

Docket Item #3  
ENCROACHMENT #2004-0011

Planning Commission Meeting  
March 1, 2005

**ISSUE:** Consideration of a request for encroachment into the public right-of-way for a retaining wall and fence.

**APPLICANT:** Linda Lewis  
by C. Kaya Biron, AIA

**LOCATION:** 315 North Payne Street

**ZONE:** RB/Residential

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**PLANNING COMMISSION ACTION, MARCH 1, 2005:** By unanimous consent, the Planning Commission recommended approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendations.

Reason: The Planning Commission agreed with the staff analysis.

**PLANNING COMMISSION ACTION, FEBRUARY 1, 2005:** The Planning Commission noted the deferral of the request.

Reason: The applicant failed to comply with the requirements for legal notice.

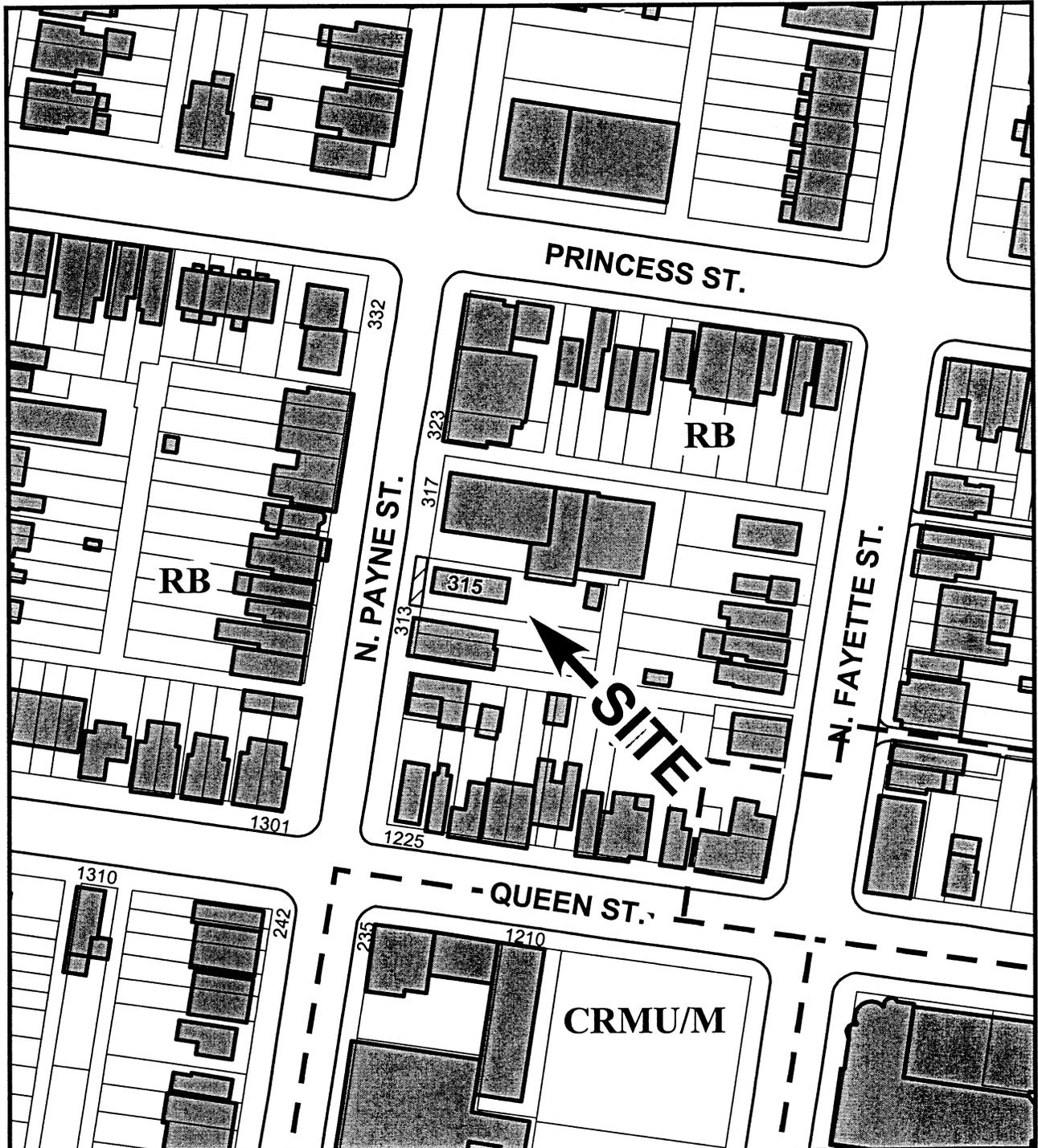
**PLANNING COMMISSION ACTION, JANUARY 6, 2005:** The Planning Commission noted the deferral of the request.

Reason: The applicant failed to comply with the requirements for legal notice.

**PLANNING COMMISSION ACTION, DECEMBER 7, 2004:** By unanimous consent, the Planning Commission deferred the request.

Reason: The applicant requested the deferral.

**STAFF RECOMMENDATION:** Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the permit conditions found in section III of this report.



**ENC #2004-0011**

**03/01/05**



## I. DISCUSSION

### REQUEST

The applicant, Linda Lewis by, C. Kaya Biron, architect, requests approval of an encroachment into the public right-of-way to replace an existing retaining wall and fence located at 315 North Payne Street.

### SITE DESCRIPTION

The property is one lot of record with 30 feet of frontage on North Payne Street and a total lot area of 3,523 square feet. The site is developed with a free-standing, two story, frame house. Residential uses surround the property to the east, south and west. The Mount Jezreel Baptist Church is located to the north, adjacent to the subject property. A majority of the other properties with frontage on the east side of the 300 block of North Payne Street have retaining walls and/or fences encroaching into the public right-of-way.

### PROJECT DESCRIPTION

The applicant requests approval of a 5.50 feet wide and 30.00 feet long encroachment into the public right-of-way along North Payne Street. The proposed encroachment has a total area of 165 square feet. The date of the existing retaining wall and chain link fence is unknown, but probably is mid-20th century. The area is maintained by the applicants and appears to be part of their property. The applicants request to enclose this area with a 4.5 feet high brick retaining wall and 3.5 feet decorative metal fence.



### ZONING/MASTER PLAN

The subject property is located in the RB/Townhouse zone and in the Parker-Gray Historic District. On July 28, 2004, the Parker-Gray Board of Architectural Review, approved a Certificate of Appropriateness to replace the existing brick retaining wall and chain link fence with a new brick wall and decorative metal fence.

## II. STAFF ANALYSIS

Staff supports this encroachment request to allow the applicant to replace the existing brick retaining wall and chain link fence with a new brick retaining wall and decorative metal fence along North Payne Street.

The Parker-Gray Board of Architectural Review determined that the brick retaining wall and decorative metal fence are acceptable. While the proposed curved brick wall, flaring steps and ornamental metal fence and gate are somewhat more ornate than is warranted for this simple vernacular house, it will have a more historical appearance than the existing wall topped with a chain link fence.

## III. RECOMMENDED 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.) (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) (T&ES)
3. Neither the City nor any private utility company will be held responsible for damage to the private improvements in the public right-of-way during repair, maintenance or replacement of any utilities that may be located within the area of the proposed encroachment. (T&ES)
4. The north and south lines of the replacement retaining wall and fence must align with the north and south property lines. (P&Z-BAR)
5. The brick to be used for the new wall shall be approved by Staff prior to construction. (P&Z-BAR)

STAFF: Eileen Fogarty, Director, Department of Planning and Zoning;  
Mary Christesen, Planning Technician

#### IV. CITY DEPARTMENT COMMENTS

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

##### Transportation & Environmental Services:

- 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 his/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.
- R-2 Neither the City nor any Private utility company will be held responsible for damage to the private improvements in the public right-of-way during repair, maintenance or replacement of any utilities that may be located within the area of the proposed encroachment.
- R-3 In the event the City shall, in the future, have need for the area of the proposed encroachment, the applicant shall remove any fence or structure that encroached into the public right-of-way, within 90 days, upon notification by the City.

##### Code Enforcement:

- C-1 The proposed project will require a construction permit.

##### Health Department:

- F-1 No comments.

##### Police Department:

- F-1 No objections.

BAR:

- F-1 The property at 315 North Payne Street is located within the Parker-Gray Historic District. The proposed replacement wall and fence were approved by the Parker-Gray Board of Architectural Review on July 28, 2004 with the following conditions:
1. That the encroachment on the north and south property lines be resolved with respect to the replacement wall and fence;
  2. That the encroachment ordinance is approved by City Council; and,
  3. That the brick to be used for the new wall be approved by Staff prior to construction.

APPLICATION for ENCROACHMENT # 2004-0011

[must use black ink or type]

PROPERTY LOCATION: 315 H. PAYNE

TAX MAP REFERENCE: 004.01-12-22 ZONE: RB

APPLICANT'S NAME: C. KAYA BIRON, AIA

ADDRESS: 1719 RUPERT ST. McLEAN, VA. 22101

PROPERTY OWNER NAME: LINDA LEWIS

ADDRESS: 315 H. PAYNE

ENCROACHMENT DESCRIPTION: EXISTING RETAINING WALL TO BE REPLACED WITH NEW WALL IN SAME LOCATION. NO INCREASED ENCROACHMENT.

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.

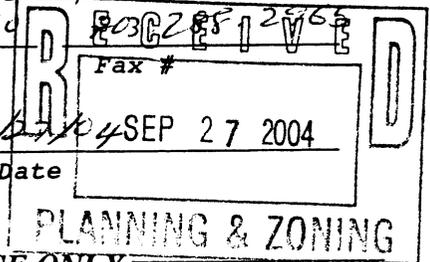
C. KAYA BIRON  
Print Name of Applicant or Agent

1719 RUPERT ST.  
Mailing/Street Address

McLEAN, VA 22101  
City and State                      Zip Code

[Signature]  
Signature

202.438.4965 cell  
703.288.3090  
Telephone #



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

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

ACTION - PLANNING COMMISSION: 12/7/2004 DEFERRED UC

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

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<b>ACORD™ CERTIFICATE OF LIABILITY INSURANCE</b>		DATE (MM/DD/YYYY) 10/01/04
<b>PRODUCER</b> BB&T Insurance Services Givens & Williams Agency 3975 Fair Ridge Dr, Suite 110 Fairfax, VA 22033-2924	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
<b>INSURED</b> We Design Build Bironco, Inc. t/a 2049 Haycock Road Falls Church, VA 22043	<b>INSURERS AFFORDING COVERAGE</b> INSURER A: <b>Selective Insurance Co of America</b> INSURER B: INSURER C: INSURER D: INSURER E:	<b>NAIC #</b> 12572

**COVERAGES**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A		<b>GENERAL LIABILITY</b>	S1369292	05/25/04	05/25/05	EACH OCCURRENCE <b>\$1,000,000</b>
		<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence) <b>\$50,000</b>
		<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person) <b>\$5,000</b>
						PERSONAL & ADV INJURY <b>\$1,000,000</b>
						GENERAL AGGREGATE <b>\$3,000,000</b>
						PRODUCTS - COMP/OP AGG <b>\$3,000,000</b>
						GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC
		<b>AUTOMOBILE LIABILITY</b>				COMBINED SINGLE LIMIT (Ea accident) \$
		<input type="checkbox"/> ANY AUTO				BODILY INJURY (Per person) \$
		<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident) \$
		<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident) \$
		<input type="checkbox"/> HIRED AUTOS				
		<input type="checkbox"/> NON-OWNED AUTOS				
		<b>GARAGE LIABILITY</b>				AUTO ONLY - EA ACCIDENT \$
		<input type="checkbox"/> ANY AUTO				OTHER THAN EA ACC \$
						AUTO ONLY: AGG \$
		<b>EXCESS/UMBRELLA LIABILITY</b>				EACH OCCURRENCE \$
		<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE \$
						\$
		<input type="checkbox"/> DEDUCTIBLE				\$
		<input type="checkbox"/> RETENTION \$				\$
		<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>				WC STATU-TORY LIMITS OTH-ER
		ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?				E.L. EACH ACCIDENT \$
		If yes, describe under SPECIAL PROVISIONS below				E.L. DISEASE - EA EMPLOYEE \$
		<b>OTHER</b>				E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

RE: Project: 315 North Payne Street / Home Owner; Linda Lewis  
Alexandria, VA 22314

**CERTIFICATE HOLDER**

City of Alexandria  
Regulatory Affairs Business  
License Center  
301 King Street  
Alexandria, VA 22314  
REVISED CERTIFICATE

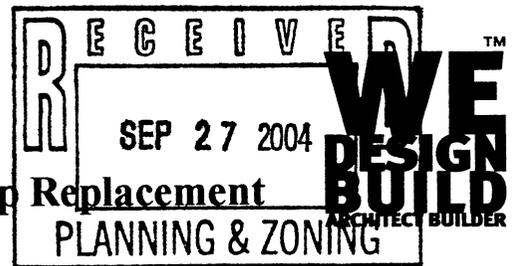
**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

*Susan M. Hoetch*

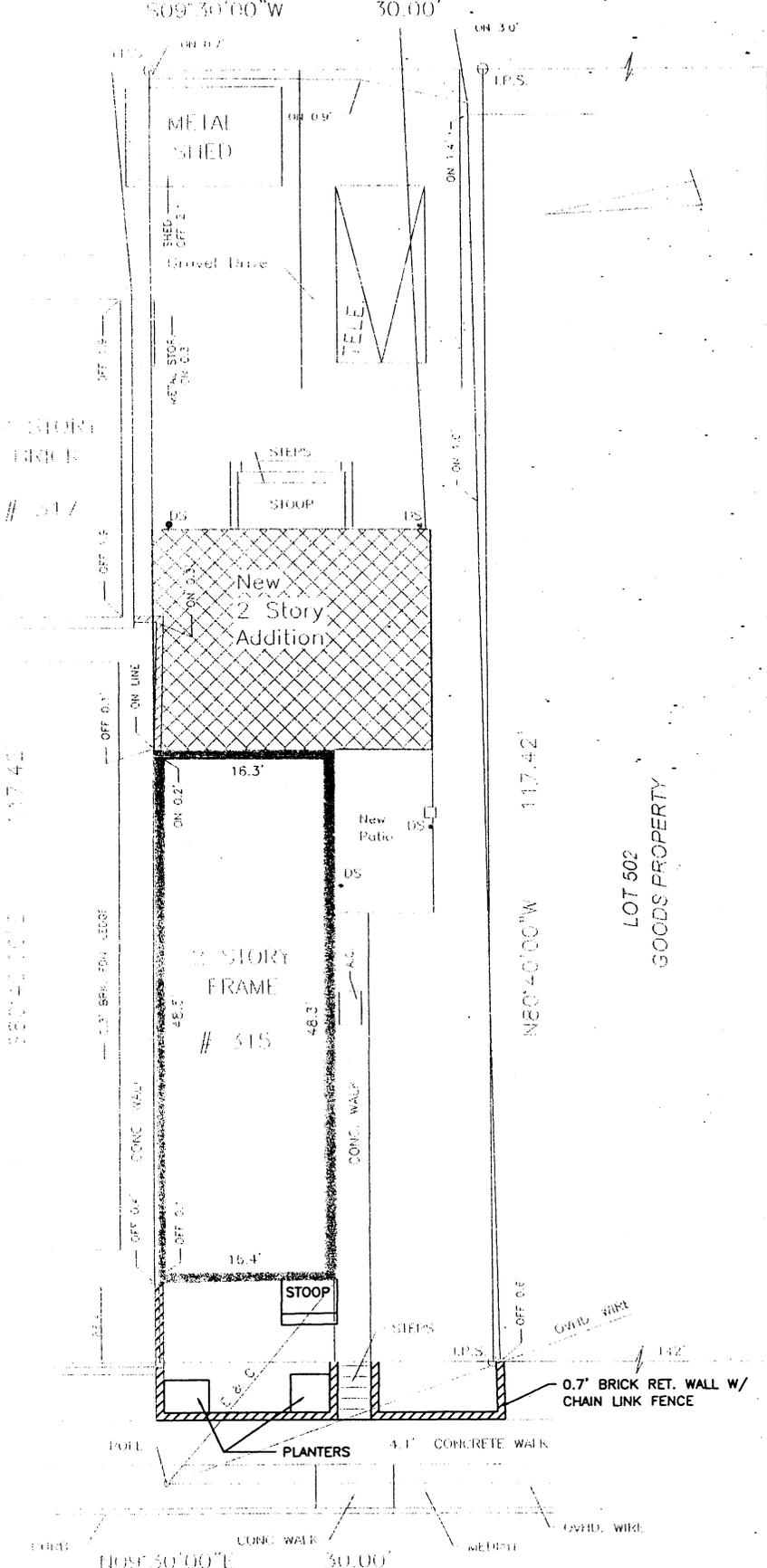
Supplemental Data  
Proposed Lewis Residence Retaining Wall & Stoop Replacement  
315 N. Payne Street  
Alexandria, Virginia



Submitted to  
The City of Alexandria  
Board of Zoning Appeals  
Public Hearing Date: October 2004

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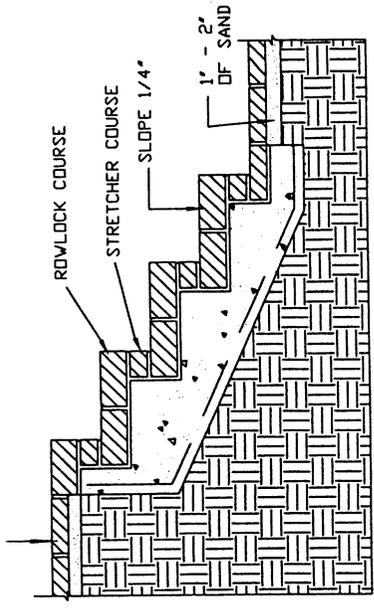
1007 N. Street N.E. #202  
 WASHINGTON, D.C. 20002  
 WE DESIGN BUILD ARCHITECTS/BUILDERS



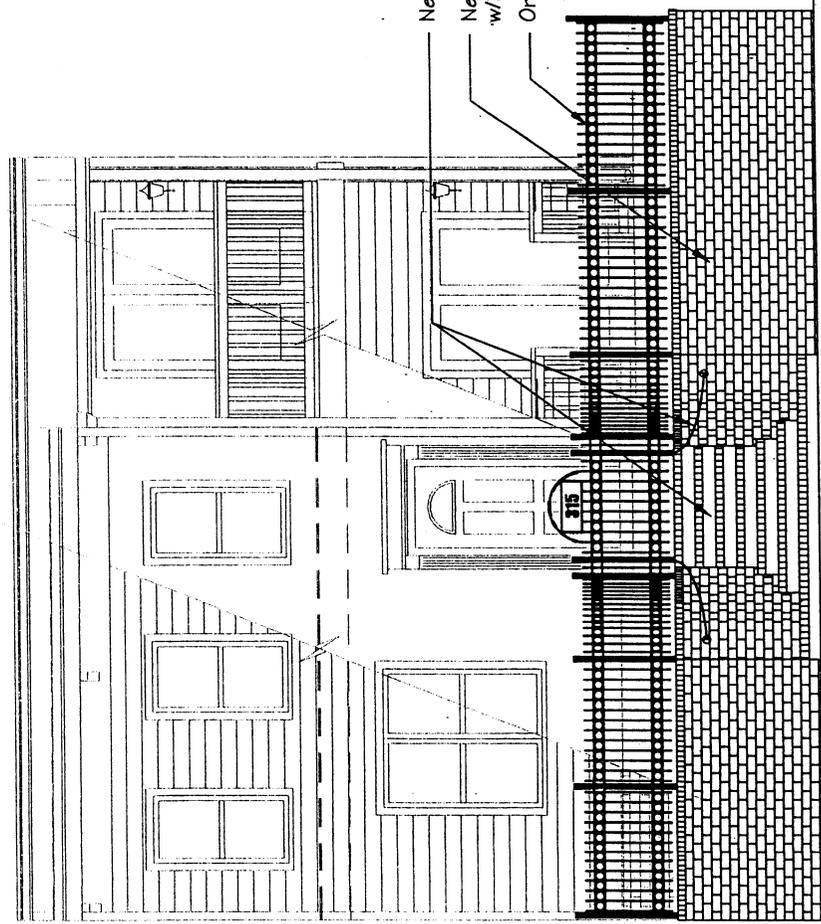
Existing Retaining Wall & ChainLink Fence

**NORTH PAYNE STREET** 10





Typ. Brick Stair Detail  
 Scale: N.T.S.



**Proposed Retaining Wall & Fence**

Scale: 1/4" = 1'-0"

APPLICATION for ENCROACHMENT # 2004-0011

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Print Name of Applicant or Agent  
1719 RUPERT ST.  
Mailing/Street Address  
McLEAN, VA 22101  
City and State Zip Code

[Signature]  
Signature  
202.438.4965 cell  
703.288.3090  
Telephone #  
9/27/04  
Date  
REC'D 12965  
FAX #  
SEP 27 2004  
PLANNING & ZONING

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

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

ACTION - PLANNING COMMISSION: 3/1/05 RECOMMENDED APPROVAL UC  
12/7/2004 DEFERRED UC

ACTION - CITY COUNCIL: 3/12/05 CC approved the Planning Commission recommendation