

**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 Withdrawn by applicant 11/23/71.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.

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:

Assembly area – 2,198 sq. ft. @ 1 space/50 sq. ft. =	44 spaces
Business vehicles – 2 =	2 spaces
Employees – 6 @ 1 space per employee =	<u>6</u>
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

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. Langley
(Signature of Applicant)

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

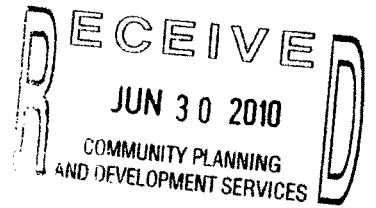
My Commission Expires Diana L. Thomson
Notary Public

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)



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.

**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.rockvillemd.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. TXT2010-00228
Pumphrey Funeral Home – Alpha Notice List
Tentative Schedule for review and action.**

AKHLAGHI	AKHLAGHI HASSAN &	MANZAR HONARKAR	6 THOMAS ST	ROCKVILLE	MD	20850
BEGINES	THOMAS & MARYAM BEGINES, ET AL		2120 10TH ST NW	WASHINGTON	DC	20001
BEI	JIANWEI BEI & QI WEN XU		113 AUTUMN WIND WAY	ROCKVILLE	MD	20850
BENSON	RYAN M & LACIA K BENSON		20 THOMAS ST	ROCKVILLE	MD	20850
BERNARDIN	WILLARD BERNARDIN &	BETTY K K MA	10908 BROAD GREEN TER	POTOMAC	MD	20854
BERRY	JOHN W & M J BERRY		40 WOOD LN	ROCKVILLE	MD	20850
BOWEN	JAMES P & MEGAN K BOWEN		310 W MONTGOMERY AVE	ROCKVILLE	MD	20850
BRADEN	DENNIS R & J J BRADEN		18 THOMAS STREET	ROCKVILLE	MD	20850
BRANDON	Ann M. W. Brandon, Et Al		1544 Edgewood Ave.	Chicago Heights	IL	60411
BRIGGS	LILLIAN R BRIGGS,		303 POTOMAC ST	ROCKVILLE	MD	20850
BRUNETT	LINDA A BRUNETT,		12 WILLIAMS STREET	ROCKVILLE	MD	20850
CARMAN	SCOTT CARMAN, ET AL		14 FOREST AVE	ROCKVILLE	MD	20850
CHESTNUT	CHESTNUT LODGE PROPERTIES INC		785F Rockville Pike, Ste 513	Rockville	MD	20852
COLE	PETER COLE		402 ANDERSON AVE	ROCKVILLE	MD	20850
CONWAY	EDWARD J & C M CONWAY		26 WALL ST	ROCKVILLE	MD	20850
CRAIG	ROBERT J & B S CRAIG		16 THOMAS ST	ROCKVILLE	MD	20850
CRANSTON	GREGORY V CRANSTON, et al Tr		216 HARRISON ST	ROCKVILLE	MD	20850
CROARKIN	JOHN C & E S CROARKIN		106 EVANS ST	ROCKVILLE	MD	20850
DAHREDDINE	SAID M DAHREDDINE		102 EVANS ST	ROCKVILLE	MD	20850
DANISH	DANISH CLUB OF WASHINGTON DC		16 WILLIAMS STREET	ROCKVILLE	MD	20850
DASKALAKIS	ALEX A DASKALAKIS		8 THOMAS ST	ROCKVILLE	MD	20850
DEIGHTON	SANDRA L DEIGHTON, TR		402 W MONTGOMERY AVE	ROCKVILLE	MD	20850
DIETZ	CATHLENE S DIETZ		129 AUTUMN WIND WAY	ROCKVILLE	MD	20850
DIGIOIA	TRACY M DIGIOIA		101 EVANS ST	ROCKVILLE	MD	20850
DRUMMOND	ROBERT C DRUMMOND &	LORI A MILLER	229 W MONTGOMERY AVE	ROCKVILLE	MD	20850
DUFFIE	JEREMY C DUFFIE		404 ANDERSON AVE	ROCKVILLE	MD	20850
DULEY	WILLIAM & F DULEY		410 ANDERSON AVE	ROCKVILLE	MD	20850
DUNCAN	WILLIAM E & DUNCAN	LORI A BARNET	223 WEST MONTGOMERY AVE	ROCKVILLE	MD	20850
DUNCAN	WILLIAM E DUNCAN &	LORI A BARNET	223 W MONTGOMERY AVE	ROCKVILLE	MD	20850
DUSKIN	MEG S DUSKIN &	TERENCE J GRIFFIN	10 THOMAS ST	ROCKVILLE	MD	20850
FAHRNER	CARL J & H M FAHRNER		308 POTOMAC ST	ROCKVILLE	MD	20850
FEGAN	MICHAEL K FEGAN, ET AL TR		104 W JEFFERSON ST	ROCKVILLE	MD	20850
FIELD	ANDREW JONATHAN FIELD &	STACY MILLER FIELD	230 GREAT FALLS RD	ROCKVILLE	MD	20850
FREEDMAN	NEAL D FREEDMAN &	KEREN L WITKIN	224 GREAT FALLS RD	ROCKVILLE	MD	20850
GAGNON	CHARLES & E GAGNON		314 W MONTGOMERY AVE	ROCKVILLE	MD	20850
GEARY	BRIAN M & KIMBERLY A GEARY		208 HARRISON ST	ROCKVILLE	MD	20850
GOLDSBOROUGH	MARK B & C GOLDSBOROUGH		22 WALL ST	ROCKVILLE	MD	20850
GRADY	Meredith A. Grady		105 LUCKETT ST	ROCKVILLE	MD	20850
HADLEY	DONALD H & M E HADLEY		215 HARRISON ST	ROCKVILLE	MD	20850
HARTLEY	G V & J G T HARTLEY		1700 JUMPER CT	VIENNA	VA	22182
HAUSKNECHT	EDWARD & NATALIE J HAUSKNECHT		304 ANDERSON AVE	ROCKVILLE	MD	20850
HENDERSON	HENDERSON HOUSE LLC		2907 34TH ST NW	WASHINGTON	DC	20006
HERNANDEZ	MARIO O & PATRICIA D HERNANDEZ		400 ANDERSON AVE	ROCKVILLE	MD	20850
HONARKAR	MARYAM HONARKAR &	THOMAS J BEGINES	216 W MONTGOMERY AVE	ROCKVILLE	MD	20850
KARN	BRADLEY C JR & D A KARN		307 LAURA LANE	ROCKVILLE	MD	20850
KE	TIANRAN KE		606 S FREDERICK AVE STE 402	GAITHERSBURG	MD	20877
KEIMIG	GRANT A KEIMIG &	LINDA J NATOLI	236 GREAT FALLS RD	ROCKVILLE	MD	20850
KLASING	KEVIN L & MARTHA ANN KLASING,		17 WILLIAMS ST	ROCKVILLE	MD	20850
KORT	SUSAN M KORT		15 WILLIAMS ST	ROCKVILLE	MD	20850
LAI	HARRY & B B LAI		21 WALL ST	ROCKVILLE	MD	20850
LAW	CHRISTOPHER R & C B LAW		103 WALL STREET	ROCKVILLE	MD	20850
LENIHAN	JACOB P LENIHAN		309 POTOMAC ST	ROCKVILLE	MD	20850
LENIHAN	JACOB P LENIHAN		309 POTOMAC ST	ROCKVILLE	MD	20850
LIDE	DAVID A LIDE		16 WALL ST	ROCKVILLE	MD	20850
LINTHICUM	PEGGY ANN LINTHICUM, TRUSTEE		15 WALL ST	ROCKVILLE	MD	20850
LUGINBILL	STEPHEN P & M T LUGINBILL		25 WALL ST	ROCKVILLE	MD	20850
MADDOX	DANIEL T & E EVELYN MADDOX,		217 W MONTGOMERY AVE	ROCKVILLE	MD	20850
MATRO	MATRO LLC		4938 HAMPDEN LN STE 403	BETHESDA	MD	20814
MAY	MARGARET WELSH MAY, ET AL	CHARLES O MAY 3RD	301 W MONTGOMERY AVE	ROCKVILLE	MD	20850
MAY	MARGARET WELSH MAY &		301 W MONTGOMERY AVE	ROCKVILLE	MD	20850
MCANDREW	TERRENCE J & R M MCANDREW		208 W MONTGOMERY AVE	ROCKVILLE	MD	20850
MCCALLUM	MARIANNE H & D F MCCALLUM		19 WILLIAMS ST	ROCKVILLE	MD	20850
MCGARRY	EMILY A MCGARRY		19 WALL ST	ROCKVILLE	MD	20850
MONTGOMERY	MONTG CO HISTORICAL SOCIETY, INC		111 W MONTGOMERY AVE	ROCKVILLE	MD	20850
MOONE	RUBY R MOONE		104 EVANS ST	ROCKVILLE	MD	20850
MOORE	THOMAS H & J L MOORE		11 FOREST AVENUE	ROCKVILLE	MD	20850
MORROW	PHYLLIS R MORROW, TR		227 W MONTGOMERY AVE	ROCKVILLE	MD	20850
MURDOCK	RAY W MURDOCK, ET AL		214 W MONTGOMERY AVE	ROCKVILLE	MD	20850
MURRAY	DAVID MURRAY &	EVVA ASSING-MURRAY	101 WALL ST	ROCKVILLE	MD	20850
MURRAY	JANET MURRAY REV LIVING TR		7013 CLINTON CT	ANNAPOLIS	MD	21403
NEAME	PETER A & P A NEAME		106 N ADAMS ST	ROCKVILLE	MD	20850
NIXON	ADAM W & HELEN A NIXON		100 WALL ST	ROCKVILLE	MD	20850
PAYE	ALIX M PAYE		301 POTOMAC ST	ROCKVILLE	MD	20850
PEDOWITZ	LENARD B PEDOWITZ, ET AL		12 FOREST AVE	ROCKVILLE	MD	20850
PERKINS	JEFFREY W PERKINS		232 GREAT FALLS RD	ROCKVILLE	MD	20850
PIERRO	DARLENE B PIERRO		222 W MONTGOMERY AVE	ROCKVILLE	MD	20850
POLE	THOMAS P & E J I POLE		408 ANDERSON AVE	ROCKVILLE	MD	20850
POLING	SARAH L POLING, ET AL		204 HARRISON ST	ROCKVILLE	MD	20850
PRES CH	PRES CH ROCKVILLE BRD OF TRUSTEES	C/O TREASURER	215 W MONTGOMERY AVE	ROCKVILLE	MD	20850
PRETTYMAN	EDWARD C & M B PRETTYMAN		318 WEST MONTGOMERY AVE	ROCKVILLE	MD	20850
READ	JENNIFER S READ		304 POTOMAC ST	ROCKVILLE	MD	20850
REED	ELIZABETH A REED		100 THOMAS ST	ROCKVILLE	MD	20850
REHM	RONALD G REHM, ET AL TR		405 W MONTGOMERY AVE	ROCKVILLE	MD	20850
ROBINSON	SALLY J & SCOTT A ROBINSON		400 W MONTGOMERY AVE	ROCKVILLE	MD	20850
ROCKVILLE PRESBY	ROCKVILLE PRESBY CH TRUST		215 W MONTGOMERY AVE	ROCKVILLE	MD	20850
ROSE	WILLIAM R ROSE, TR		227 GREAT FALLS RD	ROCKVILLE	MD	20850
ROSEWATER	CARL J & A G ROSEWATER	JACQUELYN S PORTH	38 WOOD LANE	ROCKVILLE	MD	20850
RYPINSKI	ARTHUR D RYPINSKI &	Carolyn S. Poffard	307 WEST MONTGOMERY AVE	ROCKVILLE	MD	20850
SALIVE	MARCEL E SALIVE &		228 GREAT FALLS RD	ROCKVILLE	MD	20850
SAUNDERS	HELEN M SAUNDERS, ET AL		18 FOREST AVE	ROCKVILLE	MD	20850
SCHAFF	ROBERT A SCHAFF		306 POTOMAC ST	ROCKVILLE	MD	20850
SCHIAVONE	JANICE H SCHIAVONE REV TR		118 S VAN BUREN ST	ROCKVILLE	MD	20850
SELLMAN	ANDREW D SELLMAN		411 W MONTGOMERY AVE	ROCKVILLE	MD	20850
SHARKEY	WILLIAM W & R A SHARKEY		308 Great FALLS ROAD	ROCKVILLE	MD	20850
SHAWN	ROBERT B & R SHAWN		304 GREAT FALLS RD	ROCKVILLE	MD	20850
SHULTZ	PATRICIA L SHULTZ		110 EVANS ST	ROCKVILLE	MD	20850
SONNER	ANDREW L & S S SONNER		205 W MONTGOMERY AVE	ROCKVILLE	MD	20850
SPILLERS	DAVID P & K J SPILLERS		311 W MONTGOMERY AVE	ROCKVILLE	MD	20850

SPRAGUE	DONNA S SPRAGUE, ET AL TR		300 GREAT FALLS RD	ROCKVILLE	MD	20850
STATE OF MD	STATE OF MARYLAND		Towers State Office Building	ANNAPOLIS	MD	21401
STONE	THOMAS B JR & L K STONE		305 LAURA LANE	ROCKVILLE	MD	20850
TANJU	MERCEDES P & GUR TANJU		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		222 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		225 GREAT FALLS ROAD	ROCKVILLE	MD	20850
THOMAS HOUSING	THOMAS HOUSING		102 THOMAS ST	ROCKVILLE	MD	20850
TRESELER	Robert H. & Jennifer L Treseler		203 W MONTGOMERY AVE	ROCKVILLE	MD	20850
VITOL	JAMES L & M A T VITOL		11 WALL ST	ROCKVILLE	MD	20850
WAGMAN	ARTHUR M & L L WAGMAN		203 W MONTGOMERY AVE	ROCKVILLE	MD	20850
WARD	CHURCHILL E WARD		409 W MONTGOMERY AVE	ROCKVILLE	MD	20850
WEICHBROD	MICHAEL H WEICHBROD		226 GREAT FALLS ROAD	ROCKVILLE	MD	20850
WEKO	THOMAS J & WEKO	ELIZABETH S	14 WILLIAMS ST	ROCKVILLE	MD	20850
WELSH	BARNARD T & H T WELSH	WEST END HOMEOWNERS ASSOCIATION	301 W MONTGOMERY AVE	ROCKVILLE	MD	20850
WEST END	SUSAN PRINCE, PRESIDENT		206 EVANS ST	ROCKVILLE	MD	20850
WESTFALL	Yaeko W WESTFALL		108 EVANS ST	ROCKVILLE	MD	20850
WHALEN	RAYMOND J & MARY F WHALEN		12 WALL ST	ROCKVILLE	MD	20850
WILMOT	JAMES R & WILMOT	ROBERTA A NICHOLSON	401 W MONTGOMERY AVE	ROCKVILLE	MD	20850
WONG	LAI-WAN WONG, ET AL		234 GREAT FALLS RD	ROCKVILLE	MD	20850
WU	JIAOXIN WU & XUGENG ZHOU		131 AUTUMN WIND WAY	ROCKVILLE	MD	20850
YANG	Milton Yang & Linda Thi		322 BEALL AVE	ROCKVILLE	MD	20850
ZHANG	CHAO X ZHANG & XIU F ZHENG		221 GREAT FALLS RD	ROCKVILLE	MD	20850
Zimmerman	Adam & Julia Zimmerman		101 Lynch St.	ROCKVILLE	MD	20850

ABRAMS & WEST, P.C.

ATTORNEYS AT LAW

SUITE 760N

4550 MONTGOMERY AVENUE

BETHESDA, MARYLAND 20814-3304

(301) 951-1550

FAX: (301) 951-1543

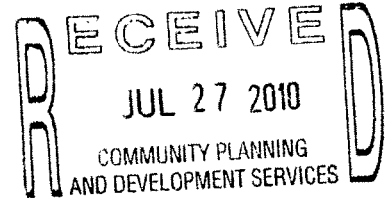
JAMES L. PARSONS, JR.
OF COUNSEL

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

PRACTICING IN MARYLAND AND
DISTRICT OF COLUMBIA

WRITER'S DIRECT NUMBER
(301) 951-1540
EMAIL: "sabrams@awsdlaw.com"

July 26, 2010



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

**RE: Zoning Text Amendment 2010-00228
William A. Pumphrey, Applicant**

Dear Mr. Mellander:

I represent Philip 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,

A handwritten signature in black ink, appearing to read "Stanley D. Abrams", written in a cursive style.

Stanley D. Abrams

SDA:dw
Enclosure

cc: Philip & Megan Bowen