

American Institute of Architects New York Open Restaurants Testimony

Thank you to the City Council for holding this hearing today. I am Ben Prosky, the Executive Director of the American Institute of Architects New York, also known as AIA New York, which represents New York City's architects.

AIA New York is strongly supportive of the Open Restaurants program. Many architects who work in city agencies have helped streamline the program and expand its scope, while those who work in architecture firms have designed many of the outdoor dining structures.

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As an organization, AIA New York has also worked to improve the program. In partnership with the NYC Economic Development Corporation and other organizations, we founded the Design Corps, which provides pro bono design services to restaurant owners struggling to comply with regulations. Through our Open Restaurants Innovation program, another collaboration with city agencies and non-profits, we have collected examples of successful outdoor dining structures to inform design recommendations for the city.

City agencies and groups like ours are continuously working to improve the program. However, if the City Council makes the program's requirements overly prescriptive, it will be difficult for us to continue these efforts. The improvements we have seen in the program's compliance scheme and the quality of outdoor dining structures have been possible due to the program's flexibility.

Keeping the permanent program's design requirements flexible is critical because the city's restaurants and streets, which structures are designed around, are not standardized. Each structure is specifically customized to the needs of the restaurant it serves and the street on which it is located. As such, rather than making requirements prescriptive, the best way to address concerns about structures is to produce design guidelines. Guidelines are suggestions, not requirements, so they are adaptable to different challenges architects may come across. These challenges include larger urban design issues such as safety, accessibility, drainage, and waste collection.

To best address these issues, there should be more city oversight of outdoor dining structures. Architects should be required to file plans for structures and should undergo a formal plan examination by the Department of Transportation, which is how other structures are reviewed by the Department of Buildings to ensure their safety and accessibility. To do this effectively, the City Council must allocate funds for DOT to hire architects, engineers, and other designers to oversee the program.

Open Restaurants has been a huge success, though there is still room for improvement. We hope the Council requires greater oversight of the program by architects, but that their creativity not be hemmed in by a slew of overly prescriptive requirements. Again, thank you for holding this hearing today.

City Council Testimony
February 8th, 2022
By Andre Soluri, AIA

Good afternoon Councilmembers. My name is Andre Soluri and I am a licensed architect who is a longtime Manhattan resident. I am also a member of the **American Institute of Architects New York**, the principal of Soluri Architecture and a co-founder of the Design Corps. The Design Corps is a platform where New York's architecture & design community can provides free design services for the outdoor dining structures of small restaurants. To date, 70 architects have helped 90 restaurants design compliant outdoor dining, but today, please note that I am testifying in my personal capacity

Opportunities to transform our city's streets in a positive and equitable way don't happen very often, but the proposed zoning changes you are currently reviewing provide one of those rare moments.

Many of the criticisms of the current Open Restaurants program that you are hearing here today are valid, and I agree with many of them, however most can be easily resolved through clear but flexible guidelines, good design and increased consistent enforcement.

While an outdoor dining structure may appear simple, each one typically involves making hundreds of design decisions. These decisions greatly impact the success or failure of a design and how positively or negatively it impacts its surrounding community. This is why It's crucial for a permanent program to have the resources to evaluate and review applications before they are built and for DOT to have the resources to properly enforce the guidelines

Good design is not easy and it doesn't just happen.

But right now, there's an army of New York architects, designers and dining enthusiasts who have mobilized to find the best, most equitable ideas for a permanent program. This army, organized by the AI Fresco Coalition includes the Design Corps, and is working with community groups, accessibility advocates and the owners of small restaurants to address the challenges and leverage the incredible potential of outdoor dining. We are crafting recommendations to the city through a series of roundtables for what we hope will become guidelines for the permanent program. In addition, we are convening a competition and series of workshops led by architects and designers where we will use our skills to propose design solutions that mitigate the many challenges and problems you are hearing about today.

Our goal is to not only assemble a series of best practices and case studies, but to propose a series of outdoor dining prototypes that can demonstrate the program's true potential.

I ask the City Council to approve this zoning amendment and give our group a chance to demonstrate what a well-designed and equitable permanent, program could look like.



DEBORAH J. GLICK
Assemblymember 66TH District
New York County

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**Testimony of Assemblymember Deborah J. Glick
Before the New York City Council Subcommittee on Zoning & Franchises
Regarding the Citywide Open Restaurants Text Amendment
& Pre-considered Introduction No. T2022-0088 (Velazquez)
Zoning Text Amendment N 210434 ZRY**

February 8, 2022

Thank you for the opportunity to submit testimony before you today regarding the Citywide Open Restaurants Text Amendment. As I understand it, this text amendment would expand the number of restaurant spaces in New York City who have access to outdoor seating by granting an as-of-right allowance for sidewalk café space. This text amendment would also grandfather existing café spaces and allow a near permanence of sidewalk seating in neighborhood streetscapes regardless of who is the restaurant operator. I am concerned about many aspects of this zoning text amendment and this Administration's efforts to implement sweeping changes to our communities while bypassing local community oversight. Between the Department of City Planning (DCP) and the Department of Transportation (DOT) New York City residents have been led to believe that this permanent program will lead to a streamlined process of a wildly popular initiative.

I have represented neighborhoods in Lower Manhattan for years which have always been home to many sidewalk cafés, outdoor eateries, and innovative ways of dining outdoors. This lifestyle, which New Yorkers including myself enjoy, is part of the charm seen in our communities and has grown to be a hallmark of our neighborhoods. During the worst days of the pandemic, I favored outdoor dining and supported the temporary program as a way to keep thousands of New Yorkers employed and to promote vitality in our streets. However, we are seeing that a loss of local review and a situation where chronically understaffed and mismanaged enforcement has led to an increase in quality-of-life complaints and the potential wholesale surrender of public space to a private industry.

For years, the Department of Consumer and Worker Protection (DCWP) was tasked with managing the sidewalk café licensing program and it appears that many restaurants in downtown communities were successfully granted licenses. Coupling the review procedures of this license with the local community boards ensured that residents who live above or near the applicants

were able to voice concerns about the operation of a restaurant in a public space like the sidewalk. I fear the proposed actions today constitute a broad approach that ignores the unique needs of Lower Manhattan neighborhoods which contend with density and almost no separation between residential and commercial streets and areas. Because the fundamentally essential aspects of licensure and local review are not fully included in the text amendment before you today, I ask that you not pass this measure out of committee and instead work to make improvements to the existing program rather than codify emergency measures from the COVID-19 pandemic.

Neighborhood Concerns & Establishment Density

Lower Manhattan neighborhoods have long experienced higher concentrations of bars and restaurants regardless of outdoor dining options for years. The community boards in these districts have become adept at working with the State Liquor Authority (SLA) to review new applications and ensure that on-premise liquor licenses which are approved contain stipulations which account for the quality-of-life concerns of nearby residents. The 500-foot hearing, triggered by having 3 or more on-premise licenses within 500-feet, is a regular occurrence at Manhattan Community Boards 1, 2, and 3 where the density of establishments which serve alcohol is so great. These businesses must establish that their restaurant provides a community benefit which the many other bars and restaurants on that block do not. According to the city's own data, Manhattan accounts for 5,900 currently operating sidewalk or roadway dining applications out of 12,000 for the whole of New York City. We know that Lower Manhattan, especially Community Boards 1, 2, and 3 have greater density of bars, restaurants, and sidewalk cafes. It can be assumed that most of the 5,900 Manhattan sidewalk and roadway applications—roughly half of all locations city-wide—are in Lower Manhattan. Clearly, neighborhoods differ greatly.

In mixed-use communities there is not a clear delineation between residential and commercial districts. In the neighborhoods I represent, these lines are blended and people typically live over the bars and restaurants we are discussing today. While residents in these districts chose to live here and have accepted what comes along with density such as noise, patrons, and the refuse associated with a restaurant, they do rely on regulations to act as a backstop to the power of the hospitality industry's interests. During the worst of the pandemic in 2020, New York City residents accepted and even applauded the emergency measures put in place to ensure that bars and restaurants remained open. Our communities worked with local establishments to allow outdoor seating for the purpose of social distancing, takeaway liquor, and other allowances that typically would have triggered significant community review or legislation. Not that the pandemic is necessarily over today, however it should be noted that the pandemic-inspired restrictions on gatherings, dining, or travel have been lifted in the city and state. This means that the matter of open dining we are discussing today is purely a result of this program's perceived success and not its necessity for public health. I am concerned that moving forward with these changes, especially regarding a citywide policy allowing as-of-right sidewalk cafés, will further harm already overburdened communities unless specific considerations are taken into account.

Public Space & Economic Concerns

Sidewalks, plazas, parks, and other public spaces will be forfeited under this text amendment and it is unclear how the city may be able to regain control of those public spaces in the future. Under the temporary program which allows roadbed dining, many restaurants self-certify under DOT rules, and enforcement of regulations has been lacking. On the street level, this has meant that dining structures and spaces frequently encroach into what is legally considered public space such as sidewalks, crosswalks, or plazas. Putting aside the roadbed portion of the temporary program which is not being discussed in this text amendment, there is a great danger of losing access to sidewalks without any kind of licensure which can be revoked in the future. Under the current sidewalk café process, a restaurant would need to apply and renew their permits in consultation with the local community board. There is a clear physical boundary regarding the space that is occupied by the sidewalk café and where they are located can be understood ahead of time by nearby residents who may be affected. Notably, those with disabilities and mobility issues may need to know if the downstairs restaurant will potentially block the entrance to their building.

Additionally, the current proliferation of sidewalk structures and open dining options has made the process of curbside deliveries harder for other small businesses and residents. My office has heard from many constituents who have fewer options to unload cars, be dropped off by cabs, or have furniture and large items delivered when open dining or sidewalk structures block available commercial zones near their homes. Local businesses have also experienced decreased visibility and a loss of foot traffic simply because fewer people can see the business behind a dining structure or expanded sidewalk café. It is disturbing that the DOT has been unable to comment on the enforcement provisions of this plan should the text amendment be passed. Both Manhattan Community Boards 2 and 3 have asked for specifics but are dismayed that there is no fully formed plan for enforcement. Residents and businesses rely on enforcement to ensure that quality-of-life complaints are addressed and infractions which affect adjoining businesses or buildings are correcting quickly. Local businesses need to know that if a sidewalk café blocks their storefront overnight, they can be assured that the DOT will be able to inspect, fine, and cure the infraction before long-term harm is done to a small business.

Furthermore, I am concerned that this program will encourage landlords to consider public space along sidewalks as a factor in calculating future rent. In the communities I represent there are many restaurants which occupy small spaces and can only seat eight or fewer tables. Now that this temporary program has been established, they have doubled their seating. It is unclear if landlords will then factor that increase in business into the rent going forward. I am concerned that when leases are up for renewal this program will contribute to higher rents in downtown communities where commercial leases are already some of the most expensive in the city. Because this change grants establishments an as-of-right option to utilize sidewalk café spaces, there is little incentive for landlords to rent any other commercial business other than a restaurant. This will only exacerbate the competitive downtown real estate market and force any establishment to maximize profits through liquor sales and extended hours. The public sidewalk will no longer be a utilitarian environment where the cost of use is equally distributed. Rather, the price for entry into these cafés is dependent on a person's ability to afford to eat at that restaurant yet the public's tax dollars contribute to that space's upkeep. I feel this is a diminution

of equal street access provided by the city to residents, and the walkability and accessibility of our communities.

Local Review

The as-of-right allowance of these spaces provided by this text amendment will entirely obviate any ability for the local community to review how a bar or restaurant interacts with the surrounding neighborhood. An important function of local community boards is to review restaurant applications for liquor licenses and sidewalk cafés to ensure a balance between support for such businesses and protecting residents' needs as well as other small businesses. These boards are populated by members who know these communities the best. Their opinion and review of these spaces is intended to consider the needs of residents who are not necessarily patrons but will share the use of the streets and sidewalks.. I am concerned that giving so much as-of-right space, and therefore control of a public good, solely to one industry, will result in negative consequences for our communities. There have been many instances where disagreements arise between restaurant or bar owners and their surrounding neighbors. Typically, the community board has functioned as a go-between where concerns can be heard, and disputes resolved. The text amendment will leave residents with fewer options and any disagreements between neighbors and businesses will be harder to resolve without clear enforcement guidelines.

The current temporary program has severely altered the streetscape of downtown communities and changed the way residents interact with their environment. We have received numerous complaints about rodents, garbage, and derelict structures which are harming people's health and negatively affecting their lives. Without community board review of sidewalk cafés, residents will not have a place or opportunity to explain how one entity's actions will affect the community. I urge the Council to consider these issues and find a path forward that fosters livable communities where people can safely enjoy their homes and blocks while also benefitting from the commercial enterprises like restaurants which add to our city. Downtown communities have become destinations for entertainment, shopping, and dining without this permanent program. Removing the community board's ability to review these applications will further hamper considerations of neighborhood residents.

Enabling Council Legislation

I am pleased to see that this Administration has held to the commitment of timing this permanent program and contingent zoning text amendment with legislation that outlines the DOT's role in administering the program. I am pleased to see that there have been changes to the materials used to construct outdoor dining spaces and ensure that the sidewalk dining spaces are not enclosed or attached to buildings. I also want to emphasize the need for historic districts to be respected and to give the Landmarks Preservation Commission (LPC) the ability to review materials and design standards. Furthermore, I believe that the only way to operate a successful program is with licensure fees which compel compliance with the program and the ability for DOT as the agency with jurisdiction to not renew a license for a bad actor or to revoke the license entirely.

Because the current enabling legislation proposes to move the entire sidewalk café and outdoor dining programs from the DCWP to DOT, I am concerned that an expanded program and new agency will require a more robust enforcement arm than what is currently proposed. DOT has stated that they are preparing to administer the program with 30 investigators, however, this seems to be far too low given the number of violations which currently exists. Because this newly proposed expansion seeks to increase the number of outdoor dining spaces, interagency coordination will be key to success. In dense neighborhoods like I represent in Lower Manhattan, street cleaning, noise, and other quality of life complaints were issues before the temporary program. We must see better coordination between DOT, Department of Sanitation, Department of Health & Mental Hygiene, and the New York Police Department.

Furthermore, regulations must be written with a balance between restaurants, other local businesses, and residents in mind. I am concerned that there is no outright prohibition on amplified sound and television in the proposed legislation, nor that community board stipulations presented to the State Liquor Authority will take precedence over any allowances determined by DOT. Finally, I am concerned that DOT does not have a clear plan in place to legalize the 12,000 existing structures or spaces outside of requests and an understanding that currently non-compliant actors will simply comply with the new rules. There are many roadbed dining structures that have been built and will be built as the weather warms up this year which would not be legal under the proposed legislation, but there is no clear guidance as to how DOT will prioritize compliance with any new regulations. This leads me to believe that we should simply maintain the original sidewalk café system and encourage changes at DCP which will help to give opportunities to restaurants in less dense areas that want these spaces without legalizing a problematic temporary program.

Conclusion

For these reasons I am opposed to the Citywide Open Restaurants Text Amendment. It is clear that I joined our city in supporting efforts to ensure bars and restaurants survived the pandemic and continue to thrive as we move toward a resolution of this crisis. However, the wholesale surrender of public spaces to one commercial industry for profit is disturbing. This proposal does not successfully achieve the goal of expanding a policy such as outdoor dining. It does however, remove local review and control of public spaces while also pitting community members against business owners in a hostile or negative way. I hope the City Council will see that the lack of enforcement provisions within DOT can only lead to no enforcement and further complaints from residents. I do not feel this plan has been well thought out or fully reviewed within the agencies in charge of implementing these provisions.

Thank you.

NYC City Council Open Restaurants Hearing Testimony

I am a NYC Architect planning, designing, and creating public spaces throughout the US. The pandemic has had an impact on many communities, restaurants particularly. My sister and brother-in-law are both in the restaurant industry, and they have depended on the open restaurants program to remain in the workforce.

Other than my own personal feelings of the lively and human-centric nature of restaurants out on the city streets, where cars should be minimal, the following is a list of reasons open restaurants should remain a fixture of New York City.

- The program has not only ensured the survival of the restaurant sector but creates a much needed form of adaptability and economic resilience for the future. The pandemic will continue to affect our city lives.
- The program that the new legislation would replace - the previous Sidewalk Cafe program - was a hodgepodge of incremental, accretive, and patchy zoning. And more importantly, it fundamentally shut out restaurants outside of central business districts, in outer boroughs, and in less affluent and diverse communities. A citywide program with flexibility is much better.
- The rules making process currently underway is one that has included the voices of designers, urbanists, advocates, and experts who are working hard to identify and address a whole host of civic, technical, and quality of life issues.
- The DOT (the agency that would administer this program) needs resources for this to be successful, and the city should invest in making the new program a success.
- Design professionals have and will continue to work in this space to make installations safer, more beautiful, and more of an asset to the contexts and communities where they are created. This is what we do. The city has a willing and eager partner in the design community to make the program successful for all New Yorkers.

Sincerely,



Delia Nevola, AIA

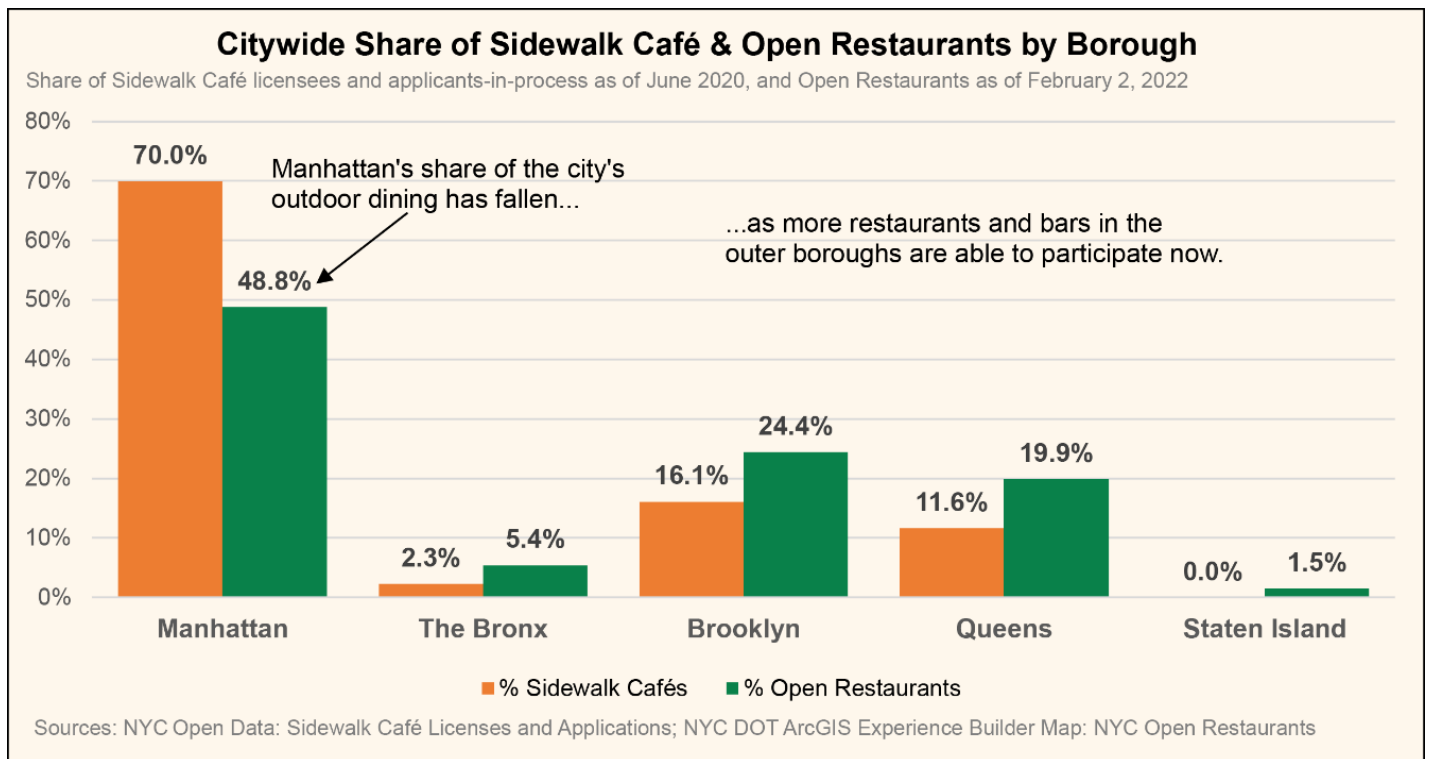
Statement prepared for the Committee on Consumer and Worker Protection, and Subcommittee on Zoning and Franchises, City Council of New York

February 10, 2022

The Rudin Center for Transportation at New York University’s Wagner School of Public Service is pleased to present preliminary findings from ongoing research regarding the “Open Restaurants” program that was launched in the City of New York in June 2020, in response to the Covid-19 pandemic. **The Open Restaurants program has lifted barriers to participation in outdoor dining relative to its predecessor, the Sidewalk Café program.** The combination of the Sidewalk Café program’s geographic restrictions, time-consuming review process, and steep revocable consent fees concentrated outdoor dining in a limited number of Manhattan neighborhoods, where more businesses had the resources to obtain a Sidewalk Café license.

The relative freedom of the Open Restaurants program, in contrast, has reduced barriers to participation and **made NYC outdoor dining more equitable** for bars, restaurants, and their patrons. Using Open Restaurants location data released by the New York City Department of Transportation¹ as well as Sidewalk Café License and Application data,² we have found that **compared to the Sidewalk Café program,³ the Open Restaurants program:⁴**

- **Has diminished Manhattan’s hegemony, spreading outdoor dining more evenly among the five boroughs:**



- **Has doubled the share of outdoor dining establishments in communities of color.** The share of outdoor dining establishments in Community Districts with a majority population of people of color is now 40.6%, up from 20.1%.⁵
- **Has multiplied the share of outdoor dining establishments in communities with an above-median rate of limited English proficiency by more than one and a half.** Business owners in these communities may have had greater difficulty navigating the Sidewalk Café license application process. The share of outdoor dining establishments in Community Districts with an above-median rate of limited-English proficient households is now 39.1%, up from 24.0%.⁶
- **Has more than tripled the share of outdoor dining establishments in communities with an above-median rate of households living in poverty.** The share of outdoor dining establishments in Community Districts with an above-median rate of households living below the New York City government's poverty measure is now 23.5%, up from 7.2%.⁷

Clearly, there are opportunities to improve upon Open Restaurants since it was developed as an emergency program amidst the pandemic. We recognize that outdoor dining poses new challenges to many of the city's neighborhoods. Yet new zoning or design requirements should recognize how the natural experiment of the Open Restaurants program has fostered diversity, reduced inequity, and generated new activity on the city's sidewalks and streets.

As the City Council considers the future of outdoor dining, it is appropriate to fully consider what Open Restaurants has achieved. Attempts to improve public safety, design standards, and neighborhood conditions through municipal policies and regulation should not undermine the increase in outdoor dining, heightened sidewalk activity, and the economic well-being of workers and restaurants.

Thank you for your consideration.

Mitchell Moss

Director, Rudin Center for Transportation Policy & Management

Henry Hart Rice Professor of Urban Policy and Planning, New York University

Dominic Sonkowsky

Graduate Researcher, Rudin Center for Transportation Policy & Management

Master of Urban Planning Candidate and Brodsky Family Scholar, New York University

¹ NYC Department of Transportation. (n.d.). *NYC Open Restaurants*. ArcGIS Experience Builder. Accessed February 2, 2022. <https://experience.arcgis.com/experience/ba953db7d541423a8e67ae1cf52bc698>

² NYC Department of Consumer and Worker Protection. (n.d.) *Sidewalk café licenses and applications*. NYC Open Data. Accessed February 2, 2022. <https://data.cityofnewyork.us/Business/Sidewalk-Caf-Licenses...>

³ To be conservative, both Sidewalk Café licensees and applications in progress were included. The assumption is the applicant would have eventually received the license. Second, third, etc. licenses/applications from the same address were excluded.

⁴ As of February 2, 2022.

⁵ U.S. Census Bureau. (n.d.) *Race, 2015-2019 American Community Survey 5-year estimates*. <https://data.census.gov/cedsci/table?t=Race...>

⁶ U.S. Census Bureau. (n.d.) *Household language by household limited English speaking status, 2015-2019 American Community Survey 5-year estimates*. <https://data.census.gov/cedsci/table?q=C16002...>

⁷ Shin, J., Krampner, J., Virgin, V., & Hill, A. (2020). *New York City government poverty measure 2019: An annual report to the Office of the Mayor*. NYC Mayor's Office for Economic Opportunity. https://www1.nyc.gov/assets/opportunity/pdf/21_poverty_measure_report.pdf

From: [heather klinkhamer](#)
To: [Land Use Testimony](#)
Subject: [EXTERNAL] Testimony
Date: Thursday, February 10, 2022 9:33:11 PM

Hi,

I was to submit testimony in support of the continued authorization of restaurant sheds. The COVID pandemic is not over. People are still getting ill and dying. Many people remain vulnerable to severe illness regardless of vaccination. Restaurants have suffered losses, and will continue to do so if their clientele is limited to people who are vaccinated and feel comfortable eating indoors. Of my large circle of friends, many of whom eat out regularly, only a handful are currently dining inside.

I hope the city extends the policy of allowing restaurants to use sheds to attract diners who need to adhere to extra precautions due to health concerns. Everyone should be able to enjoy dining out.

Thank you,

Heather Klinkhamer



New York, NY 10011

Sent from and auto incorrected by my iPad.

Testimony in support of The Open Restaurant Program

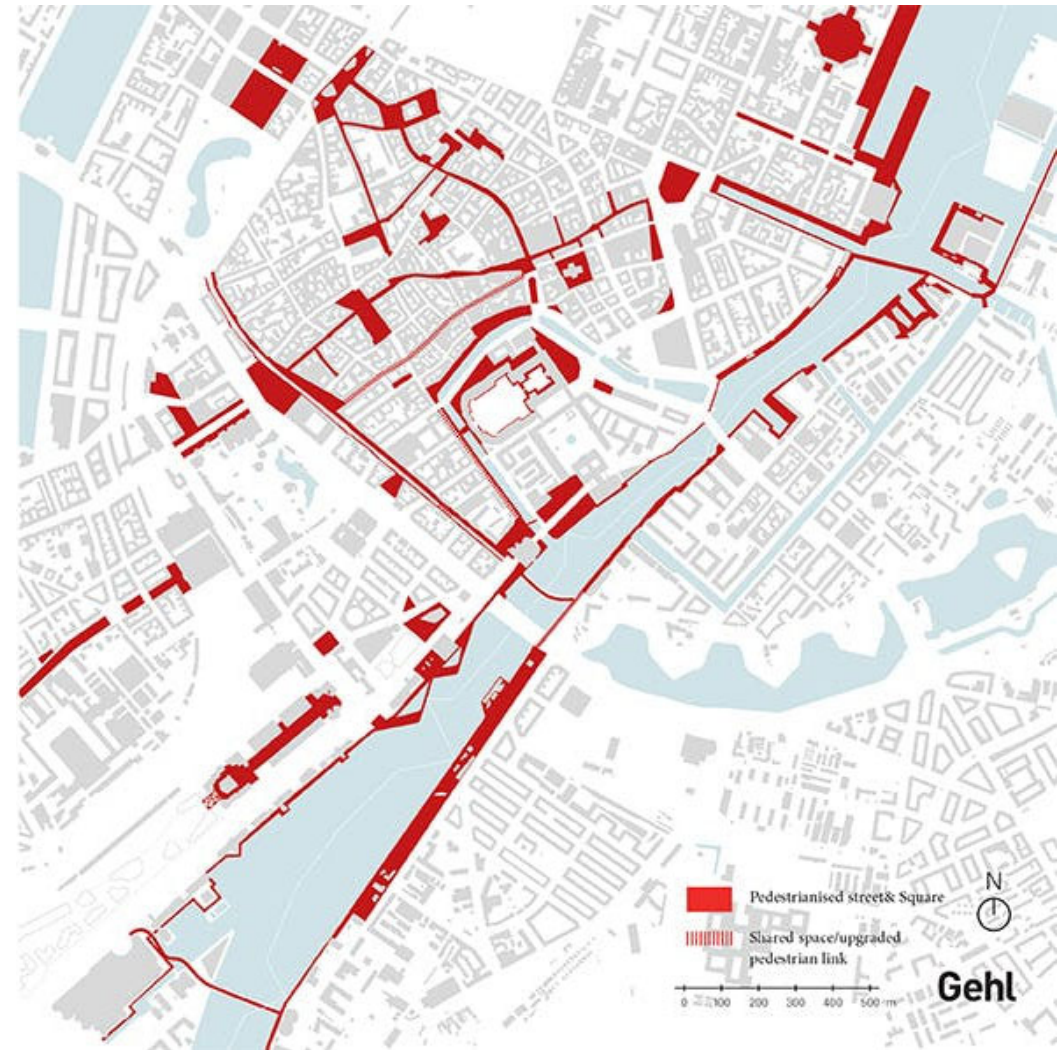
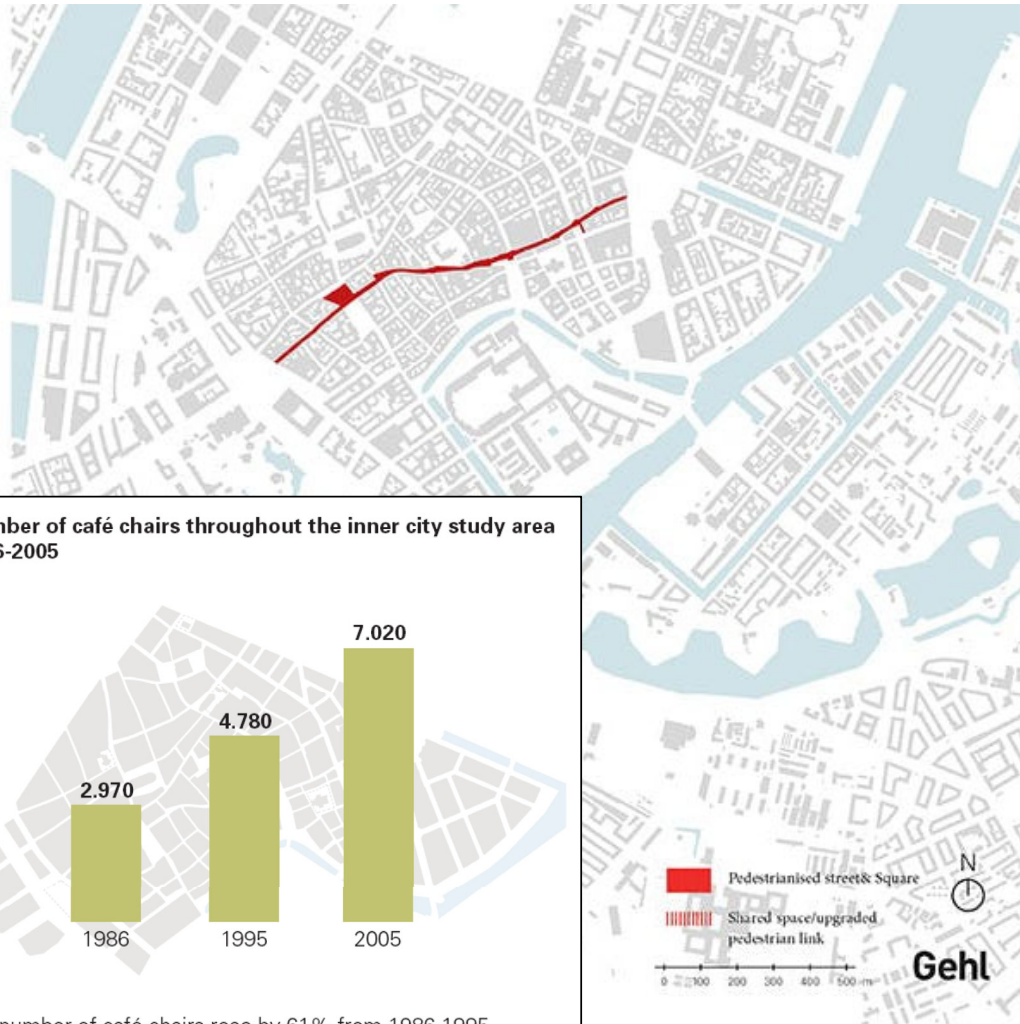
This is a testimony in favor of the continuation of the Open Restaurants Program in New York City. Outdoor cafés and restaurants generate street life and human presence in the urban spaces that generates safety by providing “eyes on the street”.

In Copenhagen, the capital of Denmark, the number of outdoor cafés have grown over the years and today form a major part of the attractiveness of Copenhagen’s extensive pedestrian street network.

But outdoor cafés and restaurants can exist as well in pedestrian streets and shared spaces and streets that have been redesigned as in streets that retain a traditional design with some car traffic.

Jacob Deichmann, architect, Ramboll Denmark

Copenhagen – pedestrian network 1962 and 2021



Source: Gehl Architects

Copenhagen – examples in different contexts



From: [Katherine O'Sullivan](#)
To: [Land Use Testimony](#)
Cc: [MovingForwardUnidos](#); [Inwood Owners](#)
Subject: [EXTERNAL] Application No. N 210434 ZRY (Open Restaurants Text Amendment)
Date: Friday, February 11, 2022 4:03:42 PM

Dear City Council Members and Land use Committee Members:

- A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to granting licenses and revocable consents for sidewalk cafes and roadway cafes, to repeal subchapter 6 of chapter 2 of title 20 of such administrative code, relating to granting licenses and revocable consents for sidewalk cafes, to amend section 2 of local law number 114 for the year 2020, relating to the establishment of a permanent outdoor dining program, in relation to the commencement of such program, and to amend section 1 of local law number 77 for the year 2020, relating to establishing a temporary outdoor dining program, in relation to the expiration of such program.
- Preconsidered Land Use Application - Application No. N 210434 ZRY (Open Restaurants Text Amendment) submitted by the New York City Department of Transportation and the New York City Department of City Planning, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, removing Article I, Chapter 4 (Sidewalk Cafe Regulations) and modifying related Sections, Citywide.

Please vote to oppose the above actions.

We have all suffered during the last two years of the pandemic. The majority of New York residents supported helping the restaurant industry survive by waiving the usual rules and allowing temporary structures take over our streets and sidewalks.

The pandemic is not over. The Open Restaurants program is not over. Perhaps it could be extended as needed.

Any extension would depend on the safety, location and regulation of operation, of any outdoor establishment, enclosed or unenclosed.

1. My primary concern is safety. The Fire Department of New York City is prevented from testifying. With the spate of recent fatal fires in the city, access on our street and to our buildings is of the utmost importance. Any delay of seconds or minutes can prove fatal. On Dyckman Steet in July 2021, a fire destroyed 5 homes. The fire engines came to Dyckman Steet, but could not access the hydrants or use their ladders on the street because of the street furniture and decor being used at the time, on the Plaza. The fire-

fighting personnel had to move around the corner and enter the building through a courtyard. Perhaps one or more less homes might have been lost, had earlier access been possible? When I learn that fire trucks cannot even open the doors of their trucks on some lower Manhattan Streets, I fear for the safety of the residents on those streets.

The challenges to public health by the lack of sightlines, rats, garbage etc. is also a concern.

2. This program is unfair to other businesses

The Open Restaurants program privileges the hospitality industry by providing it with free space that is not available to other small businesses.

3. The ability of the NYC Department of Transportation to regulate such a complicated program.

Any enforcement of any sort of rules or noise ordinances has not happened so far. Even pre-pandemic out-door dining was not sufficiently regulated in residential neighborhoods, which is really all of the city. Residents, many who work hard, should be allowed rest and enjoy their homes without unwelcome intrusion of noise from out-door businesses. The City Council should ask the DoT to show how well it can run the current program. If it does a good job with Open Restaurants, residents might put more faith in the agency to regulate a larger program.

4. Use of our streets reimaged.

There are many imaginative, smart people in this city, who are interested in truly reimaging how our public space may be used. The restaurant/liquor industry should not be the only voice that is heard. Certainly out-door dining may be streamlined to suit the hospitality industry, as needed. My own experience, pre-pandemic, tells me that any application for a sidewalk cafe license was rubber stamped and approved, no matter the density of establishments. No cumulative effect was taken into account. Residents' voices were rarely if ever, heard.

Listen to the people of the city, not the lobbyists, and night-life corporations.

“62% of Community Boards voted against the proposed permanent outdoor dining program.”

NYC Community Boards rejected Permanent Open Restaurants by a whopping 62% to 38% margin. City Council members should listen to their constituents.

Thank you for your attention, do the right thing,

Katherine O'Sullivan and Nancy Preston

Executive directors

Moving Forward Unidos

New York, NY

646-584-6092

212-942-9071

City Council Testimony, Feb 8, 2022

Good afternoon, Councilmembers. I am an architect, a longtime resident of Manhattan's Chinatown, and a Cofounder of Design Advocates, a not for profit network of over 250 independent architecture and design firms, who work collaboratively to provide pro-bono design services and expertise to communities in need.

Design Advocates teams have provided services to close 40 restaurants, and in partnership with the Economic Development Corporation, the American Institute of Architects, and NYCxDesign, we helped to create and manage the Design Corps program which has provided aid to another 90 NYC restaurants to help them open safely outdoors.

The Open Restaurants made the flourishing of outdoor street life all over the City possible at a dark time, and it has been a lifeline to small businesses, communities, and workers across the City. Open Restaurants points toward a future where the public space of the street is a resource not only for individual automobiles, but as a space of increasingly diverse civic life and vitality. That is a goal worthy of a great city like New York.

The pandemic has also highlighted the vulnerabilities and structural inequities that many communities and small businesses in New York City face. One of those structures was the cumbersome and hodge-podge Sidewalk Cafe program that effectively shut out most neighborhoods outside of Manhattan. A flexible, city-wide program is an essential component of a more hopeful, nimble, and resilient New York City of the future.

We recognize that there are many who have concerns about noise, accessibility, safety, and other municipal functions. The success of this program will depend on resourcing the agencies like DOT properly to evaluate proposed installations and to enforce the regulations.

It will also benefit from the extensive and ongoing participation of the professional design community. Our organization is working with the AIA, the Alfresco Coalition, and City Agencies to gather expertise from the design community and to make recommendations for guidelines and design elements to ensure that outdoor dining is safe, attractive, accessible, and a benefit to all New Yorkers.

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From: [Regina Cornwell](#)
To: [Land Use Testimony](#)
Subject: [EXTERNAL] Testimony On Open Restaurants
Date: Thursday, February 10, 2022 2:08:57 PM

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To Council Members of the Land Use Committee

Dear Council Members,

Below is my written testimony:

On Open Restaurant Extensions into Public Spaces of Sidewalks and Streets

I write in opposition to restaurants extending into public sidewalks and streets in Manhattan. (I only refer to Manhattan and not to the other boroughs where conditions may be different). It was called for during the height of the COVID pandemic as a means of helping restaurants to remain in business. But, quickly too many took advantage of this, building more and bigger into sidewalks and streets.

The Village has been especially hard hit with streets now so narrowed by extensions that cars can barely creep by, and firetrucks and other emergency vehicles are unable to enter. This is very dangerous and certainly illegal, but such shacks and even carefully built structures exist now over the protests of tenants on these blocks. Then, of course, there are now rats where they rarely appeared above ground before, uncollected garbage because the trucks give up trying to navigate the streets, and noise levels--disrupting work and sleep for tenants. There is an irony with so much of the outdoor eating: the spaces aren't properly built for safety against COVID infections.

An EIS is needed to demonstrate the many serious problems with open restaurants and their damage to neighborhoods for the sake of shacks and well-built to be permanent extensions are no longer feasible and only a violation of public spaces, intended for the good of all and not to be taken over for private use.

Thank you and sincerely,
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I was pleased to see that the new street dining proposal will do away with the problems of structures. But there will continue to be problems unless the regulations are carefully drawn and followed.

Curb space, especially on busy avenues, serves many important needs. NYCDOT limited parking on many curb areas, especially on busy avenues with intensive development. These regulations were generally not followed or enforced when dining structures were set up, and they occupy many commercial and no parking curbs. Trucks and service vehicles are still forced to double park on almost every avenue block in Manhattan, seriously impeding traffic in busy periods. I have seen double parking on both sides of some blocks causing gridlock.

Also, there must also be a limitation on how much of the sidewalk is cut off from the street by barriers, when multiple dining areas leave no space between them. Some space must be left for pickup and drop-off of handicapped people, like my wife, who cannot easily walk half a block.

There has to be a plan to allocate limited curb space to the many demands on it, including commercial parking, delivery vehicles, handicapped access, trash removal, emergency access, and auto parking needs, as well considering street dining. And NYCDOT must enforce its new regulations.

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