

INTRODUCED: May 29, 2018

AN ORDINANCE No. 2018-159

To authorize the special use of the property known as 1637 Williamsburg Road for the purpose of a day nursery within an existing church, upon certain terms and conditions.

Patron – Mayor Stoney (By Request)

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: JUNE 25 2018 AT 6 P.M.

WHEREAS, the owner of the property known as 1637 Williamsburg Road, which is situated in a R-5 Single-Family Residential District, desires to use such property for the purpose of a day nursery within an existing church, which use, among other things, does not currently meet the outdoor play area requirements of subdivisions (a) and (b) of section 30-402.2 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 (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 tend to create

AYES: 8 NOES: 0 ABSTAIN: _____

ADOPTED: JUNE 25 2018 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 1637 Williamsburg Road and identified as Tax Parcel No. E010-0049/016 in the 2018 records of the City Assessor, being more particularly shown on a survey entitled “Church School Building, Calvary Methodist Church, Richmond, Virginia,” prepared by John Stafford Efford, dated February 6, 1946, and last revised January 7, 1948, 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 a day nursery within a church, hereinafter referred to as “the Special Use,” substantially as shown on the plans entitled “1637 Williamsburg Rd Aerial Site Plan – 1/16/18,” prepared by an unknown preparer, and dated January 16, 2018; “1st Floor, Fulton Montessori, Mt. Calvary United Methodist Church, 1637 Williamsburg Rd,” prepared by an unknown preparer, and dated January 10, 2018; and “2nd Floor, Fulton Montessori, Mt. Calvary United Methodist Church, 1637 Williamsburg Rd,” prepared by an unknown preparer, and dated January 10, 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 a day nursery for up to 50 children, substantially as shown on the Plans, which may include a preschool program.

(b) The outdoor play area shall be enclosed with a continuous structural fence or wall not less than four feet in height, provided that such fence or wall shall not be located within a required front yard or a required side yard, substantially as shown on the Plans. Such fence may be opaque or non-opaque. A chain-link fence shall not be permitted fencing for the play area.

(c) The hours of operation of the Special Use shall be limited to the hours from 7:30 a.m. to 6:30 p.m., Monday through Friday.

(d) The number of children using the outdoor play area at one time shall meet the requirements of the Virginia Department of Social Services or other applicable licensing agency.

(e) The Special Use shall be licensed by and operated under the requirements of the Virginia Department of Social Services or other applicable licensing agency.

§ 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 certificate of occupancy for the Special Use subject to the terms and conditions set forth in this ordinance. An application for the certificate of occupancy shall be made within 730 calendar days following the date on which this ordinance becomes effective. If the application for the certificate of occupancy is not made with the time period stated in the previous sentence, 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.2018.152

RECEIVED

O & R REQUEST

MAY 03 2018

APR 17 2018

4-7720

Office of the
Chief Administrative Officer

OFFICE OF CITY ATTORNEY

O & R Request

DATE: April 17, 2018

EDITION: 1

TO: The Honorable Members of City Council

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

THROUGH: Selena Cuffee Glenn, Chief Administrative Officer

THROUGH: Peter L. Downey, Deputy Chief Administrative Officer for Economic Development and Planning

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

RE: To authorize the special use of the property known as 1637 Williamsburg Road for the purpose of a day nursery within a church, upon certain terms and conditions.

ORD. OR RES. No. _____

PURPOSE: To authorize the special use of the property known as 1637 Williamsburg Road for the purpose of a day nursery within a church, upon certain terms and conditions.

REASON: The applicant is requesting a special use permit to operate a day nursery within a church. The day nursery would not meet the outdoor play area standards specified by the Zoning Ordinance for such a use. 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 June 4, 2018 meeting. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting.

BACKGROUND: The applicant is requesting a special use permit to authorize a day nursery within a church.

The operation would be permitted to have a maximum of 50 children between the ages of 2 and a half to 6 years, during the hours of 7:30am to 6:30pm, Monday through Friday, and would contain a fenced outdoor play area of approximately 2,000 SF.

The subject property consists of a 2.7 acre improved parcel of land, and is a part of the Fulton neighborhood in the City's East Planning District. The existing building, constructed in 1900, is a two-story structure that has been historically used as a place of worship.

The City of Richmond's current Master Plan designates the subject property for Single-Family Low Density land uses which includes, "...single-family detached dwellings at densities up to seven units per acre... (as well as) ...residential support uses such as schools, places of worship, neighborhood parks and recreation facilities, and limited public and semi-public uses. Typical zoning classifications that may accommodate this land use category: R-1, R-2, R-3, R-4, and R-5." (City of Richmond, Master Plan, p.133)

The current zoning for this property is R-5, Single Family Residential, as are much of the adjacent and nearby properties. Properties to the west of the subject property, along Williamsburg Road, are zoned B-2 Community Business. A mix of single-family residential, vacant, commercial, mixed-use, and office land uses are present in the vicinity of the subject property.

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: \$300 application fee.

DESIRED EFFECTIVE DATE: Upon adoption.

REQUESTED INTRODUCTION DATE: May 14, 2018

CITY COUNCIL PUBLIC HEARING DATE: June 11, 2018

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None.

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: City Planning Commission, June 4, 2018.

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

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

PDR O&R No. 18-26



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.richmond.gov/>

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: 1637 Williamsburg Rd Date: 1/8/2018
 Tax Map #: ED100049016 Fee: \$300
 Total area of affected site in acres: 2.746

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

Zoning

Current Zoning: R5

Existing Use: Church

Proposed Use

(Please include a detailed description of the proposed use in the required applicant's report)
Fulton Montessori School proposes leasing space within the church to operate a non-profit school.

Existing Use: Church

Is this property subject to any previous land use cases?

Yes No If Yes, please list the Ordinance Number: _____

Applicant/Contact Person: Natisha Knight

Company: Fulton Montessori School
 Mailing Address: PO Box 38624
 City: Richmond State: VA Zip Code: 23231
 Telephone: (804) 9381978 Fax: ()
 Email: teachnknight@gmail.com

Property Owner: Calvary United Methodist Church

If Business Entity, name and title of authorized signee: Don Ellis, Trustee

(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: 1637 Williamsburg Rd
 City: Richmond State: VA Zip Code: 23231
 Telephone: (804) 2222891 Fax: ()
 Email: donaldwellis@comcast.net

Property Owner Signature: Donald W. Ellis

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)

**Fulton Montessori School
Applicant Report for Special Use Permit in City of Richmond**

Fulton Montessori School proposes a nonprofit preschool program within an existing place of worship, Calvary United Methodist Church located at 1637 Williamsburg Rd, Richmond, VA 23223. The site is zoned R-5. No modifications of the existing structure are proposed.

The anticipated max number of employees for Fulton Montessori School is 6. Hours of operation will be 8 am to 6 pm. Fulton Montessori School anticipates having a maximum of 42 students in the space with approximately 35 – 40 vehicles visiting the property between 8 am – 9:30 am and 4 pm – 6 pm.

There is no comparable business in the proposed area. Fulton Montessori School is the product of the closing of the Montessori preschool program at the Neighborhood Resource Center located at 1519 Williamsburg Rd. As a nonprofit organization, Fulton Montessori School will make it possible for working families of all income levels to have access to affordable, high-quality preschool education for youth ages 2.5 – 6.

Conditions to be met prior to approval:

- Fulton Montessori School (FMS) will not be detrimental to the safety, health, morals and general welfare of the community. The school will provide a service for families in the community of all income levels.
- FMS will not create congestion in any public ways or areas. Families will drop off their children between 8 am and 9 am and pick up children from 4 pm to 6 pm. FMS will serve a maximum of 42 students. There will be a maximum of 6 employees. There is a large parking lot that is adjacent to the building which will keep traffic out of the street.
- FMS will not create hazards from fire, panic or other dangers nor will FMS cause overcrowding of land or undue concentration of population. Occupation of the space will be limited to staff, enrolled students, parents and potential families.
- There are no public or private schools, parks or playgrounds in the immediate area. Calvary United Methodist Church is capable of safely having several hundred people on-site at one time. During the proposed hours of business for FMS, there are never more than 5 adults on site from Calvary. There will be no negative impact on water supplies, sewage disposal, transportation or interfere with adequate light and air.

1637 Williamsburg Rd Aerial Site Plan – 1/16/18

WILLIAMSBURG ROAD

110'- $\frac{1}{8}$ "

1637
Williamsburg
Road

Parking
Area

202'- $1\frac{1}{16}$ "

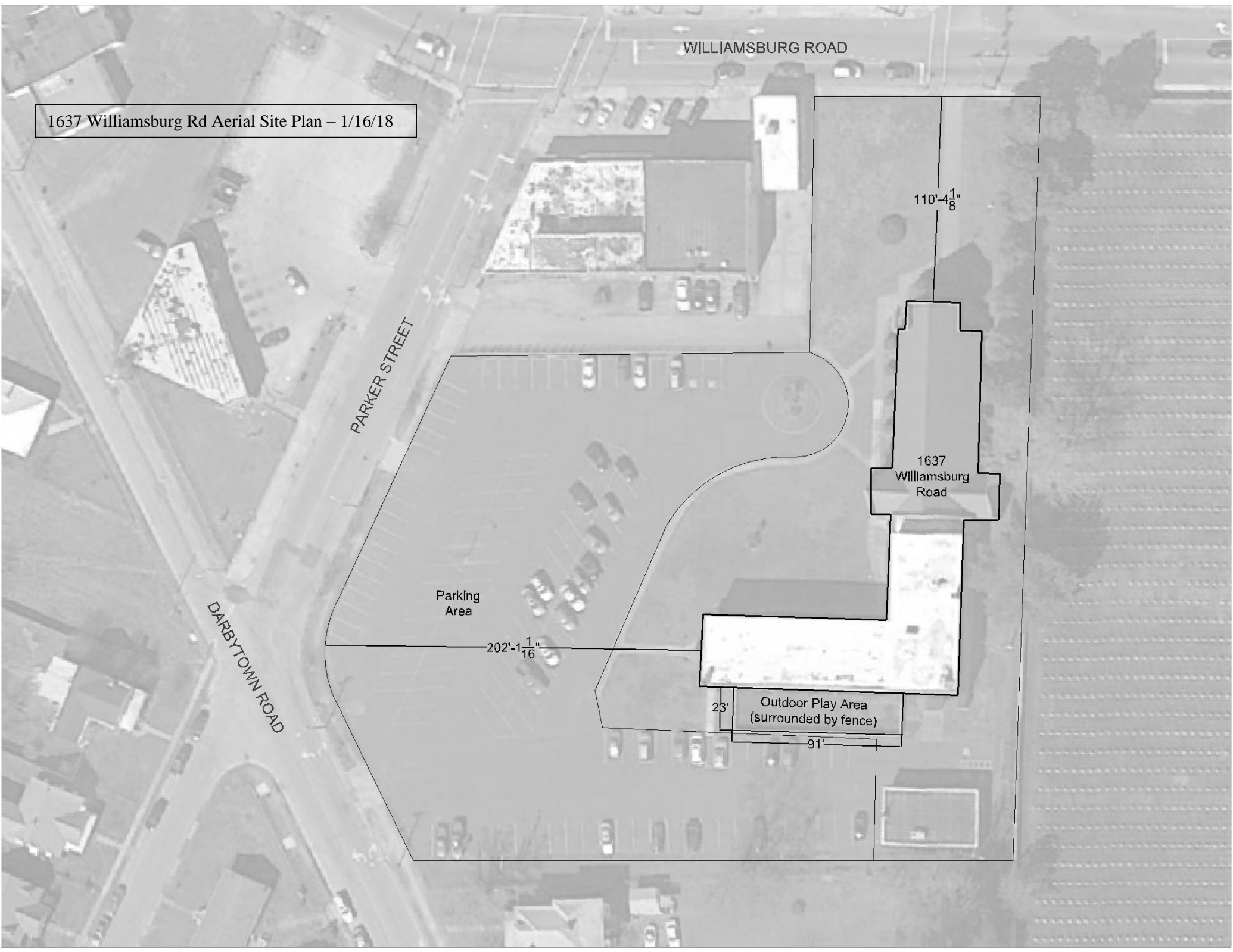
23'

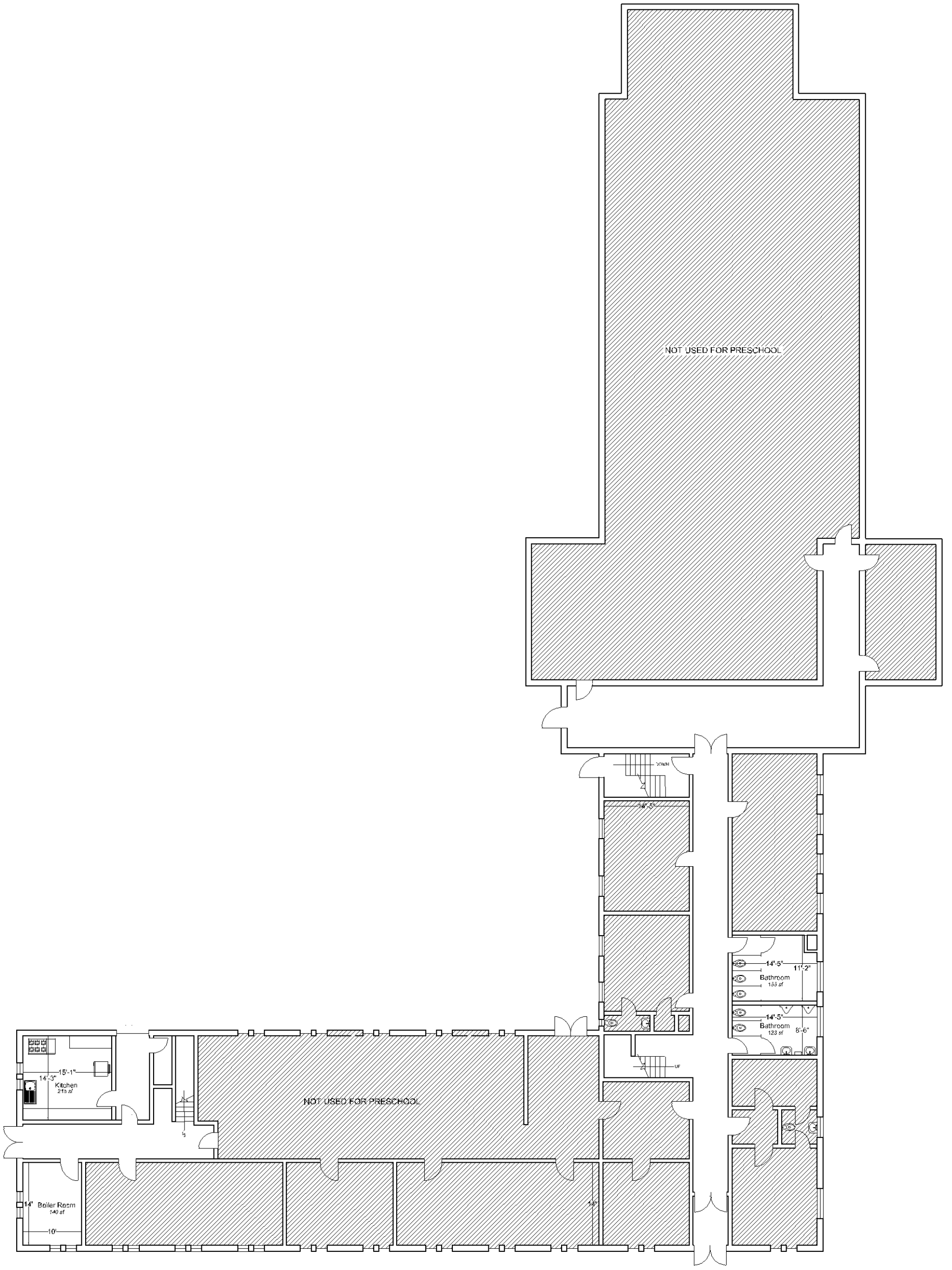
Outdoor Play Area
(surrounded by fence)

91'

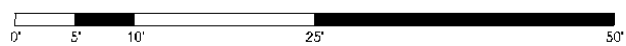
PARKER STREET

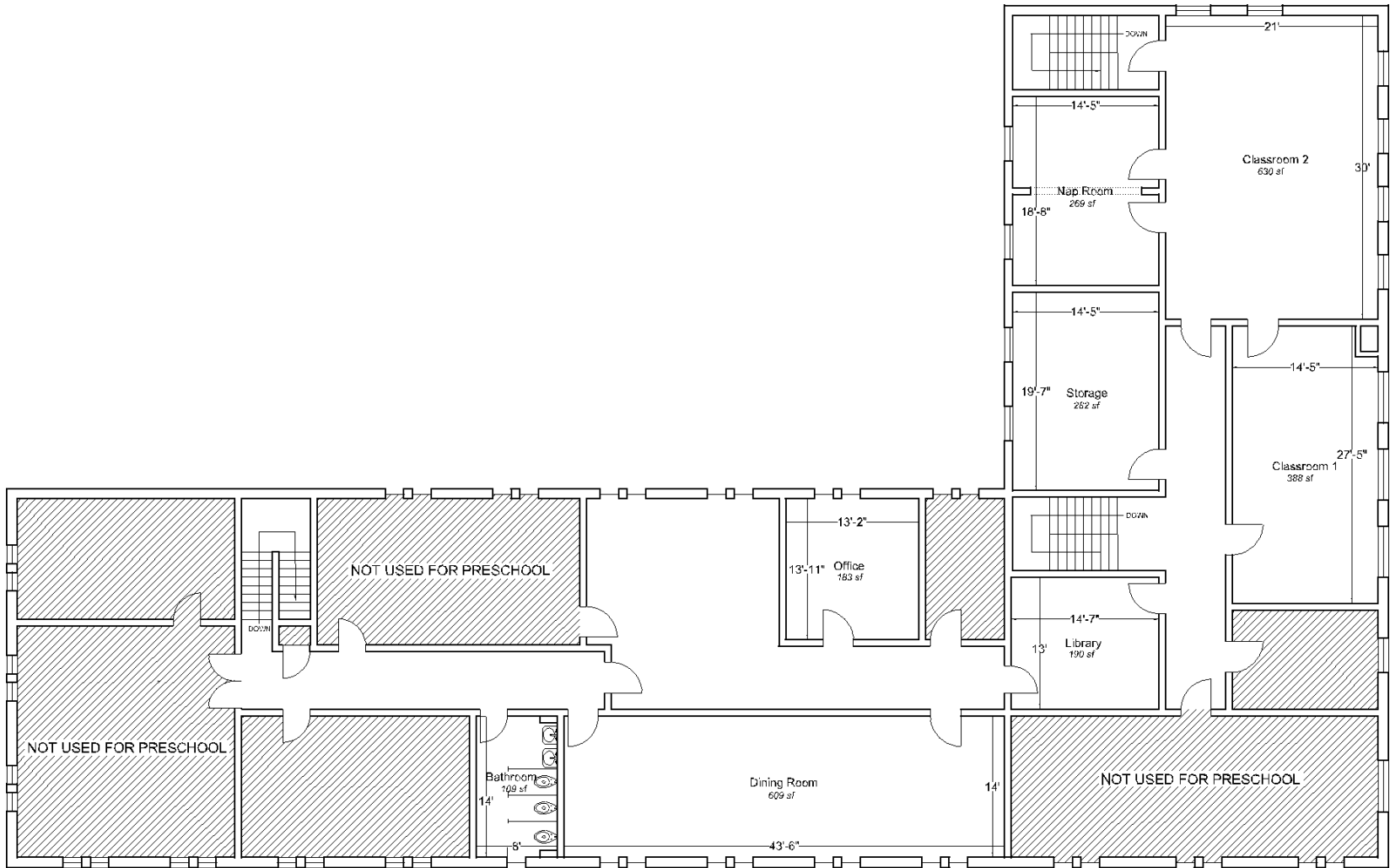
DARBYTOWN ROAD



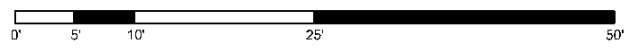


1st Floor
 Fulton Montessori
 Mt. Calvary United Methodist Church
 1637 Williamsburg Rd



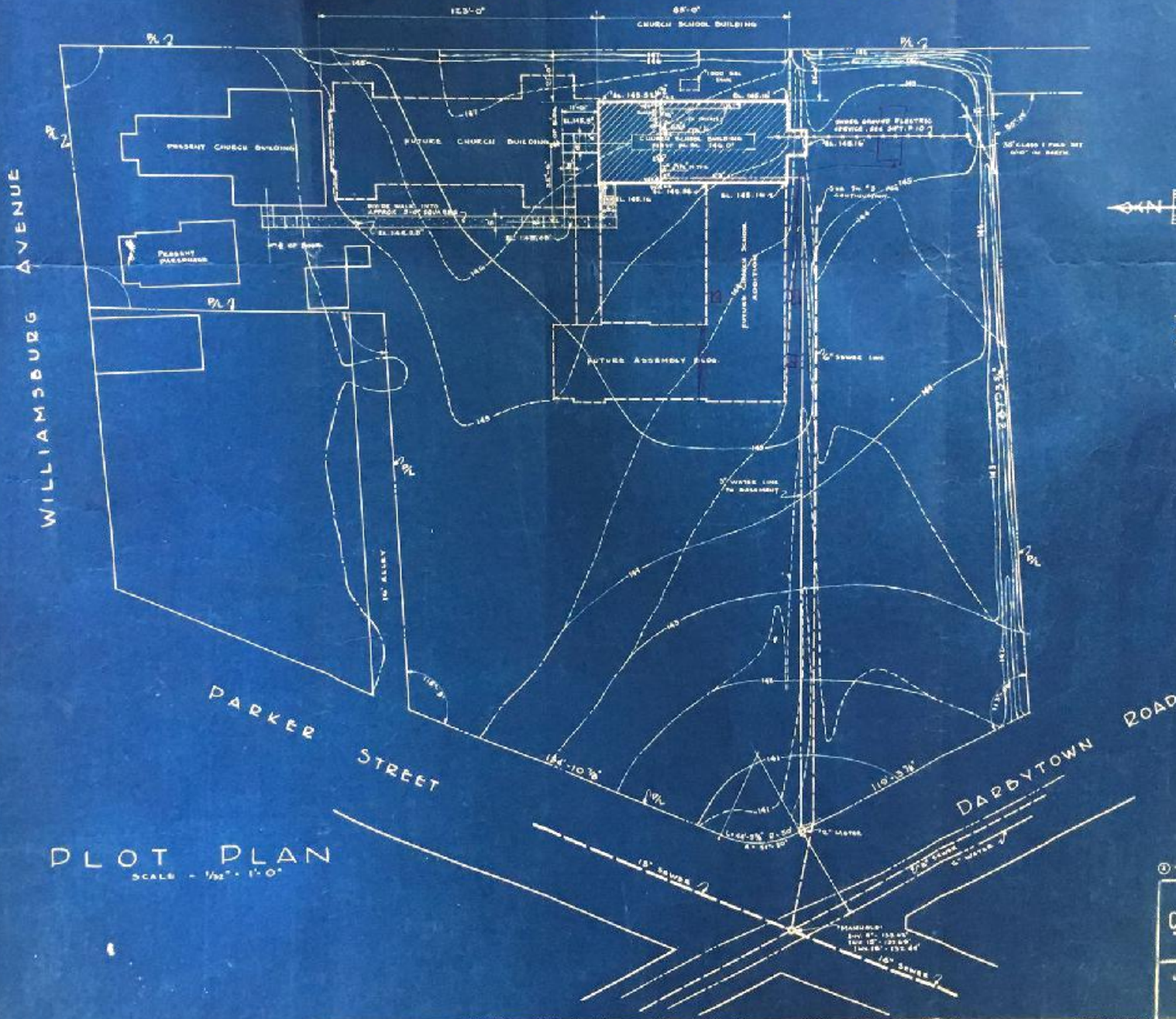


2nd Floor
 Fulton Montessori
 Mt. Calvary United Methodist Church
 1637 Williamsburg Rd



CALVARY METHODIST CHURCH

RICHMOND VIRGINIA



THAT ALL THE PEOPLE OF THE EARTH
MAY KNOW THAT THE LORD IS GOD AND
THAT THERE IS NONE ELSE.
I KINGS, 8: 40

PLOT PLAN
SCALE - 1/32" = 1'-0"

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CHURCH SCHOOL BUILDING	ISSUED
CALVARY METHODIST CHURCH	FEB. 21, 1949
RICHMOND, VIRGINIA	DRAWN BY
	REVISED
	NO. 2000
JOHN STAFFORD EFFORD	SHEET NO.
ARCHITECT	1
CENTRAL NATIONAL BANK BUILDING	OF 12
RICHMOND, VIRGINIA	