

Encroachment #2018-0008 116 King Street (parcel address: 114 & 118 King Street) Urbano 116

Application	General Data	
Request: Public hearing and	<b>Planning Commission</b>	September 4, 2018
consideration of a request for an	Hearing:	
encroachment adjacent to 116 King	City Council	September 15, 2018
Street into the public right-of-way	Hearing:	
for a customer service line and		
access to an outdoor carry-out		
window.		
Address: 116 King Street (parcel	Zone:	KR/King Street Retail
address: 118 King Street)		
Applicant: Urbano 116, LLC	Small Area Plan:	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:** Heba ElGawish, <u>heba.elgawish@alexandriava.gov</u>

<u>PLANNING COMMISSION ACTION, SEPTEMBER 6, 2018</u>: On a motion made by Commissioner Lyle and seconded by Commissioner Koenig, the Planning Commission voted to recommend approval of ENC #2018-0008 subject to compliance with all applicable codes, ordinances, and staff recommendations. The motion carried on a vote of 5-0 with Vice Chairman Macek and Commissioner McMahon absent.

<u>Reason</u>: The Planning Commission agreed with staff analysis.

Commissioner Brown questioned whether a 5'-2" sidewalk clearance is sufficient for pedestrian flow, especially at nighttime during the weekend when there are more pedestrians present. Staff explained that the clearance complies with the King Street Outdoor Dining requirements for minimum five feet of pedestrian right-of-way and is consistent with the current conditions of existing outdoor dining areas along King Street. Staff also added a review of the carry-out window service after six months of operations to Condition #25 in order to assess the impacts.

## Speakers:

Justin Sparrow, the applicant, asked the Planning Commission to support the application for the outdoor carry-out window and requested flexibility with the hours of operation to match the hours of operation for the approved restaurant.



## I. DISCUSSION

The applicant, Urbano 116, LLC, requests approval for an encroachment into the public right-ofway at 116 King Street to allow for customers to access a carry-out window and to form a queue line at a soon-to-be opened restaurant.

#### SITE DESCRIPTION

The subject property is one lot of record with 30 feet of frontage on King Street, a depth of 116 feet, and a lot area of 10,216 square feet. The rear of the lot fronts an alley connecting S. Lee St. and S. Union Street. A two-story commercial building with two tenant spaces exists on the site.

A mix of commercial uses surrounds the building as the 100block of King Street features a variety of restaurants, boutiques, specialty retail and personal services. Residential and office uses generally occupy the upper floors of the nearby rowhouse structures while the ground floors are occupied by commercial establishments. Ground floor retail includes a boutique and a women's clothing store, two gift shops, a stationary store, along with a yoga studio and a variety of restaurants.



#### BACKGROUND

Figure 1: 116 King Street

In February 2018, City Council approved SUP#2017-0124 to operate a 163-seat restaurant, featuring Mexican-cuisine and a full-service bar, in a 3,904 square feet tenant space. Interior renovations for Urbano 116 are underway and the restaurant has not opened for business.

A separate BAR Certificate of Appropriateness for exterior alterations to replace the existing bay window with a flush, retractable window was approved by BAR in July 2018.

#### PROPOSAL

The applicant requests approval of an encroachment into the public right-of-way to provide access to an outdoor carry-out window and for a patron queue line at a restaurant that will open later this year. The encroachment would be 3.5 feet from the building into the public right-of-way with a total length of 18 feet. The total area of requested encroachment is approximately 63 square feet (Figure 2)

The applicant has also submitted a Special Use Permit amendment request (SUP #2018-0052) to add a carry-out window feature at Urbano 116 for City Council review at its September 2018 hearing.



Figure 2: Plat showing area of Encroachment

## ZONING/MASTER PLAN DESIGNATION

The subject property is located in the KR/King Street Retail Zone. The restaurant use is consistent with the Old Town Small Area Plan which designates the property for commercial use.

The subject site is located within the boundaries of the Old and Historic District. A separate Certificate of Appropriateness for exterior alterations to replace the existing bay window with a flush, retractable window has been submitted and approved by BAR in July 2018.

## VALUE OF ENCROACHMENT

Section 3-2-85 of the City Code defines the annual charge for commercial encroachments to be the equivalent of what would be the real estate tax upon the land being encroached if it were owned by the owner of the encroaching property. The Department of Real Estate Assessments has valued the land and air-rights area in question at a rate of \$1.13 per \$100 of assessed value for an annual encroachment fee of \$185 (rounded). (See attached Memorandum, dated August 9, 2018.)

## II. STAFF ANALYSIS

Staff supports the applicant's request for an encroachment into the public right-of-way to operate an outdoor carry-out service window in conjunction with an existing restaurant approval. The proposed encroachment area would allow for at least a five-foot pedestrian right-of-way which is consistent with the minimum right-of-way required for outdoor dining through the King Street Outdoor Dining Program. A requirement for a barrier to separate the pedestrian walkway and the patron queue line is mandated in Condition 1.

## III. RECOMMENDED CONDITIONS

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

- 1. An unobstructed and clear 5' sidewalk shall be maintained at all times by installing a barrier, separating the patron queue line from the five-foot pedestrian right-of-way consistent with the area of encroachment. The barrier design must be consistent with the King Street Outdoor Dining Design Guidelines and subject to approval of the Director of Planning and Zoning. (P&Z) (T&ES)
- 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)
- 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)
- 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)
- 5. The "applicant" shall bear all the cost associated with the removal of the encroachments. (T&ES)
- STAFF:Anthony LaColla, Division Chief, Land Use Regulatory Services,<br/>Department of Planning and Zoning;<br/>Heba ElGawish, Urban Planner, Planning and Zoning.

## IV. CITY DEPARTMENT COMMENTS

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

### Transportation & Environmental Services:

- R-1 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-2 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-3 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-4 The "applicant" shall bear all the cost associated with the removal of the encroachments. (T&ES)

Code Enforcement:

- C 1 Sites, buildings and structures shall be accessible to persons with physical disabilities, per the current edition of USBC.
- C 2 Recommend a code consultation with the building code department prior to approval.

<u>Fire Department:</u> No comments received.

<u>Health Department</u> No comments received.

<u>Police Department:</u> No comments received.

Parks and Recreation: No comments received.

<u>Real Estate Assessments:</u> See attached Memorandum, dated August 9, 2018.



AP	PL	10	\T	DI	N.

ENCROACHMENT

ENC#

PROPERTY LOCATION	: 116 KING STREET
TAX MAP REFERENCE	_ 675.01-06-04 ZONE: KR/CBD
APPLICANT	
Name:	UEBANO 116, LLC
Address:	116 KING SMEET ALEXANDRIA VA 22314
PROPERTY OWNER	
Name:	GLD TOWN Z, LLC
Address:	1616 CANDEN ROAD, SUITE ZIO / CHARLOTTE, NC 28203
PROPOSED USE:	ENGROACHMENT FOR CARRY OUT WINDOW. CURRENT
	BAY WINDOW ENCROACHES Z' INTO ZOW AND WILL BE
	REMOVED DURING RENOVATION. NEW FLUSH WINDOW INSTALLED
INSURANCE CARRIER	(copy attached) ELE POLICY # 2430266609 USED AS
A certificate of general liabil	ity insurance in the amount of \$1,000,000 which will indemnify the owner and names the city
as apradditional insured mu	st 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** Iso 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.

JUSAN SPARA	Zow	
Print Name of Applicant or		Signature () 103-913-5554 / 703-622-3282 (m)
Mailing/Street Address	VA 22314	<u>103-813-5554</u> / <u>703-622-3282</u> (M) Telephone # Fax # <u>jsparroweadvancedconstruct</u> group.com Email address
City and State	Zip Code	Email address
Application Received: ACTION - PLANNING COMM	lission:	Date and Fee Paid: \$ ACTION - CITY COUNCIL:

application encroachment ROW.pdf

8/1/06 Pnz\Applications, Forms, Checklists\Planning Commission

2

## **OWNERSHIP AND DISCLOSURE STATEMENT**

Use additional sheets if necessary

<u>1. Applicant.</u> 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 three 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
JUSTIN SPARAW	MAGANOLIA, VA 22314	33.33%
2. CHAD SPARROW	Same	33.33%
LARRY WALSTON, JR.	SME	33.33%

URBAND ILL. LLC

<u>2. Property.</u> 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 three 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		
OLD TOWN Z, LLC	1616 CANDEN ZOAD, SUITEZIO CHALLOTTE, NC 28203	100%		
SEE ATTACHED		τų.		
3.				

<u>3. Business or Financial Relationships.</u> Each person or entity indicated above in sections 1 and 2, with an ownership interest in the applicant or in the subject property are require to disclose any business or financial relationship, as defined by <u>Section 11-350 of the Zoning Ordinance</u>, existing at the time of this application, or within the12-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. All fields must be filled out completely. Do not leave blank. (If there are no relationships please indicated each person or entity and "None" in the corresponding fields).

For a list of current council, commission and board members, as well as the definition of business and financial relationship, click here.

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.)		
10LD TOWN 27 LLC	NONE	N/A		
2. ULBAND 116, LLC	NONE	N/A		
3. JUSAN GPAREN/ CHAD SPAREN/ LAR	ey whistow, TE NONE	N/A-		

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.

Jum A SPAREON Printed Name

Signature

3



May 17, 2018

City of Alexandria Department of Planning & Zoning 301 King Street Alexandria, VA 22314

To whom it may concern:

Old Town 2, LLC is the owner of 116 King Street and has entered into a lease with Urbano 116, LLC to operate a new Mexican Restaurant within the space. We have reviewed the proposed changes and approve. Urbano 116, LLC has our permission to move forward with the application and subsequent changes to the building.

Thank you,

Old Town 2, LLC c/o Asana Partners

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Reed Kracke

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#### **METES AND BOUNDS DESCRIPTION**

#### ENCROACHMENT AREA #116 KING STREET

#### CITY OF ALEXANDRIA, VIRGINIA

BEING A STRIP OF LAND HEREINAFTER DESCRIBED RUNNING IN, THROUGH, OVER AND ACROSS PART OF THE RIGHT-OF-WAY OF KING STREET, LYING AND BEING SITUATED IN THE CITY OF ALEXANDRIA, VIRGINIA AND BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT LOCATED 79.25 FEET EAST OF THE INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY LIMITS OF KING STREET WITH THE EASTERLY RIGHT-OF-WAY LIMITS OF N. LEE STREET, THENCE DEPARTING SAID SOUTHERLY LIMITS AND RUNNING PARALLEL WITH THE SAID EASTERLY LIMITS OF N. LEE STREET;

- 1) 3.5 FEET IN A NORTHERLY DIRECTION TO A POINT, THENCE RUNNING PARALLEL WITH THE SAID SOUTHERLY LIMITS OF KING STREET;
- 2) 18.0 FEET IN AN EASTERLY DIRECTION TO A POINT, THENCE RUNNING PARALLEL WITH THE SAID EASTERLY LIMITS OF N. LEE STREET;
- 3) 3.5 FEET IN A SOUTHERLY DIRECTION TO A POINT LOCATED AT THE SOUTHERLY RIGHT-OF-WAY LIMITS OF KING STREET, THENCE RUNNING ALONG SAID RIGHT-OF-WAY LIMITS;
- 4) 18.0 FEET IN A WESTERLY DIRECTION TO THE POINT OF BEGINNING.

CONTAINING 63 SQUARE FEET OR 0.0014 ACRES OF LAND



# City of Alexandria, Virginia

# MEMORANDUM

**DATE:** AUGUST 9, 2018

- TO: KARL MORITZ, DIRECTOR DEPARTMENT OF PLANNING AND ZONING
- **FROM:** WILLIAM BRYAN PAGE, SRA, REAL ESTATE ASSESSOR OFFICE OF REAL ESTATE ASSESSMENTS

ADDRESS: 116 KING STREET, ALEXANDRIA, VIRGINIA

- **SUBJECT:** 3.5 FEET WIDE BY 18 FEET LONG ENCROACHMENT ALONG THE 100 BLOCK OF KING STREET, ALEXANDRIA, VIRGINIA
- ACCOUNT: 12642510 (PART, MULTIPLE ADDRESSES)

**PROJECT:** ENCROACHMENT #2018-0008 (RELATED SUP: 2017-00124)

Per your request, we have reviewed the proposed encroachment into the public right-of-way along the south side of King Street just west of its intersection with Union Street. The actual encroachment consists of a 63 square-foot strip of brick-paved sidewalk that is flush with the northern elevation of the building at 114 - 116 King Street. It will project out into the right-of-way a distance of 3.5 feet and extend a distance of 18 feet. The existing bay window will be removed and a new storefront window in compliance with existing architectural guidelines will be installed in its place; a portion of which will be used for carry out service in association with the Urbano Restaurant. The actual proposed encroachment will function as a service line for the operation.

The proposed use is within two contiguous two-story masonry buildings constructed at various times containing a net leaseable floor area of 20,070 square feet. The improvements are sited on a parcel containing 10,046 square feet indicating a floor area ratio of 2.0. It is zoned KR (King Street Urban Retail).

The value of the encroachment can be determined by the application of **Section 3-2-85** of the City Code which defines the annual charge for commercial encroachments to be the equivalent of what would be the real estate tax upon the land being encroached if it were owned by the owner or owners of the encroaching property.

Based on a land value of \$260 per square-foot, a land encroachment area of 63 square feet and the 2018 tax rate of 1.13 per \$100 of assessed value, the indicated **annual fee** of the encroachment is \$185.00 (rounded).

#### **One Hundred and Eighty-Five Dollars**

This analysis does not constitute a fully documented real property appraisal report and should not be purported as such. The analysis is based on the current 2018 per square-foot assessed land values of the subject and similarly zoned parcels in the immediate area of the subject property, and complies with City policies and guidelines.

Attachments Encroachment Plat (ENC# 2018-0008)

cc: Ann Horowitz, Urban Planner II Heba ElGawish, Urban Planner











