

INTRODUCED: June 27, 2022

AN ORDINANCE No. 2022-209

To authorize The Diradour, LLC, to encroach upon the public right-of-way with an outdoor dining area encroachment at the north line of Stuart Avenue west of the northwest corner of the intersection of Stuart Avenue and North Robinson 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 The Diradour, LLC, 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, consisting of 124 square feet of the public right-of-way, as shown on a plan prepared by the Department of Public Works, dated May 22, 2022, entitled “Proposed Outdoor Dining Encroachment Located Along the North R/W Line of Stuart Avenue at Intersection with the West R/W Line of N. Robinson Street (400 N Robinson Street),” and designated as DPW Drawing No. C-28998, hereinafter referred to as the “Drawing,” 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, the costs to (i) improve the existing grass strip as specified in Note 5 of the Drawing to widen the existing concrete sidewalk so that the sidewalk encompasses the existing right-of-way line and the street curb and extends from the intersection of the sidewalk with North Robinson Street in a westerly direction to the parking lot entrance and (ii) maintain the encroachment, all 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) The outdoor dining encroachment area shall conform to the requirements of sections 24-225, 24-226, 24-227, 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 and (ii) 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.

(d) 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.

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

(f) 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.

(g) 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.

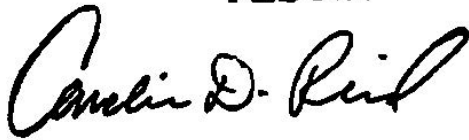
(h) The Licensee shall provide written notification to the City Assessor, the Director of Finance, and the Director of Public Works of the new owner’s name and mailing address immediately upon transferring any ownership or encroachment rights to another party.

(i) 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 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:**

A handwritten signature in black ink, appearing to read "Carolin D. Rind". The signature is written in a cursive, flowing style.

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

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 400 N
ROBINSON 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 an area of 124 square feet of public right-of-way along the north line of Stuart Avenue at 400 N Robinson Street and further detailed on a plan prepared by the Department of Public Works and designated as DPW Drawing. No. C-28998 dated May 22, 2022, and entitled "PROPOSED OUTDOOR DINING ENCROACHMENT LOCATED ON THE NORTH R/W LINE OF STUART AVENUE AT INTERSECTION WITH THE WEST R/W LINE OF N ROBINSON STREET (400 N ROBINSON STREET)"

REASON: A request for an encroachment was received from Charles Diradour, President, Lion's Paw Development, on May 10, 2022. Mr. Diradour (the applicant and owner of the property) seeks approval of an outdoor dining space located adjacent to and for use by the Starbucks located at 400 N Robinson Street.

RECOMMENDATIONS: The Department of Public Works offers no objections to the proposed encroachment(s), 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(s), 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 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), 24-228 in its entirety, and 24-230(b).
4. An annual Assessor area tax shall be assessed to the owner(s)/successor(s) for the encroachment area.
5. 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.
6. 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.
7. The applicant(s)/owner(s) shall be responsible for having any unapproved existing encroachments approved administratively or removed.
8. The applicant(s)/owner(s) shall be responsible for widening the existing concrete sidewalk so that it encompasses the entire area between the existing r/w line and the street curb and from the intersection with Robinson Street in a westerly direction to the parking lot entrance. All required permits must be obtained for this work and work must be performed to City/DPW standards and the final work approved by DPW.
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 Starbucks and add to the vitality of the restaurant and surrounding area. The present plan includes tables and chairs beside the south side of the building with no barrier surrounding them.

Presently there is a grass strip between the existing concrete sidewalk and the street curb. To provide for an adequate pedestrian travel path adjacent to the outdoor dining area, the applicant has agreed to provide additional concrete sidewalk, filling the existing grass strip. This sidewalk widening must be

performed to City/DPW standards and the final work must be approved by DPW as a condition for the outdoor dining ordinance to go into effect.

Additionally, as a condition of the ordinance, the property owner will need to gain approval of any other existing encroachments from the property into the public right-of-way in accordance with the applicable City approval process.

FISCAL IMPACT/COST: None

FISCAL IMPLICATIONS: None.

BUDGET AMENDMENT NECESSARY: No amendment necessary.

REVENUE TO CITY: \$1000 application and processing fee; approx. \$31.00 annual tax assessment (124 square feet of encroachment @ \$0.25 per sq. ft. = \$31.00).

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 (email dated May 10, 2022)
DPW Dwg. No.C-28998

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

From: [Charlie Diradour](#)
To: [Vincent, Bobby - DPW](#); [David Johannas](#); [Davenport Jr, Joseph L. - DPW](#)
Subject: 400 N. Robinson
Date: Tuesday, May 10, 2022 2:37:01 PM

CAUTION: This message is from an external sender - Do not open attachments or click links unless you recognize the sender's address and know the content is safe.

All;
Please accept this email as application for an encroachment at 400 N. Robinson Street (AKA Starbucks). Dave; please email the plans to these gentlemen as soon as possible and if someone would tell me where to deliver the 1000 dollar fee I'll do it tomorrow.
Thanks;
Charlie

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Charlie Diradour
President; Lion's Paw Development
319 North Robinson Street
Richmond, VA 23220
www.lionspawdevelopment.com

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