

Introduction and first reading:	11/19/07
Public hearing:	11/27/07
Second reading and enactment:	11/27/07

INFORMATION ON PROPOSED ORDINANCE

Title

AN ORDINANCE authorizing the owners of 711, 713, 715 and 717 Gibbon Street to establish and maintain an encroachment for four gas meters at the subject properties in the City of Alexandria, Virginia.

Summary

The proposed ordinance permits the developer and subsequent owners of four residential townhouses at 711-717 Gibbon Street to maintain an encroachment for gas meters on the front facades of the buildings, extending approximately eighteen inches into the public side walk right-of-way. The gas meters are painted to match the building facades and must be screened with appropriate plantings.

Sponsor

Staff

Farroll 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. _____

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2
3 AN ORDINANCE authorizing the owners of 711, 713, 715 and 717 Gibbon Street to establish
4 and maintain an encroachment for four gas meters at the subject properties in the City of
5 Alexandria, Virginia.

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7 WHEREAS, Ellis Denning Construction, L.L.C. is the owner of the properties
8 located at 711, 713, 715 and 717 Gibbon Street, in the City of Alexandria, Virginia, and, together
9 with its successors in interest as owner(s) of the subject properties, are referred to as "Owners"
10 herein; and

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12 WHEREAS, Owners desire to establish and maintain four gas meters which will
13 encroach into the public sidewalk right-of-way at 711, 713, 715 and 717 Gibbon Street; and

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15 WHEREAS, the public sidewalk right-of-way at that point on at 711, 713, 715 and
16 717 Gibbon Street will not be significantly impaired by this encroachment; and

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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

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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:
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26 Section 1. That Owners be, and the same hereby are, authorized to establish and
27 maintain an encroachment into the public sidewalk right-of-way at 711, 713, 715 and 717
28 Gibbon Street, in the City of Alexandria, said encroachment consisting of four gas meters, each
29 of which is 1.71 feet wide and two feet in height, and will generally encroach approximately 18
30 inches into the public right of way, and as approved by the Old and Historic Board of
31 Architectural Review, until the encroachment is removed or destroyed or the authorization to
32 maintain it is terminated by the city; provided, that this authorization to establish and maintain
33 the encroachment shall not be construed to relieve Owners of liability for any negligence on its
34 part on account of or in connection with the encroachment and shall be subject to the provisions
35 set forth below.

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37 Section 2. That the authorization hereby granted to establish and maintain said
38 encroachment shall be subject to and conditioned upon Owners maintaining, at all times and at
39 their own expense, liability insurance, covering both bodily injury and property damage, with a
40 company authorized to transact business in the Commonwealth of Virginia and with minimum
41 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 as named insureds and shall provide for the indemnification of the City of Alexandria and Owners 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 shall, upon notice from the city, remove the encroachment from the public right-of-way, or these city, at its option, may remove the encroachment at the expense and risk of Owner. Nothing in this section shall relieve Owners 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' 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 gas meters shall be painted to match the building facade and the gas meters shall be screened with evergreen shrubs or foliage to the satisfaction of the Director of Recreation, Parks & Cultural Activities.

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 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 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

1 Owners the removal of the encroachment. Said removal shall be completed by the date specified
2 in the notice and shall be accomplished by Owners without cost to the city. If Owners cannot be
3 found, or shall fail or neglect to remove the encroachment within the time specified, the city shall
4 have the right to remove the encroachment, at the expense of Owners, and shall not be liable to
5 Owners for any loss or damage to the structure of the encroachment or personal property within
6 the encroachment area, caused by the removal.

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

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12 WILLIAM D. EUILLE
13 Mayor
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15 Introduction: 11/19/07
16 First Reading:
17 Publication:
18 Public Hearing:
19 Second Reading:
20 Final Passage:
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