

## Legislation Details (With Text)

<b>File #:</b>	21-837	<b>Name:</b>	
<b>Type:</b>	Recommendation	<b>Status:</b>	Passed
<b>File created:</b>	8/17/2021	<b>In control:</b>	City Council
<b>On agenda:</b>	9/13/2021	<b>Final action:</b>	9/13/2021
<b>Title:</b>	Approval of a license agreement with Matt Schumann (ParkHaus, LLC) to allow aerial encroachments over the City's right-of way along E. San Antonio Street at the property currently addressed as 173, 189, and 207 E. San Antonio Street in New Braunfels, Texas (also described as City Block 2003, Lot E 8 of S 110 of 35 & W 16 of E 24, and West 47 of Lot 98, being approximately .45 acres).		

**Sponsors:****Indexes:****Code sections:****Attachments:** 1. Aerial Map, 2. Excerpt from Construction Drawings, 3. License Agreement

Date	Ver.	Action By	Action	Result
9/13/2021	1	City Council	approved	

**PRESENTER:**

Jeff Jewell, Economic and Community Development Director

**SUBJECT:**

Approval of a license agreement with Matt Schumann (ParkHaus, LLC) to allow aerial encroachments over the City's right-of way along E. San Antonio Street at the property currently addressed as 173, 189, and 207 E. San Antonio Street in New Braunfels, Texas (also described as City Block 2003, Lot E 8 of S 110 of 35 & W 16 of E 24, and West 47 of Lot 98, being approximately .45 acres).

**DEPARTMENT:** Economic and Community Development**COUNCIL DISTRICTS IMPACTED: 5****BACKGROUND INFORMATION:**

Section 114-7 of the New Braunfels Code of Ordinances authorizes the licensing of encroachments on public right-of-way and established fees for such encroachments. This code section exempts items such as awnings and signs from the fees schedule and license agreement requirements prescribed in the ordinance but does not provide such an exemption for balconies.

The subject property is a .45-acre vacant lot which formerly housed three commercial structures. The applicant is currently redeveloping the property to include a two-story shell building, a single-story shell building and a parking garage structure. The proposed project includes several aerial encroachments into the City's right-of-way (ROW). One of the proposed encroachments includes a balcony projecting over the ROW. This balcony is subject to the City's License Agreement requirements and associated fees.

Within the Downtown context, encroachments such as balconies, canopies and bay windows are an important

element of infill building design. Historically, these elements were common in Downtown and contribute to the character of the area. Such design features are preferred in Downtown as they reinforce the human scale of new developments, enhance the public realm, and provide contextual references to historic buildings. As such, the proposed balcony is considered to be an added benefit to the city properties under Section 114-7(k).

### **ISSUE:**

Building “A” is the northernmost proposed building and includes three façade elements that would extend from the building façade over the ROW. These include a first-floor canopy, a second-floor balcony, and a second-floor canopy. These encroachments would leave a clear zone of approximately 9.5 feet from the sidewalk to the bottom of the lowest encroaching façade element (the first-floor canopy). The lower canopy and balcony both extend over the ROW by 3.5 feet and the upper canopy extends over the ROW by 1.5 feet.

Building “B” is the southernmost proposed building at the site. This single-story building includes a canopy spanning the primary façade. This canopy encroaches over the ROW by approximately 3.5 feet and has a clear zone of approximately 9.5 feet.

Of these encroachments, the balcony is subject to a license agreement in accordance with Section 114-7(e) and 114-7(k) of the City’s Code of Ordinances. The proposed canopies were subject to Engineering Department review and have been approved but are exempted from the license agreement and fees per ordinance.

The proposed license agreement outlines limits on the City’s liability, provides an insurance requirement, allows the City rights to inspect the encroachment and compel any needed repairs at the licensee’s expense, and provides indemnification for the City.

### **FISCAL IMPACT:**

The proposed license agreement would provide a minimal amount of revenue to the City. Per Section 114-7(e) the fee for aerial encroachments is limited to 7.5% of the value of the area to be licensed with a minimum annual fee of \$100.00. Given the small size of the balcony, the annual fee will be \$100.00. Indirect impacts of redevelopment in the New Braunfels area that include elements that create synergy between the building faces and the public realm and difficult to quantify. However, such improvements contribute to a unique sense of place that tends to generate more revenue per acre than other standard development scenarios.

### **RECOMMENDATION:**

The Downtown Board met on August 17<sup>th</sup> and voted to recommend approval of the license agreement.