

Neighborhood/Community Affairs Committee Meeting  
September 24, 2012

**Discussion Regarding A Resolution Directing That An Application For A Sidewalk Café Permit For The Drexel Avenue And 16th Street Sidewalks In Front Of The Retail Spaces Of The Park @ 420 Garage, Located At The Corner Of 16th Street & Drexel Ave.**

*Commission Item R7D, March 21, 2012*

*(Requested by Commissioner Vice-Mayor Libbin)*

Richard Lorber, Planning and Zoning Manager

**ITEM 10**



## COMMITTEE MEMORANDUM

TO: Neighborhoods Community Affairs Committee

FROM: Kathie G. Brooks, Interim City Manager

DATE: September 24, 2012

SUBJECT: **DISCUSSION REGARDING A RESOLUTION DIRECTING THAT AN APPLICATION FOR A SIDEWALK CAFÉ PERMIT FOR THE DREXEL AVENUE AND 16TH STREET SIDEWALKS IN FRONT OF THE RETAIL SPACES OF THE PARK @ 420 GARAGE, LOCATED AT THE CORNER OF 16TH STREET & DREXEL AVE.**

### **ADMINISTRATION RECOMMENDATION**

Advise the Administration as to the level of restriction and conditions that it would deem appropriate, instruct the Administration to handle the proposed sidewalk café application with those criteria, and lift the stay on the approval of sidewalk cafés at the 420 Garage building.

### **BACKGROUND**

At the October 19, 2011 Commission Meeting, the Mayor and the City Commission granted a revocable permit for 420 Lincoln Road Development Group, owner of Lincoln East Garage located at 420 Lincoln Road for mid-tension, removable HPDE metal mesh that extends approximately five feet six inches (5'-6") over and into the public Right-of-Way on 16<sup>th</sup> street and Drexel Avenue.

During the public hearing, Mr. Adam Shedroff spoke about his concern that the developer would request a sidewalk café permit and its impact on the surrounding residential neighborhood. In response to Mr. Shedroff's concerns, a motion was made by commissioner Libbin to approve the revocable permit and place a stay on any sidewalk café approvals pending a referral to the Land Use and Development Committee.

On January 18, 2012 the Land Use and Development Committee discussed this issue. The attorney for the 420 Lincoln Road property and Mr. Adam Shedroff addressed the Committee and discussed several issues related to the operation of sidewalk cafes at this property. The Committee instructed that both parties meet and attempt to reach consensus before February 8, 2012. If consensus cannot be reached, then the matter was to be brought back to LUDC.

On February 2, 2012, the Administration and staff from the Planning Department met with representatives of the 420 Lincoln Road property and Mr. Shedroff and his representative. After a discussion of the various issues, the attorney for 420 Lincoln Road proffered certain operational limitations on any sidewalk café that would be licensed. They are as follows:

1. No outdoor speakers;

2. Valet station would be located at the intersection of the alley located at the north west side of the garage across the street from the Church on Drexel;
3. There would be no limitation on the number of seats placed on the sidewalk until 7:00 PM, and;
4. After 7PM Monday - Thursday, 30 outdoor seats will be permitted until 11:00 PM. On Friday - Sunday 40 outdoor seats will be permitted until 12:00 PM.
5. All tables and chairs were to be located on Drexel Ave. north of the tree pit which is north of the bicycle rack on the west side of 1601-A.

Mr. Shedroff requested time to consider the proposed limitations. On February 7, 2012 Mr. Shedroff communicated to all parties that he wanted to continue discussing the proposed conditions.

On February 15, 2012 the Land Use and Development Committee again took up the issue. Jorge Gomez briefed the Committee on the meeting held between the property owner's representatives and Mr. Shedroff, the issues discussed, and the lack of consensus between the two parties. Additional public testimony was heard, and further discussion by the Committee centered upon attempting to balance the issue of sidewalk cafes near residential areas with the fact that this is commercial zoning and no other commercial area is limited in a similar manner. The Committee resolved the matter by deciding to lift the stay on the proposed sidewalk café, subject to the actual sidewalk café application for the property being presented to the Land Use Committee for final review and approval.

On March 21, 2012, the item was presented to the City Commission as a resolution; however, the Commission voted to send the matter to the Neighborhoods/Community Affairs Committee, clarifying that the stay was not lifted, and directed that the NCAC should determine what the parameters for any approval should be. *(Commission Item R7D, March 21, 2012 - Requested by Commissioner Vice-Mayor Libbin)*

### **ANALYSIS**

The Administration applauds both the Land Use and Development Committee as well as City staff for striving to balance the issue of compatibility of sidewalk cafes which are located near residential areas against the similarly important need to continue to encourage economic growth and vitality by providing a unique environment for relaxation and food and beverage consumption in the City's Commercial areas. In this particular case, it is recommended that the City look at the property owner's previous voluntary proffer of limiting the location, intensity and hours of any proposed sidewalk café operation at the 420 Garage site, as these concessions should help to ensure that there is no negative impact of the sidewalk café upon nearby residential properties.

However, the Administration does not recommend the concept of the Land Use and Development Committee that the sidewalk café application be submitted to the Commission Committee for review and approval. The procedures and criteria for approval of sidewalk café applications by the City is specified by the City's Sidewalk Café Ordinance, as delineated in Chapter 82, Article IV, Division 5 of the City Code. To require that this one particular sidewalk café application should be subject to the approval of a Commission Committee would be unfairly singling out one property, and subjecting it to requirements that are not imposed upon any other similar commercial property in the City. Rather, the Administration would suggest that the

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Neighborhoods/Community Affairs Committee advise the Administration as to the parameters and restrictions that it feels would be appropriate for a proposed sidewalk café at the subject location, and then permit the Administration to handle the approval of such an application with the understanding that such conditions as are deemed appropriate are applied.

**CONCLUSION**

Based on the above, it is recommended to lift the stay on the approval of sidewalk cafés at the 420 Garage building, advise the Administration as to the level of restriction and conditions that it would deem appropriate, and instruct the Administration to handle the proposed sidewalk café application with those criteria.

  
KGB/JGG/RGL

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