



CITY OF RICHMOND

DEPARTMENT OF
PLANNING AND DEVELOPMENT REVIEW
BOARD OF ZONING APPEALS

July 8, 2019

Stephen C. and Janice H. Nuckolls
1815 Monument Avenue
Richmond, VA 23220

Joseph K. Reid, III
1821 Monument Avenue
Richmond, VA 23220

To Whom It May Concern:

RE: **BZA 34-2019**

You are hereby notified that the Board of Zoning Appeals will hold a public hearing on Wednesday, August 7, 2019 at 1:00 p.m. in the 5th floor conference room, City Hall, 900 East Broad Street, to consider an appeal of Stephen C. and Janice H. Nuckolls that an April 19, 2018 decision of the Zoning Administrator to permit conversion of 1805 MONUMENT AVENUE and 408, 410 & 412 N. ALLEN AVENUE from a nonconforming office use to a multifamily residential apartment building under Sec. 30-800.3 of the Zoning Ordinance was in error.

Please be advised that in the case of an appeal of the decision of the Zoning Administrator, the Zoning Administrator and the Appellant or Appellant's representative shall be permitted a total of ten (10) minutes to present their case in chief and their rebuttal. The Zoning Administrator and the Appellant or Appellant's representative shall be required prior to beginning their presentation to declare to the Board how many of their allotted minutes shall be devoted to their case in chief and their rebuttal. Following the presentations of the Zoning Administrator and the Appellant or Appellant's representative, other interested parties shall be permitted a total of ten (10) minutes to present their views. Interested parties are defined as a property owner other than the Appellant whose property is the subject of an appeal and the neighborhood constituency consisting of neighbors and neighborhood association(s).

BZA 34-2019
Page 2
July 8, 2019

If you have any questions regarding the Board's procedures or any issue involving presentation of your case, please feel free to contact me.

Very truly yours,

A handwritten signature in cursive script that reads "Roy W. Benbow".

Roy W. Benbow, Secretary
Phone: (804) 240-2124
Fax: (804) 646-5789
E-mail: Roy.Benbow@richmondgov.com

cc: Zoning Administrator

Notice of this meeting is being sent to the persons whom the Board of Zoning Appeals believes to be property owners in the immediate vicinity of the property concerned in this application. This notice is for their information only, and there is no need for them to appear unless they so desire. The Board will, however, welcome such views as any persons care to express during the hearing on this application.

Arcadia Condominium Unit Owners Association
407 N Allen Ave
Richmond VA 23220

Baird Carol F Revocable Trust Trs
407 N Allen Ave Unit #2
Richmond VA 23220

Baird Carol P Revocable Trust Trs
407 N Allen Ave Unit 3
Richmond VA 23220

Bauder Page Wharton Revocable Trust Trs
1225 Lorraine Ave
Richmond VA 23227

Blandford Robin J & Nancy C Everett
1812 Park Ave
Richmond VA 23220

Blankenship E Randolph Jr
1808 Monument Ave
Richmond VA 23220

Calvert Frederic R Jr & Esra O
1810 Park Ave
Richmond VA 23220

Carreras Brett S
402 N Allen Ave
Richmond VA 23220

Chasen Madeleine Ann & Buckley David Paul
1808 Park Ave
Richmond VA 23220

City Of Richmond Row - Public Works
900 E Broad St
Richmond VA 23219

Commonwealth Of Virginia Division Of
Engineering
1100 Bank Street Suite 506
Richmond VA 23219

Cooke Nicholas T Iii
407 N Allen Ave Unit 1
Richmond VA 23220

Drummond Douglas B
1817 Rear Monument Ave
Richmond VA 23220

Hayes Paul J & Hawley Kimberly
400 N Allen Ave
Richmond VA 23220

Heltzel Janet V & Hostetler George D
403 N Allen Ave
Richmond VA 23220

Iain's Llc
18 10th St #436
San Francisco CA 94103

Jones Sidney R Iii & Susan W
1806 Park Ave
Richmond VA 23220

Kennedy Kevin J Sr
8085 Bisbrooke Ct
Mechanicsville VA 23116

Khonsari Anahita & Johnson Joseph
1819 Monument Ave
Richmond VA 23220

Love Temple Church Of God In Christ Tr
1801 Park Ave
Richmond VA 23220

Lucky George Investment LLC
328 Harbor Dr
Macon NC 27551

Massie William Mckinnon Jr & Alice Mcguire
Massie
1643 Monument Ave
Richmond VA 23220

Nuckolls Stephen C & Janice H
1815 Monument Ave
Richmond VA 23220

Schmitz Ronald D & Melissa
405 N Allen Ave
Richmond VA 23220

Smith Ronald C & Gerry R
1804 Park Ave
Richmond VA 23220

Stefanovich Andrew E & Jill F
401 N Allen Ave
Richmond VA 23220

Tyler Catlin E Iii & Savenko Melissa L
1809 Park Ave
Richmond VA 23220

Warthen Martha A
1802 Park Ave
Richmond VA 23220

Waters Lawrence W & Haidee F
2271 Banstead Rd
Midlothian VA 23113

Whitchurch Joseph M & Aleksandra
1811 Monument Ave
Richmond VA 23220

Wickham George B & Mary T
1817 Monument Ave
Richmond VA 23220

Property: 1805 Monument Ave **Parcel ID:** W0000861020

Parcel

Street Address: 1805 Monument Ave Richmond, VA 23220-
Alternate Street Addresses: 1801 Monument Ave
Owner: ARAMIN PROPERTIES LLC
Mailing Address: 4504 WYTHE AVENUE, RICHMOND, VA 23221
Subdivision Name : NONE
Parent Parcel ID:
Assessment Area: 450 - Fan/Near West
Property Class: 441 - B General Office
Zoning District: R-6 - Residential (Single Family Attached)
Exemption Code: -

Current Assessment

Effective Date: 01/01/2019
Land Value: \$936,000
Improvement Value: \$1,407,000
Total Value: \$2,343,000
Area Tax: \$0
Special Assessment District: None

Land Description

Parcel Square Feet: 17332
Acreage: 0.3979
Property Description 1: 0155.00X0151 IRG0000.397
State Plane Coords(?<#>): X= 11784126.115279 Y= 3726852.632632
Latitude: 37.55378471 , **Longitude:** -77.46077537

Description

Land Type: Primary Commercial/Indust Land
Topology:
Front Size: 155
Rear Size: 0
Parcel Square Feet: 17332
Acreage: 0.3979
Property Description 1: 0155.00X0151 IRG0000.397
Subdivision Name : NONE
State Plane Coords(?<#>): X= 11784126.115279 Y= 3726852.632632
Latitude: 37.55378471 , **Longitude:** -77.46077537

Other

Street improvement:
Sidewalk:

Assessments

Assessment Year	Land Value	Improvement Value	Total Value	Reason
2019	\$936,000	\$1,407,000	\$2,343,000	Reassessment
2018	\$858,000	\$1,342,000	\$2,200,000	Reassessment
2017	\$858,000	\$1,342,000	\$2,200,000	Reassessment
2016	\$485,000	\$1,563,000	\$2,048,000	Reassessment
2015	\$485,000	\$1,465,000	\$1,950,000	Reassessment
2014	\$485,000	\$1,465,000	\$1,950,000	Reassessment
2013	\$485,000	\$1,465,000	\$1,950,000	OfficeReview
2012	\$485,000	\$1,843,000	\$2,328,000	Reassessment
2011	\$364,000	\$1,964,000	\$2,328,000	CarryOver
2010	\$364,000	\$1,964,000	\$2,328,000	Reassessment
2009	\$364,000	\$1,964,300	\$2,328,300	Reassessment
2008	\$364,000	\$1,964,300	\$2,328,300	BOR
2008	\$364,000	\$2,057,000	\$2,421,000	Reassessment
2007	\$364,000	\$1,759,700	\$2,123,700	BOR
2006	\$182,000	\$1,963,000	\$2,145,000	Correction
2005	\$208,000	\$2,162,000	\$2,370,000	Reassessment
2004	\$281,500	\$613,400	\$894,900	Reassessment
2003	\$244,800	\$613,400	\$858,200	Reassessment
2002	\$244,800	\$613,400	\$858,200	Reassessment
1998	\$180,000	\$451,000	\$631,000	Not Available

Transfers

Transfer Date	Consideration Amount	Grantor Name	Deed Reference	Verified Market Sale Description
07/01/2005	\$2,400,000	RUBEN STEPHEN D	ID2005- 21567	1 - VALID SALE-Sale Includes Multiple Parcels
12/27/2002	\$2,100,000	LEE MOB L L C	ID2003-703	
11/07/1996	\$0	Not Available	09600-23438	
11/01/1996	\$0	Not Available	009600- 202917	

Planning

Master Plan Future Land Use: SF-MD
Zoning District: R-6 - Residential (Single Family Attached)
Planning District: Near West
Traffic Zone: 1093
City Neighborhood Code: FAN
City Neighborhood Name: The Fan
Civic Code:
Civic Association Name: Fan Area Business Alliance
Subdivision Name: NONE
City Old and Historic District: Monument Avenue
National historic District: Monument Avenue
Neighborhoods in Bloom:
Redevelopment Conservation Area:

Economic Development

Care Area: -
Enterprise Zone: III

Environment

100 YEAR Flood Plain Flag: Contact the Water Resources Division at 646-7586.
500 YEAR Flood Plain Flag: N
Resource Protection Flag: Contact the Water Resources Division at 646-7586.
Wetland Flag: N

Census

Census Year	Block	Block Group	Tract
2000	1010	0405001	040500
1990	109	0405001	040500

Schools

Elementary School: Fox
Middle School: Hill
High School: Jefferson

Public Safety

Police Precinct: 3
Police Sector: 313
Fire District: 10
Dispatch Zone: 035A

Public Works Schedules

Street Sweep: TBD
Leaf Collection: TBD
Refuse Collection: Wednesday
Bulk Collection: TBD

Government Districts

Council District: 2
Voter Precinct: 204
State House District: 71
State Senate District: 9
Congressional District: 4

Extension 1 Details

Extension Name: C01 - Com Medical clinic/offices
Year Built: 1920
Stories: 6
Units: 0
Number Of Rooms: 0
Number Of Bed Rooms: 0
Number Of Full Baths: 0
Number Of Half Baths: 0
Condition: normal for age
Foundation Type:
1st Predominant Exterior:
2nd Predominant Exterior: N/A
Roof Style: 1
Roof Material:
Interior Wall:
Floor Finish:
Heating Type: 0 sf
Central Air: N
Basement Garage Car #: 0
Fireplace: N
Building Description (Out Building and Yard Items) : Paving

Extension 1 Dimensions

Finished Living Area: 41826 Sqft
Attic: 0 Sqft
Finished Attic: 0 Sqft
Basement: 6971 Sqft
Finished Basement: 0 Sqft
Attached Garage: 0 Sqft
Detached Garage: 0 Sqft
Attached Carport: 0 Sqft
Enclosed Porch: 0 Sqft
Open Porch: 0 Sqft
Deck: 0 Sqft

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Property Images

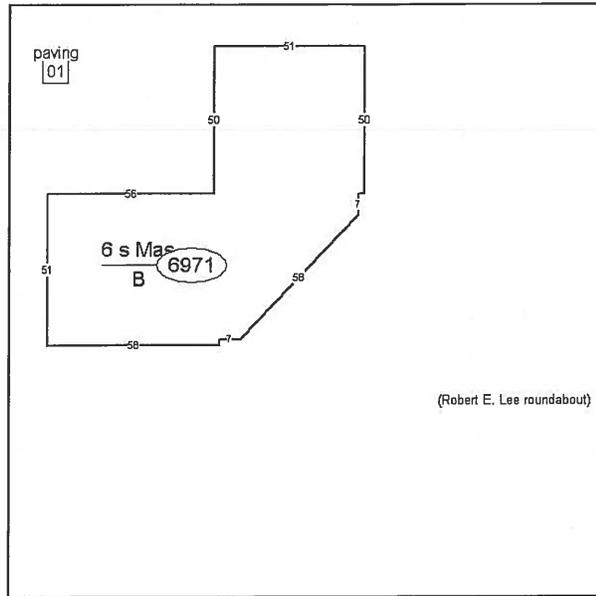
Name:W0000861020 Desc:C01



[Click here for Larger Image](#)

Sketch Images

Name: W0000861020 Desc: C01



Property: 408 N Allen Ave **Parcel ID:** W0000861031**Parcel**

Street Address: 408 N Allen Ave Richmond, VA 23220-
Owner: ARAMIN PROPERTIES LLC
Mailing Address: 4504 WYTHE AVENUE, RICHMOND, VA 23221
Subdivision Name : NONE
Parent Parcel ID: W0000861020
Assessment Area: 450 - Fan/Near West
Property Class: 406 - B Paved Surface Parking
Zoning District: R-6 - Residential (Single Family Attached)
Exemption Code: -

Current Assessment

Effective Date: 01/01/2019
Land Value: \$132,000
Improvement Value: \$3,000
Total Value: \$135,000
Area Tax: \$0
Special Assessment District: None

Land Description

Parcel Square Feet: 2583
Acreage: 0.059
Property Description 1: 0021.00X0123.00 0000.000
State Plane Coords(?<#>): X= 11784057.206624 Y= 3726672.989291
Latitude: 37.55331576 , **Longitude:** -77.46117374

Description

Land Type: Primary Commercial/Indust Land
Topology:
Front Size: 21
Rear Size: 123
Parcel Square Feet: 2583
Acreage: 0.059
Property Description 1: 0021.00X0123.00 0000.000
Subdivision Name : NONE
State Plane Coords(?<#>): X= 11784057.206624 Y= 3726672.989291
Latitude: 37.55331576 , **Longitude:** -77.46117374

Other

Street improvement:
Sidewalk:

Assessments

Assessment Year	Land Value	Improvement Value	Total Value	Reason
2019	\$132,000	\$3,000	\$135,000	Reassessment
2018	\$121,000	\$3,000	\$124,000	Reassessment
2017	\$121,000	\$3,000	\$124,000	OfficeReview
2016	\$50,000	\$2,000	\$52,000	Reassessment
2015	\$50,000	\$2,000	\$52,000	Reassessment
2014	\$50,000	\$2,000	\$52,000	Reassessment
2013	\$50,000	\$2,000	\$52,000	Reassessment
2012	\$50,000	\$2,000	\$52,000	Reassessment
2011	\$50,000	\$2,000	\$52,000	CarryOver
2010	\$50,000	\$2,000	\$52,000	Reassessment
2009	\$50,000	\$2,000	\$52,000	Reassessment
2008	\$50,000	\$2,000	\$52,000	Reassessment
2007	\$49,800	\$2,200	\$52,000	Reassessment
2006	\$24,900	\$2,200	\$27,100	Correction
2005	\$71,000	\$2,000	\$73,000	Reassessment
2004	\$59,800	\$0	\$59,800	Reassessment
2003	\$52,000	\$0	\$52,000	Reassessment
2002	\$52,000	\$0	\$52,000	Reassessment
2001	\$38,000	\$1,000	\$39,000	Reassessment
2000	\$33,000	\$1,000	\$34,000	Reassessment
1998	\$33,000	\$1,000	\$34,000	Not Available

Transfers

Transfer Date	Consideration Amount	Grantor Name	Deed Reference	Verified Market Sale Description
07/01/2005	\$2,400,000	RUBEN STEPHEN D	ID2005-21567	
12/27/2002	\$2,100,000	LEE MOB L L C	ID2003-703	
11/07/1996	\$0	Not Available	09600-23438	
11/01/1996	\$0	Not Available	009600-202917	

Planning

Master Plan Future Land Use: SF-MD
Zoning District: R-6 - Residential (Single Family Attached)
Planning District: Near West
Traffic Zone: 1093
City Neighborhood Code: FAN
City Neighborhood Name: The Fan
Civic Code:
Civic Association Name: Fan Area Business Alliance
Subdivision Name: NONE
City Old and Historic District: Monument Avenue
National historic District: Monument Avenue
Neighborhoods in Bloom:
Redevelopment Conservation Area:

Economic Development

Care Area: -
Enterprise Zone:

Environment

100 YEAR Flood Plain Flag: Contact the Water Resources Division at 646-7586.
500 YEAR Flood Plain Flag: N
Resource Protection Flag: Contact the Water Resources Division at 646-7586.
Wetland Flag: N

Census

Census Year	Block	Block Group	Tract
2000	1010	0405001	040500
1990	109	0405001	040500

Schools

Elementary School: Fox
Middle School: Hill
High School: Jefferson

Public Safety

Police Precinct: 3
Police Sector: 313
Fire District: 10
Dispatch Zone: 035A

Public Works Schedules

Street Sweep: TBD
Leaf Collection: TBD
Refuse Collection: Wednesday
Bulk Collection: TBD

Government Districts

Council District: 2
Voter Precinct: 204
State House District: 71
State Senate District: 9
Congressional District: 4

Extension 1 Details

Extension Name: C02 -
Year Built: 1979
Stories: 0
Units: 0
Number Of Rooms: 0
Number Of Bed Rooms: 0
Number Of Full Baths: 0
Number Of Half Baths: 0
Condition: normal for age
Foundation Type:
1st Predominant Exterior:
2nd Predominant Exterior: N/A
Roof Style:
Roof Material:
Interior Wall:
Floor Finish:
Heating Type:
Central Air: N
Basement Garage Car #: 0
Fireplace: N
**Building Description (Out Building and Paving
Yard Items) :**

Extension 1 Dimensions

Finished Living Area: 0 Sqft
Attic: 0 Sqft
Finished Attic: 0 Sqft
Basement: 0 Sqft
Finished Basement: 0 Sqft
Attached Garage: 0 Sqft
Detached Garage: 0 Sqft
Attached Carport: 0 Sqft
Enclosed Porch: 0 Sqft
Open Porch: 0 Sqft
Deck: 0 Sqft

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Property Images

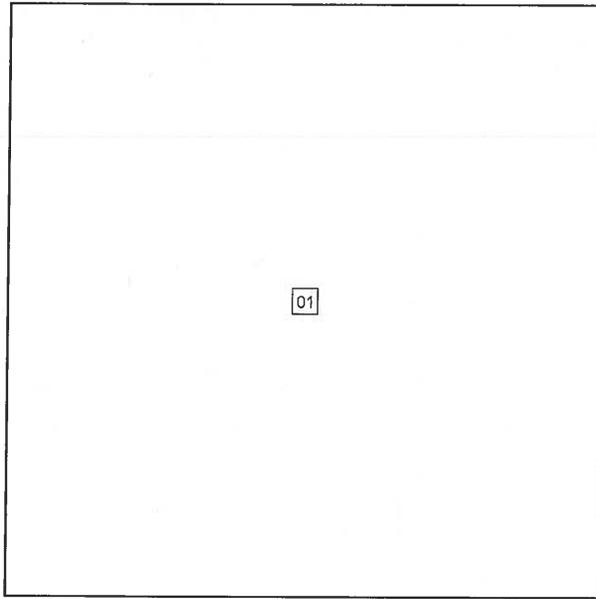
Name:W0000861031 Desc:C02



[Click here for Larger Image](#)

Sketch Images

Name:W0000861031 Desc:C01



Property: 412 N Allen Ave **Parcel ID:** W0000861028**Parcel**

Street Address: 412 N Allen Ave Richmond, VA 23220-
Alternate Street Addresses: 410 N Allen Ave
Owner: ARAMIN PROPERTIES LLC
Mailing Address: 4504 WYTHE AVENUE, RICHMOND, VA 23221
Subdivision Name : NONE
Parent Parcel ID: W0000861020
Assessment Area: 450 - Fan/Near West
Property Class: 406 - B Paved Surface Parking
Zoning District: R-6 - Residential (Single Family Attached)
Exemption Code: -

Current Assessment

Effective Date: 01/01/2019
Land Value: \$504,000
Improvement Value: \$12,000
Total Value: \$516,000
Area Tax: \$0
Special Assessment District: None

Land Description

Parcel Square Feet: 10500
Acreage: 0.2411
Property Description 1: 0075.00X0140.00 0000.241
State Plane Coords(?<#>): X= 11784075.649501 Y= 3726712.976744
Latitude: 37.553513 , **Longitude:** -77.46101512

Description

Land Type: Primary Commercial/Indust Land
Topology:
Front Size: 0
Rear Size: 140
Parcel Square Feet: 10500
Acreage: 0.2411
Property Description 1: 0075.00X0140.00 0000.241
Subdivision Name : NONE
State Plane Coords(?<#>): X= 11784075.649501 Y= 3726712.976744
Latitude: 37.553513 , **Longitude:** -77.46101512

Other

Street improvement:
Sidewalk:

Assessments

Assessment Year	Land Value	Improvement Value	Total Value	Reason
2019	\$504,000	\$12,000	\$516,000	Reassessment
2018	\$462,000	\$11,000	\$473,000	Reassessment
2017	\$462,000	\$11,000	\$473,000	Reassessment
2016	\$216,000	\$7,000	\$223,000	Reassessment
2015	\$216,000	\$7,000	\$223,000	Reassessment
2014	\$216,000	\$7,000	\$223,000	Reassessment
2013	\$216,000	\$7,000	\$223,000	Reassessment
2012	\$216,000	\$7,000	\$223,000	Reassessment
2011	\$216,000	\$7,000	\$223,000	CarryOver
2010	\$216,000	\$7,000	\$223,000	Reassessment
2009	\$216,000	\$7,000	\$223,000	Reassessment
2007	\$92,400	\$3,200	\$95,600	Reassessment
2006	\$46,200	\$3,200	\$49,400	Correction
2005	\$132,000	\$3,000	\$135,000	Reassessment
2004	\$70,200	\$1,700	\$71,900	Reassessment
2003	\$61,000	\$1,500	\$62,500	Reassessment
2002	\$61,000	\$1,500	\$62,500	Reassessment
2001	\$44,900	\$1,000	\$45,900	Reassessment
2000	\$39,000	\$1,000	\$40,000	Reassessment
1998	\$39,000	\$1,000	\$40,000	Not Available

Transfers

Transfer Date	Consideration Amount	Grantor Name	Deed Reference	Verified Market Sale Description
07/01/2005	\$2,400,000	RUBEN STEPHEN D	ID2005-21567	
12/27/2002	\$2,100,000	LEE MOB L L C	ID2003-703	
11/07/1996	\$0	Not Available	09600-23438	
11/01/1996	\$0	Not Available	009600-202917	

Planning

Master Plan Future Land Use: SF-MD
Zoning District: R-6 - Residential (Single Family Attached)
Planning District: Near West
Traffic Zone: 1093
City Neighborhood Code: FAN
City Neighborhood Name: The Fan
Civic Code:
Civic Association Name: Fan Area Business Alliance
Subdivision Name: NONE
City Old and Historic District: Monument Avenue
National historic District: Monument Avenue
Neighborhoods in Bloom:
Redevelopment Conservation Area:

Economic Development

Care Area: -
Enterprise Zone: III

Environment

100 YEAR Flood Plain Flag: Contact the Water Resources Division at 646-7586.
500 YEAR Flood Plain Flag: N
Resource Protection Flag: Contact the Water Resources Division at 646-7586.
Wetland Flag: N

Census

Census Year	Block	Block Group	Tract
2000	1010	0405001	040500
1990	109	0405001	040500

Schools

Elementary School: Fox
Middle School: Hill
High School: Jefferson

Public Safety

Police Precinct: 3
Police Sector: 313
Fire District: 10
Dispatch Zone: 035A

Public Works Schedules

Street Sweep: TBD
Leaf Collection: TBD
Refuse Collection: Wednesday
Bulk Collection: TBD

Government Districts

Council District: 2
Voter Precinct: 204
State House District: 71
State Senate District: 9
Congressional District: 4

Extension 1 Details

Extension Name: C03 -
Year Built: 1979
Stories: 0
Units: 0
Number Of Rooms: 0
Number Of Bed Rooms: 0
Number Of Full Baths: 0
Number Of Half Baths: 0
Condition: normal for age
Foundation Type:
1st Predominant Exterior:
2nd Predominant Exterior: N/A
Roof Style:
Roof Material:
Interior Wall:
Floor Finish:
Heating Type:
Central Air: N
Basement Garage Car #: 0
Fireplace: N
**Building Description (Out Building and Paving
Yard Items) :**

Extension 1 Dimensions

Finished Living Area: 0 Sqft
Attic: 0 Sqft
Finished Attic: 0 Sqft
Basement: 0 Sqft
Finished Basement: 0 Sqft
Attached Garage: 0 Sqft
Detached Garage: 0 Sqft
Attached Carport: 0 Sqft
Enclosed Porch: 0 Sqft
Open Porch: 0 Sqft
Deck: 0 Sqft

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Property Images

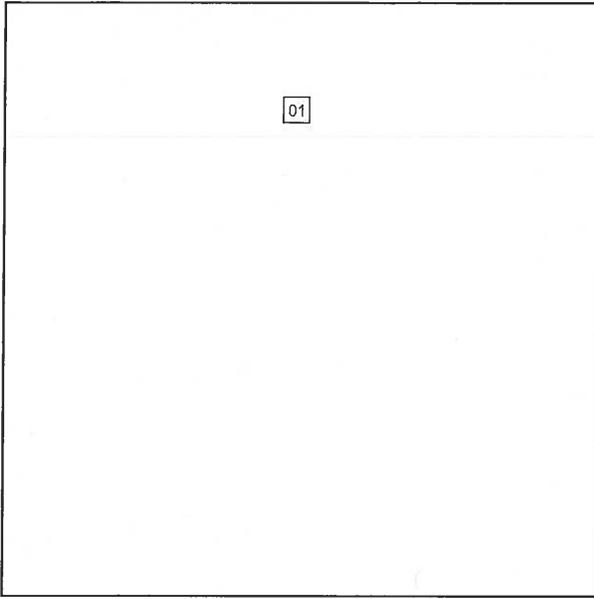
Name: W0000861028 Desc: C03



[Click here for Larger Image](#)

Sketch Images

Name:W0000861028 Desc:C01



APPLICATION FORM FOR AN APPEAL TO A DECISION OF THE ZONING ADMINISTRATOR



CITY OF RICHMOND - ZONING ADMINISTRATION OFFICE
ROOM 110, CITY HALL, 900 EAST BROAD STREET
RICHMOND, VIRGINIA 23219
(804) 646-6340 DCDZoningAdministration@Richmondgov.com

TO BE COMPLETED BY APPELLANT
(See the reverse side of this application for completion instructions)

1. APPEALS TO THE BOARD OF ZONING APPEALS MUST BE FILED WITH THE ZONING ADMINISTRATION OFFICE IN THE CITY OF RICHMOND CITY HALL - ROOM 110. SUCH APPEAL SHALL BE FILED NOT MORE THAN 30 DAYS FROM THE DATE OF THE DECISION FOR WHICH REVIEW IS SOUGHT. APPEALS FILED AS HEREIN PROVIDED ARE ALSO DEEMED TO HAVE BEEN PROPERLY FILED WITH THE BOARD OF ZONING APPEALS.

2. APPELLANT: Stephen C. and Janice H. Nuckolls PHONE: (home) (804) 349-3293 (work) ()
(Name/Address) 1815 Monument Ave. E-mail Address: steve@stevenuckolls.com
Richmond, VA 23220 Fax No. ()

SECONDARY
3. APPELLANT'S Joseph K. Reid, III PHONE: (home) (804) 314-9925 (work) (804) 775-1198
REPRESENTATIVE: E-mail Address: jreid@mcguirewoods.com
(Name/Address) 1821 Monument Ave. Fax No. ()
Richmond, VA 23220

4. LIST THE SPECIFIC SECTION NUMBER(S) OF THE ZONING ORDINANCE WHICH ARE BEING APPEALED:
Section 30-800.3

5. PROPERTY ADDRESS(ES): 1805 Monument Avenue; 408, 410/412 N. Allen Avenue;
Richmond, VA 23220

6. GROUNDS FOR THE APPEAL (Grounds for the Appeal may be supplemented on additional page(s)):
SEE ATTACHED

I AM APPEALING UNDER SECTION 17.20, PARAGRAPH (a) OF THE CHARTER OF THE CITY OF RICHMOND.

7. SIGNATURE OF APPELLANT: [Signatures] DATE: 10/30/18
10/31/18

TO BE COMPLETED BY THE ZONING ADMINISTRATION OFFICE
APPEAL DEADLINE DATE: TAX PARCEL NO: 1000 0861 020 000 05100 R-6
DATE FILED: 10-31-2018 TIME FILED: 11:37 RECEIVED BY: RLS RECEIPT NO:
1000 0861 020 000 05100 2019

TO BE COMPLETED BY THE SECRETARY OF THE BOARD OF ZONING APPEALS
DATE FILED: 10-31-18 CASE NUMBER: 824 34-2019 HEARING DATE: Aug 7, 2019 AT 2 PM

AS CERTIFIED BY: [Signature] (ZONING ADMINISTRATOR)
AS CERTIFIED BY: [Signature] (SECRETARY, BOARD OF ZONING APPEALS)

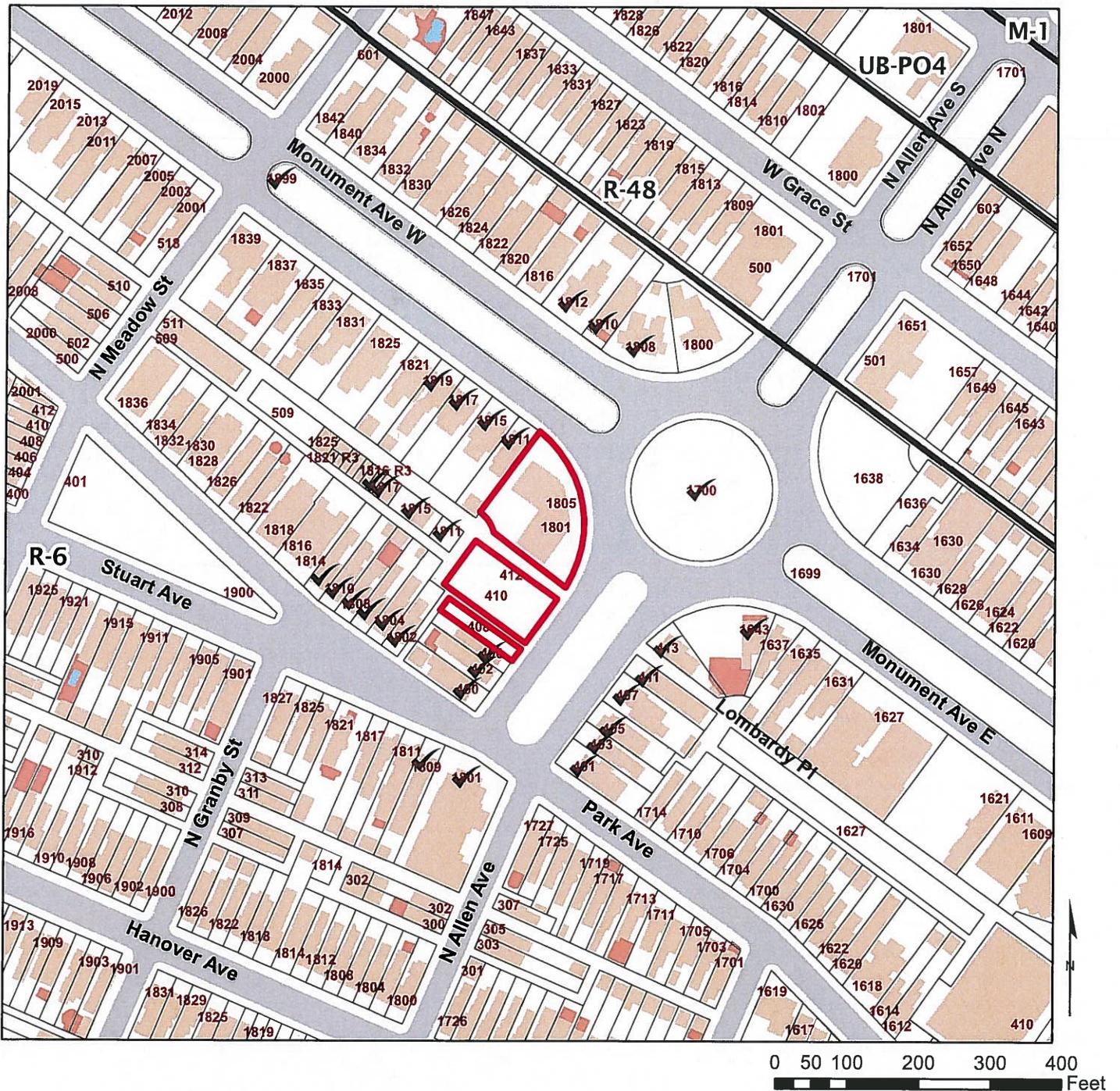
BOARD OF ZONING APPEALS CASE BZA 34-2019
150' Buffer

APPLICANT(S): Stephen C. and Janice H. Nuckolls

PREMISES: 1805 Monument Avenue and 408, 410 & 412 N. Allen Avenue

(Tax Parcel Number W000-0861/020, W000-0861/028, W000-0861/031)

SUBJECT: An appeal of Stephen C. and Janice H. Nuckolls that an April 19, 2018 decision of the Zoning Administrator to permit conversion of 1805 MONUMENT AVENUE and 408, 410 & 412 N. ALLEN AVENUE from a nonconforming office use to a multifamily residential apartment building under Sec. 30-800.3 of the Zoning Ordinance was in error.





City of Richmond, Virginia – Zoning Administration

900 East Broad Street • City Hall - Room 110 • Richmond, Virginia 23219

• http://www.richmondgov.com/PlanningAndDevelopmentReview/ZoningDivision.aspx

Office: (804) 646-6340 • Facsimile 804-646-6948

Request for Letter of Zoning Confirmation

Permit No. ZCR-033226-2018 Date: 4/5/18

A Zoning Confirmation Letter (ZCL) is a written document verifying conformance with City zoning regulations. A Zoning Confirmation Letter may typically be requested by lenders, title companies, attorneys and/or prospective purchasers of properties. They may also be requested when properties are undergoing re-financing. (NOTE: Response time may be up to 30 calendar days). If you wish to have a letter expedited, please remit an additional \$400 for processing within five (5) business days.

EXPEDITED FEE - \$400

PROPERTY INFORMATION:

Property Address: 1805 Monument Ave; 408 N. Allen Ave +
Tax Map Number: W0000861020; W000086103; W0000861028
Owned By: Aramin Properties, LLC
Existing Use: professional and general office space
Proposed Use: 63 Unit Multi-Family Apartment Building
Existing Number of Residential Units: Zero (0)

INFORMATION REQUESTED BY:

Name/Firm: C. Thomas Green III, PLC
Attention: C. Thomas Green III
Address: 311 S. Boulevard
City: Richmond, VA
Zip Code: 23220
Contact Telephone: work 804-740-8476
cell 804-986-2971
E-mail Address: cthomasgreen@comcast.net

A zoning confirmation letter may include the following:

- Description of current zoning
Summary of uses allowed by zoning
List of applicable land use history
Current zoning requirements
Number of units and square footage requirements for multi-family dwellings
Descriptions of zoning requirements and zoning history
Details of building permit and land use history
Responses to specific questions
Development analysis
Parking and landscaping requirements
Non-conforming use and feature status

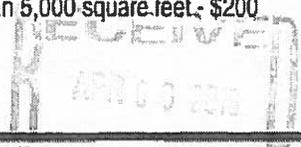
Residential Uses

- Home occupation - \$50
One & Two-family dwelling - \$50
Private elementary or secondary school - \$50
Day nursery - \$50
Adult day care facility - \$50
Multi-Family: 3 - 10 units \$100
Multi-Family: 11-50 units \$200
Multi-Family: more than 50 units \$350
Lodginghouse: \$200

Commercial or Industrial Uses

- Commercial space equal to or less than 5,000 square feet - \$100
Use not specified - \$100
Commercial space greater than 5,000 square feet - \$200
Adult care residence - \$200

SCANNED 4/16/18



Additional Comments: See attached pro forma letter for additional information requested. This request also covers 410/412 N. Allen Ave.

Use Group: P2B # of units/sq. footage: 63 units Fee: \$ 358.00

INCOMPLETE APPLICATIONS MAY BE RETURNED.

City of Richmond - Zoning Administration REVISED 2/17/11

pd 4-5-2018 request 2018

[Letterhead of Zoning Department Official]

C. Thomas Green III, Esquire
311 S. Boulevard
Richmond, VA 23220

RE: Certification of Zoning;
1805 Monument Avenue; 408 N. Allen Avenue; and
410/ 412 N. Allen Avenue
Tax Parcel Reference Nos.: W0000861020; W0000861031;
and W0000861028;
City of Richmond, Virginia (the "Property")

Dear Mr. Green:

In response to your zoning confirmation request regarding the above referenced Property, please be advised of the following:

1. The Property is located within the corporate limits of the City of Richmond, Virginia in the Fan District.
2. The Property is zoned _____ and is subject only to the use restrictions generally applicable to that classification which are contained in the City of Richmond Zoning Ordinance (the "Zoning Ordinance"). Copies of the sections of the Zoning Ordinance applicable to the Property (including parking, setback and height and bulk requirements) are enclosed. Also enclosed is a copy of the zoning section sheet indicating the zoning district classification for the Property.
3. The current use of the Property for professional/general office space and for its planned use as a multi-family residential apartment building are permitted uses under Zoning Ordinance No(s). _____ without the necessity of any rezoning, special exception, use permit or variance.
4. The current zoning setback requirements are:

Front - _____ feet
Rear - _____ feet
Side - _____ feet



CITY OF RICHMOND

**DEPARTMENT OF
PLANNING AND DEVELOPMENT REVIEW
ZONING ADMINISTRATION**

April 19, 2018

C. Thomas Green III, Esquire
311 S. Boulevard
Richmond, Virginia 23220

**RE: Certification of Zoning;
1805 Monument Avenue; 408 North Allen Avenue; and 410/412 North Allen Avenue
Tax Map #s: W000-061/020; W000-0861/031; W000-0861/028
City of Richmond, Virginia (the "Property")**

Dear Mr. Green:

In response to your request for a Zoning Confirmation Letter for the above-referenced Property, please be advised of the following:

1. The Property is located within the corporate limits of the City of Richmond, Virginia.
2. The Property is zoned R-6 (Single-Family Attached Residential); a copy of the R-6 district regulations and zoning section map is attached. The Property is also located within the Monument Avenue City Old and Historic District. As such, any exterior change to the building or site must be revised and approved by the Commission or Architectural Review.
3. The current use of the Property for professional/general office space is a legally nonconforming use. The proposed use as a multifamily residential apartment building would also be permitted per Section 30-800.3 of the nonconforming use regulations of the zoning ordinance (copy attached).
4. The parking areas located at 410-412 Allen Avenue and 408 North Allen Avenue have been used to provide forty-six (46) accessory parking spaces for the office building at 1805 Monument Avenue and is a legally nonconforming use. A Board of Zoning Appeals (BZA) variance (Case No. 4-00) was granted to waive the front yard requirement for these parking spaces. Be advised that these parking spaces must continue to be provided to the current and future use of 1805 Monument Avenue.
5. The current zoning setback requirements are:

Front- 15 feet
Side- 5 feet
Side- 5 feet
6. The parking requirement for the current use is one space per three hundred square (300) feet of floor area for the first fifteen hundred (1,500) square feet, and one space per four hundred (400) square feet of floor area for floor area in addition to fifteen hundred (1,500) square feet. Based on City Assessor's records, the building contains forty-one thousand eight hundred and twenty-six (41,826) square feet of floor area, which would require one hundred and six (106) parking spaces. There were no off-street parking requirements at the time of construction of the office building.

Based on the plans that were approved with the BZA case (copy attached) and a previous zoning confirmation letter for the Property a total of sixty-one (61) parking spaces have previously been available for the Property; this includes forty-six (46) off-site parking spaces at 408-412 North Allen Avenue. Accordingly, there are forty-five (45) nonconforming parking spaces that may be applied to a future use of the Property. A recent inspection documented that a total of fifty-five (55) spaces were available at the time, including forty-one (41) off-site spaces at 408-412 North Allen Avenue and fourteen (14) on-site spaces at 1805 Monument Avenue. This differs from the configuration that was previously authorized in the aforementioned BZA case. All parking spaces must be clearly delineated with striping and must meet the required dimensions of the zoning ordinance prior to a future zoning approval for the Property. A copy of the parking regulations is attached.

7. No application for rezoning of the Property, or for a special or conditional use permit or variance in connection with the Property, is now pending.
8. No plan of development was required at the time of the building's construction, and no plan of development would be required to convert the existing building into multi-family apartments.
9. A subsequent purchaser of the Property, upon acquisition of the Property, will be required to obtain a Certificate of Zoning Compliance (CZC) for continued use of the office building and accessory parking area.
10. The undersigned is not aware of any other permit of license required by the City of Richmond, which a purchaser must obtain before it may acquire the Property or before the Property may continue to be used for office space.
11. This office is unaware of any pending zoning violations having been filed with respect to the Property, and the undersigned is unaware of any violations of the applicable portion of the Zoning Ordinance.

This office does not issue opinions with respect to compliance with building codes, fire codes or other health and safety regulations which may pertain to this property. For building code issues, contact Ray Abbasi, Operations Manager at 646-7483. For fire and safety questions, contact Fire and Emergency Services at 646-6640.

I hope this information is sufficient. If you have any additional questions regarding this letter, please contact Rich Saunders by e-mail at: Richard.Saunders@Richmondgov.com or by telephone at: (804) 646-6356.

Sincerely,



William C. Davidson
Zoning Administrator

cc: Aramin Properties LLC
4504 Wythe Avenue
Richmond, Virginia 23221



CITY OF RICHMOND

DEPARTMENT OF
PLANNING AND DEVELOPMENT REVIEW
ZONING ADMINISTRATION

February 7, 2019

The Capstone Contracting Company
4235 Innslake Drive, Suite 110
Glen Allen, Virginia 23060

ATTN: Chris Allen

RE: 1805 Monument Avenue - Building Permit (PLAN #: 046464-2018)

Dear Mr. Allen:

We are in receipt of the revised plans that were submitted on January 9, 2019, to convert the existing building, containing a nonconforming office use, into a multifamily dwelling containing a total of sixty-three (63) dwelling units.

Please be advised of the following zoning comments (items that need to be addressed are in **bold**):

1. The existing nonconforming use (office building) is located within an R-6 (Single-Family Attached Residential) zoning district. The proposed change, to a multifamily dwelling (63-dwelling units: 56 @ 1 bedroom & 7 @ 2-bedroom), is determined to be permitted under Section 30-800.3, as meeting the following criteria:
 - a. The use is first permitted in the same district or a more restricted district than the district in which the nonconforming use is first permitted, and such use is not a use permitted by conditional use permit in that district. *An office is not a permitted principal use in the R-6 district, but is first permitted as a principal use in the R-73 (Multifamily Residential) zoning district. Multifamily use is not a permitted principal use in the R-6 district, but is first permitted as a principal use in the R-43 (Multifamily Residential) zoning district. The R-43 district is a more restricted district than the R-73 district.*
 - b. The use does not require more off-street parking than the nonconforming use as determined by application of the requirements of Section 30-710.1. *The existing nonconforming office has a parking requirement, based on City Assessor's records, of 106 off-street parking spaces. The proposed multifamily dwelling, containing 63-units, would have an off-street parking requirement of 63-spaces. The proposed use, by application of the requirements, does not require more parking.*

- c. The use does not characteristically have a greater number of employees or a greater amount of traffic, noise, smoke or odor than the nonconforming use. *A multifamily dwelling generally does not employ staff other than within the leasing office or accessory janitorial staff. There is no leasing office shown on the submitted proposed plans. The office use has a greater number of employees than the proposed multifamily dwelling.*

Per trip generation data of the Institute of Transportation Engineers, office use generates a greater amount of traffic than the proposed multifamily dwelling use. In addition, per the International Building Code, the maximum occupancy load for the proposed multifamily use (1 per 200 square feet of floor area) is half that of the existing office use (1 person per 100 square feet of floor area). The use does not characteristically have a greater number of employees or a greater amount of traffic, noise, smoke or odor than the proposed use.

- d. The use does not otherwise constitute a greater deviation from the regulations pertaining to permitted principal or accessory uses applicable in the district in which it is located. *The proposed multifamily use is a residential use and is characteristically more similar to uses permitted an existing within the R-6 district.*
2. The Zoning Ordinance states, under Section 30-800.1, "No building or structure devoted to a nonconforming use shall be enlarged, extended, reconstructed, move or structurally altered unless such building or structure is thereafter devoted to a conforming use, provided nothing in this division shall be construed to prohibit normal repair, strengthening or restoration to a safe condition as may be required by law . . ."

The proposed plans show structural alterations, to include:

- a. New window openings in the basement level. This is shown as Note 5 on Sheet AD3.0 of the demolition plan and on Note 13 on Sheet A3.2 of the proposed elevations.
- b. Remove existing ductwork and mechanical shaft walls and infill floor with new concrete. This is shown as Note 8 on Sheets AD1.0 through AD1.2 on the demolition plan and is shown in more detail on the structural plans.
- c. Adding concrete slabs on all floors. This is shown as Note 4 on Sheets A1.0A through A1.6B of the proposed floor plans.
- d. Constructing a 4' x 4' x 6' deep pit in the basement for macerator, including underpinning of existing footings. This is shown as Note 20 on Sheet A1.0B of the proposed floor plans and in more detail on Sheet S1.1 of the structural plans.
- e. New concrete floor and wall support adjacent to Unit B4 in the basement. This is shown on Sheet A1.0A of the proposed floor plans (Note 4) and in

more detail on the "Floor Extension Plan" on Sheet S1.1 of the structural plans.

- f. New floor openings and installation of new slab and beams for ductwork on floors 1 through 6. This is shown as Note 17 on Sheets AD1.0 through AD1.3 and in more detail on the "Floor Opening Detail At Elevator Shaft" on Sheet S1.2 of the structural plans.
- g. New staircase being added in basement for Unit B3 and B4. This is shown as Note 6 on Sheet A 1.0A of the proposed floor plans.

Board of Zoning Appeals (BZA) Special Exception or City Council Special Use Permit approval shall be necessary to authorize these structural alterations.

- 3. The Zoning Ordinance states, under Section 30-800.2, "Except as specifically permitted by this division, a nonconforming use shall not be extended, expanded, enlarged or moved to occupy a different or greater area of land, buildings or structures than was occupied by such use at the time it became nonconforming, provided that a nonconforming use may be extended through any parts of a building which were specifically and lawfully designed and arranged for such use at the time it became nonconforming . . ."

The proposed plans show extension, expansion, enlargement and occupancy of a greater area of the building, including an extension into parts of the building that were not specifically and lawfully designed and arranged for such use. These areas include:

- a. Areas in the basement, previously/currently used as ancillary mechanical/storage space. Boiler room equipment (Note 5) and concrete equipment pads (Note 16) are shown as being removed on Sheet AD1.0 of the demolition plan to accommodate dwelling units B3 and B4 that are shown on the proposed floor plan on Sheet A1.0A.
- b. Ductwork and mechanical shaft walls (Note 8) are shown as being removed on the 1st – 6th floors on Sheets AD1.0 through AD1.2. This is to accommodate new dwelling units.

Board of Zoning Appeals (BZA) Special Exception or City Council Special Use Permit approval shall be necessary to authorize these alterations.

- 4. The property currently requires and provides a total of sixty-four (64) off-street parking spaces, both on the property (1805 Monument Avenue) as well as off-premise on adjacent property under common ownership. The parcels at 408-412 North Allen Avenue are also subject to Board of Zoning Appeals (BZA) approval (Case No. 4-00), which waived the front yard (setback) requirement for the parking spaces thereon. A parking layout plan has been submitted and the limits and design of the parking area is consistent with the 2000 BZA approval. Be advised that these parking spaces must continue to be provided solely for the proposed and any future use of 1805 Monument Avenue.

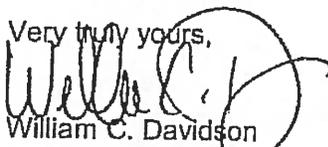
Chris Allen
RE: Building Permit, PLAN # 046464-2018 (1805 Monument Avenue)
February 7, 2019
Page 4

As the items specified do not meet the requirements of the Zoning Ordinance for building permit (BP) approval, you may petition the Board of Zoning Appeals (BZA) for a Special Exception or submit an application for a Special Use Permit City Council to permit and allow these identified structural alterations and expansions.

You are hereby advised that you have thirty (30) days from this notice in which to appeal this decision to the Board of Zoning Appeals, in accordance with §15.2-2311 of the Code of Virginia and §17.19 of the Richmond City Charter, or this decision shall be final and unappealable. Such appeal must be in writing and must be filed with the Secretary to the Board of Zoning Appeals. Said appeal shall indicate in specific terms the grounds for the appeal and must be accompanied by a filing fee of two hundred fifty dollars (\$250.00).

If you have any questions, please contact Richard Saunders, Planner II, at (804) 646-6356 or via E-mail at: Richard.Saunders@Richmondgov.com.

Very truly yours,


William C. Davidson
Zoning Administrator

xc: Roy W. Benbow, Secretary, Board of Zoning Appeals
Matthew Ebinger, Planner III, P&DR-Land Use Administration
Ray Abbasi, Commissioner of Buildings (Acting), P&DR

ARTICLE VIII. NONCONFORMING USES AND FEATURES*

DIVISION 1. NONCONFORMING USES

Sec. 30-800. Continuation.

Nonconforming uses as defined in section 30-1220 may be continued subject to the limitations set forth in this division so long as the then-existing or more restricted use continues.

Sec. 30-800.1. Alterations to buildings or structures devoted to nonconforming uses.

No building or structure devoted to a nonconforming use shall be enlarged, extended, reconstructed, moved or structurally altered unless such building or structure is thereafter devoted to a conforming use, provided that nothing in this division shall be construed to prohibit normal repair, maintenance and nonstructural alterations to such building or structure nor the alteration, strengthening or restoration to a safe condition as may be required by law and provided, further, that the following shall be permitted:

(1) *Hospitals and institutional uses.* A building or structure devoted to a nonconforming hospital or a nonconforming institution of a religious, educational, eleemosynary or philanthropic nature located in any district may be structurally altered so long as the amount of floor area devoted to the use is not increased.

(2) *Dwellings in business districts.* Any building containing a nonconforming single-family detached, single-family attached, two-family or multifamily dwelling in a UB, UB-2, B or OS district may be maintained, improved, enlarged, extended or structurally altered or may be reconstructed if damaged by fire, explosion, act of God or the public enemy, provided that in no case shall the amount of floor area devoted to such dwelling at the time it became nonconforming be increased more than ten percent nor shall the lot area, lot width or yard depths be reduced to less than required for the use in the R-48 district.

(3) *Uses in UB-2, B-5 or B-6 districts.* Any building devoted to a use which becomes nonconforming by reason of its inclusion in a UB-2, B-5 or B-6 district may, for purposes of accommodating such use, be maintained, improved, enlarged, extended or structurally altered or may be reconstructed if damaged by fire, explosion, act of God or the public enemy, provided that in no case shall the amount of floor area devoted to such use at the time of its inclusion in the B-5 or B-6 district be increased more than ten percent.

(4) *Alterations to accommodate a wireless communications facility, microwave relay facility, or radio and television broadcast antenna and support structure.* Any building or structure occupied by or accessory to a nonconforming use may be modified as necessary to accommodate such facilities and antennas, as set forth in section 30-692.3, provided the applicable requirements of that section are met. The equipment related to the facility or antenna may be accommodated within the interior of the building by either the reduction of the space devoted to the nonconforming use, the conversion of previously unoccupied space within the building, or a combination thereof.

(Code 1993, § 32-800.1; Ord. No. 2008-2-55, § 2, 3-24-2008)

Sec. 30-800.2. Extension or expansion.

(a) Except as specifically permitted by this division, a nonconforming use shall not be extended, expanded, enlarged or moved to occupy a different or greater area of land, buildings or structures than was occupied by such use at the time it became nonconforming, provided that a nonconforming use may be extended throughout any parts of a building which were specifically and lawfully designed and arranged for such use at the time it became nonconforming so long as such extension does not result in any increase in the required number of off-street parking spaces under the terms of this chapter or any increase in the number of dwelling or lodging units in the building. No material change in a nonconforming use or material change in the program or operating characteristics of a nonconforming use shall take place that would increase the intensity of the use.

(b) The area of a lot on which a nonconforming use is located shall not be reduced unless authorized by the board of zoning appeals pursuant to article X of this chapter.

(c) Fences and walls shall be permitted on properties devoted to nonconforming uses in the same manner and subject to the same requirements as properties devoted to conforming uses.

Sec. 30-800.3. Changes.

(a) A nonconforming use may be changed to a use conforming to the regulations applicable in the district in which it is located or to a use, as determined by the zoning administrator, which meets all of the following criteria:

(1) The use is first permitted in the same district or a more restricted district than the district in which the nonconforming use is first permitted, and such use is not a use permitted by conditional use permit in that district.

(2) The use does not require more off-street parking than the nonconforming use as determined by application of the requirements of section 30-710.1.

(3) The use does not characteristically have a greater number of employees or a greater amount of traffic, noise, smoke or odor than the nonconforming use.

(4) The use does not otherwise constitute a greater deviation from the regulations pertaining to permitted principal or accessory uses applicable in the district in which it is located.

(5) In addition to the other criteria set forth in this section, a nonconforming use which is permitted by conditional use permit in any district established by this chapter may be changed only to a use conforming to the use regulations applicable in the district in which it is located or to a dwelling use.

(6) In addition to the other criteria set forth in this section, a nonconforming use which is listed as a permitted use only in the I district and for which an institutional master plan is required may be changed only to a use conforming to the use regulations applicable in the district in which it is located or to a dwelling use.

(b) Whenever a nonconforming use is changed to a more restricted use or to a conforming use, the use shall not thereafter be changed to a less restricted use, unless such use is permitted by this chapter.

(c) When a change in a nonconforming use to a more restricted use as permitted by subsection (a) of this section or to a conforming use would result in imposition of a greater yard or open space requirement, such requirement shall not be construed to prohibit the change in use, provided that no physical change is made to the building or lot that results in any greater departure from any applicable requirement of this chapter.

(d) When a nonconforming use has been changed to an illegal use, such illegal use shall cease, and any subsequent use of the property shall conform to the regulations applicable in the district in which it is located or, if the nonconforming use has been discontinued for a period of less than two years, the illegal use may be changed to the last nonconforming use or to a use that is more restricted than such use.

Sec. 30-800.4. Discontinuance in general.

Whenever a nonconforming use of a building or structure is discontinued for a period of two years or longer, whether or not equipment or fixtures are removed, any subsequent use of the premises shall conform to the regulations applicable in the district in which it is located.

Sec. 30-800.5. Discontinuance of uses of land.

A nonconforming use of land shall be discontinued within two years from the effective date of the ordinance or amendment thereto causing it to become nonconforming.

ARTICLE VII.

OFF-STREET PARKING AND LOADING REQUIREMENTS

DIVISION 1. GENERALLY

Sec. 30-700. Applicability of article.

Off-street parking, bicycle parking and loading spaces for uses permitted by this chapter shall be provided in such numbers, at such locations and with such improvements as required by this article. (Ord. No. 2015-151-164, § 1, 9-14-2015)

DIVISION 2. OFF-STREET PARKING REGULATIONS

Sec. 30-710.1. Number of spaces required for particular uses.

- (a) Except as otherwise provided in this article, the minimum number of off-street parking spaces required for uses located in any district shall be as follows (See sections 30-710.2 through 30-710.3 for special off-street parking requirements in certain districts and the method of determining the number of spaces, and see article IX of this chapter for requirements if property is located in a parking overlay (PO) district:

(Ord. No. 2015-151-164, § 1, 9-14-2015)

	Use	Number of Spaces Required	
(1)	Dwelling, single-family detached	1	
(2)	Dwelling, single-family attached	1	
(3)	Dwelling, two-family	2	
(4)	Dwelling, multifamily:		
	a.	One main building on a lot of record	1 per dwelling unit
	b.	More than one main building on a lot of record	1.5 per dwelling unit containing 2 bedrooms or more; 1.25 per dwelling unit containing fewer than 2 bedrooms
	c. (Ord. No. 2008-2-55, § 2, 3-24-2008)	In R-63 district	1 per dwelling unit (Ord. No. 2008-2-55, § 2, 3-24-2008)

(8)	Lodginghouse	1 per 2 occupants	
(9)	Fraternity or sorority house	1 per 4 beds	
(10)	Nursing home, adult care residence, group home, shelter	1 per 4 beds	
(11)	Hospital	1 per 3 beds, plus 1 per 3 employees and staff	
(12)	Church or other place of worship	1 per 8 seats in main auditorium	
(13)	Day nursery	1 per 2 employees	
(14)	School: kindergarten through junior high (public or private)	1 per 10 seats in main auditorium or 1 per classroom, whichever is greater	
(15)	School: high school, college or vocational (public or private)	1 per 8 seats in main auditorium or 3 per classroom, whichever is greater	
(16)	Lodge, club or meeting facility	1 per 100 sq. ft. floor area in meeting or club rooms	
(17)	Art gallery, library or museum	10, plus one per 300 sq. ft. of floor area in excess of 2,000 sq. ft.	
(18)	Theater, auditorium, sports arena or stadium	1 per 5 seating capacity	
(19)	Private park, recreational area or country club	1 per 5 members	
(20)	Public golf course or miniature golf course	5 per hole	
(21)	Golf driving range	2 per tee	
(22)	Bowling alley	5 per lane	
(23)	Office: general; medical or dental office or clinic; social service delivery use; animal hospital	1 per 300 sq. ft. of floor area for the first 1,500 sq. ft., plus 1 per 400 sq. ft. in excess thereof	
(24)	Funeral home	1 per 4 seating capacity of chapel and funeral service rooms, plus 1 per 2 employees	
(25)	Service station, auto repair	2 per service bay or repair stall plus spaces to accommodate all vehicles used in connection therewith	
(26)	Restaurant, tearoom or similar food and beverage establishment	1 per 100 sq. ft. of floor area, plus 5 stacking spaces per restaurant drive-in window	
(26.1)	Nightclub (Ord. No. 2012-234-2013-2, § 1, 1-14-2013)	1 per 70 sq. ft. of floor area	
(27)	Grocery store, convenience store, specialty food or beverage store, take-out restaurant:		
	(a)	Grocery or convenience store occupying not more than 5,000 sq. ft. of floor area; take-out restaurant with no patron seating	1 per 150 sq. ft. floor area
	(b)	Grocery or convenience store occupying more than 5,000 sq. ft. of floor area; specialty food or beverage store	1 per 300 sq. ft. floor area (Ord. No. 2008-36-57, § 3, 3-24-2008)
(28)	Retail or personal service establishment, financial service, retail bakery (unless otherwise specified herein)	1 per 300 sq. ft. floor area	

Table 1
 Medical Office Building vs Apartment
 Site-Trip Generation Analysis - Peak Hour of Adjacent Street⁽¹⁾

Buildout Land Use	Size	Units	Land Use Code	AM Peak Hour			Weekday PM Peak Hour			Average Daily Trips
				In	Out	Total	In	Out	Total	
1. Existing Development Medical Office Building	49,279	S.F.	720	93	25	119	47	122	169	1,806
2. Proposed Development Multifamily Housing (Mid-Rise)	63	D.U.	221	6	16	22	17	11	28	342
Comparison (Proposed - Existing)				(87)	(10)	(97)	(30)	(111)	(141)	(1,464)

Note: (1) Based on the Institute of Transportation Engineers Trip Generation, 10th Edition. Assumes General Urban/Suburban land use category.

Rec'd 6/14/2019



Driving progress
through partnership

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Michael S. Dingman
Direct Phone: +1 703 641 4323
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June 14, 2019

BY HAND DELIVERY

William C. Davidson
Zoning Administrator
City of Richmond
Department of Planning and Development Review
900 East Broad Street
Room 110
Richmond, VA 23219

Re: 1805 Monument Avenue - Building Permit (Plan No.: 046464-2018)

Dear Mr. Davidson:

Reed Smith LLP represents Lee Medical Building, LLC (the "Owner") and hereby requests on behalf of the Owner that you approve from zoning administration the plans submitted on May 9, 2019 (dated April 26, 2019) for the conversion of 1805 Monument Avenue from a non-conforming office use to a multi-family dwelling use (the "Plans"). The Plans follow an iterative process with you and the staff for the City of Richmond in which the Owner made modifications to the Plans to satisfy the various issues raised by the City and its staff. The Plans address all issues raised by the City in your letter dated February 7, 2019, and the Owner is entitled to the issuance of a building permit so that it can begin its project.

It is our understanding that you believe you are not able to issue the Department of Planning and Development Review, Zoning Administration's ("Zoning Administration") approval of the Plans because of the pendency of a supposed appeal filed by Joseph K. Reid, III, Steven C. Nuckolls and Janice H. Nuckolls ("Appellants") filed on October 31, 2018 and attached as Exhibit 1 (the "Appeal").

As discussed below, the pendency of the Appeal – which the Owner believes is an improper appeal because, among other reasons, it is not an appeal of a "determination" – does not invoke the stay set forth in Virginia Code § 15.2-2311(B) because the Plans were not the subject of the April 19, 2018 letter upon which the appeal is based.

FACTUAL BACKGROUND

1. Your April 19, 2018 Letter: The subject matter of the Appeal is your April 19, 2018, letter, attached as Exhibit 2, that was written in response to a "request for a zoning confirmation letter." The April 19, 2018 letter did not address any specific plan submission or application of any kind. The April 19, 2018 letter, therefore, neither granted nor denied any request from the Owner with respect to the conversion of the property at issue because no such request was made. Instead, the April 19, 2018 letter is simply a response to a request for a zoning confirmation letter and sets forth the zoning for the

property as well as the applicable provisions of the code of the City of Richmond that apply to the conversion.

2. The Appeal: On October 31, 2018, Appellants filed the Appeal with respect to the April 19, 2018 letter. As the basis for the Appeal, Appellants claim that “the Zoning Administrator failed to address the requirements of §30-800.3(3) that the proposed use does not have a greater amount of traffic and noise than the non-conforming use.” *See* Exhibit 1. In fact, you did not consider this code section at all in your April 19, 2018 letter because no plan had been submitted with respect to the conversion of the property to multi-family use. And you certainly did not make any determinations in that letter regarding traffic and noise issues. The Appeal goes on to state that “the requirements of §30-800.3(4) have likewise not been adequately or correctly considered by the Zoning Administrator.” *See* Exhibit 1. Again, there was no application or plan submitted to you with respect to the April 19, 2018 letter that would have been the basis for such a review. And you made no determination with respect to the requirements of §30-800.3(4). In short, the Appeal does not challenge any determination made by you because there was no plan or application of any kind pending when you issued your April 19, 2018 letter. Moreover, the Appeal does not challenge your statements regarding the zoning of the property or any other statements in your letter.

3. Your February 7, 2019 Letter: On February 7, 2019, you issued a letter to the Owner, attached as Exhibit 3, regarding “the revised plans that were submitted on January 9, 2019 to convert the existing building, containing a non-conforming office use, into a multi-family dwelling containing a total of 63 dwelling units.” In that letter, you set forth your positions regarding the plan and, among other things, whether it complied with the requirements of §30-800.1 and §30.800.2. This letter was in fact a determination as contemplated by Virginia Code §15.2-2311 because it addressed a specific plan submitted for approval by the City. Indeed, you conclude the letter with the statutory statement regarding the right to appeal the determination set forth in the letter.

4. April 10, 2019 Letter from Appellants: In The April 10, 2019 letter, attached as Exhibit 4, Appellants referred to your letter of February 7, 2019 and take the position that pursuant to Virginia Code §15.2-2311(B) that you cannot take any further actions with respect to the property. As discussed below, this position is without any basis because the revised plan referred to in your letter of February 7, 2019 was not the subject of your April 19, 2018 letter. In fact, Appellants admit as much in footnote 1 to their April 10, 2019 letter in which they state that they “do not object to the findings of the Zoning Administrator in the February, 2019 letter with respect to the proposed alterations and expansions which are not addressed in the April, 2018 determination.” *See* Exhibit 4. This footnote admits that the February 7, 2019 letter determination has no connection to your letter of April 19, 2018. Moreover, Appellants state that they do not object to the findings in your February 7, 2019 letter and they have not appealed the determinations set forth in that letter.

5. The Plans: As you are aware, following the issuance of your February 7, 2019 letter, the Owner requested a special exception from the Board of Zoning Appeals which was denied by the BZA on April 15, 2019. Subsequently, the Owner modified the Plans to address the issues raised by the City, including reducing the number of units from 63 to 50. The Plans submitted on May 9, 2019 (dated April 26, 2019) should in fact be approved by Zoning Administration as satisfying all necessary requirements

for the conversion. There is no basis to withhold the approval of Zoning Administration and subsequent issuance of the building permit by the Building Commissioner.

DISCUSSION

Virginia Code §15.2-2311(B) does not prevent you from issuing the Zoning Administration approval because the Plans were not the subject of your April 19, 2018 letter and the April 19, 2018 letter was not an appealable determination in any event. Appellants' position to the contrary is wrong as a matter of law. Respectfully then, it is the Owner's position that you are required to issue the approval of the Plans by the Zoning Administration as part of your normal duties as the Zoning Administrator.

The April 19, 2018 letter does not give rise to an appeal under Virginia Code §15.2-2311 because that letter did not set forth any determinations or decisions because there was no plan or submission pending at that time. Virginia Code §15.2-2311(A) states that an appeal may be taken "by any persons aggrieved ... by any *decision of the zoning administrator*...." (emphasis added).¹ In order to trigger the appeal right under Virginia Code §15.2-2311(A) the April 19, 2018 letter must set forth a decision or determination by you of a submitted plan or application of some type.

In *Vulcan Materials Co. v. Bd. Of Supervisors of Chesterfield County*, 248 Va. 18, 24 (1994), the Virginia Supreme Court held that because "no applications filed by Vulcan were pending before any county administrative department," there was no basis for any appeal. The Court concluded, "until an application was pending asking for specific relief, there could be no denial of any personal or property right resulting from any administrative decision or determination." In *Lilly v. Caroline County*, 259 Va. 291, 298, (2000) the Virginia Supreme Court discussed *Vulcan* and again confirmed that there is no appeal unless there is an application pending seeking specific relief. The Court stated that comments by a county official when no application is pending are "merely advisory." In *Lilly*, the Court ultimately held that because "there were specific applications for relief pending at the time Finchum [the zoning administrator] announced his decision" there was a proper appeal.

The County of Albemarle publishes a well-respected Land Use Law Handbook that includes a section (14-210) that specifically addresses when a decision is appealable. That section, attached as Exhibit 6, states that for a decision to have binding effect – and therefore be appealable – there "must be a pending application with the locality," and the decision "must be based upon a set of existing facts." The County of Albemarle relies on the *Lilly* and *Vulcan* decisions for its conclusions.

At the time the April 19, 2018 letter was issued, there were no applications or plans submitted by the Owner with respect to the conversion of the property to multi-family use. The letter references no such application or plan, but instead states that it is in response to a "request for a zoning confirmation letter." It is obvious that the April 19, 2018 letter was not a decision of determination of any kind and triggered no appeal rights. That is likely why the Appeal was not set for a hearing for more than six months.

¹ Additionally, the Owner does not believe that Appellants satisfy the stringent requirements for an "aggrieved party" and have no standing to pursue the Appeal in any event.

Even if the Appeal is proper – which it is not – the April 19, 2018 letter did not address the Plans, because they had not been submitted, and the Appeal does not invoke the stay set forth in Virginia Code §15.2-2311(B). Therefore, you are able and the Owner submits, required to issue the approval of the Zoning Administration and subsequently the Building Commissioner is required to issue the building permit.

Virginia Code §15.2-2311(B) states “An appeal shall stay all proceedings in furtherance of *the action appealed from...*” (emphasis added). Here, there was “no action” that was appealed. And certainly, there was no “action” as to the Plans because they had not been submitted at the time the April 19, 2018 letter was issued. In *Ripol v. Westmoreland County Industrial Authority*, 15 Cir. CL0992, 82 Va. Cir. 69 (Westmoreland Co. Cir. Dec. 28, 2010) the Court held that two separate site plans for the same facility were not part of the same “action” or “proceeding” and that the appeal of the approval of one site plan did not stay approval of the other site plan for the same facility. The Court concluded that “the zoning administrator’s approval of a related but separate site plan while Phase 1A was on appeal was not an act that was in ‘furtherance’ of the ‘action appealed from,’ in this case approval of Phase 1A.” *Id.* at 80.

The stay provisions of Virginia Code §15.2-2311(B) only apply to an actual decision and action authorized thereby that is the subject of the appeal. It does not prohibit the City from taking action in its normal course of review and approval of plan submissions that are not in “furtherance” of the decision being appealed. Here, Appellants are not appealing any decision or determination relating to the Plans. Rather, they are appealing the April 19, 2018 letter written in response to a request for a zoning confirmation letter that is generic and that does not address any proposed plan for conversion. They do not contest – and have not appealed – your letter of February 7, 2019 and state themselves in footnote 1 of their April 10, 2019 letter that the February 7, 2019 letter does not address the statements in your April 2018 letter. In other words, Appellants agree that there is no connection between your April 19, 2018 letter and your determinations with respect to the plan that is the subject of your February 7, 2019 letter. And, of course, the Plans are now different from the plans discussed by you in the February 7, 2019 letter.

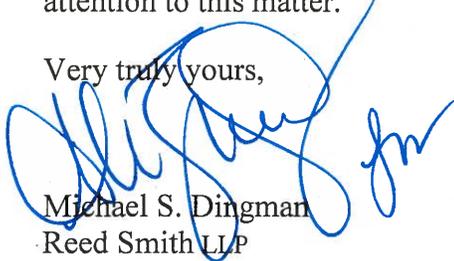
The stay provisions of Virginia Code §15.2-2311(B) are purposefully limited to proceedings in furtherance of the specific action appealed from. These provisions do not invoke a blanket stay as to any issues pertaining to the property, which the *Ripol* case makes clear.

Virginia Code §15.2-2311(B) does not prohibit you from issuing the Zoning Administration approval and subsequently the Building Commissioner issuing the building permit. Accordingly, you are required to issue the Zoning Administration approval as you would with respect to any other project. If Appellants want to appeal the approval of the Plans, they will have the ability to do so provided they can satisfy the statutory requirements for such an appeal. There is no legal basis and no reason for you to not issue the Zoning Administration approval and subsequently the Building Commissioner issuing the building permit. The Owner has worked with you and the City staff in good faith to resolve all issues and is entitled to proceed with its project without further delay.

William C. Davidson
June 14, 2019
Page 5

Please confirm that you will issue the Zoning Administration approval of the Plans. Thank you for your attention to this matter.

Very truly yours,



Michael S. Dingman
Reed Smith LLP

cc: Allen L. Jackson, Esq., City Attorney
Neil Gibson, Esq., Asst. City Attorney
Jennifer D. Mullen, Esq.

APPLICATION FORM FOR AN APPEAL TO A DECISION OF THE ZONING ADMINISTRATOR



CITY OF RICHMOND - ZONING ADMINISTRATION OFFICE
 ROOM 110, CITY HALL, 900 EAST BROAD STREET
 RICHMOND, VIRGINIA 23219
 (804) 646-6340 DGDZoningAdministration@Richmondgov.com

TO BE COMPLETED BY APPELLANT
 (See the reverse side of this application for completion instructions)

1. APPEALS TO THE BOARD OF ZONING APPEALS MUST BE FILED WITH THE ZONING ADMINISTRATION OFFICE IN THE CITY OF RICHMOND CITY HALL - ROOM 110. SUCH APPEAL SHALL BE FILED NOT MORE THAN 30 DAYS FROM THE DATE OF THE DECISION FOR WHICH REVIEW IS SOUGHT. APPEALS FILED AS HEREIN PROVIDED ARE ALSO DEEMED TO HAVE BEEN PROPERLY FILED WITH THE BOARD OF ZONING APPEALS.

2. APPELLANT: Stephen C. and Janice H. Nuckolls
 (Name/Address) 1815 Monument Ave.
 Richmond, VA 23220
 PHONE: (home) (804) 349-3293 (work) ()
 E-mail Address: steve@stevenuckolls.com
 Fax No. ()

SECONDARY
 3. APPELLANT'S REPRESENTATIVE: Joseph K. Reid, III
 (Name/Address) 1821 Monument Ave.
 Richmond, VA 23220
 PHONE: (home) (804) 314-9925 (work) (804) 775-1198
 E-mail Address: jreid@mcgulreewoods.com
 Fax No. ()

4. LIST THE SPECIFIC SECTION NUMBER(S) OF THE ZONING ORDINANCE WHICH ARE BEING APPEALED:
 Section 30-800.3

5. PROPERTY ADDRESS(ES): 1805 Monument Avenue; 408, 410/412 N. Allen Avenue;
 Richmond, VA 23220

6. GROUNDS FOR THE APPEAL (Grounds for the Appeal may be supplemented on additional page(s)):
 SEE ATTACHED

I AM APPEALING UNDER SECTION 17.20, PARAGRAPH (9) OF THE CHARTER OF THE CITY OF RICHMOND.

7. SIGNATURE OF APPELLANT: *Stephen C. Nuckolls* DATE: 10/30/18
Janice H. Nuckolls
Joseph K. Reid, III 10/31/18

TO BE COMPLETED BY THE ZONING ADMINISTRATION OFFICE			
APPEAL DEADLINE DATE	TAX PARCEL NO(H)	ZONING DISTRICT	
DATE FILED	TIME FILED	RECEIVED BY	RECEIPT NO.
TO BE COMPLETED BY THE SECRETARY OF THE BOARD OF ZONING APPEALS			
DATE FILED	CASE NUMBER	HEARING DATE	AT
AS CERTIFIED BY		(ZONING ADMINISTRATOR)	
AS CERTIFIED BY		(SECRETARY, BOARD OF ZONING APPEALS)	

**ATTACHMENT
ZONING ADMINISTRATOR DECISION APPEAL
408, 410/412 NORTH ALLEN AVE.**

GROUNDNS FOR THE APPEAL

This appeal is from the Zoning Administrator's determination of April 19, 2018¹ with respect to the subject properties that the proposed use as a multi-family residential apartment building would be permitted per Section 30-800.3 of the non-conforming use regulations of the Zoning Ordinance (determination attached as Exhibit A).

The Zoning Ordinance allows a nonconforming use to be changed to a different use when all of the following criteria are met [Zoning Ordinance §30-800.3]:

- (1) The use is first permitted in the same district or a more restricted district than the district in which the nonconforming use is first permitted, and such use is not a use permitted by conditional use permit in that district.
- (2) The use does not require more off-street parking than the nonconforming use as determined by application of the requirements of Section 30-710.1.
- (3) The use does not characteristically have a greater number of employees or a greater amount of traffic, noise, smoke or odor than the nonconforming use.
- (4) The use does not otherwise constitute a greater deviation from the regulations pertaining to permitted principal or accessory uses applicable in the district in which it is located.

The Zoning Administrator failed to address the requirements of § 30-800.3 (3) that the proposed use does not have a greater amount of traffic and noise than the non-conforming use. There is insufficient evidence that the proposed use meets the requirements of § 30-800.3 (3). In fact, the proposed use is likely to have a greater amount of traffic and noise than the nonconforming use, and presents significant traffic concerns in particular which should be considered and addressed before approving the proposed use.

The requirements of § 30-800.3 (4) have likewise not been adequately or correctly considered by the Zoning Administrator. The proposed use as over sixty efficiency/student/micro apartments in this location constitutes a greater deviation from the regulations pertaining to permitted principal or accessory uses in this district than the existing nonconforming use.

For these reasons the Zoning Administrator's determination should be overturned, and a Special Use Permit should be required under Code § 30-1050.1 *et seq.* for any proposed use as referenced in the April 19, 2018 Determination.

¹ This appeal is timely pursuant to Va. Code § 15.2-2311, as the appeal period has not yet commenced since the April 19, 2018 determination does not contain a statement concerning the right to appeal as required under this Code section.



Exhibit 2

CITY OF RICHMOND

DEPARTMENT OF
PLANNING AND DEVELOPMENT REVIEW
ZONING ADMINISTRATION

April 19, 2018

C. Thomas Green III, Esquire
311 S. Boulevard
Richmond, Virginia 23220

**RE: Certification of Zoning;
1805 Monument Avenue; 408 North Allen Avenue; and 410/412 North Allen Avenue
Tax Map #s: W000-061/020; W000-0861/031; W000-0861/028
City of Richmond, Virginia (the "Property")**

Dear Mr. Green:

In response to your request for a Zoning Confirmation Letter for the above-referenced Property, please be advised of the following:

1. The Property is located within the corporate limits of the City of Richmond, Virginia.
2. The Property is zoned R-6 (Single-Family Attached Residential); a copy of the R-6 district regulations and zoning section map is attached. The Property is also located within the Monument Avenue City Old and Historic District. As such, any exterior change to the building or site must be revised and approved by the Commission or Architectural Review.
3. The current use of the Property for professional/general office space is a legally nonconforming use. The proposed use as a multifamily residential apartment building would also be permitted per Section 30-800.3 of the nonconforming use regulations of the zoning ordinance (copy attached).
4. The parking areas located at 410-412 Allen Avenue and 408 North Allen Avenue have been used to provide forty-six (46) accessory parking spaces for the office building at 1805 Monument Avenue and is a legally nonconforming use. A Board of Zoning Appeals (BZA) variance (Case No. 4-00) was granted to waive the front yard requirement for these parking spaces. Be advised that these parking spaces must continue to be provided to the current and future use of 1805 Monument Avenue.
5. The current zoning setback requirements are:

Front- 15 feet
Side- 5 feet
Side- 5 feet
6. The parking requirement for the current use is one space per three hundred square (300) feet of floor area for the first fifteen hundred (1,500) square feet, and one space per four hundred (400) square feet of floor area in addition to fifteen hundred (1,500) square feet. Based on City Assessor's records, the building contains forty-one thousand eight hundred and twenty-six (41,826) square feet of floor area, which would require one hundred and six (106) parking spaces. There were no off-street parking requirements at the time of construction of the office building.

Based on the plans that were approved with the BZA case (copy attached) and a previous zoning confirmation letter for the Property a total of sixty-one (61) parking spaces have previously been available for the Property; this includes forty-six (46) off-site parking spaces at 408-412 North Allen Avenue. Accordingly, there are forty-five (45) nonconforming parking spaces that may be applied to a future use of the Property. A recent inspection documented that a total of fifty-five (55) spaces were available at the time, including forty-one (41) off-site spaces at 408-412 North Allen Avenue and fourteen (14) on-site spaces at 1805 Monument Avenue. This differs from the configuration that was previously authorized in the aforementioned BZA case. All parking spaces must be clearly delineated with striping and must meet the required dimensions of the zoning ordinance prior to a future zoning approval for the Property. A copy of the parking regulations is attached.

7. No application for rezoning of the Property, or for a special or conditional use permit or variance in connection with the Property, is now pending.
8. No plan of development was required at the time of the building's construction, and no plan of development would be required to convert the existing building into multi-family apartments.
9. A subsequent purchaser of the Property, upon acquisition of the Property, will be required to obtain a Certificate of Zoning Compliance (CZC) for continued use of the office building and accessory parking area.
10. The undersigned is not aware of any other permit of license required by the City of Richmond, which a purchaser must obtain before it may acquire the Property or before the Property may continue to be used for office space.
11. This office is unaware of any pending zoning violations having been filed with respect to the Property, and the undersigned is unaware of any violations of the applicable portion of the Zoning Ordinance.

This office does not issue opinions with respect to compliance with building codes, fire codes or other health and safety regulations which may pertain to this property. For building code issues, contact Ray Abbasi, Operations Manager at 646-7483. For fire and safety questions, contact Fire and Emergency Services at 646-6640.

I hope this information is sufficient. If you have any additional questions regarding this letter, please contact Rich Saunders by e-mail at: Richard.Saunders@Richmondgov.com or by telephone at: (804) 646-6356.

Sincerely,



William C. Davidson
Zoning Administrator

cc: Aramin Properties LLC
4504 Wythe Avenue
Richmond, Virginia 23221



Exhibit 3

CITY OF RICHMOND

DEPARTMENT OF
PLANNING AND DEVELOPMENT REVIEW
ZONING ADMINISTRATION

February 7, 2019

The Capstone Contracting Company
4235 Innslake Drive, Suite 110
Glen Allen, Virginia 23060

ATTN: Chris Allen

RE: 1805 Monument Avenue - Building Permit (PLAN #: 046464-2018)

Dear Mr. Allen:

We are in receipt of the revised plans that were submitted on January 9, 2019, to convert the existing building, containing a nonconforming office use, into a multifamily dwelling containing a total of sixty-three (63) dwelling units.

Please be advised of the following zoning comments (items that need to be addressed are **in bold**):

1. The existing nonconforming use (office building) is located within an R-6 (Single-Family Attached Residential) zoning district. The proposed change, to a multifamily dwelling (63-dwelling units: 56 @ 1 bedroom & 7 @ 2-bedroom), is determined to be permitted under Section 30-800.3, as meeting the following criteria:
 - a. The use is first permitted in the same district or a more restricted district than the district in which the nonconforming use is first permitted, and such use is not a use permitted by conditional use permit in that district. *An office is not a permitted principal use in the R-6 district, but is first permitted as a principal use in the R-73 (Multifamily Residential) zoning district. Multifamily use is not a permitted principal use in the R-6 district, but is first permitted as a principal use in the R-43 (Multifamily Residential) zoning district. The R-43 district is a more restricted district than the R-73 district.*
 - b. The use does not require more off-street parking than the nonconforming use as determined by application of the requirements of Section 30-710.1. *The existing nonconforming office has a parking requirement, based on City Assessor's records, of 106 off-street parking spaces. The proposed multifamily dwelling, containing 63-units, would have an off-street parking requirement of 63-spaces. The proposed use, by application of the requirements, does not require more parking.*

- c. The use does not characteristically have a greater number of employees or a greater amount of traffic, noise, smoke or odor than the nonconforming use. *A multifamily dwelling generally does not employ staff other than within the leasing office or accessory janitorial staff. There is no leasing office shown on the submitted proposed plans. The office use has a greater number of employees than the proposed multifamily dwelling.*

Per trip generation data of the Institute of Transportation Engineers, office use generates a greater amount of traffic than the proposed multifamily dwelling use. In addition, per the International Building Code, the maximum occupancy load for the proposed multifamily use (1 per 200 square feet of floor area) is half that of the existing office use (1 person per 100 square feet of floor area). The use does not characteristically have a greater number of employees or a greater amount of traffic, noise, smoke or odor than the proposed use.

- d. The use does not otherwise constitute a greater deviation from the regulations pertaining to permitted principal or accessory uses applicable in the district in which it is located. *The proposed multifamily use is a residential use and is characteristically more similar to uses permitted an existing within the R-6 district.*
2. The Zoning Ordinance states, under Section 30-800.1, "No building or structure devoted to a nonconforming use shall be enlarged, extended, reconstructed, move or structurally altered unless such building or structure is thereafter devoted to a conforming use, provided nothing in this division shall be construed to prohibit normal repair, strengthening or restoration to a safe condition as may be required by law . . ."

The proposed plans show structural alterations, to include:

- a. New window openings in the basement level. This is shown as Note 5 on Sheet AD3.0 of the demolition plan and on Note 13 on Sheet A3.2 of the proposed elevations.
- b. Remove existing ductwork and mechanical shaft walls and infill floor with new concrete. This is shown as Note 8 on Sheets AD1.0 through AD1.2 on the demolition plan and is shown in more detail on the structural plans.
- c. Adding concrete slabs on all floors. This is shown as Note 4 on Sheets A1.0A through A1.6B of the proposed floor plans.
- d. Constructing a 4' x 4' x 6' deep pit in the basement for macerator, including underpinning of existing footings. This is shown as Note 20 on Sheet A1.0B of the proposed floor plans and in more detail on Sheet S1.1 of the structural plans.
- e. New concrete floor and wall support adjacent to Unit B4 in the basement. This is shown on Sheet A1.0A of the proposed floor plans (Note 4) and in

more detail on the "Floor Extension Plan" on Sheet S1.1 of the structural plans.

- f. New floor openings and installation of new slab and beams for ductwork on floors 1 through 6. This is shown as Note 17 on Sheets AD1.0 through AD1.3 and in more detail on the "Floor Opening Detail At Elevator Shaft" on Sheet S1.2 of the structural plans.
- g. New staircase being added in basement for Unit B3 and B4. This is shown as Note 6 on Sheet A 1.0A of the proposed floor plans.

Board of Zoning Appeals (BZA) Special Exception or City Council Special Use Permit approval shall be necessary to authorize these structural alterations.

- 3. The Zoning Ordinance states, under Section 30-800.2, "Except as specifically permitted by this division, a nonconforming use shall not be extended, expanded, enlarged or moved to occupy a different or greater area of land, buildings or structures than was occupied by such use at the time it became nonconforming, provided that a nonconforming use may be extended through any parts of a building which were specifically and lawfully designed and arranged for such use at the time it became nonconforming . . ."

The proposed plans show extension, expansion, enlargement and occupancy of a greater area of the building, including an extension into parts of the building that were not specifically and lawfully designed and arranged for such use. These areas include:

- a. Areas in the basement, previously/currently used as ancillary mechanical/storage space. Boiler room equipment (Note 5) and concrete equipment pads (Note 16) are shown as being removed on Sheet AD1.0 of the demolition plan to accommodate dwelling units B3 and B4 that are shown on the proposed floor plan on Sheet A1.0A.
- b. Ductwork and mechanical shaft walls (Note 8) are shown as being removed on the 1st – 6th floors on Sheets AD1.0 through AD1.2. This is to accommodate new dwelling units.

Board of Zoning Appeals (BZA) Special Exception or City Council Special Use Permit approval shall be necessary to authorize these alterations.

- 4. The property currently requires and provides a total of sixty-four (64) off-street parking spaces, both on the property (1805 Monument Avenue) as well as off-premise on adjacent property under common ownership. The parcels at 408-412 North Allen Avenue are also subject to Board of Zoning Appeals (BZA) approval (Case No. 4-00), which waived the front yard (setback) requirement for the parking spaces thereon. A parking layout plan has been submitted and the limits and design of the parking area is consistent with the 2000 BZA approval. Be advised that these parking spaces must continue to be provided solely for the proposed and any future use of 1805 Monument Avenue.

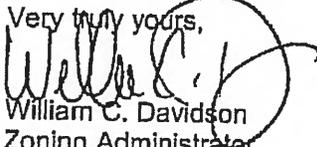
Chris Allen
RE: Building Permit, PLAN # 046464-2018 (1805 Monument Avenue)
February 7, 2019
Page 4

As the items specified do not meet the requirements of the Zoning Ordinance for building permit (BP) approval, you may petition the Board of Zoning Appeals (BZA) for a Special Exception or submit an application for a Special Use Permit City Council to permit and allow these identified structural alterations and expansions.

You are hereby advised that you have thirty (30) days from this notice in which to appeal this decision to the Board of Zoning Appeals, in accordance with §15.2-2311 of the Code of Virginia and §17.19 of the Richmond City Charter, or this decision shall be final and unappealable. Such appeal must be in writing and must be filed with the Secretary to the Board of Zoning Appeals. Said appeal shall indicate in specific terms the grounds for the appeal and must be accompanied by a filing fee of two hundred fifty dollars (\$250.00).

If you have any questions, please contact Richard Saunders, Planner II, at (804) 646-6356 or via E-mail at: Richard.Saunders@Richmondgov.com.

Very truly yours,


William C. Davidson
Zoning Administrator

xc: Roy W. Benbow, Secretary, Board of Zoning Appeals
Matthew Ebinger, Planner III, P&DR-Land Use Administration
Ray Abbasi, Commissioner of Buildings (Acting), P&DR

Exhibit 4

REC'D: 4/10/2019
@ ~ 1:05 PM
WWD

April 10, 2019

BY HAND DELIVERY

William C. Davidson, Zoning Administrator
Board of Zoning Appeals
Zoning Administration Office
Room 110, City Hall
900 E Broad Street
Richmond, VA 23219

Re: 1805 Monument Avenue, Lee Medical Building Conversion
Appeal of Nuckolls and Reid

Dear Mr. Davidson,

As you know, an appeal was filed as to the determination of the Zoning Administrator of April 19, 2018 with respect to your finding that a by-right conversion of the subject property from office to multi-family residential use is permissible under Section 30-800.3 of the Zoning Ordinance.

This appeal (copy attached as Exhibit A) was timely noted on November 7, 2018. I would ask that it be docketed for a hearing and determination by the Board of Zoning Appeals.

The Zoning Administrator also purported to issue a determination as to the subject property earlier this year on February 7, 2019 (attached as Exhibit B). Despite the pending appeal, appellants were not provided with a copy of this letter until March 12, 2019, when neighboring landowners were provided with it in connection with the developer's Application for a Special Exception Permit with respect to the subject property. In that February 7, 2019 letter, the Zoning Administrator appears to elaborate upon the finding from April, 2018 on the by-right conversion issue, reaching the same conclusion that such a conversion is permitted. The February 7 letter also notes that proposed structural alterations and enlargement of the building will require a Special Exception from the BZA or a Special Use Permit from the City Council.

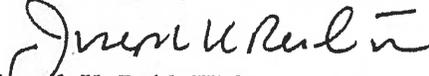
Under the explicit language of § 15.2-2311 B of the Code of Virginia, the filing of an appeal to a determination of the Zoning Administrator "shall stay all proceedings in furtherance of the action appealed from ...". As such, to the extent the Zoning Administrator purports to re-

address or expand upon the April, 2018 determination in the February, 2019 letter, that action is void or, alternatively, of no effect on the current appeal because of the automatic stay.¹

Please advise as to when the November appeal will be heard. I would also appreciate being provided notice of any further requested actions to or by the Zoning officials with respect to the subject property.

Thank you for your attention to this matter.

Very truly yours,



Joseph K. Reid, III for

Steven C. Nuckolls
Janice H. Nuckolls
Joseph K. Reid, III

APPELLANTS

cc: Roy Benbow, Board of Zoning Appeals Secretary (by email)

¹ By contrast, Appellants do not object to the findings of the Zoning Administrator in the February, 2019 letter with respect to the proposed alterations and expansion, which were not addressed in the April, 2018 determination, not appealed from, and not therefore stayed by the provisions of 15.2-2311 B.

APPLICATION FORM FOR AN APPEAL TO A DECISION OF THE ZONING ADMINISTRATOR



CITY OF RICHMOND - ZONING ADMINISTRATION OFFICE
 ROOM 110, CITY HALL, 900 EAST BROAD STREET
 RICHMOND, VIRGINIA 23219
 (804) 646-6340 DGDZoningAdministration@Richmondgov.com

TO BE COMPLETED BY APPELLANT
 (See the reverse side of this application for completion instructions)

1. APPEALS TO THE BOARD OF ZONING APPEALS MUST BE FILED WITH THE ZONING ADMINISTRATION OFFICE IN THE CITY OF RICHMOND CITY HALL - ROOM 110. SUCH APPEAL SHALL BE FILED NOT MORE THAN 30 DAYS FROM THE DATE OF THE DECISION FOR WHICH REVIEW IS SOUGHT. APPEALS FILED AS HEREIN PROVIDED ARE ALSO DEEMED TO HAVE BEEN PROPERLY FILED WITH THE BOARD OF ZONING APPEALS.

2. APPELLANT: Stephen C. and Janice H. Nuckolls
 (Name/Address) 1815 Monument Ave.
 Richmond, VA 23220
 PHONE: (home) (804) 349-3293 (work) ()
 E-mail Address: steve@stevenuckolls.com
 Fax No. ()

SECONDARY
 3. APPELLANT'S REPRESENTATIVE: Joseph K. Reid, III
 (Name/Address) 1821 Monument Ave.
 Richmond, VA 23220
 PHONE: (home) (804) 314-9925 (work) (804) 775-1198
 E-mail Address: jreid@mcgulreewoods.com
 Fax No. ()

4. LIST THE SPECIFIC SECTION NUMBER(S) OF THE ZONING ORDINANCE WHICH ARE BEING APPEALED:
 Section 30-800.3

5. PROPERTY ADDRESS(ES): 1805 Monument Avenue; 408, 410/412 N. Allen Avenue;
 Richmond, VA 23220

6. GROUNDS FOR THE APPEAL (Grounds for the Appeal may be supplemented on additional page(s)):
 SEE ATTACHED

I AM APPEALING UNDER SECTION 17.20, PARAGRAPH (a) OF THE CHARTER OF THE CITY OF RICHMOND.

7. SIGNATURE OF APPELLANT: *Stephen C. Nuckolls* DATE: 10/30/18
Janice H. Nuckolls
Jennifer Nuckolls 10/31/18

TO BE COMPLETED BY THE ZONING ADMINISTRATION OFFICE

APPEAL DEADLINE DATE: _____ TAX PARCEL NO. (H): _____ ZONING DISTRICT: _____

DATE FILED: _____ TIME FILED: _____ RECEIVED BY: _____ RECEIPT NO. _____

TO BE COMPLETED BY THE SECRETARY OF THE BOARD OF ZONING APPEALS

DATE FILED: _____ CASE NUMBER: _____ HEARING DATE: _____ AT _____ P.M.

AS CERTIFIED BY: _____ (ZONING ADMINISTRATOR)

AS CERTIFIED BY: _____ (SECRETARY, BOARD OF ZONING APPEALS)

**ATTACHMENT
ZONING ADMINISTRATOR DECISION APPEAL
408, 410/412 NORTH ALLEN AVE.**

GROUND FOR THE APPEAL

This appeal is from the Zoning Administrator's determination of April 19, 2018¹ with respect to the subject properties that the proposed use as a multi-family residential apartment building would be permitted per Section 30-800.3 of the non-conforming use regulations of the Zoning Ordinance (determination attached as Exhibit A).

The Zoning Ordinance allows a nonconforming use to be changed to a different use when all of the following criteria are met [Zoning Ordinance §30-800.3]:

- (1) The use is first permitted in the same district or a more restricted district than the district in which the nonconforming use is first permitted, and such use is not a use permitted by conditional use permit in that district.
- (2) The use does not require more off-street parking than the nonconforming use as determined by application of the requirements of Section 30-710.1.
- (3) The use does not characteristically have a greater number of employees or a greater amount of traffic, noise, smoke or odor than the nonconforming use.
- (4) The use does not otherwise constitute a greater deviation from the regulations pertaining to permitted principal or accessory uses applicable in the district in which it is located.

The Zoning Administrator failed to address the requirements of § 30-800.3 (3) that the proposed use does not have a greater amount of traffic and noise than the non-conforming use. There is insufficient evidence that the proposed use meets the requirements of § 30-800.3 (3). In fact, the proposed use is likely to have a greater amount of traffic and noise than the nonconforming use, and presents significant traffic concerns in particular which should be considered and addressed before approving the proposed use.

The requirements of § 30-800.3 (4) have likewise not been adequately or correctly considered by the Zoning Administrator. The proposed use as over sixty efficiency/student/micro apartments in this location constitutes a greater deviation from the regulations pertaining to permitted principal or accessory uses in this district than the existing nonconforming use.

For these reasons the Zoning Administrator's determination should be overturned, and a Special Use Permit should be required under Code § 30-1050.1 *et seq.* for any proposed use as referenced in the April 19, 2018 Determination.

¹ This appeal is timely pursuant to Va. Code § 15.2-2311, as the appeal period has not yet commenced since the April 19, 2018 determination does not contain a statement concerning the right to appeal as required under this Code section.



CITY OF RICHMOND

DEPARTMENT OF
PLANNING AND DEVELOPMENT REVIEW
ZONING ADMINISTRATION

April 19, 2018

C. Thomas Green III, Esquire
311 S. Boulevard
Richmond, Virginia 23220

**RE: Certification of Zoning;
1805 Monument Avenue; 408 North Allen Avenue; and 410/412 North Allen Avenue
Tax Map #s: W000-061/020; W000-0861/031; W000-0861/028
City of Richmond, Virginia (the "Property")**

Dear Mr. Green:

In response to your request for a Zoning Confirmation Letter for the above-referenced Property, please be advised of the following:

1. The Property is located within the corporate limits of the City of Richmond, Virginia.
2. The Property is zoned R-6 (Single-Family Attached Residential); a copy of the R-6 district regulations and zoning section map is attached. The Property is also located within the Monument Avenue City Old and Historic District. As such, any exterior change to the building or site must be revised and approved by the Commission or Architectural Review.
3. The current use of the Property for professional/general office space is a legally nonconforming use. The proposed use as a multifamily residential apartment building would also be permitted per Section 30-800.3 of the nonconforming use regulations of the zoning ordinance (copy attached).
4. The parking areas located at 410-412 Allen Avenue and 408 North Allen Avenue have been used to provide forty-six (46) accessory parking spaces for the office building at 1805 Monument Avenue and is a legally nonconforming use. A Board of Zoning Appeals (BZA) variance (Case No. 4-00) was granted to waive the front yard requirement for these parking spaces. Be advised that these parking spaces must continue to be provided to the current and future use of 1805 Monument Avenue.
5. The current zoning setback requirements are:

Front- 15 feet
Side- 5 feet
Side- 5 feet
6. The parking requirement for the current use is one space per three hundred square (300) feet of floor area for the first fifteen hundred (1,500) square feet, and one space per four hundred (400) square feet of floor area for floor area in addition to fifteen hundred (1,500) square feet. Based on City Assessor's records, the building contains forty-one thousand eight hundred and twenty-six (41,826) square feet of floor area, which would require one hundred and six (106) parking spaces. There were no off-street parking requirements at the time of construction of the office building.

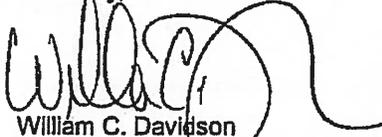
Based on the plans that were approved with the BZA case (copy attached) and a previous zoning confirmation letter for the Property a total of sixty-one (61) parking spaces have previously been available for the Property; this includes forty-six (46) off-site parking spaces at 408-412 North Allen Avenue. Accordingly, there are forty-five (45) nonconforming parking spaces that may be applied to a future use of the Property. A recent inspection documented that a total of fifty-five (55) spaces were available at the time, including forty-one (41) off-site spaces at 408-412 North Allen Avenue and fourteen (14) on-site spaces at 1805 Monument Avenue. This differs from the configuration that was previously authorized in the aforementioned BZA case. All parking spaces must be clearly delineated with striping and must meet the required dimensions of the zoning ordinance prior to a future zoning approval for the Property. A copy of the parking regulations is attached.

7. No application for rezoning of the Property, or for a special or conditional use permit or variance in connection with the Property, is now pending.
8. No plan of development was required at the time of the building's construction, and no plan of development would be required to convert the existing building into multi-family apartments.
9. A subsequent purchaser of the Property, upon acquisition of the Property, will be required to obtain a Certificate of Zoning Compliance (CZC) for continued use of the office building and accessory parking area.
10. The undersigned is not aware of any other permit or license required by the City of Richmond, which a purchaser must obtain before it may acquire the Property or before the Property may continue to be used for office space.
11. This office is unaware of any pending zoning violations having been filed with respect to the Property, and the undersigned is unaware of any violations of the applicable portion of the Zoning Ordinance.

This office does not issue opinions with respect to compliance with building codes, fire codes or other health and safety regulations which may pertain to this property. For building code issues, contact Ray Abbasi, Operations Manager at 646-7483. For fire and safety questions, contact Fire and Emergency Services at 646-6640.

I hope this information is sufficient. If you have any additional questions regarding this letter, please contact Rich Saunders by e-mail at: Richard.Saunders@Richmondgov.com or by telephone at: (804) 646-6356.

Sincerely,



William C. Davidson
Zoning Administrator

cc: Aramin Properties LLC
4504 Wythe Avenue
Richmond, Virginia 23221



CITY OF RICHMOND

DEPARTMENT OF
PLANNING AND DEVELOPMENT REVIEW
ZONING ADMINISTRATION

February 7, 2019

The Capstone Contracting Company
4235 Innslake Drive, Suite 110
Glen Allen, Virginia 23060

ATTN: Chris Allen

RE: 1805 Monument Avenue - Building Permit (PLAN #: 046464-2018)

Dear Mr. Allen:

We are in receipt of the revised plans that were submitted on January 9, 2019, to convert the existing building, containing a nonconforming office use, into a multifamily dwelling containing a total of sixty-three (63) dwelling units.

Please be advised of the following zoning comments (items that need to be addressed are in bold):

1. The existing nonconforming use (office building) is located within an R-6 (Single-Family Attached Residential) zoning district. The proposed change, to a multifamily dwelling (63-dwelling units: 56 @ 1 bedroom & 7 @ 2-bedroom), is determined to be permitted under Section 30-800.3, as meeting the following criteria:
 - a. The use is first permitted in the same district or a more restricted district than the district in which the nonconforming use is first permitted, and such use is not a use permitted by conditional use permit in that district. *An office is not a permitted principal use in the R-6 district, but is first permitted as a principal use in the R-73 (Multifamily Residential) zoning district. Multifamily use is not a permitted principal use in the R-6 district, but is first permitted as a principal use in the R-43 (Multifamily Residential) zoning district. The R-43 district is a more restricted district than the R-73 district.*
 - b. The use does not require more off-street parking than the nonconforming use as determined by application of the requirements of Section 30-710.1. *The existing nonconforming office has a parking requirement, based on City Assessor's records, of 106 off-street parking spaces. The proposed multifamily dwelling, containing 63-units, would have an off-street parking requirement of 63-spaces. The proposed use, by application of the requirements, does not require more parking.*

- c. The use does not characteristically have a greater number of employees or a greater amount of traffic, noise, smoke or odor than the nonconforming use. *A multifamily dwelling generally does not employ staff other than within the leasing office or accessory janitorial staff. There is no leasing office shown on the submitted proposed plans. The office use has a greater number of employees than the proposed multifamily dwelling.*

Per trip generation data of the Institute of Transportation Engineers, office use generates a greater amount of traffic than the proposed multifamily dwelling use. In addition, per the International Building Code, the maximum occupancy load for the proposed multifamily use (1 per 200 square feet of floor area) is half that of the existing office use (1 person per 100 square feet of floor area). The use does not characteristically have a greater number of employees or a greater amount of traffic, noise, smoke or odor than the proposed use.

- d. The use does not otherwise constitute a greater deviation from the regulations pertaining to permitted principal or accessory uses applicable in the district in which it is located. *The proposed multifamily use is a residential use and is characteristically more similar to uses permitted an existing within the R-6 district.*
2. The Zoning Ordinance states, under Section 30-800.1, "No building or structure devoted to a nonconforming use shall be enlarged, extended, reconstructed, move or structurally altered unless such building or structure is thereafter devoted to a conforming use, provided nothing in this division shall be construed to prohibit normal repair, strengthening or restoration to a safe condition as may be required by law . . ."

The proposed plans show structural alterations, to include:

- a. New window openings in the basement level. This is shown as Note 5 on Sheet AD3.0 of the demolition plan and on Note 13 on Sheet A3.2 of the proposed elevations.
- b. Remove existing ductwork and mechanical shaft walls and infill floor with new concrete. This is shown as Note 8 on Sheets AD1.0 through AD1.2 on the demolition plan and is shown in more detail on the structural plans.
- c. Adding concrete slabs on all floors. This is shown as Note 4 on Sheets A1.0A through A1.6B of the proposed floor plans.
- d. Constructing a 4' x 4' x 6' deep pit in the basement for macerator, including underpinning of existing footings. This is shown as Note 20 on Sheet A1.0B of the proposed floor plans and in more detail on Sheet S1.1 of the structural plans.
- e. New concrete floor and wall support adjacent to Unit B4 in the basement. This is shown on Sheet A1.0A of the proposed floor plans (Note 4) and in

more detail on the "Floor Extension Plan" on Sheet S1.1 of the structural plans.

- f. New floor openings and installation of new slab and beams for ductwork on floors 1 through 6. This is shown as Note 17 on Sheets AD1.0 through AD1.3 and in more detail on the "Floor Opening Detail At Elevator Shaft" on Sheet S1.2 of the structural plans.
- g. New staircase being added in basement for Unit B3 and B4. This is shown as Note 6 on Sheet A 1.0A of the proposed floor plans.

Board of Zoning Appeals (BZA) Special Exception or City Council Special Use Permit approval shall be necessary to authorize these structural alterations.

- 3. The Zoning Ordinance states, under Section 30-800.2, *"Except as specifically permitted by this division, a nonconforming use shall not be extended, expanded, enlarged or moved to occupy a different or greater area of land, buildings or structures than was occupied by such use at the time it became nonconforming, provided that a nonconforming use may be extended through any parts of a building which were specifically and lawfully designed and arranged for such use at the time it became nonconforming . . ."*

The proposed plans show extension, expansion, enlargement and occupancy of a greater area of the building, including an extension into parts of the building that were not specifically and lawfully designed and arranged for such use. These areas include:

- a. Areas in the basement, previously/currently used as ancillary mechanical/storage space. Boiler room equipment (Note 5) and concrete equipment pads (Note 16) are shown as being removed on Sheet AD1.0 of the demolition plan to accommodate dwelling units B3 and B4 that are shown on the proposed floor plan on Sheet A1.0A.
- b. Ductwork and mechanical shaft walls (Note 8) are shown as being removed on the 1st – 6th floors on Sheets AD1.0 through AD1.2. This is to accommodate new dwelling units.

Board of Zoning Appeals (BZA) Special Exception or City Council Special Use Permit approval shall be necessary to authorize these alterations.

- 4. The property currently requires and provides a total of sixty-four (64) off-street parking spaces, both on the property (1805 Monument Avenue) as well as off-premise on adjacent property under common ownership. The parcels at 408-412 North Allen Avenue are also subject to Board of Zoning Appeals (BZA) approval (Case No. 4-00), which waived the front yard (setback) requirement for the parking spaces thereon. A parking layout plan has been submitted and the limits and design of the parking area is consistent with the 2000 BZA approval. Be advised that these parking spaces must continue to be provided solely for the proposed and any future use of 1805 Monument Avenue.

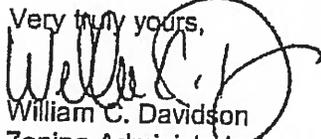
Chris Allen
RE: Building Permit, PLAN # 046464-2018 (1805 Monument Avenue)
February 7, 2019
Page 4

As the items specified do not meet the requirements of the Zoning Ordinance for building permit (BP) approval, you may petition the Board of Zoning Appeals (BZA) for a Special Exception or submit an application for a Special Use Permit City Council to permit and allow these identified structural alterations and expansions.

You are hereby advised that you have thirty (30) days from this notice in which to appeal this decision to the Board of Zoning Appeals, in accordance with §15.2-2311 of the Code of Virginia and §17.19 of the Richmond City Charter, or this decision shall be final and unappealable. Such appeal must be in writing and must be filed with the Secretary to the Board of Zoning Appeals. Said appeal shall indicate in specific terms the grounds for the appeal and must be accompanied by a filing fee of two hundred fifty dollars (\$250.00).

If you have any questions, please contact Richard Saunders, Planner II, at (804) 646-6356 or via E-mail at: Richard.Saunders@Richmondgov.com.

Very truly yours,



William C. Davidson
Zoning Administrator

xc: Roy W. Benbow, Secretary, Board of Zoning Appeals
Matthew Ebinger, Planner III, P&DR-Land Use Administration
Ray Abbasi, Commissioner of Buildings (Acting), P&DR

RECEIPT (TRC-050131-11-07-2018)

BILLING CONTACT
Joseph Reid
McGuire Woods
1821 Monument Ave
Richmond, Va 23220



Reference Number	Fee Name	Transaction Type	Payment Method	Amount Paid
BZAC-044612-2018	Board of Zoning Appeals - Appeal of Zoning Admin	Fee Payment	Check #3082	\$250.00
1805 Monument Ave Richmond, VA 23220			SUB TOTAL	\$250.00

TOTAL \$250.00

Davidson, William C. - PDR

From: Bob Mills <bob@robertmillsarchitect.com>
Sent: Thursday, April 6, 2017 9:45 AM
To: Davidson, William C. - PDR
Cc: Ebinger, Matthew J. - PDR; Benbow, Roy - PDR
Subject: Re: 1805 Monument Avenue - Lee Medical Building

Thank you

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

From: Davidson, William C. - PDR
Sent: Thursday, April 6, 2017 9:38 AM
To: Bob Mills
Cc: Ebinger, Matthew J. - PDR; Benbow, Roy - PDR
Subject: RE: 1805 Monument Avenue - Lee Medical Building

Correct, but with the caveat that there will be no structural alterations. If there are, either the BZA or City Council would need to approve.

William C. Davidson
Zoning Administrator
City Hall - Room 110
Richmond, Virginia 23219
(804) 646-6353: Direct
(804) 646-6948: FAX
(804)646-6340: Office

Email: William.Davidson@Richmondgov.com

To access the Zoning Webpage, click on: [ZoningDivision.aspx](#)

To access the Zoning Code, click on: [Zoning Ordinance](#)

For GIS map information, click on: [City Zoning Map](#)

To check the status of plan reviews and inspection results go to:

http://energov.richmondgov.com/EnerGov_Prod/CitizenAccess/Site/Public/Main

Please remember in the city's new permitting system that when an application is submitted it receives a plan number and when it is issued it receives a permit number.

From: Bob Mills [mailto:bob@robertmillsarchitect.com]
Sent: Thursday, April 06, 2017 9:28 AM
To: Davidson, William C. - PDR; Olinger, Mark A. - PDR
Cc: Matt Raggi
Subject: 1805 Monument Avenue - Lee Medical Building

Chuck and Mark:

Thank you for meeting with us yesterday to discuss the redevelopment of the Lee Medical Building, located at 1805 Monument Avenue. In our discussion, it was determined that the use conversion of this building from medical office use

to multi-family use was allowed "by right" and that we would not be required to pursue a re-zoning or Special Use Permit to accommodate this new use. We will approach this project with this understanding.

If I am incorrect in this understanding, will you please contact me immediately at 804.334.2489.
Thank you for your time.

Bob

Robert S. Mills, FAIA, CID, NCARB

Architect

bob@robertmillsarchitect.com

30 Lexington Road

Richmond, Virginia 23226

804.355.8745 office

804.334.2489 cell

Revitalization Through Rehabilitation

Davidson, William C. - PDR

From: Davidson, William C. - PDR
Sent: Wednesday, August 15, 2018 4:09 PM
To: Bieber, Craig K. - City Council Office
Cc: Olinger, Mark A. - PDR; Gibson, Neil R. - City Atty; Benbow, Roy - PDR; Saunders, Richard L. - PDR
Subject: RE: 1805 Monument Avenue Zoning Confirmation Letter

The letter would be appealable relative to the specific components discussed. Specifically, the determination that they can convert from a nonconforming office to multi-family residential is decided; that would be a 30-day appeal. This shouldn't be an issue, as this has been the application of the statute for, at least, 30+ years and 4 Zoning Administrators.

Transfer of the Certificate of Zoning Compliance to a new owner is required to use the property. If it is vacant and/or under construction for conversion, the approval would not be granted until the Certificate of Occupancy was approved.

Be aware that the conversion to a multi-family dwelling use is closer to compliance with the Ordinance and the number of units proposed greatly decreases the parking requirement from the current office use. Under the nonconforming provisions, they could legally convert to as many as 106-units.

If this, and other similar properties in the Fan, were appropriately zoned (and not zoned R-6 Single-and Two-Family), this wouldn't be an issue as it would probably have limited a by-right conversion to less units. There are countless other buildings that may be commercial in nature that could be transitioned into multi-family under this same scenario. Be aware that many of these under-zoned areas result in countless special approval (SUP's or BZA action) requests that have to be processed by this or the Land Use Office and includes a Council or BZA approval all of which extends the time of obtaining approval and/or the permit process. Hopefully, under the Richmond 300 process, substantial changes can be made to appropriately zone many areas in the City.

The confirmation letter only specifies the right to convert. If there are any requirements to convert that result in certain alterations or expansions, they may require special approval. That aspect will not be known until the complete engineered and architectural drawings are submitted.

William C. Davidson
Zoning Administrator

900 East Broad Street
City Hall – Room 110
Richmond, Virginia 23219
(804) 646-6353: Direct
(804) 646-6340: Office
(804) 646-6948: FAX

E-mail: William.Davidson@Richmondgov.com

To access the Zoning Webpage, click

on: <http://www.richmondgov.com/PlanningAndDevelopmentReview/ZoningDivision.aspx>

To access the Zoning Ordinance, click

on: <http://www.richmondgov.com/PlanningAndDevelopmentReview/documents/ZoningOrdinance.pdf>

For GIS Zoning Map information, click

on: <http://cor.maps.arcgis.com/apps/webappviewer/index.html?id=cf5282d10b6f40fcb361cde85dcc6fe4>

To check the status of plan reviews and inspection results, click on: http://energov.richmondgov.com/EnerGov_Prod/CitizenAccess/Site/Public/Main

Please remember in the City's new permitting system, when an application is submitted it will receive a **Plan Number** and when it is issued, it receives a **Permit Number**.

From: Bieber, Craig K. - City Council Office
Sent: Wednesday, August 15, 2018 2:41 PM
To: Davidson, William C. - PDR <Chuck.Davidson@Richmondgov.com>
Cc: Saunders, Richard L. - PDR <Richard.Saunders@richmondgov.com>; Gray, Kimberly B. - City Council <Kimberly.Gray@richmondgov.com>; Olinger, Mark A. - PDR <Mark.Olinger@Richmondgov.com>
Subject: 1805 Monument Avenue Zoning Confirmation Letter

Chuck:

Our office has been contacted by several residents in the vicinity of 1805 Monument Avenue. They have provided us with a copy of a Zoning Confirmation letter from your office dated April 19, 2018 for the property located at 1805 Monument. Ms. Gray asked me to convey the following questions to you.

Is the Zoning Confirmation Letter considered a decision by Zoning Administration that would be subject to appeal to the BZA? If so, what would be the legal time frame for filing such an appeal?

If the property is sold subsequent to the issuance of the Zoning Confirmation Letter, would the buyer be required to obtain a new Zoning Confirmation Letter?

Thanks in advance for your assistance,

Craig Bieber, Liaison
Councilwoman Kim Gray
646-6532

Davidson, William C. - PDR

From: Steve Nuckolls <steve@stevenuckolls.com>
Sent: Friday, August 10, 2018 8:07 AM
To: Davidson, William C. - PDR
Subject: RE: 1805 Monument Avenue

Yes.

From: Davidson, William C. - PDR <Chuck.Davidson@Richmondgov.com>
Sent: Friday, August 10, 2018 12:11 AM
To: Steve Nuckolls <steve@stevenuckolls.com>
Subject: Re: 1805 Monument Avenue

After conversions?

Sent from my iPad

On Aug 9, 2018, at 4:45 PM, Steve Nuckolls <steve@stevenuckolls.com> wrote:

So would we then be able to appeal the CZC approval if we wanted? Thanks.

From: Davidson, William C. - PDR <Chuck.Davidson@Richmondgov.com>
Sent: Thursday, August 9, 2018 3:58 PM
To: Steve Nuckolls <steve@stevenuckolls.com>
Subject: RE: 1805 Monument Avenue

Theoretically, yes, but we could only issue it for office until they obtain a BP to convert to residential and then a C.O. will be issued, which will include the CZC approval.

William C. Davidson
Zoning Administrator

900 East Broad Street
City Hall – Room 110
Richmond, Virginia 23219
(804) 646-6353: Direct
(804) 646-6340: Office
(804) 646-6948: FAX

E-mail: William.Davidson@Richmondgov.com

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on: <http://www.richmondgov.com/PlanningAndDevelopmentReview/ZoningDivision.aspx>

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on: <http://www.richmondgov.com/PlanningAndDevelopmentReview/documents/ZoningOrdinance.pdf>

For GIS Zoning Map information, click

on: <http://cor.maps.arcgis.com/apps/webappviewer/index.html?id=cf5282d10b6f40fcb361cde85dcc6fe4>

To check the status of plan reviews and inspection results, click
on: http://energov.richmondgov.com/EnerGov_Prod/CitizenAccess/Site/Public/Main

Please remember in the City's new permitting system, when an application is submitted it will receive a **Plan Number** and when it is issued, it receives a **Permit Number**.

From: Steve Nuckolls [<mailto:steve@stevenuckolls.com>]
Sent: Thursday, August 9, 2018 3:50 PM
To: Davidson, William C. - PDR <Chuck.Davidson@Richmondgov.com>
Cc: Saunders, Richard L. - PDR <Richard.Saunders@richmondgov.com>; 'Janice Hall Nuckolls' <janice@tada-studio.com>
Subject: RE: 1805 Monument Avenue

But won't they be required to obtain a new/updated ZCL, since they will be new owners? I thought the ordinance said that.

From: Davidson, William C. - PDR <Chuck.Davidson@Richmondgov.com>
Sent: Thursday, August 9, 2018 2:52 PM
To: steve@stevenuckolls.com
Cc: Saunders, Richard L. - PDR <Richard.Saunders@richmondgov.com>
Subject: RE: 1805 Monument Avenue

30-days is the appeal time limit requirement under Virginia law.
They will not obtain a CZC for apartments, because they will be required to obtain a building permit (BP) to convert from the existing office use.

William C. Davidson
Zoning Administrator

900 East Broad Street
City Hall – Room 110
Richmond, Virginia 23219
(804) 646-6353: Direct
(804) 646-6340: Office
(804) 646-6948: FAX

E-mail: William.Davidson@Richmondgov.com

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From: Saunders, Richard L. - PDR
Sent: Thursday, August 9, 2018 2:13 PM
To: Davidson, William C. - PDR <Chuck.Davidson@Richmondgov.com>
Subject: FW: 1805 Monument Avenue

I think it would be better to have you answer this one...

Richard L Saunders III, AICP
Planner II
City of Richmond
Planning & Development Review
Zoning Administration Division
804.646.6356
richard.saunders@richmondgov.com
<image001.png>

From: Steve Nuckolls [<mailto:steve@stevenuckolls.com>]
Sent: Thursday, August 09, 2018 2:08 PM
To: Saunders, Richard L. - PDR
Cc: 'Janice Hall Nuckolls'
Subject: RE: 1805 Monument Avenue

Rich,

I believe you told Janice that we had 120 days to appeal a zoning decision. Does that mean that we have until 8/19/18 to appeal the attached ZCL dated 4/19/18? Also, if/when this building is sold to the new development entity (pending), will they also be required to obtain an updated ZCL and/or ZCP in order to use the building as apartments? Thanks.

Steve

From: Saunders, Richard L. - PDR <Richard.Saunders@richmondgov.com>
Sent: Tuesday, June 26, 2018 8:32 AM
To: steve@stevenuckolls.com
Subject: 1805 Monument Avenue

Steve:

Here's the letter, application (with contact info), and attachments.

Thanks,
Rich

Richard L Saunders JJJ
Planner II
City of Richmond
Planning & Development Review, Land Use Administration

APPLICATION FORM FOR AN APPEAL TO A DECISION OF THE ZONING ADMINISTRATOR



CITY OF RICHMOND - ZONING ADMINISTRATION OFFICE
 ROOM 110, CITY HALL, 900 EAST BROAD STREET
 RICHMOND, VIRGINIA 23219
 (804) 646-6340 DQDZoningAdministration@Richmondgov.com

TO BE COMPLETED BY APPELLANT
 (See the reverse side of this application for completion instructions)

1. APPEALS TO THE BOARD OF ZONING APPEALS MUST BE FILED WITH THE ZONING ADMINISTRATION OFFICE IN THE CITY OF RICHMOND CITY HALL - ROOM 110. SUCH APPEAL SHALL BE FILED NOT MORE THAN 30 DAYS FROM THE DATE OF THE DECISION FOR WHICH REVIEW IS SOUGHT. APPEALS FILED AS HEREIN PROVIDED ARE ALSO DEEMED TO HAVE BEEN PROPERLY FILED WITH THE BOARD OF ZONING APPEALS.

2. APPELLANT: Stephen C. and Janice H. Nuckolls PHONE: (home) (804) 349-3293 (work) ()
 (Name/Address) 1815 Monument Ave. E-mail Address: steve@stevenuckolls.com
 Richmond, VA 23220 Fax No. ()

SECONDARY
 3. APPELLANT'S REPRESENTATIVE: Joseph K. Reid, III PHONE: (home) (804) 314-9925 (work) (804) 775-1198
 Address: jreid@mccuirewoods.com
 (Name/Address) 1821 Monument Ave. Fax No. ()
 Richmond, VA 23220

4. LIST THE SPECIFIC SECTION NUMBER(S) OF THE ZONING ORDINANCE WHICH ARE BEING APPEALED:
 Section 30-800.3

5. PROPERTY ADDRESS(ES): 1805 Monument Avenue; 408, 410/412 N. Allen Avenue;
 Richmond, VA 23220

6. GROUNDS FOR THE APPEAL (Grounds for the Appeal may be supplemented on additional page(s)):
 SEE ATTACHED

I AM APPEALING UNDER SECTION 17.20, PARAGRAPH (a) OF THE CHARTER OF THE CITY OF RICHMOND.

7. SIGNATURE OF APPELLANT: *Stephen C. Nuckolls* DATE: 10/30/18
Janice H. Nuckolls
Joseph K. Reid 10/31/18

TO BE COMPLETED BY THE ZONING ADMINISTRATION OFFICE			
APPEAL DEADLINE DATE	TAX PARCEL NO(S)	ZONING DISTRICT	
DATE FILED	TIME FILED	RECEIVED BY	RECEIPT NO.
TO BE COMPLETED BY THE SECRETARY OF THE BOARD OF ZONING APPEALS			
DATE FILED	CASE NUMBER	HEARING DATE	AT R.M.
AS CERTIFIED BY	(ZONING ADMINISTRATOR)		
AS CERTIFIED BY	(SECRETARY, BOARD OF ZONING APPEALS)		

**ATTACHMENT
ZONING ADMINISTRATOR DECISION APPEAL
408, 410/412 NORTH ALLEN AVE.**

GROUND FOR THE APPEAL

This appeal is from the Zoning Administrator's determination of April 19, 2018¹ with respect to the subject properties that the proposed use as a multi-family residential apartment building would be permitted per Section 30-800.3 of the non-conforming use regulations of the Zoning Ordinance (determination attached as Exhibit A).

The Zoning Ordinance allows a nonconforming use to be changed to a different use when all of the following criteria are met [Zoning Ordinance §30-800.3]:

- (1) The use is first permitted in the same district or a more restricted district than the district in which the nonconforming use is first permitted, and such use is not a use permitted by conditional use permit in that district.
- (2) The use does not require more off-street parking than the nonconforming use as determined by application of the requirements of Section 30-710.1.
- (3) The use does not characteristically have a greater number of employees or a greater amount of traffic, noise, smoke or odor than the nonconforming use.
- (4) The use does not otherwise constitute a greater deviation from the regulations pertaining to permitted principal or accessory uses applicable in the district in which it is located.

The Zoning Administrator failed to address the requirements of § 30-800.3 (3) that the proposed use does not have a greater amount of traffic and noise than the non-conforming use. There is insufficient evidence that the proposed use meets the requirements of § 30-800.3 (3). In fact, the proposed use is likely to have a greater amount of traffic and noise than the nonconforming use, and presents significant traffic concerns in particular which should be considered and addressed before approving the proposed use.

The requirements of § 30-800.3 (4) have likewise not been adequately or correctly considered by the Zoning Administrator. The proposed use as over sixty efficiency/student/micro apartments in this location constitutes a greater deviation from the regulations pertaining to permitted principal or accessory uses in this district than the existing nonconforming use.

For these reasons the Zoning Administrator's determination should be overturned, and a Special Use Permit should be required under Code § 30-1050.1 *et seq.* for any proposed use as referenced in the April 19, 2018 Determination.

¹ This appeal is timely pursuant to Va. Code § 15.2-2311, as the appeal period has not yet commenced since the April 19, 2018 determination does not contain a statement concerning the right to appeal as required under this Code section.

REV'D: 4/10/2019
@ ~ 1:05 PM
WHD

April 10, 2019

BY HAND DELIVERY

William C. Davidson, Zoning Administrator
Board of Zoning Appeals
Zoning Administration Office
Room 110, City Hall
900 E Broad Street
Richmond, VA 23219

Re: 1805 Monument Avenue, Lee Medical Building Conversion
Appeal of Nuckolls and Reid

Dear Mr. Davidson,

As you know, an appeal was filed as to the determination of the Zoning Administrator of April 19, 2018 with respect to your finding that a by-right conversion of the subject property from office to multi-family residential use is permissible under Section 30-800.3 of the Zoning Ordinance.

This appeal (copy attached as Exhibit A) was timely noted on November 7, 2018. I would ask that it be docketed for a hearing and determination by the Board of Zoning Appeals.

The Zoning Administrator also purported to issue a determination as to the subject property earlier this year on February 7, 2019 (attached as Exhibit B). Despite the pending appeal, appellants were not provided with a copy of this letter until March 12, 2019, when neighboring landowners were provided with it in connection with the developer's Application for a Special Exception Permit with respect to the subject property. In that February 7, 2019 letter, the Zoning Administrator appears to elaborate upon the finding from April, 2018 on the by-right conversion issue, reaching the same conclusion that such a conversion is permitted. The February 7 letter also notes that proposed structural alterations and enlargement of the building will require a Special Exception from the BZA or a Special Use Permit from the City Council.

Under the explicit language of § 15.2-2311 B of the Code of Virginia, the filing of an appeal to a determination of the Zoning Administrator "shall stay all proceedings in furtherance of the action appealed from ...". As such, to the extent the Zoning Administrator purports to re-

address or expand upon the April, 2018 determination in the February, 2019 letter, that action is void or, alternatively, of no effect on the current appeal because of the automatic stay.¹

Please advise as to when the November appeal will be heard. I would also appreciate being provided notice of any further requested actions to or by the Zoning officials with respect to the subject property.

Thank you for your attention to this matter.

Very truly yours,



Joseph K. Reid, III for

Steven C. Nuckolls
Janice H. Nuckolls
Joseph K. Reid, III

APPELLANTS

cc: Roy Benbow, Board of Zoning Appeals Secretary (by email)

¹ By contrast, Appellants do not object to the findings of the Zoning Administrator in the February, 2019 letter with respect to the proposed alterations and expansion, which were not addressed in the April, 2018 determination, not appealed from, and not therefore stayed by the provisions of 15.2-2311 B.



CITY OF RICHMOND

DEPARTMENT OF
PLANNING AND DEVELOPMENT REVIEW
ZONING ADMINISTRATION

April 19, 2018

C. Thomas Green III, Esquire
311 S. Boulevard
Richmond, Virginia 23220

**RE: Certification of Zoning;
1805 Monument Avenue; 408 North Allen Avenue; and 410/412 North Allen Avenue
Tax Map #s: W000-061/020; W000-0861/031; W000-0861/028
City of Richmond, Virginia (the "Property")**

Dear Mr. Green:

In response to your request for a Zoning Confirmation Letter for the above-referenced Property, please be advised of the following:

1. The Property is located within the corporate limits of the City of Richmond, Virginia.
2. The Property is zoned R-6 (Single-Family Attached Residential); a copy of the R-6 district regulations and zoning section map is attached. The Property is also located within the Monument Avenue City Old and Historic District. As such, any exterior change to the building or site must be revised and approved by the Commission or Architectural Review.
3. The current use of the Property for professional/general office space is a legally nonconforming use. The proposed use as a multifamily residential apartment building would also be permitted per Section 30-800.3 of the nonconforming use regulations of the zoning ordinance (copy attached).
4. The parking areas located at 410-412 Allen Avenue and 408 North Allen Avenue have been used to provide forty-six (46) accessory parking spaces for the office building at 1805 Monument Avenue and is a legally nonconforming use. A Board of Zoning Appeals (BZA) variance (Case No. 4-00) was granted to waive the front yard requirement for these parking spaces. Be advised that these parking spaces must continue to be provided to the current and future use of 1805 Monument Avenue.
5. The current zoning setback requirements are:

Front- 15 feet
Side- 5 feet
Side- 5 feet
6. The parking requirement for the current use is one space per three hundred square (300) feet of floor area for the first fifteen hundred (1,500) square feet, and one space per four hundred (400) square feet of floor area for floor area in addition to fifteen hundred (1,500) square feet. Based on City Assessor's records, the building contains forty-one thousand eight hundred and twenty-six (41,826) square feet of floor area, which would require one hundred and six (106) parking spaces. There were no off-street parking requirements at the time of construction of the office building.

Based on the plans that were approved with the BZA case (copy attached) and a previous zoning confirmation letter for the Property a total of sixty-one (61) parking spaces have previously been available for the Property; this includes forty-six (46) off-site parking spaces at 408-412 North Allen Avenue. Accordingly, there are forty-five (45) nonconforming parking spaces that may be applied to a future use of the Property. A recent inspection documented that a total of fifty-five (55) spaces were available at the time, including forty-one (41) off-site spaces at 408-412 North Allen Avenue and fourteen (14) on-site spaces at 1805 Monument Avenue. This differs from the configuration that was previously authorized in the aforementioned BZA case. All parking spaces must be clearly delineated with striping and must meet the required dimensions of the zoning ordinance prior to a future zoning approval for the Property. A copy of the parking regulations is attached.

7. No application for rezoning of the Property, or for a special or conditional use permit or variance in connection with the Property, is now pending.
8. No plan of development was required at the time of the building's construction, and no plan of development would be required to convert the existing building into multi-family apartments.
9. A subsequent purchaser of the Property, upon acquisition of the Property, will be required to obtain a Certificate of Zoning Compliance (CZC) for continued use of the office building and accessory parking area.
10. The undersigned is not aware of any other permit or license required by the City of Richmond, which a purchaser must obtain before it may acquire the Property or before the Property may continue to be used for office space.
11. This office is unaware of any pending zoning violations having been filed with respect to the Property, and the undersigned is unaware of any violations of the applicable portion of the Zoning Ordinance.

This office does not issue opinions with respect to compliance with building codes, fire codes or other health and safety regulations which may pertain to this property. For building code issues, contact Ray Abbasi, Operations Manager at 646-7483. For fire and safety questions, contact Fire and Emergency Services at 646-6640.

I hope this information is sufficient. If you have any additional questions regarding this letter, please contact Rich Saunders by e-mail at: Richard.Saunders@Richmondgov.com or by telephone at: (804) 646-6356.

Sincerely,



William C. Davidson
Zoning Administrator

cc: Aramin Properties LLC
4504 Wythe Avenue
Richmond, Virginia 23221



CITY OF RICHMOND

DEPARTMENT OF
PLANNING AND DEVELOPMENT REVIEW
ZONING ADMINISTRATION

February 7, 2019

The Capstone Contracting Company
4235 Innslake Drive, Suite 110
Glen Allen, Virginia 23060

ATTN: Chris Allen

RE: 1805 Monument Avenue - Building Permit (PLAN #: 046464-2018)

Dear Mr. Allen:

We are in receipt of the revised plans that were submitted on January 9, 2019, to convert the existing building, containing a nonconforming office use, into a multifamily dwelling containing a total of sixty-three (63) dwelling units.

Please be advised of the following zoning comments (items that need to be addressed are in **bold**):

1. The existing nonconforming use (office building) is located within an R-6 (Single-Family Attached Residential) zoning district. The proposed change, to a multifamily dwelling (63-dwelling units: 56 @ 1 bedroom & 7 @ 2-bedroom), is determined to be permitted under Section 30-800.3, as meeting the following criteria:
 - a. The use is first permitted in the same district or a more restricted district than the district in which the nonconforming use is first permitted, and such use is not a use permitted by conditional use permit in that district. *An office is not a permitted principal use in the R-6 district, but is first permitted as a principal use in the R-73 (Multifamily Residential) zoning district. Multifamily use is not a permitted principal use in the R-6 district, but is first permitted as a principal use in the R-43 (Multifamily Residential) zoning district. The R-43 district is a more restricted district than the R-73 district.*
 - b. The use does not require more off-street parking than the nonconforming use as determined by application of the requirements of Section 30-710.1. *The existing nonconforming office has a parking requirement, based on City Assessor's records, of 106 off-street parking spaces. The proposed multifamily dwelling, containing 63-units, would have an off-street parking requirement of 63-spaces. The proposed use, by application of the requirements, does not require more parking.*

- c. The use does not characteristically have a greater number of employees or a greater amount of traffic, noise, smoke or odor than the nonconforming use. *A multifamily dwelling generally does not employ staff other than within the leasing office or accessory janitorial staff. There is no leasing office shown on the submitted proposed plans. The office use has a greater number of employees than the proposed multifamily dwelling.*

Per trip generation data of the Institute of Transportation Engineers, office use generates a greater amount of traffic than the proposed multifamily dwelling use. In addition, per the International Building Code, the maximum occupancy load for the proposed multifamily use (1 per 200 square feet of floor area) is half that of the existing office use (1 person per 100 square feet of floor area). The use does not characteristically have a greater number of employees or a greater amount of traffic, noise, smoke or odor than the proposed use.

- d. The use does not otherwise constitute a greater deviation from the regulations pertaining to permitted principal or accessory uses applicable in the district in which it is located. *The proposed multifamily use is a residential use and is characteristically more similar to uses permitted an existing within the R-6 district.*
2. The Zoning Ordinance states, under Section 30-800.1, "No building or structure devoted to a nonconforming use shall be enlarged, extended, reconstructed, move or structurally altered unless such building or structure is thereafter devoted to a conforming use, provided nothing in this division shall be construed to prohibit normal repair, strengthening or restoration to a safe condition as may be required by law . . ."

The proposed plans show structural alterations, to include:

- a. New window openings in the basement level. This is shown as Note 5 on Sheet AD3.0 of the demolition plan and on Note 13 on Sheet A3.2 of the proposed elevations.
- b. Remove existing ductwork and mechanical shaft walls and infill floor with new concrete. This is shown as Note 8 on Sheets AD1.0 through AD1.2 on the demolition plan and is shown in more detail on the structural plans.
- c. Adding concrete slabs on all floors. This is shown as Note 4 on Sheets A1.0A through A1.6B of the proposed floor plans.
- d. Constructing a 4' x 4' x 6' deep pit in the basement for macerator, including underpinning of existing footings. This is shown as Note 20 on Sheet A1.0B of the proposed floor plans and in more detail on Sheet S1.1 of the structural plans.
- e. New concrete floor and wall support adjacent to Unit B4 in the basement. This is shown on Sheet A1.0A of the proposed floor plans (Note 4) and in

more detail on the "Floor Extension Plan" on Sheet S1.1 of the structural plans.

- f. New floor openings and installation of new slab and beams for ductwork on floors 1 through 6. This is shown as Note 17 on Sheets AD1.0 through AD1.3 and in more detail on the "Floor Opening Detail At Elevator Shaft" on Sheet S1.2 of the structural plans.
- g. New staircase being added in basement for Unit B3 and B4. This is shown as Note 6 on Sheet A 1.0A of the proposed floor plans.

Board of Zoning Appeals (BZA) Special Exception or City Council Special Use Permit approval shall be necessary to authorize these structural alterations.

- 3. The Zoning Ordinance states, under Section 30-800.2, "Except as specifically permitted by this division, a nonconforming use shall not be extended, expanded, enlarged or moved to occupy a different or greater area of land, buildings or structures than was occupied by such use at the time it became nonconforming, provided that a nonconforming use may be extended through any parts of a building which were specifically and lawfully designed and arranged for such use at the time it became nonconforming . . . "

The proposed plans show extension, expansion, enlargement and occupancy of a greater area of the building, including an extension into parts of the building that were not specifically and lawfully designed and arranged for such use. These areas include:

- a. Areas in the basement, previously/currently used as ancillary mechanical/storage space. Boiler room equipment (Note 5) and concrete equipment pads (Note 16) are shown as being removed on Sheet AD1.0 of the demolition plan to accommodate dwelling units B3 and B4 that are shown on the proposed floor plan on Sheet A1.0A.
- b. Ductwork and mechanical shaft walls (Note 8) are shown as being removed on the 1st – 6th floors on Sheets AD1.0 through AD1.2. This is to accommodate new dwelling units.

Board of Zoning Appeals (BZA) Special Exception or City Council Special Use Permit approval shall be necessary to authorize these alterations.

- 4. The property currently requires and provides a total of sixty-four (64) off-street parking spaces, both on the property (1805 Monument Avenue) as well as off-premise on adjacent property under common ownership. The parcels at 408-412 North Allen Avenue are also subject to Board of Zoning Appeals (BZA) approval (Case No. 4-00), which waived the front yard (setback) requirement for the parking spaces thereon. A parking layout plan has been submitted and the limits and design of the parking area is consistent with the 2000 BZA approval. Be advised that these parking spaces must continue to be provided solely for the proposed and any future use of 1805 Monument Avenue.

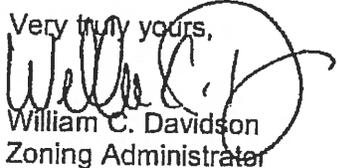
Chris Allen
RE: Building Permit, PLAN # 046464-2018 (1805 Monument Avenue)
February 7, 2019
Page 4

As the items specified do not meet the requirements of the Zoning Ordinance for building permit (BP) approval, you may petition the Board of Zoning Appeals (BZA) for a Special Exception or submit an application for a Special Use Permit City Council to permit and allow these identified structural alterations and expansions.

You are hereby advised that you have thirty (30) days from this notice in which to appeal this decision to the Board of Zoning Appeals, in accordance with §15.2-2311 of the Code of Virginia and §17.19 of the Richmond City Charter, or this decision shall be final and unappealable. Such appeal must be in writing and must be filed with the Secretary to the Board of Zoning Appeals. Said appeal shall indicate in specific terms the grounds for the appeal and must be accompanied by a filing fee of two hundred fifty dollars (\$250.00).

If you have any questions, please contact Richard Saunders, Planner II, at (804) 646-6356 or via E-mail at: Richard.Saunders@Richmondgov.com.

Very truly yours,


William C. Davidson
Zoning Administrator

xc: Roy W. Benbow, Secretary, Board of Zoning Appeals
Matthew Ebinger, Planner III, P&DR-Land Use Administration
Ray Abbasi, Commissioner of Buildings (Acting), P&DR

RECEIPT (TRC-050131-11-07-2018)

BILLING CONTACT

Joseph Reid
McGuire Woods
1821 Monument Ave
Richmond, Va 23220



Reference Number	Fee Name	Transaction Type	Payment Method	Amount Paid
BZAC-044612-2018	Board of Zoning Appeals - Appeal of Zoning Admin	Fee Payment	Check #3082	\$250.00
1805 Monument Ave Richmond, VA 23220			SUB TOTAL	\$250.00

TOTAL \$250.00