

1	Introduction and first reading:	10/11/11
2	Public hearing:	10/15/11
3	Second reading and enactment:	10/15/11

INFORMATION ON PROPOSED ORDINANCE

7 Title
8
9 AN ORDINANCE authorizing the owners of the property located at 608 Montgomery
10 Street in the City of Alexandria, Virginia to construct and maintain an encroachment
11 for outdoor restaurant seating at that location.

13 Summary
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15 The proposed ordinance permits the restaurant located at 608 Montgomery Street to
16 establish outdoor seating in the adjacent sidewalk area.

18 Sponsor

21 Staff
22
23 Faroll Hamer, Director, Planning & Zoning
24 James L. Banks, Jr., City Attorney
25 Joanna C. Anderson, Assistant City Attorney

27 Authority
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29 §2.04(e), Alexandria City Charter

31 Estimated Costs of Implementation
32
33 None

35 Attachments in Addition to Proposed Ordinance and its Attachments (if any)
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37 None

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ORDINANCE NO. _____

AN ORDINANCE authorizing the owners of the property located at 608 Montgomery Street in the City of Alexandria, Virginia to construct and maintain an encroachment for outdoor restaurant seating at that location.

WHEREAS, T J Stone’s, Inc., is the tenant (“Tenant”) of the property located at 608 Montgomery Street in the City of Alexandria, Virginia; and

WHEREAS, Tenant desires to establish and maintain outdoor restaurant seating which will encroach into the public sidewalk right-of-way at that location; and

WHEREAS, the public sidewalk right-of-way at that location will not be significantly impaired by this encroachment; and

WHEREAS, in Encroachment No. 2011-0003 the Planning Commission of the City of Alexandria recommended approval to the City Council subject to certain conditions at one of its regular meetings held on September 8, 2011 which recommendation was approved by the City Council at its public hearing on September 17, 2011 and

WHEREAS, it has been determined by the Council of the City of Alexandria that this encroachment is not detrimental to the public interest; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Tenant be, and the same hereby is, authorized to establish and maintain an encroachment into the public sidewalk right-of-way at 608 Montgomery Street in the City of Alexandria, as shown in the attached Encroachment Plat labeled Exhibit A, said encroachment consisting of outdoor restaurant seating, until the encroachment is removed or destroyed or the authorization to maintain it is terminated by the city; provided, that this authorization to establish and maintain the encroachment shall not be construed to relieve Tenant of liability for any negligence on their part on account of or in connection with the encroachment and shall be subject to the provisions set forth below.

Section 2. That the authorization hereby granted to establish and maintain said encroachment shall be subject to and conditioned upon Tenant maintaining, at all times and at their own expense, liability insurance, covering both bodily injury and property damage, with a company authorized to transact business in the Commonwealth of Virginia and with minimum limits as follows:

Bodily Injury:	\$1,000,000 each occurrence
	\$1,000,000 aggregate

1 Property Damage: \$1,000,000 each occurrence
2 \$1,000,000 aggregate
3

4 This liability insurance policy shall identify the City of Alexandria and Tenant as named insureds
5 and shall provide for the indemnification of the City of Alexandria and Tenant against any and
6 all loss occasioned by the establishment, construction, placement, existence, use or maintenance
7 of the encroachment. Evidence of the policy and any renewal thereof shall be filed with the city
8 attorney's office. Any other provision herein to the contrary notwithstanding, in the event this
9 policy of insurance lapses, is canceled, is not renewed or otherwise ceases to be in force and
10 effect, the authorization herein granted to establish and maintain the encroachment shall, at the
11 option of the city, forthwith and without notice or demand by the city, terminate. In that event,
12 Tenant shall, upon notice from the city, remove the encroachment from the public right-of-way,
13 or the city, at its option, may remove the encroachment at the expense and risk of Owners and
14 Tenant. Nothing in this section shall relieve Tenant of their obligations and undertakings
15 required under this ordinance.
16

17 Section 3. That the authorization hereby granted to establish and maintain said
18 encroachment shall in addition be subject to and conditioned upon the following terms:
19

- 20 1. Outdoor dining at the restaurant shall comply with all requirements and conditions of
21 SUP#2011-0049 and Encroachment #2011-0003.
22
- 23 2. The applicant shall maintain a minimum 5' wide unobstructed sidewalk.
24
- 25 3. Neither the City nor any Private utility company will be held responsible for damage to
26 the private improvements in the public right-of-way during repair, maintenance or replacement
27 of any utilities that may be located within the area of the proposed encroachment.
28
- 29 4. In the event the City shall, in the future, have need for the area of the proposed
30 encroachment, the applicant shall remove any structure that encroached into the public right-of-
31 way, within 60 days, upon notification by the City.
32

33 Section 4. That by accepting the authorization hereby granted to establish and
34 maintain the encroachment and by so establishing and/or maintaining the encroachment, Tenant
35 shall be deemed to have promised and agreed to save harmless the City of
36 Alexandria from any and all liability (including attorneys' fees and litigation expenses) arising by
37 reason of the establishment, construction, placement, existence, use or maintenance of the
38 encroachment.
39

40 Section 5. That the authorization herein granted to establish and maintain the
41 encroachment shall be subject to Tenant maintaining the area of the encroachment at all times
42 unobstructed and free from accumulation of litter, snow, ice and other potentially dangerous
43 matter.
44

1 Section 6. That nothing in this ordinance is intended to constitute, or shall be
2 deemed to be, a waiver of sovereign immunity by or on behalf of the City of Alexandria or any
3 of its officers or employees.
4

5 Section 7. That the authorization herein granted to establish and maintain the
6 encroachment shall be terminated whenever the City of Alexandria desires to use the affected
7 public right-of-way for any purpose whatsoever and, by written notification, demands from
8 Tenant the removal of the encroachment. Said removal shall be completed by the date specified
9 in the notice and shall be accomplished by Tenant without cost to the city. If Tenant cannot be
10 found, or shall fail or neglect to remove the encroachment within the time specified, the city shall
11 have the right to remove the encroachment, at the expense of Tenant, and shall not be liable to
12 Tenant for any loss or damage to the structure of the encroachment or personal property within
13 the encroachment area, caused by the removal.
14

15 Section 8. The term "Tenant" shall be deemed to include T J Stone's, Inc., and its
16 respective successors in interest.
17

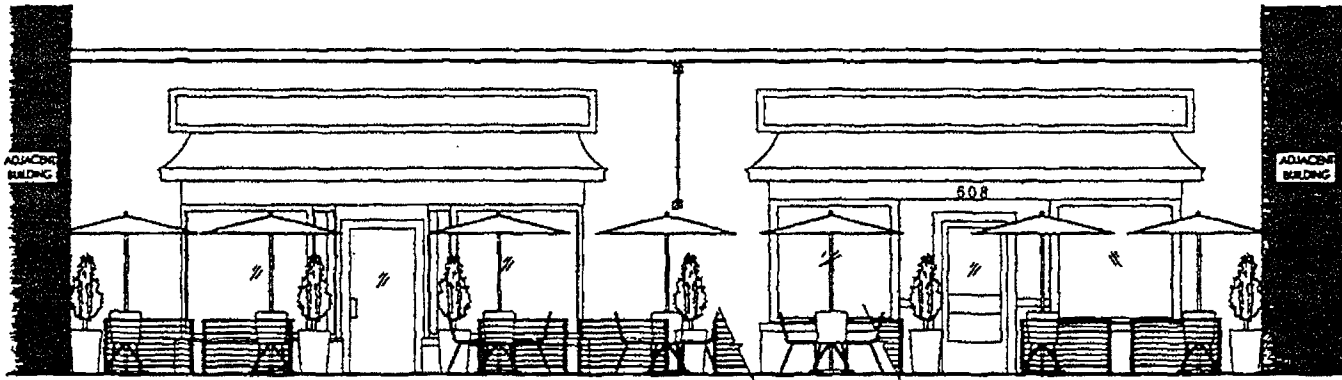
18 Section 9. That this ordinance shall be effective upon the date and at the time of its
19 final passage.
20

21
22 WILLIAM D. EUILLE
23 Mayor
24

25 Attachment: Encroachment plat
26

27 Introduction: 10/11/11
28 First Reading:
29 Publication:
30 Public Hearing:
31 Second Reading:
32 Final Passage:
33
34

REVISED

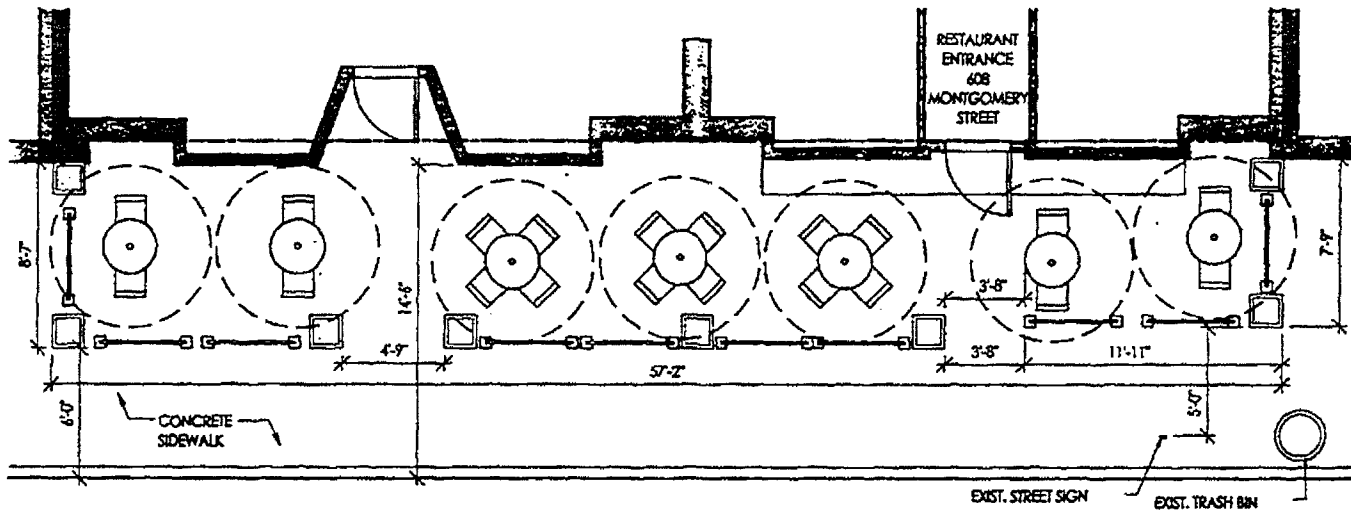


McAllister
 1438 MONTGOMERY STREET
 ALBANY, VA 22804
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2 CAFE ELEVATION

3/16" = 1'-0"

(1103/PLAN-J)



1 T.J. STONES CAFE PLAN

3/16" = 1'-0"

(MCA-ARCH/PLAN-J)

STEVE MANN

507 OULE STREET
 ALBANY, VA 22804
 PHONE 703-884-4627

**T.J. STONE'S
 OUTDOOR CAFE
 PERMIT**

608 MONTGOMERY STREET
 ALBANY, VA 22804
 PROJECT NUMBER 1103

PLAN AND ELEVATION

A1.1

Exhibit A