INTRODUCED: March 26, 2018

#### AN ORDINANCE No. 2018-114

To authorize the special use of the properties known as 1303 and 1305 North 29<sup>th</sup> Street for the purpose of no more than two single-family detached dwellings, upon certain terms and conditions.

Patron – Mayor Stoney (By Request)

Approved as to form and legality by the City Attorney

#### PUBLIC HEARING: APR 23 2018 AT 6 P.M.

WHEREAS, the owner of the properties known as 1303 and 1305 North 29<sup>th</sup> Street, which are situated in a R-6 Single-Family Attached Residential District, desires to use such properties for the purpose of no more than two single-family detached dwellings, including the construction of a new single-family detached dwelling at 1305 North 29<sup>th</sup> Street, which use, among other things, does not meet the lot area and lot width requirements of section 30-412.4 of the Code of the City of Richmond (2015), as amended; and

WHEREAS, in accordance with section 17.11 of the Charter of the City of Richmond (2010), 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:	APR 23 2018	REJECTED:		STRICKEN:	
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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 (2015), 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 properties known as 1303 and 1305 North 29<sup>th</sup> Street and identified as Tax Parcel No. E000-0624/020 and E000-0624/022, respectively, in the 2018 records of the City Assessor, being more particularly described in a survey entitled "Survey and Plat of the Properties Known as #1305 & #1303 N. 29<sup>th</sup> Street in the City of Richmond, VA," prepared by Edwards, Kretz, Lohr & Associates, PLLC, and dated April 18, 2017, a copy of which is attached to and made a part of this ordinance, hereinafter referred to as "the Property," are hereby permitted to be used for the purpose of no more than two single-family detached dwellings, including the construction of a new single-family detached dwelling at 1305 North 29<sup>th</sup> Street, hereinafter referred to as "the Special Use," substantially as shown on sheets T-1 and A-1 through A-5 of the plans entitled "Single Family Residence, 1305 N 29<sup>th</sup> Street, Richmond, VA 23223," prepared by Kiwi Development LLC, and dated April 25, 2016, 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 located at 1303 North 29<sup>th</sup> Street and a single-family detached dwelling located at 1305 North 29<sup>th</sup> Street, substantially as shown on the Plans and survey attached to this ordinance.

(b) On-site parking shall be provided for no fewer than one vehicle per dwelling unit, substantially as shown and identified as "parking pad" on the survey attached to this ordinance.

(c) The height of the Special Use shall be limited to two stories, substantially as shown on the Plans.

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

(e) All building materials and elevations for the dwelling to be constructed at 1305
 North 29<sup>th</sup> Street shall be 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) 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 (2015), 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 (2015), 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 (2015), 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 (2015), 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.

## RECEIVE

MAR 2 2 2018

## City of Richmond

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

OFFICE OF CITY ATTORNEY

Item Request

**O & R REQUEST** FEB 27 201

## O & R Request

Office of the **Chief Administrative Officer** 

DATE: February 27, 2018

**EDITION:1** 

TO: The Honorable Members of City Council

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

THROUGH: Peter L. Downey, Deputy Chief Administrative Officer for Economic Development and Planning

FROM: Mark A. Olinger, Director, Department of Planning and Development Review

RE: To authorize the special use of the property known as 1305 North 29th Street for the purpose of a single-family detached dwelling, upon certain terms and conditions.

ORD. OR RES. No.

PURPOSE: To authorize the special use of the property known as 1305 North 29th Street for the purpose of a single-family detached dwelling, upon certain terms and conditions.

REASON: The applicant is proposing to construct a two-story, 1,700 square ft., single-family detached dwelling. The property is currently located in the R-6 Single Family Attached Residential District. The R-6 district calls for single-family detached dwellings to be located upon lots with lot areas of not less than 5,000 sq. ft., and lot widths of not less than 50 ft. The subject property does not meet these requirements. 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 April 16, 2018, meeting. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting

**BACKGROUND:** The proposed development is located in the Church Hill North neighborhood in the East Planning District. 1305 North 29th Street is comprised of 3,300 SF, or .08 acres. The front and side yard setbacks of the proposed house are generally consistent with the pattern of development in the area. The density of the proposed development would be approximately 13 units per acre.

The City of Richmond's current Master Plan designates the subject property for Single Family Medium Density (SF-MD) uses which includes, "...single-family and two-family dwellings, both detached and attached, at densities of 8 to 20 units per acre. Includes residential support uses such as schools, places of worship, neighborhood parks and recreation facilities, and limited public and semi-public uses (City of Richmond, Master Plan, p.133)

The current zoning for this property, and surrounding properties, is R-6, Single Family Attached Residential, as are much of the adjacent and nearby properties. Single-family residential land use predominates the immediate vicinity of the subject property, with some two-family and multifamily residential, institutional, government, and commercial land uses present as well.

**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: March 26, 2018

CITY COUNCIL PUBLIC HEARING DATE: April 23, 2018

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** None

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** City Planning Commission, April 16, 2018

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 ORD. OR RES.: None

REQUIRED CHANGES TO WORK PROGRAM(S): None

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

STAFF: Jonathan Brown, Senior Planner Land Use Administration (Room 511) 646 5734

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PDR O&R No. 18-13



Application for SPECIAL USE PERMIT Department of Planning and Development Review Land Use Administration Division 900 E. Broad Street, Room 511 Richmend, 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 Adress: 1303 and 1305 North 29th Street	Date:	September 28, 2017
Tax Map #: E0000632001, 4, 5 & 6 Fee: \$300.00		
Total area of affected site in acres: 0.23 acres (9,900 SF)		

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

#### Zoning

Current Zoning: R-6

Existing Use: single-family dwelling and vacant lot

#### **Proposed Use**

No

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(Please include a	detailed description of the proposed use in the required applicant's report)
<u>Construct ne</u>	ew single-family dwelling
Existing Use:	Single-family dwelling and vacant lot

Is this property subject to any previous land use cases?

Yes
11

If Yes, please list the Ordinance Number: N/A

#### Applicant/Contact Person: Mark Baker

Company: <u>Baker Development Resources</u> , LLC			
Mailing Address: 919 East Main Street, Suite 2110			
City: <u>Richmond</u>	State VA	Zip Code:	23219
Telephone: (804) 874-6275	Fax: ()		
Email: markbaker@bakerdevelopmentresources.com			

#### Property Owner: Kiwi Realty, LLC

If Business Entity, name and title of authorized signee: Casey White

(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: <u>1704 Avondale Ave</u>		
City: <u>Richmond</u>	State: VA Zip Code	23223
Telephone: (_804) _869-8600	Fax. ( )	3. <u> </u>
Email: casey@kiwidevelopmentva.com		
Property Owner Signature:	y. U.L.	·····

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)



October 11, 2017

Mr, Matthew Ebinger City of Richmond Department of Planning and Development Review Land Use Administration Division, Room 511 City Hall, 900 East Broad Street Richmond, Virginia 23219

### Re: Special Use Permit: 1303 and 1305 N 29th Street

Dear Matthew:

I am representing Kiwi Realty, LLC in their application for a special use permit for the properties known as 1303 and 1305 N  $29^{th}$  Street, identified as Tax Parcels E000-0624/020 and 022 (the "Property"). The Property is generally located at the east side of N  $29^{th}$  Street between S and T Streets. The Property consists of two lots with 1303 N  $29^{th}$  being occupied by a single-family dwelling and 1305 N  $29^{th}$  being vacant. This special use permit would permit the construction of a single-family dwelling on the vacant lot at 1305 N  $29^{th}$  Street.

Deed research indicates that the two lots have been recorded individually and have been conveyed as individual lots dating back to prior to 1940. At that time, the lots would have been buildable individual lots of record. The fact that these lots were never intentionally combined and remain separate deeded lots would suggest that both lots would remain buildable today – that 1305 N 29th could be developed by right. However, the Zoning Administrator has determined that the two lots were combined (unintentionally) as a single lot from a zoning perspective based on the actions of a previous owner. At some point in the past, both lots were fenced together with a single perimeter fence. As a result, while its history would suggest otherwise, the existing vacant lot at 1305 N 29<sup>th</sup> is now deemed to be unbuildable.

Due to this determination, in order to separate the lots, both lots would now need to meet all the R-6 feature requirements, including 5,000 square feet of lot area, 50 feet of lot width and applicable yard (setback) requirements. As depicted on the attached survey and site plan, 1303 N 29<sup>th</sup> meets the lot area and width requirements. However, with 25 feet of lot width and 3,300 square feet of lot area, 1305 N 29<sup>th</sup> does not meet the current R-6 standards. Due to the inadvertent consolidation of the lots from a zoning perspective a special use permit is now required to develop 1305 N 29<sup>th</sup>.

#### 1303 and 1305 N 29<sup>th</sup> Street October 11, 2017 Page 2

The proposed single-family dwelling at 1305 N 29<sup>th</sup> would be two stories in height and traditional in style. The dwelling would contain approximately 1,700 square feet of finished floor area and would include three bedrooms and 2 ½ baths. The primary building material would be cementitious horizontal lap siding with parged block foundation. A full-width front porch and full width upper and lower rear porches are proposed. The dwelling's floor plan is modern with open living areas and includes a master bedroom complete with en suite master bath and walk-in closet. The existing single-family dwelling at 1303 N 29<sup>th</sup>, contains 2,200 square feet of finished floor area on two levels and would be renovated as a high quality dwelling for sale.

In exchange for the SUP, the intent of this request is to ensure a quality renovation of the existing single-family dwelling while authorizing the construction of a high-quality, for sale, infill dwelling. The overall project would be consistent with the historic varied development pattern in the area, which includes dwellings constructed on both 25' and 50' wide lots. By permitting the proposed development, the SUP would allow for the sale of the existing and proposed high quality single-family dwelling units as home ownership opportunities, thereby addressing objectives of the Master Plan.

The following are factors indicted 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 community. The proposed site improvements and density are consistent or compatible with the varied lot pattern exiting in the vicinity. The development of this underutilized property as proposed in conjunction with the high quality/benefits provided by the SUP will provide positive impacts in terms of health, welfare, etc.

# • 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 negligible traffic generation for one additional single-family dwelling will easily be handled by the exiting road network. Off-street parking is proposed on site and will alleviate any potential impacts due to additional parking demand. As such, the SUP 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.

1303 and 1305 N 29<sup>th</sup> Street October 11, 2017 Page 3

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. The request represents a density that is consistent and compatible based on the exiting varied lot pattern in the vicinity.

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

The special use permit amendment 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. The proposed development would meet applicable setback requirements thereby preventing any interference with the provision of light an air.

In summary, the applicant is enthusiastically seeking approval for the construction of a single-family dwelling and the renovation of an existing single-family dwelling on the Property. This proposal represents an ideal, small-scale urban infill development for this location. The special use permit would not authorize any additional density over what would be permitted for the exiting lots of record were the lots not inadvertently combined. In exchange, the quality assurances conditioned through the SUP would guarantee the thoughtful rehabilitation of the original single-family dwelling on the Property and the construction of a higher quality new single-family dwelling than might otherwise be developed by right. This would contribute to the vibrancy of the block though the provision of the much desired traditional neighborhood design that is consistent with the historic development pattern of the surrounding neighborhood.

Thank you for your time and consideration of this request. Please let me know if you have any questions.

Sincerely,

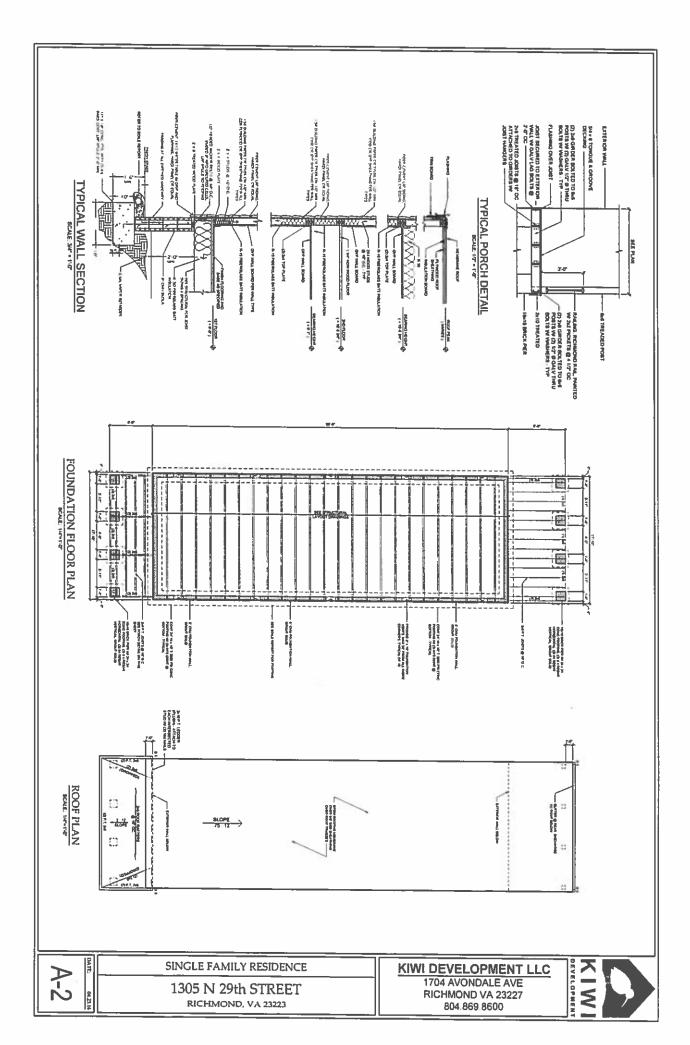
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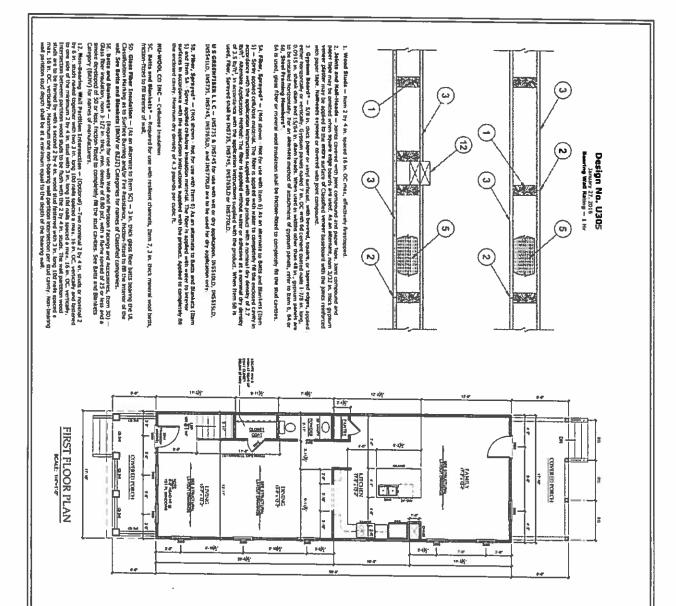
Mark R. Baker

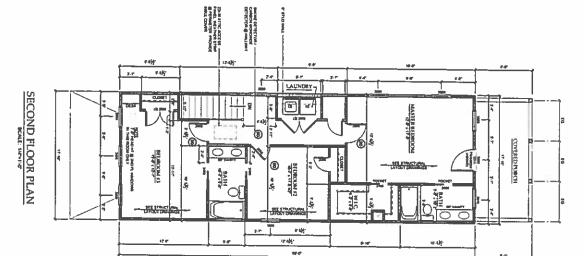
Enclosures

cc: The Honorable Cynthia I. Newbille

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	LE FAMILY RESIDENCE	KIWI DEVELOPMENT LLC 1704 AVONDALE AVE RICHMOND VA 23227 804.869.8600







SINGLE FAMILY RESIDENCE 1305 N 29th STREET RICHMOND, VA 23223 B04.869.8600

