



Legislation Text

File #: ORD. 2019-270, **Version:** 1

To authorize the special use of the property known as 1 East Main Street for the purpose of up to 20 single-family attached dwellings and one single-family detached dwelling, upon certain terms and conditions.

WHEREAS, the owner of the property known as 1 East Main Street, which is situated in a TOD-1 Transit-Oriented Nodal District, desires to use such property for the purpose of 20 single-family attached dwellings and one single-family detached dwelling, which use, among other things, is not currently allowed by section 30-457.5(1)(a), concerning front yard setbacks, 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 (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 1 East Main Street and identified as Tax Parcel No. W000-0081/034 in the 2019 records of the City Assessor, being more particularly shown on a survey entitled, “ALTA / NSPS Land Title Survey of Land Owned by Proman LLC and Goodwyn Bros., LLC, Parcel ID: W0000081034,” prepared by Timmons Group, dated May 5, 2019, and last revised May 22, 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 up to 20 single-family attached dwellings and one single-family detached dwelling, hereinafter referred to as “the Special Use,” substantially as shown on the plans entitled “Foushee Street, Preliminary Townhouse Layout,” prepared by Eagle and Timmons Group, and dated July 31, 2019; the plans entitled “Foushee,” prepared by Eagle and Archi-Tec-Tonic, with sheets A208, A209, and A210 dated July 29, 2019, and sheet A211 dated July 30, 2019; and the plans entitled “Foushee Conceptual,” prepared by Eagle, with three sheets dated June 4, 2019, and 11 sheets dated June 10, 2019, 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 up to 20 single-family attached dwellings and one single-family detached dwelling, substantially as shown on the Plans.

(b) No less than one parking space for each dwelling use shall be provided on the Property.

(d) The height of the Special Use shall not exceed the height shown on the Plans.

(e) All building elevations and site improvements shall be substantially as shown on the Plans.

(e) Storage for six bicycles shall be included, substantially as shown on the Plans.

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

§ 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) The Owner shall make improvements within the public right-of-way, including the installation of nine street trees along South Foushee Street and multidirectional curb ramps at the corners of South Foushee and East Cary Streets and South Foushee and East Main Streets, substantially as shown on the Plans, which improvements may be completed in one or more phases as approved by the Director of Public Works. All improvements and work within the public right-of-way shall be (i) completed in accordance with the requirements of the Director of Public Works, (ii) considered completed only upon written confirmation by the Director of Public Works that such improvements and work are in accordance with such requirements, and (iii) transferred to the City, following written confirmation by the Director of Public Works, pursuant to a transfer of interest document approved as to form by the City Attorney and accepted by the Chief Administrative Officer or the designee thereof on behalf of the City. The Chief Administrative Officer or the designee thereof, for and on behalf of the City, is hereby authorized to accept, in the manner for which this subsection provides, all improvements and work required by and meeting the requirements of this subsection. The final certificate of occupancy shall not be issued for the Property until all requirements of this subsection are fully satisfied.

(f) 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: August 26, 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: Lenora Reid, Acting 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 1 East Main Street for the purpose of 20 single-family attached dwellings, and one single-family detached dwelling, upon certain terms and conditions.

ORD. OR RES. No.

PURPOSE: To authorize the special use of the property known as 1 East Main Street for the purpose of 20 single-family attached dwellings, and one single-family detached dwelling, upon certain terms and conditions.

REASON: The applicant is requesting authorization for twenty (20) newly constructed single-family attached, and one (1) single-family detached dwelling. The underlying TOD-1 (Transit-Oriented Nodal District) district does not permit specific design elements in the application. The design does not meet the requirements found in sections 30-438.3:1 and 30-438.5 of the Code of the City of Richmond, dealing with front yard setbacks and public street frontage, respectively. 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 October 21, 2019, meeting. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting.

BACKGROUND: The subject property consists of a 42,614 SF or .97 acre parcel of land improved with a surface parking lot constructed, per tax assessment records, in 1975. The property is located in the Monroe Ward neighborhood within the City's Downtown Planning District along South Foushee Street between the 1st block of East Main and Cary Streets. The property is also located within the Arts District Station area of the City's Bus Rapid Transit (Pulse) Corridor.

The City of Richmond's current Pulse Corridor Plan designates the subject property as Downtown Mixed Use which "...features high density development with office buildings, apartments, and a mix of complementary uses, including regional destinations. Higher density pedestrian and transit oriented development encouraged on vacant or underutilized sites; new development should be urban in form and may be of larger scale than existing context. Active commercial ground floor uses required on street oriented commercial frontages. Active ground floor uses and design required on priority street frontages. Driveway entrances required to be off alleys whenever possible; new driveways prohibited on street oriented commercial and priority street frontages. Little to no setback of new development unless to create pedestrian oriented amenities like plazas and outdoor dining. Surface parking prohibited as a principal use; when surface parking is provided as an accessory use, it should be located to the rear of buildings and screened by shade trees. Parking requirements are substantially less in these areas than other areas of the city and are largely eliminated. Potential future zoning districts: B-4, RF 2. (City of Richmond, 2017) The density of the proposed development would be approximately 21 units per acre.

Adjacent properties along the East Cary Street corridor are in the same TOD-1 District as the subject property. A mix of RO-3 (Residential Office) and B-4 (Central Business District) zoning districts are present in the vicinity. A mix of office, mixed use, commercial, industrial, and residential land uses are present in the vicinity.

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: \$300 application fee

DESIRED EFFECTIVE DATE: Upon adoption

REQUESTED INTRODUCTION DATE: September 23, 2019

CITY COUNCIL PUBLIC HEARING DATE: November 12, 2019

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: City Planning Commission, October 21, 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: Draft Ordinance, Application Form, Applicant's Report, Plans, Survey, Map

STAFF: Jonathan Brown, Senior Planner
Land Use Administration (Room 511) 646 5734

Key Issues:

Retain on Consent Agenda

Move to Regular Agenda

Refer Back to Committee

Remove from Council Agenda

Strike

Withdrawn

Continue to: