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Introduction and first reading: 2/12/2008
Public hearing: 2/23/2008
Second reading and enactment: 2/23/2008

INFORMATION ON PROPOSED ORDINANCE

Title

AN ORDINANCE authorizing the owners and tenant of the property located at 923 King Street to establish and maintain an encroachment for a brick veneer wall at that location.

Summary

The proposed ordinance permits the owners and tenant of the property at 923 King Street to construct and maintain the addition of a brick veneer to an existing wall which will encroach approximately five inches into the public right-of-way of North Patrick Street.

Sponsor

Staff

Faroll Hamer, Director, Planning & Zoning
Jill A. Schaub, Senior Assistant 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. _____

1
2
3 AN ORDINANCE authorizing the owners and tenant of the property located at 923 King Street
4 to construct and maintain an encroachment for a brick veneer wall at that location.

5
6 WHEREAS, Conklyn's Florist & S/R Flowers, Inc., are the Owners ("Owners") of
7 the property located at 923 King Street, in the City of Alexandria, Virginia; and
8

9 WHEREAS, Allen Ramazon is the Tenant ("Tenant") of the property located at 923
10 King Street, in the City of Alexandria, Virginia; and
11

12 WHEREAS, Owners and Tenant desire to establish and maintain a brick veneer to an
13 existing wall which will encroach into the public sidewalk right-of-way at that location; and
14

15 WHEREAS, the public sidewalk right-of-way at that location will not be
16 significantly impaired by this encroachment; and
17

18 WHEREAS, this encroachment has been approved by the Planning Commission of
19 the City of Alexandria at one of its regular meetings subject to certain conditions; and
20

21 WHEREAS, it has been determined by the Council of the City of Alexandria that
22 this encroachment is not detrimental to the public interest; now, therefore,
23

24 THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:
25

26 Section 1. That Owners and Tenant be, and the same hereby are, authorized to
27 establish and maintain an encroachment into the public sidewalk right-of-way at 923 King Street,
28 in the City of Alexandria, said encroachment consisting of a brick veneer on the existing block
29 wall that faces west and fronts on North Patrick extending approximately 5 inches into the public
30 right of way for a length of approximately 31.51 feet, as generally shown on the plat attached
31 hereto, and as approved by the Old and Historic Board of Architectural Review, until the
32 encroachment is removed or destroyed or the authorization to maintain it is terminated by the
33 city; provided, that this authorization to establish and maintain the encroachment shall not be
34 construed to relieve Owners or Tenant of liability for any negligence on their part on account of
35 or in connection with the encroachment and shall be subject to the provisions set forth below.
36

37 Section 2. That the authorization hereby granted to establish and maintain said
38 encroachment shall be subject to and conditioned upon Owners and/or Tenant maintaining, at all
39 times and at their own expense, liability insurance, covering both bodily injury and property
40 damage, with a company authorized to transact business in the Commonwealth of Virginia and
41 with minimum limits as follows:
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43 Bodily Injury: \$1,000,000 each occurrence
44 \$1,000,000 aggregate

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Property Damage: \$1,000,000 each occurrence
 \$1,000,000 aggregate

This liability insurance policy shall identify the City of Alexandria and Owners and/or Tenant as named insureds and shall provide for the indemnification of the City of Alexandria and Owners and/or Tenant 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, Owners and Tenant 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 Owners and Tenant. Nothing in this section shall relieve Owners and Tenant of their 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 Owners' or Tenant'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 Owners and Tenant shall be responsible for replacement and repairs to the adjacent City right-of-way, including any areas damaged during construction activity.

Section 4. That by accepting the authorization hereby granted to establish and maintain the encroachment and by so establishing and/or maintaining the encroachment, Owners and Tenant 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 Owners and Tenant 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 Owners or Tenant the removal of the encroachment. Said removal shall be completed by the date specified in the notice and shall be accomplished by Owners or Tenant without cost to the city. If Owners or Tenant 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 Owners or Tenant, and shall not be liable to Owners or Tenant 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 terms "Owners" and "Tenant" shall be deemed to include Conklyn's Florist & S/R Flowers, Inc., Conklyn's Inc., and Allen Ramazon and their respective successors in interest.

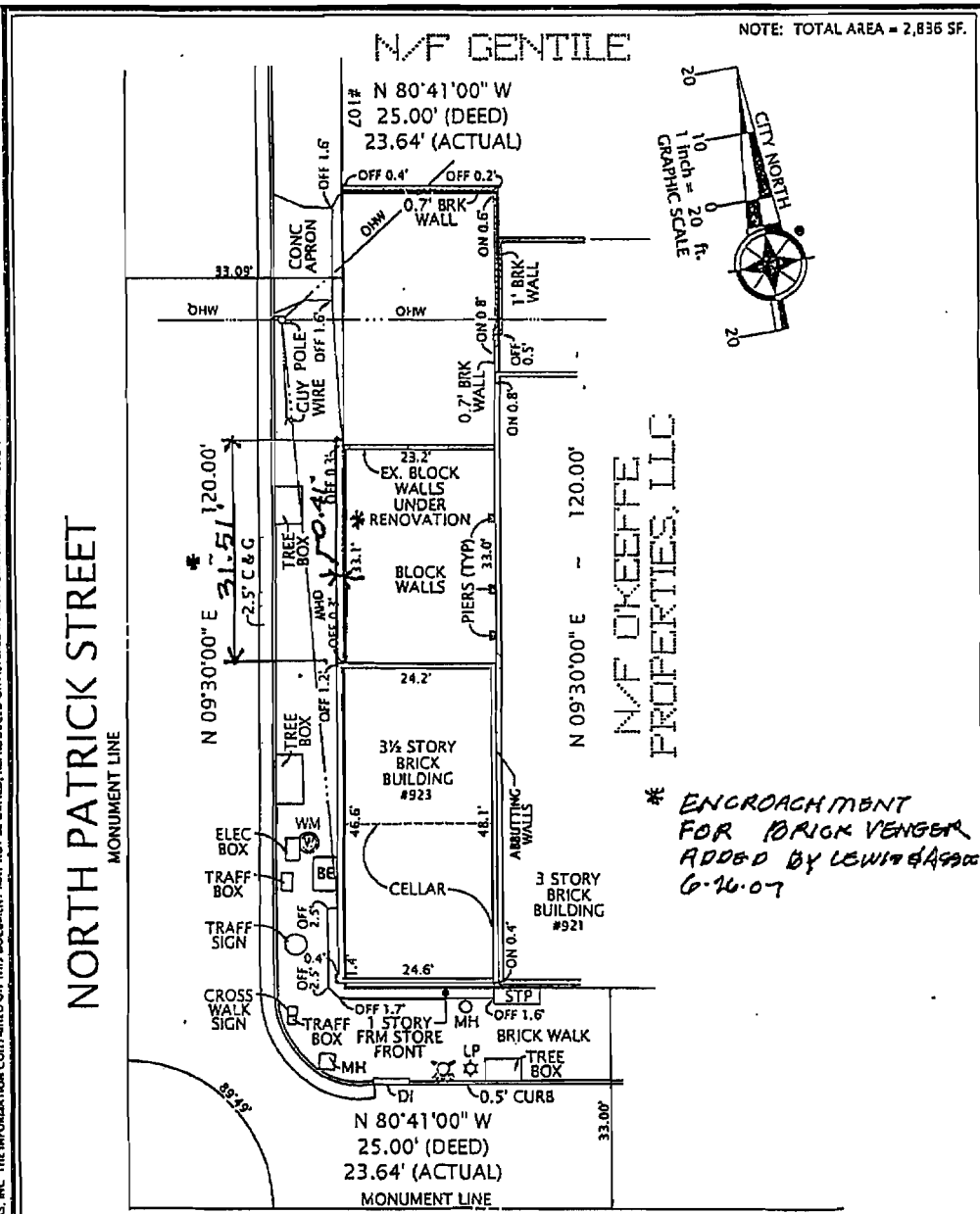
Section 9. That this ordinance shall be effective upon the date and at the time of its final passage.

WILLIAM D. EUILLE
Mayor

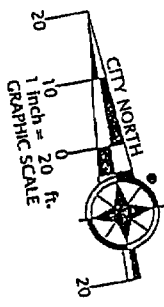
Attachment: Encroachment plat

Introduction: 2/12/08
First Reading: 2/12/08
Publication:
Public Hearing:
Second Reading:
Final Passage:

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NOTE: TOTAL AREA = 2,836 SF.



N/F O'KEEFE PROPERTIES, LLC

* ENCROACHMENT FOR BRICK VENGAR ADDED BY LEWIS & ASSOC. 6-16-07

KING STREET **PLAT**
 SHOWING BUILDING LOCATION ON
 THE PROPERTY LOCATED AT
#923 KING STREET
(DEED BOOK 1706, PAGE 96)
 CITY OF ALEXANDRIA, VIRGINIA
 SCALE: 1" = 20' MAY 8, 2007

I HEREBY CERTIFY THAT THE POSITIONS OF ALL THE EXISTING IMPROVEMENTS HAVE BEEN CAREFULLY ESTABLISHED BY A CURRENT FIELD SURVEY AND UNLESS SHOWN THERE ARE NO VISIBLE ENCROACHMENTS AS OF THIS DATE.

THIS PLAT IS SUBJECT TO RESTRICTIONS OF RECORD.
 A TITLE REPORT WAS NOT FURNISHED.
 NO CORNER MARKERS SET.

COMMONWEALTH OF VIRGINIA

05/08/2007

GEORGE M. O'QUINN

LICENSE NO. 2069

LAND SURVEYOR

George M. O'Quinn

CASE NAME:
 ALLEN RAMAZON
 C/O RAY LEWIS

DOMINION Surveyors Inc.®

8808-H PEAR TREE VILLAGE COURT
 ALEXANDRIA, VIRGINIA 22309
 703-619-6555
 FAX: 703-799-6412