

ORDINANCE NO. 3302

AN ORDINANCE authorizing the owner of the property at 1180 Pendleton Street to maintain an encroachment, approximately 6.20 feet in width and 154.40 feet in length, into the public right-of-way of North Fayette Street for the construction of a portion of six parking spaces.

WHEREAS, Mehdi Falsafi is the owner of the premises located at the southeast corner of the intersection of North Fayette Street and Pendleton Street in the City of Alexandria, Virginia; and

WHEREAS, Mr. Falsafi is renovating the commercial building located on the subject premises; and

WHEREAS, the building on this site almost completely covers the lot on which it is located and, in order to provide 12 off-street parking spaces along the North Fayette Street side of the property, portions of six of those parking spaces must encroach into the public right-of-way of North Fayette Street a maximum distance of 6.20 feet; and

WHEREAS, the said encroachment of 6.20 feet along the entire west side of the subject lot facing North Fayette Street, a distance of 154.40 feet, has been approved by the city planning commission; and

WHEREAS, the Council of the City of Alexandria has determined that this encroachment is not detrimental to the public interest; therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That the owner of the property at 1180 Pendleton Street and his successors in title (collectively, the "Owner") be and the same hereby are authorized to maintain an encroachment, 6.20 feet deep into the public right-of-way along the west side of North Fayette Street, for a distance of 154.40 feet, more particularly described as follows:

Beginning at a point at the intersection of the southerly right-of-way line of Pendleton Street (66 feet wide) with the easterly right-of-way line of North Fayette Street (66 feet wide); thence with said line of North Fayette Street, South 09° 30' 00" West, 154.40 feet to a point marking the northwest corner of Lot 502, Alexandria Hay & Grain Subdivision; thence departing said line of North Fayette Street and running through said street the following courses and distances: North 80° 39' 00" West, 6.20 feet to a point, North 09° 30' 00" East, 154.40 feet to a

point, and South 80° 39' 00" East, 6.20 feet to the point of beginning, containing 957 square feet.

until such encroachment is removed or terminated; provided, that the privilege to maintain the encroachment shall not be construed to relieve the Owner of liability for any negligence on its part on account of or in connection with such encroachment; and provided further, that this privilege shall be subject to the hereinafter contained provisions.

Section 2. That the privilege hereby granted to maintain this encroachment shall be subject to the Owner, at all times, maintaining the encroachment in conformity with all applicable codes and ordinances, including section 3-2-85 of The Code of the City of Alexandria, 1981, as amended, and the staff recommendations approved by the planning commission on May 3, 1988.

Section 3. That the privilege hereby granted to maintain this encroachment shall be subject to the Owner maintaining at all times in full force and effect public liability and property damage insurance, with a company authorized to transact business in the Commonwealth of Virginia, with minimum limits as follows:

Bodily Injury:	\$500,000 each occurrence
	\$500,000 aggregate
All Risk Property Damage:	\$500,000 each occurrence
	\$500,000 aggregate

said policies of insurance to identify the City of Alexandria and the Owner, or his successors in interest, as named insureds, and to indemnify the City of Alexandria and the Owner against all loss occasioned by the existence, placement, use or maintenance of said encroachment, such policy or policies and evidence of any renewal thereof to be presented to the city attorney for approval; provided, that any other provision herein to the contrary notwithstanding, in the event such policy or policies of insurance shall lapse, be canceled, be not renewed or otherwise cease to be in force and effect, the privilege herein granted shall, at the option of the city, forthwith and without notice or demand by the city cease and determine, and the Owner shall remove said encroachment from the public right-of-way, or the city, at its option, may remove same at the expense and risk of the Owner; provided, further, that nothing in this section 3 shall relieve the Owner of his obligations and undertakings required under this ordinance.

Section 4. That the existence, placement, use and maintenance of this encroachment, pursuant to the privilege hereby granted, shall be considered an agreement by the Owner to save harmless the City of Alexandria and its officers, agents and employees from any and all demands, claims, causes of actions,

suits and liability made, filed or alleged against it or them by reason of the existence, placement, use and maintenance of the encroachment.

Section 5. That nothing herein contained shall be deemed a waiver of sovereign immunity by or on behalf of the City of Alexandria.

Section 6. That the privilege hereby granted to maintain the encroachment shall be terminated whenever the City of Alexandria shall desire to use any or all of the portion of the public right-of-way that is subject to the encroachment for any purpose whatsoever and shall, by written notification, demand from the Owner the removal of the encroachment, which removal shall be completed promptly, within no more than 60 days from the date of such notice, without cost to the City of Alexandria; provided, that, if the Owner cannot be found, or shall fail or neglect to remove the encroachment when required to do so, the city shall have the right to remove same at the expense of the Owner and, in doing so, the city shall not be liable for any loss or damage to the encroachment whatsoever.

Section 7. That the title of and an informal memorandum explaining this ordinance shall be published in a newspaper of general circulation published in the city not later than five days following its introduction, together with a notice containing the time and place for a public hearing. The city clerk shall have the full text of this ordinance printed in sufficient numbers to supply copies to meet requests. The city clerk shall note the date of introduction and first reading, the date of publication, the date of the public hearing, and the date of the second reading and final passage in the minutes of the meeting. This ordinance shall become effective on the date of its final passage.

JAMES P. MORAN, JR.  
Mayor

Final Passage: June 18, 1988