

INTRODUCED: May 29, 2018

AN ORDINANCE No. 2018-163

To authorize 23rd Street Triangle LLC, to encroach upon the public right-of-way with an outdoor dining area encroachment at the northeast corner of the intersection of North 23rd Street and Jessamine Street in front 718 North 23rd Street, upon certain terms and conditions.

Patron – Mayor Stoney (By Request)

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: JUNE 25 2018 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That 23rd Street Triangle LLC, referred to as “Licensee”, is hereby authorized to encroach upon the public right-of-way with an outdoor dining area on the sidewalk in front of a restaurant enclosed by fencing, consisting of 602 square feet of the public right-of-way, as shown on a plan prepared by the Department of Public Works, dated February 23, 2018, entitled “Proposed Outdoor Dining Encroachment Located at the Northeast Corner of the Intersection of N 23rd Street and Jessamine Street (718 N 23rd St.),” and designated as DPW Drawing No. N-28789, a copy of which is attached to this ordinance and incorporated herein.

AYES: 8 NOES: 0 ABSTAIN: _____

ADOPTED: June 25 2018 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.

§ 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 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) The outdoor dining encroachment area shall conform to the requirements of sections 24-248 through 24-250 of the Code of the City of Richmond (2015), as amended, concerning sidewalk cafés, and the design guidelines adopted pursuant to section 24-246 of the Code of the City of Richmond (2015), as amended, except (i) that subsection (b) of section 24-250 of the Code of the City of Richmond (2015), as amended, shall not apply to the outdoor dining encroachment area, (ii) that, notwithstanding subsection (c) of section 24-250 of the Code of the City of Richmond (2015), as amended, barriers need not be removed from the outdoor

dining encroachment area in case of a severe storm warning if such barriers are bolted or otherwise securely attached to the sidewalk, 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.

(e) 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.

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

(g) 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.

(h) 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.

(i) 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.

§ 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.



CITY OF RICHMOND
INTRACITY CORRESPONDENCE

APR 19 2018
4-7730
Office of the
Chief Administrative Officer

O&R REQUEST

DATE: April 15, 2018 EDITION: 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor (By Request) [Signature]

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

THROUGH: Robert Steidel Deputy Chief Administrative Officer - Operations [Signature]

THROUGH: Bobby Vincent, Director Department of Public Works [Signature]

RECEIVED

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

MAY 03 2018

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

OFFICE OF CITY ATTORNEY

FROM: Marvin Anderson, Surveys Supp. Department of Public Works [Signature]

RE: PROPOSED OUTDOOR DINING ENCROACHMENT INTO THE PUBLIC RIGHT OF WAY AT 718 N 23rd STREET AT THE NORTHEAST CORNER OF THE INTERSECTION OF N 23RD STREET AND JESSAMINE STREET

ORD. OR RES No. _____

PURPOSE: To allow encroachments into the public right of way of an outdoor dining area and its amenities which will occupy an area of 602 square feet of public right of way adjacent to 718 N. 23rd Street and further detailed on a plan prepared by the Department of Public Works and designated as DPW Drawing. No. N-28789 dated 2/23/2018 and entitled "PROPOSED OUTDOOR DINING ENCROACHMENT LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF N 23RD STREET AND JESSAMINE STREET"

REASON: A request/application for encroachment was received from Mark Baker with Baker Development Resources, LLC on behalf of the property owner, 23rd Street Triangle, LLC. The owner in interest, 23rd Street Triangle, LLC, seeks approval of an outdoor dining space located adjacent to the existing improvements at 718 N 23rd Street. The outdoor dining space will be utilized by a restaurant tenant located in the first floor of the property at 718 N 23rd Street.

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 the responsibility of the property owner, 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 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 and said bond shall remain in effect for the life of the encroachment.
4. The outdoor dining encroachment area shall be subject to the certain Sidewalk Cafe requirements found or referenced in City Code Sections 24-248 thru 24-250, excluding 24-250(b) in its entirety and excluding reference to barriers in 24-250(c), if said barriers are securely attached to sidewalk.
5. The applicant(s)/property owner(s)/successor(s) shall receive written approval(s) of the initial outdoor furnishings and also any subsequent changes to the appearance of the enclosure or the outdoor furnishings, from the Director of DPW (or their designee) after a review and recommendation by a subcommittee of the Urban Design Committee
6. An annual Assessor area tax shall be assessed to the property 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. The encroachment shall be maintained and operated in a manner satisfactory to best management/construction practices and as directed by the Directors of Public Works and Planning and Development Review.
9. 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; immediately 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. Acceptance of the transfer of encroachment rights by the Director of Public Works (or their designee) is necessary for the ordinance to remain in effect.
10. 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. This written evidence shall be submitted to the said offices prior to the expiration date, twelve months after final approval of ordinance, or it will automatically become null and void.

BACKGROUND: This site is located at the northeast corner of N 23rd Street and Jessamine Street which intersect at an acute angle that creates a triangular area of right of way which has been used as an expanded sidewalk adjacent to 718 N 23rd Street. The use of the adjacent property was authorized by a special use permit (2015-157-169) as a mixed-use building including a first floor restaurant and dwellings on the second and third floors. The proposed outdoor dining would serve the first floor tenant space.

The area of the encroachment is partially paved with bricks in a herringbone pattern. The owner plans to improve the entire patio surface with brick pavers in the same herringbone pattern, with a combination of the existing pavers, repaired as necessary, and new brick pavers to match. The area would be enclosed with a 3 foot tall black prefinished metal picket railing.

City review of the applicant's initial submittal resulted in the revision of some initial requests. Among the changes was to move the southern boundary of the encroachment area to the north so that the existing tree is not included within the fenced area. Also the western boundary of the encroachment area was moved one foot to the east so as to create a wider pedestrian walkway rather than extending the less than desirable 4.25 foot sidewalk width which exists along Jessamine Street north of the proposed dining area.

FISCAL IMPACT/COST: None

FISCAL IMPLICATIONS: None.

BUDGET AMENDMENT NECESSARY: No amendment necessary.

REVENUE TO CITY: \$1000 application & processing fee; 602 square feet of encroachments @ \$0.25 = approximately \$150.50 annual Assessor area tax.

DESIRED EFFECTIVE DATE: Upon Adoption.

REQUESTED INTRODUCTION DATE: May 14, 2018

CITY COUNCIL PUBLIC HEARING DATE: May 29, 2018

REQUESTED AGENDA: Consent Agenda.

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: Land Use, Housing and Transportation Committee

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.: None

REQUIRED CHANGES TO WORK PROGRAM(S): None.

ATTACHMENTS: Letter of Request
DPW Dwg. No. N-28789

STAFF:

Prepared for Bobby Vincent, Jr
Prepared by Marvin Anderson – DPW
Research and Drawing Coordinated By: Jane Amory
Department of Public Works 646-0435



May 12, 2017

Bobby Vincent, Jr.,
Interim Public Works Director
Department of Public Works, City Hall, Room 701
900 East Broad Street
Richmond, Virginia 23219

RE: Outdoor Dining Encroachment: 718 N 23rd Street (E-000-0331/012)

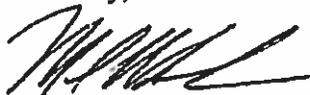
Dear Mr. Vincent,

I represent 23rd Street Triangle, LLC in its application for proposed a proposed encroachment on/over a portion of the right-of-ways of Jessamine and N 23rd Streets adjacent to 718 N 23rd Street (the "Property"). The encroachment consists of an outdoor dining area. The Property is zoned R-63. The use of the Property was authorized by a special use permit (the "SUP") (2015-157-169), which was approved by City Council in 2015. The SUP required that a separate encroachment approval is granted for any proposed or future encroachments within the right of way. Pursuant to the Department of Public Works encroachment guidelines UDC Review is required for the Encroachments. The proposed outdoor dining area was reviewed and recommended for approval by the Urban Design Committee (Case UDC 2016-54) at its January 5th meeting.

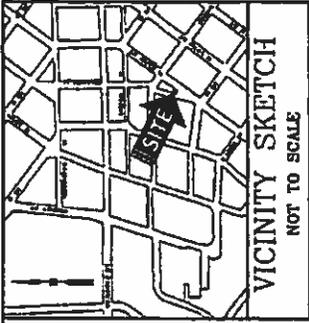
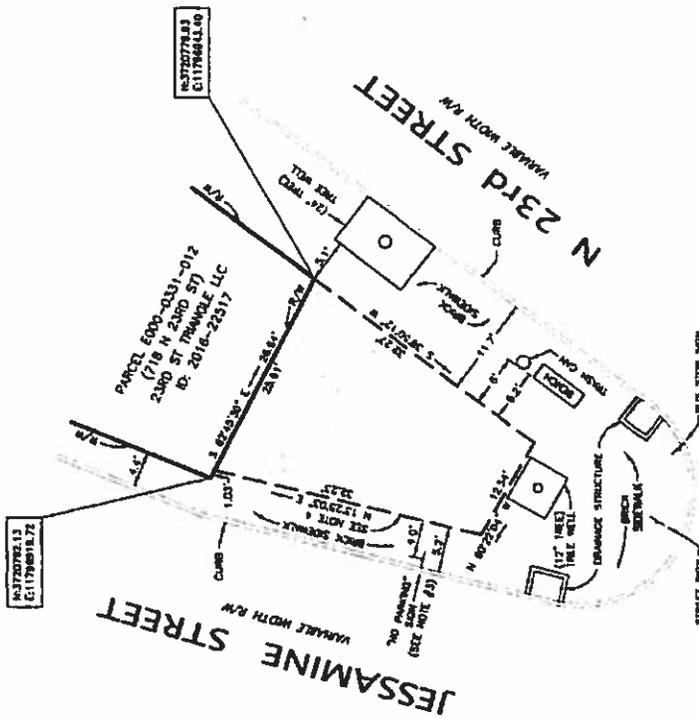
The Property is located at the triangular corner of North 23rd and Jessamine Streets. The SUP authorized the development of the Property as a mixed-use building including a first floor restaurant and dwellings on the second and third floors. The proposed outdoor dining would serve the first floor restaurant tenant space. The patio for the outdoor dining would be 718 square feet in area and would extend approximately 39 to 49 feet toward the tip of the triangle formed by the intersection of N 23rd and Jessamine Streets. Sidewalk width in these areas, measured from the back of the curb, would be maintained consistent with that which exists adjacent to the proposed building, approximately 4.2 feet on Jessamine Street approximately 11.7 feet on N 23rd Street. The outdoor dining patio represents the area in between this logical extension of the existing sidewalks. The area of the encroachment is partially paved with bricks in a herringbone pattern. The entire patio surface would be improved with brick pavers in the same herringbone pattern, with a combination of the existing pavers, repaired as necessary, and new brick pavers to match. The area would be enclosed with a 3 foot tall black prefinished metal picket railing. An existing tree would be maintained within the patio area.

Thank you in advance for your assistance. Should you have any questions after reviewing this request, please feel free to contact me at 874-6275.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark R. Baker', written in a cursive style.

Mark R. Baker
Baker Development Resources, LLC



VICINITY SKETCH
NOT TO SCALE

NOTES:

1. PROPOSED OUTDOOR DINING ENCROACHMENT AREA IS SHOWN HATCHED.
2. THIS DRAWING IS A COMPILED OF DATA FROM RECORD SOURCES AND A PLAN BY TRIMONS TITLED "ENCROACHMENT PLAN FOR PROPOSED PATIO AREA LOCATED AT 718 NORTH 23RD STREET" AND DATED JANUARY 17, 2018.
3. THE BOTTOM OF THE "NO PARKING" SIGN IS 8.8' ABOVE SIDEWALK AND WILL THEREFORE NOT IMPACT PEDESTRIAN TRAVEL MORE THAN THE POST.
4. WESTERN BOUNDARY OF PROPOSED DINING AREA IS ONE FOOT EAST OF AND PARALLEL TO EXISTING EDGE OF SIDEWALK. THIS WAS ADDED TO PROVIDE A PEDESTRIAN TRAVEL WIDTH OF 5' FROM BACK OF CURB.

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|--|--|------------------------|---------|
| Council District <u>7</u> | | Block No. <u>E-331</u> | |
| PROPOSED OUTDOOR DINING ENCROACHMENT LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF N 23RD STREET AND JESSAMINE STREET (718 N 23RD ST.) | | | |
| Requested By: | LETTER OF REQUEST FROM MARK II BAKER OF BAKER DEVELOPMENT SERVICES | DATE: | 2/23/18 |
| FIELD NOTE | SCALE | 1"=10' | PROJECT |
| DRINK BY: JMA | CHECKED BY: JMA | DRAWING NO | |
| | | E-331 - ENC | |
| | | N-28789 | |



Survey Division, Room 600 City Hall
900 E. Broad Street, Richmond, Va. 23219
DEPARTMENT OF PUBLIC WORKS
RICHMOND, VIRGINIA

Drafting Technician: *[Signature]*
 Survey Superintendent: *[Signature]*
 Right of Way Manager: *[Signature]*
 REVISIONS

- NOTES:
1. PROPERTY OWNERS CONSENT AS OF FEBRUARY 23, 2018
 2. ORDINANCE: _____
 3. ADOPTED _____
 4. ACCEPTED _____
- APPROVED BY: MR. J. ZIMM - DIRECTOR PERMITS-012216-2017