

INTRODUCED: April 28, 2014

AN ORDINANCE No. 2014-106-80

To authorize the special use of the property known as 404 North 23<sup>rd</sup> Street for the purposes of office use and one single-family dwelling unit, upon certain terms and conditions.

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

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

PUBLIC HEARING: MAY 27 2014 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That the property known as 404 North 23<sup>rd</sup> Street and identified as Tax Parcel No. E000-0257/009 in the 2014 records of the City Assessor, being more particularly shown on a survey and site layout entitled “The Property Known as #404 N. 23<sup>rd</sup> Street in the City of Richmond, VA,” prepared by Edwards, Kretz, Lohr & Associates, PLLC, and dated October 15, 2013, a copy of which is attached to and made a part of this ordinance, is hereby permitted to be used for the purposes of office use and one single-family dwelling unit, substantially as shown on sheets A1 through A8 of the plans entitled “404 N 23<sup>rd</sup> Street,” prepared by re: 4m LLC, and dated February 5, 2014, copies of which are attached to and made a part of this ordinance.

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

ADOPTED:   MAY 27 2014   REJECTED: \_\_\_\_\_ STRICKEN: \_\_\_\_\_

§ 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 Commissioner of Buildings is hereby authorized to issue to the owner of the property a building permit substantially in accordance with the plans referred to above for the aforementioned purposes, 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 ordinance.

(b) An application for a building permit shall be made within twenty-four (24) months from the effective date of this ordinance. This building permit shall expire and shall become null and void if any necessary construction has not commenced within one hundred eighty (180) days from the date of the building permit or if construction is suspended or abandoned for a period of one hundred eighty (180) days at any time after such construction has commenced, as provided in any applicable provisions of the Virginia Uniform Statewide Building Code. Should application for the building permit not be made within twenty-four (24) months after the effective date of this ordinance or should the building permit expire and become null and void after the expiration of the twenty-four (24) month time period for making application for the building permit, the privileges granted by this ordinance shall terminate and the special use permit shall become null and void.

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

(e) 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.

(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 plans attached to this ordinance 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 use of the property shall be for office use and one (1) single-family dwelling unit, substantially as shown on the plans attached to this ordinance.

(i) No off-street parking shall be required.

(j) 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.

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



CITY OF RICHMOND
INTRACITY CORRESPONDENCE

O & R REQUEST

MAR 31 2014

Chief Administration Office
City of Richmond

O&R REQUEST

DATE: March 25, 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 for Economic Development and Planning

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

SUBJECT: Special use permit for 404 North 23rd Street for office use and one dwelling unit

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

PURPOSE: To authorize the special use of the property known as 404 North 23rd Street for the purposes of office use and one (1) single-family dwelling, upon certain terms and conditions.

REASON: The subject property is located in the R-8 Urban Residential zoning district. The applicant is seeking permission to construct a two-story mixed-use building with an office use on the first floor and one dwelling unit on the second floor. New construction containing an office service use on the ground floor with a single dwelling unit above is not permitted in the R-8 district; therefore, the applicant has requested a special use permit.

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 May 19, 2014, meeting. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting.

BACKGROUND: The subject property is an unimproved lot of 1,155 sq ft located on the block bounded by North 23rd Street to the east, East Marshall Street to the south, North 22nd Street to the west, and East Clay Street to the north. A two-story building occupied the property before being demolished approximately ten years ago. The previous uses included retail use on the first floor and residential use on the second floor.

The property is zoned R-8 Urban Residential District and is located in the Church Hill North Old and Historic District. Though the district allows certain commercial uses with conditional use permits, it is primarily a residential district. All of the properties facing both sides of the N. 23rd Street block in which the subject property is located are residential uses. The R-8 District does not recognize office uses with dwelling units occupying space in the same building above the ground floor as permitted principal uses unless they meet the criteria for "principal uses

201403020

permitted by conditional use permits.” That criteria applies only to existing buildings. New construction containing an office use on the ground floor with a single dwelling unit above does not meet the criteria required for the granting of a conditional use permit in the R-8 district. Therefore, the applicant is requesting a special use permit.

The Richmond Master Plan designates this property as Neighborhood Commercial. “Primary uses include office, personal service and retail uses, intended to provide the daily convenience shopping and service needs of adjacent neighborhood residents. Such uses are typically small scale and low intensity, have limited hours of operation, involve a high percentage of walk-in trade and minimal vehicular traffic, and are especially compatible with adjacent low to medium density residential uses” (p.134).

**FISCAL IMPACT:** The Department of 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:** \$1,800 application fee

**DESIRED EFFECTIVE DATE:** Upon adoption

**REQUESTED INTRODUCTION DATE:** April 28, 2014

**CITY COUNCIL PUBLIC HEARING DATE:** May 27, 2014

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** None

**CONSIDERATION BY OTHER GOVERNMENTAL AGENCIES:** City Planning Commission,  
May 19, 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:** None.

**ATTACHMENTS:** Application Form, Applicant’s Report, Draft Ordinance, Survey, Plan

**STAFF:** Willy Thompson, AICP, Senior Planner  
Land Use Administration (Room 511)  
646-6308

*PDR O&R No. 14-13*

## **SUP Applicant's Report**

404 N 23rd St, Richmond VA 23223

*Proposed use for property located at 404 N 23<sup>rd</sup> St. Richmond, VA 23223*

This is a mixed-use building with commercial use (B-Business) on the ground floor and a single-family residence (R-3) apartment on the second floor.

The commercial property will house Restore-PT, Inc. that is currently operating at 401 N 23<sup>rd</sup> Street. This is a specialty Physical Therapy Practice (non-ambulatory) that will be ADA compliant.

### **Employees:**

- one full-time Physical Therapist
- one part-time Registered Nurse
- one part-time massage Therapist

### **Hours of operation:**

- Mon-Friday 9a-630p

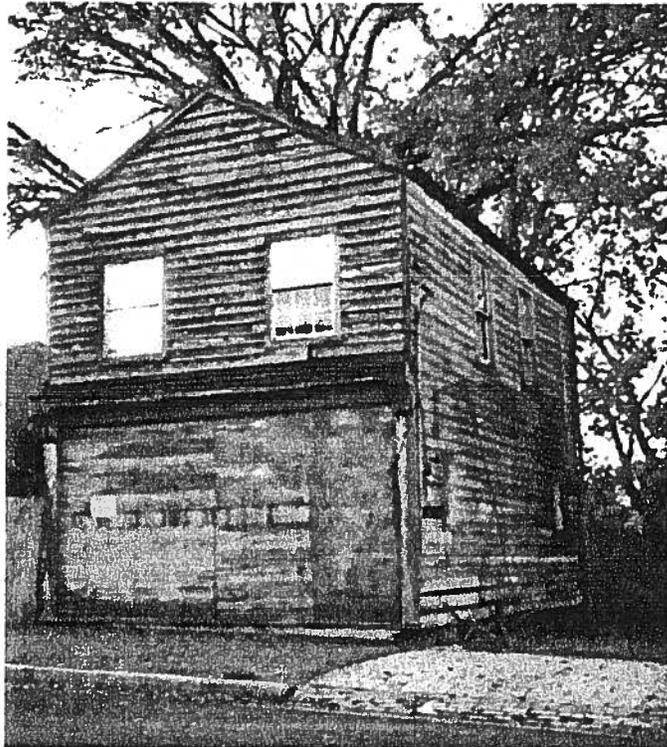
### **Traffic/Parking requirements:**

- Patients are scheduled hour-long sessions on the half hour: Alternating the PT and Massage Therapist
- The Physical Therapist and RN live on the street and walk to work
- \*See attached traffic/parking study

## **Background**

The lot located at 404 N 23<sup>rd</sup> St is currently vacant with no buildings or accessory structures. It is only 35 feet wide by 33 feet deep. Approximately 10 years ago, a two-story wood structure was located at this address. The building included a ground floor commercial space and 2<sup>nd</sup> floor residential apartment and covered roughly 60-70% of the lot. The photo below was taken in the mid 1990's before the City demolished the structure.

Based on the current zoning ordinance for R-8 district, the required setbacks, lot coverage, and off-street parking requirements would make this lot unbuildable due to the reduced usable lot area. In addition to the restricted lot area, the ordinance also limits the commercial use of the property. Therefore, it is necessary to apply for a Special Use Permit.



## **Proposed Use + Architectural Character**

### *Building Use*

In order to preserve and re-establish the character and original use of the lot, the Special Use Permit proposes a 835 sf ground floor commercial space for a physical therapy practice with two employees and 650 sf 2<sup>nd</sup> floor single-family apartment. The physical therapy practice is currently located across the street at 401 N 23rd St. Similar to the original building, there will be two separate entrances for both the commercial and residential space.

### *Size*

The new building's proposed lot coverage is approximately 80%. The proposed building is two stories with a height not to exceed the adjacent property to the South.

### *Architectural Character*

The intention of the new structure is not to duplicate the original historic building. However, the architectural character will be similar in scale, material, and form to the original historic building. As this property is located in Church Hill North historic district, it is subject to CAR review.

### **R-8 Urban Residential District Zoning Ordinance Requirements**

#### *Setbacks*

Front yard: depth of not less than 10 feet and not greater than 18 feet.

Side yard: five feet

Rear yard: five feet

*Lot Coverage:* 65% of the lot

*Height:* Maximum of 3 stories or 36 feet and a minimum of two stories.

#### *Off-street parking*

Office: 1 per 300sf for the first 1500sf. (3 spaces)

Dwelling-single family detached: (1 space)

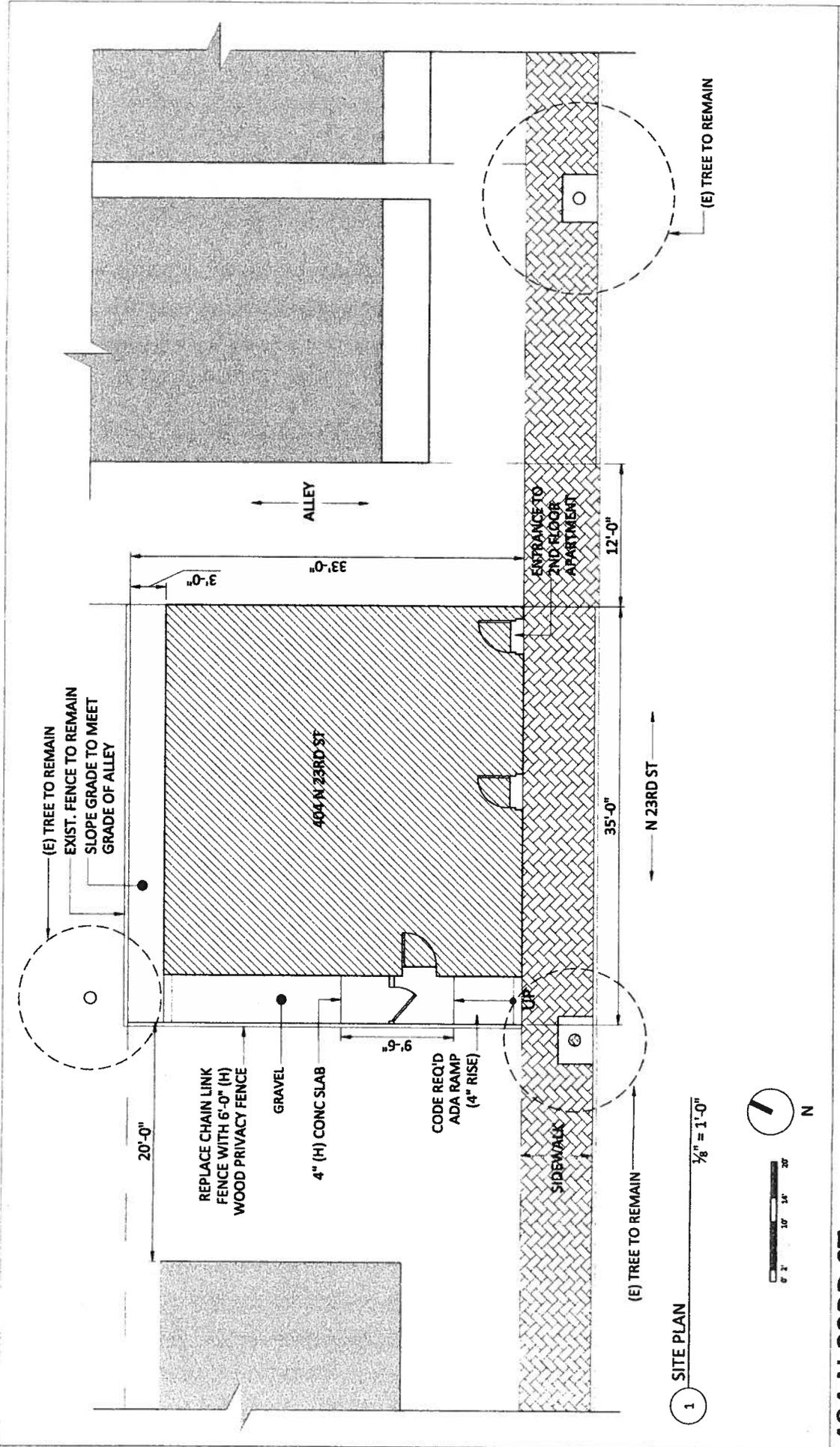
#### *Use*

The current R-8 district restricts new ground floor commercial spaces that will be used as a professional office. However, if the commercial space is located in an existing ground floor then this non-dwelling use is allowed through a conditional use permit. Dwelling units that are a minimum of 600 sf are also allowed to be located above the ground floor of an existing building provided there are no more than 4 dwellings in the building. This too requires a conditional use permit.

### **Neighborhood Support**

Surrounding neighbors of N 23rd St, Church Hill, and the immediate neighbors of the property, 404, were approached about the proposed SUP. Over 100 signatures were collected in support of the proposed use of the property. The property owner of 406 N 23rd street signed the form, however due to physical ailments, the adjacent property owner of Marshall Street did not sign even though documents were sent to her address. The property owner that backs up to 404, also did not sign, but also claimed would not fight the SUP. The only reason this property owner did not support the SUP is because he believes the property should belong to Ms. Ellis, even though the property was never structured this way. These signatures are provided with this package.

In addition to neighbor support, the SUP proposed drawings were also presented to the Church Hill Association (CHA) zoning committee, which represents St. John's Church, Church Hill North, and Chimborazo historic districts. They appeared supportive and will recommend it to the CHA board. Unfortunately, this board does not meet until the beginning of January and won't be able to vote until this time.



404 N 23RD ST

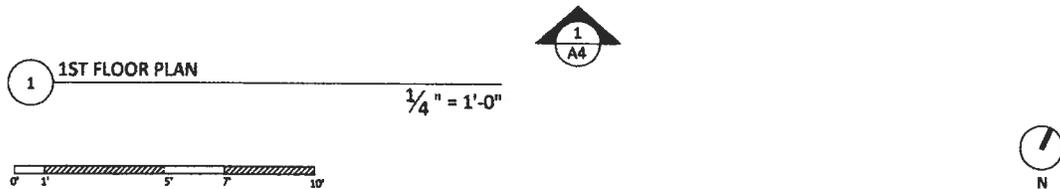
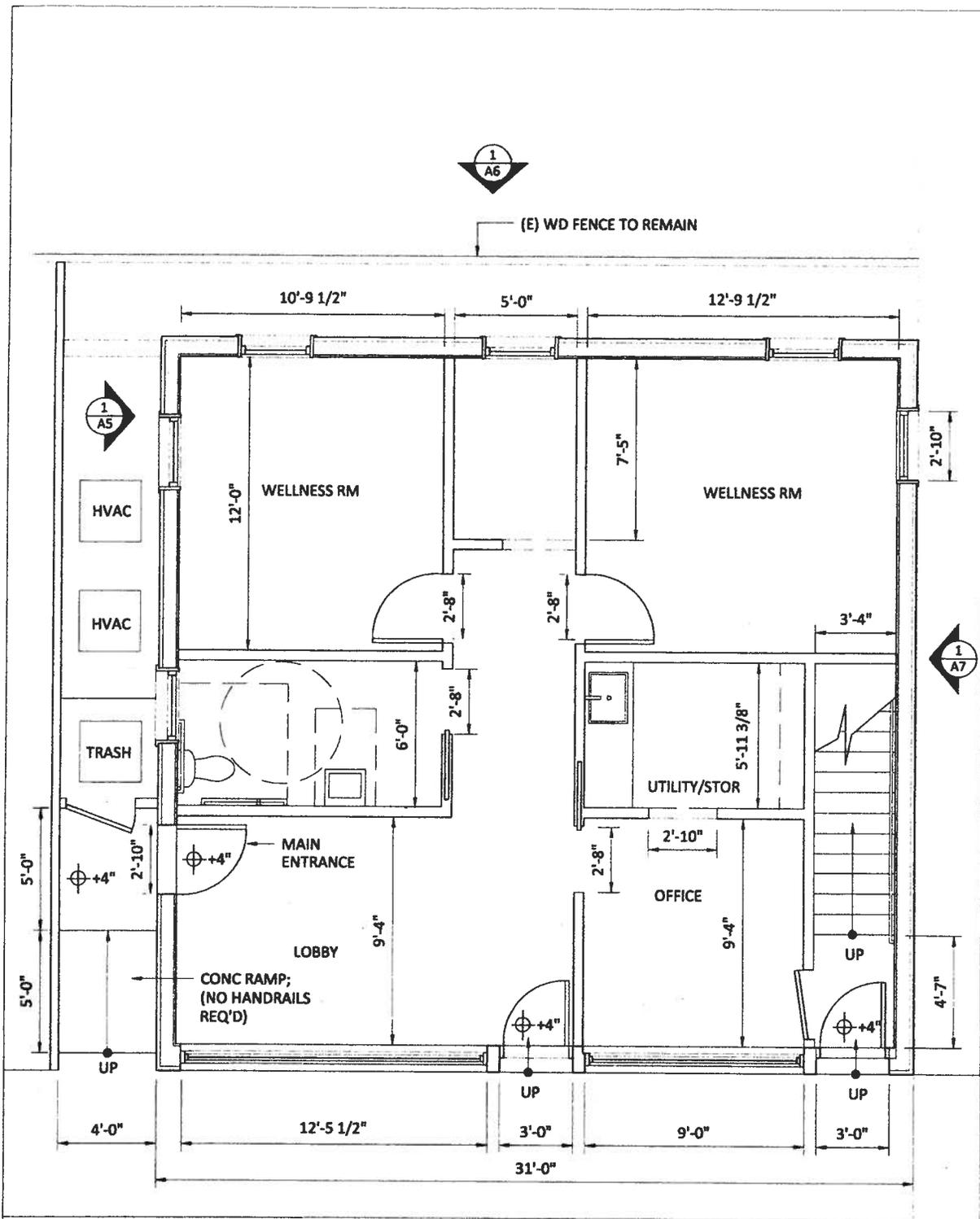
re:4m llc design build

SITE PLAN

407 N 23rd ST  
 Richmond VA 23223  
 804-267-0062

FEBRUARY 5TH 2014

A1



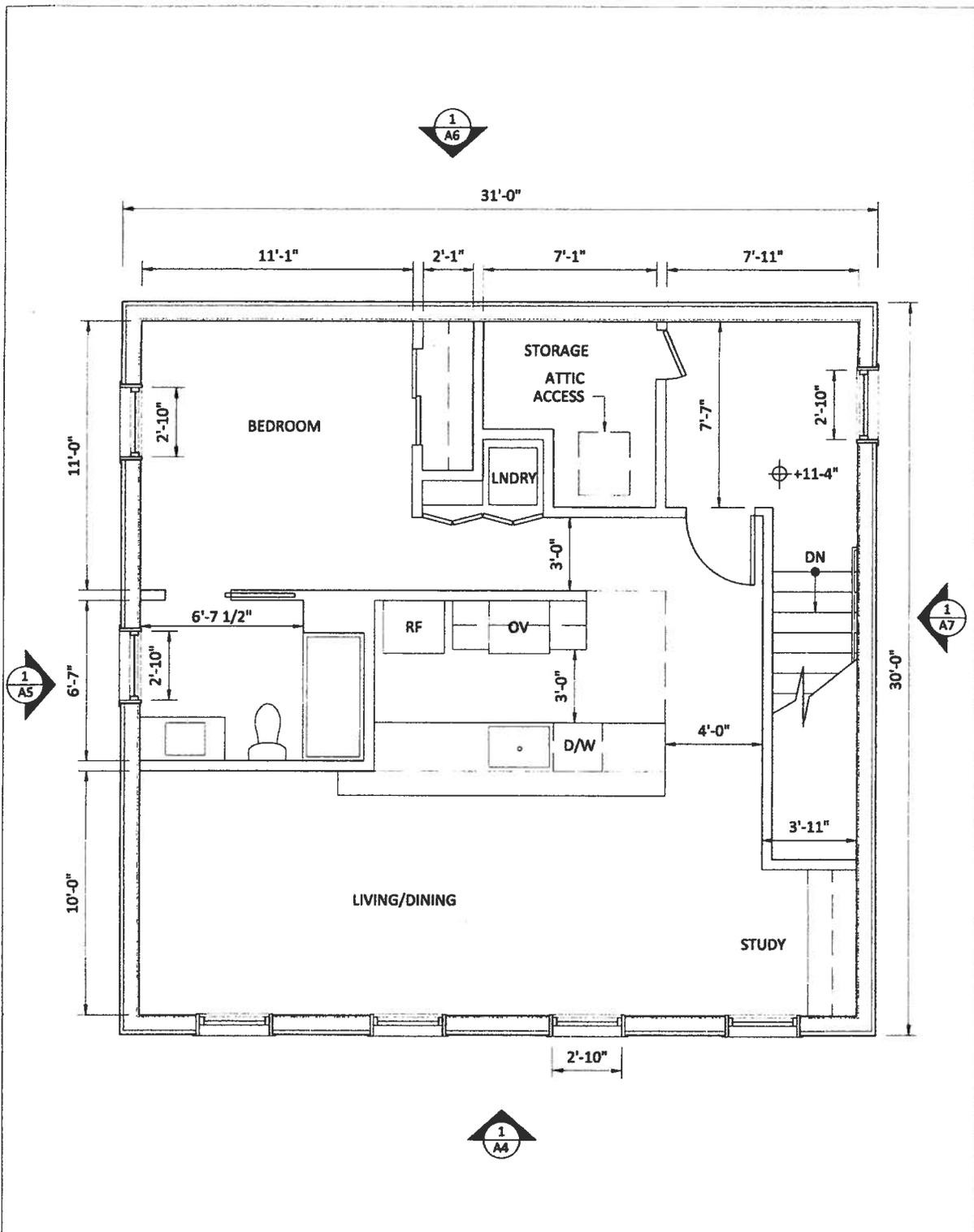
404 N 23RD ST

PLAN

re:4mllc design build

407 N 23rd ST  
Richmond VA 23223 FEBRUARY 5TH 2014

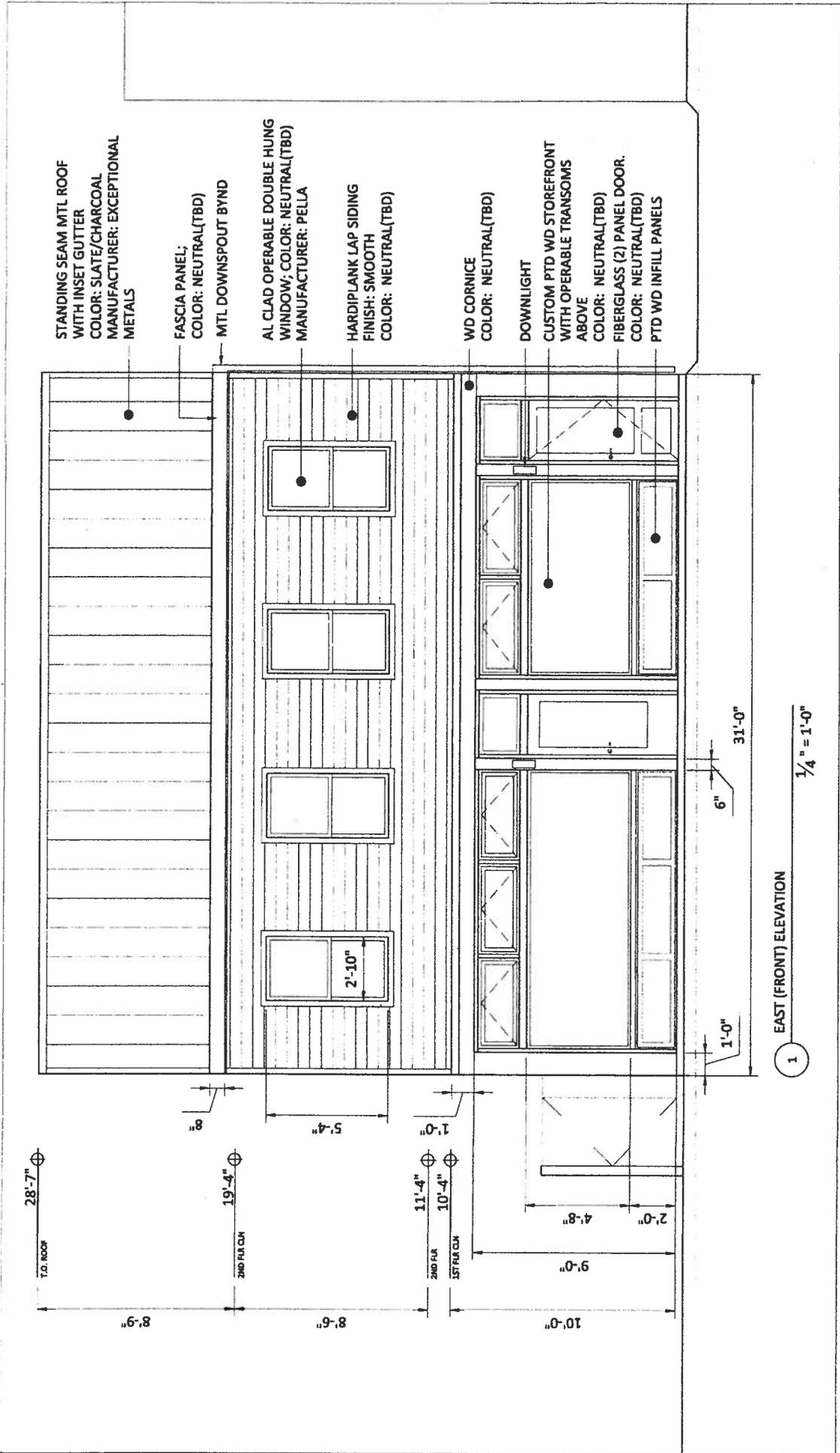
A2



2 2ND FLOOR PLAN  
 $\frac{1}{4}'' = 1'-0''$

404 N 23RD ST

PLAN



STANDING SEAM MTL ROOF  
WITH INSET GUTTER  
COLOR: SLATE/CHARCOAL  
MANUFACTURER: EXCEPTIONAL  
METALS

FASCIA PANEL;  
COLOR: NEUTRAL(TBD)

MTL DOWNSPOUT BYND

AL CLAD OPERABLE DOUBLE HUNG  
WINDOW; COLOR: NEUTRAL(TBD)  
MANUFACTURER: PELLA

HARDIPLANK LAP SIDING  
FINISH: SMOOTH  
COLOR: NEUTRAL(TBD)

WD CORNICE  
COLOR: NEUTRAL(TBD)

DOWNLIGHT

CUSTOM PTD WD STOREFRONT  
WITH OPERABLE TRANSOMS  
ABOVE

COLOR: NEUTRAL(TBD)

FIBERGLASS (2) PANEL DOOR.

COLOR: NEUTRAL(TBD)

PTD WD INFILL PANELS

28'-7"

T.O. ROOF

8'-9"

19'-4"

2ND FLD CLM

8'-6"

11'-4"

2ND FLD

1'-0"

10'-4"

1ST FLD CLM

10'-0"

9'-0"

4'-8"

2'-0"

1'-0"

6"

31'-0"

1 EAST (FRONT) ELEVATION

1

1/4" = 1'-0"

404 N 23RD ST

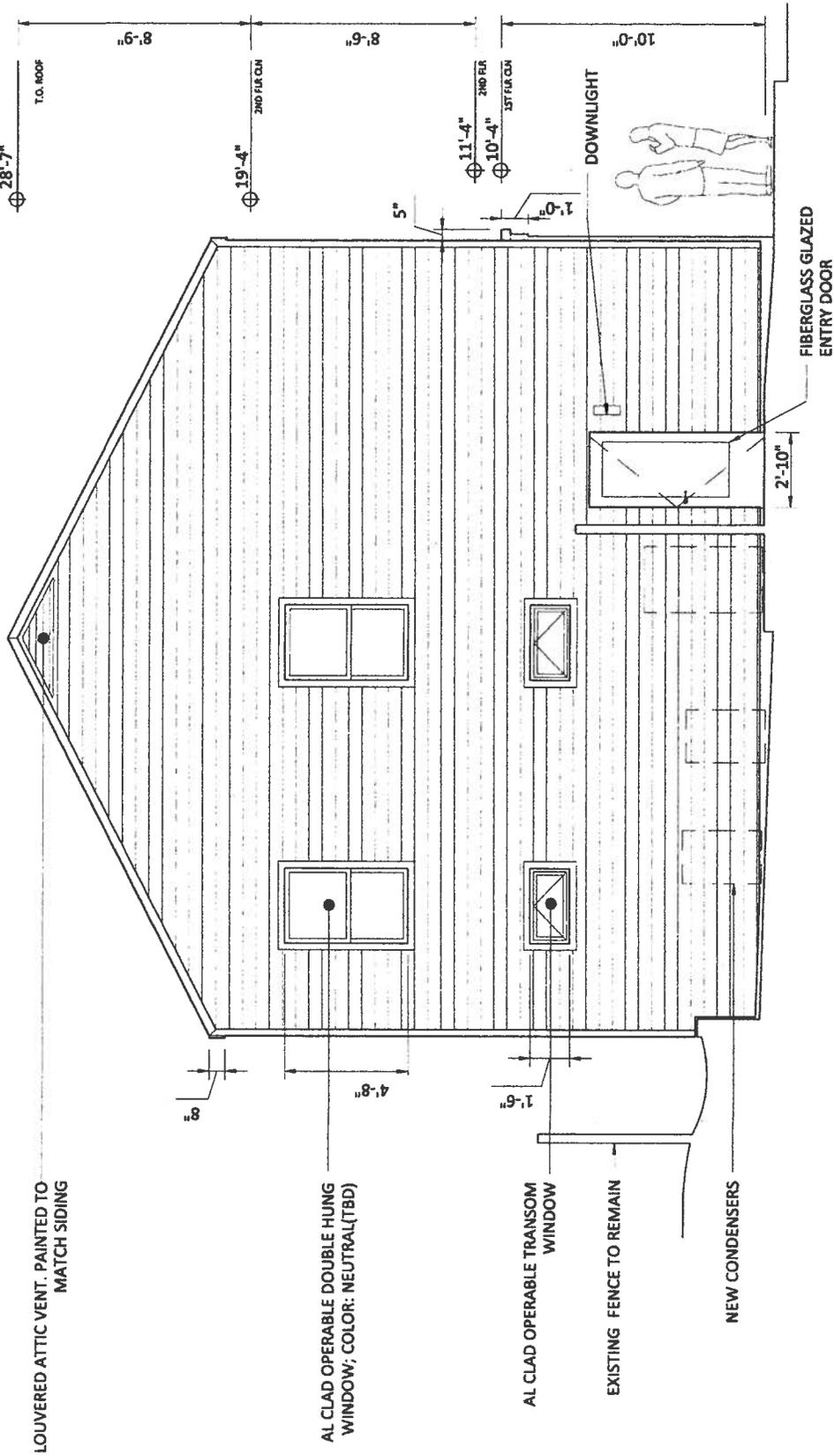
re:4m LLC design build

ELEVATION

407 N 23rd ST  
Richmond VA 23223  
804-267-0082

FEBRUARY 5TH 2014

A4



1 SOUTH ELEVATION  
 $\frac{1}{4}'' = 1'-0''$

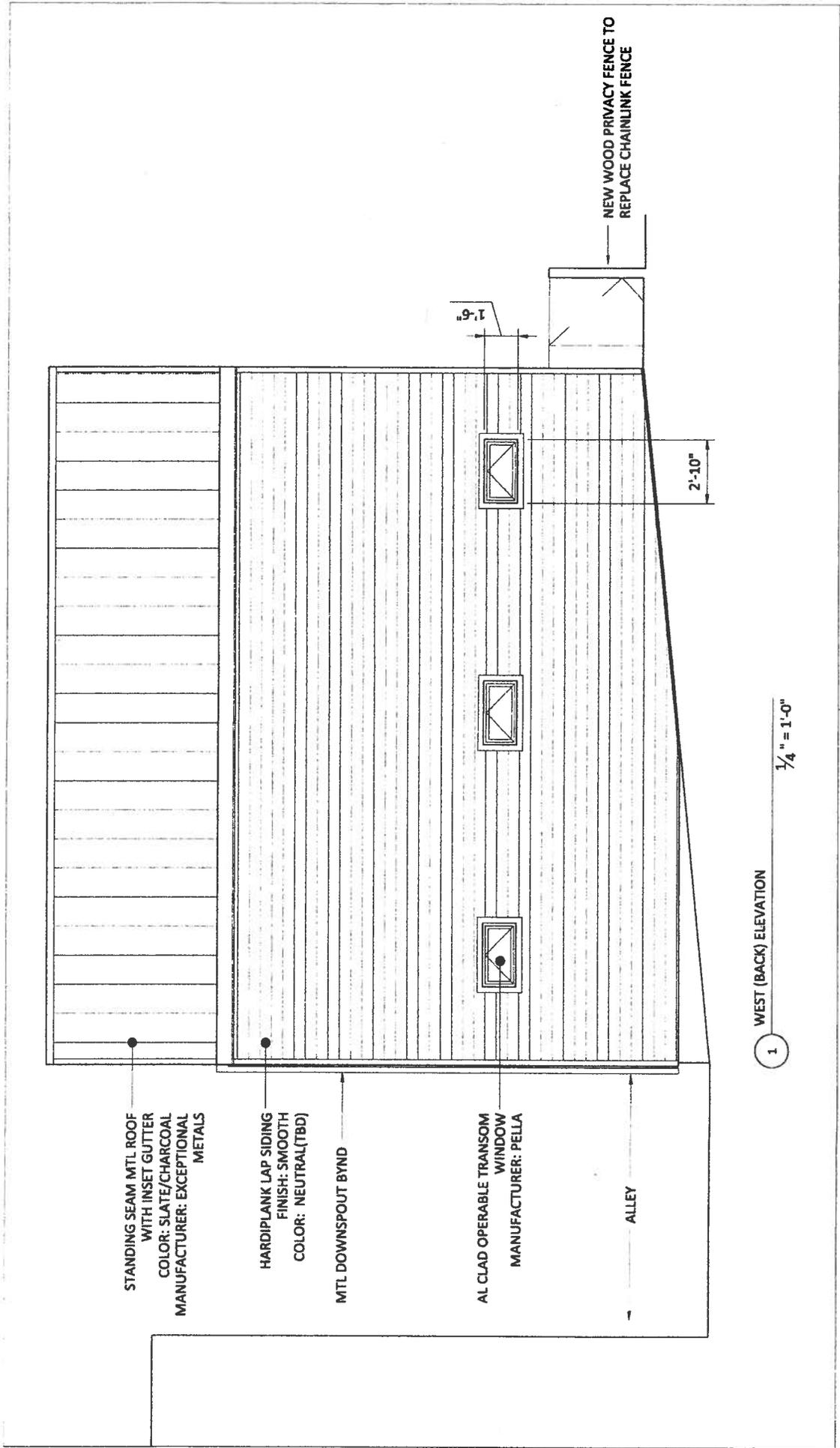
404 N 23RD ST

re:4m LLC design build

ELEVATION

407 N 23rd ST  
 Richmond VA 23223  
 804-267-0082  
 FEBRUARY 5TH 2014

A5



STANDING SEAM MTL ROOF  
WITH INSET GUTTER  
COLOR: SLATE/CHARCOAL  
MANUFACTURER: EXCEPTIONAL  
METALS

HARDPLANK LAP SIDING  
FINISH: SMOOTH  
COLOR: NEUTRAL(TBD)

MTL DOWNSPOUT BYND

AL CLAD OPERABLE TRANSOM  
WINDOW  
MANUFACTURER: PELLA

ALLEY

NEW WOOD PRIVACY FENCE TO  
REPLACE CHAINLINK FENCE

2'-10"

1'-6"

1 WEST (BACK) ELEVATION  
1/4" = 1'-0"

404 N 23RD ST

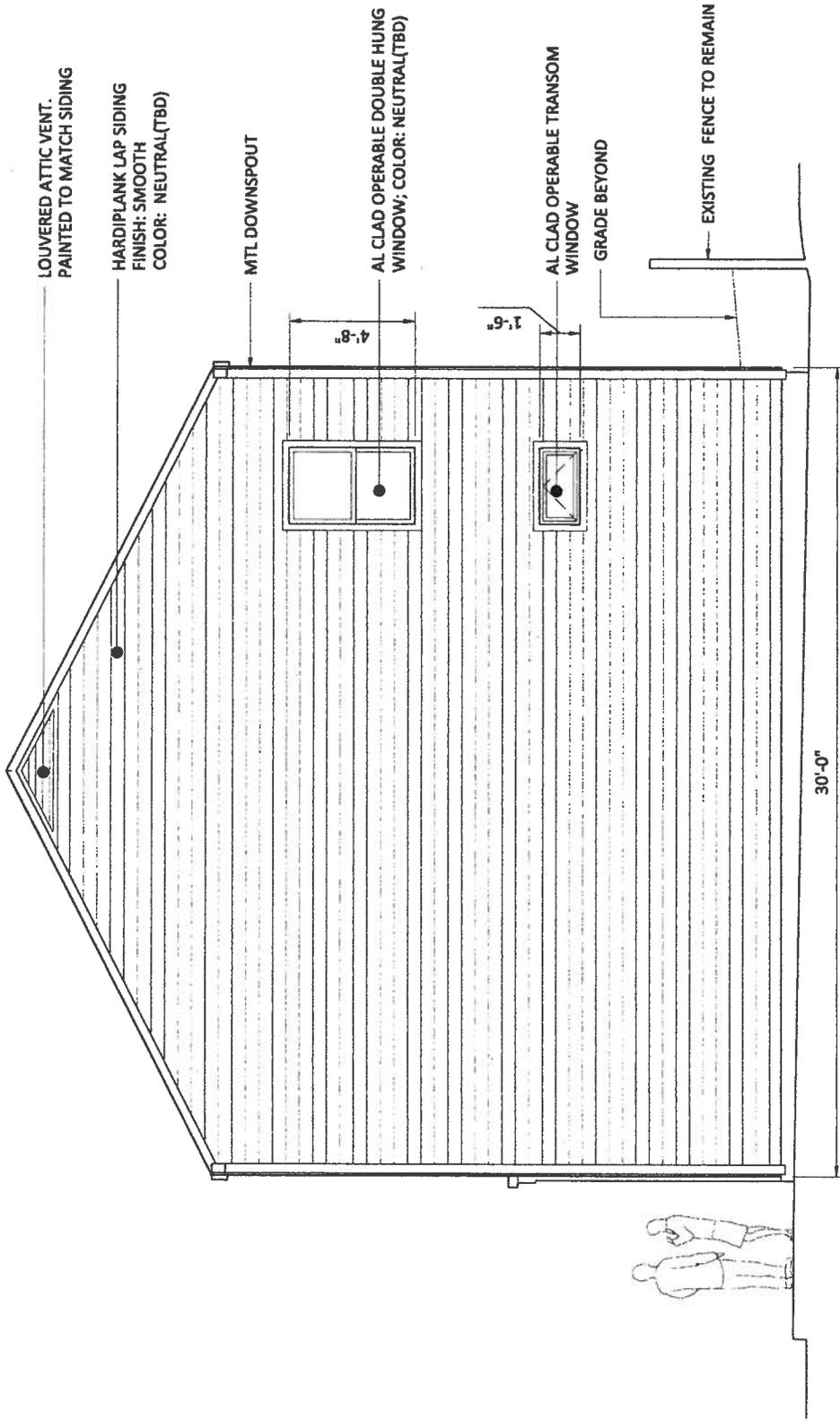
re:4m<sub>LLC</sub> design build

407 N 23rd ST  
Richmond VA 23223  
804-267-0082

ELEVATION

FEBRUARY 5TH 2016

A6



404 N 23RD ST

re:4m LLC design build

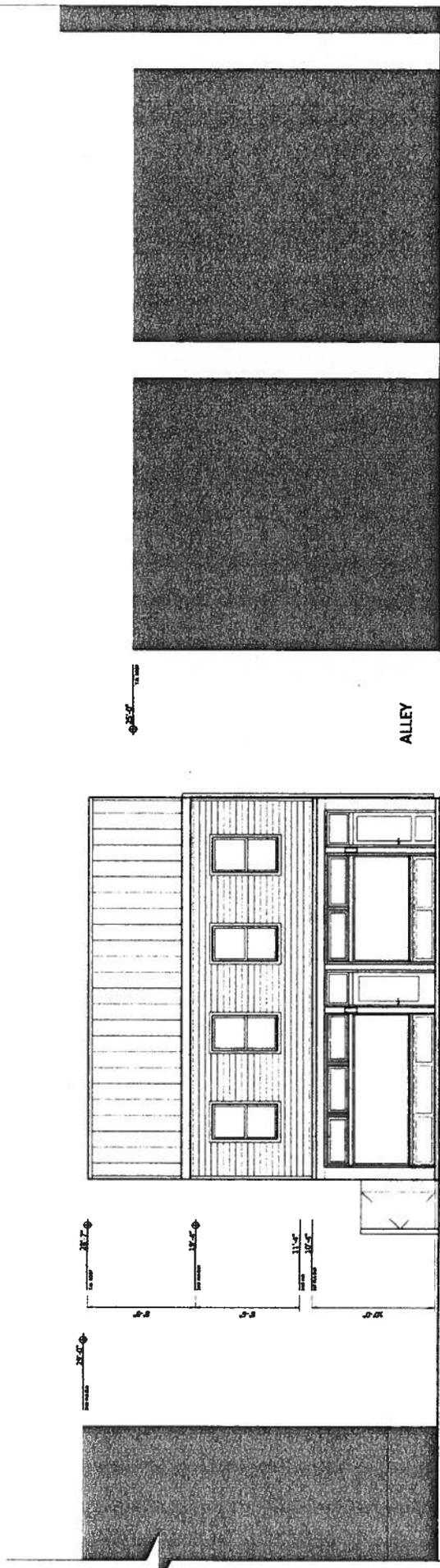
ELEVATION

407 N 23rd ST  
 Richmond VA 23223  
 804-267-0082  
 FEBRUARY 5TH 2014

A7

4 NORTH (ALLEY) ELEVATION

1/4" = 1'-0"



1 EAST ELEVATION OF STREET

1/8" = 1'-0"

404 N 23RD ST

re:4m<sub>LLC</sub> design build

ELEVATION

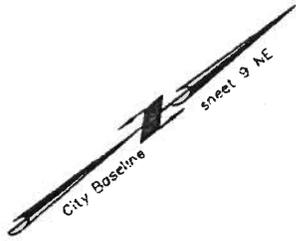
407 N 23rd ST  
 Richmond VA 23223  
 804-267-0082

FEBRUARY 5TH 2014

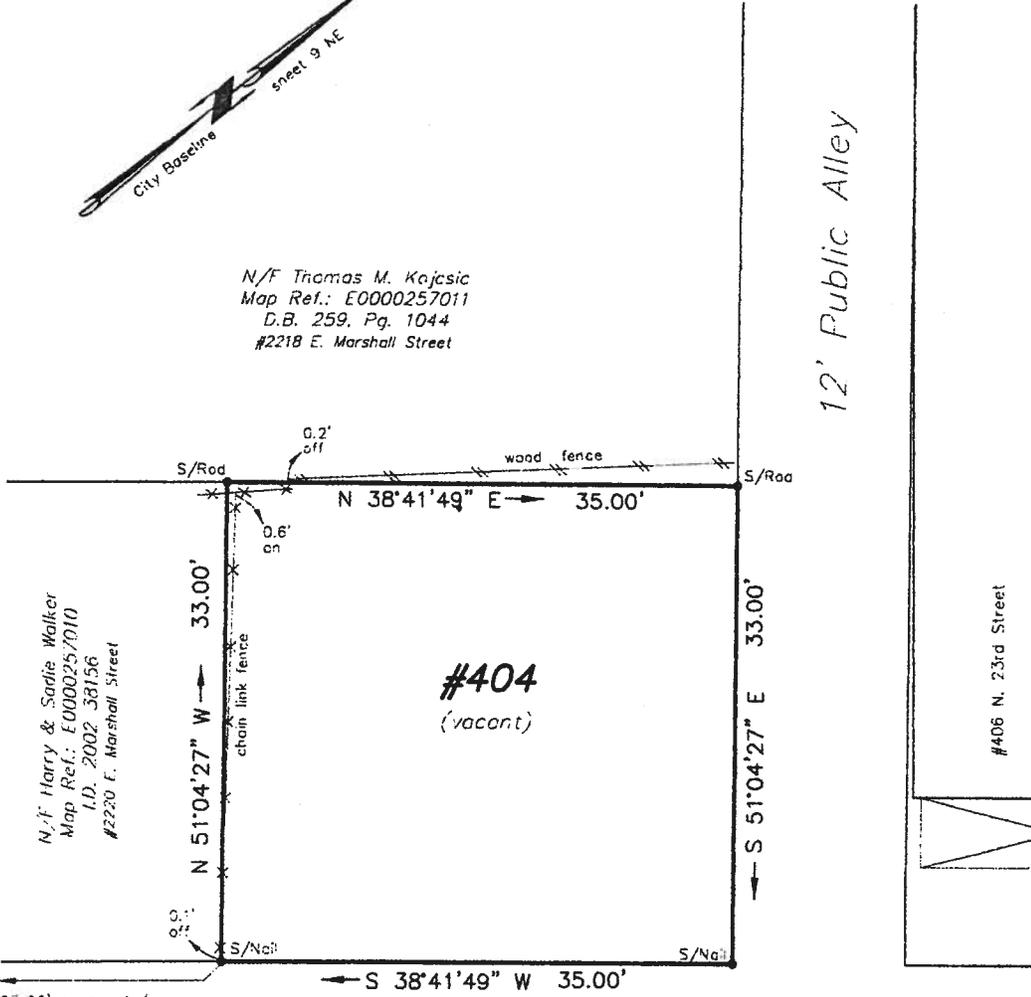
A8

Current Owner: R. Grady Jones  
 Map Ref.: E0000257009  
 D.B. 216, Pg. 2095

Note: Bearings protracted from City  
 Baseline sheet 9 NE.



N/F Thomas M. Kajsic  
 Map Ref.: E0000257011  
 D.B. 259, Pg. 1044  
 #2218 E. Marshall Street



N/F Harry & Sadie Walker  
 Map Ref.: E0000257010  
 I.D. 2002 38156  
 #2220 E. Marshall Street

12' Public Alley

#406 N. 23rd Street

85.00' to the N/E  
 of Marshall Street

## N. 23rd STREET

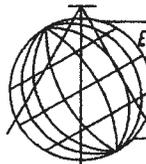


Survey and Plat of  
**The Property Known as  
 #404 N. 23rd Street in  
 the City of Richmond, VA**

This is to certify that on 10/14/13 I made an accurate field survey of the premises shown hereon that all improvements and easements known or visible are shown hereon, that there are no encroachments by improvements either from adjoining premises or from subject premises upon adjoining premises other than shown hereon. THIS PLAT WAS MADE WITHOUT THE BENEFIT OF A TITLE SURVEY OR REPORT.

FLOOD INSURANCE NOTE: By graphics plotting only, this property is in ZONE X of the Flood Insurance Rate Map, Community Panel No. 5101290041D effective date of 04/02/09

Exact designations can only be determined by an Elevation Certificate. Based on the above information, this property IS NOT in a Special Flood Hazard Area.



Edwards, Kretz, Lohr & Associates, PLLC

Land Surveyors-Planners

Virginia-North Carolina

1900 Byrd Avenue, Suite 203  
 Richmond, Virginia, 23230  
 Phone (804) 673-9666  
 Fax (804) 673-9990

Scale: 1"=10'  
 Drawn: TCJ  
 Job: 1361-13

Date: 10/15/13  
 Checked: JAL