

INTRODUCED: November 13, 2018

AN ORDINANCE No. 2018-305

To authorize the special use of the property known as 117 East Cary Street for the purpose of a two-family dwelling, upon certain terms and conditions.

Patron – Mayor Stoney (By Request)

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: DEC 10 2018 AT 6 P.M.

WHEREAS, the owner of the property known as 117 East Cary Street, which is situated in a B-3 General Business District, desires to use such property for the purpose of a two-family dwelling, which use, among other things, is not currently allowed by section 30-438.1(15), concerning a prohibition against residential uses on the ground floor of a building, 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 (2018), 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: DEC 17 2018 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 (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 property known as 117 East Cary Street, and identified as Tax Parcel No. W000-0060/009 in the 2018 records of the City Assessor, being more particularly shown on a plat entitled “Plat Showing Improvements on No. 117 East Cary Street, in the City of Richmond, Virginia,” prepared by McKnight & Associates, P.C., and dated March 20, 2018, provided as an inset on sheet CS of the plans entitled “Modifications to: 117 E. Cary Street Richmond, Virginia,” prepared by Michael Pellis Architecture, and dated August 31, 2018, 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 two-family dwelling, hereinafter referred to as “the Special Use,” substantially as shown on the plans entitled “Modifications to: 117 E. Cary Street Richmond, Virginia,” prepared by Michael Pellis Architecture, and dated August 31, 2018, 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 two-family dwelling, substantially as shown on the Plans.

(b) Two parking spaces shall be provided for the Special Use of the Property, substantially as shown on the Plans.

(c) All building materials and site improvements shall be substantially as shown on the Plans.

(d) The height of the Special Use shall not exceed the height as shown on the Plans.

(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 (2015), as amended, and all future amendments to such laws.

(e) The Owner shall make improvements within the right-of-way, including modifications to the entrance on South 2nd Street, substantially as shown on the Plans, which improvements may be completed in one or more phases as approved by the Director of Public Works. All improvements and work within the public right-of-way shall be (i) completed in accordance with the requirements of the Director of Public Works, (ii) considered completed only upon written confirmation by the Director of Public Works that such improvements and work are in accordance with such requirements, and (iii) transferred to the City, following the written confirmation by the Director of Public Works, pursuant to a transfer of interest document approved as to form by the City Attorney and accepted by the Chief Administrative Officer or the designee thereof on behalf of the City. The Chief Administrative Officer or the designee thereof, for and on behalf of the City, is hereby authorized to accept, in the manner for which this subsection provides, all improvements and work required by and meeting the requirements of this subsection. The final certificate of occupancy shall not be issued for the Property until all requirements of this subsection are fully satisfied.

(f) 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.

City of Richmond

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

Item Request

File Number: PRE.2018.326

O & R REQUEST

OCT 17 2018

4-8276
Office of the

Chief Administrative Officer

O & R Request

DATE: October 15, 2018

EDITION: 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor (By Request) *25 10/31/18*
(This is no way reflects a recommendation on behalf of the Mayor.)

THROUGH: Selena Cuffee Glenn, Chief Administrative Officer *SG*

THROUGH: Douglas C. Dunlap, Interim Deputy Chief Administrative Officer for Economic Development and Planning *DCD*

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

RE: To authorize the special use of the property known as 117 East Cary Street for the purpose of a two-family dwelling, upon certain terms and conditions.

ORD. OR RES. No. _____

PURPOSE: To authorize the special use of the property known as 117 East Cary Street for the purpose of a two-family dwelling, upon certain terms and conditions.

REASON: The applicant is requesting authorization for a two-family dwelling within a building formerly containing office use. The underlying B-3 district does not permit residential use on the ground floor of the principal street frontage (East Cary Street). 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 December 3, 2018, meeting. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting.

BACKGROUND: The subject property consists of a 2,678 SF or .06 acre parcel of land improved with a

three (3) story, 3,975 SF former office building constructed, per tax assessment records, in 1872. The property is located at the southwest corner of East Cary Street and South 2nd Street in the Monroe Ward neighborhood within the City's Downtown Planning District and the Arts District Station area of the City's Pulse Corridor Plan.

The City of Richmond's current Pulse Corridor Plan designates the subject property as Downtown Mixed-Use which "...features high-density development with office buildings, apartments, and a mix of complementary uses, including regional destinations. Higher-density pedestrian- and transit-oriented development encouraged on vacant or underutilized sites; new development should be urban in form and may be of larger scale than existing context. Active commercial ground floor uses required on street-oriented commercial frontages. Active ground floor uses and design required on priority street frontages. Driveway entrances required to be off alleys whenever possible; new driveways prohibited on street-oriented commercial and priority street frontages. Little to no setback of new development unless to create pedestrian-oriented amenities like plazas and outdoor dining. Surface parking prohibited as a principal use; when surface parking is provided as an accessory use, it should be located to the rear of buildings and screened by shade trees. Parking requirements are substantially less in these areas than other areas of the city and are largely eliminated. Potential future zoning districts: B-4, RF-2. (City of Richmond, 2017). No residential densities are specified for this land use designation. The density of the proposed development would be approximately 33 units per acre.

Adjacent properties along the East Cary Street corridor are in the same B-3 District as the subject property. A mix of B-4 and B-5 Central Business District and M-1 Light Industrial zoning districts are present in the vicinity. A mix of office, mixed use, commercial, industrial, and residential land uses are present in the vicinity.

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

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

BUDGET AMENDMENT NECESSARY: No

REVENUE TO CITY: \$300 application fee

DESIRED EFFECTIVE DATE: Upon adoption

REQUESTED INTRODUCTION DATE: November 13, 2018

CITY COUNCIL PUBLIC HEARING DATE: December 10, 2018

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: City Planning Commission, December 3, 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

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

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



Application for **SPECIAL USE PERMIT**

Department of Planning and Development Review
Land Use Administration Division
900 E. Broad Street Room 511
Richmond Virginia 23219
(804) 646-6304
<http://www.richmondva.gov/>

SUP-037648-2018

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: 117 E. Cary St. Richmond, VA Date: 6-11-2018

Tax Map #: W090-0068/049 Fee: \$1,800

Total area of affected site in acres: _____

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

RECEIVED

JUN 19 2018

LAND USE ADMINISTRATION

Zoning

Current Zoning: B3

Existing Use Commercial - ground floor
Single family dwelling above

Proposed Use

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

Convert Commercial space on ground floor into dwelling unit.

Existing Use See above.

Is this property subject to any previous land use cases?

Yes

No

If Yes, please list the Ordinance Number: _____

Applicant/Contact Person: Michael Pellis

Company: Michael Pellis Architecture

Mailing Address: 1816 Red Queen Court

City: North Chester Field

State VA

Zip Code 23235

Telephone: (804) 212-9024

Fax: ()

Email: michael@michaelpellis.com

Property Owner: Michael + Lisa Fabiano

If Business Entity, name and title of authorized signer: _____

(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 67 Sunset Hill Rd.

City: Redding

State CT

Zip Code 06896

Telephone: (203) 933-3320

Fax: (203) 933-3324

Email: mike@sunsethillrestoration.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)

117 E. CARY STREET

SPECIAL USE PERMIT APPLICANT REPORT

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

August 31, 2018

To Whom It May Concern:

The owners of 117 E. Cary Street, Lisa & Mike Fabiano (the applicants), are requesting the allowance of converting a commercial office building into a duplex. The proposal is to convert the existing 2nd, 3rd and mezzanine floors into their primary 3 bedroom, 2 ½ bath residence and converting the ground level into a 3 bedroom apartment. A two car detached garage will be constructed at the rear of the lot. Entirely new finishes & fenestration to the exterior are being contemplated. Due to the existing entry stair walk up and the limited on-site parking, the building has sat vacant for 20 years and is evidence that this building has not been viable as a commercial space. In fact, the previous owners have exhausted efforts over the past 20 years in finding a commercial tenant to no avail. It is for this reason the owners would like to convert the entire building into a duplex, which would make this a fully utilized property with a more appropriate use based on the size and scale of the building.

Please refer to the plan sheets titled CS, A1.0, A1.1, A1.2, A2.1, A2.2, A2.3 as evidence in support of the following statements:

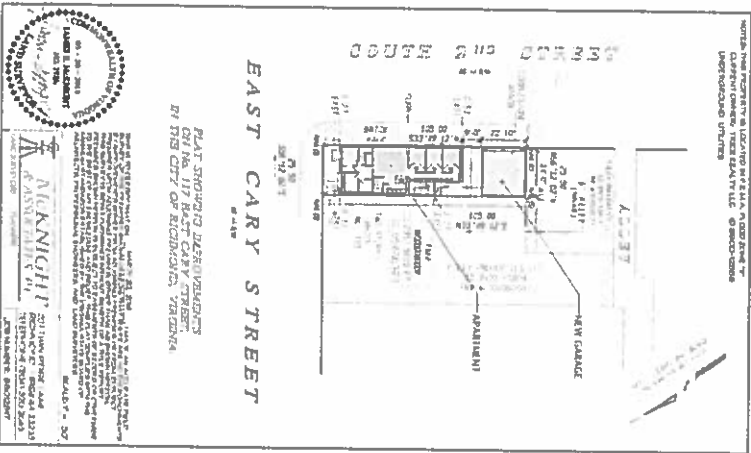
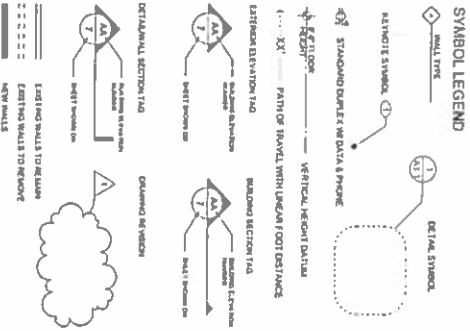
- A. The change of use to a duplex will not be detrimental to the safety, health, morals and general welfare of the community involved. The use contemplated does not change the mass and scale and is compatible with the buildings, which surround the project.
- B. The change of use will not create additional congestion along the streets, roads, alleys and public ways where the building is located. 2 parking spaces will be provided on site in the new 2 car garage.
- C. All bedrooms will have egress compliant operable windows and all new exterior finishes are of non-combustible materials. The contemplated change from commercial office to single-family dwelling is a change to a less hazardous use classification.
- D. The proposed use would not cause overcrowding of land or an undue concentration of population.
- E. The change of use to a duplex will not adversely affect any public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements.
- F. The change of use to a duplex and the improvements contemplated will not interfere with adequate light and air and will have zero impact on existing adjacent properties as no change to mass and size of the project are contemplated.

The applicants have met with the Downtown Neighborhood Association and received a unanimous response in favor of the project.

Thank you for your consideration.

Michael Pellis
(On behalf of the applicants)

MODIFICATIONS TO: 117 E. CARY STREET RICHMOND, VIRGINIA



2 SITE PLAN
1" = 30'-0"



1 LOCATION MAP
1" = 100'-0"

SCOPE OF PROJECT

The scope of the project is to provide the design and construction of a new 117 E. Cary Street building. The project includes the design and construction of a new 117 E. Cary Street building. The project includes the design and construction of a new 117 E. Cary Street building. The project includes the design and construction of a new 117 E. Cary Street building.

BUILDING CODE DATA

APPLICABLE CODES
2015 INTERNATIONAL RESIDENTIAL CODE

INDEX OF DRAWINGS

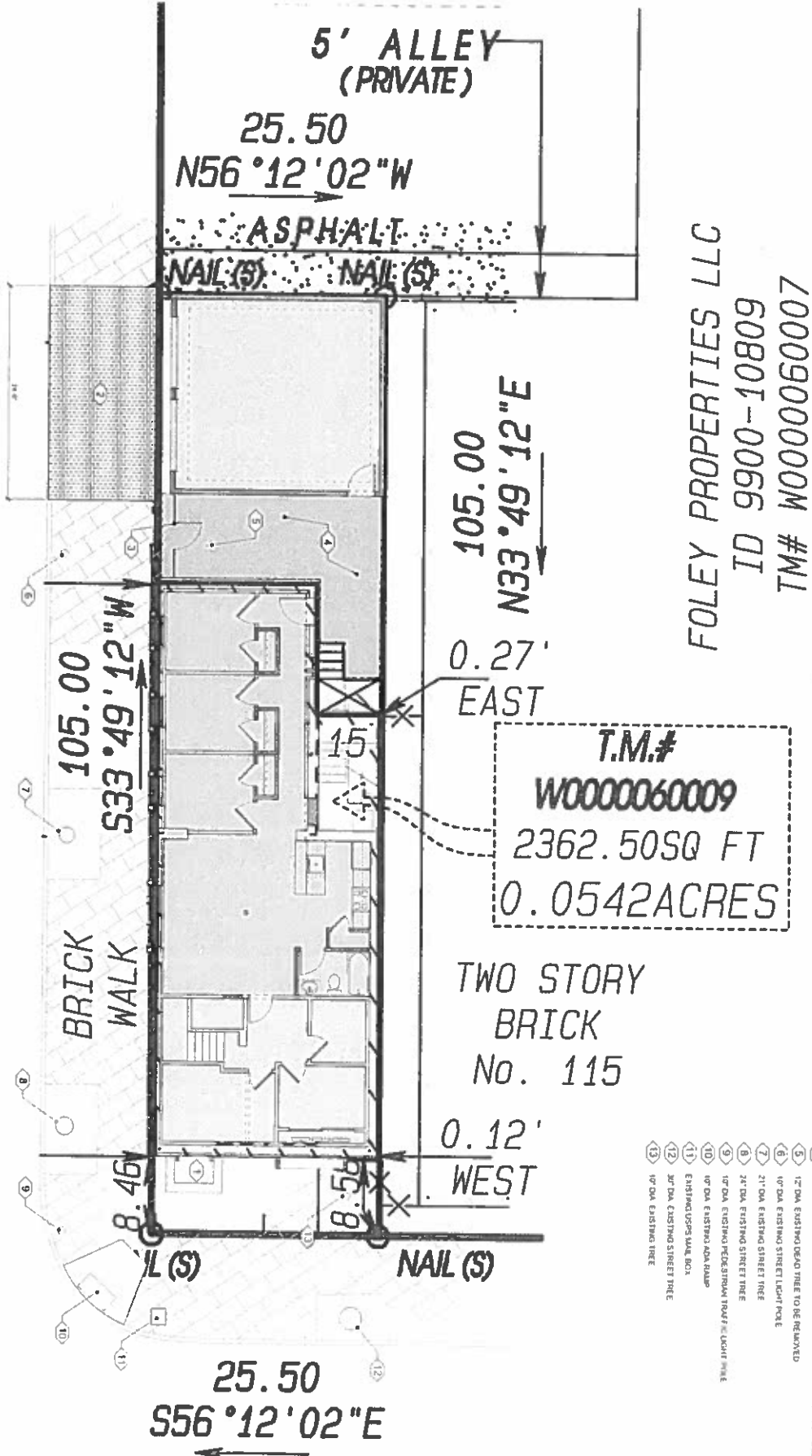
CS COVER SHEET
117 E. CARY STREET
117 E. CARY STREET
117 E. CARY STREET
117 E. CARY STREET

CONTACT INFORMATION

OWNER
MICHAEL & LISA FABIANO
117 E. CARY STREET
RICHMOND, VA 23219
TEL: 804.622.1111
WWW.MICHAELANDLISAFABIANO.COM



COVER SHEET & CODE DATA		PROJECT	
PROJECT	MODIFICATIONS TO:	117 E. CARY STREET RICHMOND, VIRGINIA	
OWNER	MICHAEL & LISA FABIANO	67 SUNSET HILL ROAD REDDING, CT 06896	
DATE	NOVEMBER 20, 2014		
REVISIONS			
NO.	DATE	DESCRIPTION	
1	N/A		
2	N/A		
3	N/A		
4	N/A		
5	N/A		
6	N/A		
7	N/A		
8	N/A		
9	N/A		
10	N/A		



FOLEY PROPERTIES LLC
 ID 9900-10809
 TM# W0000060007

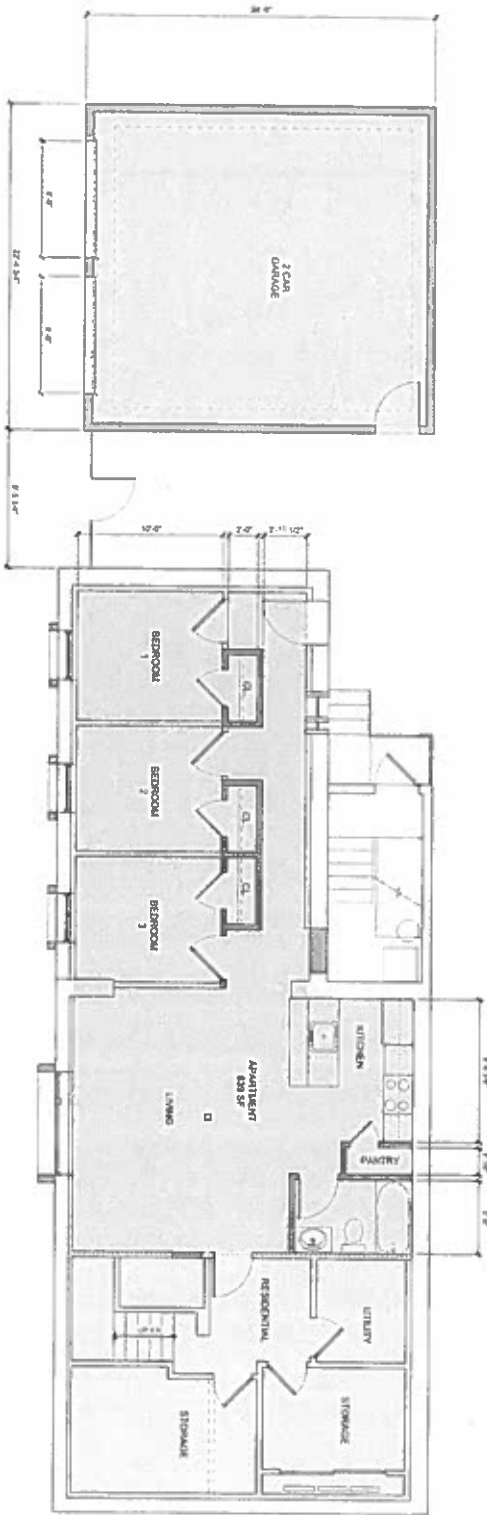
T.M.#
 W0000060009
 2362.50 SQ FT
 0.0542 ACRES

TWO STORY
 BRICK
 No. 115

- KEY NOTES**
- ① NEW FRONT STEPS
 - ② REMOVE EXISTING SINGLE BAY GARAGE CURTAINING TO A DOUBLE BAY AND REPAIR EXISTING BRICK PAVING IN GARAGE BAY AND REPAIR EXISTING BRICK PAVING IN GARAGE BAY AND REPAIR EXISTING BRICK PAVING IN GARAGE BAY
 - ③ NEW WROUGHT IRON FENCE WITH GATE
 - ④ PATCH AND REPAIR EXISTING BRICK PAVING IN GARAGE BAY
 - ⑤ 12" OAK EXISTING DEAD TREE TO BE REMOVED
 - ⑥ 12" OAK EXISTING DEAD TREE TO BE REMOVED
 - ⑦ 21" OAK EXISTING STREET TREE
 - ⑧ 21" OAK EXISTING STREET TREE
 - ⑨ 12" OAK EXISTING REDSTRAWN TREE @ LIGHT POLE
 - ⑩ 12" OAK EXISTING AOA PALM
 - ⑪ EXISTING USER MAIL BOX
 - ⑫ 12" OAK EXISTING STREET TREE
 - ⑬ 12" OAK EXISTING TREE

GROUND LEVEL SITE PLAN 1
 3/16" = 1'-0"

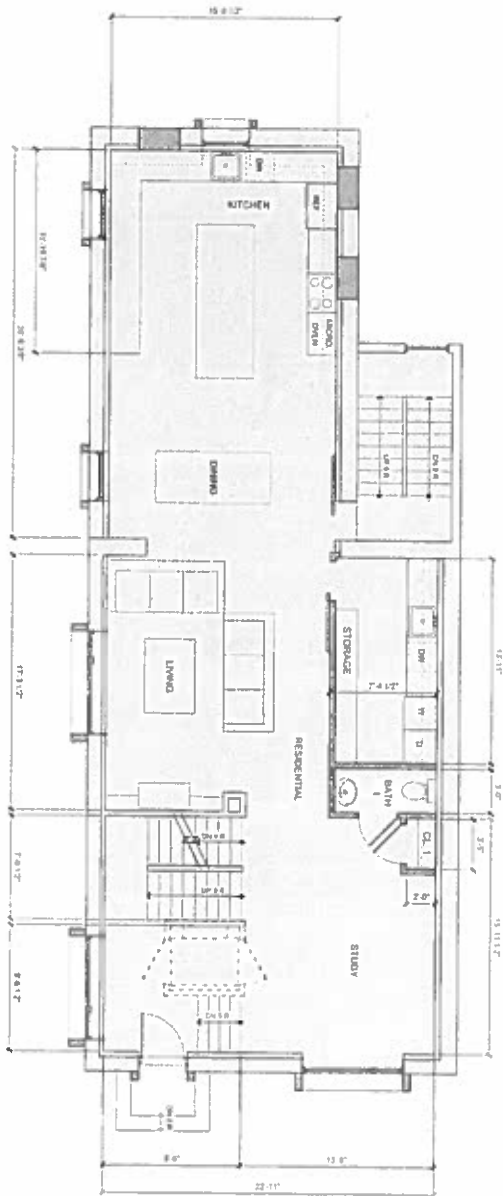
REVISIONS N/A N/A N/A N/A N/A N/A	GROUND LEVEL SITE PLAN	PROJECT MODIFICATIONS TO 117 E. CARY STREET RICHMOND, VIRGINIA	
	MICHAEL & LISA FABIANO	OWNER MICHAEL & LISA FABIANO	
	67 SUNSET HILL ROAD REDDING CT 06896	67 SUNSET HILL ROAD REDDING CT 06896	



1206 SF

1ST LEVEL PLAN

1/2" = 1'-0" 1



1,513 SF

2ND LEVEL PLAN

1/4" = 1'-0" 2

PROPOSED FLOOR PLANS

MICHAEL PELLUS ARCHITECTURE

PROJECT MODIFICATIONS TO:

117 E. CARY STREET, RICHMOND, VIRGINIA

OWNER MICHAEL & LISA FABIANO

67 SUNSET HILL ROAD, REDDING, CT 06896

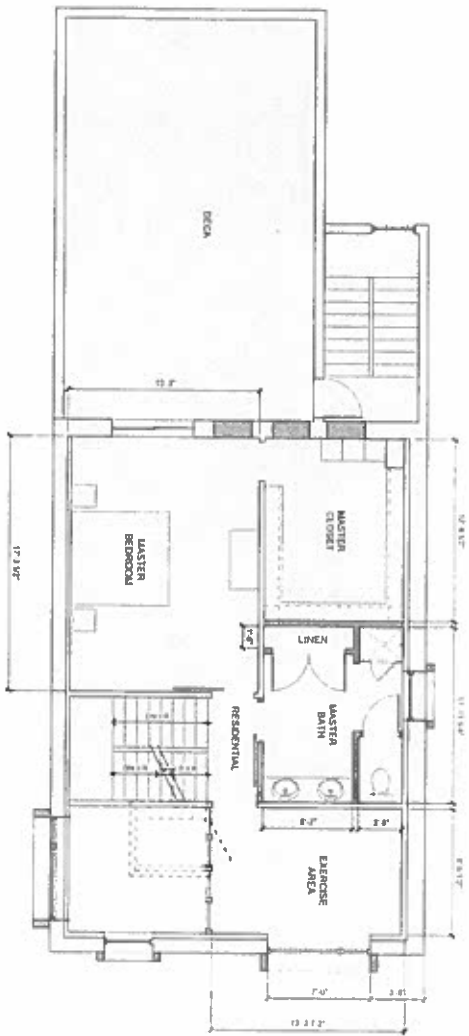


REVISIONS

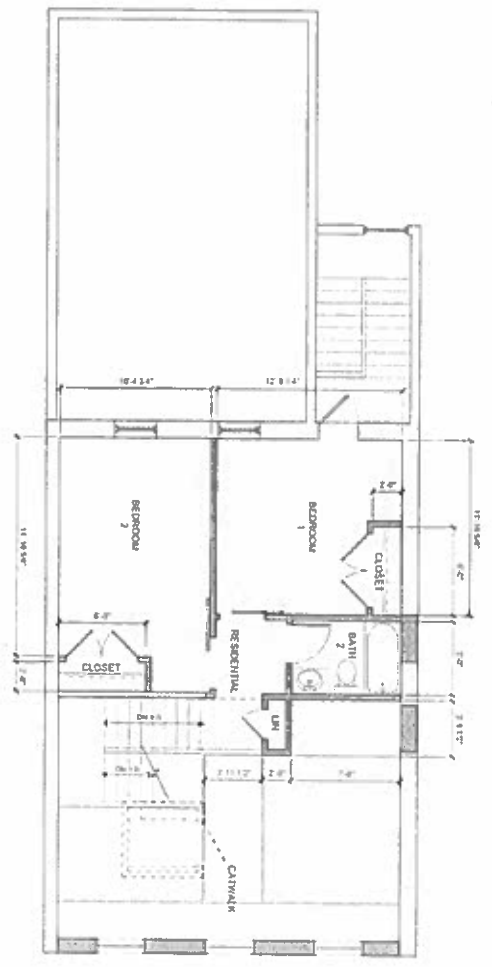
NO.	DATE	DESCRIPTION

A1.1

DATE: 11/11/11
PROJECT: 117 E. CARY



1,436 SF
1/8" = 1'-0"
3RD LEVEL PLAN 1



507 SF
1/8" = 1'-0"
MEZZANINE LEVEL PLAN 2

PROPOSED FLOOR PLANS

PROJECT:
MODIFICATIONS TO

117 E. CARY STREET RICHMOND, VIRGINIA

OWNER:
MICHAEL & LISA FABIANO

67 SUNSET HILL ROAD REDDING, CT 06896



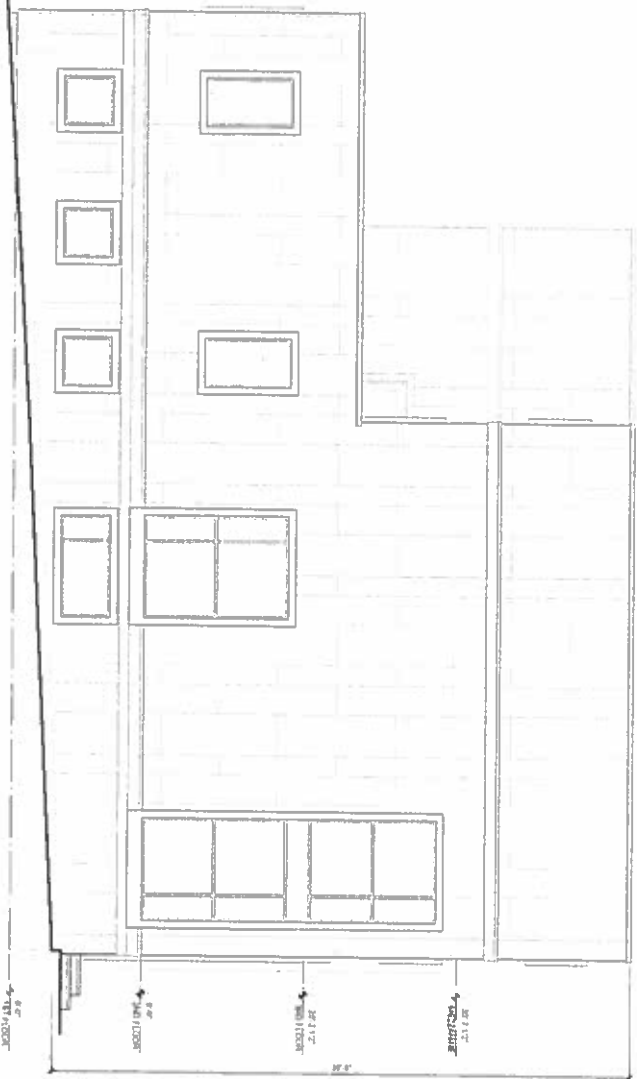
REVISIONS

NO.	DATE	DESCRIPTION

A1.2

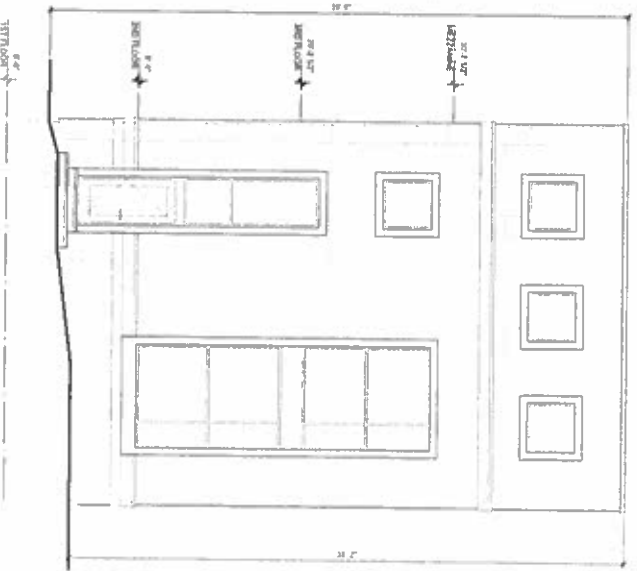
DATE: AUGUST 27, 2014





SIDE ELEVATION

1/4" = 1'-0" 2



FRONT ELEVATION

1/4" = 1'-0" 1

ELEVATIONS

PROJECT
MODIFICATIONS TO:

117 E. CARY STREET, RICHMOND, VIRGINIA

OWNER
MICHAEL & LISA FABIANO

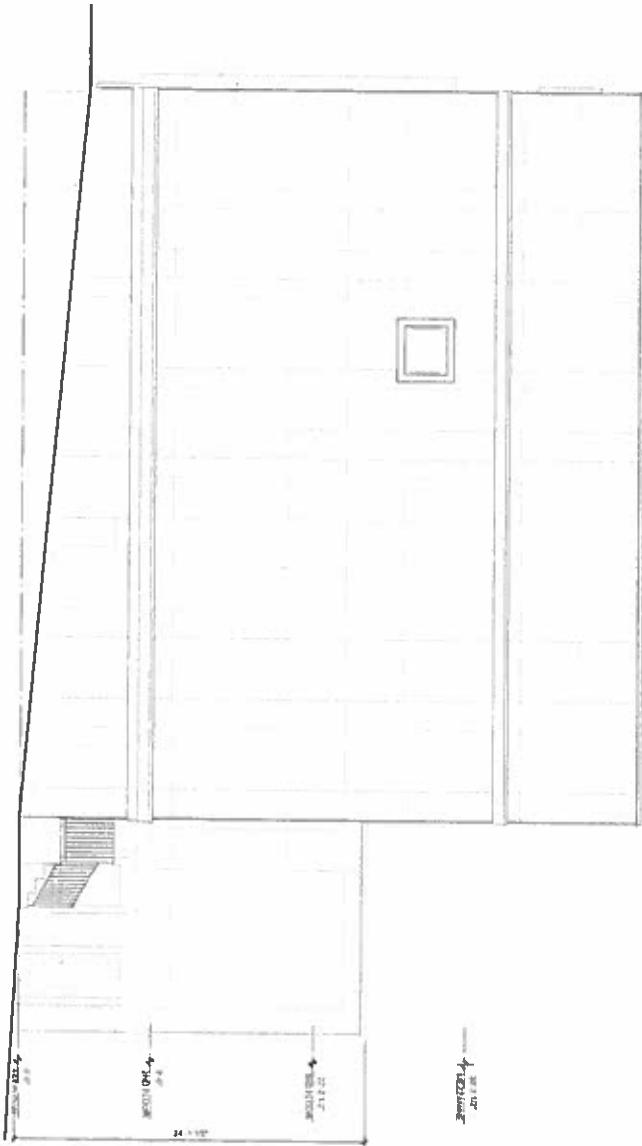
87 SUNSET HILL ROAD REDDING, CT 06896

REVISIONS

NO.	DATE	DESCRIPTION

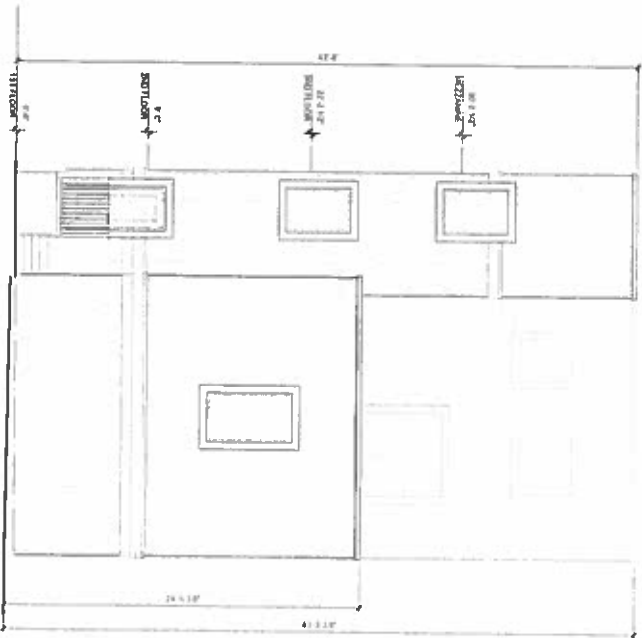


DATE: AUGUST 19, 2010
A2.1



SIDE ELEVATION

2



REAR ELEVATION

1

<p>DATE: 06/20/2018</p> <p>A2.2</p>	<p>REVISIONS</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p>	<p>ELEVATIONS</p>	<p>PROJECT</p> <p>MODIFICATIONS TO</p> <p>117 E CARY STREET, RICHMOND, VIRGINIA</p>	
			<p>DRAWN BY</p> <p>MICHAEL & LISA FABIANO</p> <p>67 SUNSET HILL ROAD REDDING, CT 06896</p>	



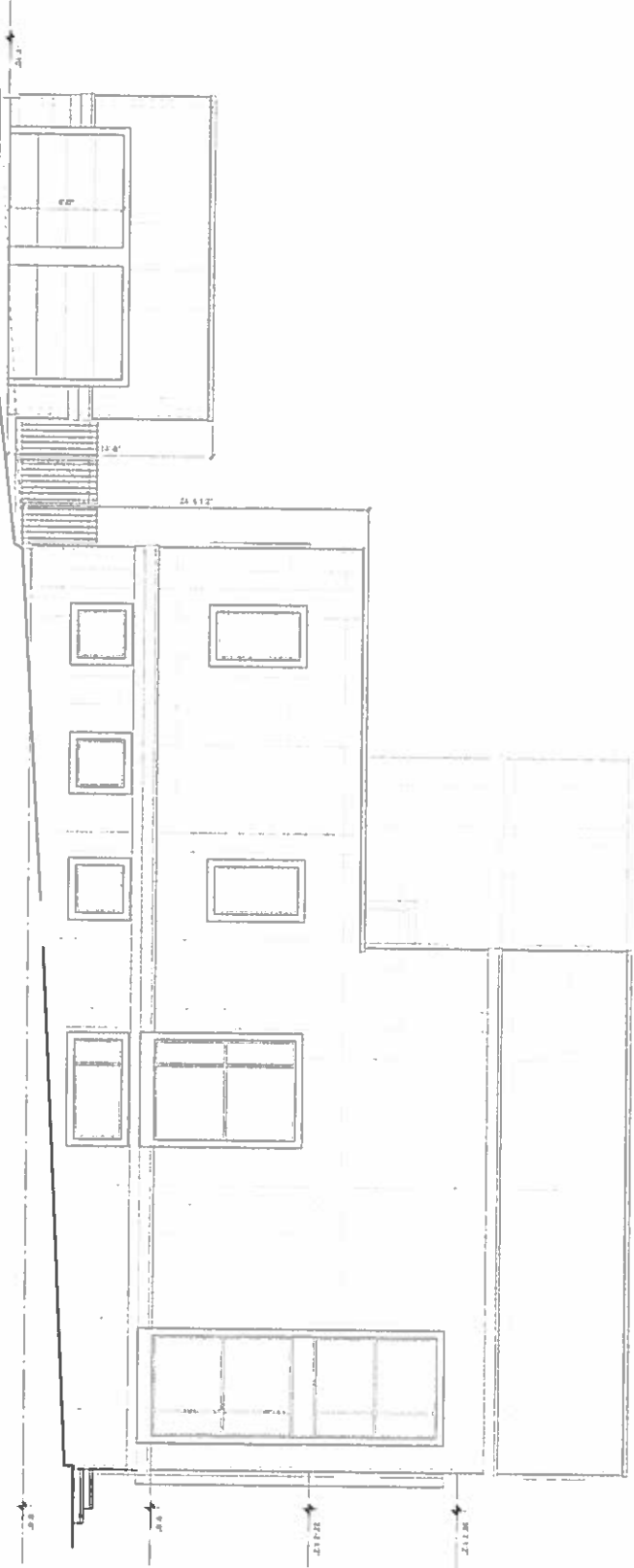
GARAGE NORTH ELEVATION
1/4" = 1'-0" 4



GARAGE REAR ELEVATION
1/4" = 1'-0" 3



GARAGE SOUTH ELEVATION
1/4" = 1'-0" 2



GARAGE FRONT ELEVATION
1/4" = 1'-0" 1



PROJECT
 MODIFICATIONS TO:
 117 E. CARY STREET, RICHMOND, VIRGINIA
 OWNER
 MICHAEL & LISA FABIANO
 67 SUNSET HILL ROAD REDDING, CT 06896

GARAGE ELEVATIONS

REVISIONS

NO.	DATE	DESCRIPTION
1	1/15/19	ISSUED FOR PERMITS
2	1/15/19	ISSUED FOR PERMITS
3	1/15/19	ISSUED FOR PERMITS
4	1/15/19	ISSUED FOR PERMITS

MICHAEL & LISA FABIANO
 ARCHITECTS
 67 SUNSET HILL ROAD
 REDDING, CT 06896
 TEL: 860.366.1111
 WWW.MICHAELANDLISAFABIANO.COM

DATE: AUGUST 19, 2019
 A2.3