BOARD OF ZONING APPEALS
CITY OF FREDERICKSBURG, VIRGINIA
AGENDA
February 22, 2016
4:00 P.M.
COUNCIL CHAMBERS, CITY HALL

---

1. Call To Order
2. Determination Of A Quorum
3. Determine Public Notice Requirements Have Been Met
4. Disclosure Of Ex Parte Communication
5. Disclosure Of Conflicts Of Interest
6. Approval Of Agenda

   6.I. Agenda

   Documents: 2016-02-22 BZA AGENDA.PDF

7. Public Hearing Items

   7.I. Variance Request - 2217 Princess Anne Street

   Documents: 2015-12-29 2217 PA APPLICATION AND SUPPORTING MATERIALS.PDF

   7.I.i. Staff Memo

   Documents: 1 2016-02-12 BZA MEMO V2217PA.PDF, 2 2016 02 11 DRAFT RECORD OF DECISION.PDF, 3 ZONING LAW FOR THE VIRGINIA ZONING OFFICIAL.PDF

8. Approval Of Minutes

   8.I. Minutes - November 16, 2015

   Documents: 2015-11-16 BZA MINUTES DRAFT.PDF

   8.II. Minutes - January 5, 2016

   Documents: 2016-01-05 BZA MINUTES DRAFT.PDF

9. Staff/Board Comments
10. Adjourn

CITY OF FREDERICKSBURG
BOARD OF ZONING APPEALS
AGENDA
February 22, 2016
4:00 p.m.

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1. Call to Order

2. Determination of a Quorum

3. Determine public notice requirements have been met

4. Disclosure of *Ex Parte* Communication

5. Disclosure of Conflicts of Interest

6. Approval of Agenda

7. Public Hearing Item

    a. Variance request – General Washington Executive Center – 2217 Princess Anne Street.

8. Review of Minutes

    a. November 16, 2015

    b. January 5, 2016

9. Staff/Board Comments

10. Adjourn

Fee ($300):_____ App No. _____

City of Fredericksburg
BOARD OF ZONING APPEALS
Community Planning & Building Department
715 Princess Anne Street, P.O. Box 7447
Fredericksburg, Virginia 22404

ZONING VARIANCE

What is a variance? A reasonable deviation from those provisions in the Zoning Ordinance regulating the size or area of a lot or parcel of land, or the size, area, bulk, or location of a building or structure when the strict application of the Zoning Ordinance would result in unnecessary or unreasonable hardship to the property owner, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the intended spirit and purpose of this article, and would result in substantial justice being done. It shall not include a change in use which could be accomplisehd by a rezoning, a conditional zoning, or a special use permit.

Who can grant a variance? The Board of Zoning Appeals (BZA) has the authority to grant variances in cases where strict application of the Zoning Ordinance would result in unnecessary hardship for the property owner.

What is the Board of Zoning Appeals (BZA)? The BZA is a five-member board comprised of City residents and appointed by the Circuit Court. The BZA will hear and consider requests for variances to the City of Fredericksburg Zoning Ordinance, and appeals of the Zoning Administrator's decisions.

What is the basis for a variance? The BZA must make the following three findings, as set forth in the Code of Virginia §15.2-2309(2), in order to grant a variance:

1. The strict application of the ordinance would produce undue hardship;
2. The hardship is not shared generally by other properties in the same zoning district and the same vicinity; and
3. The authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

How do I prove a hardship? To prove hardship, a property owner must show that the strict application of the terms of the ordinance effectively prohibits or unreasonably restricts the use of the property. A variance may be justified by:

1. the exceptional size or shape of a property at the time of the effective date of the ordinance, or
2. the exceptional topographic conditions or other extraordinary situation of such property.

The BZA must be satisifed, upon the evidence heard, that granting a variance will alleviate a clearly demonstrated harship, as distinguished from a special privilege or convenience sought by the applicant.

What is the application process? Variance applications must be filed with the Community Planning & Building Department.

- A pre-submission conference is held between the applicant and a Planning Services Division staff member. A solution may be discovered without the need for a variance.
- A complete variance application with original signatures and all associated materials must be submitted with seven (7) copies of all material and the application fee ($300) by the established deadline. (Please provide an electronic version of accompanying materials, if possible.)
- The Planning Services Division will advertise the variance request as a notice of public hearing once a week for two consecutive weeks prior to the hearing date in the local newspaper. The notice will specify the date, time, and place of the hearing so persons affected may appear and present their views.
- The applicant will notifiy adjoining property owners of the requested variance and hearing date.
- A Planning Services Division staff member will prepare a staff report that will accompany the variance application and both will be forwarded to the members of the BZA for their review before the meeting date.

- At the public hearing the BZA will approve, deny, or defer the variance request until a later date after hearing the applicant and all interested parties.
- **The policy of the Board of Zoning Appeals is that members will not discuss variance cases with applicants prior to a scheduled public hearing of the Board of Zoning Appeals.**

How long does a typical variance process take? The average variance process is approximately four to six weeks from submission to action.

What if I want to appeal the decision of the BZA? Any one aggrieved by a decision of the BZA has thirty (30) days to appeal the decision to the Fredericksburg Circuit Court.

Name of Applicant: General Washington Executive Center, LLC

Telephone: 540-424-2076 Email tommymitchellleasing@gmail.com

Mailing Address: 614B Caroline Street, Fredericksburg, VA 22401

Interest in Property: Owner

If the Applicant is not the Property Owner, complete the Affidavit for Special Power of Attorney Owner Consent Form (attached).

Name of Property Owner (if different from applicant): n/a

Mailing Address: _____

_____ Telephone _____

Property Description

The property is described as follows: 58,000 sq. ft. office building built in the 1930s as the Stratford Hotel

Street Address: 2217 Princess Anne St Zoning District: CH

Tax Map ID 2858 GPIN No. 7779-89-7284

Legal Description (include subdivision and lot number): LT 1-16 19-28 31-34 BL 164-6-L1 & PT 17 & 18 Van Buren St. & 2217 PR Anne St 2.797

This is a request for a variance to Section 72-31.5 B of the Zoning Ordinance. Only those items previously listed in the definition of a variance may be requested.

Describe the proposed variance and the reason(s) such a variance is necessary. The following items must be specifically addressed for this application to be considered complete: (Use additional sheets, if necessary.)

1. How the strict application of the provisions of the Zoning Ordinance would create undue hardship.

Please see attached document.

2. What exceptional circumstances or conditions are applicable to the property, or to the intended use of the property, that do not apply generally to other properties in the same zoning district and the same vicinity.

Please see attached document.

3. How a variance will not be of substantial detriment to adjacent property, and the character of the district will not be changed thereby.

Please see attached document.

4. Has any previous application or appeal been filed in connection with this property?

☒ **No** ☐ **Yes**

If yes, provide the date and type of application: _____

If necessary, additional sheets may be used

AFFIDAVIT FOR SPECIAL POWER OF ATTORNEY
OWNER CONSENT FORM

I, _____ the owner of the property located at

_____

Make, constitute, and appoint _____ , special power of attorney to do and perform all acts, and make all representation necessary, without any limitation whatsover, to make application for said variance. The rights, powers, and authority of said attorney-in-fact herein granted shall commence and be in force and effect on _____.

_____
Property Owner

Commonwealth of Virginia
City of Fredericksburg

Subscribed and sworn before me this _____ day of _____, 20_____ .

_____
Notary Signature

_____ _____
Registration Number Commission Expiration

PUBLIC NOTIFICATION REQUIREMENTS

Written Notice: Written notice of an application initiated by a property owner or contract purchaser shall be provided to adjacent property owners by certified return receipt mail **by the applicant at least five calendar days prior** to the public hearing (not counting the date of the hearing) and **not more than 15 days prior** to the hearing. Applicants may use the notice form supplied with the application forms. In the event the application is deferred indefinitely, notification shall be given when the application is rescheduled.

Evidence of the receipt of such notice shall be provided to the Zoning Administrator prior to the public hearing. In the case of a condominium or a cooperative, the written notice may be mailed to the unit owners' association or proprietary lessees' association, respectively, in lieu of each individual unit owner.

The following notice documents must be submitted to the office of the Zoning Administrator at least 5 days prior to the public hearing:

1. a copy of the notice letter sent
2. a list of the names and addresses of those persons to whom notice was sent
3. a copy of the post office receipts for the certified or return receipt mail
4. "Certification of Notice" form found at the back of this application

Posted Notice: **The applicant shall post a sign** provided by the Zoning Administrator on each parcel of land involved in an application for zoning map amendment (when 25 or fewer parcels are affected), **Posted notice shall be erected at least five days before the BZA public hearing and before the City Council public hearing**.

Failure to send accurate or correct notices will result in deferral of the application to a later hearing date. Property ownership information is to be obtained from the City Real Estate Office, Room 107, City Hall, 715 Princess Anne Street or online at Fredericksburgva.gov

APPLICANT to mail this notice <u>by certified return receipt mail</u> to adjoining and abutting property owners between 15 and 5 days prior to the scheduled hearing.

Dear Property Owner:

You are hereby notified of the following public hearing to be held by the City of Fredericksburg Board of Zoning Appeals on the issues described below.

PUBLIC MEETING DATE:_____

AT
4:00 PM, CITY HALL
715 PRINCESS ANNE STREET
COUNCIL CHAMBERS (LOWER LEVEL)
FREDERICKSBURG, VA 22401

ISSUE
DESCRIPTION:_____
_____
_____
_____
_____
_____
_____.

PROPERTY
ADDRESS:_____

GPIN NUMBER:_____

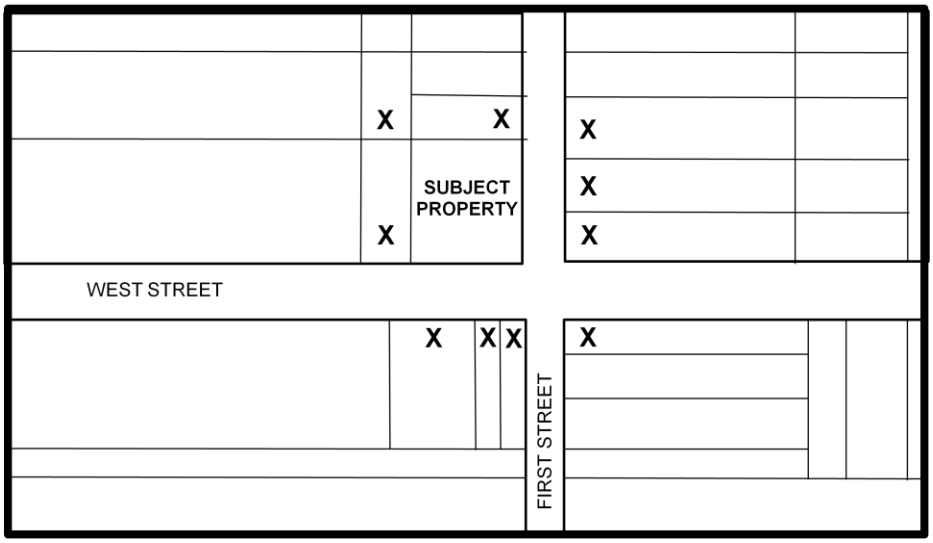
As a citizen and party of interest, you are invited to attend the meeting and express your views concerning the above issue. If you have questions regarding the request, you can reach me at _____.

Sincerely,

_____ **_____**
Applicant signature **Applicant printed name**

EXAMPLE DIAGRAM OF ADJOINING PROPERTY OWNERS

X = Property owners to be notified



PROPERTY OWNERS LIST

2217 Princess Anne Street — 7779-89-7284

SUBJECT ADDRESS — **GPIN #**

Adjoining property owner names and addresses can be obtained by visiting the City website at www.fredericksburgva.gov and following the link to GIS, or by visiting the Office of Real Estate at City Hall, 715 Princess Anne Street, Room 107.

Adjoining Property Owner's Name and Mailing Address

Property Address	SEE ATTACHED	
Owner Name		**GPIN NUMBER**
Mailing Address		
City, State, Zip		

Property Address		
Owner Name		**GPIN NUMBER**
Mailing Address		
City, State, Zip		

Property Owners List

Subject Address: 2217 Princess Anne Street **GPIN:** 7779-89-7284

Property Address	Owner Name & Mailing Address	GPIN
2401 Princess Anne St	Larry Arlington Lancaster 229 Germania St Fredericksburg, VA 22401	7779-89-4496
2400 Van Buren St	Donelson Rebecca M & Carol A Keith 718 Chiswick Park Rd Henrico, VA 23229	7779-89-5572
2216 Caroline St	Fredericksburg Housing Associates II LP C/O Equity MGMT II LLC 8975 Guilford Rd STE 100 Columbia, MD 20814	7779-89-9415
2100 Caroline St & 2102 Caroline St	PADB C/O Downtown Properties PO Box 1246 Fredericksburg, VA 22402	7779-99-0268 & 7779-99-1205
2104, 2106 & 2108 Caroline St	Upper Caroline Street LLC 614-B Caroline St Fredericksburg, VA 22401	7779-99-1213, 7779-99-1231 & 7779-99-1250
208, 212, 214, 216 & 218 Hunter St	General Washington Executive Center LLC C/O the Galleria 614-B Caroline St Fredericksburg, VA 22401	7779-99-0190, 7779-99-0057, 7779-99-0014, 7779-89-9070 & 7779-88-9947
2113 Princess Anne St	General Washington Executive Center LLC C/O the Galleria 614-B Caroline St Fredericksburg, VA 22401	7779-88-8994
2100 Princess Anne St	Pitts Benj T Est 105 Amelia St Fredericksburg, VA 22401	7779-88-8830
2200 Princess Anne St	Sponseller Paul N & Sagrario R Trs 132 Woodland Rd Fredericksburg, VA 22401	7779-88-6986
2206 Princess Anne St	Doris G Eglevsky 205 Caroline St Fredericksburg, VA 22401	7779-89-5070
2216 Princess Anne St	Medicorp Properties Inc. Attn: MHS-General Accounting 2300 Fall Hill Ave #418 Fredericksburg, VA 22401	7779-89-4164

2400 Princess Anne St	E R Morris PO Box 1 King George, VA 22485	7779-89-3359
0 Hunter Street	City of Fredericksburg, Dora M. Clary et al, and Carrie Moncure et al c/o City Manager PO Box 7447 Fredericksburg, VA 22404	7779-89-9115 & 7779-89-9137

7405186-1 031970.00003

Property Address		
Owner Name		**GPIN NUMBER**
Mailing Address		
City, State, Zip		

Property Address		
Owner Name		**GPIN NUMBER**
Mailing Address		
City, State, Zip		

Property Address		
Owner Name		**GPIN NUMBER**
Mailing Address		
City, State, Zip		

Property Address		
Owner Name		**GPIN NUMBER**
Mailing Address		
City, State, Zip		

Property Address		
Owner Name		**GPIN NUMBER**
Mailing Address		
City, State, Zip		

Property Address		
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Mailing Address		
City, State, Zip		

Property Address		
Owner Name		**GPIN NUMBER**
Mailing Address		
City, State, Zip		

Property Address		
Owner Name		**GPIN NUMBER**
Mailing Address		
City, State, Zip		

Property Address		
Owner Name		**GPIN NUMBER**
Mailing Address		
City, State, Zip		

Property Address		
Owner Name		**GPIN NUMBER**
Mailing Address		
City, State, Zip		

ATTACH ADDITIONAL SHEETS IF NECESSARY

NOTE: Applicant to return all notice documents at least five days or prior to the public hearing to: Office of the Zoning Administrator, 715 Princess Anne Street, Fredericksburg, VA 22401

Variance # _____

CERTIFICATION OF NOTICE

TO: **Zoning Administrator**
715 Princess Anne Street
Fredericksburg, VA 22401

At least five days or prior to the public hearing, the applicant shall supply the Zoning Administrator with the following notice documents:

1. **A copy of the notice sent**
2. **A list of the names of those persons to whom notice has been given**
3. **Copies of the post office receipts for certified or registered mail.**
4. **A certification statement that notice has been sent by certified or registered mail to those to whom notice is required to be given.**

The applicant shall use the records and maps maintained in the City's office of real estate or GIS to determine the proper recipients of notice and reliance upon such records shall constitute compliance with the requirements of the UDO.

The undersigned hereby certifies that the notice to adjoining property owners (copy attached), as required, was sent to the attached list of property owners concerning the following issue on (DATE)_____.

PROPERTY
ADRESS:_____
ISSUE
DESCRIPTION:_____

_____

_____

_____	_____
Applicant Signature	**Applicant Printed Name**
_____	_____
Telephone Number	**Date**

NOTE: Applicant to return all notice documents at least five days or prior to the public hearing to: Office of the Zoning Administrator, 715 Princess Anne Street, Fredericksburg, VA 22401

SIGN POSTING PROCEDURES

Instructions
It is the applicant's responsibility to ensure that the sign(s) remain on the project site for the required time and are maintained in good/legible condition until after the public hearing date.

Site Posting Procedure
Sign(s) shall be posted at least five (5) business days before the public hearing/meeting. The applicant shall complete a notarized affidavit stating the sign(s) shall be posted in accordance with these procedures. Within three (3) days of posting the sign the applicant shall provide a photograph of the posted sign to the Community Planning and Building Department. **Failure to submit a notarized affidavit and/or photograph of the posted sign may result in the removal of the application from the scheduled meeting agenda.**

Information required on the sign(s) shall be completed by a member of the planning staff and provided to the applicant for posting. Signs shall be removed within three (3) days of the public hearing/meeting. Sign(s) should **not** be returned to the Community Planning & Building Department.

A minimum of one sign shall be placed along any adjacent arterial street. Signs should be posted every 600 feet when a street frontage adjacent to a project exceeds that distance. Sign(s) shall be placed parallel to the roadway.

Sign(s) shall be placed on the property in the most visible location available in such a manner that landscaping or other obstructions do not impair the visibility of the sign(s) from the street. The sign(s) shall not be placed on the public street right-of-way. The sign(s) should not be placed more than 10 feet behind the property line adjacent to the street.

The Community Planning and Building Department may vary any of the above guidelines where there are special circumstances in order to ensure that the sign(s) will be visible to the general public.

The undersigned acknowledges that he/she has read this procedure and understands how and where to post the required sign(s).

_____ _____

Applicant Signature **Date**

Variance # _____

SIGN POSTING AFFIDAVIT

_____, being duly sworn, deposes and says as follows:
(Name of Affiant)

On the _____ day of _____, 20_____, public hearing/notice sign(s), as supplied by the Office of the Zoning Administrator, Community Planning and Building Department. shall be posted in accordance with City sign posting procedures as stated on the reverse of this affidavit, on the property that is the subject of this application. The sign(s) shall be maintained in good condition on said property until after the public hearing/meeting.

_____ _____
Signature of Affiant Date

_____Planning Commission meeting

_____City Council meeting

_____ARB meeting

_____BZA meeting

Commonwealth of Virginia
City of Fredericksburg

I, _____, a Notary Public in and for the State and City aforesaid, do hereby certify that _____ appeared before me and acknowledged the same.

Subscribed and sworn before me this _____ day of _____, 20____.

Notary Signature_____

Notary Registration # _____

Commission expires: _____

APPLICATION FOR VARIANCE

CITY OF FREDERICKSBURG, VIRGINIA

BOARD OF ZONING APPEALS

Applicant/Owner:	**General Washington Executive Center, LLC** **Sole Member LLC, owned by Thomas Mitchell**
Property:	**GPIN 7779-89-7284, 2217 Princess Anne Street** **City of Fredericksburg, VA**
Variance Request:	**Variance to Section 72-31.5 B of City UDO**
Current Zoning:	**Commercial Highway ("CH")**
Date:	**December 28, 2015**

OVERVIEW:

This variance request is being made pursuant to Section 72-22.8, et al., of the City's Uniform Development Code ("UDO"). The Applicant is requesting a variance to the minimum lot width requirements under Section 72-31.5 B. The subject Property is zoned Commercial Highway ("CH"), which allows by right, in relevant part, residential uses (R-12 standard) at a density not to exceed 12 units to the acre. The Applicant desires to redevelop a portion of the Property for multifamily purposes. The Property was originally a hotel, and is currently used as commercial office space. The adaptive re-use of the Property is consistent with the City's comprehensive plan and Section 3.3.1 of the City Design Guidelines for the Princess Anne Street Historic Corridor Overlay District.

This request is not contrary to the public interest and the literal enforcement of the subject ordinance will cause an unnecessary hardship upon the property owner; and approval of this variance request will be consistent with the spirit of the ordinance and provide a positive impact to the immediate community.

I. **Proposed Variances**: The proposed project includes a total of 22 proposed multifamily units, as shown on that certain attached "Exhibit C" prepared by James O. McGhee Architects, P.C., entitled "General Washington Executive Center, Building 'C' 2217 Princess Anne Street" ("Exhibit C"). The request is to grant a variance for 12 of the 22 units allowing said 12 units to be constructed with a minimum lot width of 14'-6". The remaining 10 units will be 18'-10" in width.

Given the condition of the existing building, the Applicant believes this request is in accordance with Section 72-22-.8, et al, of the City UDO. In this regard, if the

Applicant were required to meet the minimum lot width requirements within the subject area shown on "Exhibit D" for the 18' wide units, there would likely be structural issues with this part of the building because the Applicant would have to remove certain support beams and other supporting material and improvements (refer to Exhibits A, B1, B2, and D). However, if allowed this variance, the Applicant would not have to remove said structural materials and supports. In addition, removing the said beams and other structural material would not be economically feasible for the owner, and thus would prohibit the applicant from redeveloping this portion of the Property. Thus, given all of the foregoing, and the current condition of the site, as acquired by the Applicant in good faith, this request is reasonable and without the variance would likely cause undue hardship to the property owner.

II. How the strict application of the provisions of the Zoning Ordinance would create undue hardship.

Response:

The subject Property was originally constructed in 1926 and utilized as a hotel. Most recently, the Property has been used as commercial office space. The Property is zoned CH, which allows residential units with a density of 12 units per acre. The City's Comprehensive Plan and accompanying design standards encourage an adaptive re-use of the Property. The market for commercial office space in this area is poor and overly saturated. There is also a need for additional residents in this area, especially those with disposable incomes. Thus, the Applicant properly evaluated a redevelop plan for a portion of the Property for residential uses. Pursuant to the Applicant's analysis for a portion of the site, it was determined that the Applicant may be able to develop by right 28 multifamily units with a minimum lot width of 18' (Exhibits B1,B2, and D) However, once the Applicant further analyzed the architectural and construction requirements for such a proposal, it was determined that "Exhibits B1, B2, and D" would likely cause structural challenges and require the Applicant to unnecessarily remove key structural(*) supports, materials and improvements. Thus, the Applicant reviewed a second proposal (Exhibit C) and this was to include only 22 multifamily units with 12 of those units at a minimum width of 14'-6", and 10 of those units at 18'-10", all as shown on the attached Exhibits. Thus, a variance in the lot minimum width under R-12 is necessary. Otherwise, the Applicant would be subject to an extreme modification of the structure, which could likely cause structural integrity challenges *(require removal of all structural floor elements and modifications to roof support structure). Further, if the Applicant was required to undertake such modifications, it would not be economically feasible for the Applicant to do so, and thus the Applicant would not be able to redevelop this section of the Property.

Thus, due to existing condition of the building on the Property within the area of the proposed renovations, the strict application of the ordinance would prohibit the owner from the reasonable and beneficial use of the property. The strict application of the ordinance would result in unnecessary or unreasonable hardship to the owner. The

subject property was purchased in good faith by the owner believing the current structure was suitable for the proposed use described herein.

III. What exceptional circumstances or conditions are applicable to the property, or to the intended use of the property that do not apply generally to other properties in the same zone or neighborhood?

The General Washington Executive Center is one of the most prominent properties on the Old Route 1 Highway District and along the Princess Anne Street corridor. Entirely unique in its architecture and four story scale, it stands apart from the "Machine Modern" style the rest of the corridor possesses. There are currently no existing renovation projects in the Old Route 1 Highway District addressing residential installations. Section 3.3.1 of the Design Guideline handbook for the Princess Anne Corridor clearly states that a project should "embrace opportunities for adaptive reuse of historic buildings", containing an illustration of the General Washington Executive as the clear example for this guideline. Converting the old medical facility in building C in to individual residential units will spearhead the corridor's rehabilitation effort s and set the standard for future rehabilitation projects. With only a few exterior alterations, the project will maintain its architectural integrity and only enhance the aesthetic beauty of Princess Anne Street.

Given the foregoing, the need for this variance is not shared generally by other properties. In fact, there are no similar uses (e.g. mix of commercial and residential) among other properties in this zoning area or surrounding neighborhood. Thus, we do not believe this type of specific request will be of a recurring nature and may be reasonably resolved through this application without the necessity of a general amendment to the zoning ordinance.

Further, the intended use of the Property with the proposed variance is not inconsistent or contrary to the spirit and purpose of the ordinance or City Comprehensive Plan.

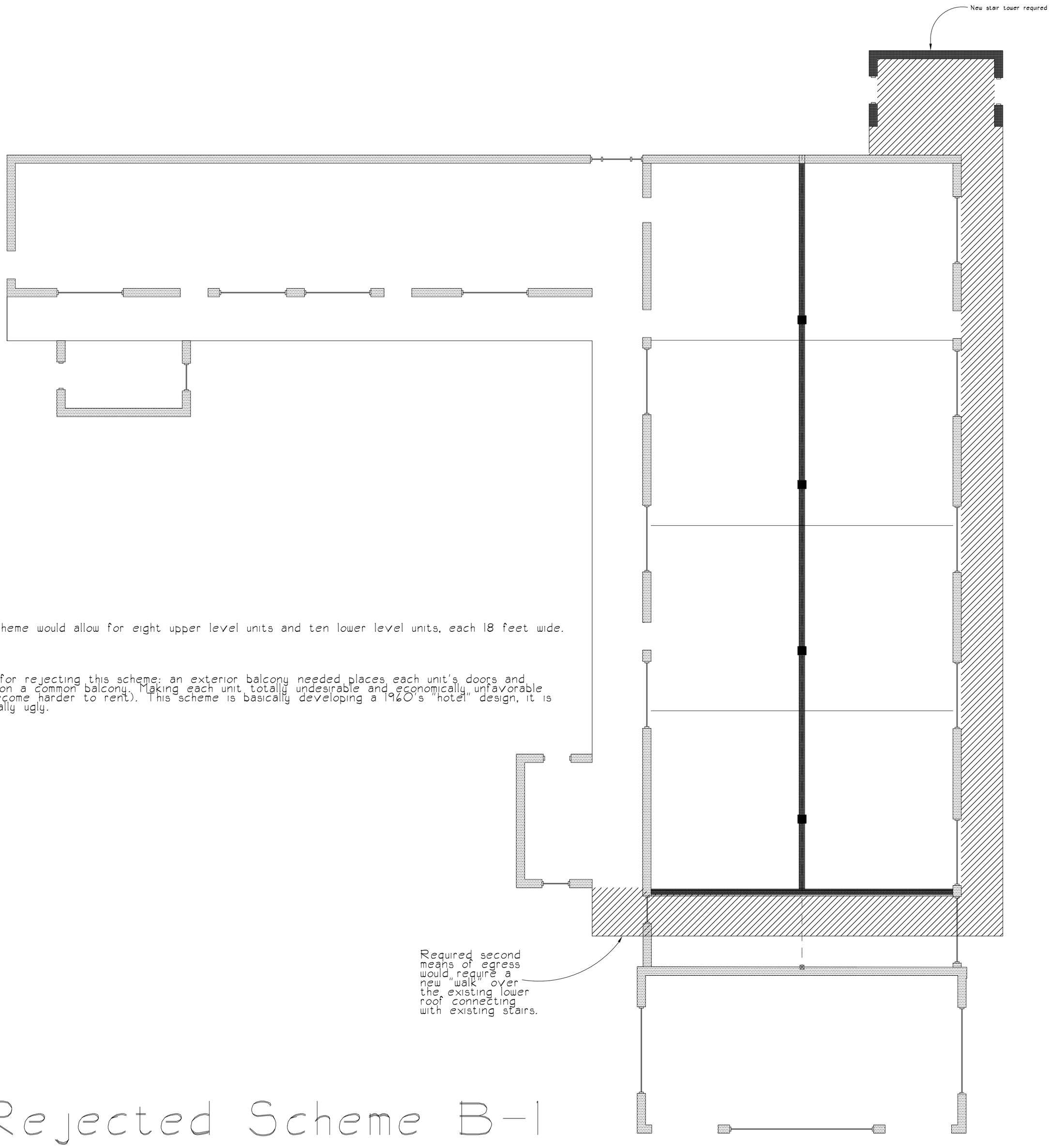
IV. How a variance will not be of substantial detriment to adjacent property, and the character of the district will not be changed thereby.

As a reminder, the Property is zoned CH. The CH district allows residential uses with a density of no greater than 12 units per acre. The proposed use is consistent with these requirements and the intent of the CH zoning district.

It is our opinion that a variance to the adaptive reuse of Property (at Building C location), as shown on the attached Exhibit, will not be of any substantial detriment to adjacent properties and the character of the district will only be strengthened by the project. New residential units will add a diverse and unique parameter to the corridor and implement a substantial contribution to the "old meets new" guideline that district

needs. The project will also eliminate its position in the real estate market of a Medical Facility, thus alleviating strain from that particular marketplace and no longer being in competition with surrounding buildings on the 2200-2216 block of Princess Anne Street. The project will enrich the community and meet the ever-growing need for new, modern housing while maintaining the architectural splendor of Downtown Fredericksburg.

Given the foregoing, it is our position that this variance request will not be detrimental to the public welfare or injurious to the property or improvements in the zoned area and neighborhood.



Note 1:
This scheme would allow for eight upper level units and ten lower level units, each 18 feet wide.

Reason for rejecting this scheme: an exterior balcony needed places each unit's doors and windows on a common balcony. Making each unit totally undesirable and economically unfavorable (they become harder to rent). This scheme is basically developing a 1960's "hotel" design, it is esthetically ugly.

Rejected Scheme B-1

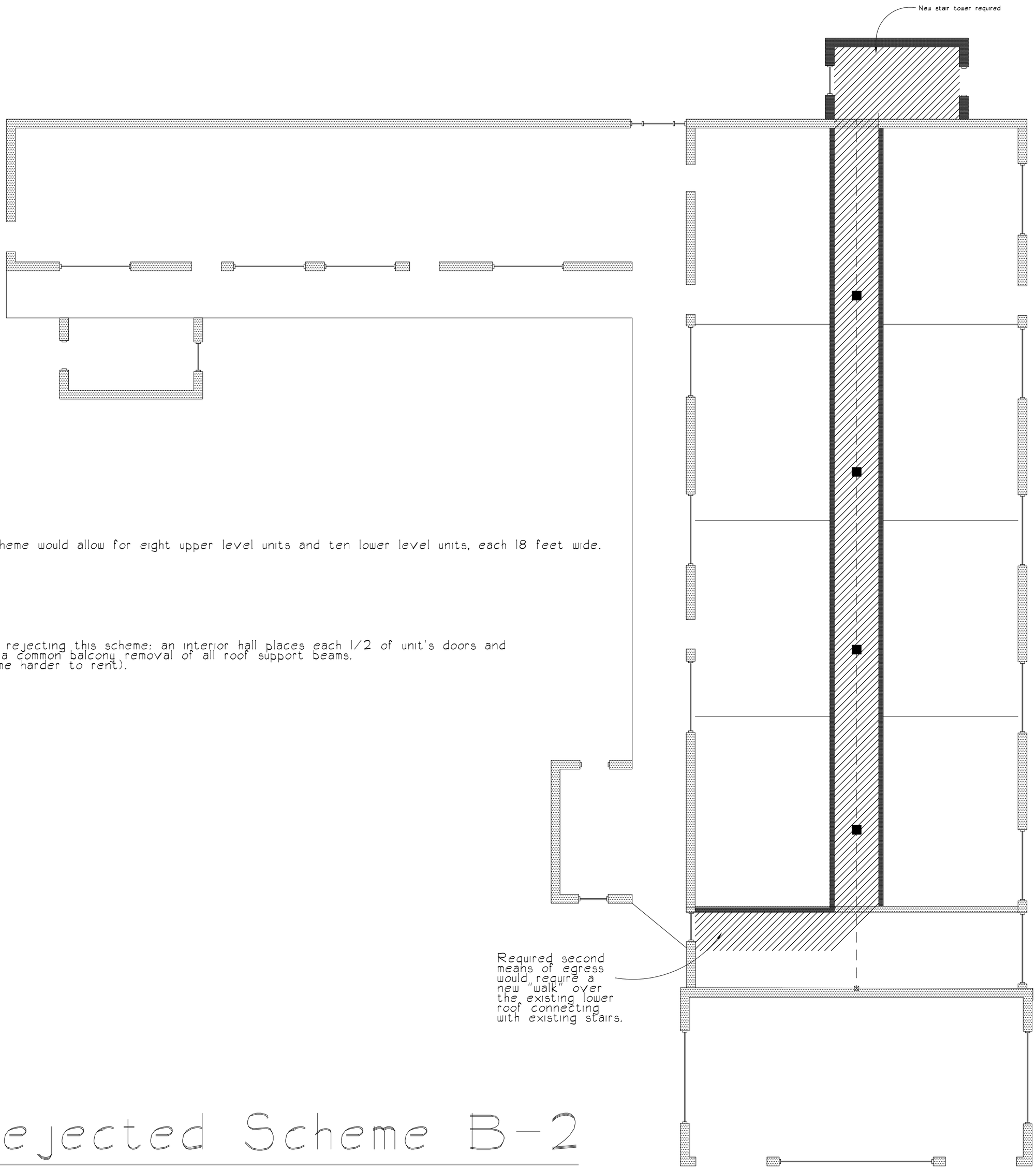
GPIN # 7779897284

GENERAL WASHINTON EXECUTIVE CENTER
BUILDING 'C'
2217 PRINCESS ANNE STREET

12-23-2015

JAMES O. McGHEE
ARCHITECTS, P.C.
600 CAROLINE STREET
FREDERICKSBURG, VIRGINIA 22401
Phone 540 371 1091 • Fax 540 371 5837

EXHIBIT B-1



Note 1:
This scheme would allow for eight upper level units and ten lower level units, each 18 feet wide.

Reason for rejecting this scheme: an interior hall places each 1/2 of unit's doors and windows on a common balcony removal of all roof support beams.
(they become harder to rent).
esthetical

Rejected Scheme B-2

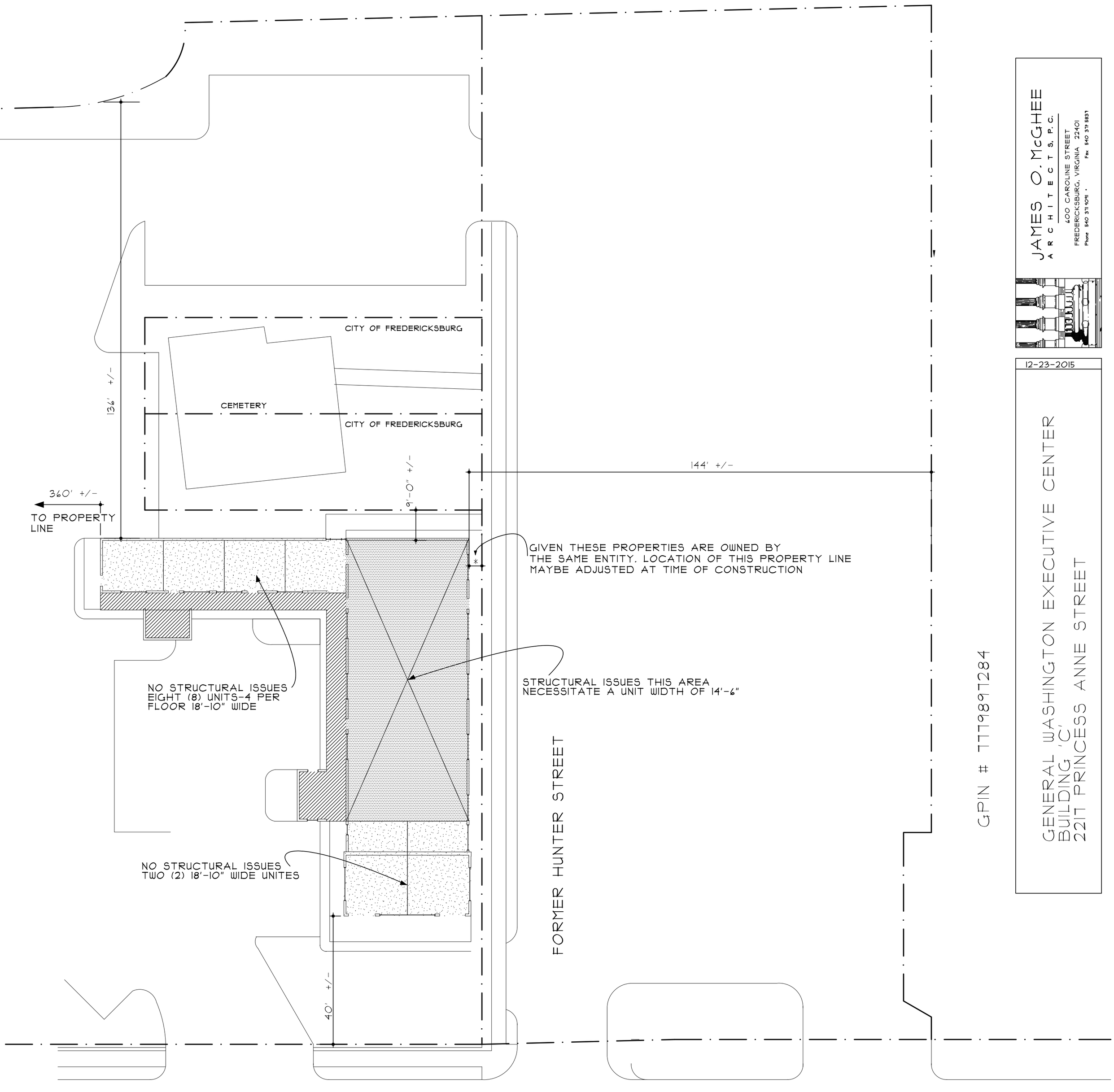
GPIN # 7779897284

GENERAL WASHINGTON EXECUTIVE CENTER
BUILDING 'C'
2217 PRINCESS ANNE STREET

12-23-2015

JAMES O. McGHEE
ARCHITECTS, P.C.
600 CAROLINE STREET
FREDERICKSBURG, VIRGINIA 22401
Phone 540 371 1091 • Fax 540 371 5837

EXHIBIT B-2



BUILDING 'C'

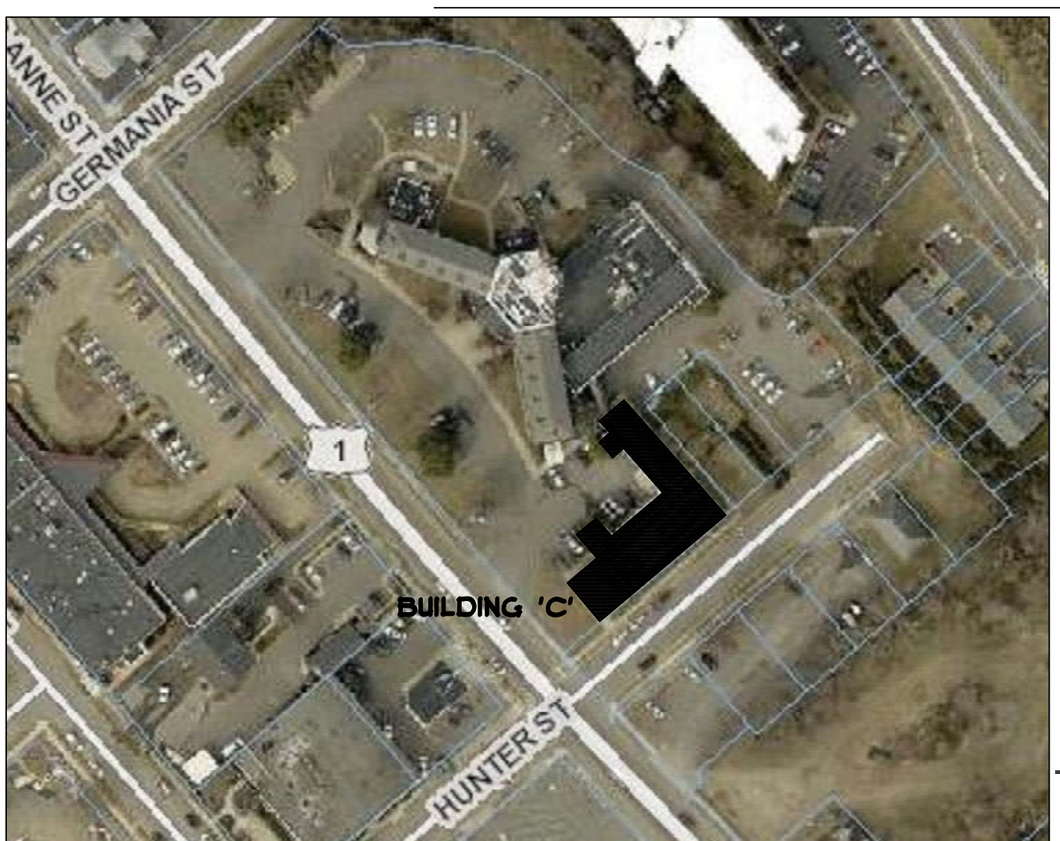
INFORMATIONAL SITE PLAN no scale

JAMES O. McGHEE
ARCHITECTS, P.C.
600 CAROLINE STREET
FREDERICKSBURG, VIRGINIA 22401
Phone 540 371 1091 • Fax 540 371 5831

12-23-2015

GENERAL WASHINGTON EXECUTIVE CENTER
BUILDING 'C'
2217 PRINCESS ANNE STREET

GPIN # 7779897284



SITE INFORMATION

AREA = 2.8 ACRES
CH ZONING
ALLOWABLE RESIDENTIAL UNITS @ 12 PER ACRE = 33.6
ALLOWABLE HEIGHT = 40 FEET

INFORMATION FOR THE PORTION OF EXISTING STRUCTURE IN THIS REQUEST (SHADED AREA ON PLAN)

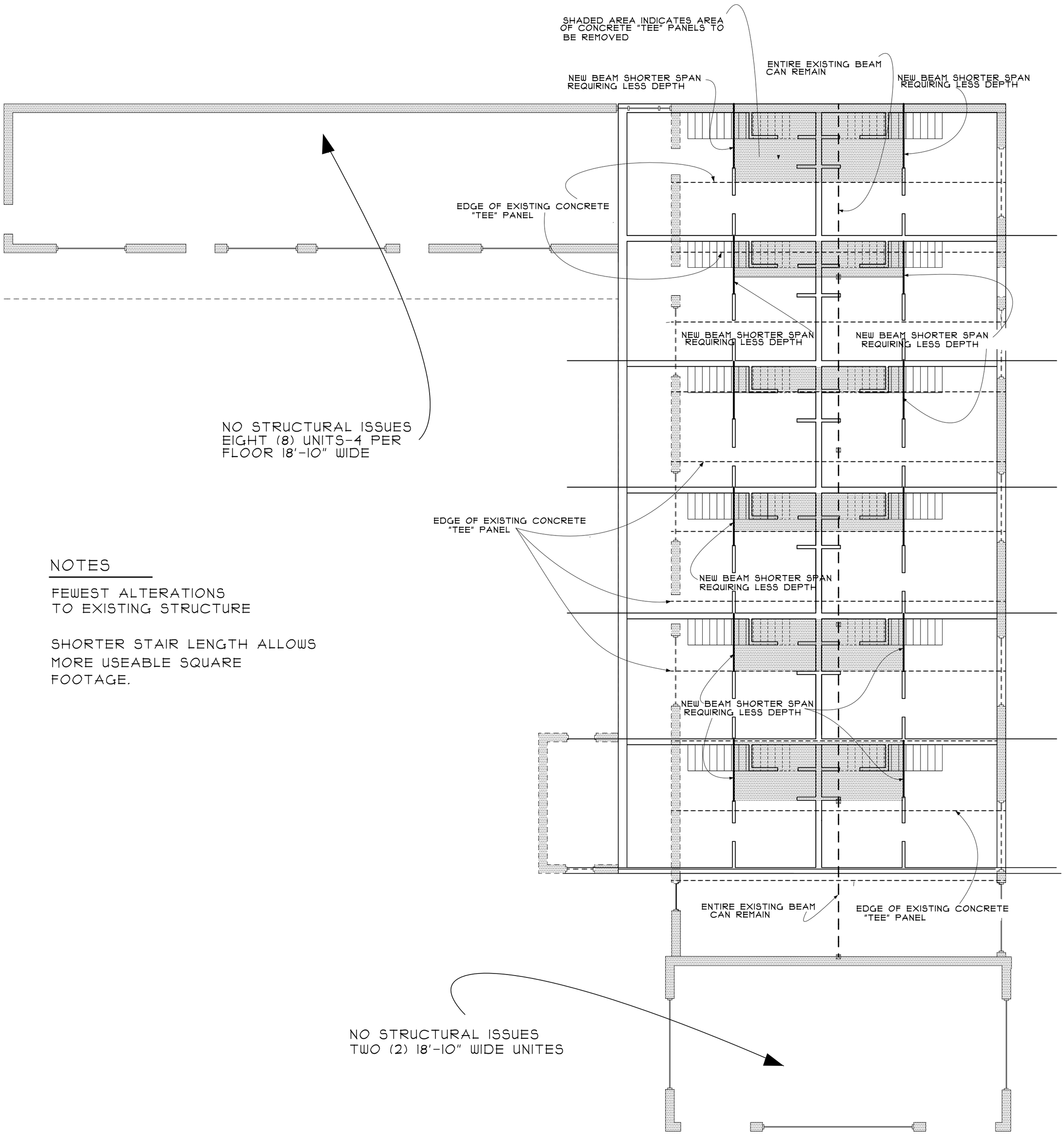
NUMBER OF RESIDENTIAL UNITS
WITHOUT APPROVAL = 28
WITH APPROVAL = 22

EXISTING HEIGHT = 22'
UNCHANGED

NOTE:
WITH APPROVAL

10 UNITS WILL BE 18'-10 WIDE
12 UNITS WILL BE 14'-6" WIDE

EXHIBIT A



NOTES

FEWEST ALTERATIONS TO EXISTING STRUCTURE

SHORTER STAIR LENGTH ALLOWS MORE USEABLE SQUARE FOOTAGE.

DIAGRAM OF REQUIRED STRUCTURAL ALTERATIONS

14' UNIT

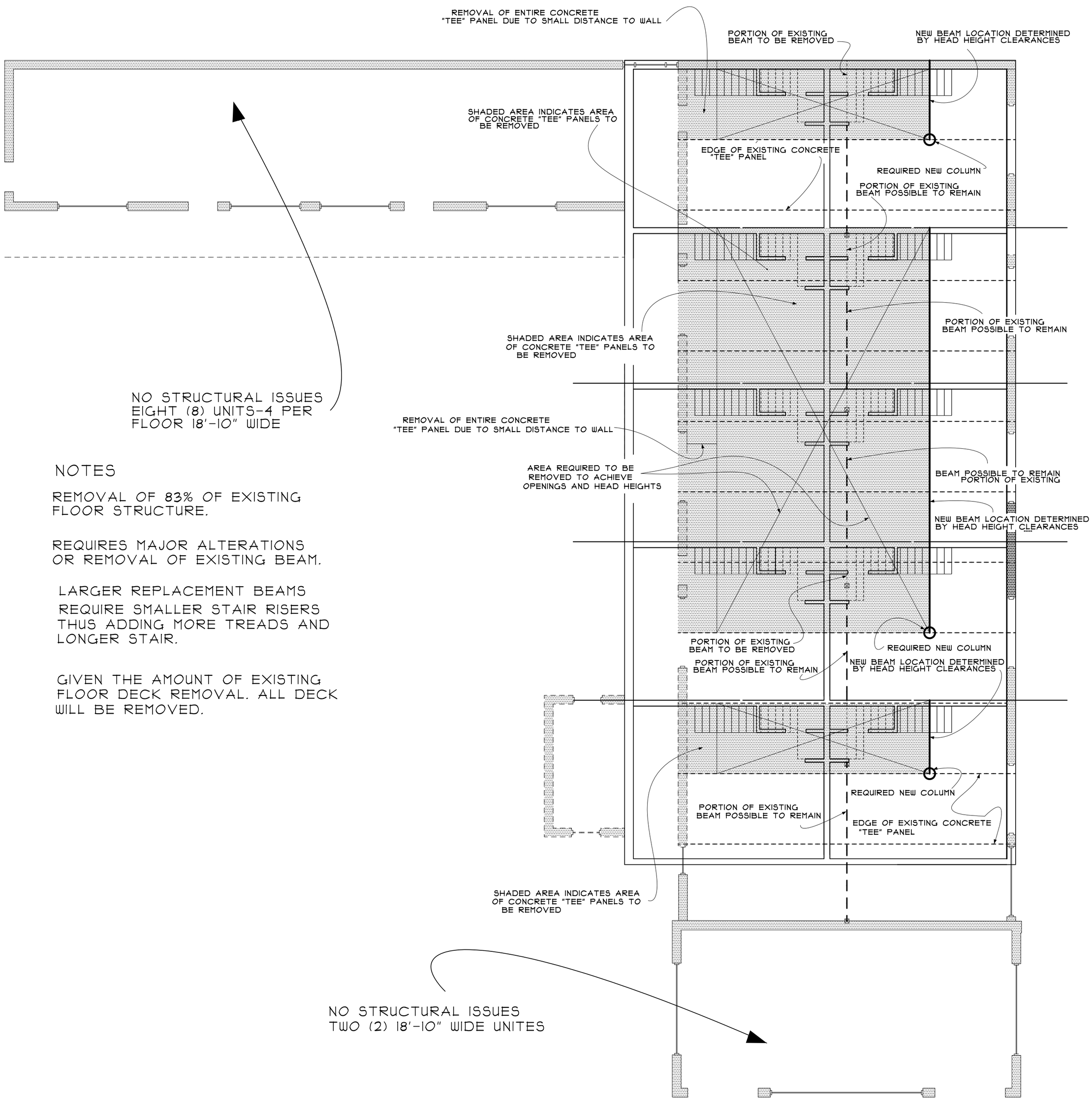
GPIN # 7779897284

GENERAL WASHINGTON EXECUTIVE CENTER
BUILDING 'C'
2217 PRINCESS ANNE STREET

12-23-2015

JAMES O. McGHEE
ARCHITECTS, P.C.
600 CAROLINE STREET
FREDERICKSBURG, VIRGINIA 22401
Phone 540 371 1091 • Fax 540 371 5837

EXHIBIT C



NOTES

REMOVAL OF 83% OF EXISTING FLOOR STRUCTURE.

REQUIRES MAJOR ALTERATIONS OR REMOVAL OF EXISTING BEAM.

LARGER REPLACEMENT BEAMS REQUIRE SMALLER STAIR RISERS THUS ADDING MORE TREADS AND LONGER STAIR.

GIVEN THE AMOUNT OF EXISTING FLOOR DECK REMOVAL. ALL DECK WILL BE REMOVED.

DIAGRAM OF REQUIRED STRUCTURAL ALTERATIONS

18' UNIT

GPIN # 7779897284

GENERAL WASHINGTON EXECUTIVE CENTER
BUILDING 'C'
2217 PRINCESS ANNE STREET

12-23-2015

JAMES O. McGHEE
ARCHITECTS, P.C.
600 CAROLINE STREET
FREDERICKSBURG, VIRGINIA 22401
Phone 540 371 1091 • Fax 540 371 5837

EXHIBIT D

MEMORANDUM

TO: Chairwoman Helen P. Ross and Board of Zoning Appeals members
FROM: Mike Craig, Zoning Administrator
DATE: February 12, 2016 for the February 22 meeting
RE: General Washington Executive Center, LLC (Owner) requests a variance from City Code section 72-31.5b requiring multi-family units to be a minimum of 18 feet in width in order to develop twelve 14 foot 6 inch units.

ISSUE

Should the BZA approve a variance permitting twelve 14 foot 6 inch wide multi-family units where 18 foot wide units are required at 2217 Princess Anne Street?

RECOMMENDATION

Deny the variance in accordance with the proposed Record of Decision attached to this memo. The application does not meet the statutory definition of a "variance," and the applicant has not demonstrated a "hardship." Instead, the request is based on the applicant's elective design choice for the conversion of an existing office building to multi-family residential use. The applicant may pursue this request through the legislative process.

BACKGROUND

2217 Princess Anne Street, known as the General Washington Executive Center, is a 2.8 acre parcel in the Princess Anne Street corridor that is generally flat and free of sensitive environmental features. The parcel is zoned Commercial Highway (CH) and contains two buildings. The primary building is a four story hotel dating to 1926 now used for offices. The other, called "Building C" by the Applicant, is a two story building located at the north-east corner of the Princess Anne Street and Hunter Street intersection. The building contains medical offices. Building C dates to 1950. The Applicant proposes to redevelop Building C from medical office into multi-family units.

Commercial Highway zoning permits a variety of residential and non-residential uses by-right including multi-family dwelling units. Multi-family development in the CH Zoning District shall conform to R-12 Zoning District dimensional standards in § 72-31.5.B[1] as shown here:

2217 Princess Anne Street (2.8 acres)		
Standard	**Multifamily**	**2217 Princes Anne Street By-Right**
Residential Density, Maximum	12 units / acre	**34 units**
Nonresidential FAR, Maximum	N/A	N/A
District Size, Minimum (acres)	5 (may reduce with SE)	N/A (existing zoning)
Lot Area, Minimum (square feet)	None	N/A
Lot Width, Minimum (feet)		
Interior Lot Corner Lot	Each unit shall maintain a minimum width of 18 feet	Each unit shall maintain a minimum width of 18 feet

[1] City Code § 72-32.4.C(1)

Front Setback, Minimum (feet)	25	25
Side Setback, Minimum (feet)	25	25
Rear Setback, Minimum (feet)	35	35
Setback from Other Districts, Minimum (feet)	40	40
Open Space Set-Aside, Minimum (%)	25%	25%
Height, Maximum (feet) *	50	40*

* Princess Anne Street Corridor Overlay limits height to 40'

The Applicant has provided several exhibits of alternatives with its application:

Exhibit B-1 shows 28 units that conform to the zoning. A balcony is added on one side of the building in order to provide access to some of the new units. The Applicant states that this concept was rejected because the proposal is "esthetically ugly" and the units would be "harder to rent."

Exhibit B-2 shows 28 units that conform to the zoning**.** A central hallway is added to the second story in order to provide access to the new units. The Applicant states that this concept was rejected because it would require modification of the roof support and for "esthetical" reasons.

Exhibit C shows 22 units. Ten units conform to the zoning but 12 of the units do not conform to § 72-31.5.B in that they are 14 foot 6 inches wide. A staircase would be added to each of the narrower apartments so that each unit would be two-story. The addition of the staircase requires removal of a portion of the floor structure between the first and second story of the building. Individual bearing walls and support beams have been added to each apartment unit to carry some of the load of the new floor structure.

Exhibit D shows 20 units. Ten of the units are proposed as 18 foot wide two-story efficiency apartments. A staircase would be added to each unit and would require removal of a portion of the floor structure between the first and second story of the building. The Applicant contends that putting walls at exactly 18 feet requires the removal of more floor area than proposed in Exhibit C. A single beam has been added spanning through all of the apartments in place of the smaller support beams shown in Exhibit C. The single beam permits a more open floor plan than what is shown in Exhibit C, but its height would affect clearance on the stairways, making the stairs longer, and thus would require the removal of some of the building's existing central support girder.

The Applicant states that requiring the apartments to be 18 feet wide requires "the Applicant to unnecessarily remove key structural supports, materials and improvements"[2]. The Applicant states that this additional cost associated with the modification of the structure constitutes an undue hardship. The Applicant has thus requested a variance from City Code § 72-31.5.B in order to construct 12 of the multi-family units 14 foot 6 inches wide.

[2] Application for Variance City of Fredericksburg, Virginia. December 28, 2015. Page 2.

VARIANCE ANALYSIS

City Code § 72-22.8 states that in order for a variance to be approved, the BZA must make certain findings in accordance with the Code of Virginia. The Code of Virginia states that the burden of proof is on the Applicant to prove by a preponderance of the evidence that the application meets the definition of a variance found in section § 15.2-2201 and the criteria stipulated in § 15.2-2309:

a. *§ 15.2-2201 defines a Variance in part as "a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure…"*

The proposed variance is from a regulation of the width of multi-family units. The Applicant has not met the burden of proof to show that the width requirement affects the shape, size, or area of a lot or parcel of land, or the size, height, area, bulk, or location of a building or structure. The request does not meet the definition of a variance.

b. *Under Code of Virginia § 15.2-2309.2 the application must meet one of two criteria. The first criteria states that "a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would":*

   - *{1}*[3] *unreasonably restrict the utilization of the property*

Building C is currently used as medical office. Medical office is a reasonable use of the property. The remainder of the property is in office use as permitted by CH zoning.

In addition, the variance application has two exhibits (B-1 and B-2) that show how Building C may be reasonably converted into as many as 28 single story multi-family units. Building C's footprint is 6% of the size of the entire site and its total floor area is 24% of the total existing building square footage on-site. Under the CH zoning, the site is large enough to permit the development of 34 multi-family units. Redeveloping Building C as 28 multi-family units would mean that 6% of the site or 24% of the existing building square footage on-site could be used as 82% of the permitted multi-family units on-site.

In addition, the Applicant could redevelop Building C into two-story units wider than 18 feet.

In addition, the parcel is not maximized. There is room on the site for building expansion (both vertical and horizontal), the building of new buildings, or the demolition of existing buildings to make room for more new construction.

§ 72-31.5.B does not prevent Building C's existing reasonable use, nor does it prevent a myriad of additional uses of the property. The Applicant has not shown through a preponderance of the evidence that § 72-31.5.B unreasonably restricts the utilization of the property.

[3] {numbers and brackets for clarity}

- *{2} that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance…":*

Building C was built in 1950. § 72-31.5.B was first adopted as § 78-309.(3) in 1984. The building's conditions predate the ordinance and, if they create an undue hardship, may be considered as permitting a variance. As such, the Applicant asserts that the structural condition of the property prevents it from complying with the 18 foot minimum required for multi-family dwelling units in the CH Zoning District.

The Applicant's structural analysis (Exhibits C and D) shows the conversion of one-story office units into two-story multi-family units. The City's Construction Plan Reviewer, Jeff Bragg, reviewed Exhibits C and D and noted that the structural issues are not caused by the 18 foot wide requirement in the zoning district. The structural issues are created by adding stairwells through the existing floor structure and are exacerbated by the open floor plan shown for each unit in Exhibit D. The conversion of one-story units to two-story units is not mandated by the zoning ordinance but is rather an elective design choice preferred by the Applicant. As stated by the Applicant in Exhibits B-1 and B-2, the Applicant can either build single story units on both floors or a single story of units on the ground floor without puncturing the structure of the building. The structural issues contemplated in Exhibit C and D are created by design choices, not by the zoning ordinance.

In cases including *Martin v. City of Alexandria* and *Packer v. Hornsby* the Virginia Supreme Court has routinely found that design choices do not make a hardship, especially where the project may be built in conformance with the zoning ordinance in another form on a lot[4].

c. *In addition to either {1} or {2}, § 15.2-2309.2 contains a second set of five additional criteria that all must be met in order for the Board of Zoning Appeals approve a Variance request. The criteria are similar to criteria established under the definition of a variance found in § 15.2-2201. Additional definitional criteria from § 15.2-2201 have been included as appropriate.*

1. *"that the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance."*

The request meets this criterion:
General Washington Executive Center was acquired in good faith. The buildings on the property were built prior to the adoption of the minimum width for multi-family units that was adopted in 1984.

2. *§ 15.2-2309.2 states that, "the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area" and § 15.2-2201 states that, "the character of the district will not be changed by the granting of the variance."*

This request does not meet this criterion:
The variance would change the type of multifamily dwelling unit permitted in the zoning district, but would not change the bulk or density of buildings on the overall lot. The change would not

[4] Kamptner, Greg. (2014). *Zoning Law for the Virginia Zoning Official. 13-10, attached.*

create an increase in trip generation or parking demand. The impact narrower units will have on the neighborhood is difficult to determine and should be evaluated in the context of a legislative process.

The Fall Hill Avenue Neighborhood Association has stated that they are against the variance request citing concerns about impacts on public facilities and changes to the character of the neighborhood.

3. *§ 15.2-2309.2 states that, "the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance" and § 15.2-2201 states that, "the hardship will not be shared generally by other properties;"*

The request does not meet this criterion:
Building C is a sixty-year old two-story office building. The structural conditions of Building C may be unique. However, there are several multi-story structures (office buildings, old hotels, and motels) scattered through the CH Zoning District that will have unique structural conditions as well. Absent a hardship, if a policy is to be implemented making redevelopment of older two-story structures easier than it should be legislated by the City Council through text or zoning map amendments.

4. *"the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property."*

The request meets this criterion:
The variance would not result in such change.

5. *"the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of §15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A 4 of § 15.2-2286 at the time of the filing of the variance application."*

The request meets this criterion:
Special Exceptions from bulk requirements are only supposed to be considered in the context of a special use permit, special exception for use, or conditional rezoning application. The request would not meet the criteria necessary for an Administrative Modification (in accordance with § 15.2-2286 A.4) either. However, the relief sought by the applicant is available through a zoning map amendment process, specifically, by an application for PD-MU as envisioned in the 2015 Comprehensive Plan.

CONCLUSION:
The Applicant has not proven through a preponderance of the evidence that the request meets the definition of a variance in the Code of Virginia § 15.2-2201. The request does not meet either of the two sets of criteria found in Code of Virginia § 15.2-2309.2 that must be met in order for a variance to be granted by the Board of Zoning Appeals. The variance request should be denied.

ATTACHMENTS:
1. Proposed Record of Decision
2. Excerpts from *Zoning Law for the Virginia Zoning Official*

CITY OF FREDERICKSBURG BOARD OF ZONING APPEALS

VARIANCE APPLICATION 2015-02
GENERAL WASHINGTON EXECUTIVE CENTER
2217 PRINCESS ANNE STREET

RECORD OF DECISION

The City of Fredericksburg Board of Zoning Appeals heard the above-referenced appeal at its meeting on February 22, 2016. After consideration of the record of the appeal, the Board makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

A. The subject property is identified as 2217 Princess Anne Street, in Fredericksburg, Virginia, or GPIN 7779-89-7284. The applicant is the owner of the property.

B. The property is approximately 2.8 acres in size, with relatively flat topography and no sensitive environmental features relevant to this application.

C. The property is zoned Commercial Highway (C-H).

D. The property is improved with two buildings, the General Washington Executive Center, and a building identified as "Building C."

E. The General Washington Executive Center is currently used for general office, and Building C is currently used for medical office. Both uses are permitted by-right in the CH Zoning District.

F. Building C is a two story cinderblock building, constructed in 1950, located on the southern portion of the lot, at the corner of Princess Anne Street and Hunter Street. Building C is approximately 12,200 square feet, with an "L" shape. The current units in Building C are one-story units with no interior vertical integration (stairways).

G. The C-H zoning regulations permit residential development, but require that it shall conform to R-12 zoning district dimensional standards. (City Code §72-32.4(C).) The R-12 zoning district dimensional standards are set forth in City Code §72-31.5(B), including a requirement that multi-family residential units shall maintain a minimum width of 18 feet. The dimensional standard for multifamily residential units was adopted in 1984.

H. Applicant proposes to convert Building C to multifamily residential use. Twelve of the proposed multifamily residential units are proposed to be 14' 6" in width and two-story. The remaining units are proposed to meet or exceed the 18 foot width requirement.

I. The proposed conversion of Building C to multi-family residential use presents the applicant with design challenges and multiple design options.

CONCLUSIONS OF LAW

1. The applicant has not carried its burden of proof that the proposed variance meets the definition of a variance in Code of Virginia 15.2-2201. Specifically, the proposed variance is from a regulation of the width of multi-family units. It does not regulate the shape, size, or area of a lot or parcel of land, or the size, height, area, bulk, or location of a building or structure.

2. The strict application of the terms of the zoning ordinance would not unreasonably restrict the use of the property.

3. The applicant has not carried its burden of proof of an undue hardship that is due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance. The applicant's claim of an undue hardship is grounded in the design issues that are typical when an older building is converted to a new use; or specifically, when a two-story, sixty-year old office building with one-story units is proposed for conversion to multi-family residential use with two-story units. The basis of the application is the applicant's elective design choice for the project.

4. The applicant acquired the property in good faith.

5. The applicant has not carried its burden of proof with respect to the impact of the granting of the variance on adjacent properties and nearby properties in proximity to the project. In the case of this particular application, which involves multiple design options, this inquiry would be better suited to the legislative process.

6. Building C is one of several ageing two-story buildings in the CH Zoning District that could be redeveloped into multi-family units. Structural challenges encountered during any potential renovation of these buildings will be of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning ordinance.

7. The granting of the variance would not result in a change of use that is not otherwise permitted on the property or a change in the zoning classification of the property.

8. The relief sought by the applicant is available through a zoning map amendment process, specifically, by an application for PD-MU zoning as shown on the 2015 Comprehensive Plan.

DECISION

The Fredericksburg Board of Zoning Appeals denies variance application 2015-02.

Date:_____ FREDERICKSBURG BOARD OF ZONING APPEALS

By:_____
Helen P. Ross, Chair

Zoning Law for the Virginia Zoning Official

Zoning Officials Certification Test Preparation Program

Charlottesville Omni Hotel
Charlottesville, Virginia

Greg Kamptner
Deputy County Attorney
County of Albemarle
June 12, 2014

© Greg Kamptner, 2014

13-615 Undue hardship not found

Following are brief summaries of cases in which an undue hardship was not found to exist. The Virginia Supreme Court's analysis in *Cochran/MacNeal/Pennington* will support a locality's reliance on any of the cases below. However, as noted in section 13-614, the standard under which these cases were decided required the applicant to show a demonstrable hardship *approaching confiscation*, a phrase that was deleted from Virginia Code § 15.2-2309(2) effective July 1, 2009 (see section 13-520). Despite this change in the State law, it does not appear that any of the cases below turned on whether the hardship approached confiscation or even something less than approaching confiscation but, instead turned on whether there was, in fact, an undue hardship at all.

- *Setback*: Owners of a 36' by 44' lot sought variances to reduce required side and rear yard setbacks; in prior applications, city staff described the lot as "level," "large," "buildable," and "not unique," with "characteristics . . . similar to other lots within this section of Prince Street" and that granting the variance would be "detrimental to the adjacent property"; city staff also stated that a house in compliance with setbacks could be built; in most recent application for side (3' variance) and rear (13'variance) yard setbacks, city staff described the application as a "good development" compatible with its historic context, was unique because the historic overlay district regulations designed to apply to old building, lot shallower than 2/3 of lots in area, variances allowed for "more historically appropriate width and depth." The Virginia Supreme Court rejected the argument that deletion of the phrase "approaching confiscation" from the applicant's burden to show a "clearly demonstrable hardship" now authorized BZA's to grant variances in cases previously not authorized because the change to the law did not change the findings required for the BZA to grant a variance; the Court also rejected the argument that a variance was justified because the lot was exceptionally wide and shallow compared to other lots in the area because one-third of lots in the area were even more shallow, yet they complied with the zoning ordinance; lastly, the Court rejected the argument that the lot was undevelopable without a variance on the theory that alternative designs could not comply with the base and historic overlay district regulations because the applicants admitted that they could submit a design that complied with the zoning regulations, it was "mere speculation" that the BAR would not approve an alternative design, and there was no factual support for the claim that the condition was unique because all lots in the area had to comply with the regulations. *Martin v. City of Alexandria*, 286 Va. 61, 743 S.E.2d 139 (2013) (applying charter provisions virtually identical to Virginia Code § 15.2-2309(2)).

- *Setback*: Owner sought multiple variances from overlapping setbacks imposed by the county's zoning ordinance (including those implementing the Chesapeake Bay Preservation Act) on 4 out of 5 lots in a 6.594 acre purported subdivision recorded soon after the owner purchased the property in 2004, and long after the setback regulations were imposed; without the variances the 4 lots were unbuildable; no undue hardship existed because the owner could have treated the property as a single 6.594 acre parcel and constructed a single residence on the property on that part which was not subject to the overlapping setbacks. *Cherrystone Inlet, LLC v. Board of Zoning Appeals of Northampton County*, 271 Va. 670, 628 S.E.2d 324 (2006).

- *Setback*: Owner sought variance from setback to expand the existing house closer to ocean; no hardship because expansion could be constructed on other side of house without violating the setback requirement. *Packer v. Hornsby*, 221 Va. 117, 121-122, 267 S.E.2d 140, 142 (1980) ("proximity to the ocean is doubtless a 'privilege or convenience' coveted by every homeowner along the beach").

- *Setback*: Owner sought variance from setback so house could be constructed in the position desired by owner; no hardship because the house could be constructed without variance by shifting position of house. *Board of Zoning Appeals of City of Virginia Beach v. Nowak*, 227 Va. 201, 205, 315 S.E.2d 221, 223 (1984) ("to grant him a variance under these circumstances would bestow upon him a 'special privilege or convenience'").

- *Setback*: Owner sought variance from setbacks to allow a pier to be constructed on his property over wetlands, but the inability to build a pier did not leave the property with no reasonable beneficial use since there was already a single family residence on the property and no zoning regulation interfered with that use. *Gardner v. Board of Zoning Appeals and Kim*, 77 Va. Cir. 296 (2008) (noting that the BZA's concerns that, without a variance,

Minutes
Board of Zoning Appeals

November 16, 2015
Council Chambers, City Hall
Fredericksburg, Virginia

MEMBERS PRESENT	MEMBERS ABSENT	STAFF
Helen P. Ross, Chair	Brian Raska	Mike Craig, Zoning Administrator
Jay Jarrell III, Vice-Chair	Matthew Muggeridge	Rob Eckstrom, Assistant City Attorney
Beatrice Paolucci	Richard Conway, Alternate	Phaun Moore, Secretary

Ms. Ross called the meeting to order at 4:01 p.m.

OPENING REMARKS

Ms. Ross determined that a quorum was present and public notice requirements had been met.

DISCLOSURE OF EX PARTE COMMUNICATIONS

Ms. Ross asked if any Board member had engaged in *ex parte* communications on any item before the Board.

Ms. Paolucci said that after the September 21, 2015 meeting, she had run into Nancy Collins at the grocery store. Ms. Paolucci said that she thanked Ms. Collins for attending the meeting, but they did not discuss the case.

DISCLOSURE OF CONFLICTS OF INTEREST

Ms. Ross asked if any Board member had any conflicts of interest on any item before the Board. No one indicated that they had any conflicts of interest.

APPROVAL OF AGENDA

There were no additions or changes to the agenda.

Ms. Paolucci made a motion to accept the agenda as presented. Mr. Jarrell seconded. The motion carried unanimously.

PUBLIC HEARING ITEMS

1. V15-01: Mr. and Mrs. Strentz-McLaughlin – (owner) requests a Variance to allow a six foot high fence (including two feet of lattice work at the top) within the front yard along Littlepage Street at 814 Cornell Street (GPIN 7779-84-5870) in the R-4 Residential Zoning District. The Unified Development Ordinance limits fence height to a maximum of four feet in a front yard. 814 Cornell Street is a corner lot with front yards along both Cornell and Littlepage Streets.

Mr. Craig pointed out that there were only three members of the Board present and said that any decision made would require a unanimous vote.

Mr. Jarrell raised a point of order. He said that the BZA had previously stated that when there were only three members present, the Board could offer the applicant the opportunity to postpone to a later date when more members could be present.

The applicants' attorney, Jeannie P. Dahnk, commented that they had not been notified that the Board was not in compliance.

Mr. Jarrell clarified that the Board only needs three members present for a quorum. He explained that as a courtesy to Mr. and Mrs. Strentz-McLaughlin, the Board was offering them the opportunity to postpone, but the Board was not required to offer that option.

Ms. Dahnk had a brief discussion with Mr. and Mrs. Strentz-McLaughlin and said that they would like to postpone the hearing.

It was decided that both the City and the applicant would present their case so that anyone that wished to make public comment would be able to fully understand both sides. The Board would then continue the meeting and public hearing on Tuesday, January 5, 2016.

Mr. Craig presented his case.

Mr. Jarrell questioned the increased number of fences not in compliance.

Ms. Paolucci asked that a breakdown of permitted/not permitted fences be provided at the January 5, 2016 meeting. Mr. Craig agreed.

Ms. Dahnk presented her case.

Ms. Ross asked if there was any public comment.

Richard Hagenlocker – 810 Cornell Street spoke in favor.
Elsie Hagenlocker – 810 Cornell Street spoke in favor.
Leslie Leahy – 1106 Littlepage Street – spoke in favor.
Nancy Collins – 1109 Littlepage Street – spoke in favor.
Georgia Strentz – 922 grove Avenue – spoke in favor.
Ms. Ross reminded everyone that the public hearing would continue on January 5, 2016.

REVIEW OF MINUTES

The following corrections were made to the meeting minutes from September 21, 2015:

Mr. Jarrell said that the description for the public hearing item was incorrect. It was an appeal, not a variance.

Ms. Ross commented that on page 3, Ms. Paolucci's name was misspelled.

STAFF / BOARD COMMENTS

Ms. Paolucci made a motion to adjourn. Mr. Jarrell seconded. The motion carried unanimously.

Meeting adjourned at 5:01 p.m.

_____

Helen P. Ross, Chair

Minutes
Board of Zoning Appeals

January 5, 2016
Council Chambers, City Hall
Fredericksburg, Virginia

MEMBERS PRESENT	MEMBERS ABSENT	STAFF
Helen P. Ross, Chair	Jay Jarrell III, Vice-Chair	Mike Craig, Zoning Administrator
Beatrice Paolucci	Brian Raska	Kathleen Dooley, City Attorney
Matthew Muggeridge		Phaun Moore, Secretary
Richard Conway, Alternate		

Ms. Ross called the meeting to order at 4:00 p.m.

OPENING REMARKS

Ms. Ross determined that a quorum was present and public notice requirements had been met.

DISCLOSURE OF EX PARTE COMMUNICATIONS

Ms. Ross asked if any Board member had engaged in *ex parte* communications on any item before the Board. No one indicated they had participated in any *ex parte* communications.

DISCLOSURE OF CONFLICTS OF INTEREST

Ms. Ross asked if any Board member had any conflicts of interest on any item before the Board. No one indicated that they had any conflicts of interest.

APPROVAL OF AGENDA

There were no additions or changes to the agenda.

Ms. Paolucci made a motion to accept the agenda as presented. Mr. Muggeridge seconded. The motion carried unanimously.

PUBLIC HEARING ITEMS

1. V15-01: Mr. and Mrs. Strentz-McLaughlin – (owner) requests a Variance to allow a six foot high fence (including two feet of lattice work at the top) within the front yard along Littlepage Street at 814 Cornell Street (GPIN 7779-84-5870) in the R-4 Residential Zoning District. The Unified Development Ordinance limits fence height to a maximum of four feet in a

front yard. 814 Cornell Street is a corner lot with front yards along both Cornell and Littlepage Streets.

The applicants were not present.

Ms. Ross stated that the applicants had filed an appeal with the Circuit Court regarding the BZA's decision on September 21, 2015 and the City Attorney recommended that the Board table the variance application until the court case had been resolved.

Mr. Conway made a motion to table the variance application until the Circuit Court had ruled on the disposition.

Ms. Paolucci asked for clarification of whether to defer or table the variance application.

Ms. Dooley explained that due to the court case there would be no definite time frame if the variance application was deferred, and said that tabling it would be more appropriate. Ms. Dooley said that Ms. Dahnk, the applicants' attorney, concurred with that decision.

Ms. Paolucci seconded the motion to table the variance application. Motion carried unanimously.

REVIEW OF MINUTES

Ms. Paolucci made a motion to approve the corrected minutes from September 21, 2015. Mr. Conway seconded. Motion carried unanimously.

Ms. Paolucci made a motion to postpone review of the minutes from November 16, 2015, since Mr. Jarrell was not present. Mr. Conway seconded. Motion carried unanimously.

STAFF / BOARD COMMENTS

Mr. Craig informed the Board that there would be a public hearing for a new variance application on January 25, 2016

Meeting adjourned at 4:21 p.m.

_____

Helen P. Ross, Chair