

Stanley & Inga Bush  
1401 St James Ct  
Louisville, KY 40208

September 5, 2019

Attn: Ms. Cynthia Elmore, Historic Preservation Officer  
Landmarks Commission / Planning & Design Services  
Department of Develop Louisville  
444 So. 5<sup>th</sup> Street, Louisville KY 40202

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Re: Dispute of Certificate of Appropriateness Case No. 19-COA-0052

Dear Ms. Elmore,

We are writing to you to request that the decision to issue a Certificate of Appropriateness to cure violations retroactively be reversed. The project description was inaccurate as it included demolition of a historical stone retaining wall that ran parallel to the alley, substantial excavation work, removal of trees, and removal of fences to complete. The change of land use requires a variance. We are concerned about what has occurred because we have due process rights that include notification for projects of this scope, and we did not grant any variances for the change in use (which Metro Government requires). We reject that staff has the authority to approve a project of this scope at the staff level, especially considering the amount of public interest in this property and the violations for the construction of a parking pad on another person's parcel.

**I. Brief History on Landmarks Certificate of Appropriateness 19-COA1047 as it relates to 19-COA-0052**

My wife and I attended a public ARC meeting for the restoration of the rear yard area (19-COA1047) on June 26, 2019 and submitted a letter supporting the restoration of the rear yard area of 416 W Magnolia Ave to the original historical condition. We are Tier One adjoining property owners located at 1401 St James Ct to both 1407 St James Ct and 416 W Magnolia Ave. We are a Tier Two adjoining property owner to 1411 St James Ct.

We attended the public meeting for (19COA1047) pursuant to a notice that we received by mail and pursuant to the usual Landmarks notices (2 large signs) posted on the property at 416 W Magnolia Ave. At the beginning of the meeting, we were advised that members of the invited public would be afforded an opportunity to speak. However, we were denied the opportunity to speak as well as all other members of the public except, Bill Holladay, who was not the applicant, was responsible for the Landmarks violations on the property that (19COA1047) was seeking to cure, and somehow was the only member of the public allowed to speak.

By Landmarks ARC Committee allowing a single member of the public to speak and denying all other members of the public an opportunity to speak, our due process rights were violated as Tier One

property owners to 416 W Magnolia Ave and Tier Two property owners to 1411 St James Ct. I believe that the ARC's actions violates the laws of Kentucky to such a degree that our due process rights along with the Alexander's and all other Tier and non-Tier attendees have been violated in the Landmarks Certificate of Appropriateness application process. The vote was delayed indefinitely. However, the restoration work was already approved by the city as not needing a Certificate of Appropriateness.

I bring this up because I am shocked that after all the public interest and public notices, denying members of the public to speak, other than Bill Holladay, that you would approve 19-COA-0052 at a staff level for him. Even the city attorney (John Carroll) said at the meeting that the project was so integrated into multiple properties that all impacted would have to submit a joint application.

I am concerned about corruption in government. It appears that 19-COA1047 was put on indefinite hold to provide a staff level approval for 19-COA-0052 to slip by impacted neighbors and the community.

## **II. Brief History on Landmarks Certificate of Appropriateness COA 14391-PLN as it relates to 1952-COA-00**

We applied for a Certificate of Appropriateness COA 14391-PLN at 1401 St James Ct to build an ingress and egress driveway into our backyard several years ago. Our application was denied for consuming too much of the private yard area for parking, including references to historical guidelines and site distances.

How can staff grant a Certificate of Appropriateness for the construction of the same project next door that consumes the entire yard at 416 West Magnolia Ave?

Many of the same staff people (including David Marchal) were involved in my application. David Marchal previously advised that the project at 416 W Magnolia Ave was not allowable due to Landmarks restrictions and a lack of a Certificate of Appropriateness.

My proposed backyard parking pad at 1401 St James Ct would have consumed a much smaller percentage (less than 1/3 of my rear yard) than the illegal parking pad at the rear of 416 W Magnolia Ave. All of my proposed construction was on my private property including the curb cut showing ownership of the curb, grass strip, and sidewalk was included).

My site distance for oncoming traffic is surely greater than the non-existent ingress and egress visibility at the rear of 416 W Magnolia Ave or the setback at of 1411 St James Ct. Approval of the 19-COA-0052 is in violation of Metro government's rules that require site line studies that are to be presented and conform to Public Works and State Highway specifications. Your staff level retroactive approval of 19-COA-0052 did not follow your own rules and regulations.

Landmarks must be consistent in their decision making. Failure to be consistent in your decisions will result in three possible actions:

1. You set a precedent that easements and other deed instruments can be used to circumvent your authority. For example, I give my neighbor an easement to park on my property and he gives me one to park on his. We then build our projects and tell Landmarks that you do not have control over the construction. Is this what you want to do?
2. Any and all persons that were previously denied a similar project may have legal standing to sue Landmarks for inconsistent decision making.

3. You have placed Louisville Metro government in the chain of liability if a vehicular or pedestrian accident occurs in entering or leaving the parking pad at the rear of 416 West Magnolia Ave. If a mishap occurred, then the party responsible for the illegal construction can claim that it is the Alexander's property and that Landmarks allowed the construction. The Alexander's and the injured party would then have numerous documented claims against Metro Government for failing to allow them to correct the illegal construction and return the property to the original historic condition. I do not want my tax dollars used to indemnify an injured party.

When we asked the owner of 1407 St James Ct. how his project was approved and that our project for private rear yard parking was denied by Landmarks, he replied that he was allowed to proceed after a former officer of the neighborhood association interceded with the mayor's office on his behalf. Ironically, this same neighborhood association officer complied with the Landmarks regulations when he built a garage a few doors down the street. When researching this letter, I reviewed an email between government employees stating that they were lifting the stop work orders that were previously issued on the project to avoid a neighbor-to-neighbor issue. Am I the neighbor? If not, who is the neighbor that the government was conspiring to not notify of the project in the Landmarks district?

How do I get a backdoor deal to proceed with my project (COA 14391-PLN)? If Certificate of Appropriateness Case No 19-COA-0052 is approved, then are you going to approve mine?

### **III. Dispute for Landmarks Certificate of Appropriateness Case No. 19-COA-0052**

In addition to above comments, I request that the approval be rescinded due to the application's inaccuracies and Staff's erroneous conclusions.

At the June 26, 2019 ARC Committee meeting which we attended, the owner of 1407 St James Ct told the committee that he combined the easement at 1411 St James Ct with 416 W Magnolia Ave and his property. He advised the committee that the easement on 1411 St James Ct was a walking easement. However, he removed a solid concrete block wall, replaced it with a different wall, and removed all of the security fencing around the property lines that were on top of the block wall. Some of the walls and fencing partially appear in this application. How can staff approve the demolition of retaining walls and fences at the staff level? He said that the replacement walls are "like kind". They are not. No survey proof is provided as to the location of the old walls and fence vs. the newly built location. The representations of "Like Kind" replacement in form and function are inaccurate. The replacement wall has a large hole in it so that vehicle doors can be opened through the wall due to the lack of parking space on 416 W Magnolia Ave. Furthermore, the applicant is parking within a setback that does not allow for parking on 1411 St James Ct without a variance. Where is the variance? I am not aware of the property owner applying for one or that of any adjoining property owner.

The owners of 1407 St James Ct removed a historic limestone retaining wall that runs parallel with the public right of way (alley). They excavated the entire rear yard of 416 W Magnolia Ave (including under the foundation) to construct the project as built today and appears in the application. They poured a concrete pad in an area that the Land development Code does not allow a solid concrete pad. The concrete pad is used for parking in violation of the land development code in a private yard area of 416 West Magnolia Ave both inside the setbacks and outside the setbacks. All of this was done without a variance. Where is the variance? I am not aware of the property owner applying for one or that of any adjoining property owner.

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The submitted plans clearly show that the project on 1407 St James Ct, 1411 St James Ct, and 416 W Magnolia Ave are so integrated that the project encroaches across property lines for structural support for construction done on the other property. How can staff approve a project this complex without signatures of the parcel owners and notifications to Tier One and Tier Two neighbors as required by Landmarks?

The application references a curb cut violation when the granite curb was removed without Landmark approval. The 1407 St James Ct property does not extend to the curb at the alley. How are the owners of 1407 St James Ct going to get a curb cut for a driveway in a private rear yard where no parking is allowed? There are inadequate lines of site. The owners of 1407 St James Ct frequently pull out and drive the wrong way down a one way alley.

How has drainage been addressed in this project? The guidelines do not allow the paved surface in the private rear yard to be the drainage. The retaining walls do not have weep holes for drainage.

The project removed the soil and retaining walls holding up the foundation at 416 West Magnolia Ave. I reviewed the emails while preparing this letter where David Marchal told the owners of 1407 St James Ct that he needed to see the engineering for this project. The application does not include any plans to hold-up the primary structure on the lot at 416 West Magnolia Ave.

#### **IV. Stop Work Orders Were Issued for This Project Multiple Times Over the Years**

There were Stop Work Orders issued against driveway and parking pad construction to current and past owners of properties impacted by the project. In fact, Darnell Farris was involved in issuing stop work orders in 2012 on this project and added that they could not do a project of this type and scope. Darnell Farris went on to state that he advised us that we could not do the same project at 1401 St James Ct. Check your Metro Government records. Parking is not allowed in a private rear yard without a variance.

#### **V. Request to Overturn Approval of Landmarks Certificate of appropriateness Case No. 19-COA-0052**

The Old Louisville Historic Preservation District and Landmarks Commission was created in 1974 to prevent the destruction of our community assets and preserve the properties in Old Louisville for the public interest. It was also created to prevent illegal development and the illegal demolition of historic properties in our community. Landmarks deed restrictions prevent demolition without approval and to regulate all manmade exterior changes in a historically sensitive Landmarks Preservation District.

We as Tier I and Tier II adjoining property owners who have had our project private rear yard parking area denied, support the return of 416 W Magnolia Ave, 1411 St James Ct, and 1407 St James Ct back to their respective historical look, use, and function. This would require that Landmarks Case 19-COA-0052 be rejected in whole. We do not support illegal development where property owners attempt to create deed instruments requiring demolition of historic structures after making numerous attempts to confuse, obfuscate, and circumvent Landmarks authority.

Sincerely,  
  
Stan & Inga Bush

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