

INTRODUCED: October 10, 2016

AN ORDINANCE No. 2016-267

To amend and reordain Ord. No. 84-228-207, adopted Sept. 24, 1984, as previously amended by Ord. No. 84-253-226, adopted Oct. 22, 1984, and Ord. No. 2010-30-38, adopted Feb. 22, 2010, which authorized the special use of the property known as 5611 Grove Avenue for the purposes of personal services and non-medical office uses, to authorize retail stores and shops and art galleries, upon certain terms and conditions.

Patron – Mayor Jones (By Request)

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: NOV 14 2016 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

I. That Ordinance No. 84-228-207, adopted September 24, 1984, as previously amended by Ordinance No. 84-253-226, adopted October 22, 1984, and Ordinance No. 2010-30-38, adopted February 22, 2010, be and is hereby amended and reordained as follows:

§ 1. That the [~~real estate~~] property known as 5611 Grove Avenue, [~~and~~] identified as Tax Parcel No. W020-0186/013 in the [~~2009~~] 2016 records of the City Assessor, and located on the south right of way line of Grove Avenue at its intersection with Granite Avenue, being more completely described as follows: beginning at the point of intersection of the south right of way

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: NOV 14 2016 REJECTED: _____ STRICKEN: _____

line of Grove Avenue and the east right of way line of Granite Avenue; thence extending in an easterly direction 55.0 feet along the south right of way line of Grove Avenue to a point; thence extending in a southerly direction 141.91 feet along a property line to a point; thence extending in a westerly direction 52.52 feet along a property line to a point in the east right of way line of Granite Avenue; thence extending in a northerly direction 125.28 feet along the east right of way line of Granite Avenue to the point of beginning, is hereby permitted to be used for the purpose of personal service ~~[and]~~ , non-medical office uses, retail stores and shops, and art galleries; and that the dwelling on the ~~[real estate]~~ property may be converted for such purpose, said property being as shown on the copy of the plan entitled: "Plat showing Improvements on No. 5611 Grove Avenue in the City of Richmond, Virginia", prepared by Potts and Minter, Professional Land Surveyors, dated June 6, 1984, attached to Ordinance No. 84-228-207, adopted September 24, 1984.

§ 2. That the Commissioner of Buildings is hereby authorized to issue to the owner or owners of the real estate, or successor or successors in fee simple title, a permit to occupy the property for such purpose, substantially in accordance with the plan, entitled: "Plat Showing Improvements on No. 5611 Grove Avenue in the City of Richmond, Virginia", prepared by Potts and Minter, Professional Land Surveyors, dated June 6, 1984, and drawings consisting of site plan entitled: "No. 5611 Grove Ave.," prepared by Higgins Associates, Inc., dated June 21, 1984; elevation plans entitled: "Cachet Ltd.," dated August 4, 1984; and floor plans entitled: "5611 Grove Ave.," drawn by M.A. Hooker, dated June 21, 1984, attached to and incorporated into Ordinance No. 84-228-207, adopted September 24, 1984, and Ordinance No. 84-253-226, adopted October 22, 1984. The Commissioner of Buildings may issue a building permit for the conversion herein authorized. The special use permit herein authorized by Council[;] 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 successor or successors in title shall constitute a warranty on the part of the owner and successor or successors that title to the land and the building shall be vested in the same person or persons or corporation or both;

(b) That the owner shall be bound by, shall observe and shall 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) That six parking spaces shall be provided as shown on the plans attached to Ordinance No. 84-228-207, adopted September 24, 1984, and Ordinance No. 84-253-226, adopted October 22, 1984. The parking area shall be screened from view from the property to the south by an evergreen screen not less than four and one-half feet in height, and shall be screened from view from property to the east by existing vegetation and additional evergreen vegetation as needed, not less than four and one-half feet in height;

(d) The parking area and access aisles shall be paved with bituminous asphalt or cement concrete, and parking spaces shall be delineated on the pavement surface;

(e) That 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 as not to be visible from adjacent properties or public streets;

(f) That storm or surface water shall not be allowed to accumulate on the land, and adequate facilities for drainage of storm and surface water from the land or building shall be

provided and maintained at all times by the owner at his cost and expense so as not to adversely affect or damage adjacent properties or public streets and the use thereof;

~~[(h)]~~ (g) That the use of the building shall be not more than two commercial establishments limited to the following:

(1) Personal service businesses that provide services directly to persons or services for personal items and related retail, including interior design studios, bridal services, salons, health spas, therapeutic massage establishments, fitness studios, yoga studios, travel agencies, shoe repair shops, tailor and garment alteration and repair shops, clothing rental stores, watch and jewelry repair shops and similar establishments [~~provided that barber shops, beauty salons, nail salons, health spas, personal grooming, massage parlors, and similar establishments shall not be permitted~~];

(2) Offices, including business, professional and administrative offices, studios of writers, designers and artists engaged in the arts, provided that medical and dental offices and clinics shall not be permitted;

(3) Retail stores and shops; and

(4) Art galleries.

~~[(i)]~~ (h) That identification of the [~~premises~~] property shall be limited to signage not exceeding an aggregate of twelve square feet in area, mounted flat on a vertical surface of the building;

~~[(j)]~~ (i) There shall be no enlargement or exterior alterations to the building except for those which are shown on the plans attached to Ordinance No. 84-228-207, adopted September 24, 1984, and Ordinance No. 84-253-226, adopted October 22, 1984, and other normal maintenance and repair;

~~[(4)]~~ (j) That the privileges granted by this ordinance may ~~[under certain circumstances]~~ be revoked~~[- Upon noting that a condition of a special use permit has been violated, the Zoning Administrator shall issue a written notice of violation to the property owner. The notice shall inform the property owner (i) which condition or conditions have been violated, (ii) the nature of the violation, and (iii) that the City Planning Commission shall hold a public hearing at which it shall review the violation and the special use permit]~~ pursuant to the provisions of sections ~~[114-1050.7]~~ 30-1050.7 through ~~[114-1050.11]~~ 30-1050.11 of the Code of the City of Richmond ~~[(2004)]~~ (2015), as amended, ~~[if (a) the property owner does not abate the violation within thirty (30) days of the issuance of the notice or (b) three (3) notices of violation are issued to the property owner within any twelve (12) month period. No action taken pursuant to the provisions of this section shall in any way limit the City's right to pursue any other remedy at law or in equity against the property owner]~~ and all future amendments to such laws. Failure to comply with the terms and conditions of this ordinance shall constitute a violation of section ~~[114-1080]~~ 30-1080 of the Code of the City of Richmond ~~[(2004)]~~ (2015), and all future amendments to such law, or any other applicable laws or regulations;

~~[(4)]~~ (k) That when the privileges granted by this ordinance terminate and the special use permit becomes null and void or when use of the ~~[premises]~~ property is abandoned for a period of twenty-four consecutive months, use of the ~~[real estate]~~ property shall be governed thereafter by the zoning regulations prescribed for the district in which the ~~[real estate]~~ property is then situated.

§ 3. That Ordinance No. 84-228-207, adopted September 24, 1984, ~~[shall continue in force and effect as adopted,]~~ as previously amended by Ordinance No. 84-253-226, adopted October 22, 1984, ~~[shall be in force upon adoption and effective as of September 24, 1984,]~~ and

Ordinance No. 2010-30-38, adopted February 22, 2010, and except as modified by this amendatory ordinance shall [be] remain in force and effect [~~upon adoption~~].

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

Intracity Correspondence

Pre Introduction to Council: PRE. 2016-246

RECEIVED

SEP 20 2016

File Number: PRE. 2016-246

OFFICE OF CITY ATTORNEY

To amend Ord. No. 2010-30-38, adopted January 25, 2010, which authorized the property known as 5611 Grove Avenue for the purposes of personal services and non-medical office uses, to authorize retail stores and shops and art galleries, upon certain terms and conditions.

O & R Request

O & R REQUEST

EDITION: 1

TO: The Honorable Members of City Council

THROUGH: Dwight C. Jones, Mayor (Patron: Mayor, by Request)
(This in no way reflects a recommendation on behalf of the Mayor)

THROUGH: Selena Cuffee-Glenn, Chief Administrative Officer

THROUGH: Peter L. Downey, Deputy Chief Administrative Officer for Economic Development and Planning

FROM: Mark A. Olinger, Director, Department of Planning and Development Review

RE: SUP Amendment for 5611 Grove Avenue

ORD. OR RES. No.

PURPOSE: To amend Ord. No. 2010-30-38, adopted January 25, 2010, which authorized the property known as 5611 Grove Avenue for the purposes of personal services and non-medical office uses, to authorize retail stores and shops and art galleries, upon certain terms and conditions.

REASON: The subject property is a two-story, single-family dwelling that was authorized for conversion and use as an interior design studio in 1984. In 2010, the ordinance was amended to authorize additional personal service and office uses. The applicant is requesting the authorization of additional personal service uses as well as retail store and shop and art gallery uses. Therefore, the applicant is requesting an amendment to the current special use permit

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 November 7, 2016, meeting. A letter outlining the Commission's recommendation will be forwarded to City

SEP 14 2016
4-5685
Chief Administration Office
City of Richmond

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SCG

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Council following that meeting.

BACKGROUND: The subject property is located on the south side of Grove Avenue between Libbie and Granite Avenues and is located on a parcel with approximately 6,682 square feet of land area. The property is improved with a two-story dwelling originally constructed in 1920 with approximately 1,666 square feet of floor area. In 1984, Ord. No. 84-253-226 authorized the conversion and special use of the property as an interior design studio with associated retail. In 2010, the ordinance was amended to include additional personal service and office uses. As part of a condition of this ordinance, the building retained its single-family dwelling appearance and scale.

The applicant is requesting an amendment to the existing special use permit that would authorize an additional commercial use to be located in the building. The additional commercial use would be limited to retail store and shops and art galleries. No exterior or interior modifications to the building are proposed.

The property is located in the R-4 Single Family Residential district which does not permit commercial uses. Under normal zoning requirements, six parking spaces would be required for the proposed and existing commercial uses. Six parking spaces are currently provided at the rear of the building accessible via a driveway from Granite Avenue. This parking area is paved and screened from adjoining properties by evergreen landscaping.

A number of properties to the north across Grove Avenue and adjacent along the street to the east are also single-family detached dwellings in the R-4 districts that are authorized by special use permits for office and retail uses. In total, 9 properties in the immediate vicinity of the subject property are authorized by special use permits for commercial uses. Properties to the west along Grove Avenue are zoned in the UB-P01 Urban Business district and a part of the Libbie and Grove shopping area and include numerous commercial uses including retail, office and restaurant. Properties to the south consist primarily of single-family detached dwellings zoned in the R-4 Single Family Residential district.

The Master Plan designates the subject property as being in a "Transitional Office" area that includes low to medium intensity professional, business, and administrative offices that are compatible with adjacent residential uses and serve as a separation between residential area and nearby commercial uses.

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

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

BUDGET AMENDMENT NECESSARY: No budget amendment is necessary.

REVENUE TO CITY: \$1,200 application fee.

DESIRED EFFECTIVE DATE: Upon adoption.

REQUESTED INTRODUCTION DATE: October 10, 2016

CITY COUNCIL PUBLIC HEARING DATE: November 14, 2016

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL AGENCIES: City Planning Commission, November 7, 2016

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 Letter, Draft Ordinance

STAFF: Willy Thompson, Senior Planner; Land Use Administration (Room 511); 646-5734

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800 East Canal Street
Richmond, VA 23219-3916
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Fax 804.775.1061
www.mcguirewoods.com

R. Robert Benaicha
Direct: 804.775.1152

McGUIREWOODS

rbenacha@mcguirewoods.com
Fax: 804.698.2067

August 31, 2016

Ms. Andy Bennett
Westhampton Citizens Association
4808 Charmian Road
Richmond, VA 23226

**The 5611 Company Limited Partnership
Application for Amendment of Special Use Permit
For 5611 Grove Avenue**

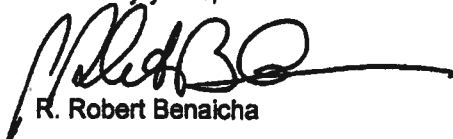
Dear Ms. Bennett:

Thank you for speaking with me today regarding The 5611 Company Limited Partnership's proposed amendment to the existing special use permit (SUP) for 5611 Grove Avenue (the "Property"). Anne Page, is the General Partner of The 5611 Company Limited Partnership and has owned the Property since 1983. Throughout her ownership, Mrs. Page has sought to ensure that the Property is used in a manner that is complimentary of and respectful to the surrounding area. The proposed SUP amendment will add several additional uses, including but not limited to retail shops, salons, and art galleries, that would be permitted on the Property. The exterior of the existing building would not change, nor would the expected impacts to the community.

So that the Westhampton Citizens Association and its members may be fully informed of Mrs. Page's plans, we are enclosing a copy of the application that was filed today in the City of Richmond, as well as a copy of the existing SUP for your reference. We would greatly appreciate the Association's support of the application and are happy to meet with members and provide any additional information that may be requested.

With appreciation for your assistance, I am

Sincerely yours,



R. Robert Benaicha

vej
Enclosures

Cc: Hon. Jon Bailes
Lory Markham, Department of Planning and Development Review
Mrs. Anne Page
Ann Neil Cosby, Esquire

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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/>

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

Project Name: 5611 Grove Avenue Date: 8/30/2016

Property Address: 5611 Grove Avenue, Richmond, VA 23226 Tax Map #: W0200186013

Fee: \$1,200 Total area of affected site in acres: 0.153 acres
(See page 3 for fee schedule, please make check payable to the "City of Richmond")

Zoning

Current Zoning: R-4 with SUP

Proposed Use

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

Existing Use: personal services with associated retail
Is this property subject to any previous land use cases?

See attached Applicant's Report

Yes No
 If Yes, please list the Ordinance Number:

Ord. No. 2010-30-38

Applicant/Contact Person: R. Robert Benaicha

Company: McGuireWoods LLP

Mailing Address: Gateway Plaza, 800 East Canal Street

City: Richmond State: VA Zip Code: 23219

Telephone: (804) 775-1152 Fax: (804) 698-2067

Email: rbenacha@mcguirewoods.com

Property Owner: The 5611 Company Limited Partnership

If Business Entity, name and title of authorized signee: Anne Page, General Partner

(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: 101 Pepper Avenue

City: Richmond State: VA Zip Code: 23226

Telephone: (804) 285-0550 Fax: ()

Email: cachetttd@verizon.net

Property Owner Signature: Anne M. Page, General Partner

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)

**Applicant's Report in Support of
Text Only Amendment to
SUP Ordinance # 2010-30-38**

The 5611 Company Limited Partnership (the "Company") is applying for a text only amendment to Special Use Permit Ordinance # 84-253-226 (the "SUP"). The Company is seeking an amendment to expand the current use to include retail stores and shops, art galleries and additional personal service uses. Sections 1 and 2(h) of the SUP would be amended as follows:

§ 1 "... is hereby permitted to be used for the purposes of personal services, non-medical offices, and retail stores and shops and art galleries;"

§ 2(h)(1) 1. Modify this section to read as follows:

(1) Personal service businesses that provide services directly to persons or services for personal items, including interior design studios, bridal services, salons, health spas, therapeutic massage establishments, fitness/yoga studios, travel agencies, shoe repair shops, tailor and garment alteration and repair shops, clothing rental stores, watch and jewelry repair shops, and similar establishments;

§ 2(h)(3) Insert new section 2(h)(3): "Retail stores and shops".

§ 2(h)(4) Insert new section 2(h)(4): "Art galleries".

The amended language will allow the Property to be marketed to similar, client service, retail, and gallery oriented businesses that are compatible with the surrounding uses. The current SUP language, drafted six (6) years ago, does not provide adequate flexibility to market the Property in way compatible with the neighboring Libbie & Grove Urban Business district just to the west of Granite Avenue. The amended uses are all permitted by right in the Urban Business district.

No changes will be made inside or outside of the building. There will be no changes to the approved floor plans.

The Property's façade, signage, lighting and landscaping will retain its current residential character so the improvements remain aligned with the residential feel found to the east of the Property along Grove Avenue. The applicant is pursuing tenants for the space by targeting small businesses with limited staffing and inventory.

The Property currently contains a total of six off-street parking spaces, as required by ordinance for the above specified uses. Traffic ingress and egress to the parking spaces shall continue to be from Granite Avenue.

The applicant will not alter the footprint of any of the Property's improvements, therefore any use will be inherently limited by their physical size, restricting the commercial uses envisioned to small-scale operations that employ a few people and attract a relatively low volume of customers or clients. In addition, the applicant agrees to limit hours of any retail sales, with a closing time no later than 7:00 PM. Professional services tenants will not schedule appointments later than 9:00 PM.

When coupled with the walkable nature of the neighborhood traffic generation will likely remain consistent within the range of traffic currently experienced in the Libbie and Grove Avenues corridor.

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Consistency with City Master Plan Recommendation

The City Master Plan adopted in February 2012 recommends the area for use as Transitional Office with low-to-medium intensity use and serving as a buffer between residential areas and nearby commercial or higher intensity adjacent areas. Immediately across Granite Avenue from the Property is Libbie and Grove commercial district zoned Urban Business (UB) and subject to the restrictions of the Parking Overlay (PO-1) district. The land use plan recommends the Property serve as a downward transition from these more intense uses to the residential uses characteristic on the east side of Granite Avenue. The proposed uses and the transition it provides support this for the following reasons:

1. The proposed change of use preserves the residential character of the structure;
2. The proposed new uses are consistent with and complementary to the uses permitted by right in the UB zoning district;
3. The character of the neighborhood will be preserved;
4. The change in use will not be conspicuous; and
5. The hours of operation will be compatible with a transition from high-intensity to residential character.

Consistency with City Charter Provisions Regarding Special Use Permits

The Richmond City Charter outlines the criteria by which a Special Use Permit should be granted. The following Special Use Permit criteria are provided below:

1. The proposed use of the Property *is not detrimental to the health, safety, morals and welfare of the community*. The applicant is seeking tenants that engage in business activities that are compatible with the character and values of a predominantly residential community.
2. The use *will not generate congestion in the streets, roads, or other public rights-of-way in the area*. Generally speaking, the type of tenants that are attracted to this type of building and use are small in size and staffing and have low vehicular traffic generation.
3. The proposed use *will not create hazards from fire, panic or other dangers*.
4. The proposed use *will not cause overcrowding of land and an undue concentration of population*. The proposed use does not alter existing structural footprints on the Property and reduces concentration of population because it will be in commercial, rather than residential, use.
5. The proposed use *will not adversely impact any public facilities such as schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public conveniences*. The Property is currently and will remain connected to public water and sewer and the City will continue to provide trash disposal service.
6. The proposed uses and renovation *will not interfere with adequate light and air*. While renovation of the structures is planned, the present level of light and air available to the Property will remain practically unchanged. Constructing parking on the Property may result in removal of some vegetation. Should landscaping be removed during construction, supplemental landscaping to preserve the residential character of the Property will be provided.

Conclusion

The Company's request is to expand the Property's permitted uses to allow limited additional personal uses, retail shops, and art galleries in keeping with the boutique shopping and high-end personal service establishments in the vicinity. Given the space limitations inherent to the Property's configuration, the intensity of the use is not anticipated to increase notwithstanding the slight proposed expansion of the permissible uses. The proposed client services are good transitional uses between the residential and

August 31, 2016

other special uses and retail in the area. The proposed client services are well suited to the "home-like" setting this Property provides.