

City of Keene
New Hampshire

PLANNING, LICENSES AND DEVELOPMENT COMMITTEE
MEETING MINUTES

Wednesday, June 8, 2022

6:00 PM

**Council Chambers,
City Hall**

Members Present:

Kate M. Bosley, Chair
Michael Giacomo, Vice Chair
Philip M. Jones
Gladys Johnsen
Raleigh Ormerod (via Zoom)

Members Not Present:

All Present

Staff Present:

Beth Fox, Assistant City Manager/HR
Director
Thomas P. Mullins, City Attorney
Amanda Palmiera, Assistant City Attorney
Kürt Blomquist, Director of Public
Works/Emergency Management
Donald Farquhar, Fire Chief
Mari Brunner, Senior Planner

Chair Bosley called the meeting to order at 6:00 PM. Having declared a quorum physically present, Chair Bosley heard no objection to Councilor Ormerod participating remotely, for which he had Council permission. Councilor Ormerod stated his location and whether anyone was present with him.

1) Pablo Fleischmann – Keene Music Festival – Request for Use of City Property – September 3, 2022 – Pablo Fleischmann

Chair Bosley welcomed comments from the Director of Public Works/Emergency Management, Kürt Blomquist. Mr. Blomquist said this event is scheduled for September 3 from approximately 10:00 AM–10:30 PM, with music ending at 10:00 PM. There will be six stages at various locations around the downtown commons. There have been several protocol meetings with the applicants and two more were scheduled before the event. The event is expected to draw 6,000–8,000 attendees. Staff had sufficient information to recommend that the Committee vote to approve this request.

Chair Bosley noted a request in the application for temporary barriers in case the Police were to instruct them to shut-down part of Railroad Street; she asked if a particular issue led to that requirement this year. Mr. Blomquist replied that in the past Railroad Street has been permanently closed for the event for bands to access the stage. For this year's event, there will be a music further down Railroad Square, and this is precautionary should the crowd spill into Railroad Street. These details would be finalized at the remaining protocol meetings.

Vice Chair Giacomo wondered if a 10:30 PM end time was pushing it a little late. Mr. Blomquist replied that the music would end at 10:00 PM for clean-up to commence.

Councilor Jones recalled that sometimes, the bands start parking two hours prior to the official start time and asked if that was occurring this time. Mr. Blomquist felt everything was covered in the license and the bands will not take-up a lot of parking so he was not overly concerned. The exception is Railroad Street, which will be handled administratively and posted accordingly. This motion gives Staff a little more latitude to make last-minute changes.

Hearing no public questions or comments, Chair Bosley entertained a motion by Vice Chair Giacomo, which was duly seconded by Councilor Jones.

On a roll call vote of 5–0, the Planning, Licenses, and Development Committee recommends that The Keene Music Festival be granted a street fair license to use downtown City rights-of-way for purposes of conducting merchant sidewalk sales, as well as use of downtown City property on Central Square, Railroad Square, and designated parking spaces on Main Street to conduct the Keene Music Festival on Saturday, September 3, 2022 from 9:00 AM to 10:30 PM. In addition, the applicant is permitted to close off a portion of Railroad Street, from Main Street to the westerly entrance of the Wells Street Parking Garage, and a portion of Church Street from Main Street to the entrance of the Vision Financial parking lot. This permission is granted subject to the following conditions: the signing of a revocable license and indemnification agreement; that the petitioner provide a certificate of liability insurance with the City of Keene listed as additional insured in the amount of \$1,000,000; submittal of a signed letter of permission from City Tire for use of their property, and compliance with any recommendations of City staff. In addition, the petitioner is granted use of the requested parking spaces free of charge under the provisions of the Free Parking Policy. Petitioner agrees to absorb the cost of any City services over and above any amount of City funding allocated in the FY 23 Community Events Budget. Said payment shall be made within 30-days of the date of invoicing.

Mr. Fleischmann questioned the provision for written permission from City Tire, which they do annually, but it was never formally required in writing. Mr. Blomquist responded that this written permission has been a condition in past approvals as well.

2) Zone Change – 19 Whitcomb's Mill Road – Rural to Low Density-1 Ordinance O-2022-02 – James Phippard

The City Attorney, Tom Mullins, recalled that the public hearing for this matter has occurred and thus he anticipated a conversation between the Committee and Staff at this point on the Ordinance.

Chair Bosley welcomed Senior Planner, Mari Brunner, who briefly recalled this proposed zoning change, which was detailed at a public hearing on May 5, after the Joint Planning Board–Planning, Licenses, & Development Committee public workshop in January. That Committee did discuss availability of water to the site, potential traffic impacts, and the condition of the one-lane bridge over White Brook. Ordinance O-2022-02 proposes to amend the official zoning map by changing the zoning of one specific parcel of land located at 19 Whitcomb’s Mill Road from Rural (11.8 acres) and Agricultural (0.45-acre) to Low Density-1. This land’s historic zone line was once adjusted to have both uses adjacent on the property. The total land area impacted is 12.2 acres owned by the Sandra R. Henry

Trust, through its representative Jim Phippard. Ms. Brunner recalled that the Joint Committee did question whether this would be “spot zoning.” Their consensus was that this would not be “spot zoning” because the parcel does meet the intention of Low Density-1. Ms. Brunner noted there were no comments in opposition at the public hearing. Ms. Brunner welcomed questions.

Councilor Jones wanted to reiterate his position in opposition to the Surface Water Protection Ordinance and what was called “surface water.” He said there were different barriers in different zones and at the time he said, “Is this all it takes for someone to change the zone and barrier changes?” He said that was what was happening here. He said it really has nothing to do with the zoning change, but how easy it is to change that buffer.

The City Attorney said that since the public hearing occurred already, it was not appropriate to take public comment at this meeting. Staff had provided a recommended motion.

Councilor Jones said this was good for the City during a housing crisis and he thanked Staff for going through the process and Mr. Phippard for applying.

Hearing no further comments or questions, Chair Bosley entertained a motion by Councilor Johnsen, which was duly seconded by Councilor Jones.

On a vote of 5–0, the Planning, Licenses, and Development Committee recommends adoption of Ordinance O-2022-02.

3) Relating to Licenses and Permits – Parklets Ordinance O-2022-07 – Thomas Mullins, City Attorney

Chair Bosley heard introductory comments from the City Attorney, Tom Mullins. The City Attorney recalled the City Council requesting that his office and City Staff prepare a draft ordinance to allow for the installation of parklets in the City’s rights-of-way and specific locations. Staff had fulfilled that request and he reviewed the draft Ordinance briefly. He said this draft was much like the first draft that was submitted to the Council, from which there were some requests for changes, and the Ordinance was referred back to this Committee. The City Attorney reviewed the proposed amendments to the original draft Ordinance, which were all up for Committee discussion. In Section 46-1, the Attorney identified a Scrivener’s Error, RSA 176:24 should read RSA 178:24. The City Attorney continued that the definition of a parklet is limited to entities/restaurants that consume food or beverages as provided by a license under the NH Liquor Commission. The Attorney continued that this position is in alignment with the recent amendment to RSA 178:24 regarding authority within the liquor licensing process. The City followed the legislature’s intent to limit this to entities licensed to sell alcohol.

In Section 46-9.57 (c.2) where the Ordinance says, “The parklet is placed in a maximum of” the phrase “of three adjacent parallel parking spaces” was added. He said this change was made based upon a request by a member of the Committee about adjacent parallel parking spaces. The Attorney noted that City Staff had concerns about this that would be discussed later in the meeting.

The Attorney continued in the prior version, there was a restriction that the speed limit on the street in question must be 25mph or less, but Staff removed that restriction from this draft because they felt it excluded potential sites, which the Director of Public Works would explain.

And finally, in Section 46-959 – an amendment was made to Exhibit B, which is in the Code for licenses and fees. Included was a \$100 fee through the City Clerk just to go through the licensing process. There is also a fee of \$950 “per parking space” used as a parklet per license period.

Chair Bosley welcomed the Director of Public Works, Kurt Blomquist, who agreed that this has been a Staff driven process involving himself, the City Attorney, the Assistant City Attorney, the Economic Development/Special Projects Director, Code Enforcement, the Fire Chief, and Parking Services. Referring to a map, Mr. Blomquist continued that this Ordinance would be limited to the Downtown Core Zone—from Vernon Street to Emerald Street, Emerald Street from Eagle Court and Cyprus Street, 93rd Street to the east, and Gilbo Avenue to the west toward the St. James area—in which the goal is to encourage activities and people visiting the area. Staff took the restrictions identified under Section C of the Ordinance, which stipulates at least eight feet of space is required for sidewalk cafés for mobility and passing pedestrians. This draft of the Ordinance identifies areas in the City that do not meet the eight-foot minimum because of various obstructions, like planters and ADA ramps. Staff walked the potential parklet areas with sidewalks less than eight feet and found that they fit the criteria. There would be additional guidelines to help establish how parklets would be configured, for example they cannot be placed in front of connections for fire suppression systems in buildings. This draft includes the general physical criteria areas and the stipulation that parklets are only available to businesses with a NH Liquor License. Specific businesses/parking spaces are not identified in the Ordinance because while a business now might not have a Liquor License, a future business at that location might and would then be eligible.

Mr. Blomquist continued saying that Staff was in the process of developing additional guidelines, such as how parklets are configured based on the various parking space sizes, to not obstruct adjacent parked and passing cars, and where barriers would be needed for safety. He shared examples of how there could be safety issues with passing vehicles that would be remedied by appropriate barriers, with most impacts from vehicles on the short ends, versus veering into the center. He shared some recent examples of cars going over curbs onto sidewalks. Other restrictions include lighting, which cannot impede passing vehicles, so for example, there could be no flashing lights. Parklets would be open and not covered so they are visible for police security and putting an actual structure in these spaces gets into Building Permit issues. Staff wanted to keep this as simple as possible. There has also been discussion of heater use in the parklets, but no requirements had been reached.

Mr. Blomquist explained a concern from his perspective as well as the Fire Chief was the idea of licensing up to three individual spaces to a single entity with all three are connected, with two short ends and one long end (with passing traffic). He said that typically one space has the activity and he asked whether this Ordinance should allow three spaces to be connected for activities up to 54 feet in length.

In such an instance, Mr. Blomquist questioned how someone exits from the surrounding buildings quickly and safely during an emergency; where would they go?

Mr. Blomquist concluded discussing the removal of the 25mph stipulation in this draft. Most cities allow parklets where the speed is posted as 25mph or less. When reviewing the City Code, he said that Main and Roxbury Streets are posted as 25mph, and Winchester and West Streets are 30mph. So, if the 25mph rule were retained it could eliminate potential areas. He said that part of the guidance Staff had would be for them to review those situations—particularly those where a vehicle could not reach that speed—and develop guidelines administratively.

Chair Bosley recognized the Director of Economic Development/Special Projects, Med Kopczynski, who agreed that there had been a lot of Staff background conversation on this issue and what they think the City Council's intent is. Mr. Kopczynski said that from a safety standpoint, three parking spaces was a bit much. He said it would also impact the availability of the parking system. Along Main Street, parking availability depends on the time of day; businesses that would seek parklets have the highest patron parking use 10:00 AM–10:00 PM, and there are residents or workers who need parking, creating competition. He said there are spaces occupied most days, especially at the head of Central Square that approach 80–85% use, which is considered maxed out. Mr. Kopczynski said that to make parklets work from an economic development perspective, three parking spaces is a bit too much, though facilitating business is a great thing.

Staff offered to answer any questions.

Councilor Jones recalled asking the City Attorney whether there could be a notification process for residents and businesses within 200 feet, to which the City Attorney replied that the City cannot be responsible in case they miss someone. The City Attorney said that was exactly right. The City Attorney noted that there is a Supreme Court case that says essentially if notice is not required and notice is provided, then it must be ensured that everyone is notified. It was not something he encouraged the Council to do, and Councilor Jones agreed. Councilor Jones asked Mr. Kopczynski, from an economic development perspective, whether there is a possible notification process that should not be a part of the Ordinance, so that there are not complaints about lack of parking afterward. Mr. Kopczynski replied that all parking on Main Street is public and not designated to any business. Regarding notifications, Mr. Kopczynski was unsure who to notify.

Vice Chair Giacomo recalled a report to Council quantifying the parking capacity for various locations downtown where parklets were deemed possible, which he recalled as being in the 60% range. He said that Staff looked at possible locations downtown, and none were at the head of the square or down Main Street; Mr. Kopczynski agreed. The Vice Chair said that all suggested that parklets are not problematic from a parking capacity question. Furthermore, he said that looking at the estimated rate and calculating it comes out to approximately 50% estimated parking; he asked if that was correct. Mr. Kopczynski said no. He continued that it would be for 80% of the day rate, and 80% of an equivalent where spaces are rented quarterly (not a metered rate). Taking those spaces out would impact the system. Vice Chair Giacomo said they were assuming that these spots are actually being utilized at a higher rate than

currently. He said that the City would be compensated for those spots. Mr. Kopczynski said he thought the compensation was fair, but the utilization depends on where and when. He said there is not a constant data feed of parking use, which would be helpful to regularly check rates versus the current occasional surveys. The Vice Chair recalled those surveys occurring in the 4:00 PM–5:00 PM range, when many restaurants would be opening and the spots most utilized. Mr. Kopczynski said the side streets are not used as much as the main streets.

Vice Chair Giacomo continued on the issue of three spots versus two, stating that he was one of the Councilors who proposed three spots. He provided background. He said he did a quick financial analysis of the different parklet designs that exist—he provided information to the Council on those cities—including the issue of buffer space around the barriers, which take-up approximately four feet around the edge of the parklet. He said that with the space for tables, two parking spaces would accommodate 2–3 four person tables and if each table made \$4,500 per season, the restaurant would profit \$9,000, but would have paid \$2,100 for that season’s license, so they would be losing 23% of the profit immediately due to rental fees. He said that allowing a third spot doubles the margin because they could fit four more tables and only pay \$1,000 more. Vice Chair Giacomo said it was less about math and more about trying to help restaurants to be profitable.

Vice Chair Giacomo questioned more about the safety concerns for people egressing from the buildings. Fire Chief Farquhar said that as the parklets get larger, they have a sphere of influence throughout the whole block. We need to understand the size of the space, type of walls, and a way to contain loose chairs, for example, which could be hazardous to someone egressing during an emergency. The larger spaces have a larger sphere of influence on the areas they are in front of as well as the emergency services. It speaks to proper to design at the onset as the key to all of this; every space is different and must be evaluated individually. It is important that the parklet is contained so that there are not loose chairs as a hazard in the area, for example. There would need to be some level of governance to keep that space contained over time as things are added like side tables and heaters. There is no hard rule as to the number of spaces, but as they get larger the challenges increase. However, Chief Farquhar said that all of that could be managed through proper design at the onset.

Chair Bosley said she was envisioning the tipping point as potentially if a restaurant were on fire and the upstairs apartments were evacuating onto the street with 54 feet of parklet solid barriers and tables as an impediment, people could not exit and cross the street safely or quickly. She understood that three spaces were logical from an economic perspective, but with the recent fires in town, three spaces were problematic from an evacuation standpoint. The Chair wanted the Committee to consider this issue.

Mr. Blomquist said that is a concern for the design guides, with parklets across the country typically limited to 1–2 continuous spaces; he has not found one beyond that. If the Council chooses to allow three spaces, Mr. Blomquist said Staff sought design guidance. He said it would not be a continuous platform across the three spaces (54 feet), but there would be a break between the spaces. He is also working with the Building & Health Official/Zoning Administrator, John Rogers, about when a building permit would be required for continuous platforms. Ultimately, Mr. Blomquist said that Staff wanted to keep this as simple and safe as possible. The parklets would not be year-round like much of the rest of

the country, rather they would have to be removed in October. Mr. Blomquist said two continuous spaces did not concern him, but three did in terms of how it spans the length of the street. He could not imagine 54 feet of barrier down the front of a building, with no permission was required from the surrounding businesses.

Councilor Ormerod sought clarification. He heard a lot of talk about the 54 feet (18 feet x 3 spaces) but he heard Vice Chair Giacomo mention four foot buffers on each side, which takes away from the retail space. Thus, he asked if it was really 54 feet or minus four feet on each side. Mr. Blomquist said that the buffer must be 2–4 feet between the parklet and adjacent parking space. He said 54 feet is the gross, with two buffers taking it down up to 46 feet in length; it is still a very large view when thinking about potentially spanning the frontage of two to three businesses. Mr. Blomquist said the goal is for parklets to fit into the surrounding area, but the barriers might not be the most attractive. He was most concerned with safety issues when a building clears, forcing people to go out in either direction instead of straight across the street, in an area where the sidewalks are less than eight feet wide.

Chair Bosley heard that in the Ordinance there is a reference to the parklet having to be contiguous with the business. Chair Bosley provided an example on Gilbo Avenue, Mr. Blomquist said they are considering the potential for change over in occupancy. The Chair's concern was that several times it was mentioned that a 54-foot length could extend in front of other businesses; she wanted to potentially restrict this like café licenses and require permission of those adjacent businesses to extend.

The City Attorney said that requirement exists in the draft in Section 46-956, "a parklet is defined as a continuous extension of his business in an area equal or less than the width of the business." Thus, the City Attorney said that to some extent that already sets up a potential conflict because even a two-space parklet, whether contiguous within the business, could be an open question. Mr. Blomquist said there are also situations where one space is in front of two business, so Staff discussed there needing to be some connection, but not necessarily a whole space. Theoretically, neither business could get a parklet because it goes in front of the other. The City Attorney countered that the intention is to remind people that it needs to be in front of the business area they are using, but under the language it is unless they have received permission and a formal license from the City Clerk. He saw this as both a limiting and wavering factor, because if someone wants a parklet in front of another business, the City understands and has the ability to issue that license with permission. He said this part of the Ordinance was intended to avoid, for example, a business at one end of Main Street putting their parklet in front of businesses at the other end of Main Street.

Chair Bosley said that helped to clarify some of what Mr. Blomquist was discussing. She thought that the Committee really needed to start dialing in on some of the design and licensing requirements. She suggested that the parklet be contiguous with the business or having an agreement with neighboring businesses to extend in front of them. Mr. Blomquist said that was a part of the conversation because the City Attorney was correct that the getting permission from the abutting businesses is not required because of other issues; the language allowed the Chair's example of someone using the one-half space in front of their business and then extending a parklet 54 feet in front of other businesses. Mr. Blomquist said this was good feedback.

Chair Bosley asked what the requirements are when someone gets a license for a sidewalk café that extends in front of other businesses. Mr. Blomquist replied that in that case under the current Ordinance, there is a requirement for permission. However, he said this is different because it is a public street right-of-way. The City's position regarding the public street is that because the City has such responsibility and control over that, they are hesitant to suggest to the City Council that any private entity has the right to tell the City what it can/cannot do in its public street. The City tries to be more accommodating on sidewalks, but the street is a fundamentally different matter.

Vice Chair Giacomo recalled the examples of cities he brought forward, saying most of them had all of this built into their codes. He cited the City of San Francisco, which dedicated to such extreme details. He said there are ways this is done. Mr. Blomquist said it was important to keep in mind that the NH road laws are unique in that they are older and have different restrictions and processes that allow greater latitude when designing parklets. He said the details matter and the issue of who owns what can be complicated. The City took the liberty of having additional requirements on sidewalk cafés because of business exits and more; beyond that, there cannot be a private property owner stating what someone else can do in the public street in front of their business. Vice Chair Giacomo said perhaps not requiring permission, but to notify those abutting businesses of the impending parklet might be appropriate. He said that other than the fact that they might block the street view of a window display, they were talking about one or two parking spaces, which he did think would be a less of parking issue for an abutter and more about the aesthetics in front of their shop changing their business.

Chair Bosley felt that the humanistic quality of these concerns does not matter because there will always be abutting businesses concerned about the impacts and aesthetics, and people looking for parking; it is all still relevant. She thought the language of the Ordinance needed to be tuned-up so it really identifies that the spaces must be contiguous and primarily in front of the business requesting the parklet. She thought the way it was drafted a business could have a 50' store frontage with half a parking space in front of someone else's business who could then run a parklet in front of the abutting business and not their own.

Councilor Jones liked what the Chair requested, but wondered if that went against what they heard earlier about it being a City street and the City could put whatever they want there. The Chair replied that could and should are two different words. Councilor Jones replied that he heard two different things.

Councilor Ormerod asked the City Attorney, in talking about tuning-up the language, for clarity on what the intent of the parklet is; what if the City does not approve what the owner wanted and the owner decides not to move forward with the parklet. He wanted to balance the economic benefit with the safety issue. The City Attorney replied to the first part of the question, remembering that these are generally available areas but once on site, if it has utility or fire connections into the building and then someone wants three spaces, but at such a location they are only allowed two. The City Attorney said that certainly a business could choose not to move forward with a City-approved design for two spaces. That process issue is answered to some degree in the design guidelines that would inform the administrative decision. Under the current Ordinance, if three spaces are allowed, they can span in front of abutting

businesses. In response to the Chair's question about the contiguousness of the space to the business itself and whether language can be drafted for that, the City Attorney thought the answer was yes. It could say a maximum of two spaces and each must be contiguous with the business frontage, and in the absence of that, only one space.

Councilor Johnsen asked whether the City was in any way holding-up businesses through this conversation or were they already doing parklets. She also asked whether they had answered what Councilor Greenwald was concerned with. The Chair replied that the businesses in the City of Keene have to await until a parklet Ordinance is adopted in order for them to establish a parklet, so they are being held-up. The Chair read Councilor Mitch Greenwald's letter into the record:

Parklets, if approved, should be responsible for the cost of all City services involved, Department of Public Works costs for barriers, etc., administrative costs, Clerk, Code Enforcement, lost parking revenue funds, and fees. Approval consent from abutting businesses and second floor residents must be obtained because they are giving up the ability for their clients to use this parking. I agree that parklets are a good concept, but without the inclusion of the above, I will not support the enabling Ordinance.

Chair Bosley thought that the Committee had spoken at length about the parking not belonging to any business on the first or second floor and that it is the public's parking, which the City can manipulate it as it sees fit. She thought the administrative costs were addressed inside the Ordinance and the barrier costs would be borne by the restaurants. Businesses would be responsible for moving and storing the parklets. She said it comes down to the neighboring businesses' consent, which she thought the City Attorney had spoken to and that she did not think was a favorable idea.

Councilor Jones asked Mr. Blomquist whether the City would have specifications for traffic resistance of barriers, like the State has specifications for guard rail resistance. He knew that some wanted planters as barriers for example. He wondered whether the City would mandate some level of barrier resistance. Mr. Blomquist replied that typically most design guidelines specify weight of the barrier because in general these things will move if a car hits them, including Jersey barriers. He said most of the idea is to minimize the penetration that occurs, while keeping in mind that whatever the object is can also become what is pushed into the parklet. Part of the challenge is that a lot of the guidelines he is looking toward say 600lbs which is the general weight of a half size jersey barrier (4-foot), those are used temporarily for City work. Applicants could get nice stone planters that are that heavy, for example. It is more about weight versus meeting a highway standard. Councilor Jones asked whether Staff would be approving that administratively. Mr. Blomquist said yes, the Ordinance allows the Public Works Director to make additional guidelines, and he is trying to stay within criteria. The barriers will need to be approved administratively. This will be outlined in the design guidelines portion of the Ordinance.

Chair Bosley opened the floor to public comment.

Dori Maston of Swanzey owns real estate here in Keene. She has owned three successful restaurants in Keene and at one point owned 100 apartments mostly on Central Square, where she said parking was a huge issue. She is totally opposed to the concept of parklets and designating certain spots for certain

businesses because she does not want to give up any spots, especially three spots. She provided some examples on the map of spaces in front of businesses being used by patrons of other businesses. Her emergency exit abuts three parking spots in front of a restaurant, and if there was a parklet there, the tenants would have to walk a long way to be safe and emergency services would be limited. She hoped, if anything, that it would be limited to two spots and that safety would be taken seriously. Ms. Maston concluded on economics, stating that adding three outdoor tables would please most of the restaurants as they make more money.

Chair Bosley thought it was valuable to have the Chief Farquhar's perspective and this is why so many Department heads were present to bring their own concerns to this matter. The Chair wanted to reach some consensus on the number of parking spots. Vice Chair Giacomo asked, if the Ordinance were changed, did it have to go back to full Council again. The City Attorney said that if it changing substantively then the Committee would recommend an amended version to the Council. The minor changes would not require that. Changing the number of spots is a substantive amendment, but it does not require two more readings before the Council.

On the number of spaces, the Chair heard opinions. Vice Chair Giacomo said that there was a lot of common sense things that can be handled administratively in the application. There are some areas where three spots would be an issue and there are other locations where it would not. He thought that if it could be three spots, it only helps the businesses. He did not think three was appropriate in all cases and there must be a check point in the permit review to ensure three spaces are appropriate versus making it unavailable to everyone.

Councilor Jones agreed with the Vice Chair that the number of spaces could be determined administratively during the design review process, which Chief Farquhar confirmed. Councilor Jones also suggested an amendment about abutting business permission. Chair Bosley said these Ordinances can be revisited in the future. She was erring on the side of caution and wanted this limited to two spots with each spot contiguous to the business in some way; perhaps not the whole spot must be in front of the business, but to have some connection to the business. Councilor Ormerod agreed that the spaces should be contiguous in front of the business and the language needed to be clarified. He added that because there will be administrative review and Fire Chief Farquhar's approval, Councilor Ormerod was comfortable with up to three spaces where it makes sense.

The Assistant City Manager, Rebecca Landry, asked if there were any locations in the downtown where there are three contiguous spaces in front of a business that meet the other parklet guidelines. She observed that if half a space overlaps an adjacent business that proof of no objection in writing should be needed versus permission, because they have no control of the street right-of-way, but they do have the opportunity for notice and objections.

Chair Bosley clarified that Councilors Jones, Ormerod, and Giacomo were in favor of up to three contiguous spaces. The City Attorney provided suggested language for an amendment.

Mr. Blomquist said there was still a question that could be left to Staff's discretion, but in talking about

contiguousness, what if the third space is only half in front of the business; does the Committee think that is ok, or would they want all three spaces fully in front of the establishment? The Chair thought that a portion of each space must be contiguous, versus all three spaces fully contiguous in front of the business. The City Attorney asked if there are three parking spaces and the center space is contiguous fully with the business, but the two end spaces are only partially contiguous, would that be allowed? The Chair replied in the affirmative.

Councilor Ormerod said it occurred to him that those spaces that half overlap another business might need greater buffer to not block the egress of the adjacent building; he said it should be a safety determination. He said he liked the Assistant City Manager's recommendation of seeking no objection from the abutters.

The City Attorney suggested new language for an amendment to incorporate these suggestions. The Public Works Department drew an example of this scenario to clarify, and the Chair said that drawing was her interpretation.

Inaudible discussion ensued between the Chair, City Attorney, and Assistant City Manager/HR Director.

Chair Bosley recognized Ms. Maston again, who wanted to understand the drawing. The Chair confirmed that all three spaces must be at least partially contiguous with the business frontage. Ms. Maston asked if in essence most parklets would not be in front of other businesses. The Chair and City Attorney agreed.

The City Attorney addressed an earlier question about a no objection provision. Ms. Landry understood that the City Attorney and Public Works Director said the potential neighbors of the petitioner may have no authority about allowing the petitioner access to the right-of-way in front of their business. In the absence of authority, could there be a requirement to notify those neighbors and provide an opportunity to object? The City Attorney said the problem is what happens once there is an objection. The Chair said that opens this opportunity to anyone on the second floor too and she thought they should stand behind their Ordinance, which she thought was amended well.

Hearing no further public or Committee comments, Chair Bosley entertained a motion by Councilor Johnsen, which was duly seconded by Councilor Ormerod.

On a roll call vote of 5–0, the Planning, Licenses, and Development Committee recommends an amendment to Section 46-9.57, paragraph C, subparagraph 2 of Ordinance O-2022-07, to read as follows, with the added language italicized: “the parklet is placed in a maximum three adjacent parallel parking spaces, *each portion of which is contiguous to the licensed premises.*” Thus, the Ordinance was amended as O-2022-07-A.

The following motion by Councilor Jones was duly seconded by Vice Chair Giacomo.

On a roll call vote of 5–0, the Planning, Licenses, and Development Committee recommends the

adoption of Ordinance O-2022-07-A.

Councilor Jones said that anytime there is something new like this there is reluctance, but he thought this needed to move forward because it is seasonal, revocable, amendable, and things could change in the future. Councilor Johnsen thanked the Staff for educating the Committee on these issues.

4) Adjournment

There being no further business, Chair Bosley adjourned the meeting at 7:34 PM.

Respectfully submitted by,
Katryna Kibler, Minute Taker
June 12, 2022

Edits submitted by,
Terri Hood, Assistant City Clerk