

INTRODUCED: April 22, 2019

AN ORDINANCE No. 2019-121

As Amended

To authorize the special use of the property known as 20 North Belmont Avenue for the purpose of up to two dwelling units as well as the principal and accessory uses permitted in the B-1 Neighborhood Business District, upon certain terms and conditions.

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

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

PUBLIC HEARING: MAY 28 2019 AT 6 P.M.

WHEREAS, the owner of the property known as 20 North Belmont Avenue, which is situated in a R-6 Single-Family Attached Residential District, desires to use such property for the purpose of up to two dwelling units and the principal and accessory uses permitted in the B-1 Neighborhood Business District, which use, among other things, is not currently allowed by section 30-412.1 of the Code of the City of Richmond (2015), as amended; and

WHEREAS, in accordance with section 17.11 of the Charter of the City of Richmond (2018), as amended, it has been made to appear that, if granted subject to the terms and conditions set forth in this ordinance, the special use granted by this ordinance will not be detrimental to the safety, health, morals and general welfare of the community involved, will not tend to create

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

ADOPTED:    JUN 24 2019    REJECTED: \_\_\_\_\_    STRICKEN: \_\_\_\_\_

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 30-1050.1 of the Code of the City of Richmond (2015), 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 20 North Belmont Avenue and identified as Tax Parcel No. W000-1407/028 in the 2019 records of the City Assessor, being more particularly shown on a plat entitled “Plat Showing Improvements on #20 North Belmont Ave., City of Richmond, Virginia,” prepared by Hulcher & Associates, Inc., and dated August 23, 2011, a copy of which is attached to and made a part of this ordinance, hereinafter referred to as “the Property,” is hereby permitted to be used for the purpose of up to two dwelling units and, as set forth in this ordinance, the principal and accessory uses permitted in the B-1 Neighborhood Business District, hereinafter referred to as “the Special Use,” substantially as shown on the plans entitled “20 North Belmont Ave,” prepared by Michael Yavorsky, and dated November 6, 2018, “20 North Belmont, Front, Rear,” prepared by Michael Yavorsky, and dated November 6, 2016, and “20 North Belmont, Side View,” prepared by Michael Yavorsky, and dated November 6, 2018, hereinafter referred to collectively as “the Plans,” copies of which are attached to and made a part of this ordinance.

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

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

(a) The Special Use of the Property shall be as up to two dwelling units on the second floor of the building and principal and accessory uses permitted in the B-1 Neighborhood Business District on the first floor of the building, subject to the following limitations:

(1) Those uses listed in sections 30-434.1(1), 30-434.1(4) through 30-434.1(6), and 30-434.1(15) of the Code of the City of Richmond (2015), as amended, shall not be permitted on the Property.

(2) Notwithstanding any provision of section 30-434.1(7) of the Code of the City of Richmond (2015), as amended, to the contrary, no dwelling units shall be permitted on the first floor of the building on the Property.

(3) Notwithstanding any provision of section 30-434.1(8) of the Code of the City of Richmond, (2015), as amended, to the contrary, if the first floor of the building on the Property contains a grocery store, convenience store, or specialty food and beverage store, including bakeries where products are sold principally at retail on the premises, such store shall not be operated between the hours of 11:00 p.m. and 6:00 a.m.

(4) Notwithstanding any provision of section 30-434.1(16) of the Code of the City of Richmond (2015), as amended, to the contrary, if the first floor of the building on the Property contains a restaurant, tearoom, café, delicatessen, ice cream parlor or similar food and beverage service establishment, including catering businesses in conjunction therewith, such establishment shall not be operated between the hours of 5:00 p.m. and 6:00 a.m.

(b) No fewer than eight off-street parking spaces located within a radius of 500 feet of a principal entrance to the building on the Property shall be provided for the Special Use. One of these parking spaces must be available for the Special Use 24 hours each day. The remaining seven of

these parking spaces must be available for the Special Use at least between the hours of 12:00 a.m. and 5:00 p.m. [~~each day~~] Monday through Saturday.

(c) Parking for no fewer than two bicycles shall be provided on the Property.

(d) Signs pertaining to the Special Use shall be limited to those signs permitted in all districts pursuant to section 30-505 of the Code of the City of Richmond (2015), as amended, and in the B-1 Neighborhood Business District pursuant to section 30-513 of the Code of the City of Richmond (2015), as amended.

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

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

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

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

(d) Any encroachments existing, proposed on the Plans or contemplated in the future shall require separate authorization and shall be subject to the applicable provisions of the Code of the City of Richmond (2015), as amended, and all future amendments to such laws.

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

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

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

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

(c) Words and phrases used in this ordinance shall be interpreted to have the meanings ascribed to them by section 30-1220 of the Code of the City of Richmond (2015), as amended, unless the context clearly indicates that a different meaning is intended.

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

(e) The privileges granted by this ordinance may be revoked pursuant to the provisions of sections 30-1050.7 through 30-1050.11 of the Code of the City of Richmond (2015), as amended, and all future amendments to such laws. Failure to comply with the terms and conditions of this ordinance shall constitute a violation of section 30-1080 of the Code of the City of

Richmond (2015), 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, 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.

# City of Richmond

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

## Item Request

File Number: PRE.2018.516

O & R REQUEST

4-8714  
MAR 28 2019

RECEIVED

APR 16 2019

OFFICE OF CITY ATTORNEY

Office of the  
Chief Administrative Officer

### O & R Request

DATE: March 26, 2019

EDITION: 1

TO: The Honorable Members of City Council

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

JS 4/16/19

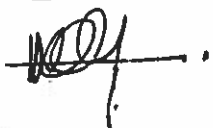
THROUGH: Selena Cuffee Glenn, Chief Administrative Officer



THROUGH: Sharon Ebert, Deputy Chief Administrative Officer for Economic and Community  
Development



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



RE: To authorize the special use of the property known as 20 North Belmont Avenue for up to two dwelling units and uses permitted in the B-1 Neighborhood Business District, upon certain terms and conditions.

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

**PURPOSE:** To authorize the special use of the property known as 20 North Belmont Avenue for up to two dwelling units and uses permitted in the B-1 Neighborhood Business District, upon certain terms and conditions.

**REASON:** The applicant is seeking authorization for a mixed-use building containing certain B-1 Neighborhood Business District uses on the first floor and up to two dwelling units on the second floor. The property is located in an R-6 Single-Family Attached Residential Zoning District which does not permit the proposed mix of uses. A special use permit is therefore required.

**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 20, 2019, meeting. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting.



**BACKGROUND:** The subject property consists of a 3,542 SF, .08 acre parcel of land currently improved with a two-story building built, per tax assessment records, in 1927. The building has been used for commercial and office purposes. The building is located in the Museum District neighborhood of the Near West planning district within the cluster of commercial uses on North Belmont Avenue between Ellwood Avenue and Floyd Avenue.

The City of Richmond's current Master Plan designates a future land use category for the subject property as Single-Family Residential at medium densities. Primary uses for this category "...are single-family and two-family dwellings, both detached and attached, at densities of 8 to 20 units per acre." (City of Richmond, Master Plan, 2009, p.133) The plan describes additional appropriate uses for this category such as public facilities, parks, and places of worship. In addition the Plan clearly recommends infill development within the Near West Planning District "...of like density, scale, and use is appropriate." (p. 230)

Properties to the north, west, and south of the subject property are within the same R-6 Single-Family Attached Residential District as the subject property. Property to the east, across Belmont Avenue, are located in the R-6 District and R-48 Multi-Family Residential District. The properties are a part of the City's West of the Boulevard Design Overlay District.

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

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

**BUDGET AMENDMENT NECESSARY:** No

**REVENUE TO CITY:** \$1,800 application fee

**DESIRED EFFECTIVE DATE:** Upon adoption

**REQUESTED INTRODUCTION DATE:** April 22, 2019

**CITY COUNCIL PUBLIC HEARING DATE:** May 28, 2019

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** None

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** City Planning Commission  
May 20, 2019

**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 ORD. OR RES.:** None

**REQUIRED CHANGES TO WORK PROGRAM(S):** None

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

**STAFF:** Jonathan Brown, Senior Planner  
Land Use Administration (Room 511) 646-5734



SUP-044670-2018

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/

Application is hereby submitted for: (check one)

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

Project Name/Location

Property Address: 20 NORTH BELMONT AVENUE Date: 06 NOV 2018
Tax Map #: W0001407028 Fee: \$1,000
Total area of affected site in acres: .081 ACRE

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

Zoning

Current Zoning: R-6

Existing Use: RETAIL DWELLING + OFFICE

Proposed Use

(Please include a detailed description of the proposed use in the required applicant's report)
SECOND FLOOR DWELLING FIRST FLOOR COMMERCIAL USE
Existing Use: R-6 NOT CONFORMING RETAIL AND OFFICE

Is this property subject to any previous land use cases?

Yes No
[X] [ ] If Yes, please list the Ordinance Number: BZA #75-74

Applicant/Contact Person: MICHAEL YAVORSKY
Company: MYKY LLC
Mailing Address: 110 N. AUBURN AVE
City: RICHMOND State: VA Zip Code: 23221
Telephone: (804) 370.0342 Fax: ( )
Email: MAIL@BELMONTFOODSHOP.COM

Property Owner: MYKY LLC
If Business Entity, name and title of authorized signee: MICHAEL YAVORSKY, MEMBER

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

Mailing Address: 110 N. AUBURN AVE
City: RICHMOND State: VA Zip Code: 23221
Telephone: (804) 370.0342 Fax: ( )
Email: MAIL@BELMONTFOODSHOP.COM

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)

Special Use Permit Application

20 North Belmont Avenue, Richmond, VA, 23221

Applicant: MYKY LLC

Prepared by Michael Yavorsky

06November2018

The proposed use for 20 North Belmont Avenue, is to have the second floor devoted to a total of not more than two dwelling units with no retail or office space.

The first floor is to be for any commercial use, which includes a variety of neighborhood oriented retail, specialty market, service and office uses.

The property was constructed in 1927. In 1974 it had C-2 non conforming use as a restaurant with a second floor dwelling. Afterwards a non conforming grocery store occupied the first floor with "adequate off street parking at the rear of the building". In 1975 the Board of Zoning Appeals(BZA), case #75-74, changed the certificate of occupancy to allow a religious goods and bookstore on the first floor, and an office plus dwelling on the second story.

In October 2015 a BZA motion was filed to obtain B-1 usage for the property. After further investigation, it was deemed unnecessary, and B-1 usage was allowed and would continue to be allowed based on the retail non conforming use previously granted. At this time the motion was terminated and the BZA fee refunded.

In November 2015, a lease was obtained to insure occupancy and continued non conforming rights for the property. The lease was then terminated in March 2018.

Nearby properties to the east across Belmont Avenue at the northeast corner of Ellwood Avenue, are occupied under a Special Use Permit, which permits B-1 uses. The property on the southwest corner of North Belmont and Ellwood is regulated by a Special Use Permit in the Urban Business(UB) zoning.

The parking for the easterly properties north of Ellwood Avenue on Belmont Avenue, the "shoppes at Belmont", including the beauty parlor, jewelry store, butcher/shop specialty food or grocery, and restaurant, occupy 5,735 sq. ft. of floor area with 212 ft per parking space. The proposed use for 20 North Belmont will allow for 1500 sq. ft. of floor space with 136 ft. per parking space. The spaces are including eight off street parking spaces in an adjacent lot, and three grandfathered street spaces.

The City Assessor's office has changed the property value of 20 North Belmont Avenue from \$283,000 in 2015 to \$419,000 in 2017. An inquiry into the reason for such an increase without significant changes or improvements to the property revealed that the basis for comparison is similar properties in the nearby shopping district of Carytown, which implies similar allowable uses.

The City's masterplan recommends "neighborhood commercial" for the properties on the east side of Belmont Avenue with primary uses intended to provide the daily convenience shopping of adjacent neighborhood residents.

The proposed Special Use will not:

- 1) Be detrimental to the safety, health, morals, and general welfare of the community involved;

The property is currently used as a dwelling, and retail space. The proposed use will increase the type of businesses allowable by current zoning regulations, and services provided to neighborhood residences in an existing commercial strip. As such this project will not be detrimental to the safety, health, morals, and general welfare of the community involved.

- 2) Tend to create congestion on the streets, roads, alleys and other public ways and places in the area involved;

The project will not create congestion on the streets, roads, alleys and other public ways and places as the existing use is only to be modified to support a more diverse community while operating within the existing infrastructure.

- 3) Create hazards from fire, panic, or other dangers;

This project will not create hazards from fire, panic, or other dangers and will be built in accordance with all applicable building codes

- 4) Tend to cause overcrowding of land and an undue concentration in population;

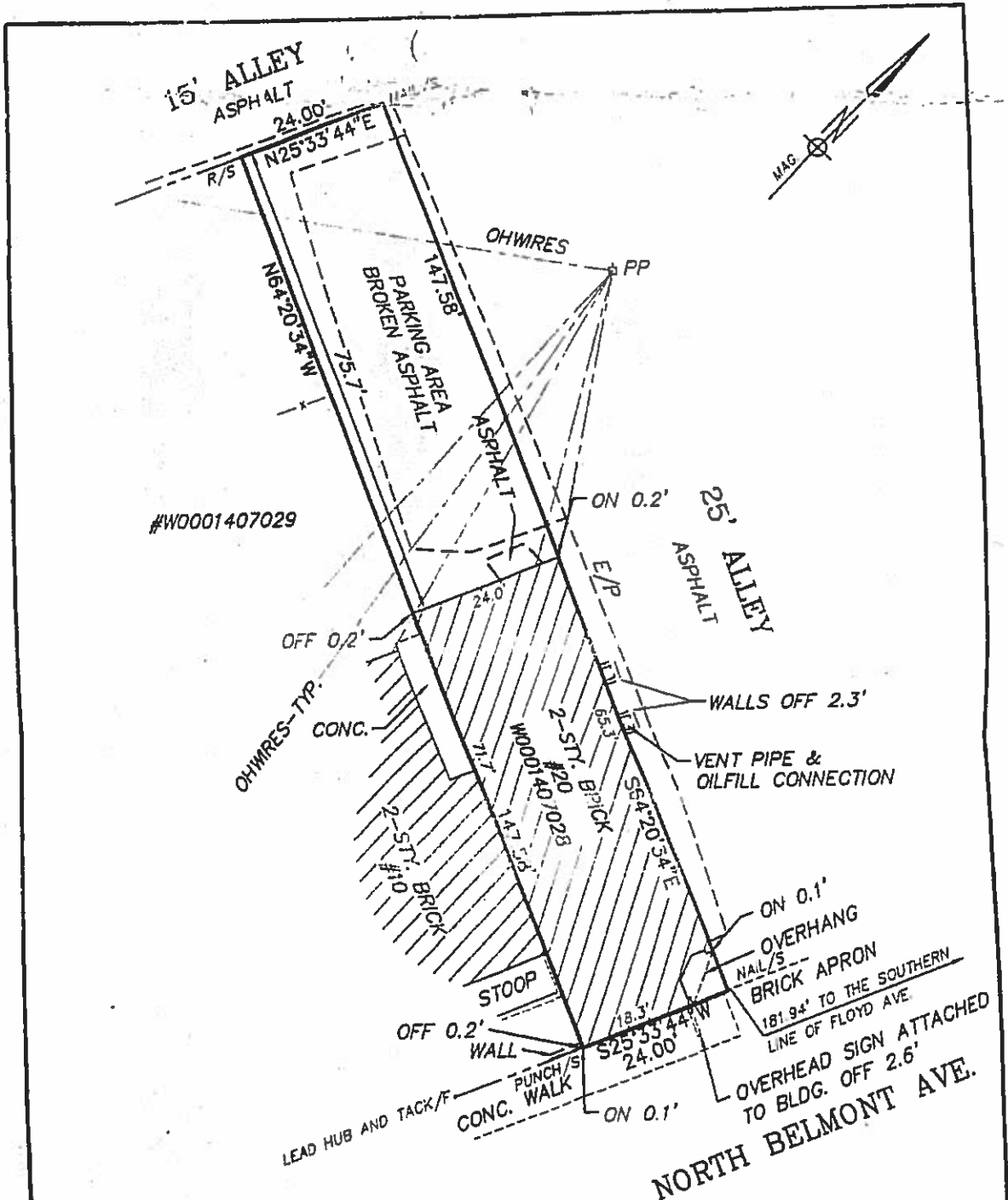
The proposed use will not cause overcrowding of the land and undue concentration of population. The proposal to eliminate an office space in the neighborhood potentially decreases traffic and additional traffic due to workers in the area.

- 5) Adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences or improvements;

Services for this site are intact and the retail store is existing and will not interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences or improvements.

- 6) Interfere with adequate light and air;

There will not be any new building construction and will not alter existing light and air.



**PLAT SHOWING IMPROVEMENTS ON  
#20 NORTH BELMONT AVE.  
CITY OF RICHMOND, VIRGINIA**

**RICKY L. SKELTON**  
 Lic. No. 002802  
 8-24-11  
 LAND SURVEYOR

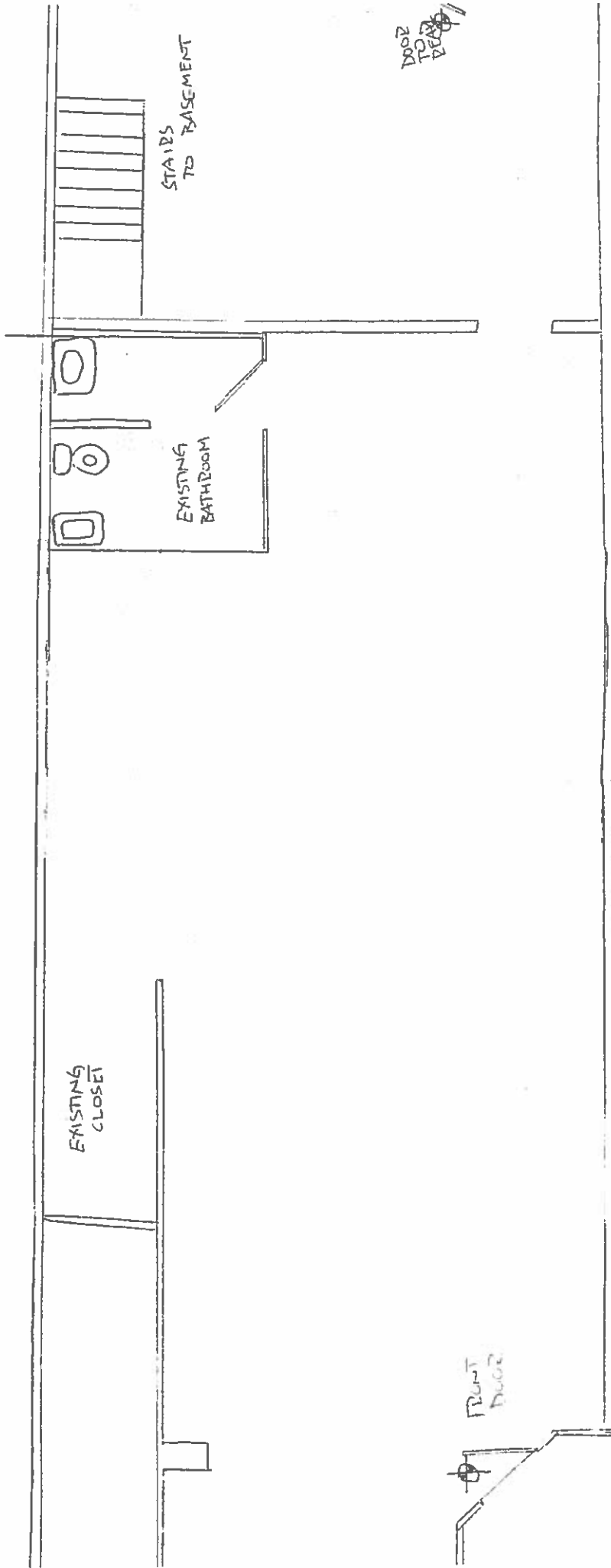
I HEREBY CERTIFY THAT THE POSITIONS  
 OF EXISTING IMPROVEMENTS WERE  
 CAREFULLY ESTABLISHED BY A  
 CURRENT FIELD SURVEY AND UNLESS  
 OTHERWISE SHOWN, THERE ARE NO  
 VISIBLE ENCROACHMENTS.

TITLE REPORT NOT FURNISHED  
 PLAT SUBJECT TO RESTRICTIONS OF RECORD  
 THIS PROPERTY IS LOCATED IN H.U.D.  
 FLOOD ZONE X

<b>HULCHER &amp; ASSOCIATES, INC.</b> <b>CONSULTING ENGINEERS</b> 5901 LAKESIDE AVENUE RICHMOND, VIRGINIA 23228 (804)262-7622 * FAX: 262-8215	
DATE:	AUG. 23, 2011
DRAWN BY:	GAE SCALE: 1"=20'
CHECKED BY:	RS
JOB NO:	S11014MS

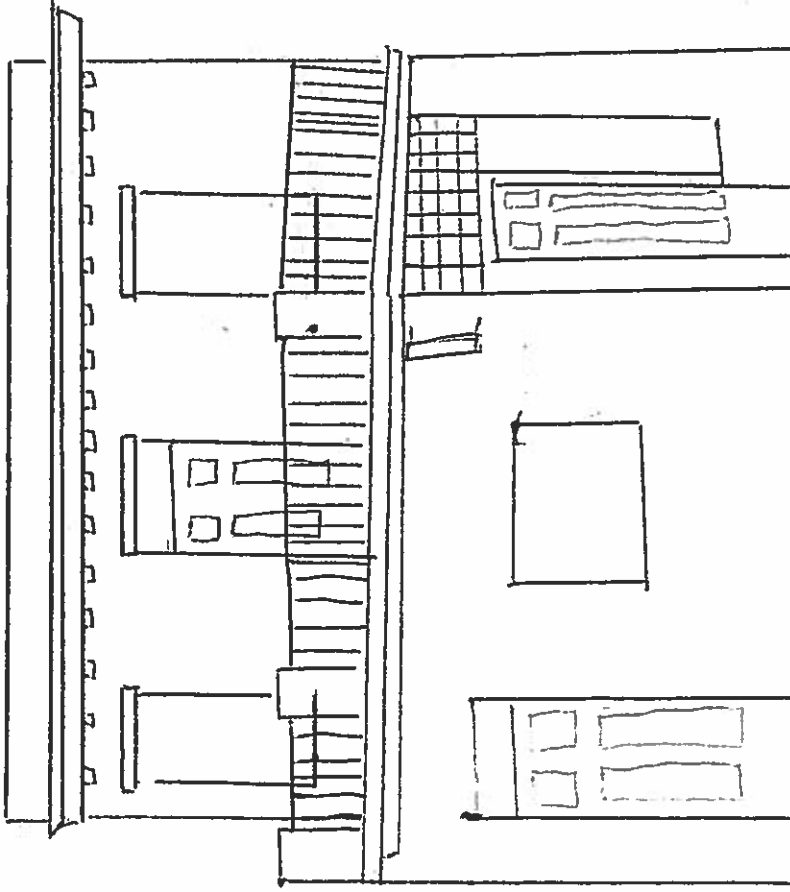
**OWNER: WILLIAM JOSEPH CAMPBELL**

20 NORTH BELMONT AVE  
DRAWN BY MICHAEL YANORSKY  
06/NOV/2010  
SCALE 1"=1"

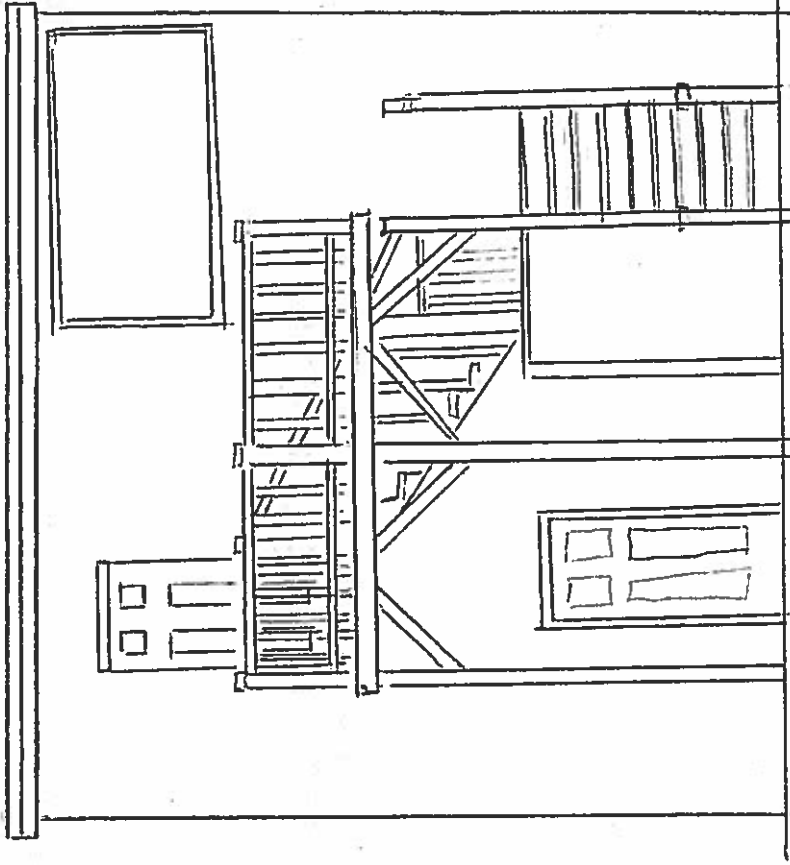


1"=1"  
DRAWN BY  
MICHAEL YANORSKY  
06/NOV/2010

20 NORTH BELMONT



FRONT



REAR

DRAWN BY

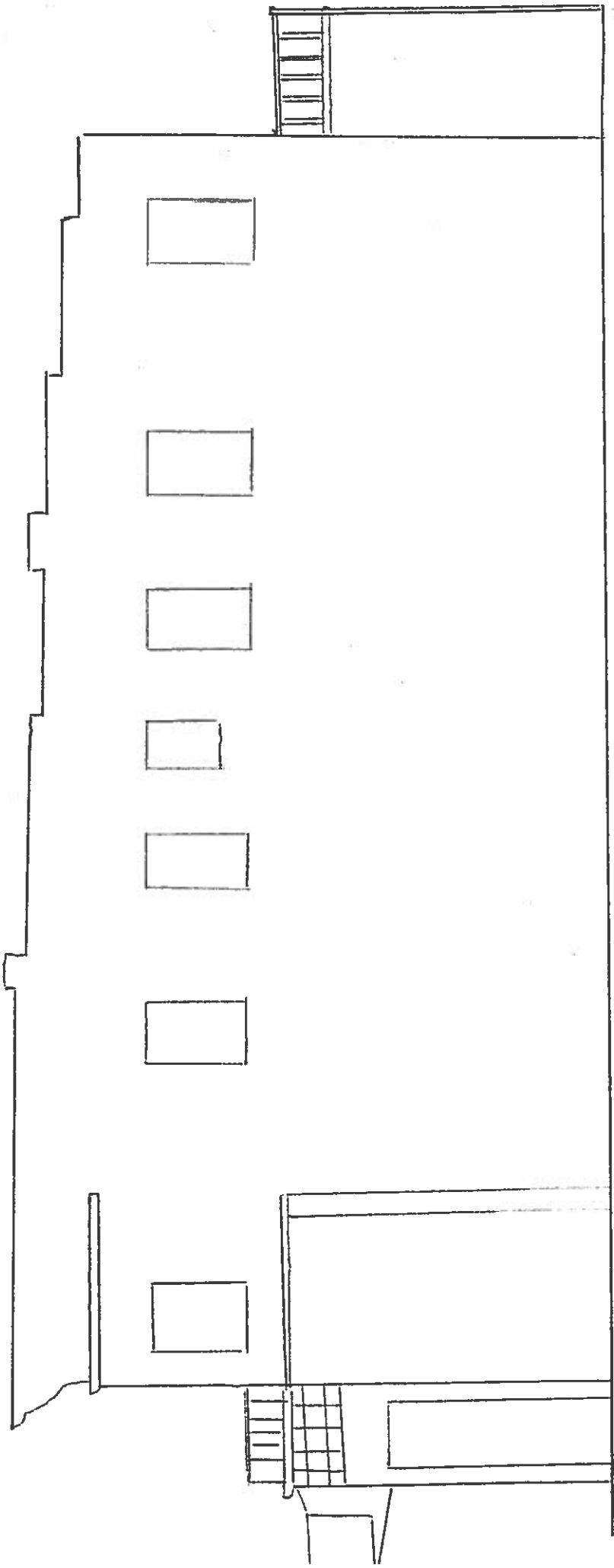
MICHAEL JANUSZKY

06 NOV 2016

1/4" = 1' SCALE



20 NORTH DELMONTE



SIDE VIEW

DRAWN BY  
MICHAEL JANORSKI  
06 NOV 2018  
1/4" = 1' APPROX. SCALE