File #: ORD. 2020-029, **Version:** 1

To authorize the special use of the property known as 1301 North Hamilton Street for the purpose of a retail use accessory to an existing office use, upon certain terms and conditions.

WHEREAS, the owner of the property known as 1301 North Hamilton Street, which is situated in a R-73 Multifamily Residential District, desires to use such property for the purpose of a retail use accessory to an existing office use, which use, among other things, is not currently allowed by section 30-420.1 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 (2019), 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 1301 North Hamilton Street and identified as Tax Parcel No. W000-1663/010B in the 2020 records of the City Assessor, being more particularly shown on a survey entitled "ALTA / NSPS Land Title Survey of 1.263 Acres of Land Known as #1301 N. Hamilton Street, Being Parcel: W000-1663/010, City of Richmond, Virginia," prepared by Balzer & Associates, and dated September 13, 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 retail use, containing up to 3,634 square feet, accessory to an existing office use, hereinafter referred to as "the Special Use," substantially as shown on the plans entitled "BSA Heart of Virginia Council, Exhibit: Hamilton Place - Floor Plans," prepared by an unknown preparer, and dated September 23, 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 retail use, containing up to 3,634 square feet, accessory to an existing office use, substantially as shown on the Plans.

(b) Signs for the Special Use shall not exceed an aggregate of ten square feet in area.

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

(d) The number of off-street parking spaces for the office use shall be provided on the Property in accordance with section 30-710.1(a)(23) of the Code of the City of Richmond (2015), as amended. No more than 12 of the off-street parking spaces provided on the Property for the office use may be used for the retail use.

§ 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 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: December 20, 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: Lenora G. 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 use of the property known 1301 North Hamilton Street for the purpose of permitting a retail use incidental to the primary office use on site, upon certain terms and conditions.

ORD. OR RES. No.

PURPOSE: To authorize the use of the property known 1301 North Hamilton Street for the purpose of permitting a retail use incidental to the primary office use on site, upon certain terms and conditions.

REASON: The subject property is located in the R-73 Multifamily Residential District. Offices are a permitted principal use in this district provided that no retailing, wholesaling or servicing of merchandise shall be permitted on the premises nor shall the storage or display of merchandise to be serviced or offered for sale elsewhere be permitted on the premises. Thus the proposed accessory retail use is not a permitted use and 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 February 18, 2020, meeting.

BACKGROUND: The subject property consists of 1.263 acres and is generally known as 1301 North Hamilton Street. The property is on the corner of North Hamilton and Cutshaw Avenue and abuts the I-195 corridor located to the east. Improvements on the property are a 26,448 square foot office building and a paved parking area providing 73 parking spaces.

The City of Richmond's Pulse Corridor Plan designates a future land use category for the subject property as Transitional. Specifically, the plan notes that these areas provide a gradual transition between intense commercial areas and primarily single-family residential areas. Primary uses are noted as office and multi-family residential with permitted secondary uses of retail, personal service, cultural, institutional and government uses.

The proposed retail area will be for the use of the Boy Scouts of America and utilize approximately 3,634 square feet of floor area. Any associated signage would not exceed 10 square feet. The retail area will function as an accessory use to the Boy Scouts of America office located in the same building. The property has ample parking and no offsite parking impact is anticipated by the granting of this special use permit.

Properties abutting to the north, west and south contain a mix of commercial, multi-family residential, institutional and office uses. The I-195 Downtown Expressway abuts to the east. The property abutting to the south contains a surface parking lot and is under the same ownership as the subject property.

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: $1,800 application fee

DESIRED EFFECTIVE DATE: Upon adoption

REQUESTED INTRODUCTION DATE: January 27, 2020

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CITY COUNCIL PUBLIC HEARING DATE: February 24, 2020

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: City Planning Commission February 18, 2020

AFFECTED AGENCIES: Office of Chief Administrative Officer
Law Department (for review of draft ordinance)
City Clerk's Office (for mailing labels)

RELATIONSHIP TO EXISTING ORD. OR RES.: None

REQUIRED CHANGES TO WORK PROGRAM(S): None

ATTACHMENTS: Application and Narrative; Map; The Property; The Plans; Draft Ordinance

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: