

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date	May 18, 2009
	Agenda Item No. 69 Roll Call No. 09- Communication No. 09-322 Submitted by: Larry Hulse, Community Development Director	

AGENDA HEADING:

Approval of the vacation and lease of a 5 x 27 foot (135 square ft) portion of the Right of Way in front of 208 3rd Street, the Pelican Bar, for use as a sidewalk café serving alcohol.

SYNOPSIS:

The applicant, Tommy Mauro, operator of the Pelican Bar located at 208 3rd Street has requested the vacation and lease of a 5 x 27 ft (135 sq ft) portion of the Right of Way for use as a sidewalk café serving alcohol. The lease presented for approval by the City Council requires the applicant to maintain a six foot clear pathway for pedestrian travel upon the public sidewalk as required by the adopted design standards, or such lesser amount as may be hereafter approved by the City Council.

FISCAL IMPACT:

Amount: \$187.50 per year lease fee for three years paid to the City. Increase in revenue to the City for the lease of the vacated right of way.

Funding Source: General Fund – Permit and Development Center, Fund GE001, Org CDD130100 – Account 460145 Sidewalk and Account 468440 Application and Lease fees.

ADDITIONAL INFORMATION:

The Design Standards for Sidewalk Cafes adopted by the City Council on July 10, 2006, by Roll Call No. 06-136 require that a six foot wide unobstructed pedestrian pathway be maintained upon the public sidewalk. The applicant seeks to lease and enclose an area that will leave a clear pathway open to pedestrian travel of less than 6 feet in width around an existing power pole.

Section 102-286(b) of the City Code authorizes the City Council to vacate portions of the public sidewalks for use by sidewalk cafes without review by the City Planning and Zoning Commission only if the sidewalk cafe will conform to the adopted design standards. Therefore the sidewalk cafe lease presented for City Council approval requires the applicant to maintain the required six foot clear pathway for pedestrian travel, or such lesser amount as may be hereafter approved by the City Council. This will allow the applicant to commence operation of a sidewalk cafe while the request to waive the six foot requirement is processed through the City Planning and Zoning Commission.

The request to waive the design standards and allow a clear pedestrian pathway less than six feet in width will be presented for review and recommendation by the City Planning and Zoning Commission as

required by Section 102-286(b) of the City Code. The request for a waiver will then be presented for decision by the City Council.

PREVIOUS COUNCIL ACTION(S):

Date: July 14, 2008

Roll Call Number: 08-1219

Action: Sidewalk Café Lease to HFL, LLC dba Johnny's Hall of Fame, 302 Court Avenue. (Council Communication No. 08-411) Moved by Mahaffey to adopt. Motion Carried 7-0.

Date: July 14, 2007

Roll Call Number: 07-1446

Action: Vacation 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: 07-996

Action: On vacation and 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.

Date: May 23, 2005

Roll Call Number: 05-1291

Action: Sidewalk Café Lease Agreement with JHF Corp. dba Johnny's on Court, 302 Court Ave. (Council Communication No. 05-290). Moved by Hensley to adopt. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

City Council consideration of the applicant's request to waive the requirement to maintain a 6 foot wide clear pedestrian pathway under the adopted Design Standards for Sidewalk Cafes. This request cannot

be considered by the City Council until the City Plan and Zoning Commission is given an opportunity for review and recommendation.

Sidewalk café lease renewals and new sidewalk café leases throughout the City.

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