

ORDINANCE NO.: 2010-053

Granting an encroachment to Cafe @ Main & Gervais for placement and maintenance of six (6) chairs, two (2) tables and two (2) umbrellas and one (1) trash can within the sidewalk right of way of the 1200 block of Gervais Street adjacent to 1200 Main Street, Suite 102 for use by its patrons for outdoor dining during normal business hours

WHEREAS, Cafe @ Main & Gervais, (hereinafter "Grantee") desires to utilize a portion of the sidewalk right of way area of the 1200 block of Gervais Street adjacent to its building at 1200 Main Street, Suite 102 for placement and maintenance of six (6) chairs, two (2) tables and two (2) umbrellas for use by its patrons for outdoor dining during its normal business hours of 7:00 a.m. to 3:00 p.m., Monday through Friday, as shown on the attached drawing; and,

WHEREAS, it appears that the encroachment will not interfere with the use of the sidewalk or street for traffic, utility locations or other uses within the foreseeable future; NOW, THEREFORE,

BE IT ORDAINED by the Mayor and City Council of the City of Columbia, South Carolina, this 5th day of May, 2010, that Grantee, its successors and assigns, is hereby granted the right to place and maintain six (6) chairs, two (2) tables and two (2) umbrellas within the sidewalk right of way area of the 1200 block of Gervais Street adjacent to its building at 1200 Main Street, Suite 102 for use by its patrons for outdoor dining its during normal business hours of 7:00 a.m. to 3:00 p.m., Monday through Friday, as shown on the attached drawing.

ALL WORK SHALL COMPLY with the requirements of The City of Columbia and South Carolina Department of Transportation now in existence or hereafter enacted. The materials and type of finish to be used are to be approved by the City Engineer prior to installation. Any damage to the street or sidewalk caused by construction or maintenance shall be repaired to the satisfaction of the City Manager. Improvements constructed within the encroachment by or on behalf of Grantee shall be maintained by the Grantee at no cost to the City in a manner approved by the City Manager.

PROVIDED, HOWEVER, that in exercising the privileges granted under this ordinance, Grantee, its successors and assigns, will indemnify and save harmless the City from any and all claims or causes of action which may arise by reason of the construction or maintenance of the aforesaid encroachment.

PROVIDED FURTHER that the privilege granted hereby is subject to the Grantee complying with the following conditions, restrictions or limitations:

1. No item shall be placed that creates a visual impediment to persons safely

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entering or exiting the building, adjoining driveway or walking along the sidewalk. The City reserves the right to remove any item located within the right of way which it deems to be a safety hazard;

2. Site furnishings shall be reviewed and approved by urban design staff per the City Center Design Guidelines;

3. The addition of the outdoor dining shall not increase the posted capacity of ten (10) persons allowed inside the business, so that if inclement weather occurs outside diners shall not cause overcrowding inside.

4. The location of the tables, chairs, umbrellas and trash can shall not impede the path of travel for the assigned exit discharge of the adjoining building.

PROVIDED FURTHER that the privilege granted hereby may be modified or terminated by Columbia City Council at any time without notice to the Grantee, its successors and assigns.

PROVIDED FURTHER that a certificate of insurance be issued as evidence of general liability insurance with at least the minimum amount of \$600,000.00 for personal injury and property damage and naming the City as an insured, be provided to and filed annually with the City Clerk by Grantee, its successors and assigns, as required by Chapter 11, Licenses, Permits, Business Regulations, Article III, Contractors, Sec. 11-71, 1998 Code of Ordinances of the City of Columbia, South Carolina.

BE IT FURTHER ORDAINED that Grantee, in consideration of the above privilege, shall at its expense provide for protection and, if necessary, relocation of all utilities that might be within this area to the satisfaction of the City Manager.

Requested by:

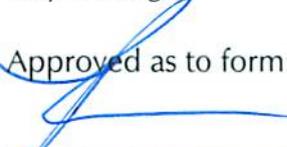
Cafe @ Main & Gervais


MAYOR

Approved by:


City Manager

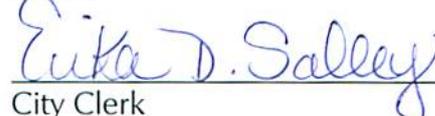
Approved as to form:


City Attorney

Introduced: 4/21/2010

Final Reading: 5/5/2010

ATTEST:


City Clerk

**CITY COUNCIL
ENCROACHMENT SUMMARY
2010-053**



**1200 BLOCK GERVAIS STREET NX 1200 MAIN STREET
(Café at Main and Gervais)**

Subject Property: 1200 Block of Gervais Street next to 1200 Block of Main Street, Suite 102, NX TMS# 09103-07-08

Council District: 2

Proposal: Request approval for placement and maintenance of six (6) chairs, two (2) tables and two (2) umbrellas for use by its patrons for outdoor dining during its normal business hours of 7:00 a.m. to 3:00 p.m., Monday through Friday

Applicant: Donald Bloomingdale

Staff Recommendation: Approve

Conditions:

- No item, including landscaping, shall be placed, planted, or allowed to grow such that it creates a visual impediment to persons safely entering or exiting the driveway or to persons safely walking along the sidewalk. The City reserves the right to remove or cut any item located within the right of way which it deems to be a safety hazard;
- Site furnishings shall be reviewed and approved by urban design staff per the City Center Design Guidelines;
- The addition of the outdoor dining shall not increase the current capacity of the business, so that if inclement weather occurs, outside diners shall not cause overcrowding inside. The location of the tables and chairs shall not impede the path of travel for the assigned exit discharge.

Detail: The owner of the café at the above location proposes to provide tables and chairs for outdoor dining. Provided the listed conditions are followed, such street activity is beneficial to the City Center. While located on a busy street, the location is across the street from and has good views of the Statehouse.

CITY AGENCY COMMENTS FOR ENCROACHMENT

Planning & Development	Recommend Approval with Conditions: No item, including landscaping, shall be placed, planted, or allowed to grow such that it creates a visual impediment to persons safely entering or exiting the driveway or to persons safely walking along the sidewalk. The City reserves the right to remove or cut any item located within the right of way which it deems to be a safety hazard.
Zoning	Recommend Approval.
Streets	Recommend Approval
Design Review	Recommend Approval with Conditions: Site furnishings shall be reviewed and approved by urban design staff per the City Center Design Guidelines
Traffic Engineering	Recommend Approval.
Fire Department	Recommend Approval with Conditions: The addition of the outdoor dining shall not increase the current capacity of the business, so that if inclement weather occurs, outside diners shall not cause overcrowding inside. The location of the tables and chairs shall not impede the path of travel for the assigned exit discharge.

REQUEST FOR AN ENCROACHMENT ORDINANCE

For a continuing encroachment on any type of property in which the City has an interest (i.e., rights of way, tree zone, sidewalk, streets), the person or entity is required to have an encroachment ordinance enacted by the City Council permitting the encroachment. Encroachment ordinances are required for but not limited to: irrigation systems, landscaping, fencing, walls, pavers, walkways; outdoor dining items(chairs, tables, umbrellas, etc); awnings; bollards and directional signs (i.e. churches) Business signs are NOT permitted via an encroachment. An encroachment must comply with all existing City codes, rules and regulations, the Americans with Disabilities Act, if applicable, and is subject to review and approval by City staff. Enactment of the encroachment ordinance by a majority vote of City Council, which is a discretionary legislative act, is also required. In order to obtain an encroachment ordinance from the City of Columbia, it will be necessary for the City Council to be named as an additional insured on your homeowners' policy with limits being increased to \$600,000 as required by Sec. 11-7) It is recommended that you contact your insurance provider to determine if it will name the City of Columbia, as an additional insured prior to submitting your request for an encroachment ordinance. If you have any questions concerning these requirements, please contact Chip Timmons with Risk Management.

Please complete and submit this form with any attachment(s) to Shari Ardis by e-mail at saradis@columbiasc.net; fax at 803- 737- 4250; or mail to Shari Ardis, % Legal Department, POB 147, Columbia, SC 29217, for preparation of an encroachment ordinance. Copies to City departments should be directed to the contact person for that department as shown below and not through the Legal Department. Chip Timmons with Risk Management (343-8778 or catimmons@columbia.net) should be contacted regarding the insurance requirements.

Date: _____ Property Owner: _____
Applicants Name if different from Property Owner: Donald Charles Bloomingdale
Contact Information: Telephone Number 803- 772-1667
Fax Number: 803- 771- 0071

Handwritten note: dcsqualitycarpet@yahoo.com

Mailing Address: 1200 Main St., Suite # 102 (Café @ Main & Gervais), Columbia, SC 29201
Encroachment Location (Address): 1200 Main St., Suite # 102 @ 1200 blk Gervais
(If corner lot, include name and block number of side street, i.e., 1737 Main Street and 1100 block of Laurel Street)

Tax Map Number for Encroachment Location: _____

Encroachment type: ___ Wall ___ Fence ___ Columns ___ Steps ___ Irrigation system
___ Landscaping ___ Driveway ___ Pavers ___ Walkway/Sidewalk ___ Underground
utilities ___ other

If Other-specify: _____

Dimensions(height/width/length: Tables approx 30" by 30"; Chairs approx 20"by 20";
Umbrella approx 5' opened; Trash can Approx 16" by 16"

(i.e., 6x42" wooden privacy fence, two 12'x4' concrete steps, two 12"x12"x24" brick
columns, 4'x15" brick paver walkway)

Construction material: _____

Please provide photographs and drawings or site plan drawn to scale (no larger than 8-
1/2x 11).

Businesses only: _X_ Outdoor Dining 6 No. of chairs 2 No: of Tables

Hours of operation for outdoor dining: 7 am to 3 pm

Number of planters ___ Awning _____ (dimensions- size/material _____)

Other: 2 Umbrellas and 1 Trash Can

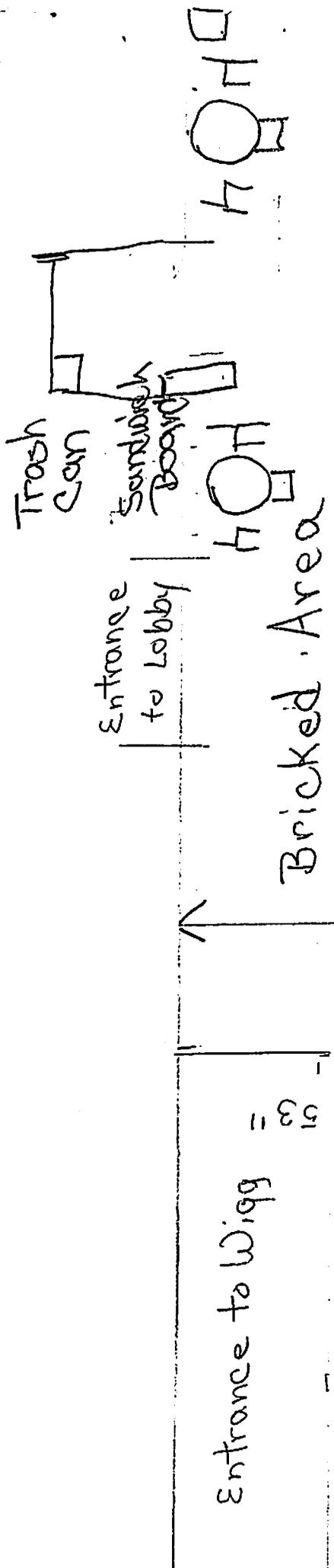
(or complete applicable "Encroachment type" section above)

Matter No.: 10030357
Attorney: LEGISA
Date In: 3/2/2010
File No.: 2010-053
Date Out: 4/9/10



Cafe @ Main + Gervais

Request for Encroachment ordinance



Gervais Street

Reason for Request: To increase visibility of Cafe and to offer an area for those who wish to sit outside to enjoy Columbia's beautiful weather and view.



**BUSINESSOWNERS ADVANTAGE
 DECLARATION PAGE**

Policy Number: 3901X1020

Agent No: 7353 Agent Phone: 803-359-3840

DAVID WILBUR FULMER

1186 S LAKE DR

PO BOX 84008

LEXINGTON SC 29073-0001

Name and Mailing Address of First Named Insured:

**DONALD BLOOMINGDALE
 544 SHERWOOD DR
 LEXINGTON SC 29073-8750**

INSURED NAME SCHEDULE ATTACHED

The Insured is: **INDIVIDUAL**

Transaction Type: **CHANGE ENDORSEMENT**

Policy Period: From 12/15/2009 To 12/15/2010

Transaction Effective: 02/10/2010
 12:01 A.M. Standard Time

Business Description: **SANDWICH SHOP**

	Total Limit of Liability	Term Premium	ADDL/RTN Premium
Business Property Coverages			
Buildings	\$5,000	\$97.00	\$4.00
Business Personal Property			
Business Income and Extra Expense	Actual Loss Sustained Not Exceeding 12 Months		
Other Endorsements	SEE SCHEDULE		

BUSINESSOWNERS LIABILITY

Except for Fire Legal Liability, each paid claim for the following coverages reduces the amount of insurance we provide during the applicable annual period.

Business Liability	Limits of Insurance
Bodily Injury/Property Damage	\$1,000,000 EACH OCCURRENCE \$2,000,000 AGGREGATE \$1,000,000 AGGREGATE FOR PRODUCTS/COMPLETED OPERATIONS HAZARD
Medical Expenses	\$5,000 EACH PERSON
Fire Legal Liability	\$100,000 ANY ONE FIRE OR EXPLOSION
Other Endorsements	SEE SCHEDULE

POLICY SUBJECT TO ANNUAL AUDIT: YES

TOTAL PREMIUM \$350.00

The Declarations, Schedules and These Forms and Endorsements Make Up Your Complete Policy:

BP00021299 IL00030498 BP00060197 BP00090197 BP04040196 BP04060187 BP04150197 BP04170196
 BP04180689 BP04961001 BP05140103 BP10040498 BF20160902 BF20190902 BF40340902 BF40380902
 BF40390303 BF40860507 BF40910708 BF41280108 FI99020108

Countersigned By _____
 Authorized Representative