



Legislation Text

File #: ORD. 2020-119, **Version:** 1

To amend Ord. No. 2019-089, adopted Apr. 22, 2019, which authorized the special use of the properties known as 5400 Hull Street Road, 5336 Hull Street Road, and 5348 Hull Street Road for the purpose of self-storage facilities and multifamily dwellings containing up to 245 dwelling units, to modify the site plans, upon certain terms and conditions.

I. That Ordinance No. 2019-089, adopted April 22, 2019, be and is hereby amended and reordained as follows:

WHEREAS, the owner of the properties known as 5400 Hull Street Road, which is situated in a R-4 Single-Family Residential District, and 5336 Hull Street Road and 5348 Hull Street Road, which are situated in a B-3 General Business District, desires to use such properties for the purpose of self-storage facilities and multifamily dwellings containing up to 245 dwelling units, which uses, among other things, are not currently allowed by sections 30-408.1 and 30-408.7, and concerning permitted principal uses and height limitations in the R-4 Single-Family Residential District, and 30-438.1, concerning permitted principal and accessory uses in the B-3 General Business District, 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 properties known as 5400 Hull Street Road, and 5336 Hull Street Road, and 5348 Hull Street Road and identified as Tax Parcel Nos. C007-0176/090, C007-0176/084, and C007-0176/086, respectively, in the [2019] 2020 records of the City Assessor, being more particularly shown on a plat entitled “Kemp Enterprises Inc.,” prepared by William C. Gerwitz, Land Surveyor, and dated August 22, 2018, 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 self-storage facilities and multifamily dwellings containing up to 245 dwelling units, hereinafter referred to as “the Special Use,” substantially as shown on the plans entitled “Kemps Village Senior Apartments & Storage

Facility, Richmond, Virginia,” prepared by Youngblood, Tyler & Associates, P.C., dated November 20, 2018, and last revised March 7, 2019, copies of which are attached to and made a part of Ordinance No. 2019-089, adopted April 22, 2019, as modified by the plans entitled “Kemps Village, Senior Apartments & Storage Facility, Richmond, Virginia,” prepared by Youngblood, Tyler & Associates, P.C., and dated December 4, 2019, and the plans entitled “New Age-Restricted Multi-Family Development, The Arbors at Kemps Village, Marlyn Development, Hull Street Road, Richmond, Virginia,” prepared by Cox, Kliwer & Company, P.C., consisting of the sheet entitled “Preliminary Site Layout Plan,” dated September 23, 2019, and last revised November 25, 2019, the sheet entitled “Preliminary End Elevation Options,” dated November 20, 2019, and last revised November 26, 2019, and the sheet entitled “Preliminary Unit Plans,” and dated November 20, 2019, hereinafter referred to collectively as “the Plans,” copies of which are attached to and made a part of this amendatory 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 (i) multifamily dwellings containing up to 245 dwelling units and interior and exterior amenity space, substantially as shown on the Plans, and (ii) self-service storage facilities consisting of three single-story buildings and one building not to exceed [~~four~~] three stories. The self-service storage facilities shall not exceed an aggregate floor area of 175,000 square feet, substantially as shown on the Plans.

(b) Occupancy of residential units developed upon the Property shall be age-restricted to persons 55

years of age or older in accordance with the following parameters:

1. It is the intent of the parties that residential units shall be occupied by persons 55 years of age or older and that no residential unit shall be occupied by a person under the age of 18 years of age. In some instances, persons under the age of 55 but over the age of 18 shall be entitled to occupy residential units, subject, at all times, to the laws and regulations governing 55 and over restricted housing as more particularly set forth and described in paragraph 2 below.

2. Each dwelling unit within the Property shall be developed and operated in compliance with applicable federal and state laws and regulations regarding housing intended for occupancy by persons 55 years of age or older, including but not limited to, the Fair Housing Act of 1968, 42 U.S.C. § 3601 (1968), except as provided by section 3607(b)(2)(C) of the Fair Housing Act of 1968, 42 U.S.C. § 3601 (1968), regarding discrimination based on familial status; the Housing for Older Persons Act of 1995; the Virginia Fair Housing Law; any regulations adopted pursuant to the foregoing; any judicial decisions arising thereunder; any exemptions or qualifications thereunder; and any amendments to the foregoing as now or may hereafter exist. Specific provisions of the age restriction described above and provisions for enforcement of the same shall be set forth in a declaration of restrictive covenants and property owners' association documents.

(c) No more than 300 on-site parking spaces shall be provided on the Property for the Special Use, substantially as shown on the Plans.

(d) Within the area specifically designated for the self-service storage facility use, a single caretaker's dwelling unit may be provided. If provided, any occupancy of this dwelling unit shall be limited to the employed staff of the storage facility. There shall be no age restriction on the occupancy of the caretaker's dwelling unit.

(e) Signs pertaining to the Special Use shall be limited to signs permitted in all districts, in

accordance with section 30-505 of the Code of the City of Richmond (2015), as amended, and to the signs as shown on the Plans. The location and dimensions of the signs shown on the Plans must be approved by the Director of Planning and Development Review in accordance with this ordinance and applicable provisions of the Code of the City of Richmond (2015), as amended. At the Owner's request, the Director of Planning and Development Review may approve signs that are not shown on the Plans but that are otherwise consistent with this ordinance and the Code of the City of Richmond (2015), as amended.

(f) All building materials, material colors, and elevations shall be substantially as shown on the Plans.

(g) All site improvements, including installation of landscaping, fencing, and sidewalks on the Property, shall be substantially as shown on the Plans, provided that, at the Owner's request, the Director of Planning and Development Review may approve site improvements other than those shown on the Plans that are otherwise consistent with this ordinance. A final landscape plan must be submitted and approved by the Director of Planning and Development Review prior to the issuance of any building permit. No chain-link fencing shall be permitted on the Property.

(h) The height of the Special Use shall not exceed four stories in height, substantially as shown on the Plans. The maximum height of the Special Use shall not exceed 52 feet.

(i) Lighting structures for the parking areas shall not exceed 30 feet in height. The intensity of illumination within the parking areas shall not be less than 0.5 horizontal foot-candle at any location, provided that in no case shall the intensity of illumination exceed 0.5 horizontal foot-candle at any property line. The lighting maximum-to-minimum ratio within the parking areas shall not exceed 15:1. Parking area lighting fixtures shall be constructed or shielded in such a manner that all light emitted by the fixture, either directly from the lamp or indirectly from the fixture, is projected below the horizontal plane of the fixture.

(j) 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) 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.

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

O & R Request

DATE: April 13, 2020

EDITION: 1

TO: The Honorable Levar M. Stoney, Mayor (Patron: Mayor, by Request)
(This is 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 amend Ord. No. 2019-089 authorizing the special use of the properties known as 5400, 5438, and 5336 Hull Street Road for the purpose of authorizing multi-family dwellings and a self-storage facility

ORD. OR RES. No.

PURPOSE: To amend Ord. No. 2019-089 authorizing the special use of the properties known as 5400, 5438, and 5336 Hull Street Road for the purpose of authorizing multi-family dwellings and a self-storage facility

REASON: The special use authorized by Ordinance No. 2019-089 consisted of senior apartments housed in buildings up to 52 feet tall and a self-storage facility with 175,000 square feet of floor space. The proposed amendment will not alter the uses authorized, however a modification of the site plan has been requested. The proposed new plan will shift the self-storage structures away from the Hull Street Road frontage and allow the residential building to front on Hull Street Road.

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 June 1, 2020, meeting.

BACKGROUND: On April 22, 2019, City Council adopted Ordinance No. 2019-089 as part of the consent agenda. The subject properties of that ordinance are 5400, 5438, and 5336 Hull Street Road. These properties total 12.19 acres. The properties located at 5400 and 5366 Hull Street Road are vacant. 5438 Hull Street Road has a 1,267 square foot dilapidated structure located near the Hull Street Road frontage. The property is located in the Swanson neighborhood of the Midlothian Planning District.

The City of Richmond's Master Plan designates a future land use category for the subject property as General Commercial. Primary uses include a broad range of office, retail, general commercial, wholesale and service uses, typically located along major transportation corridors and serving large portions of the City, the region or the traveling public. The typical zoning classification that may accommodate this land use category is B-3 General Business District.

Properties adjacent to the subject property to the east and west along Hull Street Road are zoned B-3 General Business and contain commercial uses. The rear portions of the properties abut single-family homes in the R-4 Single-Family Residential District to the west and south. Abutting to the east are the Meadow Creek Apartments on property located in the R-48 Multi-Family Residential District. The properties located across Hull Street Road to the south are within the South Garden neighborhood of the Broad Rock District. They share the same Community Commercial Master Plan Future Land Use Designation as the subject properties and are 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: The Department of Planning and Development Review does not anticipate any impact to the City's budget for this or future fiscal years.

BUDGET AMENDMENT NECESSARY: No.

REVENUE TO CITY: \$1,800 application fee.

DESIRED EFFECTIVE DATE: Upon adoption

REQUESTED INTRODUCTION DATE: May 11, 2020

CITY COUNCIL PUBLIC HEARING DATE: June 8, 2020

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: City Planning Commission June 1, 2020

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

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: 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: