

INTRODUCED: May 23, 2016

AN ORDINANCE No. 2016-173

To authorize the Economic Development Authority of the City of Richmond and the RPAC, Inc. to encroach upon the public right-of-way with a proposed outdoor dining area on the north line of West Main Street between North Laurel Street and North Cherry Street in front of 800 West Main Street, upon certain terms and conditions.

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

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

PUBLIC HEARING: JUNE 27 2016 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That the Economic Development Authority of the City of Richmond and RPAC, Inc., referred to as “Licensees,” are hereby authorized to encroach upon the public right-of-way with a proposed outdoor dining area on the sidewalk in front of the Altria Theater located at 800 West Main Street, extending 5.33 feet into the public right-of-way, as shown on a plan prepared by the Department of Public Works, dated April 22, 2016, entitled “Proposed Outdoor Dining Encroachment Located on the North Line of W. Main Street between N. Laurel St. and N. Cherry St.,” and designated as DPW Drawing No. N-28705, a copy of which is attached to this ordinance and incorporated herein.

AYES:                    9                    NOES:                    0                    ABSTAIN:                    \_\_\_\_\_

ADOPTED:   JUNE 27 2016      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 (2015), as amended, unless provided otherwise by this ordinance.

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

(a) The Licensees 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,” etc., as directed by City agencies, and RPAC, Inc. shall comply with the requirements of section 24-62(a)(4) of the Code of the City of Richmond (2015), as amended.

(b) Subject to the general requirements of section 24-62(a)(5) of the Code of the City of Richmond (2015), as amended, the Licensees 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) Unless provided otherwise by this ordinance, the outdoor dining encroachment area shall conform to the requirements of sections 24-247 through 24-250 of the Code of the City of Richmond (2015), as amended, concerning sidewalk cafes.

(d) The hours of operation of the outdoor dining encroachment area shall be limited to the hours of operation of the “1927 Café” located inside the Altria Theater.

(e) The Licensees shall remove the outdoor dining encroachment at times when lines of patrons occupy the sidewalk awaiting entry to the Altria Theater and constrict safe passage for pedestrian traffic or when the Licensees reasonably anticipate such occupation and constriction of safe passage.

(f) The Licensees shall be subject to an annual City Assessor area tax for the encroachment area.

(h) The Licensees, or any successors or assignees 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 Licensees 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 ownership or encroachment rights to another party.

(j) All gates to the enclosure, other than emergency exits, shall swing inward.

(k) The Director of Public Works shall have the authority to modify or revoke the grant of authorization for the encroachment for which this ordinance provides:

a. Upon a finding of noncompliance with the terms and conditions set forth in this ordinance;

b. Upon a finding of discontinuance or abandonment of the purpose for which the encroachment is authorized; or

c. Upon a finding of a superseding public need, including, but not limited to, the constriction of safe passage for pedestrian traffic, for any portion of the street, sidewalk or other public way occupied by or otherwise affected by the encroachment.

(1) The Licensees shall not be required to comply with the requirements of section 24-62(a)(7) of the Code of the City of Richmond (2015), as amended, for the purposes of the encroachment for which this ordinance provides.

§ 4. This ordinance shall be in force upon adoption and shall become effective only when, within 12 months of the date of adoption, the Licensees furnish the required insurance documents and other written evidence required by this section and file a written statement in a form satisfactory to the City Attorney to the effect that the Licensees agree to be bound by and to comply with the terms and conditions upon which the encroachment authorization is granted. The Licensees 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.

APR 26 2016

Chief Administration Office  
City of Richmond

4-5088



CITY OF RICHMOND  
INTRACITY CORRESPONDENCE

O&R REQUEST

DATE: April 21, 2016 EDITION: 1

TO: The Honorable Members of City Council

THROUGH: Dwight C. Jones, Mayor (By Request) *[Signature]*

THROUGH: Selena Cuffee-Glenn, Chief Administrative Officer *[Signature]*

THROUGH: John J. Buturla, Interim Deputy Chief Administrative Officer *[Signature]*

FOR: Emmanuel Adediran, Director  
Department of Public Works *[Signature]*

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

THROUGH: Brian Copple, Right of Way Manager  
Department of Public Works *[Signature]*

FROM: Doug Mawby  
Department of Public Works *[Signature]*

RECEIVED

MAY 13 2016

OFFICE OF CITY ATTORNEY

RE: PROPOSED ENCROACHMENT ONTO A CITY SIDEWALK WITHIN THE  
PUBLIC RIGHT OF WAY FOR AN OUTDOOR DINING AREA AT 2 N  
LAUREL ST.

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

**PURPOSE:** To allow a restaurant to establish an enclosure containing 233+/- square feet on a City sidewalk in front of 2 N Laurel Street for outdoor dining as shown on the attached plan prepared by the Department of Public Works and designated as DPW Dwg. No. N-28705 dated 4/22/2016 entitled "PROPOSED OUTDOOR DINING ENCROACHMENT LOCATED ON THE NORTH LINE OF W MAIN ST. BETWEEN N. LAUREL ST. AND N. CHERRY ST."

**REASON:** Letter of request from C.T. Hill, the Manager/Operator for the Richmond Performing Arts Center dated February 19, 2016. The applicant wishes to set up an outdoor dining area on the Main Street sidewalk adjacent to the Altria Theater as accessory seating for the 1927 Café within the building.

The letter states that their furnishings will comply with the Sidewalk Café Ordinance and will be removed each evening when the café closes. The arrangement of the outdoor café will leave a minimum 5 feet of sidewalk clear for pedestrians.

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

1. All costs incident to the encroachment are to be borne by the applicant, including without limitation, realignment or replacement of street and sidewalk infrastructure, utilities, signs, right-of-way monumentation, maintenance of the encroachment, etc., as directed by City agencies.
2. The applicant(s)/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 applicant(s)/owner(s)/successor(s) will not be required to provide a removal bond as is usually required because the encroachment is not permanent.
4. Unless otherwise authorized by the Director of Public Works or his designee, the outdoor dining encroachment area shall conform to the requirements of the Sidewalk Café Program as found in City Code Sections 24-247 through 24-250,
5. Hours of operation of the sidewalk café shall match the hours of operation of the “1927 Café” inside the Altria Theater.
6. The applicant shall agree to remove the encroachment from the sidewalk at such times that lines of patrons waiting entry into the Altria Theater are anticipated to occupy the sidewalk on W Main Street in order to allow pedestrians not attending a performance to safely pass.
7. An annual Assessor area tax shall be assessed to the applicant(s)/owner(s)/successor(s) for the encroachment area.
8. The applicant(s)/owner(s)/successor(s) shall bear 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.
9. The applicant(s)/owner(s)/successor(s) shall secure the proper permits, and the encroachment shall be maintained in a manner satisfactory to best management/construction practices and to the Directors of Public Works and Planning and Development Review.
10. The applicant(s)/owner(s)/successor(s) shall provide written notification to the Assessor, Director of Finance and the Director of Public Works of any new owner’s name and mailing address immediately upon transferring ownership or encroachment rights to another individual or party.
11. The applicant(s)/owner(s)/successor(s) shall have the sole responsibility to provide the Department of Planning and Development Review and 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, twelve months after final approval of ordinance, the ordinance will become null and void automatically.
12. Any gates to the enclosure, other than emergency exits, shall swing inward.

**BACKGROUND:** This outdoor dining facility is intended to serve theater patrons and the general public at all times that the 1927 Café inside the Altria Theater is open. As such it is sited outside of the Main Street entrance to the Café.

Recent renovations to the Theater have created a larger and safer pedestrian area around the corner of Laurel and Main Streets which the café within the theater will take advantage of. As depicted on the attached drawing, the outdoor dining installation will leave a greater than 6' pedestrian pathway along W Main Street for most of the length of the enclosure with a restriction to 5' where a signpost is installed in the sidewalk.

A specific requirement has been added to the terms and conditions to address the situation of theater patrons queuing up at the entrance for a performance. This will require the removal of the sidewalk café when long lines at the door are anticipated. Additionally, as stated in the City Code, the director of Public Works may choose to require modification to or the revocation of the encroachment should any problems related to queuing be noted.

The applicant had originally intended to obtain a Sidewalk Café Permit for this location. They found that the zoning for the property did not allow a restaurant as a permitted use. Application was made to the BZA for a Special Exception to allow the restaurant to operate, which was granted (BZA Case No. 10-16). Because a Sidewalk Café must be an accessory to an allowed principal use, the outdoor dining must be handled as a formal encroachment application.

**FISCAL IMPACT/COST:** None

**FISCAL IMPLICATIONS:** None.

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

**REVENUE TO CITY:** \$1000 application & processing fee; 233 ± square feet of encroachments @ \$0.25 = approximately \$58.25 annual Assessor area tax.

**DESIRED EFFECTIVE DATE:** Upon Adoption.

**REQUESTED INTRODUCTION DATE:** May 23, 2016.

**CITY COUNCIL PUBLIC HEARING DATE:** June 13, 2016.

**REQUESTED AGENDA:** Consent Agenda.

**RECOMMENDED COUNCIL COMMITTEE:** Planning Commission – June 6, 2016

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

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

**RELATIONSHIP TO EXISTING ORD. OR RES.:** BZA case 10-16

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

**ATTACHMENTS:** Applicant's request letter, DPW Dwg. No. N-28705

**STAFF:**

Prepared for Emmanuel Adediran

Prepared by Doug Mawby

Research and Drawing Coordinated By: Marvin Anderson and Raquel Aguirre

Department of Public Works

646-0435

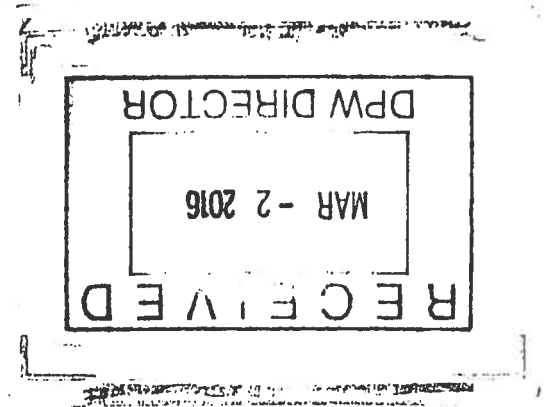


# Altria Theater



February 19, 2016

Dr. Emmanuel Adediran  
Director of Public Works  
City of Richmond  
900 East Broad Street  
Richmond, Virginia



## Proposed sidewalk café use for the 1927 Café at the Altria Theater

Dr Adedrian,

An outdoor dining encroachment is requested for the 1927 Café at the Altria Theater, located at 6 N Laurel St, Richmond VA. We understand this encroachment requires approval by a City Council ordinance.

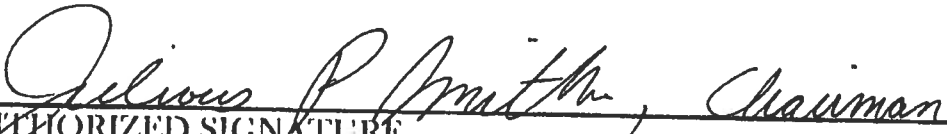
The encroachment is proposed for outdoor café seating on the Main Street sidewalk adjacent to the Altria Theater. The café seating will operate in conjunction with the indoor café food service and seating in the Theater Lobby adjacent to the Box Office Lobby.

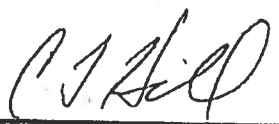
A light food service is planned for the café which is intended to serve both theater patrons and the general public at performance times, box office hours and at non-performance times when the box office is not open.

The outdoor café seating will be located on the Main Street sidewalk near the intersection of Main and Laurel Streets. It will include exterior chairs and tables, umbrellas for shade, pedestrian barriers, a café sign and an entrance from Main Street. All the exterior furnishings, components and arrangement will be compliant with the café permit requirements. The exterior furnishings shall be portable and will be removed from the sidewalk each evening.

Your consideration and support is greatly appreciated.

Respectfully submitted,

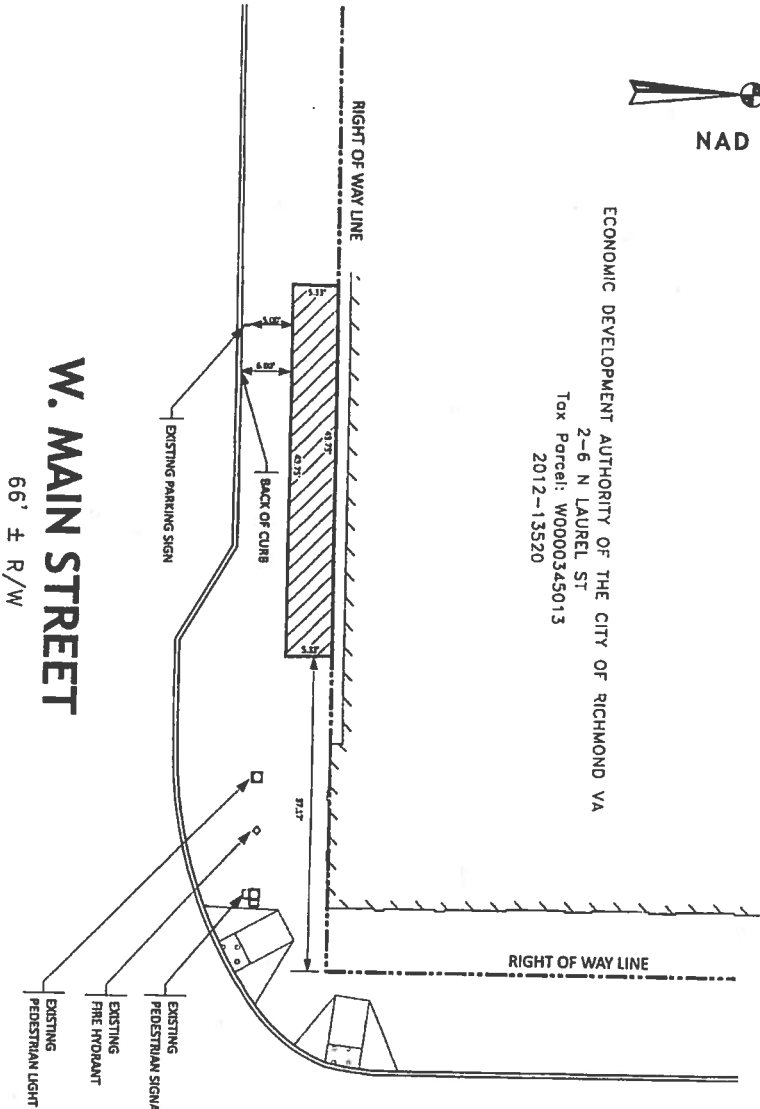
  
\_\_\_\_\_  
AUTHORIZED SIGNATURE  
OWNER  
Economic Development Authority  
Of the City of Richmond (EDA)  
Julius P. Smith, Jr.  
Chairman

  
\_\_\_\_\_  
AUTHORIZED SIGNATURE  
Manager/Operator  
Richmond Performing Arts Center, Inc. (RPAC)  
C.T. Hill  
Chairman  
Operations Committee

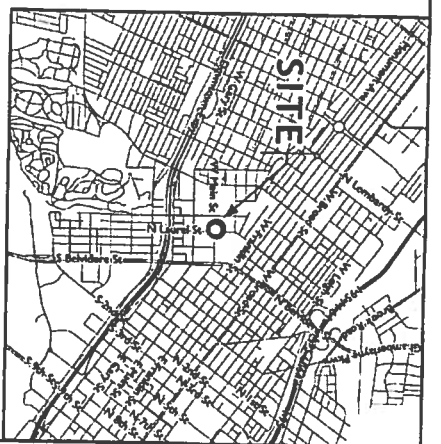
Attachment: SK-441 RICafe Encroachment Plan



ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF RICHMOND VA  
 2-6 N LAUREL ST  
 Tax Parcel: W0000345013  
 2012-13520



**N. LAUREL STREET**  
 72' ± R/W



NOTES:  
 1. [Hatched box symbol] INDICATES PROPOSED OUTDOOR DINING ENCROACHMENT AREAS -- 233 SF.

2. THIS DRAWING IS A COMPILATION OF DATA FROM RECORD SOURCES AND PLAT BY WILSON BUTLER ARCHITECTS AS SHOWN, TITLED "1927 CARE AT THE ALTRIA THEATER ENCROACHMENT" DATED 1/27/2016 AND REVISED 4/14/2016, 4/19/2016, AND 4/21/2016.



Council District: 5 Block No. W-345

**W. MAIN STREET**  
 66' ± R/W

**NOTES**

1. Lot dimensions from records.
2. Property owners correct as of 4/21/2016.
3. Ordinance No. \_\_\_\_\_
4. Adopted \_\_\_\_\_
5. Accepted \_\_\_\_\_

REFERENCES BLANE

Permitting Technician *Kevin B. O'Connell*  
 Survey Superintendent *Kevin B. O'Connell*  
 Right-of-Way Manager *Kevin B. O'Connell*

Surveys Division  
 Room 600 City Hall  
 800 E. Broad Street, Richmond, Va. 23219



DEPARTMENT OF PUBLIC WORKS  
 RICHMOND, VIRGINIA

PROPOSED OUTDOOR DINING ENCROACHMENT  
 LOCATED ON THE NORTH LINE OF W. MAIN STREET  
 BETWEEN N. LAUREL ST. AND N. CHERRY ST.  
 Requested By: Letter of Request from C.T. Hill dated 2/19/2016

FIELD NOTE	SCALE	DATE	PROJECT	DRAWING NO.
	1" = 10'	4/22/2016	W-345-ENC	N-28/205