

**SITE PLAN REVIEW
CITY COMMISSION
December 15, 2015**

A. SUMMARY

SP-15-00214: A site plan for a use of right-of-way permit to use the adjacent sidewalk as a hospitality area. The Bottleneck, located at 737 New Hampshire Street. Submitted by Hernly Associates for Seven3seven, LLC, the property owner of record.

B. GENERAL INFORMATION

Current Zoning and Land Use: CD (Downtown Commercial District); Eating and Drinking Establishment.

Surrounding Zoning and Land Use: To the north, south, and east: CD (Downtown Commercial District); Parking, Retail Sales, Eating establishment and Office.

To the west: CD (Downtown Commercial District); Eating and Drinking Establishments, Retail Sales, and Office.

Site Summary:

Building	5,694 Sq. Ft.
Proposed Sidewalk Hospitality Area:	138 Sq. Ft.
Off-Street Parking Required:	Not required in Downtown Commercial District.

Staff Recommendation: Consider Site Plan SP-15-00214; Request for a sidewalk hospitality area and use of the sidewalk on New Hampshire Street and approve if appropriate. If approved, the site plan should have the following conditions:

1. Execution of a right-of-way agreement; and
2. Execution of a Site Plan Performance Agreement.

C. STAFF REVIEW

The applicant proposes to construct a 138 square-foot sidewalk hospitality area for patrons of The Bottleneck to utilize for congregating when weather permits. The sidewalk area will extend outward from the east face of the building 5'-8" and will be 23'-10" long from north to south. The enclosure leaves an unobstructed clear space of 6' on the New Hampshire Street sidewalk. The proposed hospitality area will accommodate seating at benches with outdoor seating available for up to 18 people. The area will be separated from the pedestrian sidewalk with a railing 3' high.

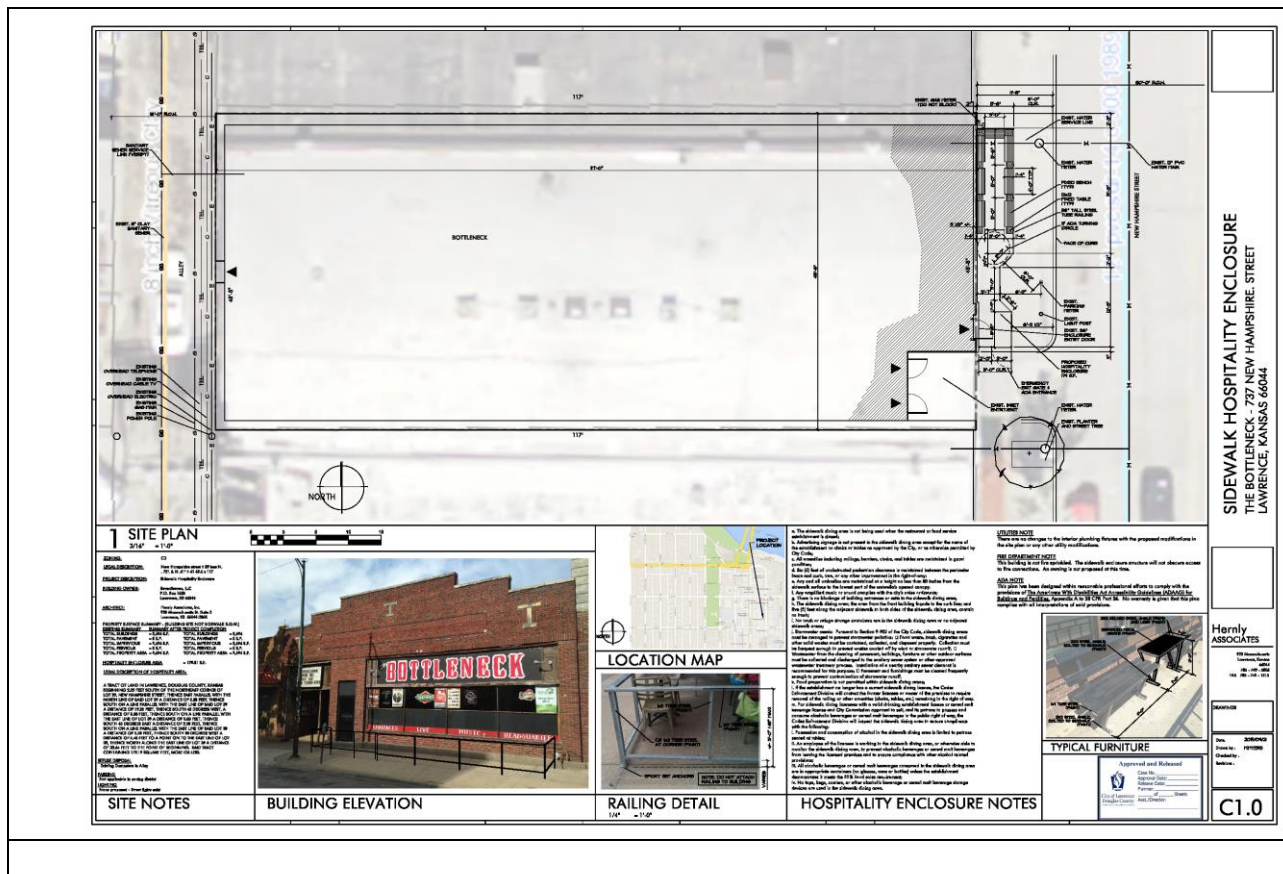
Chapter 6, Article 12 provides definitions (6-1202) for Sidewalk Dining and Hospitality Licenses. A

"hospitality establishment" is defined as "any business, however organized, that sells food, beverages, or both for consumption by patrons on the premises." The proposed use meets the definition of hospitality establishment.

Sidewalk dining/hospitality licenses are valid for a period not to exceed one year and expire on November 1st of each year. Sidewalk dining/hospitality licenses are not transferable. Sidewalk dining/hospitality applicants must sign a use of right-of-way agreement with the City.

Chapter 16, Article 9 of the City Code establishes the Use of Right-of-Way. This section of the Code allows the City to grant the use of a portion of the right-of-way to a private entity. Typically, the City uses right-of-way agreements to establish the parameters of the particular use and any conditions that may apply.

The applicant has submitted a site plan document that meets the technical criteria established in 6-1209.2 and 20-1305(f). The document shows how the proposed area is consistent to sidewalk dining/hospitality areas.



Historic Resources - Administrative Review (DR-15-00324)

737 New Hampshire Street has requested a Sidewalk Enclosure. This use of right-of-way requires review under the State Preservation Law and the Downtown Design Guidelines. The

property is listed as a contributing structure to Lawrence's Downtown Historic District, National Register of Historic Places and is also located in the Downtown Urban Conservation Overlay District.

The Downtown Design Guidelines address Sidewalk Dining and Hospitality areas on the public right-of-way in Section 3. The goal of this section of the Guidelines is to ensure adequate space for pedestrians on the sidewalks, promote the areas as a visual amenity complimentary to and enhancing the character of the Downtown area, and to create effective, efficient and enforceable use of the sidewalk area. The purpose of the Downtown Design Guidelines is not to create a strict architectural check list for good design, but rather to encourage rehabilitation and new construction that is compatible with the important existing character of this unique place. It is possible to meet the intent of the Design Guidelines without meeting every individual guideline.

The sidewalk enclosure for use by The Bottleneck meets all of the applicable guidelines for a sidewalk dining/hospitality area on the public right-of-way downtown. For the purpose of the historic review under the Secretary of the Interior's Standards and the *Downtown Design Guidelines*, the standards of evaluation, staff is of the opinion that the use of the area is consistent with the use of the sidewalk/hospitality areas and that it will not have an adverse effect on the listed properties or the Urban Conservation Overlay District.

In accordance with the Secretary of the Interior's Standards and the *Downtown Design Guidelines*, the standards of evaluation, the Historic Resources Administrator approved the proposed project and made the determination that the proposed project has no adverse effect on the listed historic properties and meets the intent of the Downtown Design Guidelines.

The Historic Resources Commission confirmed the administrative approval of this project on October 15, 2015.

D. Site Plan Findings

A site plan was submitted to allow for the use of right-of-way for an outdoor area similar to a sidewalk dining/hospitality area.

Prior to approval, 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: NEW HAMPSHIRE STREET LT 39,LESS N 9 INCHES TO HETZEL;ALSO N 7 INCHES LT 41 (U00990 & 994 COMBINED 1987), Original Townsite, Lawrence, Douglas County, Kansas.

(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;

As conditioned, the site plan complies with all technical standards of the City Code and Development

Code. The use of the sidewalk in the downtown area for uses other than sidewalk dining/hospitality areas is not identified in the Downtown Design Guidelines or Chapter 6 Article 12. The City Code does allow for the City to enter into agreements for use of the right-of-way (16-901).

(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. Eating and drinking establishment uses are permitted in this 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. 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 New Hampshire Street for safe pedestrian movement to and from the subject business.

E. Staff Determination

1. The proposed use for an outdoor space on the public sidewalk along New Hampshire Street for a hospitality area does meet the criteria defined in Article 12 of Chapter 6 of the City Code for a sidewalk dining/hospitality license.
2. The eating/drinking establishment use is an allowed use in the CD District.
3. The City has the ability to enter into agreements for the use of the public right-of-way.
4. The application submitted by the applicant meets the technical requirements of Chapter 20 and Chapter 6 of the City Code, and the Downtown Design Guidelines as a site plan for use of the right-of-way along New Hampshire Street in the downtown area.
5. The notes on the face of the site plan ensure that the sidewalk area will be maintained according to sidewalk dining/hospitality areas.

If the City Commission approves SP-15-00214 for the use of the right-of-way for an outdoor space for a hospitality use, the site plan approval should be conditioned as follows:

1. Execution of a right-of-way agreement; and
2. Execution of a Site Plan Performance Agreement.