



DOCKET ITEM #7
Encroachment #2016-0009
119 King Street – The Wharf Restaurant

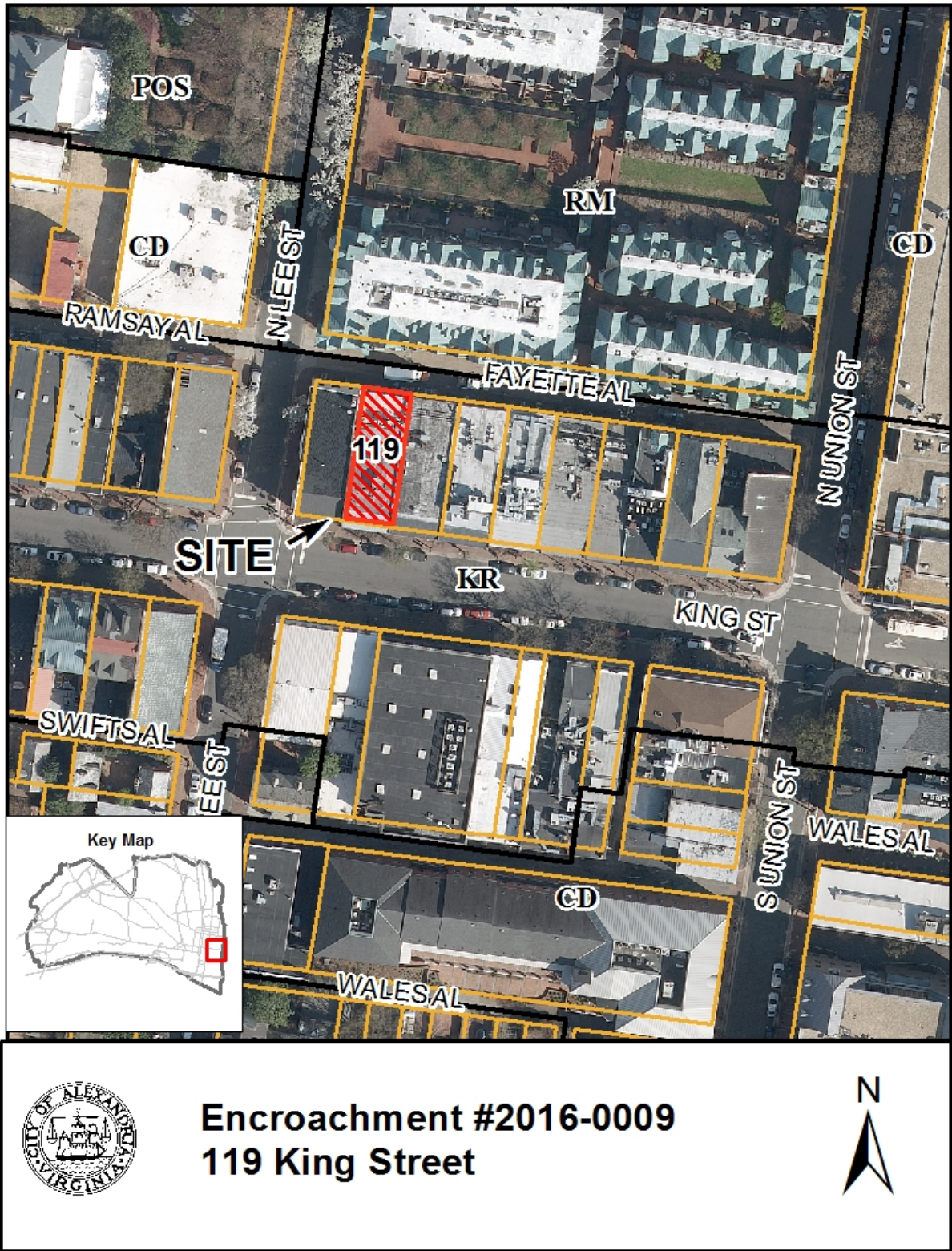
CONSENT AGENDA ITEM

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.	Planning Commission Hearing:	January 5, 2017
	City Council Hearing:	January 28, 2017
Address: 119 King Street	Zone:	KR
Applicant: Potomac Restaurants, LLC	Small Area Plan:	Old Town

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: Ann Horowitz, ann.horowitz@alexandriava.gov



I. DISCUSSION

The applicant, Potomac Restaurants, LLC, requests approval for an encroachment into the public right-of-way at 119 King Street to allow for a new retractable awning.

SITE DESCRIPTION

The subject site is the public right-of-way located in front of 119 King Street, a three story commercial building that contains The Wharf Restaurant (Figure 1)

Several retail and restaurant uses are located on the 100 block of King Street. The Torpedo Factory Condominium is sited north of the subject property.

BACKGROUND

The building was constructed in 1800 and has housed a 178-seat restaurant since 1972. The restaurant has participated in the King Street Outdoor Dining Program since 2005 and provides 15 seasonal seats in front of the restaurant.



Figure 1: 119 King Street

On September 7, 2016, the Board of Architectural Review approved BAR #2016-0265 for the addition of a retractable awning in front of the Wharf Restaurant with a projection of 5.5 feet and a height clearance of 8 feet.

City Council approved ENC #2014-0002 at 115-117 King Street for awnings at Landini's Restaurant, which is next door to The Wharf Restaurant. The approved awnings extend 5.5 feet from the front building wall and measure 60.83 feet in length.

PROPOSAL

The applicant requests approval of an encroachment into the public right-of-way for the installation of a retractable awning on the façade of The Wharf Restaurant at 119 King Street. The awning would project 5.5 feet from the building into the public right-of-way with a total length of 29 feet. The total area of the requested encroachment is approximately 159.5 square feet.

The applicant proposes to install an awning to shield outdoor diners from direct sun exposure as the façade faces south. The proposed awning would project to the outer edge of the outdoor dining area.

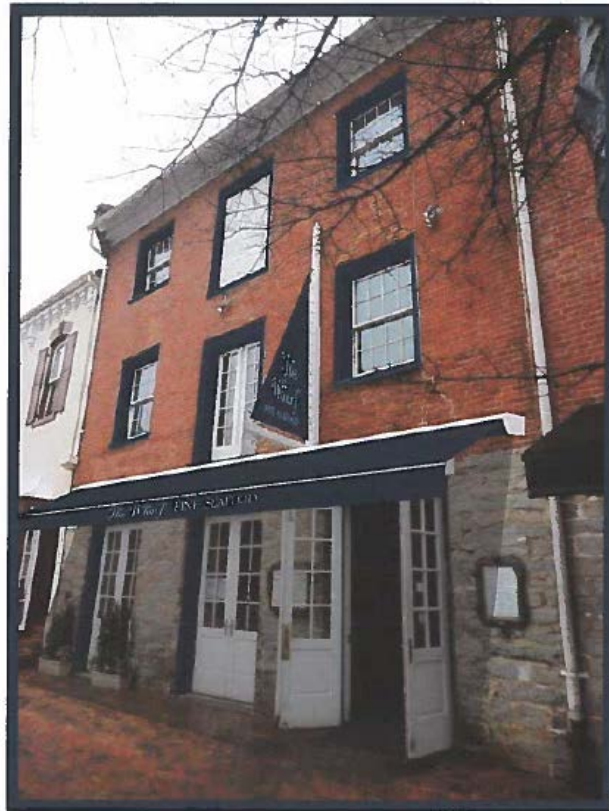


Figure 2: Proposed awning

CITY CODE/ZONING/MASTER PLAN COMPLIANCE

City Code Section 5-2-29(d) allows awnings to extend up to four feet into the public right-of-way without a specific need for an encroachment. Given that the proposed awnings extend an additional 1.5 feet into the public right-of-way, approval of an encroachment ordinance is required to install the proposed awning.

The subject property is located in the KR/King Street Retail Zone. The grandfathered restaurant use is consistent with the Old Town Small Area Plan which designates the property for commercial use.

VALUE OF ENCROACHMENT

Section 3-2-85 of the City Code defines the annual charge for commercial encroachments to be the equivalent of what would be the real estate tax upon the land being encroached if it were owned by the owner of the encroaching property. The Department of Real Estate Assessments has valued the land and air-rights area in question at a rate of \$1.073 per \$100 of assessed value for an annual encroachment fee of \$465.

II. STAFF ANALYSIS

Staff supports the applicant's request for an encroachment into the public right-of-way for the installation of an awning. An awning would enhance the outdoor dining experience for restaurant patrons given that the restaurant faces direct sun for the majority of the day.

The proposed encroachment area is reasonable as it is only 1.5 feet beyond what is permitted through Section 5-2-29(d) of the City Code. In addition, the awning projection of 5.5 feet would be visually compatible with the awnings that extend the same distance at Landini's Restaurant. Pedestrian access would not be impacted since the outside edge of the awning would not extend further than the fence that separates the outdoor dining area from the sidewalk.

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

III. STAFF RECOMMENDATION

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

STAFF: Alex Dambach, Division Chief, Land Use Regulatory Services,
Department of Planning and Zoning;
Ann Horowitz, Urban Planner, Planning and Zoning.

CITY DEPARTMENT COMMENTS

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

Transportation & Environmental Services:

- R-1 The applicant (and his successors, if any) must obtain and maintain a policy of general liability insurance in the amount of \$1,000,000, which will indemnify the applicant (and his/her successors, if any) and the City of Alexandria, as an additional named insured, against all claims, demands, suits, etc., and all costs related thereto, including attorney fees, relating to any bodily injury or property damage which may occur as a result of the granting of this encroachment. (T&ES)
- R-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)
- R-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)

Code Enforcement:

- C-1 A building permit, plan review and inspections are required to construct a retractable awning at the Wharf.

Fire Department:

No comments or concerns

Health Department

No comments

Police Department:

No comments received

Parks and Recreation:

No comments received

Real Estate Department:

See attached Memorandum dated November 10, 2016

City of Alexandria, Virginia

MEMORANDUM

DATE: NOVEMBER 10, 2016

TO: KARL MORITZ, DIRECTOR
DEPARTMENT OF PLANNING AND ZONING

FROM: WILLIAM BRYAN PAGE, SRA, REAL ESTATE ASSESSOR
OFFICE OF REAL ESTATE ASSESSMENTS

SUBJECT: RETRACTABLE AWNING ENCROACHMENT, 119 KING STREET,
ALEXANDRIA, VIRGINIA

PROJECT: ENCROACHMENT #2016-0009

Per your request, we have reviewed the proposed retractable awning encroachment covering the outdoor dining section within the public right-of-way titled to the City of Alexandria located along a 30-foot segment of King Street between that artery's intersection with North Lee Street and North Union Street in the Old Town area. The proposed encroachment encumbers 165 square feet of air rights for the sole and exclusive use of The Wharf Restaurant located at 119 King Street and would not negatively impact pedestrian access. The servient estate is zoned KR, King Street Urban Retail Zone. The existing use is permitted by-right.

Because this is not a vacation on the part of the City, the value of the encroachment can be determined by the application of **Section 3-2-85** of the City Code which defines the annual charge for commercial encroachments to be the equivalent of what would be the real estate tax upon the land being encroached if it were owned by the owner or owners of the encroaching property. Based on a land value of \$262.98 per square-foot, an air rights area of 165 square feet and the 2016 tax rate of 1.073 per \$100 of assessed value, the indicated fee of the encroachment is **\$465 (rounded)**.

Four Hundred and Sixty-Five Dollars

This analysis does not constitute a fully documented real property appraisal report and should not be purported as such. The analysis is based on the current 2016 per square-foot assessed values of similarly zoned parcels in the immediate area of the subject property, and complies with City policies and guidelines.

Attachments:

Encroachment Plat (dated October 22, 2016)

cc: Ann Horowitz, Urban Planner II



APPLICATION

ENCROACHMENT

ENC# 2016-0009

PROPERTY LOCATION: 119 King St., Alexandria, VA 22314
TAX MAP REFERENCE: 075.61-03-03 **ZONE:** Old & Historic District

APPLICANT

Name: Potomac Restaurants, LLC, by Mike Brumagin - owner
Address: 4013 Huntsteed Way, Richmond, VA, 23233

PROPERTY OWNER

Name: Gary & Sally Hatch
Address: 2465 Forest Grove Ave.

PROPOSED USE: An awning (retractable) that will cover our allowed outdoor seating area - 5'6" depth.

INSURANCE CARRIER (copy attached) Penn National **POLICY #** CL9-0727049

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** hereby applies for an Administrative Use Permit in accordance with the provisions of Article VI, Section 6-600 of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

☒ **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** I so 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.

Mike Brumagin
Print Name of Applicant or Agent
4013 Huntsteed Way
Mailing/Street Address
Richmond, VA 23233
City and State Zip Code

Mike Brumagin
Signature
804-319-7321
Telephone # Fax #
mikebrum89@gmail.com
Email address
10/20/16
Date

Application Received: _____ Date and Fee Paid: \$ _____
ACTION - PLANNING COMMISSION: _____ ACTION - CITY COUNCIL: _____

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. Mike Brumagin	4013 Huntstead Way Richmond, VA 23233	50%
2. Robert Fetkin	29538 Georgetown Ln Temecula, CA 92591	50%
3.		

2. Property. State the name, address and percent of ownership of any person or entity owning an interest in the property located at 119 King St., Alexandria, VA (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. 119 King St. LLC	2465 Forest Grove Rd. Villas, NC 28692	Gary & Sally Hatch - 100%
2.		
3.		

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 required 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. Mike Brumagin	NA	N/A
2. Robert Fetkin	N/A	N/A
3. 119 King St. LLC (Gary & Sally Hatch)	N/A	N/A

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.

10/20/16
Date

Mike Brumagin
Printed Name

Mike Brumagin
Signature

Sara B Hatch
119 King LLC
2465 Forest Grove Road Vilas, NC 28692
forkridge@hotmail.com
828-297-1740

To: Mike Brumagin
re: Proposed awning for 119 King Street.

As owner of 119 King Street for over 30 years and one of the original owner/operators of the The Wharf Restaurant, I wholeheartedly support and authorize the design of the retractable awning as approved by the BAR, the installation of said awning, and approve the encroachment of 5'6".

Sincerely,


Sara B Hatch

11 October.2016



CERTIFICATE OF LIABILITY INSURANCE

POTOM-1

OP ID: LT

DATE (MM/DD/YYYY)

10/06/2016

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

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Byars Wright P.O. Box 1309 1700 Fourth Avenue Jasper, AL 35502 Haig Wright		CONTACT NAME: Haig Wright PHONE (A/C No. Ext.): 205-221-3621 E-MAIL ADDRESS: hwright@byarswright.com FAX (A/C No.):	
INSURED Potomac Restaurants, LLC 1509 Rainbow Drive Gadsden, AL 35901		INSURER(S) AFFORDING COVERAGE INSURER A: Penn National A-X INSURER B: Hartford Insurance Co A+XV INSURER C: American Bankers Ins Co AXIII INSURER D: INSURER E: INSURER F:	
		NAIC # 14990 22357	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT 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 CERTIFICATE 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.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Liquor Liability GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	X		CL9 0727049 CL9 0727049	02/10/2016 02/10/2016	02/10/2017 02/10/2017	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 Emp Ben. \$ 1,000,000
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			AU9 0727049	02/10/2016	02/10/2017	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
T	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			UL9 0727049	02/10/2016	02/10/2017	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	21WECA01982	02/10/2016	02/10/2017	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	Flood See remarks			AB00220276	02/10/2016	02/10/2017	Contents 250,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate Holder is an additional insured per attached form, CG 2013 0413.
The Wharf - 119 King Street, Alexandria VA 22314-3207

Flood \$250,000 Contents Limit @ 119 King Street, Alexandria VA 22314-3207

CERTIFICATE HOLDER

CANCELLATION

City of Alexandria
301 King Street
Alexandria, VA 22314

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

AUTHORIZED REPRESENTATIVE

Haig Wright

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Retractable awning has an 8' clearance when fully extended to 5'-6" out

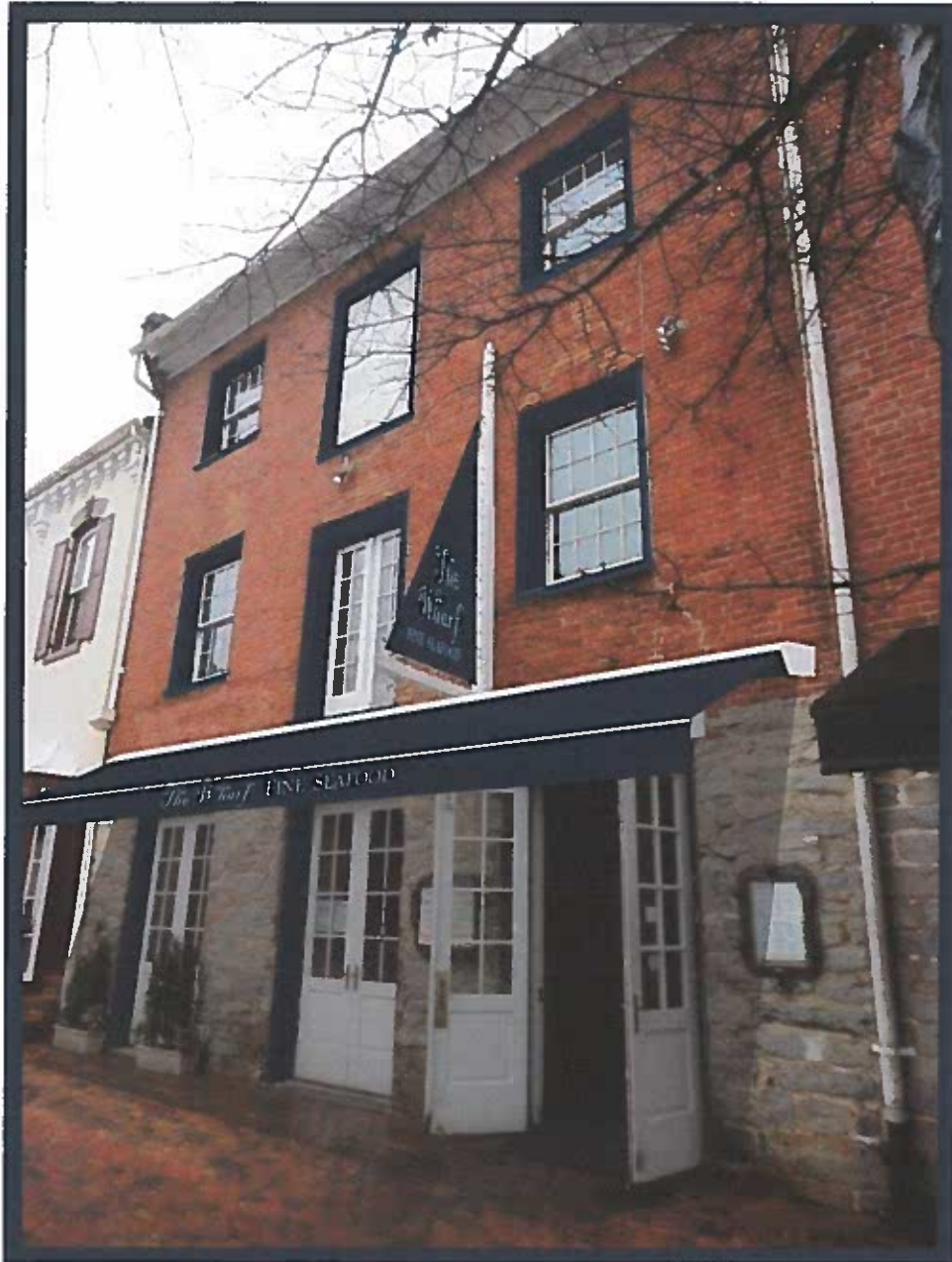
CANOPY PROPOSAL



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B.A.R. App/Review



Changed
to retractable
post B.A.R.
review & approval

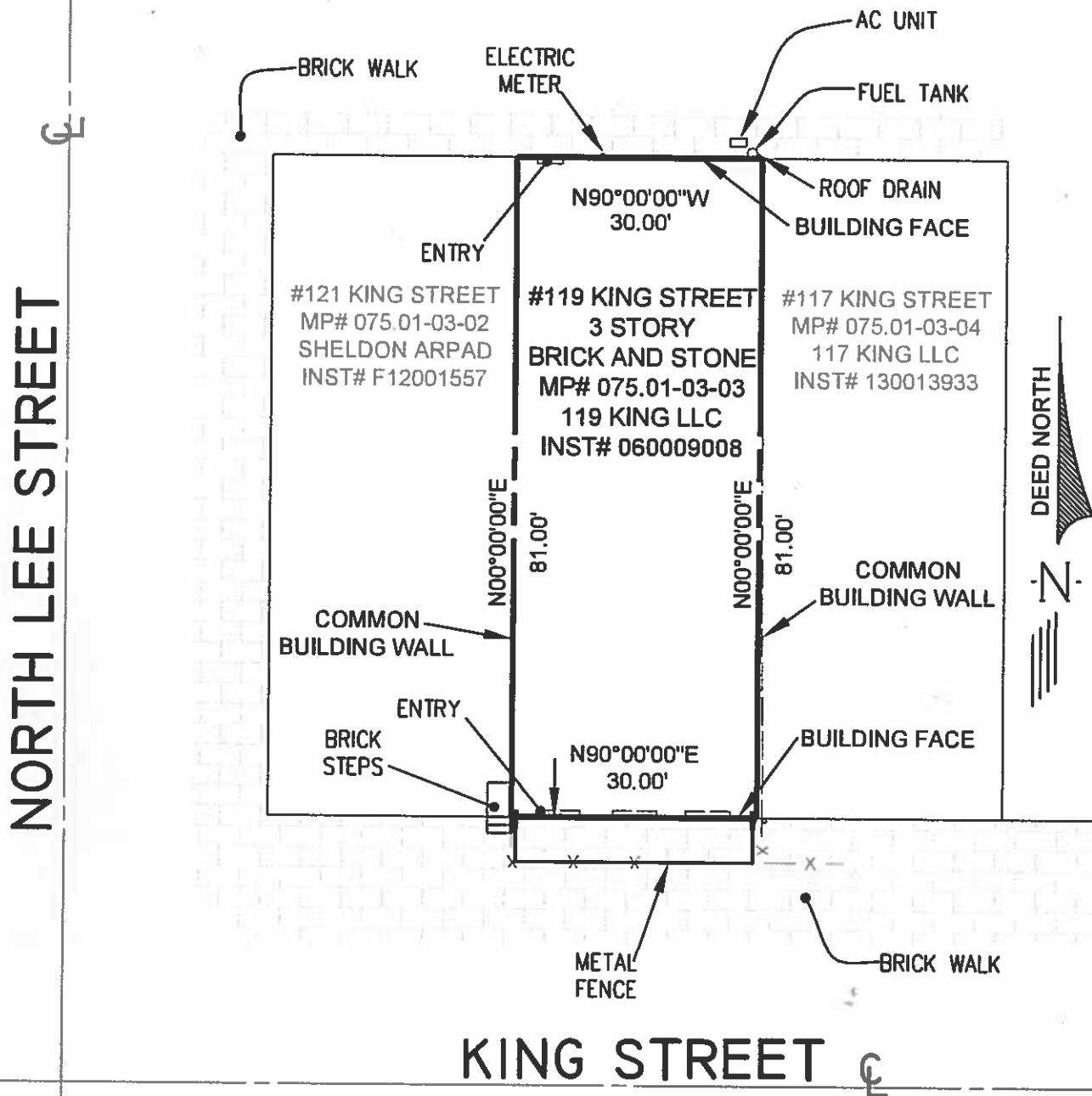
CANOPY PROPOSAL



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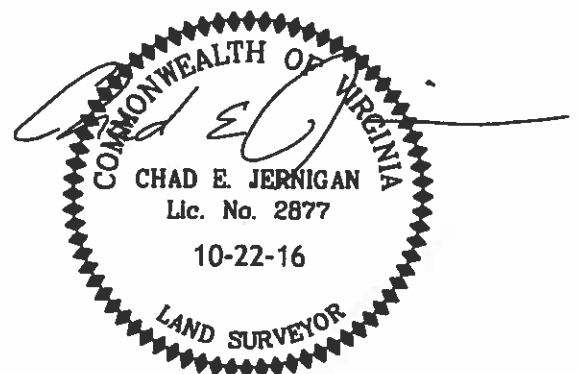
FAYETTE ALLEY



BUILDING LOCATION SURVEY #119 KING STREET CITY OF ALEXANDRIA, VIRGINIA

SCALE: 1" = 20'

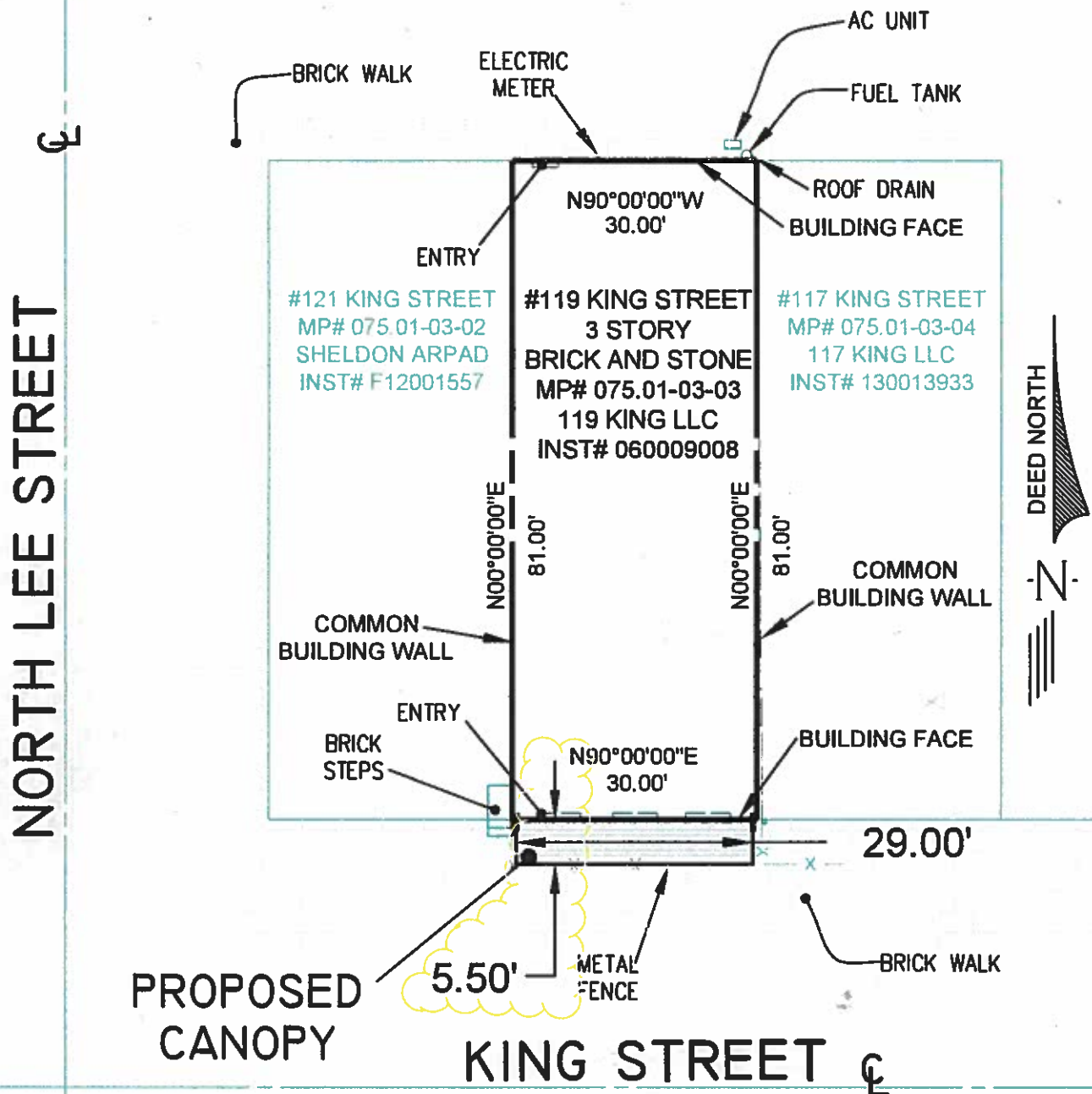
THIS HOUSE LOCATION SURVEY HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND DOES NOT PURPORT TO REFLECT ALL EASEMENTS, ENCUMBRANCES OR OTHER CIRCUMSTANCE AFFECTING THE TITLE TO THIS PROPERTY.



urban

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