



CITY OF RICHMOND

PLANNING COMMISSION

Monday April 2, 2012
5th Floor Conference Room
City Hall
1:30 P. M.

AGENDA
CITY OF RICHMOND PLANNING COMMISSION

1. **Call to Order**
2. **Roll Call**
3. **Approval of Minutes**
 - **Regular Meeting of March 19, 2012**
4. **Chair's Comments**
5. **Director's Report**
 - a. **Council Action update**
6. **Consideration of Continuances and Deletions from Agenda**

CONSENT AGENDA

7. **Ord. No. 2012-22** : To amend and reordain Ord. No. 78-205-191, adopted Sep. 5, 1978, which authorized the use of the property known as 2330 Monument Avenue as a tourist home in the main building and an apartment in the carriage house with accessory parking on the premises, to authorize an addition to the main building for the tourist home use, under certain terms and conditions. *Council District 2*

The CONSENT AGENDA consists of items that appear relatively non-controversial in nature and for which there was no known opposition at the time this agenda was set. The Consent Agenda items will be considered by the Commission as a group, and there will be a single combined staff presentation and a single combined public hearing held for all items listed on the Consent Agenda.

REGULAR AGENDA

8. **Resolution of Intent**: To Amend the Zoning Ordinance Special Exception Provisions for the Purpose of Reducing Reliance on the Special Use Process. *All Council Districts*
9. **New Business/Upcoming Items**
10. **Adjournment**

All persons attending the meeting are requested to register on the attendance sheets that have been placed on the chairs and are also available at the table by the conference room entrance. Once you have completed an attendance sheet, it should be provided to the Commission staff.



DRAFT

CITY PLANNING COMMISSION MEETING

MINUTES

March 19, 2012

The Richmond City Planning Commission held a regular meeting on Monday, March 19, 2012, at 1:30 p.m. in the 5th Floor Conference Room, City Hall, Richmond, Virginia. (Reference is made to the audio recording, dated March 5, 2012, on file in the office of the Planning Commission for the record of the meeting.)

Members Present: Mr. Melvin Law, Chair
Ms. Jane Ferrara, CAO Representative
Mr. Douglas Conner, City Council Representative
Mr. Rodney M. Poole, BZA Representative
Ms. Amy Howard
Mr. Doug Cole
Ms. Lynn McAteer
Mr. William Hutchins

Members Absent: Mr. Charles Wray

Staff Present: Mr. Douglas Dunlap, Deputy Director
Ms. Lory Markham, Secretary
Mr. Tom Phan, Planner II
Mr. Leigh Kelley, Planner I
Ms. Gail Richardson, Temporary Office Specialist II
Mr. Karl Holsten, Attorney's Office
Mr. M. Khara, Capital Project Administrator
Ms. Charles K. Price,

Others Present: Ms. Alix Hines, VCU Journalist Student
Ms. Mina Futur, VCU Journalist Student
Ms. Kimberley Glascoe, VCU Journalist Student
Ms. Margaret Ludlow, VCU Journalist Student
Ms. Lesli White, VCU Journalist Student

Call to Order

Mr. Law, Chair, called the regular meeting of the Richmond City Planning Commission to order on Monday, March 19, 2012, at 1:30 p.m.

Roll Call

Ms. Markham, Secretary to the Planning Commission, stated that the Commission has a quorum. Ms. Markham stated Mr. Wray will not be attending the meeting and that Mr.

Wray's term has expired and he has not been reappointed and is welcome to serve until someone replaces him.

Approval of Minutes

Upon a motion made by Mr. Poole and seconded by Mr. Conner, the Planning Commission voted (6-0-2) to approve the Regular Meeting Minutes of March 5, 2012.

Chair's Comments

Mr. Law welcomed everyone who was present.

Director/Secretary's Report

Ms. Markham stated that, at the previous Council meeting, two ordinances that the Planning Commissions made recommendations on were adopted: one was the Fourqorean Lane rezoning and the 3200 West Clay Street multifamily project. The Commission had recommended approval with amendments and both were amended in accordance with the Commission's recommendation and then approved by City Council.

Consideration of Continuances and Deletions from Agenda

Ms. Markham stated that there are no continuances or deletions from the agenda.

CONSENT AGENDA

A motion to approve the Consent Agenda items was made by Mr. Poole and seconded by Mr. Conner. The Planning Commission members voted to take disposition of the following items that resulted in the following actions:

Ord. No. 2012-29:
Agenda Item No. 7

To authorize the special use of the property known as 122 Tempsford Lane for the purpose of authorizing a lot split that would result in an additional lot, restricted to principal uses as set forth in the R-1 Single-Family Residential Zoning District, to be served by a private access easement upon certain terms and conditions.
Council District 1

RECOMMENDATION OF APPROVAL (8-0)

Ord. No. 2012-56:
Agenda Item No. 8

To authorize the Chief Administrative Officer to accept funds in the amount of \$1,000,000 from the Virginia Department of Transportation and to appropriate the increase to the Fiscal Year 2011-2012 Capital Budget by increasing estimated revenues by \$1,000,000 and the amounts appropriated to the Sidewalk Projects in the Transportation category by \$500,000, the Traffic Direction Conversions project in the Transportation category by \$300,000 and the Cannon Creek Gateway Improvements project in the Cultural and Recreation category by \$200,000 for the purpose of providing additional funding for these projects. *All Council Districts*

RECOMMENDATION OF APPROVAL (8-0)

Public Comment:

There were no comments.

REGULAR AGENDA

Upon a motion made by Mr. Poole and seconded by Mr. Conner, the Planning Commission voted (7-1)(Ms. Howard against) to APPROVE the following WITH CONDITIONS recommended by the Urban Design Committee:

Location, Character and Extent:

Agenda Item No. 10

Conceptual Review of Va. Capital Trail Temporary Bench Placement
Council Districts 6 and 7

Ms. Markham stated that item No. 10 is located at Dock Street between 22nd and Great Shiplock Park. Ms. Markham introduced Mr. Eastman, Secretary to the Urban Design Committee (UDC). She stated that Mr. Eastman will be presenting their recommendation.

Mr. Eastman presented the Urban Design Committee's recommendation as outlined in the staff report.

Mr. Law asked whether the Commission had any questions for Mr. Eastman.

Ms. McAteer asked in the future will the existing benches be replaced with the ribbon benches so that there is consistency and uniformity.

Mr. Eastman stated he would hope so, especially since the wooden benches are in need of replacement. Mr. Eastman also mentioned that these types of improvements would have to come before the UDC. However, if it were a replacement issue, there is the option of having them approved administratively and therefore would not have to come before the UDC. Furthermore, if that is the case, the UDC would certainly advocate having the ribbon bench in place of the existing benches to make them consistent. All approved applications thus far, have been for the ribbon benches.

Mr. Hutchins asked if the demand for the bench being redesigned stemmed from the issue of the homeless sleeping on park benches.

Mr. Eastman stated that he believes that to be the case. In addition, because some of these benches will be located underneath shelters, discouragement of sleeping on benches is an important issue.

Ms. Howard stated she heard of some replacements of the benches and noticed some of the ribbon benches did not have the armrest in the middle, and with this talk about consistency, what will be the plans for them? Will they too be replaced with the ones with the armrest in the middle?

Mr. Eastman stated that it is not to his knowledge.

Public Comment:

Ms. Beth Weisburg, Executive Director, Virginia Capital Trail Foundation, stated they previously did a Trail Head project similar to this one in Jamestown in 2010. The shade structure and benches installed there were consistent with the architectural for that particular area of Jamestown. Ms. Weisburg stated what is being proposed at this time is the same structure with some architectural tweaks. She stated the benches being considered are recycled plastic, requiring low maintenance.

Mr. Cole asked for clarification about the benches being contemplated for approval.

Mr. Eastman stated as Ms. Weisburg mentioned earlier that bench similar to the ribbon bench was actually presented previously to the UDC in addition to the recycled plastic benches, which appeared in each Commission's packets. Mr. Eastman also stated that the UDC did consider this at their meeting and found that making one exception now could lead to future exceptions making slight adjustments to existing standards, which would lead to a lack of uniformity.

Mr. Law stated that as an observation, granite and steel are a discouragement as an option for people to choice to sleep on.

Mr. Poole stated that he agreed with the UDC's recommendations:

- That a bench with a center armrest be utilized to discourage sleeping;
- That the selected bench be similar in both design and materials to the "ribbon" bench proposed in the 1993 Richmond Riverfront Master Development Plan; and

- That the benches be temporarily located adjacent to the trail, that they be evenly spaced and face the trail.

Mr. Poole made a motion to approve the Va. Capital Trail Temporary Bench Placement with the conditions recommended by the UDC. Mr. Conner seconded the motion.

Upon a motion made by Ms. Howard and seconded by Mr. Conner, the Planning Commission voted (7-0-1)(Mr. Cole abstained) to APPROVE the following WITH CONDITIONS recommended by the Urban Design Committee:

Location, Character and Extent:

Agenda Item No. 11

Conceptual Review of Cannon Creek Greenway (Phase 2), Dove Street and Brooklyn Park Blvd.

Council Districts 6

Mr. Eastman presented the Urban Design Committee's recommendation as outlined in the staff report.

Mr. Eastman stated Cannon Creek Greenway has been in the planning stages for several years with Phase I of the Valley Road to Dove Street having recently been completed. The site is located along Richmond Henrico Turnpike, from South Dove Street to North Brookland Park Boulevard., lies within the R-5 single-family residential; R-6 single family attached residential and R-48 multi-family residential zoning districts. Mr. Eastman stated the subject property is within the North Planning District as defined by the Citywide Master Plan, which recommends public and open space for uses along this particular corridor. Mr. Eastman stated that the Master Plan also provided writings specific to the Greenway, noting that no existing parks within the North District are to be eliminated and additional parks and open spaces should be provided where appropriate. Mr. Eastman stated that the Plan also states that environmentally sensitive areas and unique habitats such as flood plains, steep slopes, non-title wet lands and Chesapeake Bay preservations areas are to be protected from development.

Mr. Eastman also noted that the Dove Street Armory was designated as a Housing Opportunity Area, which indicates that the site is appropriate for single-family residential development or higher density residential development if several objectives set forth in the Master Plan can be met.

Public Comment:

Mr. Cole stated that his company has been hired to develop a master plan for the residential redevelopment of Dove Street and therefore wished not to make comments due to a conflict of interest. Mr. Cole stated he will abstain from voting. He also stated he visited the Phase I portion of the Greenway and wanted to applaud the phenomenal job that was done and if there will be the same results to take place with the upcoming phases, then this will be a great asset to the City.

Mr. Manouchehr Nosrati, City of Richmond Department of Public Works, stated in the past few weeks the project was presented to neighborhoods, stakeholders, associations, Urban Forestry, and the Urban Design Committee. Mr. Nosrati stated that they all approved this project and he hopes to receive the same from the Planning Commission. Mr. Nosrati stated that the project is partially funded through the State, and mainly through the City's Capital Budget.

Mr. Nosrati stated construction is going to begin in July with the help of National Guard. The value of their services is free to the citizens and has a monetary value of approximately \$175,000.

Mr. Nosrati stated with him is consulting engineer, Mr. John Maddox, who will be presenting additional information to the Commission.

Mr. John Maddox stated it was his first time being out along with the National Guard and that they provided a great many resources for the job at hand. He stated it was challenging to keep everything monitored and ongoing, which was one of the things that Urban Forestry (UF) brought forward. Mr. Maddox stated that UF asked that they do a couple of specific items in the future: (1) Continuous tree protection along the entire project rather than around each tree, (2) Have the trees inspected during the design stage. He said they committed to having these things done. Afterward, Mr. Maddox stated that he will be meeting with Urban Forestry to decide which trees are staying and which will be need to be removed during the next Phase, based on their recommendations. He stated there was a full time inspector on site with the National Guard.

Mr. Maddox stated the Phase II was broken up into segments beginning with section "A" the thought is to develop a trail that runs parallel to the roadway of Richmond Henrico Turnpike but it is separated by some green space. He stated that they want to retain the green space between the road and the trail.

Mr. Law asked if there are questions for Mr. Maddox.

Ms. McAteer asked where the redevelopment of Dove Court will be and will the new housing have access to the first phase of the trail.

Mr. Maddox stated yes.

Ms. Howard stated that she agreed with the UDC's recommendations:

- That the plans submitted for final review include detailed plans showing the location of the "sharrow" and its associated signage;
- That the plans submitted for final review include details of all other roadway signage, including treatments where the trail crosses Dove Street, enters and exits Henrico Drive and crosses Fourqurean Lane;
- That the plans submitted for final review include a plan showing the proposed trail improvements in relation to the existing vegetation at the site, including the vegetation that is proposed to be removed; and
- That the designers coordinate with the City's Urban Forestry division to ensure that the final plans represent what can actually be planted.

Ms. Howard made a motion to approve Phase II of the Cannon Creek Greenway with the conditions recommended by the UDC. Mr. Conner seconded the motion.

Public Comments:

There were no comments.

New Business/Upcoming Items:

Ms. Markham stated an item coming to the next meeting will be the special use amendment for the Ronald McDonald House. They are requesting an amendment for an addition to the back of the house to create a better kitchen area for the families staying there.

ADJOURNMENT

The meeting adjourned at approximately 2:15 p.m.

Chair

Secretary



City of Richmond, Virginia
Department of Planning and Development Review
City Hall, Richmond, Virginia 23219
804.646.6304 (f) 804.646.5789 www.richmondgov.com

To: Planning Commission
From: Land Use Administration
Date: April 2, 2012
RE: **Agenda Item #7, Ord. No. 2012-22:** To amend and reordain Ord. No. 78-205-191, adopted Sep. 5, 1978, which authorized the use of the property known as 2330 Monument Avenue as a tourist home in the main building and an apartment in the carriage house with accessory parking on the premises, to authorize an addition to the main building for the tourist home use, under certain terms and conditions. *Council District 2*

Summary dates:

Council paper introduction:	February 13, 2012
Planning Commission public hearing (continued for 30 days):	March 5, 2012
Planning Commission public hearing:	April 2, 2012
City Council public hearing:	April 9, 2012

Summary facts:

I. PETITIONER

Andy Scudder
Johannas Design Group
1901 West Cary Street
Richmond, VA 23220

II. LOCATION

2330 Monument Avenue

Property Owner:

Ronald McDonald House Charities of Richmond, VA Inc.

III. PURPOSE

To authorize a special use permit amendment to allow an addition at 2330 Monument Avenue serving the Ronald McDonald House.

IV. SUMMARY & RECOMMENDATION

The subject property is located in the R-6 Single-Family Residential zoning district, which does not permit the existing tourist house use. Ordinance No. 78-205-191, adopted by City Council on September 5, 1978, authorized the special use of the property to allow for a tourist house use in the main building and an apartment in the carriage house, operated by the Ronald McDonald House of Richmond, Virginia, Inc, and to provide for accessory parking on the premises. The current special use permit prohibits any additions or exterior alterations to the existing main building or carriage house, except for normal repair and maintenance. The applicant would like to enclose and expand the existing rear porch. In addition, an exterior landing, steps and a handicap lift are planned to be installed. The proposed amendment to the existing special use permit ordinance would allow for the proposed modifications to the building.

It is staff's finding that the proposed expansion at this location would be small in scale and that the provisions in the ordinance restrict the proposed expansion to what is shown on the attached plans. The Ronald McDonald House has operated from this location for the past 34 years and staff finds that the proposed addition would benefit the City by better serving the needs of out of town families whose family members have been receiving treatment from area hospitals. The additions and new construction will be in keeping with the character of the existing house and neighborhood and has received a Certificate of Appropriateness from the Commission of Architectural Review. Staff finds that proposed changes to the building will not have a negative impact on the adjacent properties.

Staff further finds that the safeguards contained within the City Charter, relative to the granting of Special Use Permits, are met. Therefore, staff recommends approval.

Staff Contact: Leigh V. Kelley 646-6384

V. FINDINGS OF FACT

a. Proposed Use of the Property/Purpose of the Ordinance

The applicant is proposing to amend and reordain Ordinance No. 78-205-191, adopted September 5, 1978, which authorized the use of the property known as 2330 Monument Avenue as a tourist home in the main building and an apartment in the carriage house, operated by the Ronald McDonald House of Richmond, Virginia, Inc, with accessory parking on the premises, to authorize an addition to the main building for the tourist home use.

b. Site Description

The subject property is located on the north side of Monument Avenue between North Davis Avenue and Strawberry Street. The property contains approximately 7,800 square feet (0.179 acres) of land area and is improved with a two and a half-story brick single-family dwelling constructed in 1910. The building contains 5,953 square feet of area in the two above-ground stories, with additional space in the unfinished basement and attic.

c. Master Plan

The subject property is located in the Near West Planning District as defined by the Master Plan, which recommends "Single-family (Medium Density)" uses for the property. The Master Plan defines the primary use for this land use category as "single-family and two family dwellings, both detached and attached, at densities of 8 to 20 units per acre" (page 133).

There is no language in the Master Plan specific to this property. The Plan does recognize that "the Fan is a neighborhood which exists much as it has since the early 1900's. It is identified on the Land Use Plan map as appropriate for the continuation of a wide range of urban residential uses (with varying housing styles and residential densities) and commercial uses to service the area." (Page 233) Furthermore, the Master Plan goes on to say that most of what currently exists in the Planning District is correct and appropriate.

d. Zoning and Ordinance Conditions

The applicant is proposing to amend the existing special use ordinance to allow for an enclosure and expansion of the existing rear porch. In addition, there will be an exterior landing, steps and handicap lift installed. The property is located in the R-6

Single-family Residential zoning district, which does not permit tourist house uses. Ordinance No. 78-205-191, adopted by City Council on September 5, 1978, authorized the special use of the property to allow for a tourist house use in the main building and an apartment in the carriage house, operated by the Ronald McDonald House of Richmond, Virginia, Inc, and to provide for accessory parking on the premises. The ordinance specifically prohibits any additions or alterations to the exterior of the existing main building or carriage house except for normal repair and maintenance.

The applicant would like to enclose and expand the existing rear porch to provide additional seating and floor area for the kitchen. In addition, there will be an exterior landing, steps and handicap lift installed to make the home more accommodating to guests of the Ronald McDonald House. The Ronald McDonald House has operated from this location for the past 34 years, serving the needs of out of town families whose family members have been receiving treatment from area hospitals. Moreover, the demand for their services has increased resulting in multiple families using the kitchen and dining area at the same time.

The subject property is located in a City Old and Historic District. At its September 13, 2011 meeting the Commission of Architectural Review (CAR) granted the applicant a Certificate of Appropriateness, which gave them approval to move forward with conditions. The conditions being that the applicant must return to the CAR staff for review and approval of exterior paint colors and lighting. In addition the applicant must also return with documentation depicting the retention of the existing rear porch columns within the framework of the new addition, as presented at its meeting. Lastly, the CAR noted their support for an amendment to the SUP for the property

The Ordinance limits the proposed expansion to what is shown on the attached plans.

e. Surrounding Area

The surrounding property to the west, east and across Monument Avenue to the south are located in the R-6 (Single-Family Residential) zoning district and the Monument Avenue City Old and Historic District. However, the properties to the north are in the R-48 (Multi-Family Residential) zoning district and the Grace Street City Old and Historic District.

f. Neighborhood Participation

Staff has received one letter of support from the Monument Avenue Preservation Society and no letters of opposition or support from the Fan District Association and the West Grace Street Association or from private citizens.

VI. ATTACHMENTS

- a. Location Map**
- b. Draft Ordinance**
- c. Application Form**
- d. Applicant's Report**
- e. Plans**
- f. Certificate of Appropriateness**
- g. Letter of Support**



**City of Richmond
Department of Planning
& Development Review**

Special Use Permit

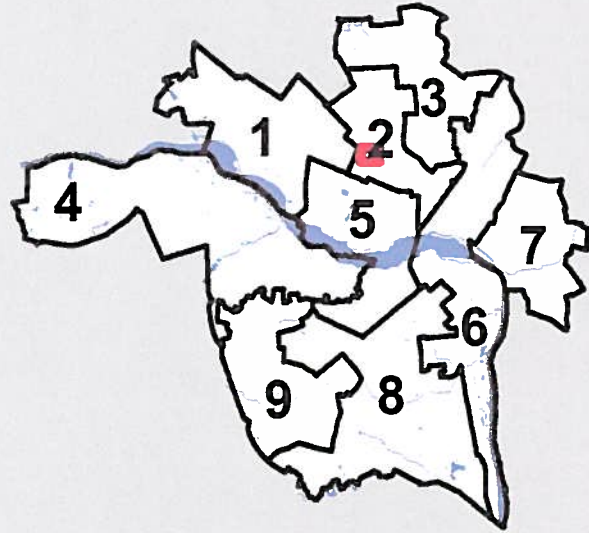
LOCATION: 2330 Monument Avenue

COUNCIL DISTRICT: 2

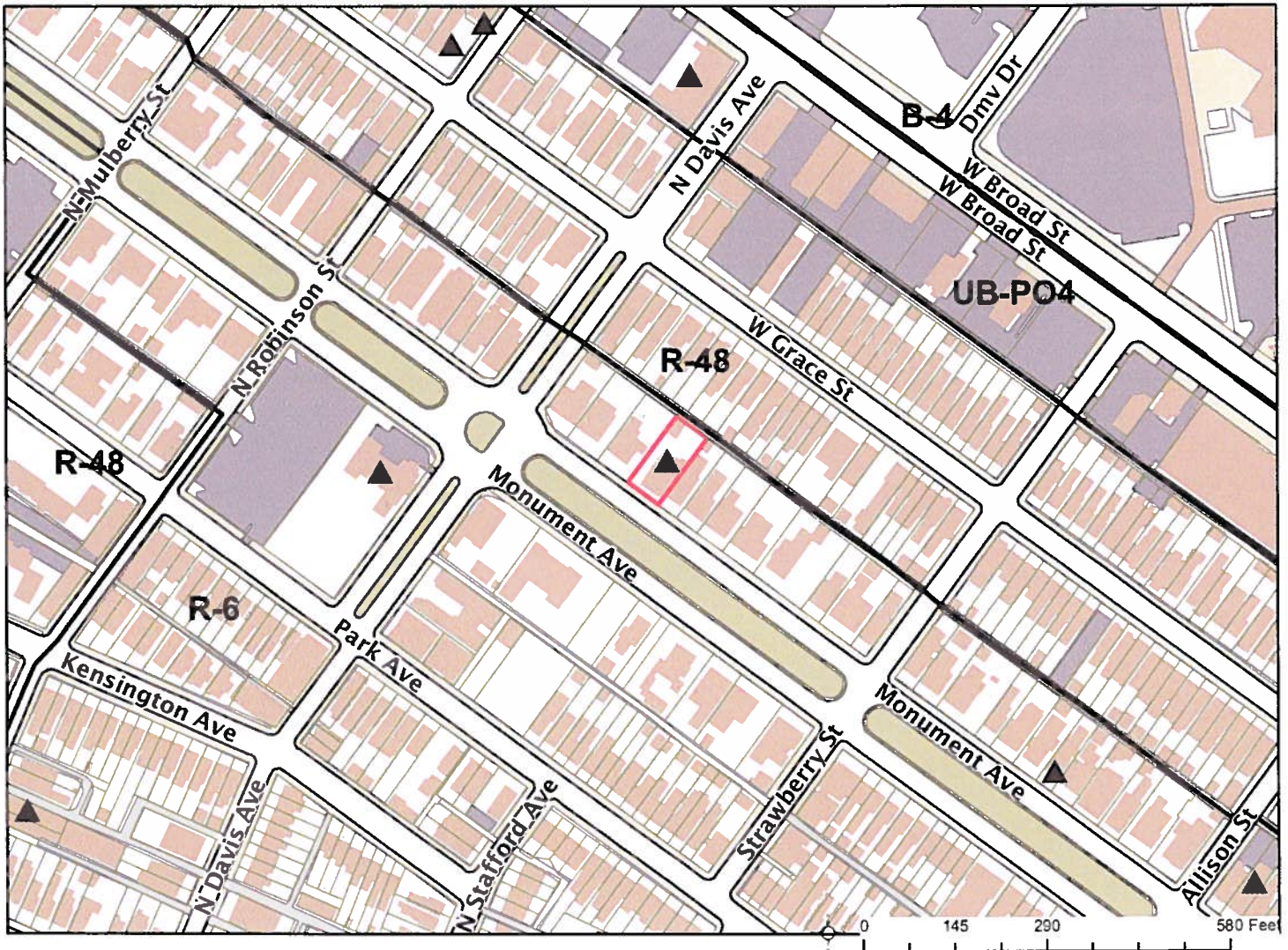
APPLICANT: Andy Scudder, Architect

EXISTING USE: Detached tourist home in main building with a dwelling unit in the existing accessory building

PROPOSED USE: Expansion of existing tourist house in the main building



*For questions, please contact Leigh V. Kelley
at 646-6384 or Leigh.Kelley@richmondgov.com*



INTRODUCED: February 13, 2012

AN ORDINANCE NO. 2012- 22

To amend and reordain Ord. No. 78-205-191, adopted Sep. 5, 1978, which authorized the use of the property known as 2330 Monument Avenue as a tourist home in the main building and an apartment in the carriage house with accessory parking on the premises, to authorize an addition to the main building for the tourist home use, under certain terms and conditions.

Patron – Mayor Jones (By Request)

Approved as to form and legality
By City Attorney

PUBLIC HEARING: MAR 12 2012 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

I. That Ordinance No. 78-205-191, adopted September 5, 1978, be and is hereby amended and ordained as follows:

§ 1. That the [~~real-estate,~~] property known as 2330 Monument Avenue and identified as Tax Parcel No. W000-1087/037, in the 2012 records of the City Assessor, containing 7800 square feet, located on the north side of Monument Avenue west of Addison Street, being more completely described as follows: beginning at a point on the north right-of-way line of Monument Avenue, said point being 407.00 feet west of the intersection of the north [~~right-of-way~~] right-of-way line of Monument Avenue and the west right-of-way line of Addison Street;

AYES: _____ NOES: _____ ABSTAIN: _____

ADOPTED: _____ REJECTED: _____ STRICKEN: _____

thence fronting 60.00 feet in a westerly direction along the north right-of-way line of Monument Avenue and extending back between parallel lines 130.00 feet to an alley, is hereby permitted to be used for the purpose of use as a tourist home in the main building and an apartment in the carriage house, operated by the [~~Children's Oncology Services of Virginia~~] Ronald McDonald House Charities of Richmond, VA, Incorporated, and the buildings on the real estate may be altered and improved for such purpose; and parking area may be used as provided herein.

§ 2. That the Commissioner of Buildings is hereby authorized to issue to the owner of the real estate, a building permit to undertake the necessary alterations and improvements and a special use permit for such purposes, and to permit the occupancy of the property for such purposes, substantially in accordance with the attached plat, entitled[?] "2300 Monument Avenue", prepared by Robert Lee Hall, Engineer and Surveyor, and dated July 19, 1978, which attached plat is to be made a part of [this ordinance] Ordinance No. 78-205-191, adopted September 5, 1978 and substantially as shown on sheets SUP 1 and SUP 2 of the plans entitled "2330 Monument Avenue Ronald McDonald House Charities," prepared by Johannes Design Group and dated October 27, 2011, a copy of which is attached to and made a part of this ordinance. The special use permit shall be subject to the following terms and conditions:

(a) That the acceptance of the permit and the exercise of the privileges granted by this ordinance by the owner shall constitute a warranty on the part of the owner that title to the land and buildings will be vested in the same person or persons, firm or corporation or both;

(b) That the owner will be bound by, observe and will comply with all other laws, ordinances and rules and regulations adopted pursuant thereto, applicable to the land and buildings, except as otherwise provided in this ordinance;

(c) That all parking areas and access aisles shall be paved with a dust free, all-weather surface, and parking spaces shall be delineated on the pavement surface~~[-Parking areas and access aisles shall be screened from view from the adjacent alley and residential properties by evergreen vegetative or opaque structural material not less than four and one-half feet in height];~~

(d) That not less than three parking spaces shall be provided at substantially the locations shown on the attached plat;

(e) That final grading and drainage plans shall be approved by the Director of Public ~~[Works]~~ Utilities prior to the issuance of building permits;

(f) That storm or surface water shall not be allowed to accumulate on the land, and adequate facilities for drainage of storm or surface water from the land or buildings shall be provided by the owner at its cost and expenses so as not to adversely affect or damage adjacent properties or public streets and alleys and the use thereof;

(g) That there shall be no additions or exterior alterations to the existing main building or carriage house except for the addition substantially as shown on the attached plans, normal repair and maintenance, and the addition of fire escapes or other means of access to the second and third floors of the main building required by the Commissioner of Buildings. Approval of this special use shall not eliminate the requirement for a certificate of appropriateness, issued by the Commission of Architectural Review, for any improvements made to the property;

(h) That use of the property shall be limited to ~~[Children's Oncology Services of Virginia]~~ Ronald McDonald House Charities of Richmond, VA, Incorporated, as described in the report, a copy of which is attached to ~~[the draft of this ordinance]~~ Ordinance No. 78-205-191,

adopted September 5, 1978. Maximum occupancy of the main building shall be limited to 18 persons;

(i) Use of the carriage house shall be limited to one single-family dwelling unit;

(j) The paved area between the carriage house and the main building shall be redeveloped as an appropriately landscaped children's play area;

(k) That identification of the premises shall be limited to one sign, not exceeding six square feet in area, mounted flat on a vertical surface of the building;

(l) That ~~[should the owner use the premises for any purpose which is not permitted by this ordinance, or fails, refuses or neglects to comply with the provisions of foregoing paragraphs (a) through (k) and does not terminate such use or comply with such provisions within ninety days after written notice so to do has been given to the owner by the Commissioner of Buildings, the privileges granted by this ordinance shall terminate and the special use permit shall become null and void]~~ the privileges granted by this ordinance may under certain circumstances be revoked. Upon noting that a condition of a special use permit has been violated, the Zoning Administrator shall issue a written notice of violation to the property owner. The notice shall inform the property owner (i) which condition or conditions have been violated, (ii) the nature of the violation, and (iii) that the City Planning Commission shall hold a public hearing at which it shall review the violation and the special use permit pursuant to the provisions of sections 114-1050.7 through 114-1050.11 of the Code of the City of Richmond (2004), as amended, if (a) the property owner does not abate the violation within thirty (30) days of the issuance of the notice or (b) three (3) notices of violation are issued to the property owner within any twelve (12) month period. No action taken pursuant to the provisions of this section shall in any way limit the City's right to pursue any other remedy at law or in equity against the property owner. Failure to

comply with the terms and conditions of this ordinance shall constitute a violation of section 114-1080 of the Code of the City of Richmond (2004), as amended, or any other applicable laws or regulations;

(m) That when the privileges granted by this ordinance terminate and the special use permit becomes null and void or when use of the [premises] property is abandoned for a period of twenty-four consecutive months, use of the [real-estate] property shall be governed thereafter by the zoning regulations prescribed for the district in which the [real-estate] property is then situated; and

~~(n) [That application for a building permit to alter the buildings will be made within twelve months from the effective date of this ordinance, which building permit shall expire by limitation and become null and void if the building alterations be not commenced within one hundred eighty days from the date of the building permit, or if work of altering the buildings is suspended or abandoned for a period of one hundred eighty days at any time after the work is commenced, as provided in the Building Code, that is Sections 8-15 of the Richmond City Code of 1975; and if application for the building permit is not made within twelve months from the effective date of this ordinance or should the building permit become null and void, the privileges granted by this ordinance shall terminate and the special use permit shall become null and void.]~~ That an application for a building permit for the plans referred to above shall be made within twenty-four (24) months from the effective date of this ordinance. This building permit shall expire and shall become null and void if any necessary construction has not commenced within one hundred eighty (180) days from the date of the building permit or if construction is suspended or abandoned for a period of one hundred eighty (180) days at any time after such construction has commenced, as provided in any applicable provisions of the Virginia Uniform

Statewide Building Code. Should application for the building permit not be made within twenty-four (24) months after the effective date of this ordinance or should the building permit expire and become null and void after the expiration of the twenty-four (24) month time period for making application for the building permit, the privileges granted by this ordinance shall terminate and the special use permit shall become null and void.

§ 3. This ordinance shall be in force and effect upon adoption.

II. This amendatory ordinance shall be in force and effect upon adoption, and Ordinance No. 78-205-191, adopted September 5, 1978, shall remain in force and effect except as modified by this amendatory ordinance.



CITY OF RICHMOND
INTRACITY CORRESPONDENCE

RECEIVED
JAN 31 2012
OFFICE OF CITY ATTORNEY

O&R REQUEST

DATE: January 18, 2012 EDITION: 1
TO: The Honorable Members of City Council
THROUGH: Dwight C. Jones, Mayor (Patron: Mayor, by Request) (This in no way reflects a recommendation on behalf of the Mayor.)
THROUGH: Byron C. Marshall, Chief Administrative Officer
THROUGH: Peter H. Chapman, Chief Administrative Officer
FROM: Mark A. Olinger, Director of Planning and Development Review
SUBJECT: To amend an existing special use permit for 2330 Monument Avenue (Ronald McDonald House) to authorize an addition to the main building for the existing tourist home use.

ORD. OR RES. No. _____

PURPOSE: To amend and reordain Ordinance No. 78-205-191, adopted September 5, 1978, which authorized the use of the property known as 2330 Monument Avenue as a tourist home in the main building and an apartment in the carriage house, operated by the Children's Oncology Services of Virginia, with accessory parking on the premises, to authorize an addition to the main building for the tourist home use, under certain terms and conditions.

REASON: The current Special Use Permit (SUP) prohibits any additions or exterior alterations to the existing main building or carriage house except for normal repair and maintenance. The applicant would like to enclose and expand the existing rear porch. In addition, there will be an exterior landing, steps and handicap lift installed; therefore, the applicant has requested a SUP amendment.

RECOMMENDATION: In accordance with the requirements of Section 17 of the City Charter and Article X, Division 6 of the Zoning Ordinance, the City Planning Commission will review this request and make a recommendation to City Council. This item will be scheduled for consideration by the Commission at its March 19, 2012 meeting. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting.

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x74

BACKGROUND: The subject property is located on the north side of Monument Avenue between North Davis Avenue and Strawberry Street. The property contains approximately 7,800 square feet (0.179 acres) of land area and is improved with a two and a half-story brick single-family dwelling. The property is located in the R-6 Single-family Residential zoning district, which does not permit tourist house uses. Ordinance No. 78-205-191, adopted by City Council on September 5, 1978, authorized the special use of the property to allow for a tourist house use in the main building and an apartment in the carriage house, operated by the Children's Oncology Services of Virginia, and to provide for accessory parking on the premises. The ordinance specifically prohibits any additions or alterations to the exterior of the existing main building or carriage house except for normal repair and maintenance. However the applicant proposes to amend the ordinance to allow for an enclosure and expansion of the existing rear porch. In addition, there will be an exterior landing, steps and handicap lift installed.

The current structure was constructed in 1910 and contains approximately 5,953 square feet of finished floor area, plus an unfinished basement and attic. The applicant would like to enclose and expand the existing rear porch to provide additional seating and floor area for the kitchen. In addition, there will be an exterior landing, steps and handicap lift installed to make the home more accommodating to guests of the Ronald McDonald House. The Ronald McDonald House has operated from this location for the past 34 years, serving the needs of out of town families whose family members have been receiving treatment from area hospitals. Moreover, the demand for their services has increased resulting in multiple families using the kitchen and dining area at the same time. The additions and new construction will be in keeping with the character of the existing house and neighborhood.

At its September 13, 2011 meeting the Commission of Architectural Review (CAR) granted the applicant a Certificate of Appropriateness which gives them approval to move forward with conditions in a City Old and Historic District. The conditions being that the applicant must return to the CAR staff for review and approval of exterior paint colors and lighting. In addition the applicant must also return with documentation depicting the retention of the existing rear porch columns within the framework of the new addition, as presented at its meeting. Lastly, the CAR noted their support for an amendment to the SUP for the property.

The surrounding properties to the west, east and across Monument Avenue to the south are located in the R-6 (Single-Family Residential) zoning district and the Monument Avenue City Old and Historic District. However, the properties to the north are in the R-48 (Multifamily Residential) zoning district and the Grace Street City Old and Historic District. The Master Plan recommends "most of what currently exists is correct and appropriate" for the subject property.

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

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

REVENUE TO CITY: An application fee of \$1,200 was received to process this request.

DESIRED EFFECTIVE DATE: Upon Adoption.

REQUESTED INTRODUCTION DATE: February 27, 2012

CITY COUNCIL PUBLIC HEARING DATE: March 26, 2012

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: City Planning Commission,
March 19, 2012

AFFECTED AGENCIES: Office of the Chief Administrative Officer
Law Department (for review of draft ordinance)
City Assessor (for preparation of mailing labels for public notice)

RELATIONSHIP TO EXISTING ORDINANCES: Amendment to Ord. No. 78-205-191

ATTACHMENTS:

1. Application Form
2. Applicant's Report
3. Ordinance
4. Plans

STAFF: Leigh V. Kelley, Planner I
Land Use Administration (Room 511)
646-6384

DPDR O&R No. 09-37



Application for SPECIAL USE PERMIT

Department of Planning and Development Review
Land Use Administration Division
900 E. Broad Street, Room 511
Richmond, Virginia 23219
(804) 646-6304
<http://www.richmondgov.com/>

6535.A

Application is hereby submitted for: (check one)

- special use permit, new
- special use permit, plan amendment
- special use permit, text only amendment

Project Name/Location

Project Name: ADDITION TO 2330 MONUMENT AVE Date: DEC. 6, 2011

Property Address: 2330 MONUMENT AVE Tax Map #: _____

Fee: \$1,200 Total area of affected site in acres: 0.009 AC
(See page 3 for fee schedule, please make check payable to the "City of Richmond")

Zoning
Current Zoning: R-6

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

Existing Use: TOURIST HOME

Is this property subject to any previous land use cases?
 Yes No

If Yes, please list the Ordinance Number.

78-205-191

MAINTAIN EXISTING USE W/
ADDITION TO KITCHEN, DECK
& HANDICAPPED LIFT.

Applicant/Contact Person: ANDY SCUDER

Company: JOHANNAS DESIGN GROUP

Mailing Address: 1901 W. CABE ST.

City: RICHMOND State: VA Zip Code: 23220

Telephone: (804) 358-4993 Fax: (804) 398-8211

Email: ANDY@JOHANNASDESIGN.COM

Property Owner: RONALD McDONALD HOUSE CHARITIES OF RICHMOND, VA, INC.

If Business Entity, name and title of authorized signee: _____

Mailing Address: 2330 MONUMENT AVE

City: RICHMOND State: VA Zip Code: 23220

Telephone: (804) 358.6517 Fax: (804) 358.3153

Email: JASON@VAHC-RICHMOND.ORG

Property Owner Signature: JAMES JONES

(The names, addresses, telephone numbers and signatures of all owners of the property are required. Please attach additional sheets as needed. If a legal representative signs for a property owner, please attach an executed power of attorney. Faxed or photocopied signatures will not be accepted.)

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

2330 Monument Avenue

Amended SUP Application for an addition/alteration

This request is to amend the existing special use permit:

This is a request to enclose and enlarge an existing rear porch. In addition, there will be an exterior landing, steps and handicap lift installed.

Currently, and since 1978, this property has housed the Ronald McDonald House run by Ronald McDonald House Charities of Richmond.

They have operated continuously for the past 33 years serving the needs of out of town families whose family members are being treated in local hospitals. The demand for this service has become more intensive over the years with multiple families needing to share the kitchen facilities over extended periods of stay. In order to better facilitate their daily operations and meet the functional requirements of their guests they need to expand the kitchen and dining space. The kitchen and informal dining are the heart of this home and are used throughout the day. This addition will also provide a code compliant accessible route into the building. The intent is to leave as much of this historic home intact and maintain the formal ground floor rooms in their original form. The existing rear porch, adjacent to the existing kitchen, is the logical place to provide this amenity.

There is no change in the number of bedrooms or the overall occupancy.

This alteration/addition has been approved by the Commission of Architectural Review (see attached Certificate of Appropriateness).

The proposed Special Use will not:

- 1) *be detrimental to the safety, health, morals and general welfare of the community involved;*
This property has functioned in this capacity for over 30 yrs. They have not only maintained the building but renovated it from a dilapidated state.
- 2) *tend to create congestion in streets, roads, alleys and other public ways and places in the area involved;*
This project will not create congestion in streets, roads, alleys and other public ways and places in the area involved. The addition will not expand the occupancy only enhance their quality of life.
- 3) *create hazards from fire, panic or other dangers;*

This project will not create hazards from fire, panic or other dangers and will be built in accordance with all applicable building codes.

4) *tend to cause overcrowding of land and an undue concentration of population;*

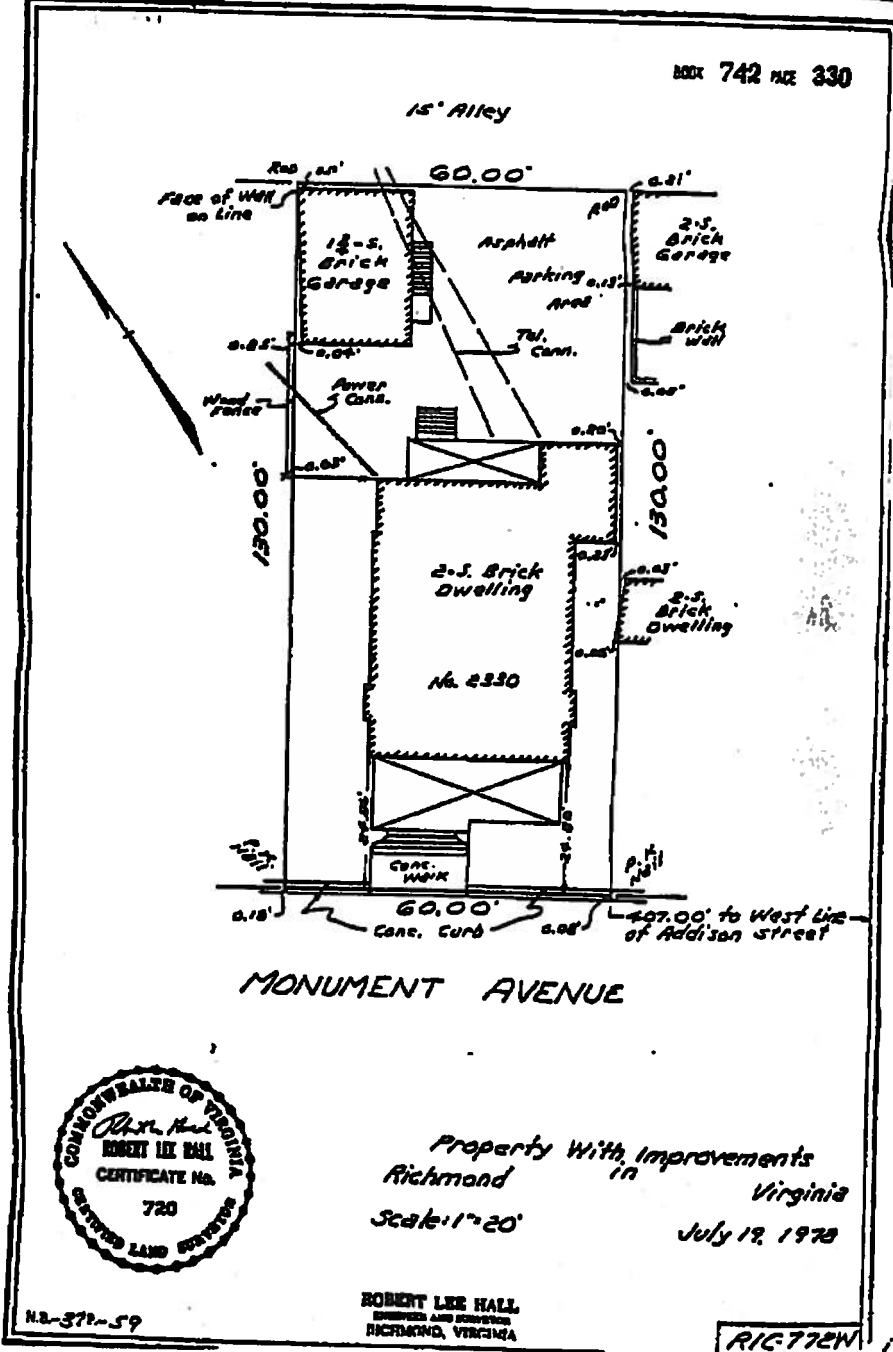
The proposed use will not cause overcrowding of the land and undue concentration of population.

5) *adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences and improvements;*

Services for this site are intact and the use is existing and will not interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other *public requirements, conveniences and improvements.*

6) *Interfere with adequate light and air.*

The new addition is approximately 120 sq. ft and will not alter existing light and air.



MONUMENT AVENUE



Property With Improvements
 Richmond in Virginia
 Scale: 1"=20'
 July 12, 1978

ROBERT LEE HALL
 SURVEYOR GENERAL
 RICHMOND, VIRGINIA

RIG 772W

N.S. 372-59



CITY OF RICHMOND

DEPARTMENT OF
PLANNING AND DEVELOPMENT REVIEW
COMMISSION OF ARCHITECTURAL REVIEW

November 23, 2011

Dee Russell, House Operations Manager
2330 Monument Avenue
Richmond, VA 23220

RE: 2330 MONUMENT AVE
Application No. 11-102

Dear Applicant:

At the September 13, 2011, meeting of the Commission of Architectural Review, the review of your application for a Certificate of Appropriateness resulted in the following action: **Approved with conditions**. Specifically, the Commission approved the application for the reasons cited in the staff report with the following conditions: the applicant must return to CAR staff for review and approval of exterior paint colors and lighting. The applicant must also return to staff with documentation depicting the retention of existing rear porch columns within the framework of the new addition, as presented at the meeting. The Commission noted their support for an amendment to the Special Use Permit for the property.

You, or any aggrieved party, have the right to appeal a decision of the Commission of Architectural Review to City Council as specified in Section 114.930 of the Richmond City Code. A petition stating reasons for the appeal must be filed with the City Clerk within 15 days of this meeting.

If you have any questions, please contact me at (804) 646-7550 or by e-mail at Catherine.Easterling@richmondgov.com.

Kind regards,

Catherine Easterling, Secretary
Commission of Architectural Review

Kelley, Leigh V. - PDR

From: Kelley, Leigh V. - PDR
Sent: Tuesday, March 27, 2012 3:12 PM
To: Kelley, Leigh V. - PDR
Subject: Ronald McDonald House update

From: Bill Tate [<mailto:btate@hf-law.com>]
Sent: Tuesday, February 14, 2012 10:09 AM
To: 'leigh.kelley@richmondgov.com'
Cc: 'andy@johannasdesign.com'
Subject: FW: Ronald McDonald House update

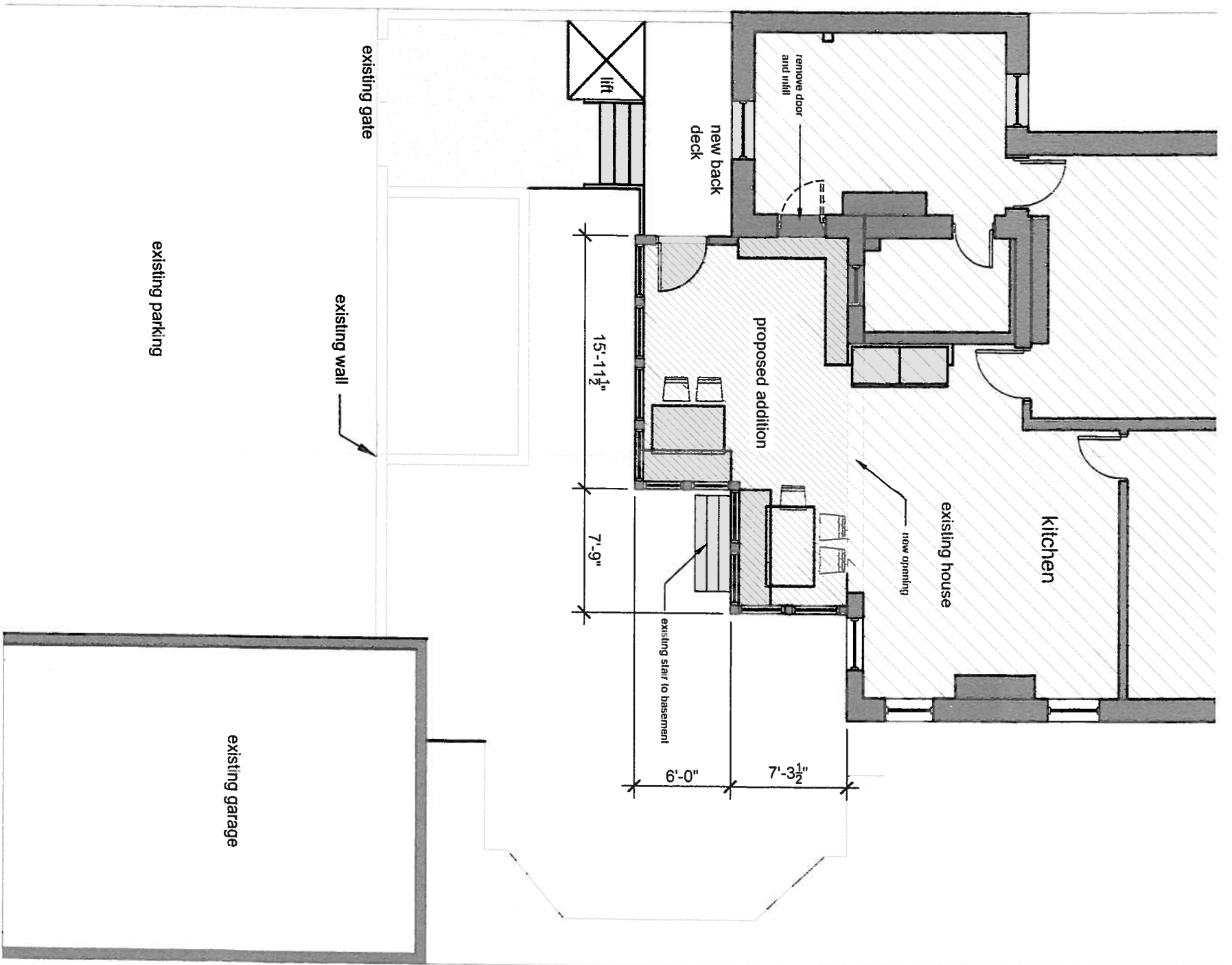
Leigh,

The board of directors of the Monument Avenue Preservation Society reviewed the plans to modify the back porch area of the Ronald McDonald house and the related amendments to the special use permit, and we have no objections to their plans. Do not hesitate to contact me if you have any questions or need additional information.

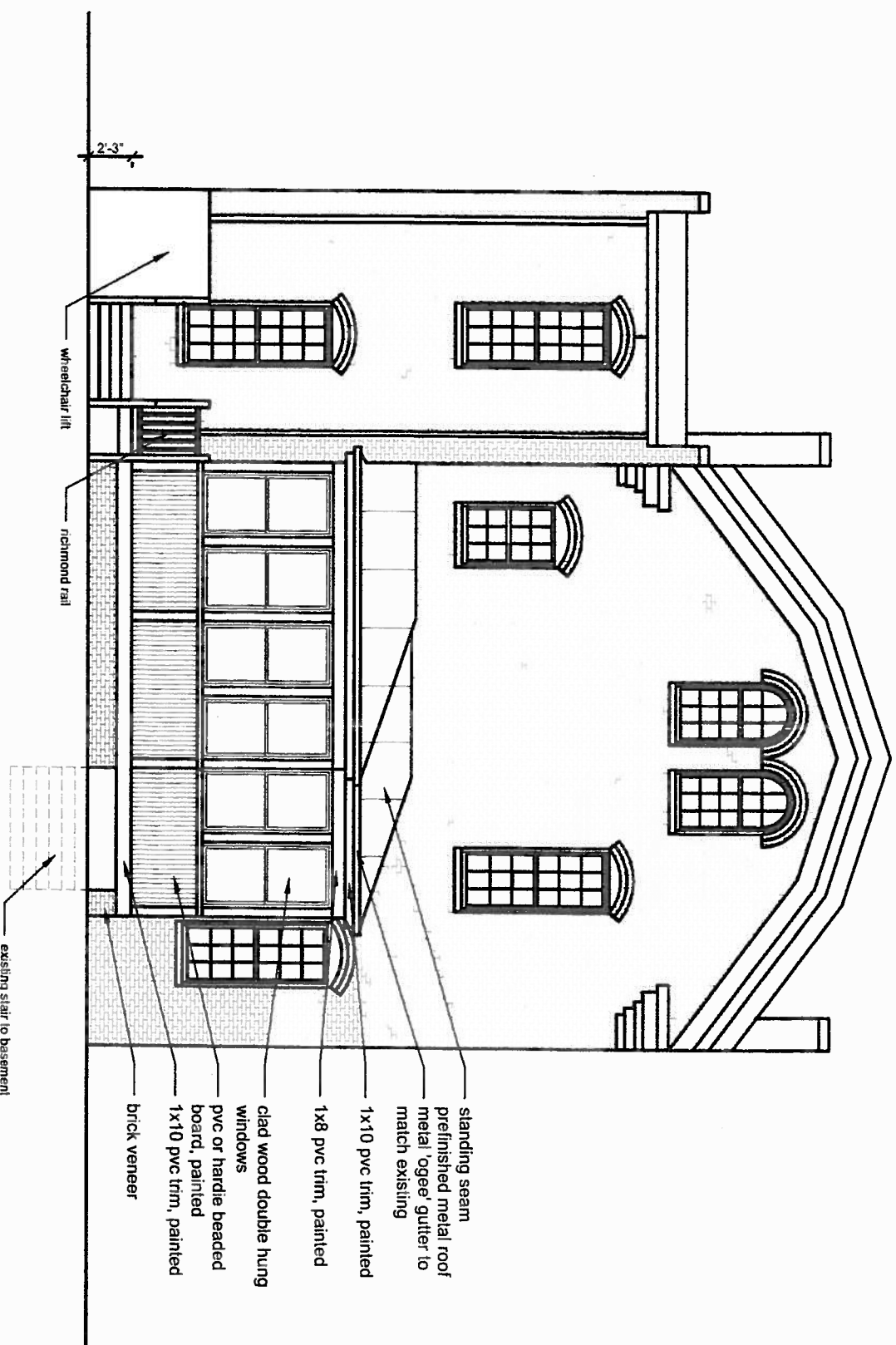
Best regards,

Bill Tate, president
804-698-0268

PROPOSED FIRST FLOOR ADDITION
 SCALE: 1/8" = 1'-0"



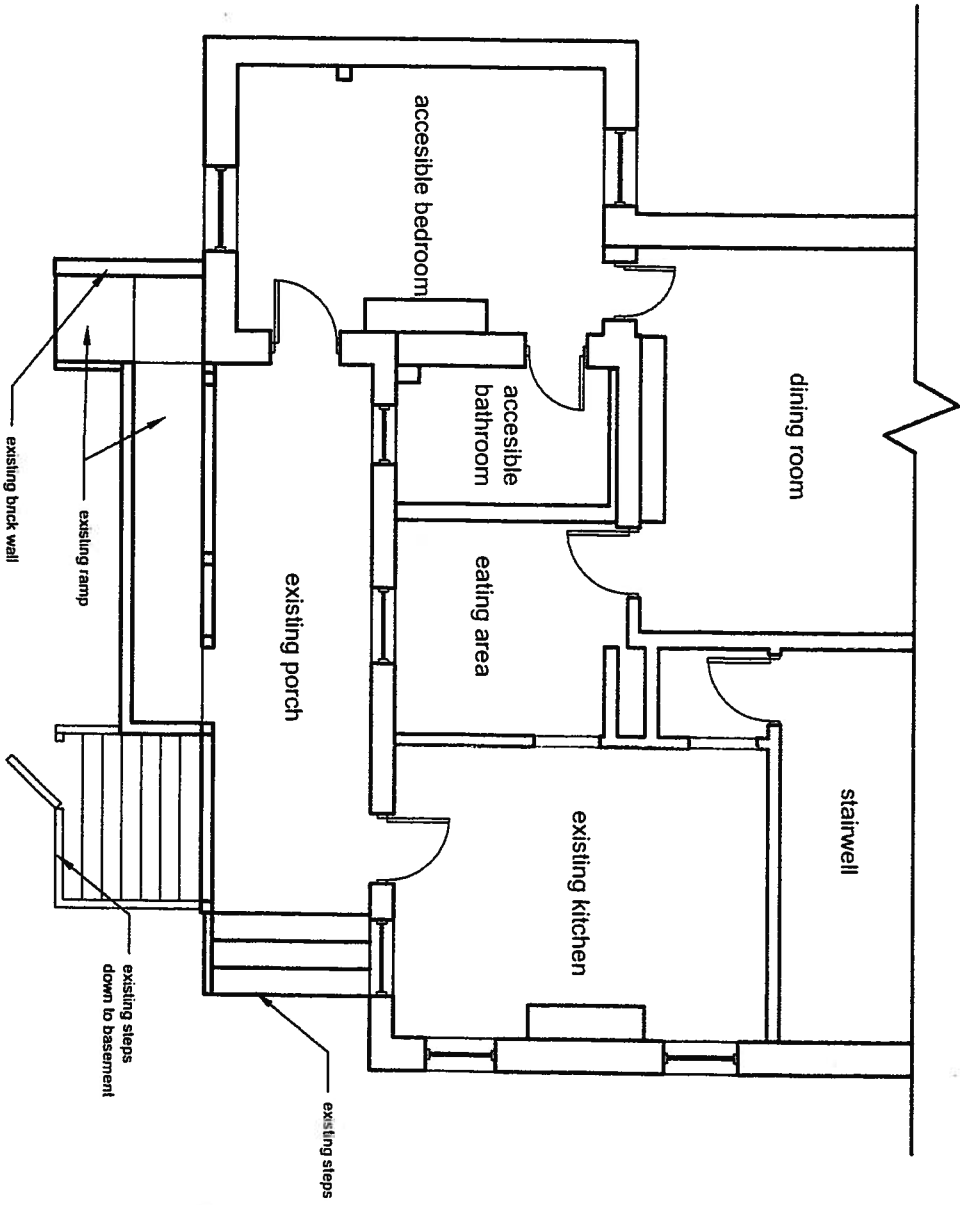
JOHANNAS DESIGN GROUP 1901 WEST CARY STREET RICHMOND, VA 23220 P 804.358.4993 F 804.358.8211		REVISIONS:
2330 Monument Avenue Ronald Mcdonald House Charities		
SHEET TITLE First Floor Plan	PROJECT NO. 1138	
DATE 10.27.11	SHEET NO.	
SUP 1		



PROPOSED ELEVATION

SCALE: 1/8" = 1'-0"

SHEET TITLE	2330 Monument Avenue Ronald Mcdonald House Charities	REVISIONS
First Floor Plan		
PROJECT NO.	1138	
DATE	10.27.11	
SHEET NO.	SUP 2	



EXISTING FIRST FLOOR (PARTIAL)

SCALE: 1/8" = 1'-0"

JOHANNAS DESIGN GROUP 1901 WEST CARY STREET RICHMOND, VA 23220 P 804.358.4993 F 804.358.8211

REVISIONS

2330 Monument Avenue
 Ronald Mcdonald House Charities

Existing
 First Floor Plan

SHEET TITLE

PROJECT NO.	1138
DATE	12.7.11
SHEET NO.	

SUP-
 EXIST.



City of Richmond, Virginia
Department of Community Development
City Hall, Richmond, Virginia 23219
804.646.3409 (f) 804.646.5789 www.richmondgov.com

To: Planning Commission
From: Land Use Administration
Date: April 2, 2012
RE: **Agenda Item #8; Resolution of Intent: To Amend the Zoning Ordinance Special Exception Provisions for the Purpose of Reducing Reliance on the Special Use Process**

Summary dates:

Proposed Council paper introduction:	April 23, 2012
Proposed Planning Commission public hearing:	May 21, 2012
Proposed City Council public hearing:	May 29, 2012

Summary facts:

I. Background:

Special exceptions may be granted by the Board of Zoning Appeals, provided such exceptions shall by their design, construction and operation adequately safeguard the health, safety and welfare of the occupants of the adjoining and surrounding property, shall not unreasonably impair an adequate supply of light and air to adjacent property, shall not increase congestion in streets and shall not increase public danger from fire or otherwise unreasonably affect public safety and shall not diminish or impair the established property values in surrounding areas.

In recent years the Planning Commission and City Council have approved amendments to the zoning ordinance to expand the use of special exceptions. These include exceptions relating to residential construction, lot splits, permissibility of dwelling units in business districts, fence and wall heights and off-street parking. The proposed amendments are intended to expand on certain of these powers as well as to create new opportunities to reduce reliance on the special use process.

At different times in the past City Council and the Planning Commission have expressed concerns about the special use process. Likewise applicants for a special use have commented that the process is somewhat cumbersome and costly. To complicate matters the Virginia State Supreme Court rendered a decision that severely restricted a Board of Zoning Appeals ability to grant variances. The consequence of this decision has been to increase special use applications that are feature related in nature.

One remedy for combating this situation is to expand the special exception powers contained in the Zoning Ordinance. This would enable applicants to pursue a process that requires less time to navigate and is less expensive. For comparison purposes the filing fee for a special use application is \$1800 while a special exception filing fee is \$175 for a one and two-family application and \$550 for all remaining applications. The processing time for a special use is 4 to 6 months as compared to a special exception which is approximately 60 days. Only one public hearing is required for a special exception while a special use requires two public hearings.

It is important to note that the special exception process differs from that of a special use with regard to the respective standards. Specifically, the special exception standards are designed to apply to a specific situation. As an example, a special exception for residential construction includes standards which are specific to the residential construction. This is unlike the special use process where the

standards are general in nature and intended to apply to all types of construction. The specificity of standards in the special exception process promotes an approach which is targeted to a specific situation or request.

The attached special exception ordinance has been reviewed and recommended for adoption by the Board of Zoning Appeals, the Department of Planning and Development Review Zoning Committee and the Zoning Administration Office.

Staff Contact: Roy Benbow, 646-3409

II. Proposed Amendments

- §114-620.5: division of lots-this section is being modified to allow greater latitude in the splitting of lots. Specifically, the zoning ordinance currently permits byright lot splits for existing single-family detached and attached dwellings irrespective of the lot area, lot width, lot coverage or yard requirements. Under the proposed amendment existing two-family and multifamily dwellings would also be eligible for the byright lot split provisions.
- §114-1040.3. Additional exceptions granted by the Board of Zoning Appeals
 - *Construction of or additions to dwellings or accessory structures-* Many of the existing lots in the city are characterized by such small size, irregular configuration or other conditions that current yard and/or lot coverage requirements severely inhibit their development for permitted dwelling use that is consistent with modern day needs. This section is being modified to expand the nature of dwelling types that are eligible for yard and/or lot coverage exceptions to include two-family attached and multifamily dwellings.
 - *Lot division to create buildable lots-*In many older areas of the city, properties were originally subdivided into relatively small lots for purposes of single-family detached, single-family attached, two-family or multifamily development. In many cases these lots cannot be divided in compliance with current lot area, lot width, side yard, usable open space or lot coverage requirements. This section is being modified to expand the nature of dwelling types that are eligible for lot divisions to include single-family attached, two-family and multifamily dwellings.
 - *Dwelling units in UB, B and RF districts-*There are areas within the UB, B and RF districts where the established or projected character of development suggests that uninterrupted commercial frontage is not the most desirable form of development and/or that a mixed use character of development with a large dwelling component would be more advantageous to the livability and economic vitality of the area. This section is being modified to include the RF district in the districts that are eligible for modification of the requirement pertaining to uninterrupted commercial frontage and the relationship of residential to commercial floor area.
 - *Accessory lodging units within a single-family dwelling-*Many single-family detached dwellings in the city are of such size and/or contain such numbers of rooms that the dwelling exceeds the needs of the owner occupant family or results in an excessive physical or economic burden on the owner to provide adequate maintenance and upkeep. This section is being created to provide that not more than two accessory lodging units within an owner-occupied single-family detached dwelling may be allowed subject to approval of a special exception.
 - *Dwelling unit in an accessory building in a single-family residential district-*In certain areas of the city some residential properties were developed with accessory buildings which were originally designed and used for carriage houses, dwellings for domestic

employees or for other dwelling purposes. Some accessory buildings have previously been lawfully occupied by a dwelling unit and are located on lots large enough to accommodate such use. Permitting a dwelling unit within an accessory building would encourage renovation or continued maintenance and would be in the best interest of the neighborhood. This section is being created to allow one dwelling unit located in an accessory building which is existing on the effective date of this provision and which is located on the same lot as an owner-occupied single-family dwelling within any R-1 through R-5 single-family residential zoning district.

- *Height of fences and walls in side yards, rear yards and certain front yards*-In many neighborhoods, corner properties are situated at intersections where the street along the side of the property carries volumes of traffic or generates traffic noise that is disruptive to and not conducive to dwelling use of the property or to the use and enjoyment of the side or rear yard of the lot. This section is being modified to allow height waivers for fences and walls in certain side and rear yards.
- *Off-street parking*-There are many nonconforming properties in the city that are inhibited due to the prohibition of a change in a nonconforming use when a proposed new use is required to be provided with more off-street parking than the existing use but would otherwise be permitted by the nonconforming use provisions. This section is being modified to allow the modification of off-street parking requirements for a nonconforming use.
- *Nonconforming use*-Properties were originally developed within the city with more than one main building on a lot, or several separately developed lots under common ownership were combined for purposes of simplifying deeds. In many instances the uses of these properties are nonconforming under current use regulations, resulting in prohibition of lots being divided. This section is being modified to allow division of lots which are developed with nonconforming uses.
- *Nonconforming use: addition of accessory off-street parking*-The addition of off-street parking spaces to serve a nonconforming use is generally prohibited by the zoning ordinance, since it constitutes extension or expansion of the nonconforming use. However there are instances in the city where nonconforming uses are likely to continue to exist and are generally not detrimental to adjacent and surrounding properties. These nonconforming uses are not provided with adequate off-street parking to meet the needs of the use or to avoid adverse impacts on the surrounding area. This section is being created to allow the addition of accessory off-street parking to serve a nonconforming use.
- *Building height*-In some cases due to unusual conditions such as location, topography, other site conditions, lot orientation or the establishment or changing character of nearby development, the building height limit applicable in the district in which a property is located is not conducive to achieving the full development potential of the property. Additional building height may also be appropriate where taller buildings are located nearby and to establish a transition from taller buildings to buildings of lesser height, or to enable the maximum permitted residential density or nonresidential intensity on a site while preserving open space at ground level where needed. This section being created to allow a building height waiver where the applicant can show that the additional height will not unreasonably impair light and air to adjacent or nearby property and will not unreasonably impair prominent views from adjacent or nearby property.
- *Freestanding signs*-There are areas of the city where adequate identification of uses is not afforded by the height limitations and/or yard regulations applicable to permitted

freestanding signs because of unusual physical characteristics of the property or the adjacent area. This section is being created to allow modification to the height and yard provisions applicable to freestanding signs.

- §114-402.2. Permitted accessory uses and structures-This section is being modified to preclude development of accessory lodging units within single-family dwellings. A special exception is being proposed which would permit accessory lodging units within a single-family dwelling unit under certain conditions.

III. Staff Recommendation

If the Commission agrees that it is appropriate to move forward with the development of proposed amendments as herein stated, it will be necessary for the Commission to approve a Resolution of Intent to Amend the Zoning Ordinance. This is the first step for any change to the text of the Zoning Ordinance. The amendment process would include the conduct of appropriate public hearings once the draft ordinance containing the text amendments is introduced. A draft of the resolution and proposed amendments are included in the agenda package for consideration.

IV. ATTACHMENTS

- 1. Resolution**
- 2. Draft Ordinance Amendment**



MOTION OF THE CITY OF RICHMOND PLANNING COMMISSION

**TO DECLARE AN INTENT TO AMEND THE ZONING ORDINANCE FOR THE PURPOSE OF
REVISING THE SPECIAL EXCEPTION STANDARDS**

WHEREAS, Section 15.2-2286 of the Code of Virginia (1950), as amended, provides that a zoning ordinance may include, among other things, reasonable regulations and provisions for the amendment of regulations from time to time; and

WHEREAS, in accordance with section 15.2-2286 of the Code of Virginia an amendment to the zoning regulations or district maps may be initiated by motion of the City of Richmond Planning Commission provided any such motion of the Commission proposing an amendment to the regulations or district maps shall state the public purposes therefore; and

WHEREAS, good zoning practice dictates that the comprehensive zoning plan be amended as required to reflect current conditions and trends in land use; and

WHEREAS, the purposes of zoning cited in the Code of Virginia include facilitating the creation of a convenient, attractive harmonious community, encouraging economic development and enlarging the tax base and providing for public safety and preventing congestion in the streets; and

WHEREAS, the City has adopted a Master Plan which, among other things, suggests the appropriate land use for all of the neighborhoods of the City; and

WHEREAS, at different times in the past City Council and the Planning Commission have expressed concerns about the special use process while applicants for a special use have commented that the process is costly and difficult to navigate; and

WHEREAS, expansion of the zoning ordinance special exception provisions is one remedy for reducing reliance on the special use process; and

WHEREAS, in recent years City Council has approved amendments to the zoning ordinance to expand the use of special exceptions which include exceptions relating to residential construction, lot splits, permissibility of dwelling units in business districts, fence and wall heights and off-street parking; and

WHEREAS, the standards for approval of a special exception are designed to apply to a specific situation unlike the special use process where the standards are general in nature and intended to apply to multiple situations; and

WHEREAS, the specificity of standards in the special exception process promotes an approach which is targeted to a specific situation or request and is generally viewed by applicants as being more customer friendly.

NOW, THEREFORE BE IT RESOLVED BY THE CITY PLANNING COMMISSION:

That in accordance with §15.2-2286 of the Code of Virginia, the City Planning Commission hereby declares that the public necessity, convenience, general welfare and good zoning practices of the City require that an amendment to the zoning ordinance should be drafted for the purpose of revising the special exception provisions contained in the Zoning Ordinance.

CHAIRMAN

SECRETARY

(Modify the following section in Article VI, Division 3 as shown.)

Sec. 114-620.5. Division of lots to accommodate existing dwelling units.

A single lot of record, developed with two or more dwelling units existing on October 24, 2005, may be divided into two or more lots for purposes of ~~creating~~ establishing single-family detached, ~~or single-family attached,~~ two-family or multifamily dwellings on individual lots, when the lots created by such division cannot meet applicable lot area, lot width, usable open space, lot coverage, ~~or yard and off-street parking~~ requirements. Such division shall be permitted, provided that all of the following conditions are met:

- (1) The property subject to the division shall be located in a district where ~~single-family detached or single-family attached~~ the dwellings on the lots created by the division are permitted principal uses.
- (2) All new lots shall comply with section 114-610.1 of this chapter regarding public street frontage and access to lots.
- (3) The division shall result in at least one main building being located on each lot, and lot area, lot width and yards shall be allocated to the newly created lots on a basis reasonably proportional to the buildings and uses contained on each lot as determined by the zoning administrator.
- (4) The off-street parking requirements set forth in article VII of this chapter shall be met for each dwelling unit, provided that any nonconforming parking feature existing at the time of the division may continue unless the zoning administrator determines that the resulting lot is capable of accommodating ~~required~~ additional off-street parking.
- (5) The division shall not result in the creation of any new vacant lot or additional dwelling units that would not have otherwise been permitted prior to the division.
- (6) Applicable requirements of the Virginia Uniform Statewide Building Code shall be met.
- (7) The division shall comply with the applicable requirements of chapter 94 of this code regarding the subdivision of land.

(Modify, add to, and reorganize BZA exceptions in Article X, Division 5 as shown.)

Sec. 114-1040.3. Additional exceptions granted by the board of zoning appeals.

Pursuant to section 15.2-2309 of the Code of Virginia (1950), as amended, the following exceptions to the district regulations ~~and~~ or other restrictions may be granted

by the board of zoning appeals, provided such exceptions shall by their design, construction and operation adequately safeguard the health, safety and welfare of the occupants of the adjoining and surrounding property, shall not unreasonably impair an adequate supply of light and air to adjacent property, shall not increase congestion in streets and shall not increase public danger from fire or otherwise unreasonably affect public safety and shall not diminish or impair the established property values in surrounding areas. In granting an exception, the board shall be satisfied that it is consistent with the intent statement and the conditions as set forth in the particular exception, and the board may attach such specific conditions and limitations as it deems necessary to satisfy the general conditions of this paragraph and the intent of the exception.

- (31) *Construction of or additions to dwellings or accessory structures.* Construction of or additions to single-family detached, ~~and single-family attached, and two-family detached~~ or multifamily dwellings or accessory structures on lots occupied by ~~single-family detached or attached or two-family detached~~ such dwellings existing on December 11, 2004, when such dwellings, additions or accessory structures cannot meet applicable yard and/or lot coverage requirements.

Such dwellings, additions or accessory structures shall be permitted, provided the board shall be satisfied that:

- a. The intended purpose and use of the dwelling, addition or accessory structure is consistent with the use regulations applicable in the district in which the property is situated;
- b. The departure from the applicable yard and/or lot coverage requirements is the minimum necessary to accommodate the intended purpose of the dwelling, addition or accessory structure, and that the dwelling, addition or accessory structure or a similar dwelling, addition or accessory structure serving the same purpose and function cannot reasonably be located elsewhere on the lot in compliance with applicable requirements; and
- c. Any addition to an existing dwelling or construction of or addition to an accessory structure will be in keeping with the architectural character of the existing dwelling on the property, and any newly constructed dwelling or accessory structure will be in keeping with the development pattern of the neighborhood.

Intent statement. Many existing lots in the city are characterized by such small size, irregular configuration or other condition that current yard and/or lot coverage requirements severely inhibit their development for permitted ~~single or two-family~~ dwelling use consistent with modern day dwelling needs. Also, a large number of ~~single and two-family~~ dwellings

in the city were constructed many years ago and do not meet contemporary needs of ~~homeowners~~ or occupants with regard to size, number, function or amenities of rooms and other living spaces. Many dwellings were constructed on relatively small lots and/or were constructed in a manner that current yard or lot coverage requirements do not enable additions to or construction of accessory structures for ~~single-family detached and attached and two-family detached~~ dwellings that are desired by ~~homeowners~~ or occupants to modernize or improve the functionality and livability of their properties. It is often desirable to permit construction of new dwellings, additions or accessory structures to encourage improvement of property, increase opportunities for home ownership, retain residents in the city and promote neighborhood improvement.

- (2) *Lot division to create buildable lots.* Division of a lot which is undeveloped or a lot which is developed with ~~one~~ single-family detached, single-family attached, two-family or multifamily dwellings, with or without accessory structures, when such lot or such lot and dwellings are existing on the effective date of the ordinance from which this subsection is derived, into two or more lots for purposes of single-family detached, single-family attached, two-family or multifamily dwelling use, when the lots created by such division cannot meet applicable lot area, lot width, usable open space, lot coverage ~~and/or~~ side yard requirements.

The division of such lot shall be permitted, provided that:

- a. Such lot shall have previously consisted of legal lots of record that were subsequently combined by deed or other action, and the number of lots to be created shall not exceed the number of previously existing lots of record. The configuration of the lots to be created by the division need not be the same configuration as the previously existing lots of record.
- b. The use of all lots created by the division shall be consistent with the use regulations applicable in the district in which the property is situated;
- bc. All new lots shall comply with section 114-610.1 regarding public street frontage and access to lots.
- ed. The off-street parking requirements of this chapter shall be met.
- de. Except where buildings are attached, Each lot created by the division shall be provided with a side yard ~~or~~ and street side yard, where applicable, adjacent to each side lot line of not less than ten percent of the width of the lot, but in no case less than three feet,

except in the case of an existing dwelling having an existing side yard of less width.

- ef. The division shall comply with the applicable requirements of chapter 94 of this Code regarding the subdivision of land.
- fg. The board shall be satisfied that the areas and widths of the lots created by the division are consistent with the predominant lot areas and lot widths in the immediate vicinity of the property, and that dwellings to be constructed on the lots will be compatible with dwellings existing or to be constructed in the immediate vicinity of the property.

Intent statement. In many older areas of the city, properties were originally subdivided into relatively small lots for purposes of single-family detached, single-family attached, two-family or multifamily development. In some cases, such lots were subsequently combined for purposes of creating an unusually large building lot or to simplify deeds or other transactions, and were developed with a single-family, two-family or multifamily dwelling or left undeveloped. In most instances, such lots cannot be divided in compliance with current lot area, lot width, side yard, usable open space and/or lot coverage requirements, although such division would result in lots that are consistent with the predominant established lot sizes and development pattern in the immediate vicinity of the property. It is often desirable to permit the division of these lots to increase opportunities for infill housing development that is compatible with the surrounding neighborhood.

- (53) *Existing two-family dwelling use.* The use of a property containing a two-family dwelling existing on the effective date of this provision, located within a district which permits two-family dwellings, which does not comply with applicable lot area requirements, and for which a building permit, certificate of use and occupancy or certificate of zoning compliance was previously issued for two-family use, where such use has been continuous since the issuance thereof.

The continued use of these properties as two-family dwellings shall be permitted, provided that:

- a. The applicant can show that the property was acquired in good faith. The board shall consider, among other factors, the extent to which the present and/or previous owners relied on previously issued permits or other actions by the city, or representations by sellers, agents, attorneys or others involved in the acquisition of the property;

- b. A minimum lot area of 1,700 square feet shall be provided;
- c. A minimum of two off-street parking spaces shall be provided.

Intent statement: In many older areas of the city zoned to permit two-family dwellings, some existing single-family dwellings were converted to two-family dwellings in violation of applicable lot area requirements. In some instances, permits were issued by the city for these conversions. Other conversions occurred without the benefit of any permits, but subsequently building permits for additions or alterations, certificates of use and occupancy or certificates of zoning compliance may have been issued. The lots on which these two-family dwellings exist are often similar in size to other legally existing two-family dwellings. The lot area and off-street parking requirements contained in the ~~following~~ in this subsection are those which were in effect prior to June 1, 1960, in those areas of the city where many of these conversions took place.

- (64) *Existing multifamily dwelling use.* The use of a property containing a multifamily dwelling existing on the effective date of this provision, located within a district which permits two-family or multifamily dwellings, which does not comply with applicable lot area and/or off-street parking requirements, and for which a building permit, certificate of use and occupancy or certificate of zoning compliance was previously issued for the existing use, where such use has been continuous since the issuance thereof.

The continued use of these properties as multifamily dwellings shall be permitted, provided that:

- a. The subject property shall have been zoned to permit multifamily dwellings at the time such use was created, or was subsequently zoned to permit multifamily dwellings, and the applicable lot area and/or off-street parking requirements were not met;
- b. The applicant can show that the property was acquired in good faith. The board shall consider, among other factors, the extent to which the present and/or previous owners relied on previously issued permits or other actions by the city, or representations by sellers, agents, attorneys or others involved in the acquisition of the property;
- c. A minimum of 850 square feet of lot area shall be provided for each dwelling unit;
- d. A minimum of two thirds of a parking space shall be provided for each dwelling unit;

- e. The board shall be satisfied that the design or configuration characteristics unique to the existing building would render it impractical or not economically viable for uses permitted by applicable provisions of the ordinance. The board may, in its discretion, in consideration of the design or configuration characteristics of the building and the character of the immediate surrounding neighborhood, grant a lesser number of dwelling units than requested.

Intent statement: In many older areas of the city, some existing single and two-family dwellings were converted to multifamily dwellings, or additional units were added to existing multifamily dwellings, in violation of applicable lot area and/or off-street parking requirements. In some instances, permits were issued by the city for these conversions. Other conversions occurred without the benefit of any permits, but subsequently building permits for additions or alterations, certificates of use and occupancy or certificates of zoning compliance may have been issued. The lots on which these multifamily dwellings were developed are often similar in size to other legally existing multifamily dwellings. The lot area and off-street parking requirements contained in the following conditions in this subsection are those which were in effect prior to June 1, 1960, in those areas of the city where many of these conversions took place.

- (135) ~~Dwelling units in business and urban business UB, B and RF districts.~~ The provisions in ~~business and urban business~~ the use regulations of the UB, B and RF districts requiring that limiting the amount and/or location of floor area within the building that may be devoted to dwelling units contained within the same building or providing that certain as other permitted principal uses shall be located above the ground floor of the building or to the rear of other permitted principal uses and/or that the total floor area devoted to dwelling use shall not exceed three times the area of that portions of the ground floor of the building shall be devoted to other permitted principal uses, provided that:

~~Ground floor dwelling units and/or a greater proportion of total floor area devoted to dwelling units shall be permitted, provided that:~~

- a. The applicant has demonstrated to the satisfaction of the board that, due to the existing or projected land uses of properties on the same block, there is no purpose to be served by providing for uninterrupted commercial frontage on the property, or that ground floor commercial space on the property is either not physically practical or not economically viable;

- b. The applicant has demonstrated to the satisfaction of the board that ~~increasing the total floor area devoted to dwelling units~~ granting the exception will increase residential occupancy thereby facilitating a mixed use character of the district in which the property is located consistent with objectives for mixed use in the area;
- c. The applicant has demonstrated to the satisfaction of the board that any alterations to the building will not be architecturally incompatible with the dominant character of building facades on the block;
- d. The board may attach such conditions ~~and safeguards~~ as it deems necessary to ~~carry out the intent of this subsection including, but not limited to,~~ ensure that the building facade fenestration and the location and nature of pedestrian and vehicular ingress and egress are compatible with the surrounding area.

Intent statement. There are areas within ~~business and urban business~~ UB, B and RF districts in the city where the established or projected character of development suggests that uninterrupted commercial frontage is not the most desirable form of development and/or that a mixed use character of development with a large dwelling component would be more advantageous to the livability and economic viability of the area. Also, there are properties and existing buildings within ~~business and urban business~~ such districts where it is not physically or economically viable to establish ground floor commercial space or to limit the ~~proportion of total amount or location of ground floor area~~ amount or location of ground floor area devoted to dwelling units. In such instances, there is a need for flexibility in application of the restrictions on ~~the use of ground floor uses and/or the limitations on the proportionate amount of dwelling space within a building,~~ the use of ground floor uses and/or the limitations on the proportionate amount of dwelling space within a building, so long as new or renovated buildings are functionally and architecturally compatible with the surrounding area.

- (6) Accessory lodging units within a single-family dwelling. Not more than two accessory lodging units within an owner-occupied single-family detached dwelling located in any district, provided that:
 - (a) The applicant can show to the satisfaction of the board that the dwelling unit is of such size and arrangement that the lodging units can reasonably be accommodated, and that incorporating such lodging units within the dwelling will not create potential adverse impacts on adjoining and surrounding properties;
 - (b) When one lodging unit is located within a dwelling, not more than two persons shall occupy such lodging unit, and when two lodging

units are located within in a dwelling, not more than one person shall occupy each lodging unit. At the request of the zoning administrator, the premises shall be made accessible to the zoning administrator by the owner of the property for purposes of verification of compliance with occupancy limitations;

- (c) There shall be no addition or exterior modification to the dwelling to accommodate the lodging units, and there shall be no signage or other evidence visible from the exterior of the dwelling to indicate that it contains lodging units;
- (d) At the discretion of the board, and to the extent that it does not detract from the single-family character of the property or the surrounding area, one off-street parking space shall be provided for each lodging unit.

Intent statement. Many single-family detached dwellings in the city are of such size and/or contain such numbers of rooms that the dwelling exceeds the needs of the owner-occupant family or results in an excessive physical or economic burden on the owner to provide adequate maintenance and upkeep. In some instances it is desirable to convert a room or group of rooms within such dwelling to one or two accessory lodging units with limited occupancy in order to enable more reasonable physical utilization or greater economic use of the dwelling and to enhance the potential for adequate maintenance and upkeep, continued owner-occupancy and avoidance of pressures for conversion to additional dwelling units or to non-dwelling use, provided that the single-family character of the property is preserved and there are no adverse impacts on the surrounding neighborhood.

- (7) Dwelling unit in an accessory building in a single-family residential district. One dwelling unit located in an accessory building which is existing on the effective date of this provision and which is located on the same lot as an owner-occupied single-family dwelling within any R-1 through R-5 single-family residential district, provided that:
 - a. The board is satisfied from evidence provided by the applicant that the accessory building was previously lawfully occupied by a dwelling unit for domestic employees, a dwelling unit existing prior to establishment of zoning in the city or a dwelling unit previously authorized by the board;
 - b. The board is satisfied that the area of the lot, lot coverage and location of the accessory building on the lot are such that the dwelling unit will not result in overcrowding of the lot or any adverse impact on adjoining or surrounding property;

- c. The use of the main building shall be limited to a single-family dwelling and shall not include accessory lodging units;
- d. The use of the accessory building shall be limited to one dwelling unit in addition to permitted accessory uses;
- e. There shall be no enlargement of the accessory building, except for ingress or egress improvements required by the Uniform Statewide Building Code, and exterior modifications to the structure shall be in keeping with the architectural character of the existing dwelling on the property;
- f. Not less than one off-street parking space shall be provided for the dwelling unit in the accessory building;
- g. Access to the accessory building shall be provided in accordance with the requirements of the department of public works and the department of fire and emergency services.

Intent statement: In many older areas of the city, some residential properties were developed with accessory buildings which were originally designed and used for carriage houses, dwellings for domestic employees or other dwelling purposes. With the exception of dwellings for domestic employees, dwelling units in accessory buildings in single-family districts have been prohibited since zoning was established in the city. In some cases, such dwelling units have been authorized by the board. Some accessory buildings have previously been lawfully occupied by a dwelling unit and are located on lots large enough to accommodate such use. They are well suited for such use and are worthy of preservation, but some are in poor condition. Permitting a dwelling unit within them would encourage their renovation or continued maintenance and would be in the best interest of the neighborhood, provided that the additional dwelling unit would not result in overcrowding of the lot or any adverse impact on adjoining or surrounding property.

- (4-8) Dwelling unit in an accessory building in a district permitting two-family dwelling use. One dwelling unit located in an accessory building, containing two or more stories, which is existing on the effective date of this provision and which is located on the same lot as a single-family dwelling within districts which permit two-family dwellings when the applicable lot area requirements for two-family dwelling use cannot be met; provided that:

A dwelling unit within such accessory building shall be permitted, provided that:

- a. The use of the main building shall be limited to a single-family dwelling and shall not include accessory lodging units;
- b. The use of the accessory building shall be limited to one dwelling unit in addition to permitted accessory uses;
- c. There shall be no enlargement of the accessory building, except for ingress or egress improvements required by the Virginia Uniform Statewide Building Code, and exterior modifications to the structure shall be in keeping with the architectural character of the existing dwelling on the property;
- d. Not less than ~~One~~ off-street parking space shall be provided for the ~~additional~~ dwelling unit located in the accessory building;
- e. Access to the accessory building shall be provided in accordance with the requirements of the department of public works and the department of fire and emergency services.

Intent statement: In many older areas of the city zoned to permit two-family dwellings, some residential properties were developed with accessory buildings containing two or more stories which were originally designed for use as stables, carriage houses and/or domestic employees' quarters. With the exception of domestic employees' quarters, residential occupancy of accessory buildings has been prohibited since 1927. Many of these accessory buildings are currently being occupied and/or rented for non-employee residential use. In some instances, residential use has been approved by city council or the commission of architectural review. However, many of these accessory buildings have been occupied or were converted illegally. Most of these structures are worthy of preservation, but many are in poor condition. Permitting a dwelling unit within these accessory buildings would encourage their renovation and/or continued maintenance.

(109) *Home occupation use of an accessory building.* A home occupation as defined in section 114-1220 of this chapter and conducted within a completely enclosed accessory building, provided that:

- a. Home occupation use of accessory buildings shall be limited to offices, including business, professional and administrative offices, and studios of writers, designers or artists engaged in the graphic arts.
- b. All of the conditions set forth in section 114-694.1 of this chapter

shall be met, except that the board may impose such conditions and further limitations as it may deem necessary in the public interest.

- c. The applicant demonstrates to the satisfaction of the board that such home occupation will not result in any greater impacts on adjoining and surrounding properties than would result if the home occupation were conducted within the dwelling unit.

Intent statement: It is the intent of this exception to enable limited home occupation use of an accessory building in a manner that will not result in adverse impacts on adjoining properties by providing review by the board with consideration for the specific characteristics of the home occupation, the location and nature of the accessory building and its relation to adjoining and surrounding properties, and with the opportunity for the board to impose such conditions and safeguards as necessary.

(140) *Height of fences and walls in ~~street~~ side yards, rear yards and certain front yards.* Fences and walls not exceeding eight feet in height when located within a required side yard, rear yard, street side yard on a corner lot, ~~or within a required front yard along the longer street frontage of a corner lot~~ or a required front yard adjacent to the rear of a main building located on a through lot. For purposes of this subsection, the height of a fence or wall shall be measured from the ground level at the base of the fence or wall, and shall include the height of posts, columns, gates and ornamentation.

Fences and walls of such height shall be permitted, provided the board shall be satisfied that:

- a. The property on which the fence or wall is to be constructed is devoted to a conforming dwelling use.
- b. The applicant has demonstrated that the proposed height of the fence or wall is reasonably necessary to provide security for the property and/or to provide a buffer from noise and activity on the adjacent street.
- c. The design and construction materials of the fence or wall will be compatible with the main building and other structures located on the lot and with the general character of development in the immediate surrounding area.
- d. The fence or wall will not unreasonably impair light and air to adjacent property, and will not impair necessary visibility for

operators of motor vehicles at any intersection of the adjacent street with an alley, driveway or other street.

- e. The fence or wall will be constructed in compliance with applicable requirements of the Virginia Uniform Statewide Building Code.

Intent statement. In many neighborhoods in the city, corner properties are situated at intersections where the street along the side of the property carries volumes of traffic or generates traffic noise that is disruptive to and not conducive to dwelling use of the property or to the use and enjoyment of the rear yard area of the lot. In addition, such corner properties are sometimes in need of enhanced security measures for the property in general and the rear yard area in particular. Also, many properties are situated adjacent to alleys or constitute through lots, resulting in similar traffic or security issues, or are situated relative to adjacent properties whereby adequate security or privacy cannot be afforded under normal fence and wall height limitations. It is often desirable in such situations to permit greater height of fences and walls than normally permitted by the zoning regulations in order to provide a more effective buffer from the street, alley or adjacent property and/or to provide greater security and privacy for the property as means to promote dwelling use and enjoyment of the property.

(121) *Off-street parking.* The requirements governing the provisions setting forth the number of off-street parking spaces required for a use or required in the case of a change in a nonconforming use, provided that:

- a. The applicant has demonstrated to the satisfaction of the board that, based on the character of uses and the availability of parking in the surrounding area, the exception will not result in an inadequate supply of parking or other adverse impact on the neighborhood;
- b. The applicant has demonstrated to the satisfaction of the board that adequate parking to serve the needs of the use is provided on the site or within reasonable and convenient proximity of the use, either on a public street or off-street;
- c. The applicant has demonstrated to the satisfaction of the board that the number, location and arrangement of parking spaces intended to serve the use is sufficient to provide for its parking needs based on the nature of the use and the characteristics of its operation including, but not limited to, its scale, hours of operation and the amount of walk-in customer or client traffic from the adjacent neighborhood;

- d. In any case where off-street parking spaces required to serve a use are provided off the premises devoted to such use, the applicant shall submit written certification to the board on an annual basis, by no later than the anniversary date of the exception granted, as to the continued availability of the off-premises parking spaces. Failure of the applicant to submit such certification shall be grounds for revocation of the exception;
- e. ~~The board may attach such conditions and safeguards as it deems necessary to carry out the intent of this subsection.~~

Intent statement. There are many properties in the city that are inhibited from being devoted to reasonable use due to the inability to provide the required number of off-street parking spaces, or due to the prohibition of a change in a nonconforming use when a proposed new use is required to be provided with more off-street parking than the existing use, but would otherwise be permitted by the nonconforming use provisions. In many such cases, there may be particular potential uses having unique characteristics that result in a need for fewer off-street parking spaces than generally required for the use by the zoning provisions and/or there may be excess parking spaces available in the immediate vicinity of the property that can adequately serve the needs of the use. In cases where such properties are not concentrated in an area that would be appropriate for application of a parking overlay district or where nonconforming uses are involved, there is a need to address the off-street parking requirements on a site-specific basis and in a manner that enables reasonable use of the property and does not create a shortage of parking or other adverse impact on the area.

- (+12) Nonconforming use: Lot division to accommodate existing buildings. Division of a lot, developed with one or more ~~main residential buildings,~~ nonconforming uses existing on the effective date of this provision other than single family detached or attached dwellings existing on the effective date of this provision, into two or more lots; ~~when the lots created by such division cannot meet applicable lot area, lot width, lot coverage, yard, off-street parking and/or land use intensity requirements. (For division of a lot to accommodate permitted single-family detached, single-family attached, two-family or multifamily dwellings, see section 114-620.5.)~~

The division of such lots shall be permitted, provided that ~~(for division of a lot to accommodate existing single family detached or single family attached dwellings, see section 114-620.5):~~

- a. The applicant can show to the satisfaction of the board that the property was acquired or the current use was established in good

faith, that the buildings cannot reasonably be devoted to conforming uses, and that such division will not increase potential adverse impacts of the nonconforming use on adjoining and surrounding properties;

- ab. All new lots shall comply with section 114-610.1 of this chapter regarding public street frontage and access to lots;
- bc. The division shall result in ~~no more than two lots with~~ at least one main building being located on each lot, and lot area, lot width, yards and existing off-street parking shall be allocated to the newly created lots on a basis reasonably proportional to the buildings and uses contained on each lot;
- ed. If the off-street parking requirements of the current ordinance are not met, reasonable efforts shall be made to provide additional off-street parking to meet those requirements;
- de. The division shall not result in the ability to create additional dwelling units or to accommodate other uses which would not have otherwise been permitted prior to the division;
- f. The division shall comply with the applicable requirements of chapter 94 of this Code regarding the subdivision of land.

Intent statement. In many older areas of the city, some properties were originally developed with ~~attached residential buildings or~~ more than one main ~~residential~~ building on a lot, or several separately developed lots under common ownership were combined for purposes of simplifying deeds or other transactions. In many instances, the uses on these properties are nonconforming under current use regulations, resulting in prohibition of the lots being divided ~~the owners of these properties wish to divide them or they have already been divided in violation of applicable lot area, lot width, lot coverage, yard, off-street parking and/or land use intensity requirements.~~ It is often desirable to permit ~~the~~ division of these properties into separate lots in order to enhance their potential for reasonable economic use and to increase opportunities for individual ownership, including owner occupancy, or to facilitate financing, insurance or resale, particularly in cases where ~~There is no practical difference in the intensity of uses of the properties as a result of the division.~~

- (713) *Nonconforming use: enlargement, extension or alteration.* Enlargement, extension or structural alteration of a building or structure devoted to a nonconforming use; extension or expansion of a nonconforming use within a building or structure; or construction of an accessory building or structure to serve an existing nonconforming use; provided that:

- a. The applicant can show to the satisfaction of the board that such enlargement, extension, expansion, alteration or construction 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;
- b. In no case shall the amount of floor area devoted to the nonconforming use be increased more than ten percent;
- 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;
- d. There shall be no increase in the area of any lot devoted to a nonconforming use, unless such increase is for purposes of enhancing screening, buffering, separation or other amenities or means of protection for adjoining and surrounding properties; and
- e. In all other respects the property shall continue to be subject to the rights and limitations set forth in article VIII of this chapter relative to nonconforming uses, except that the board may impose such conditions and further limitations as it may deem necessary in the public interest.

Intent statement: Due to the large number and wide variety of nonconforming uses in the city, there is a need for flexibility and discretion in their treatment in order to recognize that in many cases continuation, improvement and modernization of a nonconforming use is in the best interest of the city and is necessary to enable reasonable use of a building that may have little or no other use potential. Modest expansion, enlargement, structural alteration or addition of accessory facilities, together with improvements to enhance the compatibility of a nonconforming use, is a preferable alternative to vacant, underutilized or poorly-maintained properties in cases where conversion to conforming uses is not practicable.

(§14) *Nonconforming use: reestablishment or change in use.* Re-establishment of or change in a nonconforming use of a building or structure which has been discontinued for a period of two years or longer, provided that:

- a. The property owner can show to the satisfaction of the board that the property was acquired or the current use was established in good faith and that the building or structure cannot reasonably be

devoted to a conforming use;

- b. If a nonconforming use is changed to a more restricted use or a conforming use, the board shall not authorize re-establishment of the nonconforming use or any change to a less restricted use;
- c. If the building or structure is vacant or the nonconforming use has been changed to an illegal use, the board may authorize re-establishment of the last nonconforming use or change to a use that meets all of the criteria set forth in subsection 114-800.3(4 a) of this chapter, except that the board may authorize change to a use that does not meet the off-street parking criteria of that subsection if the board finds that the change will not result in an adverse impact on the neighborhood due to an inadequate supply of parking; and
- d. In all other respects the property shall continue to be subject to the rights and limitations set forth in article VIII of this chapter relative to nonconforming uses, except that the board may impose such conditions and further limitations as it may deem necessary in the public interest.

Intent statement: In some cases, nonconforming uses have been discontinued and buildings have remained vacant for a period of two years or longer where there was no intent to relinquish the nonconforming rights associated with the property. In other cases, nonconforming uses have been changed to uses in violation of applicable provisions of this chapter. In many of these instances, the buildings in question have little or no potential for conforming uses, and occupancy by the last nonconforming use, ~~or a more restricted use or other limited use~~ would result in reasonable economic use and improvement of the property and would be in the best interest of the neighborhood and the general public.

(915) *Nonconforming use: reduction in lot area.* Reduction in the area of a lot on which a nonconforming use is located, provided that:

- a. The applicant can show to the satisfaction of the board that such reduction will not increase ~~the intensity, extent or~~ potential adverse impacts of the nonconforming use;
- b. There shall be no reduction in the area of any lot devoted to a nonconforming dwelling use, located in a single-family residential district. except that in a UB, UB-2, B or OS district such area For purposes of this provision, the division of a lot shall not be construed to constitute reduction in the area of the lot. In districts other than single-family residential districts, the area of a lot

devoted to a nonconforming dwelling use may be reduced to not less than the lot area required for the dwelling use in the ~~R-48~~ R-63 district;

- c. The reduction shall not result in noncompliance with any lot area, lot width, yard, open space, lot coverage or off-street parking ~~or other requirements of this chapter~~ applicable in the district in which the property is located or any increase in the degree or extent of any nonconforming feature;
- d. In all other respects the property shall continue to be subject to the rights and limitations set forth in article VIII of this chapter relative to nonconforming uses, except that the board may impose such conditions and further limitations as it may deem necessary in the public interest.

Intent statement. Reduction in the area of a lot on which a nonconforming use is located is generally prohibited by this chapter since in most cases it would increase the intensity of the use and its potential adverse impacts on adjoining and surrounding properties. However, some properties devoted to nonconforming uses are of such large size or are developed, arranged or used in such a manner that reduction in the area of the lot would reduce the extent or intensity of the use or result in equal or greater compatibility with neighboring uses. Reduction in lot area in such cases could result in less area devoted to outdoor activity, reduction in the number of buildings on a site or reduction in overall area of the nonconforming use. It may enable the area removed from the lot to be devoted to conforming use, landscaped buffer or other use beneficial to adjoining and surrounding properties.

(16) Nonconforming use: addition of accessory off-street parking. The addition of accessory off-street parking spaces to serve a nonconforming use, provided that:

- a. The nonconforming use shall be located in a district other than an R district, unless the nonconforming use is a dwelling use as defined in section 114-1220 of this chapter;
- b. The accessory off-street parking spaces shall be located on the same lot as the nonconforming use, or on a contiguous lot;
- c. The total number of accessory off-street parking spaces existing and to be provided for the nonconforming use shall not exceed the number of spaces required for the use by the provisions of article VII of this chapter;

- d. The addition of accessory off-street parking spaces shall not result in the demolition of any main building;
- e. All applicable off-street parking improvement requirements and landscaping standards set forth in division 2.1 of article VII of this chapter shall be met where feasible, as determined by the board, provided that the board may impose such conditions and further limitations as it may deem necessary in the public interest;
- f. The applicant has shown to the satisfaction of the board that such additional accessory off-street parking spaces will not result in any greater adverse impacts on adjoining and surrounding properties than would result without the additional parking.

Intent statement. The addition of off-street parking spaces to serve a nonconforming use is generally prohibited by this chapter, since it constitutes extension or expansion of the nonconforming use. However, there are instances in the city where nonconforming uses are likely to continue to exist and are generally not detrimental to adjacent and surrounding properties, but where such nonconforming uses are not provided with adequate off-street parking to meet the needs of the use or to avoid adverse impacts on the surrounding area. It is the intent of this exception provision to enable the addition of off-street parking spaces to serve such nonconforming uses in order to relieve potential on-street congestion and to provide adequate parking in a manner that will not result in adverse impacts on neighboring properties, by providing review by the board with consideration for the specific characteristics of the use and its relation to adjoining and surrounding properties, and with the opportunity for the board to impose such conditions and safeguards as necessary.

(17) Building height. The maximum permitted building height in any district except R-1 through R-8 districts, provided that:

- a. The proposed use of the building shall be consistent with the use regulations applicable in the district in which the property is located;
- b. Applicable off street parking requirements shall be met, unless the board in a specific case grants a variance from or exception to the off-street parking requirement pursuant to the provisions of this division;
- c. The applicant has demonstrated to the satisfaction of the board that the additional height authorized by such exception will not unreasonably impair light and air to adjacent or nearby property

and will not unreasonably impair prominent views of significant land, water or other features from public spaces or from adjacent or nearby property;

- d. The board shall be satisfied that the design, construction materials and overall mass of the building will be compatible with the general character of development in the immediate surrounding area.

Intent statement. In some cases, due to unusual conditions such as location, topography, other site conditions, lot orientation or the established or changing character of nearby development, the building height limit applicable in the district in which a property is located is not conducive to achieving the full development potential of the property consistent with the general intent of the district. Additional building height may also be appropriate where taller buildings are located nearby and to establish a transition from taller buildings to buildings of less height, or to enable the maximum permitted residential density or non-residential intensity on a site while preserving open space at ground level where needed. In such cases, flexibility to enable additional building height is desirable as a means to adapt to unusual conditions, enhance the economic viability of the property and promote economic development for the benefit of the general public, so long as light and air, prominent views and the character of the surrounding area are adequately protected.

- (18) Freestanding signs. The height and yard provisions applicable to permitted freestanding signs, other than billboard signs, provided that:

- a. The applicant has demonstrated to the satisfaction of the board that, due to topography or configuration of the site, elevation of the site relative to the elevation of the adjacent street, curvature of the adjacent street, structural improvements or vegetation on the site or on adjoining properties, or similar physical constraints, the height and/or yard requirements applicable to a permitted freestanding sign on the site would prohibit or unreasonably impair visibility of such sign from the adjacent street;
- b. The applicant has demonstrated to the satisfaction of the board that the proposed height and location of the freestanding sign is the minimum departure from the regulations necessary to enable adequate identification of the use of the property, taking into consideration the nature of such use and character of the surrounding area, and is not for the purpose of affording a competitive advantage for the use of the property;

- c. The applicant has demonstrated to the satisfaction of the board that the proposed freestanding sign will not impair public safety, will not interfere with visibility of traffic on adjacent streets or driveways intersecting streets, and will not unreasonably impair visibility of traffic signs, directional signs or other permitted identification signs in the area;
- d. The board may attach such conditions and safeguards as it deems necessary to carry out the intent of this subsection including, but not limited to, the size, location, configuration and illumination of the proposed freestanding sign and other signs on the property.

Intent statement. There are instances in the city where adequate identification of uses is not afforded by the height limitations and/or yard regulations applicable to permitted freestanding signs because of unusual physical characteristics of the property or the adjacent area. In such instances, there is a need for flexibility in application of the height and/or yard regulations for freestanding signs to enable adequate identification for the convenience of the public and to promote the economic viability of the uses such signs are intended to identify, so long as public safety is safeguarded, visibility of other permitted signs in the area is not impaired and the character of the freestanding sign is appropriate for the property and the surrounding area.

(Delete the following subsection in Article IV, Division 2, R-1 District.)

Sec. 114-402.2. Permitted accessory uses and structures.

Accessory uses and structures, including the following, which are customarily incidental and clearly subordinate to permitted principal uses, shall be permitted in the R-1 district (see section 114-680):

- (5) ~~Accessory lodging units within single family dwellings when such units are occupied by a total of not more than two persons;~~ Reserved.