

INTRODUCED: July 14, 2014

AN ORDINANCE No. 2014-160-202

As Amended

To amend Ord. No. 2012-85-85, adopted June 11, 2012, which authorized a special use of the property known as 25 and 27 North Belmont Avenue, to permit the use of the property as a restaurant, upon certain terms and conditions.

\_\_\_\_\_  
Patron – Mayor Jones (By Request)

\_\_\_\_\_  
Approved as to form and legality  
by the City Attorney  
\_\_\_\_\_

PUBLIC HEARING: SEPT 8 2014 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

I. That Ordinance No. 2012-85-85, adopted June 11, 2012, be and is hereby amended and reordained as follows:

§ 1. That the property known as 25 and 27 North Belmont Avenue and identified as Tax Parcel No. W000-1359/047 in the [~~2012~~] 2014 records of the City Assessor, being more particularly shown on the plat entitled “Plat Showing Improvements on 25-27 N. Belmont Ave., City of Richmond, Virginia,” prepared by Hulcher and Associates, Inc., and dated April 13, 2011, a copy of which is attached to and made a part of [~~this ordinance~~] Ordinance No. 2012-85-85, adopted June 11, 2012, is hereby authorized for [~~the use of the northern portion of the~~

AYES: 9 NOES: 0 ABSTAIN: \_\_\_\_\_

ADOPTED: NOV 10 2014 REJECTED: \_\_\_\_\_ STRICKEN: \_\_\_\_\_

~~property]~~ use as a restaurant, as depicted, with respect to the northern portion of the property, on the plan entitled “Belmont Food Shop, 25 & 27 North Belmont Avenue, Richmond, Virginia 23221,” prepared by Donahue Designs, dated August 25, 2011, and revised January 9, 2012, a copy of which is attached to and made a part of ~~[this ordinance, as a restaurant, substantially as shown on the attached plan]~~ Ordinance No. 2012-85-85, adopted June 11, 2012.

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

§ 3. That the ~~[Zoning Administrator]~~ Commissioner of Buildings is hereby authorized to issue to the owner of the property a certificate of ~~[zoning compliance]~~ occupancy for the aforementioned purpose, subject to the following terms and conditions:

(a) The owner of the property shall be bound by, shall observe and shall comply with all other laws, ordinances, rules and regulations applicable to the property, except as otherwise provided in this amendatory ordinance.

(b) An application for a certificate of ~~[zoning compliance]~~ occupancy shall be made within twenty-four (24) months from the effective date of this amendatory ordinance. Should application for the certificate of ~~[zoning compliance]~~ occupancy not be made within twenty-four (24) months after the effective date of this amendatory ordinance or should the certificate of ~~[zoning compliance]~~ occupancy expire and become null and void after ~~[the expiration of the twenty four (24) month time period for making application for the certificate of zoning compliance]~~ it is issued the privileges granted by this amendatory ordinance shall terminate and

the special use permit shall become null and void, provided that the nonconforming uses and nonconforming features, as defined by section 114-1220 of the Code of the City of Richmond (2004), as amended, in place on the property as of the date of adoption of ~~[this ordinance]~~ Ordinance No. 2012-85-85, adopted June 11, 2012, shall be retained subject to the provisions of Chapter 114, Article VIII of the Code of the City of Richmond (2004), as amended.

(c) 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 subject property have been paid.

(d) 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 adjacent property or public streets and the use thereof.

(e) The ~~[uses]~~ use of the property shall be as ~~[two separate commercial spaces.]~~ a restaurant, subject to the following conditions:

~~[(1) — The northern portion of the building, as depicted on the attached plan and known generally as 27 North Belmont Avenue, shall be permitted to be used as a restaurant substantially configured as on the attached plan.~~

~~(2) — The nonconforming uses and nonconforming features, as defined by section 114-1220 of the Code of the City of Richmond (2004), as amended, existing on the southern portion of the building, as depicted on the attached plan and known generally as 25 North Belmont Avenue, as of the date of the adoption of this ordinance shall be retained subject to the provisions of Chapter 114, Article VIII of the Code of the~~

~~City of Richmond (2004), as amended however; nothing herein shall render any nonconforming feature or nonconforming use conforming.]~~

(1) The restaurant use of the northern portion of the building shall be substantially as depicted on the plan attached to Ordinance No. 2012-85-85, adopted June 11, 2012.

(2) The maximum occupancy of the southern portion of the building shall not exceed fifteen (15) persons.

~~[(f)]~~ (3) The hours of operation for the restaurant use [described in subsection (e)(1) of this section] in the northern portion of the building shall be 5:00 p.m. to 11:00 p.m. on Monday through Thursday; 5:00 p.m. to 12:00 a.m. on Friday and Saturday; and 7:00 a.m. to 11:00 p.m. on Sunday. The hours of operation for the restaurant use in the southern portion of the building shall be 7:00 a.m. to 2:30 p.m. and 3:00 p.m. to 11:00 p.m. on Monday through Thursday and Sunday and 7:00 a.m. to 2:30 p.m. and 3:00 p.m. to 12:00 a.m. on Friday and Saturday.

~~[(g)]~~ (4) Outdoor commercial use of the rear of the property shall ~~not~~ only be permitted in conjunction with the restaurant use in the southern portion of the building, shall not be permitted after ~~10:00~~ 7:00 p.m., and shall not exceed the maximum occupancy of fifteen (15) persons established by subsection (e)(2) of this section. Outdoor commercial use of the front of the property along the northern portion of the building shall only be permitted in conjunction with the restaurant use in the northern portion of the building and shall not be permitted after 10:00 p.m. No music, live or otherwise, or public address system shall be played or operated outside or on the exterior of the building.

~~[(h)]~~ (5) Music or public address systems inside the building shall be operated in such a manner that sound produced therefrom is not audible beyond the boundaries of the property.

~~[(i)]~~ (6) Signage on the property shall comply with the signage regulations for the R-63 Multifamily Urban Residential District, provided that the aggregate area of all signs directed toward or intended to be viewed from the street shall not exceed sixteen (16) square feet for the uses of the property.

~~[(j)]~~ (7) A minimum of ~~[seven (7)]~~ ~~[ten (10) off-street parking spaces shall be provided for the restaurant use of the property. Seven (7) of these]~~ seven (7) off-street parking spaces shall be provided for the restaurant use of the northern portion of the building within three hundred (300) feet of the principal entrance to the restaurant. ~~[Three (3) of these]~~ A minimum of three (3) off-street parking spaces shall be provided for the restaurant use of the southern portion of the building after 5:00 p.m. and within seven hundred twenty-five (725) feet of the principal entrance to the restaurant.

(8) No catering service independent of the restaurant use of the property shall utilize the southern portion of the building.

(f) 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.

(g) Any encroachments existing, proposed on the plan attached to Ordinance No. 2012-85-85, adopted June 11, 2012, 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 (2004), as amended.

(h) The nonconforming uses and nonconforming features, as defined by section 114-1220 of the Code of the City of Richmond (2004), as amended, existing on the southern portion of the building, known generally as 25 North Belmont Avenue, as of the date of the adoption of Ordinance No. 2012-85-85, adopted June 11, 2012, shall be retained subject to the provisions of Chapter 114, Article VIII of the Code of the City of Richmond (2004), as amended; provided, however, nothing herein shall render any nonconforming feature or nonconforming use conforming.

~~[(k)]~~ (i) In all other respects, the use of the property shall be in accordance with the applicable underlying zoning regulations.

§ 4. That the privileges granted by this ordinance may under certain circumstances be revoked. Upon noting that a condition of a special use permit has been violated, the Zoning Administrator shall issue a written notice of violation to the property owner. The notice shall inform the property owner (i) which condition or conditions have been violated, (ii) the nature of the violation, and (iii) that the City Planning Commission shall hold a public hearing at which it shall review the violation and the special use permit pursuant to the provisions of sections 114-1050.7 through 114-1050.11 of the Code of the City of Richmond (2004), as amended, if (a) the property owner does not abate the violation within thirty (30) days of the issuance of the notice or (b) three (3) notices of violation are issued to the property owner within any twelve (12) month period. No action taken pursuant to the provisions of this section shall in any way limit the City's right to pursue any other remedy at law or in equity against the property owner. Failure to comply with the terms and conditions of this ordinance shall constitute a violation of section 114-1080 of the Code of the City of Richmond (2004), as amended, or any other applicable laws or regulations.

§ 5. That when the privileges granted by this ordinance terminate and the special use permit becomes null and void or when use of the property is abandoned for a period of twenty-four (24) consecutive months, use of the property shall be governed thereafter by the zoning regulations prescribed for the district in which the property is then situated, provided that the nonconforming uses and nonconforming features, as defined by section 114-1220 of the Code of the City of Richmond (2004), as amended, in place on the property as of the date of adoption of ~~[this ordinance]~~ Ordinance No. 2012-85-85, adopted June 11, 2012, shall be retained subject to the provisions of Chapter 114, Article VIII of the Code of the City of Richmond (2004), as amended.

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

II. This amendatory ordinance shall be in force and effect upon adoption.



CITY OF RICHMOND  
INTRACITY CORRESPONDENCE

O & R REQUEST

JUN 18 2014

Chief Administration Office  
City of Richmond

O&R REQUEST

DATE: June 10, 2014

EDITION: 1

TO: The Honorable Members of City Council

THROUGH: Dwight C. Jones, Mayor (Patron: Mayor, by Request)  
(This in no way reflects a recommendation on behalf of the Mayor.)

THROUGH: Byron C. Marshall, Chief Administrative Officer

THROUGH: Peter H. Chapman, Deputy Chief Administrative Officer

FROM: Mark A. Olinger, Director of Planning and Development Review

SUBJECT: To amend Ord. No. 2012-85-85, adopted June 11, 2012, which authorized a special use of the property known as 25 and 27 North Belmont Avenue, to permit the use of the property as a restaurant, upon certain terms and conditions.

RECEIVED  
JUN 23 2014

OFFICE OF CITY ATTORNEY

ORD. OR RES. No. \_\_\_\_\_

**PURPOSE:** To amend Ord. No. 2012-85-85, adopted June 11, 2012, which authorized a special use of the property known as 25 and 27 North Belmont Avenue, to permit the use of the property as a restaurant, upon certain terms and conditions.

**REASON:** The property is zoned in the R-6 Single Family Attached Residential district, which does not permit any commercial uses. A special use permit was approved in 2012 authorizing the northern portion of the building (27 N. Belmont Avenue) to be used as a restaurant and the southern portion of the building (25 N. Belmont Avenue) to maintain its nonconforming uses (i.e. a catering establishment or other commercial use of similar or lesser intensity). The applicant is seeking an amendment to the special use permit to authorize the entire property to be used for restaurant use.

**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. This item will be scheduled for consideration by the Commission at its September 2, 2014 meeting. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting.

**BACKGROUND:** The subject property consists of a 0.08 acre parcel located in the City's Museum District neighborhood on North Belmont Avenue between Floyd Avenue and Ellwood

201406007



Avenue. The property is a part of the Near West planning district and the West of Boulevard National Historic District. The property is also a part of the West of the Boulevard design overlay district, which regulates exterior changes to buildings, structures and sites within public view. Such changes are not contemplated by the proposed special use permit amendment, therefore the design overlay district requirements to not apply to this proposal.

The property is improved with a double-storefront commercial building. The northern portion of the building is known as 27 N. Belmont Avenue; the southern portion of the building is known as 25 N. Belmont Avenue.

The property is zoned in the R-6 Single Family Attached Residential district, which does not permit any commercial uses. However, a special use permit was approved in 2012 authorizing the northern portion of the building to be used as a 22-seat restaurant and the southern portion of the building to maintain its nonconforming uses (i.e. a catering establishment or other commercial use of similar or lesser intensity). The applicant is seeking an amendment to the special use permit to authorize the entire property to be used for restaurant use.

The amended special use permit ordinance would limit the occupancy of the restaurant use of the southern portion of the building to fifteen (15) persons and allow the rear patio of the property to be used in conjunction with the restaurant use of the southern portion of the building. It would also allow outdoor use of the property in front of the northern portion of the building in conjunction with the restaurant use of the northern portion of the building. Currently, no outdoor commercial use of the property is permitted by the special use permit.

The hours of operation for the restaurant use of the northern portion of the building are 5:00 p.m. to 11:00 p.m. on Monday through Thursday; 5:00 p.m. to 12:00 a.m. on Friday and Saturday; and 7:00 a.m. to 11:00 p.m. on Sunday. The amended special use permit ordinance would maintain these hours of operation and set the hours of operation for the restaurant use in the southern portion of the building at 7:00 a.m. to 2:30 p.m. and 3:00 p.m. to 11:00 p.m. Monday through Thursday and Sunday; and 7:00 a.m. to 2:30 p.m. and 3:00 p.m. to 12:00 a.m. on Friday and Saturday. Outdoor use of the property in conjunction with the restaurant use of the southern portion of the building and the northern portion of the building would cease at 10:00 p.m.

Under the current special use permit ordinance, seven (7) off-street parking spaces are provided within three hundred (300) feet of the principal entrance to the restaurant use of the northern portion of the building. Under the amended special use permit, these seven spaces would continue to be provided for the restaurant use of the northern portion of the building, in addition to three (3) parking spaces which would be provided after 5:00 p.m. and within seven hundred twenty five (725) feet of the principal entrance to the restaurant, for use by the restaurant use of the southern portion of the building. A parking study was conducted by the applicant, indicating the general availability of on-street parking to further accommodate the parking needs of the proposed restaurant use of the building.

The City of Richmond's Master Plan recommends Single-family (Medium Density) land uses for the property. The Master Plan defines the primary uses for this category as single-family and two-family detached and attached dwellings at densities of 8 to 20 units per acre, and includes residential support uses such as schools, places of worship, and neighborhood parks, among others. While the Master Plan does not contemplate commercial use of the property, the property was originally constructed for commercial use and is unlikely, as configured and situated, to be converted to a single or two-family dwelling as permitted by the underlying zoning and

recommended by the Master Plan. Moreover, the property is located on a block on North Belmont that contains a business area with similar commercial uses, including another restaurant.

The properties to the north are located in the R-6 Single Family Detached residential district and consist primarily of single family attached and detached dwellings, with some duplex and multi-family uses. Properties to the west across Belmont Avenue are also located in the R-6 district and include nonconforming retail and office uses, and the Belmont Library. Properties to the south along Belmont Avenue are nonconforming commercial uses in the R-48 Multifamily Residential district that are authorized by a special use permit for commercial uses including a restaurant located at 1 N. Belmont Avenue. The Carytown Shopping District is located one block further south along Belmont Avenue.

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

**COST TO CITY:** Staff time for processing the request; preparation of draft ordinance; and publishing, mailing and posting of public notices.

**REVENUE TO CITY:** \$1,200 application fee

**DESIRED EFFECTIVE DATE:** Upon adoption.

**REQUESTED INTRODUCTION DATE:** July 14, 2014

**CITY COUNCIL PUBLIC HEARING DATE:** September 8, 2014

**REQUESTED AGENDA:** Regular

**RECOMMENDED COUNCIL COMMITTEE:** None

**CONSIDERATION BY OTHER GOVERNMENTAL AGENCIES:** City Planning Commission, September 2, 2014

**AFFECTED AGENCIES:** Office of Chief Administrative Officer  
Law Department (for review of draft ordinance)  
City Assessor (for preparation of mailing labels for public notice)

**RELATIONSHIP TO EXISTING ORDINANCES:** Amend Ord. No. 2012-85-85, adopted June 11, 2012.

**ATTACHMENTS:** Draft Ordinance, Application Form, Applicant's Letter, Survey

**STAFF:** Matthew J. Ebinger, Senior Planner  
Land Use Administration (Room 511)  
646-6308



# Application for SPECIAL USE PERMIT

Department of Planning and Development Review  
Land Use Administration Division  
900 E. Broad Street, Room 511  
Richmond, Virginia 23210  
(804) 648-6300  
<http://www.richmondgov.com/>

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

Project Name: BELMONT FOOD SHOP Date: 21 Nov 2018

Property Address: 15 N BELMONT AVE Tax Map #: N0001550007

Fee: 1200.00 Total area of affected site in acres: 0.04  
(See page 3 for fee schedule, please make check payable to the "City of Richmond")

### Zoning

Current Zoning: R-6 RESIDENTIAL

### Proposed Use

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

Existing Use: CATERING

Is this property subject to any previous land use cases?

PREVIOUS EVENT SPACE

Yes  No

If Yes, please list the Ordinance Number:

2017-05 35

Applicant/Contact Person: MICHAEL JANORSKY

Company: BELMONT FOOD SHOP

Mailing Address: 27 N BELMONT AVE

City: RICHMOND State: VA Zip Code: 23221

Telephone: (804) 358 7467 Fax: ( )

Email: MAIL@BELMONTFOODSHOP.COM

Property Owner: LESLIE STACK

If Business Entity, name and title of authorized signee: \_\_\_\_\_

Mailing Address: 405 HERMITAGE RD

City: RICHMOND State: VA Zip Code: 23221

Telephone: (804) 344 3110 Fax: ( )

Email: \_\_\_\_\_

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)

919 East Main Street, Suite 2110, Richmond, VA 23219-4625  
(804) 441-8440 (main) (804) 441-8438 (fax)

**Jennifer D. Mullen**  
(804) 977-3374 (direct)  
jmullen@rothdonerjackson.com

June 10, 2014

VIA EMAIL

Matthew J. Ebinger, Senior Planner  
City of Richmond Department of Community Development  
Land Use Administration Division, Room 511  
City Hall, 900 East Broad Street  
Richmond, Virginia 23219

**Re: Special Use Permit Amendment: 2012-85-85**

Dear Matthew:

This letter shall serve the Applicant's Report accompanying the Amendment to the Special Use Permit 2012-85-85 ("SUP") application for the property located at 25 and 27 N. Belmont Avenue. The SUP currently authorizes the use of 27 N. Belmont for use as a restaurant subject to certain terms and conditions contained in the SUP.

The amendment is requested to permit the use of 25 N. Belmont as a restaurant for private dining/event space subject to certain terms and conditions. 25 N. Belmont is deemed legally nonconforming for use as a catering establishment within the R-6 district based on its use as such since 1923, prior to the City's enactment of a Zoning Ordinance in 1927. The proposed use of 25 N. Belmont and the rear patio area is essentially a catering establishment where food and beverage is consumed on the outdoor patio in connection with use solely of 25 N. Belmont. The kitchen is located within 27 N. Belmont and food will be transported as with a typical catering operation to 25 N. Belmont. The use of 25 N. Belmont includes the use of the rear patio solely in connection with the use of 25 N. Belmont as restaurant event space, therefore limited only to the number of occupants permitted by the space of 25 N. Belmont. The legal occupancy of 25 N. Belmont based on the plans attached to the SUP is 15 people. The applicant proposes to condition the use of 25 N. Belmont to private dining with a maximum of two (2) seatings per day, one event permitted between the hours of 7 a.m. and 2:30 p.m. Monday through Sunday and one event between the hours of 3 p.m. and 11 p.m. Monday through Thursday and Sunday; 3 p.m. through midnight Friday and Saturday. This use would permit outdoor use of the rear patio until 10 p.m. nightly. No music, live or otherwise, or public address system would be permitted on the outdoor patio.

This amendment also requests a waiver for the off-street parking required until 5 p.m. for the use of 25 N. Belmont. 25 N. Belmont is grandfathered in for three (3) parking spaces based on its former commercial use, as is 27 N. Belmont. 27 N. Belmont does not open prior to 5 p.m. Monday through Saturday per the SUP and therefore the three (3) grandfathered spaces

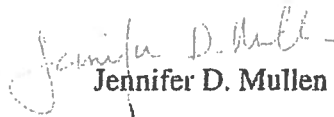
Mr. Matthew J. Ebinger  
June 10, 2014  
Page 2

supplement those of 25 N. Belmont for a total of six (6) off street parking spaces, which is in line with the square footage used for the indoor event space (approximately 600 square feet). The outdoor patio space does not permit additional use of the property as it is limited only to the event space without duplicating the number of users, and therefore has no negative impact on parking. After 5p.m., the applicant requests three (3) required off-street parking spaces be located within 725 feet of the property to permit existing parking spaces used by other users during the day to be used in the evening. The event space affords the applicant the ability to direct the users of the space to the specific parking areas and provide directions in advance.

The proposed use of the property is complementary to the existing use of 27 N. Belmont as a restaurant and the surrounding commercial and residential uses. Belmont Avenue has a thriving set of businesses and is well situated between a residential neighborhood to the north and Carytown to the south. This amendment is an opportunity to use the currently underutilized space for a supportive use of a local business and provide a supporting service that is unique in the neighborhood and larger community. The event space is limited in number and scale of its use, which is similar to an entertaining use of a single family residence but provides the opportunity to expand the currently permitted catering operation to include the on-site space for an event. This is an appropriate use for the property and based on the restrictions placed on the use of the property, it meets the criteria set forth in the Charter of the City of Richmond that the use 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 cause overcrowding of land and 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.

Thank you for your time and consideration of this request, please let me know if you have any questions.

Sincerely,

  
Jennifer D. Mullen

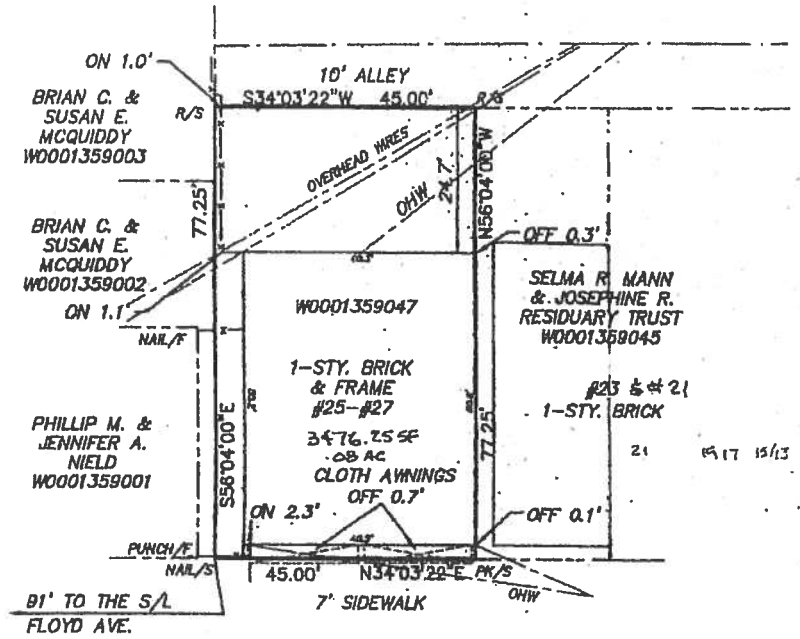
Enclosures

cc: Mr. Mike Yavorsky via email



roth doner jackson gibbons condlin, plc

McLean • Richmond • Norfolk



N. BELMONT AVE.

PLAT SHOWING IMPROVEMENTS ON  
 25-27 N. BELMONT AVE.  
 CITY OF RICHMOND, VIRGINIA



I HEREBY CERTIFY THAT THE POSITIONS OF EXISTING IMPROVEMENTS WERE CAREFULLY ESTABLISHED BY A CURRENT FIELD SURVEY AND UNLESS OTHERWISE SHOWN THERE ARE NO VISIBLE ENCROACHMENTS.

TITLE REPORT NOT FURNISHED

PLAT SUBJECT TO RESTRICTION OF RECORD  
 THIS PROPERTY IS LOCATED IN (M.U.D.) FLOOD ZONE X

**HULCHER & ASSOCIATES, INC.**  
 CONSULTING ENGINEERS  
 5901 LAKESIDE AVENUE  
 RICHMOND, VIRGINIA 23289  
 (804) 262-7622 \* FAX: 262-8215

DATE: APRIL 13, 2011

DRAWN BY: GAB SCALE: 1"=20'

CHECKED BY: RS

JOB NO: S11006MS

OWNER: LESLIE K. STACK