ORDINANCE NO. 5371

AN ORDINANCE authorizing the owners of the property located at 214 and 216 South Payne Street to construct and maintain an encroachment for a porch at that location.

WHEREAS, 214 and 216 S Payne St LLC is the Owner ("Owner") of the property located at 214 and 216 South Payne Street, in the City of Alexandria, Virginia; and

WHEREAS, Owner desires to establish and maintain a porch which will encroach into the right-of-way at that location; and

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

WHEREAS, in Encroachment No. 2021-00002 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 June 24, 2021, which recommendation was approved by the City Council at its public hearing on July 6, 2021 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 right-of-way at 214 and 216 South Payne Street as shown in the attached Encroachment Plat, in the City of Alexandria, said encroachment consisting of 2.80 feet in depth from the property line by 36.70 feet in length for a total of 103.00 square feet, 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 its 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 its 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:

Bodily Injury:	$1,000,000 each occurrence $1,000,000 aggregate
Property Damage:	$1,000,000 each occurrence $1,000,000 aggregate

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

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

(a) Neither the City of Alexandria nor any public or private utility company shall be responsible for damage to Owner's property encroaching into the public right-of-way during repair, maintenance or replacement of the public right-of-way or any public facilities or utilities in the area of encroachment.

(b) The Owner shall be responsible for replacement and repairs to the adjacent City right-of-way, including any areas damaged during construction activity.

(c) In the event the City shall, in the future, have need for the area of the proposed encroachment, the Owner shall remove any structure that encroached into the public right-of-way, within 60 days, upon notification by the City.

(d) The lots at 214 and 216 South Payne Street shall be consolidated with Circuit Court Land Records prior to release of the Wall Check survey and Certificates of Occupancy.

Section 4. That by accepting the authorization hereby granted to establish and maintain the encroachment and by so establishing and/or maintaining the encroachment, Owner shall be deemed to have promised and agreed to save harmless the City of Alexandria from any and all liability (including attorneys' fees and litigation expenses) arising by reason of the establishment, construction, placement, existence, use or maintenance of the encroachment.

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

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

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

Section 8. The terms "Owner" shall be deemed to include 214 and 216 S Payne St LLC and its respective successors in interest.

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

JUSTIN M. WILSON
Mayor

ATTEST:

Gloria A. Sitton, CMC City Clerk

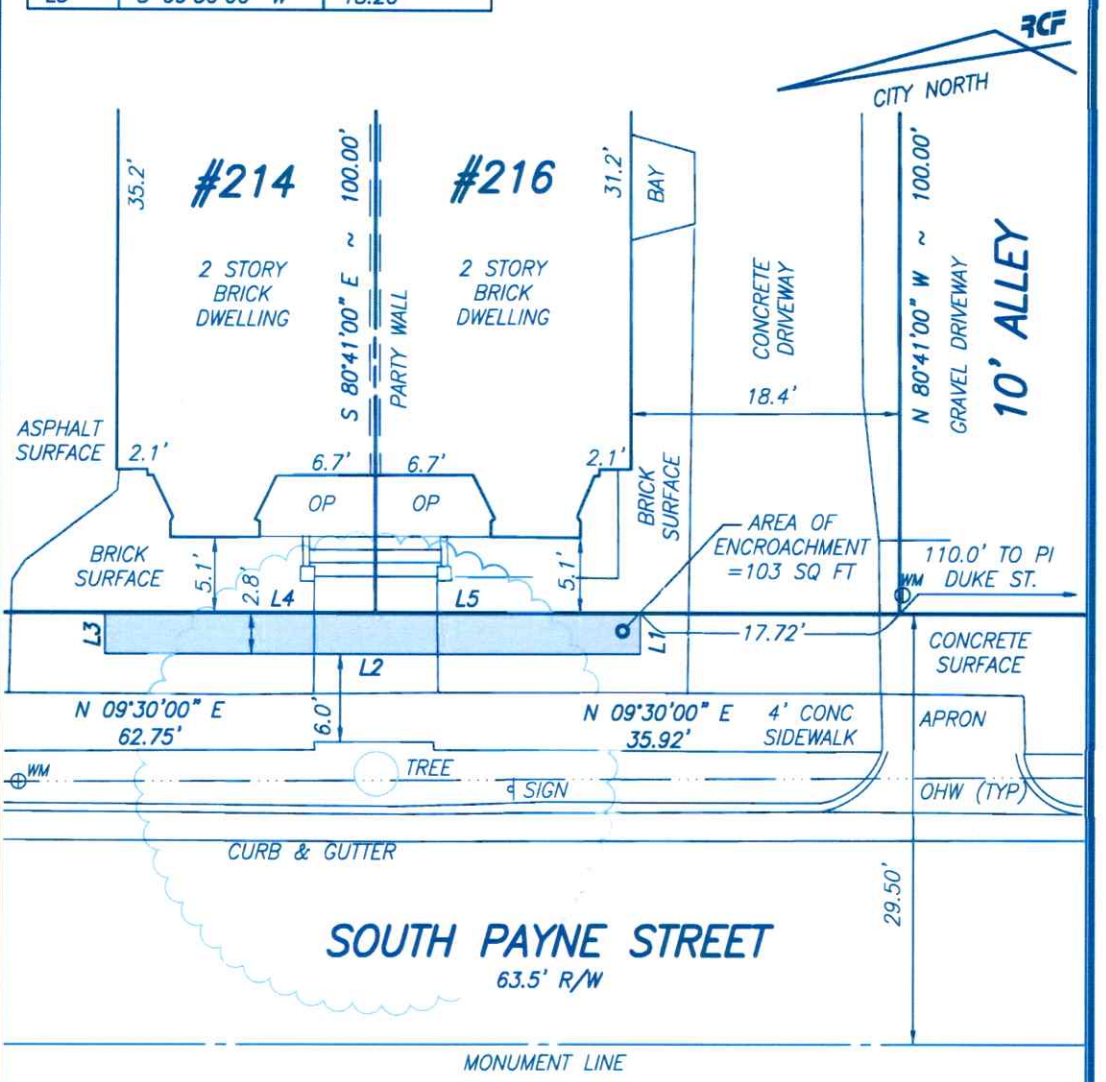
Attachment: Encroachment plat

Final Passage: October 16, 2021

NOTE: TAX ASSESSMENT MAP NUMBERS: 074.01-10-38 & 074.01-10-39

LINE TABLE:

LINE	BEARING	DISTANCE
L1	N 80°30'00" W	2.80'
L2	N 09°30'00" E	36.70'
L3	S 80°30'00" E	2.80'
L4	S 09°30'00" W	18.50'
L5	S 09°30'00" W	18.20'



ENCROACHMENT PLAT

SHOWING AREA OF ENCROACHMENT
FOR A PRIVATE PORCH AND ITS OVERHANG
ON THE PROPERTIES LOCATED AT

#214 & 216 SOUTH PAYNE

CITY OF ALEXANDRIA, VIRGINIA

SCALE: 1" = 10'
DATE: MAY 12, 2021

OWNER: 214 AND 216 S PAYNE ST, LLC.
CLIENT: MARK YOO

INSTRUMENT REF: 200028181
PLAT SUBJECT TO RESTRICTIONS OF RECORD. TITLE REPORT NOT FURNISHED, THUS ALL EASEMENTS MAY NOT BE SHOWN.

RCFIELDS & ASSOCIATES, INC.
ENGINEERING • LAND SURVEYING • PLANNING
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Alexandria, Virginia 22314 (703) 549-6422

COMMONWEALTH OF VIRGINIA
Wim J. De Sutter
Lic. No. 3462
MAY 12, 2021
LAND SURVEYOR

I HEREBY CERTIFY THAT THE LOCATION OF THE PHYSICAL IMPROVEMENTS SHOWN HEREON IS CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, AND COMPLIES WITH THE MINIMUM STANDARDS AND PROCEDURES SET FORTH IN CHAPTER 18VAC10-20-380 OF THE VIRGINIA CODE. NO PROPERTY CORNERS WERE SET.

DRAFTED: AA CHECKED: WDS

20-218