



Legislation Text

File #: ORD. 2022-328, **Version:** 2

To amend and reordain Ord. No. 2019-303, adopted Nov. 12, 2019, which authorized the special use of the property known as 3200 West Broad Street for the purpose of a temporary wireless telecommunications monopole and associated equipment, to now authorize an automatic teller machine accessible from the exterior of the building, upon certain terms and conditions. (2nd District)

I. That Ordinance No. 2019-303, adopted November 12, 2019, is hereby amended and reordained as follows:

WHEREAS, the owner of the property known as 3200 West Broad Street, which is situated in a TOD-1 Transit-Oriented Nodal District, desires to use such property for the purpose of a temporary wireless telecommunications monopole and associated equipment, and an automatic teller machine accessible from the exterior of the building, which use, among other things, is not currently allowed by section 30-457.2 of the Code of the City of Richmond [~~(2015)~~] (2020), as amended; and

WHEREAS, in accordance with section 17.11 of the Charter of the City of Richmond [~~(2018)~~] (2020), 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)~~] (2020), 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 amendatory ordinance, the property known as 3200 West Broad Street and identified as Tax Parcel No. N000-1711/002 in the [~~2019~~] 2022 records of the City Assessor, being more particularly shown on sheet [~~L1.02~~] C3.00 of the plans entitled, “3200 [~~W~~] West Broad Street[~~;~~ West Broad Street, Richmond, Virginia, Cell Tower Site Plan],” prepared by SWA Architects-VA, Inc., [~~and~~] dated [~~July 8;~~] September 26, 2019, and last revised August 20, 2020, a copy of which is attached to and made a part of this amendatory ordinance, hereinafter referred to as “the Property,” is hereby permitted to be used for the purpose of a temporary wireless telecommunications monopole and associated equipment and an automatic teller machine accessible from the exterior of the building, hereinafter referred to as “the Special Use,” substantially as shown on the plans entitled “3200 W Broad Street, West Broad Street, Richmond, Virginia, Cell Tower Site Plan,” prepared by SWA Architects-VA, Inc., and dated July 8, 2019, and

the photographs entitled “3200 - Cell Tower - 3 - Receivers,” “3200 - Cell Tower - 4 - Electronic Cables,” “3200 - Cell Tower - 5 - Concrete and Steel Counter Weights,” and “3200 - Cell Tower - 6 - Receivers and Electronics,” prepared by an unknown preparer, and undated, [~~referred to, collectively, as “the Plans,”~~] copies of which are attached to and made a part of [~~this ordinance~~] Ordinance No. 2019-303, adopted November 12, 2019, and on the plans entitled “3200 West Broad Street,” prepared by SWA Architects-VA, Inc., dated September 26, 2019, and last revised August 20, 2020, copies of which are attached to and made a part of this amendatory ordinance, all of which are referred to, collectively, as “the Plans[-].”

(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 temporary wireless telecommunications monopole and associated equipment and as an automatic teller machine accessible from the exterior of the building, substantially as shown on the Plans.

(b) The temporary wireless communications monopole and associated equipment shall be removed within 60 months after the effective date of [~~this ordinance~~] Ordinance No. 2019-303, adopted November 12, 2019, or within 30 months after the issuance of the building permit for the permanent support structure for the wireless communication facility, whichever occurs first.

(c) The height of the temporary wireless communications monopole shall not exceed a height of 175 feet.

(d) The Special Use of the Property shall abide by all applicable provisions of the Virginia

Statewide Building Code.

(e) The Owner shall have a structural inspection of the temporary wireless communications monopole and associated equipment 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.

(f) The automatic teller machine may contain a sign or signs that do not exceed six square feet in area in the aggregate.

§ 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)~~] (2020), 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)~~] (2020), 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)~~] (2020), 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)~~] (2020), 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 amendatory ordinance. An application for the building permit shall be made within 730 calendar days following the date on which this amendatory 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 amendatory 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: October 17, 2022

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: J.E. Lincoln Saunders, Chief Administrative Officer

THROUGH: Sharon L. Ebert, Deputy Chief Administrative Officer for Economic Development and Planning

FROM: Kevin J. Vonck, Director, Department of Planning and Development Review

RE: To amend Ordinance No. 2019-303 authorizing the special use of the property known as 3200 West Broad Street for the purpose of a temporary wireless telecommunications monopole and associated equipment to also include an outdoor ATM, upon certain terms and conditions.

ORD. OR RES. No.

PURPOSE: To amend Ordinance No. 2019-303 authorizing the special use of the property known as 3200 West Broad Street for the purpose of a temporary wireless telecommunications monopole and associated equipment to also include an outdoor ATM, upon certain terms and conditions.

REASON: The subject property is located in the TOD-1 Transit-Oriented Nodal District and a freestanding automated teller machine that is accessible from the public right-of-way is not a specified permitted use listed in this zoning district. 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.

BACKGROUND: The 2.2968 acre subject property encompasses the block along the north side of West Broad Street between MacTavish Avenue and Highpoint Avenue. The property is improved with two buildings containing 287 dwelling units and ground floor commercial area. The Virginia Credit Union will be occupying a portion of this ground floor commercial area and proposes installing an ATM that shall be accessible from the exterior of the building.

The Richmond 300 Master Plan recommends Destination Mixed-Uses for the subject property. These areas are noted as Key gateways featuring prominent destinations, such as retail, sports venues, and large employers, as well as housing and open space. Located at the convergence of several modes of transportation, including Pulse BRT or other planned transit improvements. Ground floor uses should engage with, and enliven, the street.

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: None

REVENUE TO CITY: \$1,800 application fee

DESIRED EFFECTIVE DATE: Upon Adoption

REQUESTED INTRODUCTION DATE: November 14, 2022

CITY COUNCIL PUBLIC HEARING DATE: December 12, 2022

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: City Planning Commission December 5, 2022

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 and Narrative, Plans and Property, 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

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