EXHIBIT NO. 1

21
10-18-03

~~27~~
~~10-14-03~~

Introduction and first reading:	10/14/03
Public hearing:	10/18/03
Second reading and enactment:	10/18/03

INFORMATION ON PROPOSED ORDINANCE

Title

AN ORDINANCE authorizing MEL & OUD, LC to establish and maintain an encroachment for bay windows into the public sidewalk right-of-way at 1104 King Street, in the City of Alexandria, Virginia.

Summary

The proposed ordinance permits the owner of the property at 1104 King Street to construct two bay windows, which will encroach into the public sidewalk right-of-way at 1104 King Street, in the City of Alexandria, Virginia.

Sponsor

Staff

Eileen P. Fogarty, Director, Planning & Zoning
Ignacio B. Pessoa, City Attorney

Authority

§ 2.04(e), Alexandria City Charter

Estimated Costs of Implementation

None

Attachments in Addition to Proposed Ordinance and its Attachments (if any)

None

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EXHIBIT NO. 2

ORDINANCE NO. _____

AN ORDINANCE authorizing MEL & OUD, LC to establish and maintain an encroachment for bay windows into the public sidewalk right-of-way at 1104 King Street, in the City of Alexandria, Virginia.

WHEREAS, MEL & OUD, LC ("Owner") is the Owner of the commercial property located at 1104 King Street, in the City of Alexandria, Virginia; and

WHEREAS, Owner desires to establish and maintain bay windows which will encroach into the public sidewalk right-of-way at 1104 King Street; and

WHEREAS, the public right-of-way at that point on 1104 King Street will not be significantly impaired by this encroachment; and

WHEREAS, this encroachment has been approved by the Planning Commission of the City of Alexandria at one of its regular meetings subject to certain conditions; and

WHEREAS, it has been determined by the Council of the City of Alexandria that this encroachment is not detrimental to the public interest; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Owner be, and the same hereby is, authorized to establish and maintain an encroachment into the public sidewalk right-of-way at 1104 King Street, in the City of Alexandria, said encroachment consisting of bay windows, as generally shown on the Encroachment Plan attached hereto, until the encroachment is removed or destroyed or the authorization to maintain it is terminated by the city; provided, that this authorization to establish and maintain the encroachment shall not be construed to relieve Owner of liability for any negligence on his part on account of or in connection with the encroachment and shall be subject to the provisions set forth below.

Section 2. That the authorization hereby granted to establish and maintain said encroachment shall be subject to and conditioned upon Owner maintaining, at all times and at his own expense, liability insurance, covering both bodily injury and property damage, with a company authorized to transact business in the Commonwealth of Virginia and with minimum limits as follows:

Bodily Injury:	$1,000,000 each occurrence $1,000,000 aggregate
Property Damage:	$1,000,000 each occurrence $1,000,000 aggregate

This liability insurance policy shall identify the City of Alexandria and Owner as named insureds and shall provide for the indemnification of the City of Alexandria and Owner against any and all loss occasioned by the establishment, construction, placement, existence, use or maintenance of the encroachment. Evidence of the policy and any renewal thereof shall be filed with the city attorney's office. Any other provision herein to the contrary notwithstanding, in the event this policy of insurance lapses, is canceled, is not renewed or otherwise ceases to be in force and effect, the authorization herein granted to establish and maintain the encroachment shall, at the option of the city, forthwith and without notice or demand by the city, terminate. In that event, Owner shall, upon notice from the city, remove the encroachment from the public right-of-way, or the city, at its option, may remove the encroachment at the expense and risk of Owner. Nothing in this section shall relieve Owner of his obligations and undertakings required under this ordinance.

Section 3. That the authorization hereby granted to establish and maintain said encroachment shall in addition be subject to and conditioned upon the following terms:

(a) Neither the City of Alexandria nor any public utility company shall be responsible for damage to Owner's property encroaching into the public right-of-way during repair, maintenance or replacement of the public right-of-way or any public facilities or utilities in the area of encroachment.

(b) Owner shall place green safety fencing around the existing tree well to protect the tree during construction or renovation on the Owner's property and in the public right-of-way. No entry onto or disturbance of the ground, and no storage of construction supplies, equipment or material, of any type shall be allowed within the tree protection area.

Section 4. That by accepting the authorization hereby granted to establish and maintain the encroachment and by so establishing and/or maintaining the encroachment, Owner shall be deemed to have promised and agreed to save harmless the City of Alexandria from any and all liability (including attorneys' fees and litigation expenses) arising by reason of the establishment, construction, placement, existence, use or maintenance of the encroachment.

Section 5. That the authorization herein granted to establish and maintain the encroachment shall be subject to Owner's maintaining the area of the encroachment at all times unobstructed and free from accumulation of litter, snow, ice and other potentially dangerous matter.

Section 6. That nothing in this ordinance is intended to constitute, or shall be deemed to be, a waiver of sovereign immunity by or on behalf of the City of Alexandria or any of its officers or employees.

Section 7. That Owner shall timely pay to the City of Alexandria for the encroachment authorized herein the annual charge established in § 3-2-85 of The Code of the City of Alexandria, Virginia, 1981, as amended.

Section 8. That the authorization herein granted to establish and maintain the encroachment shall be terminated whenever the City of Alexandria desires to use the affected public right-of-way for any purpose whatsoever and, by written notification, demands from Owner the removal of the encroachment. Said removal shall be completed by the date specified in the notice and shall be accomplished by Owner without cost to the city. If Owner cannot be found, or shall fail or neglect to remove the encroachment within the time specified, the city shall have the right to remove the encroachment, at the expense of Owner, and shall not be liable to Owner for any loss or damage to the structure of the encroachment caused by the removal.

Section 9. That this ordinance shall be effective upon the date and at the time of its final passage.

WILLIAM D. EUILLE
Mayor

Introduction: 10/14/03
First Reading: 10/14/03
Publication:
Public Hearing:
Second Reading:
Final Passage:

Attachment: Encroachment Plan

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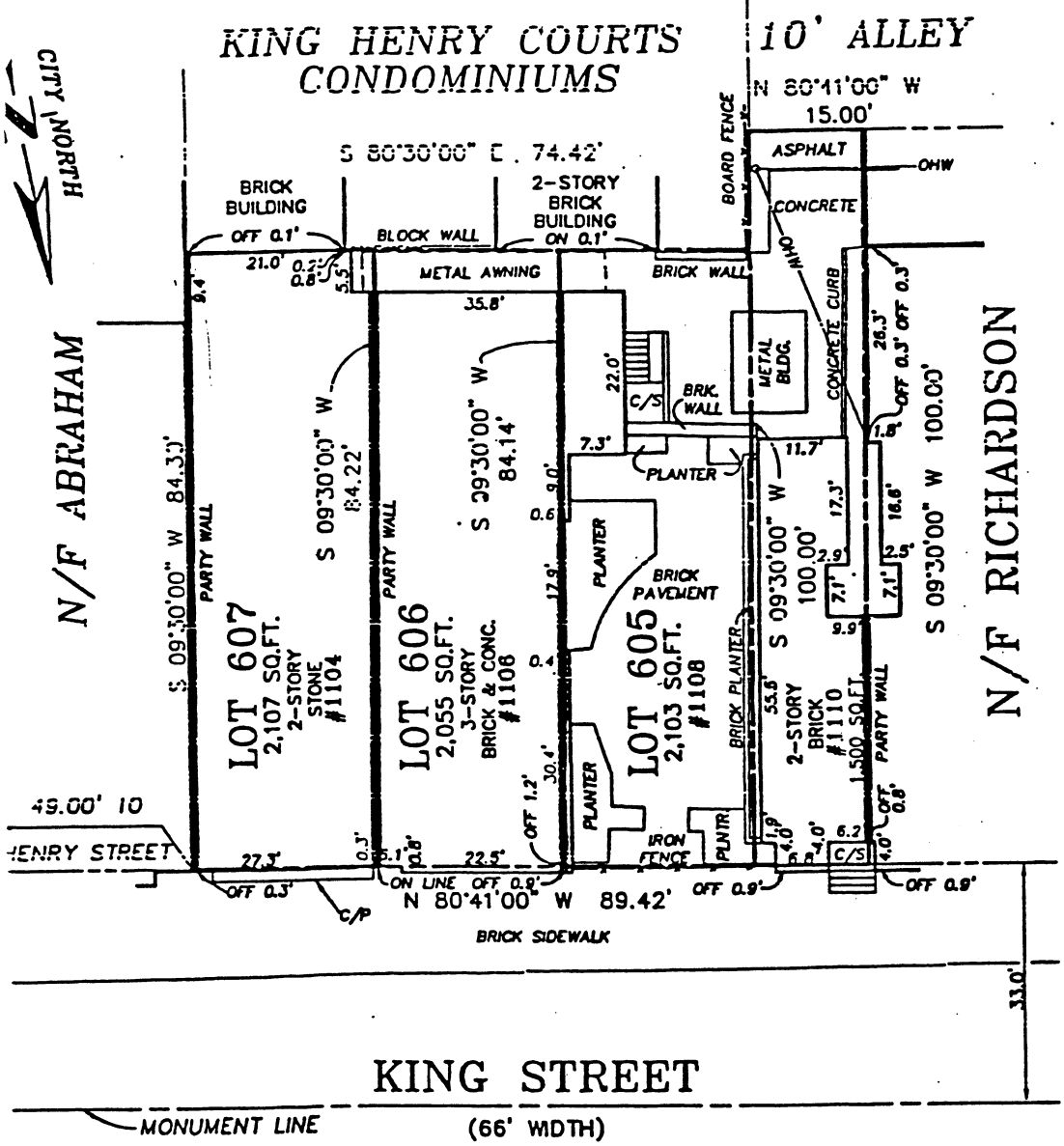
NOTE
THIS PLAT HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND DOES NOT NECESSARILY INDICATE ALL ENCUMBRANCES ON THE PROPERTY.



LOT 605, 606 AND 607 CONSOLIDATION AND RESUBDIVISION OF THE LANDS OF SYLVIA COHEN

(PLAT SHOWN IN DEED BOOK 899 , AT PAGE 744)

AND

#1110 KING STREET

(PLAT SHOWN IN DEED BOOK 872 , AT PAGE 692)

CITY OF ALEXANDRIA, VIRGINIA

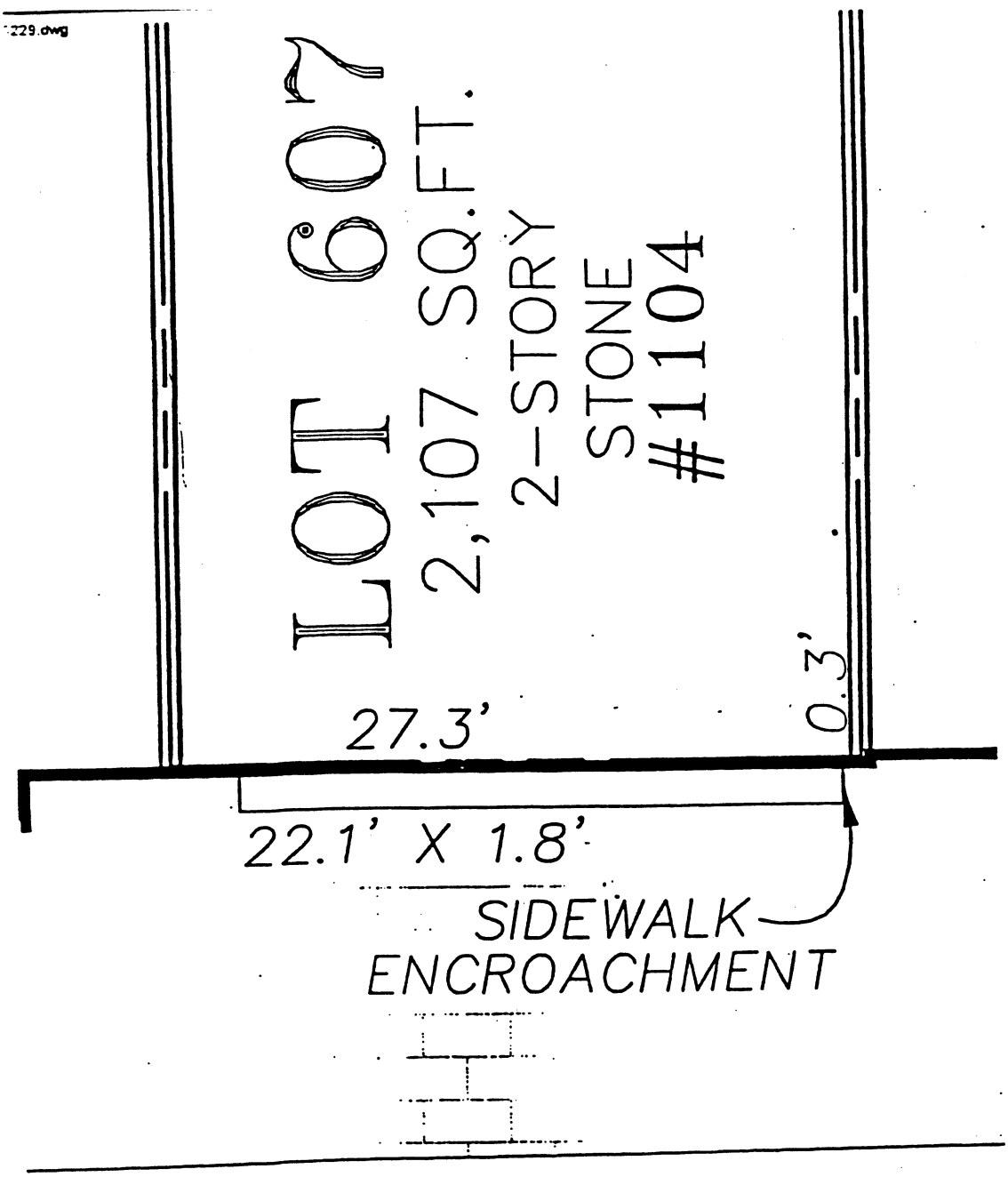
THE ENGINEERING GROUPE, INC.
·D/B/A·
ABSOLUTE SURVEYS
3918 PROSPERITY AVENUE
SUITE 319
FAIRFAX, VIRGINIA 22031
PHONE: (703)-641-0476 FAX: 641-0836

TAX MAP # N/A	
CASE # 02-0335	
WORK ORDER # 40229	
OWNER: SHAMA RESTAURANT	
PURCHR: MEL AND OUD L.C	
DATE: 04/01/02	
SCALE: 1" = 20'	DRAFTED BY: DG

COMMONWEALTH OF VIRGINIA
04/23/02
NED A. MARSHALL
NO. 2015
LAND SURVEYOR

END
= CONCRETE PAD
= CHIMNEY
· AIR CONDITIONER
= OVERHEAD WIRES
· BAY OR BOX WINDOW
= OVERHANG
= IRON PIPE FOUND

229.dwg



VC 2002-0007

EXHIBIT SHOWING SIDEWALK ENCROACHMENT

1104 KING STREET
CITY OF ALEXANDRIA, VIRGINIA

THE ENGINEERING GROUPE, INC.
·D/B/A·
ABSOLUTE SURVEYS
3918 PROSPERITY AVENUE
SUITE 319
FAIRFAX, VIRGINIA 22031
PHONE: (703)-641-0476 FAX: 641-0836

GEND
S = CONCRETE STOOP
IM. = CHIMNEY
= AIR CONDITIONER
W = OVERHEAD WIRES
' = BAY OR BOX WINDOW
G = OVERHANG
PF = IRON PIPE FOUND

TAX MAP # N/A	
CASE # 02-0335	
WORK ORDER # 40229	
OWNER: SHAMA_RESTAURANT	
PURCHR: MEL_AND_OUD_L.C.	
DATE: 04/01/02	
SCALE: 1" = 5'	DRAFTED BY: DG

8 12 6

20, 21, 10/18/03

-CITY SEAL-

Public Hearing will be held by the City Council of the City of Alexandria, Virginia, in the Council Chambers, City Hall, City of Alexandria, Virginia, on Saturday, October 18, 2003, at 9:30 a.m., or as soon thereafter as may be heard on the hereinafter described ordinances.

****

TITLE OF ORDINANCE

AN ORDINANCE to approve an encroachment into the public sidewalk right-of-way at 105 South Fairfax Street.
The proposed ordinance permits the Stabler Leadbeater Apothecary Museum to establish and maintain an encroachment for bay windows into the public sidewalk right-of-way at 105 South Fairfax Street, in the City of Alexandria, Virginia.

****

TITLE OF ORDINANCE

AN ORDINANCE to approve an encroachment into the public sidewalk right-of-way at 1104 King Street.
The proposed ordinance permits the owner of the property at 1104 King Street to construct two bay windows, which will encroach into the public sidewalk right-of-way at 1104 King Street, in the City of Alexandria, Virginia.

****

NOTICE OF PUBLIC HEARING for the receipt of the proposed renewal grant for the Law Enforcement Block Grant Program for FY 2004.
In August 2003, Police staff received an email notification that the Federal FY 2003 grant application process was open on-line through the U.S. Department of Justice's web site. Staff completed the application, and the renewal grant was awarded on August 30, 2003, contingent upon City Council's approval of the grant submission within 90 days.

THE PUBLIC IS ADVISED THAT AMENDMENTS OR ADDITIONS MAY BE MADE TO PROPOSED ORDINANCES WITHOUT FURTHER PUBLICATION. IT IS RECOMMENDED THAT PERSONS INTERESTED IN ANY OF THESE ORDINANCES OBTAIN FREE FULL-TEXT COPIES FROM THE CITY CLERK AT CITY HALL. JACKIE M. HENDERSON, CMC, CITY CLERK

To be published in the:

The Washington Times on Thursday, October 16 , 2003
Alexandria Gazette Packet on Thursday, October 16, 2003

ORDINANCE NO. 4318

AN ORDINANCE authorizing MEL & OUD, LC to establish and maintain an encroachment for bay windows into the public sidewalk right-of-way at 1104 King Street, in the City of Alexandria, Virginia.

WHEREAS, MEL & OUD, LC ("Owner") is the Owner of the commercial property located at 1104 King Street, in the City of Alexandria, Virginia; and

WHEREAS, Owner desires to establish and maintain bay windows which will encroach into the public sidewalk right-of-way at 1104 King Street; and

WHEREAS, the public right-of-way at that point on 1104 King Street will not be significantly impaired by this encroachment; and

WHEREAS, this encroachment has been approved by the Planning Commission of the City of Alexandria at one of its regular meetings subject to certain conditions; and

WHEREAS, it has been determined by the Council of the City of Alexandria that this encroachment is not detrimental to the public interest; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Owner be, and the same hereby is, authorized to establish and maintain an encroachment into the public sidewalk right-of-way at 1104 King Street, in the City of Alexandria, said encroachment consisting of bay windows, as generally shown on the Encroachment Plan attached hereto, until the encroachment is removed or destroyed or the authorization to maintain it is terminated by the city; provided, that this authorization to establish and maintain the encroachment shall not be construed to relieve Owner of liability for any negligence on his part on account of or in connection with the encroachment and shall be subject to the provisions set forth below.

Section 2. That the authorization hereby granted to establish and maintain said encroachment shall be subject to and conditioned upon Owner maintaining, at all times and at his own expense, liability insurance, covering both bodily injury and property damage, with a company authorized to transact business in the Commonwealth of Virginia and with minimum limits as follows:

Bodily Injury:	$1,000,000 each occurrence $1,000,000 aggregate
Property Damage:	$1,000,000 each occurrence $1,000,000 aggregate

This liability insurance policy shall identify the City of Alexandria and Owner as named insureds and shall provide for the indemnification of the City of Alexandria and Owner against any and all loss occasioned by the establishment, construction, placement, existence, use or maintenance of the encroachment. Evidence of the policy and any renewal thereof shall be filed with the city attorney's office. Any other provision herein to the contrary notwithstanding, in the event this policy of insurance lapses, is canceled, is not renewed or otherwise ceases to be in force and effect, the authorization herein granted to establish and maintain the encroachment shall, at the option of the city, forthwith and without notice or demand by the city, terminate. In that event, Owner shall, upon notice from the city, remove the encroachment from the public right-of-way, or the city, at its option, may remove the encroachment at the expense and risk of Owner. Nothing in this section shall relieve Owner of his obligations and undertakings required under this ordinance.

Section 3. That the authorization hereby granted to establish and maintain said encroachment shall in addition be subject to and conditioned upon the following terms:

(a) Neither the City of Alexandria nor any public utility company shall be responsible for damage to Owner's property encroaching into the public right-of-way during repair, maintenance or replacement of the public right-of-way or any public facilities or utilities in the area of encroachment.

(b) Owner shall place green safety fencing around the existing tree well to protect the tree during construction or renovation on the Owner's property and in the public right-of-way. No entry onto or disturbance of the ground, and no storage of construction supplies, equipment or material, of any type shall be allowed within the tree protection area.

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Section 6. That nothing in this ordinance is intended to constitute, or shall be deemed to be, a waiver of sovereign immunity by or on behalf of the City of Alexandria or any of its officers or employees.

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Section 9. That this ordinance shall be effective upon the date and at the time of its final passage.

WILLIAM D. EUILLE
Mayor

Final Passage: October 18, 2003

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