EVILLATING.

7 14 12-18-10 12-14-10

1 2 3	Introduction and first reading:12/14/10Public hearing:12/18/10Second reading and enactment:12/18/10	
4 5	INFORMATION ON PROPOSED ORDINANCE	
6	INFORMATION ON FROFOSED ORDINANCE	
7 8	Title	
9	AN ORDINANCE authorizing the tenant of the property located at 818 North St. Asaph	
10	Street (parcel address 600 Montgomery Street) in the City of Alexandria, Virginia to	
11	construct and maintain an encroachment for outdoor restaurant seating at that	
12	location.	
13		
14	Summary	
15		
16	The proposed ordinance permits the restaurant located at 818 North St. Asaph Street	
17	(parcel address 600 Montgomery Street) to establish outdoor seating in the adjacent	
18	sidewalk area.	
19		
20	Sponsor	
21		
22		
23	<u>Staff</u>	
24		
25	Faroll Hamer, Director, Planning & Zoning	
26	James L. Banks, Jr., City Attorney	
27	Joanna C. Frizzell, Assistant City Attorney	
28		
29	Authority	
30		
31	§2.04(e), Alexandria City Charter	
32		
33	Estimated Costs of Implementation	
34		
35	None	
36		
37	Attachments in Addition to Proposed Ordinance and its Attachments (if any)	
38		
39	None	
40		
41 42		
42 43		
43 44		
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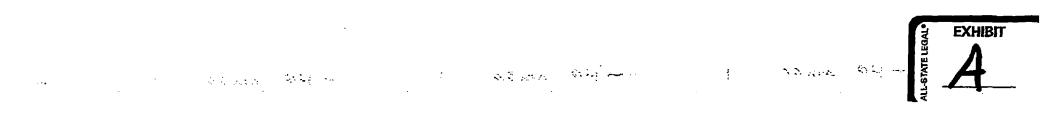
EXHIBIT NO 2

1	ORDINANCE NO
2 3 4 5	AN ORDINANCE authorizing the tenant of the property located at 818 North St. Asaph Street (parcel address 600 Montgomery Street) in the City of Alexandria, Virginia to construct and maintain an encroachment for outdoor restaurant seating at that location.
6 7	WHEREAS, Maria Quilla is the Tenant ("Tenant") of the property located at 818
, 8 9	North St. Asaph Street (parcel address 600 Montgomery Street) in the City of Alexandria, Virginia; and
9 10	
11 12	WHEREAS, Tenant desires to establish and maintain outdoor restaurant seating which will encroach into the public sidewalk right-of-way at that location; and
13 14 15	WHEREAS, the public sidewalk right-of-way at that location will not be significantly impaired by this encroachment; and
16	WHEDEAS in Engrandement No. 2010 0006 the Planning Commission of the City
17 18	WHEREAS, in Encroachment No. 2010-0006, the Planning Commission of the City of Alexandria recommended approval to the City Council subject to certain conditions at one of
19	its regular meetings held on October 5, 2010, which recommendation was approved by the City
20	Council at its public hearing on October 16, 2010; and
21	
22	WHEREAS, it has been determined by the Council of the City of Alexandria that
23	this encroachment is not detrimental to the public interest; now, therefore,
24 25	THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:
26	
27	Section 1. That Tenant be, and the same hereby are, authorized to establish and
28 29	maintain an encroachment into the public sidewalk right-of-way 818 North St. Asaph Street (Parcel Address: 600 Montgomery Street) as shown in the attached Encroachment Exhibit
30	(Exhibit A), in the City of Alexandria, said encroachment consisting of outdoor restaurant
31	seating, until the encroachment is removed or destroyed or the authorization to maintain it is
32	terminated by the city; provided, that this authorization to establish and maintain the
33	encroachment shall not be construed to relieve Tenant of liability for any negligence on their part
34 35	on account of or in connection with the encroachment and shall be subject to the provisions set forth below.
36	
37	Section 2. That the authorization hereby granted to establish and maintain said
38	encroachment shall be subject to and conditioned upon Tenant maintaining, at all times and at
39	their own expense, liability insurance, covering both bodily injury and property damage, with a
40	company authorized to transact business in the Commonwealth of Virginia and with minimum
41	limits as follows:
42	
43 44	Bodily Injury: \$1,000,000 each occurrence \$1,000,000 aggregate
44 45	\$1,000,000 aggregate
46	

1		Property Damage:	\$1,000,000 each occurrence						
2			\$1,000,000 aggregate						
3									
4			the City of Alexandria as named insured and shall						
5 6	•	•	of Alexandria against any and all loss occasioned by existence, use or maintenance of the encroachment.						
7	Evidence of the policy and any renewal thereof shall be filed with the city attorney's office. Any								
8	other provision herein to the contrary notwithstanding, in the event this policy of insurance								
9	+	•	wise ceases to be in force and effect, the authorization						
10	herein granted to establish and maintain the encroachment shall, at the option of the city,								
11	forthwith a	nd without notice or demand by	the city, terminate. In that event, Tenant shall, upon						
12	notice from	the city, remove the encroachm	nent from the public right-of-way, or the city, at its						
13	option, may	remove the encroachment at th	e expense and risk of Tenant. Nothing in this section						
14	shall relieve	e Tenant of their obligations and	l undertakings required under this ordinance.						
15									
16			on hereby granted to establish and maintain said						
17	encroachme	ent shall in addition be subject t	o and conditioned upon the following terms:						
18	<i>.</i>								
19	(a)	•	nor any public or private utility company shall be						
20			ty encroaching into the public right-of-way during						
21	. .	• •	public right-of-way or any public facilities or utilities						
22	in the area	of encroachment.							
23	(h)	The Terrent shall be recovered	a for real content and remains to the adjacent City						
24	(b)	y, including any areas damaged	e for replacement and repairs to the adjacent City						
25 26	ngm-oi-wa	y, menuting any areas damaged	i during construction activity.						
20 27	(c)	Outdoor dining at the restaura	nt shall comply with all requirements and conditions of						
28	SUP#2010	-	in onali compity with all requirements and conditions of						
29	501/2010								
30	(d)	The applicant shall maintain a	minimum 6' wide unobstructed sidewalk.						
31	(-)								
32	(e)	In the event the City shall, in t	he future, have need for the area of the proposed						
33		•	any structure that encroached into the public right-of-						
34		n 60 days, upon notification by t	• • •						
35	•								
36	(f)	The brick surface material pro	posed for the encroachment area shall be approved by						
37	the Directo	r of Transportation & Environn	nental Services and shall be flush with the existing						
38	sidewalk.								
39									
40			he authorization hereby granted to establish and						
41		•	olishing and/or maintaining the encroachment, Tenant						
42		• •	eed to save harmless the City of Alexandria from any						
43 44			ind litigation expenses) arising by reason of the						
44 45	CS140[[S1111	on, construction, pracement, ex	istence, use or maintenance of the encroachment.						
τJ									

1	Section 5.	That the authorization herein granted to establish and ma	intain the						
2	encroachment shall be subject to Tenant maintaining the area of the encroachment at all times								
3	unobstructed and free from accumulation of litter, snow, ice and other potentially dangerous								
4	matter.								
5									
6	Section 6.	That nothing in this ordinance is intended to constitute, o	or shall be						
7	deemed to be, a waiver of sovereign immunity by or on behalf of the City of Alexandria or any								
8	of its officers or employees.								
9		y -							
10	Section 7.	That the authorization herein granted to establish and ma	intain the						
11		e terminated whenever the City of Alexandria desires to us							
12		or any purpose whatsoever and, by written notification, der							
13		f the encroachment. Said removal shall be completed by the							
14		be accomplished by Tenant without cost to the city. If Te	-						
15		neglect to remove the encroachment within the time specifi							
16	•	by the encroachment, at the expense of Tenant, and shall r	•						
17		damage to the structure of the encroachment or personal p							
18	•	a, caused by the removal.	property within						
19		i, caused by the removal.							
20	Section 8	. The term "Tenant" shall be deemed to include Maria Qu	illa and her						
20		in interest to the tenancy at 818 North St. Asaph Street (pa							
22	Montgomery Street).	In merest to the tenancy at 515 Horth St. Asaph Sheet (pl							
	Wongomery Street).								
23	Section 0	. That this ordinance shall be effective upon the date and a	ot the time of its						
24		. That this ordinance shall be effective upon the date and a	at the time of its						
25	final passage.								
26									
27		WILLIAM D. EUILLE							
28		Mayor							
29 20		Mayor							
30	Attachment: Encroac	hmont Exhibita							
31	Attachment: Encroaci	innent Exhibits							
32	T	12/14/10							
33	Introduction:	12/14/10							
34	First Reading:	12/14/10							
35	Publication:								
36	Public Hearing:								
37	Second Reading:								
38	Final Passage:								
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ORDINANCE NO. 4696

AN ORDINANCE authorizing the tenant of the property located at 818 North St. Asaph Street (parcel address 600 Montgomery Street) in the City of Alexandria, Virginia to construct and maintain an encroachment for outdoor restaurant seating at that location.

WHEREAS, Maria Quilla is the Tenant ("Tenant") of the property located at 818 North St. Asaph Street (parcel address 600 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. 2010-0006, 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 October 5, 2010, which recommendation was approved by the City Council at its public hearing on October 16, 2010; 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 are, authorized to establish and maintain an encroachment into the public sidewalk right-of-way 818 North St. Asaph Street (Parcel Address: 600 Montgomery Street) as shown in the attached Encroachment Exhibit (Exhibit A), in the City of Alexandria, 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 Property Damage:

\$1,000,000 each occurrence \$1,000,000 aggregate

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

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

(a) Neither the City of Alexandria nor any public or private utility company shall be responsible for damage to Tenant's property encroaching into the public right-of-way during repair, maintenance or replacement of the public right-of-way or any public facilities or utilities in the area of encroachment.

(b) The Tenant shall be responsible for replacement and repairs to the adjacent City right-of-way, including any areas damaged during construction activity.

(c) Outdoor dining at the restaurant shall comply with all requirements and conditions of SUP#2010-0046.

(d) The applicant shall maintain a minimum 6' wide unobstructed sidewalk.

(e) 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.

(f) The brick surface material proposed for the encroachment area shall be approved by the Director of Transportation & Environmental Services and shall be flush with the existing sidewalk.

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

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

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

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

Section 8. The term "Tenant" shall be deemed to include Maria Quilla and her respective successors in interest to the tenancy at 818 North St. Asaph Street (parcel address 600 Montgomery Street).

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

WILLIAM D. EUILLE Mayor

Attachment: Encroachment Exhibits

Final Passage: December 18, 2010

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Grass/Tree Strip 3"	
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