



City of Norman, OK

Municipal Building Council
Chambers
201 West Gray Street
Norman, OK 73069

Text File

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Title

CONSIDERATION OF APPROVAL OF A REVOCABLE LICENSE TO FIRST BAPTIST CHURCH TO OCCUPY STREET RIGHT-OF-WAY FOR PLACEMENT OF A NEW STAIRCASE AND ENTRANCE ALONG COMANCHE STREET FOR AN FEE OF \$952 PER YEAR.

Body

BACKGROUND: First Baptist Church is currently in the process of remodeling the church at 211 West Comanche Street. First Baptist Church plans to build a new staircase and entrance to the church along the south side of the church along Comanche Street. As designed, the staircase and entrance encroaches nine hundred and fifty two square feet into the right-of-way.

DISCUSSION: The Department of Public Works, the Department of Utilities, and the Planning Department have reviewed the proposed plans. Each department is comfortable with locating the staircase and entrance within City of Norman Right-of-Way so long as First Baptist Church follows certain conditions contained within the proposed Revocable License.

In essence, Comanche Street has an abundance of right-of-way (80 feet) because it was platted many years ago when right-of-way requirements were greater than they are today. First Baptist Church is proposing to utilize 20 feet of existing right-of-way, leaving 60 feet which matches the City's current right-of-way standard. Over the next three (3) months, the church plans to request the permanent vacation or closing of the north 20 feet of right-of-way on Comanche Street. The church has requested this revocable license because their building improvement project is on a fast-track schedule and cannot wait for the full right-of-way closure process to be completed. As a companion item to the right-of-way closure, the church has agreed to dedicate a public pedestrian easement where the sidewalk is located on the north side of Comanche Street.

Prior to drafting the license, the City Attorney's Office reviewed previous agreements between the City of Norman and Coach's Brewhouse, 329 Partners LLC, and La Baguette, Inc. These entities both lease Right-of-Way from the City of Norman to use as patio space for their restaurants (Coach's Brewhouse, In the Raw Sushi, and Blackbird Gastropub). In addition, the attached agreement is very similar to the agreement recently approved by City Council for the archway at the entrance of Fountain View Addition.

The attached license allows First Baptist Church to build and locate the proposed staircase and entrance within the Comanche Street right-of-way. However, it reserves the City's right, or the rights of others that have City permission, to locate, relocate, or construct utilities within the area where the staircase and entrance is located. In addition, under the terms of the license, the City shall incur no liability for any damages to the staircase and entrance caused by any utility work.

First Baptist Church, the licensee, also agrees to pay an annual license fee of \$952.00 for use of the right-of-way. This fee is consistent with the fees paid by 329 Partners LLC, La Baguette, Inc, and the Fountain View Addition for use of the City Right-of-Way. All of those agreements charge \$1.00/square foot. The licensee also must agree to use the Right-of-Way exclusively for the stairway and entrance consistent with the plans that have been submitted. Any deviation from the approved plans may be grounds for revocation of the license.

In the license, the City reserves the right to inspect the stairway and entrance. If the licensee fails to maintain it in a safe, sanitary, and sightly condition, the City may require the licensee to make repairs, or if the licensee fails to do so, the City may make repairs and charge those costs to the licensee. The

licensee is also to comply with any applicable state or federal laws. The licensee agrees to indemnify, defend, and hold the City of Norman harmless for any actions of any nature arising out of any failure by licensee to satisfy, its obligations under this license; arising out of any accident or other occurrence whatsoever causing injury, including death, resulting from the use, occupancy or condition of the Right-of-Way and patio by licensee; and arising out of any mechanic's lien or other lien, tax, assessment or charge of any kind.

The license may be terminated for the following reasons with thirty days written notice: the subject right-of-way is needed for a municipal purpose including, but not limited to, road or utility construction, installation, or repair; installation of a sidewalk, bicycle lane or other mode of pedestrian travel; and construction of any other City facilities. Upon the termination of this license, licensee shall surrender to City the possession of the right-of-way and shall remove the stairway and entrance and restore the right-of-way to substantially the state in which it was prior to the construction of the patio. If the licensee fails within thirty (30) days to make such removal or restoration, then City may remove the stairway and entrance and restore the right-of-way to substantially the state it was in prior to construction of the stairway and entrance, and the licensee shall reimburse City for the cost so incurred.

Finally, this license has one additional term that previously approved licenses have not contained. First Baptist Church is in the process of applying to close and vacate twenty feet of right-of-way along the north side of Comanche Street from Santa Fe Avenue to Webster Avenue. If such a closure and vacation are approved, it will no longer be necessary for First Baptist Church to lease right-of-way from the City of Norman for the stairway and entrance because they would be located on property owned by First Baptist Church. For that reason, the License requires the City of Norman to refund a prorated portion of the fee based upon the amount of months remaining on the license at the date of closure of Comanche Street.

RECOMMENDATION: If City Council wishes to allow the location of this stairway and entrance within the right-of-way, Staff recommends the execution of the attached license in order to preserve the interests of the City and other franchise holders.