

INTRODUCED: October 11, 2021

AN ORDINANCE No. 2021-298

To authorize the special use of the property known as 513 North 28th Street for the purpose of a day nursery in a single-family detached dwelling, upon certain terms and conditions.

Patron – Mayor Stoney (By Request)

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: NOV 8 2021 AT 6 P.M.

WHEREAS, the owner of the property known as 513 North 28th Street, which is situated in a R-8 Urban Residential District, desires to use such property for the purpose of a day nursery in a single-family detached dwelling, which use, among other things, is not currently allowed by section 30-413.11 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 create hazards from fire, panic or other dangers, will not tend to overcrowding of land and cause

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: NOV 8 2021 REJECTED: _____ STRICKEN: _____

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 513 North 28th Street and identified as Tax Parcel No. E000-0528/027 in the 2021 records of the City Assessor, being more particularly shown on a survey entitled “Plat of Property Situated on the Eastern Line of N. 28th. Street and South of E. Leigh Street, City of Richmond, Virginia,” prepared by Steven B. Kent & Associates, P.C., and dated July 29, 2020, 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 in a single-family detached dwelling, hereinafter referred to as “the Special Use,” substantially as shown on the plans entitled “513 N. 28th Street, Richmond, VA.,” prepared by Trinity HDC, and dated July 12, 2021, 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 a day nursery in a single-family detached dwelling, substantially as shown on the Plans.

(b) The Special Use may accommodate up to ten children, not including children residing on the Property.

(c) No less than two off-street parking spaces shall be provided on the Property, substantially as shown on the Plans.

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

(e) The hours of operation for the day nursery shall be limited to the hours between 6:00 a.m. and 6:00 p.m., Monday through Friday.

(f) The day nursery shall be licensed by and operated under the applicable requirements of the Virginia Department of Education or its successor 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 (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.

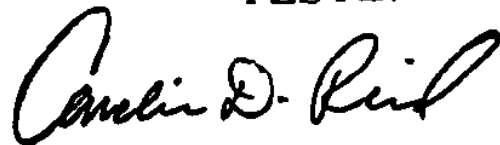
(f) When the privileges granted by this ordinance terminate and the special use permit granted hereby becomes null and void, whether as a result of the Owner relinquishing this special use permit in a writing addressed to the Director of Planning and Development Review or otherwise, use of the Property shall be governed thereafter by the zoning regulations prescribed for the district in which the Property is then situated.

§ 6. **Implementation.** The 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.

A TRUE COPY:

TESTE:

A handwritten signature in black ink, appearing to read "Carolin D. Reil". The signature is written in a cursive style with a large initial 'C'.

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.2021.811

O & R Request

DATE: September 10, 2021

EDITION: 1

TO: The Honorable Members of City Council

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

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

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

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

RE: To authorize the special use of the property known as 513 North 28th Street for the purpose of a day nursery use in an existing single-family detached dwelling, upon certain terms and conditions.

ORD. OR RES. No. ____

PURPOSE: To authorize the special use of the property known as 513 North 28th Street for the purpose of a day nursery use in an existing single-family detached dwelling, upon certain terms and conditions.

REASON: The applicant is requesting a Special Use Permit to authorize day nursery use within an R-8 Urban Residential District. The proposed is not a permitted use within the R-8 district. 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 November 1, 2021, meeting.

BACKGROUND: The property is located in the Church Hill neighborhood on North 28th Street between East Leigh and East Clay Streets. The property is currently a 3,443 sq. ft. (.08 acre) parcel of land.

The City's Richmond 300 Master Plan designates a future land use for the subject property as Neighborhood Mixed-Use which is defined as "Existing or new highly-walkable urban neighborhoods that are predominantly residential with a small, but critical, percentage of parcels providing retail, office, personal service, and institutional uses."

Primary Uses: Single-family houses, accessory dwelling units, duplexes, small multi-family buildings (typically 3-10 units), and open space.

Secondary Uses: Large multi-family buildings (10+units), retail/office/personal service, institutional, cultural, and government. (p. 56)

The current zoning for this property is R-8 Urban Residential District. All adjacent properties are located within the same R-4 Residential Zone, with some R-63 Multifamily Urban Residential to the east and south of the property. The area is primarily single family residential, with some multi-family residential and small, neighborhood commercial uses present in the vicinity.

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: October 11, 2021

CITY COUNCIL PUBLIC HEARING DATE: November 8, 2021

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: Planning Commission
November 1, 2021

AFFECTED AGENCIES: Office of Chief Administrative 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: Jonathan Brown, Senior Planner, Land Use Administration (Room 511) 646-5734



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: 513 North 28th St. Richmond Va 23223 Date: _____
Tax Map # E0000528027 Fee: \$300.00
Total area of affected site in acres: _____

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

Zoning

Current Zoning: _____

Existing Use: _____

Proposed Use

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

Existing Use: Home Day Care (Family Day Home)
Home

Is this property subject to any previous land use cases?

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

Applicant/Contact Person: Edith McCray
Company: _____
Mailing Address: 513 North 28th Street
City: Richmond State: Va Zip Code: 23223
Telephone: (804) 269-6398 Fax: _____
Email: ms.edith.mccray@gmail.com

Property Owner: Edith McCray
If Business Entity, name and title of authorized signee: _____

(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: 513 North 28th Street
City: Richmond State: Va Zip Code: 23223
Telephone: (804) 269-6398 Fax: _____
Email: ms.edith.mccray@gmail.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)

February 25, 2020

513 North 28th Street
Richmond, Virginia 23223
Edith McCray Report

Department of Planning and Development Review

To whom it may concern,

I am applying for a special use permit for a home day care to add to the growth and expansion in Church Hill. My hours of operation will be Monday-Friday, 7:30am - 6:00pm. The number of employees will not exceed two. The number of kids will not exceed 10. The age group will be newborn (2 months) to 3 years old. I will not supply any transportation. Children will be dropped off in front of my home within those hours. No residential parking spaces will be used or taken away from my neighbors.

It will in no way be detrimental to the safety, moral, health and welfare of this community. It will also not cause overcrowding of land, nor interfere with adequate air or light.

My home daycare will in no way create congestion in roads, alleys, streets or any other places in areas involved. In no way will my business create panic, hazards or fire dangers.

My business will not interfere or affect such things as nearby parks, playgrounds, transportation, or schools (private or public).

Lastly, my home daycare will not affect the water supply, sewage disposal or any other requirements, improvements or conveniences.

I was born and raised in Church Hill so I am committed to making sure my business will be an asset to this community and not a liability. I will make sure all the above criteria are met as well as insure that my business will promote positivity and longevity to my Church Hill community.

I hope that you will approve my request for a special use permit to which I would greatly appreciate.

Sincerely,

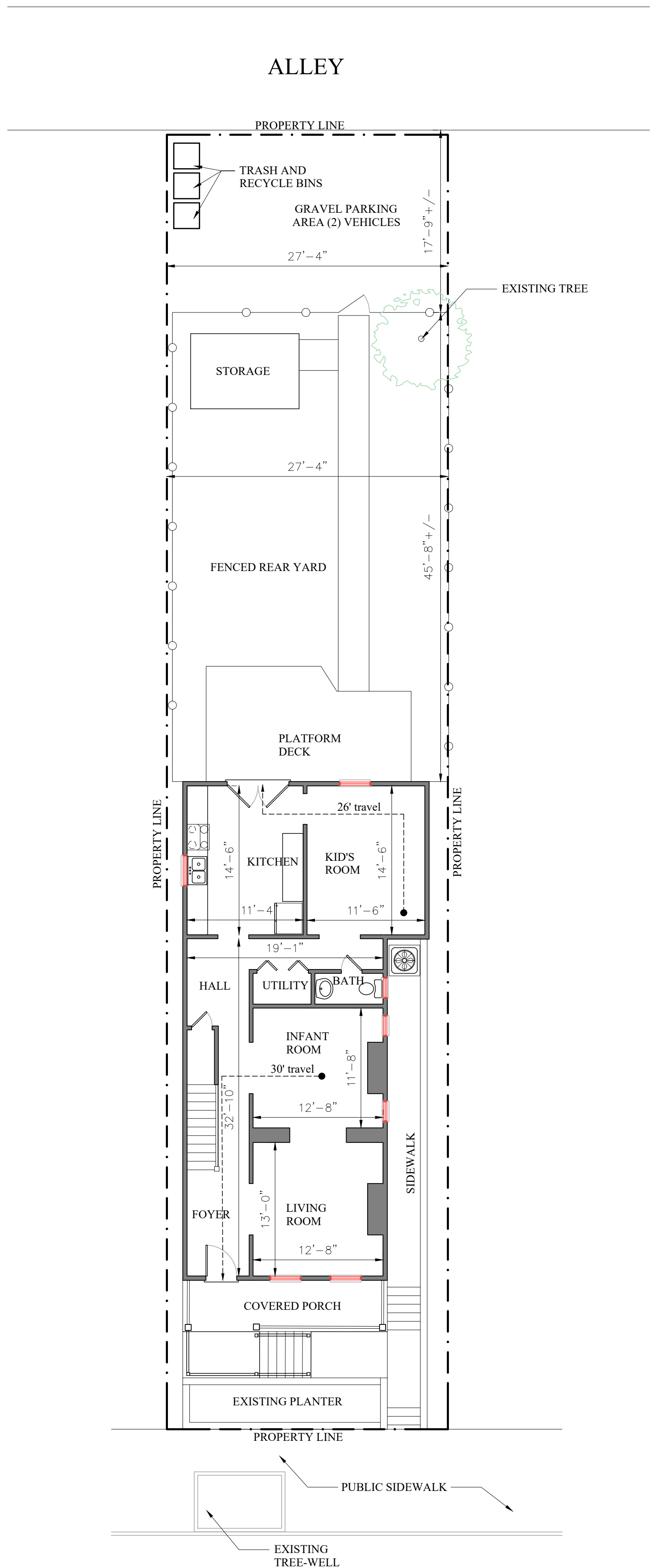
Ms. Edith McCray

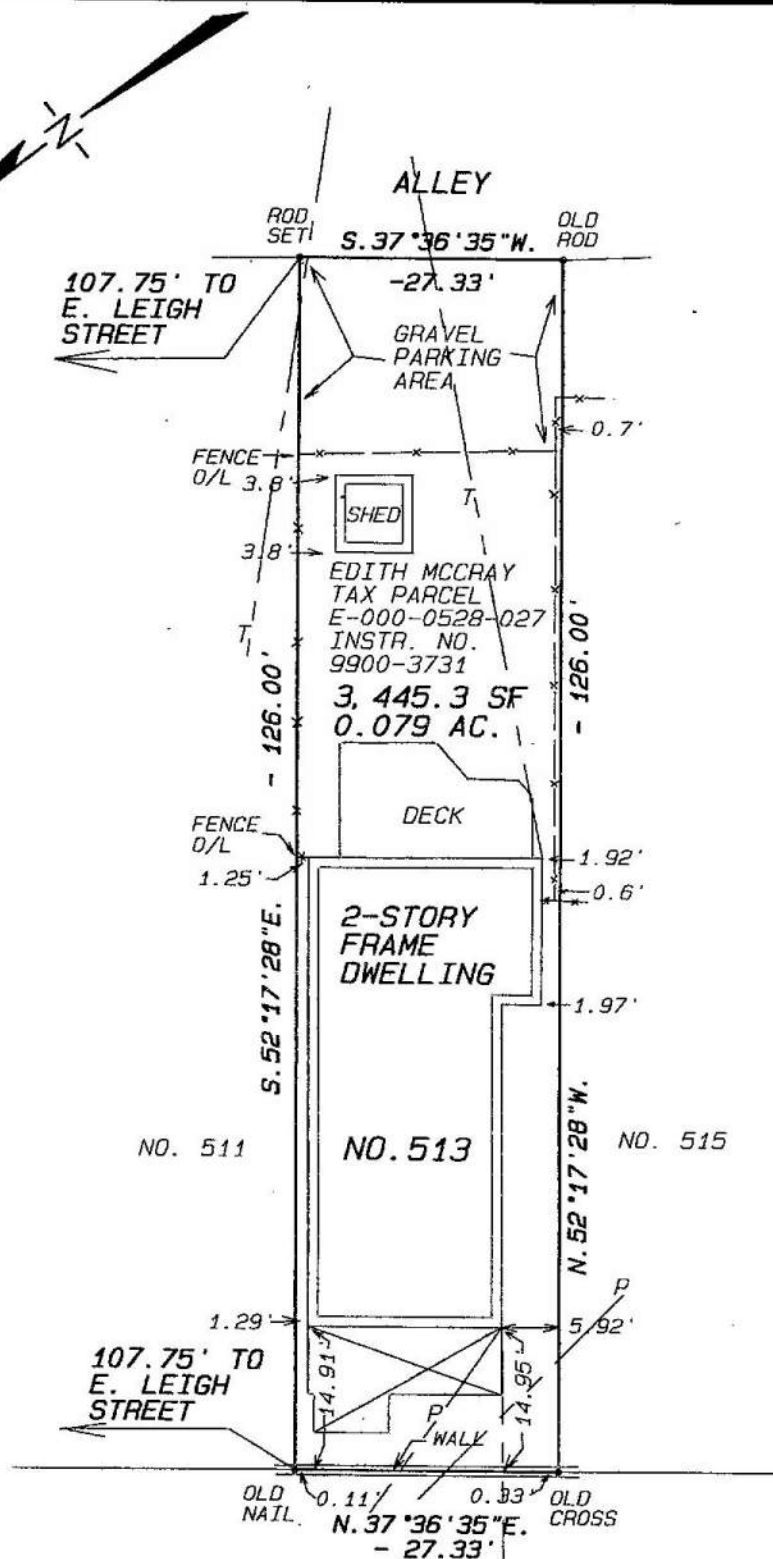
513N. 28TH STREET, RICHMOND, VA.
 FIRST FLOOR LAYOUT
 SCALE: 1/8" = 1'-0"



DRAWN BY: ANDRE MANSON
 DATE: 07-12-21

SHEET: A-0





N. 28TH. STREET

P = OVERHEAD POWER
 T = OVERHEAD TELEPHONE
 C = OVERHEAD CABLEVISION

NOTE:
 THIS SURVEY HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND DOES NOT INDICATE ALL ENCUMBRANCES ON THE PROPERTY.

PLAT OF PROPERTY SITUATED ON THE EASTERN LINE OF N. 28TH. STREET AND SOUTH OF E. LEIGH STREET CITY OF RICHMOND, VIRGINIA
 JULY 29, 2020 SCALE: 1"=20'



STEVEN B. KENT & ASSOCIATES, P.C.
 LAND SURVEYORS
 1521 Brook Road
 Richmond, VA 23220
 PH. 804-643-6113

CERTIFICATION

THIS IS TO CERTIFY THAT WE MADE AN ACCURATE FIELD SURVEY OF THE PREMISES SHOWN HEREON, THAT ALL IMPROVEMENTS AND VISIBLE EASEMENTS ARE SHOWN HEREON, THAT THERE ARE NO ENCROACHMENTS BY IMPROVEMENTS EITHER FROM ADJOINING PREMISES, OR FROM SUBJECT PREMISES, OTHER THAN SHOWN HEREON.

FILE E-528