

**COUNCIL ACTION FORM**

**SUBJECT: ENCROACHMENT PERMIT FOR A FENCED SIDEWALK CAFÉ AREA  
AT 2302 LINCOLN WAY**

**BACKGROUND:**

Starbucks Corporation is seeking approval for an encroachment permit that would allow a fenced area for a sidewalk cafe at 2302 Lincoln Way. The area is approximately 380.8 square feet, but will not affect use of the sidewalk.

This area has been operated as a sidewalk café by Starbucks since the time the building opened in 2015. In 2015 and 2016, Starbucks applied for a Sidewalk Café permit. In subsequent years, no sidewalk café permit application was filed. It should be noted that the sidewalk café operated by Starbucks does not meet all the requirements under the Sidewalk Café Code. In particular, the sidewalk café uses more than 50% of the right-of-way as measured from the building to curb (approximately 11 feet of the 19 foot right-of-way), and the fencing is permanently affixed to the pavement, which is prohibited in the Sidewalk Café Code.

To resolve these issues, staff has proposed that Starbucks obtain an Encroachment Permit. These permits are granted to entities that wish to affix things to the pavement or otherwise occupy the right-of-way in a permanent fashion. In addition, Starbucks has applied for and received staff approval for a Sidewalk Café Permit. Starbucks would be required to adhere to all other regulations in the Sidewalk Café Code (e.g., service requirements, design standards, hours of operation).

The Encroachment Permit has no expiration, provided the applicant maintains liability insurance on an ongoing basis. Starbucks will be required to obtain a Sidewalk Café Permit for each subsequent sidewalk café season.

Chapter 22.3(3) of the Ames Municipal Code requires approval of the Encroachment Permit Application by the Ames City Council before the permit can be issued. By signing the agreement, the owner and tenant agree to hold harmless the City of Ames against any loss or liability as a result of the encroachment, to submit a certificate of liability insurance which protects the City in case of an accident, and to pay the fee for the encroachment permit. The owner and tenant also understand that this approval may be revoked at any time by the City Council. The fee for this permit was calculated at \$380.80, and the full amount has been received by the City Clerk's Office along with the certificate of liability insurance.



**ALTERNATIVES:**

1. Approve the requested Encroachment Permit.
2. Deny the request for an Encroachment Permit, and direct staff to work with Starbucks to modify its sidewalk café to comply with the Sidewalk Café Code.

**MANAGER'S RECOMMENDED ACTION:**

It is the recommendation of the City Manager that the City Council adopt Alternative No. 1, thereby approving the requested Encroachment Permit.



APPLICATION FOR ENCROACHMENT PERMIT

An Encroachment Permit approved by the Ames City Council is required for anything of a "fixed character" which is "upon, over or under" the surface of any "street, alley, or sidewalk."

Address of Encroachment: 2302 Lincoln Way, Ames, IA 50014

Type of Encroachment: Fence area Outdoor Cafe Seating
(If the encroachment is a sign, please apply for a sign permit through the Inspections Division.)

Total Square Feet of the Area to Encroach: 300.8 (See attached submittal guidelines.)

Applicant is: Property Owner Tenant Contractor

Name of Applicant: Starbucks Corporation Phone: 206-318-4440

Mailing Address: 2401 Utah Ave S., MS-RE3, Seattle, WA 98134 Email: financialleaseadmi@starbucks.com

Property Owner's Name: Vesper Foundry LLC Phone: 512-806-1000

Mailing Address: 7500 Rialto Boulevard Building II, Suite 290, Austin, TX 78735 Email: miedet@clsiving.com

These items must be submitted with your application prior to approval of the permit:

- 1. An Encroachment Permit Agreement approved as to form by the City Attorney and signed by the owner of the building where the encroachment will occur (obtained from the City Clerk's Office).
2. A sketch of the encroaching item (i.e., sign, canopy, awning, etc.) drawn to scale.
3. A sketch showing the placement of the encroaching item on the property.
4. An insurance certificate with comprehensive general liability coverage in an amount of not less than \$500,000 combined single limit naming the City of Ames as an additional insured on the policy. Said certificate must be accompanied with a copy of Endorsement CG 2013.
5. A fee to be determined by the City's Building Official. The fee is \$1.00 per square foot of the encroachment or a minimum of \$25.00.

Applicant's Signature: [Signature] Date 06.19.18

Property Owner's Signature (If different): [Signature] Date 6/14/18
JOSEPH HULLER



STARBUCKS COFFEE COMPANY  
 10000 NE NEASDALE AVENUE  
 PORTLAND, OR 97220

PROJECT NO. 10000 NE NEASDALE AVENUE  
 PORTLAND, OR 97220  
 DATE: 10/15/03

SCALE: AS SHOWN

PROJECT NO. 10000 NE NEASDALE AVENUE  
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**ARCHITECTURAL  
 BILL PLAN/FILES**

- 1. PLAN & SECTION
- 2. ELEVATION
- 3. INTERIOR FINISH
- 4. EXTERIOR FINISH

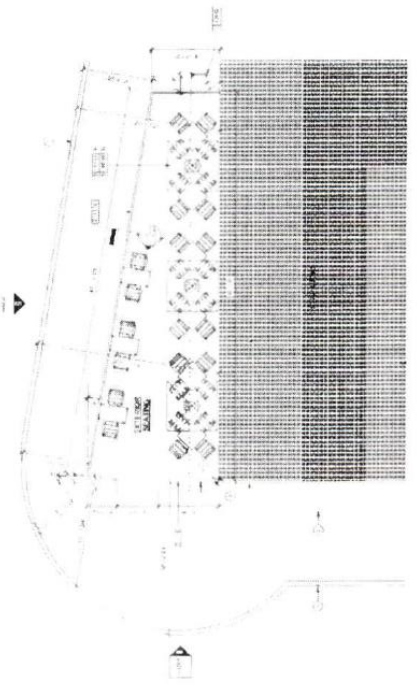
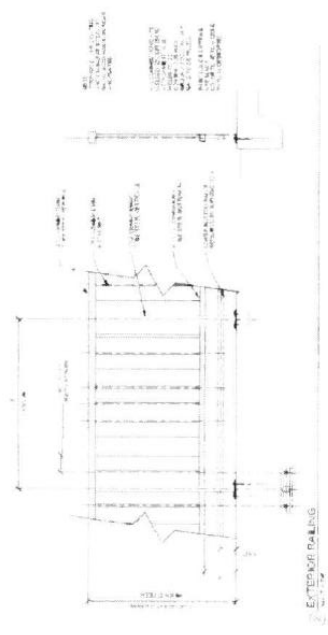
**SHEET NOTES**

- 1. REFER TO SHEET 10000 NE NEASDALE AVENUE
- 2. REFER TO SHEET 10000 NE NEASDALE AVENUE
- 3. REFER TO SHEET 10000 NE NEASDALE AVENUE

NO.	DESCRIPTION	DATE	BY
1	ISSUED FOR PERMIT	10/15/03	JL
2	ISSUED FOR PERMIT	10/15/03	JL
3	ISSUED FOR PERMIT	10/15/03	JL

DATE: 10/15/03  
 BY: JL

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