

INTRODUCED: March 11, 2019

AN ORDINANCE No. 2019-081

To authorize the special use of the properties known as 1809 and 1815 East Franklin Street for the purpose of uses allowed in the B-5 Central Business District, including dwelling units on the ground floor without the application of certain requirements of City Code § 30-442.1(6), upon certain terms and conditions.

Patron – Mayor Stoney (By Request)

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: APR 8 2019 AT 6 P.M.

WHEREAS, the owners of the properties known as 1809 East Franklin Street and 1815 East Franklin Street, which are situated in a B-5 Central Business District on part of a block that may be designated as street oriented commercial frontage subject to certain requirements of section 30-442.1(6) of the Code of the City of Richmond (2015), as amended, desire to use such properties for the purpose of uses permitted in the B-5 Central Business District, including dwelling units on the ground floor, which use, among other things, may not currently be allowed by section 30-442.1(6) of the Code of the City of Richmond (2015), as amended; and

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: APR 8 2019 REJECTED: _____ STRICKEN: _____

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 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 1809 East Franklin Street and 1815 East Franklin Street and identified as Tax Parcel Nos. E000-0132/004 and E000-0132/007, respectively, in the 2019 records of the City Assessor, being more particularly shown on a survey entitled “Survey of 1811 – 1817 E. Franklin, City of Richmond, Virginia,” prepared by Long Surveying, LLC, and dated March 19, 2012, a copy of which is attached to and made a part of this ordinance, hereinafter referred to as “the Property,” is hereby permitted for uses allowed in the B-5 Central Business District, including dwelling units on the ground floor without the application of certain requirements of section 30-442.1(6) of the Code of the City of Richmond (2015), as amended, hereinafter referred to as “the Special Use.”

(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 consist of uses permitted in the B-5 Central Business District, provided that dwelling units shall be permitted on the ground floor of any

buildings without the need for the Owner to comply with those provisions of section 30-442.1(6) of the Code of the City of Richmond (2015), as amended, which require that, when dwelling units are located within buildings fronting on streets designated as street oriented commercial frontage, (i) a minimum of one-third or 1,000 square feet, whichever is greater, of the floor area of the ground floor of the building shall be devoted to other principal uses permitted in this district and (ii) such uses shall have a depth of not less than 20 feet along the entire street oriented commercial frontage, except for ingress and egress.

(b) 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) 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.2019.040

RECEIVED

O & R REQUEST

FEB 28 2019

4-8592

FEB 14 2019

OFFICE OF CITY ATTORNEY

Office of the
Chief Administrative Officer

O & R Request

DATE: February 13, 2019

EDITION: 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor (Patron: Mayor, by request)
(This is no way reflects a recommendation on behalf of the Mayor.)

THROUGH: Selena Cuffee-Glenn, Chief Administrative Officer

THROUGH: Douglas C. Dunlap, Interim 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 properties known as 1809 and 1815 East Franklin Street
for the purpose of waiving the requirement of the street-oriented commercial frontage
designation of the properties, upon certain terms and conditions.

ORD. OR RES. No. ____

PURPOSE: To authorize the special use of the properties known as 1809 and 1815 East Franklin Street for
the purpose of waiving the requirement of the street-oriented commercial frontage designation of the
properties, upon certain terms and conditions.

REASON: The applicant wishes to remove the street oriented commercial requirement from the properties
fronting on East Franklin Street to allow for residential uses on the ground floor of existing buildings.

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 1, 2019, meeting.

BACKGROUND: The properties combined consist of .24 acres of improved land located in the East
Planning District of the Shockoe Bottom neighborhood. The property is also within the Shockoe Bottom
Station Area of the Pulse Corridor Plan.

The City of Richmond's current Pulse Corridor Plan designates the subject property as Corridor Mixed Use (CMU). The Plan calls for specific characteristics within this category and is "...envisioned to provide for medium density pedestrian and transit oriented infill development to fill "missing teeth" of the corridor fabric. The building size, density, and zoning districts for these areas will vary depending on historic densities and neighborhood characteristics. New development should be in scale with existing context or respond to unique site characteristics and opportunities for redevelopment. Active commercial uses required on principal street frontages. Ground floor residential uses should have street oriented facades with setbacks, front yards, porches, and balconies where appropriate. Driveway entrances required to be off alleys whenever possible; new driveways prohibited on street oriented commercial and priority street frontages. Parking lots and areas are located on the rear of buildings and require screening; shared parking requirements are encouraged to allow for commercial development while ensuring adequate residential parking. Potential future zoning districts: UB-2, B-5, B-6, RF-1, or a new district." (City of Richmond, Pulse Corridor Plan, 2018)

A mix of B-5, B-5C and M-1 zoning districts are present in the vicinity. A mix of office, commercial, mixed use, industrial, vacant, 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: \$1,800 application fee

DESIRED EFFECTIVE DATE: Upon adoption

REQUESTED INTRODUCTION DATE: March 11, 2019

CITY COUNCIL PUBLIC HEARING DATE: April 8, 2019

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: City Planning Commission, April 1, 2019.

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: Application Form, Applicant's Report, Draft Ordinance, 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.richmond.gov/>

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: 1809 E Franklin Street Date: 01/28/2019
 Tax Map #: E0000132004 Fee: _____
 Total area of affected site in acres: 0.128 acres

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

Zoning

Current Zoning: M-1, requested B-5

Existing Use: Vacant warehouse

Proposed Use

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

Residential
Existing Use: Vacant warehouse

Is this property subject to any previous land use cases?

Yes No If Yes, please list the Ordinance Number: _____

Applicant/Contact Person: Lory Marney

Company: Marney Purcell
 Mailing Address: 2314 W Main Street
 City: Richmond State: VA Zip Code: 23224
 Telephone: (804) 283-2561 Fax: ()
 Email: lory@marneypurcell.com

Property Owner: 1809 E Franklin Street, LLC

If Business Entity, name and title of authorized signer: Mark Larson, President

(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: 410 Hancock Street, Suite 110
 City: Richmond State: VA Zip Code: 23224
 Telephone: (818) 616-2097 Fax: ()
 Email: b_slaggs@larson-development.com

Property Owner 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)



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.richmond.gov>

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: 1815 E Franklin Street Date: 01/28/2019
 Tax Map #: E0000132007 Fee: _____
 Total area of affected site in acres 0.115 acres

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

Zoning

Current Zoning: M-1, requested B-5

Existing Use: Multifamily

Proposed Use

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

Multifamily
Existing Use: Multifamily

Is this property subject to any previous land use cases?

Yes No
 If Yes, please list the Ordinance Number: 2013-004-19

Applicant/Contact Person: Lory Markham

Company: Markham Planning
 Mailing Address: 2314 W. Main Street
 City: Richmond State: VA Zip Code: 23220
 Telephone: (804) 248-2561 Fax: _____
 Email: lory@markhamplanning.com

Property Owner: 1806 East Franklin Street, LLC

If Business Entity, name and title of authorized signee: Daniel K. Rothschild, Authorized Representative

(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: 1608 Walnut Street #1400
 City: Philadelphia State: PA Zip Code: 19103
 Telephone: (786) 586-0907 Fax: _____
 Email: danielr@pmcpropertygroup.com

Property Owner Signature: *Daniel K. Rothschild*

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)



February 4, 2019

Mr. Mark Olinger, Director
Department of Planning & Development Review
900 East Broad Street, Suite 511
Richmond, VA 23219
Mark.Olinger@richmondgov.com

RE: Applicant's Report for a Special Use Permit for 1809 and 1815 E Franklin Street

Dear Mr. Olinger,

Please accept this letter as the Applicant's Report for the Special Use Permit application for 1809 and 1815 E Franklin Street. With this application, the owners of the subject properties are petitioning the City Council to remove the street-oriented commercial designation for the property. This request is made in conjunction with a request to rezone the properties and adjacent properties to facilitate development in accordance with the B-5 Central Business District. The prohibition of dwelling uses on the ground floor has previously been removed for one of the subject properties along with the other properties on both sides of Franklin by either City Council or the Board of Zoning Appeals and commercial uses in this block are no longer viable. The proposed rezoning coupled with the requested special use permit is a unique opportunity to allow for development on the properties that is consistent with the character of the neighborhood, compatible with Master Plan recommendations, and essential to the continued revitalization of the Shockoe Bottom neighborhood.

Proposal

The proposed special use permit would apply to 1809 and 1815 E Franklin Street. The property at 1809 E Franklin is 0.126 acres and is improved with a currently vacant two-story warehouse building constructed in 1920. The existing historic building on the property would remain. 1815 E Franklin is improved with a two-story building constructed in 1920. In 2013, City Council adopted a Special Use Permit Ord. No. 2013-4-19 to authorize the conversion of the existing building at 1815 E Franklin for multifamily residential use with up to 13 units with no commercial requirement along E Franklin Street. The owner would like to rehabilitate the property at 1809 E Franklin for a residential building, which is not currently permitted under the M-1 district but would be under the proposed B-5 district. The owner at 1815 E Franklin Street would like to comply with the B-5 zoning without the street-oriented requirement and relinquish the existing special use permit on the property.

Zoning Regulations & Background

The properties are currently located in the M-1 Heavy Industrial District which permits a wide variety of commercial and industrial land uses but prohibits any residential uses. This zoning has been in place for many decades and is no longer compatible with the development pattern in the area. Development in this area of Shockoe Bottom has gradually shifted from industrial uses to a mix of commercial and residential uses. Besides the visible changes in the land uses, this shift is best indicated by the number of rezonings and Special Use Permits that have been approved by City Council in the past 20 years to allow for mixed land uses.

A rezoning of the properties to the B-5 Central Business District would authorize uses and features of the properties that are more appropriate to the character of the current neighborhood. Like many other properties in former industrial areas of Shockoe Bottom that have been rezoned to allow residential and mixed-uses, this application requests a rezoning to the B-5 District to allow for the flexibility to develop a variety of uses that will positively contribute to the urban character of this neighborhood.

The B-5 district contains requirements for buildings with dwelling units along certain streets designated as street-oriented commercial. This requirement prohibits dwelling units on the ground floor along the street frontage. This street-oriented commercial designation originated in the City's 1997 Downtown Plan and has not been updated since. This particular block of E Franklin is the end of the designation and all of the properties that have been redeveloped on this block have received waivers to this requirement either from the City Council through special use permits or from the Board of Zoning Appeals through special exceptions. As part of the redevelopment of 1809 E Franklin, the owner would like to have dwelling units on the ground floor. The layout and configuration of the existing building does not lend itself to commercial uses and there are no other commercial uses to draw from on the block. The commercial uses are better suited on E Main and should be focused there. As part of the rezoning request, the street-oriented designation should be removed from these properties fronting on E Franklin through the adoption of a special use permit as recommended by the City Attorney's Office.

Master Plan

The properties are recommended by the Master Plan for Corridor Mixed-Use. According to the Pulse Corridor Plan, this category is designed to provide for medium-density pedestrian- and transit-oriented infill development to fill "missing teeth" of the corridor fabric. The building size, density, and zoning districts for these areas will vary depending on historic densities and neighborhood characteristics. New development should be in scale with existing context or respond to unique site characteristics and opportunities for redevelopment. Active commercial uses required on principal street frontages. Ground floor residential uses should have street-oriented facades with setbacks, front yards, porches, and balconies where appropriate. Driveway entrances required to be off alleys whenever possible; new driveways prohibited on street-oriented commercial and priority street frontages. Parking lots and areas are located on the rear of buildings and require screening; shared parking requirements are encouraged to allow for commercial development while ensuring adequate residential parking. Potential future zoning districts: UB-2, B-5, B-6, RF-1, or a new district.

This rezoning request to the B-5 District is fully compatible with the Master Plan recommendation for the land uses of the properties, as is the removal of the street-oriented commercial designation. B-5 regulations would facilitate the future development of these property in a manner that

is consistent with surrounding uses and historic character of the area. The rezoning would also help realize the vision of the Pulse Corridor by permitting medium-density and pedestrian and transit-oriented infill development of this portion of East Franklin and North 19th Streets.

City Charter Conditions

This request represents an excellent opportunity to facilitate development on the property as envisioned by both the Master Plan and the Pulse Corridor Plan. This special use permit would also replace an outdated zoning for one that is more appropriate with the current character of the area and allow for developments that will bring a vibrant mix of land uses to an important neighborhood in downtown Richmond. We trust that you will agree with us that this proposed SUP meets the City Charter criteria for the granting of SUPs as the project 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.

Thank you for your consideration of this application. Please feel free to contact me at lory@markhamplanning.com or (804) 248-2561 if you have any questions or require additional materials to process the application.

Very Truly Yours,



Lory Markham

Enclosures

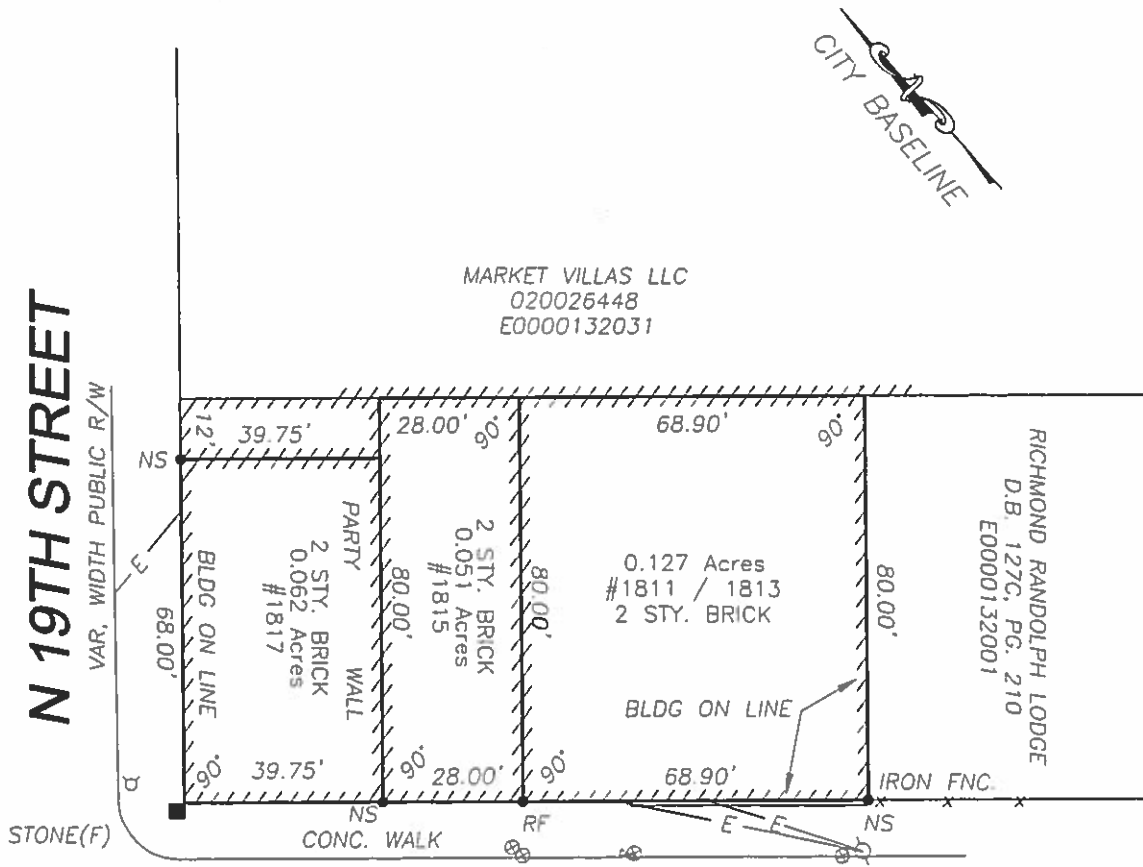
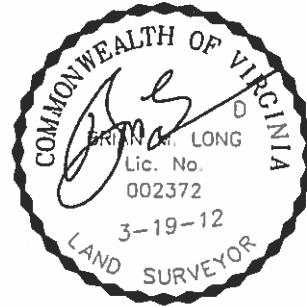
cc: The Honorable Cynthia I. Newbille
Matthew Ebinger, Secretary to the City Planning Commission

THIS IS TO CERTIFY THAT ON MARCH 19, 2012 I SURVEYED THE PROPERTY SHOWN ON THIS PLAT AND THAT THE TITLE LINES AND WALLS OF THE BUILDING ARE AS SHOWN ON THIS PLAT. THE BUILDINGS STAND STRICTLY WITHIN THE TITLE LINES AND THERE ARE NO ENCROACHMENTS OF OTHER BUILDINGS ON THE PROPERTY EXCEPT AS SHOWN



BRIAN LONG, L.S.

- 1) THIS PARCEL IS IN ZONE "X", AREAS PROTECTED BY FLOOD WALLS PER F.I.R.M. 5101290041D, DATED 4-2-09
- 2) THIS SURVEY IS BASED ON CURRENT FIELD WORK
- 3) THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT, THEREFORE ALL ENCUMBRANCES MAY NOT BE SHOWN
- 4) UNABLE TO ACCESS REAR CORNERS.



E. FRANKLIN STREET

VAR. WIDTH PUBLIC R/W

SURVEY OF 1811-1817 E. FRANKLIN

CITY OF RICHMOND
VIRGINIA

LONG SURVEYING, LLC
3408 SHERWOOD BLUFF WAY
POWHATAN, VA 23219
804-314-5620

MARCH 19, 2012
SCALE: 1"=30'

FOR: LARSON