



Legislation Details (With Text)

**File #:** ORD. 2021-328    **Version:** 1    **Name:**

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

**File created:** 10/5/2021    **In control:** City Council

**On agenda:** 1/24/2022    **Final action:** 1/24/2022

**Title:** To authorize the special use of the property known as 939 Myers Street for the purpose of an outdoor event venue and farmer’s market, upon certain terms and conditions. (As Amended) (2nd District)

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

**Indexes:**

**Code sections:**

**Attachments:** 1. Ord. No. 2021-328, 2. Staff Report 939 Myers Street, 3. Application Form, 4. Applicant's Report, 5. Plans, 6. Map, 7. Support\_939 Myers Street\_Gunn, 8. Opposition\_Leibovic (Rebkee), 9. Opposition Letter\_Pomplun, 10. Opposition Letter\_Rosswog, 11. Opposition Letters\_Cookie Factory Loft Residents, 12. Support\_Gunn, 13. Additional Opposition Letters\_Cookie Factory Lofts, 14. 939 Myers Street PC Presentation, 15. 20220110 Amendment of Ord. No. 2021-328

Date	Ver.	Action By	Action	Result
1/24/2022	1	City Council	adopted	Pass
1/10/2022	1	City Council	amended and continued	
12/13/2021	1	City Council	continued	
12/6/2021	1	Planning Commission	recommended for approval	Pass
11/8/2021	1	City Council	introduced and referred	

To authorize the special use of the property known as 939 Myers Street for the purpose of an outdoor event venue and farmer’s market, upon certain terms and conditions. (As Amended) (2<sup>nd</sup> District)

WHEREAS, the owner of the property known as 939 Myers Street, which is situated in a TOD-1 Transit -Oriented Nodal District, desires to use such property for the purpose of an outdoor event venue and farmer’s market, 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 939 Myers Street and identified as Tax Parcel No. N000-1481/044 in the 2021 records of the City Assessor, being more particularly shown on the plans entitled “River City Roll, 933 Myers Street, Richmond, VA 23230,” prepared

by Price, Simpson, Harvey, and dated May 1, 2017, 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 an outdoor event venue and farmer’s market, hereinafter referred to as “the Special Use,” substantially as shown on the plans entitled “River City Roll, 933 Myers Street, Richmond, VA 23230,” prepared by Price, Simpson, Harvey, and dated May 1, 2017, and 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 an outdoor event venue and farmer’s market, substantially as shown on the Plans.

(b) No more than 12 outdoor events per year shall be permitted.

(c) The Special Use shall be limited to Saturdays only and shall end by no later than 10:00 p.m.

(d) Secure fencing shall be provided for the Special Use.

(e) No parking shall be required for the Special Use.

(f) Each event associated with the Special Use shall be provided with private trash service and sanitation facilities.

§ 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 Zoning Administrator is authorized to issue a certificate of zoning compliance for the Special Use subject to the terms and conditions set forth in this ordinance. An application for the certificate of zoning compliance shall be made within 730 calendar days following the date on which this ordinance becomes effective. If the application for the certificate of zoning compliance is not made within the time period stated in the previous sentence, 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:** October 11, 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

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

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

**RE:** To authorize the special use of the property known as 939 Myers Street for the purpose of an outside event venue and farmer’s market, upon certain terms and conditions.

**ORD. OR RES. No.**

**PURPOSE:** To authorize the special use of the property known as 939 Myers Street for the purpose of an outside event venue and farmer’s market, upon certain terms and conditions.

**REASON:** The applicant is requesting to authorize the special use of the property known as 939 Myers Street for the purpose of using the parking area for an outside event venue and farmer’s market. The property is located in a TOD-1 Transit-Oriented District, which does not permit outside entertainment nor does it permit a farmer’s market or flea market use.

**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 December 6, 2021, meeting.

**BACKGROUND:** The subject property consists of a single parcel of land that has a lot area of 76,665 square feet (1.76 acres) and is improved with a 22,917 square foot building that is used as a bowling alley, restaurant, and nightclub. The property is located in the Museums neighborhood along Myers Street between N Arthur Ashe Boulevard and W Leigh Street.

The property is located in a TOD-1 Transit-Oriented District, which does not permit outside entertainment nor does it permit a farmer’s market or flea market use.

Richmond 300 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. A gridded street pattern should be continued or introduced to increase connectivity. Ground floor uses are envisioned to engage with and enliven the street through windows, doors, storefronts and other features that allow transparency and interaction between building and street. The recommended intensity is high with new buildings typically a minimum of five stories. Pedestrian, bicycle and transit access must be prioritized.

The property is also located adjacent to the Greater Scott’s Addition Priority Growth Node. On the Greater Scott’s Addition Framework Plan, this parcel is shown as being located within an “Industrial Mixed-Use

District,” which is envisioned as a continuation of Scott’s Addition combining entertainment, residential, office and light industrial uses.

A variety of commercial uses and multi-family uses are located within the vicinity of the property. The subject property and all surrounding properties are located within the TOD-1 Transit-Oriented Nodal 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

**DESIRED EFFECTIVE DATE:** Upon adoption

**REQUESTED INTRODUCTION DATE:** November 8, 2021

**CITY COUNCIL PUBLIC HEARING DATE:** December 13, 2021

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** Consent

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** City Planning Commission  
December 6, 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, Map

**STAFF:** Richard Saunders, Senior Planner, Land Use Administration (Room 511) 646 5648

Key Issues:

Retain on Consent Agenda

Move to Regular Agenda

Refer Back to Committee

Remove from Council Agenda

Strike

Withdrawn

Continue to: