

**Ad hoc Outdoor Dining & Food Truck Committee  
Meeting #10**

**City Hall, 2<sup>nd</sup> Floor Large Conference Room  
May 4, 2023**

**DRAFT MEETING MINUTES**

In attendance:

Committee: Councilor Erle Pierce (Chair), Mayor Jim Bouley, Councilor Stacy Brown

Excused: Councilor Karen McNamara

Staff: Deputy City Manager – Development, Matt Walsh; Interim City Engineer, Martha Drukker; Transportation Engineer, Karen Hill; Deputy City Solicitor, Danielle Pacik; Code Administrator, David Hall; Community Development Specialist, Crayton Brubaker

*Councilor Pierce called the meeting to order at 3:38 pm*

1. Continued Discussion of Outdoor Dining Rules and Regulations / Dining within Parking Spaces

Councilor Pierce noted that the meeting and discussion will primarily focus on dining within parking spaces. Mr. Walsh explained several files that were included in the agenda packet, including the current outdoor dining regulations and ordinance, Councilor Pierce's conclusion document, restaurant permit and seating data for the City and downtown, and a letter submitted as public testimony.

Mr. Walsh presented a brief history of outdoor dining in Concord since COVID and a summary of the committee's actions to date.

There are 335 restaurant establishments in Concord that provide 15,117 seats across the city. In the downtown area, 17 establishments participate in the outdoor dining program. Combined, these establishments provide 147 tables and 609 seats for outdoor dining. Four establishments have requested outdoor dining in parking spaces for the 2023 season.

The committee reviewed the 2022 season in its December 2022 and January 2023 meeting and made some adjustments to the program. In March 2023, the City Council appropriated \$34,000 to acquire and beautify barricades. Due to unforeseen circumstances, City administration decided to lease barricades in lieu of purchase for the 2023 season. Since the City is leasing them, beautification will not be conducted this season.

Mr. Walsh compared Concord's regulations to those of similar communities. Nashua and Portsmouth have similar program elements to Concord. Manchester and Rochester have terminated outdoor dining for the 2023 season.

In Nashua, outdoor dining concrete barriers have been beautified to make dining areas more aesthetically pleasing. Most of the parking in downtown Nashua is parallel parking. Barrier layouts in Nashua are compliant with NHDOT standards and provide ADA accessible ramps into parklets. Nashua also maintains a five-foot (5') space between outdoor dining barriers and the nearest travel lane.

Similarly, Portsmouth has significant parallel parking in its downtown. Portsmouth worked with the community to beautify its barriers. An example of Congress Street was provided to show that Portsmouth created outdoor dining in angled parking by putting concrete barriers in a travel lane.

Four establishments have requested using City parking spaces for outdoor dining – Barley House; Revival; Siam Orchid; and The Draft. Four original NHDOT compliant barrier layouts were provided at the last meeting to the committee. Following a request of the committee, four alternate barrier layouts were provided. These layouts are not NHDOT compliant. The Concord Engineering division does not necessarily recommend these layouts, but they were provided at the request of the committee.

A discussion ensued about the definition of a parking space in front of business regarding angled parking which doesn't match with property lines.

A discussion ensued regarding other community requirements to ensure a platform or deck to ensure the dining area is flush with the sidewalk.

Several points of discussion were suggested. It was suggested that at the end of the 2023 dining season, the committee should reconvene to make more permanent standards. For future years.

Councilor Pierce asked for public testimony.

Mr. Sanborn, owner of The Draft, stated that any outdoor dining is better than nothing and expressed that he would like more outdoor dining space. He believes that the original layout is too restrictive in placement of tables and chairs due to the new concrete barrier requirements. Mr. Sanborn noted that there may not be an ADA requirement for ensuring the deck is flush with the sidewalk. He also wants to ensure the costs of doing outdoor dining are not expensive. He also expressed his support of barrier beautification.

Mr. Shay, owner of the Barley House, expressed his preference of the alternate barrier layout provided for his restaurant. Mr. Shay noted he cares about public safety. It was confirmed that the two non-handicapped spots are in front of the Barley House and that beyond three spaces, the restaurant would need neighbor permission.

It was reiterated that the City does not currently own the barriers. The City opted to lease barriers from FL Merrill for the 2023 dining season due to hesitations arising from lack of abutter approval. Nashua and Portsmouth own their own barriers. The City is unable to beautify the barriers, since it does not own them.

A discussion was held regarding the Revival alternate layout. The owner of Revival recommends keeping the return on Low Avenue.

Ms. West noted that young professionals really like outdoor dining and the program helps young professionals get out and support the downtown community.

Councilor Champlin expressed his support for the proposed new alternative plans

A discussion ensued regarding what the current regulations are for requiring written consent from abutters. It was confirmed by Ms. Pacik that, in the current regulations, a restaurant requesting use of parking spaces other than those directly in front of the storefront property line requires the written approval of the neighboring building / property owner.

A discussion ensued regarding whether the two angled parking spaces in front of Siam Orchid would be considered directly in front of their storefront in the alternate design.

A discussion ensued regarding the outdoor dining season timeline for parking space dining so both restaurants and downtown retail businesses can be better accommodated.

Ms. McCoo asked if a non-restaurant business can lease parking spots in front of their businesses and expressed that it was important to her to have balance of restaurants and businesses in terms of accessibility to parking spaces. Staff responded that downtown businesses and property owners may secure encumbrance permits for parking spaces on a temporary basis to facilitate construction projects, moving, or special events / activities. However, businesses are not able to secure temporary encumbrance permits for on-street for the purpose of providing dedicated parking for employees, shoppers, or guests.

Councilor Pierce noted that parking spots are owned by City and he believes it is imperative that consent from abutting property owners is required.

Discussions ensued about each of the four main businesses requesting outdoor dining in parking spaces.

A conversation was held about The Draft alternate layout. It was committee consensus that The Draft layout should not impede the bike path and that the layout would follow the alternate layout rather than the current one. City staff noted that they will work with The Draft, if they desire to design a platform. Mr. Sanborn asked and the Code Administrator confirmed that a building permit would be needed, if The Draft would like to build a deck.

The committee consensus was to move forward with the Barley House alternate barricade layouts for all four restaurants. The committee consensus was also to recognize the two angled parking spaces in front of Siam as not requiring abutter approval.

Councilor Pierce made a motion to recommend to the City Council to do the following:

1) Duration of Season: The Outdoor Dining Season shall be modified from April 15 - November 15 to May 1- October 31 annually.

2) Dining Areas Located Within Parking Spaces:

- a. That the City Council approve use of the alternative barricade layout plans for The Barley House, The Draft, Revival and Siam Orchid in lieu of those previously accepted by the City Council on March 13, 2023 which complied with NH Department of Transportation standards for temporary placement of barriers in highway rights-of-way.

Recognizing that all of the attached alternative layout plans only affect parking areas along the direct frontage of the four restaurants, consent of abutting property owners, while still preserved, will not be required for this implementation.

Further, participating restaurants shall be prohibited from encumbering any additional parking spaces for the 2023 Season; however, the Draft may update their permit to encumber an additional parking space along their frontage shown in blue dash on the attached alternative layout plan. Additionally, the bicycle lane along the frontage of the Draft shall be maintained.

- b. Alternative barricade layout plans be implemented on a trial basis for the 2023 Outdoor Dining Season. In accordance with City Council's past direction, barriers will be provided to participating restaurants free of charge for the 2023 season on a first come, first served basis.
- c. That the City rent said barricades for the upcoming season. Because the barriers will be rented, the City will refrain from any beautification measures thereof for the 2023 season. In addition, restaurants shall be prohibited from painting barricades, or otherwise attaching, affixing or placing signage, decorations, or other materials / items onto barricades.
- d. Construction of platforms shall be permitted within parking space dining areas so as to raise the elevation of said dining areas to be consistent with abutting sidewalks. The design of said platforms shall be approved by the City Code Administrator and City Engineer. Said platforms shall not obstruct stormwater flow, or impede access to public or private utilities or other infrastructure. Construction of said platforms shall comply with applicable building codes and permitting requirements.
- e. That City Administration work to develop formal design standards for dining areas located in on-street parking spaces. Said standards shall be reviewed by the Ad-Hoc Dining Committee in the future.
- f. The Ad-Hoc Committee will make recommendations to the City Council regarding dining in parking spaces, as well as potential acquisition and

beautification of barricades related therewith, following the conclusion of the 2023 dining season.

The motion was seconded by Councilor Brown. The motion carried two in favor (Councilor Pierce and Councilor Brow) with one against (Bouley).

The committee directed City staff to send a report to the City Council outlining the recommended changes as a suspense item on the upcoming May 8, 2023 City Council agenda.

2. Update on Applications
  - a. Outdoor Dining Permits Issued
  - b. Restaurant Parking Spot Permits in Process
  - c. Outdoor Dining / Parking Spot Permits Issued for Non-Downtown Restaurants

These items were discussed as a part of the first agenda point.

3. Other

No other business was discussed.
4. Adjournment

Councilor Pierce made a motion to adjourn. The motion was duly seconded. The motion passed unanimously.

*Meeting adjourned at 5:10 p.m.*

*Respectfully submitted,  
Matthew R. Walsh*