

INTRODUCED: May 13, 2019

AN ORDINANCE No. 2019-133

To amend Ord. No. 2011-20-32, adopted Mar. 14, 2011, as amended by Ord. No. 2013-75-57, adopted Apr. 22, 2013, and Ord. No. 2015-20-122, adopted June 8, 2015, which authorized the special use of the property known as 310 North 33<sup>rd</sup> Street for the purpose of the conversion of an existing building to a multifamily dwelling with up to 50 units and principal commercial uses permitted on corner lots in the R-63 Multifamily Urban Residential District on the property, to authorize an additional dwelling unit on the first floor, upon certain terms and conditions.

\_\_\_\_\_  
Patron – Mayor Stoney (By Request)

\_\_\_\_\_  
Approved as to form and legality  
by the City Attorney  
\_\_\_\_\_

PUBLIC HEARING: JUN 10 2019 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

I. That Ordinance No. 2011-20-32, adopted March 14, 2011, as amended by Ordinance No. 2013-75-57, adopted April 22, 2013, and Ordinance No. 2015-20-122, adopted June 8, 2015, be and is hereby amended and reordained as follows:

§ 1. That the property known as 310 North 33<sup>rd</sup> Street and identified as Tax Parcel No. E000-0811/001 in the [~~2015~~] 2019 records of the City Assessor, being more particularly shown on a survey entitled “Plat Showing Improvements on No. 312 North 33<sup>rd</sup> Street in the City of Richmond, Virginia,” prepared by Gene Watson & Associates, P.C., dated August 4, 2005, and revised June 6,

AYES: 8 NOES: 0 ABSTAIN: \_\_\_\_\_

ADOPTED: JUN 10 2019 REJECTED: \_\_\_\_\_ STRICKEN: \_\_\_\_\_

2006, a copy of which is attached to and made a part of Ordinance No. 2013-75-57, adopted April 22, 2013, is hereby authorized for the conversion of the existing building for up to [~~fifty (50) multi-family~~] 51 multifamily dwelling units, for R-63 Multifamily Urban Residential District principal commercial uses permitted on corner lots and for outdoor dining, substantially as shown on sheets A1.1, A1.2, A1.2A, A1.3, A1.3A, A2.1, A2.2, A5.1, A5.2, and SP.1, dated November 10, 2010, with sheets A1.1 and SP-1 being last revised December 15, 2010, and A3.1, A3.2, A3.3, and A3.4, dated August 11, 2010, with sheet A3.2 being last revised December 15, 2010, of the plans entitled “Chimborazo Apartments” and prepared by Hower Studio, copies of which are attached to and made a part of Ordinance No. 2011-20-32, adopted on March 14, 2011, and on sheets A0.0, A1.0, and A4.0 of the plans entitled “Chimborazo Apts - Amenity Space SUP”, prepared by Hower Studio Architecture and Interior Design and dated October 4, 2012, with sheets A0.0 and A1.0 being last revised January 22, 2013 and sheet A4.0 being last revised January 24, 2013, copies of which are attached to and made a part of Ordinance No. 2013-75-57, adopted April 22, 2013, and on sheet SP.2 of the plans entitled “Urban Farmhouse,” prepared by Hower Studio Architecture & Interior Design and dated November 20, 2014, copies of which are attached and made part of [~~this ordinance~~] Ordinance No. 2015-20-122, adopted June 8, 2015, as amended by the plans entitled “310 N. 33<sup>rd</sup> Amendment,” prepared by an unknown preparer, and dated February, 2019, copies of which are attached to and made a part of this amendatory ordinance.

§ 2. That the adoption of this ordinance shall constitute the granting of a special use permit for the property, which shall be transferable from the owner of the property to the successor or successors in fee simple title of the owner, whether acquired by operation of law, deed or otherwise, and which shall run with the land.

§ 3. That the Commissioner of Buildings is hereby authorized to issue to the owner of the property a building permit, substantially in accordance with the plans referred to above, for the aforementioned purpose, subject to the following terms and conditions:

(a) The owner of the property shall be bound by, shall observe and shall comply with all other laws, ordinances, rules and regulations applicable to the property, except as otherwise provided in this ordinance.

(b) Application for a building permit shall be made within [~~twenty-four (24)~~] 24 months from the effective date of this ordinance. This building permit shall expire and shall become null and void if any necessary construction has not commenced within [~~one hundred eighty (180)~~] 180 days from the date of the building permit or if construction is suspended or abandoned for a period of [~~one hundred eighty (180)~~] 180 days at any time after such construction has commenced, as provided in any applicable provisions of the Virginia Uniform Statewide Building Code. Should application for the building permit not be made within [~~twenty-four (24)~~] 24 months after the effective date of this ordinance or should the building permit expire and become null and void after the expiration of the [~~twenty-four (24)~~] 24 month time period for making application for the building permit, the privileges granted by this ordinance shall terminate and the special use permit shall become null and void.

(c) 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 subject property have been paid.

(d) All required final grading and drainage plans, together with all easements made necessary by such plans, shall be approved by the Director of Public Utilities prior to the issuance of building permits.

(e) 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 adjacent property or public streets and the use thereof.

(f) 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.

(g) Any encroachments existing, proposed on the attached 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 [~~(2004)~~ (2015)], as amended.

(h) A multifamily dwelling containing no more than [~~fifty (50)~~] 51 dwelling units shall be permitted on the property, configured substantially as depicted on the plans attached to Ordinance No. 2011-20-32, adopted March 14, 2011, as modified by the plans attached to Ordinance No. 2013-75-57, adopted April 22, 2013, the plans attached to Ordinance No. 2015-20-122, adopted June 8, 2015, and the plans entitled "310 N. 33<sup>rd</sup> Amendment," prepared by an unknown preparer, and dated February, 2019, showing a dwelling unit on the first floor of the building, copies of which are attached to and made a part of this amendatory ordinance. [~~Any~~] A leasing office may also be located in the building. If the building contains 50 dwelling units, any permitted principal commercial use on corner lots in the R-63 Multifamily Urban Residential District [~~shall be authorized~~] may be located within the area in the building indicated as "Amenity Space" on the plans attached to Ordinance No. 2013-75-57, adopted April 22, 2013, provided that dwelling units are not permitted. Parking requirements to serve this commercial use shall be waived.

(i) A minimum of [~~thirty-five (35)~~] 35 parking spaces to serve the dwelling use shall be required; however, in the event that the total number of dwelling units in the building number fewer than [~~thirty-five~~] 35, parking shall be provided at the rate of one space per dwelling unit. Seven [~~(7)~~] of the required parking spaces shall be provided on-site and may be counted towards the parking requirements if they meet the dimensions for compact stalls specified in section [~~114.710.3:1(a)~~] 30-710.3:1(a) of the Code of the City of Richmond [~~(2004)~~] (2015), as amended, and substantially as shown on the [~~attached~~] plans attached to Ordinance No. 2015-20-122, adopted June 8, 2015. All other required parking shall be provided in accordance with and subject to the provisions of section [~~114-710.4~~] 30-710.4 of the Code of the City of Richmond [~~(2004)~~] (2015), as amended[~~, with the exception that any required off-street parking spaces may be provided off the premises~~] [~~within a four hundred and fifty (450) foot radius of a principal entrance to the building occupied by such use~~]. However, if parking for the use on the property for which this ordinance grants a special use permit is provided on a property not held in fee simple by the owner of the property for which this ordinance grants a special use permit, evidence of a prospective tenure for such off-site parking that meets the requirements of this subsection must be approved as to terms by the Zoning Administrator before a building permit may be issued. Further, notwithstanding any provision of section [~~114-710.4~~] 30-710.4 of the Code of the City of Richmond [~~(2004)~~] (2015), as amended, to the contrary, the terms of the tenure must be approved by the Zoning Administrator and the form of the tenure must be approved by the City Attorney before a Certificate of Occupancy or a Certificate of Zoning Compliance may be issued.

(j) Identification of the premises shall be as set forth in section [~~114-506~~] 30-506 of the Code of the City or Richmond [~~(2004)~~] (2015), as amended. The existing “Chimborazo

School” signs on the 33<sup>rd</sup> Street and East Marshall Street sides of the building may be retained. Signage for the commercial use shall consist of one sign provided substantially as shown on the ~~[attached]~~ plan sheet A4.0 of the plans attached to ~~[this ordinance]~~ Ordinance No. 2015-20-122, adopted June 8, 2015.

(k) Outdoor dining, if accessory to a commercial use specified in section 3(h) of this amendatory ordinance, shall be permitted as substantially shown on the plans attached to ~~[this amendatory ordinance]~~ Ordinance No. 2015-20-122, adopted June 8, 2015, subject to the following conditions:

(1) The outdoor dining area shall be limited to 575 square feet, as shown on the plans attached to ~~[this amendatory ordinance]~~ Ordinance No. 2015-20-122, adopted June 8, 2015.

(2) Covered trash containers shall be provided in service areas, and fences, walls or vegetative screening shall be provided around service areas, except at entrances and exits, to prevent refuse from blowing onto adjacent properties or streets.

(3) No televisions, other electronic audio or visual devices, other means of producing amplified sound, cash registers, card readers, vending machines, or similar items shall be provided within or for the patrons of the outdoor dining area.

(4) Within the outdoor dining area, there shall be no live entertainment, food or beverage preparation or service to standing patrons.

(5) Use of the outdoor dining area for all purposes shall cease by no later than 9:00 p.m.

(6) No parking shall be required for the outdoor dining area.

(l) In order to ensure that the special use permitted by this ordinance (i) will not be detrimental to the safety, health, and general welfare of the community involved, (ii) will not create hazards from dangers in streets, roads, alleys and other public ways and places in the area involved and (iii) will not adversely affect or interfere with public requirements, conveniences and improvements, the owner shall install one or more handicap ramps and street trees within the right-of-way substantially as shown on the ~~[attached]~~ plans attached to Ordinance No. 2015-20-122, adopted June 8, 2015, and shall repair or replace existing sidewalks, curbs, gutters, alley aprons, entrance ramps and pavement in the public right-of-way abutting the properties as required 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 that such improvements and work are in accordance with such requirements, (iii) transferred to the City, following the written confirmation by the Director of Public Works, 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. No certificate of occupancy shall be issued for the property until all requirements of this subsection are fully satisfied.

~~[(4)]~~ (m) In all other respects, the use of the property shall be in accordance with the applicable underlying zoning regulations.

§ 4. ~~[That the]~~ 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 through 114 1050.11 of the Code of the City of Richmond (2004), 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. Failure to comply with the terms and conditions of this ordinance shall constitute a violation of section 114 1080 of the Code of the City of Richmond (2004), as amended, or any other applicable laws or regulations] be revoked pursuant to the provisions of sections 30-1050.7 through 30-1050.11 of the Code of the City of Richmond (2015), 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 (2015), as amended, and all future amendments to such law, or any other applicable laws or regulations.~~

§ 5. 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 (24)~~] 24 consecutive months, use of the property shall be governed thereafter by the zoning regulations prescribed for the district in which the property is then situated.

§ 6. This ordinance shall be 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

## Item Request

File Number: PRE.2019.145

RECEIVED

APR 30 2019

O & R REQUEST

4-8763

APR 17 2019

OFFICE OF CITY ATTORNEY

O & R Request

Office of the  
Chief Administrative Officer

DATE: April 16, 2019

EDITION: 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, 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: Sharon Ebert, Deputy Chief Administrative Officer for Economic Development and Planning

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

RE: To amend Ord. No. 2011-20-32, adopted Mar. 14, 2011, as amended by Ord. No. 2013-75-57, adopted Apr. 22, 2013, and Ord. No. 2015-20-122, adopted June 8, 2015, which authorized the special use of the property known as 310 North 33rd Street for the purpose of the conversion of an existing building to a multi-family dwelling with up to 50 units and principal commercial uses permitted on corner lots in the R-63 Multi-Family Urban Residential District on the property and outdoor dining, to authorize an additional dwelling unit, upon certain terms and conditions.

ORD. OR RES. No. \_\_\_\_

**PURPOSE:** To amend Ord. No. 2011-20-32, adopted Mar. 14, 2011, as amended by Ord. No. 2013-75-57, adopted Apr. 22, 2013, and Ord. No. 2015-20-122, adopted June 8, 2015, which authorized the special use of the property known as 310 North 33rd Street for the purpose of the conversion of an existing building to a multi-family dwelling with up to 50 units and principal commercial uses permitted on corner lots in the R-63 Multi-Family Urban Residential District on the property and outdoor dining, to authorize an additional dwelling unit, upon certain terms and conditions.

**REASON:** A special use permit is in place at 310 North 33rd Street, authorizing up to 50 dwelling units and commercial space within an existing building. The owner has requested an amendment to the special use permit in order to authorize an additional dwelling unit within a portion of the commercial space. The remainder of the commercial space is occupied by a leasing office. The commercial space proposed to be converted into a two-bedroom dwelling unit has been vacant for more than two years in spite of efforts to find a commercial tenant.

**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 June 3, 2019, meeting. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting.

**BACKGROUND:** The approximately .50 acre property is zoned R-63 Multi-Family Urban Residential and is located on the southwest corner of the intersection of North 33rd and East Marshall Streets in the Chimborazo neighborhood. It is the site of the former Chimborazo School, a 1904 three-story building that was readapted to house 50 apartments. The proposed special use permit amendment will increase the number of apartments to 51.

Properties to the north, west and south of the subject property are zoned R-8 Urban Residential and primarily contain single-family dwellings. There are two multi-family dwellings across North 33rd Street that are also in the R-63 Multi-Family Urban Residential District.

The subject property is located in the East Planning District. The Master Plan recommends mixed-use residential uses for the property. The primary recommended uses for this land use category are "single-, two-, and multi-family dwellings, live/work units and neighborhood serving commercial uses developed in a traditional urban form" (p. 304).

**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:** \$1,800 application fee

**DESIRED EFFECTIVE DATE:** Upon Adoption

**REQUESTED INTRODUCTION DATE:** May 13, 2019

**CITY COUNCIL PUBLIC HEARING DATE:** June 10, 2019

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** None

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** City Planning Commission  
June 3, 2019

**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 ORD. OR RES.:** Amendment of Ord. No. 2015-20-122

**REQUIRED CHANGES TO WORK PROGRAM(S):** None

**ATTACHMENTS:** Application Form, Applicant's Report, Amended Plan, Map

**STAFF:** David Watson, Senior Planner, Land Use Administration (Room 511) 646-6304



SUP - 048427-2019

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: 310 N. BRO ST., RICHMOND, VA 23223 Date: \_\_\_\_\_  
 Tax Map #: F000-0811/001 Fee: 7,800  
 Total area of affected site in acres: .02 ACRE

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

**Zoning**

Current Zoning: R-63

Existing Use: MULTI-FAMILY APARTMENTS

**Proposed Use**

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

CONVERT HALF FIRST FLOOR COMMERCIAL SPACE TO 2 B.R. APARTMENT  
 Existing Use: 50 APARTMENTS, FLOOR ONE AND GET COMMERCIAL SPACE IN HALF

Is this property subject to any previous land use cases?

Yes  No  If Yes, please list the Ordinance Number: 2011-20-32, 2013-25-57, 2015-20-122

Applicant/Contact Person: SUSAN OULD  
 Company: MANY LIVES, LLC  
 Mailing Address: 2630 PALMER DR.  
 City: RESWICK State: VA Zip Code: 22947  
 Telephone: (434) 981-6455 Fax: ( )  
 Email: SNOULD@AOL.COM

Property Owner: MANY LIVES, LLC D/B/A RVA APARTMENTS  
 If Business Entity, name and title of authorized signer: SUSAN OULD, MANAGING MEMBER

(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: 2630 PALMER DR.  
 City: RESWICK State: VA Zip Code: 22947  
 Telephone: (434) 981-6455 Fax: ( )  
 Email: SNOULD@AOL.COM

Property Owner Signature: Susan Ould

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, 310 N. 33<sup>rd</sup> STREET

**Background:** The former Chimborazo School has been converted into 50 one-bedroom apartments known as Lava Lofts based on a Special Use Permit first adopted March 14, 2011 [amended April 22, 2013] for 50 apartments and one commercial space. In 2015 the permit was amended to allow outdoor dining, but Urban Farmhouse was not successful at the location and vacated the commercial space the next year. The commercial space on the first floor consists of approximately 2,180 square feet and the Landlord is using half of it, approximately 1,090 square feet, as its Leasing Office. Despite advertising, realtor and landlord efforts, the Landlord has not been able to rent the balance of the commercial space, approximately 1,090 square feet, and it has remained vacant.

**Purpose:** To amend the Special Use Permit to allow 51 apartments so that the vacant commercial space can be converted in to a two-bedroom apartment.

**Reason:** Vacant space helps no one, not the landlord, the other tenants or the neighborhood. There is currently vacant commercial space within a block of the Property at 3119 E. Marshall Street. The current chair of the Historic Preservation and Land Use Committee of The Church Hill Association, Barbara Cotter, informs us that the Association is favorably inclined to this request because the neighborhood needs additional two-

bedroom apartments to attract young families who are not in a position to buy. However, it is the policy of The Church Hill Association to provide the letter after the application is submitted, not before.

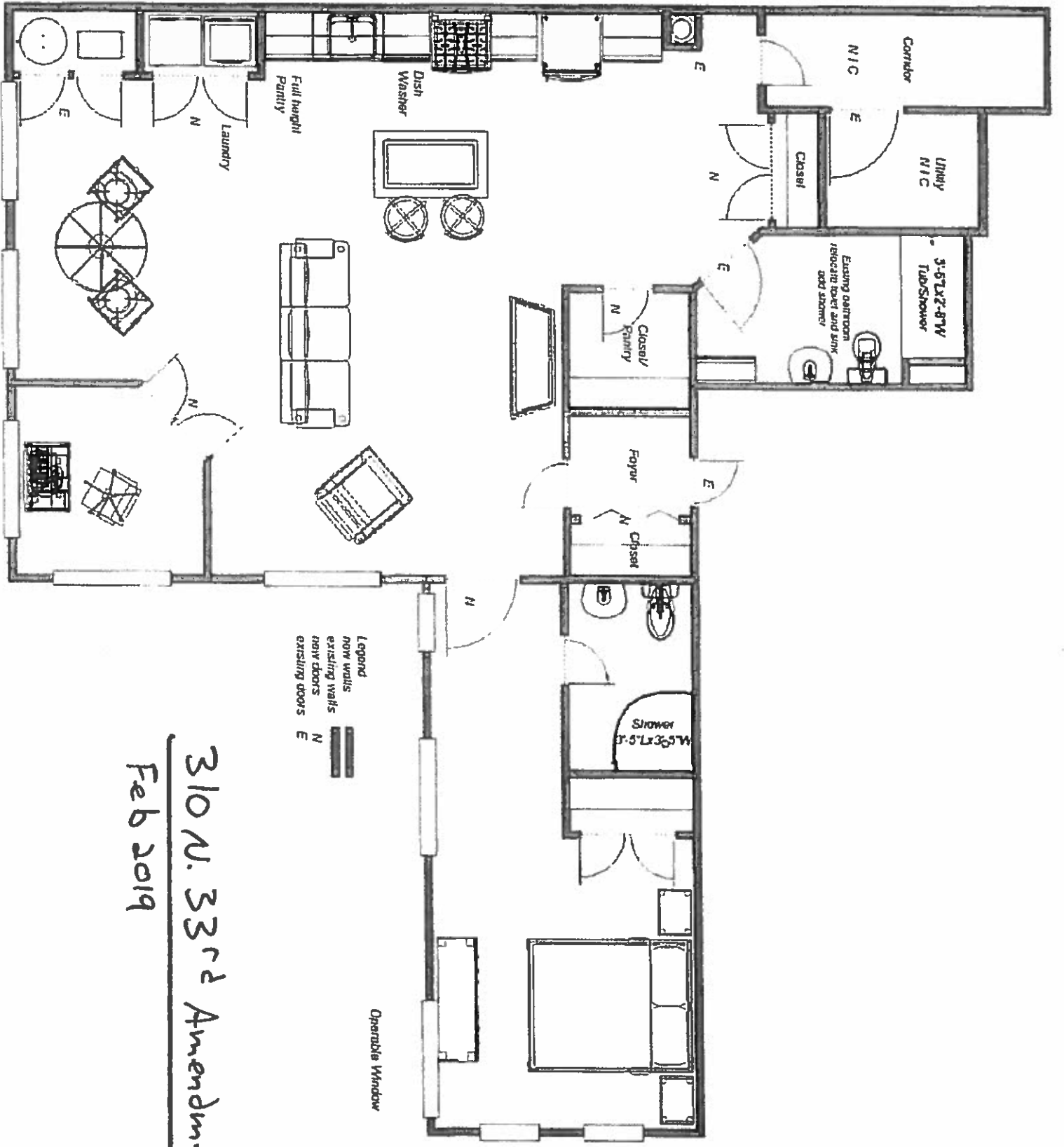
Converting a vacant commercial space to a two-bedroom apartment will not be detrimental to the safety, health, morals and general welfare of the community. It will not tend to create congestion in streets, roads, alleys and other public ways and places in the neighborhood. In comparison to retail or dining use, the proposed change will tend to decrease congestion. It will not create hazards from fire, panic or other dangers. One additional two-bedroom apartment in a building with 50 units will not tend to cause overcrowding of land and an undue concentration of population. It 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. One apartment will tend to use less water and sewer than Urban Farmhouse did. This interior conversion will have no affect on, and certainly not interfere with, adequate light and air for anyone. The owner rents 28 parking spaces from the Mosque across the street so there is no problem with parking.

This can be a win situation for the neighborhood, potential

renters, the landlord and existing tenants.

Landlord Many Lives, LLC d/b/a RVA Apartments

by \_\_\_\_\_  
Susan Ould, Managing Member



310 N. 33rd Amendment  
 Feb 2019