

RESOLUTION NO. 12-104

The City Council finds and determines that the Application of Delightful Vino for a sidewalk café is due to be approved;

THEREFORE IT RESOLVED by the City Council of the City of Decatur Alabama, that the Application for a sidewalk cafe by Delightful Vino is hereby approved; and accordingly the Mayor is authorized and directed to execute the revocable license agreement for a sidewalk café with that entity on behalf of the City based on the documentation provided to the City.

ADOPTED this 7th day of May, 2012.



A Grand City on a CHARMING SCALE

Planning Department

April 24, 2012

Honorable Mayor and City Council
City of Decatur
P.O. Box 488
Decatur, AL 35602

RE: Sidewalk Café application

Gentlemen:

Please find attached an application to use part of the Public Sidewalk (Right of Way) for a sidewalk café from Billy Williams and Kevin Penn for their business Delightful Vino located at 312 2nd Avenue SE. The City will be issuing a license to allow this. As you may remember, we recently adopted an amendment to the Zoning Ordinance to allow outdoor dining in our two older downtown areas. This is applicable only in these areas because the development practices of the time allowed the buildings to be constructed right at the edge of the Right of Way and the property owners do not have any private property available to them to use for outdoor dining. The DDRA is working closely with the applicants to develop a cohesive look for the sidewalk cafe. They will be helping them with the expense of acquiring the stanchions and chains being used to delineate the sidewalk café area from the 60" net clear opening required for the pedestrian way. Sam Barnette of Godwin Barnette & Woods Architects has donated his time to prepare the drawings for the DDRA as well.



A Grand City on a CHARMING SCALE

Planning Department

If you have any questions concerning this request, please contact the City Planning Department.

Very truly yours,

DECATUR CITY PLANNING DEPARTMENT

A handwritten signature in blue ink, reading "Karen J. Smith", is written over the typed name.

Karen J. Smith, Planner

Cc: Herman Marks, City Attorney
Amos Morris
Tina Boyles
Fire Marshall
Planning Department
Police Traffic Division

SIDEWALK CAFÉ DETAILS

Restaurant owned by:

Billy Williams, Kevin Penn
312 2nd Ave. SE
Decatur, AL 35601
256-309-5331

Building at:

Café 113 – Victor Melones
113 Grant St. SE
Decatur, Al. 35601
256-351-1400

Sidewalk Café

1. Tables and chairs will be set up for dining 60" net clear opening will be maintained between tables and chairs and the nearest obstacle or curb
2. See attached plan
3. Sidewalk café services will be

Monday – Saturday 10:00 am to 12:00 am
Sunday 12:00 pm to 10:00 pm

Sidewalk café area shall be cleaned daily.

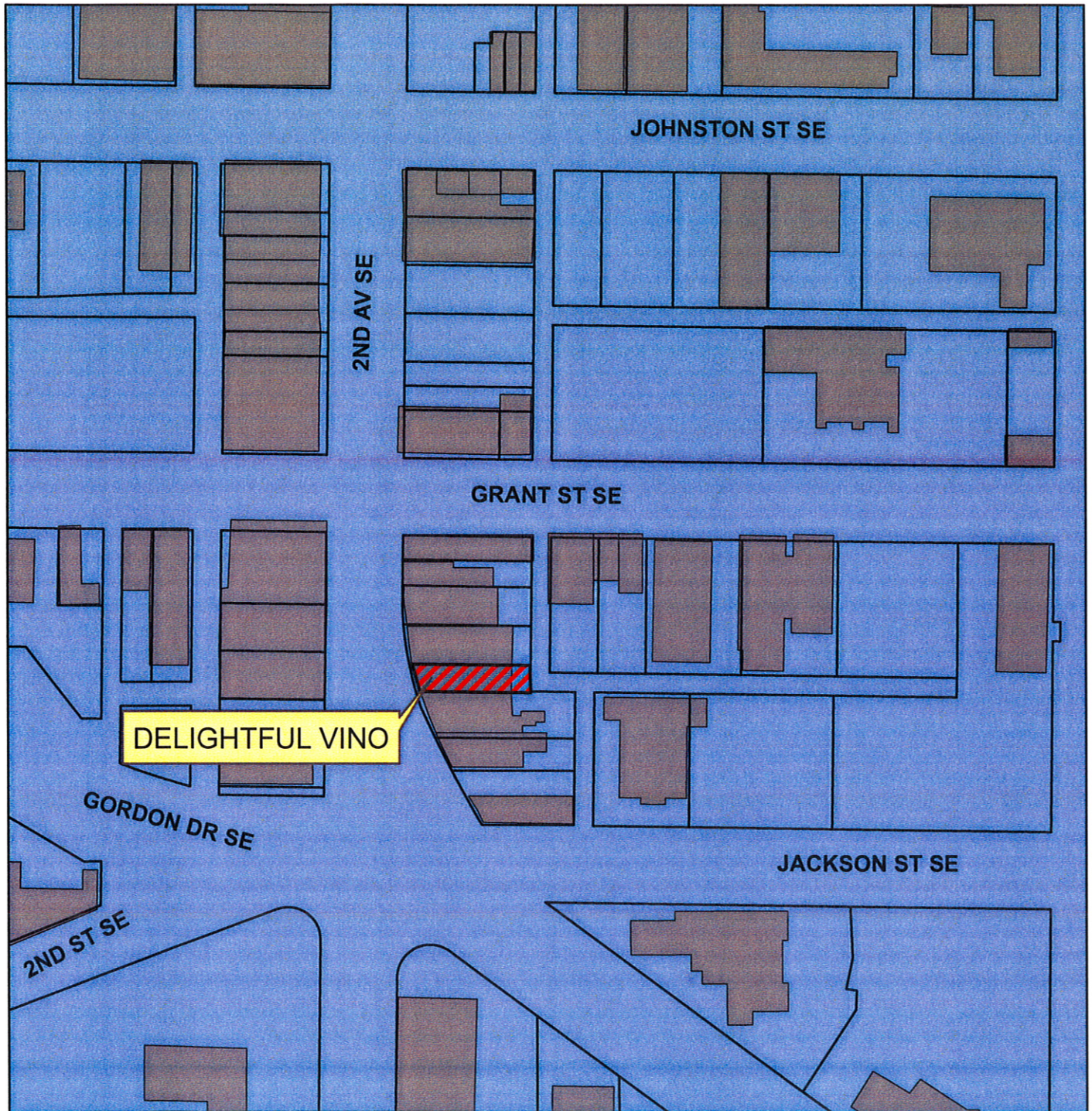
All tables and chairs will be sanitized daily.

Manager on duty and host/hostess will monitor during operating hours.

All alcohol will be monitored in controlled area to ensure that no alcohol goes outside of the sidewalk café.

4. Sidewalk café plans to use stanchions with chains to delineate the sidewalk café area. They will be black. The stanchions will be placed using the 5 foot pedestrian clearance all around.
5. The middle part of the chain will be a minimum of 3 feet from the ground and no higher than 4 feet.

SIDEWALK CAFE FOR DELIGHTFUL VINO



Legend



LOCATION MAP

PREPARED BY THE CITY OF DECATUR
PLANNING DEPARTMENT

APPLICANT: BILLY WILLIAMS AND KEVIN PENN



DRAWING NOT TO SCALE

 **SUBJECT PROPERTY**

ZONED B-5

Note: Every reasonable efforts has been made to assure the accuracy of this map. The City of Decatur does not assume liability arising from the use of this map. This map is provided without warranty of any kind, either expressed or implied.

REVOCABLE LICENSE
AGREEMENT
FOR USE OF PUBLIC
SIDEWALKS

BY 2 brothers inc. dba Delightful Vino

**REVOCABLE LICENSE AGREEMENT FOR SIDEWALK CAFÉS
SERVING ALCOHOLIC BEVERAGES**

This revocable License Agreement ("License") is made and entered into on the _____ day of _____, 20____, by and between the City of Decatur, a municipal corporation in the State of Alabama, hereinafter referred to as "Licensor," and 2 brothers inc., dba Delightful Vino, hereinafter referred to as "Licensee".

Subject to the terms and conditions hereinafter set forth, Licensor hereby agrees to grant to Licensee a non-exclusive, revocable license for that period beginning on _____ and ending with the then-current annual privilege license year, unless revoked sooner by the Licensor or terminated sooner by the Licensee, for that area of the public sidewalk generally described or depicted on the map attached hereto as Exhibit "A," hereinafter referred to as "licensed premises" which is made a part of this License as if fully set out herein.

1. Licensee shall use the licensed premises consistent with Chapter 25, Article 8, of the Code of Decatur, Alabama, such may be amended from time to time, and for no other purpose. Licensee acquires no vested right to use the licensed premises and understands, acknowledges and agrees that the City may, at any time, and without any process due the Licensee, declare this License to be revoked. This License is nontransferable.
2. Licensee shall be responsible for the provision of security within the licensed premises during the period of the license; provided, however, nothing herein shall prevent any law enforcement officer or other official from entering upon the licensed premises to perform any law enforcement function or otherwise administer or enforce any federal, state or local law.
3. Installations required or allowed to be placed upon the sidewalk, including without limitation the location, materials used, style, appearance, event, and/or method of installation, shall be as approved as set forth in Article VIII. In no event shall any installation be affixed, either permanently or otherwise, to any public property so as to damage or deface said public property. Licensee understands and agrees that the City may require installations to be modified at any time and from time to time for the public safety and convenience. All installations shall be installed at the sole cost and expense of the Licensee.
4. Licensee agrees to comply with all ordinances, laws, rules, and regulations pertaining to the use of the licensed premises, including but not limited to

Chapter 25, Article 8, of the Code of Decatur, Alabama, as such may be from time to time amended, and shall not use the premises in an unlawful manner. The Licensee shall obtain all licenses and permits, and pay all fees necessary or required. In the event any required license or permit terminates, is revoked, or otherwise expires, then this License and right of use granted herein shall immediately be revoked without any further action necessary by the Licensor.

5. Licensee may serve food and beverage, including alcoholic beverages which it has been duly licensed to sell in accordance with state and local alcoholic beverage laws, upon the licensed premises; provided such service is consistent with and conforms to the conditions set forth in Chapter 25, Article 8, of the Code of Decatur, Alabama, Alabama, as such may be from time to time amended. In no event shall Licensee allow any alcoholic beverages to be brought upon the licensed premises by a customer or otherwise, which the Licensee has not served or dispensed; and in no event shall Licensee allow any alcoholic beverages to be removed from the licensed premises by a customer or otherwise.
6. Licensee shall make its indoor bathroom facilities available to customers served within the licensed premises, and in no event shall Licensee be allowed to install any outdoor bathroom facilities. Should the City determine that the lighting is required for public safety and convenience, then Licensee shall, at its sole expense and cost, provide such required lighting; provided said lighting shall not be affixed so as to damage or deface public property, and further provided, Licensee shall obtain and maintain any applicable permits for installation and operation of the lighting, including but not limited to electrical permits.
7. Licensor, its officials, officers, employees, and agents shall not be liable for any loss, injury, death, or damage to persons or property which at any time may be suffered or sustained by the Licensor, its officials, officers, employees or agents; Licensee; or by any person who may at anytime be using or occupying or visiting the licensed premises or be in, on or upon the same if such loss, injury, death, or damage shall be caused or result from or arise out of the negligence of the Licensee or of any occupant, visitor or user of any portion of the licensed premises under the terms of this License. Licensee shall indemnify and hold harmless licensor, it's officials, officers, employees, and agents and does hereby indemnify against claims, liability, loss, judgments, suits, penalties, costs, expenses and damages aforesaid (including but not limited to reasonable attorney's fees and expenses and court costs and fees). Licensee's duty to indemnify shall not apply to loss, injury, death or damage arising by reason of the negligence or misconduct of the Licensor, its agents or employees.

Nothing contained in this paragraph 7 shall be construed as a waiver of any immunity of statutory protection of the City of Decatur, Alabama, and no third party may expand any recovery against the City due to the Licensee's duty of indemnification.

8. Licensee shall be responsible for keeping the licensed premises clean and in good repair. In addition, Licensee shall see that all tables and chairs and other installations placed upon or over the licensed premises are well maintained and kept in good and presentable condition. The City may at any time and from time to time attach additional conditions to the use of the licensed premises in order to protect and promote the public health, safety and general welfare.
9. Licensee shall provide, proof of commercial general liability insurance with limits of not less than \$ 100,000.00 per occurrence, \$300,000.00 in the aggregate combined single limit, for bodily injury, personal injury and property damage liability which shall be furnished at the time of application. The insurance shall provide for 30 days prior written notice to be given to the City of Decatur if coverage is substantially changed, canceled or non-renewed. The City of Decatur shall be named as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the operations of a sidewalk café; and the licensee shall indemnify, defend and hold the City harmless from any loss that results directly or indirectly from the permit or license issuance.
10. Upon the termination, revocations or expirations of this License, Licensee shall, at its sole cost and expense, restore the licensed premises to the condition it was in at the commencement of this License.

IN WITNESS WHEREOF the parties have entered into this License Agreement on the date first above written.

LICENSOR:
THE CITY OF DECATUR, ALABAMA

By: _____
Don Stanford, Mayor

ATTEST:

City Clerk

LICENSEE:

By: _____

Its: _____



Stanchion Kit - Black - 4pk 30' of 2" HD Chain W/ C-Hooks Incl. - 3" Pole, 16" Base, 41" Height

Availability: Usually ships in 3 to 6 days

Stock No: T9IB549237

Our Price: \$140.95

Product Specifications

HEIGHT INCHES	41
COLOR	Black
BASE DIAMETER INCHES	16
BRAND	Mr. Chain
CONSTRUCTION	Polyethylene
DIAMETER INCHES	3
MANUFACTURERS PART NUMBER	71303-4
PACKAGE QUANTITY	4 Stanchion + 30 foot Chain

Stanchion Kit - Black - 4pk 30' of 2" HD Chain W/ C-Hooks Incl. - 3" Pole, 16" Base, 41" Height

Effective for Crowd Control applications. Lightweight, durable, UV resistant and will not rust. Base can be filled with sand for additional stability. Made in USA.

Product Specifications

HEIGHT INCHES	41
COLOR	Black
BASE DIAMETER INCHES	16
BRAND	Mr. Chain
CONSTRUCTION	Polyethylene
DIAMETER INCHES	3
MANUFACTURERS PART NUMBER	71303-4
PACKAGE QUANTITY	4 Stanchion + 30 foot Chain