

ORDINANCE NO.: 2011-042

*Granting an encroachment to Mezza Bistro for placement and maintenance of five (5) tables; ten (10) chairs; two (2) umbrellas and two (2) planters within the sidewalk right of way adjacent to 701 Gervais Street, Suite 110 for use by its patrons for outdoor dining during normal business hours*

WHEREAS, Mezza Bistro, (hereinafter "Grantee") desires to utilize a portion of the sidewalk right of way area adjacent to 701 Gervais Street, Suite 110, for placement and maintenance of five (5) tables approximately twenty-three and one half (23-1/2") inches in diameter; ten (10) chairs; three (3) umbrellas approximately four (4') foot in width and four (4') foot in height; and two (2) planters approximately twenty-one (21") inches in width and eight (8') feet in height, for use by its patrons for outdoor dining during its normal business hours of 11:00 a.m. to 11:00 p.m. Monday through Thursday, and 11:00 a.m. to 2: 00 a.m. Friday and Saturday, as shown on the attached drawing; and,

WHEREAS, the tables, chairs, umbrellas and planters shall be placed adjacent to the building to prohibit obstruction of pedestrian movement and vehicle parking 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 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 2nd day of August, 2011, that Grantee, its successors and assigns, is hereby granted the right to place and maintain five (5) tables approximately twenty-three and one half (23-1/2") inches in diameter; ten (10) chairs; three (3) umbrellas approximately four (4') foot in width and four (4') foot in height; and two (2) planters approximately twenty-one (21") inches in width and eight (8') feet in height, for use by its patrons for outdoor dining during its normal business hours of 11:00 a.m. to 11:00 p.m. Monday through Thursday, and 11:00 a.m. to 2: 00 a.m. Friday and 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, 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,
2. The location of tables, chairs, umbrellas and planters shall not impede the path of travel for the assigned exit discharge of the adjoining building; and,
3. To prohibit the business from overcrowding, the posted capacity allowed within the business at the time

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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 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. The tables, chairs, umbrellas and planters shall be placed adjacent to the building so as to allow five (5) feet of passageway along the sidewalk at all times and not obstruct pedestrian movement and vehicle movement and parking, and shall be of durable material and weighted to withstand strong winds; and,

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

8. 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.

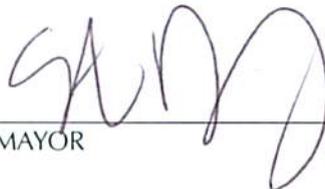
PROVIDED FURTHER that the privilege granted hereby may be modified or terminated by Columbia City Council at any time without notice to the Grantee, its successors and assigns.

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:

Mezza Bistro

  
MAYOR

Approved by:

City Manager

Approved as to form:

City Attorney

Introduced: 7/19/2011

Final Reading: 8/2/2011

ATTEST:

City Clerk

**CITY COUNCIL  
ENCROACHMENT SUMMARY  
2011-042**



**ADJACENT TO 701 GERVAIS STREET, SUITE 110**

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**Subject Property:** Adjacent to 701 Gervais Street, Suite 110  
**Council District:** 1  
**Proposal:** Request approval for placement and maintenance of five (5) tables approximately twenty-three and one half (23-1/2") inches in diameter; ten (10) chairs; three (3) umbrellas approximately four (4') foot in width and four (4') foot in height; and two (2) planters approximately twenty-one (21") inches in width and eight (8') feet in height.  
**Applicant:** Mezza Bistro  
**Staff Recommendation:** Approve subject to standard conditions.

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**Detail:** The business owner proposes to place tables and chairs in the right-of-way at the above location and, provided the standard conditions are adhered to, staff finds there would be no adverse impact resulting from this encroachment

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**CITY AGENCY COMMENTS FOR ENCROACHMENT**

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<b>Planning &amp; Development</b>	Recommend Approval
<b>Streets</b>	Recommend Approval
<b>Forestry</b>	Recommend Approval
<b>Land Development</b>	Recommend Approval



**ORD# 2011- 042 - NX 701 GERVAIS STREET**

**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 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 of Columbia to be named as an additional insured on your homeowners' 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.*

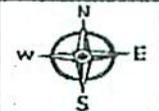
Please complete and submit this form along with any attachment(s) to Shari Ardis by e-mail at slardis@columbiasc.net ; fax at 803-737-4250; or mail to Shari Ardis, Legal Department, POB 147 Columbia, SC 29217, for preparation of an encroachment ordinance. Copies to City departments should be directed to the contact person for that department as shown below and not through the Legal Department. Chip Timmons with Risk Management (733-8306 or catimmons@columbiasc.net ) should be contacted regarding the insurance requirements.

Date: 5/31/2011 Property Owner: FGA Family Trust - Trustees John S. Rainey & NJ Arnold  
 Applicant's Name if different from Property Owner: Elie Abikahaled for Mezza Bistro  
 Contact Information: Telephone Number: 803.708-0236 Fax Number: 803.708.0421  
 Mailing address: 701 Gervais, Ste 110, Columbia SC 29201 E-mail address: pamahie@bellsouth.net  
 Encroachment Location (Address): 701 Gervais St, Ste 110  
 (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: TMS# 08912-07-11

Encroachment type:  Wall  Fence  Columns  Steps  Irrigation System  Landscaping  Driveway  Pavers  
 Walkway/Side walk  Underground Utilities  other  
 If Other - specify: \_\_\_\_\_  
 Dimensions (height/width/length): \_\_\_\_\_

(i.e., 6'x42' wooden privacy fence; two 12"x4' concrete step; two 12"x12" x24" brick columns; 4'x15' brick paver walkway)  
 Construction material: \_\_\_\_\_  
 Please provide photographs and drawing or site plan **drawn to scale** - no larger than 8-1/2 x 11.

Church Directional Signs (Must provide picture or drawing of proposed signs that reflect dimensions)  
 Location(s) signs are to be placed (i.e. Northeast corner of Main Street) \_\_\_\_\_



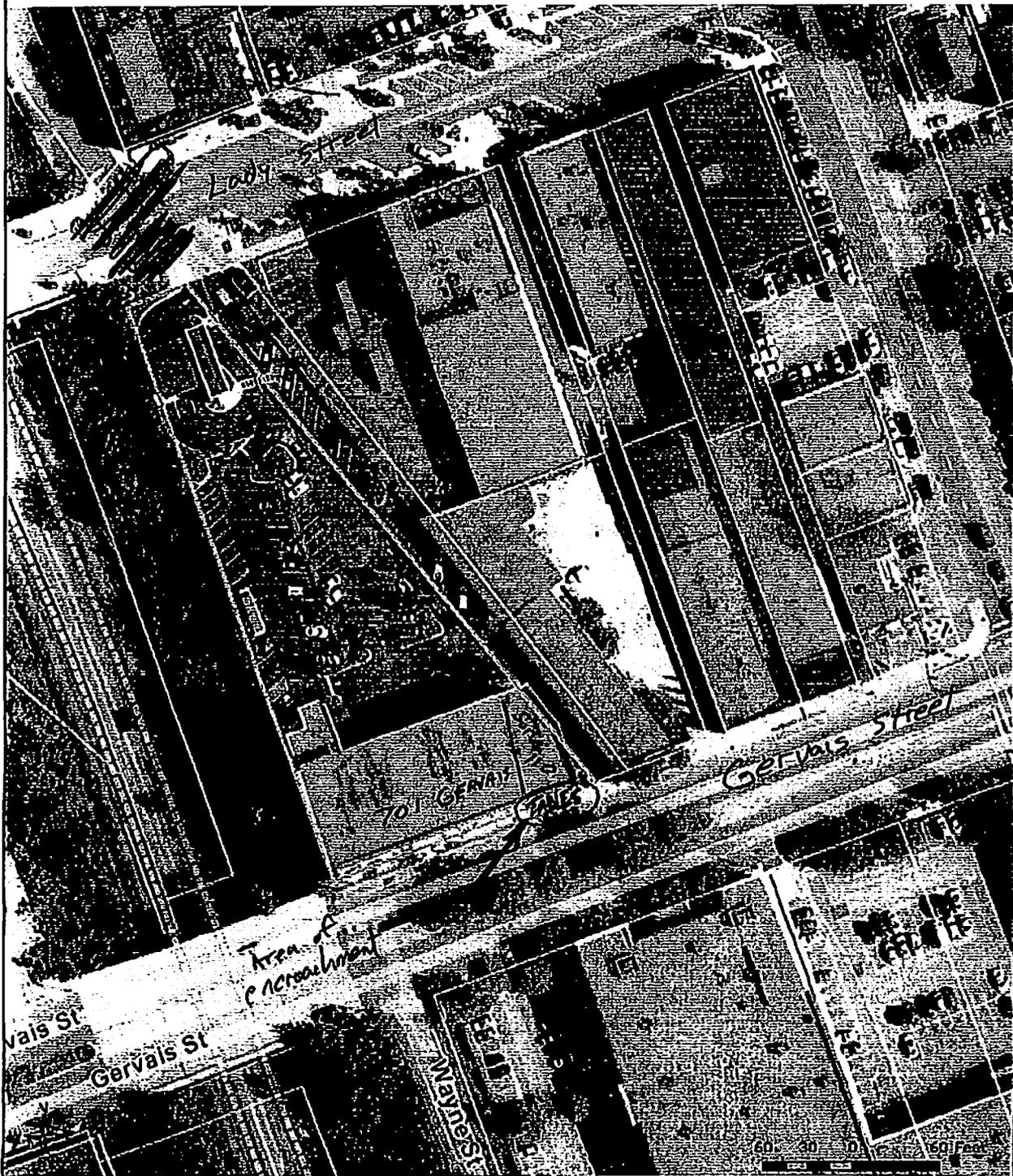
Businesses only:  Outdoor dining No. of chairs: 10 No. of Tables 5  
 Hours of operation for outdoor dining: 11 am until 11 pm  
 Number of planters: 2 Awning: \_\_\_\_\_ (dimensions - size/material) Umbrellas 4x4 (2)  
 Other: \_\_\_\_\_ (or complete applicable "Encroachment type" section above)

The proposed ordinance will be sent to the requesting party and City offices for review and approval. Krista Hampton 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	Telephone Number	Fax Number
Joey Jaco	Utilities & Engineering	545-3400	988-8199
Missy Gentry	Public Works	545-3780	733-8648
Krista Hampton	Planning and Development Services	545-3420	733-8647
Jerry Thompson	Building Official	545-3442	733-8699
Sara Hollar	Forestry & Beautification	545-3860	733-8648
Amy Moore	Historic Preservation	545-3222	733-8647
Fred Delk	Columbia Dev. Corporation	988-8040	988-8039
Chip Timmons	Risk Management	733-8306	733-8245
Dana Higgins	Construction Management	545-3372	545-4130
David Brewer	Traffic Engineering	545-3850	733-8648
Robert Sweatt	Street Division	545-3790	545-3785
Jonathan Chambers	Planning and Development Services	545-3206	343-8779
Carmen Floyd	Fire Marshall	545-3703	401-8839
Nancy Lee Trihey	Planning and Development Services	545-3218	733-8647
John Fellows	Planning and Development Services	545-3222	733-8647

Matter No.: 11050837  
 Attorney: LEGISLA  
 Date In: 5/31/2011  
 File No.: 2011-042  
 Date Out: 9/19/11

701 Gervais Street

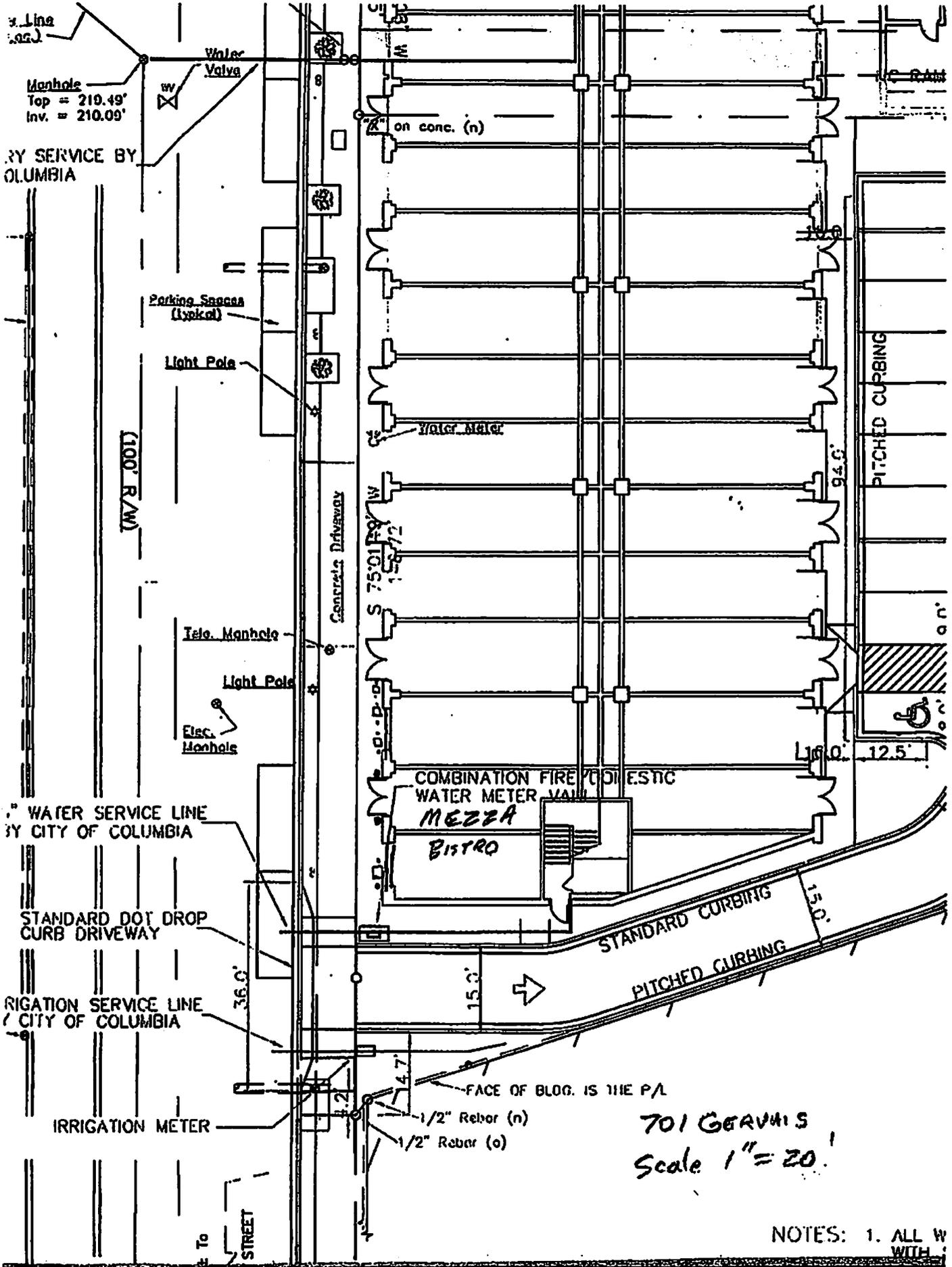


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701 GERVAIS  
 Scale 1" = 20'

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