

INTRODUCED: June 27, 2022

AN ORDINANCE No. 2022-208

To authorize 121, L.L.C., to encroach upon the public right-of-way with an outdoor dining area encroachment at the south line of West Broad Street east of the southeast corner of the intersection of West Broad Street and North Jefferson Street, upon certain terms and conditions.

\_\_\_\_\_  
Patron – Mayor Stoney (By Request)

\_\_\_\_\_  
Approved as to form and legality  
by the City Attorney  
\_\_\_\_\_

PUBLIC HEARING: JUL 25 2022 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That 121, L.L.C., referred to as “Licensee”, is hereby authorized to encroach upon the public right-of-way with an outdoor dining area on the sidewalk adjacent to a restaurant enclosed by fencing, consisting of 206 square feet of the public right-of-way, as shown on a plan prepared by the Department of Public Works, dated May 27, 2022, entitled “Proposed Outdoor Dining Encroachment Located Along the South R/W Line of W Broad Street at Intersection with East R/W Line Jefferson Street (123 W Broad Street),” and designated as DPW Drawing No. C-28982, a copy of which is attached to this ordinance and incorporated herein.

AYES:                    8                    NOES:                    0                    ABSTAIN:                    \_\_\_\_\_

ADOPTED:                    JUL 25 2022                    REJECTED:                    \_\_\_\_\_                    STRICKEN:                    \_\_\_\_\_

§ 2. That the grant of authorization for the above-described encroachment shall be subject to the applicable general provisions set forth in sections 24-59 through 24-65 of the Code of the City of Richmond (2020), as amended.

§ 3. That the grant of authorization for the above-described encroachment shall also be subject to the following specific conditions:

(a) The Licensee shall bear all costs incident to the encroachment, including, without limitation, realignment or replacement of street and sidewalk infrastructure, utilities, signs, right-of-way “monumentation,” and maintenance of the encroachment, as directed by City agencies.

(b) Subject to the general requirements of section 24-62(a)(5), the Licensee shall furnish the City evidence of an insurance contract providing either commercial general liability insurance coverage in an amount not less than \$1,000,000 combined single limit or equivalent homeowner’s or renter’s insurance in an amount not less than \$300,000 combined single limit, naming the City as an additional insured, which shall be maintained for the life of the encroachment.

(c) Subject to the general requirements of section 24-62(a)(7), the Licensee shall furnish the City a removal bond, which shall be maintained for the life of the encroachment, with corporate surety, an irrevocable letter of credit or other type of financial guarantee, payable to the City and approved by the City Attorney, in the amount of \$5,000.

(d) Posts for the railing for the outdoor encroachment area shall not be encased in the sidewalk and must be attached to the sidewalk surface in a manner which would facilitate removal, if necessary, and must not prevent access to any Department of Public Utilities facilities.

(e) The outdoor dining encroachment area shall conform to the requirements of sections 24-225, 24-226, 24-227, 24-228, 24-229, and 24-230 of the Code of the City of Richmond (2020), as amended, concerning sidewalk cafés, except (i) that subsection (d) of section 24-227 of the Code of the City of Richmond (2020), as amended, shall not apply to the outdoor dining encroachment area, (ii) that subsection (b) of section 24-230 of the Code of the City of Richmond (2020), as amended, shall not apply to the outdoor dining encroachment area, and (iii) as otherwise provided by this ordinance. The Director of Public Works may approve changes to the appearance of the enclosure in accordance with the applicable policies and procedures of the Department of Public Works regarding encroachments.

(f) The Licensee must obtain written approval of the initial outdoor furnishings and any subsequent changes to the appearance of the enclosure or the outdoor furnishings from the Director of the Department of Public Works.

(g) The Licensee shall be subject to an annual Assessor area tax for the encroachment area.

(h) The Licensee, or any successor or assignee thereof, shall bear all costs for repair, relocation or replacement of the encroachment in the event of damage or movement due to, but not limited to, vehicular travel; alterations “in” or “to” or failure of City utilities; or the City’s and the public’s use of the right-of-way.

(i) The Licensee shall secure all proper permits, and all work shall be performed in a manner satisfactory to the Director of Public Works and the Director of Planning and Development Review.

(j) The Licensee shall provide written notification to the City Assessor, the Director of Finance, and the Director of Public Works of the new owner’s name and mailing address

immediately upon transferring any ownership or encroachment rights to another party. However, the encroachment provided for in this ordinance shall not be effective as to any such new owner unless and until such new owner furnishes the insurance and bond forms required by section 3(b) and section 3(c) of this ordinance, respectively, and files a written statement in a form satisfactory to the City Attorney to the effect that such new owner agrees to be bound by and to comply with the terms and conditions upon which the encroachment authorization is granted.

(k) The Licensee shall cause any existing but unauthorized encroachments to be either authorized or removed.

§ 4. This ordinance shall be in force upon adoption and shall become effective only when, within 12 months of the date of adoption, the Licensee furnishes the required insurance and bond forms and files a written statement in a form satisfactory to the City Attorney to the effect that the Licensee agrees to be bound by and to comply with the terms and conditions upon which the encroachment authorization is granted. The Licensee shall be responsible for providing the Division of Permits and Inspections of the Department of Planning and Development Review, the Division of Right of Way Management of the Department of Public Works, and the Office of the City Clerk with written evidence that all conditions of the ordinance have been satisfied within the time period established by this ordinance.

**A TRUE COPY:**  
**TESTE:**  
*Amelia D. Reed*  
**City Clerk**



**CITY OF RICHMOND**  
**Intra-City Correspondence**

**O&R REQUEST**

**DATE:** May 31, 2022

**EDITION:** 1

**TO:** The Honorable Members of City Council

**THROUGH:** The Honorable Levar M. Stoney, Mayor

**THROUGH:** J.E. Lincoln Saunders, Chief Administrative Officer

**THROUGH:** Robert Steidel, Deputy Chief Administrative Officer

**THROUGH:** Bobby Vincent Jr., Director  
Department of Public Works

**THROUGH:** M.S. Khara, P.E., City Engineer  
Department of Public Works

MSKhara

**FROM:** Joseph Davenport, P.E., Right-of-Way Manager  
Department of Public Works

**RE: PROPOSED ENCROACHMENT ONTO A CITY SIDEWALK WITHIN THE  
PUBLIC RIGHT OF WAY OF AN OUTDOOR DINING AREA AT 123 W  
BROAD STREET**

**ORD. OR RES No.** \_\_\_\_\_

**PURPOSE:** To allow an encroachment into the public right-of-way for an outdoor dining area and its amenities which will occupy two (2) separate areas totaling 206 square feet of public right-of-way along the south line of W Broad Street at 123 W Broad Street, as further detailed on a plan prepared by the Department of Public Works and designated as DPW Drawing. No. N-28982 dated May 27, 2022, and entitled "PROPOSED OUTDOOR DINING ENCROACHMENT LOCATED ON THE SOUTH R/W LINE OF W BROAD STREET AT INTERSECTION WITH THE EAST R/W LINE OF JEFFERSON STREET (123 W BROAD STREET)"

**REASON:** A request for encroachment was received from Steve Soble, the building owner for 123 W Broad Street, dated August 23, 2021. Mr. Soble, the applicant, seeks approval of an outdoor dining space located adjacent to and for use by Bar Solita at 123 W Broad Street.

**RECOMMENDATIONS:** The Department of Public Works offers no objections to the proposed encroachments, and requests that any approvals be subject to, and including without limitation, the following terms and conditions:

1. All costs incidental to the encroachment are the responsibility of the property owner, including without limitation, realignment or replacement of street and sidewalk infrastructure, utilities, signs, right-of-way monuments, maintenance of the encroachment, etc., as directed by City agencies.
2. The property owner(s)/successor(s) shall provide liability insurance as required or established by the City, and shall maintain the liability insurance in effect for the life of the encroachment.
3. The property owner(s)/successor(s) shall provide a \$5000.00 removal bond as required or established by the City.
4. The outdoor Dining Encroachment is subject to the certain Sidewalk Cafe requirements found or referenced in City Code Sections 24-225 thru 24-230, excluding 24-227(d) and 24-230(b).
5. Posts for the railing will not be encased in the sidewalk, must be attached to the sidewalk surface in a manner which would facilitate removal, if necessary, and must not prevent access to any DPU facilities.
6. An annual Assessor area tax shall be assessed to the owner(s)/successor(s) for the encroachment area.
7. The property owner(s)/successor(s) is responsible for all costs for repair, relocation, or replacement of the encroachments in the event of damage or movement due to, but not limited to, vehicular travel, alterations or failure of City utilities, or due to the public's use of the right-of-way.
8. The applicant(s)/owner(s)/successor(s) shall secure the proper permits and the encroachment shall be maintained and operated in a manner satisfactory to best management/construction practices and as directed by the Director of Public Works.
9. A twelve (12) month expiration clause shall be included whereby all conditions must be satisfied by the applicant(s)/owner(s)/successor(s) within twelve (12) months of the ordinance adoption date and approved by the City before the ordinance can go into effect.
10. The property owner(s)/successor(s) shall provide written notification to the Assessor, Director of Finance and the Director of Public Works of any change in the ownership of the property or restaurant and upon transferring ownership or encroachment rights to another individual or party. Notification should include the new owner's name and mailing address and any other contact information
11. The applicant(s)/owner(s)/successor(s) shall have the sole responsibility to provide the Department of Public Works Division of Right of Way Management with written evidence that all conditions of the ordinance have been satisfied. Should this written evidence not be submitted to the said offices prior to the expiration date, the ordinance will become null and void and not take effect.

**BACKGROUND:** Approval of this outdoor dining area will allow additional seating for Bar Solita and add to the vitality of the restaurant and surrounding area. The present plan includes a black powdered-coated aluminum railing surrounding tables and chairs adjacent to the front of and on either side of the restaurant entrance on W Broad Street.

The restaurant has been offering outdoor dining to its customers for almost two (2) years under a Temporary Outdoor Dining permit offered under the COVID 19 protocols (ENCR-078767-2020). The present request will utilize much the same area as the previous permit but will allow the railing to be attached to the sidewalk and eliminate the requirement that the railing, tables, chairs and other amenities be removed from the sidewalk at times when restaurant is not open.

**FISCAL IMPACT/COST:** None

**FISCAL IMPLICATIONS:** None.

**BUDGET AMENDMENT NECESSARY:** No amendment necessary.

**REVENUE TO CITY:** \$1000 application and processing fee; approx. \$51.50 annual tax assessment (206 square feet of encroachments @ \$0.25 per sq. ft. = \$51.50).

**DESIRED EFFECTIVE DATE:** Upon Adoption.

**REQUESTED INTRODUCTION DATE:** June 27, 2022

**CITY COUNCIL PUBLIC HEARING DATE:** July 25, 2022

**REQUESTED AGENDA:** Consent Agenda.

**RECOMMENDED COUNCIL COMMITTEE:** None

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** Planning Commission

**AFFECTED AGENCIES:** Public Works; Public Utilities; Law Department; Planning and Development Review; Economic and Community Development; Assessor; Budget and Strategic Planning; Finance; Fire Department; Police Department; Mayor's Office; CAO's Office.

**RELATIONSHIP TO EXISTING ORD. OR RES.:** None

**REQUIRED CHANGES TO WORK PROGRAM(S):** None.

**ATTACHMENTS:** Letter of Request (dated August 23, 2021)  
DPW Dwg. No.C-28982

**STAFF:**

Prepared for Bobby Vincent, Jr., Director, DPW

Prepared by Marvin Anderson, Program & Operations Manager for Surveys, DPW

Research and Drawing Coordinated By: Sterling Clifton

Department of Public Works 646-0435

August 23, 2021

Director of Public Works  
City Hall  
Room 701  
900 E Broad Street  
Richmond, Va 23220

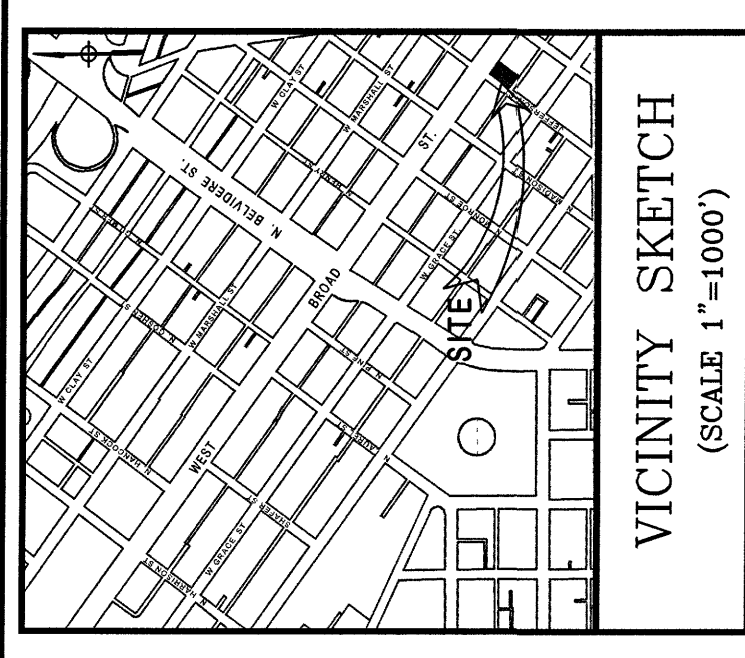
Dear Director,

We are submitting this letter of request for an encroachment for outdoor. I, Steve Soble, am the building owner of 123 and 121 W Broad Street. I approve of my tenants plans to add a railing and patio in front of my building. I also acknowledge my responsibility for the encroachment prior to the submittal of the preliminary Council papers.

A handwritten signature in black ink, appearing to read 'SS', with a long horizontal flourish extending to the right.


Steve Soble

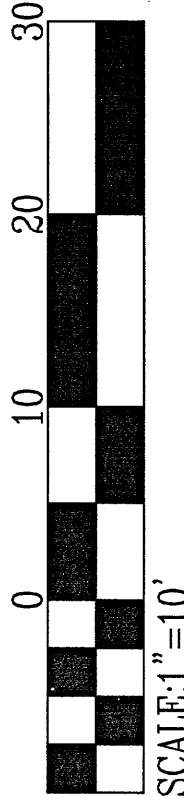
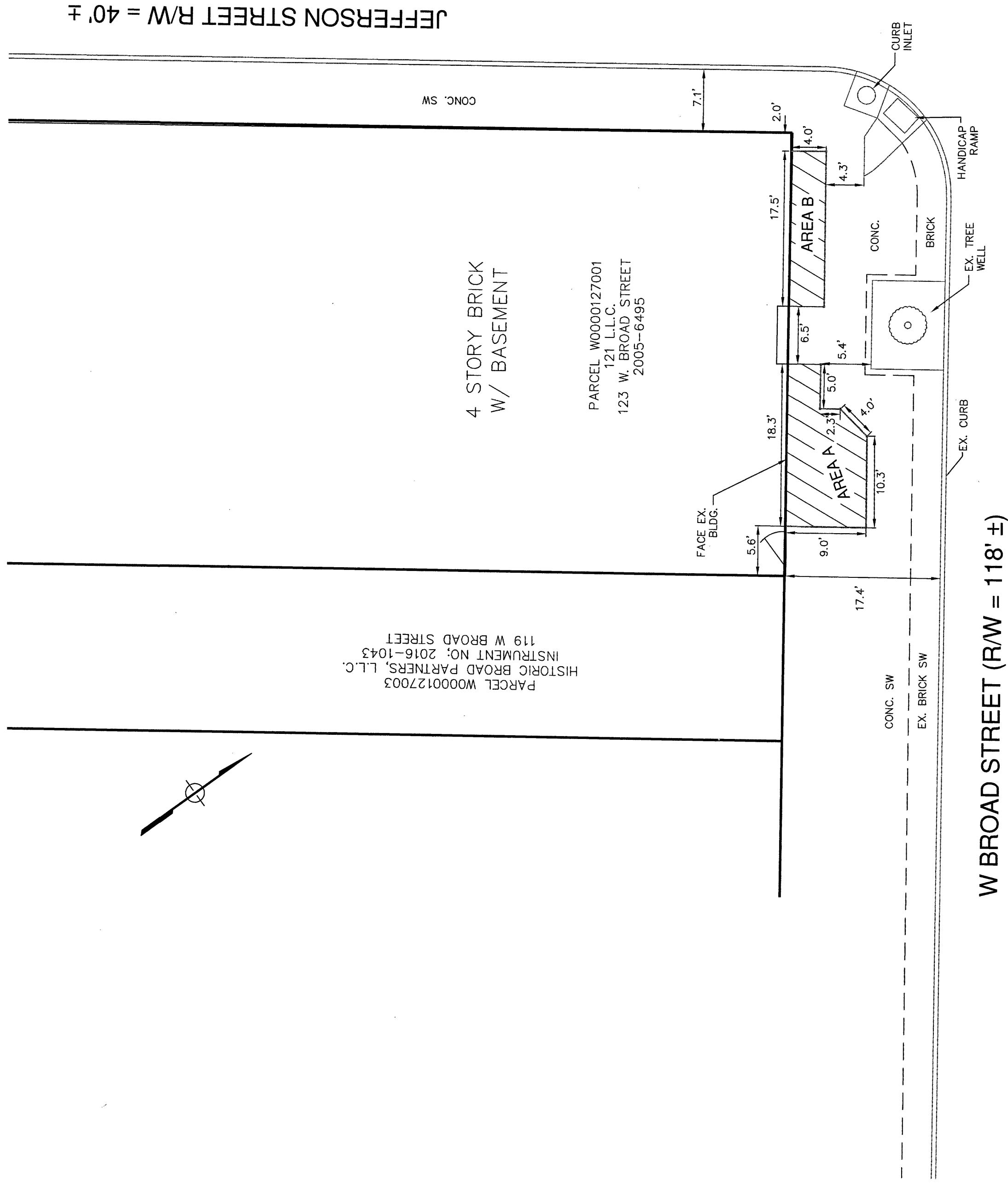





VICINITY SKETCH  
(SCALE 1"=1000')

**NOTES**

1. PROPOSED AREA OF OUTDOOR DINING ENCROACHMENT IS SHOWN AS:  Area A = 136 SQ. FT. Area B = 70 SQ. FT.
2. THIS DRAWING IS BASED ON A COMPIATION OF DATA FROM RECORD SOURCES, A FIELD SURVEY OF RECORD BY GEO. L. NYFELER III, DATED 1-10-05, A BINDER SUPPLIED BY STEWART TITLE GUARANTY CO. EFFECTIVE DATE: DECEMBER 26, 2004, AND A SKETCH FOR TEMPORARY OUTDOOR DINING DATED 9-16-20, FOUND IN ENERGOV ENCR-078767-2020.
3. THE PROPOSED ENCROACHMENTS MUST NOT PREVENT ACCESS TO ANY DPU FACILITIES [i.e. Meters, Valves, Manholes, Fire Hydrants, etc].
4. IF ANY DPU INFRASTRUCTURE IS DAMAGED AS A RESULT OF THIS WORK, THE PERMIT HOLDER WILL BE LIABLE FOR THE COST OF ANY NECESSARY REPAIRS.
5. ADDITIONAL INFORMATION REGARDING THIS ENCROACHMENT CAN BE FOUND IN ENERGOV AT ENCR-099100-2021.



Council District 2 Block No. N-0127

<p><b>NOTES</b></p> <p>1. Property owners correct as of APRIL 8, 2022</p> <p>2. Ordinance _____</p> <p>3. Adopted _____</p> <p>4. Accepted _____</p>	<p>Engineering Specialist: Stephen T. Clifton <i>Stephen T. Clifton</i></p> <p>Op. Mgr. for Survey: Marvin W. Anderson <i>Marvin W. Anderson</i></p> <p>ROW Manager: Joseph L. Davenport Jr. <i>Joseph L. Davenport Jr.</i></p> <p>REVISIONS _____</p>	<p>Surveys Division, Room 600 City Hall 900 E. Broad Street, Richmond, Va. 23219</p> <p><b>DEPARTMENT OF PUBLIC WORKS</b> RICHMOND, VIRGINIA</p>		<p>PROPOSED OUTDOOR DINING ENCROACHMENT LOCATED ALONG THE SOUTH R/W LINE OF W BROAD STREET AT INTERSECTION WITH EAST R/W LINE JEFFERSON STREET (123 W BROAD STREET )</p>
<p>REFERENCES: BL 17 NE, POTTS, MINTER, &amp; ASSOC. P.C. PATIO EXHIBIT, JN 1708-01 DATED 6-4-2019</p>	<p>DRAWN BY: S.T.C. CHECKED BY: M.W.A.</p>	<p>FIELD NOTE</p>	<p>SCALE 1"=10'</p>	<p>DATE MAY 27, 2022</p> <p>PROJECT N-0127-ENC</p> <p>DRAWING NO. N-28982</p>