

AN ORDINANCE No. 95-281 - 275

As Amended

ADOPTED NOV 13 1995

To authorize the use of the real estate, property known as 1410 West 43rd Street, for the continued occupancy of the existing building for artist and craftsman studio and art and craft gallery purposes or for conversion for office purposes, upon certain terms and conditions.

Patron - City Manager (By request)

Approved as to form and legality
by the City Attorney

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That the real estate, property known as 1410 West 43rd Street, located on the west side of 43rd Street between Forest Hill and Springhill Avenues, identified as Parcel No. S000-2794/006 in the 1995 records of the City Assessor, being more particularly described as follows: beginning at a point on the west right of way line of West 43rd Street, said point being located 135.00 feet north of the point of intersection of the west right of way line of West 43rd Street and the north right of way line of Forest Hill Avenue; thence extending in a northerly direction along the west right of way line of West 43rd Street 55.00 feet to a point; thence extending in a westerly direction along a property line 60.00 feet to a property line; thence extending in a southerly

direction along a property line 20.00 feet to a property line; thence extending in a westerly direction 23.00 feet to a property line; thence extending in a southerly direction 35.00 feet to a property line; thence extending in an easterly direction 83.00 feet to the point of beginning, is hereby permitted to be used for the continued occupancy of the property as artist studios and an art gallery, substantially in accordance with the survey and floor plan entitled "43rd Street Gallery Sketch Plan", dated May 2, 1995, prepared by Robert Winthrop & Associates, Architect, a copy of which is attached hereto and made a part of this ordinance.

§ 2. That adoption of this ordinance shall constitute the granting of a special use permit for the real estate, which shall be transferable from the owner of real estate to the successor or successors in fee simple title of the owner, whether acquired by operation of law, deed or otherwise, and shall run with the land.

§ 3. That the Commissioner of Buildings is hereby authorized to issue to the owner of said real estate a building permit and to permit the occupancy of the property in accordance with the above-referenced plans for such purpose(s), subject to the following terms and conditions:

(a) That the owner of the properties shall be bound by, observe, and shall comply with all other laws, ordinances and rules and regulations adopted pursuant thereto, applicable to the land and building, except as otherwise provided in this ordinance;

(b) That application for a building permit (certificate of occupancy) shall be made within twenty-four (24) months from the

effective date of this ordinance, which building permit shall expire by limitation and become null and void if any necessary construction is not commenced within one hundred eighty days from the date of the building permit, or if construction is suspended or abandoned for a period of one hundred eighty days at any time after work is commenced, as provided in the applicable provisions of the Virginia Uniform Statewide Building Code. Should application for the building permit (certificate of occupancy) not be made within twenty-four months from the effective date of this ordinance or should the building permit expire and become null and void, the privileges granted by this ordinance shall terminate and this special use permit shall become null and void;

(c) ~~[Use of the premises shall be as a maximum of seven hundred twenty five (725) square feet of floor area devoted to art gallery space, with the remainder of the existing building devoted to use as artist studio space. In addition to customers of the art gallery, no more than four (4) employees and/or artists shall be on the premises at any one time. Hours of operation for the art gallery shall be limited to between 8:00 a.m. and 6:00 p.m. Monday through Saturday.]~~ That use of the premises shall be limited to professional, business and administrative offices; studios of writers, designers, artists, and craftsmen; and art and/or craft galleries, provided that such galleries do not exceed a maximum aggregate floor area of seven hundred fifty (750) square feet. In addition to customers or visitors to any permitted use of the premises, no more than four (4) employees, artists, or craftsmen

shall be on the premises at any one time. Hours of service to the general public for any office or gallery use shall be limited to between 8:00 a.m. and 6:00 p.m. Monday through Saturday. For the purpose of this ordinance, the term "craftsmen" shall include persons engaged in the manual assembly or repair of nonamplified stringed instruments.

(d) That any existing encroachments of the public right of way shall be subject to the applicable requirements of the City Code;

(e) That this ordinance shall not be construed to affect any private property rights of others related to the existing encroachments by the building or improvements onto adjacent properties;

(f) Signage shall be limited to one sign, mounted on a vertical surface on the front of the building, not exceeding a maximum of thirty-two (32) square feet of sign area. Such sign may be illuminated, provided that the source of illumination is not visible;

(g) That 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 or public streets;

(h) That the existing propane tank on the property shall be screened with a minimum four (4) foot high screen of a minimum opacity of forty (40) percent;

(i) That storm or surface water shall not be allowed to

accumulate on the land and adequate facilities for drainage of storm or surface water from the land and building shall be provided and maintained at all times by the owner at its cost and expense so as to not adversely affect or damage adjacent property or public streets and alleys and the use thereof; and

(j) That there shall be no alterations or enlargements to the existing building other than routine repair and maintenance.

§ 4. That should the owner use the premises for any purpose which is not permitted by this ordinance, or fails, refuses or neglects to comply with all applicable terms and conditions, and does not terminate such use or comply with such terms and conditions within sixty days after written notice to do so has been given by the Zoning Administrator, the privileges granted by this ordinance shall terminate and the special use permit shall become null and void, unless an application for a special use amendment is filed with the Director of the Department of Community Development, which shall stay the sixty day period. Failure to comply with the terms of this ordinance shall constitute a violation of § 32-1080 of the Code of the City of Richmond, 1993, or other applicable provision.

§ 5. That when the privileges granted by this ordinance terminate and the special use permit becomes null and void or when use of the premises is abandoned for a period of twenty-four consecutive months, the use of the real estate shall be governed thereafter by the zoning regulations prescribed for the district in which the real estate is then situated.

§ 6. This ordinance shall be in force and effect upon adoption.

M O T I O N

To amend Ordinance No. 95-281

Page 1

Line 4

After the word "artist" but before the word "studio" add the words "and craftsman"; after the word "art" but before the word "gallery" add the words "and craft"; and after the word "purposes" but before the word "upon" add the words "or for conversion for office purposes".

Page 3

Line 11

Delete paragraph (c) and add a new paragraph (c) as follows:

"That use of the premises shall be limited to professional, business and administrative offices; studios of writers, designers, artists, and craftsmen; and art and/or craft galleries, provided that such galleries do not exceed a maximum aggregate floor area of seven hundred fifty (750) square feet. In addition to customers or visitors to any permitted use of the premises, no more than four (4) employees, artists, or craftsmen shall be on the premises at any one time. Hours of service to the general public for any office or gallery use shall be limited to between 8:00 a.m. and 6:00 p.m. Monday through Saturday. For the purpose of this

ordinance, the term "craftsmen" shall include persons engaged in the manual assembly or repair of nonamplified stringed instruments."



APPLICATION FOR SPECIAL USE PERMIT
CITY OF RICHMOND, VIRGINIA

Date: 5/8/95

To: The Honorable Council of the City of Richmond
c/o The Department of Community Development
Land Use Administration Division
900 E. Broad Street, Room 511
Richmond, Virginia 23219

Application is hereby submitted for a special use permit for property located at:

1410-12 W. 43RD STREET
RICHMOND 23225

Purpose of Special Use Permit: Authorize Continued use
OF Commercial Property in Resid. Zone as Gallery

Area of Property: < 1 Acre acres (Application fee is based on area)

Attached is a check for \$ N/A, payable to "City of Richmond"

Applicant/Contact Person: ROBIN CASE

Mailing Address: 1410-12 W. 43RD STREET
Richmond, VA. 23225 Telephone: (804) 233-1758

Property Owner: ROBIN CASE

Mailing Address: same
Telephone: () - -

Property Owner's Signature: Robin Case

(The signatures of all owners of the property are required. Please attach additional sheets as required. If a legal representative signs for a property owner, please attach an executed power of attorney.)

NOTE: Please attach the required site plans, floor plans, elevation drawings, applicant's report, and a check for the application fee. (See Special Use Permit Filing Procedure.)

May 22, 1995

1410-12 West 43rd Street
City of Richmond, Virginia
WRITTEN REPORT OF APPLICANT FOR SPECIAL USE PERMIT

TO: Department of Community Development
City of Richmond, Virginia

I am applying for a Special Use Permit to rezone my building at 1410-12 West 43rd Street for commercial use. I signed a contract to buy the property in March of 1985, contingent upon obtaining a Certificate of Occupancy that permitted the operation of a craft studio and gallery. It was my understanding at that time that this was a permitted use under a "grandfathering" provision, as the property had been consistently previously utilized for retail purposes. I purchased the property after obtaining the required Certificate of Occupancy and have spent ten years creating a successful business at this location.

I am a potter. I have a working studio on the premises and make functional stoneware pots. The front portion of the building is utilized as gallery space. Customers are able shop in the gallery and tour the studio. They can watch me as I throw on the wheel or do brushwork on my pots. Many people take home finished work from the workshop, or choose from an assortment of other crafts in the gallery made by regional craftsmen and artists. The gallery is known for its fine selection of contemporary ceramics, jewelry and willow furniture.

The gallery is open to the public on Monday, Wednesday, Friday and Saturday from 10:00 a.m. until 4:00 p.m. and on Tuesday and Thursday from 10:00 a.m. until 6:00 p.m. I generally have a part-time employee present for ten to fifteen hours per week. Otherwise, I work and maintain the studio and gallery on my own. The use of this property as a studio and gallery does not create a hazard from fire, panic or other dangers.

There is a room in the back of the studio that has a private, exterior entrance. In the past I have rented this space out for use as a violin repair shop and a potter's studio, but it is

currently used by me for storage. I would, however, like to have the option to rent it to another craftsman or to use it as a violin repair shop in the future.

My goal in seeking this Special Use Permit is simply to be able to continue to use this property in the manner in which I have used it over the past ten years. Prior to that time, it has continuously been used as a retail establishment, including periods of time in which it was a small grocery store and a barber shop.

The building occupies the vast majority of the property and is not suitable for any use other than commercial. It would not be either practical or realistic to convert the building into a single-family residence. A secondary goal in seeking this Special Use Permit is to obtain a zoning classification that lends itself to other non-intrusive commercial uses, in the event that I decide to sell the property at some future date. Ideally, I would like to see uses such as a law office, small craft shop or other business use not incompatible with the surrounding neighborhood permitted. It is not my intention to seek any rezoning that would permit the property to be used as a convenience store, restaurant or other use that has a high volume of traffic.

This property is located on the first block of West 43rd Street north of Forest Hill Avenue and is located directly across West 43rd Street from Good Shepherd Episcopal Church. The school that is a part of the church is open from September through early June of each year, and the teachers at the school generally park on the opposite side of West 43rd Street. There are no residences or other buildings that front on this block of West 43rd Street. Customer parking for the gallery is more than adequately handled by the available on-street parking on the side of West 43rd Street on which my property is located. This side of the street has always had signs, placed by the City, indicating a "one hour parking limit" in at least three locations. Two of the three signs are presently missing and need to be replaced. This time limitation on parking, coupled with the fact that the volume of customers in the gallery is minimal by comparison to other types of retail establishments, prevents the use of the property from creating any congestion or parking problems in the immediate area.

There is little customer traffic during most of the hours in which the gallery is open and, when customers do come into the gallery, it is rare that there are more than one or two automobiles being utilized by those customers at any given time. In short, none of this block of West 43rd Street is used for parking by any of the neighboring residences, and the level of vehicular traffic that is generated by my use of the property as a gallery and pottery studio is minimal. My use of the property, as evidenced by the past ten years, does not create any congestion in the adjoining streets or alleyways in this area. Likewise, my use of this property does not adversely affect or interfere with this

private school (or any other school, for that matter), or with any parks or playgrounds.

Throughout the ten year period in which I have owned this property, I have attempted to improve the appearance of the building and grounds. I have constantly kept the building and grounds in good condition and repair. I have kept the signage and lighting to a minimum. I have one sign, measuring four feet by eight feet, on the front of the building, flat against the structure above the plate glass windows of the storefront. Please note that I am not applying for this Special Use Permit to seek any alterations to the building.

It is my opinion that the 43rd Street Gallery is an asset to the community. Much of my retail trade comes from local residents in the surrounding area. Attached to this application is a petition which has been signed by many of the neighbors on adjoining streets. These residents and neighbors desire that my present use of the property be allowed to continue on a permanent basis.

I have regular contact with many of these persons as I visit with them on at least an annual basis to obtain names to assist in the necessary permits to close off the streets for the 43rd Street Festival of the Arts. This is a community-conscious arts and crafts show that is held in September of each year for the benefit of Freedom House. My gallery is a major sponsor of this event, which is a day of socializing with the neighbors and enjoying music and the arts, all for the benefit of a worthy cause in our city. I have also attached a copy of a letter for the rector at the Good Shepherd Episcopal Church, which is in favor of the continued use of my property as a gallery and pottery studio.

I have spoken with leaders and members of local civic associations. Both the Westover Hills and Woodland Heights Associations are supportive of my business at its present location. The associations, however, will not render a formal endorsement and letter of support for the special use request until such time as its Boards have reviewed the actual wording of the proposed zoning ordinance.

My use of this property as a gallery and studio does not create any nuisance, nor does it unduly burden any public utility, such as water, sewer or natural gas, through excessive use. The building is a small one and one-half story frame structure and, as such, does not interfere with adequate light and air for adjoining property owners. As can be observed on the attached plat, which shows a vicinity map, a reproduction of the survey that was made when I acquired the property and a floor plan, the land area is 4,105 square feet. The residence which is adjacent to the property on the south faces Forest Hill Avenue, and the adjacent residence

on the north fronts on Springhill Avenue.

Please note also that in the ten years that I have occupied this property, I have never received any complaints from neighbors and residents about my work or the business that is located there. I am an established part of this community and desire only to be allowed to continue to perform my work and sell my goods at this property. There is nothing involved in the gallery business or the studio which is detrimental to the safety, morals and general welfare of this community. The property is not a "gathering spot" for persons who are disobedient or disrespectful of the law, and no unlawful activity of any kind transpires at this property.

Insofar as this property has, at least as far back as the 1920's, been occupied by a commercial enterprise, it continues to be compatible with the surrounding community. Most of the residences in the neighborhood are of similar age, and it is apparent that this commercial property, the church and school across West 43rd Street and the surrounding residences have coexisted in a compatible manner for many years.

I urge your positive action on this special use request. Thank you for your consideration.



ROBIN J. CAGE, Owner
43rd Street Gallery



The Rev. Mario Gonzalez del Solar
Rector

April 27, 1995

To Whom It May Concern,

Re: Special Use Permit for 43rd Street Gallery

It has come to my attention that the 43rd Street Gallery has applied for a Special Use Permit in order to be allowed to continue operate as a business at 1412 W. 43rd Street, Richmond 23225. I heartily endorse their application, and wish that they continue in the neighborhood. In addition to having a following among the residents of our community, the Gallery sponsors a yearly 43rd Street Festival of The Arts to raise money for worthy causes. They have been very good neighbors, and our desire is that they continue in the neighborhood.

Thank you for your consideration.

Sincerely,



The Rev. Mario Gonzalez del Solar
Rector

To the Dept of Community Development and City Council,

We, the undersigned, are residents, friends, and neighbors of The 43rd Street Gallery. We support the continued use of the building at 1410-12 W. 43rd St. as a pottery shop/gallery and do not object to having a commercial business in this residential area.

SIGNATURE	ADDRESS	PHONE #
Katherine Ho Reade	4306 Springhill Ave.	231-2264
Jean & Carol Mellon	4308 Springhill Ave.	230-2162
John & TRISH SANICEY	4310 SPRINGHILL AVE.	233-4054
Mabel a Hobgood	4301 Springhill Ave.	233-3605
Jim Macomber	4215 SPRINGHILL AVE	233-8955
Austin C. Wangen	4211 SPRINGHILL AVE	232-1458
Michael Lane	4205 Spring Hill Ave	231-9420
Alicia Lomez	4203 Springhill Ave.	233-2261
Donna Connel	4201 Springhill Ave.	231-3709
W. Arthur	4202 SPRINGHILL AVE	231-4376
Robert Crews	4304 Springhill Ave	752-2312
Robert & Joanne Wylie	4213 Springhill Ave.	230-6541
Mary K. Geisen	4207 Springhill Ave.	232-2559
FAH	4204 " "	230-4318
John E. Mason	4307 Springhill Ave.	230-9474
W.P. MacDonald	4301 Forest Hill Ave.	233-9452
Mario Lopez/delSala	4206 Springhill Ave	233-2278
Jeanne B. Wade	4300 Springhill Ave	232-9051
Elizabeth Gardner	4202 Springhill Ave.	232-0880

M O T I O N

To amend Ordinance No. 95-281

Page 1

Line 4

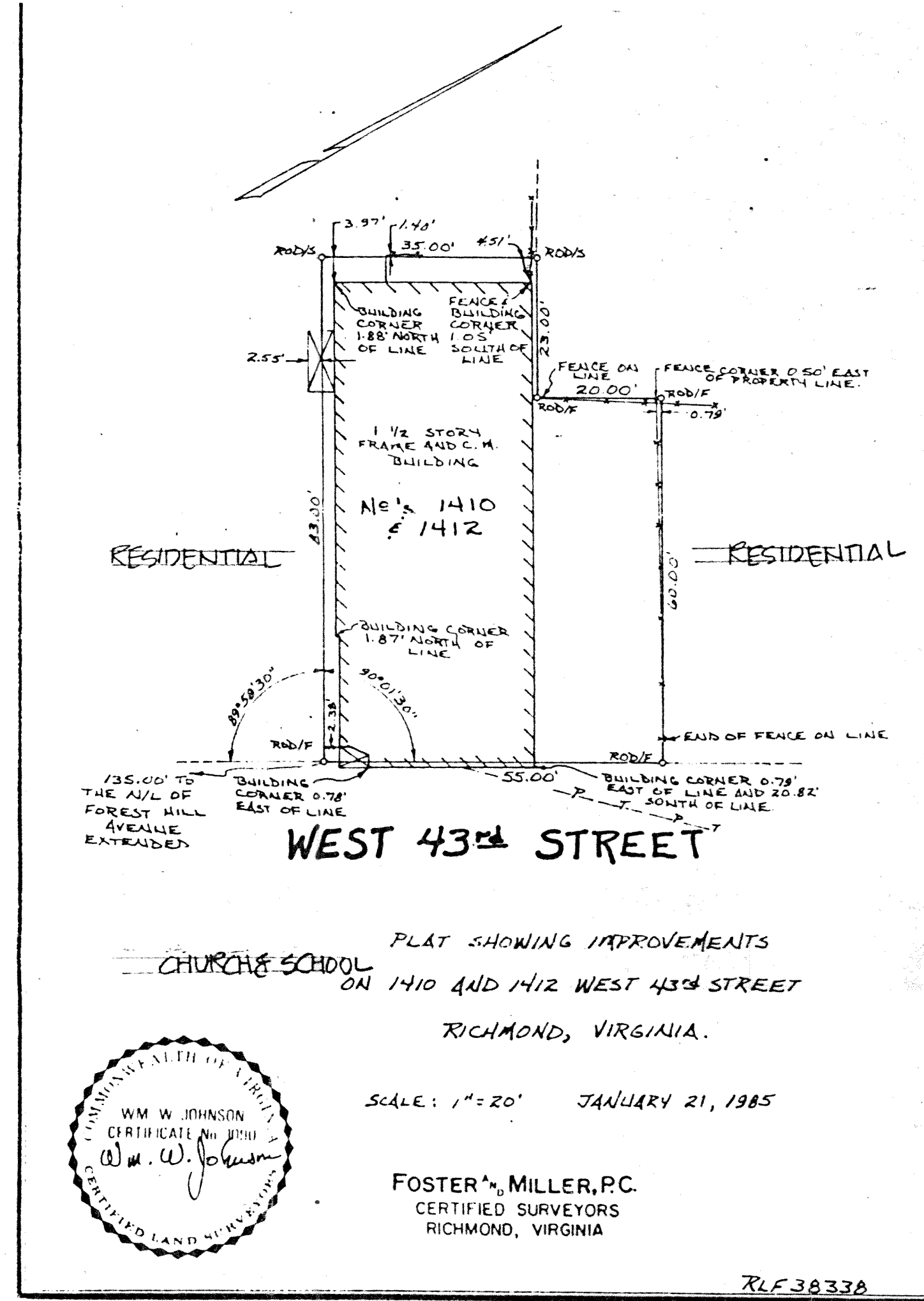
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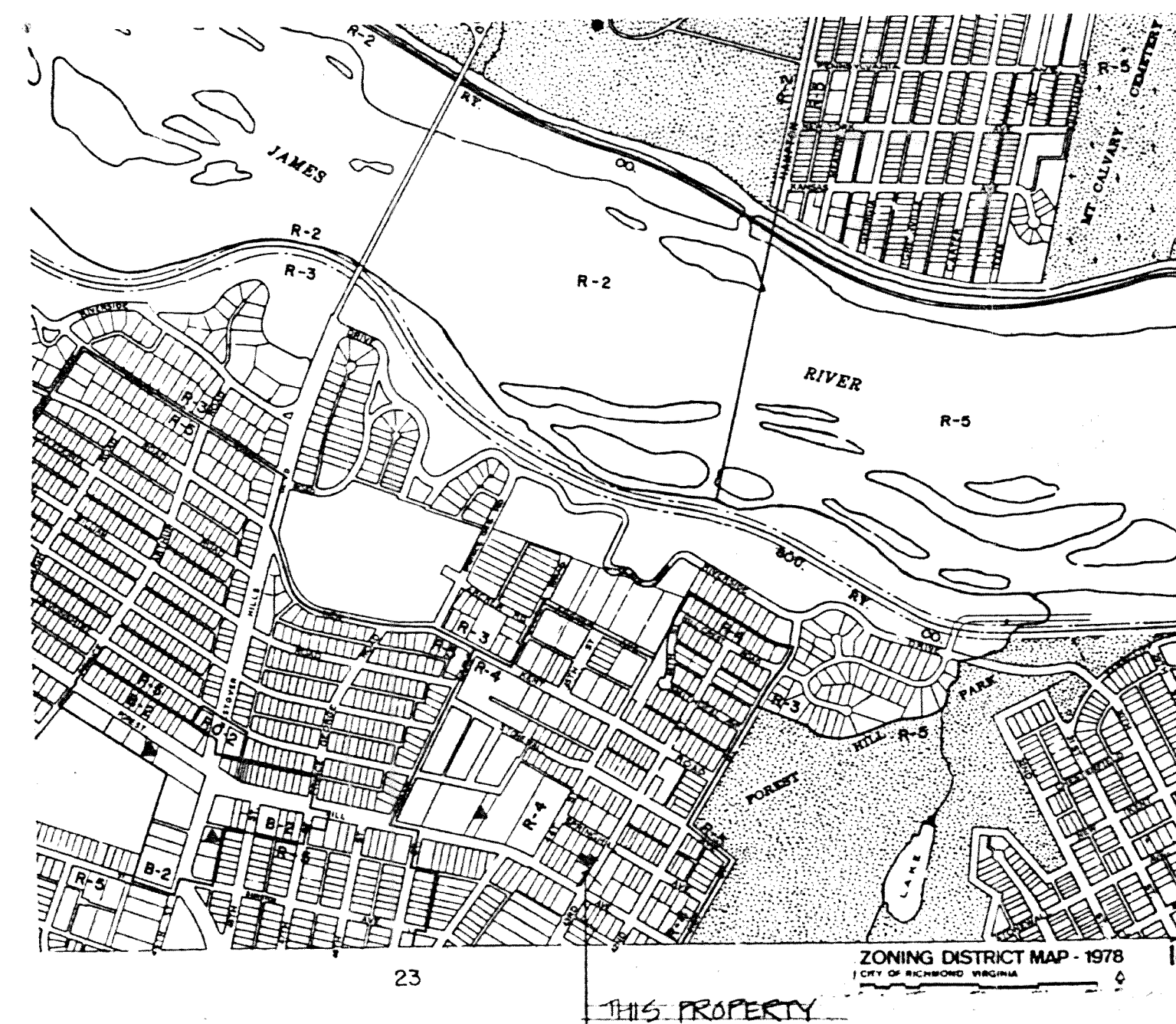
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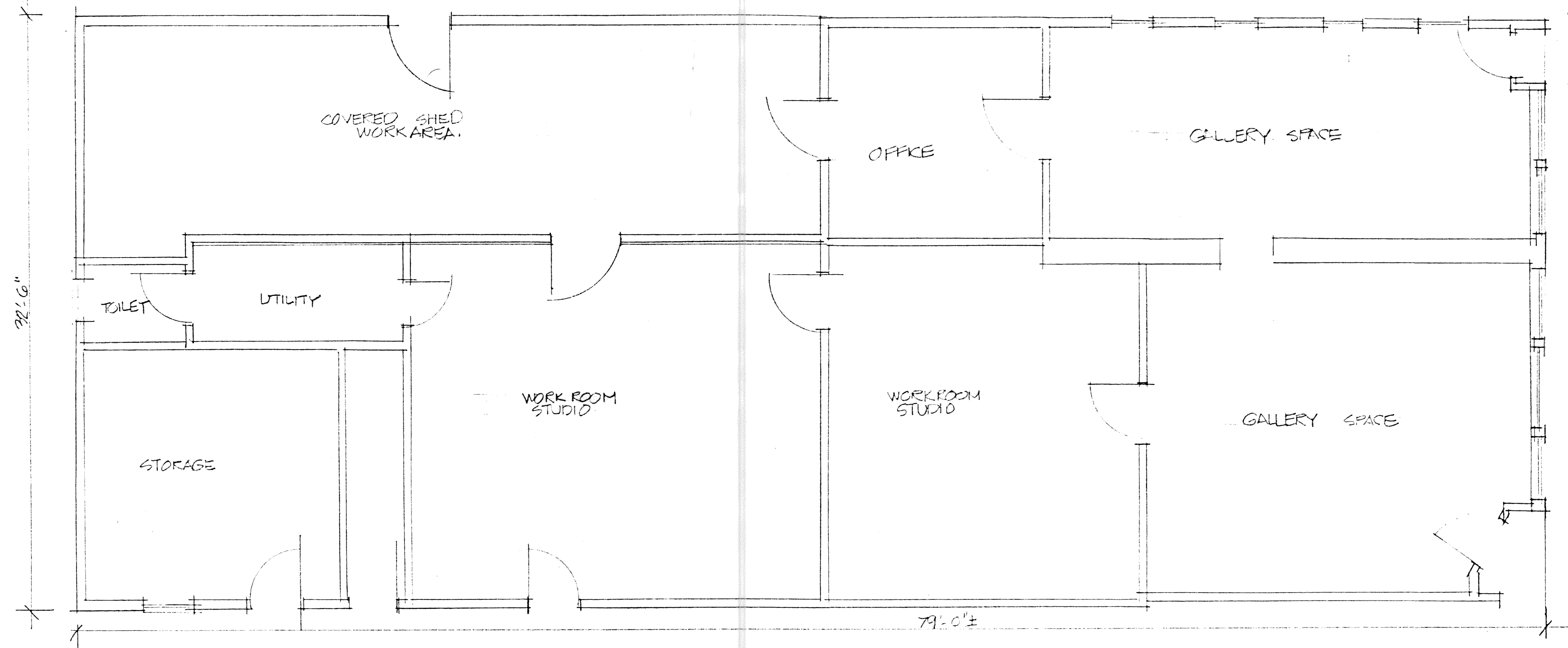


NOTES:

1. THE SITE PLAN & THE BUILDING PLAN ARE NOT ORIENTED IN THE SAME DIRECTION.
2. ALL PROPERTIES ARE ZONED R-4 (MAP DATED 1978 WITH REVISIONS TO 1995)
3. THE LOT AREA IS 4105 SQ. FT.

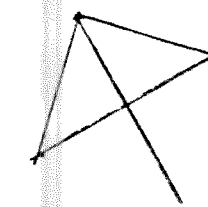
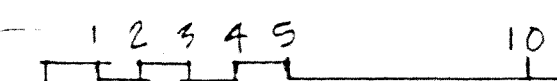


NEIGHBORHOOD PLAN



SKETCH FLOOR PLAN
SCALE 1/4"=1'-0"

NOTE: THIS DRAWING REPRESENTS THE EXISTING CONDITIONS ON THE SITE & DOES NOT REFLECT ANY CHANGES IN USE OR FUNCTION. THERE IS NO INDICATION OF ARCHITECTURAL CHANGES IN THE BUILDING OF RECENT VINTAGE.



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