

**DOCKET ITEM #7**  
**Encroachment #2011-0003**  
**608 Montgomery Street– Outdoor Dining**  
**TJ Stone’s Restaurant**

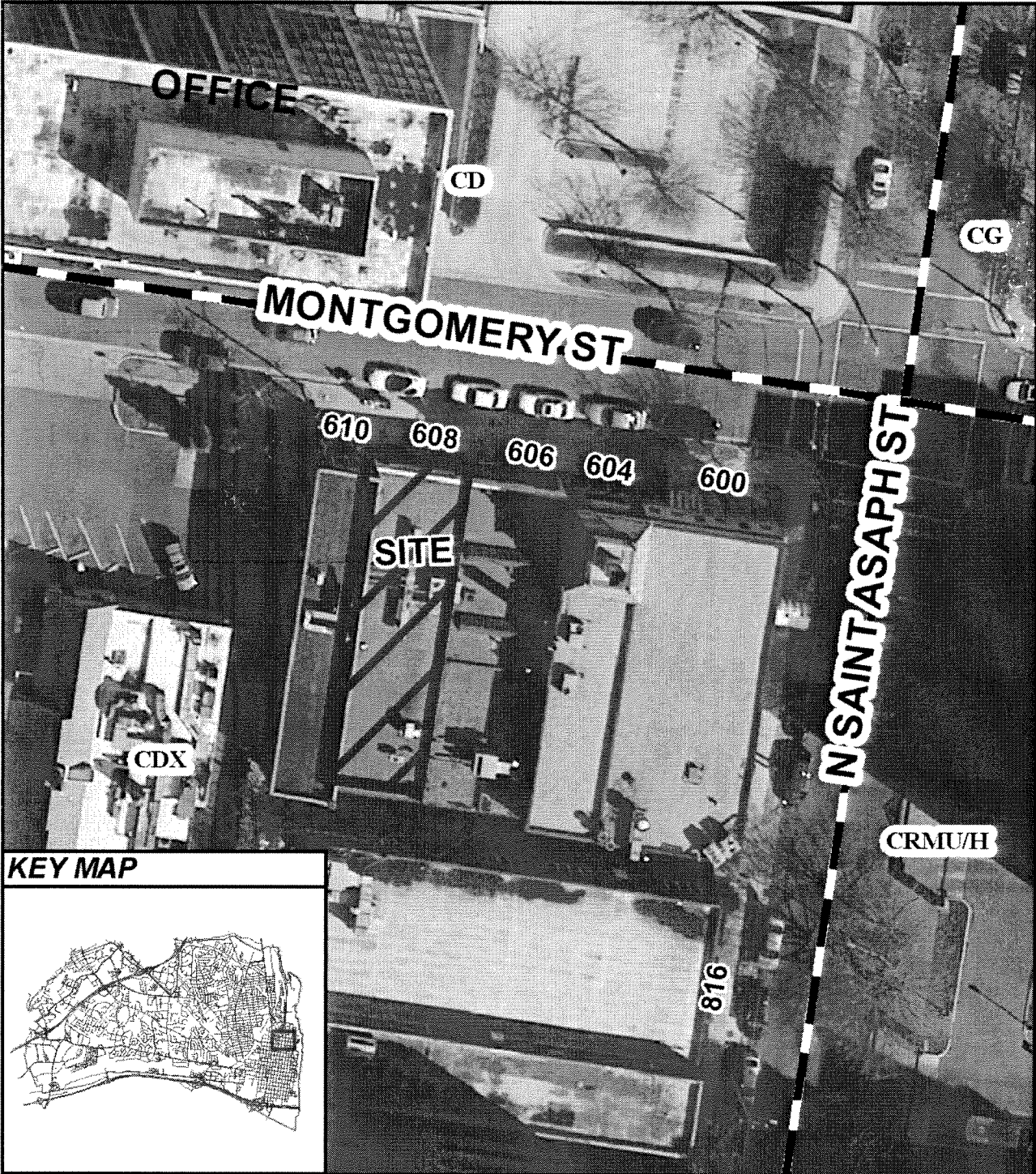
**CONSENT AGENDA ITEM**

If no one asks to speak about this case prior to the hearing, it will be approved without discussion as part of the Consent Agenda.

<b>Application</b>	<b>General Data</b>	
<b>Request:</b> Consideration of a request for an encroachment into the public right-of-way for outdoor dining.	<b>Planning Commission Hearing:</b>	September 8, 2011
	<b>City Council Hearing:</b>	September 17, 2011
<b>Address:</b> 608 Montgomery Street	<b>Zone:</b>	CDX/Commercial Downtown (Old Town North)
<b>Applicant:</b> Stephen Mann	<b>Small Area Plan:</b>	North Old Town

**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](mailto:nathan.randall@alexandriava.gov)



**ENC#2011-0003**

**9/8/2011**



## I. DISCUSSION

The applicant, Stephen Mann, requests approval of an encroachment ordinance to allow outdoor dining on the public right of way in front of his existing restaurant at 608 Montgomery Street.

### SITE DESCRIPTION

The subject site is one lot of record with 28 feet of frontage on Montgomery Street, 91 feet of depth and a total lot area of approximately 2,548 square feet. The property is improved with a one-story commercial building.



The surrounding area is comprised of mostly commercial uses. Two office buildings are located immediately to the north. An architect's office and the Villa d'Este restaurant are located to the east. A technology services office is located immediately to the south, and another restaurant and a bank are located to the east.

### BACKGROUND

A restaurant has operated continuously on this property since at least 1953, making the use grandfathered as to its indoor seating. The most recent restaurant on the site, Stardust, closed approximately one year ago. The applicant opened his restaurant this year and has already received Administrative SUP approval for the addition of outdoor seating and valet parking uses (SUP#2011-0049), 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 20 outdoor dining seats entirely within the public right-of-way directly in front of his restaurant as shown in the attached outdoor dining plan. The proposed encroachment area measures approximately 9.6 feet by 57.2 feet, with a slight indentation west of the main entrance that narrows the width of that portion of the encroachment to 8.75 feet. The entire area of the encroachment measures approximately 537 square feet.

### ZONING/MASTER PLAN

The subject property is located in the CD-X/Commercial Downtown (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 at his existing restaurant. The addition of outdoor dining in this location will add a positive level of activity and pedestrian interest as it has for other businesses in the area. Outdoor dining may also increase the visibility of the restaurant to potential customers, which may contribute to the long-term success of the business. In terms of pedestrian movement around the site, at least five feet will remain between the outdoor dining area and the curb, which is similar to the amount of space provided for pedestrians around outdoor dining areas elsewhere in the City.

Since this site is located within the Old & Historic Alexandria District, the Administrative SUP includes condition language requiring all outdoor dining furniture and barriers to conform to the King Street Outdoor Dining design guidelines.

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#2011-0049), 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#2011-0049. (P&Z)
2. The applicant shall maintain a minimum 5' 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)

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

#### IV. CITY DEPARTMENT COMMENTS

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

##### Transportation & Environmental Services:

- R-1 Maintain minimum 5' 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)

##### Code Enforcement:

- F-1 No Comment

##### Health Department:

- F-1 No Comment

##### Parks and Recreation:

- F-1 No Comment

##### Police Department:

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



**APPLICATION**

**ENCROACHMENT**

ENC# 2011-0003

**PROPERTY LOCATION:** 608 Montgomery street; Alexandria, VA 22314  
**TAX MAP REFERENCE:** 054.04-03-04 **ZONE:** CDX.

**APPLICANT**

Name: T.J. Stone's  
Address: 608 Montgomery street; Alexandria, VA 22314

**PROPERTY OWNER**

Name: Italian Villa, Inc.  
Address: 1202 Russell Rd. Alexandria, VA 22301.

**PROPOSED USE:** Restaurant w/ outdoor dining.

**INSURANCE CARRIER** (copy attached) Hartford **POLICY #** 8125684

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.

T.J. Stone's  
Print Name of Applicant or Agent  
608 Montgomery street  
Mailing/Street Address  
Alexandria VA 22314  
City and State Zip Code

[Signature]  
Signature  
703-864-9007/  
Telephone # Fax #  
mcgees29@aol.com  
Email address  
6/24/11  
Date

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

27

## 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. Stephen Mann	608 Montgomery St Alexandria, VA 22314	100%
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 \_\_\_\_\_ (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. Helen Burns	1202 Russel Rd	50%
2. Marcus		
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. N/A		
2.		
3. Stephen Mann	None	None

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.

6/24/11  
Date

Stephen S Mann  
Printed Name

  
Signature





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
7/8/2011

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Sheehan Insurance Group 14945 Washington Street PO Box 764 Haymarket VA 20168	CONTACT NAME: Jennifer Layne	
	PHONE (A/C, No, Ext): (703) 753-5488	FAX (A/C, No): (703) 753-4878
INSURED TJ Stones Inc 5239 Duke Street Alexandria VA 22302	INSURER(S) AFFORDING COVERAGE	
	INSURER A: Harford Mutual Insurance Cos	
	INSURER B: Accident Fund Ins Co of Amer	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

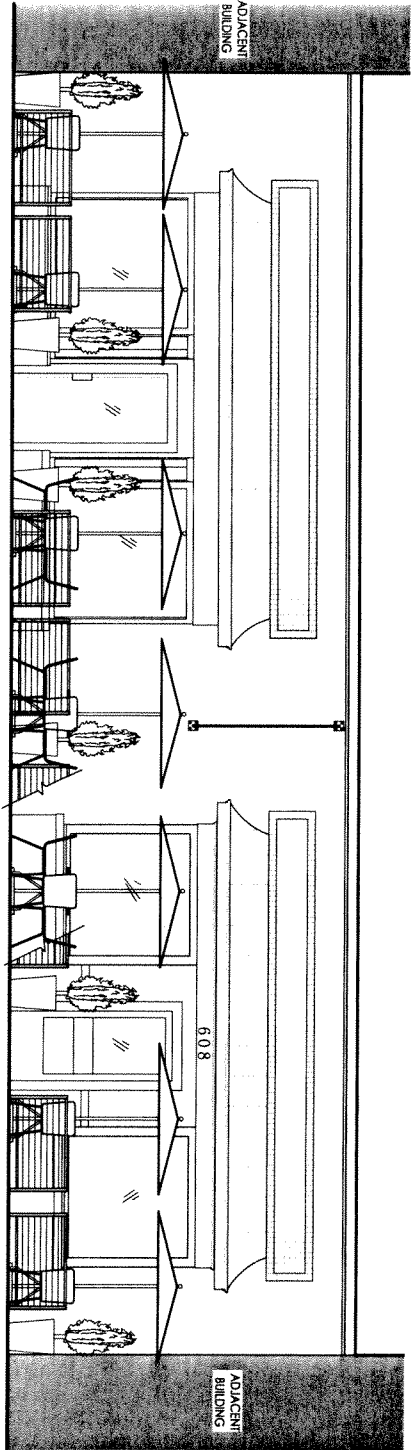
COVERAGES CERTIFICATE NUMBER: CL117805446 REVISION NUMBER:

THIS IS TO CERTIFY THAT 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. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY						
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	X		8125684	4/16/2011	4/16/2012	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC						
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ \$
	UMBRELLA LIAB						EACH OCCURRENCE \$
	EXCESS LIAB						AGGREGATE \$ \$ \$
	DEDUCTIBLE						\$
	RETENTION \$						\$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		Y/N <input type="checkbox"/>	N/A	WCV6071143-0	12/29/2010	12/29/2011 WC STATUTORY LIMITS OTH-ER E.L. EACH ACCIDENT \$ 100,000 E.L. DISEASE - EA EMPLOYEE \$ 100,000 E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)  
City of Alexandria is named as Additional Insured on the above captioned General Liability policy as respects encroachment agreement, 606-608 Montgomery St, Alexandria, VA

CITY OF ALEXANDRIA 301 King St Alexandria, VA 22314	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 9 <i>Maigrie A. Leech</i>

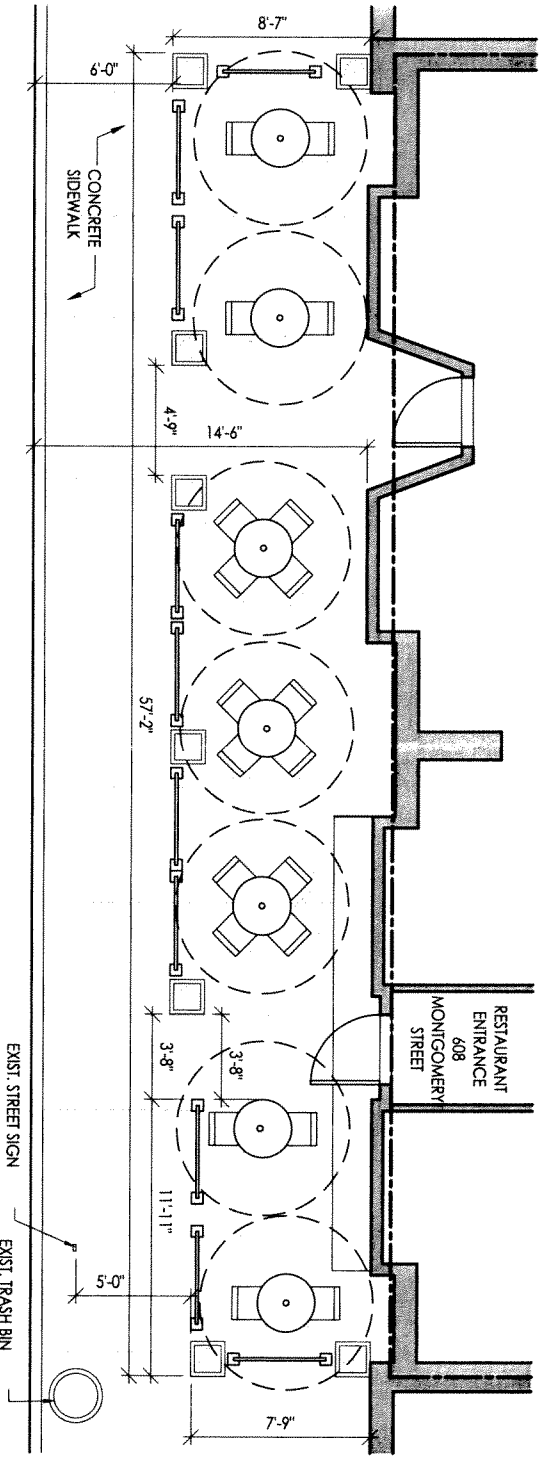


2

**CAFE ELEVATION**

3/16" = 1'-0"

(1103/PLAN-J)



1

**T.J. STONES CAFE PLAN**

3/16" = 1'-0"

1/8"

(MCA-ARCH/PLAN-J)