

Planning & Real Estate Consultants

May 17, 2022

Planning Board  
Township of Berkeley Heights  
29 Park Avenue  
Berkeley Heights, NJ 07922

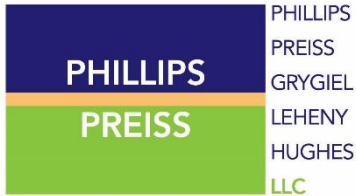
**Re: Ordinance Establishing Requirements and Regulations for Outdoor Dining**

Dear Chair Johnson and Planning Board Members:

The Township Council has introduced and referred to the Planning Board an Ordinance Establishing Requirements and Regulations for Outdoor Dining. Pursuant to N.J.S.A. 40:55D-26, “prior to the adoption of a development regulation, revision, or amendment thereto, the planning board shall make and transmit to the governing body, within 35 days after referral, a report including identification of any provisions in the proposed development regulation, revision or amendment which are inconsistent with the master plan and recommendations concerning these inconsistencies and any other matters as the board deems appropriate.” We have reviewed the ordinance and 2022 Master Plan and offer the following comments for the Board’s consideration.

The proposed ordinance would make outdoor dining a permitted accessory use in the downtown zones. Businesses would be able to obtain an annual license from the Township to utilize sidewalks areas for dining, subject to certain requirements set forth in the ordinance. Note that this ordinance does not apply to outdoor dining areas that utilize surface parking areas. Any proposals to convert existing parking spaces into dining space would typically require site plan approval from the Planning Board or Zoning Board of Adjustment.

As noted on p. 45 of the 2022 Master Plan (Volume II), one of the key findings of the Economic Development Element was the community’s desire for more diversity in shopping, dining and entertainment options in the downtown. The Economic Development Element also noted the difficulties many businesses currently face in navigating the permitting/approval process in Berkeley Heights. In the Land Use Element, the #1 objective under the goal of revitalizing the downtown is to “facilitate the revitalization of the downtown through supportive zoning and development regulations.” A specific action item for this objective is to “update regulations for downtown districts to allow a more diverse mix of non-residential uses and account for new or emerging business models.” Finally, the Master Plan Mobility Element envisions a transformed Sherman Avenue corridor that could provide additional outdoor dining and recreation opportunities.



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Outdoor dining grew in popularity during the pandemic and has become a fixture of successful downtowns throughout New Jersey. The proposed ordinance will allow businesses to operate outdoor dining areas in a manner that contributes to the economic vitality and aesthetic character of the downtown. It is intended to simplify and improve the Township's outdated and limited existing outdoor café ordinance. In our opinion, there are no provisions in the proposed ordinance that are inconsistent with the Master Plan. In fact, the proposed ordinance will advance several recommendations of the Master Plan, as noted above.

We trust that the above information is responsive to your needs.

Respectfully submitted,

Keenan Hughes, AICP, PP