

**SITE PLAN REVIEW
CITY COMMISSION
March 31, 2009**

A. SUMMARY

SP-12-112-08: A site plan for a sidewalk hospitality area for Jackpot Saloon, located at 943 Massachusetts Street. Submitted by Mike Myers of Hernly Associates, Inc. for Jack L Graham, Trustee, the property owner of record.

Staff Recommendation: Staff recommends approval of SP-12-112-08 a site plan for a sidewalk hospitality area for Jackpot Saloon, subject to the following conditions:

1. Provision of a Site Plan Performance Agreement.
2. Approval of a Use of Right-of-Way Agreement and ordinance by the City Commission.
3. Approval of Hospitality License by the City.

B. GENERAL INFORMATION

Zoning and Land Use

Current Zoning and Land Use: CD (Downtown Commercial District); Bar or Lounge (licensed premise).

Surrounding Zoning and Land Use: CD (Downtown Commercial District) in all directions; retail, office, eating and drinking establishment and residential uses.

Site Summary

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|--------------------------------|---------------------------------|
| Proposed Sidewalk Dining Area: | Approximately 162.5 square feet |
| Off-Street Parking: | None required. |
| Site Landscaping: | None required. |

Other Action Required

Prior to release of site plan and building permits the following must occur:

- The applicant shall receive City Commission approval of an ordinance permitting alcohol sales/consumption in the public right-of-way.
- The applicant shall receive City Commission approval of an agreement to permit use of the public right-of-way.
- The applicant shall receive a Sidewalk Hospitality license from the City.

C. STAFF REVIEW

The applicant proposes to construct a sidewalk hospitality area (6'6" x 25') on the east elevation of the building located at 943 Massachusetts Street for Jackpot Saloon.

The proposed hospitality area will be located in the Massachusetts Street right-of-way. The sidewalk hospitality area leaves an unobstructed clear space of 6 feet on the sidewalk. The hospitality area will include three tables, with outdoor seating available for up to 12 persons. The area will be separated from the pedestrian sidewalk with a 3' high railing.

Jackpot Saloon is classified by the Development Code as a bar or lounge use, considered a legal-

nonconforming use. The Development Code also defines any premises where alcoholic liquor or cereal malt beverages, or both, by the individual drink is served or provided for consumption or use on the premises with or without a charge as a Licensed Premise.

Hospitality Areas

Ordinance No. 8274, adopted by the City Commission on August 26, 2008 established a process by which licensed premises may seek approval of the City Commission to make use of the public right-of-way for a sidewalk hospitality area. The ordinance requires the applicant to provide written statements from adjoining property owners and tenants expressing a lack of objection to the proposed sidewalk hospitality area. If written statements cannot be obtained, the ordinance requires the hospitality area request to be considered in a public hearing by the City Commission. Written statements have been received by the City Clerk.

The ordinance also requires quarterly inspections of the hospitality area by the Codes Enforcement Division of the Planning & Development Services Department to determine the area's compliance with city codes. To facilitate such inspections, the specific compliance standards that pertain to hospitality areas have been added to the site plan.

Historic Resources Commission

The subject property is located within the Downtown Urban Conservation Overlay District and Lawrence's Downtown Historic District, National Register of Historic Places and thus, the proposed site plan is subject to review and approval by the Historic Resources Commission. The HRC has reviewed and approved the site plan (case # DR-12-124-08) on January 15, 2009.

D. Findings

Per Section 20-1305(j) staff shall first find that the following conditions have been met:

(1) The site plan shall contain only platted land;

The site is platted as South ½ of Lot 89.

(2) The site plan shall comply with all standards of the City Code, this Development Code and other adopted City policies and adopted neighborhood or area plans;

The site plan complies with all standards of the City Code, Development Code and Downtown Design Guidelines subject to the satisfaction of the conditions of approval.

(3) The proposed use shall be allowed in the district in which it is located or be an allowed nonconforming use;

The subject property is zoned CD (Downtown Commercial) District. A bar, or licensed premise is a permitted use in the CD (Downtown Commercial) District, subject to use standards. The standards apply to the commencement of any new bar or licensed premise use and do not apply to established bars or licensed premise uses. The Jackpot Saloon is an existing bar that is considered a legal non-conforming use because it was established prior to the adoption of Ordinance No. 6527 on April 12, 1994. This ordinance instituted the requirement that a licensed premise shall earn at least 55% of its gross receipts from the sale of food or non-alcoholic beverages.

- (4) Vehicular ingress and egress to and from the site and circulation within the site shall provide for safe, efficient and convenient movement of traffic not only within the site but on adjacent roadways as well and shall also conform with adopted corridor or access management policies; and**

No changes are proposed that would affect vehicular ingress and egress. With the addition of the outdoor hospitality area, 6 feet of unobstructed sidewalk area will be available for pedestrian activity along Massachusetts Street.

No off-street parking is required or proposed with this project due to its location in the CD (Downtown Commercial) District.

- (5) The site plan shall provide for the safe movement of pedestrians on the subject site.**

Six feet of unobstructed public sidewalk area is preserved along Massachusetts Street for safe pedestrian movement to and from the subject business.