

INTRODUCED: September 8, 2014

AN ORDINANCE No. 2014-194

To authorize the special use of the property known as 2216 Keswick Avenue for the purposes of a single-family detached dwelling unit and a take-out restaurant, upon certain terms and conditions.

Patron – Mayor Jones (By Request)

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: OCT 13 2014 AT 6 P.M.

WHEREAS, the owner of the property known as 2216 Keswick Avenue, which is situated in a R-5 Single-Family Residential District, desires to use such property for the purposes of a single-family detached dwelling unit in one building and a take-out restaurant in another building, which use, among other things, is not currently allowed by section 114-410.2 of the Code of the City of Richmond (2004), as amended; and

WHEREAS, in accordance with section 17.11 of the Charter of the City of Richmond (2010), 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

AYES: 0 NOES: 9 ABSTAIN: _____

ADOPTED: _____ REJECTED: MAR 9 2015 STRICKEN: _____

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 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 114-1050.1 of the Code of the City of Richmond (2004), 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 2216 Keswick Avenue and identified as Tax Parcel No. S007-1081/001 in the 2014 records of the City Assessor, being more particularly shown on a survey entitled "Survey Plat" and prepared by Advanced Engineering , LLC, 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 purposes of a single-family detached dwelling unit in one building and a take-out restaurant in another building, hereinafter referred to as "the Special Use," substantially as shown on the plans entitled "Fast Food Carry Out, 2216 Keswick Ave, Richmond, Virginia, 23234," prepared by Advanced Engineering, LLC, and dated February 6, 2014, 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 use of the Property shall be as a single-family detached dwelling unit located on the eastern portion of the Property and a take-out restaurant located on the western portion of the Property, substantially as shown on the Plans.

(b) No parking shall be required for the uses of the Property.

(c) Any outdoor lighting of the Property shall be provided within the boundaries of

the Property and directed or shielded so as not to shine directly on adjacent residential properties.

(d) All exterior mechanical equipment shall be screened from public view.

(e) Signage pertaining to the take-out restaurant use of the Property shall be limited to wall, awning and canopy signs not exceeding an aggregate of 16 square feet in area. Such signs shall not be illuminated.

(f) The sale of alcohol shall be prohibited on the Property.

(g) The hours of operation for the take-out restaurant shall be from 8:00 a.m. to 10:00 p.m., Monday through Sunday.

§ 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, shall be approved by the Director of Public Utilities prior to the issuance of building permits.

(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 adjacent 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 (2004), 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 114-1220 of the Code of the City of Richmond (2004), 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.

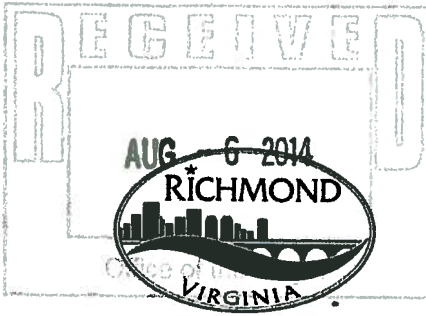
(e) The privileges granted by this ordinance may be revoked pursuant to the provisions of sections 114-1050.7 through 114-1050.11 of the Code of the City of Richmond (2004), as amended, and all future amendments to such laws. Failure to comply with the terms and conditions of this ordinance shall constitute a violation of section 114-1080 of the Code of

the City of Richmond (2004), 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 Commissioner of Buildings is authorized to issue a building permit substantially in accordance with the Plans for the Special Use subject to the terms and conditions set forth in this ordinance. An application for the building permit shall be made within 730 calendar days following the date on which this ordinance becomes effective. If either the application for the building permit is not made within the time period stated in the previous sentence or the building permit terminates under any provision of the Virginia Statewide Building Code, 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.



O & R REQUEST

JUN 18 2014

CITY OF RICHMOND
INTRACITY CORRESPONDENCE

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.)

OFFICE OF CITY ATTORNEY
[Handwritten signatures]

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 authorize the special use of the property known as 2216 Keswick Ave for the purposes of a single-family residence and a take-out restaurant, upon certain terms and conditions.

ORD. OR RES. No. _____

PURPOSE: To authorize the special use of the property known as 2216 Keswick Ave for the purposes of a single-family residence and a take-out restaurant, upon certain terms and conditions.

REASON: The subject property is zoned R-5 (Single Family Residential) and was the subject of a 1973 Board of Zoning Appeals case (no. 61-73) pertaining to commercial use of the property. A certificate of zoning compliance was issued in December of 2012 and a building permit was issued in January of 2013 regarding a convenience store use of the structure. It was determined that the BZA case is no longer valid and the Director of the Department of Planning & Development Review issued a letter in April of 2013 stating the approvals for the certificate of zoning compliance and building permit were rescinded, operation of the convenience store must cease, and a special use permit would be required to bring such commercial use into conformance. The applicant has submitted a special use permit request for a take-out restaurant.

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.

201406008

BACKGROUND: The subject property consists of a 0.136 acre, triangular parcel of property containing a one-story, 1,068 sq ft residential structure on the eastern portion of the property and a one-story 1,306 sq ft former commercial structure on the western portion of the property (referred to in this document as "the structure"). The property is located at the corner of Keswick Avenue and Harwood Street in the Oak Grove neighborhood of the Old South planning district.

The subject property is zoned R-5 (Single Family Residential) and was the subject of a 1973 Board of Zoning Appeals case (no. 61-73) pertaining to commercial use of the property. A certificate of zoning compliance was issued in December of 2012 and a building permit was issued in January of 2013 regarding a convenience store use of the structure. It was determined that the BZA case is no longer valid and the Director of the Department of Planning & Development Review issued a letter in April of 2013 stating the approvals for the certificate of zoning compliance and building permit were rescinded, operation of the convenience store must cease, and a special use permit would be required to bring the use into conformance.

Under the proposed special use permit, the hours of operation for the take-out restaurant use would be 8:00 a.m. to 10:00 p.m., Monday through Sunday. No off-street parking spaces would be provided on the subject property. All exterior mechanical equipment shall be screened from public view. Signage pertaining to the take-out restaurant use of the subject property shall be limited to wall, awning, and canopy signs not exceeding an aggregate of 16 square feet in area. Such signs shall not be illuminated. The sale of alcohol would be prohibited on the subject property.

The Land Use Plan of the City of Richmond's Master Plan designates the subject property for Single Family (Low Density) land use. Primary uses in this category are single-family detached dwellings at densities up to seven units per acre. More specifically for the Old South planning district, the Master Plan states "single-family residential is, and will continue to be, the major land use. Limited commercial, office, and/or mixed uses are proposed along the major transportation corridors, but should not occur to the detriment of existing, well-established residential neighborhoods" (p. 274).

In regards to corner commercial uses in the Old South district, the Master Plan further states "isolated neighborhood commercial uses (usually "corner stores") should ultimately be phased out unless specifically identified on the Land Use Plan map. Such uses, while often providing convenience services, frequently generate neighborhood nuisances" (p. 279). As stated above, the Land Use Plan designates the subject property for Single Family (Low Density) land use and does not indicate that the subject property should be retained for commercial uses.

All properties in the vicinity are zoned R-5 (Single Family Residential). Single family residential land use predominates the vicinity, with some duplex, institutional and commercial uses present as well.

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: None. Fee waived, per Zoning Administrator ✓

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: None.

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

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

DCD O&R No. 14-23

9741



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.richmondgov.com/>

RECEIVED
MAY 05 2014
LAND USE ADMINISTRATION

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: Hillside Fried Chicken and Fish Date: 5-2-14

Property Address: 2216 Keswick AVE Tax Map #: S0071081001

Fee: 1800 - waived Total area of affected site in acres: 0.136 AC
(See page 3 for fee schedule, please make check payable to the "City of Richmond")

Zoning

Current Zoning: R-5

Proposed Use

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

Existing Use: Convenience Store
Is this property subject to any previous land use cases?

- Yes
- No

If Yes, please list the Ordinance Number:

FAST FOOD
CARRY OUT RESTAURANT

Applicant/Contact Person: Horram, Tarek

Company: Hillside Fried Chicken and Fish

Mailing Address: 231 Jefferson Davis Hwy

City: Richmond State: VA Zip Code: 23224

Telephone: (440) 280-5299 Fax: ()

Email: Jarrick_86@live.com

Property Owner: MERRICK COX & MAURICE SMITHERS

If Business Entity, name and title of authorized signee:

Mailing Address: 4225 MARTHA LN

City: Richmond State: VA Zip Code: 23234

Telephone: (804) 869-5317 Fax: ()

Email:

Property Owner Signature: [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)



ADVANCED ENGINEERING, LLC.

P.O. BOX 72692
RICHMOND, VA 23235

PH# (804) 784-3633
EMAIL: AdvEngineering@aol.com

Applicant Report for SUP

May 05, 2014

RE : Proposed Fast Food / Carry Out Restaurant
2216 Keswick Ave
Richmond, VA 23221

To Whom it may concern,

This project consists of upfitting the existing 1,306 SF commercial building for use as a fast food carry out restaurant.

The existing building which has a listed built date of 1900 has been used primarily as a retail store / restaurant over the course of its existence. The proposed use being in line with what the building has always been used for would ensure that the intended use will not be detrimental to the safety, health, morals, and general welfare of the surrounding community.

The location of the existing commercial unit is on a corner of two roads of adequate width with both streets providing sufficient on street parking for the proposed use. No congestion to public streets, alleys, or other public ways and places will be caused by the intended use of this building.

The building will be in compliance with current building and health codes. This project will not create dangers from fire, panic, or other dangers.

The set occupancy load of the building with the more than adequate sidewalk and grassed areas around the building will ensure that there will be no overcrowding of land and an undue congestion of population.

The use of the building will be the same as it has been over the 100 year life of the structure. The proposed use will not adversely affect or interfere with public or private schools, parks, playgrounds, transportation or other public requirements, conveniences and improvements.

RECEIVED
MAY 08 2014
LAND USE ADMINISTRATION

Applicant Report for SUP (cont)

May 05, 2014

RE : Proposed Fast Food / Carry Out Restaurant
2216 Keswick Ave
Richmond, VA 23221

The building is properly connected to the City Water, Sewer, and Gas Utilities with the building utilizing an approved grease separator. This project will have no adverse affect on water supplies or sewage disposal systems.

All exterior features of the building (lighting, etc.) are to be in compliance with current City of Richmond Planning standards and there will be no interference with adequate air or light due to this project.

Thank you for your consideration of this project

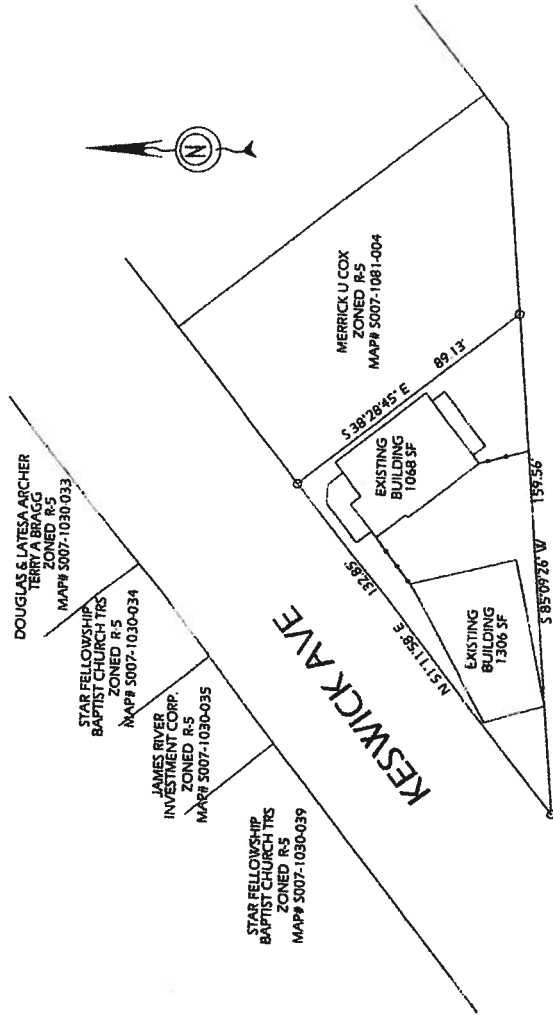
Respectfully submitted,

Jeff Keith, PE
Advanced Engineering, LLC

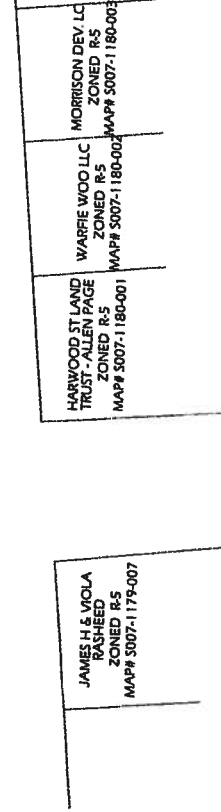
GENERAL NOTES:

1. OWNER / DEVELOPER
MERRICK L
4233 MART
RICHMOND
ADVANCEZ
P.O. BOX 7
RICHMOND
5007-1081-
R-5
OLD SOUTH
CITY WASTE
CITY CENTER
0.136 ACRES
2,374 SF
2. ENGINEER
3. TAX PARCEL
4. ZONING
5. DISTRICT
6. WATER
SEWER
7. LAND AREA
8. BUILDING AREA EXISTING
9. FLOOR AREA RATIO
10. BUILDING USE
11. USE GROUP
12. TYPE CONSTRUCTION
13. BUILDING IS TO BE NON-SPRINKLED
14. THE PROJECT AREA IS OUTSIDE OF A CI
RESOURCE MANAGEMENT AREA (RMA)
15. THE PROJECT AREA DOES NOT CONTAIN
16. TRAFFIC ZONE

RECEIVED
 MAY 05 2014
 LAND USE ADMINISTRATION



HARWOOD STREET



SITE PLAN

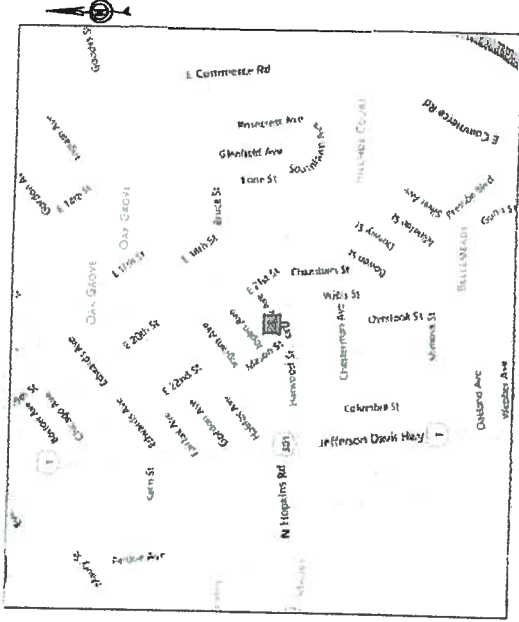
1" = 20'-0"



PROPERTY BOUNDARY NOTE:
 THE LISTED MEETS AND BOUNDS ARE APPROXIMATE
 ADVANCED ENGINEERS, LLC IS NOT RESPONSIBLE
 FOR THE ACCURACY OF THIS INFORMATION
 THE PURPOSE OF THIS PROJECT IS FOR THE UPFIT
 OF THE EXISTING SINGLE STORY 1,306 SF BUILDING
 TO BE USED AS A FAST FOOD CARRY OUT RESTAURANT



SITE PLAN	FAST FOOD CARRY OUT RESTAURANT
BUILDING PLAN	Advanced Engineer



VICINITY MAP

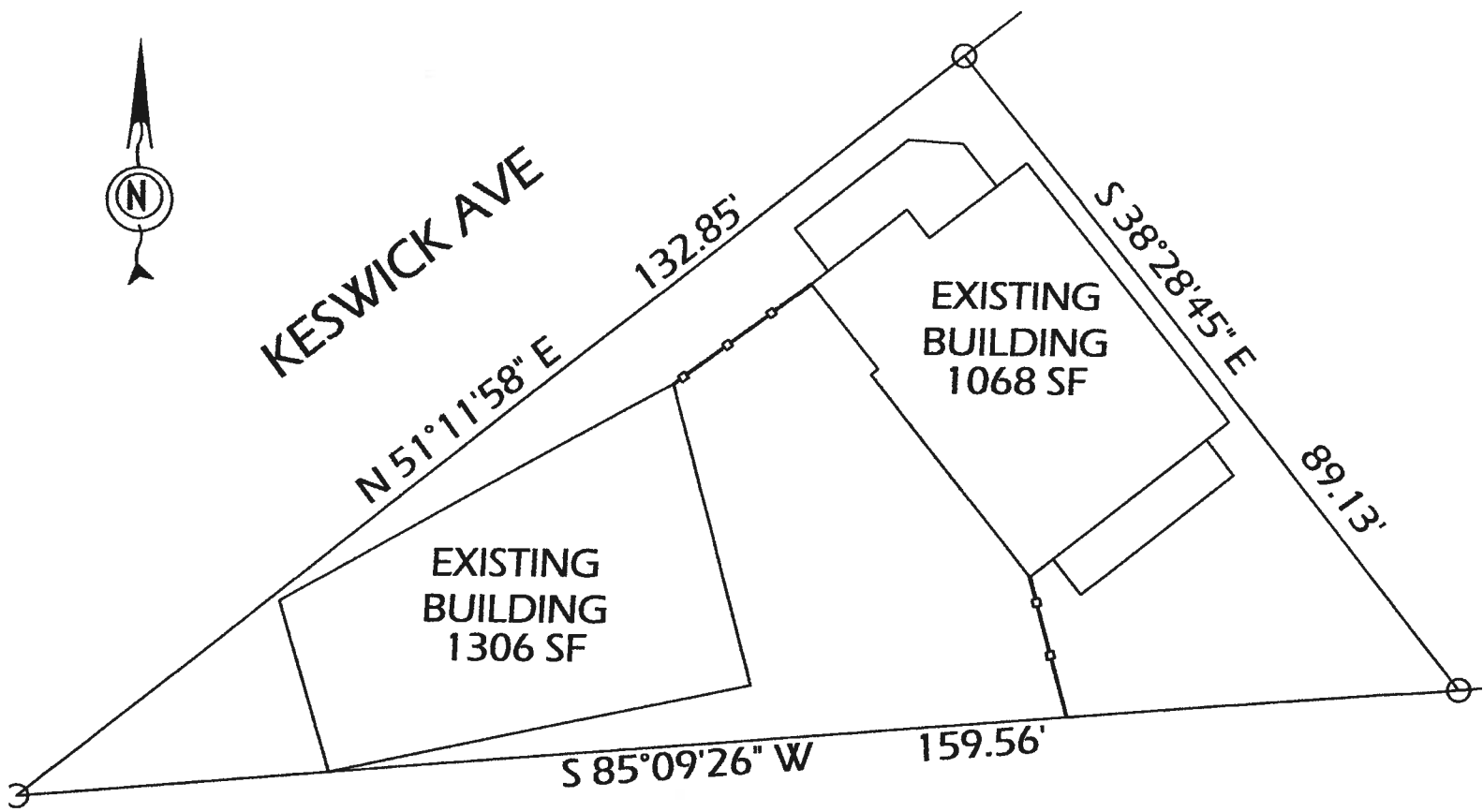
1" = 2000'



ADVANCED ENGINEERING, LLC.

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EMAIL: AdvEngineering@aol.com



HARWOOD STREET

RECORDED
MAY 08 2014

SURVEY PLAT LAND USE ADMINISTRATION

1" = 20'-0"

