

EXHIBIT NO. 1

24  
9-14-02

Docket Item # 6  
ENCROACHMENT #2002-0002

Planning Commission Meeting  
July 2, 2002

**ISSUE:** Consideration of a request for encroachment into the public right-of-way for construction of two window wells and a front stoop.

**APPLICANT:** Brian and Elizabeth Gibney  
by Stephanie Dimond

**LOCATION:** 300 South Lee Street

**ZONE:** RM/Residential

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**PLANNING COMMISSION ACTION, JULY 2, 2002:** On a motion by Ms. Fossum, seconded by Mr. Gaines, the Planning Commission voted to recommend approval of the request and to delete condition #5. The motion carried on a vote of 5 to 2, with Mr. Komoroske and Mr. Dunn voting against the motion. A prior motion to defer consideration of the request, made by Mr. Dunn and seconded by Mr. Komoroske, failed on a 3 to 4 vote, with Mr. Robinson, Mr. Wagner, Mr. Gaines and Ms. Fossum voting against the motion.

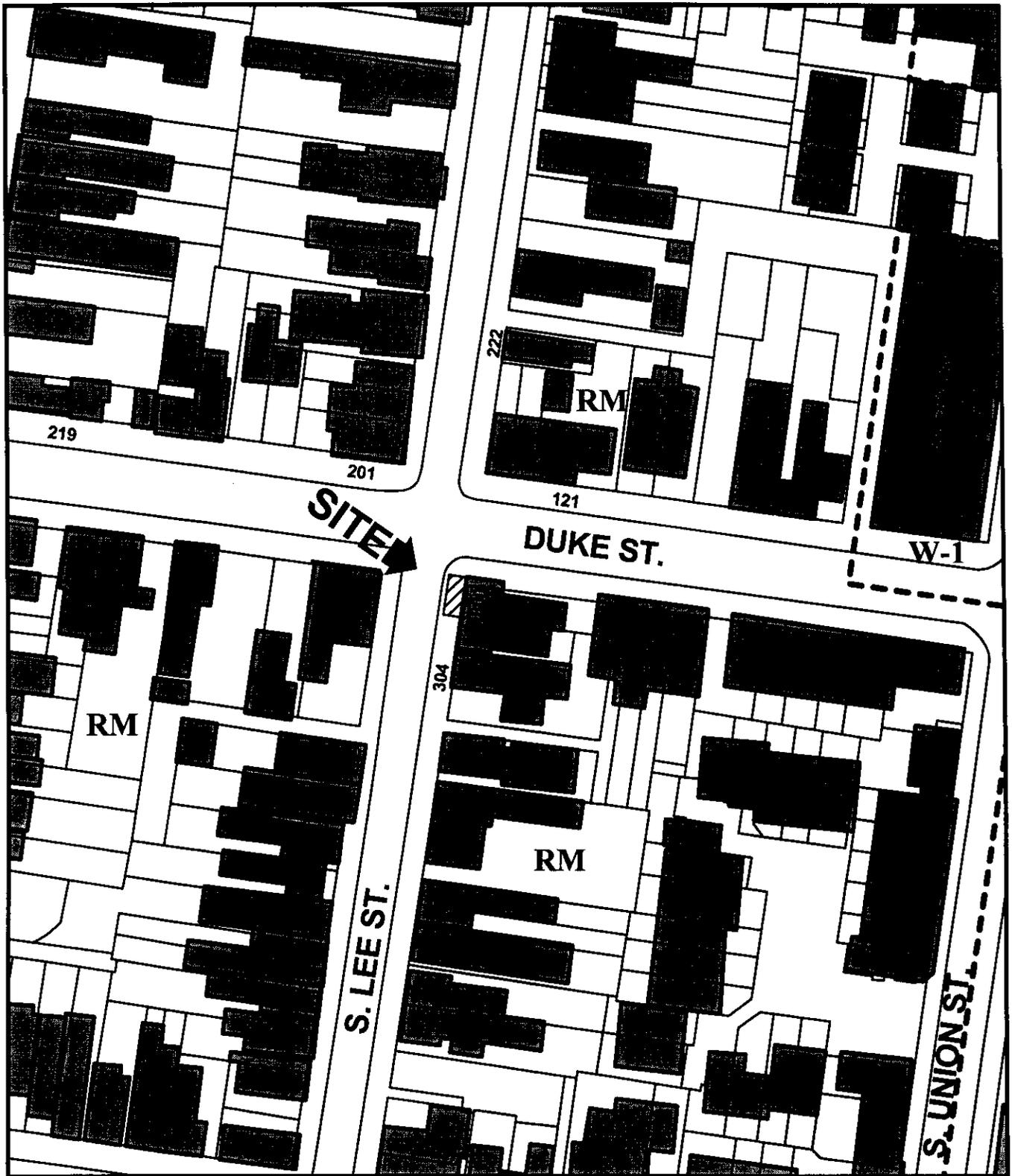
**Reason:** A majority of the Commission voiced support for the proposed window wells, given the fact that there were others in Old Town, including another encroachment case for similar window wells approved by the Commission as recently as last September. A minority was concerned that this approval would set a precedent for the future, and that the staff report should include more detail regarding obstructions on the sidewalk in front of the house.

**Speakers:**

Stephanie Dimond, architect, represented the applicant.

Duncan Blair, attorney, represented the applicant.

John Kennahan, 302 South Lee Street, spoke in opposition to the request, and expressed concern for the lack of detail regarding measurements in the staff report.



**ENC #2002-0002**

**07/02/02**



STAFF RECOMMENDATION:

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

1. The applicant (and his/her successors, if any) must obtain and maintain a policy of general liability insurance in the amount of \$1,000,000, which will indemnify the applicant 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. (T&ES)
2. In the event the City shall, in the future, have need for the area of the proposed encroachment, the applicant shall remove any structure or projection that encroaches into the public right-of-way, within 60 days, upon notification by the City. (P&Z)
3. Call Alexandria Archaeology immediately (703-838- 4399) if any buried structural remains (wall foundations, wells, privies, cisterns, etc.) or concentrations of artifacts are discovered during development. Work must cease in the area of the discovery until a City archaeologist comes to the site and records the finds. (Archaeology)
4. The above statement should appear on the site plan so that on-site contractors are aware of the requirement. (Archaeology)
5. **CONDITION DELETED BY PLANNING COMMISSION:** ~~This encroachment permit is only valid if the Board of Architectural Review application for the same proposed work is approved by the Board or by City Council on appeal. (P&Z)~~
6. Window wells must be covered to prevent pedestrians or animals from falling in the well. (T&ES)

DISCUSSION:

1. The applicants, Brian and Elizabeth Gibney, represented by architect Stephanie Diamond, request approval of an encroachment permit for two window wells and a front stoop at a residence at 300 South Lee Street.
2. The subject property is one lot of record with 20 feet of frontage on South Lee Street and a depth of 90 feet. The subject lot occupies the southeast corner at the intersection of South Lee and Duke Streets, and is approximately 1,800 square feet. The subject building is a two-story residential building. Adjacent buildings and city blocks are residential in character.
3. The applicant requests approval of an encroachment permit for two window wells at the basement level at the front of the building and for a changed front stoop. The front property line is at the front building wall of 300 S. Lee Street. Both the proposed window wells and the stoop project past this front property line into the public right-of-way.

The proposed window wells will allow construction of larger windows for the basement level and thus greater access to light for that level. The front stoop currently has a backwards "L" configuration. The entry steps rise parallel to the front wall of the house to a landing that allows one to turn straight towards the front door. This configuration will not work with the proposed window wells since these wells will occupy space currently used for accessing the front steps. To accommodate the proposed window wells and entry through the front door, the architect has proposed aligning the front steps so that one ascends straight up to the front door. Plans of the proposed elevation and photographs of the existing elevation are attached.

4. The proposed encroachment for each window well is 2 feet 9 inches deep and 6 feet long, and the total window well encroachment area is 2 feet 9 inches deep by 12 feet long. The proposed encroachment for the front stoop is 4 feet deep x 6 feet 8 inches long. The proposed front stoop is a littler deeper and shorter than the existing stoop, which is 3 ½ feet deep and 6 feet 10 ½ inches long.
5. If the proposed encroachment is granted, 6 feet 11 inches of public right-of-way/sidewalk will remain between the front stoop and the curb, a little over 8 feet of public right-of-way/sidewalk will remain between the window wells and the curb, and a little over 6 feet will remain between the window wells and a nearby stop sign.

The closest features within the sidewalk area are a stop sign and a telephone pole. These features stand near the subject house at the corner of South Lee and Duke Streets. The stop sign stands directly west of the northwest corner of the house, and the telephone pole stands directly west of the planting bed that runs along the northern wall of the house. Both features stand a little to the north of the proposed encroachment area. A photograph and diagram of this area is attached.

6. The applicant has applied to the Old and Historic Alexandria District Board of Architectural Review for a certificate of appropriateness for the work proposed here as well as other alterations to the facade. On May 1, 2002, the Board of Architectural Review approved all of the facade changes except that it denied the addition of basement windows and the window wells proposed. According to members of the Board, the windows remove original fabric and are an unnecessary alteration to an historic 19<sup>th</sup> century building. The applicant has appealed the denial of the window wells. The appeal was heard by the City Council at its public hearing on June 15, 2002 and was deferred for decision until June 25, 2002.
7. Master Plan/Zoning: The subject property is zoned RM (Townhouse Zone), and is included in the Old Town Small Area Plan.

STAFF ANALYSIS:

Staff supports the proposed encroachment application. Although from a historic design perspective the Board of Architectural Review has denied the request for window wells, the issue for the Planning Commission in an encroachment case relates to the use of the public right-of-way. In this case the encroachment will not obstruct pedestrian use of the public sidewalk and both the stoop and the window wells remove very little additional public right-of-way. Approximately 6 to 8 feet of public right-of-way will remain for pedestrian use in front of the window wells and 6 feet 11 inches will remain for pedestrian use in front of the stoop after construction.

Therefore, staff recommends approval of the encroachment application subject to staff's proposed list of conditions.

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 objections to the proposed encroachment request.
- R-1 The applicant (and his/her successors, if any) must obtain and maintain a policy of general liability insurance in the amount of \$1,000,000, which will indemnify the applicant 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.
- R-2 Window wells must be covered to prevent pedestrians or animals from falling in the well.
- R-3 A minimum 5 foot wide pedestrian pathway shall be maintained.

Code Enforcement:

- C-1 Alteration to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-2 Alteration to the existing structure and/or installation and/or altering of equipment therein requires a building permit. The plans must include all dimensions and construction alterations details.

Health Department:

- F-1 No comments.

Police Department:

- F-1 No comments.

Historic Alexandria - Archaeology:

- F-1 Mutual Assurance records indicate that structures may have been present on this property during the eighteenth century. By 1885, Sanborn Insurance maps show a house on the lot. The property therefore has the potential to provide insight into life in Alexandria during the eighteenth and nineteenth centuries.
- R-1 Call Alexandria Archaeology immediately (703-838- 4399) if any buried structural remains (wall foundations, wells, privies, cisterns, etc.) or concentrations of artifacts are discovered during development. Work must cease in the area of the discovery until a City archaeologist comes to the site and records the finds.
- R-2 The above statement should appear on the site plan so that on-site contractors are aware of the requirement.

MVH.

# APPLICATION for ENCROACHMENT

ENC # 2002-0002

\*Applicant will be providing insurance info and metes and bounds description.

[must use black ink or type]

PROPERTY LOCATION: 300 S. LEE ST

TAX MAP REFERENCE: 75.03 Block 05 Lot 01 ZONE: RM

APPLICANT'S NAME: STEPHANIE DIMOND FOR BRIAN & ELIZ. GIBNET

ADDRESS: 6 W. MAPLE ST.; ALEXANDRIA, VA 22301

PROPERTY OWNER NAME: BRIAN & ELIZ. GIBNET

ADDRESS: 300 S. LEE ST. ALE

ENCROACHMENT DESCRIPTION: TWO WINDOW WELLS AT EXISTING BASEMENT FRONT WINDOWS; FRONT STOOP AT EXISTING FRONT ENTRY

INSURANCE CARRIER (copy attached) \_\_\_\_\_ POLICY # \_\_\_\_\_

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.

STEPHANIE R. DIMOND  
Print Name of Applicant or Agent

[Signature]  
Signature

6 W. MAPLE ST.  
Mailing/Street Address

703 836 8437 703 836 8437  
Telephone # Fax #

ALEXANDRIA, VA 22301  
City and State Zip Code

3.25.02  
Date

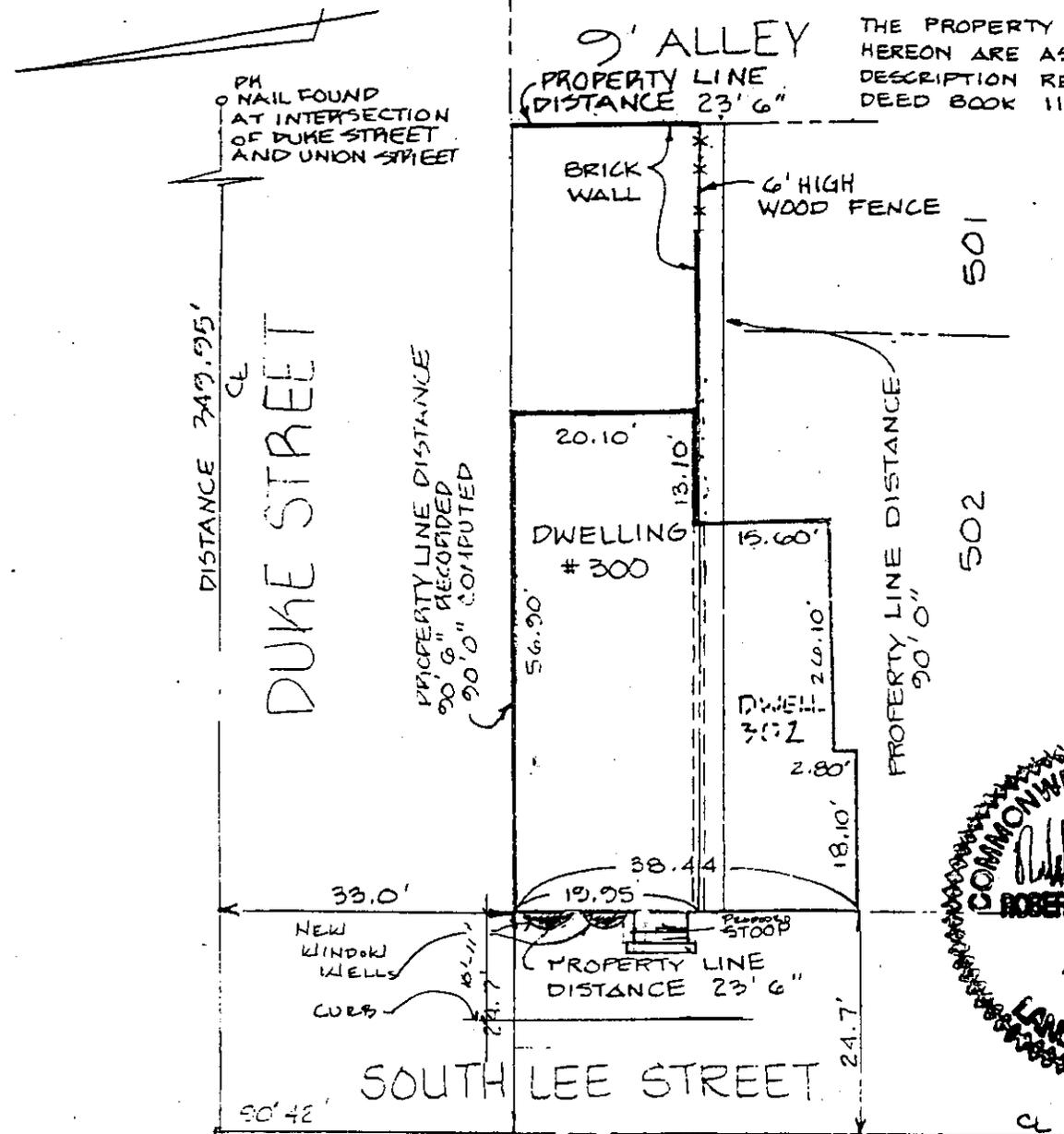
=====**DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY**=====

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

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

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

No corner markers set since owner, contract purchaser or legal agent agreed in writing to waive the setting of corner monumentation in connection with the House Location Survey.



THE PROPERTY LINES SHOWN HEREON ARE AS PER THE DESCRIPTION RECORDED IN DEED BOOK 1164, PG 388.



ENC. 2002-0002

CONCRETE MONUMENT FOUND

HOUSE LOCATION ON THE PROPERTY OF  
**BRIAN & ELIZABETH GIBNEY**  
 300 SOUTH LEE STREET  
 CITY OF ALEXANDRIA, VIRGINIA

SCALE: 1" = 20'      DATE: 4-28-97 (W)

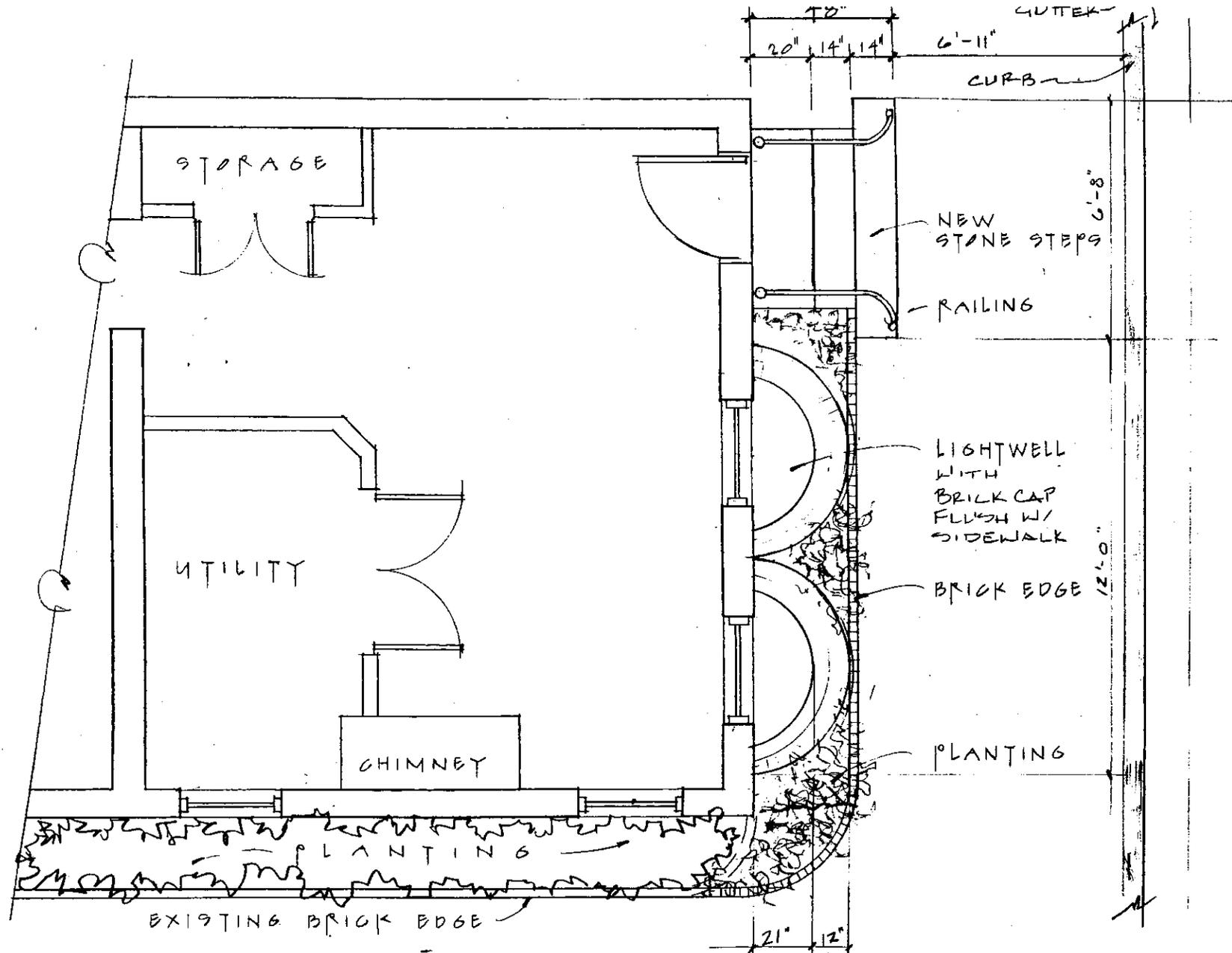
**DEWBERRY and DAVIS**  
 ENGINEERS - ARCHITECTS - SURVEYORS - PLANNERS  
 8401 ARLINGTON BOULEVARD, FAIRFAX, VIRGINIA

THIS HOUSE LOCATION SURVEY HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND DOES NOT PURPORT TO REFLECT ALL EASEMENTS, ENCUMBRANCES OR OTHER CIRCUMSTANCES AFFECTING THE TITLE TO THE SUBJECT PROPERTY AND IS NOT INTENDED TO BE USED AS AN AID FOR THE CONSTRUCTION OF FENCES OR ANY OTHER IMPROVEMENTS.

REFERENCE: DRAWN BY: PAM  
 DB. 1164 PG. 388 CHECKED BY: RJC

THIS LOT IS NOT IN A HUD IDENTIFIED "SPECIAL FLOOD HAZARD" AREA AS PER THE FLOOD INSURANCE RATE MAP OF CITY OF ALEXANDRIA, VIRGINIA, DATED MAY 15, 1991.

01



SITE PLAN - 300 S. LEE ST.

SCALE = 1/4" = 1' - 0"

ENC. 2002-0002

ENC. 2002-0002

ERMAN



1/2  
S

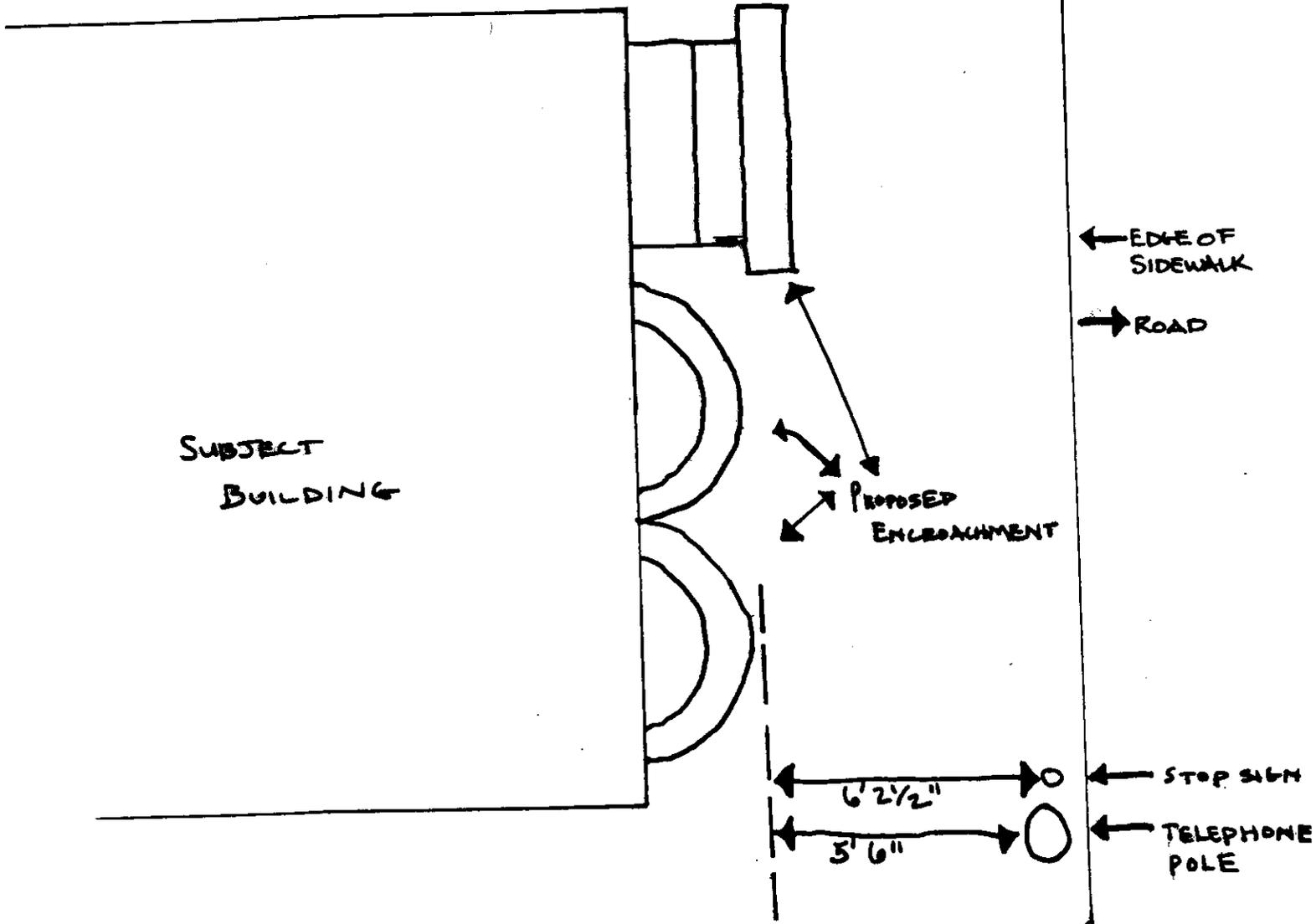
FRONT ELEVATION - 300 S. LEE ST.

SCALE = 1/4" = 1' - 0"

ENC. 2002 - 0002



SIDE ELEVATION - 300 S. LEE ST.  
SCALE: 1/4" = 1' - 0"



SUBJECT BUILDING

← EDGE OF SIDEWALK

→ ROAD

PROPOSED ENCROACHMENT

6' 2 1/2"

← STOP SIGN

3' 6"

← TELEPHONE POLE



PLAN OF EXISTING STOP SIGN AND TELEPHONE POLE RELATIVE TO PROPOSED ENCROACHMENTS

ENC # 2002-0002  
300 S. LEE ST.  
\*PREPARED BY P&Z  
CITY OF ALEXANDRIA  
7-17-02  
NTS

\*STAFF USED APPLICANT'S PLAN AS A BASE MAP FOR BUILDING, ENCROACHMENT, AND SIDEWALK FOOTPRINT.



Depth of the  
Encroachment Area →

ENC. 2002-0002  
300 S. LEE ST.

72M S LEE ST

MVP

24

# APPLICATION for ENCROACHMENT

ENC # 2002-0002

\*Applicant will be providing insurance info and metes and bounds description.

[must use black ink or type]

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ADDRESS: 6 W. MAPLE ST.; ALEXANDRIA, VA 22301

PROPERTY OWNER NAME: BRIAN & ELIZ. GIBNEY

ADDRESS: 300 S. LEE ST. N/A

ENCROACHMENT DESCRIPTION: TWO WINDOW WELLS AT EXISTING BASEMENT FRONT WINDOWS; FRONT STOOP AT EXISTING FRONT ENTRY

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STEPHANIE R. DIMOND  
Print Name of Applicant or Agent

[Signature]  
Signature

6 W. MAPLE ST.  
Mailing/Street Address

703.836.8437      703.836.8437  
Telephone #              Fax #

ALEXANDRIA, VA 22301  
City and State              Zip Code

3.25.02  
Date

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

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

ACTION - PLANNING COMMISSION: 7/02/02 RECOMMEND APPROVAL 5-2

ACTION - CITY COUNCIL: 9/14/02PH-SEE ATTACHED

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

Planning Commission (continued)

22. TEXT AMENDMENT #2002-0002  
4251 EISENHOWER AV  
CITY RECYCLING CENTER  
Public Hearing and Consideration of an amendment to Section 6-105 of the Zoning Ordinance to allow a recycling center in the POS zone.

COMMISSION ACTION: Recommend Approval 7-0

City Council approved the Planning Commission recommendation.

Council Action: \_\_\_\_\_

23. DEVELOPMENT SPECIAL USE PERMIT #2002-0007  
4251 EISENHOWER AV  
CITY RECYCLING CENTER  
Public Hearing and Consideration of a request for a development special use permit, with site plan, for a recycling facility; zoned POS/Public Open Space. Applicant: City of Alexandria, Department of Transportation and Environmental Services, by Richard Baier, Director.

COMMISSION ACTION: Recommend Approval 7-0

City Council approved the Planning Commission recommendation.

Council Action: \_\_\_\_\_

- ~~24~~ ENCROACHMENT #2002-0002  
300 S LEE ST  
Public Hearing and Consideration of a request for encroachment into the public right-of-way for construction of two window wells and a front stoop; zoned RM/Residential. Applicant: Brian and Elizabeth Gibney, by Stephanie Dimond.

COMMISSION ACTION: Recommend Approval 5-2

Councilman Speck asked Attorney Blair what if any work is done that should, in any way, damage adjacent property, what is his response? Mr. Blair responded that insurance will be provided, a bond will be provided, and the building code provides that access to the property is given, and the owner is responsible for damage caused by the activities.

Councilman Speck asked when the applicant has detailed plans, drawings, etc., do you intend to share them? Attorney Blair responded in the affirmative.

Mayor Donley stated that Mr. Blair has made the representations, as he has in the past, regarding the bond and any damage done to adjoining properties.

Attorney Blair stated that they will be done prior to the issuance of the building permit and in a timely manner.

City Council approved the Planning Commission recommendation.

Council Action: \_\_\_\_\_

# SPEAKER'S FORM

**PLEASE COMPLETE THIS FORM AND GIVE IT TO THE CITY CLERK  
BEFORE YOU SPEAK ON A DOCKET ITEM.**

DOCKET ITEM NO. 24

PLEASE ANNOUNCE THE INFORMATION SPECIFIED BELOW PRIOR TO SPEAKING.

1. NAME: DUNDEAN W BLAIR
2. ADDRESS: 524 King St.
3. WHOM DO YOU REPRESENT, IF OTHER THAN YOURSELF? Brian & Elizabeth Gibney
4. WHAT IS YOUR POSITION ON THE ITEM?  
FOR:  AGAINST: \_\_\_\_\_ OTHER: \_\_\_\_\_
5. NATURE OF YOUR INTEREST IN ITEM (PROPERTY OWNER, ATTORNEY,  
LOBBYIST, CIVIC INTEREST, ETC.):  
attorney
6. ARE YOU RECEIVING COMPENSATION FOR THIS APPEARANCE BEFORE  
COUNCIL? YES  NO

This form shall be kept as a part of the Permanent Record in those instances where financial interest or compensation is indicated by the speaker.

A maximum of 5 minutes will be allowed for your presentation. If you have a prepared statement, please leave a copy with the City Clerk.

Additional time, not to exceed 15 minutes, may be obtained with the consent of the majority of the Council present, provided that notice requesting additional time with reasons stated is filed with the City Clerk in writing before 5:00 p.m. of the day preceding the meeting.

The public normally may speak on docket items only at Public Hearing Meetings, and not at Regular Meetings. Public Hearing Meetings are usually held on the Saturday following the second Tuesday in each month; Regular Meetings are regularly held on the Second and Fourth Tuesdays in each month. The rule with respect to when a person may speak to a docket item can be waived by a majority vote of Council members present, but such a waiver is not normal practice. When a speaker is recognized, the rules of procedures for speakers at public hearing meetings shall apply.

In addition, the public may speak on matters which are not on the docket during the Public Discussion Period at Public Hearing Meetings. The Mayor may grant permission to a person, who is unable to participate in public discussion at a Public Hearing Meeting for medical, religious, family emergency or other similarly substantial reasons, to speak at a regular meeting. When such permission is granted, the rules of procedures for public discussion at public hearing meetings shall apply.

### Guidelines for the Public Discussion Period

- All speaker request forms for the public discussion period must be submitted by the time the item is called by the City Clerk.
- No speaker will be allowed more than 5 minutes, and that time may be reduced by the Mayor or presiding member.
- If more than 6 speakers are signed up or if more speakers are signed up than would be allotted for in 30 minutes, the Mayor will organize speaker requests by subject or position, and allocate appropriate times, trying to ensure that speakers on unrelated subjects will also be allowed to speak during the 30-minute public discussion period.
- If speakers seeking to address Council on the same subject cannot agree on a particular order or method that they would like the speakers to be called, the speakers shall be called in the chronological order of their request forms' submission.
- Any speakers not called during the public discussion period will have the option to speak at the conclusion of the meeting, after all docketed items have been heard.

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DOCKET ITEM NO. 24

PLEASE ANNOUNCE THE INFORMATION SPECIFIED BELOW PRIOR TO SPEAKING.

1. NAME: STEPHANIE DIMOND

2. ADDRESS: 6 W Maple St Alex Va

TELEPHONE NO. 703 836 8434 E-MAIL ADDRESS: \_\_\_\_\_

3. WHOM DO YOU REPRESENT, IF OTHER THAN YOURSELF? \_\_\_\_\_

Beth + BRIAN GIDNEY

4. WHAT IS YOUR POSITION ON THE ITEM?

FOR:  AGAINST: \_\_\_\_\_ OTHER: \_\_\_\_\_

5. NATURE OF YOUR INTEREST IN ITEM (PROPERTY OWNER, ATTORNEY, LOBBYIST, CIVIC INTEREST, ETC.):

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