

Docket Item #17
ENCROACHMENT #2004-0007

Planning Commission Meeting
December 7, 2004

ISSUE: Consideration of a request for encroachment into the public right-of-way for fencing.

APPLICANT: Tushar Suthar

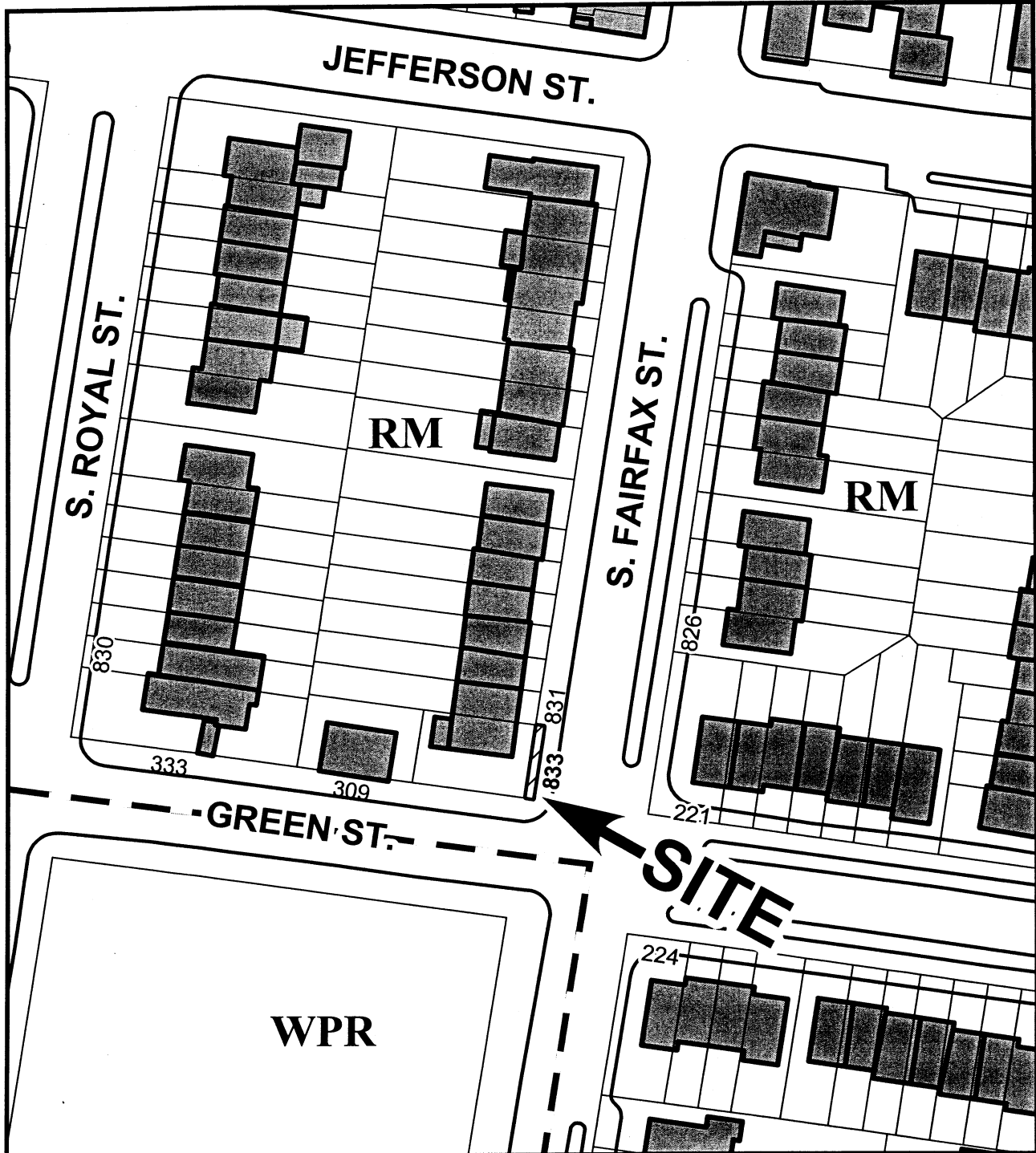
LOCATION: 833 South Fairfax Street

ZONE: RM/Residential

PLANNING COMMISSION ACTION, DECEMBER 7, 2004: On a motion by Mr. Robinson, seconded by Mr. Komoroske, the Planning Commission voted to recommend approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendations.

Reason: The Planning Commission agreed with the staff analysis.

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 #2004-0007

12/07/04



I. DISCUSSION

REQUEST

The applicant, Tushar Suthar, requests approval of an encroachment into the public right-of-way for a fence along South Fairfax Street.

SITE DESCRIPTION

The subject property is one lot of record with 40 feet of frontage on South Fairfax Street, 61.5 feet of frontage on Green Street and a total lot area of 2,469 square feet. The site is developed with a two story, two bay brick end unit rowhouse facing South Fairfax Street. The property is surrounded by residential uses.

PROJECT DESCRIPTION

The applicant requests approval of a 4.5 feet wide and forty feet long encroachment into public right-of-way along the South Fairfax Street frontage of the property. The proposed encroachment has a total area of 180 square feet, it is landscaped and maintained by the applicant and appears to be part of his property. The applicant proposes to enclose this area by placing a brick and metal picket fence at the edge of the sidewalk. The fence will continue on the property line along the Green Street (south) frontage of the property and thus will be located approximately 4.5 feet back from the sidewalk (see attached plan).

The applicant has referred to the fence at 801 South Fairfax Street as the model for the proposed fence at 833 South Fairfax Street. Whereas the fence at 801 South Fairfax Street did not require an encroachment permit because it is not located on city property, the design was approved by the Board of Architectural Review (BAR) in 2000. Its brick piers are approximately five feet high set at intervals of approximately eight to 12 feet apart. The low brick wall at the base is topped with 2'6" of plain metal picket fencing. The applicant states that there will be a five feet wide opening on line with the door and sidewalk to provide access to the property. The fence will extend approximately 40 feet along on the Fairfax Street and 35 feet along Green Street.

ZONING / MASTER PLAN

The subject property is located in the RM/Townhouse zone and the Old and Historic District. On October 20, 2004, the Board of Architectural Review approved a Certificate of Appropriateness and a waiver of Vision Clearance for the brick and metal picket fence, conditioned upon approval of the encroachment by Planning Commission and City Council.

II. STAFF ANALYSIS

Staff supports this encroachment request to allow a fence to enclose a portion of the public right-of-way along the South Fairfax side of the property.

The Board of Architectural Review determined that the proposed fence is appropriate for the property and compatible with the surrounding neighborhood. Furthermore, the fence will be in line with the neighboring front fence at 831 South Fairfax Street. Nine additional properties on the 800 block of South Fairfax Street utilize a portion of the public right-of-way for fencing, planters or walkways. However, staff could not locate City records of any encroachment approvals for these properties.

Staff places the highest premium on making sure that sidewalks are open and accessible and that they provide a safe environment for the public. It is noted that the Department of Transportation and Environmental Services has expressed a concern with the requested encroachment relative to the view shed in the area. In staff's review of this request and inspection of the subject property, it was determined that the proposed fence will be consistent with maintaining an open, accessible and safe environment for the public and that existing views along South Fairfax Street will be maintained. Because the fence will consist of brick piers connected with open wrought iron fencing and not a solid wall, there should also be little, if any impact on the view shed. In addition, vision clearance at the intersection of South Fairfax and Green Street will be maintained.

Staff also notes that the applicant's initial request included an encroachment along the Green Street side of the property. In order to reduce the extent of the obstruction in the vision clearance triangle and the encroachment on city property, the applicant worked with staff and revised the plans to place the fence along Green Street on the property line and to encroach only at the front of the property.

Staff recommends approval of the encroachment permit subject to the recommended conditions.

III. RECOMMENDED PERMIT 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 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)
2. 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. (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)

STAFF: Eileen P. Fogarty, Director, Department of Planning and Zoning;
Bettina Irps, Urban Planner.

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.(T&ES)
- 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.(T&ES)
- 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.(T&ES)
- F-1 T&ES objects to the proposed request. Staff believes the design is so substantial that it will present vision clearance problems, and the considerable size of the fence/wall will constitute an unreasonable use of the public space and present an obstruction to the public sidewalk.

Code Enforcement:

- C-1 A construction permit is required for the proposed project.
- C-2 New construction must comply with the current edition of the Uniform Statewide Building Code (USBC).

Health Department:

- F-1 No comments.

Police Department:

- F-1 No objections.

APPLICATION for ENCROACHMENT # 2004-0007

[must use black ink or type]

PROPERTY LOCATION: 833 S. FAIRFAX ST., ALEXANDRIA, VA 22314

TAX MAP REFERENCE: 080-04-05-33 ZONE: RM

APPLICANT'S NAME: TUSHAR SUTHAR

ADDRESS: 833 S. FAIRFAX ST., ALEXANDRIA, VA 22314

PROPERTY OWNER NAME: TUSHAR SUTHAR

ADDRESS: 833 S. FAIRFAX ST., ALEXANDRIA, VA 22314

ENCROACHMENT DESCRIPTION: Propose to build a brick & wrought iron fence encroaching 4.5' in front yard. BAR & T&ES have already approved the vision clearance.

INSURANCE CARRIER (copy attached) AMICA MUTUAL POLICY # 650445-20JX
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.

TUSHAR SUTHAR
Print Name of Applicant or Agent

Tushar Suthar
Signature

833 S. FAIRFAX ST.
Mailing/Street Address

(703) 795-3335 _____
Telephone # Fax #

ALEXANDRIA, VA 22314
City and State Zip Code

10/22/2004
Date

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

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

ACTION - PLANNING COMMISSION: _____

ACTION - CITY COUNCIL: _____

ENC 2004-0007



COVERAGE CONFIRMATION
June 22, 2004

NAME: Tushar Suthar

POLICY NUMBER: 650445-20JX

LOCATION: 833 S Fairfax St
Alexandria VA 22314

NON-DIVIDEND POLICY

EFFECTIVE DATE: June 22, 2004

EXPIRATION DATE: April 30, 2005

POLICY FORM: HO 00 09 Platinum Form

DEDUCTIBLE: \$ 500

BASIC POLICY COVERAGES

LIMITS

A. Dwelling	\$ 234,700
B. Other Structures	\$ 23,470
C. Personal Property	\$ 176,025
D. Loss of Use	\$ 46,940
> E. Personal Liability	\$ 1,000,000
F. Medical Payments to Others	\$ 5,000

ADDITIONAL OPTIONS

HO 04 61 Scheduled Personal Property Endorsement Personal Jewelry	\$ 13,550
HO 23 54 Earthquake	NOT COVERED
Dwelling Replacement Cost Coverage Automatically Included	

> DENOTES CHANGE

29B8

Toll Free: 1-800-68-Amica, Claims Fax: (410) 290-7184 Underwriting Fax: (410) 290-7183
Web Site: www.amica.com

TOTAL P.02

Received Jun-23-2004 07:55

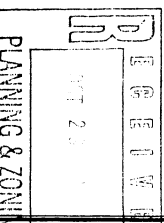
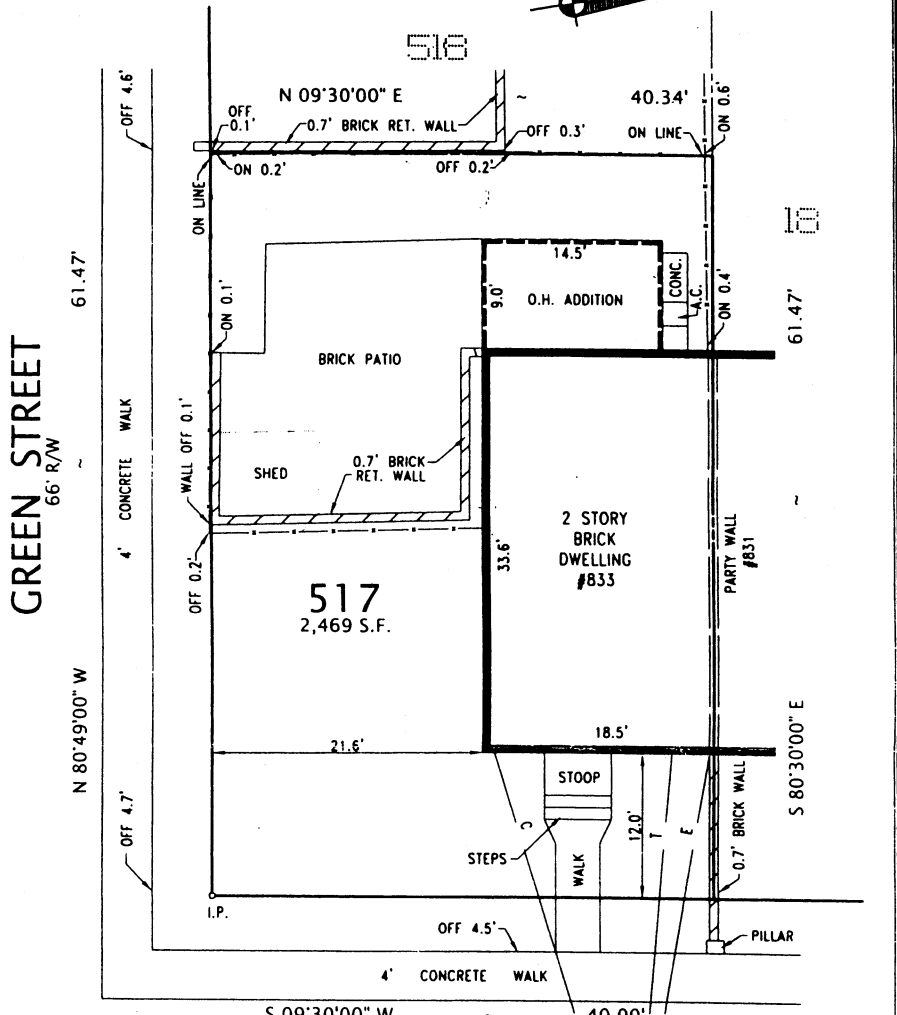
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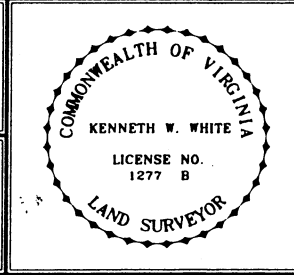
NOTE : FENCES ARE STOCKADE.



SOUTH FAIRFAX STREET
 66' R/W
 PLAT
 SHOWING HOUSE LOCATION ON
 LOT 517 BLOCK 5
 RESUBDIVISION OF LOT 17
YATES GARDENS
 CITY OF ALEXANDRIA, VIRGINIA
 SCALE: 1" = 10' APRIL 16, 2001

PLAT SUBJECT TO RESTRICTIONS OF RECORD.
 TITLE REPORT NOT FURNISHED.

I HEREBY CERTIFY THAT THE POSITIONS OF ALL THE EXISTING IMPROVEMENTS HAVE BEEN CAREFULLY ESTABLISHED BY A TRANSIT TAPE SURVEY AND UNLESS OTHERWISE SHOWN, THERE ARE NO VISIBLE ENCROACHMENTS.
Kenneth W. White
 KENNETH W. WHITE L.S.



CASE NAME
 UPDEGRAFF / PEARSON ~ SUTHAR
 LAND, CLARK, CARROLL, MENDELSON & BLAIR, P.C.

ALEXANDRIA SURVEYS, INC.
 8343 SOUTH KINGS HIGHWAY
 ALEXANDRIA, VIRGINIA 22308
 703-880-8815
 FAX 703-768-7784

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Telephone # Fax #

ALEXANDRIA, VA 22314
City and State Zip Code

10/22/2004
Date

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

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

ACTION - PLANNING COMMISSION: 12/7/2004 RECOMMEND APPROVAL 7-0

ACTION - CITY COUNCIL: 12/18/2004 City Council approved 7-0

3. City Council approved the Planning Commission recommendation.
4. City Council approved the Planning Commission recommendation.
5. City Council approved the Planning Commission recommendation.
6. City Council approved the Planning Commission recommendation, with an amendment to condition #3 to be modified as follows: "The closing hours for the outdoor seating shall be 10:00 p.m. Sunday through Thursday and 11:00 p.m. Friday and Saturday, and there shall be no off-premise alcohol sales after 9:00 p.m. weekdays and 10:00 p.m. weekends." (**separate motion**)
7. City Council approved the Planning Commission recommendation.
8. City Council approved the Planning Commission recommendation, with an amendment to add a condition #4, to add that "vegetation/plantings will be no higher than 36 inches within the encroachment." (**separate motion**)
Council Action: _____

REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER

None.

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

Planning Commission (continued)

9. SPECIAL USE PERMIT #2004-0089
1300 & 1400 NORTH ROYAL STREET
MIRANT POTOMAC RIVER GENERATING STATION
Public Hearing and Consideration of a request for the revocation of Special Use Permit #2296, granted in 1989, which approved the construction and use of 18,000 square feet of administrative offices, laboratories, conference, training and other space at the Mirant Potomac River Generating Station. Applicant: City of Alexandria, City Attorney's Office

PLANNING COMMISSION ACTION: RECOMMEND APPROVAL 7-0

10. SPECIAL USE PERMIT #2004-0090
1300 & 1400 NORTH ROYAL STREET
MIRANT POTOMAC RIVER GENERATING STATION
Public Hearing and Consideration of a request for the revocation of Special Use Permit #2297, granted in 1989, which approved the Transportation Management Plan required for the Mirant Potomac River Generating Station. Applicant: City of Alexandria, City Attorney's Office