

City of Fayetteville Staff Review Form

2020-0419

Legistar File ID

6/2/2020

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Devin Howland

5/15/2020

ECONOMIC DEVELOPMENT (050)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

APPROVAL OF A RESOLUTION TO ADOPT A PHASING PLAN FOR FAYETTEVILLE'S FIRST OUTDOOR REFRESHMENT AREA.

Budget Impact:

Account Number		Fund	
Project Number		Project Title	
Budgeted Item?	NA	Current Budget	\$ -
		Funds Obligated	\$ -
		Current Balance	\$ -
Does item have a cost?	NA	Item Cost	
Budget Adjustment Attached?	NA	Budget Adjustment	
		Remaining Budget	\$ -

V20180321

Purchase Order Number: _____

Previous Ordinance or Resolution # _____

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:



MEETING OF JUNE 2, 2020

TO: Mayor and City Council

THRU: Susan Norton, Chief of Staff
Garner Stoll, Development Services Director

FROM: Devin Howland, Director of Economic Vitality
Blake Pennington, Assistant City Attorney

DATE: May 15, 2020

SUBJECT: A RESOLUTION TO ADOPT A PHASING PLAN FOR FAYETTEVILLE'S FIRST OUTDOOR REFRESHMENT AREA

RECOMMENDATION:

Staff is recommending approval of the attached phasing plan which governs the roll out of Fayetteville's first Outdoor Refreshment Area (presented in a separate ordinance).

BACKGROUND:

Following several public meetings, which were held in the early Fall of 2019, staff planned two facilitated focus group sessions in November. The first session was held on November 20 and was a cross section of restaurants, bars, retailers, the Fayetteville Public Library, Fayetteville Chamber of Commerce, and employers. The second session was held on November 21 and included representation from retailers, restaurants, property owners, the Advertising and Promotion Commission, the Walton Arts Center, and Theatre Squared.

While the conversations between the two groups were different—there were commonalities between the discussions. Advantages identified by both groups were sidewalk cafés, positive consumer perception, and increased revenue. Disadvantages discussed by both groups included perceiving an increase in liability, a concern for underage drinking, and the negative impacts road closures can have on a business's revenue. Ideas in common were rolling out the sidewalk café component first and tailoring a roll-out/pilot to gain proof of concept. Another idea was scheduling open consumption times during slow days to increase sales and bring more people downtown, i.e. Sunday-Wednesday as an example.

Following the draft of the ordinance and phasing plan being completed, staff presented the ordinance at the Dickson Street Merchants meeting on March 9, 2020. However, four days later our work on the issue came to an abrupt halt given the public health emergency from COVID-19 pandemic. In May, after weeks of work on the economic response to COVID-19, staff began to finalize the details of the ordinance and reengage partners. Given the pandemic, the phasing plan had to be altered. On May 11, 2020 City staff was able to present to the Dickson Street

Merchants Association, the presentation was recorded and distributed to the organization's membership.

On May 12, 2020 at the request of the Chairman, City staff presented the proposed ordinance and phasing plan to the Transportation Committee for the comments, review, and amendments. A video of the presentation can be seen on the City's website. The committee recommended approval of the ordinance and phasing to the City Council with the following amendment (the items highlighted below pertain to the phasing plan):

1. *Amendment 1: Loosening of any restrictions to the limited open container consumption days of the week rather than only Sunday-Wednesday.*
2. *Amendment 2: Allowing parking lots, private parking lots, and right of way components such as parallel parking and travel lanes to be used as sidewalk café space or auxiliary parking when vehicular traffic patterns have been amended temporarily or otherwise.*

Staff comments to the amendments can be found in the discussion section below.

DISCUSSION:

At the recommendation of numerous businesses and stakeholders, a phasing plan has been developed to prove concept and explore various aspects of what Act 812 allows Fayetteville to do as it relates to public consumption. Following the outbreak of COVID-19, and the need for prolonged social distancing for the health of our community, and restaurant and accommodation professionals, the phasing plan was altered significantly in May of 2020 to adapt to the pandemic. The phasing plan paces the roll out of various aspects of the Outdoor Refreshment Area. A copy of the proposed phasing plan can be found in this packet (Exhibit A).

In phase one, which begins when the Outdoor Refreshment Area ordinance becomes enforceable law:

- The City will launch a webpage dedicated to information about the Outdoor Refreshment Area.
- Sidewalk cafés will be open for application and development.
- The tactical urbanism process (which is not tied to the Outdoor Refreshment Area) will be available to receive applications for parklets;
 - *Restaurants and retailers recent pivot to expanded curbside pickup, delivery, and drive-thru only should be considered and not interrupted.
 - *Tactical urbanism projects such as parklets are already allowed to be submitted for consideration.

- Legacy events conforming with social distancing guidelines, can apply for open consumption during events;
 - *Legacy events are defined as having hosted an approved event in Fayetteville 3 out of the last 5 years.
- The regularly scheduled open consumption district pilot program with open streets can begin with to-go sales from private clubs, restaurants, and performance venues so long as appropriate signage and waste receptacles are in place, designated cups and visible identifiers are obtained and distributed, and advance notice is given to businesses and the City Council;
 - *Regularly scheduled open consumption district pilot program: This would be a pilot program with no street closures. Participating businesses would be able to serve to-go to patrons who could consume alcohol within a smaller defined area within the Outdoor Refreshment Area Boundary. Social distancing guidelines would have to be adhered to by participants. Before such a program would be activated, robust collaboration with businesses of all types within the chosen area, as well as anchor institutions such as the Walton Arts Center, Theatre Squared, and Fayetteville Public Library shall be done.
- Staff will conduct ongoing, regular assessments of the regularly scheduled open consumption district pilot program.

In phase two from December 2020 through February 2021:

- The regularly scheduled open consumption district pilot program shall sunset on January 30, 2021;
 - *The sunset date will likely need to be extended. No long-term decisions pertaining to public consumption should be made until an assessment can be done to review the pilot program under conditions of "full capacity" of anchor institutions and downtown activity.
- Public meetings will be held with stakeholders and surveys distributed to assess all aspects of the Outdoor Refreshment Area.
- Staff identifies and develops a management plan which assesses funding options and makes a formal recommendation to the City Council.
- Staff reports outcomes to the City Council and recommends final ordinance alterations.
- Application process for events developed based on feedback from legacy events.
- Renewal and expansion of regularly scheduled open consumption times can be explored or the program can be renewed, yet City Council authorization would be needed to amend the ordinance.

In phase three during February 2021:

- Applications for open consumption at events would be available to all events.
- Staff will continue to monitor the Outdoor Refreshment Area to identify successes and best practices.
- Community engagement with stakeholders and businesses continues.

AMENDMENTS FROM THE TRANSPORTATION COMMITTEE AND STAFF COMMENTS

On May 12, 2020 the Transportation Committee discussed how to make our City Streets more comfortable for pedestrian and bikes as well as enabling businesses to expand into a street or parking lot for potentially safer dining during the pandemic. The Outdoor Refreshment Area was discussed in how the City might integrate these two ideas.

Amendment 1: Loosening of any restrictions to the limited open container consumption days of the week rather than only Sunday-Wednesday.

- Staff Comments: While staff sees no issue in allowing the ability for the pilot program to operate seven days a week in the future. Businesses have raised concerns with piloting the program on Thursdays-Saturday, which is why staff is recommending Sunday-Wednesday to start the pilot program. Also, concerns have been raised by the Fayetteville Police Department on policing during these times with a new program. The ordinance does not govern the phasing plan days of the week, rather a separate resolution does. However, staff's plan is to maintain consistency with communications to businesses, including the Dickson Street Merchants Association on May 11, 2020, to begin the pilot program Sunday-Wednesday. Strong communication, coordination, and agreement from businesses, anchor institutions within the area would need to be done before expanding beyond the previously discussed dates.

Amendment 2: Allowing parking lots, private parking lots, and right of way components such as parallel parking and travel lanes to be used as sidewalk café space or auxiliary parking when vehicular traffic patterns have been amended temporarily or otherwise.

If the City adopts an ordinance or policy allowing for street and parking lot closures to provide for social distancing and safer dining, staff believes this plan will be able to integrate those spaces into the phasing plan without disruption. It is difficult to draft a contingency into the plan for such closures at this time without knowing what such a policy will look like.

BUDGET/STAFF IMPACT:

Until a management plan is developed, and a managing entity identified, and compensated to manage the program, the program will have a large impact on staff time. Successful implementation of all aspects of the ordinance will require strong collaboration across various departments. The success of these programs, specifically the regularly scheduled open consumption district pilot program, will be dependent upon many of the logistical aspects the public will not see.

If the City Council decides the continuation of a regularly scheduled open consumption district beyond the sunset date is right for Fayetteville, an RFP should be developed to solicit proposals for an entity to manage the district.

Attachments:

Exhibit A: Outdoor Refreshment Area Phasing Plan

ENTERTAINMENT DISTRICT OUTDOOR REFRESHMENT AREA PHASING PLAN

PHASE 1 Target Date June 2020

City of Fayetteville Website Information Portal opens.

Sidewalk cafés open for application and development.

Tactical Urbanism process prepares for expansion of parklets*.

Legacy Events** conforming with social distancing guidelines, can apply for OC during events.

Regularly scheduled OC district pilot program*** with open streets begin with to-go sales from private clubs, performance venues, and restaurants.

Staff conducts an ongoing, regular assessment of regularly scheduled OC times.

*Restaurant's and retailers recent pivot to expanded curbside pickup, delivery, and drive-thru only should be considered and not interrupted.

Tactical Urbanism projects such as parklets are already allowed to be submitted for consideration.

**Legacy Events defined as having hosted an approved event in Fayetteville 3 out of the last 5 years.

1. the appropriate signage & waste receptacles are in place,

2. designated cups & visible identifiers are obtained & distributed,

3. advance notice is given to City Council & businesses within the area.

PHASE 2 Dec. - Feb. 2021

Regularly scheduled open consumption district pilot program shall sunset on January 30, 2021****.

Public meeting held with stakeholders, survey distributed.

Staff identifies management plan, assesses funding options & makes formal recommendation to City Council.

Staff reports to City Council; recommends any final ordinance alterations.

Application process for events developed, based on feedback from legacy events.

Expansion of regularly scheduled OC times can be explored, or renewed, yet Council authorization would be needed to amend the ordinance.

PHASE 3 Feb. 2021

Application for open consumption at events is available.

Program continues to be monitored for success and best practices.

Community engagement with stakeholders, businesses continues.

***Regularly scheduled open consumption district pilot program: This would be a pilot program with no street closures. Participating businesses would be able to serve to-go to patrons who could consume alcohol within a smaller defined area within the Outdoor Refreshment Area Boundary. Social distancing guidelines would have to be adhered to by participants. Before such a program would be activated, robust collaboration with businesses of all types within the chosen area, as well as anchor institutions such as the Walton Arts Center, Theatre Squared, and Fayetteville Public Library shall be done. While the phasing plan does not restrict the pilot program to certain days of the week (Transportation Committee Amendment), staff will maintain consistency with communications to businesses to conduct the program from Sunday-Wednesday. Strong communication, coordination, and agreement from businesses, anchor institutions within the area would need to be done before expanding beyond the previously discussed dates.

****The sunset date will likely need to be extended. No long-term decisions pertaining to public consumption should be made until an assessment can be done to review the pilot program under conditions of "full capacity" of anchor institutions and downtown activity.

Branson, Lisa

From: CityClerk
Sent: Tuesday, May 26, 2020 2:00 PM
To: Bolinger, Bonnie; Pennington, Blake; CityClerk; citycouncil@matthewpetty.org; Eads, Gail; Roberts, Gina; Batker, Jodi; Johnson, Kimberly; Rogers, Kristin; Williams, Kit; Branson, Lisa; Jordan, Lioneld; Paxton, Kara; Mulford, Patti; Norton, Susan; Thurber, Lisa; Gutierrez, Sonia; Marsh, Sarah; Kinion, Mark; Scroggin, Sloan; Bunch, Sarah; Turk, Teresa; Smith, Kyle
Cc: ptt@prodigy.net; pete012639@yahoo.com
Subject: FW: City Council Agenda Session, May 26, 2020

Kara,

Please distribute these comments on the draft Agenda for the City Council Meeting next Tuesday, June 2, 2020, to the Mayor, City Attorney and City Council Members:

1. Unfinished Business Item B.1 (Regulation of Single Use Disposable Bags) should be deferred until normal public comment and discussion are possible. More importantly, given the present COVID-19 contagion, single-use bags may be cleaner and safer than re-useable bags brought in from cars and homes. Again, ultimately I support strong restrictions on all plastic waste that is not readily biodegradable, but this is not the time to implement a broad-ranging policy with minimal public comment, particularly one which may be less safe for the public.
2. Unfinished Business Item B.2 (Amend Rules of Order and Procedure) should also be deferred until normal public comment and discussion are possible. This is COMPLETELY unnecessary at this time. I watch the City's meetings on Zoom and I have heard no more than two comments on any one item, and NO comments on the vast majority of items. Zoom is enough of a disincentive/obstacle to public involvement during the COVID-19 contagion. On the one occasion where I wanted to comment I was not able to do so. More importantly, public comment is a fundamental and critical issue in the public interest, one which should be addressed only after normal procedures are in place allowing in-person public involvement.
3. New Business Item C.10 (Boundaries for an Entertainment District) and Item C.11 (First Outdoor Refreshment Area) -- These are issues which are hardly critical at this time, but which by their nature will affect the public generally. These can wait until normal City Council procedures are in use.
4. New Business Item C.12 (Professional Fund-Raising Company for City Parks). This smells like hiring another consultant, as though we need to spend even more tax dollars on yet another "Beltway Bandit", especially when City revenues are no doubt already depressed. Parks are a core City function. Public parks should be funded under the general budget from general revenues. They no doubt could be if so much money were not being squandered on artsy-fartsy extravagances, which should be funded by charitable donations from patrons of the arts and user fees. The City government has this backwards, contrary to the public interest. Acknowledge the current crisis: Defund the froofroo, and pay for parks without wasting tax money on another middle-man.

Thank you.

Pete Tonnessen
3500 Hearthstone Drive
Fayetteville, AR 72764
Cell 719-338-7329

CityClerk

From: Peter Lane <plane@waltonartscenter.org>
Sent: Wednesday, June 3, 2020 2:14 PM
To: CityClerk; Smith, Kyle; Kinion, Mark; Matthew Petty; Mayor; Bunch, Sarah; Marsh, Sarah; Scroggin, Sloan; Gutierrez, Sonia; Turk, Teresa
Cc: Norton, Susan; Howland, Devin; Mike Johnson (mrj03@uark.edu); Anne O'Leary-Kelly; 'Jeffery Koenig'; 'adella@adellagray.com'; 'Sarah Elaine Lewis'; Justin Tennant; 'luribe@uark.edu'; Brian Crowne; Joe Fennel; carl@collierdrug.com; 'Mark Blackwood'; Bill Waite
Subject: Outdoor Refreshment
Attachments: peter1.jpg

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mayor Jordan and Fayetteville City Councilors,

I write to you today regarding the proposed Outdoor Refreshment Area ordinance. Members of our team have had the privilege now of multiple one-on-one conversations with Devin Howland to discuss this topic and how such a program could have effects on the operations of Walton Arts Center. I've appreciated Devin's approach and his leadership on this project and I want to thank him for taking the time to have those conversations and make sure our concerns were considered. As this proposal comes before you this week, I would like to make clear four considerations from our staff that I hope you will examine before adopting this ordinance.

First, as our team has communicated to Devin, we have great concern with regard to how the implementation of this proposal will impact the public perception of Dickson Street; specifically how it will affect the perception of some of Walton Arts Center's most coveted patron demographics including families with small children and seniors. We know that outdoor alcohol consumption areas work well in other cities. There is no reason to expect that the same will not be true of Fayetteville. However, the messaging and enforcement required to create a smooth start out of the gate will be vital to this change being accepted and not given a knee-jerk reaction within the community. I understand the Transportation Committee has suggested that an initial test run of the program, prior to a sunset date, should include seven days a week of allowed outdoor alcohol consumption. My understanding is that their support of this stems from an interest to help local restaurants and bars who are suffering lost business due to the pandemic. We support that sentiment but would suggest that outdoor consumption be limited to Sunday through Thursday once UA classes resume and the level of foot traffic and alcohol consumption on Dickson tick back up. Regardless of how behavior of patrons on Dickson Street changes in reality, if the perception and reputation of Dickson Street as a safe and family-friendly place are compromised, the damage is done even if there is no increase in crime or ordinance violations. As the City makes a very large public investment in the Cultural Arts Corridor, this must remain top of mind. We must stay aware of the way in which the program affects public sentiment as well as police statistics and sales revenue. We must also stay keenly aware of Dickson Street's proximity to the UA campus and how that is different than some of the models researched in other communities.

Second, I'd like to ask your consideration on the sunset date for the initial ordinance test run. Our staff has discussed with Devin that in order to truly get good data on how the program will function in the long term, the initial run has to include a stress test period, where not only are bars and restaurants running at their full unencumbered capacity but so are the entertainment district's anchor institutions (Walton Arts Center, George's Majestic Lounge, TheatreSquared, etc.) Dickson Street serves many different demographics of patrons and it will be important to our analysis following the sunset date to have an understanding of how all businesses have been affected. To that point, planning for a period of public feedback and perhaps a survey that businesses can send to their patrons during the initial run as the sunset date approaches is in order.

Third, as the business with the most frontage on Dickson Street, and some of the most likely gathering spots for those looking for a place to sit outdoors with their beverages, we anticipate the rollout of this program on a large scale could result in increased cleaning and security costs for our organization. Prior to rollout, we ask that the Council, police and City staff give serious consideration to how littering and loitering will be controlled on unfenced property of local businesses. Having planters and gardens full of used compostable cups and groups of patrons from surrounding businesses gathering on our front steps to sit and drink create certain aesthetic and safety challenges for us that we ask you give serious consideration and would appreciate your assistance in having a plan to manage these issues moving forward that does not rely solely on WAC facilities and security teams to bear the brunt of enforcement. Whether WAC chooses to participate in the program or not, the consequences of the program will literally come to our front door.

Lastly, I ask the Council to weigh carefully instituting a policy of approving additional parklets in the entertainment district so that those businesses without adequate sidewalk real estate can take advantage of the outdoor café portion of the program. As you are well aware, our organization and many of our colleagues on Dickson Street have fought long hard battles previously to ensure that adequate public parking exists in the area to service the needs of all parties. Let us be careful not to solve one perceived problem with a solution that takes us backwards on our progress toward solving another problem.

I appreciate your time and consideration on this matter and would also like to take this opportunity to thank you all for your leadership shown this past week as related to the protests of systemic discrimination within our society. Last night's event on the Square demonstrated to a large degree what makes Fayetteville special and this is a community for which we can all show great pride.

Please stay healthy and safe during this time.

Sincerely,

[cid:9c947aec-15f9-43e0-921c-8cfcc211de5a]

Peter B. Lane

Peter B. Lane, President/CEO

Walton Arts Center | Walmart AMP

P.O. Box 3547, Fayetteville, AR 72702

Office: 479.571.2770

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