



Legislation Text

File #: ORD. 2019-202, **Version:** 1

To authorize the special use of the property known as 3022 Jefferson Davis Highway for the purpose of a wireless telecommunications monopole and associated equipment, upon certain terms and conditions.

WHEREAS, the owner of the property known as 3022 US-1, a portion of which is situated in an OS Office-Service District, desires to use such portion of such property for the purpose of a wireless telecommunications monopole and associated equipment, which use, among other things, is not currently allowed by section 30-450.1 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 (2010), 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 3022 Jefferson Davis Highway and identified as Tax Parcel No. S008-0629/006 in the 2019 records of the City Assessor, being more particularly shown on sheet A-0 of the plans entitled “Proposed 190’ Monopole w/ a 5’ Lightning Rod in a New Fenced Compound,” prepared by BC Architects Engineers PLC, dated February 1, 2019, and last revised February 14, 2019, 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 wireless telecommunications monopole and associated equipment, hereinafter referred to as “the Special Use,” substantially as shown on the plans entitled “Proposed 190’ Monopole w/ a 5’ Lightning Rod in a New Fenced Compound,” prepared by BC Architects Engineers PLC, dated February 1, 2019, and last revised February 14, 2019, 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 wireless telecommunications monopole and associated equipment, substantially as shown on the Plans.

(b) All equipment shall be limited to a 2,500 square foot enclosed area, substantially as shown on the Plans.

(c) The Owner shall have a structural inspection conducted annually by a professional engineer licensed in the Commonwealth of Virginia, and a copy of the inspection report shall be filed with the Department of Planning and Development Review.

(d) The Owner shall file with the Department of Planning and Development Review a statement from a professional engineer licensed in the Commonwealth of Virginia that non-ionizing electromagnetic radiation emitted from the communications tower does not result in a ground level exposure at any point outside such facility which exceeds the lowest applicable exposure standards established by any regulatory agency of the United States Government or the American National Standards Institute.

(e) Obsolete, unused, or abandoned communications towers and antenna facilities shall be removed within 12 months of obsolescence, cessation of use, or abandonment.

(f) The tower shall have no markings signs or lighting except for lighting that may be required by the Federal Aviation Administration.

(g) No building permit shall be issued until the portion of the Property located within the OS Office-Service District is brought into conformance with section 30-450.2 of the Code of the City of Richmond (2015), as amended.

(h) Landscaping and fencing shall be provided for the Special Use substantially as shown on the Plans.

- (i) The height of the Special Use shall not exceed the height as shown on the Plans.

§ 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: June 24, 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: Selena Cuffee-Glenn, 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 3022 US-1 to authorize a wireless telecommunications monopole and associated equipment, upon certain terms and conditions.

ORD. OR RES. No.

PURPOSE: To authorize the special use of the property known as 3022 US-1 to authorize a wireless telecommunications monopole and associated equipment, upon certain terms and conditions.

REASON: The proposed communications tower will be located in the OS-Office Services District where the tower is not a permitted use. Therefore a special use permit is 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 September 3, 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 Jefferson Davis neighborhood of the Broad Rock Planning District, on Highway US-1 between Lochaven Boulevard and Newhaven Drive. The proposed project calls for the installation of a 195' wireless telecommunications monopole (including a 5' lighting rod) and associated ground equipment within a 50 x 50 foot lease area.

The City of Richmond's Master Plan designates the subject property as an Economic Opportunity Area. Specifically for the Broad Rock District, the Master Plan states that "this area is identified as an Economic Opportunity Area in order to better accommodate a range of uses that can effectively contribute to the Highway US-1 corridor. The area generally identified on the Land Use Plan map currently consists of several parcels, and the most appropriate strategy is to encourage consolidation of as many of the parcels as practical to support a

more substantial development.

The 5.46 acre subject property is split zoned, with the eastern portion of the property located in the B-3 General Business District and the remaining portion in the OS Office Services District. The proposed communications tower will be located within the OS Office Services District where it is not a permitted principal use. A truck maintenance shop and office are located within the B-3 General Business District section of the property fronting Highway US-1. The portion of the property located within the OS Office Services District has no improvements and is currently used for outdoor storage of vehicles and vehicle parts. These uses are not allowed uses in the OS Office Services District.

The properties to the west, across a CSX Railroad corridor, are properties containing single-family dwellings located within the R-4 Single-Family Residential Districts. Abutting to the north are properties containing single-family dwellings on land located within the R-5 Single-Family Residential District. Abutting to the south is property containing an excavating contractor business on land zoned M-1 Light Industrial. Abutting to the east is a property containing an auto parts store on land zoned B-3 General Business 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: \$500 application fee.

DESIRED EFFECTIVE DATE: Upon adoption

REQUESTED INTRODUCTION DATE: July 22, 2019

CITY COUNCIL PUBLIC HEARING DATE: September 9, 2019

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: City Planning Commission, September 3, 2019.

AFFECTED AGENCIES: Office of Chief Administrator 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: Draft Ordinance, Application Form, Applicant's Report, Photo Simulation and NIER

Statement, Plans, Map

STAFF: David F. 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: