

INTRODUCED: December 12, 2022

AN ORDINANCE No. 2022-372

To authorize the special use of the property known as 2235 Perry Street for the purpose of a day nursery for up to ten children, upon certain terms and conditions.

Patron – Mayor Stoney (By Request)

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: JAN 9 2023 AT 6 P.M.

WHEREAS, the owner of the property known as 2235 Perry Street, which is situated in a R-6 Single-Family Attached Residential District, desires to use such property for the purpose of a day nursery for up to ten children, which use, among other things, is not currently allowed by section 30-412.1 of the Code of the City of Richmond (2020), as amended; and

WHEREAS, in accordance with section 17.11 of the Charter of the City of Richmond (2020), as amended, it has been made to appear that, if granted subject to the terms and conditions set forth in this ordinance, the special use granted by this ordinance will not be detrimental to the safety, health, morals and general welfare of the community involved, will not tend to create congestion in streets, roads, alleys and other public ways and places in the area involved, will not create hazards from fire, panic or other dangers, will not tend to overcrowding of land and cause

AYES: 8 NOES: 0 ABSTAIN: _____

ADOPTED: JAN 9 2023 REJECTED: _____ STRICKEN: _____

an undue concentration of population, will not adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences and improvements, and will not interfere with adequate light and air; and

WHEREAS, (i) the City Planning Commission has conducted a public hearing to investigate the circumstances and conditions upon which the Council is empowered to authorize such use, (ii) the City Planning Commission has reported to the Council the results of such public hearing and investigation and its recommendations with respect thereto, and (iii) the Council has conducted a public hearing on this ordinance at which the person in interest and all other persons have had an opportunity to be heard;

NOW, THEREFORE,

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. **Finding.** Pursuant to section 30-1050.1 of the Code of the City of Richmond (2020), as amended, the Council hereby finds that the special use set forth in and subject to the terms and conditions of this ordinance will not (i) be detrimental to the safety, health, morals and general welfare of the community involved, (ii) tend to create congestion in streets, roads, alleys and other public ways and places in the area involved, (iii) create hazards from fire, panic or other dangers, (iv) tend to overcrowding of land and cause an undue concentration of population, (v) adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences and improvements, or (vi) interfere with adequate light and air.

§ 2. **Grant of Special Use Permit.**

(a) Subject to the terms and conditions set forth in this ordinance, the property known as 2235 Perry Street and identified as Tax Parcel No. S000-0491/048 in the 2022 records of the City Assessor, being more particularly shown on a survey entitled “Plat Showing a Physical Survey of Lot 8 & Lot 9, The Holland’s, City of Richmond, Virginia,” prepared by Lang Land Surveying, LLC, and dated December 14, 2021, a copy of which is attached to and made a part of this ordinance, hereinafter referred to as “the Property,” is hereby permitted to be used for the purpose of a day nursery for up to ten children, hereinafter referred to as “the Special Use,” substantially as shown on the untitled plans, prepared by an unknown preparer, and undated, hereinafter referred to as “the Plans,” copies of which are attached to and made a part of this ordinance.

(b) The adoption of this ordinance shall constitute the issuance of a special use permit for the Property. The special use permit shall inure to the benefit of the owner or owners of the fee simple title to the Property as of the date on which this ordinance is adopted and their successors in fee simple title, all of which are hereinafter referred to as “the Owner.” The conditions contained in this ordinance shall be binding on the Owner.

§ 3. **Special Terms and Conditions.** This special use permit is conditioned on the following special terms and conditions:

(a) The Special Use of the Property shall be as a day nursery for up to ten children, not including children living on the Property, substantially as shown on the Plans.

(b) No less than two off-street parking spaces shall be provided for the Special Use.

(c) The hours of operation for the day nursery shall be from 6:00 a.m. to 6:00 p.m., Monday through Friday.

(d) All mechanical equipment serving the Property shall be located or screened so as not to be visible from any public right-of-way.

(e) The day nursery shall be licensed by and operated under the requirements of the Virginia Department of Education or its successor agency.

§ 4. **Supplemental Terms and Conditions.** This special use permit is conditioned on the following supplemental terms and conditions:

(a) All required final grading and drainage plans, together with all easements made necessary by such plans, must be approved by the Director of Public Utilities prior to the issuance of the building permit.

(b) Storm or surface water shall not be allowed to accumulate on the land. The Owner, at its sole cost and expense, shall provide and maintain at all times adequate facilities for the drainage of storm or surface water from the Property so as not to adversely affect or damage any other property or public streets and the use thereof.

(c) Facilities for the collection of refuse shall be provided in accordance with the requirements of the Director of Public Works. Such facilities shall be located or screened so as not to be visible from adjacent properties and public streets.

(d) Any encroachments existing, proposed on the Plans or contemplated in the future shall require separate authorization and shall be subject to the applicable provisions of the Code of the City of Richmond (2020), as amended, and all future amendments to such laws.

(e) In all other respects, the use of the Property shall be in accordance with the applicable underlying zoning regulations.

§ 5. **General Terms and Conditions.** This special use permit is conditioned on the following general terms and conditions:

(a) No permit implementing this special use permit shall be approved until satisfactory evidence has been presented to the Zoning Administrator that any delinquent real estate taxes applicable to the Property have been paid.

(b) The Owner shall be bound by, shall observe and shall comply with all other laws, ordinances, rules and regulations applicable to the Property, except as otherwise expressly provided in this ordinance.

(c) Words and phrases used in this ordinance shall be interpreted to have the meanings ascribed to them by section 30-1220 of the Code of the City of Richmond (2020), as amended, unless the context clearly indicates that a different meaning is intended.

(d) Notwithstanding any other provision of law, this special use permit is being approved due, in part, to the mitigating effects of each and every condition attached hereto; consequently, if any portion of this ordinance is determined to be invalid for any reason by a final, non-appealable order of any Virginia or federal court of competent jurisdiction, the invalidity shall cause the entire ordinance to be void and of no further effect from the effective date of such order.

(e) The privileges granted by this ordinance may be revoked pursuant to the provisions of sections 30-1050.7 through 30-1050.11 of the Code of the City of Richmond (2020), as amended, and all future amendments to such laws. Failure to comply with the terms and conditions of this ordinance shall constitute a violation of section 30-1080 of the Code of the City of Richmond (2020), as amended, and all future amendments to such law, or any other applicable laws or regulations.

(f) When the privileges granted by this ordinance terminate and the special use permit granted hereby becomes null and void or when the Special Use of the Property as authorized by this ordinance is abandoned for a period of 730 consecutive calendar days, whether as a result of

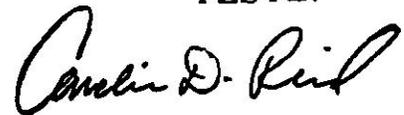
the Owner relinquishing this special use permit in a writing addressed to the Director of Planning and Development Review or otherwise, use of the Property shall be governed thereafter by the zoning regulations prescribed for the district in which the Property is then situated.

§ 6. **Implementation.** The Zoning Administrator is authorized to issue a certificate of zoning compliance for the Special Use subject to the terms and conditions set forth in this ordinance. An application for the certificate of zoning compliance shall be made within 730 calendar days following the date on which this ordinance becomes effective. If the application for the certificate of zoning compliance is not made within the time period stated in the previous sentence, this ordinance and the special use permit granted hereby shall terminate and become null and void.

§ 7. **Effective Date.** This ordinance shall be in force and effect upon adoption.

A TRUE COPY:

TESTE:

A handwritten signature in black ink, appearing to read "Carolin D. Reil". The signature is written in a cursive style with a large initial 'C'.

City Clerk



City of Richmond

900 East Broad Street
2nd Floor of City Hall
Richmond, VA 23219
www.rva.gov

Item Request File Number: PRE.2022.0358

O & R Request

DATE: November 14, 2022

EDITION: 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor (Mayor, by Request)
(This is no way reflects a recommendation on behalf of the Mayor.)

THROUGH: J.E. Lincoln Saunders, Chief Administrative Officer

THROUGH: Sharon L. Ebert, Deputy Chief Administrative Officer for Economic
Development and Planning

FROM: Kevin J. Vonck, Director, Department of Planning and Development Review

RE: To authorize the special use of the property known as 2235 Perry Street for the purpose
of a day nursery for up to 10 children, upon certain terms and conditions.

ORD. OR RES. No. ____

PURPOSE: To authorize the special use of the property known as 2235 Perry Street for the purpose
of a day nursery for up to 10 children, upon certain terms and conditions.

REASON: The applicant is requesting a Special Use Permit which would allow for a home based day
care of not more than 10 children, within the R-6 - Residential (Single Family Attached) zone, which is
not an allowed use. A Special Use Permit is therefore requested.

RECOMMENDATION: In accordance with the requirements of the City Charter and the Zoning
Ordinance, the City Planning Commission will review this request and make a recommendation to City
Council.

BACKGROUND: The property is located in the Swansboro neighborhood at 2235 Perry Street,
between West 24th and West 22nd Streets. The property is 4,111sq.ft. (0.094 acres) in size and currently
consists of a single-family detached dwelling. The application requests to allow a home based day care
of not more than 10 children.

The City's Richmond 300 Master Plan designates a future land use for the subject property as Residential. This designation is defined as a "Neighborhood consisting primarily of single-family houses on large- or medium-sized lots more homogeneous in nature."

Primary Uses: Single-family houses, accessory dwelling units, and open space.

Secondary Uses: Duplexes and small multi-family buildings (typically 3-10 units), institutional, and cultural. Secondary uses may be found along major streets.

The property is located in the R-6 - Residential (Single Family Attached) zone. Adjacent properties are zoned the same R-6 zone to the north and south with R-48 to the west. Surrounding uses consist of residential uses.

FISCAL IMPACT / COST: The Department of Planning and Development Review does not anticipate any impact to the City's budget for this or future fiscal years.

FISCAL IMPLICATIONS: Staff time for processing the request; preparation of draft ordinance; and publishing, mailing and posting of public notices.

BUDGET AMENDMENT NECESSARY: No

REVENUE TO CITY: \$300 application fee

DESIRED EFFECTIVE DATE: Upon adoption

REQUESTED INTRODUCTION DATE: December 12, 2022

CITY COUNCIL PUBLIC HEARING DATE: January 9, 2023

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: City Planning Commission
January 3, 2023

AFFECTED AGENCIES: Office of Chief Administrative Officer
Law Department (for review of draft ordinance)

RELATIONSHIP TO EXISTING ORD. OR RES.: None

REQUIRED CHANGES TO WORK PROGRAM(S): None

ATTACHMENTS: Draft Ordinance, Application Form, Applicant's Report, Plans, Survey, Map

STAFF: Ray Roakes, Planner, Land Use Administration (Room 511) 804-646 5467



Application for **SPECIAL USE PERMIT**

Department of Planning and Development Review
Land Use Administration Division
900 E. Broad Street, Room 511
Richmond, Virginia 23219
(804) 646-6304
<http://www.richmond.gov/>

Application is hereby submitted for: (check one)

- special use permit, new
- special use permit, plan amendment
- special use permit, text only amendment

Project Name/Location

Property Address: 2235 Perry Street, Richmond VA 23225 Date: June 24, 2022
 Tax Map #: _____ Fee: _____
 Total area of affected site in acres: _____

(See **page 6** for fee schedule, please make check payable to the "City of Richmond")

Zoning

Current Zoning: _____

Existing Use: _____

Proposed Use

(Please include a detailed description of the proposed use in the required applicant's report)

Family day childcare for at least 10 children, during 8am to 5pm, Monday thru Friday.

Existing Use: caring for 5 children with a babysitting zoning permit

Is this property subject to any previous land use cases?

Yes No If Yes, please list the Ordinance Number: _____

Applicant/Contact Person: carmen stewart cruz

Company: carmen child care

Mailing Address: 2235 perry street

City: Richmond State: VA Zip Code: 23225

Telephone: (804)502773 Fax: ()

Email: cruz1251@gmail.com

Property Owner: Nikea Stewart

If Business Entity, name and title of authorized signer: _____

(The person or persons executing or attesting the execution of this Application on behalf of the Company certifies that he or she has or have been duly authorized and empowered to so execute or attest.)

Mailing Address: 2235 Perry Street

City: Richmond State: Virginia Zip Code: 23225

Telephone: (804)502776 Fax: ()

Email: nikeastewart41@gmail.com

Property Owner Signature: 

The names, addresses, telephone numbers and signatures of all owners of the property are required. Please attach additional sheets as needed. If a legal representative signs for a property owner, please attach an executed power of attorney. **Faxed or photocopied signatures will not be accepted.**

NOTE: Please attach the required plans, checklist, and a check for the application fee (see Filing Procedures for special use permits)

June 29, 2022

Application Report

Carmen childcare

I Carmen Stewart Cruz would like to obtain a Special Use Permit for 2235 Perry Street Richmond VA 23225. This location is my home and a Family Home childcare. At his moment I am licensed FDH and have a certificate of zoning compliance (babysitting). I operate from 6am – 6pm, Monday – Friday.

I serve children ages newborn through 12yrs of age. Serve them meals, learning activities. Parents drop off and pick up from street in front of the home. My husband Nikea Stewart helps with activities, we do occasional walks to local parks. We have a fence being installed July 01, 2022. Surrounding the side and back of house. Which will be used for children to play.

Thank you,

Commonwealth of Virginia



DEPARTMENT OF EDUCATION

FAMILY DAY HOME LICENSE

Issued to: _____
Address: CARMEN STEWART CRUZ
2235 Perry Street, Richmond, Virginia 23225

This license is issued in accordance with provisions of Chapter 14.1, Title 22.1, Code of Virginia and other relevant laws, the regulations of the State Board of Education, and the specific limitations prescribed by the Superintendent of Public Instruction, as follows:

<u>CAPACITY</u>	
<u>GENDER</u> Both	<u>AGE</u> 0 years 0 months through 12 years 11 months

This license is not transferable and will be in effect February 21, 2022 through February 20, 2023 unless revoked for violations of the provisions of law or failure to comply with the limitations stated above.

ISSUING OFFICE:

Virginia Department of Education
Office of Child Care Health and Safety (Central)
1604 Santa Rosa Road, Suite 130
Richmond, Virginia 23229-5008
Telephone: (804) 840-8312

By _____
JILLIAN BALOW
SUPERINTENDENT OF PUBLIC INSTRUCTION

Title _____
Associate Director

Date _____
February 21, 2022

FDH 1109751
LICENSE NUMBER

2235 Perry Street – Home Based Day Care

Details on Operation:

What is the max number of children: *10*

Age range: *newbourne to 12yrs*

Will you be the only employee, or will there be other employees as well?
Myself, Carmen Stewart cruz also my husband Nikea Stewart.

Do the other employees live at the house where the childcare is?
Yes, we live in the house.

What is the square footage of the area of the house that will be dedicated to childcare vs what is dedicated to living space for you?
*6 ft 1 in x 22 ft 2 in for childcare
1,556 Sq ft all together*

Do you want a sign on the outside of the house or in the yard?
No

What are the hours of operation? *6am to 6pm*

When is pickup and dropoff planned for?
No pickup or drop off transportation is available.

Where will dropoff and pickup happen? In the front street, in a driveway, etc.?
Parents will drop-off and pick off in the front street of house.

How large in square feet is the play area?
Play area outside 90 ft x 44 ft 7 in

Is the play area on the side of the house or in the back?
Both, side and back

How tall is the fence for the play area?
6 ft tall

Requirement of Special Use Permit Application

- 1) Effect on Safety, Health, Morals, and General Welfare of the Community

2235 Perry – Operational Notes

- a) *The proposed special use will have a positive affect on the neighborhood by providing options for childcare.*
- 2) Effect on the Streets, Road, Alleys, and Public Ways and Places
 - a) *The proposed special use has been reviewed by Staff in regards to drop and pick up of daycare users.*
- 3) Effects on the Hazards from Fire, Panic, and Other Dangers
 - a) *The proposed special use has been reviewed by Staff in regards to safety as required by law. The daycare will also be licensed by the State of Virginia and follow all applicable State requirements.*
- 4) Effect of Crowding of Land and Concentration of Population.
 - a) *The proposed special use has been reviewed by Staff and the daycare will be licensed by the State of Virginia and follow all applicable State requirements.*
- 5) Effect on Schools, Parks, Playgrounds, Water Supplies, Sewage Disposal, Transportation and Other Public Improvements.
 - a) *The proposed special use has been reviewed by Staff for adequate public service.*
- 6) Effect on Adequate Light and Air.
 - a) *The proposed special use has been reviewed by Staff and the daycare will be licensed by the State of Virginia and follow all applicable State requirements.*

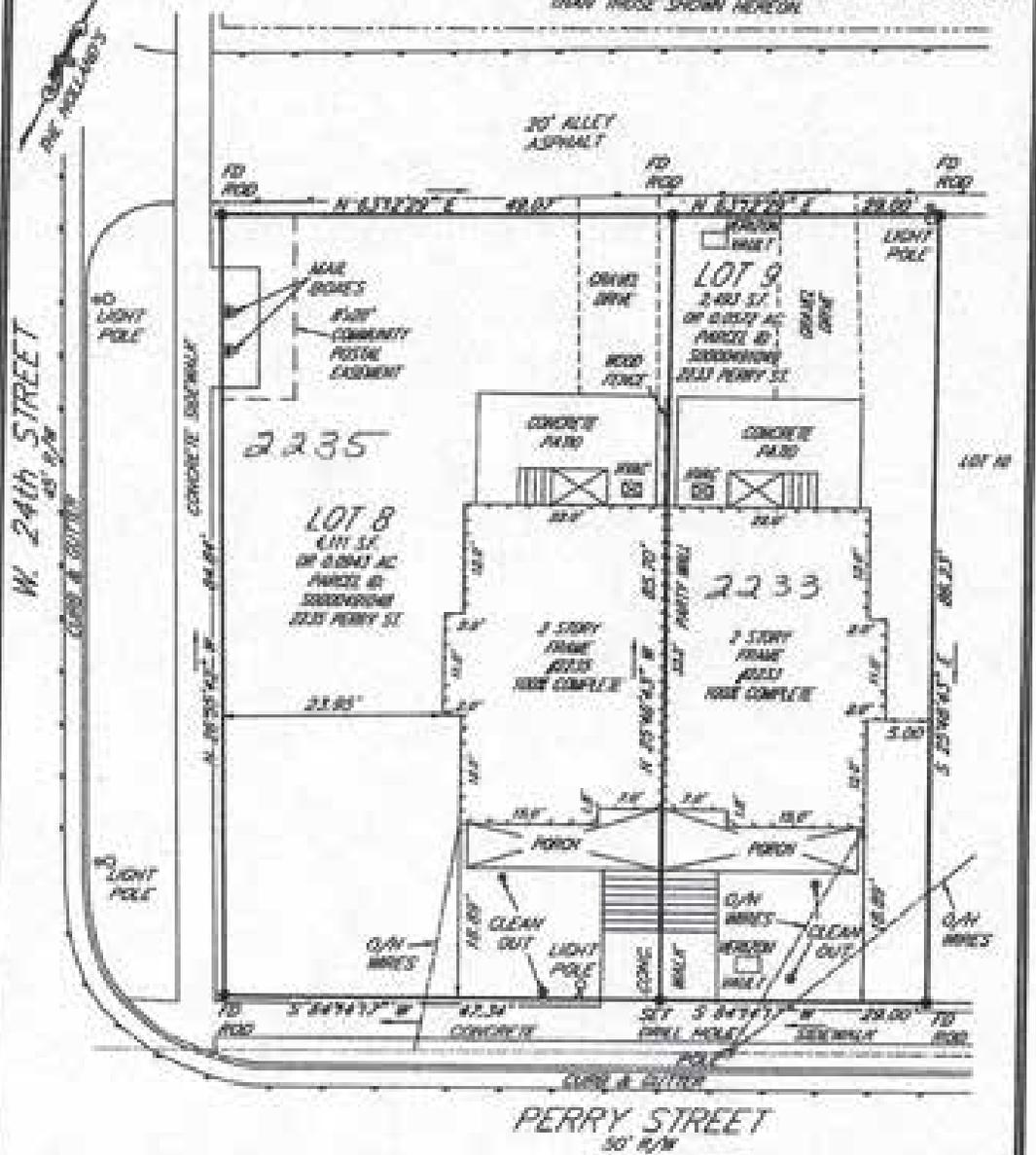
Applicant Name: Armen Stewart Cruz

Date: August 24, 2022

Signature: Armen Stewart Cruz

THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE
 "X" AS SHOWN ON FLOOD INSURANCE RATE MAP
 (F.I.R.M.) PANEL NUMBER: 510190001E
 EFFECTIVE DATE: 07-16-2014

THIS IS TO CERTIFY THAT ON DECEMBER 14, 2011,
 I MADE AN ACCURATE SURVEY OF THE PREMISES
 SHOWN HEREON AND THAT THERE ARE NO EASEMENTS
 OR ENCROACHMENTS VISIBLE ON THE GROUND OTHER
 THAN THOSE SHOWN HEREON.



PLAT SHOWING A PHYSICAL SURVEY OF
LOT 8 & LOT 9
THE HOLLAND'S
 CITY OF RICHMOND, VIRGINIA

THIS SURVEY IS SUBJECT TO ANY EASEMENTS
 OF RECORD AND OTHER PERTINENT FACTS
 WHICH A TITLE SEARCH MIGHT DISCLOSE.



LANG
 LAND SURVEYING, LLC

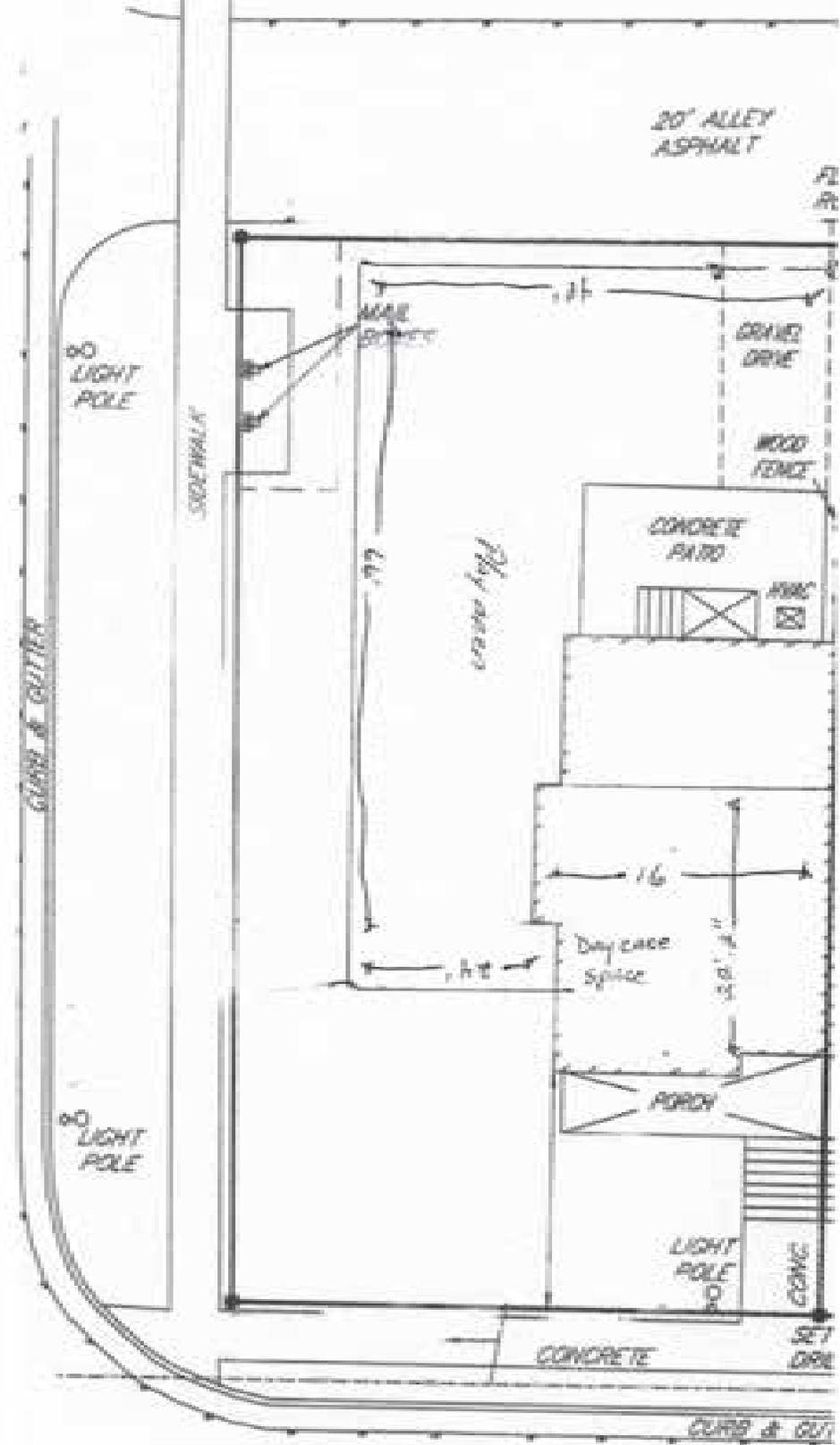
4413 LITTLE RIDGE LN, CHESTERFIELD, VA 23034
 OFFICE: 804-552-2011
 EMAIL: rlang@langlandsurveying.com

DATE: DECEMBER 14, 2011 SCALE: 1"=15'

DRAWN BY: RLL

CHECKED BY: RLL

DWG NAME: PLAT & 24th PERRY ST





**City of Richmond
Department of Planning
& Development Review**

Special Use Permit

LOCATION: 2235 Perry Street

APPLICANT: Carmen Stewart Cruz,
Property Owner

COUNCIL DISTRICT: 5

PROPOSAL: To authorize the special use of
the property known as 2235 Perry Street for
the purpose of a home based day care of not
more than 10 children.

*For questions, please contact Ray Roakes
at 804-646-5467 or ray.roakes@rva.gov*

