

EXHIBIT NO. 1

5  
3-16-02

Docket Item # 10  
ENCROACHMENT #2001-0010

Planning Commission Meeting  
March 5, 2002

**ISSUE:** Consideration of a request for encroachment into the public right-of-way to maintain the existing fence and building wall and for a proposed building addition wall.

**APPLICANT:** Barry Ford

**LOCATION:** 400 Gibbon Street

**ZONE:** RM/Residential

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**PLANNING COMMISSION ACTION, MARCH 5, 2002:** On a motion by Mr. Dunn, seconded by Ms. Fossum, the Planning Commission voted to recommend approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendations and to amend Condition #3, and to add Conditions #5 and #6. The motion carried on a vote of 7 to 0.

Reason: The Planning Commission agreed with the staff analysis.

Speakers:

Barry Ford, applicant.



**ENC #2001-0010**

**03/05/02**



STAFF RECOMMENDATION:

Staff recommends approval subject to compliance with all applicable codes and ordinances and the following conditions:

1. The applicant (and his or her successors, if any) obtain and maintain a policy of general liability insurance in the amount of \$1,000,000, which will indemnify the applicant (and his or her successors, if any) and the City of Alexandria, as an additional named insured, against all claims, demands, suits, etc., and all costs related thereto, including attorney fees, relating to any bodily injury or property damage which may occur as a result of the granting of this encroachment. (P&Z) (City Atty)
2. In the event the City shall, in the future, have need for the area of the proposed encroachment for the rear yard fence, the applicant shall remove any structure or projection that encroaches into the public right-of-way, within 60 days, upon notification by the City. (T&ES)
3. **CONDITION AMENDED BY PLANNING COMMISSION:** The applicant shall relocate the fence along South Royal Street to align with the existing house rear of the proposed addition, and ~~and~~ The fence shall not encroach no more than 0.9 beyond 1.15 feet into the public right-of-way, and only to the rear of the proposed structure. (T&ES) (PC)
4. The applicant shall contribute \$250 to the City for the City's installation of one street tree on the eastern side of 400 Gibbon Street to the satisfaction of the Director of the Department of Planning and Zoning and the City Arborist. (P&Z)
5. **CONDITION ADDED BY PLANNING COMMISSION:** An encroachment is permitted for the existing house and the proposed rear addition. The encroachment of the proposed addition shall be no more than 0.9 feet at the end of the existing structure and shall increase linearly to no more than 1.15 feet at the rear of the proposed addition. (PC)
6. **CONDITION ADDED BY PLANNING COMMISSION:** The encroachment shall also include the two window vents that currently extend into the public right-of-way, 9 inches beyond the east side of the existing structure. (PC)

DISCUSSION:

1. The applicant, Barry Ford, is requesting an encroachment permit for his existing residential building and fence, and for a proposed rear addition located at 400 Gibbon Street.
2. The subject property is one lot of record on the corner of Gibbon and South Royal Streets, with 15 feet of frontage on Gibbon Street and 80.6 feet of frontage on South Royal Street. It has a lot area of 1,209 square feet. This property is mostly surrounded by residential uses, however a private club stands directly north of the property across Gibbon Street and the Safeway grocery store occupies the opposite corner diagonally across South Royal Street.
3. The applicant is requesting an encroachment permit for the existing building and fence, and for a proposed rear addition located at 400 Gibbon Street. The proposed encroachment consists of four components:

Requested Encroachment for Existing Building: The applicant is requesting an encroachment permit for the existing residential building. The existing building encroaches 0.3 feet onto City property at the Gibbon Street facade and 0.9 feet onto City property at the South Royal Street elevation. Please see plans provided in the application for further detail. The existing building was constructed in 1905 and the existing fence was built in the late 1940s.

Requested Encroachment for Proposed Rear Addition: The applicant wants to build a rear addition that will extend the existing house approximately 11 feet into the rear yard. This proposed addition will encroach 1.1 feet into City property along South Royal Street.

Requested Encroachment for Existing Fence: A rear yard fence encroaches 3.2 feet onto City property at the South Royal Street side of the property. The applicant seeks to legalize this condition.

Requested Encroachment for Foundation Work: The applicant has also requested the right to alter a 3.2 feet wide x 80.6 feet long strip of City owned land that runs along the eastern side of his property. This land consists of grass and shrubs, and is partially enclosed by the applicant's rear yard fence. The applicant wants to alter this land to address foundation problems. The City's sidewalk runs along the eastern side of the subject property, and slopes down to the applicant's building wall. This slope, according to applicant, has caused water to drain towards his building, which in turn has triggered moisture and pest problems. The applicant believes that he can address these foundation problems if he is granted the right to control this 3.2 feet x 80.6 feet of land under the requested encroachment permit. The applicant does not have a specific plan yet in mind to address his foundation problems.

4. The existing encroachments do not obstruct City sidewalks. The proposed encroachments will not obstruct City sidewalks.
5. The property is located within the Old and Historic Alexandria District. The applicant has filed an application with the Board of Architectural Review for the proposed addition and associate demolition. This application will be heard by the B.A.R. if the encroachment application is approved by the City Council.
6. Master Plan/Zoning: The subject property is zoned RM/Residential Townhouse Zone, and is located in the Old Town Small Area Plan.

STAFF ANALYSIS:

Staff supports approval of the encroachment permit application for the existing building as well as for the proposed addition. The existing building was built in 1905 and no significant problems resulting from its minimal encroachment into the public right-of-way on both Gibbon and South Royal Streets have since been recorded with the City. Staff supports an encroachment permit for the proposed addition as long as the addition does not encroach more than the existing eastern building wall. To allow an encroachment for the existing building for an addition built in line with the existing building, staff supports an encroachment of 0.3 feet across the Gibbon Street frontage and a maximum encroachment of 0.9 feet along the eastern wall of the building and the proposed addition along South Royal Street.

Staff does not support an encroachment permit for the existing rear yard fence at its current location. This fence currently encroaches 3.2 feet into the public right-of-way. Staff instead recommends that the fence be realigned with the existing house so that it does not encroach more than .9 feet into the public right-of-way. The City does not support the larger encroachment request for the fence because it needs to retain as much of its land as it can to allow for necessary surface and underground improvements. This property could be used to improve traffic safety and utility conditions in the future.

Staff also does not support the applicant's request to alter the 3.2 feet wide x 80.6 feet long strip of City land that runs alongside his eastern property line. The City again needs to retain in ownership of as much land as it can to allow for necessary public improvements. The City, however, fully understands the applicant's need to address his foundation problems. The Department of Transportation and Environmental Services intends to work with the applicant to correct the problem. This department has worked with other private property owners to address similar

problems in the past. The Department of Transportation and Environmental Services recommends that the applicant write a letter to the Director, Rich Baier, to explain his foundation problems in more detail and request assistance.

Staff lastly recommends that the applicant fund the City's installation of a street tree along South Royal Street, adjacent to the subject property. This will extend the existing line of street trees.

STAFF: Eileen P. Fogarty, Director, Department of Planning and Zoning;  
Barbara Ross, Deputy Director;  
Mary Hashemi, Urban Planner.

CITY DEPARTMENT COMMENTS

Legend: C - code requirement R - recommendation S - suggestion F - finding

Transportation & Environmental Services:

- F-1 T&ES has no objection to the encroachment for the existing structure or the proposed house addition, not to exceed 0.9 feet. However, T&ES objects to granting a 3.2 foot encroachment for the entire length of the property and recommends that the fence along South Royal Street be relocated to align with the east side of the house.
- R-1 Relocate fence along South Royal Street to align with the existing house and no more than 0.9 feet onto the public right-of-way.
- R-2 In the event the City shall, in the future, have need for the area of the proposed encroachment for the rear yard fence, the applicant shall remove any structure or projection that encroaches into the public right-of-way, within 60 days, upon notification by the City.

Code Enforcement:

- F-1 No comments.

Health Department:

- F-1 No comments.

Police Department:

- F-1 No objections.

Historic Alexandria (Archaeology):

- F-1 No comments.

Recreation, Parks, Cultural Activities (Arborist):

- F-1 No comments.

APPLICATION for ENCROACHMENT

ENC # 2001-0010

[must use black ink or type]

PROPERTY LOCATION: 400 Gibbon Street

TAX MAP REFERENCE: 80.02-06-16 ZONE: RM

APPLICANT'S NAME: BARRY FORD

ADDRESS: 400 Gibbon Street

PROPERTY OWNER NAME: BARRY FORD

ADDRESS: 400 Gibbon Street

ENCROACHMENT DESCRIPTION: (1) Retroactive approval of existing encroachment  
(2) Approval of encroachment caused by a new addition (see attachment)

INSURANCE CARRIER (copy attached) TRAVELERS POLICY # Binder # 91307

A certificate of general liability insurance in the amount of \$1,000,000 which will indemnify the owner and names the city as an additional insured must be attached to this application.

THE UNDERSIGNED hereby applies for an Encroachment Ordinance in accordance with the provisions of Section 8-1-16 and Sections 3-2-82 and 85 of the Code of the City of Alexandria, Virginia.

THE UNDERSIGNED, having obtained permission from the property owner, hereby grants permission to the City of Alexandria to post placard notice on the property for which this application is requested, pursuant to Article XI, Section 11-301 (B) of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

THE UNDERSIGNED also attests that all of the information herein provided and specifically including all surveys, drawings, etc., required of the applicant are true, correct and accurate to the best of their knowledge and belief.

BARRY FORD  
Print Name of Applicant or Agent

[Signature]  
Signature

400 Gibbon Street  
Mailing/Street Address

703-628-3521                       
Telephone # Fax #

ALEXANDRIA VA 22314  
City and State Zip Code

December 26, 2001  
Date

=====**DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY**=====

Application Received: \_\_\_\_\_ Date & Fee Paid: \_\_\_\_\_ \$ \_\_\_\_\_

ACTION - PLANNING COMMISSION: \_\_\_\_\_

ACTION - CITY COUNCIL: \_\_\_\_\_

BARRFOR

**ACORD INSURANCE BINDER**

ENC 2001-0010

DATE 12/24/01

THIS BINDER IS A TEMPORARY INSURANCE CONTRACT, SUBJECT TO THE CONDITIONS SHOWN ON THE REVERSE SIDE OF THIS FORM.

PRODUCER  
 First Union Insurance Group  
 1970 Chain Bridge Road  
 Mail Code VA2005  
 McLean, VA 22102-4099

PHONE (A/C, No, Ext): 703-760-6006

COMPANY  
 Travelers Insurance Cos. BINDER # BINDER91307  
 DATE EFFECTIVE TIME DATE EXPIRATION TIME  
 12/24/01 12:01 X AM 01/24/02 X 12:01 AM  
 PM NOON

CODE: 80071 SUB CODE:  
 AGENCY CUSTOMER ID: 14603

THIS BINDER IS ISSUED TO EXTEND COVERAGE IN THE ABOVE NAMED COMPANY PER EXPIRING POLICY #:

INSURED  
 City Of Alexandria  
 Barry Ford  
 400 Gibbon Street  
 Alexandria, VA 22314  
 Alexandria, VA 22314

DESCRIPTION OF OPERATIONS/VEHICLES/PROPERTY (including Location)  
 Loc#1: 400 Gibbon Street, Alexandria, VA 22314

**COVERAGES**

**LIMITS**

TYPE OF INSURANCE	COVERAGE/FORMS	DEDUCTIBLE	COINS %	AMOUNT
<b>PROPERTY</b> CAUSES OF LOSS <input type="checkbox"/> BASIC <input type="checkbox"/> BROAD <input type="checkbox"/> SPEC				
<input checked="" type="checkbox"/> <b>GENERAL LIABILITY</b> COMMERCIAL GENERAL LIABILITY CLAIMS MADE <input checked="" type="checkbox"/> OCCUR	RE: 3" Easement In Front/ 9" Easement In Back Of Home  RETRO DATE FOR CLAIMS MADE:			EACH OCCURRENCE \$1,000,000 FIRE DAMAGE (Any one fire) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000
<input type="checkbox"/> <b>AUTOMOBILE LIABILITY</b> ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS				COMBINED SINGLE LIMIT \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE \$ MEDICAL PAYMENTS \$ PERSONAL INJURY PROT \$ UNINSURED MOTORIST \$
<input type="checkbox"/> <b>AUTO PHYSICAL DAMAGE</b> DEDUCTIBLE <input type="checkbox"/> ALL VEHICLES <input type="checkbox"/> SCHEDULED VEHICLES COLLISION: OTHER THAN COL:				ACTUAL CASH VALUE STATED AMOUNT \$ OTHER
<input type="checkbox"/> <b>GARAGE LIABILITY</b> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EACH ACCIDENT \$ AGGREGATE \$
<input type="checkbox"/> <b>EXCESS LIABILITY</b> UMBRELLA FORM OTHER THAN UMBRELLA FORM RETRO DATE FOR CLAIMS MADE:				EACH OCCURRENCE \$ AGGREGATE \$ SELF-INSURED RETENTION \$
<input type="checkbox"/> <b>WORKER'S COMPENSATION AND EMPLOYER'S LIABILITY</b>				WC STATUTORY LIMITS E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
<b>SPECIAL CONDITIONS AND OTHER COVERAGES</b>				FEES \$ TAXES \$ ESTIMATED TOTAL PREMIUM \$

**NAME & ADDRESS**

	<input type="checkbox"/> MORTGAGEE <input type="checkbox"/> LOSS PAYEE	<input type="checkbox"/> ADDITIONAL INSURED
	LOAN #	
	AUTHORIZED REPRESENTATIVE	

Date: December 26, 2001  
Property Location: 400 Gibbon Street  
Applicant: Barry Ford

1. Retroactive approval of existing encroachment.

The plat for the property located at 400 Gibbon Street indicates that the actual structure is encroaching on city property. This encroachment is about 0.3 feet at the front of the dwelling and is about 0.9 feet at the rear of the dwelling. Also, a wood fence encroaches on city property for about 3.2 feet. The existing property owner (who is also the applicant) would like the city to retroactively approve these encroachments.

The dwelling that is now 402 Gibbon was constructed around 1902. The dwelling that is now 400 Gibbon was added as an attachment to that structure in 1905 (see attached historical maps). The encroachment occurred when the building was erected and has existed since that time.

The previous owner of the property at 400 Gibbon (Mr. Edward Bell) moved into the property in the late 1940's. He has stated that a fence existed at the current location since that time.

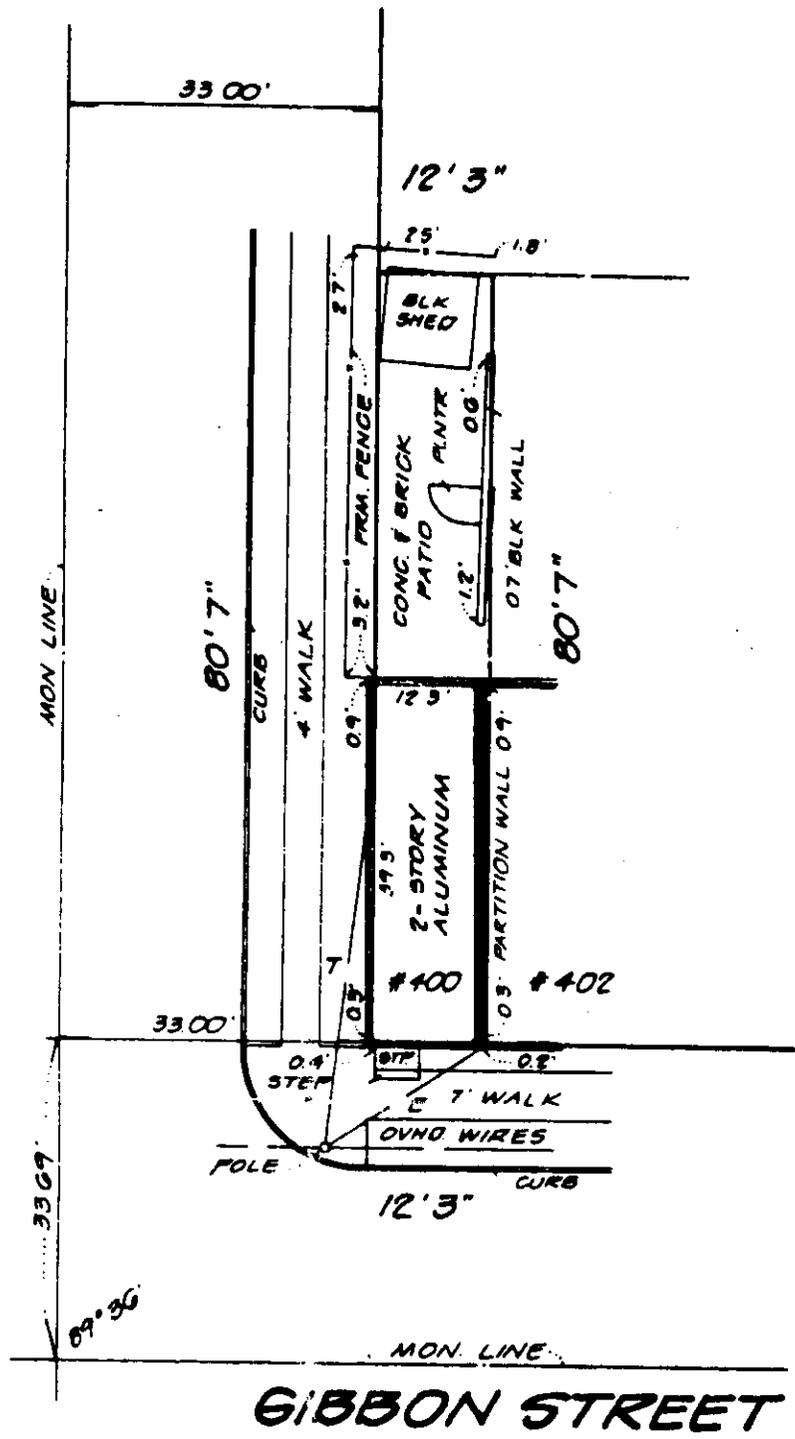
2. Approval of encroachment caused by a new addition.

The current property owner intends to build an addition at the rear of the current dwelling that will extend the dwelling by about 11 feet (from 39 feet 3 inches to 50 feet). This addition will encroach on city property by an additional 0.2 feet.

The applicant requests that the City grant approval of an encroachment of 3.2 feet, which is the size of the encroachment caused by the wooden fence. This encroachment would apply to the entire length of the property on the South Royal Street side (80 feet 7 inches long).

As part of the homeowner's plan to update the property, he must address the City built the sidewalk at a higher grade than the foundation of the property. This has caused dirt and sediment to accumulate above the foundation of the property, which has caused moisture and pests to attack the frame of the house. The granting of the 3 feet 2 inch encroachment along the entire length of the property will allow the property owner to implement a solution that will help preserve the property.

50. ROYAL STREET



**PLAT**

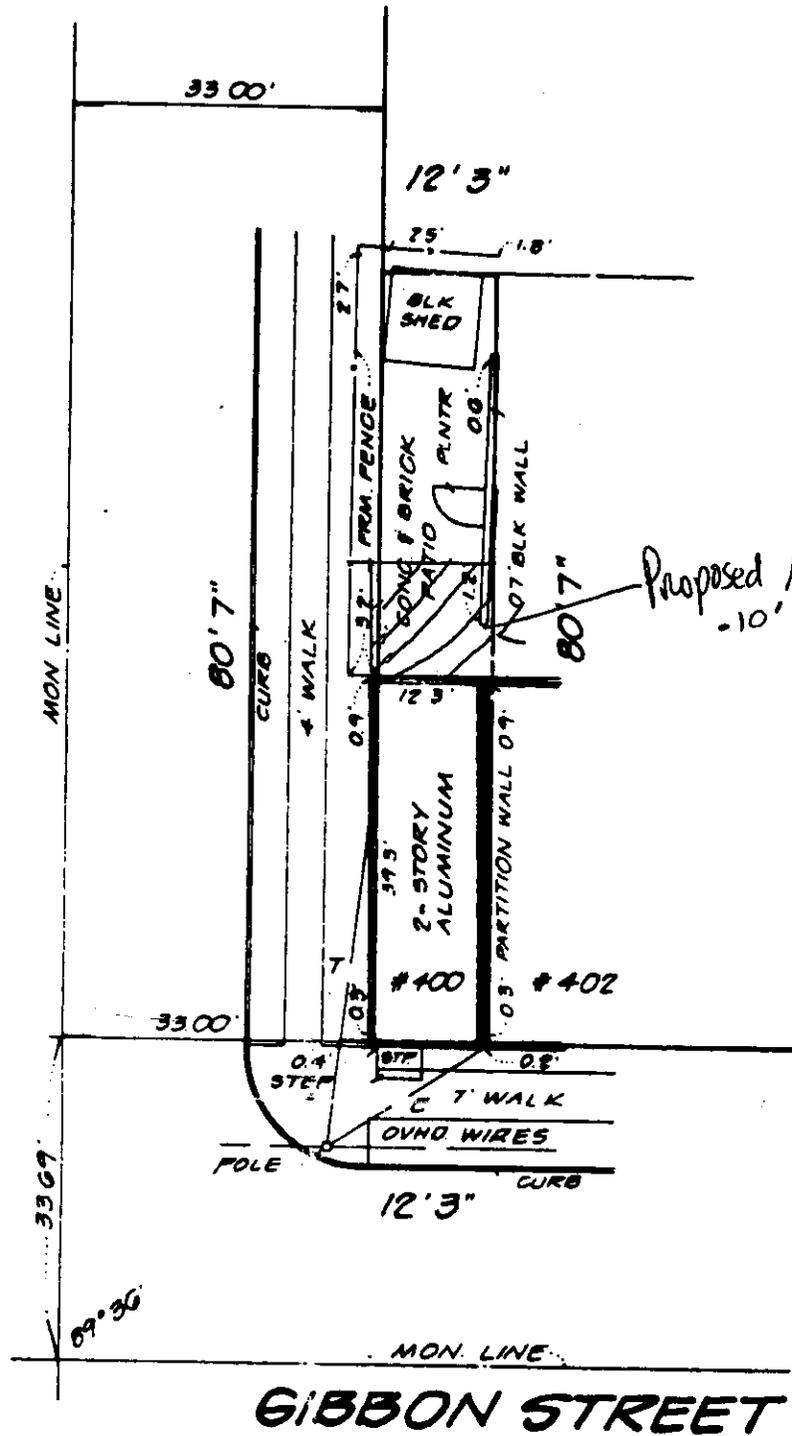
SHOWING PHYSICAL IMPROVEMENT SURVEY  
ON THE PROPERTY LOCATED AT

**#400 GIBBON STREET**  
CITY OF ALEXANDRIA , VIRGINIA

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ENC 2001-0010

SO. ROYAL STREET



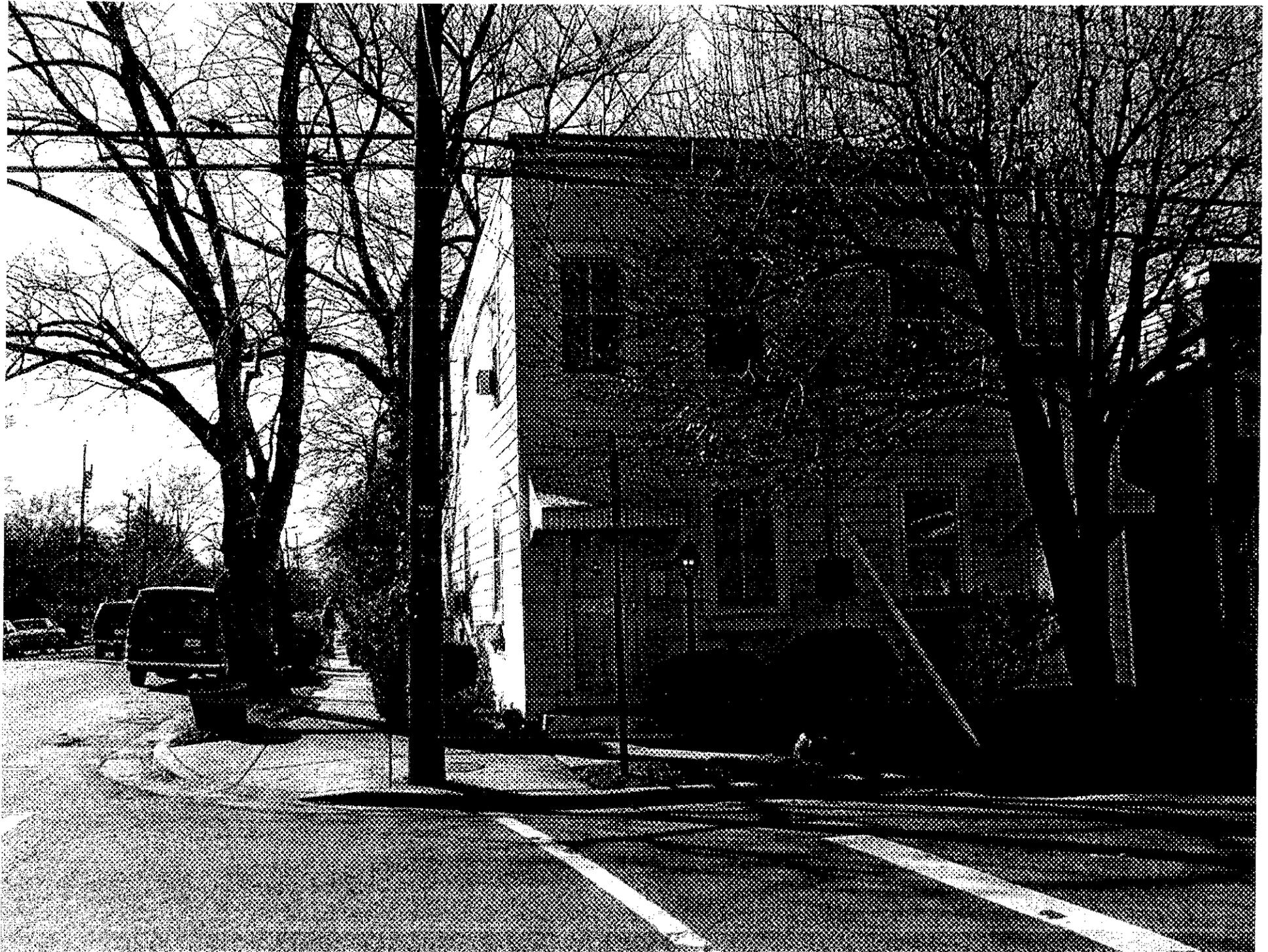
Proposed Addition  
- 10' over PL

### PLAT

SHOWING PHYSICAL IMPROVEMENT SURVEY  
ON THE PROPERTY LOGATED AT

**#400 GIBBON STREET**  
CITY OF ALEXANDRIA , VIRGINIA

13



400 GIBBON ST

ENC. 2001-0010

City of Alexandria, Virginia

MEMORANDUM

DATE: MARCH 5, 2002  
TO: CHAIRMAN AND MEMBERS OF THE PLANNING COMMISSION  
FROM: EILEEN P. FOGARTY, DIRECTOR, PLANNING AND ZONING *Eileen Fogarty*  
SUBJECT: ENCROACHMENT #2001-0010  
400 GIBBON STREET

Staff did not originally recommend approval of an encroachment larger than 0.9 feet on the east side of the applicant's property. Staff, however, has reconsidered the applicant's need for additional City property to build his proposed rear addition and has found that it would not significantly reduce the amount of City property or the City's ability to implement utility and traffic safety projects. Consequently, staff recommends the following changes to the conditions of approval.

5. CONDITION ADDED BY STAFF: An encroachment is permitted for the existing house and the proposed rear addition. The encroachment of the proposed addition shall be no more than 0.9 feet at the end of the existing structure and shall increase linearly to no more than 1.15 feet at the rear of the proposed addition. (T&ES)
6. CONDITION ADDED BY STAFF: The encroachment shall also include the two window vents that currently extend into the public right-of-way, 9 inches beyond the east side of the existing structure. (T&ES)
3. CONDITION ALTERED BY STAFF: The applicant shall relocate the fence along South Royal Street to align with the existing house rear of the proposed addition, and the fence shall not encroach no more than 0.9 beyond 1.15 feet into the public right-of-way, and only to the rear of the proposed structure. (T&ES)

Lastly, staff notes that the Department of Transportation and Environmental Services is currently working with the applicant to address the drainage concerns along the eastern side of the property. This work will not require an additional encroachment into the public right-of-way.

APPLICATION for ENCROACHMENT

ENC # 2001-0010

[must use black ink or type]

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TAX MAP REFERENCE: 22.02-06-16 ZONE: PM

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PROPERTY OWNER NAME: BARRY FORD

ADDRESS: 400 Gibbon Street

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BARRY FORD  
Print Name of Applicant or Agent

[Signature]  
Signature

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Mailing/Street Address

703-628-3521   
Telephone # Fax #

ALEXANDRIA VA 22314  
City and State Zip Code

December 26, 2001  
Date

=====**DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY**=====

Application Received: \_\_\_\_\_ Date & Fee Paid: \_\_\_\_\_ \$ \_\_\_\_\_

ACTION - PLANNING COMMISSION: 3/5/2002 Recommend Approval 7-0

ACTION - CITY COUNCIL: 3/16/02PH--CC approved the recommendation of the Planning Commission.