

INTRODUCED: October 14, 2019

AN ORDINANCE No. 2019-286

To authorize Symbol Development Office, LLC, to encroach upon the public right-of-way with an outdoor dining area encroachment at the west line of Highpoint Avenue north of the northwest corner of the intersection of Rockbridge Street and Highpoint Avenue, upon certain terms and conditions.

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

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

PUBLIC HEARING: NOV 12 2019 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That Symbol Development Office, 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 enclosed by fencing, consisting of 503 square feet of the public right-of-way, as shown on a plan prepared by the Department of Public Works, dated June 13, 2019, entitled “Proposed Outdoor Dining Encroachment Located on the West Line of Highpoint Avenue Just North of Rockbridge Street (3200 Rockbridge Street),” and designated as DPW Drawing No. C-28878, a copy of which is attached to this ordinance and incorporated herein.

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

ADOPTED: NOV 12 2019 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, which shall be maintained for the life of the encroachment, 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.

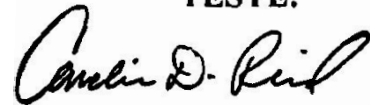
(i) The Licensee shall provide written notification to the City Assessor, the Director of Finance, and the Director of Public Works of the new owner’s name and mailing address immediately upon transferring any ownership or encroachment rights to another party.

(j) 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 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.

**A TRUE COPY:**

**TESTE:**

A handwritten signature in black ink, appearing to read "Camille D. Reil". The signature is fluid and cursive, written over a light gray rectangular background.

**City Clerk**



# CITY OF RICHMOND

## INTRACITY CORRESPONDENCE

O & R REQUEST

4-9167  
SEP 18 2019

Office of the  
Chief Administrative Officer

### O&R REQUEST

DATE: September 9, 2019

EDITION: 1

TO: The Honorable Members of City Council

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

THROUGH: ~~Selena Cuffee Glenn~~, Chief Administrative Officer  
*Lenora G. Reid Acting On 9/26/19*

THROUGH: Robert Steidel Deputy Chief Administrative Officer - Operations

THROUGH: Bobby Vincent, Director  
Department of Public Works

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

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

FROM: James Ellis P.E., Development Review Engineer.  
Department of Public Works

RE: **PROPOSED ENCROACHMENT ONTO A CITY SIDEWALK WITHIN THE  
PUBLIC RIGHT OF WAY OF AN OUTDOOR DINING AREA AT 3200  
ROCKBRIDGE ST**

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 503 square feet of public right of way in front of 3200 Rockbridge Street and further detailed on a plan prepared by the Department of Public Works and designated as DPW Drawing. No. C-28878 dated 6/13/2013 and entitled "PROPOSED OUTDOOR DINING ENCROACHMENT LOCATED ON THE WEST LINE OF HIGHPOINT AVENUE JUST NORTH OF ROCKBRIDGE STREET."

**REASON:** A request/application for encroachment was received from Lory Markham with Markham Planning on behalf of Symbol Development Office LLC and Brenner Pass. The owner in interest, Brenner Pass, seeks approval of an outdoor dining space located adjacent to the existing improvements at 3200 Rockbridge Street.

**RECOMMENDATIONS:** The Department of Public Works offers no objections to the proposed encroachments, 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.
4. The outdoor Dining Encroachment is 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 they are securely attached to sidewalk.
5. An annual Assessor area tax shall be assessed to the owner(s)/successor(s) for the encroachment area.
6. 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.
7. 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.
8. 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
9. 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, and the ordinance will become null and void automatically.
10. The applicant(s)/owner(s) shall be responsible for having any unapproved existing encroachments approved administratively or removed.

**BACKGROUND:** The purpose of the buildout at 3200 Rockbridge Street is to add to the vitality of the existing Brenner Pass restaurant.

Outdoor dining currently exists at this location through an approved Sidewalk Café permit (SWC-017181-2017). The new dining area proposed to encroach onto the public right of way will be enclosed by a 4 foot high slat decorative barrier allowing for visibility into and out of the new dining area. Outdoor dining at this location will further enhance the street vibrancy and community character within the Scott's Addition neighborhood.

**FISCAL IMPACT/COST:** None

**FISCAL IMPLICATIONS:** None.

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

**REVENUE TO CITY:** \$1000 application & processing fee; 503 square feet of encroachments @ \$0.25 = approximately \$125.75 annual Assessor area tax.

**DESIRED EFFECTIVE DATE:** Upon Adoption.

**REQUESTED INTRODUCTION DATE:** October 14, 2019

**CITY COUNCIL PUBLIC HEARING DATE:** November 12, 2019

**REQUESTED AGENDA:** Consent Agenda.

**RECOMMENDED COUNCIL COMMITTEE:** None

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

**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.

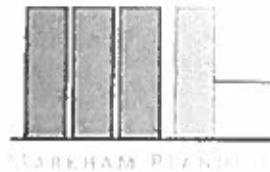
**RELATIONSHIP TO EXISTING ORD. OR RES.:** None

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

**ATTACHMENTS:** Letter of Request  
DPW Dwg. No.C-28878

**STAFF:**

Prepared for Bobby Vincent, Jr  
Prepared by Brian Copple, RW Manager - DPW  
Research and Drawing Coordinated By: Sterling Clifton  
Department of Public Works 646-0435



December 5, 2018

Mr. Bobby Vincent  
Department of Public Works  
900 East Broad Street, Suite 700  
Richmond, VA 23219  
[Bobby.Vincent@richmondgov.com](mailto:Bobby.Vincent@richmondgov.com)

RE: Encroachment for outdoor dining at 3200 Rockbridge Street

Dear Mr. Vincent,

On behalf of Symbol Development Office LLC and Brenner Pass, I am writing to formally request an encroachment for outdoor dining for an existing restaurant at 3200 Rockbridge Street in Scott's Addition. The existing restaurant, Brenner Pass, would like the ability to encroach into the right-of-way to provide an area for outdoor dining at the corner of Rockbridge Street and Highpoint Avenue. The encroachment would only be 513 square feet into the sidewalk, leaving a minimum of 5'10" clear for pedestrians to traverse adjacent to the encroachment. The outdoor dining will add to the vitality of the popular mixed-use Scott's Addition neighborhood.

I have enclosed the proposed plans for the outdoor dining area, including the portion that is proposed to encroach along with the following items:

- a) This letter will serve as the letter of request.
- b) The \$1,000 application fee.
- c) The survey plat is included in the plan set.
- d) A copy of the application to the Urban Design Committee

Thank you for your consideration of this request. Please feel free to contact me at [lory@markhamplanning.com](mailto:lory@markhamplanning.com) or (804) 248-2561 if you have any questions or require additional materials to process the request.

Very Truly Yours,

Lory Markham

Enclosures

cc: The Honorable Kim Gray  
Matthew Ebinger, Secretary to the City Planning Commission  
Josh Son, Secretary to the Urban Design Committee  
Marvin Anderson, Surveys Superintendent

**RECEIVED**  
DEC 13 2018  
DEPT. OF PUBLIC WORKS  
CONST. & RIGHT OF WAY DIV.

MARKHAM PLANNING  
2314 West Main Street - Richmond, Virginia 23220  
(804) 248-2561

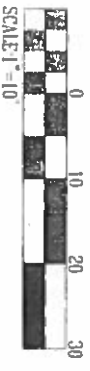
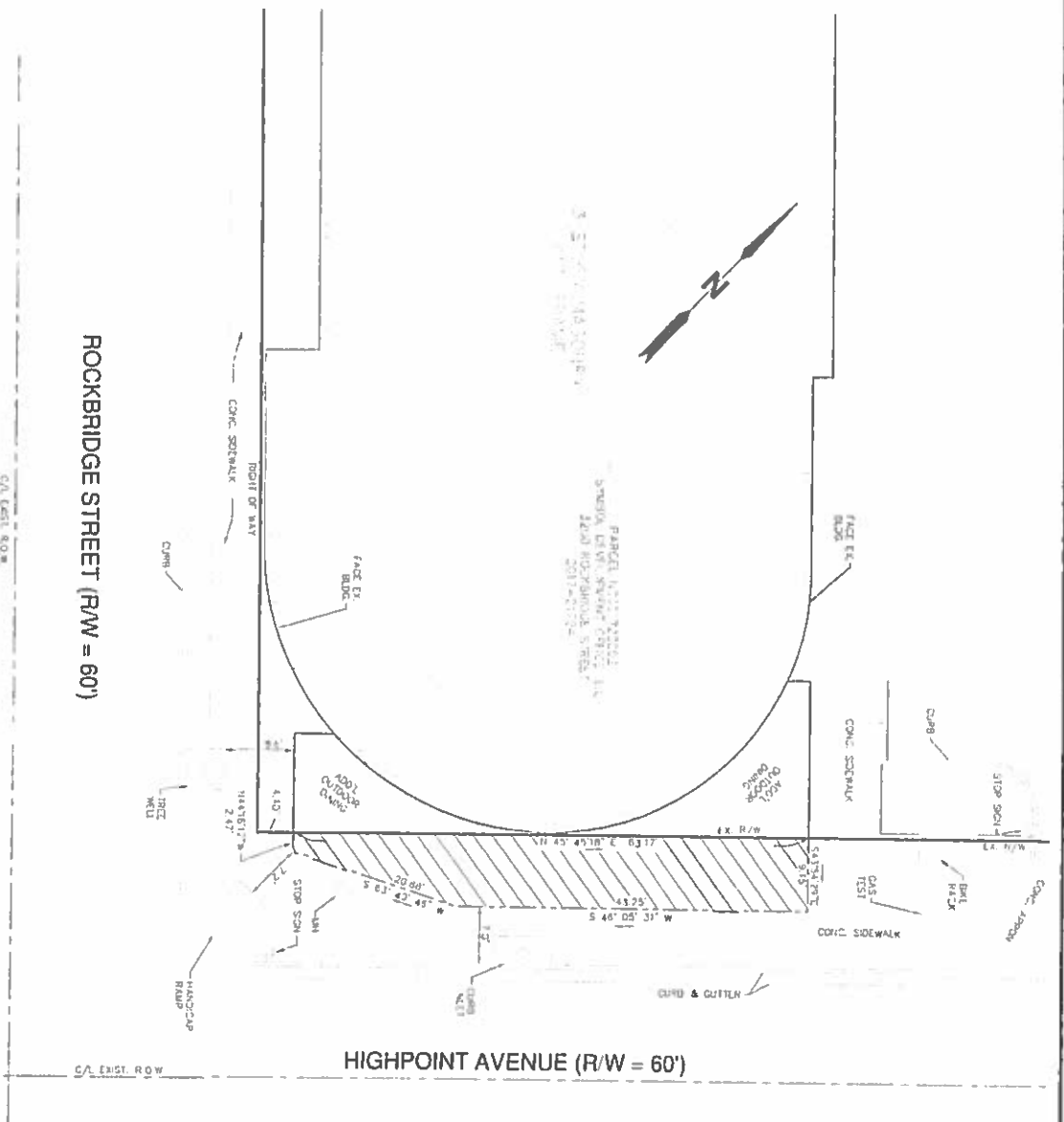




**NOTES**

1. PROPOSED AREA OF OUTDOOR DINING ENCROACHMENT IS SHOWN AS:  300 SQ FT

2. THIS DRAWING IS BASED ON A COMPILATION OF DATA FROM RECORD SURVEYS AND A PLAN BY POTTS, WINTER AND ASSOC., P.C. TITLED "PROPOSED PATIO ENCROACHMENT INTO CITY OF RICHMOND RIGHT OF WAY 1200 ROCKBRIDGE STREET," DATED JAN. 4, 2019.



**NOTES**

1. Property owners correct as of JUNE 4, 2019
2. Ordinance \_\_\_\_\_
3. Adopted \_\_\_\_\_
4. Accepted \_\_\_\_\_

REFERENCES:  
BL 17 ME. POTTS, WINTER, & ASSOC.  
P.C. PATIO EXHIBIT, JAN 1708-01  
DATED: 6-4-2019

Engineering Specialist	<i>Jeffrey W. Potts</i>
Engineering Support Specialist	<i>James W. Potts</i>
Right of Way Manager	<i>James W. Potts</i>
Survey Division, Room 800 City Hall 900 E. Broad Street, Richmond, Va. 23219 DEPARTMENT OF PUBLIC WORKS RICHMOND, VIRGINIA	



DRAWN BY: S.T.C.  
CHECKED BY: M.A.

Council District 2

Block No. N 1723

PROPOSED OUTDOOR DINING ENCROACHMENT LOCATED ON THE WEST LINE OF HIGHPOINT AVENUE JUST NORTH OF ROCKBRIDGE STREET  
(3200 ROCKBRIDGE STREET)

FIELD NOTE	SCALE	DATE	PROJECT	DRAWING NO.
	1"=10'	6/13/2019	N-1723-ENC	C-28878