



## Legislation Details (With Text)

<b>File #:</b>	ORD. 2022-123	<b>Version:</b>	1	<b>Name:</b>	
<b>Type:</b>	Ordinance	<b>Status:</b>		Adopted	
<b>File created:</b>	3/8/2022	<b>In control:</b>		City Council	
<b>On agenda:</b>	5/2/2022	<b>Final action:</b>		5/9/2022	
<b>Title:</b>	To authorize the special use of the property known as 5811 Grove Avenue for the purpose of an outdoor dining area to the rear of an existing building, upon certain terms and conditions. (1st District)				
<b>Sponsors:</b>	Mayor Stoney (By Request)				
<b>Indexes:</b>					
<b>Code sections:</b>					
<b>Attachments:</b>	1. Staff Report, 2. Ord. No. 2022-123, 3. Application Form & Applicant's Report, 4. Plans & Survey, 5. Map, 6. Non Opposition_WCA				

Date	Ver.	Action By	Action	Result
5/9/2022	1	City Council	adopted	Pass
5/2/2022	1	Planning Commission	recommended for approval	
4/11/2022	1	City Council	introduced and referred	

To authorize the special use of the property known as 5811 Grove Avenue for the purpose of an outdoor dining area to the rear of an existing building, upon certain terms and conditions. (1<sup>st</sup> District)

WHEREAS, the owner of the property known as 5811 Grove Avenue, which is situated in a UB Urban Business District, a R-4 Single-Family Residential District, and a Grove/Libbie Parking Overlay District PO-1, desires to use such property for the purpose of an outdoor dining area to the rear of an existing building, which use, among other things, is not currently allowed by section 30-408.1 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 5811 Grove Avenue and identified as Tax Parcel No. W021-0358/006 in the 2022 records of the City Assessor, being more particularly shown on sheet C03 of the plans entitled “Catura Patio Expansion, 5811 Grove Avenue,” prepared by Parker Design Group, and dated August 18, 2021, 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 an outdoor dining area to the rear of an existing building, hereinafter referred to as “the Special Use,” substantially

as shown on the plans entitled “Project Name: 5811 Grove Avenue,” with sheets T001, AC01, A115 prepared by PSH+, and dated August 31, 2021, and sheet S2.01 of the plans entitled “Project Name: 5811 Grove Avenue,” prepared by PSH+ and Balzer & Associates, and dated October 29, 2021, and entitled “Catura Patio Expansion, 5811 Grove Avenue,” prepared by Parker Design Group, and dated August 18, 2021, hereinafter referred to, collectively, 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 an outdoor dining area to the rear of an existing building, substantially as shown on the Plans.

(b) No fewer than 27 off-street parking spaces shall be provided on the Property, substantially as shown on the Plans.

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

(d) All mechanical equipment serving the Property shall be located or screened so as not to be visible from any public right-of-way.

(e) The Special Use shall only be operated between the hours of 7:00 a.m. through 10:00 p.m.

(f) Music shall only be permitted as part of the Special Use between the hours of 12:00 p.m. through 9:00 p.m., Friday and Saturday.

(g) Occupancy of the Special use at any time shall not exceed 44 persons or the maximum

capacity allowed by the Virginia Uniform Statewide Building Code, whichever is less.

- (h) No less than two covered trash containers shall be provided for the Special Use.

§ 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) 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 Request**

**DATE:** March 14, 2022

**EDITION:** 1

**TO:** The Honorable Members of City Council

**THROUGH:** The Honorable Levar M. Stoney, Mayor (Mayor, by Request)  
(This is 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 authorize the special use of the property known as 5811 Grove Avenue for the purpose of a restaurant with an enclosed outdoor dining area, upon certain terms and conditions.

**ORD. OR RES. No.**

**PURPOSE:** To authorize the special use of the property known as 5811 Grove Avenue for the purpose of a restaurant with an enclosed outdoor dining area, upon certain terms and conditions.

**REASON:** The applicant is requesting a Special Use Permit for the purpose of a restaurant, with an enclosed outdoor dining area, within a UB-PO1 Urban Business Parking Overlay Zoning District, and an R-4 Single-Family Residential District. Such a use is not a permitted use in these districts. A Special Use Permit is therefore 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. This item will be scheduled for consideration by the Commission at its May 2, 2022, meeting.

**BACKGROUND:** 5811 Grove Avenue is currently improved with a 6,312 sq. ft. commercial building, and a 2,602 sq. ft. residential building, constructed in 1900, situated on a 25,895 sq. ft. (.59 acre) parcel of land. The property is located in the Westhampton neighborhood and is a part of the Libbie/Grove commercial district.

The City's Richmond 300 Master Plan designates a future land use for the subject property as Community Mixed Use which are defined as a "cluster of medium density, walkable commercial and residential uses that provide neighborhood services to nearby residential communities and sometimes feature regional attractions."

Intensity: Buildings generally ranging from two to six stories, based on street widths and depending on the historic context and stepping down in height adjacent to residential areas, as necessary. New buildings that are taller than historical buildings should step back from the build to line after matching the height of the predominant cornice line of the block. Primary Uses: Retail/office/personal service, multi-family residential, cultural, and open space. Secondary Uses: Single family houses, institutional, and government. (p. 58)

The current zoning for this property is R-4 Single Family and UB PO1 Urban Business Parking Overlay Districts.

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

**BUDGET AMENDMENT NECESSARY:** No

**REVENUE TO CITY:** \$300 application fee

**DESIRED EFFECTIVE DATE:** Upon adoption

**REQUESTED INTRODUCTION DATE:** April 11, 2022

**CITY COUNCIL PUBLIC HEARING DATE:** May 9, 2022

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** None

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** City Planning Commission  
May 2, 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:** Application Form, Applicant's Report, Draft Ordinance, Plans, Survey, Map

**STAFF:** Jonathan Brown, Senior Planner, Land Use Administration (Room 511) 646-5734

Key Issues:

Retain on Consent Agenda

Move to Regular Agenda

Refer Back to Committee

Remove from Council Agenda

Strike

Withdrawn

Continue to: