

EXHIBIT NO. 1

5
10-16-10

DOCKET ITEM #4

Encroachment #2010-0007

320 Montgomery Street – Outdoor Dining

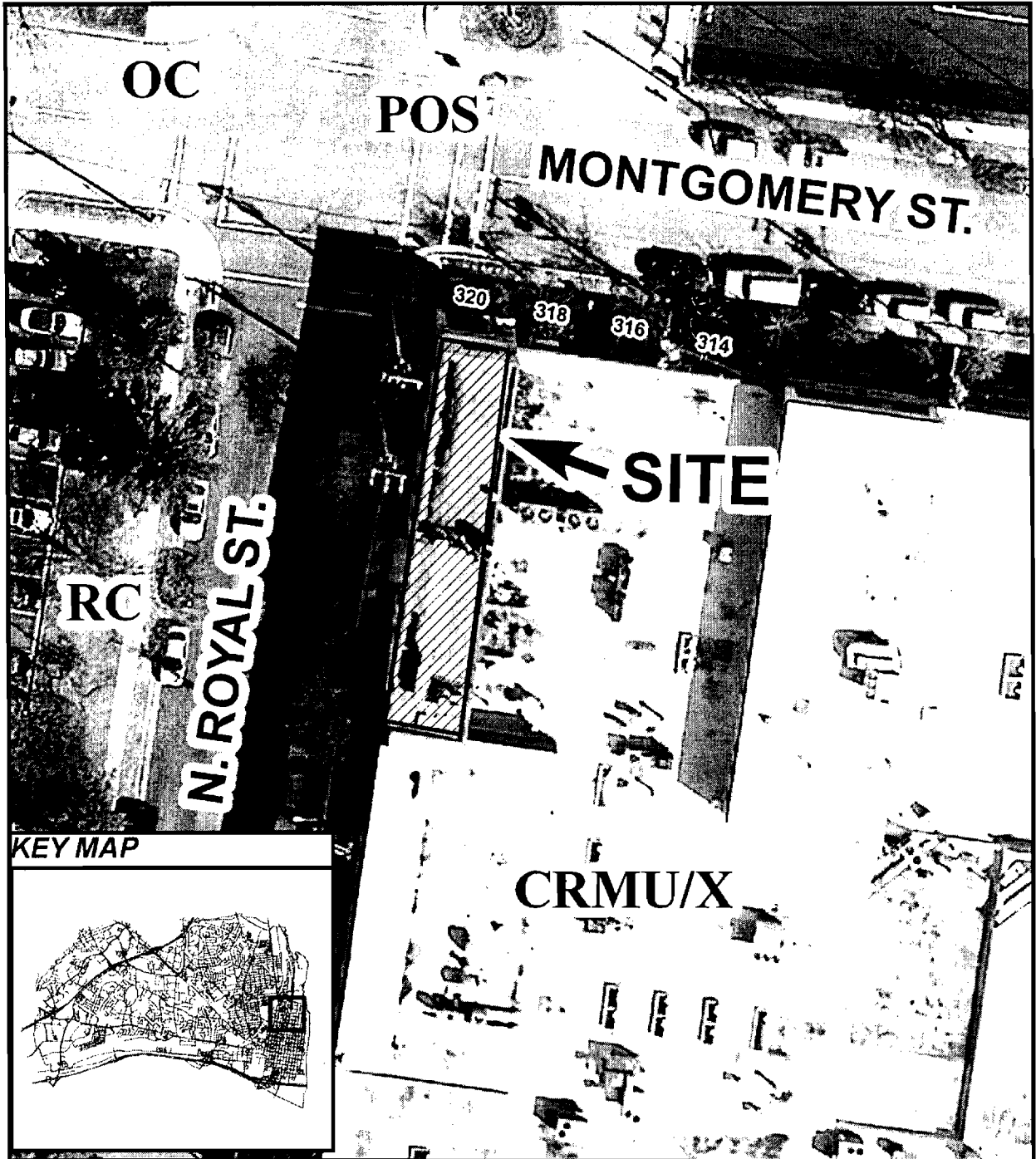
Application	General Data	
Request: Consideration of a request for an encroachment into the public right of way for outdoor dining.	Planning Commission Hearing:	October 5, 2010
	City Council Hearing:	October 16, 2010
Address: 320 Montgomery Street	Zone:	CRMU-X/Commercial Residential Mixed Use (Old Town North)
Applicant: Philip McCombie	Small Area Plan:	Old Town North

Staff Recommendation: APPROVAL subject to compliance with all applicable codes and ordinances and the recommended permit conditions found in Section III of this report.

Staff Reviewers: Nathan Randall nathan.randall@alexandriava.gov

PLANNING COMMISSION ACTION, OCTOBER 5, 2010: By unanimous consent, the Planning Commission recommended approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendations.

Reason: The Planning Commission agreed with the staff analysis.



ENC #2010-0007

10/05/10



I. DISCUSSION

REQUEST

The applicant, Philip McCombie, requests approval for an encroachment into public right-of-way for the addition of outdoor dining seats on the Royal Street side of his existing restaurant at 320 Montgomery Street.

SITE DESCRIPTION

The subject property is one lot of record with approximately 18 feet of frontage on Montgomery Street, 90 feet of frontage of North Royal Street, and a total lot area of 1,620 square feet. The lot is developed with a two-story commercial building housing Thailand, Royal Street restaurant on the first floor.



The surrounding area is occupied by a mix of office, commercial, residential and institutional uses. An office building and Montgomery Park are located to the north. Commercial businesses in the Montgomery Center are located to the east and to the south. The Port Royal Condominium is located to the west.

BACKGROUND

Although located immediately adjacent to the Montgomery Center on two sides, the subject site is not part of the Montgomery Center complex and is not covered under the Umbrella Special Use Permit for the Center. On December 17, 2005, City Council approved Special Use Permit #2005-0110 to Philip McCombie for the operation of a restaurant with an eight-space parking reduction. The applicant subsequently received administrative approval to allow the service of mixed drinks in addition to beer and wine. On November 18, 2006, City Council approved Special Use Permit #2006-0085 to increase the number of seats at the restaurant from 32 to 46 seats and to approve an additional parking reduction.

As a result of the Small Business Zoning text amendment approved by City Council in June 2010, outdoor dining is eligible for Administrative Special Use Permit approval. The applicant has applied for an Administrative SUP (SUP#2010-0047) for the outdoor dining use, but in order to locate the outdoor dining on the public right-of-way, approval of an encroachment ordinance is also required.

PROPOSAL

The applicant proposes to add six outdoor dining seats on the west side of his existing restaurant as shown in the outdoor dining plan submitted with this request (see attached.) The outdoor dining area will measure 4.25 feet wide by 24 feet long and is located between the building wall and the existing sidewalk. The area is located entirely within the public right-of-way.

ZONING/MASTER PLAN

The subject property is located in the CRMU-X/Commercial Residential Mixed Use (Old Town North) zone. Section 5-402.1 (E) of the Zoning Ordinance allows outdoor dining in the CRMU-X zone with an Administrative Special Use Permit.

The proposed use is consistent with the Old Town North Small Area Plan chapter of the Master Plan which designates the property for commercial-residential mixed use.

II. STAFF ANALYSIS

Staff supports the applicant's request for an encroachment into the public right-of-way for outdoor dining. Outdoor dining will add a positive element of activity and pedestrian interest in this location as it has at other restaurants in the area, such as A La Lucia on Madison Street. Pedestrian movement along the sidewalk will not be impacted by the proposal since the outdoor dining area will be located between the building wall and the sidewalk. The proposal will have minimal impact on the existing landscaping on the site. Although a few ground-level plants and a very small bush will need to be removed, a large shrub located nearby between the building and the sidewalk will remain.

Staff has received a letter of support for the proposal from the Old Town North Community Partnership.

Subject to the conditions contained in Section III of this report, which include a requirement that the outdoor dining conform with all conditions of the Administrative SUP (SUP#2010-0047), staff recommends approval of this request.

III. STAFF RECOMMENDATION

Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the following conditions:

1. Outdoor dining at the restaurant shall comply with all requirements and conditions of SUP#2010-0047. (P&Z)
2. The applicant shall maintain a minimum 4' wide unobstructed sidewalk. (T&ES)
3. The applicant (and his/her successors, if any) must obtain and maintain a policy of general liability insurance in the amount of \$1,000,000, which will indemnify the applicant (and his /her successors, if any) and the City of Alexandria, as an additional named insured, against all claims, demands, suits, etc., and all costs related thereto, including attorney fees, relating to any bodily injury or property damage which may occur as a result of the granting of this encroachment. (T&ES)
4. Neither the City nor any Private utility company will be held responsible for damage to the private improvements in the public right-of-way during repair, maintenance or replacement of any utilities that may be located within the area of the proposed encroachment. (T&ES)
5. In the event the City shall, in the future, have need for the area of the proposed encroachment, the applicant shall remove any structure that encroached into the public right-of-way, within 60 days, upon notification by the City. (T&ES)
6. The ground surface material in the proposed encroachment area shall be approved by the Director of Transportation & Environmental Services and shall be flush with the existing sidewalk. (T&ES)

STAFF: Faroll Hamer, Director, Department of Planning and Zoning;
Barbara Ross, Deputy Director;
Nathan Randall, Urban Planner.

CITY DEPARTMENT COMMENTS

Legend: C - code requirement R - recommendation S - suggestion F - finding

Transportation & Environmental Services:

- R-1 Maintain minimum 4' wide unobstructed sidewalk. (T&ES)
- R-2 The applicant (and his/her successors, if any) must obtain and maintain a policy of general liability insurance in the amount of \$1,000,000, which will indemnify the applicant (and his /her successors, if any) and the City of Alexandria, as an additional named insured, against all claims, demands, suits, etc., and all costs related thereto, including attorney fees, relating to any bodily injury or property damage which may occur as a result of the granting of this encroachment. (T&ES)
- R-3 Neither the City nor any Private utility company will be held responsible for damage to the private improvements in the public right-of-way during repair, maintenance or replacement of any utilities that may be located within the area of the proposed encroachment. (T&ES)
- R-4 In the event the City shall, in the future, have need for the area of the proposed encroachment, the applicant shall remove any structure that encroached into the public right-of-way, within 60 days, upon notification by the City. (T&ES)
- R-5 Material for proposed encroachment shall be concrete or alternative approved by the Director of Transportation & Environmental Services, and shall be flush with the existing sidewalk. (T&ES)

Code Enforcement:

- C- 1 The proposed space used for outdoor seating with tables must provide a minimum of 15 square feet per person.
- C-2 Any configuration of outdoor seating shall comply with the following conditions:
- Fire Dept. Connections must remain accessible - not be blocked by tables or fixtures.
 - Daily Sweeping/washing of outdoor dining area is recommended to control rodent activity.
 - Fire Hydrants shall not be obstructed by tables, chairs or other fixtures.
 - The configuration of any outdoor seating shall not obstruct or diminish the required egress from the structure or any adjacent structures.

- C-3 Any increase in occupancy must be supported by the required number of restroom facilities within the structure in accordance with the USBC / International Plumbing Code.
- C-4 Any increase in occupancy will only be considered for the exterior of the structure and will not modify the approved interior approved occupant load. At no time shall any approved outdoor seating be incorporated inside due to foul weather or other situations.

Health Department:

F-1 No Comment

Parks and Recreation:

F-1 No Comment

Police Department:

F-1 The Police Department has no comments for or objections to the encroachment.



APPLICATION

ENCROACHMENT

ENC# 2010-0007

PROPERTY LOCATION: 320 MONTGOMERY STREET
TAX MAP REFERENCE: 055.03.01.02 **ZONE:** CRMU-X

APPLICANT

Name: PHILIP D. McCOMBIE
Address: 501 SLATERS LANE #701 ALEX. VA 22314

PROPERTY OWNER

Name: CHARLES S. CHOE & PAK KUM CHA
Address: 320 MONTGOMERY ST. ALEX. VA 22314

PROPOSED USE: Outdoor dining, 3 tables, 8 seats, Area to be sectioned off from sidewalk. See enclosed plans. Encroachment Area: 4ft 3 inches x 24 ft

INSURANCE CARRIER (copy attached) NATIONWIDE **POLICY #** ACP BPFM 2423345490

A certificate of general liability insurance in the amount of \$1,000,000 which will indemnify the owner and names the city as an additional insured must be attached to this application.

THE UNDERSIGNED hereby applies for an Encroachment Ordinance in accordance with the provisions of Section 8-1-16 and Sections 3-2-82 and 85 of the Code of the City of Alexandria, Virginia.

THE UNDERSIGNED hereby applies for an Administrative Use Permit in accordance with the provisions of Article VI, Section 6-600 of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

THE UNDERSIGNED, having obtained permission from the property owner, hereby grants permission to the City of Alexandria to post placard notice on the property for which this application is requested, pursuant to Article XI, Section 11-301 (B) of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

THE UNDERSIGNED I/so attests that all of the information herein provided and specifically including all surveys, drawings, etc., required of the applicant are true, correct and accurate to the best of their knowledge and belief.

PHILIP D. McCOMBIE
Print Name of Applicant or Agent
501 SLATERS LANE #701
Mailing/Street Address
ALEXANDRIA VA 22314
City and State Zip Code

Signature
703 706 5886 703 706 5327
Telephone # Fax #
TOTTNM61@COMCAST.NET
Email address

JULY 20TH, 2010
Date

Application Received: _____ Date and Fee Paid: \$ _____
ACTION - PLANNING COMMISSION: _____ ACTION - CITY COUNCIL: _____

OWNERSHIP AND DISCLOSURE STATEMENT

Use additional sheets if necessary

1. Applicant. State the name, address and percent of ownership of any person or entity owning an interest in the applicant, unless the entity is a corporation or partnership, in which case identify each owner of more than ten percent. The term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

Name	Address	Percent of Ownership
1. PHILIP M ^c COMBIE	501 SLATERS LANE #701 ALEXANDRIA VA 22314	95%
2.		
3.		

2. Property. State the name, address and percent of ownership of any person or entity owning an interest in the property located at 320 MONTGOMERY ST. (address), unless the entity is a corporation or partnership, in which case identify each owner of more than ten percent. The term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

Name	Address	Percent of Ownership
1. CHARLES S. CHOE	43568 CALAMUS CREEK CT. LEESBURG VA 20176	50%
2. PAK KUM CHA	" " "	50%
3.		

3. Business or Financial Relationships. Each person or entity listed above (1 and 2), with an ownership interest in the applicant or in the subject property is required to disclose any business or financial relationship, as defined by Section 11-350 of the Zoning Ordinance, existing at the time of this application, or within the 12-month period prior to the submission of this application with any member of the Alexandria City Council, Planning Commission, Board of Zoning Appeals or either Boards of Architectural Review.

Name of person or entity	Relationship as defined by Section 11-350 of the Zoning Ordinance	Member of the Approving Body (i.e. City Council, Planning Commission, etc.)
1. PHILIP M ^c COMBIE	NONE	NO MEMBER OF ANY APPROVING BODY
2. CHARLES S. CHOE	NONE	NO MEMBER OF ANY APPROVING BODY
3. PAK KUM CHA	NONE	NO MEMBER OF ANY APPROVING BODY

NOTE: Business or financial relationships of the type described in Sec. 11-350 that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings.

As the applicant or the applicant's authorized agent, I hereby attest to the best of my ability that the information provided above is true and correct.

7/21/10 PHILIP M^cCOMBIE
Date Printed Name


Signature

INC 2010-0007



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
07/15/2010

PRODUCER David Cropper Ins Agcy LLC 8076 FRANCONIA RD STE B ALEXANDRIA, VA 22310 - 1788	THIS CERTIFICATION IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.												
INSURED MR PERCY LLC DBA THAILAND ROYAL ST 320 MONTGOMERY ST ALEXANDRIA, VA 22314 - 1518	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">INSURERS AFFORDING COVERAGE</th> <th style="text-align: left;">NAIC #</th> </tr> <tr> <td>INSURER A: NATIONWIDE MUTUAL INSURANCE COMPANY</td> <td>23787</td> </tr> <tr> <td>INSURER B:</td> <td></td> </tr> <tr> <td>INSURER C:</td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> </table>	INSURERS AFFORDING COVERAGE	NAIC #	INSURER A: NATIONWIDE MUTUAL INSURANCE COMPANY	23787	INSURER B:		INSURER C:		INSURER D:		INSURER E:	
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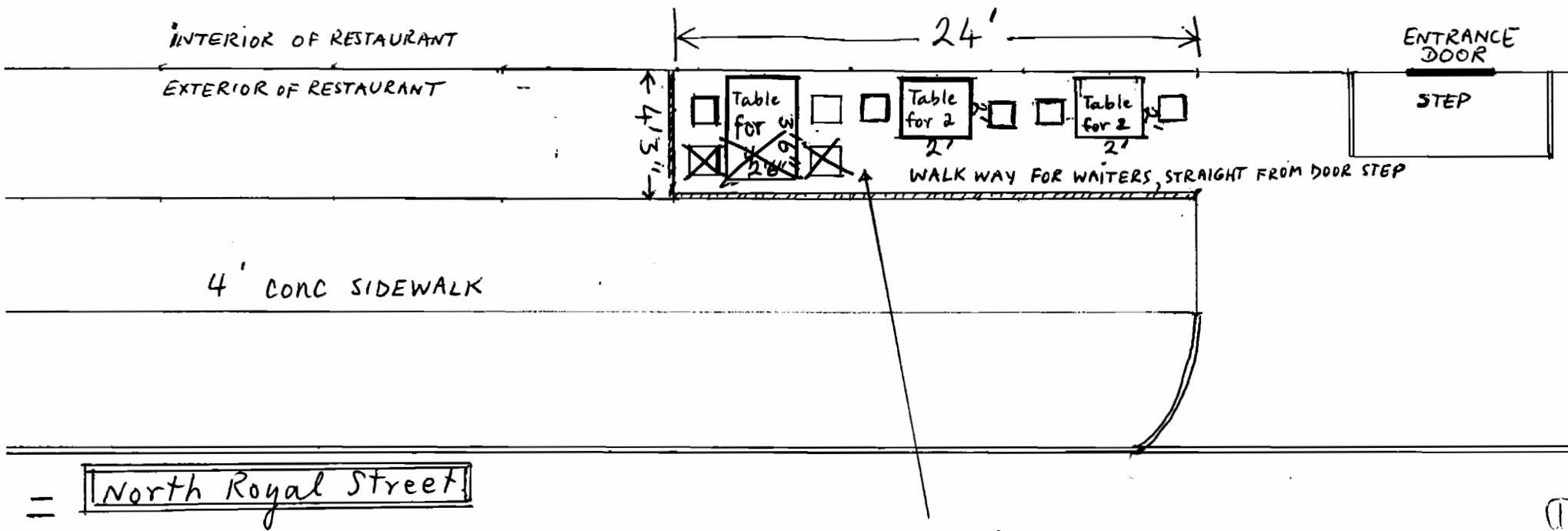
COVERAGES
 THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADDL LTR INSR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR	ACP BPFM 2423345490	06/09/2010	06/09/2011	EACH OCCURRENCE \$ 1,000,000
	GENL AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input checked="" type="checkbox"/> LOC				DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
	EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE \$ RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below OTHER				<input type="checkbox"/> VIC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

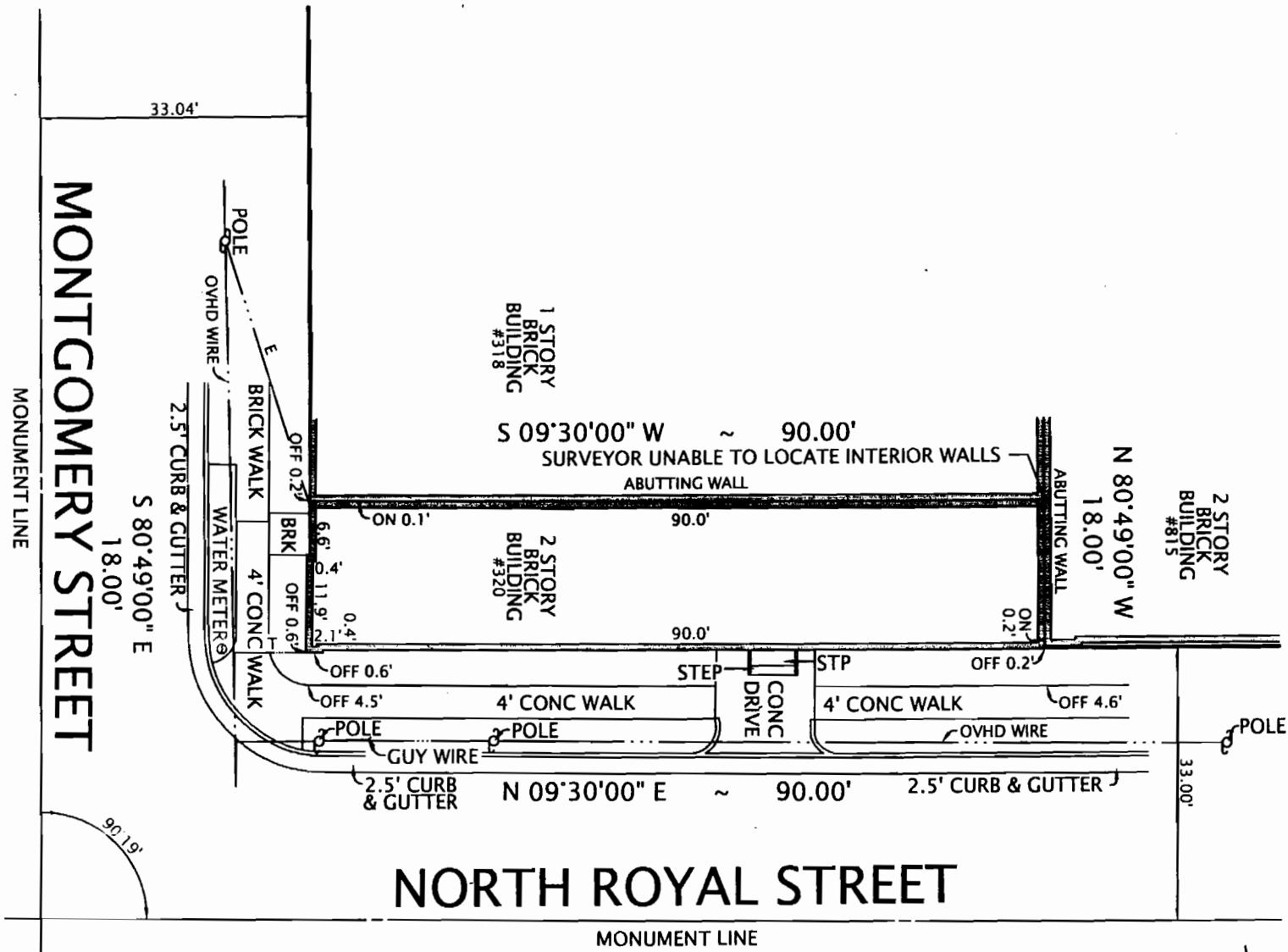
CERTIFICATE HOLDER City of Alexandria City of Alexandria Alexandria, VA 22314	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE Gary S. Zuckerman
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REVISED

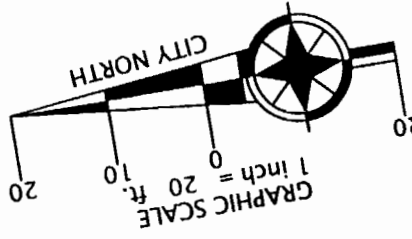


Area proposed for 8 seats,
sectioned off completely from sidewalk.
Waiters bring food through the door and step
directly into this area without encroaching
the sidewalk.

ENC 2010-0007



ENC 2010-007



#320 MONTGOMERY STREET
PLAT
 SHOWING BUILDING LOCATION ON
 THE PROPERTY LOCATED AT
MONTGOMERY STREET
NORTH ROYAL STREET

(DEED BOOK 786, PAGE 273)
 CITY OF ALEXANDRIA, VIRGINIA 12
 SCALE: 1" = 20'
 APRIL 19, 2005

In Support of Special Use Requests
Elizabeth Frommer
to:
nathan.randall
07/28/2010 01:33 PM
Show Details

Old Town North Community Partnership
300 Montgomery Street
Alexandria, Virginia 22314
Fax (703) 836-8091
www.oldtownnorth.org
Tax ID#54-1839038

July 28, 2010

Mr. Nathan Randall
Planning & Zoning

Re: Special Use Permit #2010-00
320 Montgomery Street

Dear Mr. Randall:

The Old Town North Community Partnership wishes to go on record as supporting the request of Thailand Royal Street for outdoor dining.

Sincerely,

Bruce Machanic
Treasurer



APPLICATION

ENCROACHMENT

ENC# 2010-0007

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PHILIP D. McCOMBIE
Print Name of Applicant or Agent
501 SLATERS LANE #701
Mailing/Street Address
ALEXANDRIA VA 22314
City and State Zip Code

[Signature]
Signature
703 706 5886 703 706 5327
Telephone # Fax #
TOTINM 61 @ COMCAST. NET
Email address

JULY 20TH, 2010
Date

Application Received: _____ Date and Fee Paid: \$ _____
ACTION - PLANNING COMMISSION: _____ ACTION - CITY COUNCIL: _____

PC Action: By unanimous consent, Rec approval 10/5/10
CC Action: CC approved PC recommendation. 7-0 10/16/10