



City of Richmond

900 East Broad Street
2nd Floor of City Hall
Richmond, VA 23219
www.rva.gov

Legislation Text

File #: ORD. 2024-062, **Version:** 1

To authorize the special use of the property known as 1005 Westover Hills Boulevard for the purpose of a mixed-use building containing up to 12 dwelling units and commercial space, upon certain terms and conditions. (4th District)

WHEREAS, the owner of the property known as 1005 Westover Hills Boulevard, which is situated in a R-5 Single-Family Residential District, desires to use such property for the purpose of a mixed-use building containing up to 12 dwelling units and commercial space, which use, among other things, is not currently allowed by section 30-410.1, concerning permitted principal uses, of the Code of the City of Richmond (2020), as amended; and

WHEREAS, in accordance with section 17.11 of the Charter of the City of Richmond (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 (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 ordinance, the property known as 1005 Westover Hills Boulevard and identified as Tax Parcel No. S006-0371/001 in the 2024 records of the City Assessor, being more particularly shown on a plat entitled “Plat Showing the Physical Improvements to S0060371001, 1005 Westover Hills Boulevard, Upward Builders, 5th District, City of Richmond,” prepared by C.E. Duncan & Associates, Inc., and dated November 18, 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 mixed-use building containing up to 12 dwelling units and commercial space, hereinafter referred to as “the Special Use,” substantially as shown on the plans entitled “1005 Westover Hills Blvd, Richmond, Virginia,” prepared by Mario Di Marco Architects, and dated March 12, 2021, 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 mixed-use building containing up to 12 dwelling units and commercial space, substantially as shown on the Plans. The areas labeled as “Tenant 1 Unassigned,” “Tenant 2 Unassigned,” and “Tenant 3 Unassigned” shall be permitted to contain medical or dental offices and permitted principal uses on corner lots in the R-63 Multifamily Urban Residential District, pursuant to section 30-419.3(a) of the Code of the City of Richmond (2020), as amended. Outdoor dining use of the patio areas is permitted on the Property in accordance with section 30-419.3(a)(5), concerning permitted principal uses on corner lots, of the Code of the City of Richmond (2020), as amended.

(b) No fewer than ten off-street parking spaces shall be provided for the Special Use, substantially as shown on the Plans.

(c) All building materials, elevations, and site improvements, including landscaping, shall be substantially as shown on the Plans.

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

(e) In addition to signs permitted in all districts, pursuant to section 30-505 of the Code of the City of Richmond (2020), as amended, a freestanding sign shall be permitted on the Property, substantially as shown on the Plans.

(f) No fewer than eight bicycle parking spaces shall be provided on the Property, substantially 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 (2020), as amended, and all future amendments to such laws.

(e) The Owner shall make improvements within the right-of-way, including the installation of seven new street trees along Westover Hills Boulevard, 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 or the designee thereof that such improvements and work are in accordance with such requirements, and (iii) transferred to the City, following the written confirmation by the Director of Public Works or the designee thereof, 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 (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 (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 (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 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 Transmittal

DATE: January 31, 2024

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor

THROUGH: J.E. Lincoln Saunders, Chief Administrative Officer

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

RE: To authorize the special use of the property known as 1005 Westover Hills Boulevard for the purpose of a mixed-use building containing up to 12 dwelling units and commercial space, upon certain terms and conditions.

ORD. OR RES. No.

PURPOSE: To re-authorize ordinance 2021-111, adopted June 14, 2021, which permitted the special use of the property known as 1005 Westover Hills Boulevard for the purpose of a mixed-use building containing up to 12 dwelling units and commercial space, upon certain terms and conditions.

BACKGROUND: The subject property is located in the R-5 Single- Family Residential District. It consists of approximately 0.24 acres of vacant land and is within the Forest Hill Terrace neighborhood. The application for a Special Use Permit for a mixed-use building containing up to 12 dwelling units and commercial space on the property was adopted by City Council on June 14, 2021. However, the two-year time limit for applying for building permits has expired. A new Special Use Permit has, therefore, been requested.

COMMUNITY ENGAGEMENT: The Forest View and Westover Hills Neighborhood Civic Associations have been notified. Letters of notification shall be sent to nearby property owners, and a sign noting this request shall be placed on the property once the ordinance is introduced to City Council.

STRATEGIC INITIATIVES AND OTHER GOVERNMENTAL: The City's Richmond 300 Master Plan designates the property as Community Mixed-Use. Retail/office/personal service, multi-family residential, cultural, and open space. Secondary uses include Single-family houses, institutional, and government.

FISCAL IMPACT: The Department of Planning and Development Review does not anticipate any impact to the City's budget for this or future fiscal years.

DESIRED EFFECTIVE DATE: Upon adoption

REQUESTED INTRODUCTION DATE: February 26, 2024

CITY COUNCIL PUBLIC HEARING DATE: March 25, 2024

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: Planning Commission, March 18, 2024

AFFECTED AGENCIES: Office of Chief Administrative Officer, Law Department

RELATIONSHIP TO EXISTING ORD. OR RES.: Re-Authorization of Ordinance No. 2021-111

ATTACHMENTS: Application Supporting Documents

STAFF: Matthew J. Ebinger, Planning Supervisor - Land Use Administration 804-646-6308
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