

ORDINANCE NO.: 2012-090

Amending 2011-045 granting Ordinance 83-99 to grant additional encroachments to Parkside Center, LLC for installation and maintenance of columns/pilasters, glass and steel cantilevered canopy, underground parking garage, and nine (9) tables and thirty-six (36) chairs for outdoor dining within the 1100 block of Lady Street adjacent to 1301 Main Street

ORIGINAL
STAMPED IN RED

WHEREAS, Ordinance 83-99 dated December 7, 1983, granted Palmetto Trust Company, Inc. ("Grantee"), its successors and assigns, the right to encroach into the City's right of way area adjacent to the Governor's House Hotel at the 1300 block of Main Street and 1100 block of Lady Street for installation and maintenance of nine (9) steel and concrete columns/pilasters three (3') feet in width and projecting eight (8") inches into the northern right of way of the 1100 block of Lady Street; two (2) steel and concrete column/pilasters approximately five (5') feet in width and projecting eight (8") inches into the western right of way of the 1300 block of Main Street; a vinyl fabric entry canopy and metal frame approximately sixteen (16') feet in height and ten (10') feet in length and twenty (20') feet in width; and, concrete paving and curbs at sidewalk level extending seventy-two (72') feet in length and fourteen (14') feet in width along the northern right of way of the 1100 block of Lady Street as shown on a drawing of the Governor's House dated October 31, 1983; and,

WHEREAS, Ordinance No. 2011-045 dated October 18, 2011 granted the current owner, Parkside Center, LLC ("Grantee") the right to further utilize a portion of the rights of way area adjacent to its building at 1137 Lady Street and 1307 Main Street for the demolition, construction, installation and maintenance of two (2) columns/pilasters approximately three (3') feet in diameter and fifty-five (55') feet four (4") inches in height, extending approximately one (1') foot into the northern right of way of the 1100 block of Lady Street; a glass and steel cantilevered canopy approximately sixteen (16') feet in length and six (6') feet in width; a glass and steel canopy approximately eight (8') feet in length and four (4') feet in height; two in-grade planters approximately four (4') feet eight (8") inches in diameter with an eight (8") inch wide concrete control joint; a step/landing approximately five (5') feet in length and eighteen (18') feet four (4") inches in width; a handicap ramp approximately five (5') feet in length and four (4') feet in width; brick pavers to coordinate with existing pavers; the underground parking garage which currently encroaches under the sidewalk approximately six (6') in width and two hundred seven (207') feet in length; nine (9) tables not to exceed thirty-six (36") inches in diameter, nine (9) umbrellas, and thirty-six (36) chairs for outdoor dining by patrons during the restaurants normal business hours of 6:00 a.m. until 11:00 p.m., seven days a week, as shown on the attached drawing; and,

WHEREAS, Grantee desires to amend Ordinance No. 2011-045 to adjust the size and dimensions of the planters to two (2) raised square planters approximately six (6") inches in height five (5') feet eight (8") inches in length and eight (8") inches in width, as shown on the attached drawing; and,

WHEREAS, it appears that the additional encroachment will not interfere with the use of the 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 day ___ of _____, 2012, that ordinance No. 2011-045 is hereby amended to grant Parkside Center the right to adjust the size and dimensions of the planters to two (2) raised square planters approximately six (6") inches in height five (5') feet eight (8") inches in length and eight (8") inches in width, within in the rights of way area adjacent to its building at 1137 Lady Street and 1307 Main Street, 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 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 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; and,

ORIGINAL
STAMPED IN RED

2. The tables, chairs and umbrellas shall be of durable material and weighted to withstand strong winds, and shall not impede or obstruct pedestrian movement and vehicle movement and parking. The tables, chairs and umbrellas 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 existing trees and roots shall be prohibited; and,

3. 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,

4. Use of the encroachment area for the tables, chairs and umbrellas 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,

5. Any changes to the 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,

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

7. In order to be in compliance with the Americans with Disabilities Act, all site furnishings, including umbrellas, shall not encroach into the five (5') foot wide and eight (8') foot tall accessible pedestrian zone; and,

8. Fire Department Connection shall not be obstructed; and,

9. Grantee shall provide for patrons a cigarette receptacle and trash receptacle, which shall be made of durable material and weighted to withstand strong winds.

PROVIDED FURTHER that the encroachment rights granted by this ordinance for tables, chairs and umbrellas for outdoor dining by patrons are exclusive only to the Grantee. Should the Grantee cease restaurant business operations the encroachment rights granted by this ordinance for tables, chairs and umbrellas for outdoor dining by patrons shall terminate.

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.

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:

Parkside Center, LLC

Steve Brij
MAYOR

Approved by:
[Signature]
City Manager

Approved as to form:
[Signature]
City Attorney

ATTEST:
Erika D. Moore
City Clerk

Introduced: 9/18/2012
Final Reading: 10/2/2012