

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

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.

SITE GRAPHIC
AVAILABLE IN THE PLANNING AND ZONING OFFICE

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.

ENC #2004-0007
833 South Fairfax Street

**REPORT ATTACHMENTS
AVAILABLE IN THE PLANNING AND ZONING OFFICE**