INTRODUCED: January 11, 2021

## AN ORDINANCE No. 2021-011

To authorize the special use of the properties known as 501, 509, and 511 Decatur Street for the purpose of a mixed-use building containing up to 118 dwelling units and commercial uses on the ground floor, upon certain terms and conditions.

Patron – Mayor Stoney (By Request)

Approved as to form and legality by the City Attorney

\_\_\_\_

PUBLIC HEARING: FEB 8 2021 AT 6 P.M.

WHEREAS, the owner of the properties known as 501, 509, and 511 Decatur Street, which are situated in a B-4 Central Business District, desires to use such properties for the purpose of a mixed-use building containing up to 118 dwelling units and commercial uses on the ground floor, which use, among other things, is not currently allowed by section 30-440.1(22), concerning parking decks and parking garages, of the Code of the City of Richmond (2020), as amended; and

WHEREAS, in accordance with section 17.11 of the Charter of the City of Richmond (2020), as amended, it has been made to appear that, if granted subject to the terms and conditions set forth in this ordinance, the special use granted by this ordinance will not be detrimental to the safety, health, morals and general welfare of the community involved, will not tend to create

AYES:	9	NOES:	0	ABSTAIN:	
		_			
ADOPTED:	FEB 8 2021	REJECTED:		STRICKEN:	

congestion in streets, roads, alleys and other public ways and places in the area involved, will not create hazards from fire, panic or other dangers, will not tend to overcrowding of land and cause an undue concentration of population, will not adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences and improvements, and will not interfere with adequate light and air; and

WHEREAS, (i) the City Planning Commission has conducted a public hearing to investigate the circumstances and conditions upon which the Council is empowered to authorize such use, (ii) the City Planning Commission has reported to the Council the results of such public hearing and investigation and its recommendations with respect thereto, and (iii) the Council has conducted a public hearing on this ordinance at which the person in interest and all other persons have had an opportunity to be heard;

## NOW, THEREFORE,

#### THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. **Finding.** Pursuant to section 30-1050.1 of the Code of the City of Richmond (2020), as amended, the Council hereby finds that the special use set forth in and subject to the terms and conditions of this ordinance will not (i) be detrimental to the safety, health, morals and general welfare of the community involved, (ii) tend to create congestion in streets, roads, alleys and other public ways and places in the area involved, (iii) create hazards from fire, panic or other dangers, (iv) tend to overcrowding of land and cause an undue concentration of population, (v) adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences and improvements, or (vi) interfere with adequate light and air.

## § 2. Grant of Special Use Permit.

- (a) Subject to the terms and conditions set forth in this ordinance, the properties known as 501, 509, and 511 Decatur Street and identified as Tax Parcel Nos. S000-0076/017, S000-0076/022, and S000-0076/024, respectively, in the 2021 records of the City Assessor, being more particularly shown on a survey entitled "Boundary and Topographic Survey for 501, 509, & 511 Decatur St, Richmond, Virginia," prepared by Nyfeler Associates, and dated April 29, 2020, a copy of which is attached to a made a part of this ordinance, hereinafter referred to as "the Property," is hereby permitted to be used for the purpose of a mixed-use building containing up to 118 dwelling units and commercial uses on the ground floor, substantially as shown on the plans entitled "The Box, 55 East 6<sup>th</sup> Street, Richmond, Virginia 23224, SUP Submission," prepared by Walter Parks Architects, dated January 31, 2020, and last revised October 12, 2020, hereinafter referred to as "the Plans," copies of which are attached to and made a part of this ordinance.
- (b) The adoption of this ordinance shall constitute the issuance of a special use permit for the Property. The special use permit shall inure to the benefit of the owner or owners of the fee simple title to the Property as of the date on which this ordinance is adopted and their successors in fee simple title, all of which are hereinafter referred to as "the Owner." The conditions contained in this ordinance shall be binding on the Owner.
- § 3. **Special Terms and Conditions.** This special use permit is conditioned on the following special terms and conditions:
- (a) The Special Use of the Property shall be as a mixed-use building containing up to 118 dwelling units and commercial uses on the ground floor, substantially as shown on the Plans.
- (b) The number of parking spaces provided on the Property shall meet the requirements of the underlying zoning district.

- (c) All building materials and material color shall be substantially as shown on the Plans.
- (d) The height of the Special Use shall not exceed a height of seven stories as shown on the Plans.
- (e) All mechanical equipment serving the Property shall be located or screened so as not to be visible from any public right-of-way.
  - (f) Storage for no fewer than 30 resident bicycles shall be provided on the Property.
- (g) Signs on the Property shall follow the sign requirements of the underlying zoning district.
- § 4. **Supplemental Terms and Conditions.** This special use permit is conditioned on the following supplemental terms and conditions:
- (a) All required final grading and drainage plans, together with all easements made necessary by such plans, must be approved by the Director of Public Utilities prior to the issuance of the building permit.
- (b) Storm or surface water shall not be allowed to accumulate on the land. The Owner, at its sole cost and expense, shall provide and maintain at all times adequate facilities for the drainage of storm or surface water from the Property so as not to adversely affect or damage any other property or public streets and the use thereof.
- (c) Facilities for the collection of refuse shall be provided in accordance with the requirements of the Director of Public Works. Such facilities shall be located or screened so as not to be visible from adjacent properties and public streets.

- (d) Any encroachments existing, proposed on the Plans or contemplated in the future shall require separate authorization and shall be subject to the applicable provisions of the Code of the City of Richmond (2020), as amended, and all future amendments to such laws.
- The Owner shall make improvements within the right-of-way, including the (e) installation of six street trees, new sidewalk, and sidewalk ramps at the corner of Decatur Street and East 5th Street and Decatur Street and East 6th Street, substantially as shown on the Plans, which improvements may be completed in one or more phases as approved by the Director of Public Works. All improvements and work within the public right-of-way shall be (i) completed in accordance with the requirements of the Director of Public Works, (ii) considered completed only upon written confirmation by the Director of Public Works that such improvements and work are in accordance with such requirements, (iii) transferred to the City, following the written confirmation by the Director of Public Works, pursuant to a transfer of interest document approved as to form by the City Attorney and accepted by the Chief Administrative Officer or the designee thereof on behalf of the City. The Chief Administrative Officer or the designee thereof, for and on behalf of the City, is hereby authorized to accept, in the manner for which this subsection provides, all improvements and work required by and meeting the requirements of this subsection. The final certificate of occupancy shall not be issued for the Property until all requirements of this subsection are fully satisfied.
- (f) In all other respects, the use of the Property shall be in accordance with the applicable underlying zoning regulations.
- § 5. **General Terms and Conditions.** This special use permit is conditioned on the following general terms and conditions:

- (a) No permit implementing this special use permit shall be approved until satisfactory evidence has been presented to the Zoning Administrator that any delinquent real estate taxes applicable to the Property have been paid.
- (b) The Owner shall be bound by, shall observe and shall comply with all other laws, ordinances, rules and regulations applicable to the Property, except as otherwise expressly provided in this ordinance.
- (c) Words and phrases used in this ordinance shall be interpreted to have the meanings ascribed to them by section 30-1220 of the Code of the City of Richmond (2020), as amended, unless the context clearly indicates that a different meaning is intended.
- (d) Notwithstanding any other provision of law, this special use permit is being approved due, in part, to the mitigating effects of each and every condition attached hereto; consequently, if any portion of this ordinance is determined to be invalid for any reason by a final, non-appealable order of any Virginia or federal court of competent jurisdiction, the invalidity shall cause the entire ordinance to be void and of no further effect from the effective date of such order.
- (e) The privileges granted by this ordinance may be revoked pursuant to the provisions of sections 30-1050.7 through 30-1050.11 of the Code of the City of Richmond (2020), as amended, and all future amendments to such laws. Failure to comply with the terms and conditions of this ordinance shall constitute a violation of section 30-1080 of the Code of the City of Richmond (2020), as amended, and all future amendments to such law, or any other applicable laws or regulations.
- (f) When the privileges granted by this ordinance terminate and the special use permit granted hereby becomes null and void, whether as a result of the Owner relinquishing this special use permit in a writing addressed to the Director of Planning and Development Review or

otherwise, use of the Property shall be governed thereafter by the zoning regulations prescribed for the district in which the Property is then situated.

§ 6. **Implementation.** The Commissioner of Buildings is authorized to issue a building permit substantially in accordance with the Plans for the Special Use subject to the terms and conditions set forth in this ordinance. An application for the building permit shall be made within 730 calendar days following the date on which this ordinance becomes effective. If either the application for the building permit is not made within the time period stated in the previous sentence or the building permit terminates under any provision of the Virginia Statewide Building Code, this ordinance and the special use permit granted hereby shall terminate and become null and void.

§ 7. **Effective Date.** This ordinance shall be in force and effect upon adoption.

A TRUE COPY: TESTE:

City Clerk

2020-199

# City of Richmond

900 East Broad Street 2nd Floor of City Hall Richmond, VA 23219 www.richmondgov.com

## **Item Request**

File Number: PRE.2020.426

## O & R Request

DATE:

December 14, 2020

EDITION: 1

TO:

The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor (Patron: Mayor, by Request)

(This in no way reflects a recommendation on behalf of the Mayor)

THROUGH: J.E. Lincoln Saunders, Acting Chief Administrative Officer JELS

THROUGH: Sharon L. Ebert, Deputy Chief Administrative Officer for Economic

Development and Planning

FROM:

Mark A. Olinger, Director, Dept. of Planning and Development Review

RE:

To authorize the special use of the properties known as 501, 509, and 511 Decatur Street for

the purpose of a mixed-use building containing up to 118 dwelling units, upon certain terms

and conditions.

ORD. OR RES. No.

PURPOSE: To authorize the special use of the properties known as 501, 509, and 511 Decatur Street for the purpose of a mixed-use building containing up to 118 dwelling units, upon certain terms and conditions.

REASON: The applicant is requesting a special use permit to allow for off-street parking facilities fronting upon a principal street and without the proper screening required within the B-4 Central Business District. A special use permit is therefore required.

RECOMMENDATION: In accordance with the requirements of the City Charter and the Zoning Ordinance, the City Planning Commission will review this request and make a recommendation to City Council. This item will be scheduled for consideration by the Commission at its February 1, 2021, meeting.

BACKGROUND: The subject properties consist of a combined 22.065 SF (.51 acre) of vacant land. The properties are located in the Old Town Manchester neighborhood of the Old South Planning District between 5th and 6th Streets.

The City's Downtown Master Plan designates a future land use category for the subject property as Downtown Urban Center Area. Future development within these areas is characterized by higher density, mixed-use development, typically arranged on a fine-grained street network, with wide sidewalks, regular tree planting, and minimal setbacks. The apartment buildings along The Boulevard are an example of a residential urban center condition in Richmond, with a dense urban fabric of three to five story buildings, and limited retail at key intersections.

The Richmond 300 Master Plan recommends land uses to be higher density, transit-oriented development encouraged on vacant or underutilized sites. New development should be urban in form, may be of larger scale than existing context, and, where relevant, should pay special attention to the historic character of the existing context. Development should enhance the public realm and create a sense of place. Many buildings are vertically mixed-use. Developments continue or introduce a gridded street pattern to increase connectivity. Ground floor uses engage with, and enliven, the street. Monolithic walls are discouraged, while windows, doors, storefronts, and other features that allow transparency and interaction between building and street are encouraged. Active commercial ground floor uses are required on street-oriented commercial frontages. Pedestrian, bicycle, and transit access are prioritized and accommodated. Bike parking is provided. Driveway entrances are required to be of alleys whenever possible; new driveways are prohibited on priority and principal street frontages. Surface parking is prohibited as a principal use; when surface parking is provided as an accessory use, it should be located to the rear of buildings and screened. Parking requirements are reduced to allow more market-based parking strategies, including shared parking. Buildings are typically a minimum height of five stories. Primary uses include retail, office, personal services, multi-family residential, cultural, and open space.

All surrounding properties are within a mix of B-4 Central Business, B-6 and B-7 Mixed-Use Business Districts as the subject property. The density of the property, if approved, would be approximately 231 units per acre.

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

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

BUDGET AMENDMENT NECESSARY: No

REVENUE TO CITY: \$2,400 application fee

**DESIRED EFFECTIVE DATE:** Upon adoption

REQUESTED INTRODUCTION DATE: January 11, 2021

CITY COUNCIL PUBLIC HEARING DATE: February 8, 2021

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:

City Planning Commission

February 1, 2021

AFFECTED AGENCIES: Office of Chief Administrative Officer

## Law Department (for review of draft ordinance)

RELATIONSHIP TO EXISTING ORD. OR RES.: None

REQUIRED CHANGES TO WORK PROGRAM(S): None

ATTACHMENTS: Draft Ordinance, Application Form, Applicant's Report, Plans, Survey, Map

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



Application for SPECIAL USE PERMIT Department of Planning and Development Review Land Use Administration Division 900 E. Broad Street, Room 511 Richmond, Virginia 23219 (8(14) 646-6304

Application is hereby submitted for: (check one)  I special use permit, new		
special use permit, plan amendment		
special use permit, text only amendment		
Project Name/Location		
Property Address: 501 Decatur Street		Date: 7/27/2020
Tax Map #: \$0000076017, 022, 024 Fee: \$2,400		
Total area of affected site in acres: 0.519		•
(See page 6 for fee schedule, please make check payable to the "City o	of Richmond")	
Zoning Current Zoning: 8-4		
Correct Zonnig. 54		
Existing Use: Vacant		
Proposed Use (Please include a detailed description of the proposed use in the required Mixed-use	d applicant's report)	72
Existing Use: Vacant		
Is this property subject to any previous land use cases?  Yes  No  If Yes, please list the Ordinance Number:		
Applicant/Contact Person: Lory Markham		
Company: Markham Planning LLC		
Mailing Address: 23 West Broad Street	•	
City: Richmond	State: VA	Zip Code, 23241
Telephone: (804 ) 248-2561	Fax: (	<u> </u>
Ernail: lory@markhamplanning.com		
		·
Property Owner: Fountainhead Assets LLC  If Business Entity, name and title of authorized signee. The	mar Bass	
ir business entity, name and title of authorized signee. Inc	imas rapa	
(The person or persons executing or attesting the execution of this Applishe has or have been duly authorized and empowered to so execute or a		he Company certifies that he or
Mailing Address: PO Box 28469		
City: Richmond	State: VA	Zip Code: 23261
Telephone: (804 ) 402-0175	Fax: _(	_ 21p Code
Email; thomaswpapa@gmail.com	(	J
— Authentiza-		
Property Owner Signature:		
The names, addresses, telephone numbers and signatures of all owners	of the property are re	equired. Please attach additional

sheets as needed. If a legal representative signs for a property owner, please attach an executed power of attorney. Faxed or photocopied signatures will not be accepted.

NOTE: Please attach the required plans, checklist, and a check for the application fee (see Filing Procedures for special use permits)



August 4, 2020

Mark Olinger, Director
Department of Planning & Development Review
900 East Broad Street, Suite 511
Richmond, VA 23219
mark.olinger@richmondgov.com

Re: 501 Decatur Street Special Use Permit

Dear Mr. Olinger,

Please accept this letter as the Applicant's Report with the Special Use Permit application for 501, 509 and 511 Decatur Street. With this application the property owner and developer, Fountainhead Assets, LLC, is petitioning City Council for a SUP to allow for East 6<sup>th</sup> Street to be considered the principal street instead of Decatur Street. This would allow for the development of a mixed-use apartment building with commercial frontage and other active uses along East 6<sup>th</sup> Street and a parking garage along a portion of Decatur Street.

#### Proposal

The site is currently an unsightly vacant surface parking lot with a small industrial building. The lot area for the three parcels combined is 0.519 acres and they have frontage on three streets: East 6<sup>th</sup> Street, Decatur Street and East 5<sup>th</sup> Street.

The proposed special use permit would enhance the streetscape on all three streets by authorizing a seven-story mixed-use project containing 118 apartments and amenities, approximately 4,400 square feet of commercial space and a two-story parking garage with 94 parking spaces. The commercial space would front on both Decatur Street and East 6<sup>th</sup> Street. New sidewalks with street trees and pedestrian also proposed along all three streets.

#### **Existing Zoning**

The properties are currently located in the B-4 Central Business zoning district, which permits the proposed mixed-use apartment building with an accessory parking garage. The reason the proposal requires a special use permit relates to the Zoning Administrator's determination that Decatur Street is the principal street for the site. The proposal has commercial frontage along East 6<sup>th</sup> Street and partially along Decatur Street. The remainder of the Decatur Street frontage contains a parking garage, which is not permitted along the principal street in the B-4 district. The special use permit requests City Council to consider West 6<sup>th</sup> Street as the principal street instead of Decatur Street.

The definition of principal street frontage from the zoning ordinance contains the following criteria:

- 1. In the case of a corner lot, that frontage of the lot lying within any district and situated along the street which carries the greater volume of pedestrian and vehicle traffic, Decatur carries the most vehicular traffic, which is actually more of a reason to leave it for vehicular entrances and parking and save E 6th Street for future pedestrians. E 6th Street and Decatur arguably have an equal number of pedestrians with E 6th Street beginning to carry more from the commercial and residential uses that are fronting on the street half a block to the north. That development is really beginning to change the character of E 6th Street and this proposal would continue that momentum. Additionally, E 6th Street is the only NW/SE Street that has a pedestrian connection from the Manchester Bridge all the way to Dinwiddie Street. All of the other street grids are interrupted by existing development.
- Generally functions as the primary orientation of dwellings, businesses or other uses within the block, E 5th Street has the parking garage entrance and trash for the development next door fronting on it, there are no other dwellings, business or uses within the block currently. The adjacent blocks along Decatur contain driveways and parking garage entrances that would be prohibited on the principal street.
- Along which the principal entrance to the existing or proposed building on such corner lot is oriented. The proposed development will have the principal entrance and commercial uses fronting on E 6th Street.
- 4. In a case where more than one street frontage of a corner lot meets any of the aforementioned criteria, the principal street frontage of the lot shall be as determined by the zoning administrator after considering all of such criteria, together with any other unique physical conditions of the corner lot or the adjacent street and lot pattern. The zoning administrator has determined Decatur to be the principal street despite the above evidence that East 6<sup>th</sup> Street could be considered the principal street, which has necessitated the requested special use permit.

#### City's Master Plan Recommendations

These properties were included in the 2009 Downtown Plan, which recommends that they be developed consistent with the Urban Center Character Area. The Urban Center Character Area calls for higher density, mixed-use development, typically arranged on a fine-grained street network, with wide sidewalks, regular tree planting, and minimal setbacks.

Specifically addressing Manchester, the Downtown Plan states, "Manchester will benefit greatly from new construction and the infill of its many vacant properties. Such infill will introduce new energy to the district by increasing the residential population, repairing the streetscape, and enhancing safety by providing 'eyes on the street'." (page 4.33)

The more recently developed Riverfront Plan designates the portion of the subject properties included in the plan for future development, stating, "The Plan anticipates incremental redevelopment of under-utilized parcels and languishing former industrial sites. Development strategies should favor mixed use, with an emphasis on street level retail, where appropriate. The fundamental emphasis of redevelopment along the Riverfront is to intensify pedestrian activity at street level through infill development with sufficient density to be an attractor and destination of activity. Greater density reinforces urban character, provides for an increase in pedestrian activity, resulting in a safer and more vibrant city." (p. 11).

### **Neighborhood Communication**

We have communicated with the adjacent property owner about the project and are scheduled to present it to the Manchester Alliance at their next meeting.

## **City Charter Conditions**

We trust that you will agree with us that this proposed Special Use Permits meets the City Charter criteria for the granting of SUPs as the project will not

- (i) be detrimental to the safety, health, morals and general welfare of the community involved;
- (ii) tend to create congestion in streets, roads, alleys and other public ways and places in the area involved:
- (iii) create hazards from fire, panic or other dangers;
- (iv) tend to be overcrowding of land and cause an undue concentration of population;
- (v) adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences and improvements; or
- (vi) interfere with adequate light and air.

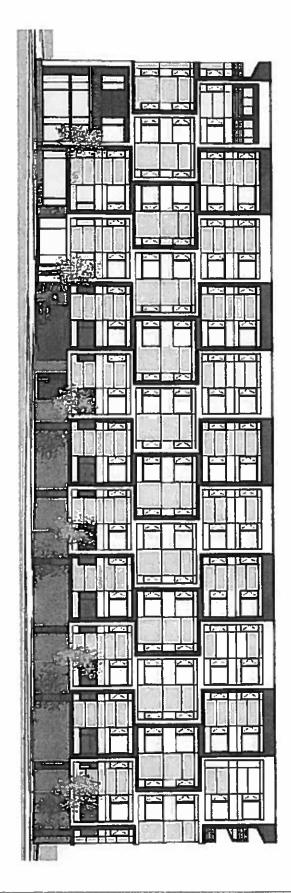
Thank you for your consideration of this Special Use Permit. Please feel free to contact me at <u>lory@markhamplanning.com</u> or (804) 248-2561 if you have any questions or require additional materials to process the application.

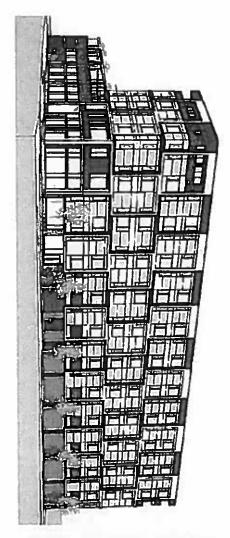
Very Truly Yours,

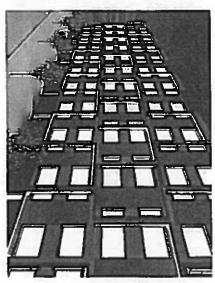
Lory Markham

Enclosure: application form, fee payment, existing survey, conceptual plans

cc: Matthew Ebinger, Secretary to the City Planning Commission
The Honorable Ellen Robertson, 6<sup>th</sup> District Council Representative
Tom Papa, Fountainhead Development



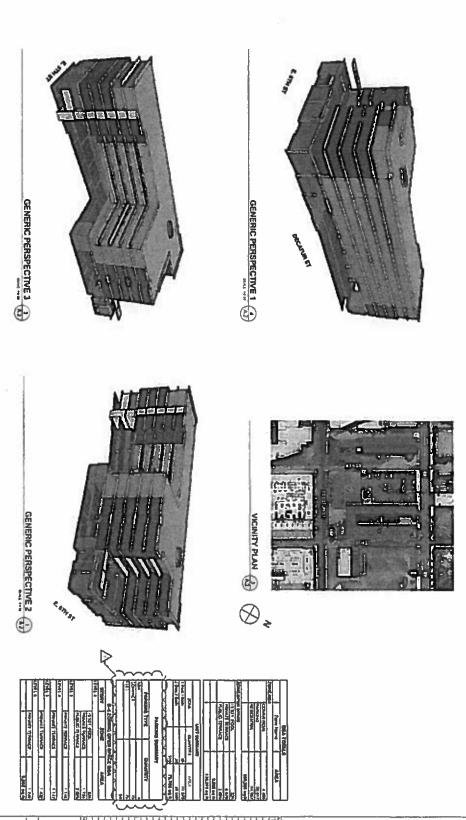








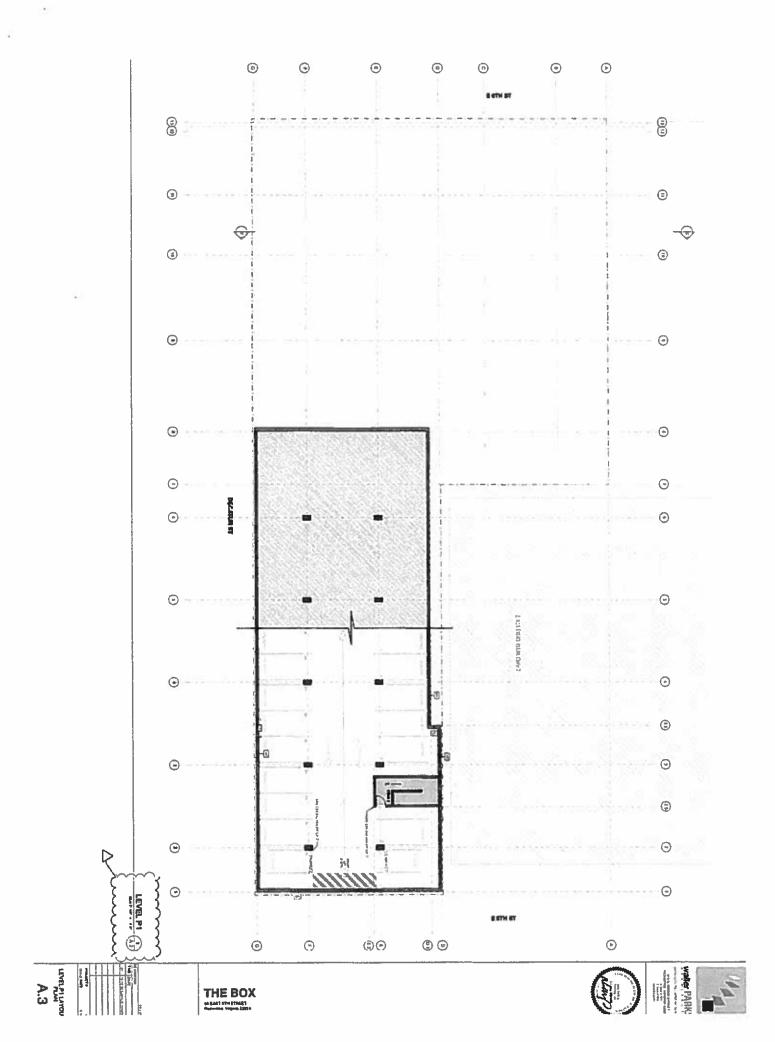




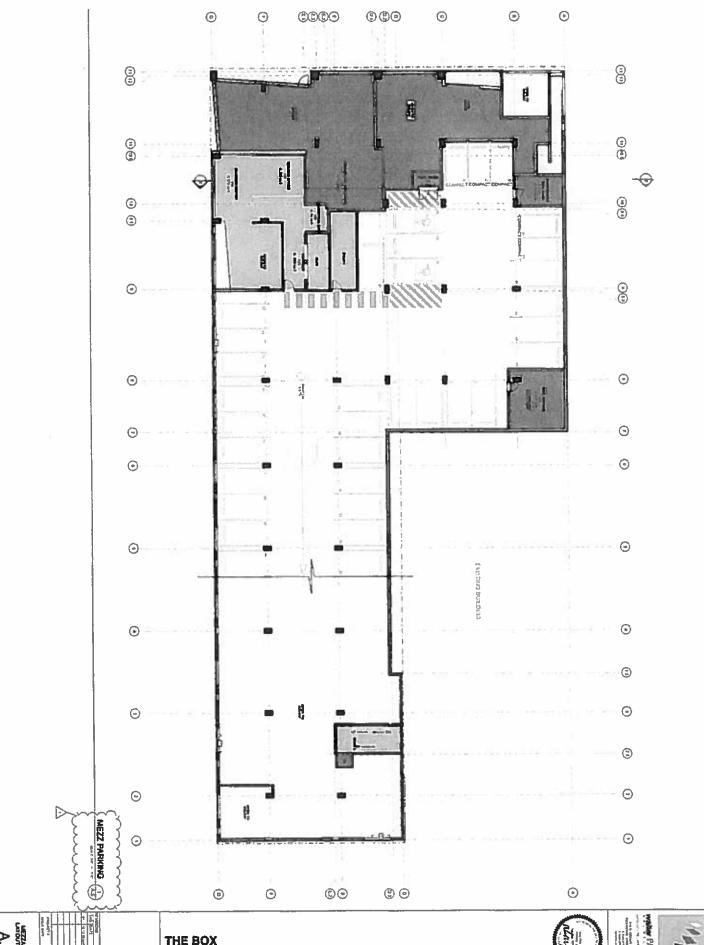








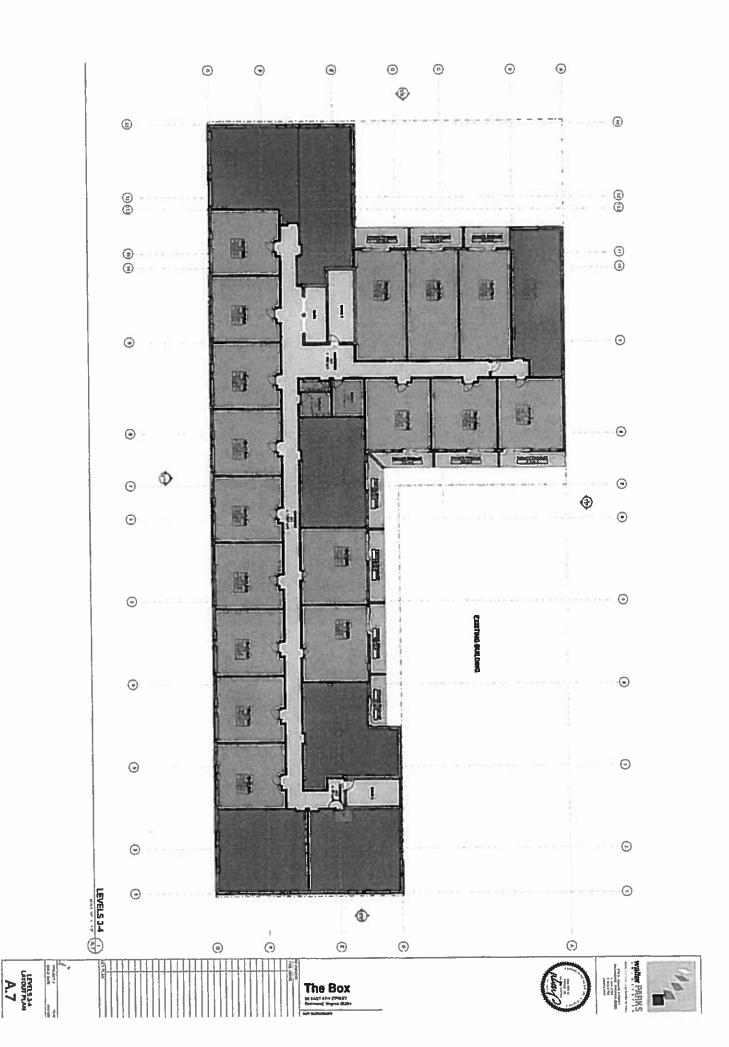




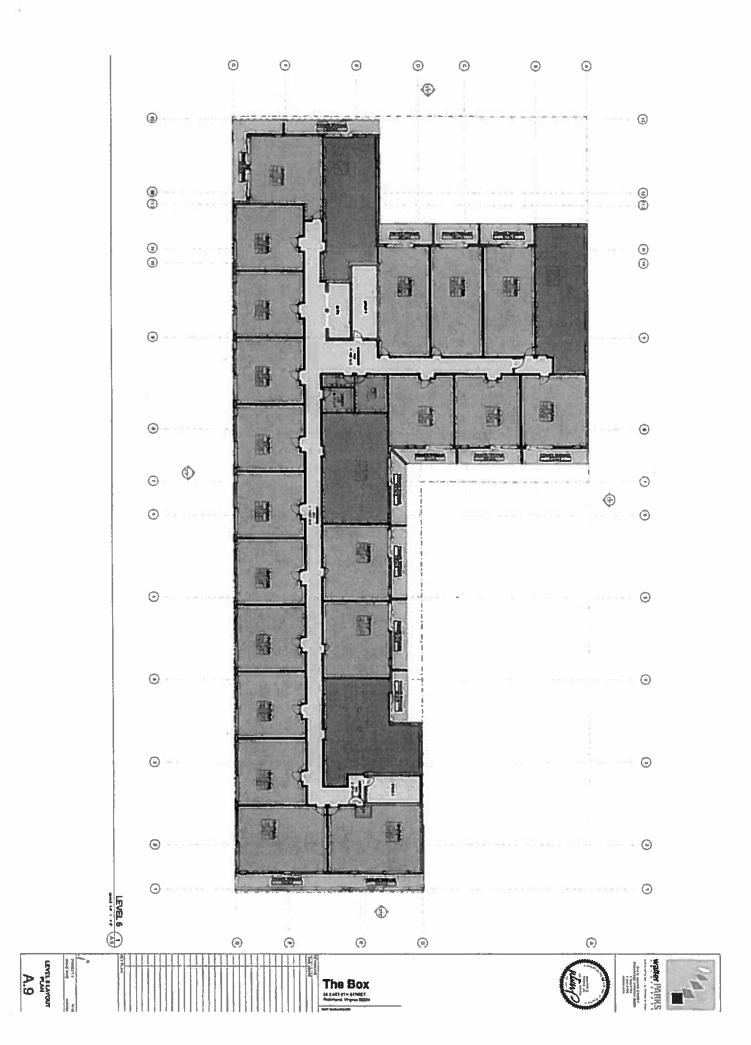


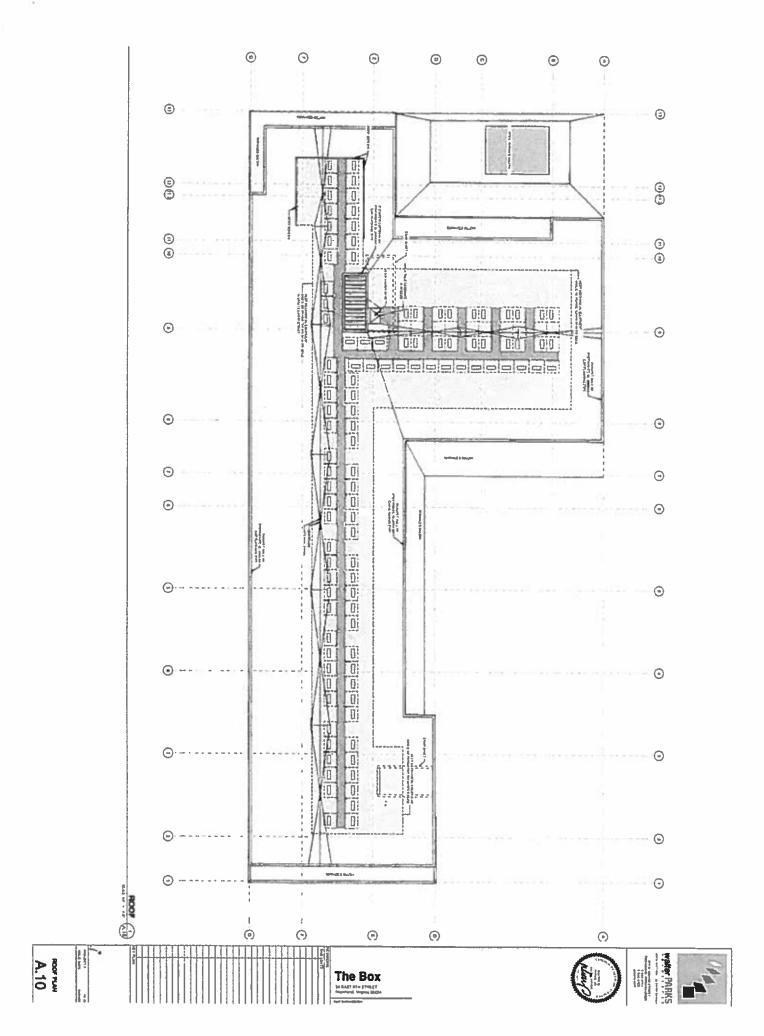




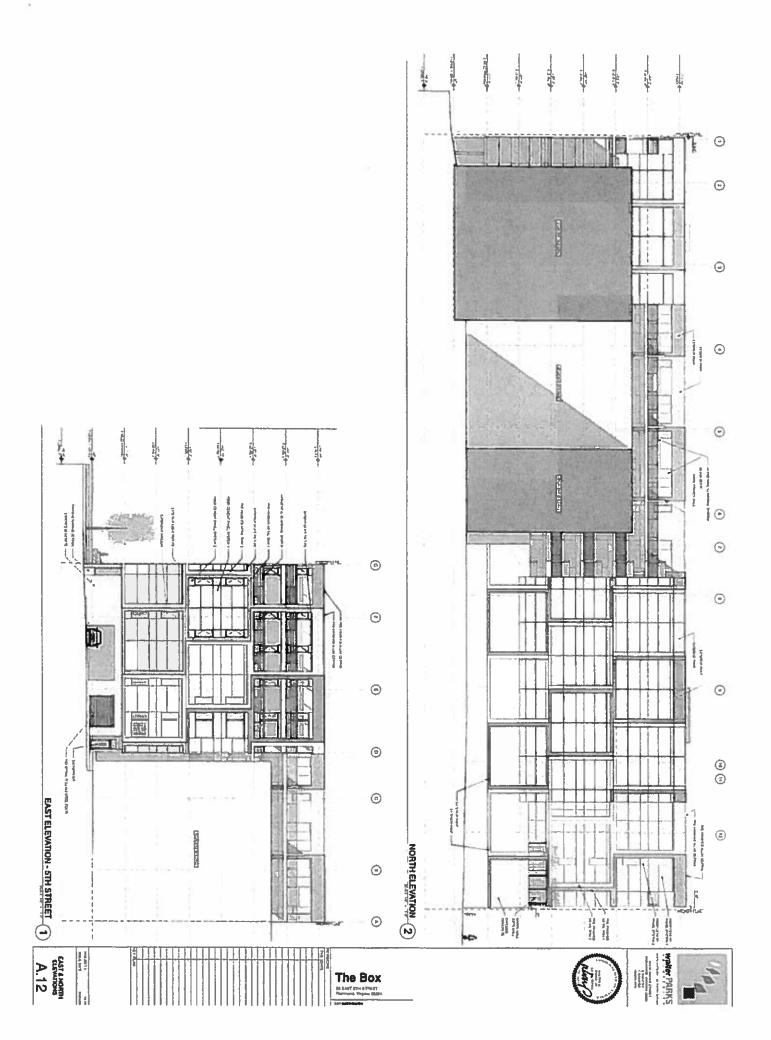


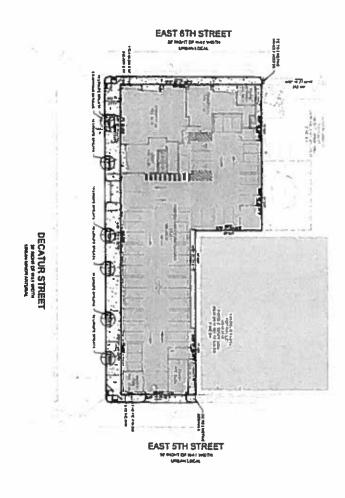
















Seath bearing

The Box



