

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE authorizing the owner of the property located at 820 Gibbon Street to construct and maintain an encroachment for three townhouse bay windows in the South Alfred Street right-of-way at that location.

WHEREAS, Becker Equipment Company, Inc. is the Owner (“Owner”) of the property located at 820 Gibbon Street, in the City of Alexandria, Virginia; and

WHEREAS, Owner desires to establish and maintain three townhouse bay windows in the South Alfred Street right-of-way which will encroach into the public right-of-way at that location; and

WHEREAS, the public sidewalk right-of-way at that location will not be significantly impaired by this encroachment; and

WHEREAS, in Encroachment No. 2023-00002 the Planning Commission of the City of Alexandria recommended approval to the City Council subject to certain conditions at one of its regular meetings held on January 4, 2024, which recommendation was approved by the City Council at its public hearing on January 20, 2024; 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 into the public right-of-way at 820 Gibbon Street as shown in the attached Encroachment Exhibit, in the City of Alexandria, said encroachment consisting of three townhouse bay windows in the South Alfred Street right-of-way, 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 their 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 their 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:

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2                   Bodily Injury:                   \$1,000,000 each occurrence  
3   \$1,000,000 aggregate  
4

5  
6                   Property Damage:                 \$1,000,000 each occurrence  
7   \$1,000,000 aggregate  
8

9 This liability insurance policy shall identify the City of Alexandria and Owner as named  
10 insureds and shall provide for the indemnification of the City of Alexandria and Owner  
11 against any and all loss occasioned by the establishment, construction, placement, existence,  
12 use or maintenance of the encroachment. Evidence of the policy and any renewal thereof  
13 shall be filed with the city attorney's office. Any other provision herein to the contrary  
14 notwithstanding, in the event this policy of insurance lapses, is canceled, is not renewed or  
15 otherwise ceases to be in force and effect, the authorization herein granted to establish and  
16 maintain the encroachment shall, at the option of the city, forthwith and without notice or  
17 demand by the city, terminate. In that event, Owner shall, upon notice from the city,  
18 remove the encroachment from the public right-of-way, or the city, at its option, may  
19 remove the encroachment at the expense and risk of Owner. Nothing in this section shall  
20 relieve Owner of its obligations and undertakings required under this ordinance.  
21

22                   Section 3. That the authorization hereby granted to establish and maintain said  
23 encroachment shall in addition be subject to and conditioned upon the following terms:  
24

- 25           (a)   Neither the City of Alexandria nor any public or private utility company shall be  
26                 responsible for damage to Owner's property encroaching into the public right-of-  
27                 way during repair, maintenance or replacement of the public right-of-way or any  
28                 public facilities or utilities in the area of encroachment.  
29
- 30           (b)   The Owner shall be responsible for replacement and repairs to the adjacent City  
31                 right-of-way, including any areas damaged during construction activity.  
32
- 33           (c)   In the event the City shall, in the future, have need for the area of the proposed  
34                 encroachment, the Owner shall remove any structure that encroached into the public  
35                 right-of-way, within 60 days, upon notification by the City. The Owner shall bear all  
36                 the cost associated with any future removal of the encroachments.  
37

38                   Section 4. That by accepting the authorization hereby granted to establish and  
39 maintain the encroachment and by so establishing and/or maintaining the encroachment,  
40 Owner shall be deemed to have promised and agreed to save harmless the City of Alexandria

1 from any and all liability (including attorneys' fees and litigation expenses) arising by reason of  
2 the establishment, construction, placement, existence, use or maintenance of the encroachment.  
3

4 Section 5. That the authorization herein granted to establish and maintain the  
5 encroachment shall be subject to Owner maintaining the area of the encroachment at all times  
6 unobstructed and free from accumulation of litter, snow, ice and other potentially dangerous  
7 matter.  
8

9 Section 6. That nothing in this ordinance is intended to constitute, or shall be  
10 deemed to be, a waiver of sovereign immunity by or on behalf of the City of Alexandria or any  
11 of its officers or employees.  
12

13 Section 7. That the authorization herein granted to establish and maintain the  
14 encroachment shall be terminated whenever the City of Alexandria desires to use the affected  
15 public right-of-way for any purpose whatsoever and, by written notification, demands from  
16 Owner the removal of the encroachment. Said removal shall be completed by the date specified  
17 in the notice and shall be accomplished by Owner without cost to the city. If Owner cannot be  
18 found, or shall fail or neglect to remove the encroachment within the time specified, the city shall  
19 have the right to remove the encroachment, at the expense of Owner, and shall not be liable to  
20 Owner for any loss or damage to the structure of the encroachment or personal property within  
21 the encroachment area, caused by the removal.  
22

23 Section 8. The terms "Owner" shall be deemed to include Becker Equipment  
24 Company, Inc. and its respective successors in interest.  
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26 Section 9. That this ordinance shall be effective upon the date and at the time of  
27 its final passage.  
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29  
30 JUSTIN WILSON  
31 Mayor  
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33 Attachment: Encroachment exhibit  
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35 Introduction: 05/14/24

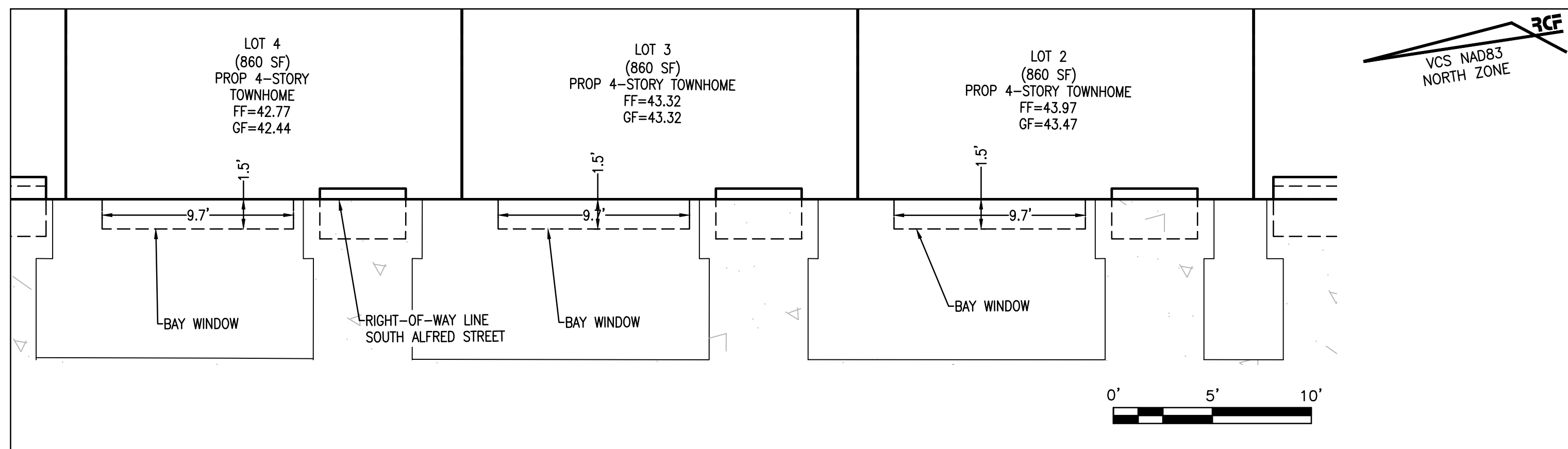
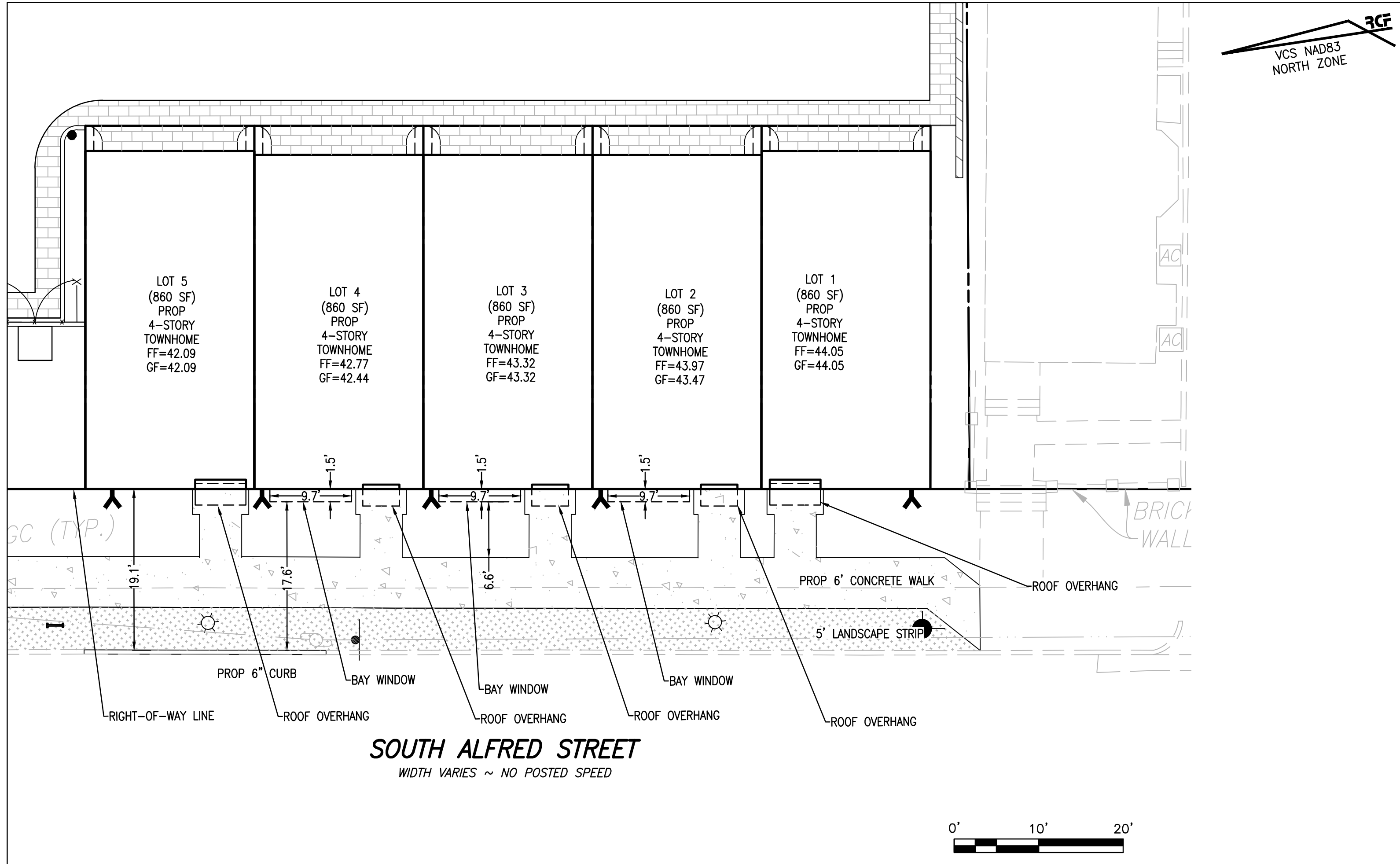
36 First Reading: 05/14/24

37 Publication:

38 Public Hearing: 05/18/24

39 Second Reading: 05/18/24

40 Final Passage: 05/18/24  
41  
42



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FILE: 20-045  
 DRAWN: DJM  
 CHECKED: WDS  
 DATE: 4/18/24  
 SHEET 1 OF 1