



## Legislation Text

**File #:** ORD. 2019-113, **Version:** 3

To authorize the special use of the property known as 2915 West Leigh Street for the purpose of an outdoor dining area, upon certain terms and conditions.

WHEREAS, the owner of the property known as 2915 West Leigh Street, which is situated in a TOD-1 Transit-Oriented Nodal District, desires to use such property without a side yard of not less than 20 feet in width where a side lot line abuts property in a residential district, which, among other things, is not currently allowed by section 30-457.5(2) of the Code of the City of Richmond (2015), as amended, for purposes including an outdoor dining area outside a completely enclosed building and used for the service or accommodation of patrons that is situated within 100 feet of any property in any residential district, which, among other things, is not currently allowed by section 30-457.2(25)(a) of the Code of the City of Richmond (2015), as amended; 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 2915 West Leigh Street and identified as Tax Parcel No. N000-1592/016 in the 2019 records of the City Assessor, being more particularly described on a survey entitled "ALTA / ACSM Land Title Survey of 2915-2919 West Leigh Street, City of Richmond, Virginia," prepared by Balzer and Associates, Inc., and dated August 31, 2005, hereinafter

referred to as “the Property,” is hereby permitted to be used for the purpose of an outdoor dining area, substantially as shown on the plans entitled “Modifications To: 2915 - 2919 W. Leigh Street, Richmond, Virginia,” prepared by Michael Pellis Architecture, and dated April 4, 2018, 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 dining area, substantially as shown on the Plans.

(b) The hours of operation of the Special Use shall be limited to 7:00 a.m. through 11:00 p.m., daily.

(c) A privacy screen shall be installed along the western perimeter of the outdoor dining area that shall screen the Special Use from view by adjacent residential uses, substantially as shown on the Plans. At the Owner’s request, the Director of Planning and Development Review may approve a privacy screen that is not shown on the Plans but that is otherwise consistent with this ordinance and the Code of the City of Richmond (2015), as amended.

(d) No live entertainment, recorded audio or video, or amplified public address system shall be allowed with the Special Use.

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

(f) No more than 32 persons may occupy the outdoor dining area at a time, provided that such a limit does not exceed the maximum capacity allowed by the Virginia Uniform Statewide Building Code.

(g) No fewer than two covered trash containers shall be provided in the outdoor dining area.

§ 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:** March 12, 2019

**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:** Selena Cuffee-Glenn, Chief Administrative Officer

**THROUGH:** Douglas C. Dunlap, Interim 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 2915 West Leigh Street to authorize outdoor dining, upon certain terms and conditions.

**ORD. OR RES. No.**

**PURPOSE:** To authorize the special use of the property known as 2915 West Leigh Street to authorize outdoor dining, upon certain terms and conditions.

**REASON:** The applicant is proposing outdoor dining at the front of the building on the subject property. Section 30-457.2 (25)a. of the Zoning Ordinance states that “No deck, patio, terrace or other area outside a completely enclosed building and used for the service or accommodation of patrons shall be situated within 100 feet of any R district.” The proposed outdoor dining area is located within 100 feet of property located within the R-7 Single-and-Two Family Urban Residential District. Also, Section 30-457.5(2) states that where a side lot line abuts or is situated across an alley from property in an R district there shall be a side yard of not less than 20 feet in width. 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 6, 2019, meeting. A letter outlining the Commission’s recommendation will be forwarded to City Council following that meeting.

**BACKGROUND:** The subject property, known as 2915 West Leigh Street, is comprised of approximately .198 acres and is located on the block between North Boulevard and Altamont Avenue.

The Pulse Corridor Plan designates the subject property for Industrial Mixed Use land use. “Industrial Mixed use areas are traditionally industrial areas that are transitioning to mixed use due to their proximity to growing neighborhoods, but still retain industrial uses...Primary Uses [include] industrial, multi family residential, office, retail, and personal service [uses] (p. XII).

More specifically, the subject property is within the Cleveland Station Area. According to the Pulse Plan, the Cleveland Station vision is as follows: the “area unifies two vibrant, distinct, pedestrian oriented neighborhoods by maximizing the potential of under utilized parcels and supporting new forms of development that are walkable, dense, and mixed use. Scott’s Addition continues its evolution as a mixed use neighborhood, and W. Broad Street transforms into a high quality urban avenue that is safe to cross, while becoming a destination in its own right for residential, office, retail and compatible entertainment uses.” Also, “the Industrial Mixed Uses in Scott’s Addition accommodate the emerging residential, office, and retail uses alongside the established and emerging light industrial uses” (p. 54).

The subject property is located in the TOD-1 Transit Oriented Nodal District. The intent of the TOD-1 district is to encourage dense, walkable transit-oriented development consistent with the objectives of the master plan and to promote enhancement of the character of this development along principal corridors, at key gateways, and at nodes of high activity located near transit service, bicycle infrastructure, and pedestrian-friendly streetscapes. The district regulations are also intended to safeguard the character of adjoining properties by only being applied in areas that meet the criteria above, with buffering by setbacks and screening or transitional districts to lower intensity residential areas.

The district regulations are intended to encourage redevelopment and place-making, including adaptive reuse of underutilized buildings, to create a high-quality urban realm. They are intended to improve streetscape character by providing continuity of building setbacks, to enhance public safety by encouraging an active pedestrian environment consistent with the mixed-use character of the district by providing for windows in building facades along street frontages, and to promote an environment that is safe for walking and biking.

Properties to the north, south and east of the subject property are also located in the TOD-1 District. Properties adjacent to the west are zoned R-7 Single and Two-Family Urban Residential. A mix of residential and commercial uses are located in the neighborhood.

**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:** None.

**BUDGET AMENDMENT NECESSARY:** None.

**REVENUE TO CITY:** \$300 application fee

**DESIRED EFFECTIVE DATE:** Upon adoption

**REQUESTED INTRODUCTION DATE:** April 8, 2019

**CITY COUNCIL PUBLIC HEARING DATE:** May 13, 2019

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** None

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** City Planning Commission, May 6, 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, Applicant's Report, Plans, Survey, Draft Ordinance, Map

**STAFF:** David Watson, Senior Planner  
Land Use Administration, 804-646-6304

Key Issues:

Retain on Consent Agenda

Move to Regular Agenda

Refer Back to Committee

Remove from Council Agenda

Strike

Withdrawn

Continue to: