

ORDINANCE NO. _____

AN ORDINANCE authorizing the owners of the property located at 505 S. Lee Street to construct and maintain an encroachment into the public sidewalk right-of-way at that location for a replacement stoop consisting of stairs and a landing.

WHEREAS, Mark R. Warner and Lisa A. Collis are the owners (“Owners”) of the property located at 505 S. Lee Street in the City of Alexandria, Virginia; and

WHEREAS, Owners desire to establish and maintain a replacement stoop consisting of stairs and a landing, which will encroach into the public sidewalk 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. 2016-0006, 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 October 4, 2016 which recommendation was approved by the City Council at its public hearing on October 15, 2016 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 Owners be, and the same hereby are, authorized to establish and maintain an encroachment into the public sidewalk right-of-way at 505 S. Lee Street in the City of Alexandria, as shown on the attached encroachment plat and exhibits, collectively labeled as “Exhibit Plat,” said encroachment measuring approximately 51 square feet and consisting of stairs and a landing, 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 Owners 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 Owners maintaining, at all times and at their own expense, general liability insurance in the amount of \$1,000,000 with a company authorized to transact business in the Commonwealth of Virginia.

This liability insurance policy shall identify the City of Alexandria and Owners as named insureds and shall provide for the indemnification of the City of Alexandria and Owners against any and all loss occasioned by the establishment, construction, placement, existence, use or

1 maintenance of the encroachment. Evidence of the policy and any renewal thereof shall be filed
2 with the city attorney's office. Any other provision herein to the contrary notwithstanding, in the
3 event this policy of insurance lapses, is canceled, is not renewed or otherwise ceases to be in
4 force and effect, the authorization herein granted to establish and maintain the encroachment
5 shall, at the option of the city, forthwith and without notice or demand by the city, terminate. In
6 that event, Owners shall, upon notice from the city, remove the encroachment from the public
7 right-of-way, or the city, at its option, may remove the encroachment at the expense and risk of
8 Owners. Nothing in this section shall relieve Owners of their obligations and undertakings
9 required under this ordinance.

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

- 13
14 a) Neither the City nor any Private utility company will be held responsible for damage to
15 the private improvements in the public right-of-way during repair, maintenance or
16 replacement of any utilities that may be located within the area of the proposed
17 encroachment.
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19 b) In the event the City shall, in the future, have need for the area of the proposed
20 encroachment, the applicant shall remove any structure that encroached into the public
21 right-of-way, within 60 days, upon notification by the City.
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23 Section 4. That by accepting the authorization hereby granted to establish and
24 maintain the encroachment and by so establishing and/or maintaining the encroachment, Owners
25 shall be deemed to have promised and agreed to save harmless the City of
26 Alexandria from any and all liability (including attorneys' fees and litigation expenses) arising by
27 reason of the establishment, construction, placement, existence, use or maintenance of the
28 encroachment.
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30 Section 5. That the authorization herein granted to establish and maintain the
31 encroachment shall be subject to Owners maintaining the area of the encroachment at all times
32 unobstructed and free from accumulation of litter, snow, ice and other potentially dangerous
33 matter.
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35 Section 6. That nothing in this ordinance is intended to constitute, or shall be
36 deemed to be, a waiver of sovereign immunity by or on behalf of the City of Alexandria or any
37 of its officers or employees.

38 Section 7. That the authorization herein granted to establish and maintain the
39 encroachment shall be terminated whenever the City of Alexandria desires to use the affected
40 public right-of-way for any purpose whatsoever and, by written notification, demands from
41 Owners the removal of the encroachment. Said removal shall be completed by the date specified
42 in the notice and shall be accomplished by Owners without cost to the city. If Owners cannot be
43 found, or shall fail or neglect to remove the encroachment within the time specified, the City
44 shall have the right to remove the encroachment, at the expense of Owners, and shall not be

1 liable to Owners for any loss or damage to the structure of the encroachment or personal property
2 within the encroachment area, caused by the removal.

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4 Section 8. The term “Owners” shall be deemed to include Mark R. Warner and Lisa
5 A. Collis and their respective successors in interest.

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7 Section 9. That this ordinance shall be effective upon the date and at the time of its
8 final passage.

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11 ALLISON SILBERBERG
12 Mayor
13

14 Attachment: Exhibit Plat

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16 Introduction: December 13, 2016

17 First Reading: December 13, 2016

18 Publication:

19 Public Hearing: December 17, 2016

20 Second Reading: December 17, 2016

21 Final Passage: December 17, 2016