

From: Stephen Kenney, Chairman Planning Commission

To: Vienna Town Council

Meeting Date: November 03, 2021

Re: Zoning Ordinance Text Amendment for Section 18-72 & Section 18-210 - Outdoor Dining

### **Overview**

The Town of Vienna's temporary ordinance allowing for outdoor dining is set to expire on December 7, 2021. The current emergency ordinance cannot be extended beyond December 31, 2021. As such the Town Council asked the Planning Commission to review and make a recommendation for the possible zoning ordinance text amendment for Section 18-72 & Section 18-210 relating to outdoor dining.

During our special meeting the Planning Commission heard from staff on the current use of the temporary zoning ordinance used by local restaurants which allows for outdoor dining without the need for a CUP. Staff informed the PC that there are currently 22 restaurants using this emergency ordinance for outdoor dining. Of those 13 restaurants are using at least some parking spaces to place at least some of their outdoor dining.

No citizens spoke for or against this text amendment during our meeting and we have not received any emails or letters for or against this item. We did hear from the Town Economic Development Manger who spoke in favor of this measure and she hopes we will recommend for a more permanent ordinance moving forward. The Chair is aware staff has received a couple complaints from residents living in close proximity to the outdoor seating behind Bazin's. However, the PC was not shown any written notice of complaints for our meeting.

Overall, the PC agreed that the use of outdoor dining is an essential and valuable amenity for the Town's restaurants. The original text amendment ordinance was created in response to the COVID-19 pandemic from 2020 via emergency action by Town Council. This measure was meant to be temporary in nature, however the overall intrinsic value these areas have for the Town and our businesses proves we should consider extending this ordinance and allow for a more permanent process for approval. The outdoor dining has proven to add to residents' enjoyment of the Town and our businesses and the PC feels these areas, in general, add to the character of our Town. The PC feels we should embrace and encourage these amenities moving forward and we should consider removing the CUP process for such usage in Town. The PC does recognize the need for continued BAR review and approval for such areas to ensure the that these areas are designed for safety and with well thought out design and aesthetics.

There are two aspects of the text amendments. One section is for outdoor dining on sidewalks and the other for paved parking areas. The second section is suggesting to allow for outdoor dining to cover or obstruct current parking spaces (up to 20% of the required parking spaces). After review the PC felt the text for added outdoor dining amenities on sidewalks is warranted so long as it is not violating certain aspects of the zoning and building codes, including the allowance for fire egress and ADA access to and from the establishments.

On the text amendment for the outdoor dining within a parking lot several issues were discussed. First and foremost, the concern is the introduction of patrons within the parking field and the inherent safety issue associated with this proximity to vehicles. The PC emphasized the need for protective measures or barriers to be in place for any dining areas within a parking field. This is part of the text amendment. We also reviewed the quantity of spaces being proposed. The 20% was a number created by staff which seemed to reflect the average of spaces currently being obstructed by most restaurants. There were several which do exceed this threshold but the PC felt with some adjustments those likely could also fall within the 20% threshold with some condensing of furniture arrangement and potential for consolidation of seating areas. This is especially true for those restaurants which do not involve wait staff. While in an ideal arrangement the seating area should be located directly in front of the associated business, the PC suggested that certain businesses, especially those within shopping centers where multiple tenants are sharing a large parking field and there is no wait staff, we should consider a collective shared outdoor dining area to help minimize the amount of lost parking spaces and to consolidate the protective area for outdoor dining. There are a few restaurants which exceed this threshold by a significant amount. In those cases, the Town Council will need to consider an alternative approval process. As those seemed to be limited to a couple unique conditions in Town the PC did not discuss those conditions in detail.

The Chairman did raise a concern on the need to confirm if the current seating levels added under the pandemic are truly needed to the level currently in existence. Staff was unable to get feedback from all of the various restaurant users in time for our meeting. The chair was looking for confirmation as to the maximum percentage of usage of their current outdoor dining areas at peak usage (% of capacity). As the Chair was overall in favor of this measure and the fact the Zoning Administrator intends to review these areas on an annual basis the Chair did not object to the text amendment as written. However, the PC did request for staff to have that information available to the TC for their review of this matter.

#### **PC Action and Concerns**

The Planning commission voted to recommend that these two text amendments be approved by the Town Council.

Motion: Ms. Plowgian

2nd: Ms. Baum

Roll Call Vote: 6-0 (Aimone missing due to leaving early)