

May 15, 2023

RE: RS2023-2182

Proposal No. 2023M-007EN-001

The attached Ordinance

Mr. President:

Due to an inadvertent misunderstanding between the applicant and the Department of Transportation and Multimodal Infrastructure, what is now being refiled as the attached Ordinance was previously incorrectly filed as Resolution No. 2023-2182. The reason why this was incorrect was that the nature of the encroachment, as described in Proposal No. 2023M-007EN-001, was previously misunderstood to be an aerial encroachment (permitted to be approved by resolution by Chapter 13.16 of the Metropolitan Code), whereas, with hindsight, it appears that, in actuality, it is an in-ground encroachment, which is required to be approved by ordinance per Section 13.08.030 of the Metropolitan Code.

Unfortunately, this mistake was not discovered until late afternoon on Friday, May 12, 2023, just before the close of business, although the applicant needs this ordinance to be heard on first reading at the council meeting on May 16, 2023. Accordingly, please accept this ordinance for late-filing as an emergency pursuant to Council Rule of Procedure 13. Meanwhile, please consider Resolution No. 2023-2182 to be withdrawn.

Thank you.

Sincerely,

A handwritten signature in black ink that reads "Diana W Alarcon". The signature is fluid and cursive, with a horizontal line drawn underneath it.

Diana Alarcon, Director  
Department of Transportation and Multi-Modal  
Infrastructure

### CERTIFICATE OF INSURANCE

This is to further certify to the Metropolitan Government of Nashville and Davidson County concerning the policies of insurance listed above and the coverage provided thereby that:

1. The Contractual Insurance coverage is on a Blanket Broad Form basis unless specifically indicated below,
2. The company or companies, upon request, agree to deliver within fifteen (15) days a certified copy of any and/or all of the policies of insurance to The Metropolitan Government of Nashville and Davidson County,
3. If one (1) or more Umbrella Excess policies are used, there is no gap between the limits of the primary policies and the deductible feature of the Umbrella Excess policies,
4. Coverage under the primary policies have no deductible features unless there is a check mark here ( ). If there are deductible features or the insured has adopted a funded self-insurance program, they are fully explained on an attached sheet which becomes a part of this Certificate, and
5. The coverage provided shall not be cancelled, reduced in coverage, or allowed to lapse unless and until The Metropolitan Government of Nashville and Davidson County receives at least thirty (30) days advance written notice of same. The written notice must be delivered to the Metropolitan Risk Manager at his office shown as the address of the Certificate Holder below or the secondary Certificate Holder, if one is so listed below.

#### Name and Address of Certificate Holder

The Metropolitan Government of  
Nashville and Davidson County  
Metro Legal & Claims  
C/O Insurance and Safety Division  
222 3<sup>rd</sup> Avenue North, Ste #501  
Nashville, TN 37201

Date Issued: \_\_\_\_\_

\_\_\_\_\_  
(Agency or Company)

by \_\_\_\_\_  
(Authorized Representative)  
(Attach Power of Attorney)



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

02/14/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Robins Insurance Agency, Inc 30 Burton Hills Blvd. Suite 300 Nashville TN 37215	<b>CONTACT NAME:</b> Megan Champ <b>PHONE (A/C, No, Ext):</b> (615) 665-9200 <b>E-MAIL ADDRESS:</b> mchamp@robinsins.com <b>FAX (A/C, No):</b> (615) 665-9207
<b>INSURED</b> Cannery Owner LLC; Cannery Investment I LLC 209 10th Ave S Ste 134 Nashville TN 37203	<b>INSURER(S) AFFORDING COVERAGE</b> <b>INSURER A:</b> Evanston Insurance Company <b>INSURER B:</b> Nautilus Insurance Company <b>INSURER C:</b> Evanston Insurance Company <b>INSURER D:</b> <b>INSURER E:</b> <b>INSURER F:</b>

**COVERAGES****CERTIFICATE NUMBER:** CL2210626873**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Designated Premises Endorsement GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			3AA477039	10/01/2022	10/01/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 1,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			AN1269360	10/01/2022	10/01/2023	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N <input type="checkbox"/> N/A						PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
C	Excess Liability- 2nd Layer			EZXS3092644	10/01/2022	10/01/2023	Occurrence \$5,000,000 Aggregate \$5,000,000

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)**

Re covered locations:  
1 Cannery Row, Nashville, TN 37203  
521 A 8th Avenue South, Nashville, TN 37203

Complete certificate holder:  
The Metropolitan Government of Nashville and Davidson County Metro Legal and Claims c/o Insurance and Safety Division  
222 3rd Avenue North Ste. #501 Nashville, TN 37201

**CERTIFICATE HOLDER****CANCELLATION**

The Metropolitan Government of Nashville and Davidson County (see description)  
222 3rd Avenue North Ste. #501  
Nashville  
TN 37201

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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LICENSE AGREEMENT FOR PRIVATE ENCROACHMENTS  
INTO THE PUBLIC RIGHT OF WAY

I/We, \_\_\_\_\_, in consideration of the Resolution No. \_\_\_\_\_, to construct, maintain, install and/or operate an encroachment into, onto, over, or under the public right of way located at in Nashville, Davidson County, Tennessee, do hereby, for myself, my agents, customers, and assigns, waive and release and hold harmless The Metropolitan Government of Nashville and Davidson County, its agents, employees, and assigns from any and all claims, rights, or demands for damages that may arise from my/our use, construction and/or maintenance of the encroachment, to wit: (SEE ATTACHED DESCRIPTION OF ENCROACHMENT). I/We hereby certify to the Metropolitan Government of Nashville and Davidson County that I/We have executed a bond or liability insurance policy in such amount as agreed upon by the Director of Public Works and the Metropolitan Attorney, and in the form approved by the Metropolitan Attorney (per Metropolitan Code Section 38-1-1), which operates to indemnify and save The Metropolitan Government of Nashville and Davidson County harmless from all claims or demands that may result to persons or property by reason of the construction, operations or maintenance of the encroachment. I/We further agree that my/our obligations hereunder may not be assigned except upon approval of the Director of Public Works and the Metropolitan Attorney. I/We further acknowledge that any action that results in a failure to maintain said bond or liability insurance for the protection of The Metropolitan Government of Nashville and Davidson County shall operate to the granting of a lien to The Metropolitan Government of Nashville and Davidson County in the amount of the last effective bond/insurance policy. Said insurance or bond may not be cancelable or expirable except on 30 days notice to the Director of Public Works.

I/We further recognize that the license granted hereby is revocable by The Metropolitan Government upon recommendation of the Director of Public Works and approval by resolution of the Metropolitan County Council if it is determined to be necessary to the public welfare and convenience. In the event the Metropolitan Government revokes this license as contemplated by this paragraph, licensee will not be entitled to any compensation of any kind. This license shall also be strictly subject to the right of way easement owned by The Metropolitan Government. I/We agree to maintain, construct and use the encroachment in such a way as will not interfere with the rights and duties of the Metropolitan Government

as owner of the right of way. Said interference shall be additional grounds for revocation of the license for encroachment. I/We agree to pay the cost of construction, maintenance, use, as well as relocations cost of said encroachment. Licensee's failure to complete construction of the contemplated encroachment within 36 months of the date of approval by the Metropolitan Council will cause this license to terminate automatically. In the event the encroachment contemplated by this license is substantially destroyed, this license shall terminate unless fully restored by licensee within 36 months from the date of such destruction. In the event this license is revoked or terminated for any reason, licensee shall restore all public property to the condition obtaining at the time the license became effective at licensee's sole cost and expense.

DATE:

2/6/2023

(Owner of Property)

1 Cannery Row, Nashville, TN 37203  
521 A 8<sup>th</sup> Ave, S., Nashville, TN 37203

(Address of Property)

Nashville, TN

(City and State)

STATE OF TENNESSEE)

COUNTY OF DAVIDSON)

Sworn to and subscribed before

Me this 6<sup>th</sup> day of February, 2023

Peggy D. Hayden  
(NOTARY PUBLIC)

My Commission Expires: 11/6/23



PETITION TO ENCROACH UPON A PUBLIC RIGHT-OF-WAY

PETITION NO. \_\_\_\_\_

We, the undersigned, do hereby petition the METROPOLITAN DEPARTMENT OF PUBLIC WORKS and the METROPOLITAN PLANNING COMMISSION to recommend to the METROPOLITAN COUNCIL and MAYOR that legislation be enacted to authorize the construction, installation and maintenance of an encroachment upon the public right-of-way as follows:

Portions of existing and replacement egress door outward swing, stairs, and ramps on 1 Cannery Lot

End of existing shared loading dock, portion of dock on 1 Cannery Lot and portion on 521 A 8th Ave Lot, all  
as more particularly described on the attached exhibits.

Addresses and Map and Parcel numbers of property or properties associated with the proposed encroachment:

ADDRESS

MAP AND PARCEL NUMBER

1 Cannery Row, Nashville, TN 37203

Parcel ID 09314000200

521 A 8th Ave S, Nashville, TN 37203

Parcel ID 09314000300

Attach the following in support or explanation of this application:

✓ ☒ A check for the filing fee of \$250.00 made payable to the Metropolitan Government (**application fee is non-refundable**).

✓ ☒ A scaled drawing on 8 1/2 " x 14" paper of the proposed encroachment. (Additional exhibits may be required depending upon the nature of the request).

✓ ☒ A private encroachment license agreement signed by the person to whom the encroachment privilege is to be granted.

✓ ☒ A certificate of liability insurance in the amount to be determined necessary by the Department of Public Works.

Signature and mailing address of person or business to whom privilege of encroachment will be granted:

Signature: \_\_\_\_\_

Address: \_\_\_\_\_

1 Cannery Row  
Nashville, TN 37203

Council District: \_\_\_\_\_

19<sup>th</sup>

PERSON FILING THIS PETITION:

If other than owner or optionee of properties listed above, state relationship. All correspondence will be mailed to this person.

Name: \_\_\_\_\_

Jon Cooper % Waller Law

Address: \_\_\_\_\_

511 Union Street, Suite 2700

City, State, Zip: Nashville, TN 37219

Phone: Residence \_\_\_\_\_

(615) 218-5123

Business \_\_\_\_\_

(615) 850-8550

**NOTE: THIS APPLICATION WILL NOT BE ACCEPTED UNLESS COMPLETED IN FULL.**

# Metropolitan Government Department of Public Works

750 South 5<sup>th</sup> Street • Nashville, TN 37208 • (615) 862-8750 • www.nashville.gov/public-works

## Mandatory Referral Application:

*Encroachment: Sign / Awning / Fiber Optic Cable / Other*

\*\*\* Before filing this application, please review checklist on the back of this application. \*\*\*

### Encroachment Type:

☐ Awning

☐ Fiber Optic Cable (▲ ground)

☐ Fiber Optic Cable (▼ ground)

☐ Sign

☒ Other Portions of Existing and Replacement Egress Door Outward Swing, Stairs, and Ramps and End of Existing Loading Dock

Date Submitted: \_\_\_\_\_

Mandatory Referral Project No. \_\_\_\_\_

(MPW staff assigns project #)

Map & Parcel(s): Parcel ID 09314000200 (1 Cannery) and Parcel ID 09314000300 (521 A 8th Ave S, for loading dock only)

Street Address(es): 1 Cannery Row and 521 A 8th Ave S, Nashville, TN 37203

### Notarized Signature of Property Owner(s):

You must obtain the *notarized* signature of all property owners on whose property the sign or awning will occur. Failure to provide this information will deem your application *incomplete* and postpone your application's consideration by the Metropolitan Planning Commission. Copy form below for additional signatures.

As the owner(s) of property, I/we agree to the submission of this mandatory referral application to the Metropolitan Government Department of Public Works for a sign, awning or fiber optic cable encroachment.

Date: Cannery Owner, LLC  
(Company Name)

  
(Signature of Property Owner)  
Zach Liff  
(Name of Property Owner)  
Manager  
(Title of Property Owner)



1 Cannery Row and 521 A 8th Ave South, Nashville, TN 37203

(Address of Property (including city & state))

STATE OF TENNESSEE  
COUNTY OF DAVIDSON  
Sworn to and subscribed before  
Me this 6<sup>th</sup> day of Feb, 2023

  
(Notary Public)

My Commission Expires: 11/6/23

**Applicant:** All correspondence will be mailed to the applicant.

☐ Architect ☐ Engineer ☐ Property Owner ☐ Other: \_\_\_\_\_

Name: Jon Cooper

Business: Waller Law

Address: 511 Union Street, Suite 200

City: Nashville State: TN Zip: 37219

Phone: 615-218-5123 615-850-8550

☐ business ☒ home ☒ business ☐ mobile

Fax: \_\_\_\_\_

☐ business ☐ home ☐ business ☐ mobile

E-mail: \_\_\_\_\_

Applicant's Signature: \_\_\_\_\_

**Filing Fee** (All application fees are non-refundable)

Encroachment: Sign / Awning / Fiber Optic Cable \$250.00  
Other

Amount paid: \$ \_\_\_\_\_

Accepted by: \_\_\_\_\_ Date: \_\_\_\_\_



# Mandatory Referral

## 4 Checklist

ρ **Mandatory Referral Application**

If any electrical vaults are located below proposed sign, awning or fiber optic cable, special design standards may be required. Contact NES 615-747-3964 for more information on electrical vault locations.

**DO NOT INSTALL** anything that would encroach over Metro right-of-way until your application is approved by Metro Council. If you do, you could have to wait six months before your application is considered by Metro Council. For more information, see Council Bill BL2000-444 available at: [https://www.nashville.gov/mc/ordinances/term\\_1999\\_2003/bl2000\\_444.htm](https://www.nashville.gov/mc/ordinances/term_1999_2003/bl2000_444.htm) or call the Metro Clerk for a copy of the bill at 862-6770.

ρ **Filing Fee \$250 (All application fees are non-refundable)**

Cash or check. If check, make payable to "Metropolitan Government". Credit cards not accepted.

ρ **Property Map**

Show location of property and surrounding streets (use "Maps" on the MPC web to create property map)

ρ **Notarized Signature of Property Owner(s)**

You must obtain the *notarized* signature of all property owners whose property the sign or awning will occur. Failure to provide this information will deem your application **Incomplete** and postpone your application's consideration by the Metropolitan Planning Commission.

ρ **License Agreement for Private Encroachment into Public Right-of-Way**

Obtain copy from MPW web site, MPW Right-Of-Way Permits' Office at (615-862-8782).

ρ **Franchise License**

*If fiber optic cable company*, prior to submitting a fiber optic cable encroachment, you must contact the Metro Department of Law at 615-862-6341 for determination of whether franchise license is required.

ρ **Certificate of Liability Insurance**

Certificate must identify Metro Government of Nashville & Davidson County as Certificate Holder.

ρ **Right-of-Way Notice**

While not a requirement of your application, please be aware that no construction work may be undertaken in any street, road, alley or right-of-way or of any utility or temporary construction easement of the metropolitan government or other government entity by any department of the metropolitan government or any other entity unless adequate notice has been given to the abutting fee owner of a street, road, alley, or right-of-way or fee owner of the easement, and to the district member of council representing the area of such construction work. For more information, see Metro Code 13.20 available at: [https://library.municode.com/in/metro\\_government\\_of\\_nashville\\_and\\_davidson\\_county/codes/code\\_of\\_ordinance?s?nodeId=CD\\_TIT13STIPUPL\\_DIVIGERE\\_CH13\\_20EXOB](https://library.municode.com/in/metro_government_of_nashville_and_davidson_county/codes/code_of_ordinance?s?nodeId=CD_TIT13STIPUPL_DIVIGERE_CH13_20EXOB) or call the Metro Clerk for a copy of the bill at 862-6770, or call the Public Works Department Permits' Office at 615-862-8782.




ρ **Drawings** should identify the following:

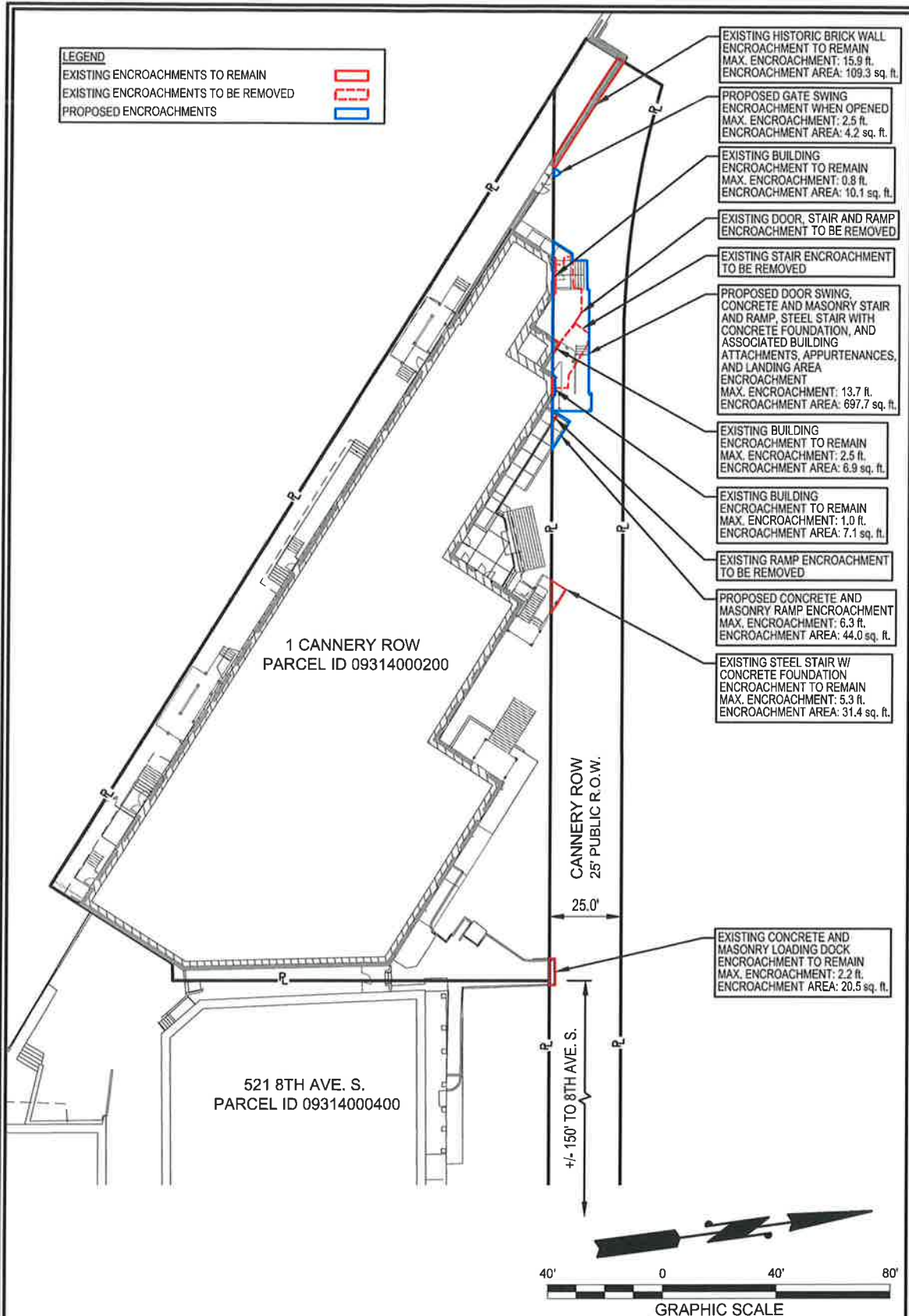
**Signs / Awnings**

- Width and length of sign/awning
- Vertical height of awning
- Horizontal distance sign/awning projects over public right-of-way
- Vertical distance sign/awning will be installed above public right-of-way
- Horizontal distance between door awning and street curb (Note: Door awnings must be setback 18" from street curb)
- Location of every sign, window awning or door awning to be installed on building (photograph is helpful)
- Method of attachment / anchoring to building or sidewalk

**Fiber Optic Cable**

- Map identifying cable path
- Cable length in feet or miles
- Thickness of cable
- Number of cables
- If ▲ ground, what cable will be attached to and method of attachment
- If ▲ ground, height of cable above public right-of-way
- If ▼ ground, average depth below public right-of-way (e.g. "36 – 42")
- If ▼ ground, size of trench / boring

LEGEND	
EXISTING ENCROACHMENTS TO REMAIN	
EXISTING ENCROACHMENTS TO BE REMOVED	
PROPOSED ENCROACHMENTS	



## CANNERY ROW PROPOSED PUBLIC ENCROACHMENT EXHIBIT

FOR: DZL MANAGEMENT COMPANY, LLC

DATE: 2/14/2023

PARCEL: 09314000200

ZONING: DTC

PROJECT #: 1080220050

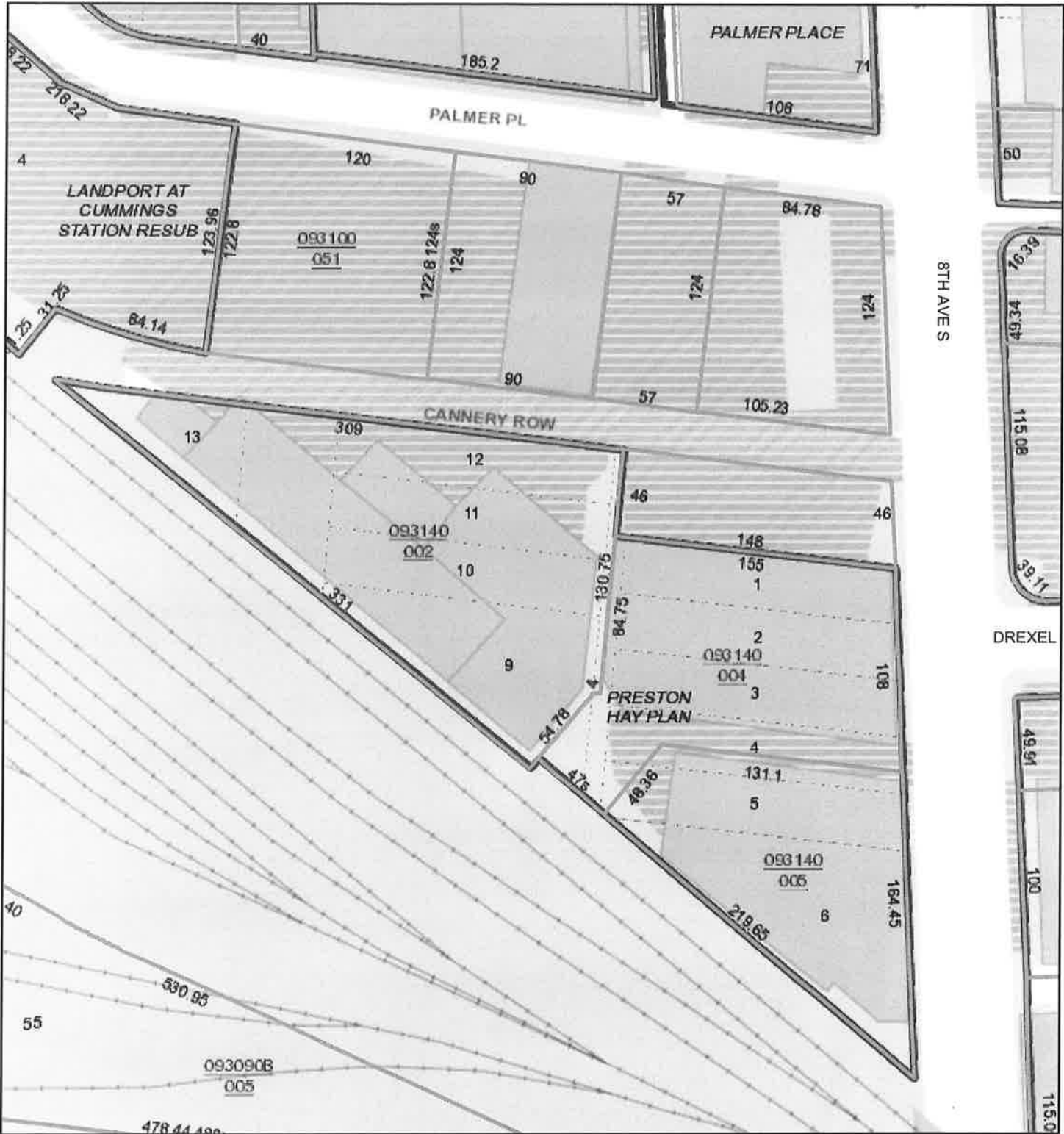
SHEET 1 OF 1

ADDRESS: 1 CANNERY ROW - NASHVILLE, TN 37203

**OHM**

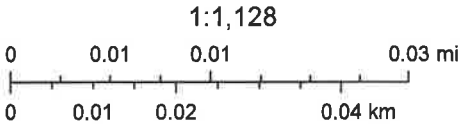
OHM ADVISORS  
209 10th AVENUE SOUTH  
SUITE 154  
NASHVILLE, TN 37203  
615-649-6264

Nashville / Davidson County Parcel Viewer



February 17, 2023

 graphicsLayer2



NDOT, Metro GIS

Made by: Metro GIS