

INTRODUCED: November 13, 2017

AN ORDINANCE No. 2017-230

To amend and reordain Ord. No. 72-151-158, adopted Jul. 24, 1972, as previously amended by Ord. No. 87-50-51, adopted Mar. 23, 1987, and Ord. No. 91-376-92-223, adopted Jun. 23, 1992, which authorized the special use of the property known as 410-414 Libbie Avenue for the purpose of modifications to the signage and parking requirements, upon certain terms and conditions.

Patron – Mayor Stoney (By Request)

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: DEC 11 2017 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

I. That Ordinance No. 72-151-158, adopted July 24, 1972, as [~~last~~] previously amended by Ordinance No. 87-50-51, adopted March 23, 1987, and Ordinance No. 91-376-92-223, adopted June 23, 1992, be and is hereby amended and reordained as follows:

§ 1. That the property located on the west line of Libbie Avenue beginning at a point 225.0 feet north of the north line of York Road fronting northwardly therefrom a distance of 200.0 feet to a property line, and extending in a westwardly direction between parallel lot lines to a property line in the rear, as shown on the site plan, first floor plans and elevations, dated April 15,

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: DEC 11 2017 REJECTED: _____ STRICKEN: _____

1972, as revised January 18, 1973, copies of which are attached to the draft of Ordinance No. 73-53-69, adopted April 9, 1973, and by site plan, dated July 25, 1974, and elevation plans (5 sheets) attached to the draft of Ordinance 74-233-222, adopted October 14, 1974, by plans for “New Remote Teller for Investors Savings and Loans”, prepared by Edward F. Sinnot & Son, P.C., Architects, dated October 18, 1983, consisting of 2 sheets, copies of which are attached to the draft of Ordinance No. 83-284-84-3, adopted January 9, 1984, and by undated, untitled sign detail drawings, copies of which are attached to the draft of [~~this ordinance~~] Ordinance No. 91-376-92-223, adopted June 23, 1992, and made a part hereto, and shall substitute for sign detail drawings contained in Ordinance No. 72-151-158 or subsequent amendments thereto, is hereby permitted to be used for construction of an office building for occupancy as or by professional and business offices, or other uses permitted in the B-1 Neighborhood Business District except that no restaurant or food store use shall be permitted, and that the building situated on the north fifty feet of the property (414 Libbie Avenue) may be used as a retail wine shop or other uses permitted in the B-1 Neighborhood District except no restaurant or other food store use shall be permitted.

§ 2. That the Commissioner of Buildings is hereby authorized to issue to the owner of the real estate, or his successor or successors in fee simple title, a special use permit for such purposes, and to permit the erection of additional signage to identify the office building substantially in accordance with the plans attached to [~~the draft of this~~] Ordinance No. 91-376-92-223, adopted June 23, 1992. The permit shall be transferable to the successor or successors in title of the owner, whether acquired by operation of law, deed or otherwise, and shall run with the land, subject to the following terms and conditions:

(a) That the acceptance of the permit and the exercise of the privileges granted by this ordinance by the owner and his successor or successors in title shall constitute a warranty on the

part of the owner and his successor or successors that title to the land and the building will be vested in the same person or persons or corporation or both, unless otherwise waived by the City Attorney;

(b) That the owner will be bound by, observe and will comply with all other laws, ordinances and rules and regulations adopted pursuant thereto, applicable to the land and building, except as otherwise provided in this ordinance;

(c) Off-street parking, [54] 52 spaces, shall be provided on the premises at substantially the locations shown on the site plan. Occupancy of the buildings by the uses permitted by this ordinance shall be limited by the off-street parking provisions of [~~Section 32-710.1~~] section 30-710.1 of the Code of the City of Richmond[~~, 1985~~] (2015), as amended;

(d) The parking area shall be screened along the northern and western property lines by an opaque structural fence not less than four and one-half feet in height. Said fence shall not extend into the front yard along Libbie Avenue;

(e) Driveways shall be located as shown on the revised site plan attached to the draft of Ordinance No. 74-233-222, adopted October 14, 1974, and the northern entrance-exit shall be 26 feet in width at the street line, and the southern exit shall be 20 feet in width at the street line. There shall be no external additions or alterations to the building at 414 Libbie Avenue other than normal repair and maintenance;

(f) Driveways and parking areas shall be paved with a dust free all weather surface and parking spaces shall be delineated on the pavement surface;

(g) Final grades of parking areas shall be approved by the Director of Public Works for the City;

(h) An area for the storage and collection of refuse shall be located at the northwest

corner of the property and shall be screened from the parking area and from adjoining properties to a height of not less than four and one-half feet;

(i) That adequate means of controlling the accumulation and disposal of surface water shall be provided by the developer at his cost, and shall meet with the approval of the Director of Public Works for the City;

(j) Signs to be located on the premises which are visible from the street shall be limited to ~~[the following:]~~ wall signs, projecting signs, suspended signs, awning and canopy signs, freestanding signs, and signs permitted in section 30-505 of the Code of the City of Richmond (2015), as amended:

~~1. One directory type sign not exceeding sixteen (16) square feet in area may be attached flat against the front of the building at 410-412 Libbie Avenue. Such sign may be illuminated, provided the source of illumination is not visible.~~

~~2. The following signs shall be permitted to identify tenants of the building at 410-412 Libbie Avenue:~~

~~a. One unlighted sign not exceeding eighteen (18) square feet in area may be attached flat against the building. This sign shall not be located on the south end of the building, in the area formerly occupied by the drive-in teller window for the bank. This sign shall not be illuminated.~~

~~b. One unlighted sign attached flat against the front of the building, not exceeding an area of four (4) square feet.~~

~~c. One unlighted sign attached flat against the front of the building, not exceeding an area of fourteen (14) square feet.~~

~~d. One freestanding sign not exceeding six square feet in area or nine~~

~~feet in height. Such sign shall not be located within five feet of the right of way line of Libbie Avenue or within fifteen feet of any other property line. Such sign may be illuminated provided that the source of illumination is not visible.~~

~~e. — One unlighted sign attached to the south end of the building that does not exceed eight (8) square feet in area.~~

~~3. — Identification of the premises at 414 Libbie Avenue shall be limited to one sign not exceeding nine (9) square feet in area attached flat against a vertical surface of the building. Such sign shall not be animated or illuminated.~~

~~4. — Traffic and directional signs, each not exceeding two square feet in area, may be placed at such locations on the premises as may be directed by the Traffic Engineer of the City;]~~

1. Wall signs, projecting signs, suspended signs, awning and canopy signs pertaining to 410-412 Libbie Ave shall be limited to an individual area of 18 square feet and an aggregate area of 122 square feet.

2. Wall signs, projecting signs, suspended signs, awning and canopy signs pertaining to 414 Libbie Ave shall be limited to an aggregate area of ten square feet.

3. One free standing sign pertaining to 410-412 Libbie Ave shall be permitted and shall be limited to an area of six square feet.

4. One free standing sign pertaining to 414 Libbie Ave shall be permitted and shall be limited to an area of four square feet.

5. No projecting sign shall be located within 25 feet of another projecting sign on the same building wall. No such sign, other than a noncommercial flag, shall project

greater than five feet from the face of the building or extend above the height of the wall to which it is attached.

6. Freestanding signs shall not exceed nine feet in height and shall not be located within five feet of the right of way line of Libbie Avenue or within 15 feet of any other property line.

7. In all other respects, signage on the property shall be governed by Chapter 30, Article V of the Code of the City of Richmond (2015), as amended.

(k) That should the owner use the premises for any purpose which is not permitted by this amendatory ordinance, or fails, refuse or neglects to comply with the provisions of foregoing paragraphs (a) through (j) and does not terminate such use or comply with such provisions within ninety days after written notice so to do has been given to the owner by the Zoning Administrator, the privilege granted by the ordinance shall terminate and the special use permit shall become null and void;

(l) That when the privileges granted by this amendatory ordinance terminate and the special use permit becomes null and void or when use of the premises is abandoned for a period of twenty-four consecutive months, use of the real estate shall be governed thereafter by the zoning regulations prescribed for the district in which the real estate is then situated; and

(m) That application for a signage permit or zoning confirmation letter shall be made within [~~sixty (60) days~~] 24 months from the effective date of this amendatory ordinance~~], and the signage shall be brought into compliance with the ordinance within ninety (90) days].~~ If application for the signage permit or zoning confirmation letter is not made within [~~sixty (60) days~~] 24 months from the effective date of this amendatory ordinance [~~or should the signage not be brought into compliance with the ordinance within ninety (90) days~~], the privileges granted by this amendatory

ordinance shall terminate and the special use permit shall become null and void.

§ 3. This ordinance shall be in force and effect upon adoption, and the original ordinance and prior amendments, insofar as not heretofore modified or modified herein, shall continue in force.

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

City of Richmond

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

Item Request

File Number: PRE. 2017.398

RECEIVED

OCT 10 2017

O & R REQUEST

4-7062

SEP 29 2017

OFFICE OF CITY ATTORNEY

O & R Request

Office of the
Chief Administrative Officer

EDITION: 1

DATE: September 29, 2017

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor
(This in no way reflects a recommendation on behalf of the Mayor)

[Handwritten signature] 10/10/17

THROUGH: Selena Cuffee-Glenn, Chief Administrative Officer *[Handwritten signature]*

THROUGH: Peter L. Downey, Deputy Chief Administrative Officer for Economic Development and Planning *[Handwritten signature]* 9-29-17

FROM: Mark A. Olinger, Director, Department of Planning and Development Review *[Handwritten signature]* MJE for MAO 9/29/17

SUBJECT: To amend and reordain Ordinance No. 72-151-158, adopted July 24, 1972, and Ordinance No. 87-50-51, adopted March 23, 1987 as last amended by Ordinance No. 91-376-92-223, adopted June 23, 1992, which authorizes a special use of certain property located at 410-414 Libbie Avenue, to authorize modifications to the signage and parking requirements, under certain terms and conditions.

ORD. OR RES. No. _____

PURPOSE: To amend and reordain Ordinance No. 72-151-158, adopted July 24, 1972, and Ordinance No. 87-50-51, adopted March 23, 1987 as last amended by Ordinance No. 91-376-92-223, adopted June 23, 1992, which authorizes a special use of certain property located at 410-414 Libbie Avenue, to authorize modifications to the signage and parking requirements, under certain terms and conditions.

REASON: The applicant is requesting a special use permit amendment to modify the parking and signage requirements that pertain to 410-414 Libbie Avenue. The new parking requirements account for a decrease in parking spaces to accommodate a trash collection enclosure. The new signage requirements would offer more flexibility for the property and would be more consistent with the signage requirements pertaining to the adjacent UB – Urban Business District.

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 Planning Commission at its November 6, 2017 meeting. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting.

BACKGROUND: The subject property is located in the City's Far West Planning district and is located near the corner of York Road and Libbie Avenue. The property contains approximately 39,204 square feet of lot area and is currently improved with two structures. A circa 1947 one and a half story wood

framed dwelling that has been converted to a commercial use. The second structure is a circa 1974 two story brick and framed office structure containing approximately 12,172 square feet.

The subject property and surrounding properties to the north and east are located in the RO-1 Residential-Office District. Properties to the west are located in the R-4 Single-Family District. Properties to the south are located in the UB-PO1 Urban Business District (Parking Overlay). Properties are occupied by retail and office uses to the north, south, and east. The properties to the west are single-family dwelling.

The City of Richmond's Master Plan recommends Mixed Use land use for the property. The Master Plan defines the primary uses for this category as "combinations of office, retail, personal service, general commercial and service uses and, in some cases, multi-family residential and dwelling units above ground floor commercial. Generally, such areas consist of a mix of several types of uses, designed and arranged to be compatible with one another" (p. 134).

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.

COST TO CITY: Staff time for processing the request; preparation of draft ordinance; and publishing, mailing and posting of public notices.

REVENUE TO CITY: \$1,800 application fee

DESIRED EFFECTIVE DATE: Upon adoption

REQUESTED INTRODUCTION DATE: October 9, 2017

CITY COUNCIL PUBLIC HEARING DATE: November 13, 2017

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL AGENCIES: City Planning Commission November 6, 2017

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 ORDINANCES: None.

ATTACHMENTS: Application Form, Applicant's Report, Draft Ordinance, Map

STAFF: Leigh V. Kelley, Planner II, Land Use Administration (Room 511) 646-6384

PDR O&R No.17-36



Application for **SPECIAL USE PERMIT**

Department of Planning and Development Review
Land Use Administration Division
900 E Broad Street, Room 511
Richmond, Virginia 23219
(804) 646-6304
<http://www.richmondgov.com/>

SUP-015646-2017

Application is hereby submitted for: (check one)

- special use permit, new
- special use permit, plan amendment
- special use permit, text only amendment

Project Name/Location

Property Address: 410-414 Libbie Avenue Date: March 31, 2017
 Tax Map #: W0210261033 Fee: \$1800.00
 Total area of affected site in acres: 0.9 acres

(See page 6 for fee schedule please make check payable to the "City of Richmond")

Zoning

Current Zoning: RO-1 (SUP)

Existing Use: Office, retail, personal service

Proposed Use

(Please include a detailed description of the proposed use in the required applicant's report)

Amend signage and parking requirements contained in the SUP

Existing Use: _____

Is this property subject to any previous land use cases?

Yes No
 If Yes, please list the Ordinance Number: Ord No. 72-151-158, as amended by
Ord. No. 87-50-51, as amended by Ord. No. 91-376-92-223

Applicant/Contact Person: Jennifer Mullen, Esq.

Company: Roth Jackson Gibbons Condlin, PLC
 Mailing Address: 919 East Main Street, Suite 2110
 City: Richmond State: VA Zip Code: 23219-4625
 Telephone: (804) 977-3374 Fax: (804) 441-8438
 Email: jmullen@rothdonerjackson.com

Property Owner: Jackson River Ventures, LLC

If Business Entity, name and title of authorized signer _____

(The person or persons executing or attesting the execution of this Application on behalf of the Company certifies that he or she has or have been duly authorized and empowered to so execute or attest.)

Mailing Address: 14 Roslyn Road
 City: Richmond State: VA Zip Code: 23226
 Telephone: () Fax: ()
 Email: _____

Property Owner Signature: 

The names, addresses, telephone numbers and signatures of all owners of the property are required. Please attach additional sheets as needed. If a legal representative signs for a property owner please attach an executed power of attorney. **Faxed or photocopied signatures will not be accepted.**

NOTE: Please attach the required plans, checklist, and a check for the application fee (see Filing Procedures for special use permits)

Roth Jackson

Roth Jackson Gibbons Condlin, PLC
Attorneys at Law

Jennifer Mullen
(804) 977-9974 (direct)
jmullen@rothjackson.com

April 11, 2017

BY HAND DELIVERY

Mr. Matthew Ebinger
City of Richmond
Department of Planning and Development Review
Land Use Administration Division, Room 511
City Hall, 900 East Broad Street
Richmond, Virginia 23219

Re: Special Use Permit Amendment: 410-414 Libbie Avenue

Dear Matthew:

This letter shall serve as the Applicant's Report accompanying the application for a Special Use Permit Amendment (the "SUP Amendment") in order to authorize a modification to the signage and parking requirements for the property known as 410, 412 and 414 Libbie Avenue (the "Property"). The Property is located on the west side of Libbie Avenue between York Road and Guthrie Avenue and is identified as Parcel No. W021-0261/033 in the City Assessor's records.

The Property is zoned RO-1. The use of the property and signage and parking associated therewith were authorized pursuant to a Special Use Permit (Ord. No. 72-151-158) originally authorized by City Council on July 24, 1972 as amended several times, most recently by Ord. No. 1991-376-92-223 (the "SUP") approved by City Council on June 2, 1992. The SUP authorized certain B-1 commercial uses, which are not permitted by the underlying RO-1 zoning, and defined specific permitted signage and parking for the Property. A recent inspection by the Zoning Administration in conjunction with a Zoning Confirmation Letter request revealed minor non-compliance with the authorized signage and parking. The SUP Amendment would modify the signage permitted and parking required by the SUP in order to better reflect site conditions and the needs of existing and future tenants.

The Property contains approximately 0.9 acres of lot area and is improved with two buildings, one located at 410-412 Libbie Avenue (Building 1) and the other located at 414 Libbie Avenue (Building 2). Building 1 is a two-story commercial structure that was constructed in 1974 pursuant to the SUP approval. It contains approximately 17,000 square feet of floor area, including 4,872 square feet of basement area, and is occupied by a mix of retail, office, and personal service uses. Building 2 is a two-story structure that was constructed in 1947 as a single-family dwelling and subsequently converted for commercial use pursuant to the SUP. It

{00602144;v1}

contains 1,380 square feet of floor area and is occupied by a personal service use (tailor and garment alteration and repair).

The SUP authorized very specific signage for the Property. The ordinance text identified each individual permitted sign and included a detailed signage plan which depicted the permitted signs and with which substantial conformance is required. This specificity worked for the initial tenant mix. However, as evidenced by the past amendment of the SUP and the recent non-compliance, this level of detail has understandably caused difficulty over time given the changing occupancy and tenant mix. The SUP contemplated diverse uses and multiple tenants by permitting a range of B-1 uses that could change from time to time as the market demanded. Unfortunately, the permitted signage is static and inflexible by comparison.

In order to address this issue and accommodate the needs of the site, the SUP Amendment would amend the SUP text in order to remove the existing signage standards and substitute new, more flexible custom signage standards. These new standards would be similar with those found in the Urban Business zoning classification. As is typical in the UB district, permitted sign types would generally include wall signs, projecting signs, suspended signs, awning and canopy signs and freestanding signs. In terms of sign area, the below table indicates the breakdown of the comparative areas which would be permitted for the Property by the UB district and the SUP Amendment. The proposed signage is generally reflective of the signage existing on the property today and is generally consistent with UB signage guidelines. The overall permitted signage that is proposed would be slightly less (22 square feet) in total area than would be permitted for the Property by the UB district guidelines. In contrast to the UB District, which would permit individual signs, including building mounted signage, up to 32 square feet in area, the SUP Amendment would limit individual signs to an area of 18 square feet. An additional free standing sign is proposed. However, at approximately four and six square feet each, the two proposed freestanding signs would be significantly smaller in area than the one 32 square foot sign that would be permitted in the UB district.

Proposed and UB District Signage Area Comparison			
<i>Permitted Signage (Shopping Center/More Than One Building on a Lot)</i>			
Building	Building Frontage	Sign Area Permitted UB	The SUP Amendment
Building 1 (Large)	98'	98 Square Feet	122 Square Feet
Building 2 (Small)	34'	34 Square Feet	10 Square Feet
Total (Both Buildings)		132 Square Feet	132 Square Feet
<i>Freestanding Signage Permitted (Shopping Center, in addition to the above)</i>			
		UB District	The SUP Amendment
Number of Signs		1 sign	2 signs
Free Standing Sign Area		32 Square Feet	10 Square Feet Total
<i>Total Sign Area</i>			
		UB District	The SUP Amendment
		164 Square Feet	142 Square Feet

The SUP required 54 off street parking spaces for the use of the Property. In order to meet the needs of the site a trash collection area (dumpster and enclosure) has been installed at the rear of the building at 414 Libbie Avenue. This reduced the number of off street parking spaces provided to 52 spaces. The SUP Amendment would amend the SUP text in order to address this issue by reducing the number of required parking spaces to 52. Operationally speaking, this existing parking arrangement has been more than adequate in meeting the demands of the mix of tenants permitted by the SUP.

The properties to the north and across Libbie Avenue to the east are also zoned RO-1 and are occupied as professional and medical offices. Further to the north are properties fronting on Libbie Avenue which are zoned R-4 but have been authorized for commercial use by special use permits. The properties to the south are located within the Grove and Libbie UB-PO1 commercial service area and are occupied by a variety of commercial uses including a grocery store/pharmacy on the abutting parcel. The properties to the west are zoned R-4 and are occupied by single-family dwellings, a number of which were authorized by special use permit in order to permit the development of substandard lots.

The Master Plan Land Use Plan, as amended by Ord. No. 2012-8-15 (the "Master Plan Amendment") recommends "Mixed Use" for the Property and other properties fronting on Libbie to the north and east. Additional text guidance contained in the Master Plan Amendment and applicable to the Property specifies that "expansion of the Libbie/Grove Service Center should occur north on those parcels that front Libbie Avenue to Kensington Avenue as shown on the land use map. As shown on the amended Land Use Plan, mixed use is appropriate for those parcels and an Urban Business Classification is the recommended zoning classification for this area." The properties to the south are designated "Community Commercial" while residential properties to the west are designated "Single-Family (Low Density)".

The following are factors indicted in Section 17.11 of the Charter and Section 30-1050.1 of the Zoning Ordinance relative to the approval of special use permits by City Council. The proposed special use permit will not:

- *Be detrimental to the safety, health, morals and general welfare of the community involved.*

The proposed SUP Amendment will not impact the safety, health, morals and general welfare of the nearby neighborhoods. The proposed SUP Amendment is consistent with the recommendations of the Master Plan and would not change the existing use of the Property which has met this test in the past.

- *Tend to create congestion in streets, roads, alleys and other public ways and places in the area involved.*

The proposed SUP Amendment will not result in significant traffic impacts to nearby residential neighborhoods. There would be no change to the existing use of the Property.

- *Create hazards from fire, panic or other dangers.*

The Property has been developed in a manner consistent with the requirements of the building code and in accordance with the requirements of Fire and Emergency Services. The City's codes applicable to this development are designed to eliminate such hazards.

- *Tend to overcrowding of land and cause an undue concentration of population.*

The proposed SUP Amendment will not impact the existing building configuration and will not tend to over crowd the land or create an undue concentration of land.

- *Adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences and improvements.*

The special use permit would not adversely affect the above referenced City services. To the contrary, the SUP Amendment would help insure the continued viability of the Property. The Property provides positive fiscal (tax) benefits that enhance the City's ability to provide these services to the surrounding community.

- *Interfere with adequate light and air.*

The proposed SUP Amendment will not impact the existing building configuration and will not impact the light and air available to adjacent properties.

This request conforms to the recommendations of the recent Master Plan Amendment. As it stands, the use of the Property according to the SUP is arguably less intense than that which is currently recommended by the Master Plan. Restaurants and food store uses, which would otherwise be appropriate for the property according to the recommendations of the Master Plan, are restricted by the SUP. This limits the intensity of the Property's use, including parking demand, in comparison to what is suggested by the Master Plan. In terms of permitted signage, given the specific text guidance concerning the appropriateness of an Urban Business classification for the Property, the use of UB standards to address signage is warranted. While modified slightly to address the specific needs of the site, the proposed SUP Amendment would provide for signage standards which, overall, are more restrictive than the UB standards.

The current SUP conditions and the proposed signage limitations and required parking would ensure continued compatibility with surrounding uses. Approval of the SUP Amendment would allow for a more flexible signage standard that will address the needs of both the current and future use of the property. That flexibility will help meet the demands of the market and

Mr. Matthew Ebinger
April 11, 2017
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insure the continued viability of the Property. This will allow for the continued use of the property consistent with the recommendations of the Master Plan and in a manner that is compatible with the surrounding properties.

Thank you for your time and consideration of this request. Please let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jennifer D. Mullen".

Jennifer D. Mullen

Enclosures

cc: The Honorable Andreas D. Addison