



DOCKET ITEM #5
Encroachment #2020-00003
1217 Colonial Avenue

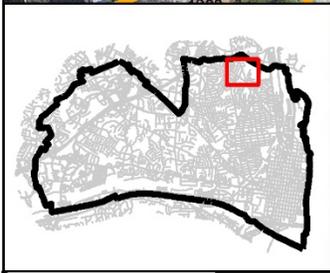
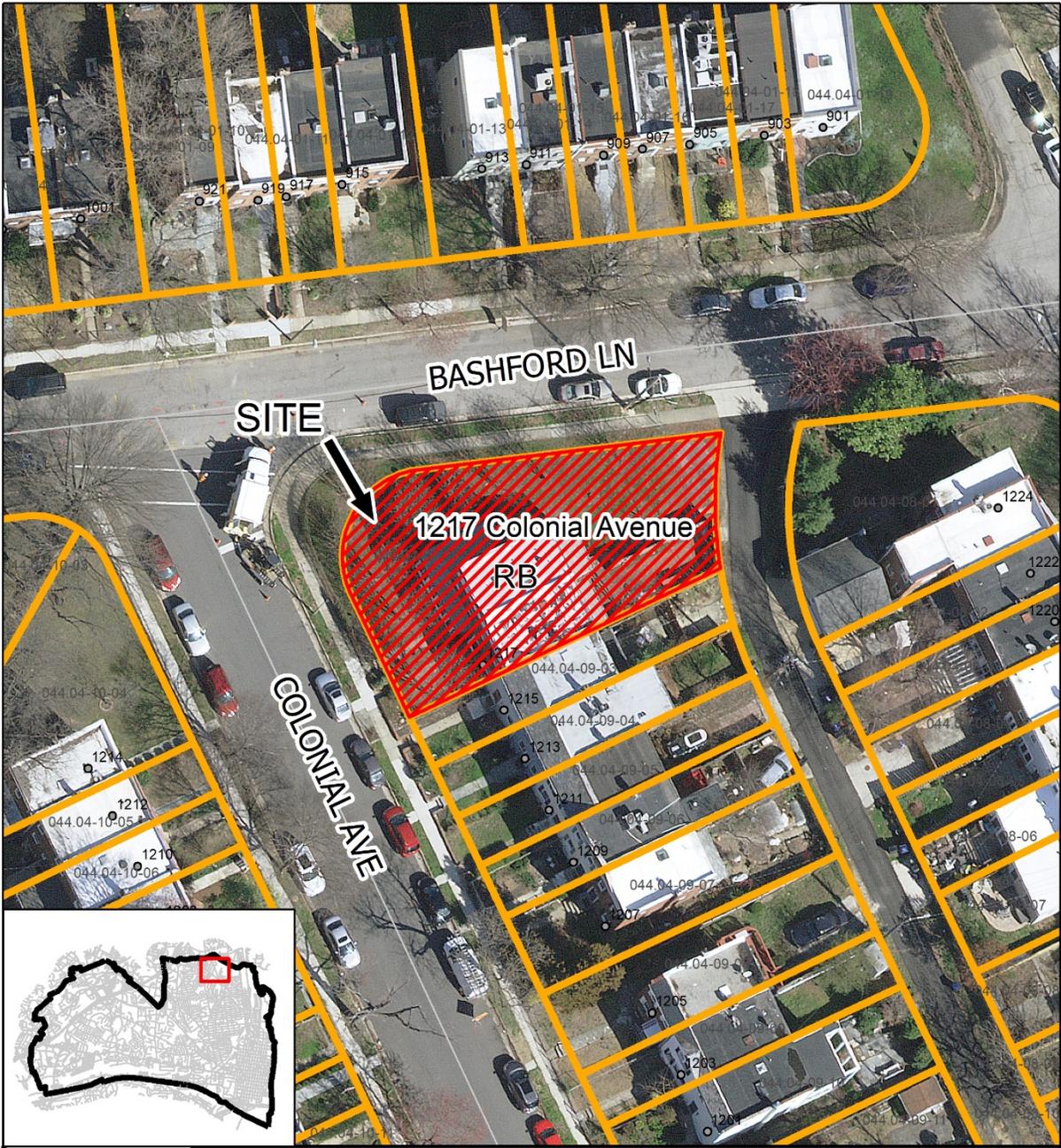
CONSENT AGENDA ITEM

If no one asks to speak about this case prior to the hearing, it will be approved without discussion as part of the Consent Agenda.

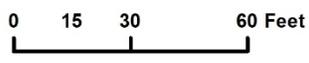
Application	General Data	
Request: Public hearing and consideration of a request for an encroachment into the public right-of-way on Colonial Avenue for a retaining wall.	Planning Commission Hearing:	September 1, 2020
	City Council Hearing:	September 12, 2020
Address: 1217 Colonial Avenue	Zone:	RB/Residential Townhouse
Applicant: John D. Bullington represented by Minturn Wright, attorney	Small Area Plan:	Northeast

Staff Recommendation: APPROVAL subject to compliance with all applicable codes and ordinances and the recommended permit conditions found in Section III of this report.

Staff Reviewers: Sam Shelby, sam.shelby@alexandriava.gov
Ann Horowitz, ann.horowitz@alexandriava.gov



**Encroachment #2020-0003
1217 Colonial Avenue**



PROJECT LOCATION MAP

I. DISCUSSION

The applicant, John D. Bullington represented by Minturn Wright, attorney, requests after-the-fact Encroachment (ENC) approval for an existing retaining wall located in the public right-of-way on Colonial Avenue.

SITE DESCRIPTION

The subject property is a standard lot of record at the southeast corner of Colonial Avenue and Bashford Lane. A 20-foot wide alley runs along the subject property's east side. The subject property contains 5,674 square feet of lot area and has 62.24 and 105.49 feet of frontage along Colonial Avenue and Bashford Lane, respectively. A two-story single-family, end unit townhouse dwelling occupies the subject property. The dwelling provides 25.1 and 18.9-foot front yards along Colonial Avenue and Bashford Lane, respectively. It provides a 45.7-foot east side yard. Townhouse dwellings surround the subject property on all sides.



Figure 1 - Subject property with retaining wall in foreground

BACKGROUND

On June 20, 2020 City Council approved Special Use Permit #2019-0117 to allow for a parking reduction and lot modification for two townhouse dwellings at the subject property. On June 2, 2020, Planning Commission approved Subdivision #2019-0023 which allowed the applicant to restore the historic lot configuration at the subject property. As part of the subdivision approval, Planning Commission required the applicant to seek vacation or encroachment approval for a since-removed chain link fence and the brick retaining wall prior to final City review of the subdivision plat. The brick retaining wall is the subject of this encroachment application.

PROPOSAL

The applicant requests after-the-fact approval for a 62 square foot area of public right-of-way along Colonial Avenue. This area is occupied by an existing brick retaining wall. The proposed area of encroachment is shown in figure two, below, and measures approximately 15.2 by 4 feet.

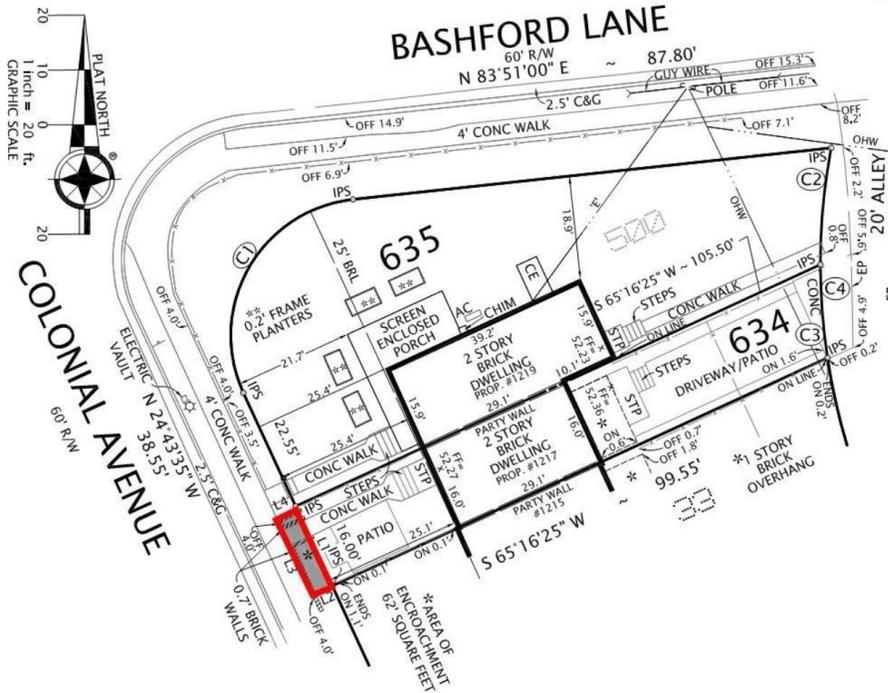


Figure 2 – Proposed encroachment area outlined in red

ZONING/MASTER PLAN

The subject site is located within the Northeast Small Area Plan (SAP). The existing residential uses and the encroachment request would be consistent with the SAP which designates the subject property for residential use and has not identified specific plans for the proposed encroachment area.

II. STAFF ANALYSIS

Staff supports the applicant's encroachment request. Although an after-the-fact request, the applicants have diligently pursued corrective actions. The retaining wall along Colonial Avenue appears to have been there for many years and provides an opportunity for landscaping which improves the appearance of the street. Pedestrian movement along the adjacent sidewalk would not be impacted.

Staff considered whether a vacation of right-of-way would have been appropriate in this case. A vacation would establish the applicant's property line directly along the City sidewalk along Colonial Avenue. This configuration could interfere with future sidewalk improvement or widening projects. Further, it would create an irregular street line along the block as no other properties along Colonial Avenue are configured as the subject property would be if a vacation were sought. Given the foregoing, staff found that an encroachment would be the appropriate application for this case.

Staff has included standard encroachment conditions requiring liability insurance (Condition #1) and that the City and utility companies shall not be held responsible for any damage to private improvements in the encroachment area while utility repairs occur (Condition #2).

Subject to the conditions contained in Section III of this report staff recommends approval of this request.

III. RECOMMENDED CONDITIONS

Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the following conditions:

1. The owner shall obtain and maintain a policy of general liability insurance in the amount of \$1,000,000 which will indemnify the owner (and all successors in interest); and the City as an additional insured, against claims, demands, suits and related costs, including attorneys' fees, arising from an bodily injury or property damage which may occur as a result of the encroachment. (Sec. 5-29(h)(1)). (T&ES)

**Please submit Insurance Certificate:
City of Alexandria T&ES
Attn: Development Services
301 King Street, Room 4130
Alexandria, VA 22314**

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 replacement of any utilities that may be located within the area of the proposed encroachment. (T&ES)
3. In the event the City shall, in the future, have need for the area of the proposed encroachment, the applicant shall remove any structure that encroached into the public right-of-way, within 60 days, upon notification by the City. (T&ES)
4. The applicant shall bear all the cost associated with any future removal of the encroachments. (T&ES)

STAFF: Tony LaColla, AICP, Division Chief, Department of Planning and Zoning
Ann Horowitz, Principal Planner, Department of Planning and Zoning
Sam Shelby, Urban Planner, Department of Planning and Zoning

CITY DEPARTMENT COMMENTS

Legend: C - code requirement R - recommendation S - suggestion F - finding

Transportation & Environmental Services:

- R-1 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 replacement of any utilities that may be located within the area of the proposed encroachment. (T&ES)
- R-2 In the event the City shall, in the future, have need for the area of the proposed encroachment, the applicant shall remove any structure that encroached into the public right-of-way, within 60 days, upon notification by the City. (T&ES)
- R-3 The applicant shall bear all the cost associated with any future removal of the encroachments. (T&ES)
- R-4 The owner shall obtain and maintain a policy of general liability insurance in the amount of \$1,000,000 which will indemnify the owner (and all successors in interest); and the City as an additional insured, against claims, demands, suits and related costs, including attorneys' fees, arising from an bodily injury or property damage which may occur as a result of the encroachment. (sec. 5-29(h)(1)). (T&ES)

**Please submit Insurance Certificate:
City of Alexandria T&ES
Attn: Development Services
301 King Street, Room 4130
Alexandria, VA 22314**

Code Enforcement:

No comments.

Health Department:

No comments received.

Parks and Recreation:

No comments received.

Police Department:

No comments received.

Fire Department:

No comments.



APPLICATION

ENCROACHMENT

PROPERTY LOCATION: 1217 Colonial Avenue (proposed Lot 635 / 1219 Colonial Avenue)

TAX MAP REFERENCE: 044.04-09-36 **ZONE:** RB

APPLICANT

Name: John D. Bullington by Minturn Wright, atty.

Address: Box 74, Viola, Tennessee 37394

PROPERTY OWNER

Name: John D. Bullington by Minturn Wright, atty.

Address: Box 74, Viola, Tennessee 37394

PROPOSED USE:

residential

INSURANCE CARRIER (copy attached) State Farm **POLICY #** 46-03-7433-0

A certificate of general liability insurance in the amount of \$1,000,000 which will indemnify the owner and names the city as an additional insured must be attached to this application.

- THE UNDERSIGNED hereby applies for an Encroachment Ordinance in accordance with the provisions of Section 8-1-16 and Sections 3-2-82 and 85 of the Code of the City of Alexandria, Virginia.
- THE UNDERSIGNED, having obtained permission from the property owner, hereby grants permission to the City of Alexandria staff and Commission Members to visit, inspect, and photograph the building premises, land etc., connected with the application.
- THE UNDERSIGNED, having obtained permission from the property owner, hereby grants permission to the City of Alexandria to post placard notice on the property for which this application is requested, pursuant to Article XI, Section 11-301 (B) of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.
- THE UNDERSIGNED also attests that all of the information herein provided and specifically including all surveys, drawings, etc., required of the applicant are true, correct and accurate to the best of their knowledge and belief.

John D. Bullington by Minturn Wright, atty.

Print Name of Applicant or Agent

124 S. Royal Street

Mailing/Street Address

Alexandria, Va. 22314

City and State

Zip Code

Signature

571-620-1930 571-620-1931

Telephone #

Fax #

mwright@smw.law

Email address

June 4, 2020

Date

OWNERSHIP AND DISCLOSURE STATEMENT

Use additional sheets if necessary

1. Applicant. State the name, address and percent of ownership of any person or entity owning an interest in the applicant, unless the entity is a corporation or partnership, in which case identify each owner of more than three percent. The term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

Name	Address	Percent of Ownership
1. John D. Bullington	P.O. Box 74, Viola, Tennessee 37394	100%
2. John D. Bullington		
3. John D. Bullington		

2. Property. State the name, address and percent of ownership of any person or entity owning an interest in the property located at 1217 Colonial Avenue (address), unless the entity is a corporation or partnership, in which case identify each owner of more than three percent. The term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

Name	Address	Percent of Ownership
1. John D. Bullington	P.O. Box 74, Viola, Tennessee 37394	100%
2. John D. Bullington		
3. John D. Bullington		

3. Business or Financial Relationships. Each person or entity indicated above in sections 1 and 2, with an ownership interest in the applicant or in the subject property are require to disclose **any** business or financial relationship, as defined by Section 11-350 of the Zoning Ordinance, existing at the time of this application, or within the 12-month period prior to the submission of this application with any member of the Alexandria City Council, Planning Commission, Board of Zoning Appeals or either Boards of Architectural Review. **All fields must be filled out completely. Do not leave blank. (If there are no relationships please indicated each person or entity and "None" in the corresponding fields).**

For a list of current council, commission and board members, as well as the definition of business and financial relationship, [click here](#).

Name of person or entity	Relationship as defined by Section 11-350 of the Zoning Ordinance	Member of the Approving Body (i.e. City Council, Planning Commission, etc.)
1. John D. Bullington	none	
2. John D. Bullington		
3. John D. Bullington		

NOTE: Business or financial relationships of the type described in Sec. 11-350 that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings.

As the applicant or the applicant's authorized agent, I hereby attest to the best of my ability that the information provided above is true and correct.

June 4, 2020

John D. Bullington by Minturn Wright, atty.



Date

Printed Name

Signature



EVIDENCE OF PROPERTY INSURANCE

DATE (MM/DD/YYYY)
05/22/2020

THIS EVIDENCE OF PROPERTY INSURANCE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE ADDITIONAL INTEREST NAMED BELOW. THIS EVIDENCE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS EVIDENCE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE ADDITIONAL INTEREST.

AGENCY State Farm STEVE JONES 8704 LEE HWY SUITE 200 FAIRFAX, VA 22031	PHONE (A/C, No, Ext): 703-645-0092	COMPANY State Farm Fire and Casualty Company	NAIC # 25143
FAX (A/C, No): 703-645-0093	E-MAIL ADDRESS: sendy@stevejonesinsurance.com		
CODE: 46-9B3A	SUB CODE:		
AGENCY CUSTOMER ID #: INSURED JOHN DANIEL BULLINGTON PO BOX 74 VIOLA, TN 37394	LOAN NUMBER N/A	POLICY NUMBER 46-03-7433-0	
	EFFECTIVE DATE 04/15/2020	EXPIRATION DATE 04/15/2021	CONTINUED UNTIL TERMINATED IF CHECKED <input type="checkbox"/>
THIS REPLACES PRIOR EVIDENCE DATED:			

PROPERTY INFORMATION

LOCATION/DESCRIPTION
1217 COLONIAL AVE
ALEXANDRIA, VA 22314

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS EVIDENCE OF PROPERTY INSURANCE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

COVERAGE INFORMATION

PERILS INSURED	BASIC	BROAD	SPECIAL	AMOUNT OF INSURANCE	DEDUCTIBLE
COVERAGE / PERILS / FORMS					
DWELLING				575,500	1% \$5,755
DWELLING EXTENSION				57,550	
PERSONAL PROPERTY				431,625	
PERSONAL LIABILITY				1,000,000	
MEDICAL PAYMENTS				1,000	

REMARKS (Including Special Conditions)

REPLACEMENT COST 100%
ANNUAL PREMIUM \$1,189
DATE PAID 04/16/2020

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

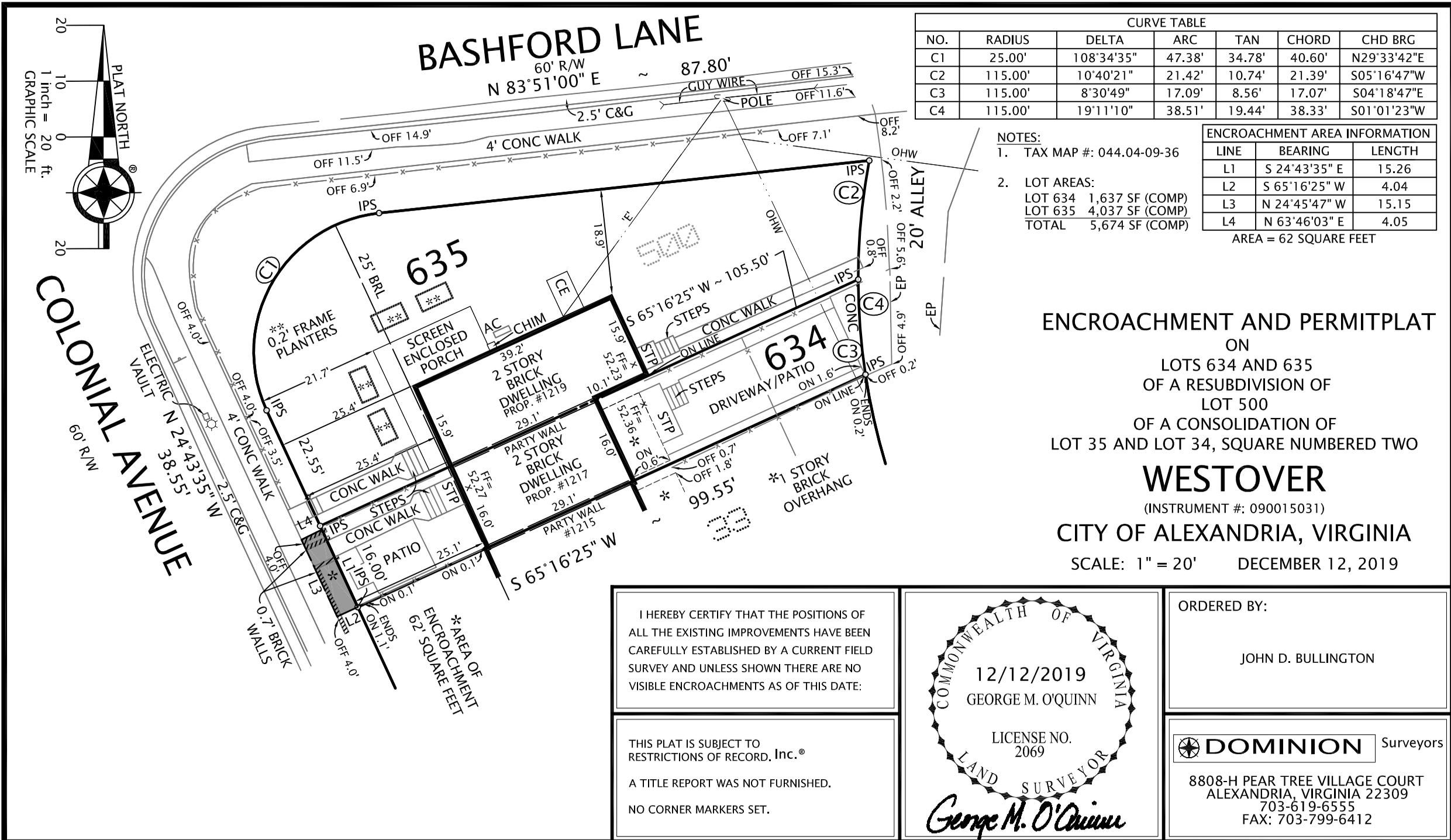
ADDITIONAL INTEREST

NAME AND ADDRESS CITY OF ALEXANDRIA - 301 KING ST SUITE 1300 ALEXANDRIA, VA 22314	<input checked="" type="checkbox"/> ADDITIONAL INSURED	LENDER'S LOSS PAYABLE	<input type="checkbox"/> LOSS PAYEE
	<input type="checkbox"/> MORTGAGEE		
	LOAN # N/A	AUTHORIZED REPRESENTATIVE <i>Sendy Santiago</i>	

June 29, 2020

**DESCRIPTION
ENCROACHMENT AREA
LOTS 634 AND 635
WESTOVER
CITY OF ALEXANDRIA, VIRGINIA**

Beginning at a point in easterly line of Colonial Avenue, a corner common to the lots 634 and 33, Westover, thence through the Colonial Avenue right-of-way S 65° 16' 25" W 4.04' to a point; thence N 24° 45' 47" W 15.15' to a point; thence N 63° 46' 03" W 4.05' to a point in the easterly line of Colonial Avenue; thence with the easterly line of Colonial Avenue S 24° 43' 35" E 15.26' to the point of beginning containing 62 square feet or 0.0014 acres of land.



NO.	RADIUS	DELTA	ARC	TAN	CHORD	CHD BRG
C1	25.00'	108°34'35"	47.38'	34.78'	40.60'	N29°33'42"E
C2	115.00'	10°40'21"	21.42'	10.74'	21.39'	S05°16'47"W
C3	115.00'	8°30'49"	17.09'	8.56'	17.07'	S04°18'47"E
C4	115.00'	19°11'10"	38.51'	19.44'	38.33'	S01°01'23"W

- NOTES:
- TAX MAP #: 044.04-09-36
 - LOT AREAS:
 LOT 634 1,637 SF (COMP)
 LOT 635 4,037 SF (COMP)
 TOTAL 5,674 SF (COMP)

ENCROACHMENT AND PERMIT PLAT
ON
LOTS 634 AND 635
OF A RESUBDIVISION OF
LOT 500
OF A CONSOLIDATION OF
LOT 35 AND LOT 34, SQUARE NUMBERED TWO
WESTOVER
(INSTRUMENT #: 090015031)
CITY OF ALEXANDRIA, VIRGINIA
SCALE: 1" = 20' DECEMBER 12, 2019

I HEREBY CERTIFY THAT THE POSITIONS OF ALL THE EXISTING IMPROVEMENTS HAVE BEEN CAREFULLY ESTABLISHED BY A CURRENT FIELD SURVEY AND UNLESS SHOWN THERE ARE NO VISIBLE ENCROACHMENTS AS OF THIS DATE:

THIS PLAT IS SUBJECT TO RESTRICTIONS OF RECORD, Inc.®

A TITLE REPORT WAS NOT FURNISHED.

NO CORNER MARKERS SET.

COMMONWEALTH OF VIRGINIA
12/12/2019
GEORGE M. O'QUINN
LICENSE NO. 2069
LAND SURVEYOR
George M. O'Quinn

ORDERED BY:
JOHN D. BULLINGTON

DOMINION Surveyors
8808-H PEAR TREE VILLAGE COURT
ALEXANDRIA, VIRGINIA 22309
703-619-6555
FAX: 703-799-6412