

INTRODUCED: June 26, 2023

AN ORDINANCE No. 2023-202

To authorize the special use of the property known as 1410 West 43rd Street for the purpose of art gallery, office, studio, and retail uses, upon certain terms and conditions, and to repeal Ord. No. 95-281-275, adopted Nov. 13, 1995.

Patron – Mayor Stoney (By Request)

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: JUL 24 2023 AT 6 P.M.

WHEREAS, the owner of the property known as 1410 West 43rd Street, which is situated in a R-4 Single-Family Residential District, desires to use such property for the purpose of art gallery, office, studio, and retail uses, which uses, among other things, is not currently allowed by section 30-408.1 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: 7 NOES: 0 ABSTAIN: _____

ADOPTED: JUL 24 2023 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 1410 West 43rd Street and identified as Tax Parcel No. S000-2794/006 in the 2023 records of the City Assessor, being more particularly shown on a survey entitled “Plat Showing Improvements on 1410 and 1412 West 43rd Street, Richmond, Virginia.,” prepared by Foster and Miller, P.C., and dated January 21, 1985, 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 art gallery, office, studio, and retail uses, hereinafter referred to as “the Special Use,” substantially as shown on the plans entitled “43rd Street Gallery, Sketch Plan” prepared by Robert Winthrop & Associates, Architects, and dated May 2, 1995, 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 art gallery, office, studio, and retail uses, substantially as shown on the Plans. Authorized office uses shall include business, professional, and administrative offices. Studio uses shall include studios of writers, designers, and artists engaged in the graphic and visual arts. Retail uses may take place within the space labeled “Gallery Space” on the Plans.

(b) The Special Use may be operated by more than one operator.

(c) Signs on the Property shall be limited to (i) signs permitted in all zoning districts, pursuant to section 30-505 of the Code of the City of Richmond (2020), as amended, (ii) one wall sign not exceeding 32 square feet in area, and (iii) signs permitted in the R-63 Multifamily Urban Residential District not exceeding 16 square feet in area pursuant to sections 30-507.1(2) and 30-507.1(3) of the Code of the City of Richmond (2020), as amended. Signs shall not be internally illuminated.

(d) Hours of operation shall be limited to 8:00 a.m. to 9:00 p.m., daily.

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

§ 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.

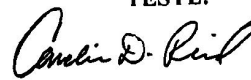
(f) When the privileges granted by this ordinance terminate and the special use permit granted hereby becomes null and void, whether as a result of the Owner relinquishing this special use permit in a writing addressed to the Director of Planning and Development Review or otherwise, use of the Property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

§ 6. **Implementation.** The 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 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. **Repeal of Prior Ordinance.** That Ordinance No. 95-281-275, adopted November 13, 1995, be and is hereby repealed.

§ 8. **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.2022.1013

O & R Request

DATE: April 11, 2023

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.)

Handwritten signature of Levar M. Stoney.

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

Handwritten signature of J.E. Lincoln Saunders.

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

Handwritten signature of Sharon L. Ebert.

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

RE: To authorize the special use of the property known as 1410 W 43rd Street for the purpose of an artist and craftsman studio; and craft gallery with retail uses and to repeal Ordinance No. 95-281-275, upon certain terms and conditions

ORD. OR RES. No. ____

PURPOSE: To authorize the special use of the property known as 1410 W 43rd Street for the purpose of an artist and craftsman studio; and craft gallery with retail uses and to repeal Ordinance No. 95-281-275, upon certain terms and conditions.

REASON: The applicant is requesting to expand uses of an existing Special Use Permit. The amended ordinance would include retail uses in an artist and craftsman studio and craft gallery.

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.

BACKGROUND: The property is in the Forest Hill neighborhood on West 43rd Street, between Forest Hill Avenue and Springhill Avenue. The property is currently a 3920.4 sq. ft. (0.09 acre) parcel of land with a one-story art and craft gallery.

The City's Richmond 300 Master Plan designates a future land use for the subject property as Residential, which 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.

Intensity: Buildings are generally one to three stories. Lot sizes generally range up to 5,000 to 20,000+ sq. ft. Residential density of 2 to 10 housing units per acre.

The current zoning for this property is R-4 Single-Family Residential District. All adjacent and nearby properties are located primarily within the same R-4 zone. The area is generally single-family residential. The proposed density of the parcel is 2 units upon 0.09 acres, or 22 units per acre

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

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

BUDGET AMENDMENT NECESSARY: No

REVENUE TO CITY: \$1,200 application fee

DESIRED EFFECTIVE DATE: Upon adoption

REQUESTED INTRODUCTION DATE: May 8, 2023

CITY COUNCIL PUBLIC HEARING DATE: June 12, 2023

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: City Planning Commission
June 5, 2023

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

RELATIONSHIP TO EXISTING ORD. OR RES.: Repeal Ordinance No. 95-281-275

REQUIRED CHANGES TO WORK PROGRAM(S): None

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

STAFF: Shaianna Trump, Associate Planner, Land Use Administration (Room 511) 804-646-7319

**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: 1410 W 43rd Street Date: _____
Tax Map #: S0002794006 Fee: \$1,200
Total area of affected site in acres: 0.09

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

Zoning

Current Zoning: R-4

Existing Use: Office, Studio, and/or Gallery

Proposed Use

(Please include a detailed description of the proposed use in the required applicant's report)
Amend existing SUP to allow certain uses on the Property.

Existing Use: Office, Studio, and/or Gallery

Is this property subject to any previous land use cases?

Yes

No



If Yes, please list the Ordinance Number: SUP 95-281-275

Applicant/Contact Person: Will Gillette

Company: Baker Development Resources

Mailing Address: 530 East Main Street, Suite 730

City: Richmond State: VA Zip Code: 23219

Telephone: (864) 3779140

Fax: ()

Email: will@bakerdevelopmentresources.com

Property Owner: BARNSTAR PROPERTIES LLC

If Business Entity, name and title of authorized signee: Nery Nordheim, CEO

(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: 619 W 26TH ST

City: RICHMOND State: VA Zip Code: 23225

Telephone: () 804-677-9474

Fax: ()

Email: nordheim@barnstar.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)

APPLICANT'S NARRATIVE

January 30th, 2023

*Special Use Permit Amendment Request
Ord. 95-281-275 (Adopted November 13th, 1995)
1410 W 43rd Street, Richmond, Virginia
Map Reference Number: S000-2794/006*

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:

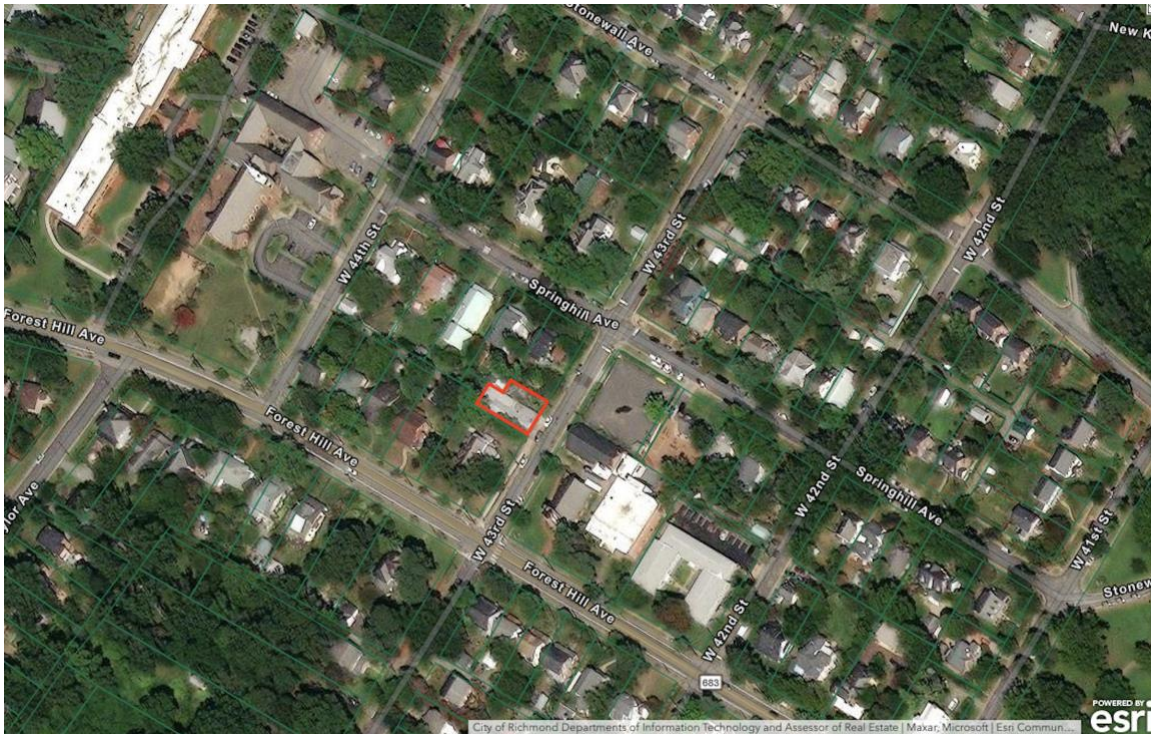
Mark Baker
Baker Development Resources
530 East Main Street, Suite 730
Richmond, VA 23230

Introduction

The applicant is requesting a special use permit amendment (the “SUPA”) for the property known as 1410 W 43rd Street (the “Property”). The use of the Property “for the continued occupancy of the existing building for artists and craftsman [sic] studio and art and craft gallery purposes or for the conversion for office purposes” was authorized by a Ord. 95-281-275 (the “SUP”) which was approved by City Council on November 13th, 1995. The proposed SUPA would modify some of the existing conditions relating to the original SUP and authorize the use of the existing building as a retail and/or art store. All other aspects of the previous special use permit would be retained.

Existing Conditions

The Property is located on the west side of W 43rd Street between Forest Hill and Springhill Avenues. The irregularly shaped parcel has 55 feet of frontage along W 43rd Street, is 83 feet deep along its southern property line and contains roughly 3,920 square feet of area. The Property was previously occupied with a small structure, constructed c. 1950, which housed the 43rd Street Gallery as authorized by the original SUP.

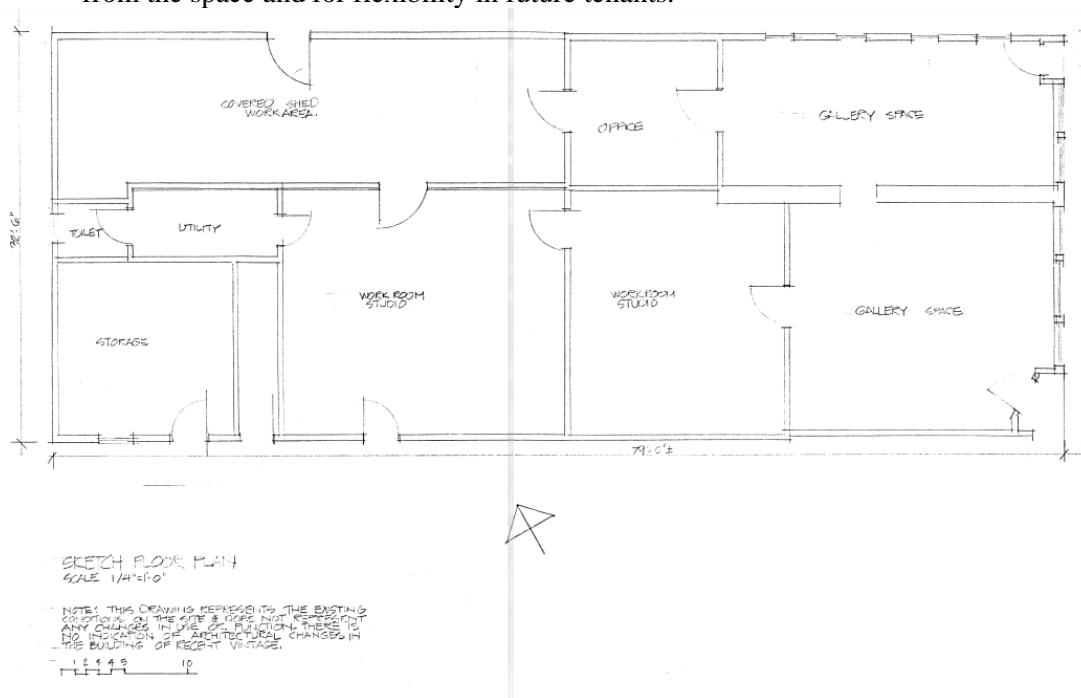


Proposal

The previously approved SUP permitted the use of the Property for “the continued occupancy of the existing building for artist and craftsman studio and art and craft galley purposes or for conversion for office purposes, upon certain terms and conditions.” The proposed SUPA:

1. Would utilize the same general floor plan and layout of the structure with the option to separate the two gallery spaces which front W 43rd Street to allow for two individual

- uses, as permitted by the SUPA, to be leased out separately. And for the sign regulations which are applicable to the R-63 Multifamily Urban Residential District to be applicable to the Property.
2. Proposes to modify the existing hours restrictions for a gallery or retail use to be open to the public which are currently limited to 8a.m. to 6 p.m., Monday through Saturday. The applicant is proposing to change the hours available to be open to the public to 8 a.m. to 9 p.m., seven days a week.
 3. Remove the condition which allows no more than four (4) "employees, artists, or craftsman" on the Property at one time. It should be noted that this provision does not limit the overall number of patrons in on the Property, only the employees and artists.
 4. Finally, the proposed SUPA would allow for retail uses along with the already permitted gallery, studio, and office uses. The existing SUP currently allows gallery, office, and art studio uses, and the addition of the retail use would allow for items/supplies to be sold from the space and for flexibility in future tenants.



Findings of Fact

The following are factors included 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 SUPA will not impact the safety, health, morals and general welfare of the nearby neighborhoods. The existing site improvements and proposed uses are compatible with the existing development in the vicinity. This request would simply permit the efficient utilization of the Property by allowing for new development to occur. The improvement of the Property in conjunction with the high quality/benefits provided by the

SUPA will provide positive impacts in terms of health, welfare, etc., and furthermore will add to the vibrancy of the neighborhood.

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

The proposed SUPA will not result in significant traffic impacts to nearby residential neighborhoods. The traffic generation for the proposed uses will be negligible, especially compared to the previously authorized uses of the Property and within the context of a walkable neighborhood. As such, the SUPA will not create 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 SUPA will not tend to overcrowd 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.***

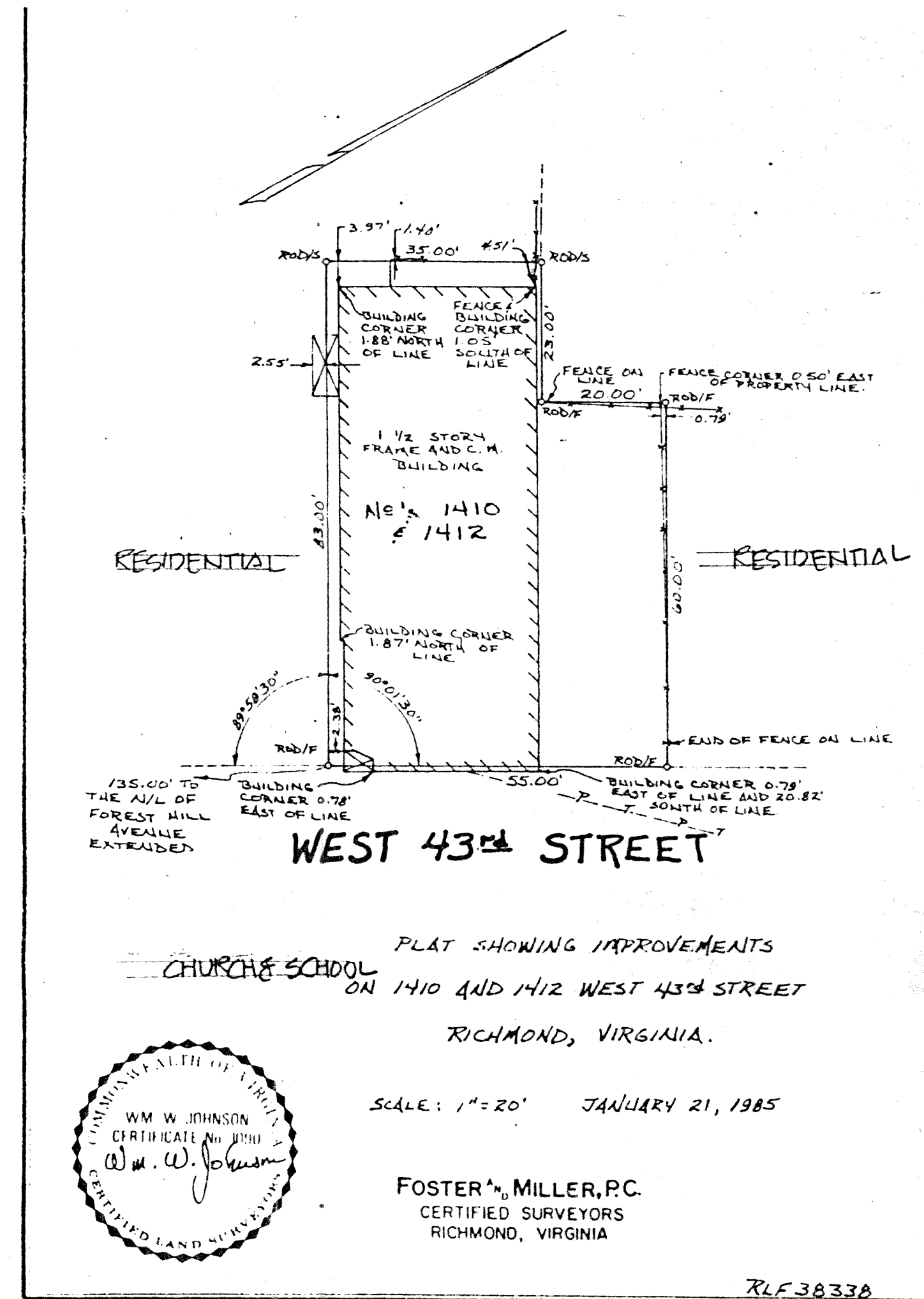
The SUPA would not adversely affect the above referenced City services. To the contrary, the proposal would provide positive fiscal (tax) benefits that would enhance the City's ability to provide these services to the proposed development.

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

The light and air available to the subject and adjacent properties will not be affected. No changes are currently proposed to the size or siting of the existing structure.

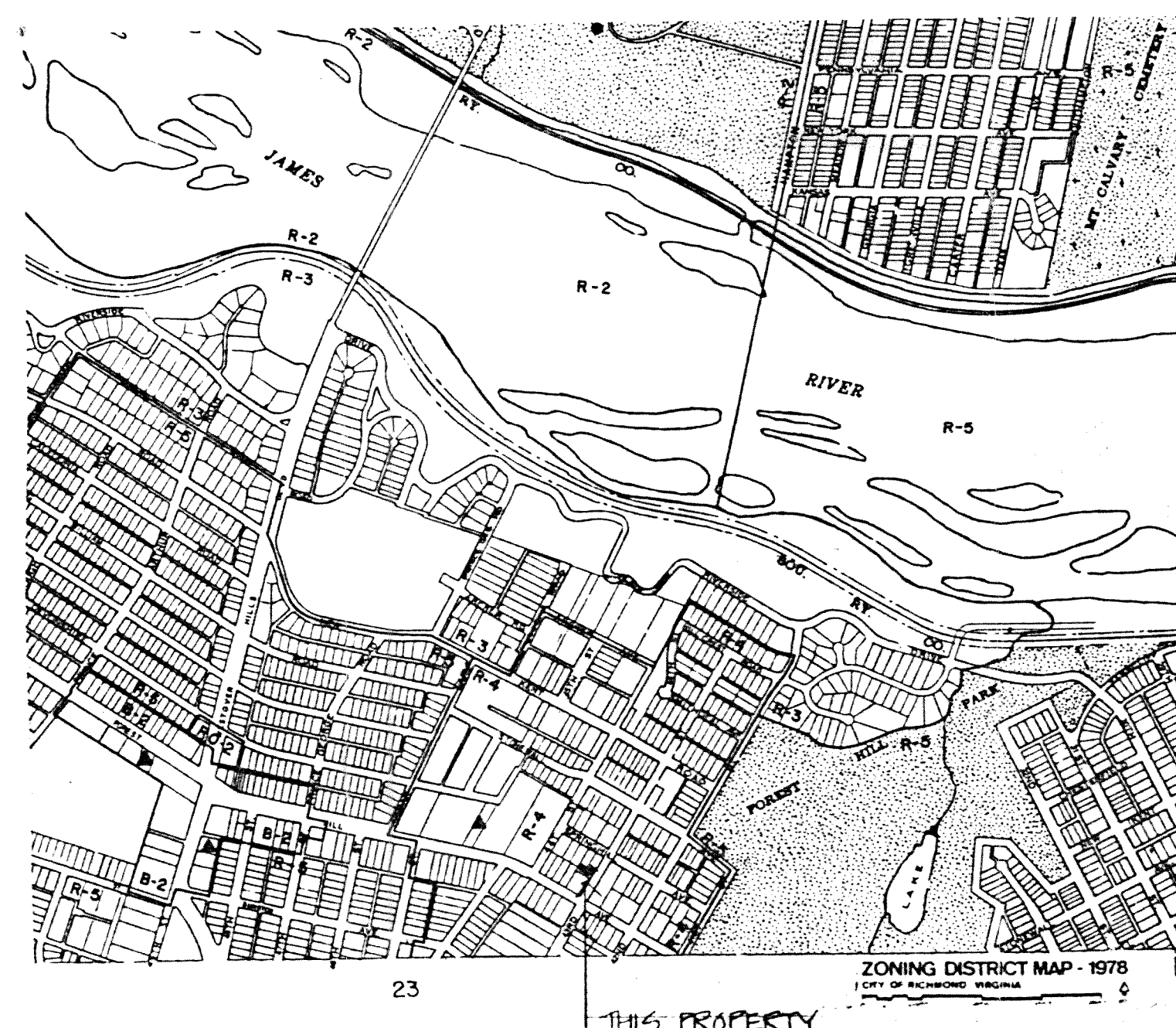
Summary

In summary we are seeking approval for a SUPA which would allow for a modification of the existing conditions and uses on the Property to meet the needs of today's commercial market while retaining the general uses which have contributed to the neighborhood since 1995. No changes are proposed to the existing structure and absent the described changes, all other aspects of the previously approved SUP will remain unchanged. The proposed SUPA represents an ideal, small-scale urban commercial development for this location that is tailored to the needs of the market while continuing to contribute to the overall vibrancy of the neighborhood through the provision of an appropriate use that is consistent with the existing use on the parcel and development pattern of the surrounding neighborhood.

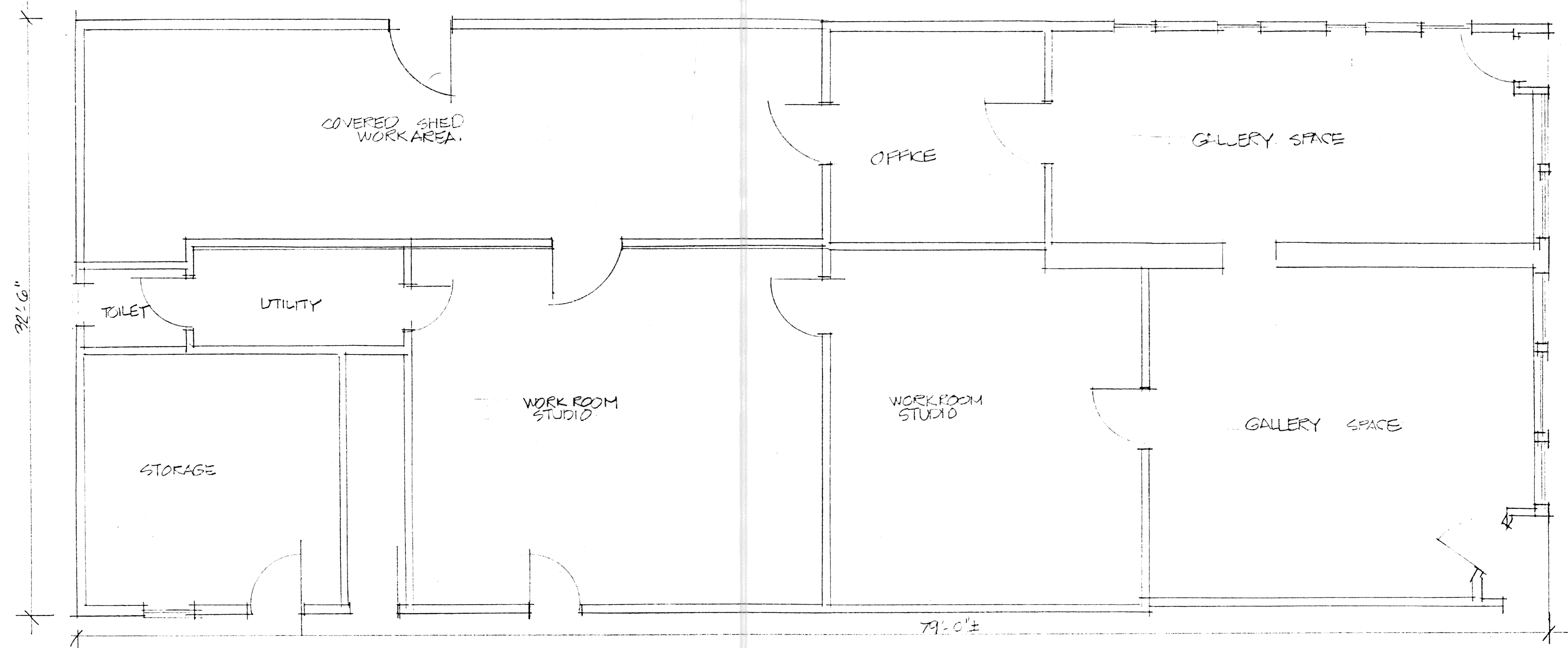


NOTES:

1. THE SITE PLAN & THE BUILDING PLAN ARE NOT ORIENTED IN THE SAME DIRECTION.
2. ALL PROPERTIES ARE ZONED R-4 (MAP DATED 1978 WITH REVISIONS TO 1995).
3. THE LOT AREA IS 4105 SQ. FT.



ADJACENT PLAT



SKETCH FLOOR PLAN
SCALE 1/4"=1'-0"

NOTE: THIS DRAWING REPRESENTS THE EXISTING CONDITIONS ON THE SITE & DOES NOT REFLECT ON ANY CHANGES IN USE OR FUNCTION. THERE IS NO INDICATION OF ARCHITECTURAL CHANGES IN THE BUILDING OF RECENT VINTAGE.

