

ORDINANCE NO. 3829

AN ORDINANCE authorizing the owner of 123 North Alfred Street and the owner's successors in title, to establish and maintain an encroachment into the public right-of-way of 123 North Alfred Street, in the City of Alexandria, Virginia.

WHEREAS, Lawrence N. Brandt, Inc., is the developer of the Church Square Project which includes the property located at 123 North Alfred Street in the City of Alexandria, Virginia; and

WHEREAS, on November 13, 1993, City Council adopted Ordinance No. 3682 in conjunction with the Church Square Project which authorized encroachments of four to six feet into the public right-of-way of the 100 block of North Alfred Street for steps, stoops and planting areas for an office building and a townhouse; and

WHEREAS, the final review for the certificate of occupancy for the office building at 123 North Alfred Street shows that the building's entry stairs project 0.31 feet, over a length of 14.78 feet, comprising an area of 4.58 square feet, beyond the limits of the encroachment authorized by Ordinance No. 3682, with the result that the sidewalk width in front of the office building measures approximately 3.17 feet instead of the 3.73 feet provided for in Ordinance No. 3682; and

WHEREAS, Lawrence N. Brandt, Inc., has now applied for permission for an additional 0.31 feet, over a length of 14.78 feet, for the entry steps of the building at 123 North Alfred Street to encroach into the public right-of-way of North Alfred Street, as shown on the July 6, 1995, plat entitled "Plat Showing Encroachment Easement Located in a Portion of North Alfred Street for Lot 17, Church Square" prepared by Holland Engineering (the "Plat") (attached hereto); and

WHEREAS, the public right-of-way of 123 North Alfred Street will not be significantly impaired by the requested encroachment; and

WHEREAS, this encroachment has been reviewed by the Planning Commission of the City of Alexandria at one of its regular meetings; and

WHEREAS, it has been determined by the Council of the City of Alexandria 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 123 North Alfred Street, and said owner's successors in title (hereafter collectively the "Owner") be, and the same hereby are, authorized to establish and maintain an encroachment into the public right-

of-way of 123 North Alfred Street in the City of Alexandria, as shown in the Plat, said encroachment consisting of entry steps protruding 0.31 feet, over a length of 14.78 feet, into the public right-of-way of North Alfred Street, as shown on the Plat, until said 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 (a) installing and maintaining handrails at each end of the staircase for the building located at 123 North Alfred Street to the satisfaction of the director of transportation and environmental services, and (b) obtaining and 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

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

This liability insurance policy shall identify the City of Alexandria and Owner as named insureds and shall provide for the indemnification of the City of Alexandria and Owner 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, Owner 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 Owner. Nothing in this section shall relieve Owner of its obligations and undertakings required under this ordinance.

Section 3. That by accepting the authorization hereby granted to establish and maintain the encroachment and by so establishing and/or maintaining the encroachment, Owner 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 4. That the authorization herein granted to establish and maintain the encroachment shall be subject to Owner's maintaining the area of the encroachment at all times unobstructed and free from accumulation of litter, snow, ice and other potentially dangerous matter.

Section 5. 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 6. That Owner shall timely pay to the City of Alexandria for the encroachment authorized herein the annual charge established in § 3-2-85 of The Code of the City of Alexandria, 1981, as amended.

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 Owner the removal of the encroachment. Said removal shall be completed within 60 days of notification by the city, and shall be accomplished by Owner without cost to the city. If Owner 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 Owner, and shall not be liable to Owner for any loss or damage to the structure of the encroachment caused by the removal.

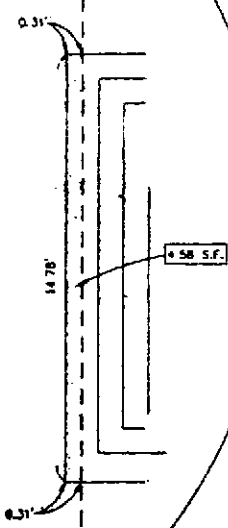
Section 8. That this ordinance shall be effective upon the date and at the time of its final passage.

PATRICIA S. TICER
Mayor

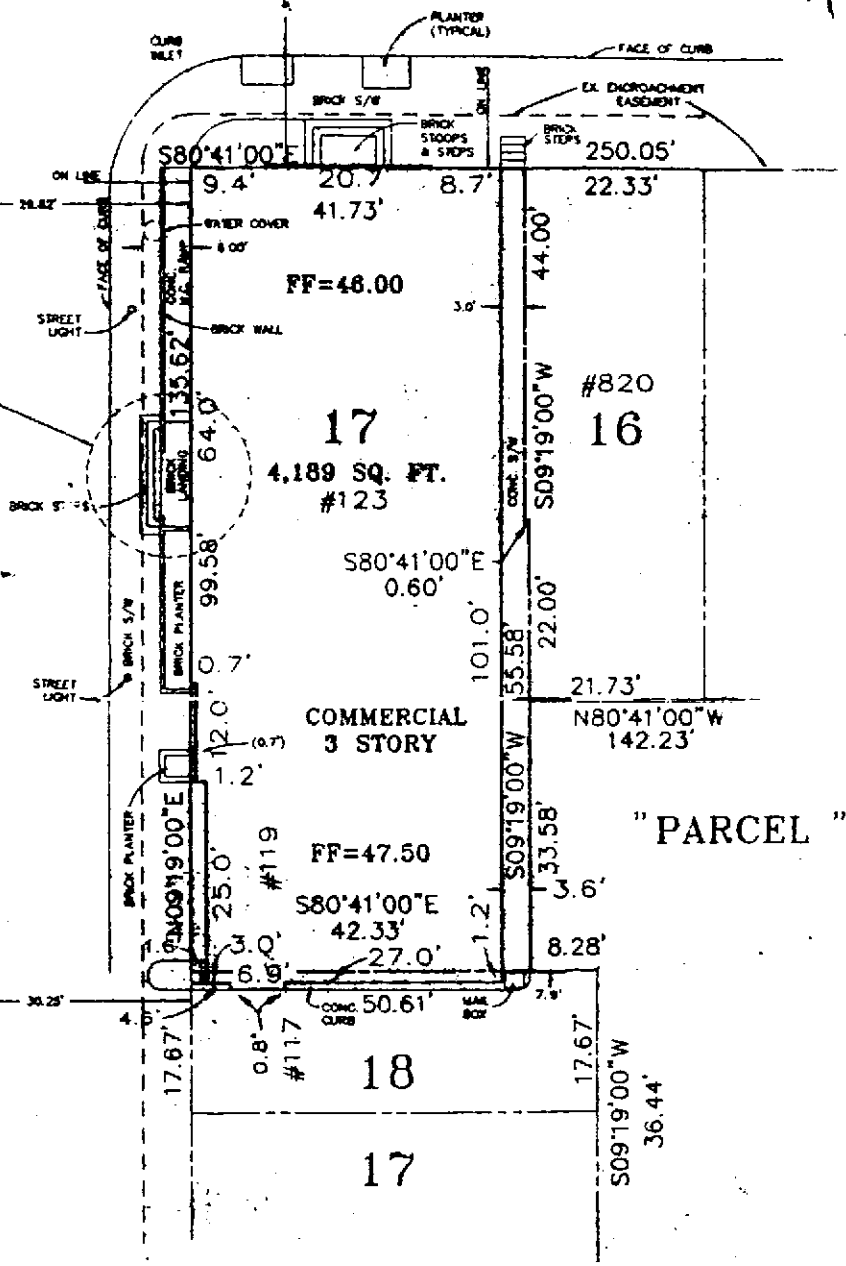
Final Passage: October 14, 1995

CAMERON STREET

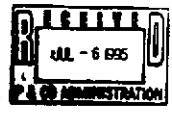
(VARIABLE WIDTH)



NORTH ALFRED STREET
(VARIABLE WIDTH)



ENC.
95-0010



PLAT SHOWING
ENCROACHMENT EASEMENT
LOCATED IN A PORTION OF
NORTH ALFRED STREET
FOR
LOT 17, CHURCH SQUARE
CITY OF ALEXANDRIA, VIRGINIA
SCALE: 1" = 10' DATE: JULY 6, 1995

I HEREBY CERTIFY THAT THE POSITIONS OF ALL EXISTING IMPROVEMENTS HAVE BEEN CAREFULLY ESTABLISHED BY A TRANSIT TAPE SURVEY AND UNLESS OTHERWISE SHOWN, THERE ARE NO VISIBLE ENCROACHMENTS.
NO TITLE REPORT FURNISHED.
PROPERTY DELINEATED HEREON IS NOT LOCATED WITHIN 100 YEAR FLOOD ZONE AS SHOWN ON THE FLOOD INSURANCE RATE MAP PREPARED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.



HOLLAND ENGINEERING
2111 EISENHOWER AVENUE
ALEXANDRIA, VIRGINIA 22304
(703) 542-1198
DRAWN BY: J.G.
CHECKED BY: J.G.
F.B. (P.E.) 12/23/94
SCALE: 1" = 10'
JOB NO. BLK-262