



Legislation Details (With Text)

File #:	ORD. 2022-290	Version:	1	Name:	
Type:	Ordinance	Status:		Adopted	
File created:	8/17/2022	In control:		City Council	
On agenda:	11/14/2022	Final action:		11/14/2022	
Title:	To amend Ord. No. 2021-192, adopted Jul. 26, 2021, which authorized the special use of the property known as 205 West Brookland Park Boulevard for the purpose of art gallery, artist studio, outdoor entertainment, and outdoor retail uses, to modify the design and building materials for the art gallery and artist studio use, upon certain terms and conditions. (3rd District)				
Sponsors:	Mayor Stoney (By Request)				
Indexes:					
Code sections:					
Attachments:	1. Ord. No. 2022-290, 2. Staff Report, 3. Application Form and Applicant's Report, 4. Survey, 5. Plans, 6. Map				

Date	Ver.	Action By	Action	Result
11/14/2022	2	City Council	adopted	Pass
11/7/2022	2	Planning Commission	recommended for approval	
10/10/2022	2	City Council		

To amend Ord. No. 2021-192, adopted Jul. 26, 2021, which authorized the special use of the property known as 205 West Brookland Park Boulevard for the purpose of art gallery, artist studio, outdoor entertainment, and outdoor retail uses, to modify the design and building materials for the art gallery and artist studio use, upon certain terms and conditions. (3rd District)

I. That Ordinance No. 2021-192, adopted July 26, 2021, is hereby amended and reordained as follows:

WHEREAS, the owner of the property known as 205 West Brookland Park Boulevard, which is situated in a UB-PE7 Urban Business District, desires to use such property for the purpose of art gallery, artist studio, outdoor entertainment, and outdoor retail use, which use, among other things, is not currently allowed by section 30-433.2, concerning permitted principal and accessory uses, section 30-433.5, concerning yard requirements, and section 30-960.3, concerning the number of parking spaces required, 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 205 West Brookland Park Boulevard and identified as Tax Parcel No. N000-0887/035 in the [2021] 2022 records of the City Assessor, being more particularly shown on a survey entitled “Plat Showing Improvements on No. 205 West Brookland Park Boulevard, in the City of Richmond Virginia.,” prepared by McKnight & Associates, P.C., and dated June 1, 2018, a copy of which is attached to and made a part of [~~this ordinance~~] Ordinance No. 2021-192, adopted July 26, 2021, hereinafter referred to as “the Property,” is hereby permitted to be used for the purpose of art gallery, artist studio, outdoor entertainment, and outdoor retail uses, hereinafter referred to as “the Special Use,” substantially as shown on the plans entitled [~~“Richmond Art Garage, 205 W. Brookland Park Blvd., Richmond, VA 23222,”~~] “21-011 Richmond Art Garage, SUP Application Package - May 10, 2022,” prepared by [~~Lynne Mykins~~] Form Coalition, and dated [~~July 3, 2020~~] May 10, 2022, [~~and “205 W Brookland Park Blvd,” prepared by an unknown preparer, and undated,~~] 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 art gallery and artist studio uses, substantially as shown on the Plans, as well as outdoor entertainment and outdoor retail uses.
- (b) The height of the Special Use shall not exceed two stories, substantially as shown on the Plans.
- (c) All building materials and elevations shall be substantially as shown on the Plans.
- (d) No off-street parking shall be required for the Special Use.

- (e) No outdoor entertainment use or outdoor retail use of the Property shall occur after 10:00 p.m.

§ 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.

II. This amendatory ordinance shall be in force and effect upon adoption.

O & R Request

DATE: August 29, 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, Acting Chief Administrative Officer

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

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

RE: To amend Ordinance No. 2021-192 authorizing the special use of the property known as 205 West Brookland Park Boulevard for the purpose of an art gallery and artist studio use, upon certain terms and conditions.

ORD. OR RES. No.

PURPOSE: To amend Ordinance No. 2021-192 authorizing the special use of the property known as 205 West Brookland Park Boulevard for the purpose of an art gallery and artist studio use, upon certain terms and conditions.

REASON: The subject property is located in the UB-PE7 Urban Business District where art galleries are a permitted use. A special use was authorized in order to allow encroachment of proposed structures into required setbacks. Since this approval, the applicant found that the approved plans were no longer feasible. The new design and materials for the proposed studio are not in substantial conformance with the approved plans. Therefore an amendment to Ordinance No. 2021-192 authorizing a special use is requested.

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 October 17, 2022 meeting.

BACKGROUND: The subject property is located on the southern side of Brookland Park Boulevard near the intersection with Hanes Avenue. It is 72 feet wide, 90 feet deep and contains 6,480 square feet in area. The improvements consist of a 1,212 square foot single-story structure build in 1964 that is a repurposed garage setback. A portion of the existing building also encroaches into this setback and is a legally nonconforming structure. The approved special use designated the existing structure as a conforming use. The approved addition in conjunction with the existing structure will form a courtyard open toward West Brookland Park Boulevard and providing screening for the residential uses located across the alley in the rear.

The modified plans for the proposed amendment call for masonry construction instead of repurposed shipping

containers as designated in the approved plans.

The Richmond 300 Master Plan designates the subject property for Neighborhood Mixed-Uses. Primary uses are single-family houses, accessory dwelling units, duplexes, small multi-family buildings and open space. Secondary uses include retail, office, and personal services.

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. To the south, across the alley, are properties located in the R-6 Single-Family Attached zoning district that contain single and two-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: \$1,200 application fee

DESIRED EFFECTIVE DATE: Upon adoption

REQUESTED INTRODUCTION DATE: September 26, 2022

CITY COUNCIL PUBLIC HEARING DATE: November 14, 2022

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: City Planning Commission October 17, 2022

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

RELATIONSHIP TO EXISTING ORD. OR RES.: Amend Ordinance No. 2021-192

REQUIRED CHANGES TO WORK PROGRAM(S): None

ATTACHMENTS: Draft Ordinance, Application and narrative, The Property, Plans, 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 Continue to: