

INTRODUCED: April 11, 2022

AN ORDINANCE No. 2022-122

As Amended

To authorize the special use of the property known as 3336 Cutshaw Avenue for the purpose of three two-family detached dwellings and a parking area, upon certain terms and conditions.

Patron – Mayor Stoney (By Request)

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: MAY 9 2022 AT 6 P.M.

WHEREAS, the owner of the property known as 3336 Cutshaw Avenue, which is situated in a UB-2 Urban Business District, desires to use such property for the purpose of three two-family detached dwellings and a parking area, which use, among other things, is not currently allowed by section 30-433.11 of the Code of the City of Richmond (2020), as amended; and

WHEREAS, in accordance with section 17.11 of the Charter of the City of Richmond (2020), 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 congestion in streets, roads, alleys and other public ways and places in the area involved, will not

AYES: 8 NOES: 0 ABSTAIN:

ADOPTED: JUN 27 2022 REJECTED: STRICKEN:

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 (2020), 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 3336 Cutshaw Avenue and identified as Tax Parcel No. W000-1524/028 in the 2022 records of the City Assessor, being more particularly shown on a survey entitled “Plat Showing Four Proposed Parcels of Land Lying on the Southeast Corner of W. Broad Street and Roseneath Road, City of Richmond, Virginia,” prepared by JenningsStephenson, P.C., and dated October 18, 2021, 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 three two-family detached dwellings and a parking area, hereinafter referred to as “the Special Use,” substantially as shown on the survey entitled “Plat Showing Four Proposed Parcels of Land Lying on the Southeast Corner of W. Broad Street and Roseneath Road, City of Richmond, Virginia,” prepared by JenningsStephenson, P.C., and dated October 18, 2021, and 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 Special Use of the Property shall be as three two-family detached dwellings and a parking area, substantially as shown on the Plans.

(b) No off-street parking shall be required for the two-family detached dwellings.

(c) All mechanical equipment serving the Property shall be located or screened so as not to be visible from any public right-of-way.

(d) Prior to the issuance of any certificate of occupancy, the division of the Property into four residential lots, substantially as shown on the Plans, shall be accomplished by obtaining the necessary approvals from the City and recording the appropriate plats and deeds among the land records of the Clerk of the Circuit Court of the City of Richmond.

(e) The portion of the Property designated on the Plans as “Parcel 4” shall be permitted to be used as a parking area or may be redeveloped in accordance with the zoning regulations prescribed by the applicable underlying zoning district.

§ 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 (2020), 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 (2020), 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.

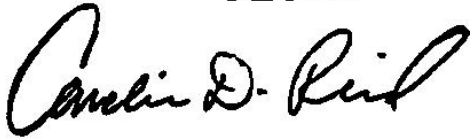
(e) The privileges granted by this ordinance may be revoked pursuant to the provisions of sections 30-1050.7 through 30-1050.11 of the Code of the City of Richmond (2020), as

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 (2020), 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 Secretary of the Planning Commission is authorized to approve a final subdivision plat, provided that such subdivision plat complies with all applicable laws and is 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 approval of a final subdivision plat shall be made within 730 calendar days following the date on which this ordinance becomes effective. If the application for the final subdivision plat is not made within 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.

A TRUE COPY:
TESTE:

City Clerk



City of Richmond

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

Item Request File Number: PRE.2022.0097

O & R Request

DATE: March 14, 2022

EDITION: 1

TO: The Honorable Members of City Council

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

THROUGH: J.E. Lincoln Saunders, Chief Administrative Officer

THROUGH: Sharon L. Ebert, Deputy Chief Administrative Officer for Economic Development and Planning

FROM: Kevin J. Vonck, Director, Department of Planning and Development Review

RE: To authorize the special use of the property known as 3336 Cutshaw Avenue for the purpose of three two-family detached dwellings and a parking area, upon certain terms and conditions.

ORD. OR RES. No. ____

PURPOSE: To authorize the special use of the property known as 3336 Cutshaw Avenue for the purpose of three two-family detached dwellings and a parking area, upon certain terms and conditions.

REASON: The subject property is located in the UB-2 Urban Business District and contains three two-family dwellings and a parking lot. The parking lot is a permitted use. The two-family dwellings are not permitted uses in this district and are designated as legally non-conforming uses. Therefore, a special use permit is required to subdivide the property while retaining the nonconforming uses.

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 2, 2022 meeting.

BACKGROUND: On September 25, 2017 the .519 acre subject property was rezoned from the R-6 Single-Family Attached Residential District to the UB-2 Urban Business District. The two-family homes constructed in 1969 became legally nonconforming uses with this rezoning. The dwellings front Cutshaw Avenue and the parking lot is accessed from Roseneath Road.

The Richmond 300 Master Plan designates the subject property for Corridor Mixed-Uses. Primary uses in this category are *Retail/office/personal service, multi-family residential, cultural, and open space*. *Secondary Uses are Single-family houses, institutional, and government*.

All properties surrounding the subject property are also located within the UB-2 Urban Business District. Properties in the area are developed with a wide range of uses. One block to the north lies the Broad Street corridor which features commercial uses. To the west, fronting Interstate 195 also lie a range of commercial and office uses. Properties to the south consist of residential uses ranging in intensity from single-family detached to multifamily.

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: April 11, 2022

CITY COUNCIL PUBLIC HEARING DATE: May 9, 2022

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: City Planning Commission
May 2, 2022

AFFECTED AGENCIES: Office of Chief Administration Officer
Law Department (for review of draft ordinance)

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: David Watson, Senior Planner, Land Use Administration, 804-646-1036



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: 3336 Cutshaw Avenue
 Tax Map #: W0001524028 Fee: \$300
 Total area of affected site in acres: 0.519

Date: 11-16-21

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

Zoning

Current Zoning: UB-2

Existing Use: Three two-family dwellings and a parking area

Proposed Use

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

Division of the existing property into four separate parcels, three containing a two-family dwelling and one containing the existing parking area.

Existing Use: Three two-family dwellings and a parking area

Is this property subject to any previous land use cases?

Yes

No

If Yes, please list the Ordinance Number: BZA-1975-086, BZA-1958-004

Applicant/Contact Person: Mark Baker

Company: Baker Development Resources

Mailing Address: 530 East Main Street, Suite 730

City: Richmond State: VA Zip Code: 23219

Telephone: (804) 874-6275 Fax: ()

Email: markbaker@bakerdevelopmentresources.com

Property Owner: CUTSHAW ONE LLC

If Business Entity, name and title of authorized signee: Jim Kinter

(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: 5809 York Road

City: Richmond State: VA Zip Code: 23226

Telephone: (804) 359-3575 Ext 4 Fax: ()

Email: jkinter@glcva.com

Property Owner Signature:

The names, addresses, telephone numbers and signatures of all owners of the property are required. Please attach additional sheets as needed. If a legal representative signs for a property owner, please attach an executed power of attorney. **Faxed or photocopied signatures will not be accepted.**

NOTE: Please attach the required plans, checklist, and a check for the application fee (see Filing Procedures for special use permits)

APPLICANT'S REPORT

November 29, 2021

*Special Use Permit Request
3336 Cutshaw Avenue, Richmond, Virginia
Map Reference Number: W000-1524/028*

Submitted to:	City of Richmond Department of Planning and Development Review Land Use Administration 900 East Broad Street, Suite 511 Richmond, Virginia 23219
Submitted by:	Mark Baker Baker Development Resources 530 East Main Street, Suite 730 Richmond, VA 23219

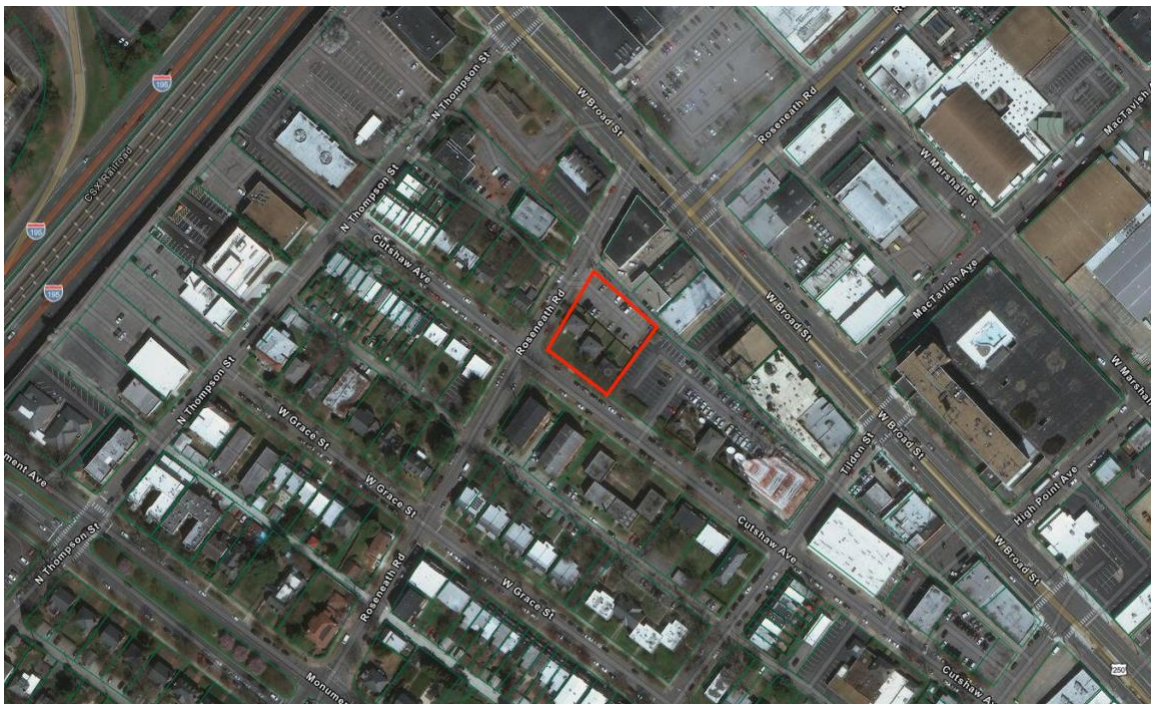
Introduction

The applicant is requesting a special use permit (the "SUP") for the property known as 3336 Cutshaw Avenue (the "Property"). The SUP would authorize the division of the existing Property into four (4) parcels. Three (3) of the parcels would include existing two-family dwellings and one (1) parcel would include the existing parking lot located on the Property. While the existing parking area and dwellings uses have existed in their current configuration for over fifty years, the dwellings are not permitted by the underlying UB-2 Urban Business District. Therefore, the SUP is required to divide the lot while retaining those uses.

Existing Conditions

SITE DESCRIPTION AND EXISTING LAND USE

The Property is located on the north side of Cutshaw Avenue at the northeast corner of its intersection with Roseneath Road. It is referenced by the City Assessor with a tax parcel number of W000-1524/028, is approximately 134 feet in width and 166 feet in depth, and contains roughly 22,607 square feet of lot area. The Property is currently occupied with three two-family dwellings, evenly spaced across the Cutshaw Avenue frontage and a parking area occupying the portion of the Property located to the rear of the dwellings. Access to the parking area is provided from an existing curb cut on Roseneath Road.



Properties in the area are developed with a wide range of uses. One block to the north lies the Broad Street corridor which features commercial uses. To the west, fronting Interstate 195 also lie a range of commercial and office uses. Properties to the south consist of residential uses ranging in intensity from single-family detached to multifamily. At 134 feet in width and containing 22,607 square feet of lot area, the Property is exceptionally large for a residential use with residential dwellings in the area on lots as small as 18 feet in width and generally no more than 60 feet in width.

EXISTING ZONING

The Property, and all properties on the northern block of Cutshaw Avenue between Roseneath Road and Tilden Street, are zoned UB-2 Urban Business District. Properties to the north along the Broad Street corridor fall within the TOD-1 Transit-Oriented Nodal District. Properties immediately to the west and south lie in the R-48 Multifamily Residential District and those further south, beyond W Grace Street, are zoned R-6 Single-Family Attached Residential. Adjacent to the Property, across Cutshaw Avenue, lies the West of the Boulevard Design Overlay District.

MASTER PLAN DESIGNATION

The Richmond 300 Master Plan (the "Master Plan") suggests "Corridor Mixed-Use" for the Property. The Master Plan suggests this future land use designation allow for medium density housing that is consistent with the scale, density, and design of what exists in the vicinity. This designation also encourages that developments reinforce a gridded street pattern to increase connectivity. Multi-family dwellings are the contemplated primary use in the Corridor Mixed-Use future land use designation (p. 54). The Property is also located within the area defined by the Pulse Corridor Plan and is contained in the walkshed for the Cleveland Street Pulse station.

In addition to the Property-specific guidance offered by the Vision and Core Concepts chapter, there are a number of other goals elsewhere within the Master Plan that support this request:

- Page 109 (Equitable Transportation Chapter), Objective 6.1 to "Increase the number of residents and jobs at Nodes and along enhanced transit corridors in a land development pattern that prioritizes multi-modal transportation options."
 - b. Develop housing at all income levels in and near Nodes and along major corridors (see strategies Goal 14).
- Page 136 (Diverse Economy Chapter), Objective 11.1 to "Increase the areas of appropriately zoned land near various transportation modes and housing to retain, create, and attract employers."
 - d. Encourage the development of a variety of quality housing types to house employees across the economic spectrum (see Goal 14).
- Page 150 (Inclusive Housing Chapter), Objective 14.1 to "Increase city-wide awareness of the importance of integrating housing at all income levels into every residential neighborhood so every household has housing choice throughout the city."

- Page 152 (Inclusive Housing Chapter) (see map on p. 153), Objective 14.4 to “Increase the number of mixed-income communities along enhanced transit corridors.”
- Page 152 (Inclusive Housing Chapter) (see map on p. 153), Objective 14.5 to “Encourage more housing types throughout the city and greater density along enhanced transit corridors and at Nodes (shown in Figure 38 [p.153]) by amending the Zoning Ordinance. “
 - e) Allow the development of middle housing (2- to 4- unit buildings) by-right within 1/2 mile of high-frequency transit stops.
- Page 155 (Inclusive Housing Chapter), Objective 14.8 to “Develop inclusionary and equitable housing options for our gentrifying neighborhoods to prevent involuntary displacement.”
- Page 159 (Thriving Environment Chapter) Objective 15.1 to “Reduce air pollution related to transportation.”
 - a. Increase the number of Richmonders living in a development pattern that encourages density and reduces dependency on single-occupancy vehicles (see Goal 1, Goal 8, Goal 14).
- Page 86 (High-Quality Places Chapter), Objective 1.4, to “maintain and improve primarily residential areas by increasing their linkages to...corridors...and maintaining high-quality design standards”
- Page 100 (High Quality Places Chapter), Objective 4.1, to “create and preserve high-quality, distinctive, and well-designed neighborhoods and nodes throughout the City.”

Proposal

PURPOSE OF REQUEST

The SUP would permit the division of the Property into four individual parcels. The dwellings are nonconforming in their current configuration and cannot be split into individual lots absent the SUP. The parking area is encumbered by a parking lease and serves the parking needs of the property at 3321 West Broad Street. The SUP would allow the two-family dwellings to be split and sold individually while allowing the parking area to continue to be utilized for parking for the use at 3321 West Broad Street.

In exchange for the SUP, the intent of this request is to retain the existing two-family dwellings which are compatible with the overall historic fabric of the neighborhood. The two-family dwellings would serve as high-quality middle housing that is consistent with the Master Plan. By allowing the two-family dwellings to be marketed individually, the SUP would also allow for greater diversity in housing types while providing affordability in buying options for potential home owners.

PROJECT DETAILS

The proposed lot split would result in four lots, all of which will retain their existing improvements. The parcels fronting Cutshaw Avenue will each include one of the existing two-family dwellings and contain 4,267 to 4,700 square feet of lot area. The parcel to the rear would include the existing parking area and contain 9,208 square feet of lot area.

The existing two-family dwellings are each two-stories in height and are of a masonry (brick) construction. Each building contains approximately 1,758 square feet of finished floor area per the City of Richmond Assessor. The individual dwelling units are configured as side-by-side dwelling units. Each unit has two bedrooms and one bath on two floors.

Findings of Fact

The following are factors indicated in Section 17.11 of the Charter and Section 30-1050.1 of the Zoning Ordinance relative to the approval of special use permits by City Council. The proposed special use permit will not:

- ***Be detrimental to the safety, health, morals and general welfare of the community involved.***

The proposed SUP will not impact the safety, health, morals and general welfare of the nearby neighborhoods. The use of the property will remain the same.

- ***Tend to create congestion in streets, roads, alleys and other public ways and places in the area involved.***

The proposed SUP will not result in significant traffic impacts to nearby residential neighborhoods. The dwellings are existing and the street network is sufficient to accommodate any negligible traffic generation as well as off-street parking spaces without creating congestion on streets, roads, alleys or any other public right of way.

- ***Create hazards from fire, panic, or other dangers.***

The property will be developed in a manner consistent with the requirements of the building code and in accordance with the requirements of Fire and Emergency Services. The City's codes applicable to this development are designed to eliminate such hazards.

- ***Tend to overcrowding of land and cause an undue concentration of population.***

The proposed SUP will not tend to over crowd the land or create an undue concentration of population.

- ***Adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences, and improvements.***

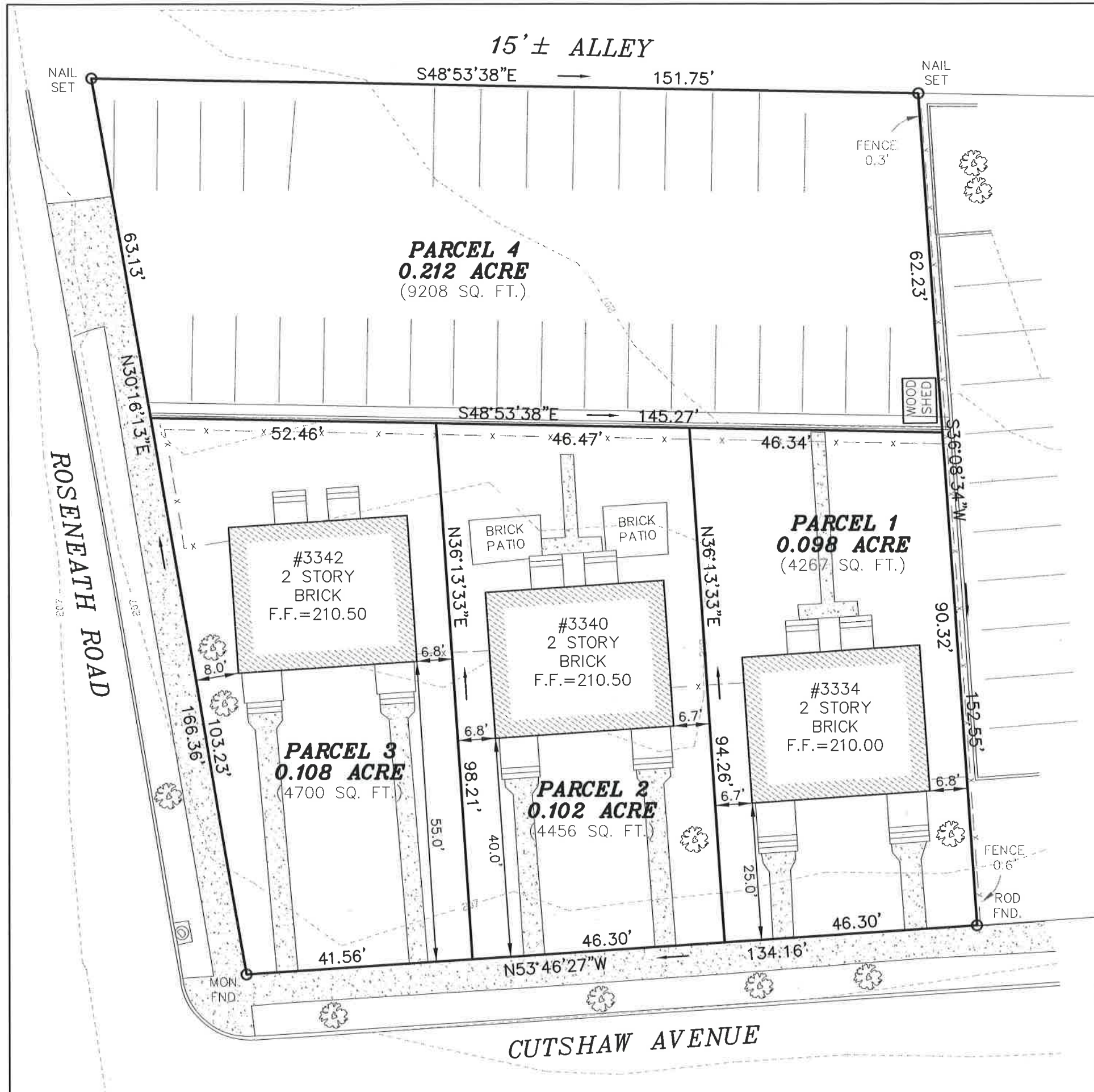
The proposed SUP would not adversely affect the above referenced City services.

- ***Interfere with adequate light and air.***

The light and air available to the subject and adjacent properties will not be affected. The buildings are existing and their siting and setbacks will not be impacted by this approval. As a result, this request will not interfere with the provision of adequate light and air to the adjacent buildings.

Summary

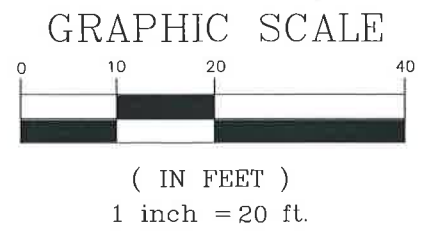
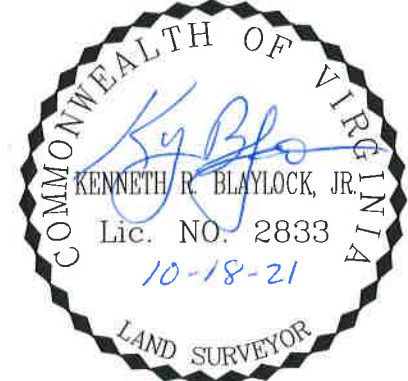
In summary we are enthusiastically seeking approval for the SUP in order to permit the division of the Property. The SUP would not change the intensity of the use of the Property. However, the division would permit the retention of the existing two-family dwellings, which are compatible with the overall historic fabric of the neighborhood. The two-family dwellings would serve as high-quality middle housing options that are consistent with the recommendations of the Master Plan. The two-family dwellings, which could be marketed individually, would also allow for greater diversity in housing types while providing more affordability as a buying option for potential homeowners.



NOTES

1. OWNERSHIP:
CUTSHAW ONE LLC
INSTR. NO. 210023210
P.B. 44 PG. 42
PARCEL ID: W0001524028
2. THIS PROPERTY LIES IN ZONE 'X' OF THE FEMA DEFINED FLOOD HAZARD AREA AS SHOWN ON FLOOD INSURANCE RATE MAP NUMBER 5101290028D, EFFECTIVE DATE APRIL 2, 2009.
3. HORIZONTAL: THE MERIDIAN SOURCE OF THIS PLAT IS BASED ON THE VIRGINIA STATE PLANE COORDINATE SYSTEM, SOUTH ZONE, NAD 1983/1993 (HARN). COORDINATE VALUES SHOWN ARE EXPRESSED IN U.S. SURVEY FEET.
VERTICAL: NAVD 88 DATUM
4. ZONED: UB-2 URBAN BUSINESS

SCRIPPS MEDIA, INC.
INSTR. NO. 190019789
PARCEL ID: W0001524025



PLAT SHOWING FOUR PROPOSED PARCELS OF LAND LYING ON THE SOUTHEAST CORNER OF W. BROAD STREET AND ROSENEATH ROAD

CITY OF RICHMOND, VIRGINIA

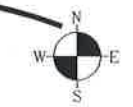
DATE: OCTOBER 18, 2021

SCALE: 1" = 20'

JENNINGSSTEPHENSON P.C.



LAND SURVEYORS
& PLANNERS



10160 STAPLES MILL ROAD
SUITE 103
GLEN ALLEN, VA 23060
PHONE - 804-545-6235
FAX - 804-545-6259
J.N. 21-659