

**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



Agenda Date:	October 21, 2024
Action Required:	Adoption of ordinance
Presenter:	Benjamin Koby, Planner II
Staff Contacts:	Benjamin Koby, Planner II
Title:	Ordinance for Mas Canopy Footer Encroachment Agreement (1 of 2 readings)

Background

TRIMONT, LLC (the "Owner") is the owner of a property identified as 904-906 Monticello Road and Tax Map Parcel 570022000. The Owner is requesting a right-of-way encroachment to allow for a proposed canopy project that would have the footers of their canopy legs extend into the public right-of-way by an amount shown on the provided plat along with eaves protruding from the roof line. The legs of the canopy will be fully within their property lines. However, their below ground footers would extend into the public right-of-way.

The Owner has considered alternative designs that would result in a reduction into the number of seats that could be provided. So, the Owner is petitioning an encroachment for Council approval, to maximize their outdoor space while providing a comfortable, shady place to their customers.

Discussion

The request has been reviewed by the Utilities department and by the Engineering department. Both departments are against both forms of encroachment, as the encroachments will impact their ability to service or provide future service in the right-of-way in those areas. City Staff policy is generally that encroachments in the right-of-way should not be supported as it will complicate future work. As proposed, City staff does not support the encroachments.

However, the right-of-way and the built environment on the corner of Monticello Road and Carlton Avenue are not consistent with each other. There are numerous infractions between the boundary lines and the built environment. There are instances of both private and public encroachments when the right-of-way and built environment are reconciled.

As shown on the attached plat, the private property line extends across both the road and sidewalk. While the existing fence for the Mas' patio extends past their property line, it is line with the face of their building along Carlton Road. There may be some options in reconciling the right-of-way and the built environment by performing a land swap or facilitating a purchase agreement.

In Downtown Belmont there are numerous examples of buildings having similar eaves that may or may not extend into the right-of-way. Therefore, allowing for an eave would not be out of character for this

area of Downtown Belmont. However, regardless of the conforming status of the existing eaves, allowing for an encroachment is not advisable due to the potential impacts to future infrastructure development.

Alignment with City Council's Vision and Strategic Plan

Approval of the encroachment would allow a local restaurant to maximize their property in service to their customers. However, an approval may negatively impact future City infrastructure projects and prevent future, orderly development.

Community Engagement

N/A

Budgetary Impact

As proposed, if approved, there will be no costs on the front end. However, there might be some complicating factors that could prove costly if there is development in the ROW in the future.

Recommendation

City staff believes that denial of the encroachment petition is warranted.

Alternatives

Council can approve the encroachment as shown.

Council can approve the encroachment with alternative conditions.

Council can approve an encroachment to a different extent.

Attachments

1. Mas Encroachment Agreement Ordinance
2. Mas Canopy Design
3. EXHIBIT TAPCONS_fullsize
4. Encroachment Agreement - Trimont LLC