
M E M O R A N D U M

DATE: July 3, 2003
TO: City Council Members
FROM: Russell Weeks
RE: Proposed Ordinance: Outdoor Barrier Requirements for Private Clubs
CC: Cindy Gust-Jenson, Rocky Fluhart, David Nimkin, Alison Weyher, Ed Rutan, Lynn Pace, Louis Zunguze, Roger Evans, Linda Cordova, Alison McFarlane, Gary Mumford

This memorandum addresses a proposed ordinance to amend City Code Section 5.50.170 regarding outdoor barrier requirements for private clubs. The proposed ordinance is a revision of an earlier proposed ordinance that the City Council first discussed in September 2002. The proposed ordinance would lower outdoor barriers on sidewalks around private clubs in the Central Business District from five feet high to a minimum of three feet high or a maximum of four feet high.

The revised proposal does not contain a transmittal letter from the Administration. However, the original transmittal letter and proposed ordinance are attached to this memorandum.

POTENTIAL OPTIONS

- Adopt the proposed ordinance.
- Do not adopt the proposed ordinance.
- Adopt the proposed ordinance with one or all of the following amendments:
 1. Clarifying that the “Central Business District” means the traditional CBD bordered by North Temple, 200 East, 500 South, and 200 West streets.
 2. Modifying the “Central Business District” to create an “Expanded Central Business District” bordered by North Temple, 200 East, 600 South and 600 West streets.
 3. Adding a requirement that the City’s Planning Director or Building Services Director review the design of any proposed barrier for aesthetics and compliance with City ordinances with the City’s Property Management Director before a barrier can be approved.

POTENTIAL MOTIONS

- I move that the City Council adopt the ordinance.
- I move that the City Council not adopt the ordinance.

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- I move that the City Council adopt the ordinance with the following amendment: That after the sentence ending with the words “four (4) feet high” the following sentence be inserted: *The Central Business District is bordered by North Temple, 200 East, 500 South and 200 West streets.*
- I move that the City Council adopt the ordinance with the following amendment: That the words “Central Business District” be changed to “Expanded Central Business District,” and after the sentence ending with the words “four (4) feet high” the following sentence be inserted: *The Expanded Central Business District is bordered by North Temple, 200 East, 500 South and 600 West Street.*
- I move that the City Council adopt the ordinance with the following amendment: That after the sentence, “All barriers shall be in conformity with the City’s planning and zoning ordinances, the building code, and all other applicable City ordinances,” the following sentence be inserted: *The City’s Planning Director or Building Services Director shall review the design of any proposed barrier with the City’s Property Management Director for aesthetics and compliance with City ordinances and regulations before a barrier receives final approval.*

DISCUSSION/BACKGROUND

As mentioned, the proposed ordinance would lower outdoor barriers on sidewalks around private clubs in the Central Business District from five feet high to a minimum of three feet high or a maximum of four feet high.

The proposed ordinance would modify City Code Section 5.50.170 titled *Private Club – Membership Restrictions*. Paragraph B of the section reads: **Barriers Outdoors:** “In outdoor areas, ingress and egress into any private club shall be controlled by barriers which are a minimum of five feet (5’) high and which are capable of preventing contact between persons inside the licensed premises and persons who are outside the licensed premises. The barriers shall be in conformity with the City’s planning and zoning ordinances, the building code, and all other applicable City ordinances.”

The Administration first proposed amending the ordinance a year ago to address the potential for private clubs to have outside seating on sidewalks as part of an effort to enliven sidewalk life, particularly in the downtown. The proposal stemmed in part from an apparent oversight in which barriers in the public way at two private clubs downtown were approved even though the barriers did not meet the requirement of building barriers five-foot-high.

The Administration briefed the City Council on the proposed ordinance last September. At that briefing the City Council said the original proposal was too broad because it would affect the regulation of barriers outside private clubs citywide. The City Council said it would consider a revised ordinance that limited lower barriers to the Central Business District. It also said it would consider an ordinance that allowed lower barriers elsewhere if an ordinance like that received approval from community councils in neighborhoods that would be affected by it.

In late March 2003 the Administration submitted a revised ordinance that would allow barriers outside private clubs and in the public way to be as low as three feet high or as high as four feet high within the Central Business District.

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Council staff has written three potential options to amend the proposed ordinance.

The first option would define “Central Business District” by adding a sentence naming its borders. The only reason for proposing the option is to clarify the boundaries of the traditional Central Business District. If everyone is clear on the boundaries of the traditional Central Business District, the option is not necessary.

The second option would define an “Expanded Central Business District” that stretches west to 600 West Street. The option first appeared last year during City Council consideration of sidewalk vending carts. Council staff included the option because it appears to comport with the intent of the 1998 *Gateway Specific Plan* to make the area bordered by North Temple, 400 West, 600 South and 600 West streets an entertainment area. However, it should be noted that the City Council was clear in its direction to the Administration last September that the Council would only consider an ordinance that allowed lower barriers in the Central Business District – unless community councils in other areas first approved the proposal. It does not appear that community councils that would be affected by the second option have considered the concept of private clubs with outdoor seating on sidewalks.

The third option involves a final review of designs for outdoor barriers by either the Planning Director or the Building Services Director and the Property Management Division Director before a design received final approval. It is Council staff’s understanding that the Property Management Division would have final approval of an outdoor barrier because the division manages City sidewalks. The option is proposed merely as a final point of coordination before designs for an outdoor barrier receive approval. According to a City Council staff memorandum dated September 13, 2002, under standard practice, a business that would like to build a barrier applies to the Property Management Division. Property Management then reviews the application with the City Design Review Team. Once the review is complete, Property Management enters into an agreement with the business, and the application is completed. If the City Council feels that the standard practice is adequate, then the option is not necessary.

For further background Council staff has attached its September 13 memorandum and the Administration’s original transmittal and ordinance.