

EXHIBIT NO. 1

13
6-16-07

Docket Item #16
ENCROACHMENT #2007-0002

Planning Commission Meeting
June 5, 2007

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

APPLICANT: Ellis Denning Construction, LLC
by Mary Catherine Gibbs, attorney

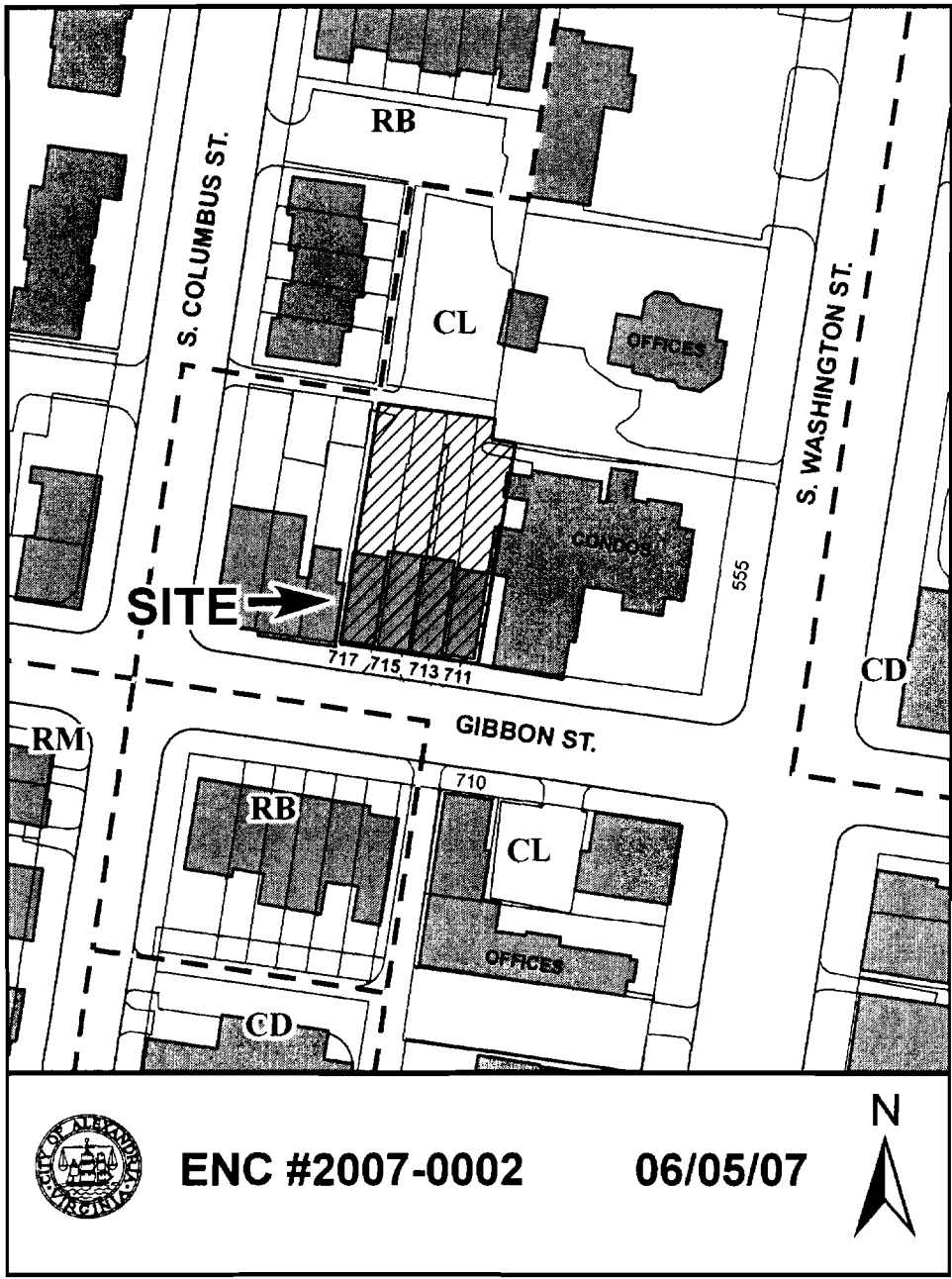
STAFF: James Hunt
james.hunt@alexandriava.gov

LOCATION: 711-717 Gibbon Street

ZONE: CL/Commercial Low

PLANNING COMMISSION ACTION, JUNE 5, 2007: On a motion by Mr. Jennings, seconded by Mr. Robinson, the Planning Commission voted to recommend approval subject to compliance with all applicable codes, ordinances, and staff recommendations. The motion carried on a vote of 5 to 0. Mr. Dunn and Mr. Komoroske were absent.

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 #2007-0002

06/05/07



I. DISCUSSION:

REQUEST

The applicant, Ellis Denning Construction, L.L.C., requests approval of an encroachment into the public right-of-way for the existing gas meters located at 711- 717 Gibbon Street.

SITE DESCRIPTION

The subject properties are four lots of record with a total of 101.9 feet of frontage on Gibbon Street, 100 feet of depth, and a combined area of approximately 12,381 square feet. The site is occupied by four existing townhomes. The proposed encroachment is located on the south side of the property along Gibbon Street.

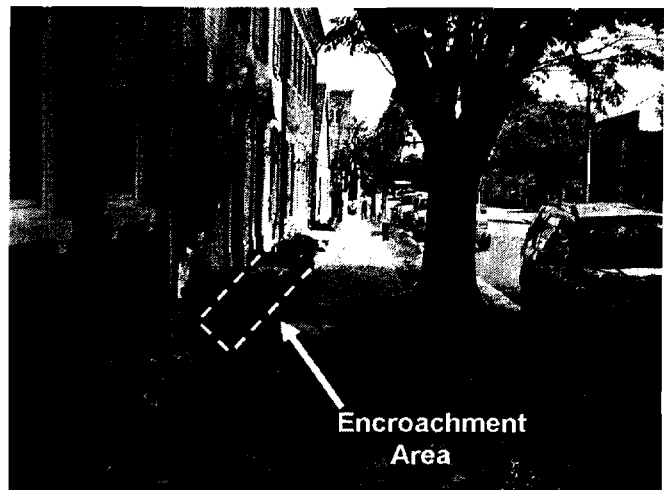


BACKGROUND

On November 3, 2004, the Old and Historic Board of Architectural Review approved a request (BAR#2004-0237) for a conceptual review of four new townhouses with garages located at 711- 717 Gibbon Street. On December 2, 2004, the site plan for the four “rowhouses” and the General Washington Club (DSP 2004-0013) was approved by the Planning Commission. Later, on February 2, 2005, the Old and Historic Board of Architectural Review approved the Certificate of Appropriateness for the four townhouses. Recently, on January 17, 2007, the BAR approved the applicant’s request for after-the-fact approval of the installation of the electric and gas meters on the front facade.

PROJECT DESCRIPTION

The applicant requests approval of an after the fact encroachment, allowing the existing gas meters to encroach upon the public right-of-way. Each of the four gas meters extends approximately 18 inches into the public right-of-way. Each is 1.71 feet wide and two feet in height. Including the gas meters, the sidewalk at this location is approximately eight feet wide. The gas meters are painted to match the building facade and are screened with an evergreen shrub. Originally, the gas meters were proposed to be located on the west side



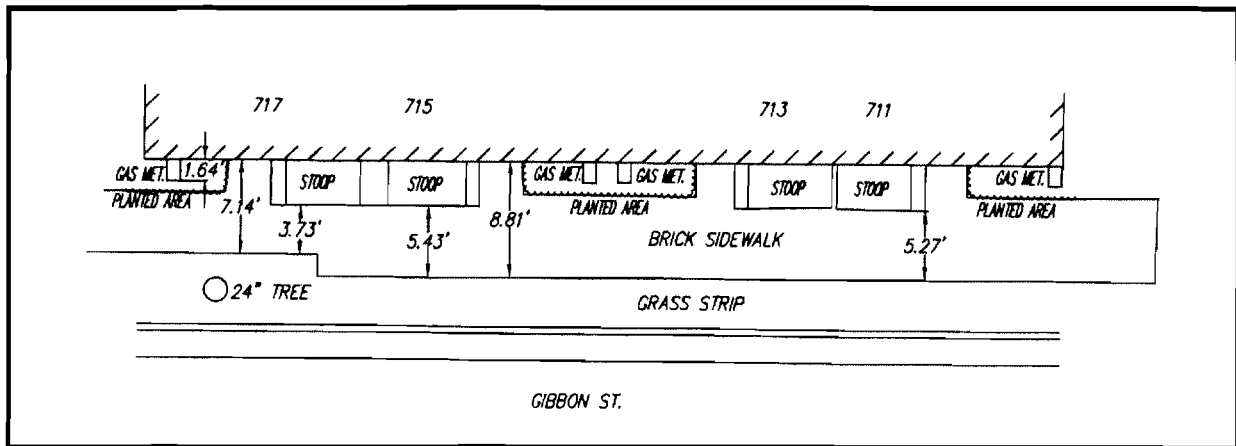
of 717 Gibbon Street. However, due to lack of spacing between 719 and 717 Gibbon Street, the gas company moved each gas meter to the front exterior of each townhouse.

ZONING/MASTER PLAN

The subject property is zoned RM/Townhouse zone, and is located in the Old Town Small Area Plan.

II. STAFF ANALYSIS:

Staff does not object to the proposed encroachment. Staff finds that the existing sidewalk area, with the encroachment, provides sufficient width to accommodate pedestrian traffic. There are existing stoops for each of the townhomes that project further into the right-of-way than the gas meters (stoops are permitted to project 48 inches into the right-of-way in this location; these stoops are approximately 3 ½ feet). Staff finds that the gas meters are properly screened with an evergreen vegetation and have been painted to match the facade of the townhouses. The color of the gas meters in addition to the evergreen vegetation minimize any visual impacts to the building facade. As a matter of policy, staff believes gas meters should be located to the side or behind townhouses, as this



is historically how they have been approved by the Old and Historic Board of Architectural Review since 1990. Although the gas meters were installed without an encroachment approval, staff finds that the encroachment should not impact the right-of-way negatively.

Staff recommends approval of the encroachment subject to the following conditions.

III. STAFF RECOMMENDATION:

Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the following 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. (P&Z)
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 encroachment. (P&Z)
3. A planting plan shall be submitted to RP&CA for review. The planting strip dimensions shall be consistent with the dimensions submitted with this application. (RP&CA)

STAFF: Faroll Hamer, Director, Department of Planning and Zoning;
Richard Josephson, Deputy Director, Department of Planning and Zoning;
James Hunt, Urban Planner; Department of Planning and Zoning

CITY DEPARTMENT COMMENTS

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

Transportation & Environmental Services:

F-1 No comment.

Code Enforcement:

C-1 Location of the gas meter shall comply with Washington Gas regulations.

Health Department:

F-1 No comment.

Police Department:

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

Parks & Recreation:

F-1 The landscaping has been installed and the planting strip is only 29" in depth as opposed to 42" shown in their application.

R-1 A planting plan shall be submitted to RP&CA for review. The planting strip dimensions shall be consistent with the dimensions submitted with this application.

Real Estate:

F-1 No comment.



APPLICATION

ENCROACHMENT

ENC# 2007-0002

PROPERTY LOCATION: 711 - 717 Gibbon Street
TAX MAP REFERENCE: 80.02-01-28, -29, -30, & -31 **ZONE:** CL

APPLICANT

Name: Ellis Denning Construction, L.L.C.
Address: 1300 Piccard Drive, #106, Rockville, MD 20850

PROPERTY OWNER

Name: Ellis Denning Gibbon Street Partners, L.L.C.
Address: 1300 Piccard Drive, #106 Rockville, MD 20850

PROPOSED USE: Four townhomes with 18" encroachments for BAR approved Gas Meter screened by landscaping.

INSURANCE CARRIER (copy attached) Hartford Fire Insurance Co. **POLICY #** GL0101071

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 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.

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 Iso 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.

Mary Catherine Gibbs, Attorney
Print Name of Applicant or Agent
307 N. Washington Street
Mailing/Street Address
Alexandria, VA 22314
City and State Zip Code

Mary Catherine Gibbs by [Signature]
Signature
703-835-5757 703-548-5443
Telephone # Fax #
mcg.hcgk@verizon.net
Email address
27 March 07
Date

Application Received: _____ Date and Fee Paid: \$ _____
ACTION - PLANNING COMMISSION: Recommended Approval 5-0 June 5, 2007 / ACTION - CITY COUNCIL: _____

ACORD CERTIFICATE OF LIABILITY INSURANCE

OP ID RG
ELLIS-2

DATE (MM/DD/YYYY)
02/01/07

PRODUCER Franey Muha Alliant/VA 4530 Walney Road - Suite 200 Chantilly VA 20151 Phone: 703-397-0977 Fax: 703-397-0995	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.		
	INSURERS AFFORDING COVERAGE	NAIC #	
INSURED Ellis Denning Properties LLC Ellis Denning Construction LLC 1300 Piccard Drive, Suite 106 Rockville MD 20850	INSURER A:	Crum & Forster Specialty Ins	
	INSURER B:	Inj Worker Ins Fund/Companion	
	INSURER C:	Hartford Fire Insurance Co	19682
	INSURER D:	Companion Prop & Casualty Ins	
	INSURER E:	ACE USA Insurance	

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 ADD'L LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A		GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	GLO101071	12/23/06	12/23/07	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000 MED EXP (Any one person) \$ Excluded PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
C		AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	42UECTA6685	10/19/06	10/19/07	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY EA ACC \$ AGG \$
D		EXCESS/UMBRELLA LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$ 10,000	82A2FF0000067	06/28/06	06/28/07	EACH OCCURRENCE \$ 3,000,000 AGGREGATE \$ 3,000,000 \$ \$ \$
B		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	4204345 WVA6112586	01/15/07 11/22/06	01/15/08 11/22/07	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
E		OTHER Contractor Equip.	I2087028A	06/27/06	06/27/07	Leased or Rented 100,000

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

Insurance Verification for above Named Insureds and Ellis Denning Gibbon Street LLC. If required by written contract or agreement the City of Alexandria is an Additional Insured with respect to the Named Insureds crossing the certificate holder's property in the course of work at the Gibbon Row project in Alexandria VA.

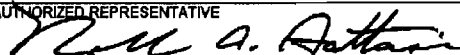
CERTIFICATE HOLDER

ALEXCIT

City of Alexandria, Dept of Transportation & Environ Srvc
 City Hall, Room 4130
 Alexandria VA 22314

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




APPLICATION

ENCROACHMENT

ENC# 2007-0002

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Mary Catherine Gibbs, Attorney
Print Name of Applicant or Agent
307 N. Washington Street
Mailing/Street Address
Alexandria, VA 22314
City and State Zip Code

Mary Catherine Gibbs by [Signature]
Signature
703-835-5757 703-548-5443
Telephone # Fax #
mcg.hcgk@verizon.net
Email address
27 March 07
Date

Application Received: _____	Date and Fee Paid: \$ _____
ACTION - PLANNING COMMISSION: Recommended Approval <u>5-0 June 5, 2007</u>	ACTION - CITY COUNCIL: <u>6/16/07 - CC approved</u> <u>PC recommendation</u>

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SPEAKER'S FORM

DOCKET ITEM NO. 13

PLEASE COMPLETE THIS FORM AND GIVE IT TO THE CITY CLERK
BEFORE YOU SPEAK ON A DOCKET ITEM.

PLEASE ANNOUNCE THE INFORMATION SPECIFIED BELOW PRIOR TO SPEAKING.

- 1. **NAME:** Mary Catherine Gibbs
- 2. **ADDRESS:** 307 N. Washington Street
TELEPHONE NO. 703-836-5757 **E-MAIL:** mcg.hcgk@verizon.net
- 3. **WHOM DO YOU REPRESENT, IF OTHER THAN YOURSELF?**
The Applicant
- 4. **WHAT IS YOUR POSITION ON THE ITEM?**
For
- 5. **NATURE OF YOUR INTEREST IN ITEM (PROPERTY OWNER, ATTORNEY, LOBBYIST, CIVIC INTEREST, ETC.):**
Attorney
- 6. **ARE YOU RECEIVING COMPENSATION FOR THIS APPEARANCE BEFORE COUNCIL?**
Yes

This form shall be kept as a part of the permanent record in those instances where financial interest or compensation is indicated by the speaker.

A maximum of three minutes will be allowed for your presentation, except that one officer or other designated member speaking on behalf of each *bona fide* neighborhood civic association or unit owners' association desiring to be heard on a docket item shall be allowed five minutes. In order to obtain five minutes, you must identify yourself as a designated speaker, and identify the neighborhood civic association or unit owners' association you represent, at the start of your presentation. If you have a prepared statement, please leave a copy with the Clerk.

Additional time not to exceed 15 minutes may be obtained with the consent of the majority of the council present; provided notice requesting additional time with reasons stated is filed with the City Clerk in writing before 5:00 p.m. of the day preceding the meeting.

The public normally may speak on docket items only at public hearing meetings, and not at regular legislative meetings. Public hearing meetings are usually held on the Saturday following the second Tuesday in each month; regular legislative meetings on the second and fourth Tuesdays in each month. The rule with respect to when a person may speak to a docket item at a legislative meeting can be waived by a majority vote of council members present but such a waiver is not normal practice. When a speaker is recognized, the rules of procedures for speakers at public hearing meetings shall apply. If an item is docketed *for public hearing* at a regular legislative meeting, the public may speak to that item, and the rules of procedures for speakers at public hearing meetings shall apply.

In addition, the public may speak on matters which are not on the docket during the Public Discussion Period at public hearing meetings. The mayor may grant permission to a person, who is unable to participate in public discussion at a public hearing meeting for medical, religious, family emergency or other similarly substantial reasons, to speak at a regular legislative meeting. When such permission is granted, the rules of procedures for public discussion at public hearing meetings shall apply.

Guidelines for the Public Discussion Period

- (a) All speaker request forms for the public discussion period must be submitted by the time the item is called by the city clerk.
- (b) No speaker will be allowed more than three minutes; except that one officer or other designated member speaking on behalf of each *bona fide* neighborhood civic association or unit owners' association desiring to be heard during the public discussion period shall be allowed five minutes. In order to obtain five minutes, you must identify yourself as a designated speaker, and identify the neighborhood civic association or unit owners' association you represent, at the start of your presentation.
- (c) If more speakers are signed up than would be allotted for in 30 minutes, the mayor will organize speaker