

## Legislation Details (With Text)

<b>File #:</b>	18-570	<b>Name:</b>	
<b>Type:</b>	Report	<b>Status:</b>	Individual Item Ready
<b>File created:</b>	9/18/2018	<b>In control:</b>	City Council
<b>On agenda:</b>	10/8/2018	<b>Final action:</b>	
<b>Title:</b>	Discuss and consider approval to authorize the City Manager to enter into a license agreement between the City of New Braunfels and Muckenfuss Properties, LLC for encroachments in the public right-of-way at 295 E. San Antonio Street.		

**Sponsors:****Indexes:****Code sections:****Attachments:** 1. M&F LA Application, 2. Site Plan Exhibit, 3. Patio Cafe Deck Section Exhibit

Date	Ver.	Action By	Action	Result
10/8/2018	1	City Council		

Presenter/Contact  
*Garry Ford, City Engineer*  
(830) 221-4020 - [gford@nbtexas.org](mailto:gford@nbtexas.org)

**SUBJECT:**

Discuss and consider approval to authorize the City Manager to enter into a license agreement between the City of New Braunfels and Muckenfuss Properties, LLC for encroachments in the public right-of-way at 295 E. San Antonio Street.

**BACKGROUND / RATIONALE:**

City of New Braunfels Code of Ordinances Section 114-7 establishes the regulations for improvements on public property and public easements within the public right-of-way. The City may grant a license and permission to occupy public property and shall be evidenced by a license agreement executed by the City and the licensee.

Patrick Winn, Total Art Design and Architecture, PLLC, as agent for Terry Muckenfuss, Muckenfuss Properties, LLC, made an application with the City Engineer for an encroachment in the public right-of-way at 295 E. San Antonio Street. The proposed encroachment includes a patio/outdoor seating area to service an adjacent dining establishment.

Recently, the City amended Chapter 114 to permit sidewalk cafes to encroach into the public right-of-way under certain circumstances. However; due to the location (not adjacent to the primary storefront) and construction method (tied into adjacent rock wall and not affixed to the sidewalk) of the proposed encroachment, this improvement is not considered a sidewalk café for permitting purposes. The proposed encroachment area leaves adequate space for an ADA compliant path of travel and a clear visual zone greater than 3-feet wide. The application was reviewed by the Planning & Community Development Department.

Section 114-7(e) specifies that the licensee shall pay an annual fee of ten percent of the value of the area to be licensed for surface licensing and that the minimum annual fee for such licenses shall be \$100. Based on the value and size of the area proposed for sidewalk café use, the proposed annual fee for the agreement is \$245.

**ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:**

Yes	City Plan/Council Priority: 2018 Comprehensive Plan Pros and Cons Based on Policies Plan	Pros: ACTION 1.15 [PROJECT] Implement Downtown area improvements planned in the adopted 2010 Downtown Implementation Plan, and further envisioned in the South Castell Avenue Visioning Plan, including but not limited to a downtown hotel, increased downtown residential units, and expansion of the Civic/Convention Center. Activation of the pedestrian realm by the addition of sidewalk cafes is a Downtown improvement planned in the adopted 2010 Downtown Implementation Plan. ACTION 2.5 [PARTNERSHIP] Encourage diversification of commercial activity Downtown to build on and sustain existing historic resources and maximize structure utilization for economic expansion. The addition of outdoor dining on East San Antonio will add diversity to the pedestrian realm and commercial mix as most of the pedestrian realm is inactive in the immediate area and there are limited dining options. Cons: N/A
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**FISCAL IMPACT:**

The recommended license fees to be collected on an annual basis are \$245.

**COMMITTEE RECOMMENDATION:**

N/A

**STAFF RECOMMENDATION:**

Staff recommends approval of the authorization for the City Manager to enter into a license agreement between Muckenfuss Properties, LLC for an encroachment in the public right-of-way at 295 E. San Antonio Street with an annual fee of \$245 and all proposed improvements in the public right-of-way meet ADA requirements.