



Council Communication

Office of the City Manager

Date

June 9, 2008

Agenda Item No. 74
Roll Call No. 08-
Communication No. 08-318
Submitted by: Larry Hulse, Community
Development Director

AGENDA HEADING:

Approval of vacation and lease of underground right of way space for a bar business serving alcohol for The Underground, located at 500 East Locust Street.

SYNOPSIS:

Recommend approval of vacation and lease of underground right of way space for The Underground located at 500 East Locust Street subject to the Building Official and City staff approving the lease agreement and meeting other requirements for the use of this underground area. Staff review of the requirements specified by the Board Of Adjustment (BOA) and lease agreement cannot be finalized until the City Council approves the request for vacation and leasing of the underground portions of the right of way adjacent to 500 East Locust Street along East 5th Street and East Locust Street.

FISCAL IMPACT: NONE

Amount: N/A

Funding Source: N/A

ADDITIONAL INFORMATION:

In order for a bar to serve alcohol on a portion of a public right of way, the right of way must be vacated, leased to the proprietor, and certain specific requirements must be met. In addition, insurance must be provided by the owner and the amounts approved by City staff. At this time staff has reviewed a preliminary application and finds that it still needs further information before the requirements specified in the sidewalk café program are met.

The building was built in 1912 with the area adjacent to the building and under the sidewalk consisting of approximately 1,100 sq ft of area previously used for deliveries, coal storage to the building and a stairway to the underground space. Pictures have been provided to show the general area of the above ground surface that the underground lease covers.

The situation here is unique, since in order to operate a bar, the use must be approved by the Board of Adjustment (BOA). The BOA review and approval of this application for a bar occurred on April 23, 2008. Staff review of the requirements specified by the BOA and in the lease agreement cannot be finalized until the City Council approves the request for vacation and leasing of the underground portions of the right of way adjacent to 500 East Locust Street along East 5th Street and East Locust Street since there is no practical way to separate the underground right of way space from the bar use.

In addition, this underground area should be vacated as this area has been used by the building as part of its use since 1912. Currently, there is an areaway permit in place for this area that is administered by the Traffic and Transportation Division for only a portion of the underground right of way. A lease for this underground area will provide more control and oversight by the City at this particular site once the lease is in place.

At this time there is not a specific procedure for allowing underground City right of way to be leased for commercial purposes. In this case, after consulting with the City Legal Department, it was determined that the Sidewalk Café Lease Program would be the most appropriate procedure to follow to lease property for a bar/restaurant commercial use at this site. Based on this determination, staff is proceeding with the lease arrangement through the sidewalk café program lease procedure.

PREVIOUS COUNCIL ACTION(S):

Date: July 23, 2007

Roll Call Number: 07-1446

Action: On vacation and lease of a portion of the 6th Avenue and Mulberry Street right-of-way adjoining the Midland Building at 206 6th Avenue, to permit a sidewalk café for Amici Espresso. (Council Communication No. 07-459) Moved by Hensley to adopt. Motion Carried 7-0.

Date: May 21, 2007

Roll Call Number: 07-995

Action: On vacation of lease of a portion of the sidewalk adjoining Bistro Montage at 2716 Ingersoll, for a Sidewalk Café. (Council Communication No. 07-286) Moved by Hensley to adopt. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

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