

**CITYOF ROCKVILLE
COMMUNITY PLANNING & DEVELOPMENT SERVICES DEPARTMENT
STAFF REPORT**

TO: Planning Commission

FROM: Jim Wasilak, AICP, Chief of Planning

PLANNER: Deane Mellander, Zoning Administrator

DATE: September 17, 2010

SUBJECT: Zoning Text Amendment TXT2010-00228

RECOMMENDATION: Denial of the proposed text amendment.

REQUEST: The applicant, William A. Pumphrey, proposes to amend the text in Section 25.08.05 of Article 8 of the Zoning Ordinance to allow for the expansion of parking in connection with a nonconforming use (funeral home; see Attachment 1). The applicant owns the funeral home at the corner of West Montgomery Avenue and Williams Street.

RELEVANT ISSUES:

- Expansions of nonconforming uses are generally discouraged.
- The parking lot expansion may have an adverse impact on the adjoining residential properties.

PREVIOUS RELATED ACTIONS: The current R-90 Zone on the property was confirmed by the Mayor and Council as part of the most recent comprehensive zoning. The funeral home has been a nonconforming use since zoning was initially enacted in 1932.

Text Amendment T-89-71: Request - expansion of parking in connection with a nonconforming use is not an expansion of the nonconforming use. Withdrawn by applicant 11/23/71.

Text Amendment T-103-72: Request - expansion of parking in connection with a nonconforming use is not an expansion of the nonconforming use. Denied April 30, 1973.

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ANALYSIS: The text amendment proposed by the applicant would add a new subsection d. to Section 25.08.05, Nonconforming Uses, that would read as follows:

d. Where a nonconforming use in a Single Dwelling Unit Residential Zone has been in continual existence on a lot since prior to August 3, 1932, off-street parking for the nonconforming use may be altered, expanded or enlarged on the lot and/or on an adjacent lot in accordance with the requirements of Article 16 and the Landscape, Screening and Lighting Manual.

A nonconforming use is a use that was legal when established, but is no longer allowed as a result of subsequent zoning actions. In the case of the funeral home, the use has not been allowed in a residential zone since zoning was established in 1932 (hence the date in the proposed text amendment).

It is the nature of nonconforming uses that, although permitted to continue operating subject to limitation, they should eventually cease to exist. In the case of the Pumphrey's site, the use has been in existence for more than 70 years as a nonconforming use. The zoning ordinance states that any nonconforming use that ceases operation for more than three months has lost its nonconforming status. From that point forward, only uses allowed in the zone may be permitted on the site.

Funeral homes are currently allowed as a conditional use in all of the mixed-use zones. The condition limits cremations only to those funeral homes that performed cremations as of March 16, 2009, the effective date of the ordinance.

PARKING: The intent of the text amendment is to facilitate the continuation of the nonconforming use by expanding the off-street parking onto the adjoining lot at 304 West Montgomery Avenue. Currently, the funeral home has only 17 off-street parking spaces with access off of Williams Street, and therefore constitutes a development standards nonconformity. Information supplied by the applicant indicates that under the current zoning requirements, the use requires 52 spaces. The parking requirement break-down is as follows:

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Assembly area – 2,198 sq. ft. @ 1 space/50 sq. ft. = 44 spaces
Business vehicles – 2 = 2 spaces
Employees – 6 @ 1 space per employee = 6
Total Parking Required = 52

A preliminary site plan provided by the applicant (not binding for purposes of the text amendment; Attachment 2) proposes a total of 49 spaces on the two lots (47 surface spaces plus two in the existing garage). While this does not meet the standards of the ordinance, it does reduce the degree of development standards nonconformity.

The vacant lot at 304 West Montgomery once had a house on it, built at about the same time in the early 1900's as the Pumphrey house. The house appears on a 1960 Sanborn insurance map, but has since been demolished. It does not appear on the 1978 topographic maps, so the demolition occurred sometime between the mid-1960's and 1970's.

There have been periodic complaints from the neighborhood about overflow parking on the local streets in the vicinity of the funeral home. The text amendment is intended, in part, to address this issue.

STAFF RECOMMENDATION: The staff recommends that the proposed text amendment be denied. The proposal will have the effect of perpetuating a nonconforming use in a residential zone. The intent of the code is for nonconforming uses to ultimately cease to exist. In this case, it effectively expands the commercial use, i.e, the parking lot, onto another residential property.

If the Planning Commission decides to recommend approval of the text amendment, the staff then recommends that the language be revised to limit the applicability only to nonconforming uses in the R-90 zone that were in existence at the time zoning was applied in the City in 1932. The language as currently proposed by the applicant would cover a nonconforming use in any of the single unit detached zones (R-60, R-75, R-90, R-150, R-200 and R-400). Limiting the applicability to the R-90 Zone and assuring that the property had to be in the City in 1932 should be sufficient limits.

In addition, allowing parking on an adjoining lot violates the provisions of Section 25.16.04.a, which requires all off-street parking to be located on the same record lot as the use being served. Staff recommends that if the Planning

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Commission decides to recommend approval of this text amendment, the language be amended to require compliance with Section 25.16.04.a. This will require the Pumphrey property to be resubdivided in order to combine the two lots into one if the owner wants to locate parking on the adjoining lot.

The staff recommends that if the Planning Commission were to recommend approval of the proposed text amendment, the language should be revised to read as follows:

Where a nonconforming use has been in continual existence in the R-90 Zone within the City since prior to August 3, 1932, off-street parking for the nonconforming use may be altered, expanded or enlarged in accordance with the requirements of Article 16 and the Landscaping, Screening and Lighting Manual.

MASTER PLAN RECOMMENDATION: The master plan for this area recommends single unit detached residential development. The recommended zoning is the R-90 Zone. The R-90 Zone was confirmed by the most recent comprehensive zoning, MAP2009-00105, adopted March 9, 2009. As discussed above, the subject property has been a nonconforming use since zoning was initially adopted in 1932. Subsequent zoning actions and master plans have not altered the status of this property.

PUBLIC OUTREACH: The applicant has sent a notice (Attachment 3) to notify all addressees within 500 feet of the applicant's property. Notice has also been sent to the West End Civic Association via e-mail, by mail from the applicant, and has been disseminated via the neighborhood listserv. The text amendment application has also been posted on the City's web site.

For text amendments, the zoning ordinance only requires notice of the public hearing to be posted in a newspaper of general circulation for 2 weeks prior to the public hearing before the Mayor and Council. Other notices are optional.

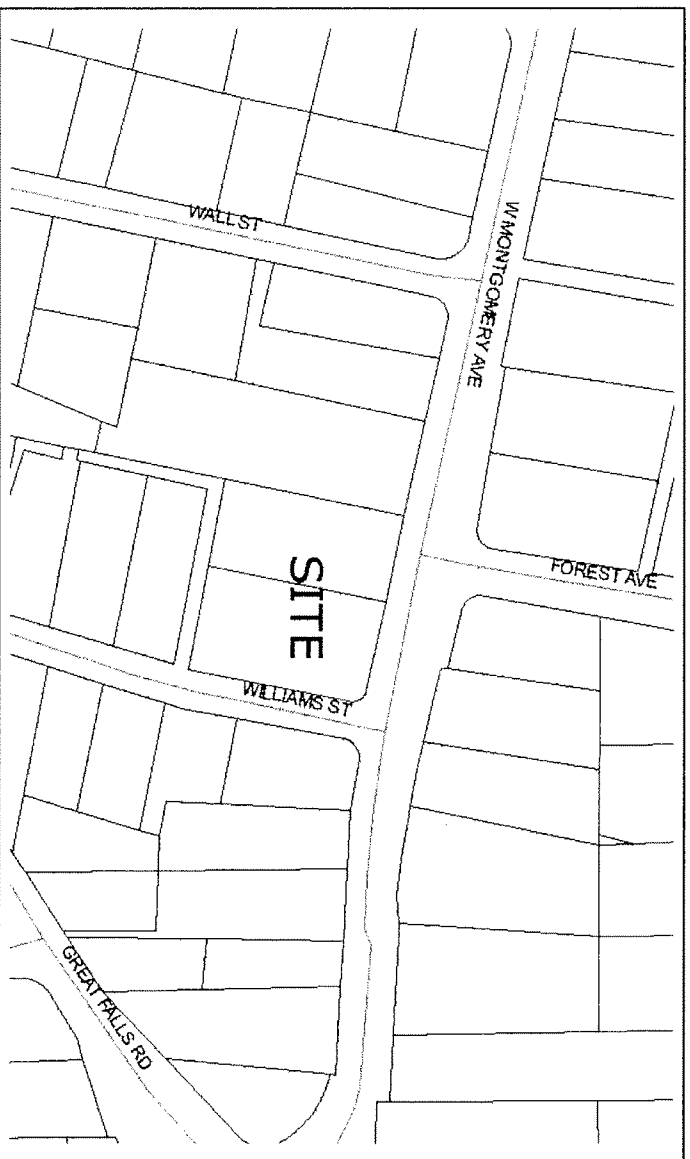
PUBLIC RESPONSE: We have received a letter in opposition to the proposed text amendment from Stanley Abrams, an attorney representing Mr. and Mrs. Bowen, who live in house next to the vacant lot (310 West Montgomery Avenue; see Attachment 4).

CONCLUSION: The staff recommends **denial** of the proposed text amendment. The staff position is that the proposed text amendment is contrary to the intent of

the ordinance to generally discourage nonconforming uses and not allow them to operate indefinitely. Approval would effectively perpetuate and expand this use. If the Commission considers supporting the proposal, the staff recommends that the language be revised to limit the applicability only to the R-90 Zone, and only permit off-street parking in compliance with Section 25.16.04.a. In the case of the Pumphrey's site, this would require consolidation of the two lots.

Attachments:

1. Text Amendment Application
2. Preliminary site plan
3. Notice mailed by the applicant
4. Letter of July 26, 2010 from Stanley Abrams



Application is hereby made with the Rockville Mayor and Council for Approval of a change in the text of the Zoning and Planning Ordinance of Rockville, Maryland.

Page 4 of Article 8 _____ Article 08 _____ Section 05 _____

FROM: Which reads as follows b. Termination _____

TO: Reads as follows _____

b. c. Termination.

d. Additional Off-Street Parking - Where a nonconforming use in a Single Dwelling Unit

Residential Zone has been in continual existence on a lot since prior to August 3, 1932, off-street

parking for the nonconforming use may be altered, expanded or enlarged on the lot and/or on an adjacent lot in accordance with the requirements of Article 16 and the Landscaping, Screening and Lighting Manual.

By: William A. Rayburn
(Signature of Applicant)

Subscribed and sworn before this 20th day of May, 2010

My Commission Expires Diana S. Thomson

Notary Public

Commission expires 3/1/11

The following documents are furnished as part of the application:

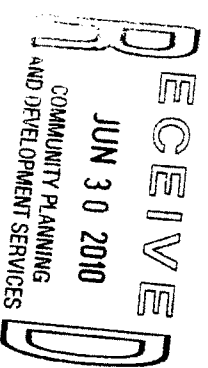
A Complete Application

Filing Fee

Comments on Submittal: (For Staff Use Only)

TXT

ATTACHMENT TO APPLICATION
TO THE CITY OF ROCKVILLE FOR A
TEXT AMENDMENT TO THE ZONING ORDINANCE



Applicant: _____

The applicant proposes to amend Chapter 25 of the Rockville City Code, otherwise known as the "Zoning Ordinance of the City of Rockville" which was adopted on December 15, 2008, and with an effective date of March 16, 2009, to allow alteration or expansion of off-street parking for certain non-conforming uses.

NOTE:

[Brackets] indicate material proposed to be deleted.

Underlining indicates material proposed to be added.

* * * indicates text not affected by the proposed text amendment

Article 10 – Single Dwelling Unit Residential Zones

* * *

Sec. 25.10.10 – Nonconformities

All nonconforming uses and structures within the Single Dwelling Unit Residential Zones must comply with the provisions of Article 8 of this Chapter.

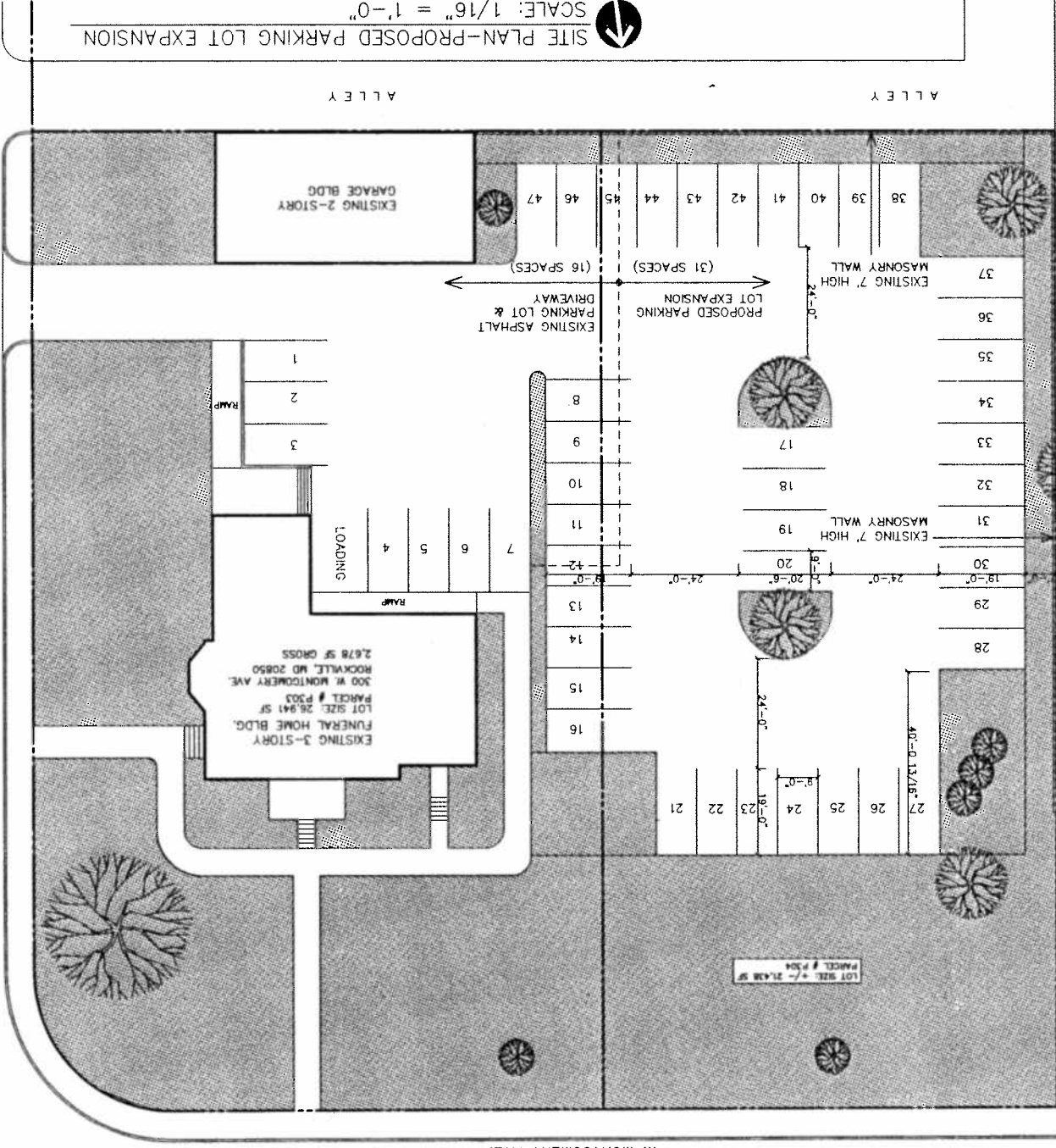
Sec. 25.08.05 – Nonconforming Uses

* * *

bc. Termination

d. Where a nonconforming use in a Single Dwelling Unit Residential Zone has been in continual existence on a lot since prior to August 3, 1932, off-street parking for the nonconforming use may be altered, expanded or enlarged on the lot and/or on an adjacent lot in accordance with the requirements of Article 16 and the Landscape, Screening and Lighting Manual.

EXISTING PRIVATE DWELLING
PARCEL # P305



SCALE: 1/16" = 1'-0"
SITE PLAN-PROPOSED PARKING LOT EXPANSION

W. MONTGOMERY AVE.

WILLIAMS STREET

ALLEY

ALLEY

LOT SIZE = 21,438 SF
PARCEL # P304

EXISTING 3-STORY
FUNERAL HOME BLDG.
LOT SIZE: 26,941 SF
PARCEL # P303
300 W. MONTGOMERY AVE.
HOOKEVILLE, MD 20850
26,719 SF GROSS

EXISTING 2-STORY
GARAGE BLDG.

EXISTING ASPHALT
PARKING LOT &
DRIVEWAY (16 SPACES)

PROPOSED PARKING
LOT EXPANSION
(31 SPACES)

EXISTING 7' HIGH
MASONRY WALL

EXISTING 7' HIGH
MASONRY WALL

LOADING

RAMP

RAMP

RAMP

**NOTICE OF FILING OF
ZONING ORDINANCE
TEXT AMENDMENT TXT2010-00228**

To Interested Parties:

Please be advised that a Zoning Ordinance text amendment application (TXT2010-00228) has been filed with the City of Rockville by Pumphrey Funeral Home.

This text amendment proposes to allow expansion of parking in connection with a nonconforming use in a Single Unit Residential Zone, where the nonconforming use has been in continual existence since prior to August 3, 1932.

You may review the language of this text amendment at the City's website at:
<http://www.rockvillend.gov/zoning/index.html>.

The tentative schedule for review and action on TXT2010-00228 is as follows:

Wednesday, September 29, 2010 - Review and Recommendation by the Planning Commission

Monday, October 18, 2010 - Public Hearing before Mayor and Council

Monday, November 8, 2010 - Discussion and Instruction by Mayor and Council

Monday, November 22, 2010 - Introduction of Ordinance

Monday, December 6, 2010 - Adoption of Ordinance

Interested parties may submit comments for the public record any time up until the close of the Mayor and Council public hearing. You may also appear and testify at the Planning Commission meeting as well as the Mayor and Council public hearing. Please note that the schedule listed above may change during the course of the process. Please check the City website for any updates, or you may contact the Community Planning and Development Services department at 240-314-8200 and ask for zoning information.

Text Amendment App. TX12010-00228
Pumphrey Funeral Home – Alpha Notice List
Tentative Schedule for review and action.

| | | | | | |
|--------------|-----------------------------------|--------------------|-----------------------------|-----------------|-------|
| AKHLAGHI | AKHLIGHT, HASSAN & | MANZAR HONARRKAR | 6 THOMAS ST | ROCKVILLE | 20850 |
| BEJ | THOMAS & MARYAN BEGINES, ET AL | | 2120 10TH ST NW | WASHINGTON | 20001 |
| BERNSON | JIANWEI BEI & QI WEN XU | | 113 AULTJUN WIND WAY | ROCKVILLE | 20850 |
| BERNARDIN | WILLARD BERNARDIN & | BETTY K K MA | 20 THOMAS ST | ROCKVILLE | 20850 |
| BERRY | JOHN W & M J BERRY | | 10908 BROAD GREEN TER | POTOMAC | 20854 |
| BOWEN | JAMES P & MEGAN K BOWEN | | 40 WOOD LN | ROCKVILLE | 20850 |
| BROADEN | DEWITT R & J J BROADEN | | 310 W MONTGOMERY AVE | ROCKVILLE | 20850 |
| BRANSON | ANN W, M, BRANSON, ET AL | | 18 THOMAS STREET | ROCKVILLE | 20850 |
| BRIGGS | LILLIAN R BRIGGS, | | 1544 Fernwood Ave, | ROCKVILLE | 20850 |
| BRUNETT | LINDA A BRUNETT, | | 303 POTOMAC ST | Chicago Heights | 60411 |
| CARMAN | SCOTT CARMAN, ET AL | | 12 WILLIAMS STREET | ROCKVILLE | 20850 |
| CHESTNUT | CHESTNUT LODGE PROPERTIES INC | | 14 FOREST AVE | ROCKVILLE | 20850 |
| COLE | PETER COLE | | 789 Rockville Pike, Ste 513 | ROCKVILLE | 20850 |
| CONWAY | EDWARD J & C M CONWAY | LORI A MILLER | 28 WALL ST | ROCKVILLE | 20850 |
| CRAIG | ROBERT J & B S CRAIG | | 16 THOMAS ST | ROCKVILLE | 20850 |
| CROARKIN | GREGORY V CROANSTON, et al tr | LORI A BARNET | 216 HARRISON ST | ROCKVILLE | 20850 |
| DAHREDDINE | JOHN C & E S CROARKIN | LORI A BARNET | 106 EVANS ST | ROCKVILLE | 20850 |
| DANISH | SAID M DAHREDDINE | TERENCE J GUTFIN | 102 EVANS ST | ROCKVILLE | 20850 |
| DASKALAKIS | DANISH CLUB OF WASHINGTON DC | | 16 WILLIAMS STREET | ROCKVILLE | 20850 |
| DEIGHTON | ALEX A DASKALAKIS | | 8 THOMAS ST | ROCKVILLE | 20850 |
| DIETZ | SANDRA L DEIGHTON, TR | | 402 W MONTGOMERY AVE | ROCKVILLE | 20850 |
| DIGIOIA | CATHLENE S DIETZ | | 129 AULTJUN WIND WAY | ROCKVILLE | 20850 |
| DRUMMOND | TRACY M DIGIOIA | | 101 EVANS ST | ROCKVILLE | 20850 |
| DUFFE | ROBERT C DRUMMOND & | | 229 W MONTGOMERY AVE | ROCKVILLE | 20850 |
| DULEY | JEREMY C DUFFE | | 404 ANDERSON AVE | ROCKVILLE | 20850 |
| DUNCAN | WILLIAM & F DULEY | | 410 ANDERSON AVE | ROCKVILLE | 20850 |
| DUNCAN | WILLIAM & DUNCAN | | 223 WEST MONTGOMERY AVE | ROCKVILLE | 20850 |
| DUSKIN | MEG S DUSKIN & | | 233 W MONTGOMERY AVE | ROCKVILLE | 20850 |
| FAHRNER | CARL J & H M FAHRNER | | 308 POTOMAC ST | ROCKVILLE | 20850 |
| FEGAN | MICHAEL K FEGAN, ET AL TR | STACY MILLER FIELD | 104 W JEFFERSON ST | ROCKVILLE | 20850 |
| FIELD | ANDREW JONATHAN FIELD & | KEREN L WITTEN | 230 GREAT FALLS RD | ROCKVILLE | 20850 |
| FREEDMAN | NEAL D FREEDMAN & | | 224 GREAT FALLS RD | ROCKVILLE | 20850 |
| GEARY | CHARLES & ELIZABETH | | 314 W MONTGOMERY AVE | ROCKVILLE | 20850 |
| GOLDENBROUGH | BRIAN H & KIMBERLY A GEARY | | 208 HARRISON ST | ROCKVILLE | 20850 |
| GRANT | MARK W & C GOLDENBROUGH | | 22 WALL ST | ROCKVILLE | 20850 |
| HADLEY | Meredita A. Grady | | 129 LOCKETT ST | ROCKVILLE | 20850 |
| HARTLEY | DONALD H & M E HADLEY | | 219 HARRISON ST | ROCKVILLE | 20850 |
| HAUSNRECHT | G V & J G HARTLEY | | 170 JUMPER CT | VERNA | 20850 |
| HENDERSON | EDWARD & NATALIE J HAUSNRECHT | THOMAS J BEGINES | 2907 24TH ST NW | WASHINGTON | 20850 |
| HERNANDEZ | HENDERSON HOUSE LLC | | 400 ANDERSON AVE | ROCKVILLE | 20850 |
| HONARRKAR | MARCO D & PATRICIA D HERNANDEZ | | 218 W MONTGOMERY AVE | ROCKVILLE | 20850 |
| KAHN | MARYAM HONARRKAR & | | 307 LAURA LANE | ROCKVILLE | 20850 |
| KE | BRADLEY C JR & D A KAHN | | 600 S FREDERICK AVE STE 402 | GAITHERSBURG | 20877 |
| KELING | TAMRAN KE | LINDA J NATOLI | 236 GREAT FALLS RD | ROCKVILLE | 20850 |
| KLASSING | GRANT A KETING & | | 17 WILLIAMS ST | ROCKVILLE | 20850 |
| KOFT | KEVIN L & MARTHA ANN KLASSING, | | 15 WILLIAMS ST | ROCKVILLE | 20850 |
| LAI | SUSAN M KOFT | | 21 WALL ST | ROCKVILLE | 20850 |
| LAW | HARRY & B B LAI | | 103 WALL STREET | ROCKVILLE | 20850 |
| LENNAN | CHRISTOPHER R & C B LAW | | 309 POTOMAC ST | ROCKVILLE | 20850 |
| LENNAN | JACOB P LENNHAN | | 309 POTOMAC ST | ROCKVILLE | 20850 |
| LIDE | JACOB P LENNHAN | | 16 WALL ST | ROCKVILLE | 20850 |
| LINTHICUM | DAVID A LIDE | CHARLES O MAY 3RD | 25 WALL ST | ROCKVILLE | 20850 |
| LUGNBILL | PEGGY ANN LINTHICUM, TRUSTEE | | 217 W MONTGOMERY AVE | ROCKVILLE | 20850 |
| MADDOX | STEPHEN P & M T LUGNBILL | | 4938 HAMPTEN LN STE 403 | BETHESDA | 20814 |
| MADDOX | DANIEL T & EVELYN MADDOX, | | 301 W MONTGOMERY AVE | ROCKVILLE | 20850 |
| MATRO | MARGARET WELSH MAY, ET AL | | 208 W MONTGOMERY AVE | ROCKVILLE | 20850 |
| MAY | TERRENCE J & R M MCGANDREW | | 19 WILLIAMS ST | ROCKVILLE | 20850 |
| MCGANDREW | MARLANE H & D F MCGALLUM | | 111 W MONTGOMERY AVE | ROCKVILLE | 20850 |
| MCGARRY | EMILY A MCGARRY | | 104 EVANS ST | ROCKVILLE | 20850 |
| MONTGOMERY | MONTG CO HISTORICAL SOCIETY, INC | | 11 FOREST AVENUE | ROCKVILLE | 20850 |
| MOORE | RUBY R MOORE | | 227 W MONTGOMERY AVE | ROCKVILLE | 20850 |
| MORROW | THOMAS H & J L MOORE | | 214 W MONTGOMERY AVE | ROCKVILLE | 20850 |
| MORROW | PHYLLIS R MORROW, TR | | 101 WALL ST | ROCKVILLE | 20850 |
| MURRAY | RAY W MORDOCK, ET AL | EVA ASSING-MURRAY | 703 CLINTON CT | ANNAPOLIS | 21403 |
| MURRAY | DAVID MURRAY & | | 106 R ADAMS ST | ROCKVILLE | 20850 |
| NEKWE | DANET MURRAY REV LIVING TR | | 101 POTOMAC ST | ROCKVILLE | 20850 |
| NIXON | PETER A & P A NEKWE | | 106 R ADAMS ST | ROCKVILLE | 20850 |
| PAYE | ADAM W & HELEN A NIXON | | 106 R ADAMS ST | ROCKVILLE | 20850 |
| PEDONITZ | ALIX M PAYE | | 12 FOREST AVE | ROCKVILLE | 20850 |
| PERKINS | LEONARD B PEDONITZ, ET AL | | 232 GREAT FALLS RD | ROCKVILLE | 20850 |
| PIERRO | JEFFREY W PERKINS | | 222 W MONTGOMERY AVE | ROCKVILLE | 20850 |
| POLE | DARLENE B PIERRO | | 408 ANDERSON AVE | ROCKVILLE | 20850 |
| POLING | THOMAS P & E J I POLE | C/O TREASURER | 204 HARRISON ST | ROCKVILLE | 20850 |
| PRES CH | SARAH L POLING, ET AL | | 215 W MONTGOMERY AVE | ROCKVILLE | 20850 |
| PRETTYMAN | PRES CH ROCKVILLE BRD OF TRUSTEES | | 215 W MONTGOMERY AVE | ROCKVILLE | 20850 |
| READ | EDWARD C & M B PRETTYMAN | | 318 WEST MONTGOMERY AVE | ROCKVILLE | 20850 |
| REED | JENNIFER S READ | | 304 POTOMAC ST | ROCKVILLE | 20850 |
| REHM | ELIZABETH A REED | | 100 THOMAS ST | ROCKVILLE | 20850 |
| ROBINSON | RONALD G REHM, ET AL TR | | 409 W MONTGOMERY AVE | ROCKVILLE | 20850 |
| ROCKVILLE | SALLY J & SCOTT A ROBINSON | | 400 W MONTGOMERY AVE | ROCKVILLE | 20850 |
| ROCKVILLE | ROCKVILLE PRESBY CH TRUST | | 215 W MONTGOMERY AVE | ROCKVILLE | 20850 |
| ROSE | WILLIAM R ROSE, TR | | 227 GREAT FALLS RD | ROCKVILLE | 20850 |
| ROSEWATER | CARL J & A G ROSEWATER | JACQUELYN S POKTH | 38 WOOD LANE | ROCKVILLE | 20850 |
| RYPINSKI | ARTHUR D RYDINSKI & | Carolyn S. Peihard | 307 WEST MONTGOMERY AVE | ROCKVILLE | 20850 |
| RYPINSKI | MARCEL E RYDINSKI & | | 228 GREAT FALLS RD | ROCKVILLE | 20850 |
| SAUNDERS | HELEN M SAUNDERS, ET AL | | 18 FOREST AVE | ROCKVILLE | 20850 |
| SCHAFF | ROBERT A SCHAAF | | 306 POTOMAC ST | ROCKVILLE | 20850 |
| SCHLAVONE | JANICE H SCHLAVONE REV TR | | 118 S VAN BUREN ST | ROCKVILLE | 20850 |
| SELLMAN | ANDREW D SELLMAN | | 411 W MONTGOMERY AVE | ROCKVILLE | 20850 |
| SHARKEY | WILLIAM W & R A SHARKEY | | 308 GREAT FALLS ROAD | ROCKVILLE | 20850 |
| SHAWN | ROBERT B & R SHAWN | | 304 GREAT FALLS RD | ROCKVILLE | 20850 |
| SHULTZ | PATRICIA L SHULTZ | | 110 EVANS ST | ROCKVILLE | 20850 |
| SONNER | ANDREW L & S S SONNER | | 205 W MONTGOMERY AVE | ROCKVILLE | 20850 |
| SPILLERS | DAVID P & K J SPILLERS | | 311 W MONTGOMERY AVE | ROCKVILLE | 20850 |

| | | | | | |
|-----------------|---------------------------------|------------------------------|-----------|----|-------|
| SPRAGUE | DONNA S SPRAGUE, ET AL TR | 300 GREAT FALLS RD | ROCKVILLE | MD | 20850 |
| STATE OF MD | THOMAS B JR & L K STONE | Thomas State Office Building | ANAPOLIS | MD | 21401 |
| STONE | MERCEDIS F & GUN TANU | 309 LAURA LANE | ROCKVILLE | MD | 20850 |
| TANU | TENANT/RESIDENT | 200 HARRISON ST | ROCKVILLE | MD | 20850 |
| TENANT/RESIDENT | TENANT/RESIDENT | 217 GREAT FALLS ROAD | ROCKVILLE | MD | 20850 |
| TENANT/RESIDENT | TENANT/RESIDENT | 10 WILLIAMS ST | ROCKVILLE | MD | 20850 |
| TENANT/RESIDENT | TENANT/RESIDENT | 201 W MONTGOMERY AVE | ROCKVILLE | MD | 20850 |
| TENANT/RESIDENT | TENANT/RESIDENT | 6 BULLARD CIR | ROCKVILLE | MD | 20850 |
| TENANT/RESIDENT | TENANT/RESIDENT | 103 FOREST AVE | ROCKVILLE | MD | 20850 |
| TENANT/RESIDENT | TENANT/RESIDENT | 212 W MONTGOMERY AVE | ROCKVILLE | MD | 20850 |
| TENANT/RESIDENT | TENANT/RESIDENT | 212 GREAT FALLS ROAD | ROCKVILLE | MD | 20850 |
| TENANT/RESIDENT | TENANT/RESIDENT | 218 W MONTGOMERY AVE | ROCKVILLE | MD | 20850 |
| TENANT/RESIDENT | TENANT/RESIDENT | 214 HARRISON ST | ROCKVILLE | MD | 20850 |
| TENANT/RESIDENT | TENANT/RESIDENT | 212 HARRISON ST | ROCKVILLE | MD | 20850 |
| TENANT/RESIDENT | TENANT/RESIDENT | 113 W MONTGOMERY AVE | ROCKVILLE | MD | 20850 |
| TENANT/RESIDENT | TENANT/RESIDENT | 207 W MONTGOMERY AVE | ROCKVILLE | MD | 20850 |
| TENANT/RESIDENT | TENANT/RESIDENT | 409 W MONTGOMERY AVE | ROCKVILLE | MD | 20850 |
| TENANT/RESIDENT | TENANT/RESIDENT | 102 THOMAS ST | ROCKVILLE | MD | 20850 |
| TENANT/RESIDENT | TENANT/RESIDENT | 109 N VAN BUREN ST | ROCKVILLE | MD | 20850 |
| TENANT/RESIDENT | TENANT/RESIDENT | 235 GREAT FALLS ROAD | ROCKVILLE | MD | 20850 |
| TENANT/RESIDENT | TENANT/RESIDENT | 102 THOMAS ST | ROCKVILLE | MD | 20850 |
| THOMAS HOUSING | THOMAS HOUSING | 203 W MONTGOMERY AVE | ROCKVILLE | MD | 20850 |
| TRESELER | Robert H. & Jennifer L. Tresele | 11 WALL ST | ROCKVILLE | MD | 20850 |
| VITOL | JAMES L. & M A T VITOL | 205 W MONTGOMERY AVE | ROCKVILLE | MD | 20850 |
| WARD | ARTHUR M & L L WARDMAN | 409 W MONTGOMERY AVE | ROCKVILLE | MD | 20850 |
| WARD | CHURCHILL E WARD | 226 GREAT FALLS ROAD | ROCKVILLE | MD | 20850 |
| WEICHERD | MICHAEL H WEICHERD | 14 WILLIAMS ST | ROCKVILLE | MD | 20850 |
| WIKO | THOMAS J & WIKO | 301 W MONTGOMERY AVE | ROCKVILLE | MD | 20850 |
| WELSH | BARBARA T & H T WELSH | | | | |
| WEST END | SUSAN PRINCE, PRESIDENT | WEST END HOMEOWNERS | | | |
| WESTFALL | YASBO W WESTFALL | ASSOCIATION | | | |
| WHALEN | RAYMOND J & MARY F WHALEN | | | | |
| WILMOT | JAMES R & WILMOT | ROBERTA A NICHOLSON | | | |
| WONG | LAI-WAN WONG, ET AL | | | | |
| WU | JIAOXIN WU & XUGENG ZHOU | | | | |
| YANG | Witkon Yang & Linda Thi | | | | |
| ZHANG | CHAO X ZHANG & XIU F ZHENG | | | | |
| Zimmerman | Adam & Julia Zimmerman | | | | |

ABRAMS & WEST, P.C.

KENNETH R. WEST
STANLEY D. ABRAMS
KETH J. ROSA

PRACTICING IN MARYLAND AND
DISTRICT OF COLUMBIA

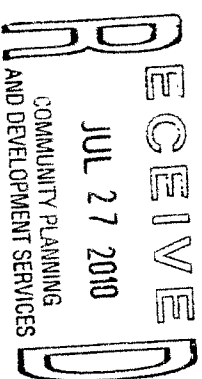
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July 26, 2010



Mr. Dean Mellander, Zoning Administrator
Rockville City Hall
111 Maryland Avenue
Rockville, MD 20850

**RE: Zoning Text Amendment 2010-002228
William A. Pumphrey, Applicant**

Dear Mr. Mellander:

I represent Phillip and Megan Bowen of 310 W. Montgomery Avenue in Rockville. My clients reside next to the Pumphrey Funeral Home and the vacant residential lot the Applicant wishes to convert to a parking lot for the funeral home. My clients are opposed to the Text Amendment and any expansion of the non-conforming funeral home use as detrimental to the residential use and enjoyment of their property, the value of their property and as an incompatible intrusion in the Rockville Historic District and the planning for this area.

The proposed parking plan presented to the community and to my clients intends to use the abutting vacant R-90 Zoned lot to expand the present modest parking area to a 57 space parking facility covering almost the entirety of the vacant lot (See attached). The proposed expansion would come very close to the common property line with my clients property and parallel to the front of my clients house, closer to W. Montgomery Avenue. Visibly and operationally, this is nothing less than a large commercial parking lot uncharacteristic of the residential area and the Historic District.

Aside from the adverse affects on my clients property, the use and enjoyment of their property with increased vehicular noise, light and physical activity and the adverse impact on this residential neighborhood, the Text Amendment is bad public policy.

This Text Amendment would permit the expansion of a non-conforming use. The basic premise underlying zoning regulations is to restrict rather than expand non-conforming uses Wilson v. Mayor of Town Commr's of Elkton, 35 Md. App. 417, 371 A.2d 443 (1977).

As noted by the Maryland Court of Appeals in County Council of Prince George's County v. E.L. Gardner, Inc., 293 Md. 259, 443 A.2d 114, 118 (1982):

“Such non-conforming use pose a formidable threat to the success of zoning. They limit the effectiveness of land use controls, contribute to urban blight, imperil the success of the community plans and injure property values.”

The Text Amendment would have broad application in single family residential zones, particularly within the Historic District where many non-conforming uses exist. Professional offices and other non-residential uses would be allowed, if not encouraged, to expand parking lots of non-conforming uses to the detriment of the character and stability of single family residential neighborhoods, both within and outside of the Historic District. No amount of landscaping, screening and lighting controls can restore the neighborhood character that is lost.

This Text Amendment also encourages the implementation and expansion of impervious surfaces, loss of trees and vegetation and other adverse environmental impacts. As previously stated, this Text Amendment is an example of bad public policy with little or no public benefit or protection.

We hope you and the planning staff will take these views into consideration when preparing your recommendations to the Mayor and City Council and City Planning Commission. Please keep me notified of all hearing dates on this Text Amendment.

Sincerely,



Stanley D. Abrams

SDA:dw

Enclosure

cc: Philip & Megan Bowen