



CITY OF CONCORD

REPORT TO MAYOR AND THE CITY COUNCIL

FROM: Matthew R. Walsh, Deputy City Manager – Development

DATE: May 31, 2024

SUBJECT: The Barley House Restaurant – Request for Music in Outdoor Dining Areas Located on City Sidewalk and in City Parking Spaces

Recommendation:

Accept this report.

Background:

The City currently permits outdoor dining on City property, including sidewalks and on-street parking spaces, in accordance with regulations approved by the City Council on May 15, 2023. A copy of the City's Outdoor Dining Regulations is attached.

In accordance with these regulations, the outdoor dining season is as follows:

1) Sidewalks and Other City Property*: May 1 – October 31

2) On-Street Parking Spaces: May 1 – October 15

* Restaurants with special licenses to operate on certain City property (i.e. Cheers Restaurant on City fee owned property on Depot Street) are permitted to operate on a year-round basis.

Restaurants are required to secure permits from the Code Administration Division of the Community Development for outdoor dining areas. In addition to payment of fees to encumber sidewalks and parking spaces, restaurants are required to provide general liability insurance in the amount of \$1,000,000 per occurrence and \$2,000,000 aggregate which includes the City as an additional insured on a primary and noncontributory basis.

Discussion:

The Barley House Restaurant desires to hold concerts in its outdoor dining areas located on City sidewalks and in City parking spaces fronting their establishment on North Main Street. These would be ticketed events performed by a solo musician on between the hours of 2PM and 5PM on June 30, July 28, and August 18th (all are Sundays). The Barley House's request is attached.

The Barley House has a permit to maintain 17 tables with 60 chairs on the sidewalk, and within the 3 public parking spaces, for outdoor dining activities along the frontage of its restaurant at 132 North Main Street.

Concerts are not permitted by the City's Outdoor Dining Regulations for dining areas located on sidewalks or within parking spaces. Therefore, City Council authorization is required.

While an intriguing concept, staff has the following concerns about this proposal:

- Noise. It is unclear if the concert would be acoustic or electric with amplification.
- The possibility of non-ticket holders / general public gathering / loitering outside of the dining area to listen to the concert, thus potentially obstructing pedestrian or vehicular traffic.
- If ticket holders or members of the general public were to gather / loiter around the concrete barriers enclosing parking spaces used for dining, this would put those persons at risk of potential harm from motor vehicle accidents.
- The ability to ensure that alcohol does not leave the outdoor dining area, or be potentially passed to bystanders gathered / loitering outside of the dining area, in violation of Liquor Commission regulations.

Should City Council wish to authorize this use, staff recommends that the following conditions be required:

- 1) These events will be authorized as a pilot initiative. No other entities shall be permitted to hold such events during the current outdoor dining season.
- 2) No more than 60 tickets shall be sold for each of these events. This figure is the maximum permitted occupancy of the Barley House's outdoor dining area.
- 3) Concerts shall be performed by a solo musician. Amplification shall be minimum required, and shall not result in nuisance to residents or businesses in the area.
- 4) Concert performers and attendees within the dining area, as well as non-ticket holding bystanders located outside of the dining area, shall not impede or obstruct pedestrian or vehicular traffic.
- 5) The Barley House shall be required to have a police detail present at each event at its sole expense to ensure musicians, concert attendees and non-ticket holding bystanders do not impede pedestrian or vehicular traffic, as well as assist monitor noise complaints and compliance with Liquor Commission regulations.
- 6) The City Manager is authorized to modify these terms and conditions as the Manager deems necessary, or to terminate permissions for these events, at any time.