INTRODUCED: June 2, 2025

#### AN ORDINANCE No. 2025-131

To authorize the special use of the property known as 101 South Colonial Avenue for the purpose of outdoor dining accessory to a restaurant, upon certain terms and conditions.

Patron – Mayor Avula (By Request)

Approved as to form and legality by the City Attorney

PUBLIC HEARING: JUN 23 2025 AT 6 P.M.

WHEREAS, the owner of the property known as 101 South Colonial Avenue, which is situated in a UB Urban Business District, desires to use such property for the purpose of outdoor dining accessory to a restaurant, which use, among other things, is not currently allowed by sections 30-433.2 and 30-630.9, concerning permitted projections and encroachments in yards and courts, of the Code of the City of Richmond (2020), as amended; and

WHEREAS, in accordance with section 17.11 of the Charter of the City of Richmond (2020), as amended, it has been made to appear that, if granted subject to the terms and conditions set forth in this ordinance, the special use granted by this ordinance will not be detrimental to the safety, health, morals and general welfare of the community involved, will not tend to create

AYES:	NOES:	ABSTAIN:	
ADOPTED:	REJECTED:	STRICKEN:	

congestion in streets, roads, alleys and other public ways and places in the area involved, will not create hazards from fire, panic or other dangers, will not tend to overcrowding of land and cause an undue concentration of population, will not adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences and improvements, and will not interfere with adequate light and air; and

WHEREAS, (i) the City Planning Commission has conducted a public hearing to investigate the circumstances and conditions upon which the Council is empowered to authorize such use, (ii) the City Planning Commission has reported to the Council the results of such public hearing and investigation and its recommendations with respect thereto, and (iii) the Council has conducted a public hearing on this ordinance at which the person in interest and all other persons have had an opportunity to be heard;

#### NOW, THEREFORE,

#### THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. Finding. Pursuant to section 30-1050.1 of the Code of the City of Richmond (2020), as amended, the Council hereby finds that the special use set forth in and subject to the terms and conditions of this ordinance will not (i) be detrimental to the safety, health, morals and general welfare of the community involved, (ii) tend to create congestion in streets, roads, alleys and other public ways and places in the area involved, (iii) create hazards from fire, panic or other dangers, (iv) tend to overcrowding of land and cause an undue concentration of population, (v) adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences and improvements, or (vi) interfere with adequate light and air.

#### § 2. Grant of Special Use Permit.

(a) Subject to the terms and conditions set forth in this ordinance, the property known as 101 South Colonial Avenue and identified as Tax Parcel No. W000-1240/063 in the 2025 records of the City Assessor, being more particularly shown on a survey entitled "Boundary Survey, Showing Existing Improvements to #101 S. Colonial Avenue, City of Richmond, Virginia," prepared by Shadrach & Associates LLC, and dated August 12, 2024, a copy of which is attached to and made a part of this ordinance, hereinafter referred to as "the Property," is hereby permitted to be used for the purpose of outdoor dining accessory to a restaurant, hereinafter referred to as "the Special Use," substantially as shown on the plans entitled "New Outdoor Canopy, 101 S. Colonial Ave., Richmond, Virginia 23220," prepared by Michael Pellis Architecture, and dated September 25, 2024, hereinafter referred to as "the Plans," copies of which are attached to and made a part of this ordinance.

(b) The adoption of this ordinance shall constitute the issuance of a special use permit for the Property. The special use permit shall inure to the benefit of the owner or owners of the fee simple title to the Property as of the date on which this ordinance is adopted and their successors in fee simple title, all of which are hereinafter referred to as "the Owner." The conditions contained in this ordinance shall be binding on the Owner.

§ 3. **Special Terms and Conditions.** This special use permit is conditioned on the following special terms and conditions:

(a) The Special Use of the Property shall be as outdoor dining accessory to a restaurant,
substantially as shown on the Plans.

(b) Sound, music, or entertainment shall only be in operation no later than 9:00 p.m. daily.

(c) Outdoor dining on the Property shall only be in operation 7:00 a.m. to 10:00 p.m.Sunday through Thursday and 7:00 a.m. to 11:00 p.m. Friday and Saturday.

(d) No less than two covered trash containers shall be provided for the outdoor dining area. Fences, walls, or vegetative screening shall be provided around the outdoor dining area, except at entrances and exits, to prevent refuse from blowing onto adjacent properties or streets. Chain link or chain link with slats shall not be permitted.

(e) All mechanical equipment serving the Property shall be located or screened so as not to be visible from any public right-of-way.

§ 4. **Supplemental Terms and Conditions.** This special use permit is conditioned on the following supplemental terms and conditions:

(a) All required final grading and drainage plans, together with all easements made necessary by such plans, must be approved by the Director of Public Utilities prior to the issuance of the building permit.

(b) Storm or surface water shall not be allowed to accumulate on the land. The Owner, at its sole cost and expense, shall provide and maintain at all times adequate facilities for the drainage of storm or surface water from the Property so as not to adversely affect or damage any other property or public streets and the use thereof.

(c) Facilities for the collection of refuse shall be provided in accordance with the requirements of the Director of Public Works. Such facilities shall be located or screened so as not to be visible from adjacent properties and public streets.

(d) Any encroachments existing, proposed on the Plans or contemplated in the future shall require separate authorization and shall be subject to the applicable provisions of the Code of the City of Richmond (2020), as amended, and all future amendments to such laws.

(e) In all other respects, the use of the Property shall be in accordance with the applicable underlying zoning regulations.

§ 5. General Terms and Conditions. This special use permit is conditioned on the following general terms and conditions:

(a) No permit implementing this special use permit shall be approved until satisfactory evidence has been presented to the Zoning Administrator that any delinquent real estate taxes applicable to the Property have been paid.

(b) The Owner shall be bound by, shall observe and shall comply with all other laws, ordinances, rules and regulations applicable to the Property, except as otherwise expressly provided in this ordinance.

(c) Words and phrases used in this ordinance shall be interpreted to have the meanings ascribed to them by section 30-1220 of the Code of the City of Richmond (2020), as amended, unless the context clearly indicates that a different meaning is intended.

(d) Notwithstanding any other provision of law, this special use permit is being approved due, in part, to the mitigating effects of each and every condition attached hereto; consequently, if any portion of this ordinance is determined to be invalid for any reason by a final, non-appealable order of any Virginia or federal court of competent jurisdiction, the invalidity shall cause the entire ordinance to be void and of no further effect from the effective date of such order.

(e) The privileges granted by this ordinance may be revoked pursuant to the provisions of sections 30-1050.7 through 30-1050.11 of the Code of the City of Richmond (2020), as amended, and all future amendments to such laws. Failure to comply with the terms and conditions of this ordinance shall constitute a violation of section 30-1080 of the Code of the City of

Richmond (2020), as amended, and all future amendments to such law, or any other applicable laws or regulations.

(f) When the privileges granted by this ordinance terminate and the special use permit granted hereby becomes null and void, whether as a result of the Owner relinquishing this special use permit in a writing addressed to the Director of Planning and Development Review or otherwise, use of the Property shall be governed thereafter by the zoning regulations prescribed for the district in which the Property is then situated.

§ 6. **Implementation.** The Zoning Administrator is authorized to issue a certificate of zoning compliance for the Special Use subject to the terms and conditions set forth in this ordinance. An application for the certificate of zoning compliance shall be made within 1,096 calendar days following the date on which this ordinance becomes effective. If the application for the certificate of zoning compliance is not made within the time period stated in the previous sentence, this ordinance and the special use permit granted hereby shall terminate and become null and void.

§ 7. Effective Date. This ordinance shall be in force and effect upon adoption.

## City of Richmond Intracity Correspondence

#### **O&R** Transmittal

**DATE:** April 22, 2025

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

THROUGH: The Honorable Dr. Danny Avula, Mayor (by request) (This in no way reflects a recommendation on behalf of the Mayor)THROUGH: Sabrina Joy-Hogg, Interim Chief Administrative Officer

THROUGH: Sharon L. Ebert, DCAO for Economic Development and Planning

FROM: Kevin J. Vonck, Director of Planning & Development Review

**RE:** To authorize the special use of the property known as 101 South Colonial Avenue for the purpose of outdoor dining accessory to a restaurant, upon certain terms and conditions.

#### ORD. OR RES. No.

**PURPOSE:** The applicant is requesting a Special Use Permit to authorize outdoor dining within a UB-Urban Business District. While outdoor dining is permitted within the district, the proposed dining is within 100 feet of a Residential district. As a result, a Special Use Permit is necessary to proceed with this request.

**BACKGROUND:** The property is located in the Carytown neighborhood on Cary Street between South Colonial Avenue and North Arthur Ashe Boulevard. The property is currently a 4,400 square foot (0.103 acre) parcel of land improved with a two-story structure. The City's Richmond 300 Master Plan designates a future land use for the subject property as Community Mixed-Use, which is defined as, "Cluster of medium-density, walkable commercial and residential uses that provide neighborhood services to nearby residential communities and sometimes feature regional attractions." Page 2 of 2

<u>Intensity</u>: Buildings generally ranging from two to six stories, based on street widths and depending on the historic context and stepping down in height adjacent to residential areas, as necessary. New buildings that are taller than historical buildings should step back from the build to line after matching the height of the predominant cornice line of the block.

<u>Primary Uses:</u> Retail/office/ personal service, multi-family residential, cultural, and open space. <u>Secondary Uses</u>: Single-family houses, institutional, and government.

The current zoning for the property is UB-Urban Business. The area is mostly commercial, with residential to the south of the property.

**COMMUNITY ENGAGEMENT:** The Carytown Merchants Association, Fan Area Business Alliance, and Museum District Association were notified of the application; additional community notification will take place after introduction.

**STRATEGIC INITIATIVES AND OTHER GOVERNMENTAL:** Richmond 300 Master Plan **FISCAL IMPACT:** \$300 application fee.

**DESIRED EFFECTIVE DATE:** Upon adoption

**REQUESTED INTRODUCTION DATE:** May 27, 2025

CITY COUNCIL PUBLIC HEARING DATE: June 23, 2025

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** Planning Commission June 17, 2025

AFFECTED AGENCIES: Office of Chief Administrative Officer

Law Department (for review of draft ordinance)

RELATIONSHIP TO EXISTING ORD. OR RES.: None

ATTACHMENTS: Draft Ordinance, Application Form, Applicant's Report, Plans, Survey STAFF:

Shaianna Trump, Planner Associate, Land Use Administration (Room 511) 646-7319

Application for SPECIAL USE PERMIT Department of Planning and Development Review Land Use Administration Division 900 E. Broad Street, Room 511 Richmond, Virginia 23219 (804) 646-6304 http://www.richmondgov.com/

RICHMONI

Application is hereby	submitted for:	(check one)
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- special use permit, new
- special use permit, plan amendment
- special use permit, text only amendment

#### **Project Name/Location**

Property Address: 101 S Colonial

Tax Map #: W0001240063 Fee: \$300 Total area of affected site in acres: .103

(See page 6 for fee schedule, please make check payable to the "City of Richmond")

#### Zoning

Current Zoning: UB

Existing Use: Resturant/Bar

#### **Proposed Use**

(Please include a detailed description of the proposed use in the required applicant's report)

New Outdoor Canopy

Existing Use: Resturant/Bar

Is this property subject to any previous land use cases?

Yes

If Yes, please list the Ordinance Number: BZA-1928-023

#### Applicant/Contact Person: Will Gillette / Mark Baker

Company: Baker Development Resources Mailing Address: 530 East Main Street, Suite 730

City: Richmond

) 874-6275 Telephone: (804 Email: markbaker@bakerdevelopmentresources.com

Property Owner: RICHMOND ENTERPRISES INC C/O PAUL SPEARS GEORGE P. SPEAR If Business Entity, name and title of authorized signee:

(The person or persons executing or attesting the execution of this Application on behalf of the Company certifies that he or she has or have been duly authorized and empowered to so execute or attest.)

State: VA	Zip Code: 23454
Fax: _(	)
$\frown$	
	State: <u>VA</u> Fax: _(

The names, addresses, telephone numbers and signatures of all owners of the property are required. Please attach additional sheets as needed. If a legal representative signs for a property owner, please attach an executed power of attorney. Faxed or photocopied signatures will not be accepted.

NOTE: Please attach the required plans, checklist, and a check for the application fee (see Filing Procedures for special use permits)

SUP Application | Last Revised September 7, 2018 | CITY OF RICHMOND

State: VA

Fax: (

Date:

Zip Code: 23219

## **APPLICANT'S REPORT**

April 9th, 2024

Special Use Permit Request 101 S Colonial Avenue, Richmond, Virginia Map Reference Number: W000-1240/063

Submitted to:	City of Richmond	
	Department of Planning and Development Review	
	Land Use Administration	
	900 East Broad Street, Suite 511	
	Richmond, Virginia 23219	
Submitted by:	<b>Baker Development Resources</b>	
	530 East Main Street, Suite 730	
	Richmond, Virginia 23219	

## Introduction

The property owner is requesting a special use permit (the "SUP") for 101 S Colonial Avenue (the "Property"). The SUP would legitimize an existing canopy and outdoor dining area.

## **Existing Conditions**

#### SITE DESCRIPTION AND EXISTING LAND USE

The subject property is located at the southeast intersection of W Cary Street and S Colonial Ave. The Property is referenced by the City Assessor as tax parcel W000-1240/063 and is currently improved with a two-story building containing two distinct restaurants. The Property is approximately 37 feet in width and contains roughly 4500 square feet of lot area.



The properties in the immediate vicinity are developed with a mix of commercial and residential uses. Most of the commercial uses front on Cary, with residential uses south and east of the property. The commercial uses consist mainly of restaurants and retail while the residential uses range from single-family dwellings to multi-family apartments. There is also a religious center across the street and, notably, the Historic Byrd theater less than a block away.

#### EXISTING ZONING

The Property and those to the north and west are located within the UB Urban Business District. To the south, including the adjacent property, are properties zoned R-6 Single-Family Attached Residential. Lastly, to the east, along Arthur Ashe Boulevard, are properties zoned R-48 Multifamily residential.

#### MASTER PLAN DESIGNATION

The request is consistent with the Richmond 300 Master Plan (the "Master Plan"), which suggests "Community Mixed-Use" for the Property. This future land use category is described as "medium-density, walkable commercial and residential uses that provide neighborhood services to nearby residential communities..." and ground floor uses that "engage with, and enliven, the street" (p.84). The Property is also located within the Carytown National/Regional Node which is described as "an eclectic mix of local and national retail, dining, entertainment, and service uses" and envisioned to "continue to be a successful, walkable, mixed-use destination" (p.C-15).

In addition to the Property-specific guidance offered by the Vision and Core Concepts chapter, there are a number of other goals elsewhere within the Master Plan that support this request:

- Page 121 (High Quality Places Chapter), Objective 3.2, to "Reduce the demolition of historical buildings.
  - a "create flexibility in the Zoning Ordinance to encourage the adaptive reuse of historical buildings..."
- Page 126 (High Quality Places Chapter), Objective 4.1, to "Create and preserve high-quality, distinctive, and well-designed neighborhoods and Nodes throughout the city."
- Page 165 (Diverse Economy Chapter), Objective 11.5, to "Increase the number of jobs in Nodes and Priority Neighborhoods by branding and marketing the Nodes and Priority Neighborhoods."

## **Proposal**

#### **PROJECT SUMMARY**

The SUP would legitimize an existing canopy and outdoor dining area.

#### PURPOSE OF REQUEST

The Property is roughly 37 feet wide, 120 feet deep, and is currently occupied by a twostory structure with two existing restaurant uses. One of those restaurants, Mom's Siam, is located in the front half of the existing structure fronting onto S Colonial Ave. The Mom's Siam restaurant contains approximately 960 square feet of indoor floor area and roughly 689 square feet of outdoor patio space. The outdoor dining area has been in use since at least the year 2000. A canopy was recently installed in order to protect patrons from the elements. After the installation, City review determined that both the outdoor dining and canopy did not comply with current zoning standards.

While outdoor dining in this location is a desirable use and supported by the Richmond 300 Master Plan, the underlying UB Urban Business District does not permit such an area within 100 feet of any property in any residential zoning district. In addition, there is a front yard required along the South Colonial Avenue frontage. The existing canopy is only permitted to project 10 feet into the required front yard and cannot extend past the side building wall. The canopy exceeds these requirements. For these reasons, a SUP is required.

In exchange for the SUP, the intent of this request is to legitimize an appropriate, desirable and long-term use of the property which, in addition to supporting an existing small business, activates the street, creates a more enjoyable experience for patrons, and anchors the eastern end of the Carytown commercial service area.

## **Findings of Fact**

The following are factors indicated in Section 17.11 of the Charter and Section 114-1050.1 of the Zoning Ordinance relative to the approval of special use permits by City Council. The proposed special use permit will not:

• Be detrimental to the safety, health, morals and general welfare of the community involved.

The proposed special use permit for an outdoor patio area will not impact the safety, health, morals and general welfare of the nearby neighborhoods.

• Tend to create congestion in streets, roads, alleys and other public ways and places in the area involved.

The proposed special use permit will not result in significant traffic impacts to nearby residential neighborhoods. The proposed accessory use has been in place since at least the year 2000. It will create no congestion on streets, roads, alleys or any other public right of way.

• Create hazards from fire, panic or other dangers.

The outdoor canopy will be utilized in a manner consistent with the requirements of the building code and in accordance with the requirements of Fire and Emergency Services. The City's codes applicable to this development are designed to eliminate such hazards.

• Tend to overcrowding of land and cause an undue concentration of population.

The proposed special use permit will not tend to over crowd the land or create an undue concentration of population.

## • Adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences and improvements.

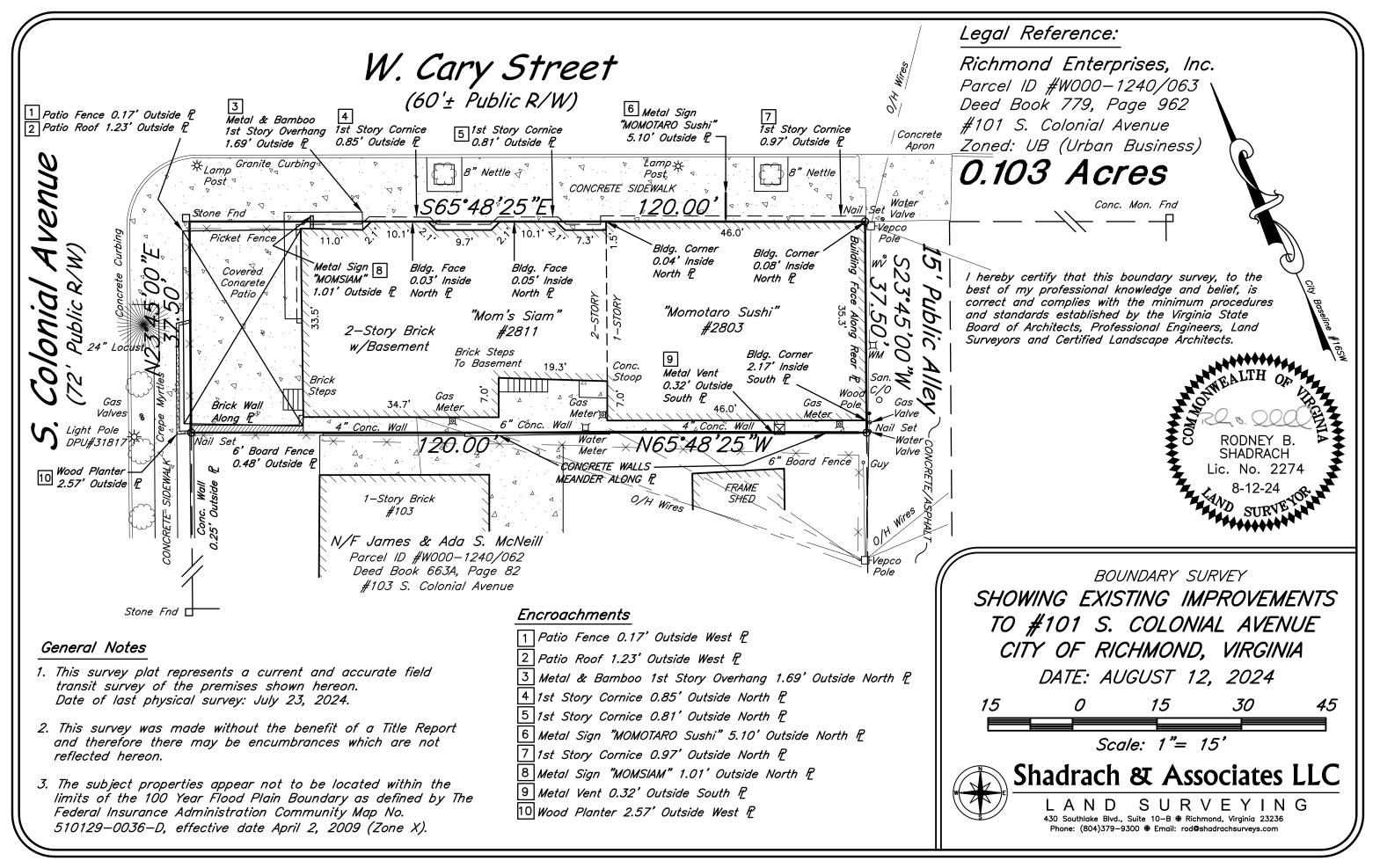
The special use permit would not adversely affect the above referenced City services. To the contrary, the proposal would provide positive fiscal (tax) benefits that would enhance the City's ability to provide these services to the proposed development.

• Interfere with adequate light and air.

The light and air available to the subject and adjacent properties will not be affected.

## Summary

In summary we are enthusiastically seeking approval for the existing outdoor patio area and canopy. This Special Use Permit proposal represents an ideal use for this location that is consistent with the recommendations of the Master Plan.

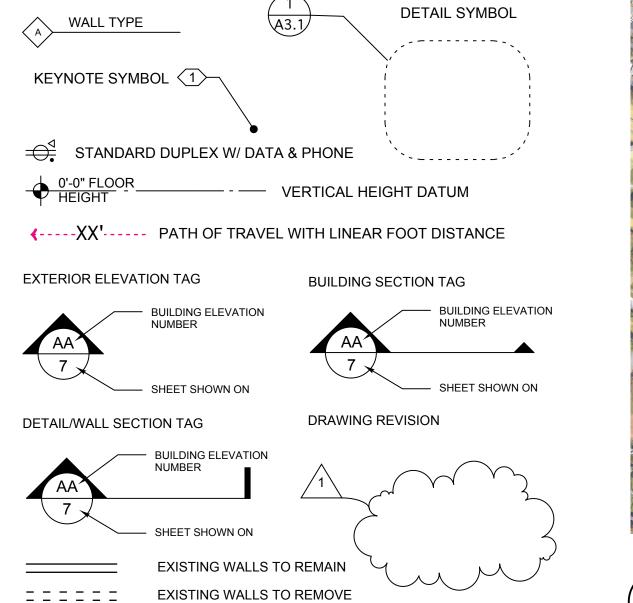


#### 00000: GENERAL

EXPENSE.

- ALL WORK SHALL BE PERFORMED IN ACCORDANCE WITH THE CODES OUTLINED IN THE "BUILDING CODE DATA" SECTION ON THE COVER SHEET AND INCLUDING THE AIA A201 GENERAL CONDITIONS (LATEST EDITION). - ALL DIMENSIONS SHALL BE FIELD VERIFIED AGAINST THE EXISTING CONDITIONS. PROCEEDING WITHOUT CONSULTATION FROM OWNER AND ARCHITECT MAY RESULT IN A COMPLETE RE-DO AT GC'S OR SUB'S EXPENSE. - ANY WORK THAT DEVIATES FROM THESE PLANS WITHOUT CONSULTATION FROM OWNER AND ARCHITECT MAY RESULT IN A COMPLETE RE-DO AT GC'S OR SUB'S

- OWNERSHIP OF COPYRIGHT IN ALL WORK REMAINS THE PROPERTY OF THE ARCHITECT MICHAEL PELLIS ARCHITECTURE PLC. USE OF THESE DOCUMENTS WITHOUT WRITTEN CONSENT FROM THE ARCHITECT WILL RESULT IN A COPYRIGHT INFRINGEMENT.



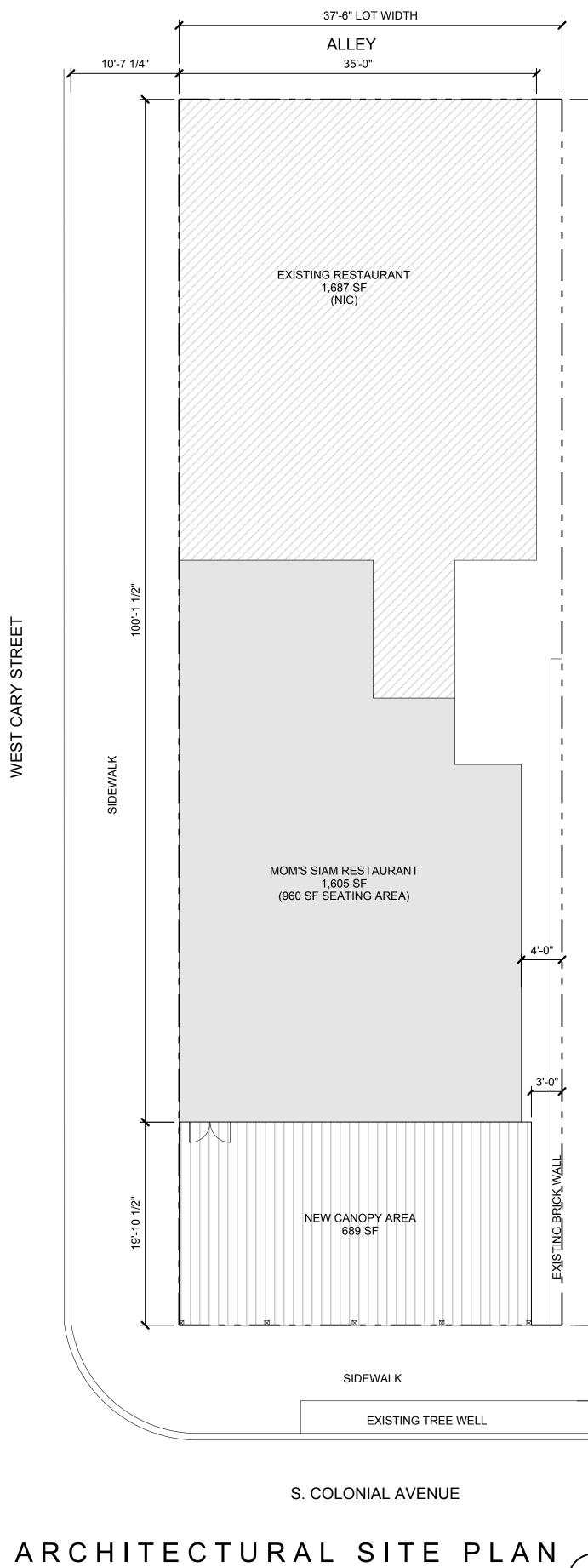
NEW WALLS

SYMBOL LEGEND





# NEW OUTDOOR CANOPY 101 S. COLONIAL AVE. RICHMOND, VIRGINIA 23220

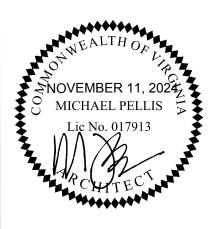


LOCATION OF PROJECT

## SCOPE OF PROJECT

THE SCOPE OF WORK UNDER THIS PERMIT IS TO BUILD A NEW WOOD FRAMED, OUTDOOR ROOF CANOPY FOR THE PURPOSES OF COVERED OUTDOOR DINING.

CANOPY TO BE CORRUGATED METAL OVER JOISTS. JOIST TO SHED AWAY FROM BUILDING AND SUPPORTED BY A LEDGER BEAM THROUGH BOLTED TO THE BUILDING AND SUPPORTED AT THE LOWER END BY A BEAM SUPPORTED BY COLUMNS.



## **BUILDING CODE DATA**

PROVIDED: (EXISTING)

WC: 1M/F, 1 LAV M/F

SERVICE SINK: 1 REQUIRED - 1 PROVIDED

JURISDICTION: **RICHMOND, VIRGINIA** APPLICABLE CODES: 2018 VIRGINIA CONSTRUCTION CODE (VCC) USE GROUP: B - RESTAURANT/BAR CONSTRUCTION TYPE: EXISTING: VB FIRE PROTECTION: UN-SPRINKLERED OCCUPANCY: 110 OCCUPANTS INDOOR: A2 - 960/15 = 64 OUTDOOR: A2- 689/15 = 46 FIXTURES: (VCC CHAPTER 29 TABLE 403.1. A2) M=55 W= 55 FOR TOTAL OF OCCUPANTS = 110 REQUIRED: WC: M =1/75 W = 1/75, LAV= 1/200 WC: 1 M =55/75, 1 W = 55/75, 1 LAV M/F= 55/200

## INDEX OF DRAWINGS

SHEET	DESCRIPTION
CS	COVER SHEET
A1.0	FLOOR PLAN, SECTION, ELEVATION

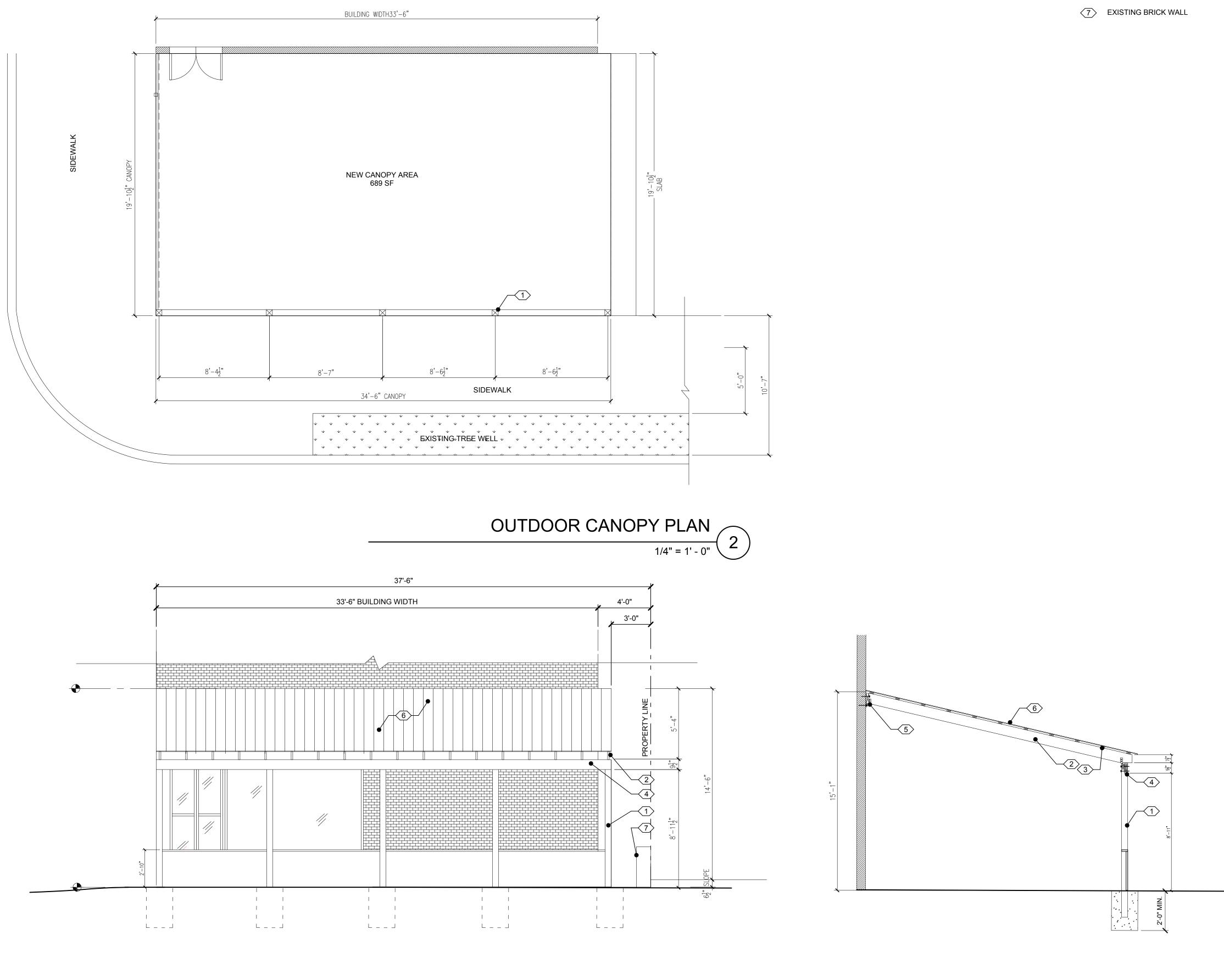
## CONTACT INFORMATION

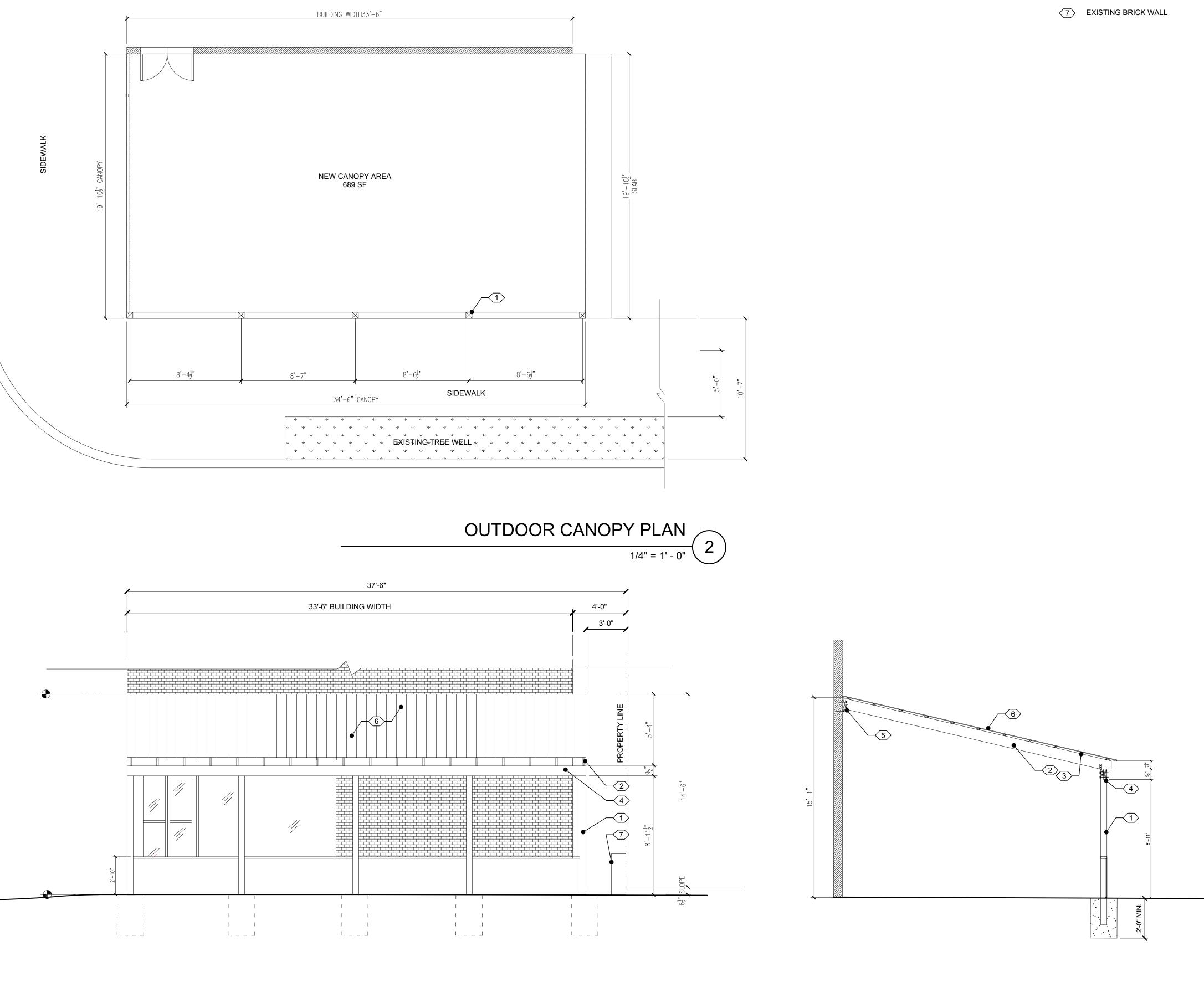
OWNER: SUKANYA PALAART 826 S. MEADOW STREET RICHMOND VIRGINIA 23220 spalaart@gmail.com (804) 852.3181

ARCHITECT: MICHAEL PELLIS ARCHITECTURE, PLC 1905 HUGUENOT RD., SUITE 200 N. CHESTERFIELD, VA 23235 CONTACT: MICHAEL PELLIS michael@michaelpellis.com 804.212.9024

	ANOPY 101 S. COLONIAL AVENUE, RICHMOND, VA 23221	T 826 S. MEADOW STREET, RICHMOND, VA 23220
PROJECT:	NEW OUTDOOR CANOPY	OWNER: SUKANYA PALAART
	COVER SHEET & CODE DATA	MICHAEL www.michaelpellis.com PELLIS 804.212.9024 ARCHITECTURE michael@michaelpellis.com
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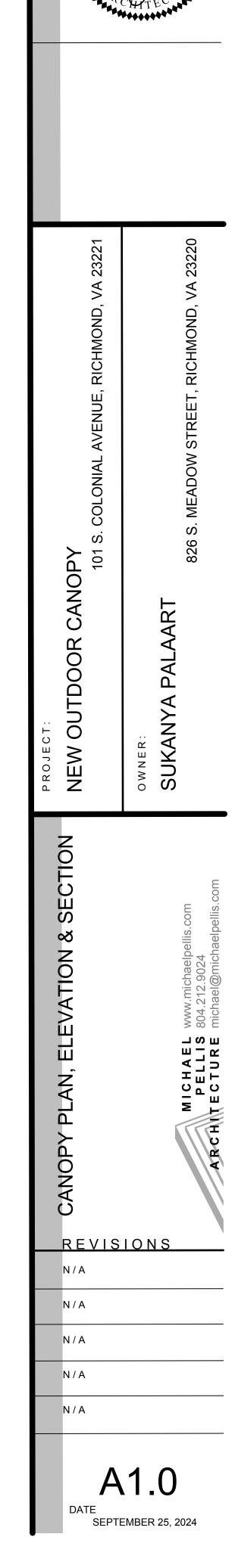
FRONT ELEVATION 1/4" = 1' - 0"

### PROPOSED PLAN KEY NOTES

- ALL COLUMNS ARE 6 X 6 PRESSURE TREATED WOOD EMBEDDED INTO CONCRETE FOOTINGS. FOOOTINGS TO BE 24" MIN. BELOW GRADE TO BOTTOM OF FOOTINGS. TYP.
- 2 X 10 PRESSURE TREATED JOISTS @ 24" O.C. ATTACHED TO HEADER BEAM WITH HURRICAINE CLIPS.
- 3 2 X 4 FLAT FRAMED CONT. FURRING STRIPS @ 24" O.C.
- DOUBLE 2 X 10 PRESSURE TREATED HEADER BEAM. NOTCHED INTO 6 X 6 COLUMNS AND THRU BOLTED W/ 5/8" DIA. ALL THREAD. TYP.
- 5 2 X 10 PRESSURE TREATED LEDGER BEAM. THRU BOLTED COMPLETELY THROUGH EXISTING EXTERIOR BRICK WALL W/ 5/8" DIA. ALL THREAD. TYP.
- 6 CORRUGATED ALUMINUM ROOFING PANELS ATTACHED TO FURRING STRIPS.

CANOPY SECTION

1/4" = 1' - 0"



🕈 🖉 NOVEMBER 11, 202

MICHAEL PELLIS