

ORDINANCE NO.: 2017-027

Granting an encroachment to Lula Drake for placement and maintenance of seven (7) tables and fourteen (14) chairs within the tree zone and sidewalk right of way areas of the 1600 block of Main Street adjacent to 1635 Main Street for use by its patrons for outdoor dining during normal business hours of 11:00 a.m. until 12:00 a.m. Monday through Saturday

WHEREAS, Lula Drake (hereinafter "Grantee") located at 1635 Main Street, Richland County TMS #09014-08-15, desires to utilize a portion of the tree zone and sidewalk right of way area of the 1600 block of Main Street adjacent to its business at 1635 Main Street for placement and maintenance of seven (7) tables and fourteen (14) chairs within the tree zone and sidewalk right of way area of the 1600 block of Main Street adjacent to 1635 Main Street for use by its patrons for outdoor dining during normal business hours of 11:00 a.m. until 12:00 a.m. Monday through Saturday, as shown on the attached drawing; and,

WHEREAS, the tables and chairs shall be removed and stored inside the building when not in use; the tables and chairs shall be placed to prohibit obstruction of pedestrian movement and vehicle parking; the outdoor dining area and general exterior of the building shall be kept clean and orderly at all times; other improvements, interference with pedestrian movement or the parking lane and disturbance of existing trees and roots shall be prohibited; 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 4th day of April, 2017, that Grantee is hereby granted the right to utilize a portion of the tree zone and sidewalk right of way area of the 1600 block of Main Street adjacent to its business at 1635 Main Street for placement and maintenance of seven (7) tables and fourteen (14) chairs within the tree zone and sidewalk right of way area of the 1600 block of Main Street adjacent to 1635 Main Street for use by its patrons for outdoor dining during normal business hours of 11:00 a.m. until 12:00 a.m. Monday through Saturday, 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, 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 entering or exiting the building, adjoining driveway, parking spaces 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; and,
2. To prohibit the business from overcrowding, the posted capacity allowed within the business at the time of enactment of the encroachment ordinance shall include the total number of patron seating approved for the encroachment area, if not already included in the posted capacity allowable, so that patrons relocating from the inside of the business to the outside, or from the outside of the business to the inside shall not cause the posted capacity to be exceeded; and,
3. Use of the encroachment area is strictly limited to the serving of food and/or beverages to the patrons of the business during the normal business hours reflected in the encroachment ordinance at the time of enactment of the encroachment ordinance; and,
4. Any changes to the ownership of the business or property, hours for use of the encroachment area, items allowed within the encroachment area or allowable patron capacity shall require an amendment to the encroachment ordinance; and,
5. The location of the tables and chairs shall not impede the path of travel for the assigned exit discharge of the adjoining building or parking spaces; shall be placed to allow five (5') feet of passageway along the sidewalk at all times and not obstruct pedestrian movement, vehicle movement and parking, and shall be of durable material and weighted to withstand strong winds; and,

ORIGINAL
STAMPED IN RED

6. The tables and chairs are to be maintained by the property owner and shall be removed and stored inside the building when not in use; the outdoor dining area and general exterior of the building shall be kept clean and orderly at all times; other improvements, interference with pedestrian movement or the parking lane and disturbance of streetscape planters, existing trees and roots shall be prohibited; and,

8. Grantee shall provide a cigarette receptacle for patrons; and,

9. A copy of the approved ordinance with a diagram of the encroachment area shall be displayed inside the business at all times; and,

10. All outdoor musical performances and use of sound-amplifying devices shall end by 10:00 p.m. due to the proximity of the outdoor dining area to residential properties; and,

11. Grantee shall provide a cigarette receptacle for patrons; Grantee and its patrons shall comply with City Code of Ordinances Chapter 8, Environmental Health and Sanitation, Article IV, Pollution Control, Division 5, Regulations and Requirements Relating to Smoking of Tobacco Products, et. seq.; and,

12. Any items for which a Certificate of Design Approval has not been granted shall be submitted for design review prior to installation; and,

13. Sandwich board signs shall not be placed within the five (5) foot pedestrian passageway along the sidewalk; and,

14. Tables and chairs shall be placed in line with the center of the City's planting area and shall not be placed over grates or utility access panels.

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

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, 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:

Assistant City Manager Gentry

Mayor

Approved by:

Cherese Wilson
City Manager

Approved as to form:

[Signature]
City Attorney

ATTEST:

Erika D. Meow
City Clerk

Introduced: 3/21/2017
Final Reading: 4/4/2017

**CITY COUNCIL
ENCROACHMENT SUMMARY
2017-027**



**1600 BLOCK OF MAIN STREET
ADJACENT TO 1635 MAIN STREET
LULA DRAKE
TABLES AND CHAIRS**

Subject Property:	1600 block of Main Street and adjacent to 1635 Main Street
Council District:	2
Proposal:	Request approval for the placement and maintenance of 7 tables and 14 chairs for use by its patrons for outdoor dining during its normal business hours, as shown on the attached drawing.
Applicant:	Lula Drake
Staff Recommendation:	Recommend Approval
Conditions:	1. See attached ordinance for conditions.

Detail:	The applicant is requesting approval for the placement and maintenance of seven (7) tables and fourteen (14) chairs within the tree zoned and sidewalk right of way for use by its patrons for outdoor dining normal business hours of 11:00am until 12:00am Monday through Saturday, as shown on the attached drawing.
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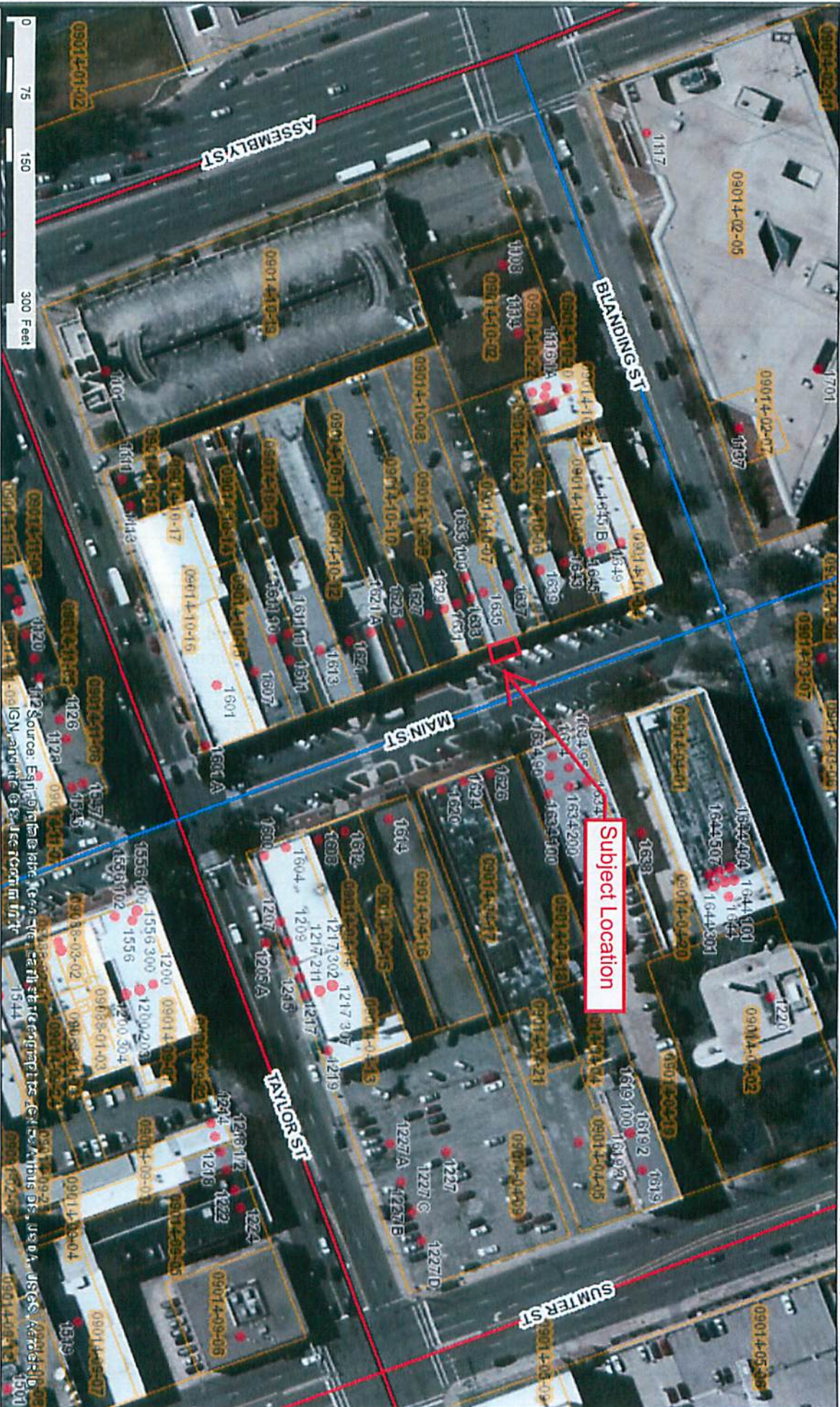
CITY AGENCY COMMENTS FOR ENCROACHMENT

Planning & Development	Recommend Approval.
Streets	Recommend Approval.
Utilities & Engineering	Recommend Approval.
Traffic Engineering	Recommend Approval.
Fire Department	Recommend Approval.
Forestry	Recommend Approval.
Land Development	Recommend Approval.

City of Columbia

1635 Main Street - Lula Drake Encroachment

Monday, January 30, 2017



CITY OF COLUMBIA GIS DATA DISCLAIMER

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**REQUEST FOR A PERMANENT COMMERCIAL ENCROACHMENT ORDINANCE
(INCLUDING OUTDOOR DINING/LANDSCAPING/STUDENT HOUSING)**

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 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. Encroachments must comply with all existing City codes, rules and regulations, the Americans with Disabilities Act, if applicable, and are 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 of Columbia to be named as an additional insured on your insurance policy with limits being increased to \$600,000 as required by Sec. 11-71. 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, (803) 733-8306 or catimmons@columbiasc.net.

Please complete and submit this form along with photographs and drawings or site plan drawn to scale (including a 8-1/2 x11) to Johnathan Chambers by e-mail at jechambers@columbiasc.net; fax at 803-255-8935; or mail to Johnathan Chambers, Development Services, 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.

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 shall be repaired to the satisfaction of the City Manager. Improvements within the encroachment shall be maintained by the grantee at no cost to the City in a manner approved by the City Manager. Property owned, operated and maintained by SCDOT shall comply with SCDOT encroachment requirements.

Date: 3.10.17 Property Owner: CLM Properties
 Business Name/Applicant's Name if different than owner: Lula Drake
 Contact Information: Telephone Number: 803-917-8107 Fax Number: X
 Mailing address: 1635 Main St E-mail address: luladrake@clm.com
 Business Name/Development Name for Encroachment: _____
 Encroachment type: Wall Fence Columns Steps Irrigation System Landscaping Driveway Pavers Sidewalk/Walkway
 Planters Awning Underground Utilities Other: _____

Dimensions (height/width/length):
 (i.e. 6'x4' wooden privacy fence;
 two 12'x4'x3' concrete steps)

Construction material: tables and chairs

OUTDOOR DINING: The Fire Marshal's posted capacity allowed within the business at the time of enactment of the outdoor dining encroachment ordinance shall include the total number of patron seating approved for the outdoor dining encroachment area, if not already included in the posted capacity allowance, so that patrons relocating from inside to the outside or from outside to the inside do not cause the posted capacity to be exceeded.

Hours/days of operation for outdoor dining: 11AM - 12am Monday thru Saturday
 Posted Maximum Capacity Allowance (inside/outside combined): 50 No. of chairs outdoors: 14 No. of Tables Outdoors: 7
 Do you serve: Wine Beer Liquor SCDOR ABL No.: 320727335 If not, do you intend to apply for an ABL license? _____

I acknowledge that the adjoining property owners and businesses have been contacted and approve the addition of outdoor dining at this location to include the service of beer, wine and/or liquor if applicable during the business hours noted above, and that any changes made to the business hours, use of the encroachment area or items allowed within the encroachment area will require an amendment to the encroachment ordinance.
Lula Drake OWNER
 Name/Title: _____
 Date: 3.10.17

I acknowledge that any changes made to the business, hours, use of the encroachment area, or items allowed within the encroachment area, to include obtaining a license to sell beer, wine and/or liquor will require an amendment to the encroachment ordinance.
Tim Gardner Owner
 Name/Title: _____
 Date: 3.10.17

The proposed ordinance will be sent to the requesting party and City offices for review and approval. Johnathan Chambers will compile the recommendations and forward them to the City Clerk for scheduling before City Council. This process may take from 30-90 days.

CONTACT	DEPARTMENT	PHONE	FAX	E-MAIL
Johnathan Chambers	Development Services (Land Development)	803-545-3333	803-255-8935	jechambers@columbiasc.net
John Fellows	Development Services (Planning)	803-545-3222	803-733-8647	jsfellows@columbiasc.net
Brian Cook	Development Services (Zoning)	803-545-3332	803-733-8647	kbcook@columbiasc.net
Jerry Thompson	Development Services (Building Inspections)	803-545-3420	803-733-8699	jthompson@columbiasc.net
Zach Kay	Development Services (Development Center)	803-545-3420	803-733-8699	zpkay@columbiasc.net
Amy Moore	Development Services (Historic Preservation)	803-545-3222	803-733-8647	aemoore@columbiasc.net
Lucinda Statler	Development Services (Urban Design)	803-545-0229	803-733-8647	lsstatler@columbiasc.net
Jerry Thompson	Development Services (Commercial Plan Review)	803-545-3420	803-733-8647	jthompson@columbiasc.net
Scott Holder	Development Services (Landscaping)	803-545-3218	803-255-8935	jsholder@columbiasc.net
Denny Daniels	Utilities & Engineering (Construction Management)	803-545-3400	803-988-8199	jddaniels@columbiasc.net
Robert Anderson	Public Works (Administration)	803-545-3780	803-733-8648	raanderson@columbiasc.net
Robert Sweatt	Public Works (Street Division)	803-545-3790	803-545-3785	rgsweatt@columbiasc.net
David Brewer	Public Works (Traffic Engineering)	803-545-3850	803-733-8648	ddbrewer@columbiasc.net
Sara Hollar	Public Works (Forestry & Beautification)	803-545-3860	803-733-8648	sehollar@columbiasc.net
John Hooks	Public Works (Solid Waste)	803-545-3800	803-733-8648	jphooks@columbiasc.net
Chip Timmons	Risk Management	803-733-8306	803-733-8245	catimmons@columbiasc.net
Kris Scott	Fire Department	803-545-3736	803-401-8839	cfkdscott@columbiasc.net
Linda Matney	Parking Services	803-545-3070	803-733-8523	lsmatney@columbiasc.net

From: **Timothy Gardner** <tim.gardner@...>
Subject: **Variance 1**
Date: **January 25, 2017 at 11:27 AM**
To: **Gardner Tim** <tim.gardner@...>



Sent from my iPhone Device

From: **Timothy Gardner** tim.gardner@cityofdenver.com
Subject: **variance 2**
Date: **January 25, 2017 at 11:27 AM**
To: **Gardner Tim** tim.gardner@cityofdenver.com



Sent from my iPhone Denver