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**LAWRENCE HISTORIC RESOURCES COMMISSION**  
**ITEM NO. 6: DR-15-00466**  
**STAFF REPORT**

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**A. SUMMARY**

DR-15-00466 1012 Massachusetts Street; Sidewalk Dining Railing; Downtown Design Guidelines Review. The property is located in the Downtown Urban Conservation Overlay District. Submitted by Vic Allred for Christie Brothers LLC, the property owner of record.

**B. PROJECT DESCRIPTION**

The applicant is requesting to add an arch to the existing sidewalk dining railing located at 1012 Massachusetts Street. The arch will span the existing opening, approximately 9 ½', of the sidewalk enclosure that in total is approximately 30' from north to south. The existing railing is approximately 6' from the building face and is 36" in height. The overall area of the enclosure is 180'.

In accordance with the procedures set forth in Chapter 20-308, staff reviewed and denied the proposed project. The applicant is appealing that determination to the Historic Resources Commission per 20-308(g).



**C. STANDARDS FOR REVIEW**

**Downtown Design Guidelines**

The City Commission and the Historic Resources Commission have adopted a set of *Downtown Design Guidelines* (2009) to review projects within the Downtown Urban Conservation Overlay

District. The guidelines that relate to this project are:

### **PART THREE – SIDEWALK DINING AND HOSPITALITY AREAS**

#### **2. General**

- 2.1 The sidewalk dining/hospitality area must be contiguous with any side of a building wherein a hospitality establishment is located.
- 2.2 No portion of a Sidewalk Dining/Hospitality area shall be used for any purpose other than dining/hospitality and circulation therein.
- 2.3 The Sidewalk Dining/Hospitality area shall not occupy more than thirty (30) percent of the total area of the primary hospitality operation. The Sidewalk Dining/Hospitality area shall be considered an auxiliary use to the interior hospitality establishment area.
- 2.4 A hospitality establishment may be permitted to operate only one sidewalk area, and each sidewalk area shall be confined to a single location on the sidewalk;
- 2.5 The Sidewalk Dining/Hospitality area shall not extend past the hospitality establishment's storefront.
- 2.6 A Sidewalk Dining/Hospitality area shall not utilize any public amenities such as benches, seats, tables, or trash receptacles.

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#### **3. Usable Sidewalk Dining/Hospitality Area**

- 3.1 The proposed Sidewalk Dining/Hospitality area shall maintain a minimum of six (6) feet or half (1/2) the width, whichever is greater, unobstructed sidewalk between the food service establishment dining area and all obstructions, measured from the outer edge of the dining area to the curb side obstacle. Consideration may be given to providing a minimum of five (5) feet width on local streets such as 7th, 8th, etc;
- 3.2 The proposed Sidewalk Dining/Hospitality area shall be a minimum of five (5) feet from the street corner areas as defined by building lines extended to the street;
- 3.3 The Sidewalk Dining/Hospitality area shall be delineated by an approved railing that is clearly visible to pedestrians. The railing shall take into consideration ADA requirements;
- 3.4 Unless the main access to the hospitality establishment is provided through the Sidewalk Dining/Hospitality area, the Sidewalk Dining/Hospitality area should only be accessible through the interior of the establishment. Provisions should be made to provide adequate fire safety egress.

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#### **4. Elevation and Other Design Considerations**

- 4.1 The Sidewalk Dining/Hospitality area shall be the same elevation as the adjoining sidewalk. Paint, artificial turf, carpets, platforms, or any other surface cover or treatment of any kind are prohibited from being placed upon the designated area at any time;
- 4.2 In order to maintain maximum visual access, the height of the railing shall not be higher than forty-five (45") inches. Thirty-six inches is recommended. Consideration of height variations may be given to properties with significant grade changes;
- 4.3 Railings shall be designed in a manner to make them removable. The City shall have the authority to require any Sidewalk Dining/Hospitality area to suspend operation and clear such area, or to move or modify the location or operation of the Sidewalk Dining/Hospitality area, for such things as, but not limited to: Any permitted special event; Any street, sidewalk, or utility construction; Any emergency situations; The protection of the health, safety, and welfare of the public.
- 4.4 Railings and barriers shall be constructed of ornamental metal, wrought iron or other compatible materials and shall reflect the character of the area.
- 4.5 The railing shall not be attached to the building.

- 4.6 The Sidewalk Dining/Hospitality area shall be unenclosed and shall be open to the sky with the exception that it may be covered with a retractable awning or fixed awning, which is compatible with the surrounding area; and
- 4.7 In order to maintain maximum visual access, Sidewalk Dining/Hospitality area furnishings may not include outdoor heaters.

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### **5. Operation of Sidewalk Dining/Hospitality Area**

- 5.1 Sidewalk areas shall not operate when the hospitality establishment is closed;
- 5.2 Advertising signage shall not be permitted in the Sidewalk Dining/Hospitality area except for the name of the establishment on chairs or tables as approved by the City;
- 5.3 All amenities including railings, barriers, chairs, and tables shall be maintained in good condition;
- 5.4 No blockage of building entrances or exits shall be permitted in the Sidewalk Dining/Hospitality area;
- 5.5 The establishment operating the Sidewalk Dining/Hospitality area shall be responsible for trash removal and must maintain the following areas in a clean and litter-free manner during the hours of operation: The Sidewalk Dining/Hospitality area; The area from the front building façade to the curb line; Five (5) feet along the adjacent sidewalk to both sides of the Sidewalk Dining/Hospitality area.
- 5.6 Trash and refuse storage for the Sidewalk Dining/Hospitality area shall not be permitted within the Sidewalk Dining/Hospitality area or on adjacent sidewalk areas, and the permittee shall remove all trash and litter as it accumulates.
- 5.7 Per City Code, Section 9-902, outdoor dining areas must be managed to prevent stormwater pollution:
- 5.8 Food waste, trash, cigarettes and other solid wastes must be contained, collected and disposed of properly. Collection must be frequent enough to prevent wastes carried offsite by wind or stormwater runoff.
- 5.9 Wastewater from the cleaning of pavement, buildings, furniture or other outdoor surfaces must be collected and discharged to the sanitary sewer system or other approved wastewater treatment process. Installation of a nearby sanitary sewer cleanout is recommended for this purpose.
- 5.10 Pavement and furnishings must be cleaned frequently enough to prevent contamination of stormwater runoff.
- 5.11 Failure to comply may result in fines, stop work orders or disconnection of utility service.
- 5.12 Food preparation is not permitted within Sidewalk Dining/Hospitality areas. Sidewalk Dining/Hospitality areas must comply with all applicable state and local health codes.

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### **6. Site Plan Submittal Requirements**

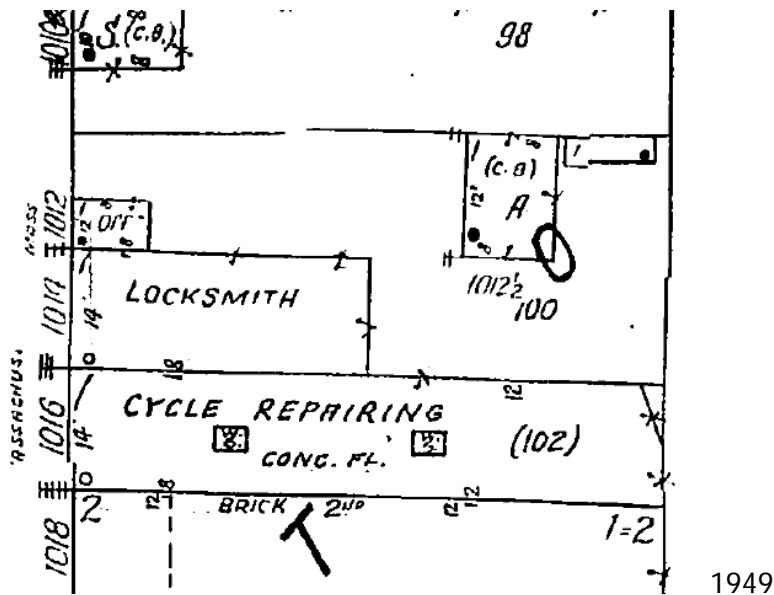
In addition to the requirements identified in Chapter 20-1305 of the Code of the City of Lawrence, the following items shall be included.

- 6.1 The site plan shall show the relationship to the interior establishment and Sidewalk Dining/Hospitality area.
- 6.2 The site plan shall state the square footage of the interior establishment and Sidewalk Dining/Hospitality area.
- 6.3 The site plan shall state the occupancy of the interior establishment and Sidewalk Dining/Hospitality area.
- 6.4 The site plan shall show the composition of railings and barriers proposed for the delineation of the Sidewalk Dining/Hospitality area. The plans shall detail the style, design, and color of the proposed railings or barriers.
- 6.5 The site plan shall provide a detail of the sidewalk attachment method.

- 6.6 The site plan shall provide information regarding the type and style of awning (if applicable) and the type, design, and materials of the proposed chairs and tables.
- 6.7 The site plan shall contain such other conditions and restrictions on the use of the Sidewalk Dining/Hospitality area.

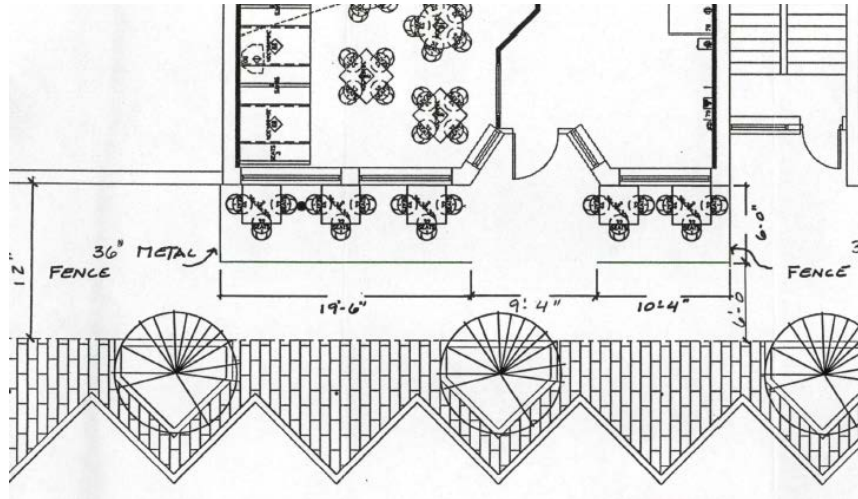
**D. STAFF ANALYSIS**

The existing structure located at 1012 Massachusetts Street was constructed c 1985. It is identified in the Downtown Survey as the Dime Building. It is not shown on the 1943 Sanborn Fire Insurance Map and is not located in Lawrence's Downtown Historic District, National Register of Historic Places. It is however, located in the Downtown Urban Conservation Overlay District and is subject to review using the Downtown Design Guidelines.

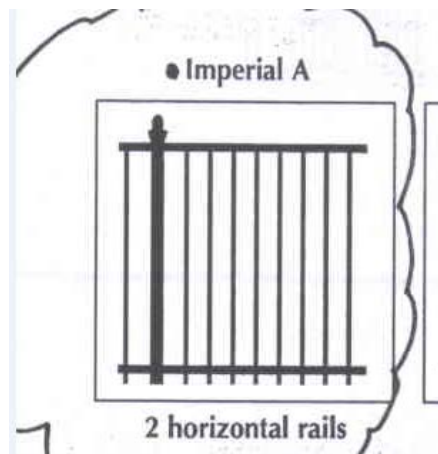


The overall concept of outdoor dining in the front of structures located in Lawrence's downtown has little or no historic basis. However, as changes in the use of structures in the downtown occur, alterations to the buildings may be important to the overall viability of the structures and the downtown area. In project reviews for the Downtown Urban Conservation Overlay District, staff and the Historic Resources Commission typically expect the project or alteration to have minimal change to the structure and its environment. The alteration of spaces that characterize the downtown area should be avoided.

The original sidewalk dining application for the site was approved in 2003. The area was developed in accordance with the approved site plan.



The railing that was proposed at that time is below.



The proposed railing type was never installed or was replaced with the railing in the photo below. The proposed site plan for the area and the proposed railing were approved as they did not alter the overall character of the historic downtown and the railing was similar to outdoor dining areas in downtown.



### **Downtown Urban Conservation Overlay District Goals**

As part of the establishment of the Downtown Urban Conservation Overlay District, the community identified specific goals to be achieved by the overlay district. These goals were incorporated in the *Downtown Design Guidelines* document to guide the use and interpretation of the document. The Downtown Design Guideline goals that apply to this project include:

2. To foster and maintain Lawrence's economic viability by preserving the existing character and fabric of the downtown area while encouraging development and/or improvements that complement its historic character.
3. To regulate exterior scale, massing, design, arrangement, texture, and materials within the downtown area in order to promote compatibility with the downtown's existing architectural character.
5. To maintain and enhance the unique identity of Downtown Lawrence.

The character and the identity of Lawrence's Downtown are unique to Lawrence, Kansas, and this character and identity creates a sense of place for the community. The overall patterns of the downtown area are reflective of the history of Lawrence. The overall intent of the Downtown Urban Conservation Overlay District and the Downtown Design Guidelines is not to stop the development of downtown, but rather to insure that new development is compatible and consistent with the visual characteristics of the historic downtown area.

*It is the City's conviction that abiding by the principles set forth in these guidelines will enhance and maintain the historic character of Lawrence while promoting increased values and growth. (Page 8, Downtown Design Guidelines)*

Projects in the overlay district are expected to meet the community expectations and should be consistent with Downtown Lawrence's character-defining elements.

The character of Downtown Lawrence is expressed in the introduction of the Downtown Design Guidelines, in the Multiple Property Documentation Form for Lawrence, and the National Register of Historic Places nomination for the historic district.

In addition to the overall goals for the overlay district and the intent of the design guidelines, Section 3 of the *Downtown Design Guidelines* contains the specific guidelines that apply to sidewalk dining. The following two guidelines are specific to the railing for sidewalk enclosures for dining areas.

- 4.2 In order to maintain maximum visual access, the height of the railing shall not be higher than forty-five (45") inches. Thirty-six inches is recommended. Consideration of height variations may be given to properties with significant grade changes.
- 4.4 Railings and barriers shall be constructed of ornamental metal, wrought iron or other compatible materials and shall reflect the character of the area.

The applicant has altered the existing railing design. Typically the actual design of the railing is not an issue as the maximum height of the railing is 45" and has minimal effect on the overall character of the area. There are a wide variety of railing designs in the downtown area. The railing alteration

proposed and installed by the applicant is within the parameters of railing designs in the area. The design of the railing (see below) is not a concern for staff.



Of concern for staff is the addition of a large metal arch that will span the two areas of the existing railings. The arch is taller than the maximum height recommended for railings. While the arch is not the railing per se, it is the demarcation of the outdoor dining area. The proposed arch may be viewed as an entry feature to the dining area. This type of entry feature was not anticipated when the guidelines were adopted and are not addressed in the guidelines. The identified purpose of the railing height is to maintain maximum visual access. In staff's opinion, the height of the arch impedes the visual access to the building and to the views from both the north and south on the sidewalk. The height of the arch also impedes the visual access to the building and the architectural features of the building.

The height of the arch is a concern for staff, but the larger issue is the character of the downtown area. 4.4 of Section Three of the guidelines specifically state that railings and barriers shall reflect the character of the area. There are no arches of this type in the downtown area and it is not reflective of the historic or current character of the area. Staff is of the opinion that the arch will alter the character of the downtown area. The arch is attractive and may be appropriate in a different setting, but it is not compatible to Lawrence's downtown area.

The applicant has provided a photograph to show what the proposed arch will look like if it is installed.



Although staff is of the opinion that the installation of the arch is not compatible with and will alter the character of the downtown area, the commission should discuss the character defining elements of the downtown area and the overall goals of the Downtown Design Guidelines to determine if the proposed project meets the intent of this document. If the Commission determines that this type of entry feature to a sidewalk dining area meets the intent of the Downtown Design Guidelines, the Commission should begin the process to amend the guidelines to include this new feature.

#### **E. STAFF RECOMMENDATION**

In accordance with the *Downtown Design Guidelines*, the standards of evaluation, staff recommends the Commission deny the proposed project and make the determination that the proposed project does not meet the intent of the Downtown Design Guidelines for the Downtown Urban Conservation Overlay District. As proposed, the project does not meet the following guidelines:

Part 3, 4.2 In order to maintain maximum visual access, the height of the railing shall not be



higher than forty-five (45") inches. Thirty-six inches is recommended. Consideration of height variations may be given to properties with significant grade changes;

Part 3, 4.4 Railings and barriers shall be constructed of ornamental metal, wrought iron or other compatible materials and shall reflect the character of the area.