

ORDINANCE NO. 7298-16

AN ORDINANCE AUTHORIZING AN ENCROACHMENT UPON THE EAST SIDE OF RIGHT OF WAY KNOWN AS J. CLYDE MORRIS BOULEVARD ADJACENT TO 694 J. CLYDE MORRIS BOULEVARD, NEWPORT NEWS, TAX ID. NO. 214000224, AND TO AUTHORIZE THE CITY MANAGER TO EXECUTE AN ENCROACHMENT AGREEMENT BETWEEN JOSEPH A. BUFFA AND PAMELA A. BUFFA AND THE CITY OF NEWPORT NEWS.

WHEREAS, the Council of the City of Newport News, Virginia (Council) is authorized pursuant to Virginia Code §15.2-2009 and §15.2-2011 to permit encroachments upon certain public ways within the City of Newport News (City) and to authorize the City Manager to execute an encroachment agreement (“the Encroachment Agreement”); and

WHEREAS, Joseph A. Buffa and Pamela A. Buffa own a parcel of real property (the “Property”) known as 694 J. Clyde Morris Blvd., Newport News, Virginia, more fully described as:

All that certain lot, piece or parcel of land situate, lying and being in the City of Newport News, Virginia and being known, numbered and designated as Lot A, Area 22,000 Square Feet, or 0.5050 Acres, as shown in that certain deed, recorded at Deed Book 1453, page 1810, in the Clerk’s Office of the Circuit Court, Newport News, Virginia on January 23, 1997;

and

WHEREAS, a survey dated June 13, 2016 entitled “ALTA/NSPS Land Title Survey of the Properties of Joseph A. & Pamela A. Buffa, Newport News, Virginia”, prepared by A.D. Potts & Associates, Inc, shows that the existing parking lot and sign encroaches upon the City’s J. Clyde Morris right-of-way; and

WHEREAS, Grantees wish to encroach into the J. Clyde Morris Blvd. by maintaining the currently existing portion of the parking lot and sign, AS SHOWN IN Exhibit A, a plat entitled “Plat Showing City of Newport News Encroachment Agreement Area Hereby Dedicated to Benefit Lot A, 0.0398 Acres Encroachment Agreement Area, Newport News, Virginia,” prepared by A.D. Potts and Associates, Inc., and dated August 1, 2016; and

WHEREAS, City has determined that there is no objection to the encroachment described in this Agreement;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Newport News, Virginia:

1. That it desires to, and hereby does, authorize a non-permanent, revocable encroachment upon the J. Clyde Morris Boulevard right-of-way as previously described.

2. That the non-permanent, revocable encroachment is authorized subject to compliance by the parties with the terms of the Encroachment Agreement between Joseph A. Buffa and Pamela A. Buffa (“the Buffas”) and the City, attached herewith as Exhibit B. The Council reserves the right to order the removal at the Buffa’s expense of encroaching improvements and revocation of said non-permanent, revocable encroachment if such becomes a danger or inconvenience to use of the public right-of-way.

3. That it hereby authorizes and directs the City Manager to execute and the City Clerk to attest the Encroachment Agreement and any additional documents necessary to grant the encroachment.

4. That a copy of this ordinance and the executed Encroachment Agreement be recorded in the real estate records of the Clerk’s Office of the Circuit Court of the City of Newport News, Virginia.

5. That this ordinance be in effect on and after the date of its adoption, August 9, 2016.

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS ON AUGUST 9, 2016

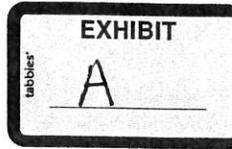
Mabel Washington Jenkins, MMC
City Clerk

McKinley L. Price, DDS
Mayor

A true copy, teste:

City Clerk

THIS ENCROACHMENT AGREEMENT IS WITH THE
FREE CONSENT AND IN ACCORDANCE WITH THE
DESIRES OF THE UNDERSIGNED OWNERS,
PROPRIETORS & TRUSTEES.



APPROVED FOR
THE CITY OF NEWPORT NEWS
VIRGINIA

EVERETT P. SKIPPER, PE, BCEE DATE
DIRECTOR OF ENGINEERING

JAMES M. BOUREY DATE
CITY MANAGER

APPROVED AS TO FORM

JOSEPH DURANT DATE
DEPUTY CITY ATTORNEY

NOTES: IMPROVEMENTS NOT SHOWN

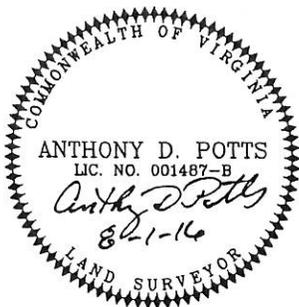
THIS PROPERTY IS LOCATED IN FIRM ZONE X,
(UNSHADED)(AREA OUTSIDE 0.2% ANNUAL CHANCE FLOOD)
AS SHOWN ON COMMUNITY PANEL NO. 510103 0129 D,
DATED DECEMBER 9, 2014 (INDEX DATED DEC. 9, 2014)

REF: P.B. 5 PG. 63, P.B. 7 PG. 119, P.B. 8 PG. 85
D.B. 1453 PG. 1810, D.B. 1275 PG. 2227

NO TITLE REPORT PROVIDED

ALL EASEMENTS MAY NOT BE SHOWN

#694 J. CLYDE MORRIS BLVD. SHEET 1 OF 3



THIS IS TO CERTIFY THAT THE PERIMETER SURVEY SHOWN
ON THIS PLAT IS CORRECT, TO THE BEST OF THE SURVEYOR'S
KNOWLEDGE AND BELIEF, AND HAS AN ACCURACY OF NOT LESS
THAN ONE FOOT IN TEN THOUSAND FEET.

Anthony D. Potts

ANTHONY D. POTTS, L.S.

PLAT SHOWING CITY OF NEWPORT NEWS
ENCROACHMENT AGREEMENT AREA
HEREBY DEDICATED TO BENEFIT
LOT A

**0.0398 ACRE
ENCROACHMENT
AGREEMENT AREA**
NEWPORT NEWS, VIRGINIA

ADPA

A.D. POTTS & ASSOCIATES, INC.
11524 JEFFERSON AVENUE
NEWPORT NEWS, VIRGINIA 23601
PHONE: (757) 595-4610

SCALE: 1"=30'

DATE: 8/1/16

F.B. PG.
WALTZ/ADP

ROB-TRACT-A-PT57-ALTA.DWG
JOB NO.16-256

PARCEL CONTAINING
18,299 SQ. FT.
0.4201 ACRES

P.B. 8 PG. 85

JOSEPH A. & PAMELA A. BUFFA
DEED BOOK 1453 PAGE 1810.

S 11°00'40" E 208.68'

N 02°46'50" W 202.22'
N 02°46'50" W 238.67' (TOTAL)

LOT A
22,000 SQ. FT.
0.5050 ACRES

JOSEPH A. & PAMELA A. BUFFA
DEED BOOK 1453 PAGE 1810.

ROBINSON TRACT, PAR B, PB 10 PG 109

RBF
L2

N 62°28'37" E 150.00'

IPF
L1

N 62°13'25" E 75.00'

RBF

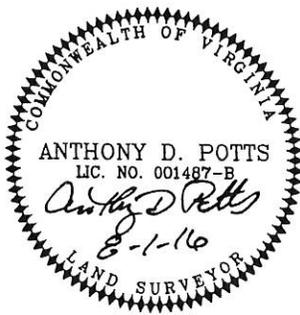
N 62°28'37" E 155.23'

J. CLYDE MORRIS BOULEVARD
R/W VARIES
U.S. ROUTE 17
(←-NORTHBOUND)

CITY OF NEWPORT NEWS
ENCROACHMENT AGREEMENT AREA
HEREBY DEDICATED TO BENEFIT LOT A
1,732 SQ. FT.
0.0398 ACRES

437'± TO C/L FORREST DRIVE→

LINE	BEARING	DISTANCE
L1	N 27°31'23" W	11.35'
L2	S 02°46'50" E	12.49'



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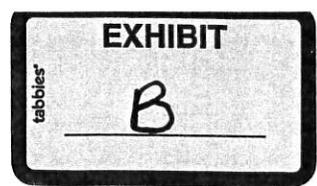
Anthony D. Potts
ANTHONY D. POTTS, L.S.

#694 J. CLYDE MORRIS BLVD. SHEET 2 OF 3

PLAT SHOWING CITY OF NEWPORT NEWS
ENCROACHMENT AGREEMENT AREA
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**0.0398 ACRE
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NEWPORT NEWS, VIRGINIA

ADPA A.D. POTTS & ASSOCIATES, INC.
11524 JEFFERSON AVENUE
NEWPORT NEWS, VIRGINIA 23601
PHONE: (757) 595-4610
SCALE: 1"=30' DATE: 8/1/16



Prepared by:
Office of the City Attorney
2400 Washington Ave.
Newport News, VA 23607
(757) 926-8416 phone
(757) 926-8549 fax

Exemption Claimed Under
Section 58.1-811.A.3 For
Taxes Imposed by Section
58.1-801 on a Conveyance to
a Virginia Political Subdivision

Tax ID No. 214000224

Consideration: \$10.00

ENCROACHMENT AGREEMENT

THIS AGREEMENT (the "Agreement") made this ____ day of August, 2016, by and between the CITY OF NEWPORT NEWS, a Virginia Municipal Corporation ("the City"), Grantor, and JOSEPH A. BUFFA and PAMELA A. BUFFA ("the Buffas), Grantees.

WHEREAS, the Buffas own a parcel of real property (the "Property") known as 694 J. Clyde Morris Blvd., Newport News, Virginia, more fully described as:

All that certain lot, piece or parcel of land situate, lying and being in the City of Newport News, Virginia and being known, numbered and designated as Lot A, Area 22,000 Square Feet, or 0.5050 Acres, as shown on that certain deed, which was recorded at Deed Book 1453, page 1810, in the Clerk's Office of the Circuit Court, Newport News, Virginia on January 23, 2016;

and

WHEREAS, a survey dated June 13, 2016 entitled "ALTA/NSPS Land Title Survey of the Properties of Joseph A. & Pamela A. Buffa, Newport News, Virginia", prepared by A.D. Potts & Associates, Inc, shows that the existing parking lot and sign encroaches upon the City's J. Clyde Morris right-of-way; and

WHEREAS, Grantees wish to encroach into the J. Clyde Morris Blvd. by maintaining the currently existing portion of the parking lot and sign, AS SHOWN IN Exhibit A, a plat entitled "Plat Showing City of Newport News Encroachment Agreement Area Hereby Dedicated to

Benefit Lot A, 0.0398 Acres Encroachment Agreement Area, Newport News, Virginia”, prepared by A.D. Potts and Associates, Inc., and dated August 1, 2016; and

WHEREAS, Grantees wish to encroach into the J. Clyde Morris Blvd. by maintaining the currently existing portion of the parking lot; and

WHEREAS, City has determined that there is no objection to the encroachment described in this Agreement; and

WHEREAS, the City Council of the City of Newport News by ordinance passed at its meeting of August 9, 2016, approved this encroachment upon the aforesaid Right-of-Way.

NOW, THEREFORE, the Parties agree as follows:

1. Grantor, insofar as its rights and interests are concerned, hereby grants permission to the Grantee for the encroachment, subject to the following conditions.
2. Grantee agrees that it will not construct or cause to be constructed or erected any other structure or improvement upon the Right-of-Way.
3. The City reserves all rights of access to the Right-of-Way for construction, operation and maintenance of its facilities without incurring any liability for damage to or loss of use of the encroachment described herein or for inverse condemnation thereof, arising out of any act of the City, its officials, its agents and its contractors.
4. If the encroachment is determined by any official or agent of the City to be in such a defective condition as to cause damage to the City's Right-of-Way or to otherwise adversely affect drainage onto, upon, or through; or any other lawful use by the City of the Right-of-Way; the unsafe condition shall be corrected, remedied or removed at the Grantee's expense within thirty (30) days after written notification by the City.
5. The Grantee hereby agrees to defend, indemnify and save harmless the City and its

agents, officials, and employees from any and all claims, demands, damages, including death, and liability of every kind and nature whatsoever for, on account of or arising out of the use and maintenance of the encroaching structure by the Grantee or under the consent hereby granted, and to name the City of Newport News as an additional insured under its general liability insurance policy and obtain an endorsement requiring the insurer to give the City thirty (30) days advance notice of cancellation (10 days notice for non-payment of premium).

6. This Encroachment Agreement shall in no way be construed as the granting of a perpetual easement or otherwise vesting in the Grantee any type of property right. The Agreement is revocable at will by either party upon one hundred eighty (180) days notice.

7. The City expressly reserves all rights, privileges, and immunities granted it under the laws and statutes of the United States and the State of Virginia and under the Code of Ordinances of the City of Newport News as to any claim made against it.

8. This agreement runs with the land. The terms of this Agreement are binding upon and shall inure to the benefit and obligation of the heirs, personal representatives, transferees, successors and assigns of the Parties, and shall not grant any rights to entities not party to this Agreement or the heirs, personal representatives, transferees, successors and assigns of the Parties, nor render any entity as a third party beneficiary of this Agreement.

The remainder of this page is intentionally left blank.

WITNESS the following signatures and seals:

JOSEPH A. BUFFA

PAMELA A. BUFFA

COMMONWEALTH OF VIRGINIA
City/County of _____, to wit:

I, _____, a Notary Public in and for the City/County and Commonwealth aforesaid, whose commission expires on the _____ day of _____, _____, do hereby certify that Joseph A. Buffa and Pamela A. Buffa, whose names are signed to the foregoing writing, hereto annexed, have acknowledged the same before me in my City/County and Commonwealth aforesaid.

GIVEN under my hand this _____ day of _____, 2016.

Notary Public

My Commission expires: _____

Registration No. _____

CITY OF NEWPORT NEWS,

By: _____
City Manager

ATTEST:

APPROVED AS TO FORM:

City Clerk

City Attorney

COMMONWEALTH OF VIRGINIA
City of Newport News, to wit:

I, _____, a Notary Public in and for the City and Commonwealth aforesaid, whose commission expires on the ____ day of _____, _____, do hereby certify that the **CITY OF NEWPORT NEWS**, by James A. Bourey, as City Manager and Mabel V. Washington, as City Clerk, whose names are signed to the foregoing writing, hereto annexed, have acknowledged the same before me in my City and Commonwealth aforesaid.

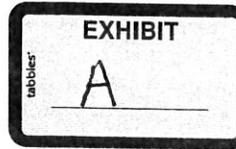
GIVEN under my hand this _____ day of _____, 2016.

Notary Public

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THIS ENCROACHMENT AGREEMENT IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNERS, PROPRIETORS & TRUSTEES.



APPROVED FOR
THE CITY OF NEWPORT NEWS
VIRGINIA

EVERETT P. SKIPPER, PE, BCEE DATE
DIRECTOR OF ENGINEERING

JAMES M. BOUREY DATE
CITY MANAGER

APPROVED AS TO FORM

JOSEPH DURANT DATE
DEPUTY CITY ATTORNEY

NOTES: IMPROVEMENTS NOT SHOWN

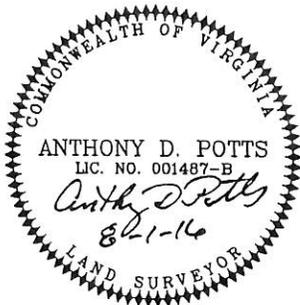
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REF: P.B. 5 PG. 63, P.B. 7 PG. 119, P.B. 8 PG. 85
D.B. 1453 PG. 1810, D.B. 1275 PG. 2227

NO TITLE REPORT PROVIDED

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#694 J. CLYDE MORRIS BLVD. SHEET 1 OF 3



THIS IS TO CERTIFY THAT THE PERIMETER SURVEY SHOWN ON THIS PLAT IS CORRECT, TO THE BEST OF THE SURVEYOR'S KNOWLEDGE AND BELIEF, AND HAS AN ACCURACY OF NOT LESS THAN ONE FOOT IN TEN THOUSAND FEET.

Anthony D. Potts

ANTHONY D. POTTS, L.S.

PLAT SHOWING CITY OF NEWPORT NEWS
ENCROACHMENT AGREEMENT AREA
HEREBY DEDICATED TO BENEFIT
LOT A

**0.0398 ACRE
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AGREEMENT AREA**
NEWPORT NEWS, VIRGINIA



ADPA A.D. POTTS & ASSOCIATES, INC.
11524 JEFFERSON AVENUE
NEWPORT NEWS, VIRGINIA 23601
PHONE: (757) 595-4610

SCALE: 1"=30' DATE: 8/1/16

PARCEL CONTAINING
18,299 SQ. FT.
0.4201 ACRES

P.B. & P.C. 85
S 11°00'40" E 208.88'
JOSEPH A. & PAMELA A. BUFFA
DEED BOOK 1453 PAGE 1810.

N 02°46'50" W 202.22'
N 02°46'50" W 238.87' (TOTAL)

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JOSEPH A. & PAMELA A. BUFFA
DEED BOOK 1453 PAGE 1810.

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ROBINSON TRACT, PAR B, PB 10 PG 109

RBF

N 62°28'37" E 150.00'

IPF

N 62°13'25" E 75.00' RBF

N 62°28'37" E 155.23'

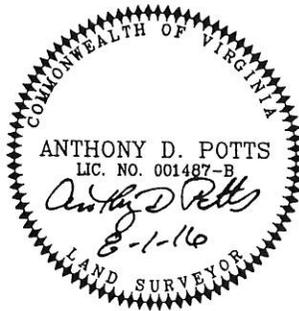
L1

J. CLYDE MORRIS BOULEVARD
R/W VARIES
U.S. ROUTE 17
(←-NORTHBOUND)

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1,732 SQ. FT.
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437'± TO C/L
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Anthony D. Potts
ANTHONY D. POTTS, L.S.

#894 J. CLYDE MORRIS BLVD. SHEET 2 OF 3

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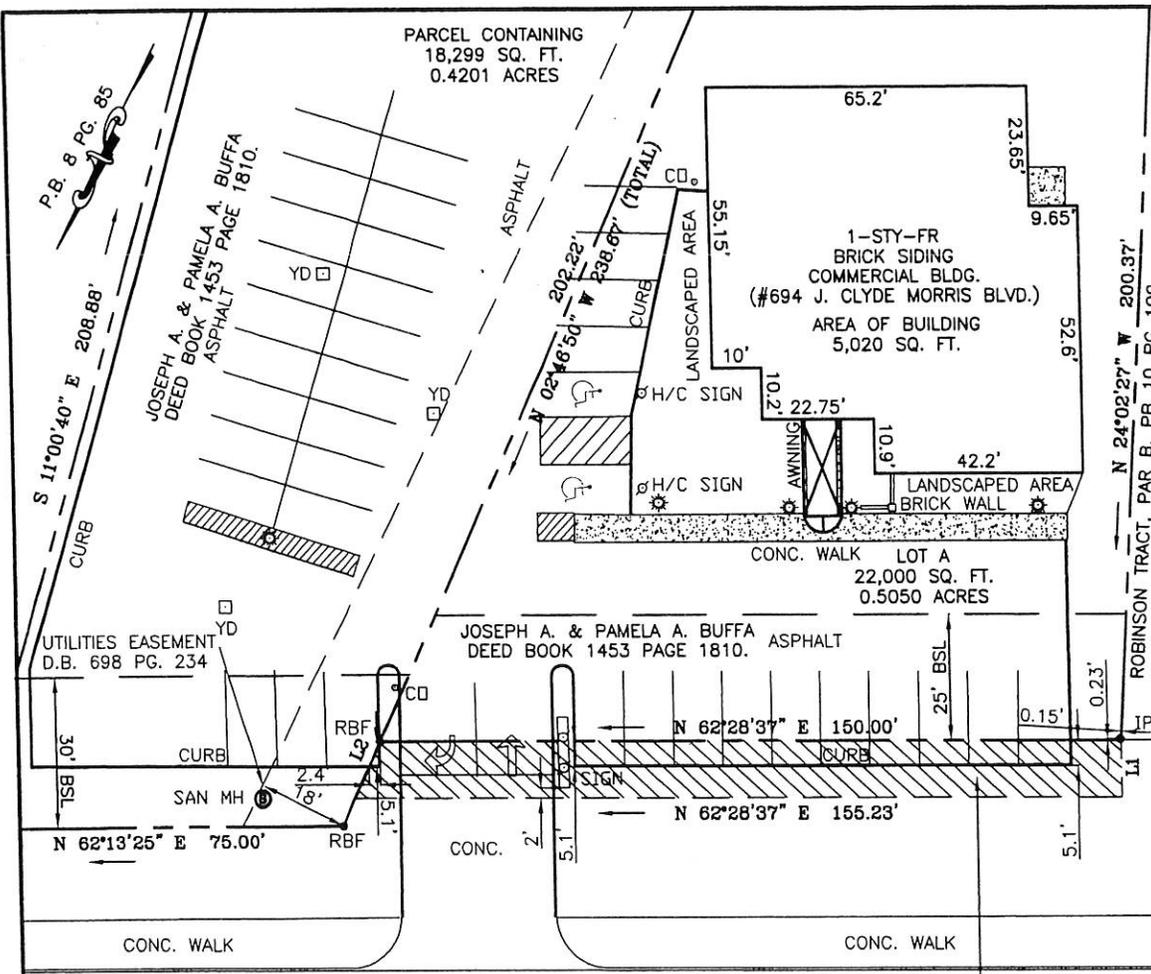
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F.B. ----- PG. ----- ROB-TRACT-A-PT57-ALTA.DWG
JOB NO.16-256

WALTZ/ADP

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18,299 SQ. FT.
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TO SHOW IMPROVEMENTS



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ANTHONY D. POTTS, L.S.

#694 J. CLYDE MORRIS BLVD. SHEET 3 OF 3

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