AN ORDINANCE No. 2019-082

To amend Ord. No. 2017-194, adopted Nov. 13, 2017, which authorized the special use of the property known as 3138 Grayland Avenue, now the properties known as 3136 Grayland Avenue and 3138 Grayland Avenue, for the purpose of two single-family detached dwellings, to modify the setback requirements pertaining to 3136 Grayland Avenue, 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.

THE CITY OF RICHMOND HEREBY ORDAINS:

I. That Ordinance No. 2017-194, adopted November 13, 2017, be and is hereby amended and reordained as follows:

WHEREAS, the [owner] owners of the [property] properties known as <u>3136 Grayland</u> <u>Avenue and</u> 3138 Grayland Avenue, which [is] are situated in a R-5 Single-Family Residential District, [desires] desire to use such [property] properties for the purpose of two single-family detached dwellings, which use, among other things, is not currently allowed by section 30-410.4, concerning lot area and width requirements, 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 (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 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 properties known as 3136 Grayland Avenue and 3138 Grayland Avenue and identified as Tax Parcel [No.] Nos. W000-1402/049 and W000-1402/044, respectively, in the [2017] 2019 records of the City Assessor, being more particularly shown on a plat entitled "Plat Showing [Proposed Division of #3138 Grayland Avenue & Existing and Proposed] Improvements, on a Portion of Lots 9 & 10, Block 3, Plan of 'Park Place Annex', in the City of Richmond, Virginia," prepared by Frederick A. Gibson & Associates, P.C., [and] dated [January 20, 2017] January 23, 2019, and last revised January 25, 2019, hereinafter referred to as "the Plat," 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 two single-family detached dwellings, hereinafter referred to as "the Special Use," substantially as shown on the [plans] Plat, the page entitled ["Site Plan, 3136 Grayland Avenue,"] "Plans, 3136 Grayland Avenue," prepared by Fultz & Singh, and dated May 30, 2017, and [revised] the three pages entitled "Elevation, 3136 Grayland Avenue" and the page entitled "Elevations, 3136 Grayland Avenue," prepared by Fultz & Singh, and dated September 19, 2017, hereinafter referred to as "the Plans," copies of which are attached to and made a part of this amendatory 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 [use] <u>Special Use</u> of the Property shall be as two single-family detached dwellings, substantially as shown on the Plans <u>and the Plat</u>.

(b) Two off-street parking spaces shall be provided for the use of the [Property] dwelling at 3136 Grayland Avenue, substantially as shown on the [Plans] Plat.

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

(d) Signage on the Property shall be limited to signage permitted within the underlying zoning district.

(e) [Prior to the issuance of any certificate of occupancy for the Special Use, the establishment of two residential lots, substantially as shown on the plat attached to this ordinance, shall be accomplished by obtaining approval from the City of the division of the existing lot into two lots and by recording the appropriate plats among the land records of the Clerk of the Circuit Court of the City of Richmond.

(f)] The height of the [Special Use] <u>dwelling at 3136 Grayland Avenue</u> shall not exceed the height as shown on the Plans.

[(g)] (f) All building materials, elevations, setbacks, and landscaping shall be substantially as shown on the Plans and the Plat.

§ 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 public right-of-way, including installation of a street tree along Grayland Avenue and an entrance to the 18-foot public alley abutting the Property, 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.

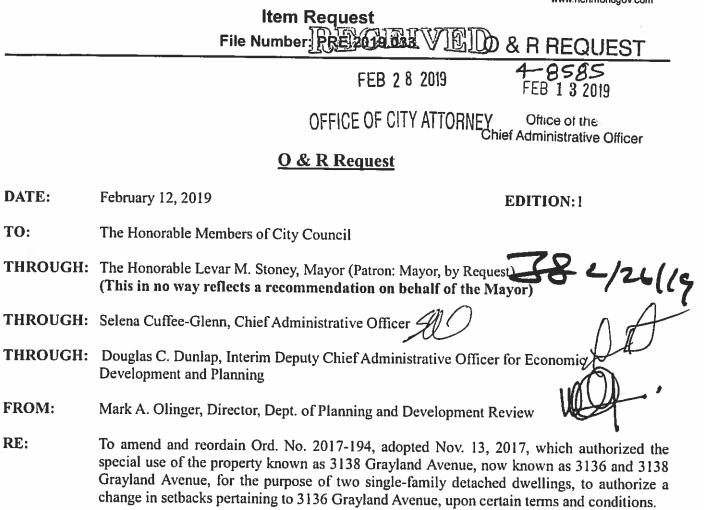
§ 6. **Implementation.** The Commissioner of Buildings is authorized to issue a [building permit substantially in accordance with the Plans] certificate of occupancy for the Special Use subject to the terms and conditions set forth in this ordinance. An application for the [building permit] certificate of occupancy shall be made within 730 calendar days following the date on which this <u>amendatory</u> ordinance becomes effective. If [either] the application for the [building permit] certificate of occupancy 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.

II. This amendatory 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



ORD. OR RES. No.

PURPOSE: To amend and reordain Ord. No. 2017-194, adopted Nov. 13, 2017, which authorized the special use of the property known as 3138 Grayland Avenue, now known as 3136 and 3138 Grayland Avenue, for the purpose of two single-family detached dwellings, to authorize a change in setbacks pertaining to 3136 Grayland Avenue, upon certain terms and conditions.

REASON: The applicant is proposing to amend the special use permit to authorize the existing side-yard setbacks of the recently constructed, 2,292 square ft. home that was approved through ordinance 2017-194, which authorized the creation of a new lot for the purpose of constructing the single-family detached dwelling.

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. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting.

BACKGROUND: 3136 Grayland Avenue consists of a 2,460 SF or .05 acre parcel of land improved with a 2,292 SF residential building constructed, per tax assessment records, in 2018 as a Single-family dwelling. It is located in the Carytown neighborhood of the Near West Planning District.

The City of Richmond's Master Plan designates a future land use category for the subject property as Single Family Low Density. Primary uses for this category include "...single-family detached dwellings at densities up to seven 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. Typical zoning classifications that may accommodate this land use category: R-1, R-2, R-3, R-4, and R-5." (City of Richmond Master Plan).

Adjacent properties on the 3100 Block of Grayland Avenue are of similar-sized houses and lots. Residential land uses dominate the area, with some two-family residential and vacant land uses present as well. All surrounding properties are within the same R-5 Single-family zoning district as the subject property.

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 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.: Amend Ord. No. 2017-194

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

| Telephone: | hmond") | http://www.richmondgov.com/ |
|--|-----------------------|---------------------------------|
| □ special use permit, new □ special use permit, plan amendment □ special use permit, text only amendment Project Name/Location Property Adress: 3136 Grayland Ave Tax Map #: W-000-1402049 Fee: 200 Total area of affected site in acres: 0.0585 (See page 6 for fee schedule, please make check payable to the "City of Rid Zoning Current Zoning: R-5 Existing Use: Single Family Detached Proposed Use (Please include a detailed description of the proposed use in the required app Single Family Detached Existing Use: Single Family Detached Is this property subject to any previous land use cases? Yes No ✓ If Yes, please list the Ordinance Number: 2017-194 Applicant/Contact Person: Mark Baker Company: Baker Development Resources Mailing Address: 11 S Twelth Street, Suite 500 State City: Richmond State Telephone: (804) 874-6275 Fa Email: markbaker@bakerdevelopmentresources com Fa Property Owner: Kyle H. Johnston State | hmond") | Date: 01/25/2019 |
| □ special use permit, text only amendment Project Name/Location Property Adress; 3136 Grayland Ave Tax Map #: W-000-1402/049 Fee: 200 Total area of affected site in acres: 0.0585 (See page 6 for fee schedule, please make check payable to the "City of Rid Zoning Current Zoning: R-5 Existing Use: Single Family Detached Proposed Use (Please include a detailed description of the proposed use in the required app Single Family Detached. Existing Use: Single Family Detached Is this property subject to any previous land use cases? Yes No ✓ If Yes, please list the Ordinance Number: 2017-194 Applicant/Contact Person: Mark Baker Company: Baker Development Resources Mailing Address: 11 5 Twelth Street. Suite 500 City: Richmond State for State Sta | hmond") | Date: 01/25/2019 |
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| Email: markbaker@bakerdevelopmentresources.com Property Owner: Kyle H. Johnston | |)) |
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| If Business Entity, name and title of authorized signee: | ·· | |
| (The person or persons executing or attesting the execution of this Applications she has or have been duly authorized and empowered to so execute or attest | | ne Company certifies that he or |
| Mailing Address: P.O. Box 4917 | | |
| | | |
| Telephone: (270) 779-8468 Fa | te: VA | Zip Code: 23220 |
| Email: Kylehjohnston@gmail.com | te: <u>VA</u> c:_(| _ Zip Code: <u>23220</u> |
| Property Owner Signature: | | _ Zip Code: <u>23220</u>) |

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)

SUP Application Last Revised September 12, 2016 CITY OF RICHMOND



January 25, 2019

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

Re: Special Use Permit: 3136 and 3138 Grayland Avenue

Dear Matthew,

I am representing the property owner in an application for a special use permit amendment (the "Amendment") for the properties known as 3136 and 3318 Grayland Avenue, identified as Tax Parcels W000-1402/044 and 049 (the "Property"). The Property is located on the north side of Grayland Avenue between McCloy Street and South Belmont Avenue. The Property consists of two lots that are both 120 feet in depth and that are 20.5 feet (3136 Grayland) and 22 feet (3138 Grayland) wide. 3136 and 3138 Grayland contain 2,460 and 2,640 square feet of lot area, respectfully. 3138 Grayland is occupied by a single-family dwelling that was constructed in 1927. The lot at 3136 Grayland was created and a single-family dwelling was constructed on it pursuant to a special use permit, ordinance no 2017-194 (the "SUP"), approved on November 13, 2017. The single-family dwelling was constructed on the Property in good faith pursuant to a building permit (BLDR-035278-2018) issued on May 10, 2018. It has received a final building inspection, is substantially complete, and is under contract with a purchaser.

The Property is zoned R-5 Single-Family Residential, which permits single-family dwellings. The "SUP" was required in order to create the lot at 3136 Grayland Avenue as an appropriate infill development opportunity. A majority of the properties/lots in the vicinity are nonconforming with respect to some combination of lot width, lot area, lot coverage, side yard setbacks, and, in some cases, use (single-family attached). That being the case, development consistent with the existing development is not permitted by-right. The SUP varied certain feature requirements in order to permit the development of a single-family dwelling that is respectful to this existing context. Specific to the Amendment, the SUP had authorized side yard setbacks of 1.7 feet along the western property line and 2.8 feet along the eastern property line. Along the eastern property line, this would result in 3.5 feet of distance between the proposed dwelling and the existing dwelling at 3134 Grayland avenue.

The developer followed the appropriate steps and showed good faith throughout the pursuit of the needed approvals for the construction of the dwelling. The developer was aware of the applicable side yard requirement according to the SUP and the proposed building placement depicted on the plans attached to the approved building permit reflected compliance. Unfortunately, the distance between buildings measurement used by the surveyor on the proposed plan (both SUP and building permit plan) was taken from the siding on the adjacent house at 3134 Grayland while the contractor relied on the location of the foundation at 3134 Grayland for the measurement in the field. Due to this discrepancy, the dwelling was unintentionally constructed with a modest departure from the required

setbacks. While the dwellings remain 3.5 feet distant from each other at the foundation, the failure to account for the siding resulted in a setback from the property line at the eastern front corner of the dwelling that is 2.5 feet, rather than the required 2.8 feet. At the same time, the dwelling was constructed on the site slightly skewed from parallel with the side property lines. As a result, while the required 2.8 feet of setback is not met at the front corner, the setback varies along the eastern property line, and increases toward the rear of the dwelling. The setback required by the SUP is actually exceeded at the rear of the dwelling (3.0 feet instead of 2.8 feet). Finally, as a result of the slightly skewed configuration, the setback at the left rear corner of the dwelling along the western property line is not met. The SUP required a setback of 1.7 feet in that area and a setback of 1.2 feet is provided. Unfortunately, the error was not identified until the as-built survey was completed – after the dwelling had been constructed and was substantially complete. The Amendment is required in order to authorize the necessary modification to the side yard setbacks in order to reflect the actual location of the dwelling in the field.

The Amendment would legitimize a newly constructed, high quality, soon to be owner-occupied dwelling, which, but for the slight variation in side yard setback, is identical to the development contemplated by the SUP. The development is consistent with the historic development pattern in the area. Absent the details of the as-built survey, it is not intuitive that there would be any discrepancy. The dwelling remains a great example of appropriate in-fill development with traditional details. It blends seamlessly with the adjacent dwellings and within the local development context. As with the SUP, the Amendment would allow for the occupancy of this high-quality single-family dwelling as a home ownership opportunity, thereby addressing multiple objectives of the Master Plan, including:

• The desire for new and better-quality housing that is targeted to homeowners

• The desire for increased opportunities for residential development

• The recognition that the vast majority of opportunities for new development are located in the context of existing neighborhoods

• The recognition of the difficulty that an older/aging housing stock represents in the market where new convenience/easy maintenance is desired.

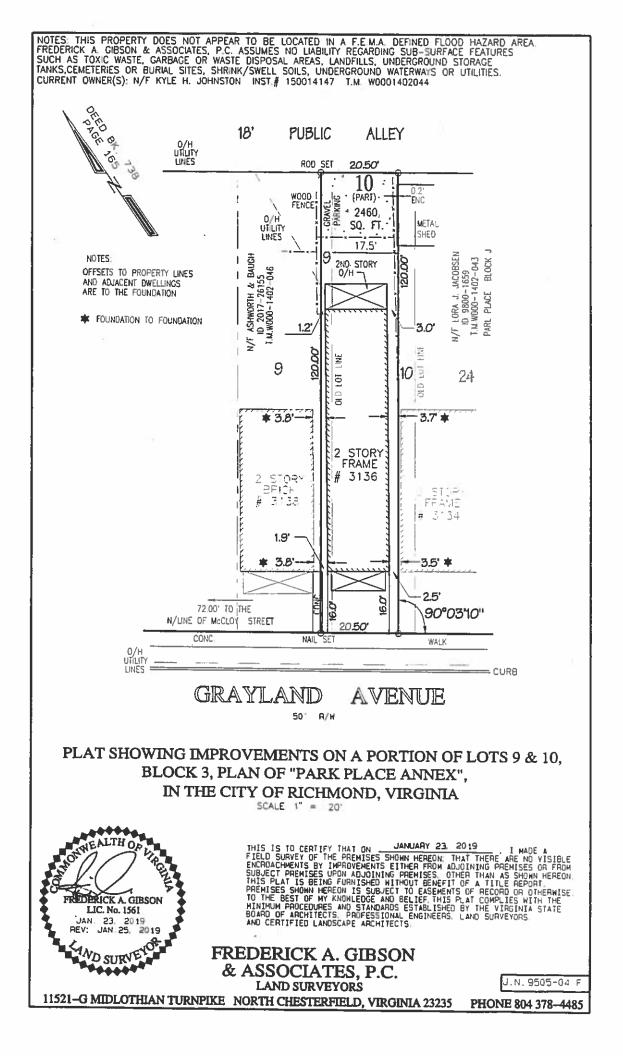
The Amendment does not represent a substantial variation from the approved SUP and, as such, continues to address the various factors indicated in Section 17.11 of the Charter and Section 30-1050.1 of the Zoning Ordinance relative to the approval of special use permits by City Council. In summary, the applicant is seeking approval for the existing high-quality single-family dwelling on the Property. The dwelling represents an ideal, traditional, urban infill development for this location. The dwelling is respectful to the existing development pattern in the vicinity and addresses multiple objectives contained within the Master Plan.

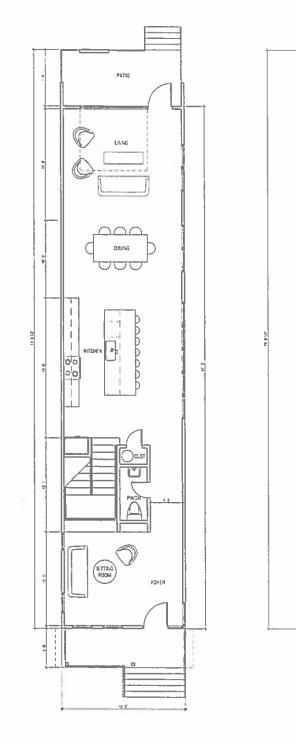
Thank you for your time and consideration of this request. Please let me know if you have any questions.

Sincerely,

Mark R. Baker Baker Development Resources, LLC

cc: the Honorable Parker Agelasto, 2nd District Councilmember





FIRST FLOOR PLAN

SECOND FLOOR PLAN

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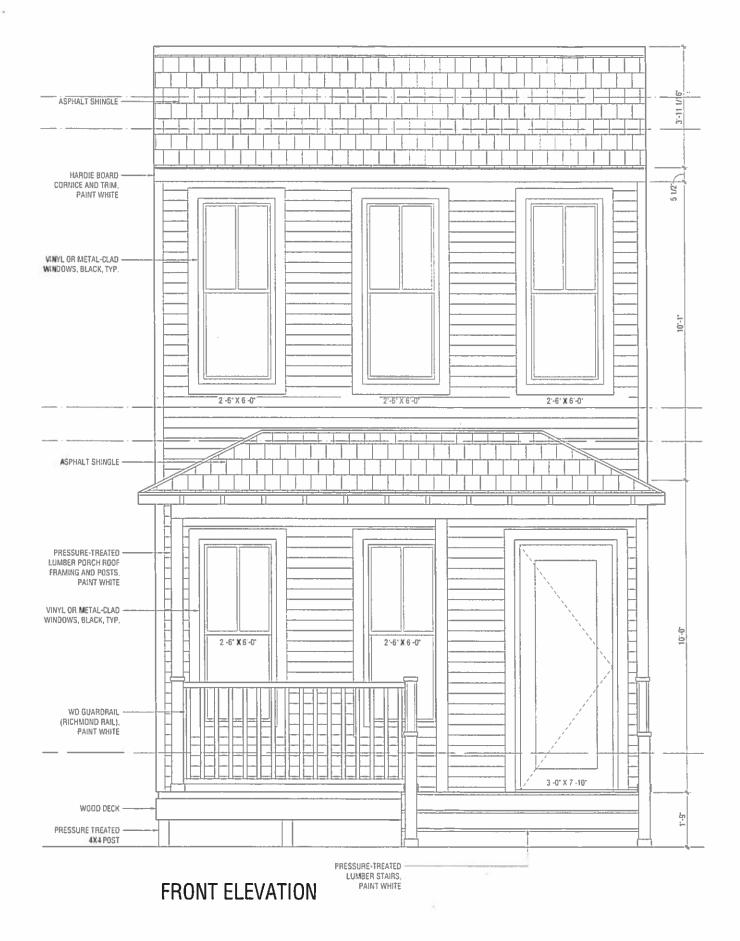
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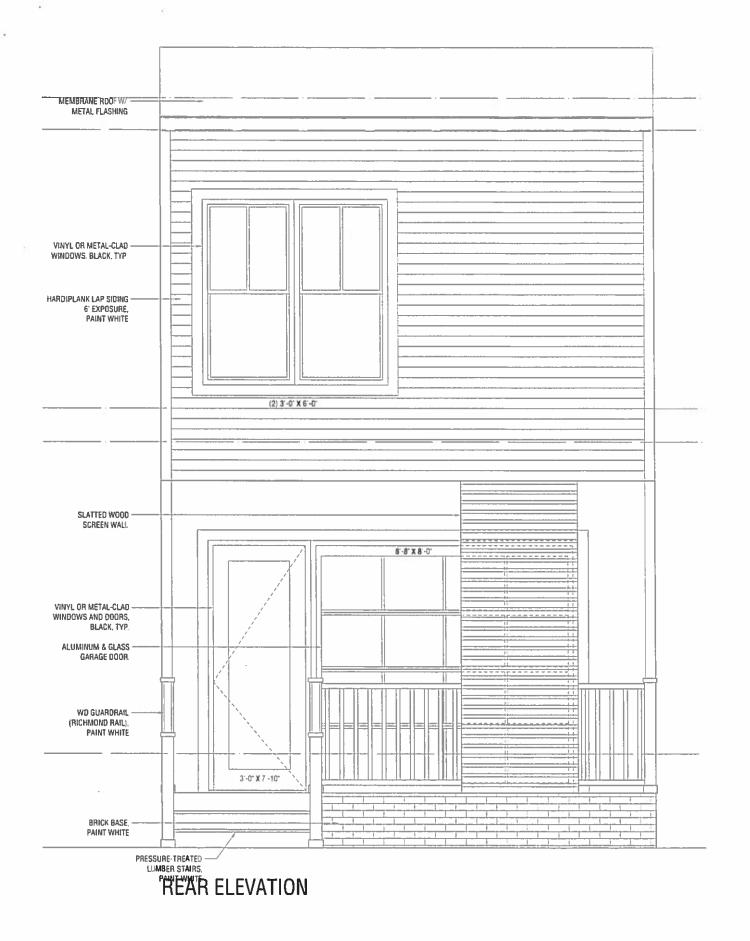
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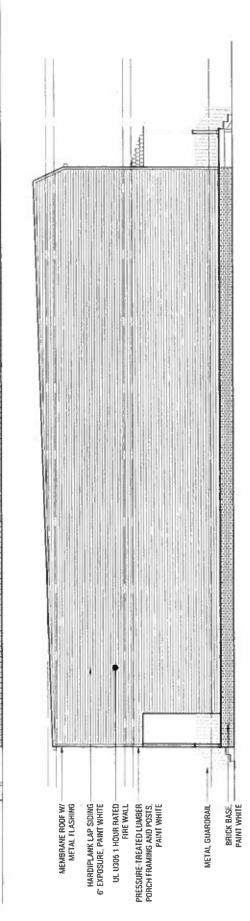
ELEVATION 3136 GRAYLAND AVENUE | 19 SEPT 2017 | NTS

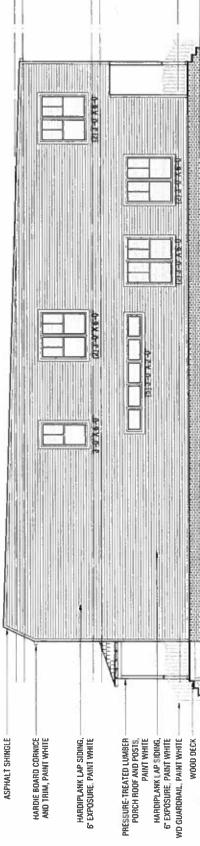
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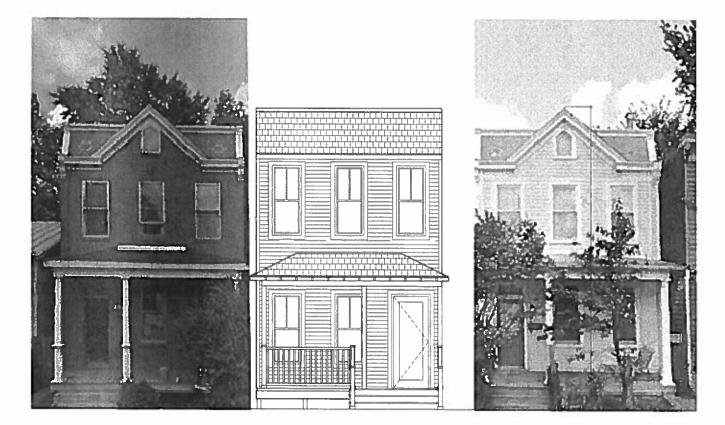


ELEVATIONS 3136 GRAYLAND AVENUE | 19 SEPT 2017 | 15° = 1 -0°

SIDE ELEVATIONS







CONTEXT



ELEVATION 3136 GRAYLAND AVENUE | 19 SEPT 2017 | NTS

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