

LAND, CLARK, CARROLL, MENDELSON & BLAIR, P.C.

Attorneys & Counsellors at Law

524 KING STREET
ALEXANDRIA, VA 22314

H. CARTER LAND, III
JAMES C. CLARK
F. ANDREW CARROLL, III
RICHARD S. MENDELSON
DUNCAN W. BLAIR

.....
(703) 836-1000

FACSIMILE
(703) 549-3335

MAILING ADDRESS:
P.O. BOX 19888
ALEXANDRIA, VIRGINIA 22320-0888

July 18, 2005



Jackie M. Henderson
City Clerk & Clerk of Council
City of Alexandria
301 King Street
City Hall, Room 2300
Alexandria, Virginia 22314

DELIVERED BY HAND

**In re: Appeal of Planning Commission Denial of Subdivision No. 2005-0005
115-119 South Royal Street, Alexandria, Virginia (the "Property")
110 South Pitt Street, LLC, a Virginia limited liability company**

Dear Ms. Henderson:

On behalf of the Applicant, 110 South Pitt Street, LLC, a Virginia limited liability company (the "Applicant"), we hereby appeal the July 5, 2005 Planning Commission decision of Subdivision 2005-0005, pursuant to the provisions of Section 17-1708(D)(2) of the Alexandria Zoning Ordinance, 1992, as amended.

The Applicant requested approval of the subdivision plat to subdivide two (2) lots located at 115 and 119 South Royal Street into three (3) new lots each complying with the CD zone regulations governing the use and development of the Property. The Staff Report prepared for the Planning Commission's public hearing recommended approval of the subdivision plat subject to five (5) conditions, all of which were agreed to by the Applicant. Condition number 3 required that at the time of the recordation of the subdivision Lot 700 (an interior outlot created by the subdivision) must be consolidated into an adjoining lot owned by the Property known as 110 South Pitt Street, Alexandria, Virginia. The application was originally included on the Planning Commission's Consent Calendar. Commissioner Dunn requested that the application be removed from the Consent Calendar and expressed his desire that an additional condition be included limiting the use and development of Lot 700 for open space and other uses consistent with open space as defined by the Director of Planning & Zoning.

Jackie M. Henderson
City Clerk & Clerk of Council
City of Alexandria
July 18, 2005
Page -2-

At the Public Hearing, Duncan Wardman Blair, representing the Applicant, stated that the Applicant could not agree to the proposed Dunn condition diminishing the development rights of proposed Lot 700.

On the motion of Commissioner Dunn, seconded by Commissioner Leibach, the Planning Commission, over the objection of the Applicant's counsel, approved the subdivision subject to the conditions recommended by the Planning Staff and the additional condition included in Mr. Dunn's motion by a five (5) to one (1) vote.

On behalf of the Applicant, we submit that the proposed preliminary subdivision plat complies with all applicable and valid ordinances for subdivision of land and that there is no valid basis on which Planning Commission was authorized to include a condition limiting and restricting the use and development of the 2,642 square feet of land subject to the restriction of condition 6.

The Applicant is requesting that the City Council approve the subdivision plat without Condition No. 6.

If any further information is required, please advise.

LAND, CLARK, CARROLL, MENDELSON &
BLAIR, P.C.

By: 

Duncan W. Blair

DWB:k\HendersonJ-Ariail 0705

cc: John H. Ariail, Jr., Esquire
Eileen Fogarty
Richard Josephson
Lorrie Pearson

City of Alexandria, Virginia

MEMORANDUM

DATE: SEPTEMBER 13, 2005

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

THROUGH: JAMES K. HARTMANN, CITY MANAGER *J*

FROM: EILEEN FOGARTY, DIRECTOR, PLANNING AND ZONING *EF*

SUBJECT: 115 and 119 SOUTH ROYAL STREET - APPEAL OF PLANNING
COMMISSION DECISION ON SUBDIVISION, CASE NUMBER 2005-0005

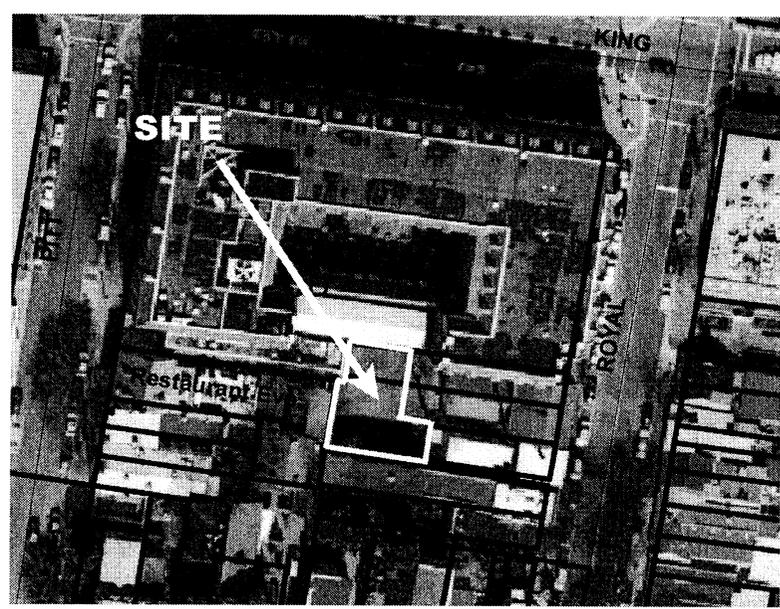
I. Appeal:

The applicant for the subdivision is appealing the July 5, 2005 decision of the Planning Commission approving the proposed subdivision located at 115 and 119 South Royal Street with an added condition restricting use of the newly created lot to open space or other uses consistent with open space.

PROPOSAL:

The applicant proposes to adjust the property lines between 115 and 119 South Royal Street to provide two equally sized lots along Royal Street (one lot for each existing building) and retain the rear portion of the original two lots as a third separate, landscaped lot, Lot 700.

Section 11-1708 (D)(2) of the Zoning Ordinance states that an appeal from an approval or disapproval by the Planning Commission shall be made in writing and filed with the City Clerk within 15 days from the decision of



the Commission. When an appeal is filed, the City Council shall schedule at least one do novo public hearing on the matter and may affirm, reverse or modify the decision of the Commission or return the matter to the Commission for further consideration. On appeal the same standards shall be applied by the Council as are established for the Commission.

Planning Commission Action:

The Planning Commission voted to approve the request, and added a condition, Number 6, which states: "The area occupied by the newly created Lot 700 shall be retained as open space, or used in a manner consistent with open space as determined by the Director of Planning & Zoning." The Planning Commission determined that without the condition, there would be a loss of open space at the site.

II. Background

Section 11-1710(B) of the Zoning Ordinance requires a subdivision to meet the following standard:

No lot shall be resubdivided in such a manner as to detract from the value of the adjacent property. Lots covered by a resubdivision shall be of substantially the same character as to suitability for residential use, areas, street frontage, alignment to streets and restrictions as other land within the subdivision, particularly with respect to similarly situated lots within the adjoining portions of the original subdivision.

The Planning Commission reasoned that without a restriction on the use of the newly created lot, the area encompassed by the new lot would provide additional development rights to the adjacent lot (Restaurant Eve) and therefore may result in the loss of open space. The Commission was also concerned about the proximity of this lot and the impact of any development to the rear yards of the two existing buildings fronting on South Royal Street.

III. Recommendation

Approval of the proposed subdivision with the six conditions, including the condition added by the Planning Commission, as set forth at the Planning Commission hearing on July 5, 2005.

ATTACHMENT: Staff Report from July 5, 2005, Planning Commission meeting

STAFF: Eileen Fogarty, Director, Planning and Zoning
Richard Josephson, Deputy Director, Planning and Zoning
Lorrie Pearson, Urban Planner, Planning and Zoning

Docket Item #2
SUBDIVISION # 2005-0005

Planning Commission Meeting
July 5, 2005

This subdivision would have been automatically approved if not acted on by June 12, 2005, except that the applicant has waived the right to automatic approval.

ISSUE: Consideration of a request to subdivide the subject properties into three lots.

APPLICANT: 110 South Pitt, LLC
by R.C. Fields, Jr

LOCATION: 115 and 119 South Royal Street

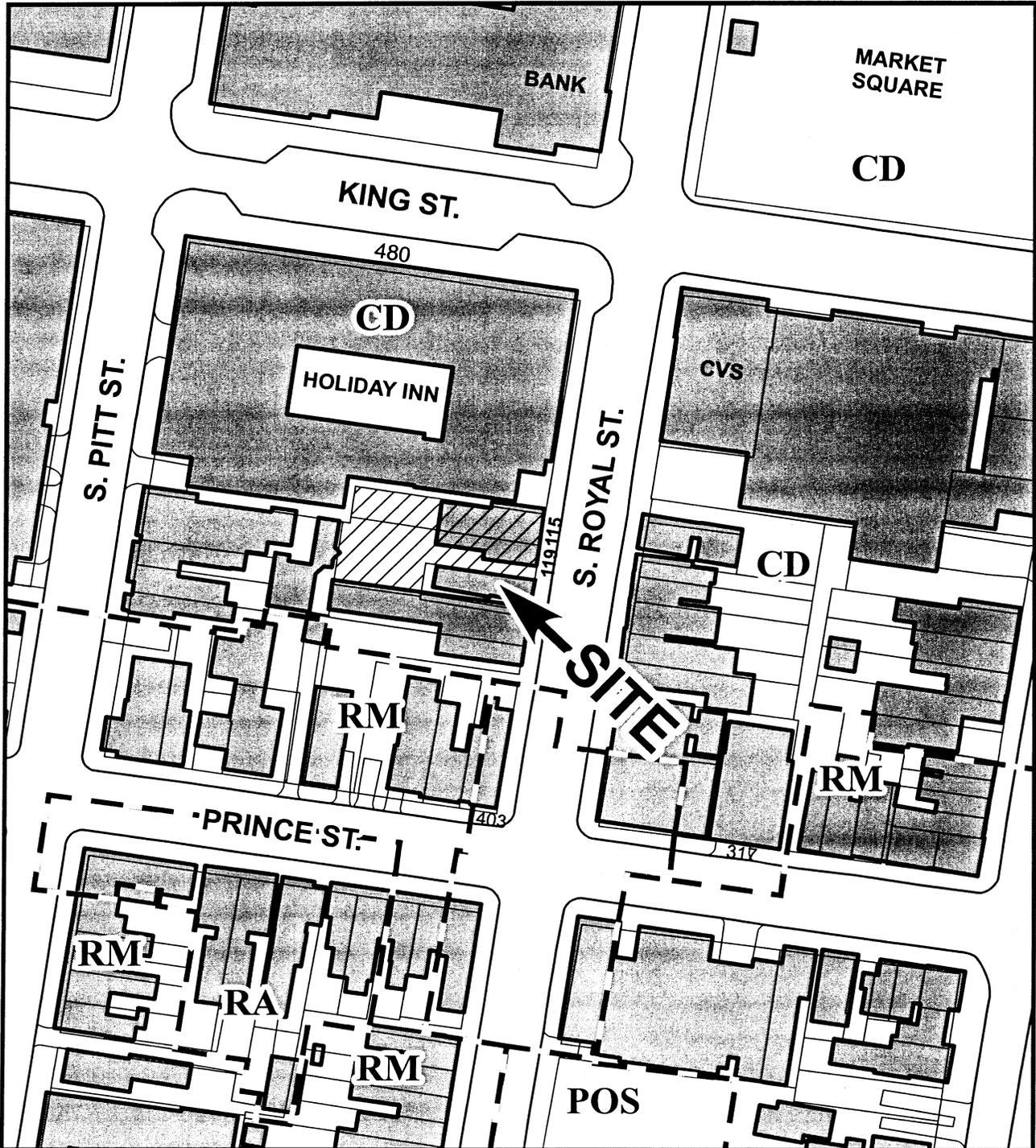
ZONE: CD/Commercial Downtown

PLANNING COMMISSION ACTION, JULY 5, 2005: On a motion by Mr. Dunn, seconded by Mr. Leibach, the Planning Commission voted to approve the request, subject to compliance with all applicable codes, ordinances and staff recommendations with an added condition #6. The motion carried on a 5-1 vote, with Ms. Fossum dissenting. Mr. Robinson was absent.

Reason: The Planning Commission agreed with the staff analysis, but added a condition that the new Lot 700 would remain as open space or used in a manner consistent with open space, as determined by the Director of Planning and Zoning.

Speakers

Duncan Blair, attorney representing the applicant.



SUB #2005-0005

07/05/05



I. DISCUSSION

REQUEST

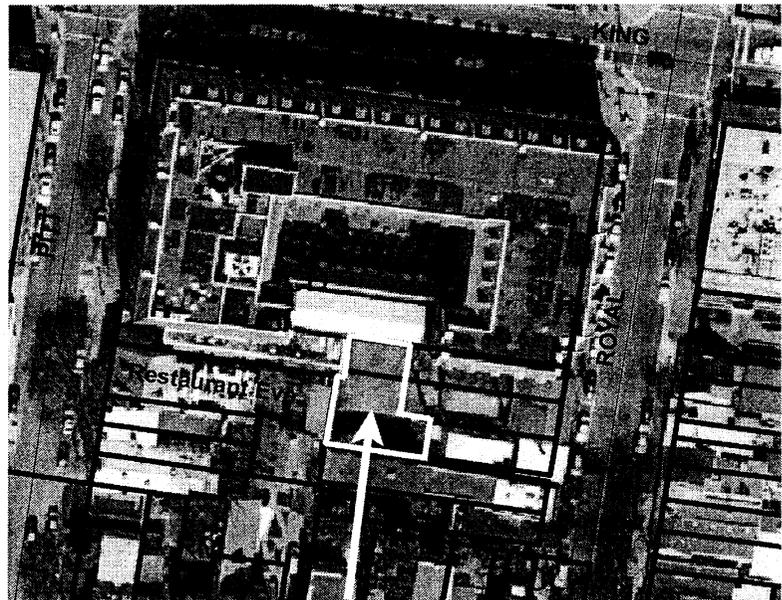
The applicant, 110 South Pitt, LLC, requests approval for a subdivision of two lots into three lots at 115 and 119 South Royal Street.

SITE DESCRIPTION

There are two properties that are the subject of the requested subdivision. The first lot at 115 South Royal Street has a frontage of 22 feet, a lot depth of 123 feet, and a total lot area of 2,679 square feet. The second lot at 119 South Royal Street has a lot frontage of 22 feet, a lot depth of 127 feet, and a total lot area of 4,001 square feet. The lot at 115 South Royal is rectangular, while the lot at 119 South Royal is a pipestem lot. Each lot is occupied by a semi-detached three-story brick building in the front with a two-story rear addition. The ground floor of each building is occupied by retail uses, with three accessory apartments above.

PROJECT DESCRIPTION

The applicant proposes to adjust the property lines to provide two equally sized lots along Royal Street (one lot for each existing building) and retain the rear portion of the original two lots as a third separate, landscaped lot, Lot 700. The applicant, who also owns the adjacent Restaurant Eve at 110 South Pitt Street, has requested this subdivision in order to retain the landscaped area adjacent to Restaurant Eve while allowing sale of the properties along Royal Street. The applicant has indicated that a possible future use of the new rear lot may be supplemental outdoor dining for Restaurant Eve should a future special use permit be requested and approved.



Proposed Lot 700

COMPLIANCE WITH CD ZONE REGULATIONS

The newly created lots each meet the requirements of the Zoning Ordinance, including providing a proposed 1.49 FAR, within the 1.50 FAR maximum, for the two existing buildings. As the site is considered non-residential due to the accessory nature of the apartments, there are no lot size, frontage, yard, or open space requirements, although more than 460 square feet of open space is provided in each of Lots 701 and 702.

Section 11-1710(B) of the zoning ordinance requires a subdivision to meet the following standard:

No lot shall be resubdivided in such a manner as to detract from the value of the adjacent property. Lots covered by a resubdivision shall be of substantially the same character as to suitability for residential use, areas, street frontage, alignment to streets and restrictions as other land within the subdivision, particularly with respect to similarly situated lots within the adjoining portions of the original subdivision.

This type of subdivision of the rear portion of lots is in character with earlier subdivisions within Old Town. The adjacent lot at 121 South Royal Street was subdivided in a similar manner in 1976, with the rear portion of the yard being consolidated with the lot at 119 South Royal Street.

MASTER PLAN

The subject properties are located in the Old Town Small Area Plan chapter of the Master Plan.

II. STAFF ANALYSIS

Staff does not object to the subdivision of the properties at 115 and 119 South Royal Street. The resulting lots meet the requirements of the Zoning Ordinance and retain an interior landscaped area. Initially staff was concerned about the creation of a lot without street frontage and the potential for its future development. To address this concern, staff has added a condition requiring consolidation of Lot 700 with the lot at 110 South Pitt Street.

Staff recommends approval subject to the following conditions.

III. STAFF RECOMMENDATIONS

Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the following conditions:

1. The final subdivision plat shall comply with the requirements of Section 11-1700 of the Zoning Ordinance. (P&Z) (T&ES)

2. Locations of all easements and reservations such as the ingress/egress easement for the alley and all other easements and reservations shall be depicted on the final subdivision plan. (P&Z)
3. At the time of recordation of this subdivision, Lot 700 shall be consolidated with the adjacent lot at 110 South Pitt Street. A note to this effect shall be placed on the plat. (P&Z)
4. The existing 26" maple tree shall be retained. (P&Z)
5. In the event of future ground disturbance on this subdivision, all requirements of the City's Archaeological Protection Code will be satisfied prior to the initiation of ground-disturbing activities. (Archaeology)
6. The area occupied by the newly created Lot 700 shall be retained as open space, or used in a manner consistent with open space as determined by the Director of Planning & Zoning.

STAFF: Eileen Fogarty, Director, Department of Planning and Zoning;
Richard Josephson, Deputy Director;
Lorrie Pearson, Urban Planner.

CITY DEPARTMENT COMMENTS

Legend: C - code requirement R - recommendation S - suggestion F - finding

Transportation & Environmental Services:

- F-1 Although lot 700 is scheduled to remain vacant at this time, after consolidation with an adjoining lot, any future development/redevelopment will be required to comply with Article XIII of the City's Zoning Ordinance. Article XIII indicates that the storm water management regulations regarding water quality are two-fold: first, phosphorus removal requirement and second, water quality volume default. Compliance with the phosphorus requirement does not relieve the applicant from the water quality default requirement. The water quality volume determined by the site's proposed impervious area shall be treated in a Best Management Practice (BMP) facility. Any deviation from these requirements must be addressed by the submission of a formal exception letter to the City of Alexandria as described in Memorandum to Industry #2002-0001.
- R-1 Final subdivision plat shall comply with the provisions of Section 11-1709 of the City's Zoning Ordinance.

Code Enforcement:

- F-1 While the Fire Department does not oppose the proposed lot subdivision, the proposed new lot will have no available fire access. Consequently, in the mind of the Fire Department, this new lot (Lot 700) is an unbuildable lot.

Police Department:

- F-1 The Police Department has no objections.

Historic Alexandria Commission (Archaeology):

- F-1 This property has high potential to yield significant archaeological resources which could provide insight into various aspects of Alexandria's history. Mutual Assurance documents indicate that several dwellings (belonging to Diedrick Shekle, Jacob Resler and John Harper) were present on this street face in 1798, and that in 1805

Shekle's dry goods/grocery store, dwelling and kitchen were located on the block between a tailor's shop and a dwelling/grocery store. Tax records from 1810, 1830 and 1850 denote that there were also free African American households on the street face, and other historical records place a soup house on the block during the Civil War. However, as is the case with the late 18th and earlier 19th-century residences and businesses, the exact addresses are unknown. According to Ethelyn Cox's *Historic Alexandria, Virginia, Street by Street, A Survey of Existing Early Buildings*, Benjamin Barton, an early Alexandria silversmith and clockmaker purchased 115 and 119 S. Royal Street in 1864 and 1866. In the late 19th century, a printer and a dentist occupied the buildings, and by 1907, they served as an annex to the Hotel Feischmann. The lot to be subdivided thus could yield information about Alexandria in the 18th century, commercial/industrial activities in the 19th century, the daily lives of free blacks prior to the Civil War, and the activities of the Union Army.

- R-1 In the event of future ground disturbance on this subdivision, all requirements of the City's Archaeological Protection Code will be satisfied prior to the initiation of ground-disturbing activities.

Recreation, Parks & Cultural Activities (Arborist):

No comments received.

APPLICATION for SUBDIVISION

SUB # 2005-0005

[must use black ink or type]

PROPERTY LOCATION: 115 & 119 S. ROYAL STREET

TAX MAP REFERENCE: 074.02-07-02/074.02-07-19 ZONE: CD

APPLICANT'S NAME: 110 SOUTH PITT, L.L.C.

ADDRESS: 2300 9th STREET SOUTH, ARLINGTON, VA 22204

PROPERTY OWNER NAME: 110 SOUTH PITT, L.L.C.

ADDRESS: 2300 9th STREET SOUTH, ARLINGTON, VA 22204

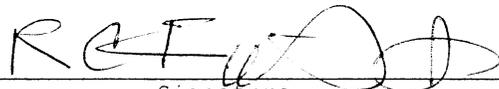
SUBDIVISION DESCRIPTION: RESUBDIVISION OF 115 & 119 SOUTH ROYAL ST.
INTO LOTS 700, 701 & 702.

THE UNDERSIGNED hereby applies for a Subdivision in accordance with the provisions of Section 11-1700 of the Zoning Ordinance of the City of Alexandria, Virginia.

THE UNDERSIGNED, having obtained permission from the property owner, hereby grants permission to the City of Alexandria to post placard notice on the property for which this application is requested, pursuant to Article XI, Section 11-301 (B) of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

THE UNDERSIGNED also attests that all of the information herein provided and specifically including all surveys, drawings, etc., required of the applicant are true, correct and accurate to the best of their knowledge and belief.

R.C. FIELDS, JR.
Print Name of Applicant or Agent


Signature

730 S. WASHINGTON STREET
Mailing/Street Address

703-549-6422 703-549-6452
Telephone # Fax #

ALEXANDRIA, VA 22314
City and State Zip Code

4-20-05
Date

===== **DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY** =====

Application Received: _____ Date & Fee Paid: _____ \$ _____

ACTION - PLANNING COMMISSION: _____

All applicants must complete this form.

1. The applicant is the (check one):

- Owner Contract Purchaser
 Lessee Other: _____

State the name, address and percent of ownership of any person or entity owning an interest in the applicant, unless the entity is a corporation or partnership in which case identify each owner of more than ten percent.

CHESAPEAKE VENTURES, L.L.C. 2000 N. 14th ST. ARLINGTON, VA 22201 - 24.76%

CAMERON STREET VENTURES I, L.L.C. 607 CAMERON ST. ALEXANDRIA, VA 22314 - 19.81%

GAEL FORCE PRESS, L.L.C. P.O. Box 57 BLOCK ISLAND, RI 02807 - 15.85%

GEORGETOWN CAPITAL VENTURES, L.L.C. 1919 S ST., N.W. WASHINGTON DC 20009 - 11.89%

PEBBLE HILL CAPITAL, L.L.C. 901 15th ST., N.W. WASHINGTON DC 20005 - 11.89%

If property owner or applicant is being represented by an authorized agent such as an attorney, realtor, or other person for which there is some form of compensation, does this agent or the business in which the agent is employed have a business license to operate in the City of Alexandria, Virginia?

- Yes. Provide proof of current City business license
 No. The agent shall obtain a business license prior to filing application, if required by the City Code.

2. Please describe the existing and proposed use of the property(ies). Include a description of any structures, trees and landscaping, or other elements that occupy the property(ies).

THE EXISTING USE OF THE PROPERTIES LOCATED AT 115 AND 119
SOUTH ROYAL STREET INCLUDE COMMERCIAL ON THE FIRST FLOOR
WITH 3 (THREE) ACCESSORY APARTMENTS (PER SECTION 4-508
OF THE ALEXANDRIA ZONING ORDINANCE) ABOVE THE FIRST FLOOR
ON EACH LOT. THERE IS AN EXISTING BRICK BUILDING WITH 3
STORIES ON THE FRONT AND 2 STORIES ON THE REAR. THERE
IS AN EXISTING 26" MAPLE TREE LOCATED AT THE REAR OF THE
BRICK BUILDING THAT WILL REMAIN.

THE PROPOSED USE FOR LOT 700 IS TO REMAIN VACANT AT
THIS TIME.

THE PROPOSED USE FOR LOTS 701 AND 702 SHALL REMAIN
COMMERCIAL ON THE FIRST FLOOR WITH 3 ACCESSORY
APARTMENTS ABOVE THE FIRST FLOOR ON EACH LOT.

NO CONSTRUCTION IS BEING PROPOSED ON LOTS 700, 701 & 702.

Subdivision # 2005-0005

WAIVER OF RIGHT TO AUTOMATIC APPROVAL

SUBMITTED TO
THE DEPARTMENT OF PLANNING AND ZONING
CITY OF ALEXANDRIA, VIRGINIA

SUBDIVISION # _____

Project Name: South Royal St. Subdivision

Project Address: 115 & 119 SOUTH ROYAL STREET

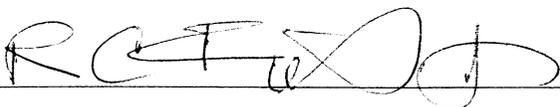
Description of Request: Resubdivide two lots into three lots

The undersigned hereby waives the right to the 45 day automatic approval provision of Section 11-1708 (B)(2) of the Zoning Ordinance of the City of Alexandria, Virginia, for the application stated above.

Date: 4.28.05

Applicant

Agent

Signature: 

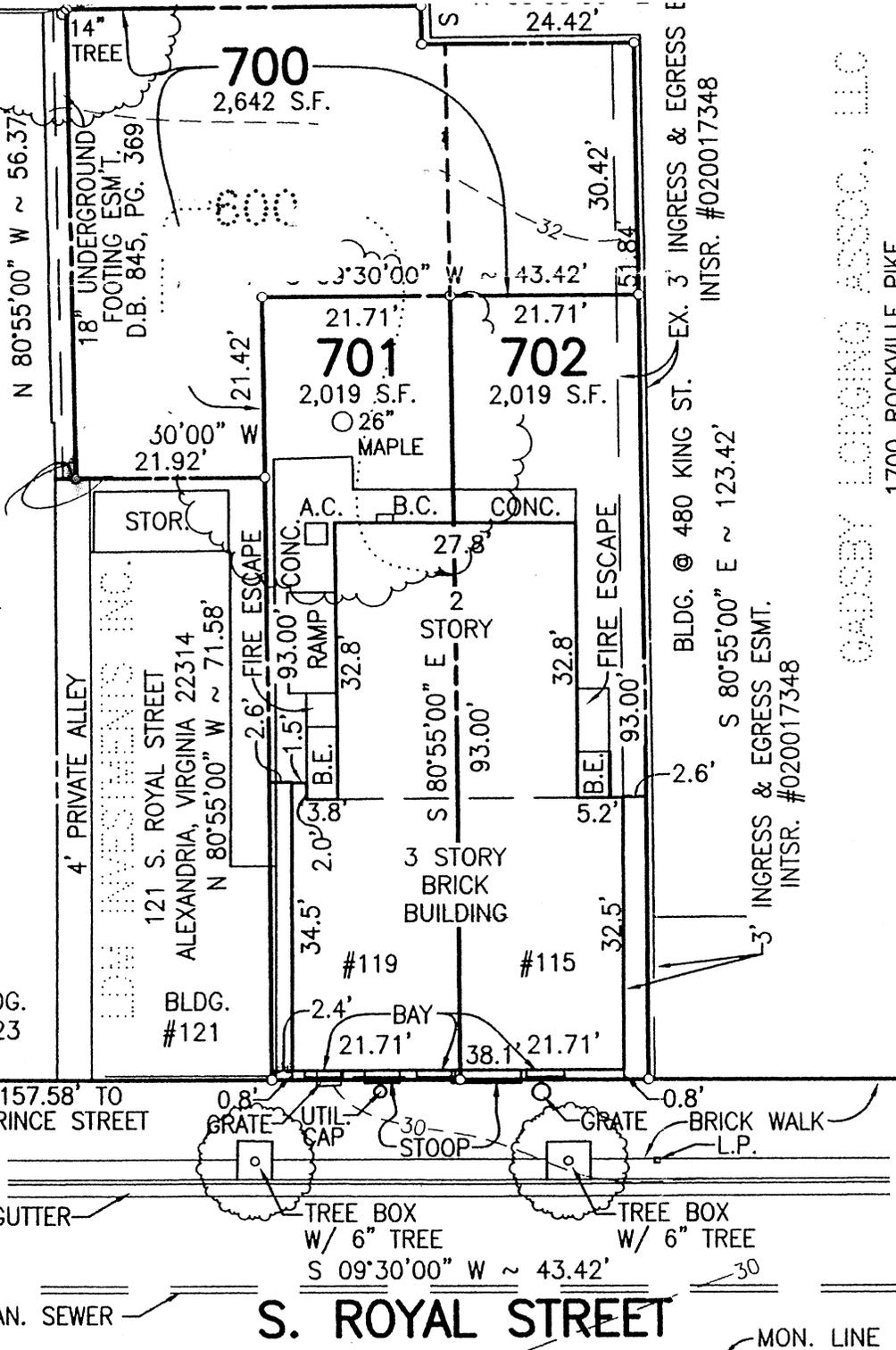
Printed Name: R.C. FIELDS, JR.

submitted by
Duncan Blair

25
9-20-05



BERNARD R. OR MARCELLA M. CORBETT
123 S. ROYAL STREET
ALEXANDRIA, VIRGINIA 22314



BLDG. #123
4' PRIVATE ALLEY
121 S. ROYAL STREET
ALEXANDRIA, VIRGINIA 22314
N 80°55'00" W ~ 71.58'

BLDG. #121
21.71'
21.71'

157.58' TO PRINCE STREET
CURB & GUTTER
12" STORM & SAN. SEWER

S. ROYAL STREET
MON. LINE

EX. 3 INGRESS & EGRESS E
INTSR. #020017348
BLDG. @ 480 KING ST.
S 80°55'00" E ~ 123.42'
3' INGRESS & EGRESS ESMT.
INTSR. #020017348

GADSBY LODGING ASSOC., LLC
1700 ROCKVILLE PIKE

SPEAKER'S FORM

DOCKET ITEM NO. 25

**PLEASE COMPLETE THIS FORM AND GIVE IT TO THE CITY CLERK
BEFORE YOU SPEAK ON A DOCKET ITEM.**

PLEASE ANNOUNCE THE INFORMATION SPECIFIED BELOW PRIOR TO SPEAKING.

1. **NAME:** Duncan W. Blair, Esquire
2. **ADDRESS:** 524 King Street, Alexandria, Virginia 22314
TELEPHONE NO. 703 836-1000 **E-MAIL:** dblair@landclark.com
3. **WHOM DO YOU REPRESENT, IF OTHER THAN YOURSELF?**
110 S. Pitt Street, LLC
4. **WHAT IS YOUR POSITION ON THE ITEM?**
For
5. **NATURE OF YOUR INTEREST IN ITEM (PROPERTY OWNER, ATTORNEY,
LOBBYIST, CIVIC INTEREST, ETC.):**
Attorney
6. **ARE YOU RECEIVING COMPENSATION FOR THIS APPEARANCE BEFORE
COUNCIL?**
Yes

This form shall be kept as a part of the permanent record in those instances where financial interest or compensation is indicated by the speaker.

A maximum of three minutes will be allowed for your presentation, except that one officer or other designated member speaking on behalf of each *bona fide* neighborhood civic association or unit owners' association desiring to be heard on a docket item shall be allowed five minutes. In order to obtain five minutes, you must identify yourself as a designated speaker, and identify the neighborhood civic association or unit owners' association you represent, at the start of your presentation. If you have a prepared statement, please leave a copy with the Clerk.

Additional time not to exceed 15 minutes may be obtained with the consent of the majority of the council present; provided notice requesting additional time with reasons stated is filed with the City Clerk in writing before 5:00 p.m. of the day preceding the meeting.

The public normally may speak on docket items only at public hearing meetings, and not at regular legislative meetings. Public hearing meetings are usually held on the Saturday following the second Tuesday in each month; regular legislative meetings on the second and fourth Tuesdays in each month. The rule with respect to when a person may speak to a docket item at a legislative meeting can be waived by a majority vote of council members present but such a waiver is not normal practice. When a speaker is recognized, the rules of procedures for speakers at public hearing meetings shall apply. If an item is docketed *for public hearing* at a regular legislative meeting, the public may speak to that item, and the rules of procedures for speakers at public hearing meetings shall apply.

In addition, the public may speak on matters which are not on the docket during the Public Discussion Period at public hearing meetings. The mayor may grant permission to a person, who is unable to participate in public discussion at a public hearing meeting for medical, religious, family emergency or other similarly substantial reasons, to speak at a regular legislative meeting. When such permission is granted, the rules of procedures for public discussion at public hearing meetings shall apply.

Guidelines for the Public Discussion Period

- (a) All speaker request forms for the public discussion period must be submitted by the time the item is called by the city clerk.
- (b) No speaker will be allowed more than three minutes; except that one officer or other designated member speaking on behalf of each *bona fide* neighborhood civic association or unit owners' association desiring to be heard during the public discussion period shall be allowed five minutes. In order to obtain five minutes, you must identify yourself as a designated speaker, and identify the neighborhood civic association or unit owners' association you represent, at the start of your presentation.
- (c) If more speakers are signed up than would be allotted for in 30 minutes, the mayor will organize speaker