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Introduction and first reading: 09/08/2009  
Public hearing: 09/12/2009  
Second reading and enactment: 09/12/2009

INFORMATION ON PROPOSED ORDINANCE

Title

AN ORDINANCE authorizing North Parkway, L.L.C., and its successors in interest, to establish and maintain an encroachment for a stairway and landscape planter wall into the public sidewalk right-of-way at adjacent to 532 North Washington Street, in the City of Alexandria, Virginia.

Summary

The proposed ordinance permits the owner to establish and maintain an encroachment for a stairway and landscape planter wall into the public sidewalk right-of-way at 532 North Washington Street, in the City of Alexandria, Virginia.

Sponsor

Staff

Faroll Hamer, Director, Planning & Zoning  
James L. Banks, Jr., City Attorney  
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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AN ORDINANCE authorizing North Parkway, L.L.C., and its successors in interest, to establish and maintain an encroachment for a stairway and landscape planter wall into the public sidewalk right-of-way at 532 North Washington Street, in the City of Alexandria, Virginia.

WHEREAS, North Parkway, L.L.C., is the Owner of the property located at 532 North Washington Street, in the City of Alexandria, Virginia; and

WHEREAS, Owner desires to establish and maintain a landscape planter wall and stairs which will encroach into the public right-of-way at 532 North Washington Street; and

WHEREAS, the public rights-of-way at this location of the sidewalk adjacent to 532 North Washington Street 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 over the public right-of-way at 532 North Washington Street in the City of Alexandria, said encroachment consisting of stairs located along the front of the premises facing North Washington Street extending approximately 7.9 feet into the public right-of-way for a width of approximately 7 feet; and also consisting of a one-foot tall landscape planter, extending approximately 6.7 feet into the public right-of-way for the entire length of the building, except in the location of the aforementioned stairs, as generally shown on the plat/final site plan attached hereto and approved by DSP # 2007-0011, 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 its 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 its 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

1                           Property Damage:                 \$1,000,000 each occurrence  
2   \$1,000,000 aggregate  
3

4 This liability insurance policy shall identify the City of Alexandria as an additional insured and  
5 shall provide coverage for the City of Alexandria and Owner against claims, losses or actions  
6 occasioned by the establishment, construction, placement, existence, use or maintenance of the  
7 encroachment. Evidence of the policy and any renewal thereof shall be filed with the city  
8 attorney's office. Any other provision herein to the contrary notwithstanding, in the event this  
9 policy of insurance lapses, is canceled, is not renewed or otherwise ceases to be in force and  
10 effect, the authorization herein granted to establish and maintain the encroachment shall, at the  
11 option of the city, forthwith and without notice or demand by the city, terminate. In that event,  
12 Owner shall, upon notice from the city, remove the encroachment from the public right-of-way,  
13 or the city, at its option, may remove the encroachment at the expense and risk of Owner.  
14 Nothing in this section shall relieve Owner of its obligations and undertakings required under this  
15 ordinance.  
16

17                           Section 3. That the authorization hereby granted to establish and maintain said  
18 encroachment shall in addition be subject to and conditioned upon the following terms:  
19

- 20           (a)       Neither the City of Alexandria nor any public or private utility company shall be  
21                       responsible for damage to Owner's property encroaching into the public right-of-way  
22                       during repair, maintenance or replacement of the public right-of-way of any public  
23                       facilities or utilities in the area of encroachment.  
24
- 25           (b)       The Owner shall be responsible for replacement and repairs to the adjacent City  
26                       right-of-way, including any areas damaged during construction activity.  
27

28                           Section 4. That by accepting the authorization hereby granted to establish and  
29 maintain the encroachment and by so establishing and/or maintaining the encroachment, Owner  
30 shall be deemed to have promised and agreed to save harmless the City of Alexandria from any  
31 and all liability (including attorneys' fees and litigation expenses) arising by reason of the  
32 establishment, construction, placement, existence, use or maintenance of the encroachment.  
33

34                           Section 5. That the authorization herein granted to establish and maintain the  
35 encroachment shall be subject to Owner maintaining the area of the encroachment at all times  
36 unobstructed and free from accumulation of litter, snow, ice and other potentially dangerous  
37 matter.  
38

39                           Section 6. That nothing in this ordinance is intended to constitute, or shall be  
40 deemed to be, a waiver of sovereign immunity by or on behalf of the City of Alexandria or any of  
41 its officers or employees.  
42

1 Section 7. That the authorization herein granted to establish and maintain the  
2 encroachment shall be terminated whenever the City of Alexandria desires to use the affected  
3 public right-of-way for any purpose whatsoever and, by written notification, demands from  
4 Owner the removal of the encroachment. Said removal shall be completed by the date specified  
5 in the notice and shall be accomplished by Owner without cost to the city. If Owner cannot be  
6 found, or shall fail or neglect to remove the encroachment within the time specified, the city shall  
7 have the right to remove the encroachment, at the expense of Owner, and shall not be liable to  
8 Owner for any loss or damage to the structure of the encroachment or personal property within  
9 the encroachment area, caused by the removal.

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11 Section 8. The term "Owner" shall be deemed to include North Parkway, L.L.C. and  
12 respective successors in interest.

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

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18 WILLIAM D. EUILLE  
19 Mayor

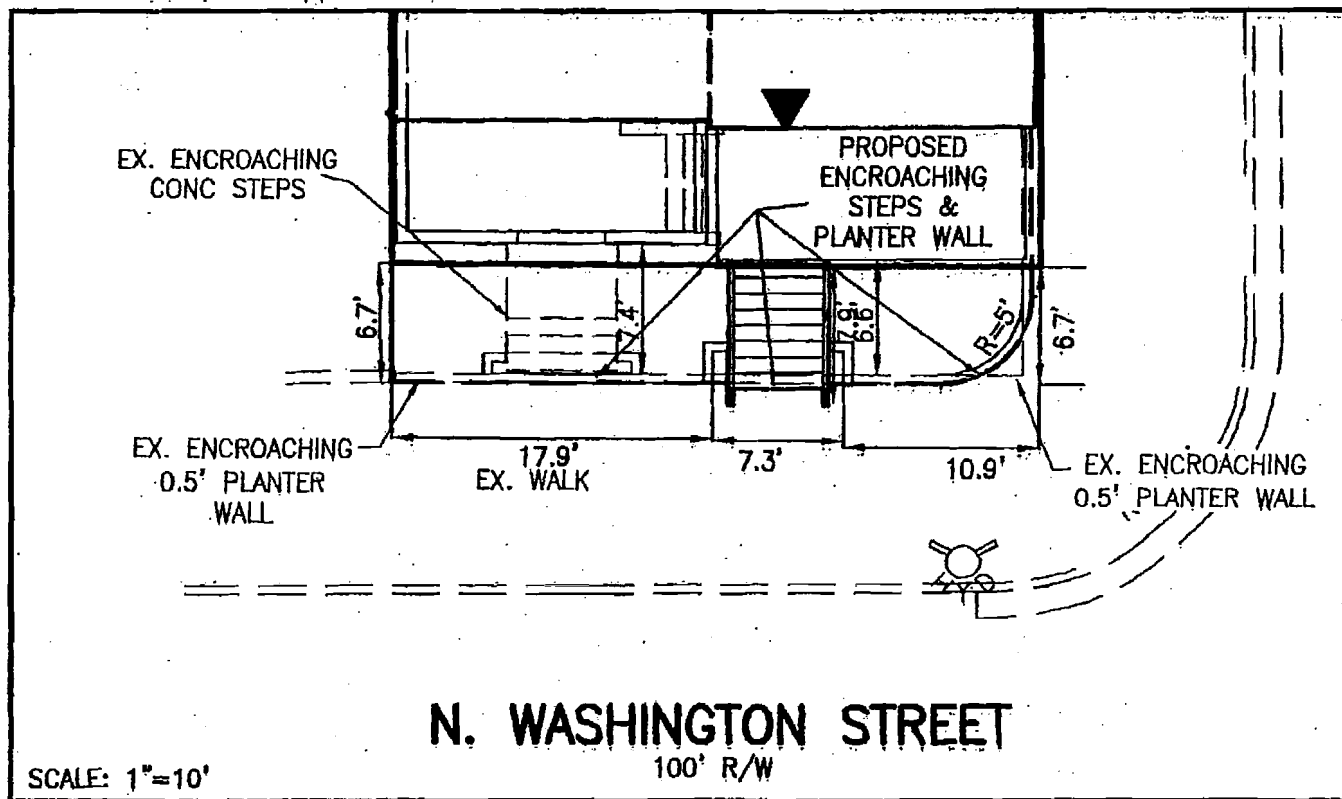
20 Attachment: Encroachment Detail

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24 Introduction: 09/08/2009  
25 First Reading: 09/08/2009  
26 Publication:  
27 Public Hearing:  
28 Second Reading:  
29 Final Passage:

TELEPHONE LINES		
STORM SEWER		
SANITARY SEWER		
PAVING		
FENCES		
POWER LINES		
SPOT ELEVATIONS	+124.5	+124.5
CONTOURS	124	124

### ENCROACHMENT DETAIL

SCALE: 1"=10'



MERRILL