



## CITY OF RICHMOND

DEPARTMENT OF  
PLANNING AND DEVELOPMENT REVIEW  
BOARD OF ZONING APPEALS

October 4, 2019

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

William M. Massie, Jr. & Alice M. Massie  
1643 Monument Avenue  
Richmond, VA 23220

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

To Whom It May Concern:

RE: **BZA 46-2019**

You are hereby notified that the Board of Zoning Appeals will hold a public hearing on Wednesday, November 6, 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. Nuckolls & Janice H. Nuckolls and William M. Massie, Jr. & Alice M. Massie from the Zoning Administrator's decision of February 7, 2019 with respect to 1805 Monument Avenue, 408, 410/412 N. Allen Avenue; Richmond Virginia 23220 that the proposed use as a multifamily apartment building would be permitted per Division I of Article VIII of the nonconforming use regulations of the Zoning Ordinance. The specific section numbers of the Zoning Ordinance being appealed are 30-100, 30-412.1 et seq; 30-800 et seq, including 30-800.3.

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).

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 black ink, reading "Roy W. Benbow". The signature is fluid and cursive, with the first name "Roy" being the most prominent.

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

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**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
2020	\$1,014,000	\$1,411,000	\$2,425,000	Reassessment
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**

age

**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

**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 Paving Yard Items) :**

**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

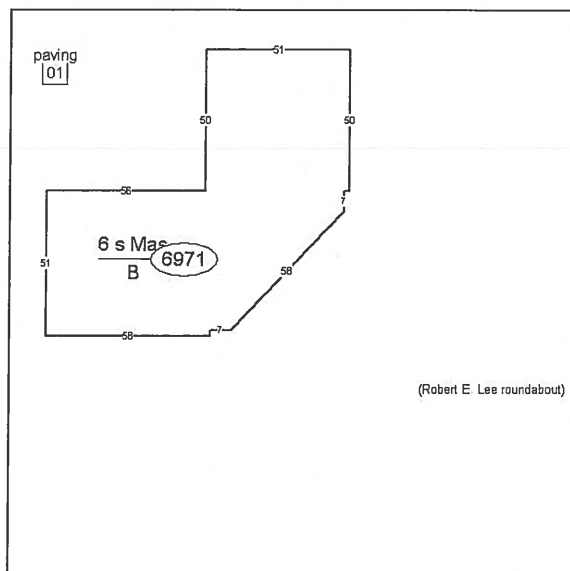
**Property Images**

Name:W0000861020 Desc:C01

[Click here for Larger Image](#)

**Sketch Images**

Name:W0000861020 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
2020	\$546,000	\$12,000	\$558,000	Reassessment
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**

age

**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  
**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

**Property Images**

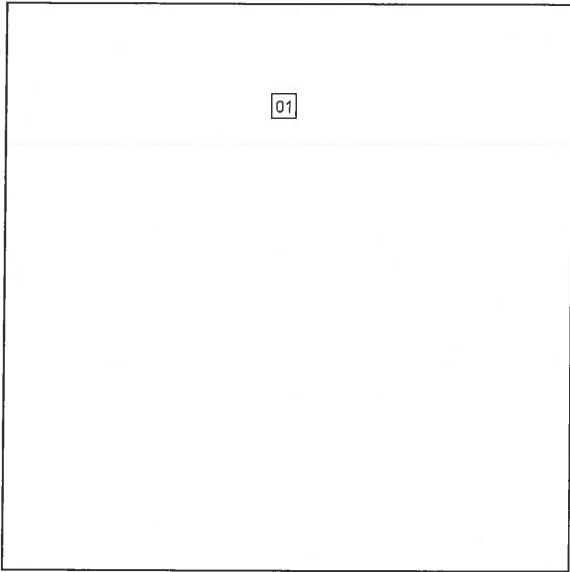
Name:W0000861028 Desc:C03



[Click here for Larger Image](#)

**Sketch Images**

Name:W0000861028 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
2020	\$143,000	\$3,000	\$146,000	Reassessment
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**

age

**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

**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



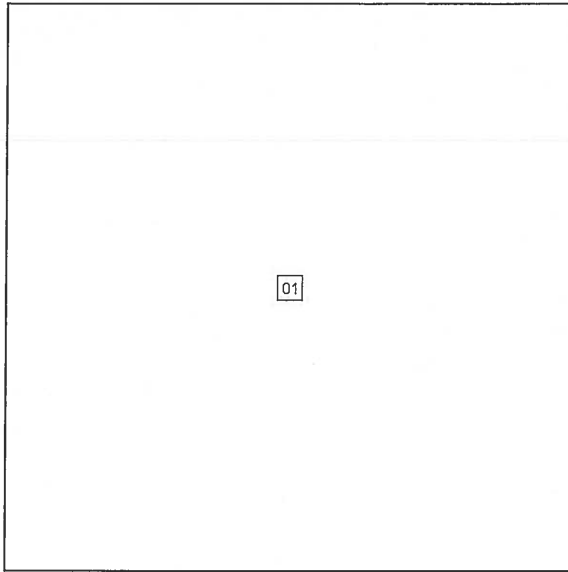
**Property Images**

Name:W0000861031 Desc:C02

[Click here for Larger Image](#)

**Sketch Images**

Name:W0000861031 Desc:C01



BZAT-060291-2019

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  
(Name/Address) 1815 Monument Avenue  
Richmond, VA 23220  
William M. Massie, Jr. & Alice M. Massie  
1643 Monument Ave., Richmond, VA 23220, alicemmassie@gmail.com 804-516-3233  
PHONE: (home) (804) 349-3293 (work) ( )  
E-mail Address: steve@stevenuckolls.com  
Fax No. ( )

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

4. LIST THE SPECIFIC SECTION NUMBER(S) OF THE ZONING ORDINANCE WHICH ARE BEING APPEALED:  
Section 30-100; Section 30-412.1 et seq; Section 30-800 et seq, including 30-800.3

5. PROPERTY ADDRESS(ES): 1805 Monument Ave.; 408, 410/412 N. Allen Ave.; 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'S REPRESENTATIVE *John K. Reid* DATE: 9-5-19

TO BE COMPLETED BY THE ZONING ADMINISTRATION OFFICE

APPEAL DEADLINE DATE: TAX PARCEL NO(s): W0000861020 W0000861031 W0000861028 ZONING DISTRICT: R-6  
DATE FILED: 9-6-2019 TIME FILED: 1:42 pm RECEIVED BY: RLS RECEIPT NO. BZA 060291-2019

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

DATE FILED: 9-6-2019 CASE NUMBER: BZA 46-2019 HEARING DATE: 11-6-19 AT 1 P.M.

AS CERTIFIED BY: *William E. Reid* (ZONING ADMINISTRATOR)

AS CERTIFIED BY: *Roy W. Barber* (SECRETARY, BOARD OF ZONING APPEALS)

RECEIVED  
SEP 05 2019  
BY:

## **APPLICATION INSTRUCTIONS**

To assist you in the processing of your appeal to the Board of Zoning Appeals regarding a decision of the Zoning Administrator it is important that you complete all sections of the application form on the reverse side as completely as possible. For ease of understanding, the following paragraphs are numbered to correspond to the numbers on the front of the application. Please understand that attendance by you or your representative at the meeting of the Board of Zoning Appeals at which your appeal will be considered is mandatory.

1. For your information, appeals to the Board of Zoning Appeals may be taken by any person aggrieved by any decision of the Zoning Administrator. Under Section 17.19 of the City Charter, the Board of Zoning Appeals has established a "reasonable time" for the filing of an appeal to be thirty (30) days from the date of the decision for which review is sought. Appeals not filed within the prescribed thirty (30) day appeal period may not be considered by the Board of Zoning Appeals. An appeal of the Zoning Administrator's decision stays all actions of the Zoning Administrator unless the Zoning Administrator certifies to the Board of Zoning Appeals that a stay would cause imminent peril to life or property.

2. This portion of the application is designed to facilitate contact between you and the Zoning Administration Office and Board of Zoning Appeals to ensure that your application is processed in a timely manner. Often times it is necessary for the Zoning Administration Office or the Secretary to the Board of Zoning Appeals to contact you regarding certain aspects of your appeal. This information is also needed to notify you of the date, time and place of your appeal hearing before the Board of Zoning Appeals.

3. Although it is not necessary to have someone other than you appear before the Board of Zoning Appeals to represent your interests regarding your appeal, you may elect to have a representative give testimony on your behalf. To ensure that this person is fully informed regarding all aspects of your application including the date, time and place of your appeal hearing it is important that this section be filled out as completely as possible.

4. It is important that the Zoning Administrator and the Board of Zoning Appeals be fully informed regarding the statutory basis of your appeal. To facilitate this understanding it is necessary that you identify the specific section(s) of the zoning ordinance which you feel the Zoning Administrator has mistakenly interpreted and on which you are basing your appeal.

For example, if you feel the Zoning Administrator has misinterpreted the zoning ordinance definition of a "Family", you would merely list Section 30-1220 (the corresponding section of the Zoning Ordinance identifying the definition of family) in this line of the application. The Zoning Administrator can assist you in identifying the appropriate section numbers, which formed the basis of the Zoning Administrator's denial of your request.

5. Please identify the address(es) of each property involved in your appeal application. It is very important that the address(es) be properly and completely identified for the reason that it is needed for the legal advertisement of your appeal application.

6. In this portion of the application you explain why you are seeking review of the Zoning Administrator's decision. Stating the reasons for your appeal as clearly and concisely as possible improves your chances of success before the Board of Zoning Appeals. It also may provide the Zoning Administrator with important information that leads to a reversal of the original decision which has prompted your appeal. It is important that you identify all of the reasons for your appeal in this portion of the application. If additional grounds for your appeal are presented to the Board of Zoning Appeals which were not part of your appeal application, the Zoning Administrator will not have been given all of the relevant information on which to base a final decision. This may result in a continuance of your case or exclusion of the subject information altogether from your testimony before the Board of Zoning Appeals. You may supplement your application with any information you deem appropriate including but not limited to surveys, site plans, floor plans, elevation drawings, pictures etc.

7. The person filing the appeal (appellant) or the appellant's representative must sign and date the application form. The signature must be the same as either the appellant or the appellant's representative listed in either Section 2 or 3 of the application.



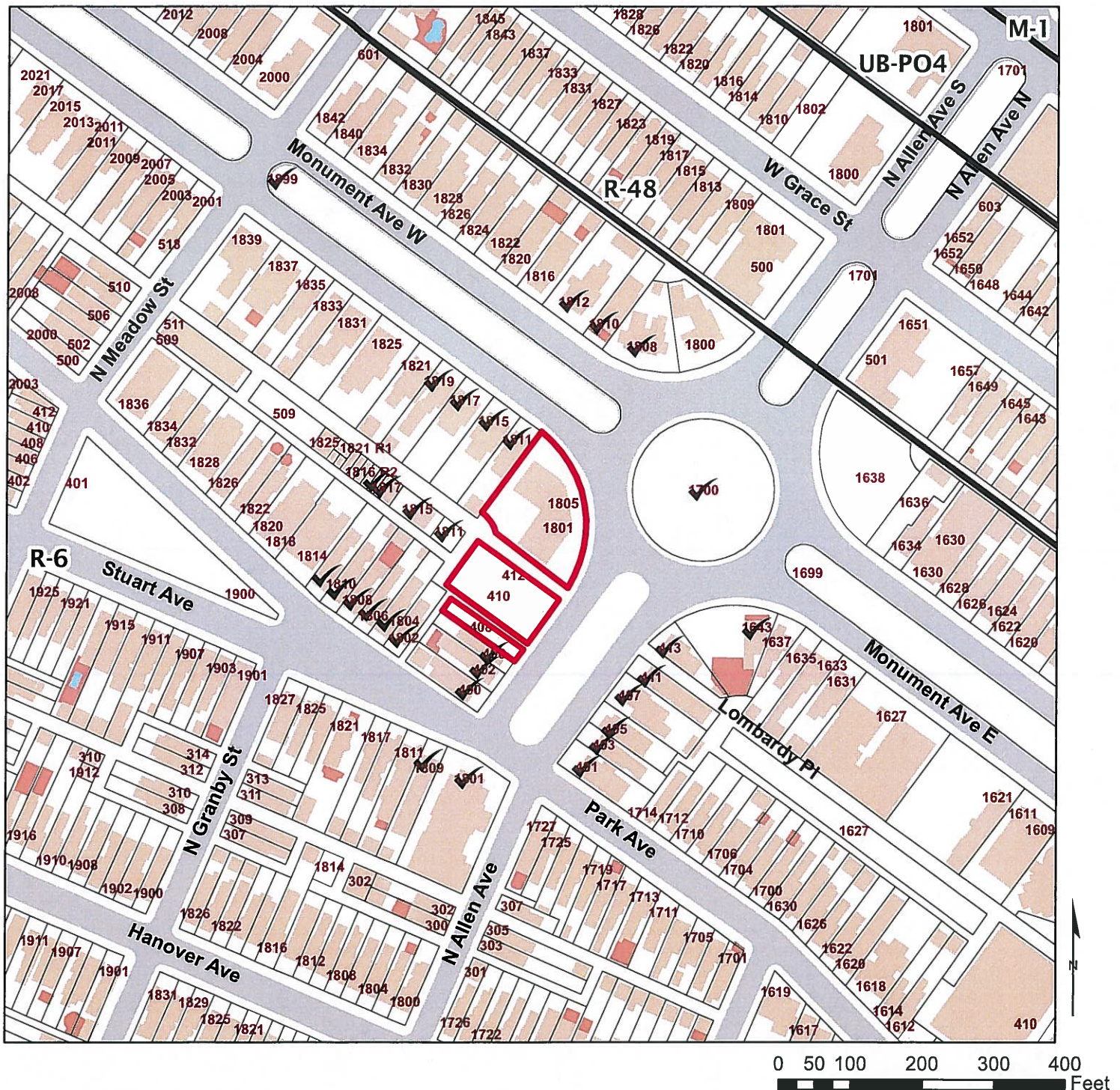
BOARD OF ZONING APPEALS CASE BZA 46-2019  
150' Buffer

APPLICANT(S): Stephen C. Nuckolls & Janice H. Nuckolls and William M. Massie, Jr. & Alice M. Massie

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. Nuckolls & Janice H. Nuckolls and William M. Massie, Jr. & Alice M. Massie from the Zoning Administrator's decision of February 7, 2019 with respect to 1805 Monument Avenue, 408, 410/412 N. Allen Avenue; Richmond Virginia 23220 that the proposed use as a multifamily apartment building would be permitted per Division I of Article VIII of the nonconforming use regulations of the Zoning Ordinance. The specific section numbers of the Zoning Ordinance being appealed are 30-100, 30-412.1 et seq; 30-800 et seq, including 30-800.3.







# 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. ZC12-033226-2018 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

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: 1000 Fee: \$ 358.00

INCOMPLETE APPLICATIONS MAY BE RETURNED.

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

PA 4-5-2018 RICHMOND

[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](mailto: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 1<sup>st</sup> – 6<sup>th</sup> 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.

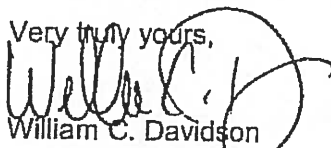
Chris Allen  
RE: Building Permit, PLAN # 046464-2018 (1805 Monument Avenue)  
February 7, 2019  
Page 4

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](mailto: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
	(b)	Grocery or convenience store occupying more than 5,000 sq. ft. of floor area; specialty food or beverage store
(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<sup>(1)</sup>

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	26	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.

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Fax +1 703 641 4340  
reedsmith.com

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).<sup>1</sup> 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.

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<sup>1</sup> 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.

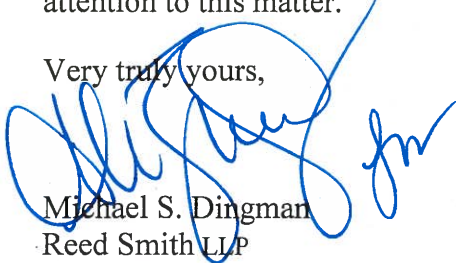
Virginia Code §15.2-2311(B) does not prohibit you from issuing the Zoning Administration approval and subsequently the Building Commissioner issuing the building permit. Accordingly, you are required to issue the Zoning Administration approval as you would with respect to any other project. If Appellants 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

ReedSmith

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 [DODZoningAdministration@Richmondgov.com](mailto:DODZoningAdministration@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](mailto:steve@stevenuckolls.com)  
 Fax No. ( )

SECONDARY  
 3. APPELLANT'S Joseph K. Reid, III  
 REPRESENTATIVE: (Name/Address) 1821 Monument Ave.  
 Richmond, VA 23220  
 PHONE: (home) (804) 314-9925 (work) (804) 775-1198  
 E-mail Address: [jreid@mcgultreewoods.com](mailto:jreid@mcgultreewoods.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 10/31/18

TO BE COMPLETED BY THE ZONING ADMINISTRATION OFFICE			
APPEAL DEADLINE DATE	TAX PARCEL NO.(#)	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 (PM)
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'S FOR THE APPEAL**

This appeal is from the Zoning Administrator's determination of April 19, 2018<sup>1</sup> 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.

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<sup>1</sup> 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 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](mailto: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 1<sup>st</sup> – 6<sup>th</sup> 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.

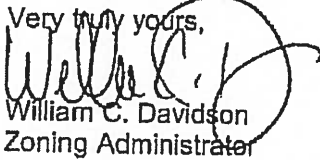
Chris Allen  
RE: Building Permit, PLAN # 046464-2018 (1805 Monument Avenue)  
February 7, 2019  
Page 4

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](mailto: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.

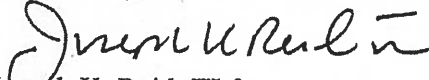
Under the explicit language of § 15.2-2311 B of the Code of Virginia, the filing of an appeal to a determination of the Zoning Administrator "shall stay all proceedings in furtherance of the action appealed from ...". As such, to the extent the Zoning Administrator purports to re-

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.<sup>1</sup>

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)

---

<sup>1</sup> 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      [DQDZoningAdministration@Richmondgov.com](mailto: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@stevennuckolls.com  
Richmond, VA 23220      **Fax No.** ( )

**SECONDARY**  
**3. APPELLANT'S REPRESENTATIVE:** Joseph K. Reid, III      **PHONE:** (home) (804) 314-9925 (work) (804) 775-1198  
**(Name/Address)** 1821 Monument Ave.      **E-mail Address** jreid@mcgultrewoods.com  
Richmond, VA 23220      **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      10/31/18  
Joseph K. Reid, III

TO BE COMPLETED BY THE ZONING ADMINISTRATION OFFICE			
APPEAL DEADLINE DATE	TAX PARCEL NO.	ZONING DISTRICT	
DATE RECEIVED	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 _____ PM
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'S FOR THE APPEAL**

This appeal is from the Zoning Administrator's determination of April 19, 2018<sup>1</sup> 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.

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<sup>1</sup> 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.

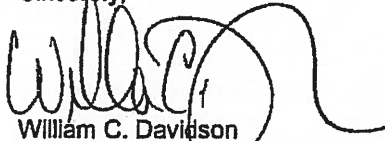
Based on the plans that were approved with the BZA case (copy attached) and a previous zoning confirmation letter for the Property a total of sixty-one (61) parking spaces have previously been available for the Property; this includes forty-six (46) off-site parking spaces at 408-412 North Allen Avenue. 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](mailto: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 1<sup>st</sup> – 6<sup>th</sup> 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.

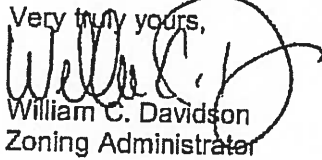
Chris Allen  
RE: Building Permit, PLAN # 046464-2018 (1805 Monument Avenue)  
February 7, 2019  
Page 4

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](mailto: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				<b>SUB TOTAL</b> \$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](mailto: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](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](mailto: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](mailto: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](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](mailto: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](mailto:Chuck.Davidson@Richmondgov.com)>  
**Sent:** Friday, August 10, 2018 12:11 AM  
**To:** Steve Nuckolls <[steve@stevenuckolls.com](mailto: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](mailto: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](mailto:Chuck.Davidson@Richmondgov.com)>  
**Sent:** Thursday, August 9, 2018 3:58 PM  
**To:** Steve Nuckolls <[steve@stevenuckolls.com](mailto: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***

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on: [http://energov.richmondgov.com/EnerGov\\_Prod/CitizenAccess/Site/Public/Main](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](mailto:Chuck.Davidson@Richmondgov.com)>  
**Cc:** Saunders, Richard L. - PDR <[Richard.Saunders@richmondgov.com](mailto:Richard.Saunders@richmondgov.com)>; 'Janice Hall Nuckolls' <[janice@tada-studio.com](mailto: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](mailto:Chuck.Davidson@Richmondgov.com)>  
**Sent:** Thursday, August 9, 2018 2:52 PM  
**To:** [steve@stevenuckolls.com](mailto:steve@stevenuckolls.com)  
**Cc:** Saunders, Richard L. - PDR <[Richard.Saunders@richmondgov.com](mailto: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***

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Richmond, Virginia 23219  
(804) 646-6353: Direct  
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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:** Saunders, Richard L. - PDR  
**Sent:** Thursday, August 9, 2018 2:13 PM  
**To:** Davidson, William C. - PDR <[Chuck.Davidson@Richmondgov.com](mailto: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](mailto: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](mailto:Richard.Saunders@richmondgov.com)>  
**Sent:** Tuesday, June 26, 2018 8:32 AM  
**To:** [steve@stevenuckolls.com](mailto:steve@stevenuckolls.com)  
**Subject:** 1805 Monument Avenue

Steve:

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

Thanks,  
Rich

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

1 VIRGINIA

2  
3  
4 CITY OF RICHMOND  
5 BOARD OF ZONING APPEALS  
6

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7  
8  
9 CASE NO. 34-2019  
10

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11  
12 900 EAST BROAD STREET - CITY HALL  
13 5TH FLOOR CONFERENCE ROOM  
14 RICHMOND, VIRGINIA 23219  
15 AUGUST 7, 2019  
16 1:00 P.M.  
17  
18  
19  
20  
21

22 REPORTED BY:

23 JACQUELIN O. GREGORY-LONGMIRE, RPR, LSR

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JANE K. HENSLEY - COURT REPORTERS  
(804) 739-3500

## APPEARANCES

## Board Members:

Burchell F. Pinnock, Chairman  
Rodney M. Poole  
Mary J. Hogue  
Roger H. York, Jr.  
Susan Sadid  
Roy W. Benbow, Secretary

## Zoning Administrator:

William C. Davidson  
Brian Mercer

## Counsel for the Appellants:

Joseph K. Reid, III  
Attorney at Law  
McGuire Woods  
800 East Canal Street  
Richmond, Virginia 23219

## Counsel for Lee Medical Building, LLC:

Jennifer Mullen  
Attorney at Law  
Roth Jackson Gibbons Condlin  
11 South Twelfth Street  
Suite 500  
Richmond, Virginia 23219

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I N D E X

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P R O C E E D I N G S

MR. PINNOCK: All right. Good afternoon, ladies and gentlemen.

This is a regular monthly meeting of the Board of Zoning Appeals of the City of Richmond. The board is comprised of five of your fellow citizens who are appointed by the Circuit Court and serve without compensation.

Three affirmative votes are required to approve any variance or grant an appeal. The board is assisted by its secretary, who has no voting power. The zoning administrator and his assistant are also present but do not vote.

The board's powers are very limited and are set forth in the Code of Virginia, the city charter, and Richmond city code. The board does not have the power to rezone property but may only grant variances from specific zoning requirements as they apply to a particular property or grant appeals from decisions of the zoning administrator or grant certain exceptions to the zoning regulations.

The board's proceedings are informal, but we do adhere to certain rules. We ask that those persons expecting to testify in each case be sworn in when the case is called.

1           The cases will be heard in the order in which  
2 they appear on the docket. First we hear the  
3 applicant, then others who wish to speak in favor of  
4 the case and, finally, from persons in opposition.

5           In the case of a variance or special exception  
6 request, the applicant, proponents, or persons  
7 aggrieved under Section 15.2-2314 of the Code of  
8 Virginia shall be permitted a total of six minutes  
9 each to present their case.

10          The board will withhold questions until the  
11 conclusion of the presentation. Rebuttal may be  
12 permitted at the discretion of the board but shall be  
13 limited to correction or clarification of factual  
14 testimony already presented and rebuttal should not  
15 exceed five minutes.

16          In the case of an appeal of the decision of the  
17 zoning administrator, the zoning administrator and  
18 the appellant or appellant's representative shall be  
19 permitted a total of ten minutes to present their  
20 case in chief and their rebuttal.

21          The zoning administrator and the appellant or  
22 appellant's representative shall be required prior to  
23 beginning their presentation to declare to the board  
24 how many of their allotted minutes shall be devoted  
25 to their case in chief and their rebuttal.

1           Following the presentations of the zoning  
2 administrator and the appellant or appellant's  
3 representative, other interested parties collectively  
4 shall be permitted a total of ten minutes to present  
5 their views.

6           What I'm saying is when it comes time for  
7 members of the association and the neighborhood,  
8 there's a collective ten minutes, so please decide  
9 how, if, who's going to speak and all that so...

10          Interested parties are defined as property owner  
11 other than the appellant whose property is the  
12 subject of an appeal and the neighborhood  
13 constituency consisting of neighbors and neighborhood  
14 associations.

15          After all of the cases have been heard, the  
16 board will decide each case. After your case is  
17 heard, you are welcome to stay through the remainder  
18 of the docket to hear the board's deliberations or  
19 you may leave.

20          If you choose to leave, please do so quietly.  
21 The secretary of the board will notify each applicant  
22 in writing as to the decision of the board.

23          The first case is case number 34-2019, an appeal  
24 of Stephen C. and Janice H. Nuckolls, that an  
25 April 19, 2018, decision of the zoning administrator



1 to permit conversion of 1805 Monument Avenue and 408,  
2 410 and 412 North Allen Avenue from a nonconforming  
3 office use to a multifamily residential apartment  
4 building under Section 30-800.3 of the zoning  
5 ordinance was in error.

6 Okay. Is the zoning administrator first?

7 MR. POOLE: Yes.

8 MR. PINNOCK: Yes.

9 MR. POOLE: Mr. Chairman?

10 MR. PINNOCK: Yes.

11 MR. POOLE: I would suggest that as in the past  
12 that we address the timeliness issue first and have  
13 them address that issue before we go to the main case  
14 itself.

15 MR. PINNOCK: Okay. So we're looking for the  
16 zoning administrator to speak only to the timely  
17 issue right now and then the appellant who will speak  
18 to their issue?

19 MR. POOLE: It's determinative of the matter  
20 moving forward.

21 MR. PINNOCK: Agreed.

22  
23 **STATEMENT BY MR. WILLIAM DAVIDSON**

24 MR. DAVIDSON: Good afternoon, board members,  
25 the public. I'm William Davidson, city zoning

1 administrator. This is an appeal of an April 19,  
2 2018 letter.

3 MR. BENBOW: Excuse me one second.

4 You need to declare your time, rebuttal, and  
5 your case in chief.

6 MR. DAVIDSON: I think six minutes.

7 MR. BENBOW: How many?

8 MR. DAVIDSON: Six minutes.

9 MR. BENBOW: Six minutes.

10 MR. REID: Mr. Benbow, just to clarify, is the  
11 ten minutes including addressing the timeliness  
12 issue, or is that a separate time limit to address --

13 MR. BENBOW: Separate time limit.

14 MR. REID: Separate time limit.

15 Thank you.

16 MR. DAVIDSON: Okay. This is an appeal of an  
17 April 19, 2018, letter that was written by the zoning  
18 office. That letter was appealed. That  
19 determination was appealed.

20 The appellants specifically acknowledged that it  
21 was a determination. And if you look at the bottom  
22 of the letter, which is in your packet, there's the  
23 appeal form that they filled out and the accompanying  
24 document.

25 They indicated that there -- in a footnote --

1           that they were specifying their right to appeal as  
2           being timely because the letter did not include a  
3           statement concerning the right to appeal as specified  
4           by the Virginia Code 15.2-2311.

5           I do not believe it's timely filed and the  
6           reasons are that the letter was dated April 19th,  
7           which would result in a 30-day time frame deadline  
8           of, say, May 19th.

9           MR. POOLE: Mr. Davidson, can you speak up just  
10          a little bit? I'm a little hard of hearing.

11          UNIDENTIFIED SPEAKER: We have the mike here.

12          MR. POOLE: We do?

13          UNIDENTIFIED SPEAKER: Yeah.

14          The mike is not on.

15          Can we get the mike turned on?

16          UNIDENTIFIED SPEAKER: I just have one question.  
17          Could you please ask whoever is speaking to speak  
18          loud because many people in the back cannot hear?

19          MR. PINNOCK: We're trying to address the mike  
20          issue right now.

21          UNIDENTIFIED SPEAKER: Thank you very much.

22          MR. PINNOCK: We're going to continue, and I'm  
23          going to ask Mr. Davidson to speak in his scolding  
24          loud voice.

25          MR. DAVIDSON: Louder voice?

1 MR. PINNOCK: Louder voice.

2 MR. DAVIDSON: As indicated, the April 18th  
3 letter would have resulted in a 30-day appeal under  
4 state law of May 18th or -- I'm sorry -- May 19th.

5 The letter application attachments were then  
6 even e-mailed to the appellants, Mr. and  
7 Mrs. Nuckolls, after conversation with a zoning staff  
8 member on June 26th. So they received that letter  
9 indicating that the conversion and the reason for the  
10 conversion being allowed.

11 About a month later, on August 9th, Mr. Nuckolls  
12 contacted staff through e-mail and stated that he was  
13 of the opinion that a conversation that he's had with  
14 his wife -- and her belief was that there was a  
15 120-day appeal period. I responded back indicating  
16 that the Virginia law appeal period was 30 days.

17 Next week I received another e-mail from council  
18 liaison asking questions in regard -- I guess there  
19 was some information around the neighborhood that a  
20 letter was out and people were concerned about it and  
21 asking about the appeal period. I, again, indicated  
22 there was a 30-day and the decision had been made.

23 The appeal was not filed until October 31st of  
24 2018. That was more than six months after the date  
25 of the original letter, more than four months from

1 when the appellants received the e-mail indicating  
2 that -- and the letter indicating that there was a  
3 30-day appeal, and more than two months after their  
4 understanding that there was a 120-day appeal limit,  
5 which was August 18th. And then it's almost three  
6 months since others had been advised that there was a  
7 30-day appeal period.

8 The second part of it is, so if there was an  
9 understanding that they hadn't any idea that there  
10 was an appeal period or that the letter was 30 days  
11 overdue or whatever, there were several other times  
12 that everybody knew about the letter and still didn't  
13 appeal.

14 The appellants argue because the statement is  
15 not in the letter indicating that if they could  
16 appeal it as required by the code, I disagree that  
17 that has to be in the letter.

18 If you read -- and I have the law. I passed out  
19 what the laws say, 2311. It says that an appeal of  
20 the decision of zoning administrator from an order,  
21 requirement, decision or determination.

22 Then later on it says that any written notice of  
23 a zoning violation or written order of the zoning  
24 administrator dated after a certain date shall  
25 include the statement of the right to appeal.

1           If you look at the underlying sections of what I  
2           passed out, it has an order, requirement, decision,  
3           determination. Then it goes further to say, written  
4           order shall include the statement. It doesn't say  
5           written decision, written determination. It's silent  
6           on those. And for that reason, I don't believe that  
7           the notice has to be in a letter to an applicant  
8           asking for a zoning determination and I think it's  
9           untimely filed.

10           MR. PINNOCK: Is that your clarification of the  
11           timeliness issue?

12           MR. DAVIDSON: Yes, sir.

13           MR. PINNOCK: Okay. I'm going to ask  
14           Mr. Davidson to hold for a minute. I'm going to ask  
15           the appellant or the representative of the  
16           appellant --

17           MR. POOLE: May we ask questions?

18           MR. PINNOCK: Oh, yeah. Sure.

19           MR. POOLE: Is it your position, Mr. Davidson,  
20           that you made a decision in the April 18th letter  
21           with respect to the conversion from nonconforming  
22           office use to nonconforming multifamily use?

23           MR. DAVIDSON: Well, I would -- I would say I  
24           did. I think there's some other individuals who  
25           think I didn't, but that was another part of my

1 discussion that I hadn't gotten into. But the appeal  
2 acknowledges -- the appellants acknowledged that I  
3 made a determination and that's what we're hearing.  
4 And if that acknowledgement is correct -- I don't  
5 want to get into the weeds on the other part. And  
6 I'm saying timeliness-wise, there were several  
7 periods of time in which they could have appealed to  
8 meet the 30 days and still didn't meet them.

9 MR. POOLE: Just wanted to know if you thought  
10 you made a decision.

11 MR. DAVIDSON: I think I did. I don't like to  
12 write letters that aren't decisions.

13 MR. POOLE: All right.

14 MR. PINNOCK: Okay. Thank you, sir.

15 Any other questions of Mr. Davidson?

16 So to be clear, he still has his declared  
17 six minutes?

18 MR. BENBOW: He took five minutes and one second  
19 so he's got five left.

20 MR. PINNOCK: And the question was, does this  
21 count against the ten minutes?

22 MR. BENBOW: If there's a second hearing on the  
23 merits. This is a separate hearing on the  
24 timeliness.

25 MR. PINNOCK: Okay. Thanks.

1                   **STATEMENT BY JOSEPH K. REID, III, ESQ.**

2                   MR. REID: Good afternoon, Mr. Chairman and  
3 members of the board. My name is Joe Reid. I live  
4 at 1821 Monument Avenue and I'm here representing the  
5 appellants, Stephen C. and Janice H. Nuckolls.

6                   I would like to reserve two minutes for rebuttal  
7 on this issue of -- procedural issue of timeliness.

8                   As Mr. Davidson alluded, I do think that this  
9 issue begins and ends with the language of 15.2-2311.  
10 And this board is constrained to follow that language  
11 strictly. It's in the Virginia code.

12                  And the language of 15.2-2311 with respect to  
13 the notice requirements begins with the preamble,  
14 "notwithstanding any charter provision to the  
15 contrary."

16                  So this is not a discretionary matter on the  
17 part of this board.

18                  The language continues that any written notice  
19 of a zoning violation or written order of the zoning  
20 administrator dated after 1993 shall include a  
21 statement informing the recipient that he may have  
22 the right to appeal the notice within 30 days and  
23 that the decision shall be final and unappealable if  
24 not appealed within that 30 days.

25                  And it continues to say that the appeal period



1 shall not commence until this statement is given.

2 Now, there is no dispute, if you look at the  
3 April 2018 decision of the zoning administrator, that  
4 there is no such statement in his decision. And the  
5 language -- the plain language of the statute  
6 dictates that the appeal period will not commence  
7 until such statement is included in that decision or  
8 in connection with that decision.

9 So then the question becomes, was there any  
10 sufficient notice outside of what was included in the  
11 four corners of the April letter decision?

12 And Mr. Davidson referred to some communications  
13 with the appellants. He indicated that in June --

14 I don't think that this is in your packet.

15 But he indicated today that in June a copy of  
16 the letter decision was provided to the appellants;  
17 however, nobody disputes the notice requirements were  
18 not in that decision, so that would have been to no  
19 avail.

20 What is included in your packet is some  
21 communication between Mr. Davidson and Mr. Nuckolls,  
22 not Mrs. Nuckolls, but Mr. Nuckolls in August of 2018  
23 as well as some back and forth e-mails between  
24 Mr. Davidson and Mr. Bieber, who is Councilwoman  
25 Gray's liaison, and I have copies if you need them,

1 but they are in your packet.

2 And if you review those e-mail exchanges, you  
3 will see that the requirements of the statute, even  
4 if they could be included in a separate e-mail, have  
5 not been met. Those exchanges do not specifically  
6 state that the appellant has a right to -- the  
7 recipient has a right to appeal the notice within  
8 30 days and that the decision shall be final and  
9 unappealable if not appealed within 30 days.

10 And, in fact, if you read those exchanges, the  
11 clear import of what Mr. Davidson is saying is that  
12 the time has run. He says in his back and forth with  
13 Mr. Bieber that that decision was made back in April  
14 and it's a 30-day time limit.

15 Clearly, the implication is there is no  
16 opportunity to appeal. It is not the statement that  
17 is required by the strict language of 2311(A). It  
18 simply doesn't comply with the strict requirements of  
19 the statute.

20 There was the question of is this a decision. I  
21 think you have a memorandum from the developer in  
22 front of you that suggests that this is not a  
23 decision. That issue should be resolved at this  
24 point because Mr. Davidson has said today, he  
25 considers it a decision.

1           If you look at the August exchange between  
2           Mr. Davidson and Mr. Bieber, he calls it a decision.  
3           It is something more than simply a zoning  
4           confirmation letter, because it contains the  
5           statement that you may convert this property by right  
6           under 800.3 from office to multifamily. And that's  
7           not conceding that a zoning confirmation letter  
8           standing alone isn't an appealable instrument. I  
9           think that it could be.

10           And, in fact, if you look at Exhibit 1 to the  
11           packet that Ms. Mullen provided earlier this week on  
12           behalf of the developer, there was a 2005 letter to  
13           the owner of this property simply confirming the  
14           zoning, which did include what I'll call the "magic  
15           language." You have the right to appeal. And, you  
16           know, as a matter of course, that language is  
17           included in decisions of the zoning administrator.

18           I don't know why that magic language, that  
19           required language under the statute wasn't included  
20           in the April 2018 decision, but the fact of the  
21           matter is, it wasn't. That makes this appeal timely  
22           because the appeal period does not run until that  
23           language is properly given.

24           And, also, that means that the further action  
25           that Mr. Davidson took with respect to this property

1 and its proposed conversion in February of 2019 was  
2 of no avail insofar as it addressed the issue of  
3 by-right conversion because under the language of  
4 15.2-2311(B), the appeal stays all proceedings in  
5 furtherance of the action appealed from.

6 It is -- you know, again, I'm not sure why the  
7 language wasn't included. It wasn't included. It's  
8 required by the statute. Adequate notice wasn't  
9 given. The appeal is timely.

10 MR. PINNOCK: Are there questions for Mr. Reid?

11 MR. POOLE: Yes, sir.

12 MR. PINNOCK: Yes.

13 MR. POOLE: Mr. Reid, the reason I asked him  
14 whether he made a decision or not, you're correct  
15 that 2311 is the statute that we have to interpret  
16 and deal with and abide by.

17 It appears to me that the appeal may be to a  
18 zoning administrator's decision or order,  
19 requirement, decision, or determination made by any  
20 other administrative officer, so that's two different  
21 things.

22 Do you agree?

23 MR. REID: I do agree, Mr. Poole. There is  
24 another statute that I'm sure you are aware that is  
25 in play here, which is 2309, which deals with the

1 board's authority to hear appeals and that statute  
2 uses the language order, requirement, decision,  
3 determination interchangeably, I will say, but I  
4 agree with you that what is subject to appeal from  
5 the zoning administrator is a decision.

6 MR. POOLE: If you agree with me on that then,  
7 do you then also agree with me that in the  
8 notwithstanding language, which is what establishes  
9 the 30-day notice requirement, that that applies only  
10 to the notice of violation -- zoning violation or a  
11 written order of the zoning administrator?

12 MR. REID: No, I don't agree with that,  
13 Mr. Poole, and I will --

14 MR. POOLE: Help me understand.

15 MR. REID: I will look further in the language  
16 of that sentence that says that the decision shall be  
17 final and unappealable if not appealed within  
18 30 days.

19 I think there that, you know, again, the  
20 language is being used interchangeably. It says even  
21 further down in the statute that the appeal shall be  
22 taken within 30 days after the decision appealed  
23 from.

24 So I would say that if there's any question that  
25 this language about written notice applying to a

1 decision, I think it does apply to a decision.

2 MR. POOLE: Leaving that for further discussion,  
3 you used the word "recipient," which is in the  
4 statute as well, and that's in the notwithstanding  
5 language, that the recipient received this notice.  
6 The recipient in this is the person who applied for  
7 the decision.

8 Do you agree?

9 MR. REID: I do agree with that. That would be  
10 the attorney for the developer.

11 MR. POOLE: And the notwithstanding language  
12 that requires the notice at least implies, if not  
13 directly says that that notice is for the benefit of  
14 only the applicant, the person who applied for the  
15 letter for which the decision was given.

16 MR. REID: Well, I think that would be difficult  
17 to read that -- read it that way, Mr. Poole, from the  
18 standpoint that any party aggrieved from a decision  
19 of a zoning administrator or other administrative  
20 officer has a right to appeal. I mean, that's clear  
21 in our Supreme Court precedent.

22 I think it would be quite a strained  
23 construction to suggest that only the recipient of  
24 the letter would be afforded the notice protections  
25 that are provided in 2311 versus any party aggrieved

1 by the action of the zoning administrator.

2 MR. POOLE: I agree with you that the statute is  
3 confusing, but that's the statute we have. We don't  
4 get to write that, and so we have to make an  
5 interpretation of what that statute means.

6 Do you have case law that supports your  
7 statement that this notice is applicable not only to  
8 the person who asked for the decision and, thus, the  
9 recipient that says that it's applicable to all  
10 parties?

11 MR. REID: I don't know that there's any -- a  
12 specific authority.

13 MR. POOLE: I couldn't find any.

14 MR. REID: I couldn't find any from the Supreme  
15 Court, but, logically, you would read that notice  
16 requirement to apply to any person that is aggrieved  
17 by the decision of the zoning administrator and not  
18 simply the property owner.

19 MR. POOLE: We might disagree on that, but I'm  
20 trying to give you an opportunity to help me  
21 understand your position.

22 Further on, the last sentence of that first full  
23 paragraph, "The owner's actual notice of such notice  
24 of zoning violation or written order..."

25 Does that imply that it is -- that this is

1 intended for the owner?

2 MR. REID: I'm sorry. I'm not following where  
3 you are, Mr. Poole.

4 MR. POOLE: All right. If you would go to the  
5 first full paragraph of subparagraph A, it begins,  
6 "The owner's" -- it's 1, 2, 3, 4 -- five lines from  
7 the bottom of that first paragraph just before  
8 subparagraph B. And it reads, "The owner's actual  
9 notice of such notice of zoning violation or written  
10 order or active participation in the appeal hearing  
11 shall waive the owner's right to challenge the  
12 validity of the board's decision due to the failure  
13 of the owner to receive the notice of zoning  
14 violation or written order."

15 MR. REID: I agree that's the language of it,  
16 but -- and I agree that the language of the statute  
17 is somewhat ambiguous and inconsistent because  
18 earlier in 2311(A) it refers to the recipient, which  
19 is not necessarily the owner.

20 2309 uses the terms, determination, order,  
21 requirement, decision interchangeably. The language,  
22 written order, recipient, owner, they're used  
23 interchangeably and, perhaps, somewhat inconsistently  
24 and ambiguously in the statute, but I believe that  
25 the thrust of the notice requirement is that any



1 person aggrieved by an order of the zoning  
2 administrator or other administrative officer is  
3 entitled to written notice and many of these folks  
4 are not attorneys, including Mr. and Mrs. Nuckolls.

5 And the entire purpose of 2311 is to inform them  
6 if they are potentially an aggrieved party, whether  
7 it's the owner or a third party, which there are many  
8 third-party appeals that come before this board, to  
9 make it crystal clear to them that they have 30 days  
10 in which to appeal and if they don't, that the  
11 decision will be final and unappealable.

12 So I think that, respectfully, that this board  
13 needs to look beyond any ambiguity in the statute and  
14 apply that purpose, which is, you know, it needs to  
15 be -- you know, there's no discretion to waiver from  
16 the language of 2311.

17 MR. POOLE: You do agree that when you interpret  
18 a statute, and our job here is, at the outset, to  
19 determine what that statute means, that you use --  
20 you read the whole statute, not just a part of it?

21 MR. REID: You do indeed, Mr. Poole. I think  
22 the other rule of statutory construction that's in  
23 play here is that if the language of a statute is  
24 ambiguous, then you should look to the intent of the  
25 statute and the intent of the legislature.

1           MR. POOLE: Isn't the rule, if it's ambiguous,  
2           you use its generally accepted dictionary  
3           interpretations?

4           MR. REID: I believe that, with respect, that  
5           the rule is that you look first to the plain  
6           language, right, and if the plain language is  
7           ambiguous, then you look to legislative intent.

8           MR. POOLE: Do you see -- I don't think in  
9           Virginia we have much in the way of legislative  
10          intent that's described in any recordable form.

11          MR. REID: That is true. The words "purpose"  
12          and "intent" are used interchangeably with respect to  
13          that rule of statutory construction. It is correct  
14          that our general assembly does not have recorded  
15          legislative intent, but looking to the legislative  
16          purpose, the purpose, clearly, of this notice  
17          requirement is to allow clear notification to  
18          aggrieved parties that they have a right to appeal,  
19          particularly, in the context, as we have here, where  
20          it may not be lawyers that are reading these  
21          decisions, and they need a clear indication that they  
22          have the right to appeal.

23          For the record, I will say that as soon as  
24          Mr. and Mrs. Nuckolls were advised legally that they  
25          had a right to appeal, because this language was not

1 included in the April order, they promptly proceeded  
2 with filing the appeal.

3 MR. POOLE: Help me understand what that point  
4 was. At what point, as you put it, were they legally  
5 advised that they needed to appeal or had a right to  
6 appeal?

7 MR. REID: Subject to check, I would say it  
8 would have been in mid-October, within a week or two  
9 of the appeal being filed.

10 MR. POOLE: And who gave them that advice?

11 MR. REID: I did as an informal legal advisor.

12 MR. POOLE: Do you not believe that the zoning  
13 administrator gave them that opinion?

14 MR. REID: I don't.

15 MR. POOLE: I mean, what's the difference  
16 between the zoning administrator telling them they  
17 don't have a right to appeal and you telling them  
18 that they do?

19 MR. REID: I don't think that the zoning  
20 administrator, with due respect to Mr. Davidson, gave  
21 them advice in August that was in any way clear that  
22 they still had a right to appeal. In fact, if you  
23 read the e-mails, the clear suggestion is your time  
24 has run.

25 MR. POOLE: I agree.

1 MR. REID: Yeah. And we just don't believe that  
2 that's the case under 2311.

3 MR. POOLE: I'm done.

4 MR. PINNOCK: Any other questions?

5 Okay. Thank you, Mr. Reid.

6 MR. REID: Thank you.

7 MR. BENBOW: Rebuttal. Chuck has five minutes  
8 of rebuttal.

9 MR. POOLE: How about Ms. Mullen speak?

10 MR. BENBOW: It's actually procedures. The  
11 procedures are they rebut and then she goes.

12 MR. POOLE: Okay.

13 MR. PINNOCK: Okay.

14 MR. BENBOW: I'm just going by what's written --  
15 the new bylaws.

16

17 **STATEMENT BY MR. WILLIAM DAVIDSON (REBUTTAL)**

18 MR. DAVIDSON: Well, I, obviously, disagree that  
19 the appeal time hadn't run and for the reason I  
20 stated earlier. You know, when you create code and  
21 you have certain words in there and then you drop  
22 them out, that means they don't apply, that only the  
23 notice of violation applies or the order of the  
24 zoning administrator.

25 Why would you have a requirement that you can

1 appeal my letter that's telling you, you can do  
2 something that you want to do? That doesn't make any  
3 sense.

4 If I sent a notice of violation and order  
5 somebody to correct something, then that has to be in  
6 there under the statute as I read it. And I think if  
7 you look back at the construction of this 2311, this  
8 statement about the after '93 came in after the fact,  
9 and I think it's been amended several times where it  
10 talks about sending it to the registered agent, the  
11 clerk of the State Corporation Commission, period.

12 "The appeal shall be taken within 30 days after  
13 the decision applied from by filing with the zoning  
14 administrator."

15 If you read the Lilly's decision, the Lilly  
16 decision says that you don't have to even give a  
17 written determination. In that instance, they were  
18 in a public hearing and they asked them, "Can I do  
19 something?"

20 And the zoning administrator said, "You can do  
21 this by right. If you don't agree with it, you can  
22 appeal."

23 They didn't appeal within the 30 days. The  
24 Supreme Court said that was noticed.

25 So e-mail, verbally, they knew. The Lilly

1 decision says you don't need to do it in writing. I  
2 don't have to have that statement in there. I  
3 disagree. I don't think you have to have that  
4 statement in there, only for notices of violation.

5 MR. POOLE: May I ask you a question?

6 MR. DAVIDSON: Oh, one other thing.

7 The Reed Smith document that was presented,  
8 there was a reference to the -- there's an Albemarle  
9 Land Use Handbook. And there's an actual section  
10 that talks about this provision in the code.

11 It talks about the notice of -- written notice  
12 of violation in that order.

13 The second paragraph of it says, I quote, "Under  
14 Virginia Code 15.2-2311(A), the required notice of  
15 appeal applies only to written notices of violation  
16 and written orders of the zoning administrator. It  
17 does not apply to other decisions and determinations  
18 that may be made and, thus, the 30-day appeal period  
19 may run against someone who may not have received, or  
20 may not have been entitled to receive notice of the  
21 decision or determination.

22 "In other words, third parties do not have an  
23 unlimited period of time to appeal a decision, even  
24 if they assert that they are aggrieved."

25 And we still haven't even determined that.

1                   "Otherwise, there would be no finality to a  
2 decision or determination."

3                   Think of, I could write a letter today and  
4 ten years from now somebody says, "Well, I disagree  
5 with that," and they say, "Well, I'm going to appeal  
6 it."

7                   That doesn't make any sense. You've got to have  
8 finality.

9                   MR. POOLE: With respect to your discussion with  
10 respect to the Lilly case, you made reference to the  
11 fact that an oral statement can be a decision and  
12 that the 30 days can be binding, but didn't it also  
13 say that you had to tell them that they could appeal?

14                  MR. DAVIDSON: Yes.

15                  MR. POOLE: And when did you tell them that they  
16 could appeal?

17                  MR. DAVIDSON: Would I tell the --

18                  MR. POOLE: When did you tell the people that  
19 you were discussing this with, at what point did you  
20 tell them that they could appeal?

21                  MR. DAVIDSON: Well, I'm not sure I specifically  
22 told them they could appeal, but in the e-mail they  
23 were asking regarding their time frame in which they  
24 could appeal the decision. So the response back was,  
25 it was a 30-day appeal period.

1 MR. POOLE: I just was clarifying whether you  
2 thought your oral conversations with the current  
3 appellants, not the applicant or the letter that you  
4 wrote in April of 2018, but do you take the position  
5 that your oral statements to them that their time had  
6 run equals telling them that they had an appeal  
7 period?

8 MR. DAVIDSON: I'm not sure I specifically  
9 talked to anybody by phone. It was only in the  
10 e-mails.

11 MR. POOLE: Okay. So did your e-mail give  
12 them --

13 MR. DAVIDSON: Well, I mean the question was,  
14 what is --

15 MR. POOLE: Because you're arguing that all of  
16 this material that you had subsequent in e-mails gave  
17 them notice, but did you ever say you have 30 days  
18 and then you can run the clock from that point?

19 MR. DAVIDSON: Well, no, I didn't say they could  
20 run the clock from that point. I said that Virginia  
21 law says they have a 30-day appeal period.

22 MR. POOLE: I think your interpretation of the  
23 Lilly case doesn't apply to this particular set of  
24 facts is all I'm saying.

25 MR. DAVIDSON: Well, I mean, it's just



1 representative of the fact that it doesn't have to be  
2 in the statute. It doesn't have to be in every  
3 letter you write.

4 MR. POOLE: The Albemarle manual, does it make  
5 reference to case law to support that statement you  
6 just read to us about the finality issue?

7 Sometimes it does and sometimes it doesn't.

8 MR. DAVIDSON: Not in that particular paragraph  
9 it doesn't.

10 MR. POOLE: Okay. Thank you.

11 MR. PINNOCK: Okay.

12 MR. BENBOW: Mr. Reid has four minutes left.

13  
14 **STATEMENT BY JOSEPH K. REID, III, ESQ. (REBUTTAL)**

15 MR. REID: And I won't take the whole four  
16 minutes. Just a couple of points.

17 Mr. Poole, in response to your exchange with  
18 Mr. Davidson, I agree with you that the Lilly case is  
19 not applicable on these facts. I agree with the  
20 exchange that the Albemarle County Land Use Handbook  
21 doesn't cite any proposition for the statements --  
22 proposition of case law for the statements that he  
23 recited about third parties potentially having an  
24 unlimited right to appeal and so forth.

25 And on this question of whether or not the --

1           what I'll call the statutorily required language or  
2           magic language is only required in a notice of zoning  
3           violation or a written order as opposed to a  
4           decision, I think this board can look to the course  
5           of dealing by this zoning administrator in that  
6           regard.

7                     If it's only required in a written order, then  
8           why was that language included in the June 2005  
9           zoning confirmation letter, which arguably is not a  
10          written order, to the owners of this property  
11          confirming the existing zoning?

12                    Why was that language included in the  
13          February 2019 letter decision that the zoning  
14          administrator issued in this case, which we say was  
15          partially a nullity because --

16                   MR. POOLE: I don't mean to interrupt you, but  
17          can we just agree that if that language had been in  
18          the April 2018 letter, we wouldn't be here?

19                   MR. REID: There's no question about that.  
20          There's no question about that.

21                   MR. POOLE: I get your point on that.

22                   MR. REID: That is the hook. That is the hook.  
23          And it's not a technicality. It's a statutory  
24          requirement.

25                   Again, we don't know why contrary to in many of

1           these other decisions the language wasn't included,  
2           but it wasn't included and that makes the appeal  
3           timely.

4           MR. POOLE: Do you acknowledge that the  
5           Albemarle Handbook is a generally accepted  
6           authoritative subject matter such as a -- a  
7           recognized authority for land use decisions in  
8           Virginia?

9           MR. REID: It is. It is a resource that can be  
10          cited, Mr. Poole. If you ask the justices of the  
11          Supreme Court what it is, they would say it's not  
12          something that tells us what to do.

13          MR. POOLE: I don't think anybody tells the  
14          justices of the Supreme Court what to do.

15          MR. REID: I agree with you. They speak through  
16          their orders.

17          MR. POOLE: I think you're absolutely correct  
18          with respect to that.

19          The last question I really need to ask you is,  
20          is it your position that if that language is not in  
21          an order, that the time frame for an appeal doesn't  
22          run ever?

23          MR. REID: No. I wouldn't go that far. There  
24          is no outside limit in the statute, but there could  
25          be intervening events and facts where it could be

1 determined that a potential appellant, a punitive  
2 appellant had waived their right to appeal.

3 For example, here, if construction had -- you  
4 know, if we were a year into construction and the  
5 people living two doors down came to this board and  
6 appealed, you could very well find that under the  
7 Doctrine of Laches or otherwise that they've sat on  
8 their rights.

9 MR. POOLE: Yeah. And that's really  
10 subsection C, though, isn't it?

11 MR. REID: Well, subsection C, I'm not -- I  
12 don't want to get in a protracted debate with you,  
13 but I think subsection C speaks more towards changes  
14 by the zoning administrator in his or her order,  
15 which are limited to the 60-day period.

16 But I think you can find certain fact sets where  
17 it was determined that an appeal was not timely, but,  
18 I mean, the intent of the statute is when zoning  
19 administrators issue decisions, they should include  
20 this language and then it never comes up.

21 MR. POOLE: Because we don't have the clear-cut  
22 answer to the questions that I'm asking, at least,  
23 and at least in my mind, if we look at the actual  
24 ordinance itself for some guidance, it makes a  
25 statement that the owner's actual notice is binding

1 on them.

2 Do you think that applies to the other aggrieved  
3 parties, actual notice?

4 MR. REID: I guess I would have to look at the  
5 specific section of the ordinance that you're  
6 referring to, Mr. Poole.

7 MR. POOLE: I'll read it for you.

8 MR. REID: In which section?

9 MR. POOLE: Again, we're in the next to the last  
10 sentence of subsection A.

11 MR. REID: Oh, we're in 2311 again.

12 MR. POOLE: Yeah. And it's -- 1, 2, 3, 4, 5 --  
13 six lines up.

14 It begins, "The owner's actual notice of such  
15 notice of zoning violation or written order," again,  
16 using those two specific -- but that's a different  
17 point that I'm trying to make here. It waives the --  
18 if there's actual notice, it waives the right to  
19 object to that notice being provided.

20 MR. REID: If you actually participate in the  
21 hearing.

22 MR. POOLE: But it also says if you have actual  
23 notice. It doesn't require "and you participate."  
24 It's "or", "or active participation." I'm just sort  
25 of making a goose and gander argument here.

1 MR. REID: Right.

2 Yeah, but I don't think you can read that  
3 sentence in the statute to obviate the need to  
4 provide the written notice in the first place.

5 MR. POOLE: I agree. I'm just saying if you  
6 look at the statute --

7 MR. REID: Yes.

8 MR. POOLE: -- as you're asking us to do, to  
9 look at overall intent, isn't the overall intent of  
10 this to say if you have actual notice and you don't  
11 do anything, then you've waived it?

12 MR. REID: I do, with this caveat, Mr. Poole.  
13 If you have actual notice and knowledge of your right  
14 to appeal, as you were suggesting with Mr. Davidson a  
15 moment ago, and that, you know, I think he was  
16 answering the question forthrightly, but, clearly, he  
17 did not provide actual notice and notice of, you now  
18 have 30 days to appeal this or it will be final and  
19 unappealable at any time to Mr. and Mrs. Nuckolls.

20 MR. POOLE: And that's what he clearly said and  
21 that was what I was clearly asking.

22 MR. REID: Thank you.

23 MR. BENBOW: Jennifer Mullen.

24 MR. PINNOCK: Thank you.

25 MR. BENBOW: Ten minutes.

**STATEMENT BY JENNIFER MULLEN, ESQ.**

MS. MULLEN: Thank you, Mr. Chair, members of the board. Jennifer Mullen with Roth Jackson here on behalf of Lee Medical LLC, the owner of the building located at 1805 and the adjacent parcels that is the subject of this appeal.

I guess just to piggyback off of a few things that were said, I want to just highlight that the zoning administrator's job is not to be the neighbors' attorney, so he provided that there is a 30-day appeal period. The neighbors knew about the April 2018 letter.

And in Virginia, you are obligated to go and do your own research, so not only was there an April 2018 letter; there is a 2005 letter. There is a 1978 letter, all of which talk about the nonconforming rights and, specifically, how one converts the medical office to a different use.

And if we move beyond the timeliness, that even tracks if you're going to say that you can convert from a medical office to another kind of office, then, certainly, you can go to a multifamily that's first permitted for categories earlier than that.

So from a notice standpoint, this has been a longstanding rule, not only for this property, but in

1 the city and the owners clearly had notice of that  
2 and even e-mailed back and forth about that notice.

3 Just to identify one point, Mr. Poole, that you  
4 made. I think you're absolutely correct. It would  
5 be completely inconsistent to have a different appeal  
6 period run for adjacent neighbors who are not  
7 aggrieved, have not provided any evidence of being  
8 aggrieved than that of an actual aggrieved party, who  
9 would be the owner of this property. It would be  
10 completely inconsistent and contrary to Virginia law.

11 So as we've talked about, Mr. Davidson's office  
12 has provided the information in June. There was a  
13 letter written by the appellants in July. I don't  
14 know when Mr. Reid was hired, but that's not a  
15 requirement. Each of us as our own individual  
16 citizens are required to be present about our rights.  
17 We cannot sit on our rights and we cannot waive four  
18 months later, six months later.

19 Again, what's to stop it?

20 If that notice hasn't been provided, we might be  
21 back here again next week. There is no finality,  
22 which is a case that has been decided. That is a  
23 case that is in the courts that was decided based on  
24 the zoning determination, particularly from Richmond  
25 two years ago.



1           You cannot have an indeterminate time for  
2 appeal. That is the law.

3           This is not a question of lawyer versus  
4 nonlawyer. This is a question of notice. The  
5 appellants had notice. They had time to appeal. It  
6 is not incumbent upon the other citizens to provide  
7 them the wherewithal to write that appeal for them.  
8 They did write an appeal. They didn't appeal it when  
9 final plans were filed. They didn't appeal it when  
10 plans were revised for that based on the special  
11 exception that this body heard. So we would ask for  
12 you to deny that appeal.

13           MR. POOLE: A couple of questions.

14           MS. MULLEN: Yes, sir.

15           MR. POOLE: Do you mind, Mr. Chairman?

16           MR. PINNOCK: No. You go, man.

17           MR. POOLE: When do you think that the  
18 aggrieved -- the potential aggrieved parties are  
19 entitled to the 30-day notice?

20           MS. MULLEN: When they have notice of that  
21 notice as the law clearly states, which you provided  
22 in the 2311.

23           MR. POOLE: All right. You acknowledge that the  
24 April 2018 letter did not provide any notice of  
25 appeal language?

1 MS. MULLEN: Yes. It does not have it on the  
2 face.

3 MR. POOLE: So at what point do you think the  
4 30 days in this case on that letter, not any of the  
5 other letters --

6 MS. MULLEN: Sure.

7 MR. POOLE: -- on the April 2018 letter, when  
8 does that 30-day period run?

9 MS. MULLEN: Well, one, you have to be  
10 aggrieved, and I don't think that the appellants have  
11 established any evidence.

12 MR. POOLE: I don't think we've asked anybody to  
13 go to that point.

14 MS. MULLEN: Correct. But that is -- it's a  
15 two-prong test, correct?

16 MR. POOLE: Uh-huh.

17 MS. MULLEN: So you have to be aggrieved, number  
18 one, which they have not established and I don't  
19 think they can and, number two, the actual notice.  
20 So the statute clearly says, as you read, the actual  
21 notice.

22 So if the -- the June is the only evidence that  
23 I have as to when they received actual notice. If  
24 they came in before that, that would be their actual  
25 notice of that determination.

1 MR. POOLE: If Mr. Davidson didn't say you had a  
2 right to appeal, how is that actual notice of a right  
3 to appeal?

4 MS. MULLEN: He said that there is a 30-day  
5 appeal right. You do not have to write the appeal  
6 for them. There is a 30-day appeal right.

7 As you know in Virginia, you have to be -- it's  
8 a buyer beware state. There's a 30-day appeal right  
9 and you feel that right now starts your 30-day  
10 appeal, then appeal.

11 It didn't stop them from appealing in October.  
12 They could have appealed in June and July, if the  
13 June was their actual notice, but they didn't.

14 They could have appealed in August, but they  
15 didn't. They waited until October to file that  
16 appeal, which was noted November 7th.

17 MR. POOLE: If you accept Mr. Reid's  
18 interpretation in that the 30 days never run until  
19 that statutory notice is given in the form that the  
20 statute requires --

21 MS. MULLEN: Sure.

22 MR. POOLE: -- that notice has not been given up  
23 to this point?

24 MS. MULLEN: It actually has. It was given in  
25 the February 9, 2009, letter. It was given in the --

1 MR. POOLE: But we're not here on that letter.

2 MS. MULLEN: Exactly. They didn't appeal it,  
3 nor did they appeal the 2005 letter that included  
4 language.

5 MR. POOLE: Just as a matter of fairness, how  
6 did every other aggrieved party, at least in the city  
7 of Richmond, get the notice that a certificate of  
8 zoning compliance has been issued?

9 MS. MULLEN: Typically, the City posted it on  
10 the website and that's the notice provision. There's  
11 not a requirement that the City give notice to  
12 individuals. Again, it's incumbent upon each  
13 individual to go and find out if there has been  
14 something filed on an adjacent property.

15 Here it's clear that something has been done.  
16 The neighbors were involved and went to a hearing of  
17 the Department of Historic Resources in 2007. There  
18 was a certificate of appropriateness that was  
19 granted, so there has been many number of things that  
20 might indicate that there is activity going on, on  
21 the property and, yet, they waited an additional  
22 six months to even file an appeal.

23 MR. POOLE: Thank you.

24 MR. PINNOCK: Thank you.

25 MS. MULLEN: Any other questions?

1 Thank you.

2 MR. BENBOW: Collectively neighbors and  
3 association now get ten --

4 MR. PINNOCK: On this matter?

5 MR. BENBOW: On this matter.

6 MR. PINNOCK: On the timeliness of this appeal?

7 MR. BENBOW: Exactly. It's not to do anything  
8 with the issue.

9 MR. PINNOCK: Right, but on the --

10 MR. BENBOW: On the merits of the case.  
11 It should be timeliness. I don't know what  
12 they're going to say but...

13 MR. PINNOCK: Right.

14 So if there are members of the neighborhood or  
15 association that wish to speak to the matter of the  
16 timeliness of the appeal, there is a ten-minute --  
17 only on the timeliness.

18 MS. AGNEW: I'm sorry. Can you repeat?

19 MR. PINNOCK: Only on the timeliness of the  
20 appeal.

21 MS. AGNEW: Is this the time to speak against  
22 it?

23 MR. PINNOCK: If you have something to speak on  
24 the timeliness of the appeal.

25 MS. AGNEW: The timing of the appeal?

1 MR. PINNOCK: Yes. Only that matter.

2 MS. AGNEW: How about the content of the appeal?

3 MR. PINNOCK: Only the timing right now.

4 MS. AGNEW: Oh, okay.

5 MR. PINNOCK: Okay. All right.

6 MS. AGNEW: Suffice it to say, we neighbors  
7 haven't gotten any notice so...

8 MS. WOFFORD: Yes, that's what I'm going to  
9 address.

10

11 **STATEMENT BY CINDY WOFFORD**

12 MS. WOFFORD: I live at 1637 Monument.

13 MR. PINNOCK: If I could get you to state your  
14 name.

15 MS. WOFFORD: Cindy Wofford.

16 I live at 1637 Monument, from my front porch, if  
17 I stare at this building; however, I never received  
18 notification about anything due to the widths of the  
19 streets. Your notifications go out to a geographic  
20 area encircling the building.

21 We have a two-lane street and a median that  
22 buffers. None of us on this side of the -- and they  
23 have a buffer behind the building that is a parking  
24 area that also buffered many of the people on this  
25 street behind them.

1           So for you to, you know, say we didn't say  
2           enough soon enough, we weren't notified. We did not  
3           receive letters. We applaud the Nuckolls for  
4           being --

5           MR. PINNOCK: Okay.

6           MS. WOFFORD: -- immediate enough of a neighbor  
7           to take this on and they are representing a huge  
8           amount of homeowners.

9           MR. PINNOCK: Understood. Okay.

10          MS. WOFFORD: Thank you.

11          MR. PINNOCK: Thank you.

12          There's a question from guess who?

13          MS. WOFFORD: Yes, sir.

14          I'm happy to answer.

15          MR. POOLE: I'm glad.

16          First, I want to clarify for you.

17          There is no requirement when you're asking for a  
18          certificate of zoning compliance that any neighbor be  
19          notified.

20          MS. WOFFORD: Okay.

21          MR. POOLE: The only thing that the City does to  
22          give that notice to anyone else other than the owner  
23          is to post it online and they do that within about  
24          five days after the letter is written.

25          I think the actual letter or the appeal on there

1 talks about when it was posted. I think it was  
2 posted -- I can't really tell because the writing is  
3 not very effective, but that's how you get noticed  
4 and that's the only way you get noticed and that's  
5 what Ms. Mullen was talking about with respect to  
6 your obligation as a citizen.

7 MS. WOFFORD: As a community --

8 MR. POOLE: Yes, ma'am.

9 MS. WOFFORD: -- we get notification --

10 MR. POOLE: I may not agree with that.

11 MS. WOFFORD: -- from numerous departments.

12 MR. POOLE: Right. Right. I know.

13 MS. WOFFORD: And they usually are  
14 geographically based. And this particular building  
15 really is in a buffered area so that an immediate  
16 neighbor really isn't very immediate and the family  
17 live on top of each other, as you well know, and our  
18 buildings are this far apart. But this particular  
19 property is unusual in that we do not buffer. The  
20 buffer is there.

21 MR. POOLE: But the point I'm trying to make  
22 is --

23 MS. WOFFORD: I understand your point.

24 MR. POOLE: -- as a citizen, I don't like the  
25 idea that the other neighbors don't get a copy of



1           that, but that's what the law is in Virginia. And,  
2           unfortunately, that's how we have to live and we're  
3           bound by the law in Virginia, but I just wanted you  
4           to not have a misperception that because you're  
5           farther across the street from the normal --

6           MS. WOFFORD: Right. Okay. I think --

7           MR. POOLE: Did you know about any of the other  
8           letters that Ms. Mullen made reference to?

9           MS. WOFFORD: We have received --

10          MR. POOLE: Did you know anything the --

11          MS. WOFFORD: -- nothing official.

12          MR. POOLE: -- historical decision-making  
13          process that occurred, I think, in '07 Ms. Mullen  
14          said?

15          MS. WOFFORD: Many times we received --

16          MR. POOLE: In 2005. Excuse me.

17          MS. WOFFORD: -- architectural -- if someone is  
18          changing their paint color and it's within an  
19          immediate amount of space, we receive written  
20          notification that gives clarified what to do if you  
21          are not in approval of that particular thing --

22          MR. POOLE: But what I'm really asking you --

23          MS. WOFFORD: -- and zoning may be different,  
24          but --

25          MR. POOLE: -- at any point --

1 MS. WOFFORD: -- I'm much more worried about  
2 this building than the color of white that someone's  
3 trim is being painted.

4 MR. POOLE: I understand.

5 The only question I'm asking you is, did you at  
6 any point in time have any notice of official acts by  
7 the City --

8 MS. WOFFORD: Not --

9 MR. POOLE: -- saying that this property could  
10 be converted to multifamily --

11 MS. WOFFORD: No, not that I --

12 MR. POOLE: -- in any form or fashion?

13 MS. WOFFORD: Not that I remember.

14 And if I were to receive some -- I think if you  
15 were saying we should be look- -- as citizens, we  
16 should be looking at a website is putting much of the  
17 burden on us and there are many people who don't use  
18 websites the way --

19 MR. POOLE: I don't disagree with you.

20 MS. WOFFORD: So that's not a good form of  
21 communication for every neighbor.

22 MR. POOLE: I don't disagree with you on that  
23 but --

24 MS. WOFFORD: Right.

25 MR. POOLE: -- the point I'm trying to make for

1           you is that that's how it works in Richmond. Maybe  
2           that's not the right way for it to work.

3           MS. WOFFORD: So how often should we check the  
4           website?

5           MR. POOLE: If you would have followed the  
6           actual requirement of what the law is, every day.

7           MS. WOFFORD: Okay. I'll go home and check  
8           my --

9           MR. PINNOCK: Excuse me.  
10          Can I get you to fill out a yellow sheet,  
11          please?

12          MR. BENBOW: I need your form.

13          MS. WOFFORD: I got one already filled out.

14          MR. BENBOW: Can you bring it to me, please?

15          MS. WOFFORD: Yes, I will do that.

16          MR. BENBOW: And, Ms. Mullen, did you give me  
17          one of these?

18          MR. PINNOCK: I wasn't tracking the time there,  
19          but is there anyone else that would like to --

20          MR. BENBOW: I was.

21          MR. PINNOCK: Okay. With the remaining --

22          MR. BENBOW: They've got seven minutes left.

23          MR. PINNOCK: Okay. Is there anyone else that  
24          wanted to speak on the timeliness matter?

25          Okay. Thank you.

1 MR. BENBOW: Need a motion.

2 MR. PINNOCK: I need a motion.

3 If she wants to speak from right there since we  
4 don't have a --

5 MR. BENBOW: Just let her speak from there.

6 MR. PINNOCK: You can speak from right there.

7 MS. AGNEW: Oh, thank you very much.

8 Will this be recorded?

9 MR. PINNOCK: Yes.

10 MS. AGNEW: Okay. Good.

11 Well, I'm very concerned that --

12 MR. BENBOW: Need her name.

13 MR. PINNOCK: Can I get you to state your name?

14 MS. AGNEW: Oh, sorry. Marian Agnew.

15 MR. PINNOCK: Thank you.

16

17 **STATEMENT BY MARIAN AGNEW**

18 MS. AGNEW: I live on Park Avenue about a  
19 hundred yards from the Lee Medical Building.

20 MR. PINNOCK: Okay.

21 MS. AGNEW: Okay. I'm very concerned that the  
22 neighborhood is totally unaware of the implications  
23 of density in this particular location on their  
24 individual properties, so that has never been  
25 circulated around the neighborhood.

1           When density is increased like this under --  
2           kind of under the radar, we need to know what's going  
3           to be the effect on our properties, what's going to  
4           happen.

5           This is, essentially, a vacant building as far  
6           as sewage discharge and water usage is concerned.  
7           Now, what's going to happen when that's increased  
8           fifty-fold, a hundredfold, how much, and when all  
9           that wastewater hits --

10          Just a minute.

11          Just a minute.

12          Please let me speak.

13          When all that wastewater hits the combined  
14          sewers, which are already overflowing and,  
15          particularly, when we have flash flood and the  
16          manholes become fountains, this is a public health --

17          MR. PINNOCK: Ms. Agnew, I'm sorry. I  
18          appreciate --

19          MS. AGNEW: I understand --

20          MR. PINNOCK: I do appreciate you coming.

21          MS. AGNEW: I understand what you're saying.

22          MR. PINNOCK: I've asked for if there are  
23          members that have --

24          MS. AGNEW: Timeliness, we need to know --  
25          timeliness has to do with now. What we need to do is

1 address these issues now. They should have been  
2 addressed heretofore. All the people on this board  
3 should already know what the impact is going to be on  
4 the community public health if this variance is  
5 granted.

6 MR. PINNOCK: Okay.

7 MS. AGNEW: That's -- this is what your job is,  
8 protecting health -- public health and welfare, and  
9 that's what I'm here to say.

10 MR. PINNOCK: Okay. Thank you.

11 MS. AGNEW: But, you know, every one of our --  
12 every one of our buildings between here and the  
13 sewage plant is going to be a fountain of wastewater  
14 morning and evening if that variance is granted.

15 MR. PINNOCK: Ms. Agnew, thank you. I  
16 appreciate you coming in.

17 MS. AGNEW: Thank you very much for allowing me  
18 to speak.

19 MR. PINNOCK: Thank you very much.

20 MR. BENBOW: All right. Now a motion.

21 MR. POOLE: I would move to determine that this  
22 appeal is not timely made and I do that with great  
23 regret because I'm not sure that the statute is as  
24 clear as it should be. I'm not -- I'm positive that  
25 the rules as they apply to these types of

1           determinations is fair, but that's not our job here.

2           Our job here is to interpret the statute as it's  
3           written as best as we know how. And when you read  
4           all of the language of the statute -- and you need to  
5           read all of it together -- the notwithstanding  
6           language, which is, essentially, the notice language  
7           that's required, the written notice applies only to  
8           notices of zoning violations and written orders of  
9           the zoning administrator. And the April 18th letter  
10          was not that. It was not either one of those.

11          It was a decision of the zoning administrator,  
12          which is why I asked him that question and I think  
13          Mr. Davidson made that point.

14          I don't like the motion that I've made, but I  
15          think it's the correct determination with respect to  
16          how the statute is written and what this board should  
17          do, but it's a motion only.

18          MR. PINNOCK: So there's a --

19          MR. BENBOW: Do you have a second?

20          MR. PINNOCK: I don't have a second yet.

21          MR. YORK: I'll second it.

22          MR. PINNOCK: Mr. York.

23          MR. YORK: The only thing I would add to that to  
24          the extent that it's even applicable is that as was  
25          pointed out, one of the requirements of interpreting

1 things like this is you have to read laws and  
2 ordinances as a whole and Mr. Reid raised the  
3 question about to what extent intent should read and  
4 feed into it, if there's any ambiguity in the  
5 language.

6 And if you look at the various actions the  
7 General Assembly has taken over the past decade or so  
8 with respect to these regulations, each time they've  
9 have done something, it has been more towards  
10 favoring a developer and making it more difficult for  
11 other parties to even be involved in processes.

12 And, again, I don't know that necessarily should  
13 feed into our decision, but I throw that out because  
14 of the remark Mr. Reid made about intent.

15 MR. PINNOCK: Further discussion?

16 (No response.)

17 MR. PINNOCK: So there's a motion to deny the  
18 appeal based on the timeliness of the application and  
19 a second by Mr. York.

20 All those in favor say "aye."

21 (Response of "Aye.")

22 MR. PINNOCK: Opposed?

23 (No response.)

24 MS. HOGUE: Does this mean that their case is  
25 not --



1 MR. BENBOW: Speak up. We can't hear you.

2 MS. HOGUE: Just wondering what this vote means  
3 for the rest of the case.

4 MR. PINNOCK: That there is no rest of the case.

5 MS. HOGUE: There is none.

6 MR. PINNOCK: So was that five votes?

7 MR. BENBOW: Is it five, zero?

8 I didn't hear any "nays."

9 MR. PINNOCK: All right. So the appeal is  
10 denied.

11 Next case.

12 (This proceeding was concluded at 2:05 p.m.)  
13  
14  
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25

1 STATE OF VIRGINIA

2 COUNTY OF CHESTERFIELD, TO WIT:

3  
4 I, Jacquelin O. Gregory-Longmire, a fully trained,  
5 qualified, and certified court reporter, do hereby certify that  
6 the proceedings in the herein matter were taken at the time and  
7 the place therein stated; that the proceedings were reported by  
8 me, Professional Court Reporter and disinterested person, and  
9 that the foregoing contains a true and correct verbatim  
10 transcription of all portions of the proceedings.

11 I certify that I am not related by either blood or  
12 marriage to any of the parties or their representatives; that I  
13 have not acted as counsel to or for any of the parties; nor am  
14 I otherwise interested in the outcome of this complaint.

15  
16 WITNESS my hand this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

17 My commission expires September 30, 2021.

18 Notary Registration No. 7275579.

19  
20 \_\_\_\_\_  
21 JACQUELIN O. GREGORY-LONGMIRE

<p><b>'07</b> <sup>[1]</sup> - 47:13  <b>'93</b> <sup>[1]</sup> - 27:8  <b>1</b> <sup>[3]</sup> - 17:10; 22:6; 35:12  <b>11</b> <sup>[1]</sup> - 2:17  <b>120-day</b> <sup>[2]</sup> - 10:15; 11:4  <b>14</b> <sup>[1]</sup> - 3:4  <b>15.2-2311</b> <sup>[3]</sup> - 9:4; 14:9, 12  <b>15.2-2311(A)</b> <sup>[1]</sup> - 28:14  <b>15.2-2311(B)</b> <sup>[1]</sup> - 18:4  <b>15.2-2314</b> <sup>[1]</sup> - 5:7  <b>1637</b> <sup>[2]</sup> - 44:12, 16  <b>1805</b> <sup>[2]</sup> - 7:1; 37:5  <b>1821</b> <sup>[1]</sup> - 14:4  <b>18th</b> <sup>[5]</sup> - 10:2, 4; 11:5; 12:20; 53:9  <b>19</b> <sup>[3]</sup> - 6:25; 8:1, 17  <b>1978</b> <sup>[1]</sup> - 37:16  <b>1993</b> <sup>[1]</sup> - 14:20  <b>19th</b> <sup>[3]</sup> - 9:6, 8; 10:4  <b>1:00</b> <sup>[1]</sup> - 1:16  <b>2</b> <sup>[2]</sup> - 22:6; 35:12  <b>2005</b> <sup>[5]</sup> - 17:12; 32:8; 37:15; 42:3; 47:16  <b>2007</b> <sup>[1]</sup> - 42:17  <b>2009</b> <sup>[1]</sup> - 41:25  <b>2018</b> <sup>[13]</sup> - 6:25; 8:2, 17; 10:24; 15:3, 22; 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52:13  <b>water</b> <sup>[1]</sup> - 51:6  <b>website</b> <sup>[3]</sup> - 42:10; 48:16; 49:4  <b>websites</b> <sup>[1]</sup> - 48:18  <b>weeds</b> <sup>[1]</sup> - 13:5  <b>week</b> <sup>[4]</sup> - 10:17; 17:11; 25:8; 38:21  <b>welcome</b> <sup>[1]</sup> - 6:17  <b>welfare</b> <sup>[1]</sup> - 52:8  <b>wherewithal</b> <sup>[1]</sup> - 39:7  <b>white</b> <sup>[1]</sup> - 48:2  <b>whole</b> <sup>[3]</sup> - 23:20; 31:15; 54:2  <b>widths</b> <sup>[1]</sup> - 44:18  <b>wife</b> <sup>[1]</sup> - 10:14  <b>WILLIAM</b> <sup>[4]</sup> - 3:3, 5;</p>	<p>7:23; 26:17  <b>William</b> <sup>[2]</sup> - 2:8; 7:25  <b>wise</b> <sup>[1]</sup> - 13:6  <b>wish</b> <sup>[2]</sup> - 5:3; 43:15  <b>WIT</b> <sup>[1]</sup> - 56:2  <b>withhold</b> <sup>[1]</sup> - 5:10  <b>WITNESS</b> <sup>[1]</sup> - 56:16  <b>WOFFORD</b> <sup>[29]</sup> - 44:8, 11-12, 15; 45:6, 10, 13, 20; 46:7, 9, 11, 13, 23; 47:6, 9, 11, 15, 17, 23; 48:1, 8, 11, 13, 20, 24; 49:3, 7, 13, 15  <b>Wofford</b> <sup>[1]</sup> - 44:15  <b>WOFFORD</b>..... <sup>[1]</sup> - 3:8  <b>wondering</b> <sup>[1]</sup> - 55:2  <b>Woods</b> <sup>[1]</sup> - 2:12  <b>word</b> <sup>[1]</sup> - 20:3  <b>words</b> <sup>[3]</sup> - 24:11; 26:21; 28:22  <b>works</b> <sup>[1]</sup> - 49:1  <b>worried</b> <sup>[1]</sup> - 48:1  <b>write</b> <sup>[7]</sup> - 13:12; 21:4; 29:3; 31:3; 39:7; 41:5  <b>writing</b> <sup>[3]</sup> - 6:22; 28:1; 46:2  <b>written</b> <sup>[32]</sup> - 8:17; 11:22; 12:3, 5; 14:18; 19:11, 25; 21:24; 22:9, 14, 22; 23:3; 26:14; 27:17; 28:11, 15-16; 32:3, 7, 10; 35:15; 36:4; 38:13; 45:24; 47:19; 53:3, 7-8, 16  <b>wrote</b> <sup>[1]</sup> - 30:4  <b>yards</b> <sup>[1]</sup> - 50:19  <b>year</b> <sup>[1]</sup> - 34:4  <b>years</b> <sup>[2]</sup> - 29:4; 38:25  <b>yellow</b> <sup>[1]</sup> - 49:10  <b>York</b> <sup>[3]</sup> - 2:5; 53:22; 54:19  <b>YORK</b> <sup>[2]</sup> - 53:21, 23  <b>zero</b> <sup>[1]</sup> - 55:7  <b>zoning</b> <sup>[60]</sup> - 4:12, 18, 20-21; 5:17, 21; 6:1, 25; 7:4, 6, 16, 25; 8:17; 10:7; 11:20, 23; 12:8; 14:19; 15:3; 17:3, 7, 14, 17; 18:18; 19:5, 10-11; 20:19; 21:1, 17, 24; 22:9, 13; 23:1; 25:12, 16, 19; 26:24; 27:13, 20; 28:16; 32:2, 5, 9, 11,</p>
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13; 34:14, 18; 35:15;  
37:9; 38:24; 42:8;  
45:18; 47:23; 53:8, 11  
**ZONING** <sup>[1]</sup> - 1:5  
**Zoning** <sup>[2]</sup> - 2:7; 4:5

**ATTACHMENT**  
**ZONING ADMINISTRATOR DECISION APPEAL**  
**1805 MONUMENT AVENUE**  
**408, 410/412 NORTH ALLEN AVE.**

**GROUND'S FOR THE APPEAL**

This appeal is from the Zoning Administrator's decision of February 7, 2019 with respect to the subject properties that the proposed use as a multifamily residential apartment building would be permitted per Division 1 of Article VIII of the nonconforming use regulations of the Zoning Ordinance ("the February 7 decision") (decision attached as Exhibit A).

**PROCEDURAL POSTURE AND TIMELINESS OF THE APPEAL**

On April 19, 2018 the Zoning Administrator issued a decision with respect to the proposed use of the subject properties as a multi-family residential apartment building, finding that such use would be permitted per § 30-800.3 of the nonconforming use regulations of the Zoning Ordinance ("the April 19 decision") (Exhibit B). That decision of the Zoning Administrator was appealed by Appellants Stephen C. and Janice H. Nuckolls by appeal dated October 30 and 31, 2018. The Appeal was docketed as BZA 34-2019. The appeal was not heard by the Board of Zoning Appeals ("BZA") until August 7, 2019, at which time the BZA denied the appeal. That decision of the BZA is being appealed to the Circuit Court of the City of Richmond, VA.

While the appeal of the April 19 decision of the Zoning Administrator was pending, and unbeknownst to Appellants, the Zoning Administrator issued a second, February 7 decision with respect to the proposed conversion of the subject properties into a multifamily dwelling containing a total of (63) dwelling units, finding again that the proposed change to a multifamily dwelling is determined to be permitted under § 30-800.3 of the Zoning Ordinance. The February 7 decision also found that a BZA Special Exception or City Council Special Use Permit would be required to authorize certain alterations to the building as proposed. On April 3, 2019, in case BZA 15-2019, the Board denied a Special Exception request. At the time, it appears that the BZA members were unaware of the October 31, 2018 appeal of the April 19 decision.

On April 10, 2019, Appellants in the BZA 34-2019 appeal requested a hearing on the appeal, and noted that the February 7 decision was of no effect due to the operation of Va. Code § 15.2-2311 (B) to the extent that it addressed the subject of the April 19 decision, i.e., the right of the property owner to convert the building to multifamily use pursuant to § 30-800.3 of the Zoning Ordinance (Exhibit C).

Upon information and belief, the owner of the property further submitted plans to the Zoning Administrator on May 9, 2019, reducing the proposed number of apartment units from 63 to 50, again notwithstanding the pendency of the appeal of the April 19 decision.

This procedural sequence is highly unusual, with the Zoning Administrator issuing a second decision on the by-right conversion issue in February of 2019 while the appeal of the April 2018 decision on the same subject was pending. Under the plain language of Va. Code § 15.2-2311 (B), “an appeal shall stay all proceedings in furtherance of the action appealed from ...” As such, the February 7 decision was clearly stayed, and of no effect, while the April 2018 decision was under appeal, as it is plainly “... in furtherance of the action appealed from.” Accordingly, any time period for appeal of the February 7 decision did not begin to run until the BZA denied the appeal of the April 2018 decision in BZA 34-2019 on August 7, 2019. The instant appeal has been filed within 30 days of that decision by the BZA.

Appellants are property owners and residents in the immediate vicinity of the Lee Medical Building and have a direct, immediate pecuniary and substantial interest in the Zoning Administrator’s decision in this matter. As a result of this decision they will suffer particularized harm to their property rights and be subject to burdens and obligations different from those of the public generally.

This appeal is procedurally proper and the BZA must hear its merits.

#### SPECIFIC GROUNDS FOR THE APPEAL

Nonconforming uses are disfavored because they are inconsistent with existing zoning classifications and the *intent* of those classifications. Section 15.2-2307 of the Code and § 30-800 of the Zoning Ordinance allow them to remain in their nonconforming status so long as the use is not changed. If a property owner proposes to change the nonconforming use to something

other than a conforming use, the nonconformity cannot, under the Zoning Ordinance and the Code, become *more* nonconforming. Very simply, the nonconformity can't be *worse* – in terms of density, intensity, traffic, parking, noise and all those factors the Ordinance fundamentally intends to protect against. The nonconformity cannot become *more* incompatible with the existing neighborhood than it already is. And that is exactly what is being proposed here with the Lee Medical conversion.

Specifically, consistent with Code § 15.2-2307, § 30-800 of the Zoning Ordinance allows nonconforming uses to be continued "... so long as the then-existing *or a more restricted use* continues" (emphasis added). Importantly, a "more restricted" use does not simply mean a use classification that is lower in the Zoning Ordinance "stack." This is a fact-based inquiry that necessarily must examine the existing nonconforming use and the operating characteristics of that use as compared to the proposed nonconforming use. *See, e.g., Knowlton v. Browning-Ferris Industries of Virginia, Inc.*, 220 Va. 571, 576, 260 S.E. 2d 232, 236, (1979); *Wheelabrator Clean Water System, Inc. v. County of King George*, 43 Va. Cir. 370, (1997); Albermarle County Land Use Handbook § 18-610.

Consistent with this proposition, § 30-800.2 of the Zoning Ordinance provides that "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* (emphasis added)." This, again, necessarily involves a fact-based evaluation of the character of the proposed nonconforming use.

Likewise, § 30-800.3 of the Zoning Ordinance provides that a nonconforming use may be changed to a different use only when all of the following criteria are met:

- (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 § 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 first two criteria in § 800.3 are relatively mechanical in their application and are not at issue here. But the next two are not. They must be evaluated and applied (1) based on the facts and the evidence, and (2) consistently with the purposes and related provisions of the Ordinance. And that is the fundamental error here.

Specifically, subdivision (3) of § 800.3 requires that the proposed use not characteristically create more traffic or noise than the existing use. The Zoning Administrator says in the February 7 decision – in the abstract – that offices generate more trips per day than multi-family housing. But those just aren't the facts here. The Zoning Administrator and the BZA have the benefit of abundant evidence concerning the Lee Medical project which was heard in the BZA 15-2019 case, and that evidence is likewise being submitted in connection with this appeal – including the Affidavit of Mr. Innes (Exhibit D), the neighborhood petition and multiple neighborhood association letters opposing the project (e.g., Exhibit E) and the BZA's meeting minutes and findings of fact in that matter (Exhibit F), along with the Affidavit of Appellant Steven Nuckolls (Exhibit G). Based on that evidence, it is clear that what is being proposed here is to take medical office space which has been underutilized for many, many years, with little to no adverse impact on surrounding properties, and to convert it to dozens of student-sized apartments (whether 63 or 50) with 24 x 7 activity in an already congested, traffic and parking challenged R-6 neighborhood.

In fact, the BZA has already found, in an unchallenged unanimous decision, when applying § 1040.3(13) of the Ordinance, that this proposal does not meet the standard of a *reasonable* use which is *compatible* with the neighboring properties (Exhibit F).

With respect to the application of Subdivision 3 of § 800.3, it is not a close call – on the facts – that the proposed use will characteristically – perhaps not every hour of every day but characteristically – result in more traffic and noise than the existing use. Not based on all the office buildings and apartment buildings across the country combined but here, in Richmond, on Lee Circle, with the Lee Medical Building.

Similar in application is subdivision (4) of § 800.3 – requiring no greater deviation from permitted uses in the district. The Zoning Administrator simply says in the February 7 decision that multifamily residential is more like single-family residential than office use – a generic or mechanical inquiry that is the end of story. Again, without regard to the facts, or the purpose of this provision to *not make things worse*. The *facts* are that intense multi-family use can be *more impactful* and a *less restrictive* use than light-duty office use. Precisely what is proposed here. It *is* a greater deviation on the facts from the regulations for permitted uses in R-6 than the existing use. The proposed use is more dense, more intense, and more impactful in a single family residential district where regulations intend the greatest level of protection against such development and where multi-family use is not permitted by right.

The inquiry under subdivisions (3) and (4) of § 800.3 might be simpler in some cases and more extensive in others, but in any event it must be fact-based, and it is apparent that the Zoning Administrator erred by failing to conduct this inquiry. Further, as mentioned, § 800.3 must be interpreted consistently with other provisions in the Ordinance and its overall intent (see, e.g., § 30-100).

There was a suggestion at the hearing in the BZA 15-2019 Special Exception hearing by a Board Member that the standard for alteration or expansion of a nonconforming property is higher than the standard for conversion by right. Respectfully, that premise cannot stand. The words of the Ordinance may differ slightly in locations, but their operation and their intent must logically be the same.

Put another way, the rule is not, and cannot be, that an owner can take a near-empty office building in an already congested R-6 neighborhood and stuff as many multi-family units and people in it as there are parking spaces, maybe a hundred or more, regardless of any impact on the surrounding properties – so long as they don't take down a wall. That interpretation would ignore the fact-based requirements of § 800.3 subdivisions (3) and (4) and would be clearly frustrative of the essential purposes of the Ordinance. If that is the operating presumption that was applied in this case, then it was in error. And it may take a case like this one to recognize that error.

In reviewing this matter, Appellants also note that the presumption of correctness of the Zoning Administrator's decision arguably does not apply to the question of law of whether he interpreted the Ordinance's requirements correctly. Questions of law are generally reviewed *de novo*. See, e.g. *James v. City of Falls Church*, 280 Va. 31, 45, 694 S.E. 2d 568, 575-76 (2010).

To conclude, this is obviously a highly charged case where the stakes are similarly high. The future of a signature property in a signature location and those around it is presently in the BZA's hands. The Appellants and hundreds of concerned citizens are asking the Board to find that the Zoning Administrator erred and that any proposal to convert this property to dozens of small apartments – whether it is 63 or 50 – does not meet the requirements for by-right conversion under § 800.3. The developer and owner should go to the Planning Commission and City Council for a Special Use Permit. They have attempted to shove through a proposal here which is unreasonable – and which this Board has already found to be unreasonable. A reasonable redevelopment proposal can result from appropriate stakeholder input and approval.

For all these reasons, Appellants urge the BZA to find that the Zoning Administrator erred in his February 7 decision that the proposed conversion of the subject property met the requirements of § 800.3 of the Zoning Ordinance. It is the right result under the law.





## 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 1<sup>st</sup> – 6<sup>th</sup> 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  
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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](mailto: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



## 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](mailto: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

REV'D: 4/10/2019  
@ ~ 1:05 PM  
LWD  
EXHIBIT C

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.

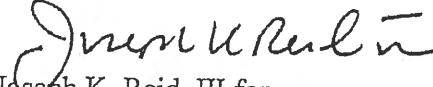
Under the explicit language of § 15.2-2311 B of the Code of Virginia, the filing of an appeal to a determination of the Zoning Administrator "shall stay all proceedings in furtherance of the action appealed from ...". As such, to the extent the Zoning Administrator purports to re-

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.<sup>1</sup>

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)

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<sup>1</sup> 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.



BEFORE THE BOARD OF ZONING APPEALS, CITY OF RICHMOND, VIRGINIA  
IN THE MATTER OF: BZA 15-2019, SPECIAL EXCEPTION REQUEST  
FOR 1805 MONUMENT AVENUE

Hearing Date: April 3, 2019

**AFFIDAVIT OF THOMAS INNES**

I, Thomas Innes, being duly sworn, declare the following:

1. My name is Tom Innes. I am above the age of 18, of sound mind and otherwise competent to testify as to the matters set forth in this Affidavit.
2. I am employed as a principal broker and owner of RE/MAX Commonwealth in Richmond, VA, specializing in residential real estate offerings. I served as President of the Richmond Association of Realtors in 1989, and was realtor of the Year in 1991. I served as President of the Virginia Association of Realtors in 1995, and was Realtor of the Year in 2000. In 2012, I was inducted into Virginia Association of Realtor's Hall of Fame. My certifications include Certified Residential Specialist, Certified Real Estate Broker Manager, and Accredited Buyer's Representative. I also have held several leadership positions in civic and community organizations in the Richmond area, including service on the City of Richmond's initial Strategic Planning Committee. I earned a Bachelor's degree in Economics from University of Richmond in 1971.
3. I have experience in real estate sales and with real estate development throughout the greater Richmond area, including the City of Richmond. I have also been a resident of the lower Fan District since 1974, and am very familiar with issues of property uses and property values in this section of the City, as well as how those property values may be impacted, positively or negatively, by neighboring development and related issues such as parking, traffic, and noise.
4. I have reviewed the Special Exception request and related materials associated with the proposed conversion of the Lee Medical Building at 1805 Monument Avenue, on historic Lee Circle, into 63 apartments that would be mostly one bedroom and averaging approximately 500 square feet apiece. While I am not an attorney, I am also generally aware of the requirements for a Special Exception involving structural alterations or enlargement of a building to be granted by the BZA, including, but not limited to, requirements that (i) the changes shall not diminish or impair the established property values in surrounding areas; (ii) the changes do not otherwise adversely impact adjoining and surrounding properties; (iii) the proposed changes are necessary to enable a *reasonable* use of the building; and (iv) the changes will enhance the *compatibility* of the property with the neighborhood.

5. In my professional opinion, based on my education, training, and experience, and to a reasonable degree of certainty, none of these criteria have been met with respect to this Special Exception request.
6. In particular, I believe that the alteration and expansion of this building on Lee Circle to enable its conversion into 63 very small apartments (with limited off-street parking), is reasonably likely to diminish or impair the established property values in the surrounding area of the Fan, most acutely for those properties in the near vicinity of this building that will be most impacted by its conversion.
7. Currently the building is vacant, and it was previously used as medical and non-medical office space for many years. I am not aware of any significant negative impact of the building and its use to its neighbors in term of parking traffic, noise, or other concerns (other than perhaps below-standard maintenance) during this time. By contrast, alterations and expansion to enable a conversion to this proposed multi-family apartment use, and with this proposed density, would dramatically, and negatively, change these impacts to the adjoining and surrounding properties.
8. I am unaware of any large multi-family residential housing in the Fan District west of Lombardy Street with the proposed density of this project, which could equal 80-100 or more residents at any given time. Based on its characteristics, I would expect, if developed in this manner, that the residential composition of this building would be predominately students or young professionals who are highly active and mobile, and often transient. There will be limited off-street parking available for residents and none for guests of the tenants or other visitors to the building. While there is some restricted on-street parking in the vicinity of the building, those restrictions of course do not apply in the evenings and on weekends, when neighborhood activity and guest and church traffic is high.
9. The Lee Medical building is located on one of the most prominent blocks in the City, with statewide and national significance. It is largely surrounded by well-maintained owner-occupied townhouses, many of have been upgraded and/or converted back from multi-family or office use to single-family residential use over the past several decades (particularly along Monument Avenue). Real estate values have steadily increased in this area of the Fan since this period of rejuvenation. Generally, this area is not densely populated with student-type housing as you find further east and closer to Virginia Commonwealth University. And while the Fan is an eclectic mix of properties and owners, I believe that many prospective buyers in the vicinity of the Lee Medical Building would react negatively to the proposed use and its consequences, with a corresponding negative effect on existing property values. This would be particularly true for any adjoining or surrounding property with insufficient or no off-street parking available.
10. In short, I believe these proposed alterations and extensions are *unreasonable* and *incompatible* with the neighboring properties. But I am quick to add that I do not contend that any change in use of this building to multi-family residential use would

likewise be unreasonable or incompatible. I am familiar, for example, with the conversion history of the former Stuart Circle Hospital, located one block east of Lee Medical at the intersection of Lombardy Street and Monument Avenue, to apartments ("One Monument Avenue") and, now, condominiums. That building has approximately twice the above-ground square footage of Lee Medical, with half the number of apartments, all of which were minimum two bedrooms with significantly more square footage. One Monument also has more than adequate parking for residents and guests. That property was successfully redeveloped and, upon its current conversion to condominiums, I believe the highest demand has in fact been for larger units. While approval of the change in use of the hospital required a great deal of community outreach and deliberation among stakeholders, including our Planning Commission and City Council, I would cite it as a project that ultimately was reasonable and compatible with its surrounding properties.

11. I urged the BZA to exercise its discretion under the Zoning Ordinance to deny this Special Exception Request.

Further affiant sayeth naught.

This 2<sup>nd</sup> day of April, 2019.



Thomas Innes

Sworn to and subscribed before me this 2<sup>nd</sup> day of April, 2019.



Notary Public

My Commission Expires:





## CONCERNED CITIZENS FOR THE FUTURE OF LEE MEDICAL

There is a proposal to create 63 new micro-apartments at Monument Avenue and Allen Avenue in the Lee Medical Building.

As a city resident I oppose the request of the potential developer of the Lee Medical Building at 1805 Monument Avenue to alter and expand the building in order to convert it from office use to 63 apartments. I believe that such a conversion presents concerns over population density, parking, traffic, noise and property values, and would adversely impact adjoining and surrounding properties in the Fan District. I ask the Board of Zoning Appeals or other relevant officials to deny this request.

First Name	Last Name	Address	City	State	Zip Code
Suzanne	Abbot	1828 Park Ave	Richmond	Virginia	23220
Marian	Agnew	1820 Park Ave	Richmond	Virginia	23220
Jane	Alford	111 Nottingham Rd	Richmond	Virginia	23221
Frank	Allen	2124 Stuart Ave	Richmond	Virginia	23220
Cecily	Amrhein-Gallasch	2336 Monument Avenue	Richmond	Virginia	23220
Dennis	Andersen	1827 Grove Ave	Richmond	Virginia	23220
Cindy	Anderson	4413 Wythe Ave	Richmond	Virginia	23221
Catherine	Andrews	2010 Floyd Ave	Richmond	Virginia	23220
Cheri	Anthony	1827 Park Ave	Richmond	Virginia	23220
Tina	Bachas	2326 Monument Ave	Richmond	Virginia	23220
Pat	Backus	1828 Park Ave	Richmond	Virginia	
Beth	Bailey	1510 Grove Ave	Richmond	Virginia	23220
Nancy	Baker	1826 Monument Ave	Richmond	Virginia	23220
Donald	Baker	1826 Monument Ave	Richmond	Virginia	23220
Chereen	Baramki	2324 Parkwood Ave	Richmond	Virginia	23220
George	Barkley	1404 Park Ave	Richmond	Virginia	23220
Betsy	Barkley	1617 W Broad St	Richmond	Virginia	23220
Dsvid	Barnett	423 N Stafford Ave	Richmond	Virginia	23220
Kathleen	Barrett	1652 W Grace St	Richmond	Virginia	23220
Virginia	Barsby	1 N Vine St	Richmond	Virginia	23220
Wyatt	Beazley	2320 Monument Ave	Richmond	Virginia	23220
Michael	Bell	1824 W Grace St	Richmond	Virginia	23220
Anna	Bell	1824 W Grace St	Richmond	Virginia	23220
Patricia	Bell	2218 Monument Ave	Richmond	Virginia	23220
R. Crist	Berry	2006 Grove Ave	Richmond	Virginia	23220
Rob	Blandford	1812 Park Ave	Richmond	Virginia	23220
Travis	Blankenship	3004 W Grace St	Richmond	Virginia	23221
Eddie	Blanks	1619 Hanover Ave	Richmond	Virginia	23220
Jonathan	Bliley	2609 Monument Ave	Richmond	Virginia	23220
Elizabeth	Boastfield	109 N Allen Ave	Richmond	Virginia	23220
Mark	Boastfield	109 N Allen Ave	Richmond	Virginia	23220
Page W.	Bond	1518 West Ave	Richmond	Virginia	23220
Mary	Boodell	1516 Park Ave	Richmond	Virginia	23220
Kimberly	Boyer	1520 Ednam Forest Drive	Richmond	Virginia	23238

Janet	Branch	329 Clovelly Rd	Richmond	Virginia	23221
Katie	Branch-Durham	1522 Grove Ave	Richmond	Virginia	23220
Lawrence	Briggs	205 N 19Th St	Richmond	Virginia	23223
Spencer	Broadbent	2307 Monument Ave	Richmond	Virginia	23220
B. Y.	Brown	1823 Park Ave	Richmond	Virginia	23220
Patricia	Brown	1106 Floyd Ave	Richmond	Virginia	23220
Tricia	Bryant	511 N Blvd	Richmond	Virginia	23220
Michele	Buchanan	2007 Hanover Ave	Richmond	Virginia	23220
Leonie	Buckley	1508 Park Ave	Richmond	Virginia	23220
Jack	Burke	2022 Stuart Ave	Richmond	Virginia	23220
Anne	Burke	2022 Stuart Ave	Richmond	Virginia	2320
Bennette	Burks	1605 Hanover Ave	Richmond	Virginia	23220
Jennifer	Burris	1618 Floyd Ave	Richmond	Virginia	23220
Sheila	Burroughs	3325 Kensington Ave.	Richmond	Virginia	23221
Caryl	Burtner	3228 Patterson Ave	Richmond	Virginia	23221
Scott	Bussells	1410 Park Ave	Richmond	Virginia	23220
Coleen	Butler Rodriguez	1822 Monument Ave	Richmond	Virginia	23220
Maria	Cacaterra	1823 Park Ave	Richmond	Virginia	23220
Stefan	Calos	2215 Monument Ave	Richmond	Virginia	23220
Fred	Calvert	1810 Park Ave	Richmond	Virginia	23220
Esra	Calvert	1810 Park Ave	Richmond	Virginia	23220
Laura B	Cameron	1404 Floyd Ave	Richmond	Virginia	23220
Sam	Campbell	2003 Monument Ave	Richmond	Virginia	23220
Olwen	Cape	1826 Park Ave	Richmond	Virginia	23220
Steve	Cape	1826 Park Avenue	Richmond	Virginia	23220
Suzanne	Carley	1530 Park Ave	Richmond	Virginia	23220
Sean	Carley	1530 Park Ave	Richmond	Virginia	23220
Cheryl	Carlyon	311 N Meadow St	Richmond	Virginia	23220
Rosa	Castellano	1125 Grove Ave.	Richmond	Virginia	23220
Barbara	Catlett	Former Fan Resident 300 N Ridge Rd	Tuckahoe	Virginia	23229
Stephen	Caudle	2209 Monument Ave	Richmond	Virginia	23220
Jewel	Caven	4303 Hanover Ave	Richmond	Virginia	23221
Sheila	Chandler	3323 Hanover Ave	Richmond	Virginia	23221
Vivien	Chen	1511 Grove Ave	Richmond	Virginia	23220
Jerome	Cherry	401 N Hamilton St	Richmond	Virginia	23221
Kim	Chiarchiaro	2611 W Grace St	Richmond	Virginia	23220
Susan	Coleman	4203 Monument Ave	Richmond	Virginia	23230
Gregory	Collings	1904 Grove Ave	Richmond	Virginia	23220
Marjorie	Collings	1904 Grove Ave	Richmond	Virginia	23220
Carole	Conner	1800 Monument Ave	Richmond	Virginia	23220
Christopher	Corbett	1302 Claremont Ave	Richmond	Virginia	23227
Deborah	Corliss	4313 Hanover Ave	Richmond	Virginia	23221
Deb	Costello	1502 Grove Ave	Richmond	Virginia	23220
Phyllis	Cothran	2007 Monument Ave	Richmond	Virginia	23220
Gary	Credotor	4101 W Franklin St	Richmond	Virginia	23221
Olivia	Cropp	1826 Grove Ave	Richmond	Virginia	23220
James	Cuddy	2512 Monument Ave	Richmond	Virginia	23220
Geoffrey	Curtin	1723 Hanover Ave Unit	Richmond	Virginia	23220
Bonnie	Dalrymple	1923 W Cary St	Richmond	Virginia	23220
Samuel W	Daniel	3203 Monument Av	Richmond	Virginia	23221
Matthew	Daniel	2037 W Grace St	Richmond	Virginia	23220
Evan	Davis	1516 Park Ave	Richmond	Virginia	23220
Rhonda	Davis	1320 W Clay St	Richmond	Virginia	23220
Charles	Day	1502 Grove Ave	Richmond	Virginia	23220
Mary Jo	Deeb	2403 Stuart Ave	Richmond	Virginia	23220
Molly	Dellinger-Wray	1834 Monument Ave	Richmond	Virginia	23220
Danielle	Dick	304 N Rowland St	Richmond	Virginia	23220
Charlie	Diradour	2206 Monument Ave	Richmond	Virginia	23220

Bob	Dittmeier	1901 Stuart Ave	Richmond	Virginia	23220
Barbara	Dittmeier	1901 Stuart Ave	Richmond	Virginia	23220
Margaret	Dobbins	1504 Ethridge Drive	Richmond	Virginia	23226
Michael	Dodson	2313 Rosewood Ave	Richmond	Virginia	23220
Anne	Dodson	425 Strawberry St	Richmond	Virginia	23220
Vicki	Douglas	1817 Hanover Ave	Richmond	Virginia	23220
Manning	Douglas	1817 Hanover Ave	Richmond	Virginia	23220
Joni Dray	Dray	612 W Franklin St	Richmond	Virginia	23220
Mark S Dray	Dray	612 W Franklin St	Richmond	Virginia	23220
Alice	Dryden	1216 Brookland Parkway	Richmond	Virginia	23227
Karen	Duer-Potts	1111 West Ave	Richmond	Virginia	23220
Ellen	Dugan	1723 Hanover Ave	Richmond	Virginia	23220
John	Dunn	4900 Monument Ave	Richmond	Virginia	23230
Linus	Ellis	3105 Grantland Dr	Richmond	Virginia	23221
Nita	Enoch	1004 West Ave	Richmond	Virginia	23220
Stephanie	Erickson	1828 Park Ave	Richmond	Virginia	23220
Scott	Erickson	1828 Park Ave	Richmond	Virginia	23220
Betsy	Ernsberger	2220 Grove Ave	Richmond	Virginia	23220
Steve	Eure	1702 Park Avenue	Richmond	Virginia	23220
Mary	Eure	1702 Park Ave	Richmond	Virginia	23220
Steven	Evens	2324 Monument Ave	Richmond	Virginia	23220
Nancy	Everett	1812 Park Ave	Richmond	Virginia	23220
Susan	Ewing	1811 Monument Ave	Richmond	Virginia	23220
Hugh	Ewing	1811 Monument Ave	Richmond	Virginia	23220
Amanda	Faircloth	1828 Park Ave	Richmond	Virginia	23220
Barry	Falk	1814 Park Ave Unit 6	Richmond	Virginia	23220
Erica	Farrell	2021 Stuart Ave	Richmond	Virginia	23220
Branch	Feagans	2016 Hanover Ave	Richmond	Virginia	23220
Timothy	Feehley	2126 Hanover Ave	Richmond	Virginia	23220
Pascal	Fernandez	1837 Monument Ave	Richmond	Virginia	23220
Jenny	Fernandez	1837 Monument Ave	Richmond	Virginia	23220
Christopher	Ferrara	2219 Monument Ave	Richmond	Virginia	23220
Wendy	Ferrara	2219 Monument Ave	Richmond	Virginia	23220
Elizabeth	Fessenden	2428 Hanover Ave	Richmond	Virginia	23220
Andrew	Finnan	2234 W Grace St	Richmond	Virginia	23220
Gayle	Fix	1608 W Grace St	Richmond	Virginia	23220
Abigail	Floyd	413 Stuart Cir	Richmond	Virginia	23220
Virginia	Forster	1614 Hanover Ave	Richmond	Virginia	23220
Kevin	Fortney	309 N Granby St	Richmond	Virginia	23220
Warren	Fry	2326 Monument Ave	Richmond	Virginia	23220
Rachel	Gable	112 N Plum St	Richmond	Virginia	23220
Margaret	Gaenzle	1835 Monument Ave	Richmond	Virginia	23220
Rick	Gaenzle	1835 Monument Ave	Richmond	Virginia	23220
Maura	Gaenzle	1835 Monument Ave	Richmond	Virginia	23220
William	Gallasch	2336 Monument Avenue	Richmond	Virginia	23220
Barbara	Garazo	2009 West Grace Street	Richmond	Virginia	2322
Elizabeth	Garrett	2512 Stuart Ave	Richmond	Virginia	23220
Richard	Gay	2126 Hanover Ave	Richmond	Virginia	23220
Kelly	Geisler	1123 West Ave	Richmond	Virginia	23220
Jessie	Gemmer	6 N Granby St	Richmond	Virginia	23220
Jennifer	Gessler	1506 West Ave	Richmond	Virginia	23220
Maria	Gogova	1615 Park Ave	Richmond	Virginia	23220
Aaron	Goldberg	1612 Monument Ave	Richmond	Virginia	23220
Stephanie	Goldberg	1612 Monument Ave	Richmond	Virginia	23220
Jillian	Goldenbaum	1703 Grove Ave	Richmond	Virginia	23220
Anne	Goodall	1516 West Ave	Richmond	Virginia	23220
Hilton	Graham	2215 Monument Ave	Richmond	Virginia	23220
Robert	Gray	1212 Park Ave	Richmond	Virginia	23220

Ann	Gray	1212 Park Ave	Richmond	Virginia	23220
Melissa	Greay	2909 Parkwood Ave	Richmond	Virginia	23221
Bruce	Green	1510 Grove Ave	Richmond	Virginia	23220
Cynthia	Greene	1820 Hanover Ave	Richmond	Virginia	23220
Anne	Grier	3317 Monument Ave	Richmond	Virginia	23221
Melanie	Grossman	2516 Monument Ave	Richmond	Virginia	23220
Melanie	Grossman	2516 Monument Ave	Richmond	Virginia	23220
Penelope	Gugino	1524 West Ave	Richmond	Virginia	23220
David	Hall	2039 Monument Ave	Richmond	Virginia	23220
Suzanne	Hall	1506 Grove Ave	Richmond	Virginia	23220
Franklin	Hamilton	3149 Grove Ave	Richmond	Virginia	23221
Richard	Hammack	102 N Stafford Ave	Richmond	Virginia	23220
Jason	Hancock	1500 West Ave	Richmond	Virginia	23220
Thomas	Hanrahan	2506 Grove Ave	Richmond	Virginia	23220
Jennifer	Hanrahan	2506 Grove Ave	Richmond	Virginia	23220
William	Harrison	801 Spottswood Rd	Richmond	Virginia	
Barbara	Hartung	1804 Hanover Ave	Richmond	Virginia	23220
Laura	Haskins	1515 Nottoway Ave	Richmond	Virginia	23227
Cheryl	Hatcher	1410 Park Ave	Richmond	Virginia	23220
Paige	Hausburg	2027 Hanover Ave	Richmond	Virginia	23220
Lisa	Hearl	306 N Mulberry St Apt 2	Richmond	Virginia	23230
Susan	Heatley	2712 E Grace St	Richmond	Virginia	23223
Janet	Heltzel	403 N Allen Ave	Richmond	Virginia	23220
Ronald	Herbert	2616 Stratford Rd	Richmond	Virginia	23225
Robin	Herbert	2616 Stratford Rd	Richmond	Virginia	23225
Ann Carter	Herbert	2616 Stratford Road	Richmond	Virginia	
Charles	Hicks	1536 Park Ave	Richmond	Virginia	23220
Laura	Hicks	1536 Park Ave	Richmond	Virginia	23220
Joe	Hill	2312 Monument Ave	Richmond	Virginia	23220
Shannan	Hillier	408 N Meadow St	Richmond	Virginia	23220
Adrienne	Hines	1713 Park Ave	Richmond	Virginia	23220
Robert	Hoekstra	1705 Park Ave	Richmond	Virginia	23220
Peggy L	Hombs	1914 Grove Ave	Richmond	Virginia	23220
Kate	Horne	1514 Grove Ave	Richmond	Virginia	23220
Christina	Horton	1616 Grove Avenue	Richmond	Virginia	23220
George	Hostetler	403 N Allen Ave	Richmond	Virginia	23220
Mary Jane	Hotchkiss	2420 Floyd Ave	Richmond	Virginia	23220
Lucy	Hottle	1125 West Ave	Richmond	Virginia	23220
Karen	Howard	1715 Park Ave	Richmond	Virginia	23220
Amy	Hruska	1710 Hanover Ave	Richmond	Virginia	23220
Matt	Hultzapple	1913 Stuart Ave	Richmond	Virginia	23220
Ben	Hultzapple	1913 Stuart Ave	Richmond	Virginia	23220
Mike	Hultzapple	1913 Stuart Ave	Richmond	Virginia	23220
Joslin	Hultzapple	1913 Stuart Ave	Richmond	Virginia	23220
Heath	Hyman	2213 Grove Ave	Richmond	Virginia	23220
Rebecca	Ilog	1100 Grove Ave	Richmond	Virginia	23220
Tom	Innes	1501 Grove Ave	Richmond	Virginia	23220
James	Jacobs	1502 Park Ave	Richmond	Virginia	23220
Maria	Jankowski	4001 Hanover Avenue	Richmond	Virginia	
Thomas	Jefferson	1429 Park Ave	Richmond	Virginia	23220
Anne	Jefferson	1429 Park Ave	Richmond	Virginia	23220
Randolph	Jefferson	1831	Richmond	Virginia	23220
Brenda	Jernigan	309 N Rowland St	Richmond	Virginia	23220
Benjamin	Joffe	1815 Park Ave	Richmond	Virginia	23220
Gregory	Johnson	516 W 19Th St	Richmond	Virginia	23225
Carolyn	Johnson	4001 Wythe Ave	Richmond	Virginia	23221
Cecil	Johnson	1819 Monument Ave	Richmond	Virginia	
Susan	Jones	1806 Park Ave	Richmond	Virginia	23220

Robert	Kastenbaum	1809 Staples Mill Rd	Richmond	Virginia	23230
Betsy	Kastenbaum	1816 Monument Ave	Richmond	Virginia	23220
Barry	Katchinoff	1900 Hanover Ave	Richmond	Virginia	23220
Suzanne	Keller	3014 Landria Dr	Richmond	Virginia	23225
Suzanne	Keller	3014 Landria Dr	Richmond	Virginia	23225
Charles	Kelley	10300 Apache Rd	Richmond	Virginia	23235
Stephanie	Kiefer	1831 Monument Ave	Richmond	Virginia	23220
Mary	King	11 N Allen Ave	Richmond	Virginia	23220
Gay	King	1831 Hanover Ave	Richmond	Virginia	23220
Burke	King	1831 Hanover Ave	Richmond	Virginia	23220
Sandra	Kjerulf	1601 Grove Ave	Richmond	Virginia	23220
Sanford	Kogan	1138 West Ave	Richmond	Virginia	23220
Anne	Kraft	1122 West Ave	Richmond	Virginia	23220
Elinor	Kuhn	612 W Franklin St	Richmond	Virginia	23220
Kathy	Laing	1812 Hanover Ave	Richmond	Virginia	23220
Amy And Mike	Lamb	2512 Monument Ave	Richmond	Virginia	23220
Christy	Lantz	2319 Monument Ave	Richmond	Virginia	23220
Daniel	Lawrence	1449 Floyd Ave	Richmond	Virginia	23220
Sue	Legrand	3133 Monument Ave	Richmond	Virginia	23221
Julie	Leonard	1915 Stuart Ave	Richmond	Virginia	23220
Robin	Levey	3916 Seminary Ave	Richmond	Virginia	23227
Thad	Lewis	1909 Stuart Ave	Richmond	Virginia	23220
Eleanor	Lewis	1909 Stuart Ave	Richmond	Virginia	23220
Cecilia	Lewis	1811 Hanover Ave	Richmond	Virginia	23220
Cary	Lindsey	106 Granite Ave	Richmond	Virginia	23226
Zhuping	Ling	1511 Grove Ave	Richmond	Virginia	23220
Joanna	Longo	413 Stuart Cir	Richmond	Virginia	23220
Oonagh	Loughran	1423 Grove Ave	Richmond	Virginia	23220
Stephanie	Louka	1800 Floyd Ave	Richmond	Virginia	23220
Elizabeth	Lowsley-Williams	2034 Monument Ave	Richmond	Virginia	23220
Kathryn	MacAlister	1805 Grove Ave	Richmond	Virginia	23220
Kara	Madison	17 S Sheppard St	Richmond	Virginia	23221
Montgomery	Maguire	409 Strawberry St	Richmond	Virginia	23220
John	Maguire	2518 Grove Ave	Richmond	Virginia	23220
Bonita	Makdad	2324 Monument Ave	Richmond	Virginia	23220
Jonathan	Marcus	2211 W Grace St	Richmond	Virginia	23220
Denise	Marron	2510 Monument Ave	Richmond	Virginia	23220
Polly	Marshall	5028 Lewisetta Dr	Glen Allen	Virginia	23060
Alan	Martin	1135 West Ave	Richmond	Virginia	23220
David	Mason	1114 West Ave	Richmond	Virginia	23220
Jessica	Mason	2011 W Grace St	Richmond	Virginia	23220
Will	Massie	1643 Monument Ave	Richmond	Virginia	23220
Alice	Massie	1643 Monument Ave	Richmond	Virginia	23220
Anna	Mazzola	1214 Park Ave	Richmond	Virginia	23220
Michael	Mazzola	1214 Park Ave	Richmond	Virginia	23220
Frank	Mccarthy	2510 Monument Ave	Richmond	Virginia	23220
Lee	Mccown	1404 Floyd Ave	Richmond	Virginia	23220
Kasey	Mcghee	1727 W Main St	Richmond	Virginia	23220
Amy	Mcglynn	2506 W Grace St	Richmond	Virginia	23220
Richie	Mcguire	1001 West Ave	Richmond	Virginia	23220
Meredith	Mcguire	746 Merry Go Round Rd	Manakin-Sabot	Virginia	23103
Steven	Mckay	2329 Park	Richmond	Virginia	23220
John	Mclaren	2113 Stuart Ave	Richmond	Virginia	23220
Arlene	Mclaren	2113 Stuart Avenue	Richmond	Virginia	23220
Sata	Mehle	113 S Davis Ave	Richmond	Virginia	23220
Kathleen	Messick	111 N Harvie St	Richmond	Virginia	23220
Settle	Michele	412 N Meadow St	Richmond	Virginia	23220
Meredith	Miled	204 Matoaka Rd	Richmond	Virginia	23226



Antonette	Miller	404 N Shields Ave	Richmond	Virginia	23220
Cheryl	Miller	2702 Monument Ave	Richmond	Virginia	23220
Caitlin	Minnick	8 N Plum St	Richmond	Virginia	23220
Harrison	Mire	21 Malvern Ave	Richmond	Virginia	23221
Sarah	Mitchell	1700 Grove Ave	Richmond	Virginia	23220
Sally	Molenkamp	2035 Monument Ave	Richmond	Virginia	23220
Paul	Monroe	1613 Hanover Ave	Richmond	Virginia	23220
Sharon	Montgomery	2032 Monument Ave	Richmond	Virginia	23220
William	Montgomery	2032 Monument Ave	Richmond	Virginia	23220
Pat	Moody	2327 Park Ave	Richmond	Virginia	23220
Katherine	Moore	2021 Hanover Ave	Richmond	Virginia	23220
Joseph	Morahan	2510 Monument Ave	Richmond	Virginia	23220
Victoria	Morahan	2510 Monument Ave	Richmond	Virginia	23220
Tara	Morand	3425 Kensington Ave	Richmond	Virginia	23221
Earle	Morrison	1302 Park Ave	Richmond	Virginia	23220
Sharon	Morrissey	1822 Hanover Avenue	Richmond	Virginia	23220
Tim	Morrissey	1822 Hanover Avenue	Richmond	Virginia	23220
Margaret	Morse	1001 West Ave	Richmond	Virginia	23220
Jennifer	Mosman	1825 Monument Ave	Richmond	Virginia	23220
Don	Mosman	1825 Monument Ave	Richmond	Virginia	23220
Rosalind	Moss	1309 Grove Ave	Richmond	Virginia	23220
John	Nelms	212 N Plum St	Richmond	Virginia	23220
Ralph	Newton	2214 Floyd Ave	Richmond	Virginia	23220
Bruce	Nolte	107 N Harvie St	Richmond	Virginia	23220
Joanne	Noolte	107 N Harvie St	Richmond	Virginia	23220
Janice	Nuckolls	1815 Monument Ave	Richmond	Virginia	23220
Steve	Nuckolls	1815 Monument Ave	Richmond	Virginia	23220
Joan	Oberle	1828 Park Ave	Richmond	Virginia	23220
Judith	Oconnor	1523 Grove Ave	Richmond	Virginia	23220
William	O'Connor	2404 Hanover Ave	Richmond	Virginia	23220
Candy	Osdene	1608 Hanover Ave	Richmond	Virginia	23220
Jeff	Osmun	2423 Stuart Ave	Richmond	Virginia	23220
Maybeth	Osmun	2423 Stuart Ave	Richmond	Virginia	23220
Maria	Pahuja	2220 Hanover Ave	Richmond	Virginia	23220
Samuel	Parker	1814 Park Ave Unit 3	Richmond	Virginia	23220
Eric	Philipkosky	1657 West Broad Street, Unit9	Richmond	Virginia	23220
Morrie	Piersol	2011 Floyd Ave.	Richmond	Virginia	23220
St. George	Pinckney	2514 Monument Ave	Richmond	Virginia	23220
Kim	Plaisted	2324 Stuart Ave	Richmond	Virginia	23220
Bob	Podstepny	2405 Stuart Ave	Richmond	Virginia	23220
Gary	Poehlmann	1801 Hanover Ave	Richmond	Virginia	23220
Ann	Pollard	2205 West Grace St	Richmond	Virginia	23220
Sharon	Popa	2624 W Main St	Richmond	Virginia	23220
Sarah	Porter	2230 Monument Ave	Richmond	Virginia	23220
Laura	Potter	1112 West Ave	Richmond	Virginia	23220
Mathis	Powelson	1508 Grove Ave	Richmond	Virginia	23220
Matthew	Preddy	204 N Vine St	Richmond	Virginia	23220
Samantha	Preddy	204 N Vine St	Richmond	Virginia	23220
Ed	Price	2238 West Grace Street	Richmond	Virginia	23220
Kim	Pride	1615	Richmond	Virginia	23220
Michael	Radtke	2129 Hanover Ave	Richmond	Virginia	23220
William	Ramsey	507 N.Blvd. #20	Richmond	Virginia	23220
Nicole	Rappaport	2515 Park Ave	Richmond	Virginia	23220
Sarah	Rasich	2131 Park Ave	Richmond	Virginia	23220
Waite	Rawls	2215 E. Broad St.	Richmond	Virginia	23223
Margaret	Rawls	2215 E. Broad St.	Richmond	Virginia	23223
David	Rayner	2002 Grove Ave	Richmond	Virginia	23220
Kim	Reich	1519 West Ave	Richmond	Virginia	23220

Katherine	Reid	1821 Monument Ave	Richmond	Virginia	23220
Joseph	Reid	1821 Monument Ave	Richmond	Virginia	23220
Carter	Reid	1821 Monument Ave	Richmond	Virginia	23220
Travis	Reinhardt	1801 Floyd Ave	Richmond	Virginia	23220
Anne	Repp	2221 Monument Ave	Richmond	Virginia	23220
Jessie & Jay	Reuben	3208 Monument Ave	Richmond	Virginia	23221
Baylor	Rice	1820 Monument Ave	Richmond	Virginia	23220
Markham	Rich	1509 Hanover Ave	Richmond	Virginia	23220
Brook	Rich	1509 Hanover Ave	Richmond	Virginia	23220
Linda	Ringwood	3149 Grove Ave	Richmond	Virginia	23221
Mary	Roach	2340 Monument Ave	Richmond	Virginia	23220
Elizabeth	Roark	1525 West Ave	Richmond	Virginia	23220
Nancy	Robbins	206 N. Allen Avenue	Farnham	Virginia	22460
Sue	Robertson	601 North Davis Avenue	Richmond	Virginia	23220
Beth	Rocheleau	1700 Hanover Ave	Richmond	Virginia	23220
Mary Anne	Rodr��-Guez	612 W Franklin St	Richmond	Virginia	23220
Agustin	Rodriguez	1822 Monument Ave	Richmond	Virginia	23220
Gil	Rodriguez Md	The Prestwould	Richmond	Virginia	23220
Katie	Roeper	1005 West Ave	Richmond	Virginia	23220
Kenneth	Roeper	1005 West Ave	Richmond	Virginia	23220
Leslie	Rubio	1705 Georgia Ave	Richmond	Virginia	23220
Kyle	Ruebel	2624 W Main St	Richmond	Virginia	23220
Ellen	Ryan	1826 W Grace St	Richmond	Virginia	23220
Virginia	Satterfield	1717 Grove Ave	Richmond	Virginia	23220
Cathy	Saunders	1607 Hanover Ave	Richmond	Virginia	23220
Alan	Saunders	1607 Hanover Ave	Richmond	Virginia	23220
Laura Leigh	Savage	1727 Park Ave	Richmond	Virginia	23220
Jake	Savage	1727 Park Ave	Richmond	Virginia	23220
Mim	Scalin	242/ Floyd Ave	Richmond	Virginia	23220
Melissa	Schmitz	405 N Allen Ave	Richmond	Virginia	23220
Kassie	Schroth	3200 W. Clay St. Apt. 154	Richmond	Virginia	23230
Eric	Schul	2218 Monument Ave	Richmond	Virginia	23220
Jeffery	Schul	2218 Monument Ave	Richmond	Virginia	23220
Barry	Scott	1204 Park Ave	Richmond	Virginia	23220
Tara	Seward	4311 Hanover Ave	Richmond	Virginia	23221
Julia	Seward	1149 West Ave	Richmond	Virginia	23220
Janet	Sheridan	406 N Mulberry St	Richmond	Virginia	23220
Larry	Shifflett	2037 Monument Ave	Richmond	Virginia	23220
Matilda	Shifflett	2037 Monument Ave	Richmond	Virginia	23220
Barbara	Shocket	2300 Cedarfield Pkwy	Richmond	Virginia	23233
Alexis	Silitch	1617 Park Ave	Richmond	Virginia	23220
Suzanne	Silitch	1617 Park Avenue	Richmond	Virginia	23220
Theresa	Singleton	1626 Park Ave	Richmond	Virginia	23220
Charles	Small	2607 W Cary St	Richmond	Virginia	23220
Andy	Smith	110 N Blvd	Richmond	Virginia	23220
John-Lawrence	Smith	2607 Monument Ave	Richmond	Virginia	23220
William	Smith	1822 Park Ave	Richmond	Virginia	23220
Susan	Smith	1822 Park Ave	Richmond	Virginia	23220
Susan	Snyder	1828 Monument Ave	Richmond	Virginia	23220
Lora	Spiller	1814 Park Ave	Richmond	Virginia	23220
Rosemarie	Squeo	1793 Park Ave	Richmond	Virginia	23220
Carl	Stargardt	2308 Stuart Ave	Richmond	Virginia	23220
Joyce	Stargardt	2308 Stuart Ave	Richmond	Virginia	23220
Robin	Starr	2216 Monument Ave	Richmond	Virginia	23220
Jill	Stefanovich	401 N Allen Ave	Richmond	Virginia	23220
Robert	Sterling	1610 Grove Ave	Richmond	Virginia	23220
Nan	Stewart	1424 Floyd Ave	Richmond	Virginia	23220
Kenneth	Stewart	1424 Floyd Ave	Richmond	Virginia	23220

Chris	Straus	1007 W Franklin St	Richmond	Virginia	23220
William	Streicker	2200 Monument Ave	Richmond	Virginia	23220
Barbara	Summers	2620 Stuart Ave	Richmond	Virginia	23220
Michael	Surface	1503 Grove Ave	Richmond	Virginia	23220
Edward	Swibold	1612 Hanover Ave	Richmond	Virginia	23220
Jill	Sykes	1830 Monument Ave	Richmond	Virginia	23220
William	Tate	2700 Monument Ave	Richmond	Virginia	23220
Katheribe	Teasley	1832 Monument Ave	Richmond	Virginia	23220
Mark	Terrill	1631 West Grace Street	Richmond	Virginia	23220
Nancy	Terrill	1631 West Grace Street	Richmond	Virginia	23220
William	Thrower	1525 Hanover Ave	Richmond	Virginia	23220
Emily	Thrower	1525 Hanover Avenue	Richmond	Virginia	23220
Emiky	Thrower	1525 Hanover Ave	Richmond	Virginia	23220
Jennifer	Tillett	1704 Floyd Ave	Richmond	Virginia	23220
Clare	Tilton	110 N Mulberry St	Richmond	Virginia	23220
Melanie	Tipton-Fortney	309 N Granby St	Richmond	Virginia	23220
Sherilyn	Titus	1812 Grove Ave	Richmond	Virginia	23220
Christina	Todd	303 N Vine St	Richmond	Virginia	23220
Jesse	Torbert	1635 Monument Ave	Richmond	Virginia	23220
Leslie	Torbert	1635 Monument Ave	Richmond	Virginia	23220
Tim	Treinen	1117 Grove Ave	Richmond	Virginia	23220
Janet	Tutton	1839 Monument Ave	Richmond	Virginia	23220
Roger	Tutton	1839 Monument Ave	Richmond	Virginia	23220
Robyn	Tyer	2010 Stuart Ave	Richmond	Virginia	23220
Linda	Urgo	1540 Old Oakland Rd	Montrose Heights	Virginia	23231
David	Van Blaricom	1015 W Franklin St	Richmond	Virginia	23220
Paul	Van De Putte	1625 Hanover Ave	Richmond	Virginia	23220
Tracey	Van De Putte	1625 Hanover Ave	Richmond	Virginia	23220
Steven C	Van Voorhees	1914 Grove Ave	Richmond	Virginia	23220
Nicole	Velez	104 N Allen Ave	Richmond	Virginia	23220
Roland	Vetter	1132 West Ave	Richmond	Virginia	23220
Laura	Vetter	1132 West Ave	Richmond	Virginia	23220
Susan	Vial	1612 Hanover Ave	Richmond	Virginia	23220
Micheline	Vogt	1025 W Grace St	Richmond	Virginia	23220
R	W	1630 Monument Ave	Richmond	Virginia	23220
Melanie	Walker	2118 Grove Ave	Richmond	Virginia	23220
Robert	Walker	2118 Grove Ave	Richmond	Virginia	23220
Kara	Walter	1630 Monument Ave	Richmond	Virginia	23220
Robert	Ward	18 N Lombardy St	Richmond	Virginia	23220
Virginia	Ward	1329 Floyd Ave	Richmond	Virginia	23220
James	Ware	2213 Monument Ave	Richmond	Virginia	23220
Martha	Warthen	1802 Park Ave	Richmond	Virginia	23220
Diane	Weakley	1723 Hanover Ave #1	Richmond	Virginia	23220
Paul	Weissend	2710 Monument Ave	Richmond	Virginia	23220
Julie	Weissend	2710 Monument Ave	Richmond	Virginia	23220
Robert	Weitzel	1928 Wilmington Ave	Richmond	Virginia	23227
Julilly	Westfall	1505 Hanover Ave	Richmond	Virginia	23220
John	Westfall	1505 Hanover Ave	Richmond	Virginia	23220
Sarah	Whitaker	5 Greenway Ln	Richmond	Virginia	23226
Aleksandra	Whitchurch	2110 Stuart Ave	Richmond	Virginia	23220
Joseph	Whitchurch	2110 Stuart Ave	Richmond	Virginia	23220
David	White	2107 Park Ave	Richmond	Virginia	23220
Chester	White	1828 Park Ave	Richmond	Virginia	23220
Alex	Whitehurst	3101 Kensington Ave	Richmond	Virginia	23221
George	Wickham	1817 Monument Ave	Richmond	Virginia	23220
Elise	Wickham	1816 Park Ave	Richmond	Virginia	23220
Patty	Wilkerson	4112 Monument Ave	Richmond	Virginia	23230
Paul	Williams	2034 Monument Ave	Richmond	Virginia	23220

Cynthia	Williams	1619 Hanover Ave	Richmond	Virginia	23220
Harriet	Williamson	1009 Christie Rd	Richmond	Virginia	23226
Liz	Williamson	Po Box 14738	Richmond	Virginia	23221
Frazier	Wilson	3511 Brook Rd.	Richmond	Virginia	24227
Reed	Wilson	301 N Meadow St	Richmond	Virginia	23220
Janet	Wilson	1817 Grove Ave.	Richmond	Virginia	23220
Carey	Wodehouse	1137 West Ave	Richmond	Virginia	23220
David	Wofford	1637 Monument Ave	Richmond	Virginia	23223
Cindy	Wofford	1637 Monument Ave	Richmond	Virginia	23223
Si	Wofford	1637 Monument Ave.	Richmond	Virginia	23220
Christine	Wolfe	302 N Allen Ave	Richmond	Virginia	23220
Ron	Wolfe	302 N Allen Ave	Richmond	Virginia	23220
Robin	Wood	3425 Kensington Ave	Richmond	Virginia	23221
Melissa	Wood	1508 Floyd Ave	Richmond	Virginia	23220
Vishal	Yajnik	1712 Park Ave	Richmond	Virginia	23220
Joseph	Yates	603 Semmes Ave	Richmond	Virginia	23224
Frances	Zehmer	2512 Monument Ave Unit 101	Richmond	Virginia	23220
Tim	Zick	2119 Hanover Ave	Richmond	Virginia	23220
Gail	Zwirner	2620 Stuart Ave	Richmond	Virginia	23220

**CITY OF RICHMOND**

DEPARTMENT OF  
PLANNING AND DEVELOPMENT REVIEW  
BOARD OF ZONING APPEALS

**BOARD OF ZONING APPEALS****MEETING MINUTES****WEDNESDAY, APRIL 3, 2019**

On Wednesday, April 3, 2019, the Board of Zoning Appeals held a public hearing in the Fifth Floor Conference Room, 900 East Broad Street, at 1:00 p.m.; display notice having been published in the Richmond Legacy Newspaper on March 20 and 27, 2019 and written notice having been sent to interested parties.

Members Present:           Burt F. Pinnock, Chair  
                                  Roger H. York, Jr., Vice-Chair  
                                  Rodney M. Poole  
                                  Kenneth R. Samuels, Sr.  
                                  Susan Sadid

Staff Present:               Roy W. Benbow, Secretary  
                                  William C. Davidson, Zoning Administrator  
                                  Brian P. Mercer, Planner II  
                                  Neil R. Gibson, Assistant City Attorney

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The Chairman called the meeting to order and read the Board of Zoning Appeals Introductory Statement, which explains the proceedings of the meeting. The applicant and those appearing in support of an application speak first, followed by those appearing in opposition.

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**BZA 04-2019 (CONTINUED FROM JANUARY 2, 2019 MEETING)**

**APPLICANT:**           Nancy and Ernest Bush, Jr.

PREMISES: 900 NORTON STREET  
(Tax Parcel Number N000-0573/021)

SUBJECT: A building permit to construct a new single-family attached dwelling.

DISAPPROVED by the Zoning Administrator on November 16, 2018, based on Sections 30-300, 30-413.6(1) & 30-630.1(a)(1) of the zoning ordinance for the reason that: In an R-7 (Single- and Two-Family Urban Residential District), the front yard (setback) requirement is not met. Fifteen feet (15') is required along the Catherine Street frontage; 3.08 feet  $\pm$  is proposed.

APPLICATION was filed with the Board on November 16, 2018, based on Section 17.20(b) of the Charter of the City of Richmond.

APPEARANCES:

For Applicant: Ernest Bush, Jr.

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Nancy and Ernest Bush, have requested a variance to construct a new single-family attached dwelling for property located at 900 Norton Street. Mr. Bush testified that the property is located at the corner of Norton Street and Catherine Street and as such is required to have two front yards. Mr. Bush noted that the setback along Catherine Street is 15 feet on a 17 1/2 foot wide lot which leaves approximately 2 1/2 feet of buildable width. Mr. Bush further noted that the setback requirement amounted to confiscation of the property. Mr. Bush stated that the setback waiver is requested along Catherine Street which will permit construction of a 14 1/2 foot wide house. Mr. Bush indicated that he had secured the support of the Carver Civic League subject to the following conditions:

- 1) Substantial compliance with the plans submitted to the Board.
- 2) Maximum of three and one-half (3.5) bathrooms for #900 and #902 Norton Street.
- 3) Removal of second level front porch for #900 and #902 Norton Street.
- 4) Provision of cementitious siding.
- 5) Provision of two additional second floor windows along the Catherine Street frontage in a location as discussed with the Board.
- 6) Provision of one additional first floor window along the Catherine Street frontage in a location as discussed with the Board.

The Board finds that evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and (i) the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance; (ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area; (iii) the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance; (iv) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and (v) the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A4 of § 15.2-2286 at the time of the filing of the variance application.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a variance from the front yard (setback) requirement be granted to Nancy and Ernest Bush, Jr. for a building permit to construct a new single-family attached dwelling, subject to the following conditions:

- 1) Substantial compliance with the plans submitted to the Board.
- 2) Maximum of three and one-half (3.5) bathrooms for #900 and #902 Norton Street.
- 3) Removal of second level front porch for #900 and #902 Norton Street.
- 4) Provision of cementitious siding.
- 5) Provision of two additional second floor windows along the Catherine Street frontage in a location as discussed with the Board.
- 6) Provision of one additional first floor window along the Catherine Street frontage in a location as discussed with the Board.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Pinnock, York, Poole, Samuels, Sadid

negative: None

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BZA 12-2019

APPLICANT: Corwin W. & Jane A. Cominsky

PREMISES: 3420 EAST MARSHALL STREET  
(Tax Parcel Number E000-0973/011)

SUBJECT: A building permit to construct a one-story addition (10.5' x 19.0')  
to a single-family detached dwelling.

DISAPPROVED by the Zoning Administrator on January 18, 2019, based on Sections 30-300, 30-413.15(1)b, 30-413.15(2)a & 30-810.1 of the zoning ordinance for the reason that: In an R-8 (Urban Residential District), the front, side yard (setbacks) and nonconforming feature requirements are not met. A front yard of eleven feet (11'), as established by 410 North 35th Street is required; a nonconforming front yard of 0.11 feet exists/ is proposed along the North 35th Street frontage. A side yard of three feet (3') is required; a nonconforming side yard of 2.78 feet exists/ is proposed. No building or structure having a nonconforming feature shall be reconstructed with another building or structure unless such nonconforming feature is hereby eliminated and the building or structure is made to conform.

APPLICATION was filed with the Board on January 18, 2019, based on Section 1040.3(1) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: Bill Voorhees  
Jane Cominsky

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicants, Corwin and Jane Comiskey, have requested a special exception to construct a one-story addition to a single-family detached dwelling for property located at 3420 E. Marshall Street. Mr. Bill Voorhees, representing the applicant, testified that the property is located at the corner of East Marshall



Street and North 35th Street and as such has a dual front yard setback requirement. Mr. Voorhees stated that the Commission of Architectural Review had reviewed and approved the project. Mr. Voorhees noted that the project will provide a laundry room and craft room. Mr. Voorhees further noted that the structure is limited size and has no basement. Mr. Voorhees indicated that the building elevations have been designed to reflect the current architecture of the dwelling and that the proposed design will be compatible with the surrounding neighborhood.

In response to question from Mr. York, Mr. Voorhees stated that the requested setback of 2.87 feet was necessary to achieve proper alignment between the existing hallway in the home and the proposed addition.

Mr. Poole stated that while input from the Commission of Architectural Review is valuable it plays no role in the decision of the Board to grant or deny a request.

Speaking in favor, Ms. Jane Comiskey, testified that when the house was purchased the laundry room was/is located under the stairs and is nonfunctional. Ms. Comiskey stated that architecturally it was not possible to construct a basement to accommodate the laundry room. In the final analysis the only viable option was to add on to the rear of the dwelling. Ms. Comiskey noted that the Church Hill Civic Association supported the requested special exception. Ms. Comiskey stated that the proposed design was consistent with other properties in the neighborhood.

The Board is satisfied that the property was acquired in good faith and pursuant to Section 114-1040.3(1) of the City Code, the intended purpose and use of the proposed addition is consistent with the zoning district regulations; departure from the yard requirements is the minimum necessary to accommodate the intended purpose of the addition; the addition or similar construction serving the same purpose cannot reasonably be located elsewhere on the lot in compliance with the zoning ordinance; and the addition will be in keeping with the architectural character of the dwelling and development within the neighborhood.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a special exception from the front, side yard (setbacks) and nonconforming feature requirements be granted to Corwin W. & Jane A. Cominsky for a building permit to construct a one-story addition (10.5' x 19.0') to a single-family detached dwelling.

ACTION OF THE BOARD: (5-0)

Vote to Grant

affirmative:

Pinnock, York, Poole, Samuels, Sadid

negative: None

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BZA 13-2019

APPLICANT: Charles Schmidt

PREMISES: 308 WEST 25th STREET  
(Tax Parcel Number S000-0699/007)

SUBJECT: A building permit to split a lot and construct a new single-family detached dwelling (#310).

DISAPPROVED by the Zoning Administrator on February 13, 2019, based on Sections 30-300, 30-412.4(1) & 30-412.5(1)b of the zoning ordinance for the reason that: In an R-6 (Single-Family Attached Residential District), the lot area, lot width, and side yard (setback) requirements are not met.. Lot areas of five thousand square feet (5,000 SF) and lot widths of fifty feet (50') are required. For zoning purposes, one (1) lot having a lot area of 9,176 square feet and a lot width of sixty feet (62') currently exists. A lot area of 4,677 square feet and width of 31.6 feet is proposed for No. 308. A lot area of 4,499 square feet and width of 30.4 feet is proposed for the newly created lot (No. 310). A side yard of five (5) feet is required; 3.2' is proposed along the northern property line for the existing dwelling (No. 308).

APPLICATION was filed with the Board on February 13, 2019, based on Section 1040.3(2) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: Charles Schmidt

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Charles Schmidt, has requested a special exception to split a lot and construct a new single-family detached dwelling for property located at 308 W. 25th Street. Mr. Schmidt testified that he had owned his home since 2006 and that the house was originally constructed in 1915. Mr. Schmidt stated that his desire is to split the lot and construct a new single-family dwelling on the remaining property. Mr. Schmidt noted that the lot is currently 62 feet

wide and that the proposal will be to have two lots of approximately 31 feet in width. Mr. Schmidt further noted that the property originally existed as two lots that were combined by deed sometime in the 1930s or 40s. Mr. Schmidt stated that his desire is to build a home which reflects the character of the neighborhood but at the same time includes all of the modern amenities associated with current living standards. Mr. Schmidt explained that the lot widths in the immediate neighborhood vary but that the predominant lot width in the block is approximately 30 feet. Mr. Schmidt indicated that the typical dwelling within the neighborhood is approximately 24 to 25 feet in width having 3 to 4 foot side yard setbacks. Mr. Schmidt stated that he was aware of no objection from the surrounding neighbors and that the request was supported by the Woodland Heights Neighborhood Association.

In response to question from Mr. York, Mr. Schmidt stated that the siding will be cementitious.

The Board is satisfied that the property was acquired in good faith and pursuant to Section 114-1040.3 (2) of the zoning ordinance, the subject lots have previously consisted of legal lots of record that were subsequently combined by deed, and the number of lots to be created do not exceed the number of previously existing lots of record, the new lots comply with Section 114-610.1 of the zoning ordinance and off-street parking requirements will be met, each lot created by the division will comply with the requisite side yard requirements, the division will comply with applicable requirements of the subdivision regulations and that dwellings to be constructed on the lots will be compatible with the dwellings existing or to be constructed in the immediate vicinity of the property.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a special exception from the lot area, lot width, and side yard (setback) requirements be granted to Charles Schmidt for a building permit to split a lot and construct a new single-family detached dwelling (#310), subject to substantial compliance with the plans submitted to the Board and provision of cementitious siding.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Pinnock, York, Poole, Samuels, Sadid

negative: None

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BZA 14-2019

APPLICANT: Cava Capital LLC

PREMISES: 1727 NORTH 28<sup>th</sup> STREET  
(Tax Parcel Number E000-0951/062)

SUBJECT: Building permits to divide an existing lot into two (2) lots and to construct a new single-family detached dwelling on each of the vacant lots.

DISAPPROVED by the Zoning Administrator on February 11, 2019, based on Sections 30-300 & 30-410.4 of the zoning ordinance for the reason that: In an R-5 (Single-Family Residential District), the lot area and lot width requirements are not met. Lot areas of six thousand square feet (6,000 sq ft) and lot widths of fifty feet (50') are required. For zoning purposes, one (1) lot having an area of 7,800 square feet and a lot width of sixty feet (60') currently exists; lot areas of 3,900 square feet and lot widths of 30.0 feet are proposed for both 1725 & 1727 North 28th Street.

APPLICATION was filed with the Board on February 14, 2019, based on Section 1040.3(2) of the City of Richmond Zoning Ordinance.

## APPEARANCES:

For Applicant: Kelly Henderson

Against Applicant: None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Cava Capital LLC, has requested a special exception to divide an existing lot into two lots and to construct a new single-family detached dwelling on each of the vacant lots for property located at 1727 N. 25th Street. Ms. Kelly Henderson, representing Cava Capital LLC, testified that the special exception is being sought to construct two 18 foot wide dwellings on 30 foot wide lots each. Ms. Henderson noted that a request involves relief from the lot area and lot width requirements. Ms. Henderson stated that the lot area of each lot will be 3900 ft.<sup>2</sup>. Ms. Henderson noted that the existing lot originally consisted of two separate lots that were combined by deed. Ms. Henderson further noted that the requisite side yard setback requirements will be met. Ms. Henderson indicated that the siding will be cementitious. Ms. Henderson noted that letters were sent to all the residents within a 150 foot radius and were aware of no opposition to the request. Ms. Henderson stated that architecturally the homes will be consistent with other dwellings in the neighborhood. Ms.

Henderson noted that there is a mixture of one and two-story homes in the neighborhood and that single-story homes are being proposed in this instance.

In response to a question from Mr. Poole, the applicant stated that off-street parking will be provided for each dwelling unit.

The Board is satisfied that the property was acquired in good faith and pursuant to Section 114-1040.3 (2) of the zoning ordinance, the subject lots have previously consisted of legal lots of record that were subsequently combined by deed, and the number of lots to be created do not exceed the number of previously existing lots of record, the new lots comply with Section 114-610.1 of the zoning ordinance and off-street parking requirements will be met, each lot created by the division will comply with the requisite side yard requirements, the division will comply with applicable requirements of the subdivision regulations and that dwellings to be constructed on the lots will be compatible with the dwellings existing or to be constructed in the immediate vicinity of the property.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a special exception from the lot area and lot width requirements be granted to Cava Capital LLC for building permits to divide an existing lot into two (2) lots and to construct a new single-family detached dwelling on each of the vacant lots, subject to substantial compliance with the plans submitted to the Board and provision of cementitious siding.

ACTION OF THE BOARD: (5-0)

Vote to Grant Conditionally

affirmative: Pinnock, York, Poole, Samuels, Sadid

negative: None

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BZA 15-2019

APPLICANT: Lee Medical Building LLC

PREMISES: 1805 MONUMENT AVENUE  
(Tax Parcel Number W000-0861/020)

SUBJECT: A building permit to convert a nonconforming office building to a multi-family dwelling containing 63 dwelling units.

DISAPPROVED by the Zoning Administrator on February 7, 2019, based on Sections 30-300, 30-412.1, 30-800.1 & 30-800.2(a) of the zoning ordinance for the reason that: In an R-6 (Single-Family Attached Residential District), a nonconforming use shall not be extended, expanded, enlarge 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. No building devoted to a nonconforming use shall be structurally altered unless such building is thereafter devoted to a conforming use. Extension, expansion, enlargement and occupancy of a greater area of the building than was previously occupied by the nonconforming use is proposed. Areas of the building previously used as a mechanical room, duct and mechanical shafts are proposed to be converted into areas to be used as floor area for dwelling units. Structural alterations are proposed, including structural support and concrete slabs for dwelling use floor area.

APPLICATION was filed with the Board on February 15, 2019, based on Section 1040.3(13) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant: Jennifer Mullen

Against Applicant: Joseph K. Reid III  
Martha Warthen  
Kimberly Gray  
Tom Innes

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Lee Medical Building LLC, has requested a building permit to convert a nonconforming office building to a multi-family dwelling containing 63 dwelling units for property located at 1805 Monument Avenue. Jennifer Mullen, attorney for the applicant, testified the application is to make certain improvements in the units to increase the efficiency of those units. Ms. Mullen stated this is not about the conversion of the building to medical office or the number of units nor is it to change the nonconforming rights of the property. Ms. Mullen stated those rights have been confirmed for over 30 years. Ms. Mullin explained that this is only about modest structural alterations and an extension to modernize the building to enhance the compatibility of the use. Ms. Mullin further explained it is about doing less than the property rights permit in a better matter. Ms. Mullin indicated that the Board would hear from neighbors and associations in opposition but their opposition is not with respect to the special exception before the Board today. Ms. Mullin stated that the opposition is focused on the conversion rights and the number of units both of which are permitted regardless of the special exception. Ms. Mullen explained that the

request only makes the property better. Ms. Mullin stated that the requests are twofold. First to permit floors to be installed where the ductwork is being removed. Second to use an alternate portion of the basement that was designed as a boiler room and mechanical equipment to be added to the dwelling unit square footage. Neither request increases the number of units which are permitted in the building. Those requests are internal to the building, no physical expansion of the building is proposed.

Ms. Mullin explained that the request specifically meets the criteria set forth in §30-1040.3 (13) as follows:

- a. extension and structural alteration is primarily for the purpose of enabling the nonconforming use to be operated more efficiently or safely and in a manner that does not adversely impact adjoining and surrounding properties; Ms. Mullen noted that with respect to the extension the basement has the same ceiling height as the upper floors. It was designed and arranged for officers as well as mechanical equipment. This request is to extend the nonconforming use into the space that was formerly used as a boiler room and mechanical equipment to create better and more efficient units. Previously about 60% of the basement was utilized for office and that is consistent with the residential use. The adjoining properties are not adversely impacted as units remain located within the building and the unit count has not been increased and remains far less than what is allowed by right. Ms. Mullen stated that with respect to the structural alterations the former heating system included significant ductwork along the south and the west wing of the building. This request is to construct a floor where the ductwork is being removed to improve the efficiency of those units. The adjoining properties are not adversely impacted as the units increase by 80 ft.<sup>2</sup> on the south wing and 56 ft.<sup>2</sup> on the west wing. The unit count is not increased and remains far less than what could be done by right. The units could be developed without the floor but the floor allows for better living space. Simply put a floor is being put down where ductwork was formerly located. The request is not increase the use or the number of units.
- b. in no case shall the amount of floor area devoted to the nonconforming use be increased more than ten percent; the basement accounts for 1817 ft.<sup>2</sup>, the shaft area in the south wing 480 ft.<sup>2</sup> and 36 ft.<sup>2</sup> in the west wing which is approximately 5% of the building area and less than the 10% which is allowed.
- c. there shall be no increase in the number of dwelling units on the property, nor shall the granting of such exception result in noncompliance with any yard, open space, parking or other requirements of this chapter or any increase in the degree or extent of any nonconforming feature; there is no increase in the unit count based on request and it actually decreases the degree of the nonconforming feature. The properties nonconforming rights include grandfathered parking

spaces otherwise known as a nonconforming feature for a total of 106 spaces. Sixty-one spaces exist in the parking lot today which means there could be 106 units in the building with 61 parking spaces. The building permit includes 63 units with 63 parking spaces. The use is conforming as to as to the parking regulations in the district where the use is first permitted.

d. there shall be no increase in area of the lot devoted to the nonconforming use; the lot area does not change at all.

Ms. Mullen stated that not only are all the criteria met but the request is consistent with the intent statement. The improvement and modernization of the nonconforming use is in the best interest of the city. It enables reasonable use of the building with little or no other potential. Ms. Mullen explained that the context of reasonableness in the ordinance is with respect to the number of units that could be converted pursuant to the nonconforming rights. It is not a matter of opinion regarding the number of units that could be converted. This is a modest expansion and structural alteration and represents a small fraction of the overall building square footage. It enhances the compatibility of the nonconforming use. It is preferable to an underutilized poorly-maintained property where the conversion to a single or two-family use is not practical. In summary the special exception makes units more efficient and better. The criteria of §30-1040.3 (13) are met and exceeded.

In response to a question from Mr. York, Ms. Mullen stated that there are 12 units in the shaft and two basement units. Ms. Mullen stated that if the request were denied that there would still be 63 units. Ms. Mullen stated that the simple answer would be that the shaft would be closed in. In the basement the units would go back to the other side. Ms. Mullen stated that the boiler room and mechanical room areas make for unique units.

Mr. Poole stated that the intent statement makes reference to "enable reasonable use of a building". Mr. Poole further stated that the reference is to a nonconforming building. Mr. Poole acknowledged that the zoning administrator had ruled that conversion from an office use to multifamily use is permitted. Mr. Poole referenced the fact that Ms. Mullen had stated that all the criteria had been met. Mr. Poole referred to §30-1040.3 (13) (a) that stipulates "in a manner that does not adversely impact adjoining and surrounding properties". Mr. Poole said that it was Ms. Mullin's position that that had been met since everything that was being done was in the interior. Mr. Poole said that the use affects the entire neighborhood.

Ms. Mullin said that subsection (a) refers to the special exception. Ms. Mullin stated that there are 63 units either with or without the special exception. Ms. Mullen acknowledged that the units are inside the building and would exist even



without the special exception. Ms. Mullin stated that the special exception is being requested to make the units more efficient which increases the square footage but allows for a better floor plan. Ms. Mullen stated that you have better units that do not adversely affect the adjoining neighbors. Ms. Mullen said that the use question is separate and apart from the special exception and deals with traffic, the number of units and parking. Ms. Mullen said the project will be conforming with respect to parking where multi-family use is first permitted. With respect to noise this allows for a better unit. Ms. Mullen stated that the units are getting larger which lessens the adverse impact.

Mr. Poole asked if Ms. Mullen agreed or disagreed that the reasonable use reference of the intent statement addresses the actual use of the property and not just 14 units or that you are making them more effective or more compatible. Ms. Mullen stated that the special exception is for structural alterations and extension which is what §30-1040.3 (13) (a) addresses. Ms. Mullins said it is with respect to the special exception. The change in use to multifamily which allows for the 63 units has already been determined. Ms. Mullen was of the opinion that the reasonableness issue with respect to the use question does not come into play and is only with respect to special exception which again is only making the units larger.

Mr. Poole stated that there is a communication problem. Mr. Poole further stated that the intent statement according to the ordinance is part and parcel of the special exception and if that applies to the actual change in use does not the Board still have to look at the provision that requires reasonable use. Mr. Poole said the special exception allows something different to be done which involves the request to make structural changes so that is where the intent statement comes in to play to determine reasonable use. Ms. Mullen replied by saying the intent statement is with respect to the special exception. Mr. Mullen said they meet the intent statement where we are talking about the use itself because the use is less intense than what is permitted under the medical office and less intense than what is permitted by the nonconforming rights. The special exception is to install the floor within an area that previously had a shaft in it and to move units from one side of the basement to the other. Ms. Mullen said it is more than reasonable in the context of their nonconforming rights, the property's location, the traffic generated on Monument Avenue which is approximately 18,000 vehicles daily. The traffic generated by the multifamily use is 342 versus medical office which is over 1800. Ms. Mullen stated that the change in use to multifamily is to bring it closer to conformance with respect to use and parking.

Mr. Poole stated that in reality when you have an office building that generally speaking is open between the hours of 9 AM and 5 PM, 6 PM or occasionally 8 PM. but apartments operate 24/7. Ms. Mullen stated it is often the case that

medical offices open earlier. Ms. Mullen said that the request is to make units better and more efficient that meets the criteria and intent statement.

Mr. Poole said that at the risk of repeating himself when you request the ability to make structural alteration and expansion changes that you have to meet the reasonableness test which is where there is disagreement. Ms. Mullen said that they meet the reasonableness test in either case. Ms. Mullen stated that the test is met in the context of changing the use from medical office to multifamily. From a reasonable standpoint it is met in the context of what the properties rights are. Ms. Mullins reiterated that medical office buildings operate more intensely than 9 to 5 and is a higher driver of traffic generation and parking which was determined in the Zoning Administrator's February 7, comment letter.

In response to a question from Ms. Sadid, Ms. Mullen stated that the intensity of the use is based on where the use is first permitted. Medical offices being less restricted in terms of the use while multifamily uses are more restricted. Ms. Mullen noted that the R-53 district is the first multifamily district and RO is the first permitted office district. Ms. Mullen stated that in terms of intensity of the use that multi-family is less intense in terms of traffic count and parking. Ms. Mullen stated that it has been determined not only from the standpoint of this property but from properties all over the city that office use is a more intense use than multifamily use.

Speaking in opposition, Mr. Joe Reed, attorney with McGuire Woods and resident of 1821 Monument Avenue said he would speak briefly on the issues and evidence and introduce a neighbor, Ms. Martha Warthen and Councilwoman Kim Gray. Mr. Reed stated the Board is very familiar with the requirements of § 30-1040.3. Under paragraph 13 of the exception section the Board must be satisfied that alterations and extensions as requested here will not adversely impact adjoining and surrounding properties those include adverse impacts to neighboring property values, increased congestion in the streets and unreasonable impacts to public safety. Importantly in the intent section for the subdivision you are also instructed that such alterations or expansions must be necessary to enable a reasonable use of the building and if they are part of improvements when taken together enhance the compatibility of the building with neighboring properties. These requested alterations and expansions impact over 20% of the proposed apartments in the building and they significantly impact the potential size of these units. Mr. Reed stated that he finds that the suggestion that they can still build 63 units including some that will be in the neighborhood of 300+ square feet with no kitchen to be highly dubious. These alterations are in fact enabling 63 units in the building. The question is whether that use and specifically that proposed residential density which is enabled by the alterations meets the criteria of reasonableness, compatibility and no adverse impact. In terms of the evidence you have the expert testimony of Mr. Tom Innes on negative impact on property

values. Mr. Innis is available for questions. Ms. Warthen will speak directly to other negative impacts including traffic and parking concerns. You also have before you the affirmation of 460 residents almost all of which are from the Fan that signed the petition stating that they believe that the special exception will negatively impact the surrounding properties. Many of these concerned citizens have taken the time to be here today. Mr. Reed asked the assembled that were in opposition to the request to stand and asked that the record reflect that approximately 100 people have stood in opposition to the request. Mr. Reed pointed out that the Board has within its record the neighborhood association opposition of MAPS, FDA, West Grace and West Avenue that have universally opposed the special exception request. Mr. Reed stated that in short the evidence is overwhelming that the governing criteria to grant this exception has not been met.

Speaking in opposition, Ms. Martha Warthen resident of 1803 Park Avenue which is located directly behind the Lee Medical Building. Ms. Warthen stated that she was there as a representative of the neighborhood to express their opposition to the special exception request. Ms. Warthen indicated that she had read and agrees with the affidavit of Mr. Innis concerning the impact of these alterations and expansion on surrounding property values. Lee Circle has a very challenging traffic pattern with unusual rotary design and slick asphalt pavers. At one point it was one of the most accident prone intersections in the city. Monument Avenue is a very popular destination throughout the day and evening for pedestrians, dog walkers, joggers and tourists. Adding perhaps 100 or more youthful and active residents to Lee Circle along with the surrounding side streets and alleys with their vehicles, guests, Ubers and deliveries will increase congestion in the streets and create safety and welfare concerns for the occupants of the adjoining and surrounding properties as well as to the general public. The available off-street parking for the building will be inadequate to avoid an adverse impact for the surrounding properties from an overload of occupants and guest vehicles particularly on nights and weekends when parking restrictions do not apply. We have aging neighbors with no off-street parking. There will be effects on noise to go from a daytime medical office use to 24/7 dormitory type housing. To protect the future of the city it must be recognized that development must be reasonable and compatible with existing neighboring uses. Ms. Warthen concluded by requesting on behalf of her several hundred neighbors that the Board find that the requirements for the special exception have not been met and deny the application.

Speaking in opposition, Councilwoman Kim Gray stated the project would have an adverse impact on the neighborhood. Ms. Gray noted that there is no proposal before the Planning Commission or City Council. Ms. Gray said that the project is not reasonable nor compatible with the existing neighboring uses. Ms. Gray asked that the Board deny the requested special exception.

Mr. Poole inquired why the special exception is not a moot point given the Zoning Administrator's determination that the proposed conversion to multifamily units is permitted. Mr. Reed stated the proposed conversion under the nonconforming provisions is not before the Board. Mr. Reed explained that when you read the intent statement the requirement specifies that the structural alteration and expansion must result in a reasonable use. It is not limited to the alterations themselves. If there is a nonconforming use which is being altered to another nonconforming use then there must be the requirement that you look at the overall reasonableness of the proposed use. The requirement exists as a result of section 30-1040.3 (13). If you're going to alter the property in connection with the new proposed nonconforming use then the issue of reasonableness must be determined. The question is whether it is reasonable to put 63 multifamily units on Lee Circle.

Mr. Poole stated that Ms. Mullen also referenced subsection a. of §30-1040 (13) and asked Mr. Reed if he agrees that there is no adverse impact on the adjoining and surrounding properties. Mr. Reed stated that if there is the suggestion that the question of adverse impact applies only to the alterations it is a ludicrous contention. The question is what effect the alterations combined with the overall proposed use have on the surrounding properties.

Mr. Poole inquired of Mr. Innis, real estate expert for the opposition, what is the economic effect on the surrounding properties. Mr. Innis stated he was referring to §30-1040.3 that there are several conditions under which it should be denied. One of the important ones regards the prohibition against increasing congestion in the streets. When you go to see a doctor you go once and leave once. When you live in apartment you go back and forth several times. A second condition specifies that the established property values shall not be impaired. The increase in traffic in addition to utilization of the rear parking lot 24 hours a day represents an unsafe condition. Mr. Innis stated that with 63 units there will be a minimum of 63 individuals and possibly several times that amount. There is not enough parking for visitors and given permit parking it would be prudent that tenant on-street parking be precluded. Mr. Poole asked Mr. Innis to elaborate on his statement regarding the project's adverse economic impact. Mr. Poole noted that Mr. Innis's affidavit outlines his background as an expert. Mr. Innis stated that if you live in a house and have constant traffic going in and out of the alley and constant pedestrian traffic that the surrounding properties would not be worth as much. There would be a diminished value. Mr. Poole noted that Mr. Innis also made reference to a similarly situated property of a larger size. Mr. Innis stated he was referring to One Monument which was converted from a hospital to apartments and is subsequently being converted to condominiums. The project has a substantial amount of parking provided across the street in a parking deck and the residents are prohibited from applying for Fan district parking permits so

the impact of the density will be limited. The difference in the One Monument project and the Lee Medical project involves the disparity in unit sizes.

Mr. York asked Mr. Innis if the property values would be reduced or just not increase at the rate they would have otherwise been expected to achieve. Mr. Innis stated the potential for appreciation for existing owners will be hindered by the proposed use. Mr. York noted that the words being dealt with are diminished and impaired. A finding in support of diminished and impaired would require that the property values actually have to be reduced. Mr. Innis said that people will not see their full expectation of value. Mr. Innis stated that the closer you get to the multifamily use the more the expectation that the use will have some impact. Mr. Innis stated that he is still comfortable with the word diminish.

Speaking in rebuttal, Ms. Mullen stated that the petition that was discussed indicates that it is to alter the building in order to allow conversion of the building to 63 units. That is not what is being discussed today. It has already been established by the Zoning Administrator that the building can be converted to 63 dwelling units. With respect to the traffic the demand for multifamily units is far less than for a medical office. On an a.m. the peak basis trip generation is 97 cars less for multifamily than for office and on a p.m. peak basis it is 141 cars less. Overall less traffic is generated by this use. Fewer parking spaces are required and the property is coming closer to conformity. Mr. Innis discussed the effect on property values in so far as the change in use is concerned but the issue before the Board is not the change in use but the structural alterations and expansion. Mr. Innis has suggested that multifamily use exists in a vacuum and that no other uses are permitted. This is in the context of nonconforming rights. The nonconforming rights for the property are for a medical office. In your packet you have a letter from Mr. Jarvis regarding property values. You have a poorly maintained medical office building that will be replaced by professionally maintained multifamily use. A commitment has been made to the neighbors that parking permits will not be requested for the subject property. This property is an improvement and will permit more efficient use of the units. It is not about the density and not about the conversion to multifamily use. It has been established that the criteria outlined in section 30-1040.3 (13) have been exceeded and it is respectfully requested a special exception be approved.

Motion was made for the purpose of discussion by Mr. Poole and seconded by Mr. York to deny the applicant's special exception request. Mr. Poole stated that he was very disturbed and troubled by this case. Mr. Poole noted that the case was very well presented by both sides. Mr. Poole indicated that in his view it comes down to the intent statement and how it applies to this type of a process. We have always been told by case law and our own procedures that the intent statement is as applicable to the discussion and the decision-making process as are the other provisions in the special exception. Mr. Poole noted that the intent

statement talks about the actual use of the property being reasonable. It is triggered by an application to change something such as a structural alteration. The question is whether or not this is a reasonable use. Mr. Poole stated that it is an extremely close case based on what is in the special exception which is what the Board is governed by.

Mr. York stated that in §30-1040.3(13)(a) it discusses in part traffic and property values. Mr. York noted that two expert opinions disagree on the effect on property values. Neither opinions were submitted by appraisers but knowledgeable real estate professionals. Mr. York was of the opinion the testimony in this regard seemed to cancel each other out. Mr. York noted that the applicant stated that if the request were denied that the property could still be developed for 63 multi-family dwelling units. Mr. York questioned whether they could get 63 units that are marketable. Mr. York noted that Mr. Reed made a point that the criteria on which the Zoning Administrator based his determination regarding the change in the nonconforming uses and the criteria that are included section 30-1040.3 (13) do to some degree overlap. Mr. York stated that his concern is whether the proposed structural alteration and expansion were necessary to enable reasonable use of the building. Mr. York noted that the Zoning Administrator did not have to take that sentence into consideration when making the determination regarding the change in the nonconforming use. Mr. York stated that the irony is that the applicant is subjected to a higher standard in so far as the special exception is concerned.

Mr. Poole expressed concern regarding testimony by the applicant's attorney that the capability will continue to exist to construct 63 units irrespective of approval of the special exception. Mr. Poole stated that that is not the issue that is before the Board. When the City Council created the special exception they instructed the Board to make a specific determination which is why the reasonable use is applicable to the nonconforming use that is being proposed.

Mr. Pinnock stated that it appeared to be the cart before the horse. If they had already developed a project which included 55 units and sought a special exception they would not be allowed to increase the number of units if they were going to undertake structural or expansion changes. This method is in order to get this number of units for the special exception.

Mr. Poole stated that it is the underlying zoning that is causing the problem. The Zoning Administrator has made a ruling regarding the special exception and has not been appealed. Mr. Poole stated what is being talked about is a special exception and the applicability of the intent statement and the reasonableness applies to the actual use. Given the totality of the testimony Mr. Poole stated that in his opinion it was not a reasonable use.

In response to Mr. Pinnock, Mr. Poole stated if they choose to use it as a medical office building they have an absolute right to do it.

The Board is not satisfied pursuant is Section 114-1040.3 (13) of the zoning ordinance, the applicant has shown that the proposed structural alteration and expansion is primarily for the purpose of enabling the nonconforming use to be operated more efficiently or safely and in a manner that does not adversely impact adjoining and surrounding properties, is necessary to enable reasonable use of the building and that the structural alteration and expansion will enhance the compatibility of the nonconforming use.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a special exception from Sections 30-300, 30-412.1, 30-800.1 & 30-800.2(a) of the zoning ordinance be denied to Lee Medical Building LLC for a building permit to convert a nonconforming office building to a multi-family dwelling containing 63 dwelling units.

ACTION OF THE BOARD: (5-0)

Vote to Deny

affirmative: Pinnock, York, Poole, Samuels, Sadid

negative: None

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BZA 16-2019

APPLICANT: Fresh Start Property Solutions, LLC

PREMISES: 3004 HANES AVENUE  
(Tax Parcel Number N000-0972/008)

SUBJECT: A building permit to renovate a single-family detached dwelling.

DISAPPROVED by the Zoning Administrator on February 15, 2019, based on Sections 30-300, 30-433.2.(8) & 30-800.4 of the zoning ordinance for the reason that: In a UB-PE7 (Urban Business Parking Exempt Overlay District), the proposed use is not permitted as the commercial frontage and dwelling commercial use ratio requirements are not met. Dwelling units are permitted when contained within the same building as other principal uses, provided that such dwelling units shall

be located above the ground floor of the building or to the rear of other permitted principal uses so as not to interrupt commercial frontage in the district, and provided further that the total floor area devoted to dwelling uses not to exceed three (3) times the area of the portion of the ground floor of the building devoted to other permitted uses. No commercial use is proposed as the entire building will be devoted to a residential (single-family dwelling) use. The proposed use is not permitted as the previous nonconforming use rights have expired. Whenever nonconforming uses of a building is discontinued for a period of two years or longer, any subsequent use of the premises shall conform to the regulations applicable in the district in which it is located.

APPLICATION was filed with the Board on February 15, 2019, based on Section 1040.3(5) of the City of Richmond Zoning Ordinance.

APPEARANCES:

For Applicant:       None

Against Applicant:   None

FINDINGS OF FACT: The Board finds from sworn testimony and exhibits offered in this case that the applicant, Fresh Start Property Solutions, LLC, has requested a special exception to renovate a single-family detached dwelling for the property located at 3004 Hanes Avenue.

The Board finds that the property owner failed to be in attendance at the designated hearing date and time to present their case or request a continuance as required and as a consequence the Board denied the applicant's request.

RESOLUTION: NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS that a request for a special exception from the commercial frontage and dwelling commercial use ratio requirements be denied to Fresh Start Property Solutions, LLC for a building permit to renovate a single-family detached dwelling.

ACTION OF THE BOARD:       (5-0)

Vote to Deny

affirmative:           Pinnock, York, Poole, Samuels, Sadid

negative:              None



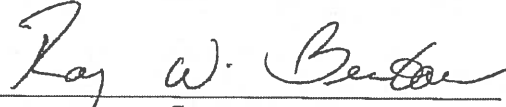
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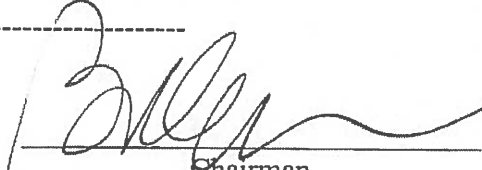
Upon motion made by Mr. Poole and seconded by Mr. York and, Members voted (3-0) to adopt the Board's March meeting minutes.

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The meeting was adjourned at 3:15 p.m.

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Secretary

  
Chairman

BEFORE THE BOARD OF ZONING APPEALS, CITY OF RICHMOND, VIRGINIA  
IN THE MATTER OF: BZA 34-2019  
APPEAL OF ZONING ADMINISTRATOR'S DECISION  
FOR 1805 MONUMENT AVENUE

Hearing Date: \_\_\_\_\_, 2019

**AFFIDAVIT OF STEPHEN C. NUCKOLLS**

I, Stephen C. Nuckolls, being duly sworn, declare the following:

1. My name is Stephen C. Nuckolls. I am above the age of 18, of sound mind and otherwise competent to testify as to the matters set forth in this Affidavit.
2. My wife Janice H. Nuckolls and I are residents of 1815 Monument Avenue, where we have lived since 1994. Our home, which we own, is located 2 doors west of the Lee Medical Building at 1805 Monument Avenue. I am an appellant in this matter, and am submitting this affidavit to supplement other materials presented to the Board of Zoning Appeals in Case No. BZA 15-2019.
3. I am very familiar with the history of the Lee Medical Building and its use since 1994. I consider myself a very active member of the neighborhood, and have historically passed by and observed the Lee Medical Building as many as several times a day. This includes observing activity along Monument Avenue in the vicinity of the Lee Medical Building, as well as the side streets and alleys adjoining it.
4. In my observations, the Lee Medical Building has been very lightly used as medical office space for many years. I have observed minimal foot and vehicular traffic into and out of the Lee Medical Building for quite some time. I have observed virtually no activity surrounding the building outside of normal working weekday hours. I have not observed any on street parking concerns surrounding the current use of the Lee Medical Building. I have not observed any significant noise emanating from the building in recent years. In short, for many years this property has not, in my observations and opinion, created any significant negative impact to the surrounding properties and neighborhood in terms of noise, parking, traffic, density, or intensity of use.
5. I am familiar with the proposed conversion plans for the building from office use to multifamily apartments, as many as 50 to 63 in number and minimal in terms of square footage. I and other neighbors have been profoundly disappointed in the lack of transparency and outreach by the owner and developer of the property concerning these plans for conversion.
6. I do not believe there can be any reasonable question that the proposed development plan, if approved, would result in a material change in the operating characteristics of this building's nonconforming use that would substantially and dramatically increase the intensity of that use. As others have testified, I believe that such a conversion to a multifamily residential building that could have 100 or more residents at any given time,

24 hours a day, would have a significant negative impact on the surrounding properties in terms of traffic, on street parking (particularly in the evenings and on weekends), noise, and established property values; would characteristically create more traffic and noise than the current use; and would be less consistent with the single family residential zoning of the neighborhood.

7. I personally do not oppose a reasonable redevelopment plan for the Lee Medical Building which would have a more modest increase in the intensity of the current nonconforming use. My wife and I have personally invested very heavily in the successful redevelopment of this area of Monument Avenue and the Fan over the last twenty-five years, including pouring our life savings into our own home. I urge the BZA to find that the Zoning Administrator erred in his determination that the Lee Medical Building can be converted "by right" as proposed, and to please help avoid profoundly detrimental changes to our neighborhood if this project as currently contemplated moves forward.

Further affiant sayeth naught.

This 5<sup>th</sup> day of September, 2019.

Stephen C. Nuckolls  
Stephen C. Nuckolls

Sworn to and subscribed before me this 5 day of September, 2019.

Brittanie Gail Hogan  
Notary Public  
My Commission Expires: 6/30/21

