



BOARD SUMMARY REPORT

Date: May 19, 2020

To: Board of County Commissioners

Through: Jan Yeckes, Planning Division Manager

From: Jason Reynolds, Current Planning Program Manager

Subject: Temporary Outdoor Seating for Restaurants, Bars, Breweries, and Similar Uses

Direction/Information

The purpose of this drop-in is to receive BOCC direction on allowing restaurants, bars, breweries, and similar uses to expand seating temporarily into adjacent parking areas and walkways.

Request and Recommendation

Currently, the State's Safer at Home Order prohibits sit down service at restaurants and bars. Staff recommends developing guidelines to allow temporary outdoor seating in parking areas and walkways once these uses are allowed to start opening again. This would provide more space for seating, allowing restaurants and bars to accommodate more guests while meeting social distancing requirements.

Background

Public health orders currently prohibit in-person dining. The next version of these orders will likely require physical distancing between groups of diners. Allowing restaurants and similar uses to move seating outdoors could help them safely remain in business as gathering places.

Staff recommends that Arapahoe County consider a program similar to what Denver is developing. The Denver program would allow restaurants, bars, breweries, and similar uses to occupy nearby parking lots, public sidewalks, and some streets. If Arapahoe County develops a similar program, it is unlikely to require public streets: most of our commercial services are located in more suburban settings with shared parking lots.

Links to Align Arapahoe

Quality of Life

When the State releases guidelines for reopening restaurants, bars, and similar uses, those guidelines are likely to require greater physical distancing, which would significantly reduce seating capacity. Allowing businesses to operate outdoor seating areas would provide both entertainment opportunities for patrons and economic opportunities for restaurant workers.

Fiscal Responsibility

As noted above, allowing more space for patrons could allow restaurants to operate closer to their pre-COVID-19 capacity and remain in business. This helps support both jobs and the commercial tax base.

Discussion

There are several elements the County would need to consider if we develop a temporary outdoor dining program:

Timing

The potential program would be temporary. For example, Denver's proposal would allow expanded outdoor dining until September 7, 2020.

Property Owner Permission

Before expanding into nearby parking areas or walkways, the business would need to secure property owner permission. In addition, seating locations would need to be coordinated with other business owners in the same shopping center to ensure expanded seating does not overlap.

Zoning/Site Plan Requirements

For permanent outdoor seating additions, Arapahoe County requires an amendment to the approved site plan. Given the temporary nature of the outdoor dining program, Arapahoe County could relax the requirement for site plan amendments for the period approved. Applicants would still need to show where the proposed seating areas are located but the sketch could be less formal than what would be required for a site plan amendment.

Moving seating into parking areas could affect other zoning requirements such as minimum parking and lighting. Staff would develop a proposal to relax those requirements for the duration of the program. For example, outdoor seating could occupy what would otherwise be minimum required parking spaces. Under pre-COVID-19 space planning, a sit-down restaurant could accommodate 50 (fine dining) to 83 (sit-down) customers per 1,000 square feet. According to one social distancing estimator, with six feet of separation, only 27 people could be accommodated per 1,000 square feet of space. Given the lower indoor utilization, a restaurant would likely not need all of the parking spaces otherwise required by our Land Development Code.

Tri-County Health Requirements

If a restaurant is placing seating outdoors, Tri-County Health does not require an amendment to their permit.

Fire Code

Staff would need to coordinate with fire districts on the potential impacts of outdoor dining.

Liquor Licenses

Liquor licenses typically have a defined premises. Expanding beyond that premises, such as into a nearby parking lot, requires a change to that license. The state has provided

guidance allowing for temporary modifications of licensed premises in response to COVID-19. Staff would need to develop a procedure for the licensing authority to allow those modifications.

Building Permits

Denver's program notes that certain modifications such as outdoor lighting or patio coverings would require building permits.

Alternatives

If the BOCC wishes to proceed, staff will develop guidelines to allow businesses to expand into parking areas through the summer. The guidelines will consider public health, fire, property owner requirements, liquor licensing, and life safety. Staff recommends this alternative.

Doing nothing would mean businesses would have to amend site plans in order to accommodate outdoor seating. Site plan amendments were intended to document permanent changes to a site and would be burdensome for a temporary use.

The final option would be to not allow outdoor seating as an option during this unique time and unprecedented situation.

Fiscal Impact

No direct fiscal impact. However, allowing additional outdoor dining could improve the local economy.

Concurrence

Public Works and County Attorney staff have reviewed this staff report.

Reviewed By

Jason Reynolds, Current Planning Program Manager
Jan Yeckes, Planning Division Manager
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Bryan Weimer, Director of Public Works and Development
Todd Weaver, Director of Finance Department