may operate seven days a week and must end daily by 1:30 a.m.
- (g) Noise projection through exterior speakers for the Special Use is prohibited. Sound for movies may only be provided through vehicle radio systems.
- (h) The Special Use shall be staffed at all times by employees of the drive-in theater while in operation.

§ 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:** March 15, 2021

**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, Acting Chief Administrative Officer

**FROM:** Kevin J. Vonck, Acting Director, Dept. of Planning and Development Review

**RE:** To authorize the special use of the property known as 1301 North Arthur Ashe Boulevard for the purpose of a drive-in theater, upon certain terms and conditions.

**ORD. OR RES. No.**

**PURPOSE:** To authorize the special use of the property known as 1301 North Arthur Ashe Boulevard for the purpose of a drive-in theater, upon certain terms and conditions.

**REASON:** The applicant is requesting a special use permit to allow for the use of a portion of the property for a drive-in theatre. Drive-in theatres are not permitted in the TOD-1 Transit-Oriented Nodal District. 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 May 3, 2021, meeting.

**BACKGROUND:** The subject property consists of an approximately 11 acre parcel that contains a movie theatre with a large surface parking area. The property is located in the Scott's Addition neighborhood and is generally situated between North Arthur Ashe Boulevard to the west, West Leigh Street to the south, and CSX railroad to the north and east.

The subject property is located within the TOD-1 Transit-Oriented Nodal District, and was rezoned from M-1 Light Industrial during the Scott's Addition rezoning in July 2017. The proposed drive-in theater use is not a permitted principal or accessory use in the TOD-1 District.

The Richmond 300 Master Plan recommends a future land use of “Destination Mixed-Use” for the property. The primary uses envisioned for Destination Mixed-Use are retail/office/personal service, multi-family residential, cultural, and open space. Secondary uses are institutional and government. The development style envisioned is higher-density, transit-oriented on vacant or underutilized sites. New development should be urban in form, may be of larger scale than the existing context, and should pay special attention to the historic character of the existing context. Development should enhance the public realm and create a sense of place, with many vertically mixed-use buildings. The recommended intensity is high with new buildings typically a minimum of five stories. Pedestrian, bicycle and transit access must be prioritized. The subject property is also located within the “Industrial Mixed-Use” district of the “Greater Scott’s Addition” primary growth node of Richmond 300, which envisions a “continued evolution of Scott’s Addition by combining entertainment, residential, office and light industrial uses.”

Light industrial, multi-family dwellings and commercial uses are located to the south of the property, along Myers Street and North Arthur Ashe Boulevard. Light industrial and general commercial uses are located to the west of the property, on the opposite side of North Arthur Ashe Boulevard. A CSX railroad is located to the north and east of the subject property.

**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:** \$2,400 application fee

**DESIRED EFFECTIVE DATE:** Upon adoption

**REQUESTED INTRODUCTION DATE:** April 12, 2021

**CITY COUNCIL PUBLIC HEARING DATE:** May 10, 2021

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** None

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** City Planning Commission  
May 3, 2021

**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:** Richard Saunders, Senior Planner, Land Use Administration (Room 511) 646 4856

Key Issues:

Retain on Consent Agenda

Move to Regular Agenda

Refer Back to Committee

Remove from Council Agenda

Strike

Withdrawn

Continue to: