

INTRODUCED: June 28, 2021

AN ORDINANCE No. 2021-195

To authorize the special use of the property known as 5005 Riverside Drive for the purpose of a short-term rental within an accessory structure to an existing single-family dwelling, upon certain terms and conditions.

Patron – Mayor Stoney (By Request)

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: JUL 26 2021 AT 6 P.M.

WHEREAS, the owner of the property known as 5005 Riverside Drive, which is situated in a R-3 Single-Family Residential District, desires to use such property for the purpose of a short-term rental within an accessory structure to an existing single-family dwelling, which use, among other things, is not currently allowed by section 30-697.1, concerning short-term rental regulations, of the Code of the City of Richmond (2020), as amended; and

WHEREAS, in accordance with section 17.11 of the Charter of the City of Richmond (2020), 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: JUL 26 2021 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 (2020), 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 5005 Riverside Drive and identified as Tax Parcel No. S006-0093/011 in the 2021 records of the City Assessor, being more particularly shown on a survey entitled “Plat Showing Improvements on No. 5005 Riverside Drive, in the City of Richmond, Virginia,” prepared by McKnight & Associates, P.C., and dated June 4, 2007, 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 short-term rental within an accessory structure to an existing single-family dwelling, hereinafter referred to as “the Special Use,” substantially as shown on sheets 1 through 4 of the plans entitled “Plot Plan Showing Proposed Improvements on 5005 Riverside Drive in the City of Richmond, Virginia,” prepared by an unknown preparer, and dated June 16, 2020, 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 short-term rental that includes an accessory structure to an existing single-family dwelling, substantially as shown on the Plans.

(b) A minimum of two parking spaces shall be provided for the Special Use on the Property.

(c) All guests of the short-term rental shall be provided access to the sanitation facilities shown on sheet 2 of the Plans for the entire duration of any such guest's stay on the Property.

(d) All requirements of section 30-697.1 of the Code of the City of Richmond (2020), as amended, shall be met.

(e) The maximum occupancy of the short-term rental use shall be eight persons.

(f) Outdoor lighting shall be located, directed or shielded so as not to shine directly on adjoining properties or to create a traffic hazard by means of glare or similarity to or confusion with traffic signals, warning lights, or lighting on emergency vehicles.

(g) Prior to the issuance of an certificate of occupancy, the Owner shall provide the Director of Planning and Development Review with a certification from a professional engineer that the accessory structure is structurally adequate for occupancy.

§ 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 (2020), 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 (2020), 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 (2020), 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 (2020), as amended, and all future amendments to such law, or any other applicable laws or regulations.

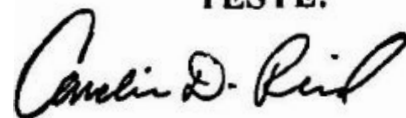
(f) When the privileges granted by this ordinance terminate and the special use permit granted hereby becomes null and void, whether as a result of the Owner relinquishing this special use permit in a writing addressed to the Director of Planning and Development Review or otherwise, use of the Property shall be governed thereafter by the zoning regulations prescribed for the district in which the Property is then situated.

§ 6. **Implementation.** The Zoning Administrator is authorized to issue a certificate of zoning compliance for the Special Use subject to the terms and conditions set forth in this ordinance. An application for the certificate of zoning compliance shall be made within 730 calendar days following the date on which this ordinance becomes effective. If the application for the certificate of zoning compliance is not made within the time period stated in the previous sentence, 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.

A TRUE COPY:

TESTE:

A handwritten signature in black ink, appearing to read "Carlin D. Reed", is written over a light gray rectangular background.

City Clerk

City of Richmond

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

Item Request File Number: PRE.2021.630

O & R Request

DATE: May 14, 2021

EDITION: 1

TO: The Honorable Members of City Council

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



THROUGH: J.E. Lincoln Saunders, Acting Chief Administrative Officer



THROUGH: Sharon L. Ebert, Deputy Chief Administrative Officer for Economic Development and Planning



FROM: Kevin J. Vonck, Acting Director, Dept. of Planning and Development Review



RE: To authorize the special use of the property known as 5005 Riverside Drive for the purpose of one short-term rental unit within an accessory structure.

ORD. OR RES. No. ____

PURPOSE: To authorize the special use of the property known as 5005 Riverside Drive for the purpose of one short-term rental unit within an accessory structure, upon certain terms and conditions.

REASON: The applicant is requesting a special use permit to allow for the use of an accessory structure (the "treehouse") on the property. The short-term rental regulations are applicable to dwelling units, not to accessory structures. 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 July 6, 2021, meeting.

BACKGROUND: The subject property consists of 199,054 square feet (4.57 acres) that is improved with a single-family dwelling and is mostly wooded. The property is located in the Westover Hills neighborhood.

The subject property is located within the R-3 Single-Family Residential District. The proposed short term

rental unit is not permitted within the accessory structure according to the short term rental regulations contained in Section 697.1 of the Zoning Ordinance.

The Richmond 300 Master Plan recommends a future land use of “Residential” for the property. The primary uses recommended for Residential are single-family homes, accessory dwelling units and open space. Secondary uses include duplexes and small multi-family buildings (3-10 units), institutional and cultural uses. These uses should typically be located on major streets. The development style for Residential is houses on medium or large sized lots with homes setback from the street. Future development should continue or introduce a gridded pattern of development and new buildings should be built to a scale and design that is consistent with existing buildings. Buildings are generally one to three stories, with lots generally ranging up to 5,000 SF to 20,000 SF. General density should be 2-10 units per acre.

Single-family dwellings are located to the west, south and east of the property. The James River Park System and Norfolk Southern railroad is located to the north of the property, and an access easement for James River Park trail system runs across the northernmost portion of the 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: June 14, 2021

CITY COUNCIL PUBLIC HEARING DATE: July 26, 2021

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: City Planning Commission
July 6, 2021

AFFECTED AGENCIES: Office of Chief Administrative Officer
Law Department (for review of draft ordinance)

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: Richard Saunders, Senior Planner, Land Use Administration (Room 511) 646-5648

**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.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 Address: 5005 Riverside Drive

Date: 12/21/2020

Tax Map #: S0060093011

Fee: \$300

Total area of affected site in acres: 4.67

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

Zoning

Current Zoning: R-4

Existing Use: Single-family

Proposed Use

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

Single-family with short term rental in accessory structure

Existing Use: Single-family

Is this property subject to any previous land use cases?

Yes

No

☐☒

If Yes, please list the Ordinance Number: _____

Applicant/Contact Person: Lory Markham

Company: Markham Planning LLC

Mailing Address: 23 West Broad Street

City: Richmond

State: VA

Zip Code: 23241

Telephone: (804) 248-2561

Fax: ()

Email: lory@markhamplanning.com

Property Owner: Joshua and Carrie Rogers

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

(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: 5005 Riverside Drive

City: Richmond

State: VA

Zip Code: 23225

Telephone: (804) 855-7989

Fax: ()

Email: shawbelt@gmail.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)



December 21, 2020

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

Re: 5005 Riverside Drive SUP Application

Dear Mr. Olinger,

Please accept this letter as the Applicant's Report with the Special Use Permit application for a short-term rental in an accessory structure at 5005 Dorchester Road. With this application we are petitioning City Council for a SUP to allow for the continued use of the Trailside Treehouse as an overnight accommodation for tourists to Richmond. The Trailside Treehouse was designed by an architect, built by professional homebuilders and is located on our 4.67 acre property on Riverside Drive. Its location is adjacent to the James River Park System and is uniquely situated to show off the best parts of Richmond's amazing James River and the natural beauty surrounding it, right in the heart of the City.

Recognizing how valuable this ecosystem is to the lives of Richmonders and their visitors, in 2014, we granted the City of Richmond a recreational easement for the James River Park Trail System that traverses our property over about half a mile. During the easement process, we received letters of thanks and support from outdoor enthusiasts from around the state telling us that they travel from hours away to use our city's trail system for running and mountain biking. We asked, "Where do you stay when you come to town?" These adventurers told us they would pack up and head home because there was no value to them in staying in a generic hotel just to sleep.

My family realized we had an opportunity to provide a cool outdoor experience that is aligned with our city's outdoor adventure spirit. In 2017, with the support of our city councilperson, we launched the treehouse as a glamping accommodation. We opened our treehouse after observing how other cities on the east coast were able to increase their "coolness" profile amongst the outdoor community by creating unique glamping opportunities. We saw the need to offer an alternative overnight destination for outdoor enthusiasts who were starting to look more closely at traveling to Richmond for our outdoor recreational activities and potentially as a place to live.

Since our launch in September 2017, we have hosted thousands of adventurers from around the world. Many of these tourists come to Richmond solely to enjoy the experience of staying in an "authentic treehouse." Our "in-season" runs from Memorial Day to Labor Day, during which time it has been completely booked every day.

The Trailside Treehouse is attractive to our guests partly because it offers guests an alternative glamping experience adjacent to a nationally recognized trail system and park. Every other treehouse destination

in the country is more of a tiny house in the trees—complete with running water and all the amenities of home. Ours, by contrast, is more rustic and appeals to the child within every adult—and the sense of magic within every child. Keeping the treehouse rustic is critical to our mission of creating a magic and unique space that welcomes guests to “return to childhood.”

In order for the Treehouse can remain truly off the grid, the basement of our home is set aside for guests and includes a full bathroom, kitchenette, and lounge space for guests to relax indoors during their stays. They have a private entrance from the outside.

Safety

The treehouse is situated on top of concrete pilings, which are buried two feet into the ground. We are fully insured and responsible hosts who have more than 375 5-star reviews on Airbnb and an unprecedented overall rating of 4.9.

We have had the fire department visit the treehouse to give us feedback and offer suggestions for making it safer; they had no suggestions for improvement. The captain of the fire house said, “This looks safe. I’d absolutely love to stay here with my family.”

The treehouse was designed by architect Henry Tenser and built by homebuilders, TenserHaus Construction. We routinely trim trees near the treehouse and on the property for safety.

Existing Zoning

The properties are currently located in the R-3 Single-Family zoning district, which permits the proposed short-term rental use as long as it is located within the home. The reason the proposal requires a special use permit is because the short-term rental unit is in an accessory structure. We intend to comply with all of the other recently adopted regulations around short-term rentals within the City.

City’s Land Use Plan Recommendations

The recently adopted Richmond 300 Plan designates this property as “Residential”, which includes accessory dwelling units as a recommended use. The plan also acknowledges the importance of visitors and tourism to the City of Richmond’s economic health noting that the historic sites, unique neighborhoods, and the James River make the city a destination for tourists. To accommodate these visitors, additional lodging is needed in the city, and short-term rentals provide the opportunity to develop transient lodging within existing housing stock in desirable neighborhoods. Goal 12 of the Plan states, “Develop tourism and attractions to further elevate Richmond’s image and to continue to delight existing and future residents, employees, and visitors.” The Trailside Treehouse is the perfect example of the delightful experience called for by the plan.

Neighborhood Communication

Our house and the treehouse are both off-road and not visible from Riverside Drive. We offer off-street parking in our driveway. There are only a handful neighbors who have properties adjacent to our secluded property and who might possibly hear noise from the treehouse, such as kids shrieking with glee.

We have communicated with the adjacent property owners about the project and have received and enclosed letter of support from the Westover Hills Neighborhood Association along with several letters of support from individual neighbors.

City Charter Conditions

We trust that you will agree with us that this proposed Special Use Permits 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 be 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.

In closing, I think it is important to point out that Josh and I are native Richmonders who grew up only blocks from where we now live and operate the treehouse and our parents still live in our childhood homes; we have been invested in our community for decades. We love being Richmond cheerleaders and ambassadors.

I have been invited to be Richmond's Airbnb Ambassador, which is a position bestowed upon hosts with a proven track record of providing exceptional hospitality and enthusiasm for hosting travelers.

Airbnb has recognized us as one of the Top 10 Places to Stay in Virginia and we have been recognized by national travel blogs as a top travel destination. Having the Trailside Treehouse in Richmond elevates Richmond's reputation as a "cool," destination city.

Thank you for your consideration of this Special Use Permit application. Please feel free to contact me at shawbelt@gmail.com or (804) 855-7989 if you have any questions or require additional materials to process the application.

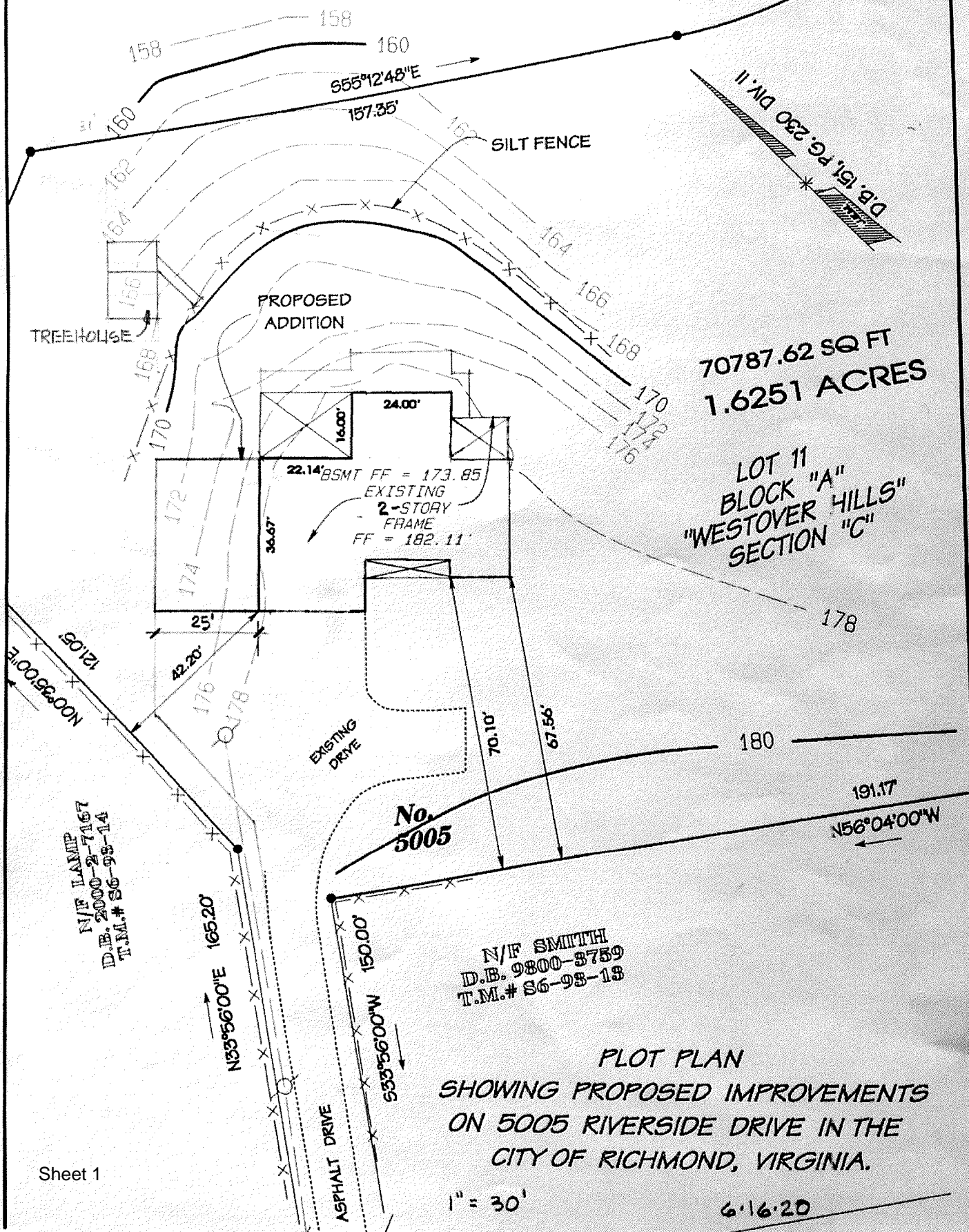
Sincerely,

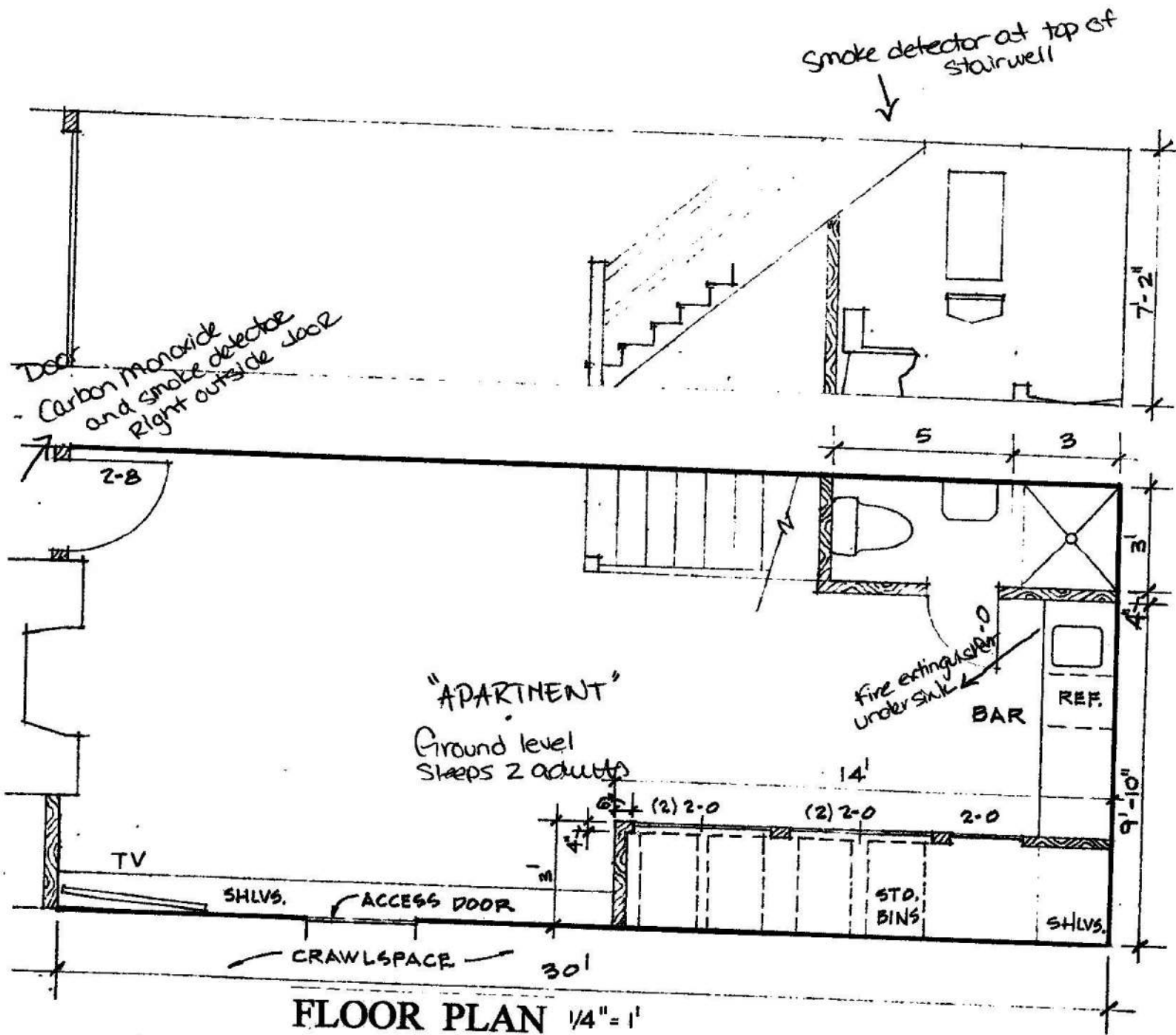
Carrie Rogers

Enclosure: application form, existing survey, plans

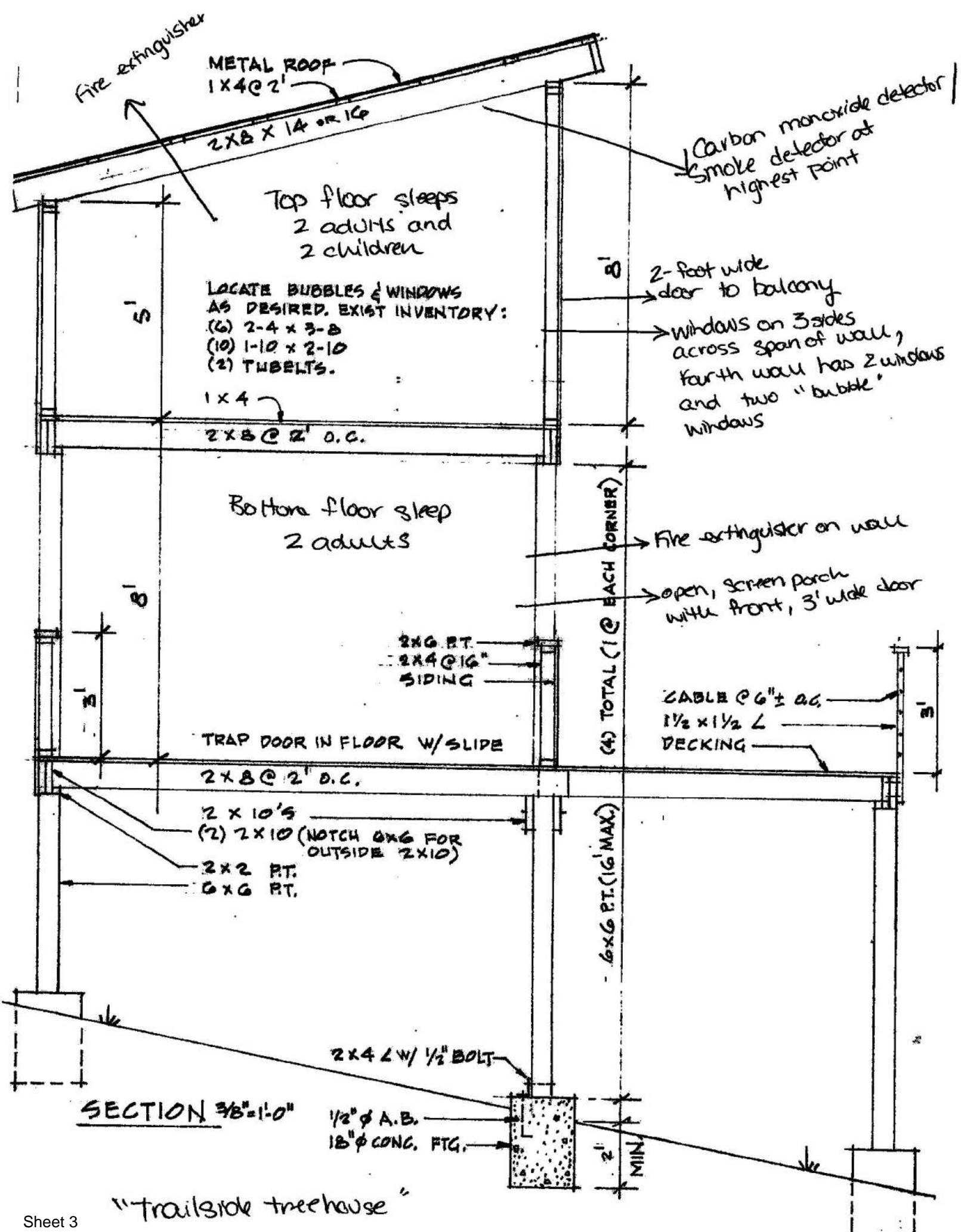
cc: Matthew Ebinger, Secretary to the City Planning Commission
The Honorable Kristen Larson, 5th District Council Representative

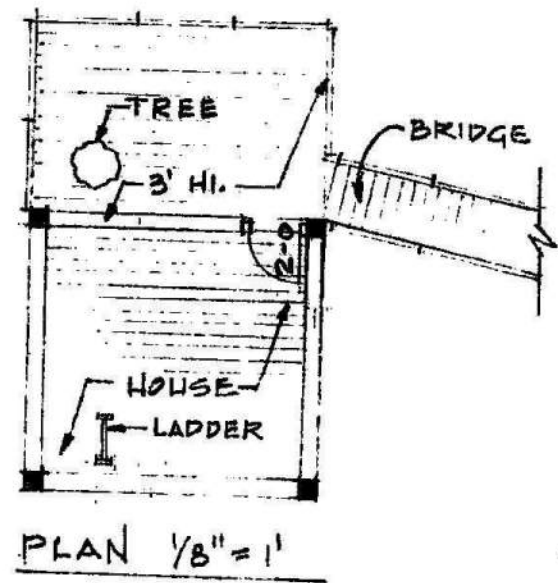
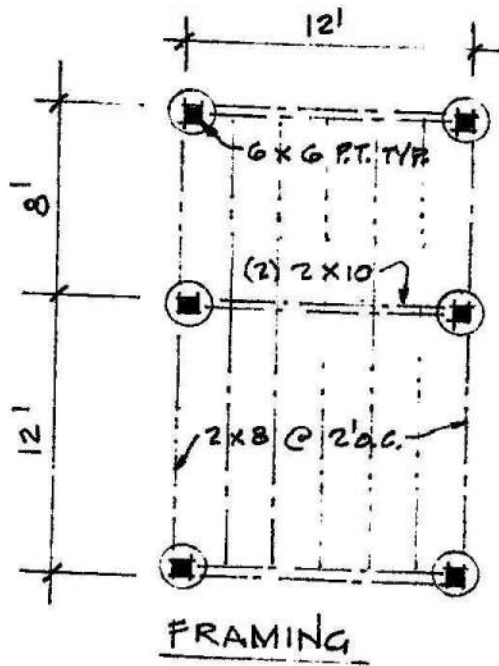
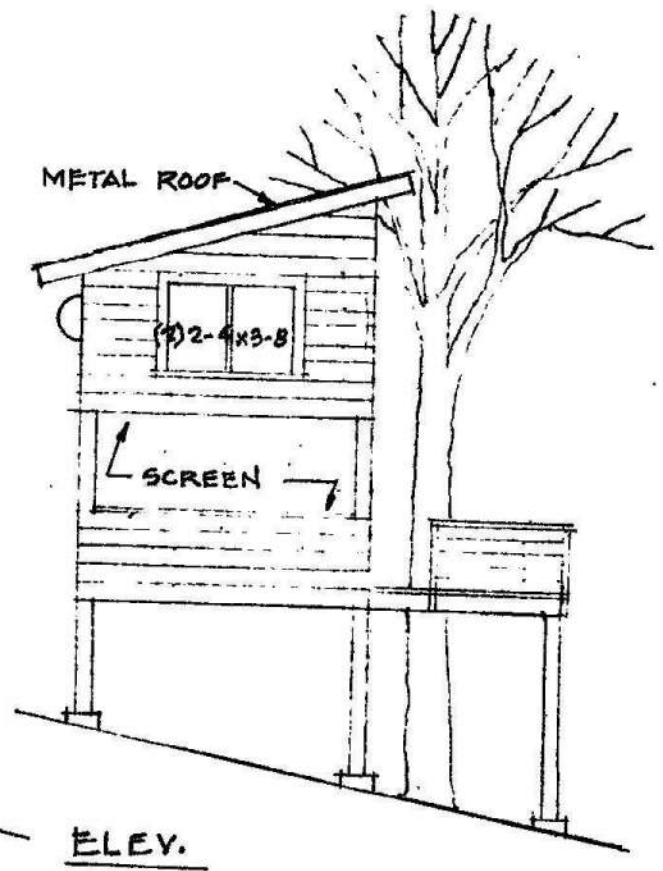
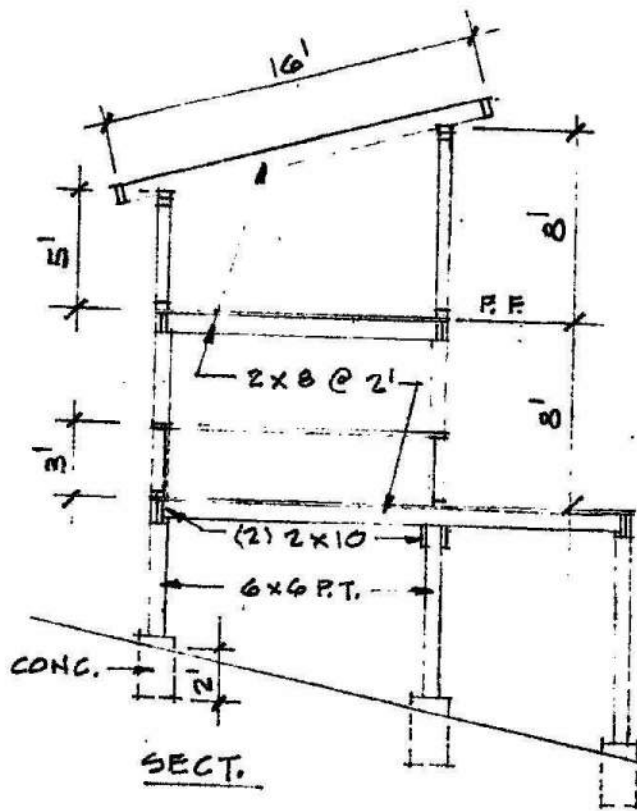
NOTES: THIS PROPERTY IS LOCATED IN F.E.M.A. FLOOD ZONE "X".
CURRENT OWNER: JOSHUA ROGERS





ROGERS BASEMENT
5005 RIVERSIDE DRIVE
 "Trailside Tree house"

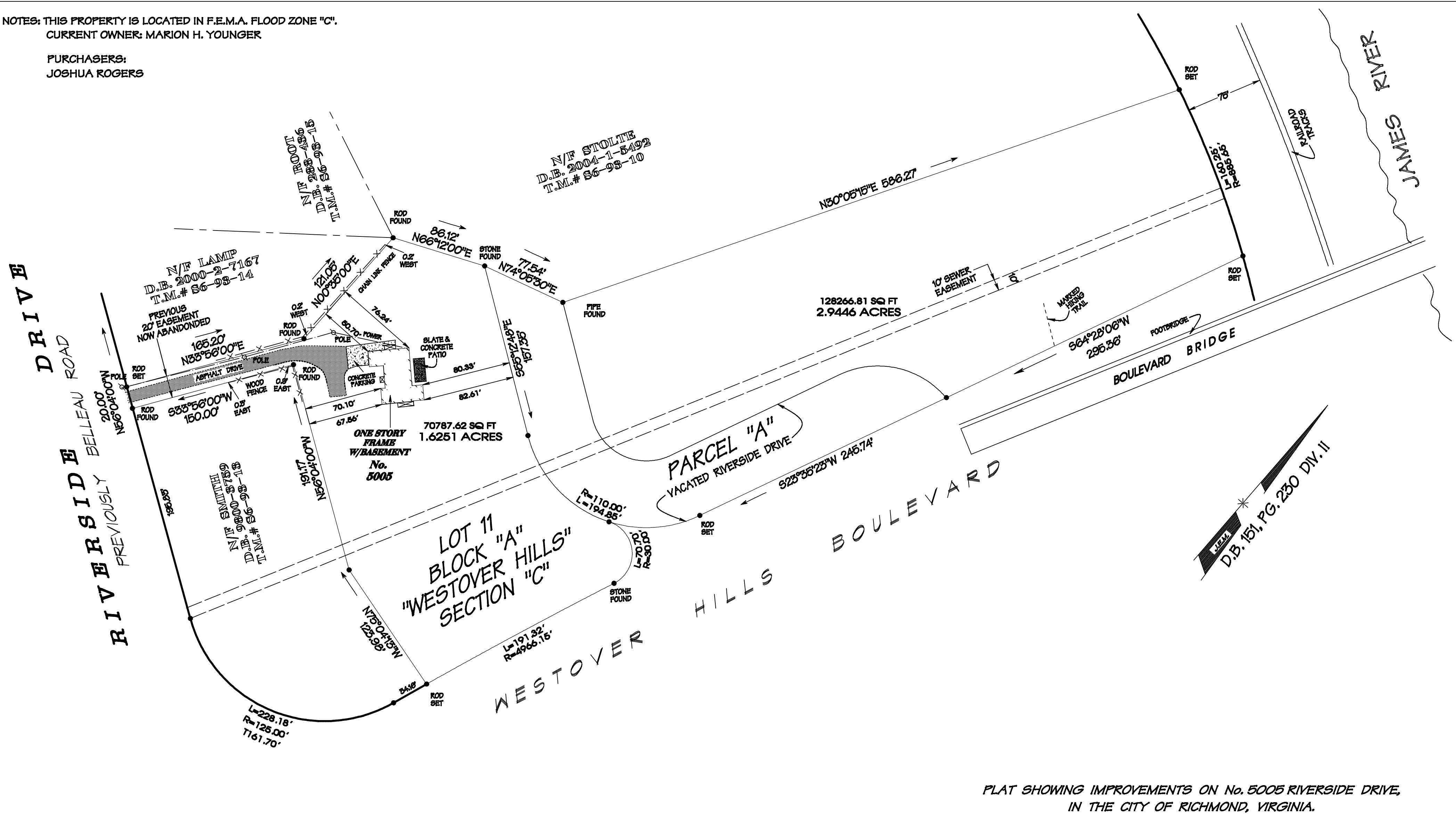




ROGERS TREEHOUSE

NOTES: THIS PROPERTY IS LOCATED IN F.E.M.A. FLOOD ZONE "C".
CURRENT OWNER: MARION H. YOUNGER

PURCHASERS:
JOSHUA ROGERS



PLAT SHOWING IMPROVEMENTS ON No. 5005 RIVERSIDE DRIVE,
IN THE CITY OF RICHMOND, VIRGINIA.

THIS IS TO CERTIFY THAT ON JUNE 04, 2007 I MADE AN ACCURATE
FIELD SURVEY OF THE PREMISES SHOWN HEREON THAT THERE ARE NO ENCROACH-
MENTS BY IMPROVEMENTS EITHER FROM ADJOINING PREMISES OR FROM SUBJECT
PREMISES UPON ADJOINING PREMISES, OTHER THAN AS SHOWN HEREON. THIS
SURVEY IS BEING FURNISHED WITHOUT BENEFIT OF A TITLE REPORT. PREMISES
SHOWN HEREON IS SUBJECT TO EASEMENTS OF RECORD OR OTHERWISE.

McKNIGHT
& ASSOCIATES, P.C.
LAND SURVEYORS PLANNERS
201 TWIN RIDGE LANE
RICHMOND, VIRGINIA 23235
TELEPHONE (804) 320-2646

SCALE: 1" = 60'
JOB NUMBER: 87121406