

INTRODUCED: **MAR 26 2007**

AN ORDINANCE No. 2007- **115 -85**

To amend and reordain Ord. No. 98-246-275, adopted Sep. 14, 1998, which authorized a special use of the property known as 2418-2422 East Franklin Street, to provide for a lot split, upon certain terms and conditions.

Patron – Mayor Wilder (By Request)

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: **APR 23 2007** AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

I. That Ordinance No. 98-246-275, adopted September 14, 1998, be and is hereby amended and reordained as follows:

§ 1. That the [~~real estate,~~] property known as 2418-2422 East Franklin Street, located at the northwest intersection of East Franklin Street and North 25th Street, identified as Tax Parcel Number E000-0340/0121 in the [~~1998~~] 2007 records of the City Assessor, being more completely described as follows: beginning at the point of intersection of the north right of way line of East Franklin Street and the west right of way line of North 25th Street; thence extending in a westerly direction along the north right of way line of East Franklin Street 265.55 feet to a point; thence extending in a northerly direction along a property line 160.00 feet to a point on the

AYES: 8 NOES: 0 ABSTAIN: _____

ADOPTED: APR 23 2007 REJECTED: _____ STRICKEN: _____

south right of way line of an east-west 20.00 foot wide public alley; thence extending in an easterly direction along said alley 265.41 feet to a point on the west right of way line of North 25th Street; thence extending in a southerly direction along said right of way line 160.00 feet to the point of beginning, is hereby permitted to be used for the purpose of converting the existing building for use a sixteen (16) dwelling units together with commercial space and accessory parking, substantially as shown on the site plan, floor plans, and elevation drawings entitled "Church Hill Gables", prepared by Wm Newman Architects, dated March 26, 1998 and revised May 6, 1998, consisting of sheets A1.1, A1.3, and A2.1, copies of which are attached ~~hereto~~ to and made a part of Ordinance No. 98-246-275 and the survey entitled "Plat Showing Two Parcels of Land Lying North of the Intersection of East Franklin Street and North 25th Street," prepared by Balzer and Associates, Inc. and dated February 16, 2007, a copy of which is attached hereto and made a part of this ordinance.

§ 2. That the adoption of this ordinance shall constitute the granting of a special use permit for the ~~real-estate~~ property, which shall be transferable from the owner of the ~~real estate~~ property to the successor or successors in fee simple title of the owner, whether acquired by operation of law, deed or otherwise, and which shall run with the land.

§ 3. That the Commissioner of Buildings is hereby authorized to issue to the owner of ~~said real-estate~~ the property a building permit in accordance with the above-referenced plans for such purpose(s), subject to the following terms and conditions:

(a) The owner of the property shall be bound by, observe, and shall comply with all other laws, ordinances and rules adopted pursuant thereto, applicable to the land and building except as otherwise provided in this ordinance~~;~~.

(b) Application for a building permit for construction of the building or a Certificate of Zoning Compliance to authorize the lot split shall be made within twenty-four (24) months

from the effective date of this ordinance, which building permit shall expire by limitation and become null and void if construction of the building is not commenced within one hundred eighty (180) days from the date of the building permit, or if construction is suspended or abandoned for a period of one hundred eighty days (180) at any time work is commenced, as provided in applicable provisions of the Virginia Uniform Statewide Building Code. Should application for the building permit not be made within twenty-four (24) months from the effective date of this ordinance or should the building permit expire and become null and void after the expiration of the twenty-four (24) month time period for making application for the building permit, the privileges granted by this ordinance shall terminate and the special use permit shall become null and void[;].

(c) [~~That use~~] Use of the property shall be as a maximum of sixteen (16) dwelling units with accessory parking, and up to 1029 square feet of commercial floor area. The commercial area shall be limited to the location identified as “Lease Space No. 1” on the [~~attached~~] plans attached to Ordinance No. 98-246-254. Such commercial space shall be limited to business, professional and administrative offices, medical and dental offices, personal service establishments, stores and shops for the conduct of retail business, and a restaurant; provided that the hours of operation of any business within the commercial space shall be limited to 8:00 a.m. to 9:00 p.m., daily; that there shall be no live entertainment or amplified music permitted in the commercial space audible beyond the boundaries of the property; that for a restaurant, of which there shall only be one within the commercial space, the maximum seating capacity shall be sixteen (16) seats; and that there shall be no outdoor dining permitted on the premises or permitted on the abutting City sidewalks accessory to the restaurant on premises[;].

(d) [~~That the~~] The design of the building shall be substantially as shown on the [~~attached~~] plans attached to Ordinance No. 98-246-275, provided that minor changes may be

made in exterior architectural details of the building as may be necessary to meet the requirements of the Commission of Architectural Review[;].

(e) [~~That not less~~] No fewer than sixteen (16) parking spaces shall be provided with six (6) on site and ten (10) on the ground floor with access for occupants of the building by remote controlled devices, such spaces shall be substantially as shown on the [~~attached~~] plans attached to Ordinance No. 98-246-275. Such parking shall be available only to the occupants of the building and may not be leased to others. The parking area and access aisles shall be paved with a dust free, all weather surface and parking spaces shall be delineated on the pavement surface[;].

(f) [~~That brick~~] Brick City standard sidewalk improvements shall be bonded or installed substantially as depicted on the [~~attached~~] plans attached to Ordinance No. 98-246-275 prior to the issuance of the certificate of occupancy. The sidewalk shall be installed by the owner at the owners expense unless an agreement is reached where the City of Richmond will provide the sidewalks[;].

(g) [~~That facilities~~] 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[;].

(h) [~~That final~~] Final grading and drainage plans, if required, shall be approved by the Director of Community Development prior to the issuance of building permits[;].

(i) [~~That storm~~] Storm or surface water shall not be allowed to accumulate on the land and adequate facilities for drainage of storm or surface water from the land and building shall be provided and maintained at all times by the owner at its costs and expense so as not to adversely affect or damage adjacent property or public streets and the use thereof. 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 adjacent property or public streets and the use thereof[;].

(j) ~~[That the]~~ The existing painted sign “United States Historical Society” may be retained and shall not be removed or altered unless approved by the Commission of Architectural Review. In addition to the existing sign, identification of the premises shall be limited to three (3) signs with a maximum aggregate sign area of twenty-seven (27) square feet, and no one sign exceeding nine (9) square feet in area. Two (2) of the said signs shall be attached flat to the exterior surface of the building, one (1) sign may project from the exterior wall as depicted on the plans. The signs shall not be illuminated by a visible source or internally illuminated. The final design and location of the signage shall be approved by the Commission of Architectural Review prior to the issuance of a sign permit[;].

(k) ~~[That any]~~ Any encroachments within the public right of way, including building improvements, awnings and signage shall be subject to the review and approval of the City under standard City requirements pertaining to such encroachments[; and].

(l) ~~[That the]~~ The existing vegetation along the north alley line as depicted on the attached plans shall be protected and preserved during the development of the site. The vegetation shall be maintained to provide a buffer for the dwelling facing East Grace Street. Additional landscaping shall be provided substantially as shown on the attached plans.

(m) The property may be split substantially as shown on the plan attached to this ordinance. Adjustment to this plan may be permitted if approved by the Director of Community Development. Any proposed easements over the existing parking area must be submitted for approval by the City Attorney prior to the issuance of a Certificate of Zoning Compliance. Any further development of the property shall require amendment of the special use permit.

§ 4. ~~[That should the owner use the premises for any purpose which is not permitted by this ordinance, or fails refuses or neglects to comply with all applicable terms and conditions, and does not terminate such use or comply with such terms and conditions within sixty (60) days after written notice to do so has been given by the Zoning Administrator, the privileges granted by this ordinance shall terminate and the special use permit shall become null and void, unless an application for a special use amendment is filed with the Director of the Department of Community Development, which shall stay sixty (60) day period. Failure to comply with the terms of this ordinance shall constitute a violation of § 32.1 1080 of the Code of the City of Richmond, 1985, or other applicable provisions.]~~ That the privileges granted by this ordinance may under certain circumstances be revoked. Upon noting that a condition of a special use permit has been violated, the Zoning Administrator shall issue a written notice of violation to the property owner. The notice shall inform the property owner (i) which condition or conditions have been violated, (ii) the nature of the violation, and (iii) that the City Planning Commission shall hold a public hearing at which it shall review the violation and the special use permit pursuant to the provisions of sections 114-1050.7 through 114-1050.11 of the Code of the City of Richmond (2004), as amended, if (a) the property owner does not abate the violation within thirty (30) days of the issuance of the notice or (b) three (3) notices of violation are issued to the property owner within any twelve (12) month period. No action taken pursuant to the provisions of this section shall not in any way limit the City's right to pursue any other remedy at law or in equity against the property owner. Failure to comply with the terms and conditions of this ordinance shall constitute a violation of section 114-1080 of the Code of the City of Richmond (2004), as amended, or any other applicable laws or regulations.

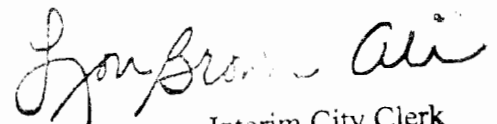
§ 5. That when the privileges granted by this ordinance terminate and the special use permit becomes null and void or when use of the premises is abandoned for a period of twenty-

four (24) consecutive months, use of the property shall be governed thereafter by the zoning regulations prescribed for the district in which the property is then situated.

§ 6. This ordinance shall be in force and effect upon adoption.

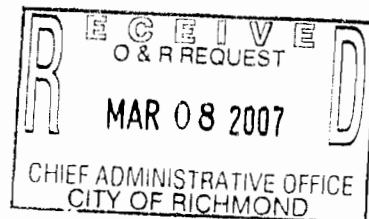
II. This amendatory ordinance shall be in force and effect upon adoption.

A TRUE COPY:
TESTE:


Interim City Clerk



CITY OF RICHMOND
INTRACITY CORRESPONDENCE



O&R REQUEST RECEIVED MAR 08 2007 EDITION: 1

DATE: March 7, 2007
TO: The Honorable Members of City Council
THROUGH: L. Douglas Wilder, Mayor (Patron: Mayor, by Request)
THROUGH: William E. Harrell, Chief Administrative Officer
FROM: Rachel O'Dwyer Flynn, Director of Community Development
SUBJECT: Amend and reordain Ordinance No. 98-246-275 adopted September 14, 1998, which authorized the special use of the property known as 2418-2422 East Franklin Street, for the purpose of allowing a lot split.

OFFICE OF CITY ATTORNEY

Handwritten signature and date 3/8/07

ORD. OR RES. No. _____

PURPOSE: To amend and reordain Ordinance No. 98-246-275 adopted September 14, 1998, which authorized the special use of the property known as 2418-2422 East Franklin Street, for the purpose of allowing a lot split, upon certain terms and conditions.

REASON: The original Special Use Permit was required to authorize sixteen apartments in the M-1 district, which does not permit dwelling uses. The owner now wishes to convert the existing apartments into condominiums and to include only the developed portion of the lot within the legal description of the condominium documents. The current ordinance does not address splitting the lot; therefore, the petitioner has requested an amendment to the Special Use Permit.

RECOMMENDATION: In accordance with the requirements of Section 17 of the City Charter and Article X, Division 6 of 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 April 16, 2007 meeting. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting.

BACKGROUND: The subject property is located on the north side of Franklin Street between North 24th Street and North 25th Street and is located within the Saint John's Old and Historic District. The site contains approximately 42,400 square feet of land area. The building contains 18,725 square feet and is currently used as sixteen dwelling units, a commercial space, and accessory parking. The original portion of the structure was constructed in 1925,

and a large addition was constructed in 1970. Prior to conversion to mixed-use, the building was used as a warehouse.

The applicant proposes to convert the existing dwelling units, commercial space, and accessory parking into a condominium development. The proposed Ordinance amendment would permit the applicant to split the lot, and include only the developed portion of the property in the condominium documents. The remainder of the lot would remain under the Special Use Permit, and any future development of the property would require further review and amendment of the Ordinance.

The properties to the north, west, and east are zoned R-6 Single-Family Residential. The property to the east, across North 25th Street is improved with townhomes that are also subject to a Special Use Permit. The property to the west, across unimproved North 24th Street, is part of the Bellevue Elementary School property. The properties to the north are occupied by single and two family dwellings. The property to the south, across East Franklin Street, is located in the B-5 Central Business District and is improved with the Pohlig Box Factory apartments. All of the surrounding properties are also located in the St. John's Old and Historic District. The Master Plan recommends Single-Family (medium-density) for the subject property.

FISCAL IMPACT/COST: The Department of Community Development does not anticipate any impact to the City's budget for this or future fiscal years. Costs to the City include staff time for processing the request; preparation of the draft ordinance; and publishing, and mailing of public notices.

FISCAL IMPLICATIONS: The Department of Community Development does not anticipate any fiscal implications for this project.

BUDGET AMENDMENT NECESSARY: A budget amendment is not necessary.

REVENUE TO CITY: An application fee of \$750 was received to process this request.

DESIRED EFFECTIVE DATE: Upon adoption.

REQUESTED INTRODUCTION DATE: March 26, 2007

CITY COUNCIL PUBLIC HEARING DATE: April 23, 2007

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL AGENCIES: City Planning Commission, April 16, 2007

AFFECTED AGENCIES: Office of Chief Administrative Officer
Law Department (for review of draft ordinance)
City Assessor (for preparation of mailing labels for public notice)

RELATIONSHIP TO EXISTING ORDINANCES: None

ATTACHMENTS: 1. Application Form, Applicant's Letter, and Survey
 2. Fee Receipt (1 copy – Law Department Only)

STAFF: Chelse Maughan, Senior Planner
 Land Use Administration (Room 511)
 646-6349

DCD O&R No. 07-06



**APPLICATION
SPECIAL USE PERMIT**
CITY OF RICHMOND, VIRGINIA

Date: DECEMBER 4, 2006

To: The Honorable Council of the City of Richmond
c/o The Department of Community Development
Land Use Administration Division, Room 511
900 E. Broad Street, Richmond, Virginia 23219

Application is hereby submitted for a special use permit for property located at:

Address(es): 2418 E. FRANKLIN STREET

Tax Parcel No(s): E000-0340/121

Purpose of Special Use Permit: AMENDMENT TO ALLOW FOR LOT SPLIT

Area of Property: 42,400 ± acres/square feet. (Application fee is based on area)

Attached is a check for \$ 750⁰⁰, payable to "City of Richmond"

Applicant/Contact Person: MARK P. BAKER

Mailing Address: 1718 E. CAROL STREET
RICHMOND, VA 23223

Telephone: () 804-6025 Fax: () 775-0003

Property Owner: ROBERT H. KUINE

Mailing Address: 210 BERKSHIRE RD
RICHMOND, VA 23221

Telephone: () 355-9119 Fax: () 622-2778

Property Owner's Signature: Robert H. Kuine

The signatures of all owners of the property are required. Please attach additional sheets as required. If a legal representative signs for a property owner, please attach an executed power of attorney.

NOTE: Please attach the required plans, applicant's report, and a check for the application fee.
(See Filing Procedure Special Use Permit.)

TO: THE HONORABLE COUNCIL OF THE CITY OF RICHMOND, VIRGINIA

**c/o THE DEPARTMENT OF COMMUNITY DEVELOPMENT
DIVISION OF LAND USE ADMINISTRATION
900 EAST BROAD STREET, ROOM 511
RICHMOND, VIRGINIA 23219**

**SPECIAL USE PERMIT AMENDMENT APPLICATION
FOR
CHURCH HILL GABLES

APPLICANT'S REPORT**

PROPERTY:

2418 – 2422 East Franklin Street, Richmond Virginia
Tax Parcel Number: E000-0340/0121

OWNER:

Church Hill Gables, LLC
c/o Robert H. Kline
210 Bershire Road
Richmond, Virginia 23221
Phone: 804-355-9119

CONTACT:

Mark Baker
Baker Development Resources, LLC
1718 East Cary Street
Richmond, Virginia 23223
Phone: 804-775-0064

PROPERTY DESCRIPTION:

The subject property is located on the north side of Franklin Street between North 24th Street and North 25th Street in the Old and Historic Saint John's District. The site contains approximately 42,400 square feet and is improved with a building containing approximately 18,725 square feet. The building contains 16 apartment units and a commercial area containing approximately 1,000 square feet. A total of 16 parking spaces are located on the site. The developed land area is approximately 24,000 square feet and the undeveloped land area is approximately 18,400 square feet.

PROJECT DESCRIPTION:

Church Hill Gables, LLC the owner of 2418-2422 Eat Franklin Street, Richmond, Virginia proposes to split the lot into two parcels. Currently the entire parcel is governed by a Special Use Permit (SUP), Ordinance No. 98-246-275, adopted September 14, 1998. The applicant proposes to separate the parcel into two parcels and request that the existing SUP be amended to allow for the lot split. Parcel one would contain the building and parking and parcel two would include the vacant land.

EXHIBIT:

The attached exhibit is representative of the proposed lot split. Upon ordinance approval the plat shall be refined detailing the exact legal boundaries and lot area dimensions.

PURPOSE OF REQUEST:

The applicant would like to convert the existing 16 apartments into condominiums. The conversion to condominiums would be permitted under the existing SUP. The applicant is preparing condominium documents and wishes to only include the developed area within the legal description. It is noted that any future development on either parcel would require either an additional SUP amendment or rezoning the site.

BACKGROUND:

The site is improved with one building. The original building was constructed in 1925 and a warehouse addition was constructed in 1970. The property is zoned M-1 Light Industrial, which does not permit dwelling uses. The owner applied for and was granted an SUP in 1997 to permit the conversion of the structure for use as dwellings units.

An original SUP, Ordinance No. 97-287-289, was adopted on October 13, 1997 that authorized the conversion and expansion of the building to allow for up to 43 dwelling units and 43 parking spaces for the subject property. Due to insufficient federal and state tax credits, the applicant amended the original ordinance to reduce the number of dwelling units to 16 units, which could be accommodated in the existing building without the originally proposed expansion. The amended ordinance, Ordinance No. 98-246-275, was adopted on September 14, 1998.

City Charter Requirements:

The SUP amendment shall not result in any physical changes or additional development in the site and thus will not:

- A) be detrimental to the safety, health, morals and general welfare of the community involved
- B) tend to create congestion in streets, roads, alleys and other public ways and places in the area involved:
- C) create hazards form fire, panic or other dangers;
- D) tend to cause overcrowding of land and an undue concentration of population:

- E) adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences and improvements:
- F) interfere with adequate light and air.

SUMMARY:

The Special Use Permit Amendment request is to allow for the parcel to be split into two lots. Parcel one would contain the building and the parking and parcel two would be the vacant land. The applicant would like to convert the existing 16 apartments into condominiums. The lot split request is to facilitate the preparation of condominium documents to reflect the developed portion of the land.



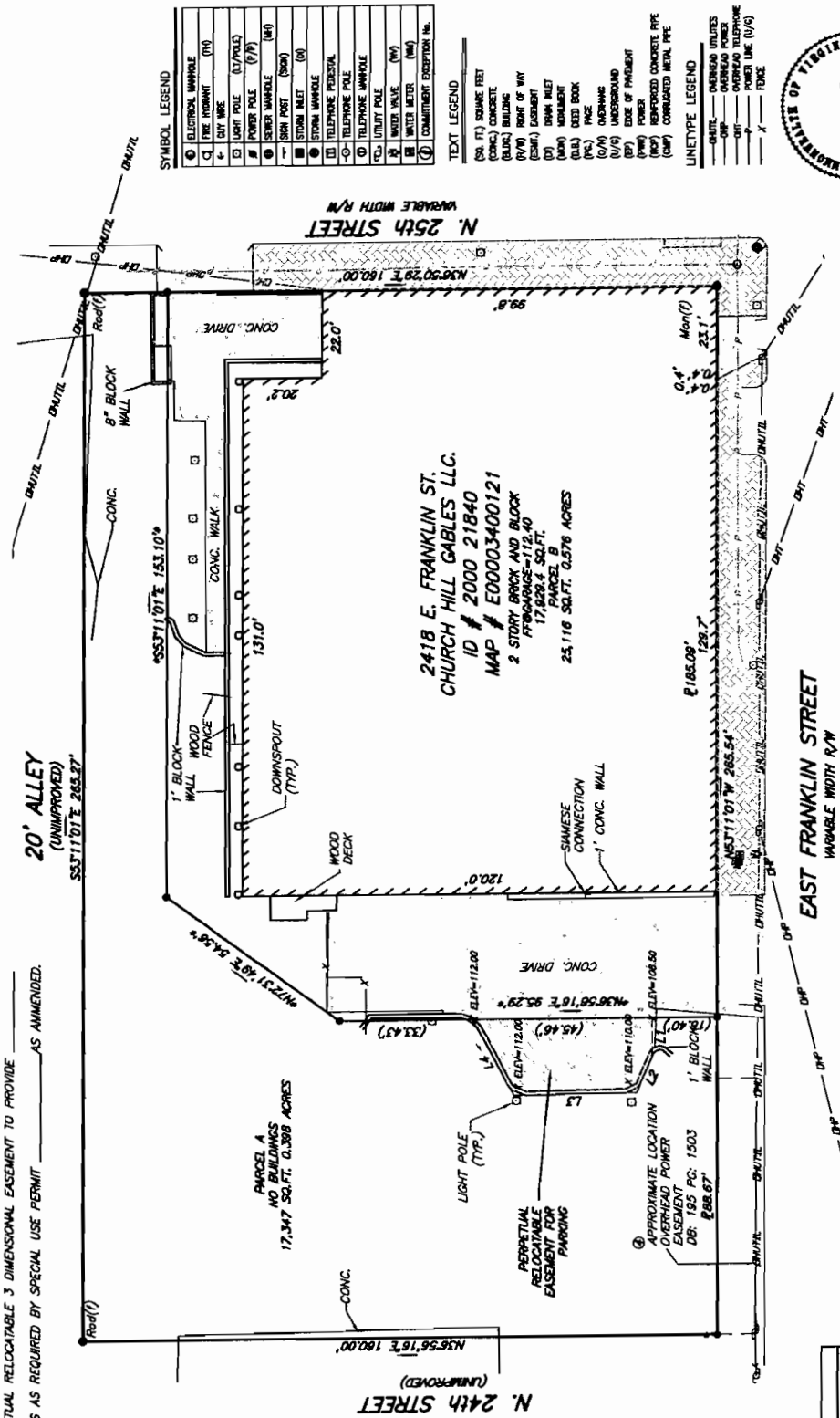
BALZARD
 SURVEYING & ENGINEERING
 401 Brandywine Road
 Richmond, Virginia 23236
 Phone: 804-771-1000
 Fax: 804-771-1000
 www.balzard.com

EAST FRANKLIN STREET
 LYNG NORTH OF THE INTERSECTION OF
 EAST FRANKLIN STREET AND NORTH 25th
 STREET
 CITY OF RICHMOND, VIRGINIA

DRAWN BY: DISH
 CHECKED BY: MBS
 DATE: 11-28-2006
 REVISIONS:
 2-16-07
 PROPERTY LINE
 ADJUSTMENTS

SCALE: 1"=20'
 SHEET NO.
 1 OF 1
 JOB NO.
 C0600595
 DEPT. 55

ACREAGE TABULATION	
PARCEL	ACREAGE
PARCEL A	0.398
PARCEL B	0.576
TOTAL	0.974



NOTES:
 1. CURRENT OWNER CHURCH HILL GABLES LLC C/O R H KLINE
 TM# E00003400121 ID# 2000 21839
 2. THIS PLAT WAS PREPARED WITH THE BENEFIT OF TITLE COMMITMENT #ST03308700 AND DATED
 JULY 1, 2003 PROVIDED BY SOUTHERN TITLE INSURANCE COMPANY AND IS SUBJECT TO
 INFORMATION WHICH MAY BE DISCLOSED BY SUCH.
 3. NOT ALL EASEMENTS MAY BE SHOWN.
 4. * DENOTES NEW PARCEL LINE
 5. (C) DENOTES EXCEPTIONS AS LISTED IN THE TITLE COMMITMENT.
 6. (D) DENOTES DIMENSIONS TO EASEMENT
 7. ELEVATIONS TAKEN FROM PLANS BY H.M. NEWMAN ARCHITECTS TITLED CHURCH HILL GABLES
 AND DATED 7/10/98.
 [] DENOTES PERPETUAL RELOCATABLE 3 DIMENSIONAL EASEMENT TO PROVIDE _____ AS AMENDED.
 [] PARKING SPACES AS REQUIRED BY SPECIAL USE PERMIT _____

LINE	BEARING	LENGTH
L1	S53°11'01"E	8.77'
L2	N26°56'16"W	8.95'
L3	N49°00'47"E	31.21'
L4	S21°02'00"E	21.89'