

AN ORDINANCE No. 87-240-214

ADOPTED OCT 12 1987

To authorize The Canal Square Group, owner, and any successor thereof, to encroach in, on, upon, across, through, under, beneath and along Canal Street (between 5th and 6th Streets) and 6th Street (between Canal and Cary Streets), in the block bounded by Cary Street, 6th Street, Canal Street and 5th Street, with surface and underground encroachments, as shown shaded on plan prepared by the Department of Public Works, designated DPW Drawing No. N-21700, entitled: "Proposed Sidewalk and Underground Encroachments in 6th & Canal Sts. Bounded by 5th, 6th, Cary and Canal Sts." upon certain terms and conditions.

Patron - City Manager (By Request)

Approved as to form and legality  
by City Attorney

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That The Canal Square Group, owner, and any successor thereof, hereinafter referred to as "Licensee", is hereby permitted to encroach in, on, upon, across, through, under, beneath and along Canal Street (a maximum width of 2 feet 6 inches for a distance of 86 feet, more or less) and 6th Street (a maximum width of 2 feet 6 inches for a distance of 298 feet, more or less), in the block bounded by Cary Street, 6th Street, Canal Street and 5th Street, with surface and underground encroachments (960 square feet, more or less) to the extent and in the manner, as shown shaded on plan prepared by the Department of Public Works, designated DPW Drawing No. N-21700, entitled: "Proposed Sidewalk and Underground Encroachments in 6th & Canal Sts. Bounded by

5th, 6th, Cary and Canal Sts.", dated July 23, 1987, a copy of which is attached to the draft of this ordinance. The permission herein granted shall continue until such time as the encroachments or a substantial part or parts thereof shall be removed or destroyed subject to the provisions and conditions contained in Section 2.04(e) of the Charter of the City of Richmond.

§ 2. That the permission granted in § 1 of this ordinance is granted upon and subject to the following terms and conditions:

(a) That all cost shall be borne by the Licensee, The Canal Square Group (or successors).

(b) That the Licensee, or successors, shall pay to the City for the use and occupancy of the space in the streets such charges as Council has heretofore or may hereafter prescribe for such use of the public streets which may be increased or decreased or otherwise modified at any time and from time to time by the Council.

(c) That the Licensee, or successors, shall indemnify, keep and hold the City free and harmless from liability on account of injury or damage to persons, firms and corporations and property growing out of such use of the streets and the installation, construction, maintenance, repair, operation and removal of the encroachments, and in the event that suit shall be brought against the City,

either independently or jointly with the Licensee on account thereof, the Licensee shall defend the City in any such suit at its cost, and in the event of a final judgment being obtained against the City, either independently or jointly with the Licensee, it shall pay such judgment and all costs and hold the City harmless therefrom.

(d) That the Licensee, or successors, shall insure its liability in connection with the encroachments providing indemnities of not less than \$500,000 for bodily injuries and property damage resulting from such encroachments. The City shall be named as an additional insured under the insurance contract. The Licensee, or successors, shall keep the insurance in full force and effect at all times during the installation, maintenance, existence and removal of the encroachments. The Licensee shall provide the City with a certificate of such insurance which shall contain a statement that the insurance is provided to enable the Licensee to perform its obligation under this paragraph (d) and that the insurance shall not lapse or otherwise expire prior to sixty days' written notice thereof given by the Licensee's insurance carrier to the City Manager of the City, anything in such insurance contract to the contrary notwithstanding.

(e) The Licensee, or its successors, shall furnish the City a bond with corporate surety approved by the City

Attorney in the sum of \$50,000 conditioned upon the removal of the encroachments and replacement and restoration of the streets and any public utility therein damaged, disturbed or destroyed thereby in a manner, with such materials and to the satisfaction of the Directors of Public Works, Public Utilities and Public Safety when ordered to do so by the Council, or upon repeal of this ordinance, or upon the failure, refusal or neglect of the Licensee to comply fully and in all respects with the provisions of this or any other ordinance relating thereto. The Licensee, or successors, shall pay all premiums chargeable for the bond and shall keep the same in full force and effect at all times during the existence and removal of the encroachments. The bond shall contain a provision that it shall not be terminated or otherwise allowed to expire prior to sixty days written notice to that effect given to the City Manager of the City. In lieu of such bond, Licensee may provide the City an irrevocable letter of credit in the amount of \$50,000, such letter of credit to be approved as to form by the City Attorney.

(f) Prior to commencing work in, over, upon, through or along any street any and all permits required for such work shall be obtained under provisions of ordinances and regulations relating to issuance of such permits. All work performed pursuant to such permits shall be performed

in a manner satisfactory to the Directors of Public Works, Public Safety and Public Utilities.

(g) That the Licensee shall require any contractor or contractors engaged by it to furnish a public liability and property damage insurance contract or contracts naming therein the City as an insured thereunder, which shall provide indemnities of not less than \$500,000 combined coverage for bodily injuries and damage to property resulting from the construction. Such policy shall provide for the payment of any final judgment that may be rendered against the City by reason of any person being injured or damaged in any way in person or property by the construction.

(h) Licensee, or successors, shall restore and replace portions of streets and public utilities of the City disturbed or destroyed.

(i) This ordinance is adopted pursuant to the power granted the Council by law. It is not intended by the adoption of this ordinance to offer or grant a franchise and the permission hereby granted shall at all times be subject to revocation by the Council and the terms and conditions upon which it is granted shall be subject to modification at any time and from time to time by the Council. Upon such revocation or modification the Licensee, or successors, shall immediately conform to the requirements, if any, prescribed by the Council with respect thereto.

§ 3. This ordinance shall be in force upon adoption and shall become effective when within twelve months of the date of adoption the Licensee shall furnish the required insurance and bond and files with the City Clerk a written statement in form satisfactory to the City Attorney to the effect that the Licensee agrees to the terms and conditions upon which such permission is granted and agrees to be bound thereby and to observe and comply therewith, and any contractor of The Canal Square Group furnishes required insurance.

§ 4. The Canal Square Group shall be responsible for satisfying all terms and conditions for this ordinance coming into force and effect.

ORDINANCE OR RESOLUTION SUMMARY

CITY OF RICHMOND, VIRGINIA

Resolution Ordinance No. <u>87-240</u>	Subject
Patron(s) <u>City Manager (By Request)</u>	Underground encroachments in sidewalks of 6th & Canal Streets/ elevator footing and concrete caissons

**SUMMARY**

This Ordinance would allow certain encroachments for underground footings and concrete caisson bells in the sidewalk areas of Canal & 6th Streets in the block bounded by 5th, 6th, Cary and Canal Streets.

The petitioners (The Canal Square Group) proposes construction of a 13-story structure for mixed use including retail, parking and office purposes on the property. The Development Plans require the approval of the Director of Community Development. The basic configuration of the structure has been approved to the extent that foundation permits can be issued upon approval of the encroachments.

Planning Commission granted approval (9-0) October 5, 1987.

**COUNCIL ACTION**

On Docket 10/12/87

Amended \_\_\_\_\_

Adopted \_\_\_\_\_

Rejected \_\_\_\_\_

Stricken \_\_\_\_\_

City of Richmond  
City Planning Commission



900 East Broad Street, Richmond, Virginia 23219  
804•780-6304

October 6, 1987

To the Honorable Council of the  
City of Richmond, Virginia

At its meeting of October 5, 1987, the City Planning Commission voted (9-0)  
to recommend APPROVAL of:

Ordinance No. 87-240

To authorize The Canal Square Group, owner, and any successor thereof, to encroach in, on, upon, across, through, under, beneath and along Canal Street, \*\*\* and 6th Street, \*\*\* in the block bounded by Cary Street, 6th Street, Canal Street and 5th Street, with surface and underground encroachments, etc.

The Canal Square Group has requested certain encroachments for underground footings and concrete caisson bells in the sidewalk areas of Canal and 6th Streets in the block bounded by 5th, 6th, Cary and Canal Streets. The petitioner proposes construction of a thirteen-story structure for mixed use including retail, parking and office purposes on the adjacent property. Plan of Development approval by the Director of Community Development is required for the project, and the developers have been working with the staff in this regard. The footprint and basic configuration of the structure have been approved to the extent that foundation permits can be issued upon approval of the encroachments.

The underground encroachments include sixteen caisson bells and wall footings which are necessary for the structural supports for the building. The encroachments are entirely underground and would not affect use of the public rights-of-way. The ordinance contains the normal encroachment conditions regarding proper installation, restoration of the area upon completion of construction, payment of encroachment fees and liability protection for the City.

Very truly yours,

A handwritten signature in dark ink, appearing to read "S. Mark Strickler".

S. Mark Strickler  
Acting Secretary  
City Planning Commission

SMS:lk

cc: Mr. John C. Beckstoffer - Applicant  
Director - Department of Public Works