

Docket Item #6  
SUBDIVISION # 2004-0001

Planning Commission Meeting  
April 6, 2004

This subdivision would have been automatically approved if not acted on by March 11, 2004, except that the applicant has waived the right to automatic approval.

**ISSUE:** Consideration of a request to subdivide one lot into three lots.

**APPLICANT:** Michael Dross

**LOCATION:** 1001 King Street

**ZONE:** CD/Commercial Downtown

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**STAFF RECOMMENDATION:** Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the recommended permit conditions found in Section III of this report.

**I. DISCUSSION**

REQUEST

The applicant, Michael Dross, requests approval for a subdivision of one lot at 1001 King Street into three lots.

SITE DESCRIPTION

The subject property is one lot of record with 47 feet of frontage on King Street, 60 feet of frontage on North Patrick Street and a total lot area of 2,820 square feet. It is located at the corner of King Street and North Patrick Street and has, for many years, been occupied by the Second Genesis residential treatment facility.

The property is occupied by a series of three buildings of unified construction, originally constructed and used as three separate residential dwellings. They were later consolidated into one building for the purpose of creating the Second Genesis facility. The buildings were likely constructed in the early 1900s.

SURROUNDING USES

Retail businesses occupy the other three corners of the intersection of King and Patrick Streets, with residences extending north and south along Patrick Street, and commercial uses extending east and west along King Street.

PROJECT DESCRIPTION

The applicant is the new owner of the property and is proposing to subdivide the existing lot into three separate lots, resulting in three townhouse building units, as originally constructed, by closing openings made by the previous tenant in the existing fire walls. The townhouses on Lots #500 and #501 will be used for commercial uses, and the townhouse on Lot #502 will be used for residential purposes.

COMPLIANCE WITH CD ZONE REGULATIONS

In the typical subdivision case, staff’s concern with zoning relates only to the land area involved. In this case, because there are buildings already existing on the site, additional zoning regulations, for example those related to floor area ratio (FAR), are relevant. In addition, the CD zone has different rules for commercial and for residential buildings. The proposed commercial Lots #501 and #500 comply with the CD zoning requirements as follows:

	<u>CD Requirement</u>	<u>Lot 501 Proposed</u>	<u>Lot 500 Proposed</u>
Lot Size:	None	929 sq ft	947 sq ft
Frontage:	None	15.3'	16.35'
Front Yard:	None	Off .8"	Off 10"

Side Yard:	None	None	None
Rear Yard:	None	5.7'	5.7'
FAR:	<b>1.5</b>	<b>2.16</b>	<b>2.16</b>
Open Space:	None	None	None
Vision Clearance	<b>75'</b>	N/A	<b>4.5'</b>

The proposed commercial spaces comply with all of the zoning requirements of the CD zoning, except for the FAR and vision clearance.

As to the residential portion of the project, Lot #502 complies with the CD zoning requirements as follows:

	<u>CD Zone Requirement</u>	<u>Lot 502 Proposed</u>
Lot Size:	<b>1,452 sq ft</b>	<b>954 sq ft</b>
Frontage:	<b>18 ft</b>	<b>15.35 ft</b>
Front Yard:	<b>Same as lot line</b>	<b>.8 ft off</b>
Side Yard:	<b>5 ft</b>	<b>0 ft</b>
Rear Yard:	<b>20.5 ft</b>	<b>5.7 ft</b>
FAR:	<b>1.5</b>	<b>2.13</b>
Open Space:	<b>35% of lot area (333.9 sq ft)</b>	<b>100.2 sq ft</b>

The proposed Lot #502 does not comply with any of the CD zoning requirements for a residential townhouse use.

Despite the zoning noncompliance, however, the Commission may still approve a subdivision under circumstances as apply in this case. Under section 11-1713 (E) of the Zoning Ordinance, variations to the zoning requirements are permitted by the Commission when, in its opinion, a strict adherence to [zoning] provisions would result in substantial injustice and when one of the following circumstances exists; provided however, that the use or character of the resulting lots or parcels in such a subdivision shall not be inconsistent with the use provisions in the zone...or the existing development in the immediate area:

....

- (E) resubdivision of lots in subdivisions of record as of record as of January 1, 1952, where, because of existing structures or gross area of land involved, the subdivided lots would not conform to all of the requirements of the zone in which the subdivision is located.

In this case, the property has been a unique, identifiable land parcel which has been in the same configuration for over 100 years, and is therefore considered a lot of record. Furthermore, the existing townhouse structures have been on the property since the early 1900s, with their size, location and bulk, and there are no proposed changes to the buildings that affect the zoning compliance.

BOARD OF ARCHITECTURAL REVIEW

On February 18 and March 3, 2004, the Board of Architectural Review approved improvements to the buildings including new doors, windows, roof, entrances on King Street, and an ADA accessible entrance on North Patrick Street.

SPECIAL USE PERMIT HISTORY

On April 3, 1973, City Council granted Special Use Permit #908 for the operation of a hospital (therapeutic community). On October 13, 2001, City Council approved SUP#2001-0092 to increase the number of beds at the subject property for the facility known as Second Genesis. Second Genesis, a residential rehabilitation facility, operated the facility on King Street since 1970, first at 1013 King Street, and then from 1973 onward at 1001 King Street.

ZONING/MASTER PLAN

The subject property is located in the CD/Commercial downtown zone and identified in the adopted Old Town small area plan chapter of the Master Plan for commercial land use.

## II. STAFF ANALYSIS

Staff does not object to the proposed subdivision at this location. The proposed subdivision will preserve the existing building on the property, and allows its reuse, occupancy and long overdue improvement. The project will restore the land and building to its original three units. The buildings are proposed to be occupied by commercial and residential uses that will add to the vitality of King Street.

In regard to the variations requested for the residential use at 1005 King Street, staff finds that they are clearly justified. The zoning noncompliance under today's ordinance results from buildings and lot configuration that have existed for 100 years. The property has historically been used for residential purposes, and the building that has existed on the property for about 100 years is proposed to remain and be improved. The proposed residential and commercial uses are permitted and anticipated by the zoning. Furthermore, those buildings and the proposed project are similar to and consistent and compatible with other historic development on the street and in the area. To deny the subdivision under these circumstances would, in staff's judgment, result in substantial injustice.

Staff therefore recommends approval of the subdivision.

## III. STAFF RECOMMENDATION:

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

1. Lot variations are hereby approved for: Lot 502: lot size, lot frontage, side yard, rear yard, FAR, and open space; Lot 501: FAR; and Lot 500: FAR and vision clearance. (P&Z)

STAFF: Eileen Fogarty, Director, Department of Planning and Zoning;  
Barbara Ross, Deputy Director;  
Valerie Peterson, Urban Planner.

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Staff Notes: This plat will expire 18 months from the date of approval, or on October 6, 2005, unless recorded sooner.

The final subdivision plat shall meet the standards for land surveying set forth in the Virginia State Code and shall comply with the requirements of Section 11-1700 of the Zoning Ordinance.

#### IV. CITY DEPARTMENT COMMENTS

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

##### Transportation & Environmental Services:

- R-1 Final subdivision plat shall comply with the provisions of Section 11-1709 of the City's Zoning Ordinance.

##### Code Enforcement:

- F-1 Provisions for handicap accessibility are not shown on plans. Handicap accessibility shall be provided to the proposed structures.
- C-1 All exterior walls within 3 feet from an interior property line shall have a fire resistance rating of 1 hour, from both sides, with no openings permitted within the wall. As alternative, a 2 hour fire wall may be provided. This condition is also applicable to porches with roofs and skylights within setback distance.
- C-2 New construction must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-3 Alterations to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-4 Construction permits are required for this project. Plans shall accompany the permit application that fully detail the construction as well as layouts and schematics of the mechanical, electrical, and plumbing systems.
- C-5 The proposed use is a change in use group classification; a new Certificate of Occupancy is required (USBC).
- C-6 Required exits, parking, and accessibility within the building for persons with disabilities must comply with USBC Chapter 11.
- C-7 The applicant must obtain a Certificate of Occupancy prior to occupancy (use) of the structure (USBC).

##### Police Department:

- F-1 No objections.

##### Historic Alexandria Commission (Archaeology):

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F-1 No comments.