

**SITE PLAN REVIEW
CITY COMMISSION
NOVEMBER 6, 2012**

A. SUMMARY

SP-12-00170: A site plan for sidewalk hospitality area for Frank's North Star Tavern located at 508 Locust Street. Submitted by Frank Dorsey for Jesse and Severina DelCampo, property owners of record.

B. GENERAL INFORMATION

Current Zoning and Land Use:	CS (Commercial Strip) District; <i>Bar or Lounge</i>
Surrounding Zoning and Land Use:	CS (Commercial Strip) District) to the west; <i>detached dwelling</i> . IG (General Industrial) District to the north; railroad right-of-way containing railroad lines and storage. RSO (Single-Dwelling Residential-Office) District to the east; <i>detached dwelling</i> . RS5 (Single-Dwelling Residential) District to the south; <i>detached dwelling</i> .

Site Summary:

Building	2,208 Sq. Ft.
Proposed Sidewalk Dining Area:	413 Sq. Ft.
Off-Street Parking:	16 required per variance B-12-00169; 16 provided.

Staff Recommendation: Staff recommends approval of SP-12-00170 a site plan for sidewalk hospitality area, subject to the following conditions:

1. Execution of a sidewalk dining license from the city prior to occupying the public right-of-way per Chapter 6-1202.
2. Execution of an agreement with the City of Lawrence for use of the right-of-way per Chapter 6-12.

C. STAFF REVIEW

The applicant proposes to develop a 432 sq ft sidewalk dining/hospitality area between the subject property and the sidewalk along Locust Street. The building at 508 Locust Street was constructed in the 1950s when the property was zoned 'F' (Light Industrial). The 1949 Zoning Regulations in effect at the time the structure was built contained the following front yard requirement:

"No front yard is required, except that where a portion of District 'F' lies within the same

block and fronts upon the same street with a portion of a District 'A', 'B', 'C', or 'D', and no lot within said 'F' is occupied by a building with a front yard of less depth than required in that portion of a District 'A', 'B', 'C', or 'D' adjoining, then in such case the front yard requirements of such adjoin District 'A', 'B', 'C', or 'D' shall likewise be applicable to such portion of District 'F'."

The entire face of the 500 block of Locust Street was zoned 'F' at the time the building was constructed; therefore, no front yard setback was required. The property has since been rezoned and is now zoned CS (Commercial Strip) District. A 25 ft front yard setback is required in the CS District. The building complied with the zoning regulations when it was built but no longer conforms due to changes in the regulations; therefore, the building is considered a 'nonconforming structure' per Section 20-1503 of the Land Development Code.

The applicant submitted a variance request from the current front yard requirements to bring the building into compliance with code and to allow the remainder of the front yard to be used for a hospitality area. The building was built approximately 2 ft from the property line and the paved sidewalk is located approximately 2 ft to the north of the property line. The sidewalk dining/hospitality area will include the 2 ft in front of the building on the subject property, the 2 ft in the right-of-way behind the paved sidewalk, and the rectangular area to the west of the building (Figure 1) for a total area of 415 sq ft. Of this, 126 sq ft is located within the right-of-way; therefore, a sidewalk dining/hospitality license and a use of right-of-way agreement with the city are required. The applicant has submitted an application for a sidewalk dining/hospitality license and this will be considered by the City Commission with this site plan.



Figure 1. Frank's North Star Tavern with proposed hospitality area shown in white. The north 2 ft of the hospitality area, adjacent to the sidewalk, lies in the City right-of-way while the southern portion is located on the subject property.

The sidewalk dining/hospitality area requirements are listed in Section 6-1201 of the City Code. Per this section the term 'sidewalk' is defined as *"..the City owned right-of-way or easement that adjoins*

the property line of the food service establishment." rather than the definition in the Subdivision Regulations, "A paved, surfaced, or leveled area, paralleling and usually separated from the Street, used as a pedestrian walkway." The term 'sidewalk' may be used in both contexts in this report, but when it is used to refer to the pedestrian walkway, it will be referred to as the 'paved sidewalk'.

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 Lots 223, 225, 227, and 229 of South Half of Block 5 Subdivision, City of Lawrence.

(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 property has never been site planned. This site plan is for the addition of a sidewalk dining/hospitality area to the existing *bar or lounge* use. Per Section 20-1305(b)(2)(c)(ii)(b)(3) of the Development Code, any outdoor dining use located in any zoning district, other than CD and CN1, that would result in an increase of the number of parking spaces required would be considered a standard development project and require a standard site plan. The additional seating area in the hospitality area would increase the occupancy and the number of parking spaces required; therefore, a standard site plan is required. Those improvements or modifications approved with a standard development project are required to be compliant with the standards of the Development Code unless otherwise determined by the Planning Director to be waived for good cause shown by the applicant. In this case, the hospitality area is the improvement being made so this area must be compliant with the Development Code.

The Board of Zoning Appeals approved a variance from the parking requirement to allow the existing 16 parking spaces to serve both the tavern and the additional hospitality area based in part on the fact that this is a neighborhood tavern and many of the customers walk or bike rather than drive.

Per Section 6-1201 of the City Code, a written statement from each adjoining property owner and any tenant of each adjoining property expressing a lack of objection to the proposed sidewalk hospitality use must be provided. In the event that an adjoining property owner or tenant does not sign the statement, a public hearing must be held before the City Commission. The applicant provided the written statements so this item will not require a public hearing.

The City Code requires that the use shall maintain a minimum of 6 feet width of unobstructed sidewalk (easement/right-of-way between property line and street) between the hospitality use and the street curb or plantings whichever is closer. The site plan notes that the distance between the hospitality use and the curb is approximately 15 ft.

The site plan notes the area of the hospitality area that will be on the subject property and the area that will be located in the right-of-way and includes a detail of the proposed railing. The sidewalk dining/hospitality area is considered an extension of the bar use. Parking for a *bar or lounge* is

required at a ratio of 1 space per 3 persons at maximum occupancy and 1 for each employee on the largest shift. The applicant obtained a variance from the Board of Zoning Appeals from this minimum parking requirement to allow the 16 parking spaces which are currently provided to serve the tavern and the additional sidewalk dining/hospitality area.

The Development Code requires bufferyards between developing property and adjacent properties. The adjacent property to the west is also in the CS District so no buffer area is necessary along the west property line. The property to the east is zoned RSO and the property to the south is zoned RS5. The only change being made is in the hospitality area; therefore, bufferyards will not be required at this time; however, in the event a significant or major development project is proposed in the future, full compliance with the standards in the Development Code, including provision of bufferyards along the east and south property line would apply.

(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 CS (Commercial Strip) District. A *bar or lounge* is a permitted use in this District. Sidewalk dining/hospitality area is considered accessory to a *bar or lounge* or other eating or drinking establishment. The proposed use is permitted in the CS District.

(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 access to this property. The parking area and vehicular access to this site will be evaluated when changes are proposed to these areas or a site plan for a significant or major development project were submitted.

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

The building is located about 4 ft from the paved sidewalk and a walkway provides connection from the paved sidewalk and the building entry. The safe movement of pedestrians is provided on site.