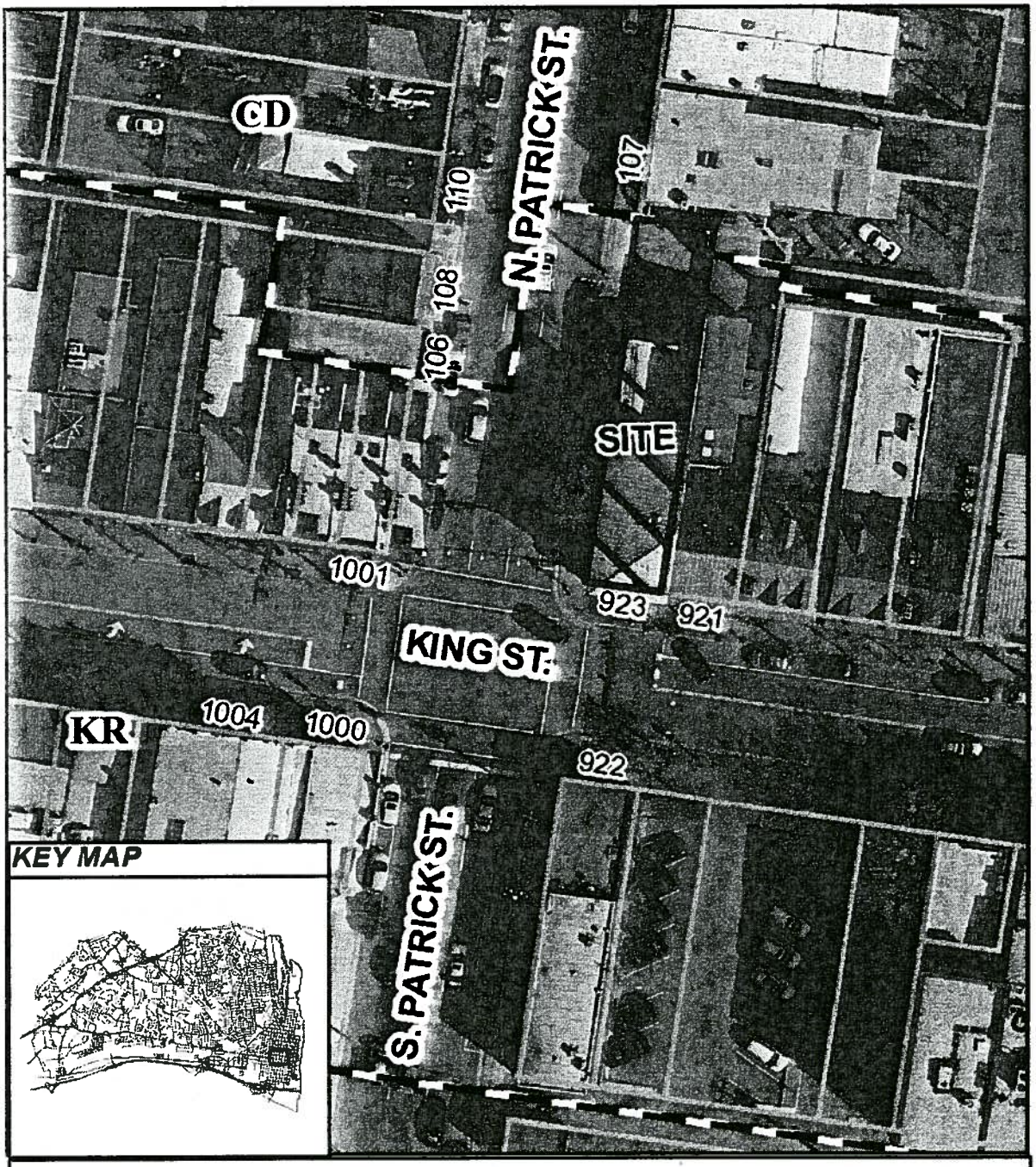
DOCKET ITEM #3
Encroachment #2011-0004
923 King Street

CONSENT AGENDA ITEM
If no one asks to speak about this case prior to the hearing, it will be approved without discussion as part of the Consent Agenda.

Application	General Data	
Request: Consideration of a request for encroachments into the public right-of-way.	**Planning Commission Hearing:**	December 6, 2011
	City Council Hearing:	December 17, 2011
Address: 923 King Street	**Zone:**	KR/King Street Urban Retail
Applicant: Seyed Hossein Shoja-Maddahi by Duncan Blair, Attorney	**Small Area Plan:**	Old Town

Staff Recommendation: APPROVAL subject to compliance with all applicable codes and ordinances and the recommended permit conditions found in Section III of this report.
Staff Reviewers: Nathan Randall nathan.randall@alexandriava.gov



ENC #2011-0004

12/6/2011

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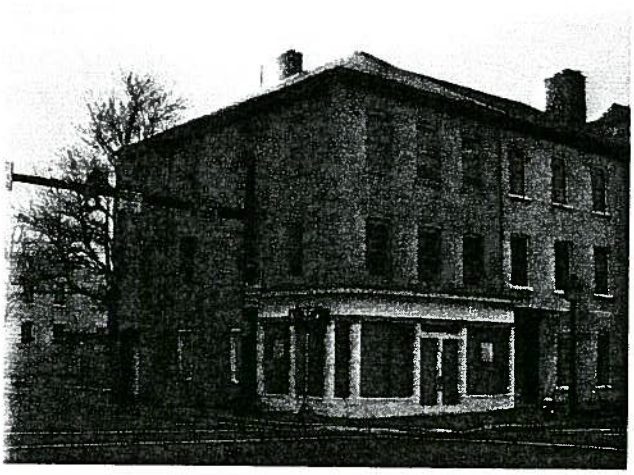
I. DISCUSSION

The applicant, Seyed Hossein Shoja-Maddahi by Duncan Blair, attorney, requests approval of an encroachment ordinance for a new bay window at 923 King Street.

SITE DESCRIPTION



The subject site is one lot of record with 25 feet of frontage on King Street, 121 feet of frontage on North Patrick Street, and a total lot area of approximately 3,000 square feet. The property is currently improved with a historic, three-story mixed-use building with a vacant, ground-level, commercial space and residential apartments located above.

The surrounding area along and near King Street is comprised of a mix of commercial and residential uses, including an accounting office, several retail shops, a hair salon, and Misha's coffee house. Residential townhouses are located to the north.

BACKGROUND

The subject building was constructed sometime between 1797 and 1826 and has been altered several times over the years, including a one-story rear addition constructed in 1961. The existing storefront and bay windows are believed to have been constructed in 1970-1971 without encroachment approval.

Conklyn's Florist occupied the ground-level commercial space for many years prior to the mid-2000s. City Council approved ENC#2007-0005 in September 2007 to add brick veneer to the 1961 rear addition, in anticipation of the opening of a restaurant in this space. Although approved by SUP in 2006, that restaurant never opened.

On May 15, 2010, City Council approved DSUP#2010-0002 for the demolition of the 1961 addition, the construction of a new one and two-story rear addition and to allow a new ground-level restaurant with two residential apartments on the second and third floors. Although considered as a likely feature of the new addition to the building at the time of DSUP approval, and included in the BAR approval for the case, the proposed new bay window facing North Patrick Street was not granted encroachment approval at that time.

SCOPE OF APPROVAL

The applicant requests approval of an encroachment onto the public right-of-way for a new bay window located along North Patrick Street on the side of the new portion of the building. The encroachment area measures 18.25 feet by 1.66 feet. The area of the requested encroachment is 30.3 square feet.

Staff is recommending that additional elements of the existing building be incorporated into the encroachment request since they also encroach into the public right-of-way with no record of formal approval. These encroachments, shown in the attached encroachment plat, are located in two separate areas. The King Street storefront, including two bay windows and front door/entryway, has an encroachment area measuring 23.5 feet by 1.75 feet. The second area consists of another existing bay window and a portion of the building wall facing North Patrick Street and has encroachment areas of 11.5 feet by 2.5 feet and 28.5 feet by 1 foot, respectively. The total area for all of the encroachments, including the new bay window, is approximately 129 square feet.

ZONING/MASTER PLAN

The subject property is located in the KR/King Street Retail Zone. The restaurant use approved for this site as a part of DSUP#2010-0002 is consistent with the Old Town Small Area Plan chapter of the Master Plan which designates the property for commercial use.

II. STAFF ANALYSIS

Staff has incorporated, as a technical matter, those encroaching elements of the existing building into the encroachment proposal for his new bay window. It is both convenient and appropriate to correct the historical oversight of portions of the existing building, between 41 and 200 years old, which encroach into the public right-of-way without formal approval. The continuation of these building features in their current locations should not affect pedestrian movement, since nearly nine feet of sidewalk width remains along King Street and a variable sidewalk width between five and eight feet remains along North Patrick Street.

With respect to the new bay window, staff believes that it is a reasonable addition to the building that will help enhance the connection between the recently-approved rear portion of the structure and its historic front portion. A bay window in this location also adds a degree of architectural interest to enhance the pedestrian experience along both King and North Patrick Streets. The remaining sidewalk width, which is 4.44 feet at the narrowest point, is sufficient for pedestrian movement, particularly given that pedestrian traffic along North Patrick Street is relatively low.

Subject to the conditions contained in Section III of this report, staff recommends approval of the encroachment request as amended by staff.

III. STAFF RECOMMENDATION

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

1. The applicant (and his successors, if any) shall maintain a minimum 4.44-foot wide unobstructed sidewalk in front of the new bay window encroachment on North Patrick Street as shown on the submitted plan and shall maintain the existing unobstructed sidewalk widths in front of all other encroachments, unless amended by subsequent encroachment or outdoor dining approval. (P&Z) (T&ES)

2. The applicant (and his 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. (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. In the event the City shall, in the future, have need for the area of the proposed encroachment, the applicant shall remove any structure that encroached into the public right-of-way, within 60 days, upon notification by the City. (T&ES)

<u>STAFF:</u> Barbara Ross, Deputy Director, Planning and Zoning;
Nathan Randall, Urban Planner.

CITY DEPARTMENT COMMENTS

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

Transportation & Environmental Services:

R-1 Maintain minimum 4.44' wide unobstructed sidewalk in the area of the encroachment per the submitted plan. (T&ES)

R-2 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. (T&ES)

R-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)

R-4 In the event the City shall, in the future, have need for the area of the proposed encroachment, the applicant shall remove any structure that encroached into the public right-of-way, within 60 days, upon notification by the City. (T&ES)

Code Enforcement:

C-1 A building permit is required if this is a new window or, if existing, the opening is enlarged or reduced.

Health Department:

F-1 No Comment

Parks and Recreation:

F-1 No Comments Received

Archeology

F-1 This project (ENC2011-00004) will cause no apparent ground disturbance, meaning no archaeological action is necessary. However, the archaeological conditions for DSUP2010-00002 continue to apply for the project as a whole.

Police Department:

F-1 The Police Department has no comments for or objections to the encroachment.

APPLICATION

ENCROACHMENT

ENC# 2011-0004

PROPERTY LOCATION: 923 King Street, Alexandria, Virginia 22314

TAX MAP REFERENCE: 064.03-06-23 **ZONE:** KR

APPLICANT

Name: Seyed Hossein Shoja-Maddahi

Address: 3927 Chantilly Road, Chantilly, VA 20151-3110

PROPERTY OWNER

Name: Seyed Hossein Shoja-Maddahi

Address: 3927 Chantilly Road, Chantilly, VA 20151-3110

PROPOSED USE: Request for adoption of encroachment ordinance to permit encroachment of a bay window onto the North Patrick Street public right-of-way.

INSURANCE CARRIER (copy attached) Accord **POLICY #** SCP0838930

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.

[X] **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** hereby applies for an Administrative Use Permit in accordance with the provisions of Article VI, Section 6-600 of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

[X] **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.

[X] **THE UNDERSIGNED** lso 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.

Duncan W. Blair
Print Name of Applicant or Agent

Signature

524 King Street
Mailing/Street Address

703 836-1000 Telephone #
703 549-3335 Fax #

Alexandria, VA 22314
City and State Zip Code

dblair@landclark.com
Email address

September 14, 2011
Date

Application Received: _____ Date and Fee Paid: $_____

ACTION - PLANNING COMMISSION: _____ ACTION - CITY COUNCIL: _____

application encroachment ROW.pdf
8/1/06 Pnz\Applications, Forms, Checklists\Planning Commission

ENC# 2011-0004

OWNERSHIP AND DISCLOSURE STATEMENT
Use additional sheets if necessary

1. Applicant. State the name, address and percent of ownership of any person or entity owning an interest in the applicant, unless the entity is a corporation or partnership, in which case identify each owner of more than ten percent. The term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

Name	Address	Percent of Ownership
1. Seyed Hossein Shoja-Maddahi	3927 Chantilly Road Chantilly, VA 20151	100%
2.		
3.		

2. Property. State the name, address and percent of ownership of any person or entity owning an interest in the property located at 923 King Street, unless the entity is a corporation or partnership, in which case identify each owner of more than ten percent. The term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

Name	Address	Percent of Ownership
1. Seyed Hossein Shoja-Maddahi	3927 Chantilly Road Chantilly, VA 20151	100%
2.		
3.		

3. Business or Financial Relationship. Each person or entity listed above (1 and 2), with an ownership interest in the applicant or in the subject property is required to disclose **any** business or financial relationship, as defined by Section 11-350 of the Zoning Ordinance, existing at the time of this application, or within the 12-month period prior to the submission of this application with any member of the Alexandria City Council, Planning Commission, Board of Zoning Appeals or either Boards of Architectural Review.

Name of person or entity	Relationship as defined by Section 11-350 of the Zoning Ordinance	Member of the Approving Body (i.e. City Council, Planning Commission, etc.)
1. Seyed Hossein Shoja-Maddahi	None	Planning Commission and City Council
2.		
3.		

NOTE: Business or financial relationships of the type described in Sec. 11-350 that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings.

As the applicant or the applicant's authorized agent, I hereby attest to the best of my ability that the information provided above is true and correct.

September 13, 2011 — Date

Seyed Hossein Shoja-Maddahi — Printed Name

Signature

ENC2011-0004

ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 9/9/2011

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER (804)359-4568 Ext.
Commonwealth Underwriters

PO Box 5441
Richmond, VA 23220

CONTACT NAME: Al Movaghari
PHONE (A/C, No, Ext): (202)331-9200 Ext. FAX (A/C, No): (202)331-8452
E-MAIL ADDRESS: amovaghari@hwphillips.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: Western Heritage Insurance Company	
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

INSURED
Seyed Hossein, Shoja Naddahi
1123 Kigs Street
Alexandria, VA 22314

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT 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. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY PRO-JECT LOC	X		SCP0838930	04/18/11	04/18/12	EACH OCCURRENCE	$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 100,000
							MED EXP (Any one person)	$ 1,000
							PERSONAL & ADV INJURY	$ 1,000,000
							GENERAL AGGREGATE	$ 2,000,000
							PRODUCTS - COMP/OP AGG	$ 1,000,000
								$
	AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident)	$
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION $						EACH OCCURRENCE	$
							AGGREGATE	$
								$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A					WC STATU-TORY LIMITS / OTH-ER	
							E.L. EACH ACCIDENT	$
							E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
10 day notice of cancellation applies for non-payment of the premium. Certificate holder is named as an Additional Insured on the above General Liability policy.

CERTIFICATE HOLDER
City of Alexandria
301 King Street

Alexandria VA 22314

CANCELLATION
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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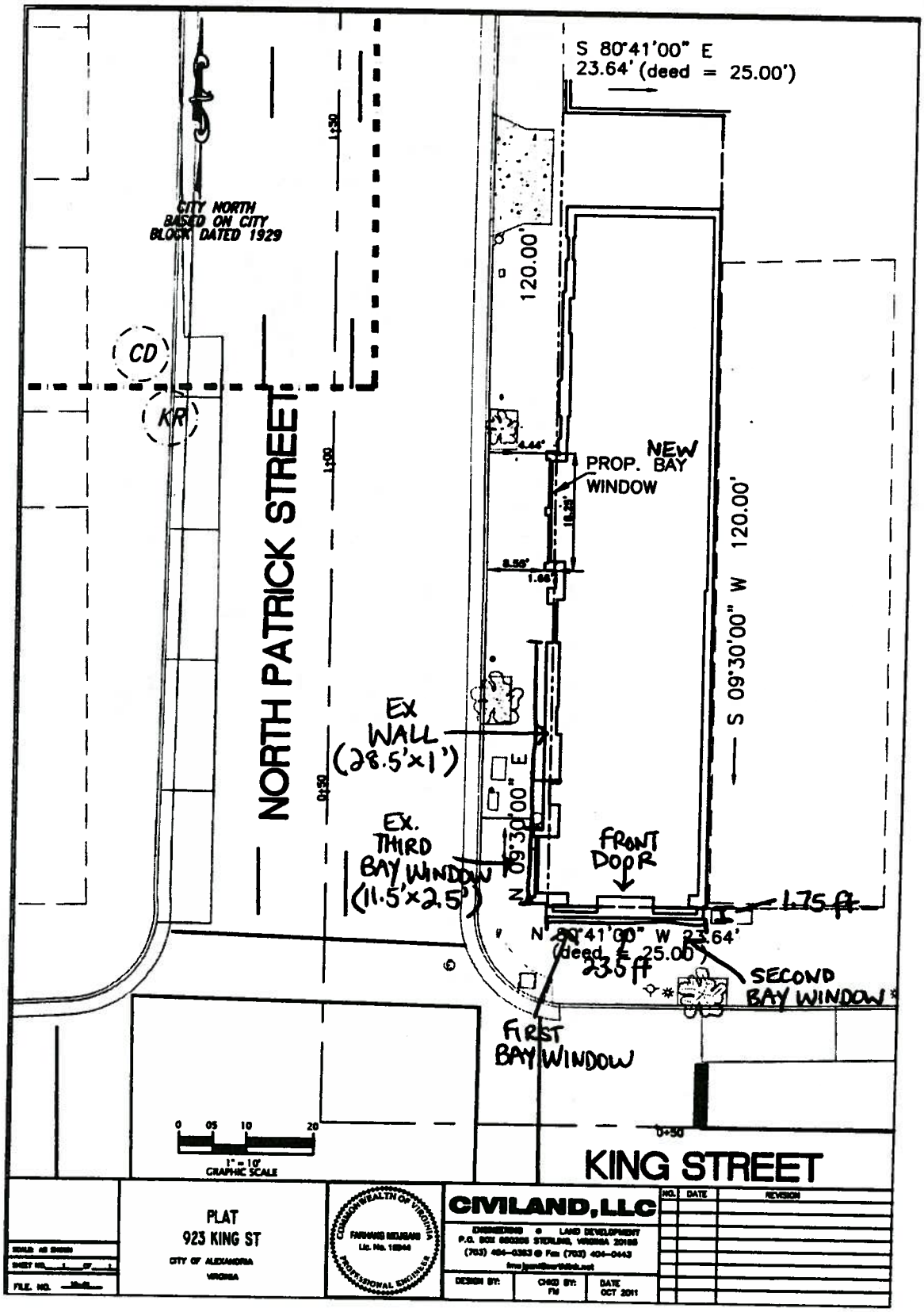
ENC 2011-0001

REVISED



ENC2011-0004

PATRICK STREET ELEVATION

923 KING STREET 1/8' = 1'-0" 19 SEPTEMBER 2011