



## Memorandum

To: Board of Architectural Review

From: Kelly O'Brien, Deputy Director

Meeting Date: February 15, 2024

Re: Outdoor Dining Guidelines

### Role of the Board of Architectural Review

The Board of Architectural Review is authorized by Chapter 4 of the Town Code and the Town Charter to review exterior modifications within designated design control districts. This includes the addition of new, or updates to, outdoor site furnishings such as tables, chairs, umbrellas, shade structures, bollards, and planters within the commercial and industrial zoning districts.

### Background on Outdoor Dining Code

In June 2020, the Town Council approved emergency ordinances to permit temporary waivers for outdoor commercial activity to assist businesses adversely affected by the pandemic. Board of Architectural approval was not required for outdoor features permitted by the emergency ordinance.

Prior to 2021, and the pandemic, all outdoor dining required approval of a Conditional Use Permit (CUP) in addition to BAR approval.

In December 2021, the Town Council adopted amendments to the Town Code to allow administrative review and approval of permanent outdoor dining of 12 seats or less and seasonal outdoor dining within parking spaces with conditions, Section 18-335 (Attachment 02). All structures, features, and furnishings for outdoor dining are subject to the Board of Architectural Review's approval. The Code still requires outdoor dining with more than 12 outdoor seats to obtain a CUP. The December 2021 amendment also allowed the installation of temporary seasonal dining in parking spaces, a condition that was originally permitted by the June 2020 emergency ordinance. These code changes were carried over into the 2024 updated zoning and subdivision code.

## **Economic Development Strategy**

The Economic Development Department worked with consultants in 2021 to develop an economic development strategy for the Town of Vienna. The guiding principles of the final report included creating a business-friendly ecosystem, which included recommendations to develop storefront and sidewalk activation design guidelines and allow outdoor dining with a self-certification process (Attachment 05).

## **Implementation of the Outdoor Dining Code**

Under the June 2020 emergency ordinance, 22 restaurants received approval for temporary outdoor dining. Staff sent letters to all businesses that received temporary approval during the pandemic to encourage them to apply for the next season. Since the 2021 code amendment was adopted, only one restaurant has applied for seasonal outdoor dining for a season. Three restaurants have received administrative approval for 12 or fewer outdoor seats with BAR approval of the outdoor site furnishings.

## **Challenges to Obtaining Outdoor Dining Approval**

Staff from Planning and Zoning and Economic Development met to discuss potential challenges and suggestions for improvement regarding outdoor dining. Some of the challenges businesses face when applying for approval for outdoor seating include:

- *Time* – The BAR meets once a month. Depending on when an applicant submits, it could be nearly 2 months until they have an answer.
- *Inexperience* – approximately 50% of applicants are small business owners who are not experienced in how to submit architectural documents for review.
- *Cost* – The fee for BAR review is \$100, which the applicant must pay in addition to the \$100 fee for the certificate of occupancy., as well as fees for an architect or engineer to design the outdoor dining space.

To encourage more businesses to take advantage of the outdoor dining options and activate the areas outside of businesses, staff recommends revisiting the process by which outdoor dining is reviewed. While code amendments will require Town Council approval, the Board of Architectural Review could recommend changes to how the outdoor site furnishings are approved.

## **Potential Options for BAR Discussion**

One option would be to allow for administrative approval by staff for 12 or fewer seats only to save the applicant time and application fees. This would mirror the 2021 code changes allowing 12 or fewer seats to be approved administratively by staff as part of the Certificate of Occupancy (CO) review.

Staff's recommendation is that the BAR develop Outdoor Dining Standards that include a few options for tables, chairs, umbrellas (without logos), and safety barriers. If the business chooses to utilize tables and chairs from those options, then staff can approve

outdoor dining as part of the certificate of occupancy process. If the business opts to deviate from the Outdoor Dining Standards, they can apply for a BAR review. This process would be similar to the Uniform Bicycle Rack process.

Staff look forward to hearing from the Board of Architectural Review on this recommendation and any other suggestions the Board members may have to assist businesses.

Attachments:

- 01 - Staff Memo to the Board
- 02 - Outdoor Dining Section 18-335
- 03 - Seasonal Outdoor Dining Requirements
- 04 - Permanent Outdoor Dining Requirements
- 05 - Pages from the Economic Development Strategy
- 06 - Example of Outdoor Dining Guidelines (City of Alexandria)