

**Ames J. Russell
200 Tuckahoe Boulevard
Richmond, Virginia 23226**

February 22, 2016

Matthew J. Ebinger, AICP
Senior Planner - Land Use Administration
Department of Planning & Development Review
City of Richmond
900 E. Broad Street
Richmond, Virginia 23219

Re: 5702 & 5706 Grove Avenue
W0200112016 & W0200112014
File No. 9825

Dear Mr. Ebinger:

I am a resident of the Tuckahoe Terrace neighborhood and lead a large group of homeowners called "Save Libbie & Grove." While our group supports development that is in keeping with the scale and character of the existing "village" in the immediate Libbie and Grove area, we are opposed to any development in the area that changes the existing character. I write today to express the group's concerns about the application filed by Westhampton LLC for a special use permit ("SUP") and the planning commission's statements and directions relating to that SUP. Our concerns are outlined below.

As originally submitted, the SUP was for a four story structure over 60 feet high and in excess of 80,000 square feet. In your letter dated February 16, 2016, you advised Andrew Conclin to modify and resubmit the SUP. We understand that revision to the plan is currently in process, but that the SUP has not yet been resubmitted. In your February 16 letter, you state that the "proposed development is for a building with a height of over 60 feet" and that "the maximum height of buildings permitted in the UB district is 28 feet." These buildings are clearly within the UB district and our review of the zoning laws confirms that the height limitation is, in fact, 28 feet. Based on our understanding of the building code requirements for commercial structures, we believe that a three story structure cannot comply with the 28-foot limitation.

On page 3 of your letter, you use a 2012 Master Plan Amendment ("2012 Amendment") as justification for the position that the developer should reduce the proposed development to a maximum of 3 stories instead of the four story structure originally proposed. You note "the proposed development exceeds the 2-3 story height limit recommended by the 2012 Master Plan Amendment and is not supported by staff. Reduce the development to a maximum of three stories." This statement is disturbing as it appears to grant approval in advance for a 3 story structure, even

though 3 stories violates the zoning ordinance, without requiring satisfaction of the SUP requirements of notice, hearing and a finding that the 3 story exemption will not result in conditions detrimental to the general welfare. We believe this position is in conflict with the applicable zoning law and is based upon a misreading of the 2012 Amendment.

It is significant that neither the Master Plan nor the 2012 Amendment have been incorporated into the zoning laws. In short, even if the Amendment applied to the parcels in question, it does not affect the zoning status of the Libbie/Grove Service Area. The zoning law limits the height of structures to 28 feet.

Further, a review of the plain language of the 2012 Amendment shows that this Amendment does *not* apply to the Libbie/Grove service area in any event. Indeed, the due process procedure from the initial draft of the resolution to time of passage of the Ordinance excluded the Libbie/Grove Service Area. Both the preamble to the resolution of Ord. No. 2012-8-15 and the title of the Ordinance itself state as follows:

To approve an amendment to the Master Plan...for the purpose of changing designations on the Land Use Plan for certain properties located in the Patterson/Libbie/Grove area generally bounded by Park Avenue to the north, York Road to the south, Maple Avenue to west, and Dunbar Street to the east...

(emphasis supplied). The amendment was introduced on January 23, 2012 and advertised for public hearing. The amendment ultimately passed by a unanimous vote of City Counsel.

The amendment clearly identifies the area to be changed as Patterson/Libbie/Grove, describes it as *bounded on the south* by York Road and refers to an attached map. The map clearly shows that York Road is one block north of Grove. It runs parallel to Grove and extends eastward to Granite. *Thus, the amendment does not apply to the parcels that are the subject of the SUP.* If the Planning Commission and City Council had wanted to include the parcels that are the subject of the SUP in the amendment, they could and should have done so. All they had to do was to state that it was bounded on the south by Grove Avenue.

While the issue raised in this letter relates to the current SUP submitted by Westhampton, LLC, the planning staff's misplaced reliance on the 2012 Amendment to justify a recommendation to limit the proposed structure to "no more than three stories" will likely have broader negative implications for the area. Indeed, we are aware that other developers own the block of properties on the south side of Grove between Libbie and Granite. We believe they are watching and waiting for approval of the SUP submitted by Westhampton, LLC and will use any such approval as precedent to seek zoning variances for their own development projects. We are concerned that the misapplication/misunderstanding of the 2012 Amendment by the planning staff to support its recommendation of additional development of three story structures along the Libbie/Grove Service Area will usurp the 28' height limitation in the existing zoning

laws and that the predominant scale and character of the existing urban shopping area at Libbie and Grove will be destroyed. Compounding this is the broader issue of the same misapplication/misunderstanding of the 2012 Amendment as it relates to the granting of the SUP approval for the Hungars LLC - Chadwick development.

I would appreciate hearing back from you with regard to the Planning Staff's position on the issues raised in this letter. I will be glad to meet with you in person if you would find a meeting helpful. Thank you for your attention and consideration.

Sincerely,



Ames J. Russell
Save Libbie & Grove

Cc: The Honorable Jonathan T. Baliles
The Honorable Ellen Robertson
Rodney M. Poole
Lory Markum
David Johannas
Selena Cuffee-Glenn
Melvin Law
Doug Cole
Jeffrey Sadler
Mark Olinger