

Encroachment #2018-0011
100 East Luray Avenue

Application	General Data	
Request: Public hearing and consideration of a request for an encroachment along Newton Street and adjacent to 100 East Luray Avenue into the public right-of-way to add a fence and provide side yard access at a residential property.	Planning Commission Hearing:	September 4, 2018
	City Council Hearing:	September 15, 2018
Address: 100 East Luray Avenue	Zone:	R-2-5/Single and Two-Family
Applicant: Katherine and Brian Bartholomay	Small Area Plan:	Potomac West

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: Madeleine Sims, madeleine.sims@alexandriava.gov

PLANNING COMMISSION ACTION, SEPTEMBER 4, 2018: On a motion made by Vice Chairman Macek and seconded by Commissioner Koenig, the Planning Commission voted to recommend approval of Encroachment #2018-0011 subject to compliance with all applicable codes, ordinances, and staff recommendations. The motion carried on a vote of 5-1, with Commissioner McMahon absent.

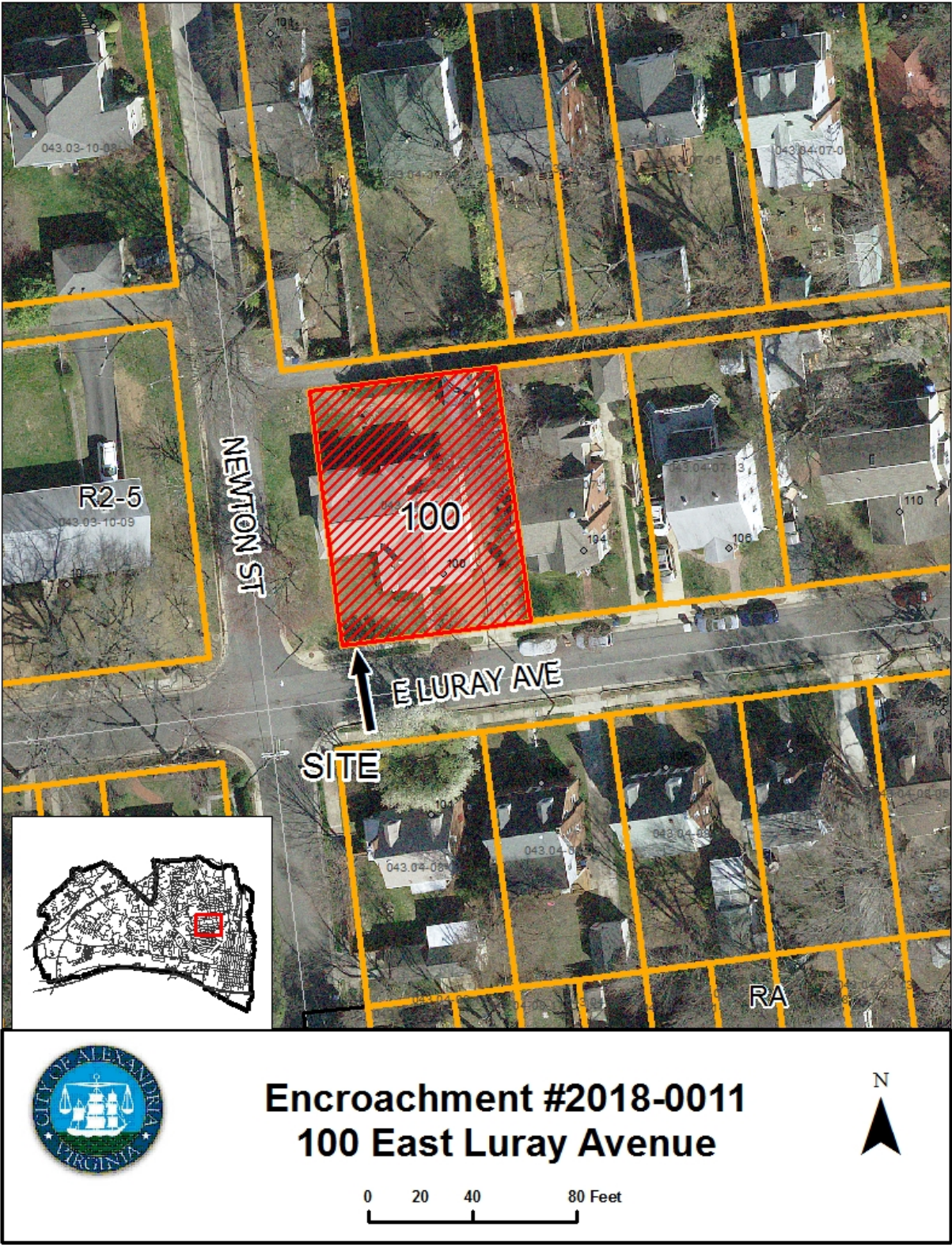
Reason: The Planning Commission generally agreed with staff analysis.

The case was removed from the consent calendar. Commissioner Brown questioned why the request was not reviewed as a vacation. Staff replied that the Transportation and Environmental Services Department staff analysis determined that the City should maintain rights to the proposed area, rather than vacate the property, for the future installation of a sidewalk and the relocation of the utility strip. Other commissioners expressed support for the application as staff had advised the applicant to pursue an encroachment. Commissioner Koenig stated that approval

of an encroachment would not preclude a vacation review in the future if the public right of way use of the property changes in the future.

Speakers:

Brian Bartholomay, applicant, stated that he would prefer the encroachment option, as recommended by staff.



I. DISCUSSION

Request for an encroachment of 879 square feet of the public right-of-way to add a fence and provide increased access to the secondary front yard that visually reads as the applicant's side yard.

SITE DESCRIPTION

The subject site is comprised of three lots of record, Lot 231, Lot 232, and Lot 233. It is developed with a single story, single family dwelling of approximately 1,900 square feet and a free standing, single-car garage of 194 square feet. The total lot area is approximately 7,500 square feet. The corner lot is surrounded by single-family homes to the north, east, and south. The Grace Brethren Church is directly to the west of the property across Newton Street.



Figure 1: Site

BACKGROUND

The subject home has existed in this location since 1929. A building permit was approved in 2009 for an addition located in the front yard.

PROPOSAL

The applicants request approval for an encroachment of 879 square feet along Newton Avenue, adjacent to their property for a fence and to provide access to what visually reads as the applicant's side yard for passive recreational uses.

The applicants originally requested to vacate the area and after analysis of the vacation proposal, Transportation and Environmental Services (T&ES) staff determined that the City should retain the rights to the land for

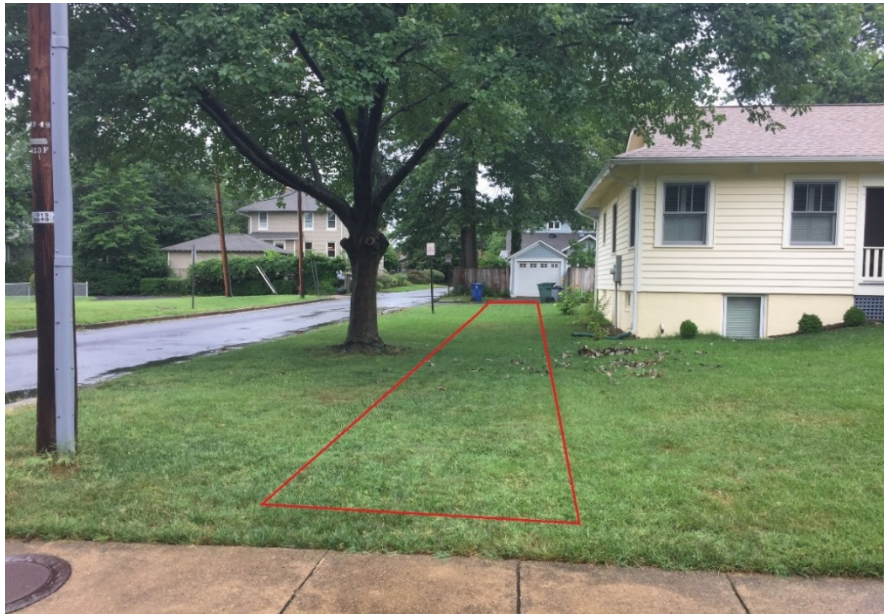


Figure 2: The approximate area to be encroached upon. Note the tree and City signs will not be encroached upon.

construction of a future curb, gutter, and/or sidewalk. The department recommended that the applicants should apply for approval of an encroachment for a limited portion of the original vacation proposal.

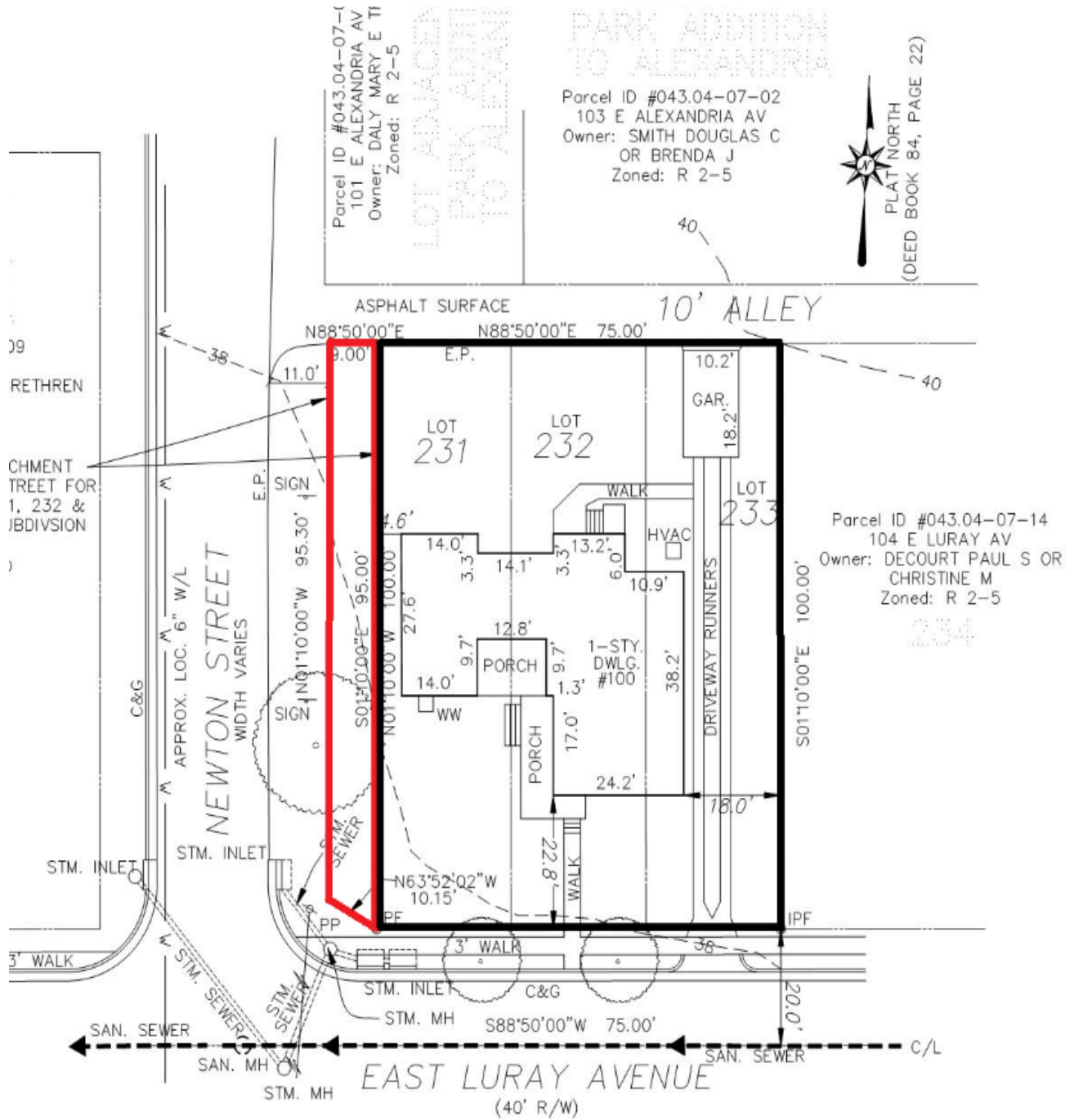


Figure 3: The area to be encroached upon in red.

ZONING/MASTER PLAN/CODE COMPLIANCE

The lots are zoned R-2-5 / Single and Two-Family. Section 3-502 of the Zoning Ordinance permits single-family homes in the R-2-5 zone. The lots are also located within the Potomac West Small Area Plan, which designates the area for residential uses.

Section 5-2-29 of the City Code stipulates administrative approval of street encroachments. Because the proposal for a fence does not meet administrative regulations the applicant has applied for an encroachment ordinance.

II. STAFF ANALYSIS

Staff supports the applicants' request for an encroachment along Newton Street and adjacent to a side yard of their property, a secondary front yard. The encroachment area would provide the applicants with the opportunity to add a fence, in compliance with Section 7-1702, around a slightly larger side yard area for a play area and landscaping while still maintaining City rights to the land for future public improvements. In addition, the encroachment border to the west logically aligns with the property line of the lot to the north, across the alley, at 101 East Alexandria Avenue. In the proposed area of encroachment, there are no pedestrian passage concerns, or underlying infrastructure. Staff has included conditions requiring the applicant to maintain a certificate of insurance naming the City as an additional insured (Condition #1) to remove the fence or landscaping should the city need to access the area (Condition #3). Staff has also included Condition #4 which prohibits the installation of a fence within one foot of a City paved

III. RECOMMENDED CONDITIONS

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

1. The applicant (and his/her 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)
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 or 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 costs associated with the removal of the encroachments. (T&ES)
5. The applicant may not install a fence within on foot of a city-owned paved surface. (P&Z)

STAFF: Anthony LaColla, Division Chief, Land Use Regulatory Services,
Department of Planning and Zoning;
Ann Horowitz, Principal Planner, Planning and Zoning;
Madeleine Sims, Urban Planner, Planning and Zoning.

IV. CITY DEPARTMENT COMMENTS

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

Transportation & Environmental Services:

F-1 DROW, Transportation Planning and Survey have no comments.

R-1 The applicant (and his/her 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 or 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)

R-4 The applicant shall bear all the costs associated with the removal of the encroachments. (T&ES)

Code Enforcement:

No comments received.

Fire Department:

No comments received.

Police Department:

No comments received.

Health Department:

No comments received.

Parks and Recreation:

No comments received.



APPLICATION

ENCROACHMENT

ENC# _____

PROPERTY LOCATION: 100 E. Luray Ave + Newton St. Alexandria, VA 22301

TAX MAP REFERENCE: 043 - 04 - 07 - 15 ZONE: R 25

APPLICANT

Name: Brian and Katherine Bartholomay

Address: 100 E. Luray Ave Alexandria, VA 22301

PROPERTY OWNER

Name: Brian and Katherine Bartholomay

Address: same as above

PROPOSED USE: fence installation

INSURANCE CARRIER (copy attached) _____ POLICY # _____

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.

Katherine Bartholomay
Brian Bartholomay

Print Name of Applicant or Agent

100 E. Luray Ave

Mailing/Street Address

Alexandria, VA 22301

City and State

Zip Code

Katherine Bartholomay
[Signature]

Signature

(703) 554-4264

Telephone #

Fax #

katebartholomay@gmail.com

Email address

brbartholomay@hotmail.com

8/7/18

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. <u>Brian & Katherine Bartholomay</u>	<u>100 E. Luray Ave</u>	<u>100%</u>
2.		
3.		

2. Property. State the name, address and percent of ownership of any person or entity owning an interest in the property located at 100 E. Luray Ave Alexandria, VA 22301 (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. <u>Brian & Katherine Bartholomay</u>	<u>100 E. Luray Ave</u>	<u>100%</u>
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 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. <u>Brian Bartholomay</u>	<u>None</u>	
2. <u>Katherine Bartholomay</u>	<u>None</u>	
3.		

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.

8/7/18
Date

Katherine Bartholomay
Brian Bartholomay
Printed Name

Katherine Bartholomay
BB
Signature

CIVIL SPUR

929 West Broad Street #200, Falls Church Va. 22046
Office 703-663-7175, cell 540-207-5681

August 5, 2018

Metes & Bounds Description – Encroachment Easement into Newton Street for the benefit of Lots 231, 232 & 233, Sec. 1, Brenton Subdivision

Beginning at an iron pipe at the corner of East Luray Avenue (40' R/W) and Newton Street (Variable Width R/W). Said iron pipe being the northeast corner of the intersection and the southwest corner of Lot 231, Section 1, Brenton. Thence running through the Newton Street right-of-way;

N 63 Degrees 52 minutes 02 seconds W, 10.15 feet to a point; Thence turning and running parallel to the centerline of the Newton Street right-of-way;

N 01 Degrees 10 minutes 00 seconds W, 95.30 feet to a point in line with a 10 Foot Alley; Thence turning and running perpendicular to the centerline of the Newton Street right-of-way;

N 88 Degrees 50 minutes 00 seconds E, 9.00 feet to a corner common with the 10 Foot Alley and Lot 231, Section 1, Brenton; Thence with the line of Lot 231, Section 1, Brenton;

S 01 Degrees 10 minutes 00 seconds E, 100.00 feet to the aforementioned iron pipe and point of beginning.

Containing 879 square feet of land more or less.

LOTS 7-12
BLOCK 7
NORTHWEST
ALEXANDRIA

Parcel ID #043.03-10-09
2 E LURAY AV
Owner: COMMONWEALTH AVE BRETHREN
CHURCH TRS OF
Zoned: R 2-5

RIGHT-OF-WAY ENCROACHMENT
EASEMENT INTO NEWTON STREET FOR
THE BENEFIT OF LOTS 231, 232 &
233, SEC. 1, BRENTON SUBDIVISION
(879 SF)
HEREBY GRANTED

Parcel ID #043.04-07-01
101 E ALEXANDRIA AV
Owner: DALY MARY E TR
Zoned: R 2-5

LOT ADJACENT TO
PARK ADDITION
TO ALEXANDRIA

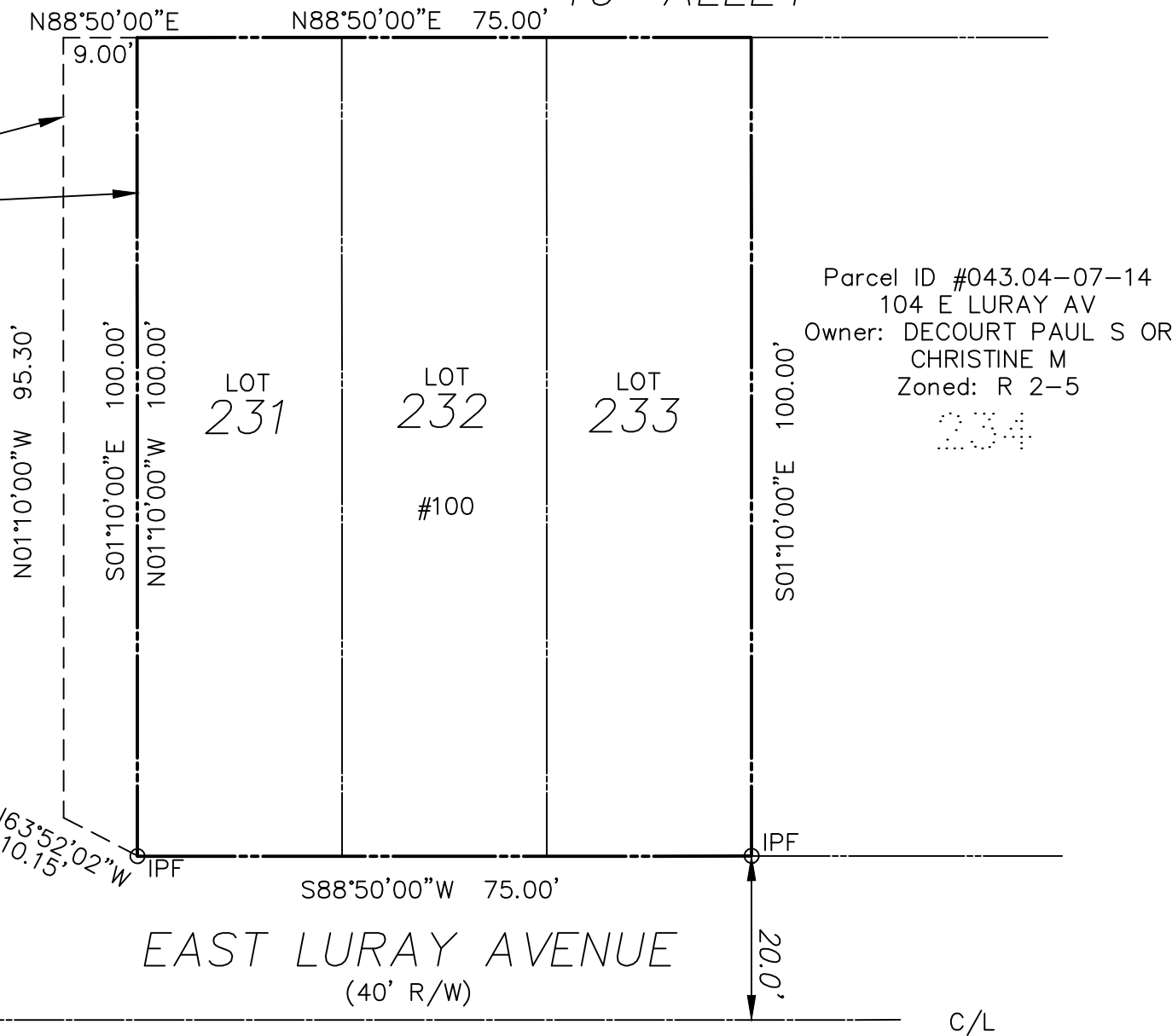
LOTS 12 & 13
BLOCK 7
PARK ADDITION
TO ALEXANDRIA

Parcel ID #043.04-07-02
103 E ALEXANDRIA AV
Owner: SMITH DOUGLAS C
OR BRENDA J
Zoned: R 2-5



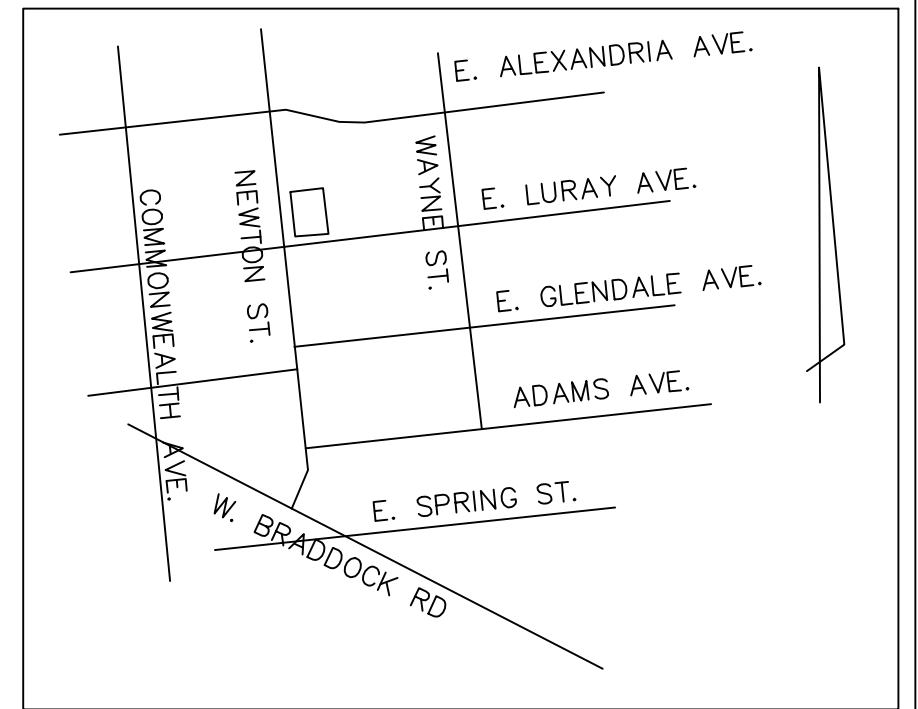
10' ALLEY

NEWTON STREET
WIDTH VARIES



OWNER / APPLICANT

BRIAN W. OR KATHERINE BARTHOLOMAY
100 EAST LURAY AVE.
ALEXANDRIA VA 22301
INSTR. #170017604



VICINITY MAP
1"=200'

NOTES:

1. NO TITLE REPORT FURNISHED.
2. THE PROPERTY SHOWN HEREON IS LOCATED ON TAX MAP 043.04-07-15.
3. BOUNDARY INFORMATION SHOWN HEREON IS A COMPILATION OF DEEDS AND PLATS AND DOES NOT REPRESENT A CURRENT BOUNDARY SURVEY BY THIS FIRM.
4. THE PROPERTY SHOWN HEREON ARE ZONED R2-5.
5. PROPERTY CORNERS SHALL BE SET BY A LAND SURVEYOR LICENSED WITHIN THE COMMONWEALTH OF VIRGINIA.

APPROVED

CITY PLANNING COMMISSION
ALEXANDRIA, VA

DATE _____ CHAIRMAN

DATE _____ DIRECTOR OF PLANNING

PUBLIC IMPROVMENT BOND(S) APPROVED

DATE _____ DIRECTOR T.&E.S.

SHEET 1 OF 1
PLAT
SHOWING
RIGHT-OF-WAY ENCROACHMENT EASEMENT
INTO

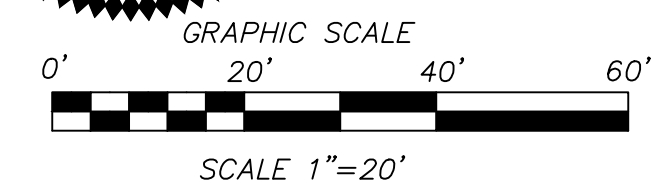
NEWTON STREET

FOR THE BENEFIT OF
LOTS 231, 232 & 233, SEC. 1

BRENTON

CITY OF ALEXANDRIA, VIRGINIA

SCALE: 1" = 20' AUGUST 2, 2018



GRAPHIC SCALE

SCALE 1"=20'

CIVIL SPUR

SITE PLANNING — DESIGN — CONSULTING
929 WEST BROAD STREET #200, FALLS CHURCH VA. 22046
OFFICE (703) 663-7173 CELL (540) 207-5681
EMAIL: ROGER@CIVILSPUR.COM

LOTS 7-12
BLOCK 7
NORTHWEST
ALEXANDRIA

Parcel ID #043.03-10-09
2 E LURAY AV
Owner: COMMONWEALTH AVE BRETHREN
CHURCH TRS OF
Zoned: R 2-5

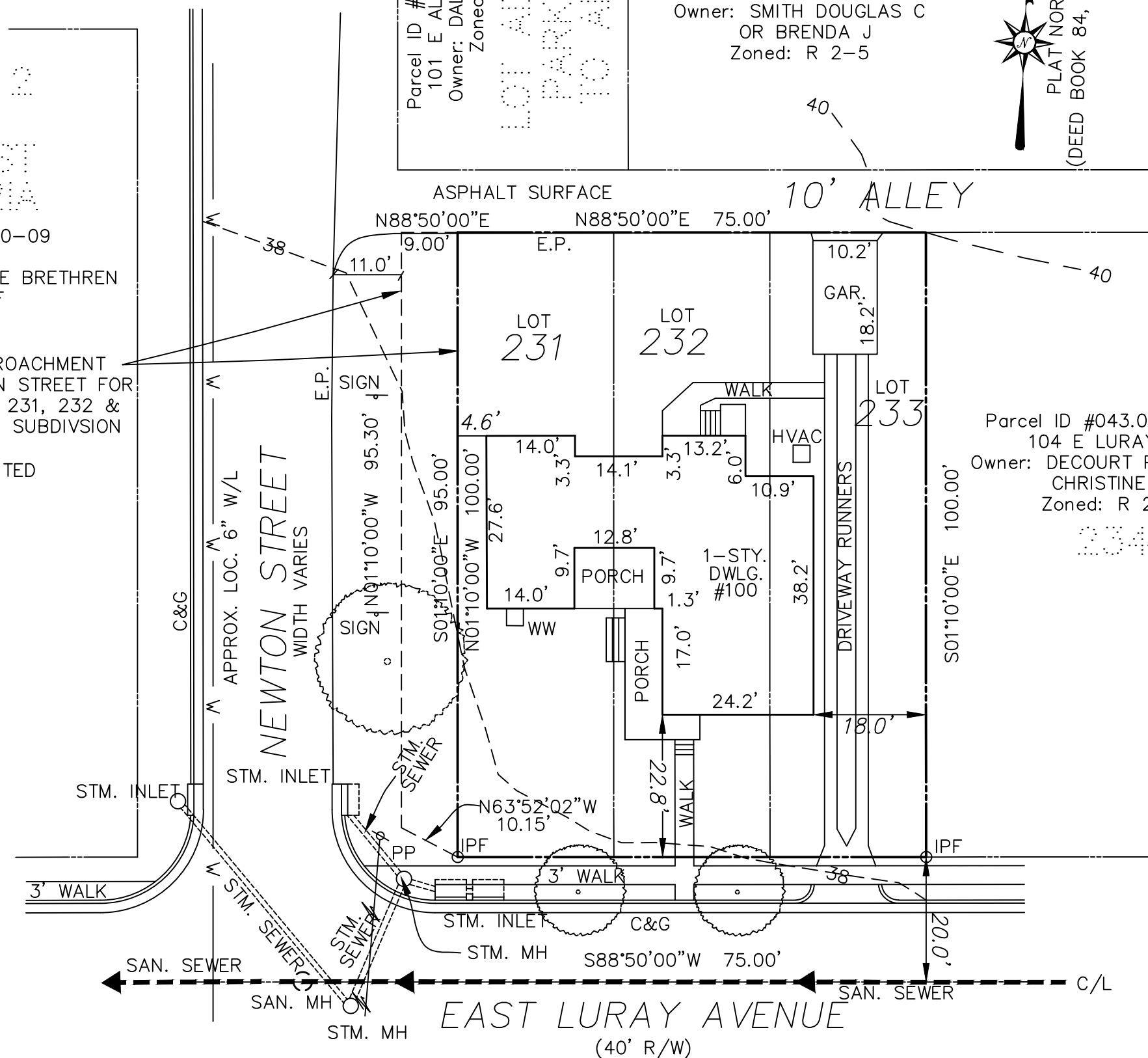
RIGHT-OF-WAY ENCROACHMENT
EASEMENT INTO NEWTON STREET FOR
THE BENEFIT OF LOTS 231, 232 &
233, SEC. 1, BRENTON SUBDIVISION
(879 SF)
HEREBY GRANTED

Parcel ID #043.04-07-01
101 E ALEXANDRIA AV
Owner: DALY MARY E TR
Zoned: R 2-5

LOT ADJACENT TO
PARK ADDITION
TO ALEXANDRIA

LOTS 12 & 13
BLOCK 7
PARK ADDITION
TO ALEXANDRIA

Parcel ID #043.04-07-02
103 E ALEXANDRIA AV
Owner: SMITH DOUGLAS C
OR BRENDA J
Zoned: R 2-5

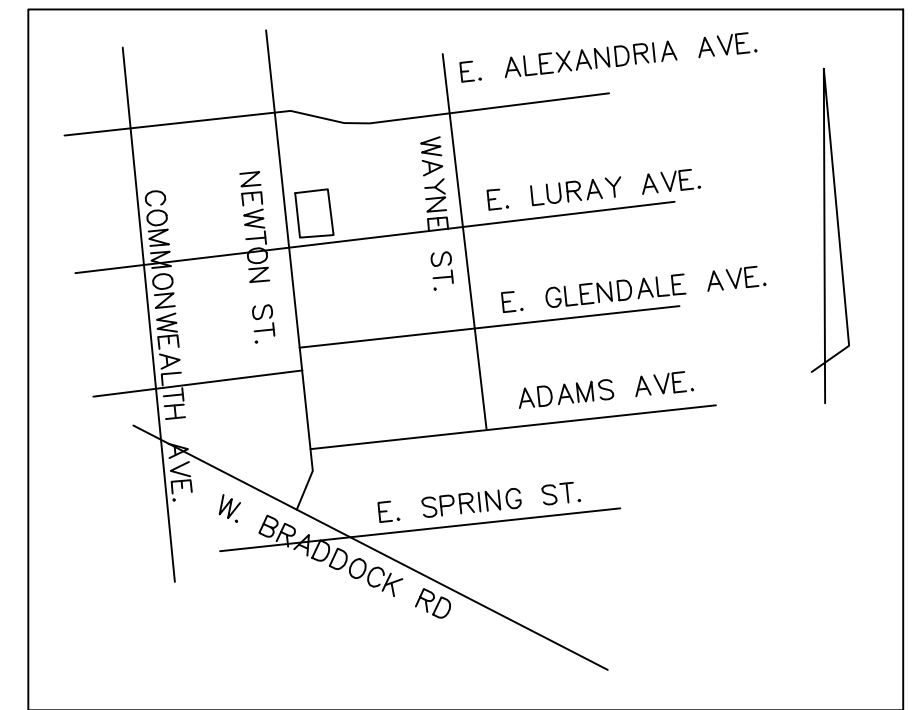


Parcel ID #043.04-07-14
104 E LURAY AV
Owner: DECOURT PAUL S OR
CHRISTINE M
Zoned: R 2-5

234

OWNER / APPLICANT

BRIAN W. OR KATHERINE BARTHOLOMAY
100 EAST LURAY AVE.
ALEXANDRIA VA 22301
INSTR. #170017604



VICINITY MAP
1"=200'

NOTES:

1. NO TITLE REPORT FURNISHED.
2. THE PROPERTY SHOWN HEREON IS LOCATED ON TAX MAP 043.04-07-15.
3. BOUNDARY INFORMATION SHOWN HEREON IS A COMPILATION OF DEEDS AND PLATS AND DOES NOT REPRESENT A CURRENT BOUNDARY SURVEY BY THIS FIRM.
4. THE PROPERTY SHOWN HEREON ARE ZONED R2-5.
5. PROPERTY CORNERS SHALL BE SET BY A LAND SURVEYOR LICENSED WITHIN THE COMMONWEALTH OF VIRGINIA.

APPROVED

CITY PLANNING COMMISSION
ALEXANDRIA, VA

DATE _____ CHAIRMAN

DATE _____ DIRECTOR OF PLANNING

PUBLIC IMPROVEMENT BOND(S) APPROVED

DATE _____ DIRECTOR T.&E.S.

SHEET 1 OF 1
PRELIMINARY PLAT
SHOWING
RIGHT-OF-WAY ENCROACHMENT EASEMENT
INTO

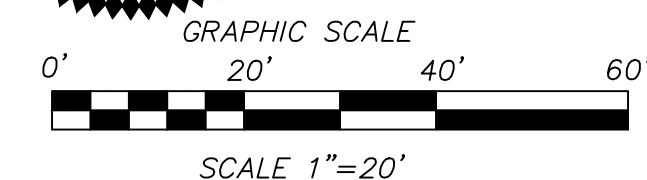
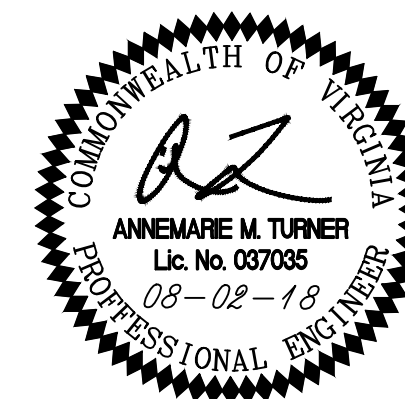
NEWTON STREET

FOR THE BENEFIT OF
LOTS 231, 232 & 233, SEC. 1

BRENTON

CITY OF ALEXANDRIA, VIRGINIA

SCALE: 1" = 20' AUGUST 2, 2018



GRAPHIC SCALE

SCALE 1"=20'

CIVIL SPUR

SITE PLANNING — DESIGN — CONSULTING
929 WEST BROAD STREET #200, FALLS CHURCH VA. 22046
OFFICE (703) 663-7173 CELL (540) 207-5681
EMAIL: ROGER@CIVILSPUR.COM



BARTKA1

OP ID: MA

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

08/29/2018

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 have **ADDITIONAL INSURED** provisions or 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 Ahart, Frinzi & Smith 2250 Belvidere Rd PO BOX 31 Phillipsburg, NJ 08865-0031 Mark Ahart		703-299-4207		CONTACT NAME: Mark Ahart PHONE (A/C, No, Ext): 703-299-4207 FAX (A/C, No): 703-299-4209 E-MAIL ADDRESS: mahart@afsinsurance.com	
INSURED KATHERINE BARTHOLOMAY AND BRIAN BARTHOLOMAY 100 E LURAY AVE ALEXANDRIA, VA 22301		INSURER(S) AFFORDING COVERAGE		NAIC #	
		INSURER A : LIBERTY MUTUAL GROUP		23035	
		INSURER B :			
		INSURER C :			
		INSURER D :			
		INSURER E :			
		INSURER F :			

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 GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y		1 BLS (19) 59113322	08/27/2018	08/27/2019	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y / N If yes, describe under DESCRIPTION OF OPERATIONS below		N / A				PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

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

CERTIFICATE HOLDER IS AN ADDITIONAL INSURED UNDER GENERAL LIABILITY FORM CG2013.

CERTIFICATE HOLDER

CANCELLATION

CITYAL3 CITY OF ALEXANDRIA 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 Mark Ahart
--	---