

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

AN ORDINANCE authorizing the owners of the property located at 421 Gibbon Street to maintain an encroachment for a brick wall with a gate at that location.

WHEREAS, Samuel and Christine Thuot are the Owners ("Owners") of the property located at 421 Gibbon Street, in the City of Alexandria, Virginia; and

WHEREAS, Owners desire to establish and maintain a brick wall with a gate 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. 2021-00004 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 September 9, 2021, which recommendation was approved by the City Council at its public hearing on September 18, 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 Owners be, and the same hereby are, authorized to establish and maintain an encroachment into the public sidewalk right-of-way at 421 Gibbon Street as shown in the attached Encroachment Plat, in the City of Alexandria, said encroachment consisting of a brick wall three feet tall in height with a removable gate, 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, 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

1  
2 This liability insurance policy shall identify the City of Alexandria and Owners as named  
3 insureds and shall provide for the indemnification of the City of Alexandria and Owners against  
4 any and all loss occasioned by the establishment, construction, placement, existence, use or  
5 maintenance of the encroachment. Evidence of the policy and any renewal thereof shall be filed  
6 with the city attorney's office. Any other provision herein to the contrary notwithstanding, in the  
7 event this policy of insurance lapses, is canceled, is not renewed or otherwise ceases to be in  
8 force and effect, the authorization herein granted to establish and maintain the encroachment  
9 shall, at the option of the city, forthwith and without notice or demand by the city, terminate. In  
10 that event, Owners shall, upon notice from the city, remove the encroachment from the public  
11 right-of-way, or the city, at its option, may remove the encroachment at the expense and risk of  
12 Owners. Nothing in this section shall relieve Owners of their obligations and undertakings  
13 required under this ordinance.  
14

15 Section 3. That the authorization hereby granted to establish and maintain said  
16 encroachment shall in addition be subject to and conditioned upon the following terms:  
17

- 18 (a) Neither the City of Alexandria nor any public or private utility company shall be  
19 responsible for damage to Owners' property encroaching into the public right-of-way  
20 during repair, maintenance or replacement of the public right-of-way or any public  
21 facilities or utilities in the area of encroachment.  
22
- 23 (b) The Owners shall be responsible for replacement and repairs to the adjacent City  
24 right-of-way, including any areas damaged during construction activity.  
25
- 26 (c) In the event the City shall, in the future, have need for the area of the proposed  
27 encroachment, the Owners shall remove any structure that encroached into the public  
28 right-of-way, within 60 days, upon notification by the City.  
29

30 Section 4. That by accepting the authorization hereby granted to establish and  
31 maintain the encroachment and by so establishing and/or maintaining the encroachment, Owners  
32 shall be deemed to have promised and agreed to save harmless the City of  
33 Alexandria from any and all liability (including attorneys' fees and litigation expenses) arising by  
34 reason of the establishment, construction, placement, existence, use or maintenance of the  
35 encroachment.  
36

37 Section 5. That the authorization herein granted to establish and maintain the  
38 encroachment shall be subject to Owners maintaining the area of the encroachment at all times  
39 unobstructed and free from accumulation of litter, snow, ice and other potentially dangerous  
40 matter.  
41

42 Section 6. That nothing in this ordinance is intended to constitute, or shall be  
43 deemed to be, a waiver of sovereign immunity by or on behalf of the City of Alexandria or any  
44 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 Owners the removal of the encroachment. Said removal shall be completed by the date specified in the notice and shall be accomplished by Owners without cost to the city. If Owners 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 Owners, and shall not be liable to Owners 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 “Owners” and shall be deemed to include Samuel and Christine Thuot and their respective successors in interest.

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

JUSTIN WILSON  
Mayor

Attachment: Encroachment plat

Introduction: 11/09/21

First Reading: 11/09/21

Publication:

Public Hearing: 11/13/21

Second Reading: 11/13/21

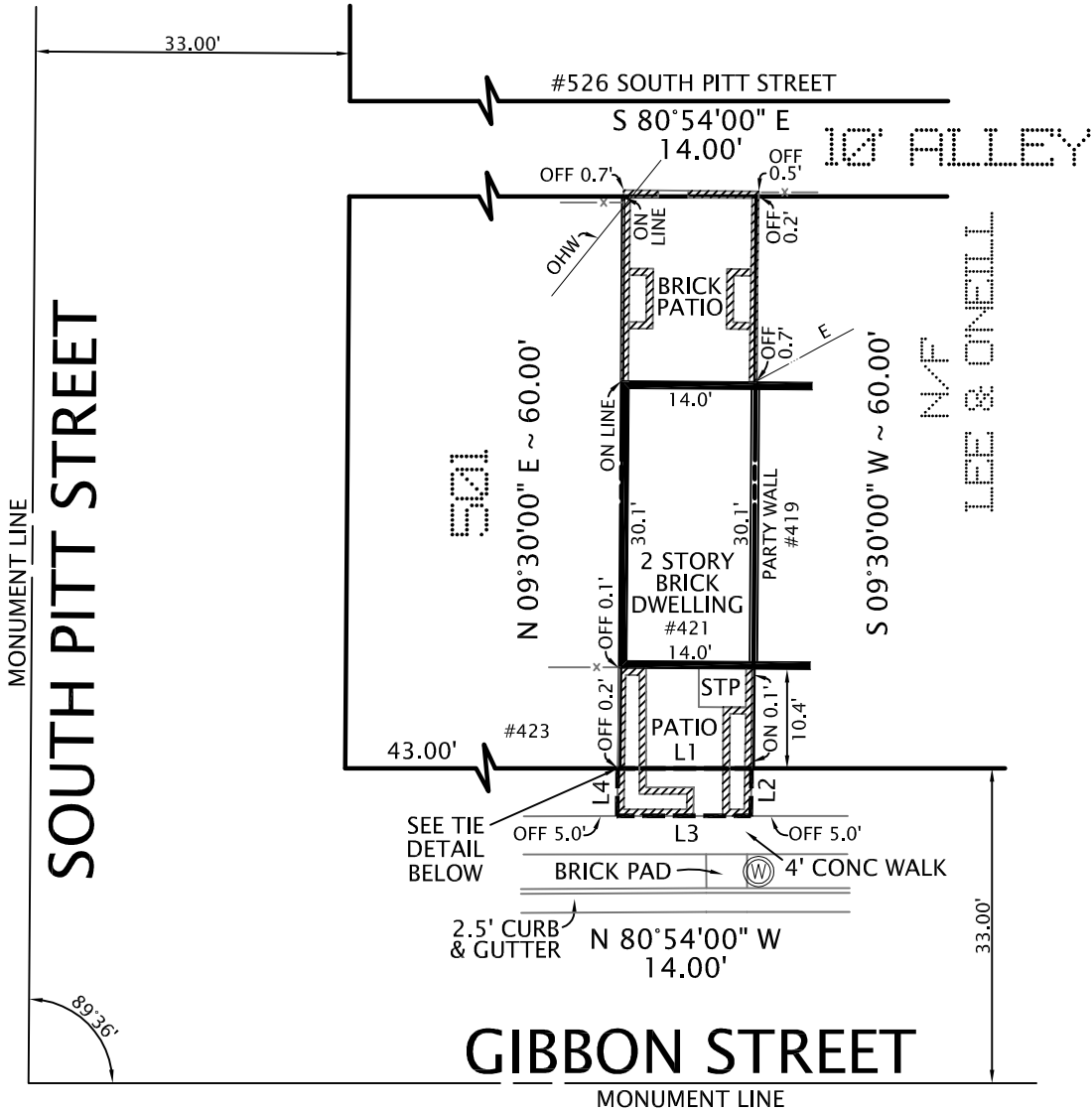
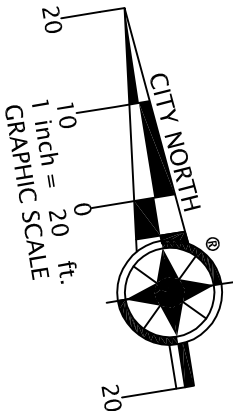
Final Passage: 11/13/21

NOTE: 1. WALLS ARE 0.7" BRICK.

2. FENCES ARE FRAME.

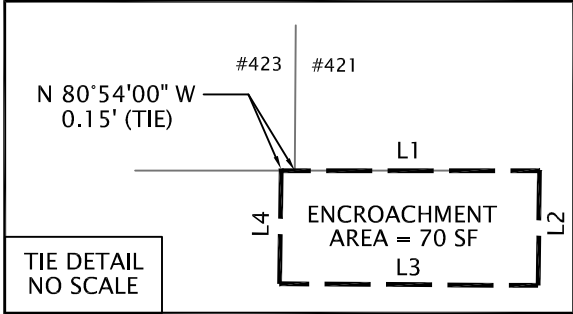
3. OWNERS: SAMUEL C. THUOT  
CHRISTINE THUOT  
421 GIBBON STREET  
ALEXANDRIA, VA 22314  
(INST. NO. 190005728)

4. MAP NUMBER: 080.02-04-35



ENCROACHMENT AREA LINE TABLE		
LINE	BEARING	LENGTH
L1	S 80°54'00" E	14.01
L2	S 09°53'35" W	5.00
L3	N 80°52'09" W	14.01
L4	N 09°47'57" E	5.00

ENCROACHMENT AREA =  
70 SQUARE FEET



APPROVED DATE \_\_\_\_\_

DIRECTOR OF PLANNING AND ZONING

APPROVED DATE \_\_\_\_\_

DIRECTOR OF TRANSPORTATION AND  
ENVIRONMENTAL SERVICES

## ENCROACHMENT AND PERMIT PLAT

ON

THE PROPERTY LOCATED AT

# #421 GIBBON STREET

(INSTRUMENT #190005728)

ALSO KNOWN AS

## LOT 13

OF THE SUBDIVISION

OF THE SOUTH ONE-HALF

OF THE BLOCK BOUNDED BY

## ROYAL, GIBBON, PITT & WILKES STREET

(DEED BOOK 3, PAGE 332)

## CITY OF ALEXANDRIA, VIRGINIA

SCALE: 1" = 20'

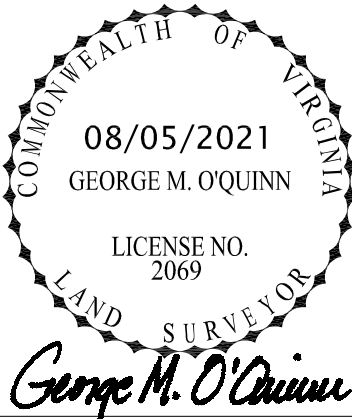
AUGUST 05, 2021

I HEREBY CERTIFY THAT THE POSITIONS OF  
ALL THE EXISTING IMPROVEMENTS HAVE BEEN  
CAREFULLY ESTABLISHED BY A CURRENT FIELD  
SURVEY AND UNLESS SHOWN THERE ARE NO  
VISIBLE ENCROACHMENTS AS OF THIS DATE:

THIS PLAT IS SUBJECT TO  
RESTRICTIONS OF RECORD.

A TITLE REPORT WAS NOT FURNISHED.

NO CORNER MARKERS SET.



CASE NAME:

SAMUEL THOUT



**DOMINION** Surveyors  
Inc.®

8808-H PEAR TREE VILLAGE COURT  
ALEXANDRIA, VIRGINIA 22309  
703-619-6555  
FAX: 703-799-6412