

Provo City Planning Commission

Report of Action

October 25, 2023

*ITEM 6 Development Services requests approval of Ordinance Text Amendments to Section 14.34.480 (Sidewalk Cafes) to update standards and regulations for outdoor seating. Citywide impact. Aaron Ardmore (801) 852-6404 aardmore@provo.org PLOTA20230246

The following action was taken by the Planning Commission on the above-described item at its regular meeting of October 25, 2023:

RECOMMENDED APPROVAL

On a vote of 6:0, the Planning Commission recommended that the Municipal Council approve the above noted application.

Motion By: Jonathon Hill

Second By: Robert Knudsen

Votes in Favor of Motion: Jonathon Hill, Robert Knudsen, Daniel Gonzales, Barbara DeSoto, Lisa Jensen, Andrew South
Daniel Gonzales was present as Chair.

- Includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any changes noted; Planning Commission determination is generally consistent with the Staff analysis and determination.

TEXT AMENDMENT

The text of the proposed amendment is attached as Exhibit A.

STAFF PRESENTATION

The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations.

CITY DEPARTMENTAL ISSUES

- The Coordinator Review Committee (CRC) has reviewed the application and given their approval.

NEIGHBORHOOD MEETING DATE

- City-wide application; all Neighborhood Chairs received notification.

NEIGHBORHOOD AND PUBLIC COMMENT

- This item was City-wide or affected multiple neighborhoods.

CONCERNS RAISED BY PUBLIC

Any comments received prior to completion of the Staff Report are addressed in the Staff Report to the Planning Commission. Key issues raised in written comments received subsequent to the Staff Report or public comment during the public hearing included the following: None.

APPLICANT RESPONSE

Key points addressed in the applicant's presentation to the Planning Commission included the following:

- Staff responded to the questions below, specifically describing what outdoor dining is regulated by subsection (1)(c); stating that the businesses that use the outdoor dining will be responsible for maintaining them; and how the staff will be enforcing these regulations.

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- The commission asked some clarifying questions regarding existing code from 14.34.080 and whether there is ownership of the sidewalk cafes and how they will be maintained.



Planning Commission Chair



Director of Development Services

See Key Land Use Policies of the Provo City General Plan, applicable Titles of the Provo City Code, and the Staff Report to the Planning Commission for further detailed information. The Staff Report is a part of the record of the decision on this item. Where findings of the Planning Commission differ from findings of Staff, those will be noted in this Report of Action.

Legislative items are noted with an asterisk (*) and require legislative action by the Municipal Council following a public hearing; the Planning Commission provides an advisory recommendation to the Municipal Council following a public hearing.

Administrative decisions of the Planning Commission (items not marked with an asterisk) **may be appealed** by submitting an application/notice of appeal, with the required application and noticing fees to Development Service, 445 W Center St., Provo, Utah, **within fourteen (14) calendar days of the Planning Commission's decision** (Provo City office hours are Monday through Thursday, 7:00 a.m. to 6:00 p.m.).

BUILDING PERMITS MUST BE OBTAINED BEFORE CONSTRUCTION BEGINS

EXHIBIT A

14.34.480

Sidewalk Cafes.

Where permitted by the underlying zone, and notwithstanding the provisions of Chapters 9.15 and 15.12, Provo City Code, a sidewalk cafe shall be permitted if the following requirements are met:

(1) An applicant submits scaled plans demonstrating that the cafe will conform to the following development standards:

- (a) At least six (6) feet of clear, unobstructed sidewalk width will remain available for pedestrian use.
- (b) Sidewalk cafes shall be separated from the street by either a six (6) inch curb and two (2) foot setback OR bollards every six (6) feet adjacent to a street. ~~have a five (5) foot setback between the dining area and a driveway, alley, street or another public sidewalk.~~
- (c) If a sidewalk cafe is designed to have more than one (1) row of tables and chairs, a non-sight-obscuring removable barrier not more than three (3) feet high enclosing the tables and chairs shall be constructed. Barrier gates shall not swing into the required unobstructed sidewalk area required in Subsection (1)(a) of this Section.
- (d) Awnings associated with the cafe will be installed in accordance with the International Building Code. Umbrellas under seven (7) feet in height shall not extend into the required unobstructed sidewalk area required in Subsection (1)(a) of this Section.
- (e) Signs associated with the cafe will be installed in accordance with provisions of the underlying zone. One (1) freestanding menu sign is permitted for each sidewalk cafe subject to the sign being located within the approved cafe area and being no more than six (6) square feet in size.
- (f) Adequate facilities for the storage of trash generated by the cafe will be provided at a convenient location by the café owner(s) or operator(s).

(2) A revocable license from the City is executed that includes the following provisions:

- (a) Insurance will be continuously maintained to adequately co-insure Provo City against any liability associated with the sidewalk cafe, as reasonably determined by the City. The insurance certificate shall name the City as an "additional insured." Cancellation of such insurance shall require at least thirty (30) days prior notice to the City.

- (b) Provo City, its officers, agents and employees, will be held harmless from any claims, causes of action, injuries, losses, damages, expenses, fees and costs, including attorneys' fees, associated or arising from the operation of the cafe.
- (c) The cafe owner and operator will be responsible for repair of any damage done to the public sidewalk due to the installation or removal of furnishings, barriers or other features of the sidewalk cafe.
- (d) Hours of cafe use will be limited to not earlier than 6:00 A.M. and not later than 12:00 A.M. and will not exceed the operating hours of the associated eating or drinking establishment.
- (e) Any music or entertainment shall meet the sound limitation requirements outlined in Chapter 9.06.
- (f) The sidewalk cafe and surroundings will be maintained in a neat and clean condition at all times [by the café owner\(s\) or operator\(s\)](#).
- (g) The Cafe owner and operator will remove cafe improvements if necessary for sidewalk repair or replacement, utility maintenance, or upon failure to comply with the terms of the agreement.
- (h) [Sidewalk cafes shall only be operated between March 1 and October 31. Furniture shall be removed from the right-of-way outside of these dates.](#)