

INTRODUCED: July 25, 2022

AN ORDINANCE No. 2022-230

To authorize the special use of the property known as 103 Libbie Avenue for the purpose of a single-family detached dwelling, with driveway access to the street, upon certain terms and conditions.

Patron – Mayor Stoney (By Request)

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: SEP 12 2022 AT 6 P.M.

WHEREAS, the owner of the property known as 103 Libbie Avenue, which is situated in a R-4 Single-Family Residential District, desires to use such property for the purpose of a single-family detached dwelling, with driveway access to the street, which use, among other things, is not currently allowed by section 30-408.8, concerning driveways from streets, 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

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: SEP 12 2022 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 (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 103 Libbie Avenue and identified as Tax Parcel No. W020-0185/002 in the 2022 records of the City Assessor, being more particularly shown on a survey entitled “Survey and Plat of Lot 10 of Westview in the City of Richmond, VA,” prepared by Edwards, Kretz, Lohr and Associates, PLLC, and dated October 18, 2019, 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 single-family detached dwelling, with driveway access to the street, hereinafter referred to as “the Special Use,” substantially as shown on the plans entitled “Cooke Residence,” prepared by Menlo Architecture, and dated July 10, 2020, 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 a single-family detached dwelling, with driveway access to the street, substantially as shown on the Plans.

§ 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) 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.

(d) 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.

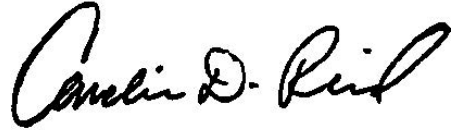
(f) When the privileges granted by this ordinance terminate and the special use permit granted hereby becomes null and void, whether as a result of the Owner relinquishing this special use permit in a writing addressed to the Director of Planning and Development Review or otherwise, use of the Property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

§ 6. **Implementation.** The Zoning Administrator is authorized to issue a certificate of zoning compliance for the Special Use subject to the terms and conditions set forth in this ordinance. An application for the certificate of zoning compliance shall be made within 730 calendar days following the date on which this ordinance becomes effective. If the application for the certificate of zoning compliance 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:

A handwritten signature in black ink, appearing to read "Carolin D. Rind". The signature is written in a cursive, flowing style.

City Clerk



City of Richmond

Item Request File Number: PRE.2022.0177

RECEIVED
By City Attorney's Office at 8:48 am, Jun 24, 2022

RECEIVED
By CAO Office at 1:34 pm, Jun 02, 2022

2022-150

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

O & R Request

DATE: May 31, 2022

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, 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 103 Libbie Avenue for a driveway providing access from a street when alley access is available, upon certain terms and conditions.

ORD. OR RES. No.

PURPOSE: To authorize the special use of the property known as 103 Libbie Avenue for a driveway providing access from a street when alley access is available, upon certain terms and conditions.

REASON: The applicant is requesting a Special Use Permit which would allow for the construction of a circle driveway with access from street when alley access is available to the rear, within the R-4 - Residential (Single Family) zone. Driveway access is only permitted from an alley when an alley is present; a Special Use Permit is therefore requested.

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 July 18, 2022, meeting.

BACKGROUND: The property is located in the Westhampton neighborhood at 103 Libbie Avenue, between Linden Avenue and Matoaka Road. The property is currently 13,300sq. ft. (0.31 acre) in size and contains an existing single family home. The application requests to allow for the construction of a circle driveway providing access from Libbie Avenue.

The portion of Libbie Avenue that the project is located does not include street parking within the right-of-way. As such, the proposed driveway will not reduce street parking, as it would in other sections of the City. Further, other properties in vicinity have created their own street side parking within their own yards, indicating a lack of parking availability. The proposed driveway provides an opportunity for parking for the residents of the subject property in a more safe and aesthetic manner than the ad hoc street side parking found elsewhere in the neighborhood.

The City's Richmond 300 Master Plan designates a future land use for the subject property as Residential. This designation is defined as a "Neighborhood consisting primarily of single-family houses on large- or medium-sized lots more homogeneous in nature."

Primary Uses: Single-family houses, accessory dwelling units, and open space.

Secondary Uses: Duplexes and small multi-family buildings (typically 3-10 units), institutional, and cultural. Secondary uses may be found along major streets. The property is also located within the Westhampton Neighborhood Node.

The current zoning for this property is R-4 Residential (Single Family) and adjacent property are zoned the same. The density is unaffected by the application. The surrounding land uses include primarily single-family residential uses.

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: June 27, 2022

CITY COUNCIL PUBLIC HEARING DATE: July 25, 2022

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: City Planning Commission
July 18, 2022

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: Ray Roakes, Associate Planner, Land Use Administration (Room 511) 804 646 5467

**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: 103 Libbie Avenue Date: February 21, 2022
Tax Map #: W0200185002 Fee: _____
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: R-4

Existing Use: Single-family Residential

Proposed Use

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

Special Use Permit to allow construction of a semi-circular driveway in the property's front yard

Existing Use: Single-family Residential

Is this property subject to any previous land use cases?

Yes
☐

No
☒

If Yes, please list the Ordinance Number: _____

Applicant/Contact Person: R. Robert Benaicha

Company: Hirschler

Mailing Address: 2100 East Cary Street

City: Richmond State: VA Zip Code: 23223

Telephone: (804) 771-9512 Fax: ()

Email: rbenacha@hirschlerlaw.com

Property Owner: Mark P. Cooke, Trustee

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: c/o R. Robert Benaicha, Hirschler, 2100 E. Cary Street

City: Richmond State: VA Zip Code: 23223

Telephone: (804) 771-9512 Fax: ()

Email: rbenacha@hirschlerlaw.com

Property Owner Signature: Mark P Cooke

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
Applicant's Report
103 Libbie Avenue, Richmond, VA 23226
Tax Map # W0200185002

INTRODUCTION

The applicant, Mark P. Cooke, as Trustee of the Mark P. Cooke Revocable Trust (“Cooke” or “Owner”) owns the real property located in the City of Richmond, Virginia, and commonly known as 103 Libbie Avenue (the “Property”). The Property is zoned R-4 [Residential – Single Family]. Before Cooke acquired the Property in October 2019 it was improved with a residence dating back to 1900 (the “Old House”). The Old House was in a state of extreme neglect: dilapidated, infested with vermin, packed with detritus, intermittently occupied by vagrant squatters, and the frequent subject of calls to the police regarding illegal activity. Much to the relief of the surrounding neighborhood, Cooke demolished the Old House after acquiring the Property as he prepared to build a new residence on the site (the “New House”).

After months of drawing up plans for the New House, Cooke filed an application for a building permit to construct the New House on October 1, 2020. The New House will greatly improve upon the look of the Old House and complement the Property and the surrounding residences. In short, the completion of the New House will benefit Cooke’s neighbors.

The New House plans submitted on October 1, 2020 included a semi-circular driveway in front of the New House on Libbie Avenue (the “Driveway”). A site plan depicting the Driveway in relation to Libbie Avenue and the New House is attached hereto as Exhibit A (the “Site Plan”). The Driveway’s semi-circular design would permit vehicles exiting the driveway to do so without backing out of the driveway, thereby minimizing traffic impacts on Libbie Avenue from backward.

Unbeknownst to Cooke, on September 28, 2020, a mere three (3) days before Cooke filed the New House building permit application, the City Council enacted Ord. No. 2020-171, which amended the City Code to add new Code Section 30-408.8 (the “Driveway Ordinance”). The Driveway Ordinance prohibits construction of driveways intersecting streets on residential lots with alley access. The Property has alley access.

Cooke was surprised and dismayed when the New House building permit was rejected on account of the Driveway not being permitted under the City Code. Cooke and his architect and contractors had worked diligently over the preceding months on a design that incorporated the Driveway as an integral part. Had Cooke’s plans been filed only 3 days earlier, the Driveway would have been approved.

PROPOSED USE AND SPECIAL USE PERMIT REQUEST

Owner is requesting a Special Use Permit (“SUP”) to allow the construction of the Driveway in general conformance with the Site Plan.

EXISTING PROPERTY, SURROUNDING AREA & PROPOSED USE

The Property is a rectangular parcel fronting on the east side of Libbie Avenue one lot north of Libbie Avenue's intersection with Matoaka Road and facing the southwest corner of Libbie Avenue and Linden Lane. It is surrounded by residential properties, in keeping with the neighborhood's R-4 [Residential – Single Family] zoning district. Of the sixteen (16) residential buildings fronting Libbie Avenue between Matoaka Road and Grove Avenue, eleven (11) have driveways intersecting a street. Accordingly, granting the SUP to permit construction of the Driveway will not result in the Property being out of place with the existing neighborhood context. Moreover, there is no safety risk: the City's Department of Public Works granted curb-cut permits to Cooke to permit construction of the Driveway's two aprons, which are in place now.

FINDINGS OF FACT

The following are factors listed in Section 30-1050.1 of the Zoning Ordinance to be considered with the review of special use permit applications.

The proposed SUP will:

- *NOT be detrimental to the safety, health, morals, and general welfare of the Community.*

The Driveway will not increase the overall height of the Building and will not be detrimental to the health, safety, morals, or welfare of the community.

- *NOT tend to create congestion in streets, roads, alleys, and other public ways and places in the area.*

DPW has already granted a permit to Cooke to permit construction of the Driveway's two aprons. As mentioned above, the vast majority of the surrounding residences already have driveways intersecting streets. Moreover, the semi-circular design of the Driveway will minimize impacts by permitting vehicles to exit the Driveway moving forward.

- *NOT create hazards from fire, panic or other dangers.*

The Driveway will not create hazards. As mentioned above, DPW has permitted the curb-cuts for the aprons and the design will minimize impacts to traffic.

- *NOT tend to overcrowding of land and cause an undue concentration of population.*

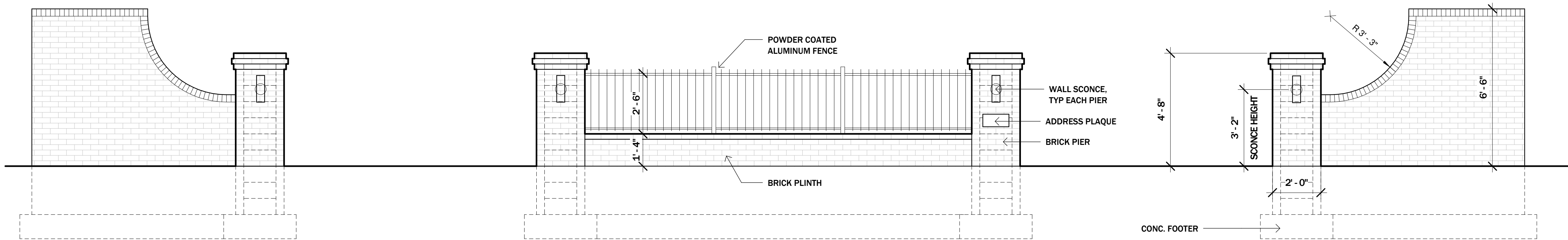
The Driveway does not implicate overcrowding or population concentration.

- *NOT adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences and improvements.*

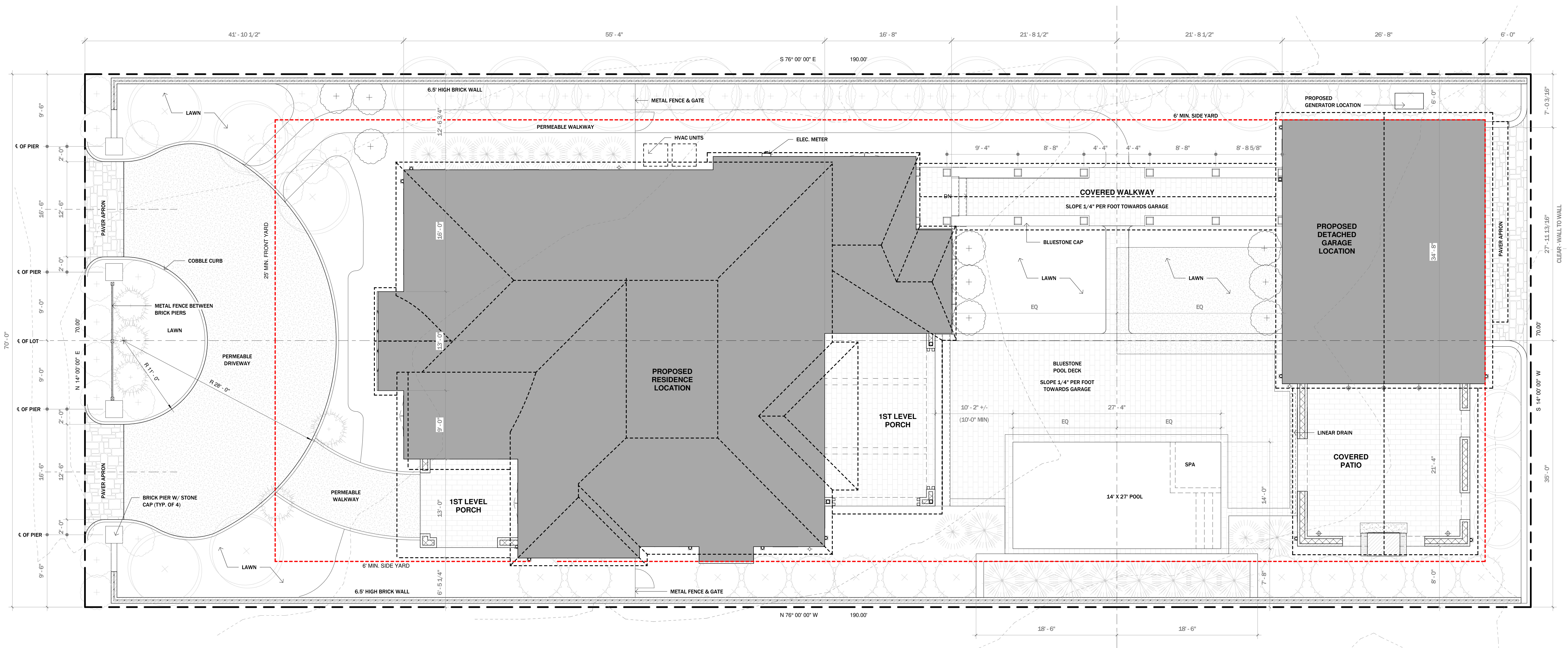
The Driveway will not impact any of these public facilities, requirements, conveniences or improvements.

- *NOT interfere with adequate light and air.*

The light and air available to the Property and adjacent properties will not change if the SUP is approved.



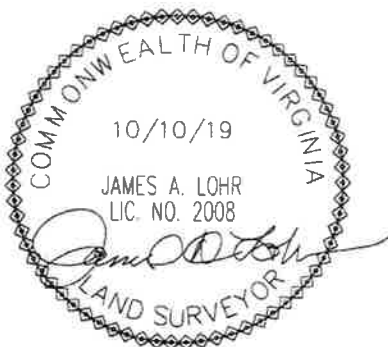
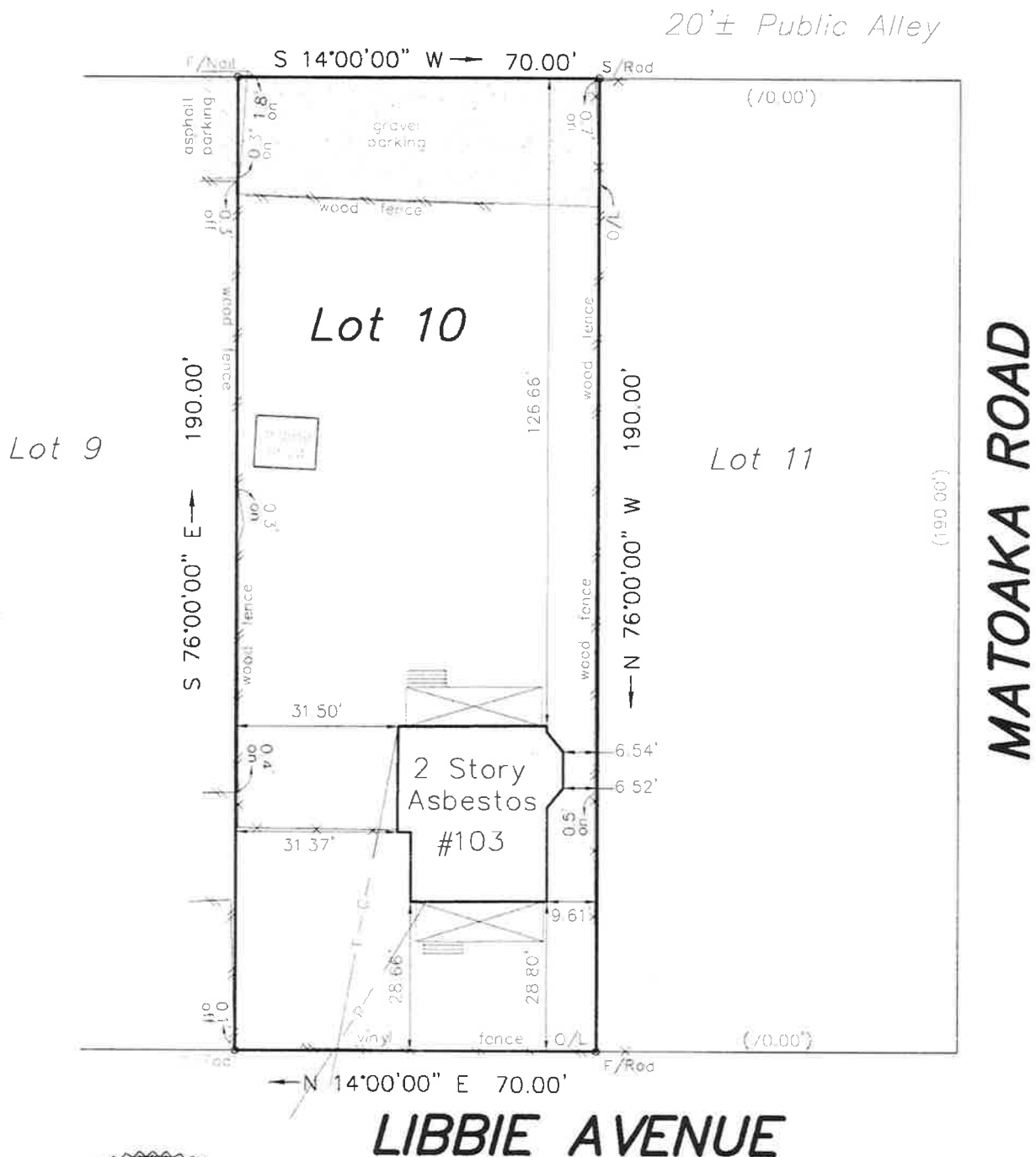
2 LIBBIE FENCE ELEVATION
 $3/8" = 1'-0"$



① SITE PLAN
3/16" = 1'-0"

Purchaser: Mark P. Cooke
Current Owner: Joseph A. Hudert, Jr.
Parcel ID: W0200185002
D.B. 186, Pg. 35

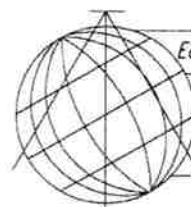
Note: Bearings protracted from City
Baseline sheet 63 NW.



Survey and Plat of
**Lot 10 of
Westview in the
City of Richmond, VA**

This is to certify that on 10/10/19 I made an accurate field survey of the premises shown hereon that all improvements and easements known or visible are shown hereon, that there are no encroachments by improvements either from adjoining premises or from subject premises upon adjoining premises other than shown hereon. THIS PLAT WAS MADE WITHOUT THE BENEFIT OF A TITLE SURVEY OR REPORT.

FLOOD INSURANCE NOTE: By graphics plotting only, this property is in ZONE X
of the Flood Insurance Rate Map, Community Panel No. 5101290009D effective date of 04/02/09
Exact designations can only be determined by an Elevation Certificate. Based on the above information, this property IS NOT in a Special Flood Hazard Area.



Edwards, Kretz, Lohr & Associates, PLLC

Land Surveyors-Planners

Virginia-North Carolina

4914 Radford Avenue, Suite 206
Richmond, Virginia, 23230
Phone (804) 673-9666
Fax (804) 673-9990

Scale: 1"=30'
Drawn: TCJ
Job: 1526-19

Date: 10/18/19
Checked: JAL