

EXHIBIT NO. 1

14  
10-18-08

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~~10-14-08~~

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Introduction and first reading: 10/14/08  
Public hearing: 10/18/08  
Second reading and enactment: 10/18/08

INFORMATION ON PROPOSED ORDINANCE

Title

AN ORDINANCE authorizing the owner of 1309 King Street to establish and maintain an encroachment for a bay window into the public sidewalk right-of-way at 1309 King Street, in the City of Alexandria, Virginia.

Summary

The proposed ordinance permits the owner of 1309 King Street to establish and maintain an encroachment for a bay window, approximately 12 feet in height and approximately 8 feet in length, facing King Street and extending approximately 1.67 feet into the public right of way.

Sponsor

Staff

Faroll Hamer, Director, Planning & Zoning  
Ignacio 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

ORDINANCE NO. \_\_\_\_\_

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AN ORDINANCE authorizing the owner of 1309 King Street to establish and maintain an encroachment for a bay window into the public sidewalk right-of-way at 1309 King Street, in the City of Alexandria, Virginia.

WHEREAS, Cloverdale, L.L.C. is the Owner of the property located at 1309 King Street, in the City of Alexandria, Virginia;

WHEREAS, Owner desires to establish and maintain a bay window which will encroach into the public sidewalk right-of-way at that location; and

WHEREAS, the public sidewalk right-of-way at that location 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 1309 King Street, in the City of Alexandria, said encroachment consisting of a bay window, approximately 12 feet in height, and approximately 8 feet in length, facing King Street and extending approximately 1.67 feet into the right-of-way, in front of the property, as generally shown on the diagram attached hereto, and as approved by the Old & Historic Board of Architectural Review, 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

1 loss occasioned by the establishment, construction, placement, existence, use or maintenance of  
2 the encroachment. Evidence of the policy and any renewal thereof shall be filed with the city  
3 attorney's office. Any other provision herein to the contrary notwithstanding, in the event this  
4 policy of insurance lapses, is canceled, is not renewed or otherwise ceases to be in force and  
5 effect, the authorization herein granted to establish and maintain the encroachment shall, at the  
6 option of the city, forthwith and without notice or demand by the city, terminate. In that event,  
7 Owner shall, upon notice from the city, remove the encroachment from the public right-of-way,  
8 or the city, at its option, may remove the encroachment at the expense and risk of Owner.  
9 Nothing in this section shall relieve Owner of his obligations and undertakings required under  
10 this ordinance.

11  
12 Section 3. That the authorization hereby granted to establish and maintain said  
13 encroachment shall in addition be subject to and conditioned upon the following terms:

- 14  
15 (a) Neither the City of Alexandria nor any public or private utility company shall be  
16 responsible for damage to Owner's property encroaching into the public right-of-way  
17 during repair, maintenance or replacement of the public right-of-way or any public  
18 facilities or utilities in the area of encroachment.  
19  
20 (b) The Owner shall be responsible for replacement and repairs to the adjacent City  
21 right-of-way, including any areas damaged during construction activity.  
22  
23 (c) The Owner shall place green safety fencing around the existing tree well to protect  
24 that tree during construction of the bay window. No storage of construction supplies  
25 shall be allowed within the tree save area.  
26

27 Section 4. That by accepting the authorization hereby granted to establish and  
28 maintain the encroachment and by so establishing and/or maintaining the encroachment, Owner  
29 shall be deemed to have promised and agreed to save harmless the City of Alexandria from any  
30 and all liability (including attorneys' fees and litigation expenses) arising by reason of the  
31 establishment, construction, placement, existence, use or maintenance of the encroachment.  
32

33 Section 5. That the authorization herein granted to establish and maintain the  
34 encroachment shall be subject to Owner maintaining the area of the encroachment at all times  
35 unobstructed and free from accumulation of litter, snow, ice and other potentially dangerous  
36 matter.  
37

38 Section 6. That nothing in this ordinance is intended to constitute, or shall be  
39 deemed to be, a waiver of sovereign immunity by or on behalf of the City of Alexandria or any of  
40 its officers or employees.  
41

42 Section 7. That the authorization herein granted to establish and maintain the  
43 encroachment shall be terminated whenever the City of Alexandria desires to use the affected  
44 public right-of-way for any purpose whatsoever and, by written notification, demands from  
45 Owner the removal of the encroachment. Said removal shall be completed by the date specified  
46 in the notice and shall be accomplished by Owner without cost to the city. If Owner cannot be

1 found, or shall fail or neglect to remove the encroachment within the time specified, the city shall  
2 have the right to remove the encroachment, at the expense of Owner, and shall not be liable to  
3 Owner for any loss or damage to the structure of the encroachment or personal property within  
4 the encroachment area, caused by the removal.

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6 Section 8. The term "Owner" shall be deemed to include Cloverdale, L.L.C.,  
7 Cloverdale Limited Partnership, and their respective successors in interest.

8  
9 Section 9. That this ordinance shall be effective upon the date and at the time of its  
10 final passage.

11  
12 WILLIAM D. EUILLE  
13 Mayor

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15 Introduction: 10/14/08  
16 First Reading: 10/14/08  
17 Publication:  
18 Public Hearing:  
19 Second Reading:  
20 Final Passage:

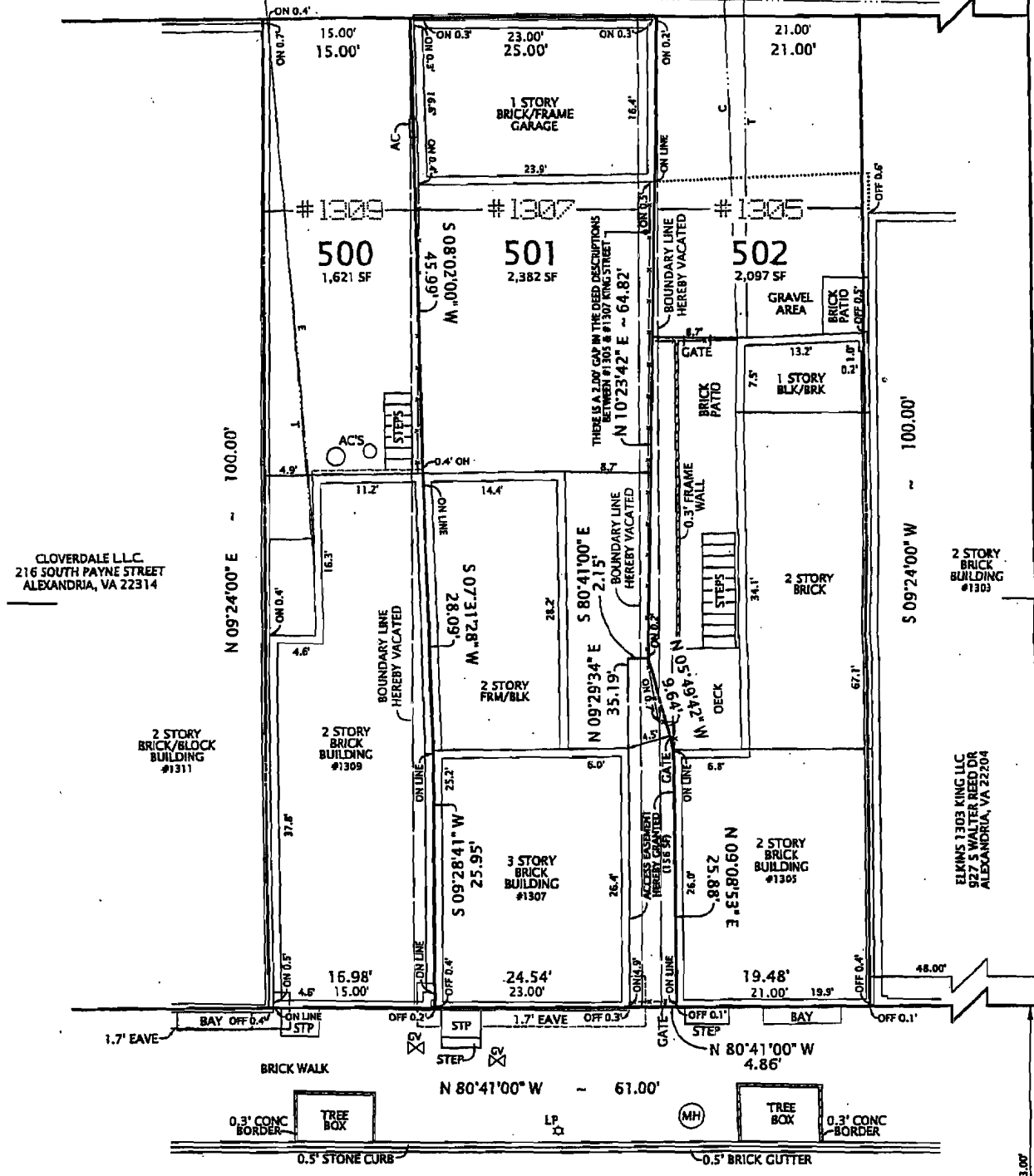
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22 Attachment: Encroachment diagram  
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10' ALLEY

S 80°41'00" E - 61.00'

POLE

OHW



CLOVERDALE LLC  
216 SOUTH PAYNE STREET  
ALEXANDRIA, VA 22314

2 STORY  
BRICK/BLOCK  
BUILDING  
#1311

2 STORY  
BRICK  
BUILDING  
#1309

3 STORY  
BRICK  
BUILDING  
#1307

2 STORY  
BRICK  
BUILDING  
#1305

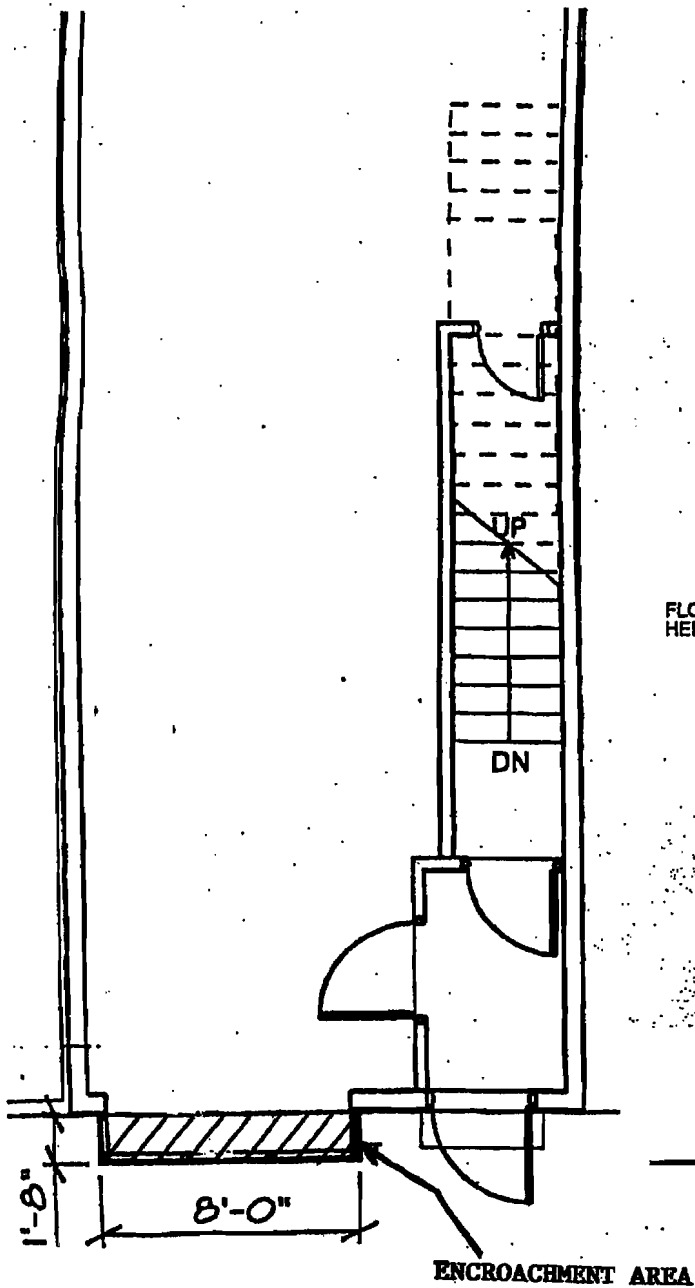
2 STORY  
BRICK  
BUILDING  
#1303

ELKINS 1303 KING LLC  
877 A WALTER REED DR  
ALEXANDRIA, VA 22304

KING STREET

MONUMENT LINE

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FIRST FLOOR



# 1309 King Street

PUBLIC SIDEWALK ENCROACHMENT APPLICATION

12 March 2008

ORDINANCE NO. 4562

AN ORDINANCE authorizing the owner of 1309 King Street to establish and maintain an encroachment for a bay window into the public sidewalk right-of-way at 1309 King Street, in the City of Alexandria, Virginia.

WHEREAS, Cloverdale, L.L.C. is the Owner of the property located at 1309 King Street, in the City of Alexandria, Virginia;

WHEREAS, Owner desires to establish and maintain a bay window which will encroach into the public sidewalk right-of-way at that location; and

WHEREAS, the public sidewalk right-of-way at that location 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 1309 King Street, in the City of Alexandria, said encroachment consisting of a bay window, approximately 12 feet in height, and approximately 8 feet in length, facing King Street and extending approximately 1.67 feet into the right-of-way, in front of the property, as generally shown on the diagram attached hereto, and as approved by the Old & Historic Board of Architectural Review, 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 or private 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) The Owner shall be responsible for replacement and repairs to the adjacent City right-of-way, including any areas damaged during construction activity.
- (c) The Owner shall place green safety fencing around the existing tree well to protect that tree during construction of the bay window. No storage of construction supplies shall be allowed within the tree save 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 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 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 or personal property within the encroachment area, caused by the removal.

Section 8. The term "Owner" shall be deemed to include Cloverdale, L.L.C., Cloverdale Limited Partnership, and their respective successors in interest.

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, 2008

Attachment: Encroachment diagram

10 PILEY

S 80°41'00" E ~ 61.00'

CLOVERDALE LLC  
216 SOUTH PAYNE STREET  
ALEXANDRIA, VA 22314

N 09°24'00" E ~ 100.00'

2 STORY  
BRICK BUILDING  
#1311

2 STORY  
BRICK BUILDING  
#1309

#1308  
500  
1,621 SF

#1307  
501  
2,382 SF

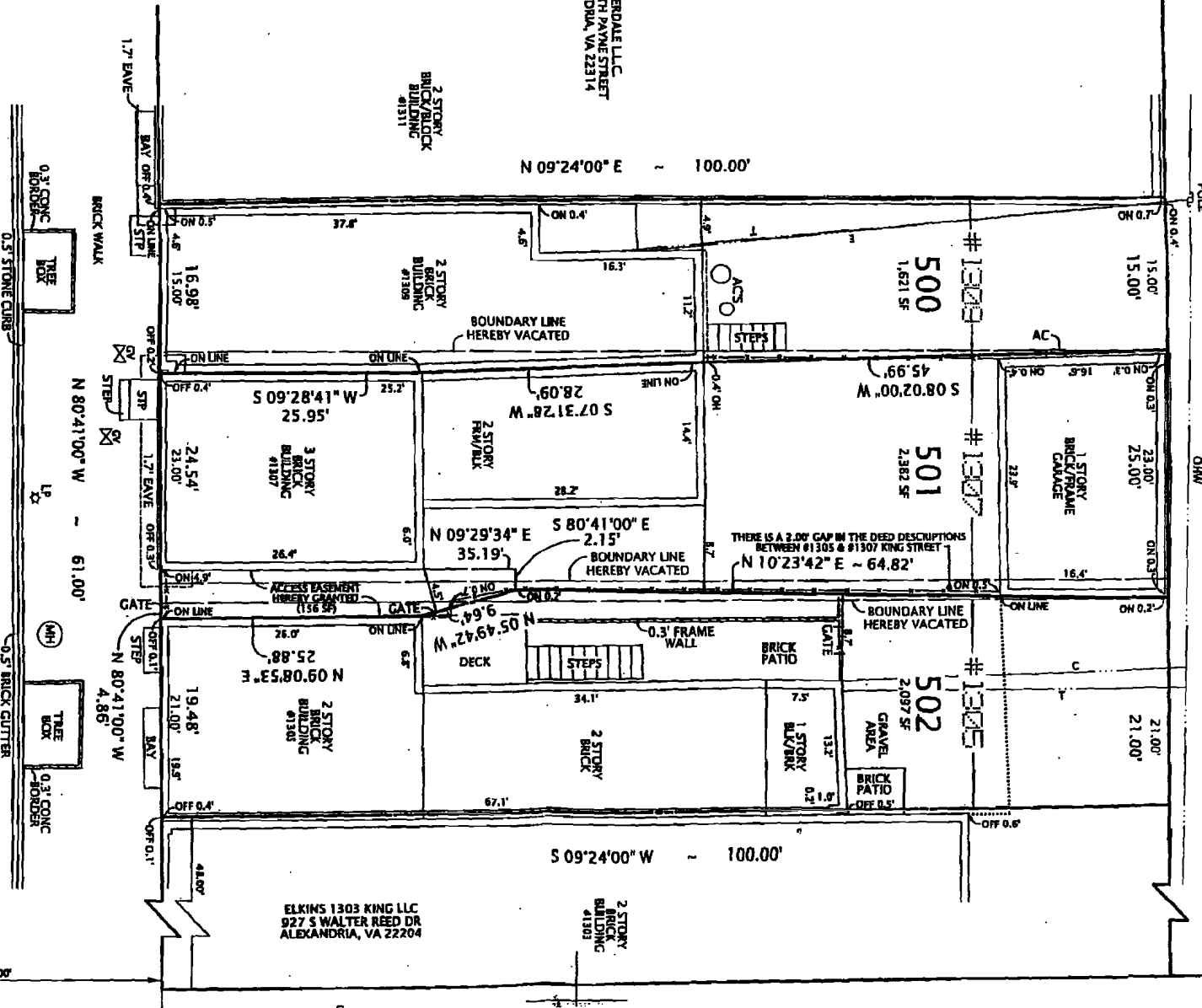
1 STORY  
BRICK/FRAME  
GARAGE

#1305  
502  
2,097 SF

2 STORY  
BRICK BUILDING  
#1303

ELKINS 1303 KING LLC  
927 S WALTER REED DR  
ALEXANDRIA, VA 22204

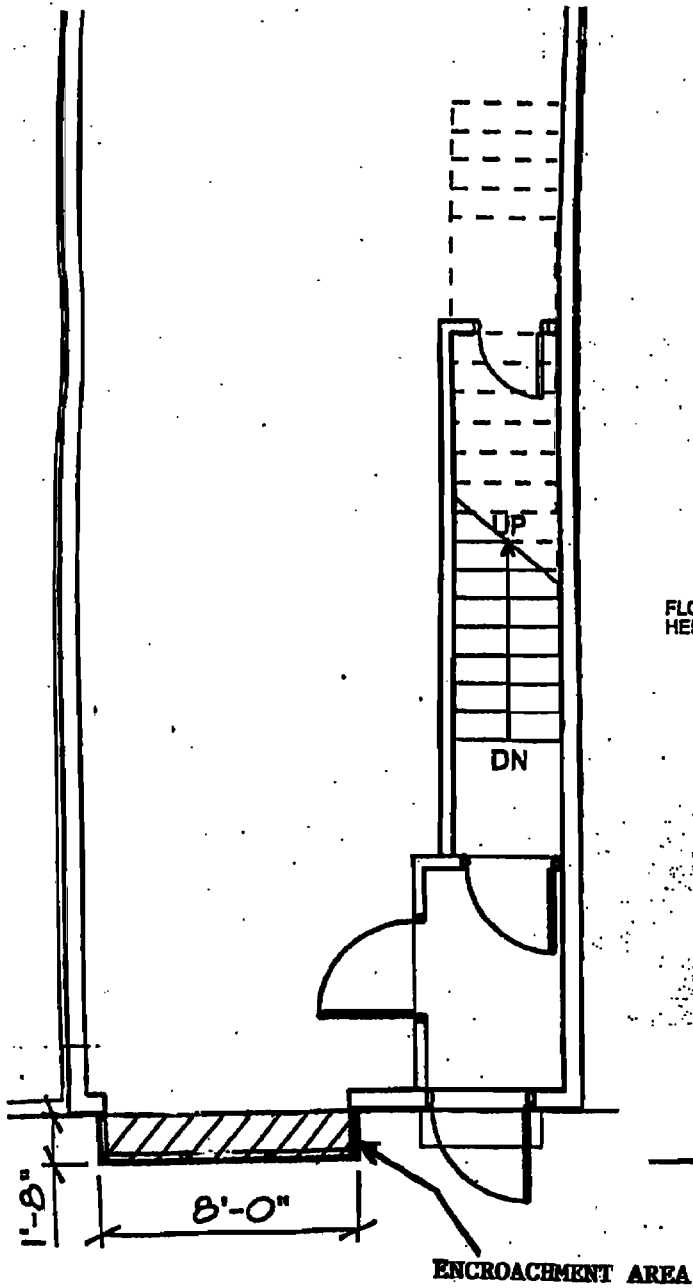
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KING STREET

MONUMENT LINE

4



FIRST FLOOR



# 1309 King Street

PUBLIC SIDEWALK ENCROACHMENT APPLICATION

12 March 2008