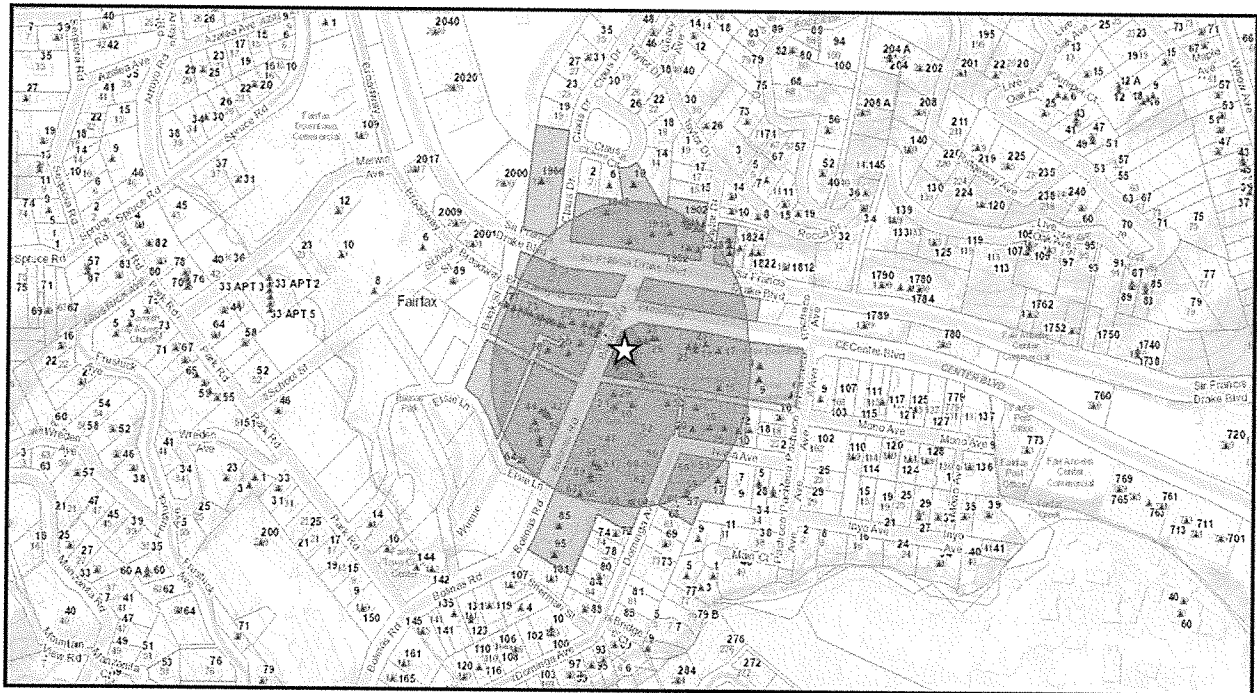


**TOWN OF FAIRFAX  
STAFF REPORT  
Department of Planning and Building Services**

**TO:** Fairfax Planning Commission  
**DATE:** November 16, 2017  
**FROM:** Linda Neal, Principal Planner  
**LOCATION:** 17 Bolinas Road; Assessor's Parcel No. 002-121-22  
**ZONING:** Central Commercial CC Zone  
**PROJECT:** Sake retail sales/tasting room establishment  
**ACTION:** Use Permit; Application # 17-41  
**APPLICANT:** Scott Porter  
**OWNER:** Fairfax Bolinas Center, L.L.C.  
**CEQA STATUS:** Categorically exempt, § 15301(a)



**17 BOLINAS ROAD**

## **BACKGROUND**

The project site is approximately 7,516 square-feet in size and is developed with a 2-story structure that was built prior to the Town's incorporation in 1931. It is subdivided into a number of commercial spaces on the ground floor, with office spaces above 9 and 15 Bolinas Road, and three residential living units over 17 and 19 Bolinas Road.

## **DISCUSSION**

The applicant proposes converting the 482 square-foot, first-story commercial space at 17 Bolinas Road into a combination retail sales and tasting room for sake that will also provide educational classes to customers about sake and Japanese culinary and beverage culture.

Proposed hours of operation would be from 11:00 AM through 4:00 PM daily with 1 daytime employee and from 5:00 PM through 10:00 PM with 2 evening employees. The hour between the two shifts would be used to clean up and facilitate the transition from the daytime shift to the nighttime shift. The hour closure may be eliminated if it is found unnecessary after the business opens and operates for a time.

Twice a month, during the day, the business plans to hold educational classes about sake, food pairings with sake, etc. The business will not be open to walk-in customers during these classes.

The business would have inside seating for 7 customers partaking in tastings at a counter, wait seating for 5, and an additional 8 seats outside the building, within the covered and partially enclosed entry patio. The ABC license the applicants have applied for would allow the on-site service of sake, beer and wine at 17 Bolinas Road and is an expansion of the current license approved for 19 Bolinas Road, the Restaurant Village Sake.

Food service would not be provided to customers of 17 Bolinas Road from the restaurant at 19 Bolinas Road, nor would alcoholic beverages be transported back and forth from the retail/tasting bar to the restaurant. Patrons waiting for a table at the restaurant could wait with a beverage at the tasting bar until their table is ready, but would be expected to finish their drink before proceeding into the restaurant.

The applicant has provided information to staff that the previous business at 17 Bolinas Road, the Hairfax Hair Salon, generated 53 average daily traffic trips between the customers and hairdressers. They estimate that the sake bar will generate 25 trips between the 1 employee and the customers buying retail sake and tasting sake during the daytime hours (from 11:00 AM to 4:00 PM) and 52 trips during the evening hours (from 5:00 PM to 10:00 PM) (Attachment B – Average Daily Traffic information). The total average daily traffic trips the business expects is 77, which staff believes is a fair estimate given the small 482 square foot size of the space. Therefore, the proposal does not require the approval of a Traffic Impact Permit per Town Code §

17.056.050(A)(1)(a), which indicates the Traffic Impact Permit process is only applicable to the reuse of existing commercial spaces when the new use is expected to generate 100 Average Daily Traffic (ADT) trips more than the previous business generated.

Town Code § 17.100.050(F) requires that a Conditional Use Permit (CUP) be obtained for "Uses which combine wholesale and retail sales and/or retail and service activities when neither aspect of the business is an accessory or principal use but both are an integral part of the business. Town Code §17.100.050(A) requires a CUP for any business not conducted entirely within a building.

The proposed use requires the approval of a CUP by the Commission because it proposes to combine retail sake sales with a sake tasting establishment (a bar specializing in sake), and because outdoor seating is proposed. If the proposal was just for a tasting bar with no outdoor seating, the use would be permitted under Town Code §17.100.040(8) which lists bars as a permitted use. However, the retail sales of sake or other alcohol is considered a liquor store, which requires the approval of Conditional Use Permit per Town Code §17.100.050(K). Outdoor seating requires a CUP as well.

The Planning Commission granted a Conditional Use Permit in June 1990 to allow outdoor seating for the commercial space next door at 19 Bolinas Road. The Town has not received any complaints about the use of the space since the approval.

There is no reason to expect that including outdoor seating in the approval for the sake retail/tasting bar would have any significant impacts since it will utilize the same outdoor covered entry patio area as the adjacent restaurant which has been used successfully since 1990.

In order to approve a Conditional Use Permit (CUP) the Commission must be able to make the findings contained in Town Code §17.032.060 as follows: The approval of the use permit shall not constitute a grant of special privilege, the use of property as shall not cause excessive or unreasonable detriment to adjoining properties or premises, or cause adverse physical or economic effects thereto, approval of the use permit is not contrary to those objectives, goals or standards pertinent to the particular case and contained or set forth in any Master Plan, or other plan or policy, officially adopted by the Town, and approval of the use permit will result in equal or better development of the premises than would otherwise be the case (for a full text of the required findings see Town Code §17.032.060).

Retail displays and service areas will occupy roughly 300 square feet of the commercial space although the serve areas will serve both the retail and sake tasting aspects of the business operations. Therefore, the retail and service uses would be an integral part of the business.

Staff met with the Police Chief on November 7, 2017 and discussed the proposed use.

The Chief has no concerns that the proposed use will have any significant impact on Police Department operations.

The findings for the approval of the requested CUP can be made as long as certain conditions are met and recommended findings and conditions for approval of the proposed use can be found in attached Resolution No. 17-39.

**Other Agency/Department Comments/Conditions**

**Ross Valley Fire Department**

RVFD submitted written requirements which are summarized as follows:

Project requires installation of a for alarm system, 6-inch address number shall be posted and made visible from Bolinas Road, and fire extinguishers shall be provided as required by the Fire Code and Uniform Building Code.

**Marin Municipal Water District (MMWD)**

MMWD submitted written requirements which are summarized as follows:

The plans must comply with all the indoor and outdoor requirements of District Code Title 13, Water Conservation, and the District's backflow prevention requirements must be met and the project must comply with Ordinance No. 429, requiring the installation of gray water recycling systems, when practicable.

**Ross Valley Sanitary District, Fairfax Public Works and Building Departments**

No written comments or conditions were received from the Ross Valley Sanitary District or the Fairfax Police, Pubic Works or Building Departments.

**RECOMMENDATION**

1. Conduct the public hearing.
2. Move to approve application # 17-41 by adopting Resolution No. 17-39 setting forth the findings and conditions for the project approval.

**ATTACHMENTS**

- Attachment A – Resolution No. 17-39
- Attachment B – Applicant's supplemental information

## RESOLUTION NO. 17-39

### **A Resolution of the Fairfax Planning Commission Approving the Use Permit for a Combination Sake Retail Sales and Sake Business to Operate at 17 Bolinas Road**

**WHEREAS**, the Town of Fairfax has received an application to operate a combination sake retail sales/sake tasting business in 482 square feet of the building at 1 through 21 Bolinas Road, in the existing commercial space designated 17 Bolinas Road; and

**WHEREAS**, the Planning Commission held a duly noticed Public Hearing on November 16, 2017 at which time all interested parties were given a full opportunity to be heard and to present evidence, and at which time the Planning Commission approved the Conditional Use Permit; and

**WHEREAS**, based on the plans and supplemental information provided by the applicant, as well as testimony at the public hearing, the Planning Commission has determined that the applicant has met the burden of proof required to support the findings necessary for the Project's requested discretionary Conditional Use Permit.

**WHEREAS**, the Commission has made the following findings:

1. The proposed combination retail sales/tasting business will fit in and not conflict with any of the other businesses or residential uses in the immediate neighborhood. Therefore, the approval of the conditional use permit shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment.
2. The proposed business hours of operation, daily from 11:00 AM through 10:00 PM with a possible hour closure to accommodate employee shift changes from 4:00 PM to 5:00 PM. The portion of the business providing service to the general public will cease whenever the business hosts a food pairing or sake classes, which will occur 1 to 2 times per month, mid-day. The business is not expected to create any excessive noise. Therefore, the approval of the Use Permit and use of property as approved under the use permit shall not cause excessive or unreasonable detriment to adjoining properties or premises, or cause adverse physical or economic effects thereto, or create undue or excessive burdens in the use and enjoyment thereof, or any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit.
3. Approval of the use permit is consistent with those objectives, goals or standards pertinent to the particular case and contained in the Fairfax Zoning Ordinance .
4. Approval of the use permit will result in equal or better development of the premises than would otherwise be the case, and said approval is in the public interest and for the protection or enhancement of the general health, safety or welfare of the community.

ATTACHMENT

**A**

5. Neither present nor anticipated future traffic volumes generated by the use of the site for the sake retail/sake tasting business reasonably require strict or literal interpretation and enforcement of the parking regulations
6. Granting of the Use Permit will not result in the parking or loading of vehicles on Bolinas road in an unsafe manner or in such a manner as to interfere with the free flow of traffic.
7. The small size and location of the business will cater to local residents and visitors to the adjacent restaurant, Village Sake, which will be operated in conjunction with the proposed use, although the project that is the subject of this Conditional Use Permit is exclusively for the sake retail/tasting business.

**WHEREAS**, the Commission has approved the project subject to the applicant's compliance with the following conditions:

#### **CONDITIONS OF APPROVAL**

1. The applicants shall maintain the premises in a neat and attractive manner at all times. Such maintenance shall include, but not be limited to, exterior building materials, signage, windows, the planters, the ground and the pavement surfaces.
2. If repeated noise complaints are received that relate to outdoor service and seating, outdoor service and seating hours may be required to be reduced or eliminated.
3. The applicant shall comply with all applicable local, county, state and federal laws and regulations. Local ordinances which must be complied with include, but are not limited to: the Noise Ordinance, Chapter 8.20, Polystyrene Foam, Degradable and Recyclable Food Packaging, Chapter 8.16, Garbage and Rubbish Disposal, Chapter 8.08, Urban Runoff Pollution Prevention, Chapter 8.32 and the Americans with Disabilities Act.
4. Any changes made to the exterior of the building, including but not limited to new lighting, new signs, planters, etc, shall comply with the design review regulations of the Town Code, Chapter 17.020, and be approved by the Fairfax Planning Commission or staff as required.
5. The applicant and its heirs, successors, and assigns shall, at its sole cost and expense, defend with counsel selected by the Town, indemnify, protect, release, and hold harmless the Town of Fairfax and any agency or instrumentality thereof, including its agents, officers, commissions, and employees (the "Indemnitees") from any and all claims, actions, or proceedings arising out of or in any way relating to the processing and/or approval of the project as described herein, the purpose of which is to attack, set aside, void, or annul the approval of

the project, and/or any environmental determination that accompanies it, by the Planning Commission, Town Council, Planning Director or any other department or agency of the Town. This indemnification shall include, but not be limited to, suits, damages, judgments, costs, expenses, liens, levies, attorney fees or expert witness fees that may be asserted or incurred by any person or entity, including the applicant, third parties and the Indemnitees, arising out of or in connection with the approval of this project, whether or not there is concurrent, passive, or active negligence on the part of the Indemnitees. Nothing herein shall prohibit the Town from participating in the defense of any claim, action, or proceeding. The parties shall use best efforts, acting in good faith, to select mutually agreeable defense counsel. If the parties cannot reach agreement, the Town may select its own legal counsel and the applicant agrees to pay directly, or timely reimburse on a monthly basis, the Town for all such court costs, attorney fees, and time referenced herein, provided, however, that the applicant's duty in this regard shall be subject to the Town's promptly.

#### **Ross Valley Fire Department**

6. The existing fire alarm system shall be extended into the re-configured space. A separate deferred fire permit is required for this work. Plans for the system shall be submitted directly to the Ross Valley Fire Department for review and permit issuance.
7. 6-inch address number shall be posted and made visible from Bolinas Road.
8. Fire extinguishers shall be provided as required by the Fire Code

#### **Marin Municipal Water District (MMWD)**

9. The plans must comply with all the indoor and outdoor requirements of District Code Title 13, Water Conservation.
10. The District's backflow prevention requirements must be met.
11. The project must comply with Ordinance No. 429, requiring the installation of gray water recycling systems, when practicable.

**NOW, THEREFORE BE IT RESOLVED**, the Planning Commission of the Town of Fairfax hereby finds and determines as follows:

The approval of the Conditional Use Permit can occur without causing significant impacts on neighboring businesses or residences; and

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on the 16<sup>th</sup> day of November, 2017, by the following vote:

AYES:  
NOES:  
ABSENT:

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Chair Fragoso

Attest:

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Ben Berto, Director of Planning and Building Services



Scott Porter

171 Bothin Road, Fairfax CA 94930  
sporter@taskcore.com  
(415) 328-1731

October 15, 2017

TOWN OF FAIRFAX

OCT 11 2017

RECEIVED

Linda Neal  
Town of Fairfax  
142 Bolinas Road  
Fairfax, CA 94930

Dear Mrs. Neal,

Thank you for your review of our submittal and for allowing us the opportunity to further process how we see our business working, and fitting into the downtown Fairfax community as seamlessly as possible. To better assess how our business might differ in terms of impact, we reached out to the past tenant, Hairfax, and per their business history they had the following number of customers:

**Hairfax Daily occupants per Day**

5 staff + (6 clients / turn) / (1 hour / turn) X (8 hours / day) = **53 occupants / day**

Our business plan anticipates that we'll have the following number of customers and staff:

**Day hours**

1 staff + (4 guests / turn) / (1 hours / turn) X 6 hours / day = **25 occupants / day**

**Evening hours**

2 staff + (15 guests / turn) / (1.5 hours / turn) X 5 hours / day = **52 occupants / eve**

**During scheduled classes (classes will replace normal day or eve business)**

2 staff + (8 guests / turn) / (4 hours / turn) X 4 hours / day = **10 occupants / class**

Total maximum daily occupancy projections: **25 + 52 = 77**

Our experience operating Village Sake for the past two years has given us data and insight regarding our target market. While Village Sake is lucky to have garnered a following outside of the immediate community, a large percentage of our customers are indeed local! Our marketing is driven through our local community social media and many of our guests walk or ride bicycles to dinner.

Rice & Vine will have the same marketing approach as Village Sake and will most likely share many guests. We project that guests will begin their time with us at Rice & Vine and

ATTACHMENT **B**

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finish at Village Sake - or the reverse. Based on that, the combined impact from the two occupancies will be less than the sum of the two.

While these are our projections to reach our highest aspirations, as noted, sake is indeed a niche market, and if we can truly be this successful, then we will have succeeded beyond our wildest dreams! Ultimately this space affords us the opportunity to have some breathing room to better serve the community, continue to keep our staff employed long term, and ensure our long term success, even if we do not reach these lofty goals.

Thank you for allowing us to further amend and clarify our projected traffic impact. We appreciate your guidance in further assessing how we can best serve the Town of Fairfax!

Sincerely,



Scott Porter

# Traffic Impact Permit Request - Attachment 1

## Project Description

Our project entails remodeling 17 Bolinas Road from existing salon (B Occupancy) to retail/tasting room (M/B Occupancy). The space is 482 square feet and will include 7 indoor tasting seats and 8 outdoor seats.

Sake is a very small and specialized sector of the beverage industry. A sake tasting room on it's own in Fairfax would not likely survive, however, it will complement Village Sake well and help us build our brand.

The space will serve as a location to educate costumers about Sake and Japanese culinary and beverage culture. Our goal is to capture and serve customers through the following:

1. Food pairing.
2. Sake classes (1-2 times / month, Mid-day).
3. 11am - 4pm. Daytime foot traffic (locals and visitors of Fairfax).
4. 5pm - 10pm. Evening foot traffic (and guests waiting to be seated at Village Sake)

Proposed Daytime hours: 11am - 4pm

Proposed Evening hours: 5pm - 10pm

Daytime employees: 1

Evening employees: 1-2