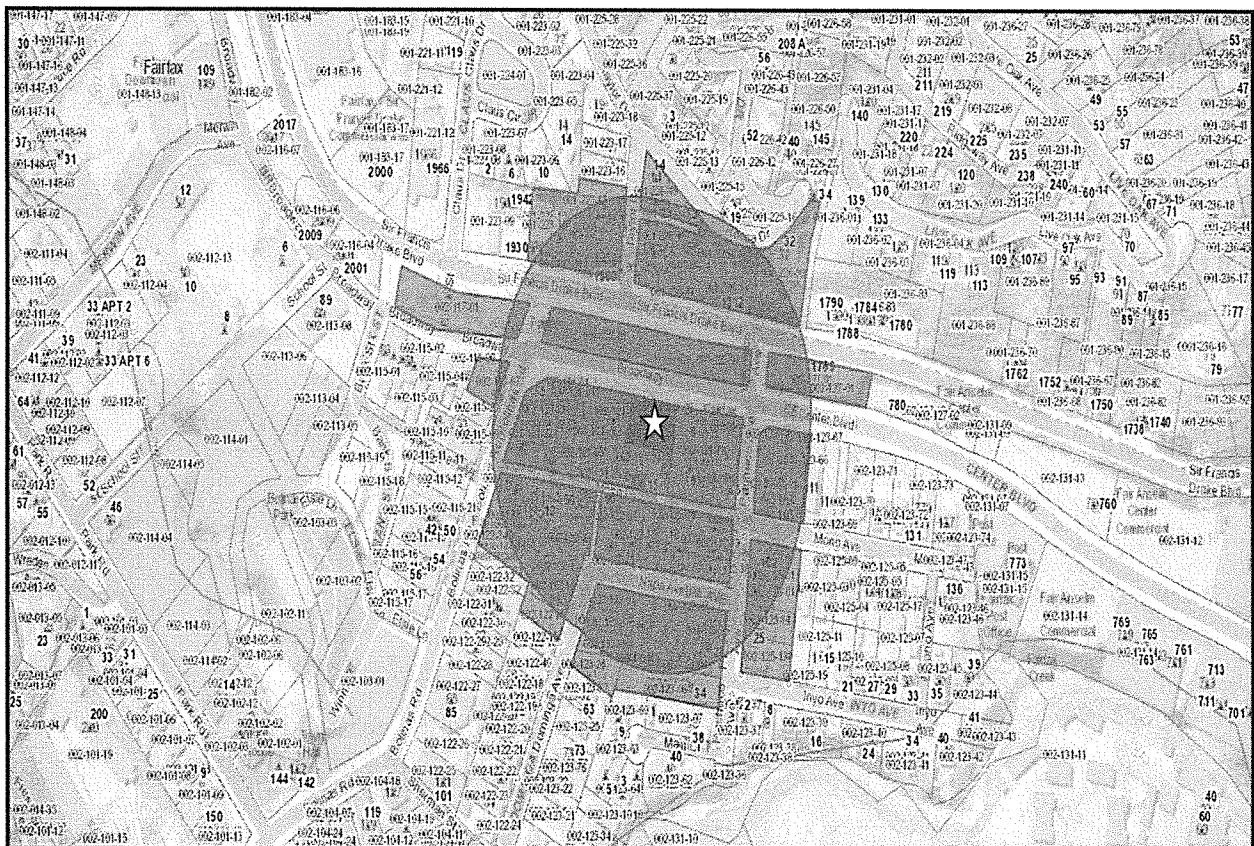


**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: July 21, 2016
FROM: Jim Moore, Director of Planning and Building Services
Linda Neal, Principal Planner
LOCATION: 17-19 Broadway; Assessor's Parcel No's. 002-121-23 and 24
ZONING: Central Commercial CC Zone
PROJECT: Food Trailer
ACTION: Use Permit and Exception to the Parking Regulations;
Application # 16-29
APPLICANT: Tony DeFrance
OWNER: Garrett and Amory Graham
CEQA STATUS: Categorically exempt, § 15301(a)



17 AND 19 BROADWAY

BACKGROUND

The 16,875-square-foot, level site, is developed with multiple uses including a bar and restaurant with 3 apartments above and the Fairfax Inn that contains an on-site manager's apartment and 14 hotel rooms. The uses share the parking lot with the spaces under the Inn building being primarily used by inn patrons and the spaces on the east side of the bar primarily used by the bar and restaurant patrons.

The 3,379-square-foot, bar/restaurant/apartment building was constructed in 1921 as a hotel and restaurant and was converted into a bar and liquor store with apartments above after World War II. The original Conditional Use Permit to operate a nightclub, with live entertainment, at 17 Broadway, was approved by the Town Council on December 8, 1980. The Conditional Use Permit was modified to allow the bar to expand into the liquor store area at 19 Broadway on August 24, 2000.

A Conditional Use Permit (CUP) and, per the terms of that CUP, an exception to the parking requirements, was granted by the Planning Commission in 1995 to allow construction of the 6,022-square-foot Fairfax Inn [Town Code § 17.100.110(2)]. The parking exception was granted to allow the Inn to construct only 26 on-site parking spaces while the Town Code required 31 spaces for all the different uses on the site.

DISCUSSION

Conditional Use Permit (CUP)

Town Code § 17.100.050(A) requires that a Conditional Use Permit be obtained for any use that is not conducted entirely within a building. Therefore, using the food trailer to provide a kitchen for 17 and 19 Broadway requires the approval of a Conditional Use Permit by the Planning Commission.

The applicant is requesting a Conditional Use Permit to legalize the preparation of food in an on-site food trailer for sale in the restaurant at 19 Broadway (the bar is actually 17 Broadway). The trailer is currently parked on site and the business has been preparing food in the trailer for consumption by restaurant patrons since December of 2015.

The owner filed an incomplete application to legalize use of the food trailer on December 3, 2015, and staff has been working with the owner to obtain a complete application since that time. To date, staff has not received an indication of where the required grease separator is or would be located on the property (see Exhibit C). Staff's on-site inspection of the trailer and property on July 14th, 2016, in-lieu of a plan showing the location of the grease separator, revealed that the business has been serving food from the food truck without using a grease separator.

The building at 17-19 Broadway is 95 years old. Since its construction the Inn has been built in an "L" shape directly behind it and around the west side with the ADA-accessible hotel unit and outdoor garden area for the hotel fronting on Broadway.

The Building Official believes that a kitchen could be installed inside the bar. However due to the location of the inn and upstairs apartments, the only way to install the required venting system would be to relocate the bathrooms and storage areas at the rear eastern corner of 17 Broadway so the kitchen could be built along the eastern wall adjacent to the parking lot and the venting could be installed out towards the parking lot. The age of the building, the location of residences upstairs and the location of the Inn make it difficult and expensive to construct a commercial kitchen that would comply with current Health Department requirements in the building (Exhibit B – Applicant's Supplemental Information). The applicant has indicated that he has obtained bids for the kitchen improvements that average \$280,000 in cost. Staff has not seen the bids so we are unable to verify whether or not the costs would be as high as the owners have indicated.

The owner and Garry Graham, the bar owner, indicated that due to changing patron tastes and expectations, it is imperative for the fiscal health of 19 Broadway (the bar and nightclub) that they be able to serve foods other than the typical bar food. The owners state that people are expecting more out of the nightclub experience than just good music. This similar need by the general public for a "universal entertainment experience" was voiced last year by the owner of the Fairfax Theatre who applied for, and obtained, an ABC license to allow him to serve food, beer and wine at the theatre in addition to the traditional popcorn and candy fare. He also indicated that the ability to serve food and alcohol was necessary in order for his business to survive fiscally.

One other business owner has indicated that they are not supportive of this growing trend of Fairfax businesses avoiding the expense of upgrading local buildings in compliance with building and health codes by operating from food trucks and trailers (Exhibit E).

Parking

Town Code § 17.100.110(2) states that off street parking and loading in the Central Commercial Zone, for conditional uses, be varied by the terms, provisions or conditions of the use permit.

The property is already operating with a parking space deficit due to the Planning Commission exception granted when the Inn was approved in 1995. The food trailer takes up an additional 2 parking spaces, decreasing the total number of on-site parking spaces to 24. A site inspection on Friday revealed that: a) at least 2 of the existing parking spaces are not available for parking, but are being used as a patio area for the Inn; and b) the accessible parking space provided does not meet code and is not laid out on the site per the parking lot plan that was approved when the Inn was built.

The owner has provided letters from his tenants indicating that they do not have vehicles and therefore, do not use any on-site parking (Exhibit D)

The Department of Planning and Building Services has not received complaints about the trailer causing a parking shortage during the 7 months it has been parked on the site. Conditional Use Permits can be revoked or modified by the Planning Commission at any time should conditions/complaints warrant the revocation or modification of the approval.

Design Review

The trailer is not particularly attractive but it is Staff's position that it does not reach the level of an eyesore because it is set back from the public sidewalk 27 feet, behind the outdoor deck located at the northeast corner of the bar. The owners are willing to paint the trailer one of the following colors – brown (Valspar, Forest Majesty, 31-A), tan (Valspar, Watership Down, 22-1C), blue (Valspar, Majestic Peak, 13-1A) or green (Valspar, Bathing Beauty, 11-1A).

If the Commission determines that painting the trailer would significantly improve views of the trailer from the street, they should determine which of the proposed colors would help the trailer blend into the site and include the painting as a condition of approval in attached Resolution No. 16-24.

RECOMMENDATION

Approve Application # 16-29 for the food trailer and parking exception by adopting Resolution No. 16-24 setting forth the findings and conditions of approval which include but are not limited to the following:

1. The parking lot will be restored within 30 days to its original condition as approved with the plans presented for the Fairfax Inn approval including an accessible parking space that meets the Americans with Disabilities Act regulations.
2. A grease interceptor will be installed adjacent to the trailer that complies with building and health codes within 60 days or the Town will contact the Marin County Health Department and ask them to close the restaurant.
3. The owners will obtain a sign permit for the unpermitted sign at 19 Broadway that reads, "MYX Lounge".

ATTACHMENTS

Attachment A – Resolution No. 16-24

Attachment B – Applicant's supplement information

Attachment C - E-mails and other communication between staff and the applicant

Attachment D – Letter from apartment tenants

Attachment E – Letter from owners of the Fairfax Coffee Roastery

Attachment F – Letters of support

RESOLUTION NO. 16-24

A Resolution of the Fairfax Planning Commission Approving a Conditional Use Permit, Design Review and Exception to the Parking Requirements for a Food Trailer to Provide Kitchen Services for the Restaurant at 19 Broadway

WHEREAS, the Town of Fairfax has received an application to legalize the location and operation of a food trailer in two required parking spaces of the bar/restaurant/nightclub at 17–19 Broadway to provide food service to the establishment; and

WHEREAS, the Planning Commission reviewed the matter and at the July 21, 2016, meeting approved the Conditional Use Permit, Design Review Permit and Exception to the Parking Requirements; and

WHEREAS, based on the body of evidence submitted for the application, the Planning Commission has determined that the applicant has met the burden of proof required to support the findings necessary for the requested discretionary permits **as long as the conditions below are complied with in a timely fashion;** and.

WHEREAS, the Commission has made the following findings:

1. The age of the existing structure, location of the surrounding uses with residences upstairs and the Fairfax Inn build immediately to the south and west, make it expensive and structurally difficult to install a commercial kitchen inside. Therefore, the approval of the use permit to allow the preparation of the food at the Whistlestop commercial kitchen in San Rafael, in conjunction with its assembly and service from the on-site food trailer shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment.
2. The restaurant hours of operation are from 5:00 pm to 11:00 pm, Wednesday thru Thursday, from 5:00 pm to 1:30 am, Friday and Saturday and from 1:00 pm to 8:00 pm on Sunday. The trailer is located 39 feet from the adjacent Fairfax Inn units and over 90 feet from the residences on Mono Lane. The residential tenants of the 17-19 Broadway building have been living with the trailer use for over 6 months and the Town has received no complaints. Therefore, the approval of the Use Permit and use of property as approved, 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. Restoration of the shared parking lot to its approved condition will minimize the lot of the 2 parking spaces to the food trailer on surrounding streets and

properties. Therefore, the Conditional Use Permit is consistent with those objectives, goals and standards pertinent to the particular case and contained or set forth in the General Plan and 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.
5. The white color and clean lines of the food trailer comply with the Design Review Criteria set forth in Town Code § 17.020.040.
6. The main draw at 17-19 Broadway is the musical night life. The main draw will not be the food service from the trailer and most of the food will be served to patrons that are there for the nightly entertainment. Therefore, neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity require strict or literal interpretation and enforcement of the specified regulation.
7. Granting the exception to the parking regulations with this Conditional Use Permit will not result in the parking or loading of vehicles on public streets in a manner as to interfere with the free flow of traffic on the streets.
8. Granting the exception to the parking regulations with this Conditional Use Permit will not create a safety hazard or any other condition inconsistent with the objectives of this title.

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

1. This approval is limited to the development illustrated on the plans prepared by Rushton Chartock Architects dated 12/1/15, pages A2.1, A2.2 and A4.1
2. Prior to issuance of a building permit for the grease trap interceptor, the applicant or his assigns shall submit 3 sets of plans, a complete building permit application and a deposit in an amount to be determined by the Building Official to the Fairfax Building Department. The submittal plans shall include a site plan showing the location of the grease trap interceptor and waste lines and the location and configuration of the required ADA parking space.
3. Prior to submittal of the building permit plans, the applicant shall secure written approval from the Ross Valley Fire Authority noting the trailer location and setups compliance with any Fire Department regulations and/or conditions.
4. All construction-related vehicles including equipment delivery, cement trucks and construction materials shall be situated off the travel lane of the adjacent public

right(s)-of-way at all times. This condition may be waived by the building official on a case by case basis with prior notification from the project sponsor.

5. The roadways shall be kept clean and the site free of dust by watering down the site or sweeping the roadway daily, if necessary.
6. During construction, the developer and all employees, contractors and subcontractors must comply with all requirements set forth in Ordinance # 637 (Chapter 8.32 of the Town Code), "Urban Runoff Pollution Prevention".
7. **Any** changes, modifications, additions or alterations made to the approved set of plans or the interim approved plans described above will require a modification of permit # 16-29. **Any** construction based on job plans that have been altered without the benefit of an approved modification of Application # 16-29, will result in the job being immediately stopped and red tagged.
8. Any damages to the roadways accessing the site resulting from construction activities shall be the responsibility of the property owner.
9. 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, Design Review Board 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 notifying the applicant of any said claim, action, or proceeding.
10. 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.

11. The applicants 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 8.32, Urban Runoff Pollution Prevention, Chapter 8.32 and the Americans with Disabilities Act.
12. 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 Planning Commission (when required).
13. The use of the site shall remain consistent with the stipulations required for the site and contained in this resolution.
14. The applicant shall comply with all conditions of the Marin County Health Department, Ross Valley Sanitary District, Central Marin Sanitation Agency, Ross Valley Fire Department, Fairfax Police Department, the Fairfax Public Works Department and the Fairfax Building Department.

Central Marin Sanitation Agency (CMSA)

The grease trap interceptor will require the approval of the Central Marin Sanitation Agency if it is located outside the building. CMSA approval in writing will be required before the Building Official finalizes the permit and before the operation of the food trailer will be in compliance with Use Permit # 16-29.

Marin County Environmental Health Department

The project plans must be submitted and be approved by the Environmental Health Department prior to issuance of the building permit.

Miscellaneous Conditions

1. Conditions placed upon the project by other agencies or departments can be waived in writing by those agencies or departments. Conditions placed upon the project by the Commission can only be modified or waived by the Commission.
2. The parking lot will be restored within 30 days to its original condition as approved with the plans presented for the Fairfax Inn approval including an accessible parking space that meets the Americans with Disabilities Act regulations.
3. A grease interceptor will be installed adjacent to the trailer that complies with building and health codes within 60 days or the Town will contact the Marin County Health Department and ask them to close the restaurant.

4. The owners will obtain a sign permit for the unpermitted sign at 19 Broadway that reads, "MYX Lounge".

NOW, THEREFORE BE IT RESOLVED, the Planning Commission of the Town of Fairfax hereby finds and determines that the approval of the Conditional Use Permit and Design Review Permit for the food trailer at 17-19 Broadway is not contrary to the regulations set forth in the Central Commercial CC Zone and will not have a negative impact on surrounding businesses or residences.

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on the 21st of July, 2016, by the following vote:

AYES:

NOES:

ABSTAIN:

Chair, Laura Kehrlein

Attest:

Jim Moore
Director of Planning and Building Services

RUSHTON-CHARTOCK

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ARCHITECTS

(415) 457-2802 FAX: (415) 457-2873
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TOWN OF FAIRFAX

December 2, 2015

DEC 03 2015

RECEIVED

To: Town of Fairfax
Planning Commission & Design Review Board
142 Bolinas Road, Fairfax, CA 94930

Re: Submittal for: Parking Variance, Use Permit, and Design Review
19 Broadway LLC
Addition of Mobile Commercial Kitchen at 19 Broadway Parking Area
Job No. 15126

Enclosed please find the following:

- Project Description
- Supplemental Questionnaire – Variance
- Use Permit Applications
- How Findings for Use Permit Can be Made
- Additional Information
- Project Photos



View toward Fairfax Inn, 19 Broadway outdoor deck on left, Mobile Kitchen beyond

Project Description:

19 Broadway LLC has been an established bar and nightclub in Fairfax for the last 30 years and has been zoned as a restaurant during that time. We believe it is essential to have the ability to serve food at our venue for a number of reasons including: It will help keep our business viable in challenging economic times, people get less intoxicated when food is served at a bar, people stay longer when food is served at a bar, there are very few late night options for food in Marin County, and there are limited affordable high-quality food options in Marin.

Our plan is to add food service to 19 Broadway LLC. We explored the option of adding a commercial kitchen to the existing building and sought out several bids to do so. There were multiple difficulties identified in putting in a commercial kitchen on either of the two floors at 19 Broadway. Since this building was built around 1920, there are significant construction challenges. Hood venting would be particularly problematic given the location of the hotel, and requirement for venting through the entire second story of the building. Major electrical system upgrades would need to be made to the building as well as ventilation and fire suppression challenges. The cost of adding a commercial kitchen would be close to \$300,000 (have bids) which makes this a non-viable option for our business.

We looked into the possibility of using a mobile kitchen which is linked to an outside commissary kitchen as a solution to providing food at 19 Broadway. This option made the most sense especially since the food component could be added to our existing business which is already zoned for food service. We purchased a food trailer which is parked in our parking lot and currently takes up two of our parking spots. The food trailer is a full commercial kitchen but is primarily used for food assembly and plating as we have an offsite commissary kitchen. We were under the impression that we did not need a use permit since 19 Broadway is already zoned as a restaurant and the food is ordered and served inside the walls of the establishment. We obtained a Marin County Health Department permit and started serving food on July 16th 2015. We have recently found out that we do in fact need a use permit from the City of Fairfax since the food is prepared outside of our walls, but on our property. We are now working to obtain our use permit and comply fully with the codes and ordinances of the City of Fairfax.

We have been operating the business for approximately 6 months and have served reasonably priced locally sourced food to hundreds of patrons. The addition of food has had no negative impact on our neighbors or surrounding businesses that we have been informed of. We have received excellent reviews on our food and the improvements it has created to our venue (We can provide Yelp reviews and Facebook reviews). 19 Broadway has been an important part of the Fairfax community for over thirty years and brings thousands of people to the town of Fairfax each month. This directly benefits other businesses in the community. We have determined it is essential that we are able to serve food for our patrons in order to make this a viable business entity and continue to do business in the town of Fairfax. There has been a significant economic downturn in business for all the night life venues in Fairfax over the last 2-3 years and we are working with other businesses in the area to figure out a strategy to help one another survive (Iron Springs, Peri's Bar). We have partnered with the Fairfax Inn to provide food to their guests and have worked with them closely to make sure there is no interference with their business.

We are submitting this application to:

1. Go through the planning process to show location of our mobile kitchen, its positive impact on the town of Fairfax and to request a parking variance as the trailer is parked in our parking lot and currently occupies 2 parking spaces.
2. Obtain a use permit for adding food service to 19 Broadway LLC.

Supplemental Questionnaire – Variance

Findings:

The Parking for 19 Broadway LLC and the Fairfax Inn was reviewed and approved for current use in 1996. Our mobile food trailer currently takes up two parking spaces in the 19 Broadway parking lot. Please note that the food trailer is a temporary structure and can be moved at any time, so these parking spots are not permanently lost.

Special circumstances Question 1:

The food trailer currently takes up two of our parking spots (please see plans). The trailer has minimal visual impact from the sidewalk or the street and both of our commercial neighbors (Fairfax Inn, Fairfax Theater) do not have any issue with the trailer or this project and in fact they support the addition of food to 19 Broadway. In terms of the parking variance we are asking for, there is precedent in the City of Fairfax for business expansion with loss of parking spaces. The Fairfax Theater expanded and remodeled and a parking variance with reduction of the number of spaces was granted to allow for this. We have been in operation for 6 months and have not had any complaints about parking or noticed any difficulties with parking in the area. The Fairfax Inn has not had any difficulty with parking during the 6 months that we have been serving food. We respectfully assert that not granting us a parking variance would be holding us to a higher standard than what other businesses have been held to in the town of Fairfax.

Question 2:

Our request for a parking variance should have no significant health or safety effects on those residing or working in the area. As above we have been in operation for 6 months and have not received any complaints and there have been no problems with parking in the area. Additionally there is no injury to property or improvements in the neighborhood and as noted above the food trailer is not a permanent structure.

Question 3:

In order to serve food at our venue, we need a commercial kitchen. We have had consultation and bids from contractors that deal specifically with installation of commercial kitchens. There were a number of major difficulties which they identified in terms of installing a commercial kitchen at the 17-19 Broadway location:

1. The building was built in 1922 and major upgrades would need to be made to electrical system.
2. A commercial hood and venting system would be extremely difficult to install as the hotel is right next to the bar and the area which a commercial kitchen could potentially be installed. The only option they saw was to vent through two stories up to roof and this would require structural evaluation. There is also a concern about venting to roof and the noise that the vent would create for hotel guests.
3. We have limited space in our bar area downstairs to devote to a commercial kitchen
4. Putting a commercial kitchen on the second floor would be extremely challenging and would likely involve additional structural support needs. In addition the access to the second floor is by a set of stairs and this could pose significant problems for the delivery of food to and from the kitchen.
5. The project would be prohibitively expensive for 19 Broadway LLC. The bids came in at \$280,000 and that is before getting into some of the potential structural and engineering issues that will be required.

For these reasons, installing a commercial kitchen within our existing structure is not a viable option. To utilize the food trailer in our parking lot we need to utilize two of our off street parking spots.

1. As noted above in Q3 it would be an extreme hardship to try and add a commercial kitchen to our existing structure.
2. As noted above, other businesses in the area have been granted a variance when an expansion occurred.
3. Strict enforcement of the ordinance we believe would be unfair and cause a hardship given the precedent created with handling of other businesses in terms of parking and the extreme difficulty putting in a permanent commercial kitchen inside the building.
4. The project is in the public interest as we serve high quality locally sourced food at reasonable prices. We have a number of low income local people coming to eat at 19 Broadway because of the pricing of the food. In addition, it is documented that adding food to a bar and nightclub helps reduce intoxication levels of patrons. We also are one of the only venues in the North Bay to serve food past 10pm and we are now serving food for patrons of the Fairfax Inn which helps their business.

Use Permit Applications:

We are requesting a use permit to serve food at our existing venue, 19 Broadway from a food trailer in our parking lot. We would add the food business to our existing 19 Broadway LLC, which has been zoned for a restaurant for over 30 years. Our food service has been in operation for 6 months as we did not realize we required a use permit as we were adding food service to our existing business. We have a Health Department Certificate from the County of Marin which allows us to operate the food trailer in association with a commissary kitchen where some of the food is prepared.

Food is ordered from inside 19 Broadway and it is served inside 19 Broadway. As noted above, some of the food prep occurs in our commissary kitchen and some occurs inside the food trailer. We typically have one cook and one food runner during busy times. Our hours of operation are:

Wednesday	5p – 11p
Thursday	5p – 11p
Friday	5p – 1:30a
Saturday	5p – 1:30a
Sunday	1p – 8p

We are closed on Monday and Tuesday.

The busiest shifts are typically Friday and Saturday nights from 6p – 12a. The food is priced reasonably and is locally sourced to minimize environmental impact and we also serve farm fresh food.

Our project will not have any negative impact on general public welfare and in fact we have seen the opposite. We have a number of low income Fairfax residents who now come to eat our affordable, high quality food. In addition, we have noted intoxication levels of our patrons has been reduced (we have discussed this with the Fairfax Chief of Police and he is in agreement with this statement). We are not aware of any negative physical or economic impact on adjacent properties and in fact we are working with Fairfax Inn to provide food to their guests.

We have seen a significant downturn in our income over the last 24 months and this is something that is happening at the other nightlife venues in Fairfax as well. We believe the addition of food is essential for our business model and to maintain economic viability for a business that has been in Fairfax for more than 30 years. We are an important part of the Fairfax community and do multiple fund raisers each year for causes in Fairfax as well as for Fairfax residents in need. We draw thousands of people to the town each month. The venue is known nationally as one of the best places to see live music and this adds to the town of Fairfax.

The trailer has minimal visual impact from the sidewalk or the street and both of our commercial neighbors (Fairfax Inn, Fairfax Theater) do not have any issue with the trailer or this project. We are willing to make changes to the exterior of the trailer if the town of Fairfax feels the trailer does not fit in with existing décor.

How findings for use permit can be made:

1. The approval for our use permit does not grant any special privileges to 19 Broadway LLC. We are zoned for a restaurant and it is not feasible to put a commercial kitchen inside our building. We believe it is essential for us to add food to our bar to keep this as a viable business entity. Not granting a use permit would in fact be a hardship for 19 Broadway and may mean we cannot continue to operate the business in the town of Fairfax. We

are also applying for a parking variance from the Town of Fairfax and going through the process to make sure this is a fair and equitable solution.

2. The approval of our use permit will not create a public nuisance or cause any detriment to adjoining properties (please see letters of support from our two neighboring businesses). Although there are a number of restaurants and bars in the town of Fairfax, we do not believe we will create any adverse economic impact for any that already exist. We believe it is fair for us to serve food as well for the reasons outlined above.
3. Approval of our use permit would not be contrary to any goals or objectives or other policies of the town.

Additional information:

In order to serve food at our venue, we need a commercial kitchen. We have had consultation and bids from contractors that deal specifically with installation of commercial kitchens. There were a number of major difficulties which they identified in terms of installing a commercial kitchen at the 17-19 Broadway location:

1. The building was built in 1922 and major upgrades would need to be made to electrical system.
3. A commercial hood and venting system would be extremely difficult to install as the hotel is right next to the bar and the area which a commercial kitchen could potentially be installed. The only option they saw was to vent through two stories up to roof and this would require further structural evaluation to see if it is even an option. We have limited space in our bar area downstairs to devote to a commercial kitchen
4. Putting a commercial kitchen on the second floor would be extremely challenging and would likely involve additional structural support needs. In addition the access to the second floor is by a set of stairs and this could pose significant problems for the delivery of food to and from the kitchen.
5. The project would be prohibitively expensive for 19 Broadway LLC. The bids came in at \$280,000 and that is before getting into some of the potential structural and engineering issues that will be required.

November 30, 2015

To: Town of Fairfax
Planning Commission & Design Review Board
142 Bolinas Road, Fairfax, CA 94930

Re: Submittal for Use Permit, and Design Review
19 Broadway LLC
Addition of Mobile Kitchen at 19 Broadway Parking Area
Job No. 15126

Honorable Commissioners and Design Review Board:

The following photographs illustrate the proposed mobile kitchen in the context of the existing parking area and surrounding buildings. The purpose is to show the scale, color, and character of this addition in relation to its surrounding environment.



View from sidewalk toward Fairfax Inn, 19 Broadway outdoor deck on left, Kitchen beyond



View from driveway entrance toward Fairfax Inn, outdoor deck to left proposed Kitchen beyond



View from Inn parking toward Inn Office, 19 Broadway, and proposed Kitchen



View from Inn redwood tree to proposed Kitchen



View across Fairfax Inn office to 19 Broadway and Kitchen



View down sidewalk to 19 Broadway, proposed Kitchen to left beyond



View from Kitchen corner to Fairfax Inn

19 Broadway LLC

The intent of these photographs is to illustrate that the addition of the proposed Kitchen will not have a significant visual effect on the Fairfax down town area.

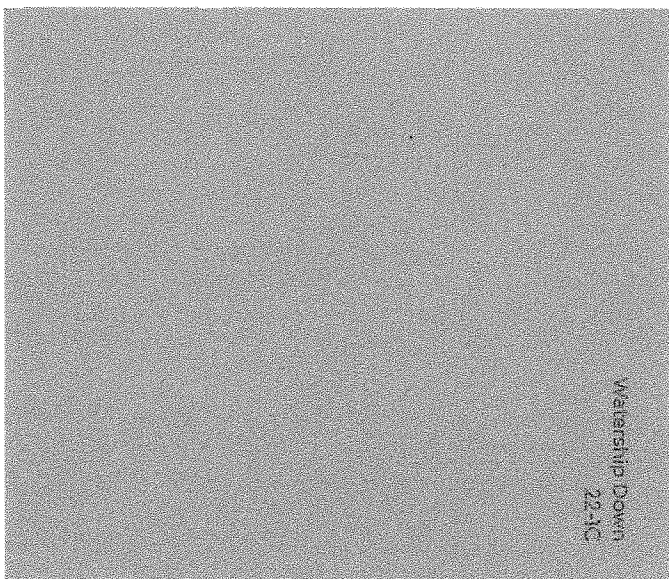
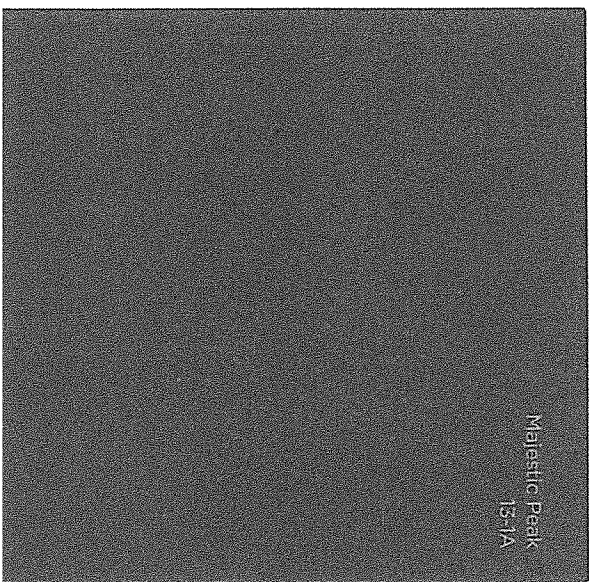
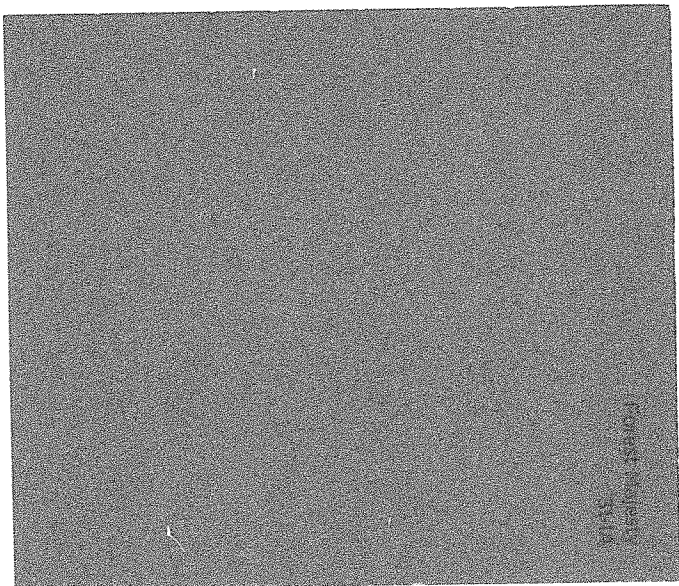
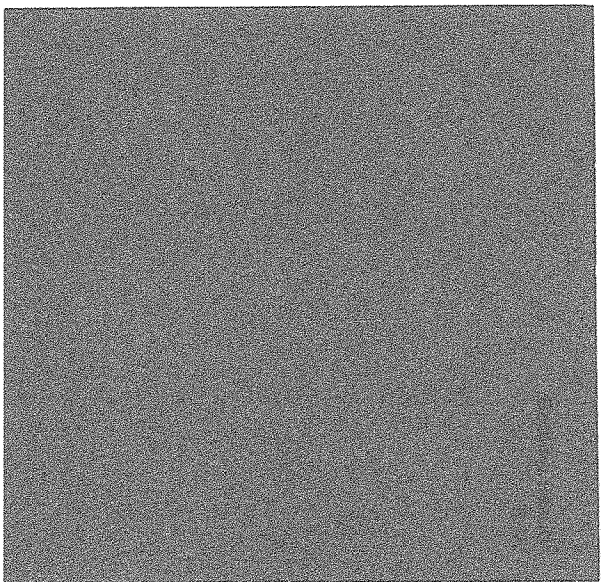
The proposed Kitchen is set back considerably from the normal pedestrian and automobile circulation through Fairfax and is much smaller in scale than even the covered outdoor deck at 19 Broadway.

It will not negatively affect the adjacent business activities of the Fairfax Inn, or the Fairfax theater, and may provide an additional attraction for these businesses.

If requested by DRB the owner's will consider exterior color changes for the Kitchen to better blend in with its immediate surroundings.



View from parkade showing scale of Fairfax Theatre on one side 19 Broadway on the other side



January 2, 2016

JAN 06 2015

Dear Linda,

RECEIVED

Please see below for answers to questions posed in your letter of December 10th, 2015 in regards to 19 Broadway.

1. A Title Report will be forthcoming from property owner Garrett P. Graham.
2. Sample colors – please find enclosed several sample colors that we can paint mobile kitchen.
3. Accessible Parking for 17 and 19 Broadway. Property owner Garrett P. Graham has a written agreement with all of the tenants of the property that specify that they are not permitted to own automobiles. Attached are letters from these tenants confirming that they do not own vehicles. Above 17 Broadway is the green room for our venue and no one lives there.
4. Commissary Kitchen – We have a contract with Whistlestop Wheels to use their commercial kitchen. The address is 930 Tamalpais Ave, San Rafael, CA 94901. In the commissary kitchen we typically do preparation and chopping of any meat or vegetables that will be used in the mobile kitchen. We also prepare several sauces in the commissary kitchen. In the mobile kitchen we assemble all of the ingredients, cook them and plate them. More specifically we grill burgers, grill Panini sandwiches, cook chicken in crock pot, deep fry our French fries.
5. Food service –
 - a. How are clients of the Inn handled? Currently we only supply menus in each of the rooms of the Inn. The guests would either walk down to the bar and order their food and eat it there, or there is the option of calling ahead so the food is ready when they get to bar. We do not deliver to the rooms or do any form of room service.
 - b. Will take out food be prohibited? Currently we are not serving food to go. Food is ordered either by placing an order inside the bar, or by calling ahead and placing an order. The food is served inside 17 or 19 Broadway. Customers are not parking in the parking lot to pick up food and take it home.
6. Number of Customers – Although our food is reasonably priced, we have not seen an increase in volume of customers or monthly sales (income) at 19 Broadway since we began serving food on June 15, 2015. Our total income (food + bar) has actually decreased overall when compared month over month to the previous year (2014) in which we did not serve food. The numbers that we can supply to prove this would involve providing our confidential profit and loss statements to you (which we are willing to do as long as they do not become part of public record). We have not had any complaints of more difficulty with parking or experienced any additional problems with parking in our lot since the mobile kitchen has been in operation. The food is meant to complement our Bar and Nightclub, and not be a primary draw to our business. Unfortunately our food is not currently a profitable endeavor.
7. Chamber support – Gary Graham has met with several members of the Chamber of Commerce. Richard Pedemonte will talk to the town on behalf of the Chamber of Commerce in regards to the addition of food to 19 Broadway.

Thank you very much for your time and efforts on this application.

Sincerely,

Tony DeFrance, MD

Managing member, 19 Broadway, LLC

ATTACHMENT 

Grub 19

French Fries

\$5

Classic - Shoestring fries with seasoned salt and parsley

Garlic Parmesan - Tossed with freshly chopped garlic, hand grated parmesan cheese, seasoned salt and parsley

Truffle Oil - Tossed with white truffle oil, parmesan cheese, seasoned salt and parsley

Sweet Potato - Tossed with hand grated parmesan, seasoned salt and parsley

All fries served with house made garlic aioli and ketchup

Caprese salad

\$6

Sweet, fresh sliced tomatoes, soft, fresh mozzarella cheese topped with fresh basil, salt and olive oil on top a bed of arugula greens

Paninis

Italian

\$8

Salami, ham and provolone cheese with fresh sliced tomatoes, arugula greens and balsamic vinaigrette grilled between fresh sourdough bread

Caprese

\$8

Fresh sliced tomatoes, mozzarella & provolone cheeses topped with fresh basil and balsamic grilled on sourdough bread

Add a side of fries to any panini

\$3

Chicken Taco

\$3

Chicken breast marinated and slowly cooked in verde sauce, garlic, onions and fresh jalapenos served on a crisp corn tortilla with fresh chopped onion, cilantro, queso fresco and avocado slices then drizzled with sour cream

Quesadilla

\$5

Large flour tortilla grilled with jack, cheddar, queso quesadilla, asadero cheeses and served with sour cream and pico de gallo

Add chicken verde

\$3

Special: BBQ Pork Slider

\$5

Marinated and slowly cooked pork in a sweet and spicy house made BBQ sauce served on a toasted bun topped with house made coleslaw

February 3, 2016

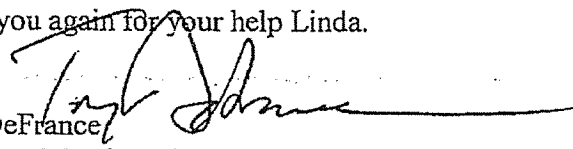
Hello Linda,

In response to the Handicap Space requirement Art Chartock, our Architect stated the following:

We have 24 parking spaces plus the accessible space. Table 11B-208.2 indicates there is only 1 accessible parking space required for 24 parking spaces. I indicated on our site plan that the accessible space is for the Fairfax Inn, but with proper signage I do not see why the accessible space can't be shared by the Inn and the Bar / Restaurant.

In regards to the Grease trap issue I did receive a call from Robert Cole. He is with CMSA which I assume is a State of California agency? Anyway he and I are working on getting the right Grease Trap. Once it is purchased he will inspect and sign off on this. We should have this done in the next seven days.

Thank you again for your help Linda.


Tony DeFrance

Managing Member 19 Broadway LLC.

Linda Neal

From: Linda Neal
Sent: Monday, June 27, 2016 12:32 PM
To: 'Tony DeFrance'
Cc: Jim Moore; 'gwala75@gmail.com'
Subject: RE: Fwd: completing the 17-19 Broadway application

Hi Tony,

You need to submit plans showing the Commission that you have met all the agency and building code requirements. Photo's will not do. You need to submit floor plans of the trailer and floor plans of the bar/restaurant. I was told by the health department that the sinks were going to be in the bar and now you are indicating they are in the trailer. The site plan needs to be revised to show the location of the grease traps and the location of the accessible parking space. The accessible space is required by Federal and State Law and the plans submitted to the Planning Commission when the Inn was approved showed a conforming space. The space out on the site now, does not conform and it is required to meet certain requirements by the Americans With Disabilities Act. The Town has no authority to grant exceptions to the State and Federal Laws.

Linda Neal
Principal Planner

From: Tony DeFrance [mailto:defrance@cvcta.com]
Sent: Monday, June 27, 2016 11:42 AM
To: Lisa Mansbridge <lisamans@sbcglobal.net>; Garrett Graham <gwala75@gmail.com>; Linda Neal <lneal@townoffairfax.org>; jmoore@townoffairfax.org
Subject: Re: Fwd: completing the 17-19 Broadway application

Hello Linda,

Thank you for the follow up. We do have a grease trap installed and also have the three required washing sinks inside the food trailer. I can get pictures or see if I have some plans that can demonstrate those.

As far as the accessible parking space I will discuss further with Gary Graham and Art Chartock our architect. We have the same conforming accessible parking space that we share with the hotel that was approved a number of years ago. Our position would be that this was approved previously and we would ask that it still be "grandfathered" in under previous approvals. We are willing to set up a meeting to discuss further.

We would like to resolve the outstanding issues once and for all. To date the addition of food to 19 Broadway has gone smoothly and we have excellent reviews and feedback and this has become an important addition to our business and the town of Fairfax.

Thank you for your help and patience with all of this.

Tony DeFrance, MD

From: Linda Neal <lneal@townoffairfax.org>
Date: Mon, Jun 27, 2016 at 8:35 AM

Subject: completing the 17-19 Broadway application

To: "defrance@cvcta.com" <defrance@cvcta.com>

Cc: Jim Moore <jmoore@townoffairfax.org>, Mark Lockaby <mlockaby@townoffairfax.org>, "gwala75@gmail.com" <gwala75@gmail.com>

Dear Mr. DeFrance,

-

I really would like to get your application completed and onto a Commission agenda. The business is currently in violation of Fairfax Zoning Laws. My understanding is that the only items missing are a floor plan for the bar showing where the required 3 washing sinks are located, any food service areas and where the grease traps are and a site plan showing a conforming accessible parking space (please refer to previous letters dated 3/1/16 and 7/26/16). I really do not want to have to contact the Health Department to advise them that you are not in compliance with the Town Code. Please provide the required plan as soon as possible.

-

Sincerely,

-

Linda Neal

Principal Planner

-



TOWN OF FAIRFAX

142 BOLINAS ROAD, FAIRFAX, CALIFORNIA 94930
(415) 453-1584 / FAX (415) 453-1618

March 1, 2016

Tony DeFrance
Managing Member 19 Broadway L.L.C.
150 Oak Knoll Drive
San Anselmo, CA. 94960

Dear Mr. DeFrance,

This letter shall serve to notify you that the existing site parking does not comply with the building code accessible parking space and access aisle requirements. Both the parking space and the access aisle need to be 18 feet long. The space needs to be 12 feet wide and the access aisle at least 60 inches wide. The sign designating the space for accessible parking is required to be centered in the front of the parking area. The entire area is supposed to have less than a 2% cross slope. There is also supposed to be signage advising people without disabilities that they cannot park in the accessible space.

A site inspection on March 2, 2016 to verify the site does not meet ADA parking regulations also revealed that some of the parking spaces shown on the site plan prepared by the architect are no longer accessible for parking. These spaces have been converted to outdoor patio seating, an exercise area and storage. The existing and proposed site plans need to be revised to accurately reflect the existing and proposed parking spaces.

We also need to know where the grease trap is going to be installed. Please provide a revised floor plan for 17-19 Broadway that shows where the three sinks required by the Health Department for dishwashing and sterilization are/will be located and where the grease trap will be installed. If the temporary mobile kitchen will need to periodically dump grease into the trap, please provide a site plan and written description of how that will occur.

Until we have the above information your application is incomplete and the restaurant portion of the business is at risk of being shut down for non-compliance with health, building and ADA codes.

Sincerely,

Linda Neal
Principal Planner

cc. Steve Rosso, Senior REHS, Marin County Environmental Health Services

Linda Neal

From: Linda Neal
Sent: Tuesday, June 28, 2016 8:17 AM
To: 'Tony DeFrance'
Cc: Jim Moore; 'gwala75@gmail.com'
Subject: RE: completing the 17-19 Broadway application

Excellent. Thanks for working with me.

Linda Neal
Principal Planner

From: Tony DeFrance [mailto:defrance@cvcta.com]
Sent: Monday, June 27, 2016 1:31 PM
To: Linda Neal <lneal@townoffairfax.org>; Garrett Graham <gwala75@gmail.com>
Cc: Jim Moore <jmoore@townoffairfax.org>; Mark Lockaby <mlockaby@townoffairfax.org>
Subject: Re: completing the 17-19 Broadway application

Okay I understand. We will work on these and bring to you in the next ten days.
Thank you.
Tony

On Jun 27, 2016, 1:20 PM -0700, Garrett Graham <gwala75@gmail.com>, wrote:

hi linda

the economic survival of one of your towns most visible businesses may be at stake.

the handicap parking is the same since 1995 and our parking configuration and spaces are also the same. they have been approved by the town twice.

we are hopeful town staff will get us to an approval of our variance and use permit.

thank you
garry

On Mon, Jun 27, 2016 at 8:35 AM, Linda Neal <lneal@townoffairfax.org> wrote:

Dear Mr. DeFrance,

I really would like to get your application completed and onto a Commission agenda. The business is currently in violation of Fairfax Zoning Laws. My understanding is that the only items missing are a floor plan for the bar showing where the required 3 washing sinks are

located, any food service areas and where the grease traps are and a site plan showing a conforming accessible parking space (please refer to previous letters dated 3/1/16 and 7/26/16). I really do not want to have to contact the Health Department to advise them that you are not in compliance with the Town Code. Please provide the required plan as soon as possible.

Sincerely,

Linda Neal

Principal Planner

Linda Neal

From: Linda Neal
Sent: Thursday, July 07, 2016 11:46 AM
To: 'Tony DeFrance'
Cc: 'gwala75@gmail.com'; Jim Moore
Subject: progress on floor plans and parking plan for 17-19 Broadway

Hi Tony,

I am just checking-in to see how close you are to submitting the floor plans for the bar/restaurant/food trailer and the site plan showing the accessible parking. You had indicated you would be submitting today, is that still the plan?

Linda Neal
Principal Planner

Linda Neal

From: Tony DeFrance <defrance@cvcta.com>
Sent: Thursday, July 07, 2016 1:45 PM
To: Linda Neal
Cc: gwala75@gmail.com; Jim Moore
Subject: Re: progress on floor plans and parking plan for 17-19 Broadway

Hi Linda.

I am going to need a little more time. Have architect drawing up requested plans, but they are not quite ready yet. Gary also working on final details of handicap access site.

Thank you.

Tony DeFrance

On Jul 7, 2016, 11:46 AM -0700, Linda Neal <lneal@townoffairfax.org>, wrote:

Hi Tony,

I am just checking-in to see how close you are to submitting the floor plans for the bar/restaurant/food trailer and the site plan showing the accessible parking. You had indicated you would be submitting today, is that still the plan?

Linda Neal

Principal Planner

Linda Neal

From: Tony DeFrance <defrance@cvcta.com>
Sent: Monday, June 27, 2016 11:42 AM
To: Lisa Mansbridge; Garrett Graham; Linda Neal; jmoore@townoffairfax.org
Subject: Re: Fwd: completing the 17-19 Broadway application

Hello Linda,

Thank you for the follow up. We do have a grease trap installed and also have the three required washing sinks inside the food trailer. I can get pictures or see if I have some plans that can demonstrate those.

As far as the accessible parking space I will discuss further with Gary Graham and Art Chartock our architect. We have the same conforming accessible parking space that we share with the hotel that was approved a number of years ago. Our position would be that this was approved previously and we would ask that it still be "grandfathered" in under previous approvals. We are willing to set up a meeting to discuss further.

We would like to resolve the outstanding issues once and for all. To date the addition of food to 19 Broadway has gone smoothly and we have excellent reviews and feedback and this has become an important addition to our business and the town of Fairfax.

Thank you for your help and patience with all of this.

Tony DeFrance, MD

From: **Linda Neal** <lneal@townoffairfax.org>
Date: Mon, Jun 27, 2016 at 8:35 AM
Subject: completing the 17-19 Broadway application
To: "defrance@cvcta.com" <defrance@cvcta.com>
Cc: Jim Moore <jmoore@townoffairfax.org>, Mark Lockaby <mlockaby@townoffairfax.org>, "gwala75@gmail.com" <gwala75@gmail.com>

Dear Mr. DeFrance,

-

I really would like to get your application completed and onto a Commission agenda. The business is currently in violation of Fairfax Zoning Laws. My understanding is that the only items missing are a floor plan for the bar showing where the required 3 washing sinks are located, any food service areas and where the grease traps are and a site plan showing a conforming accessible parking space (please refer to previous letters dated 3/1/16 and 7/26/16). I really do not want to have to contact the Health Department to advise them that you are not in compliance with the Town Code. Please provide the required plan as soon as possible.

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Sincerely,

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Linda Neal

Principal Planner

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TOWN OF FAIRFAX

JAN 06 2015

RECEIVED

GARRETT P. GRAHAM
422 Corbett Avenue
San Francisco, Ca. 94114

Telephone: 415-621-5150...e-mail: gwala75@gmail.com

January 4, 2016

Linda Neal, Principal Planner
Town of Fairfax, California

Re: 19 Broadway LLC Application for Use Permit and Parking Variance

Dear Linda:

I am the landlord of rental properties above 17-19 Broadway, Fairfax. The apartment above 17 Broadway is not used for a rental, as it is used as a "Green Room" for musicians. The three rooms above 19 Broadway are only rented to tenants who do not own cars.

Very truly yours,



Garrett P. Graham
Owner/Landlord
17-19 Broadway, Fairfax, California

ATTACHMENT D

TOWN OF FAIRFAX

JAN 06 2015

RECEIVED

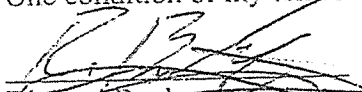
GARRETT P. GRAHAM
422 Corbett Avenue
San Francisco, Ca. 94114
Telephone: 415-621-5150...e-mail: garret@sf.gov

November 28, 2015

TO WHOM IT MAY CONCERN:

My name is Richard Bunke. I reside in a one-room unit above 19 Broadway. I have been living above 19 Broadway for almost two years. My rent is \$500 per month.

One condition of my rental is that I cannot have a car. I do not own a car.


Richard Bunke

TOWN OF FAIRFAX

JAN 06 2015

RECEIVED


GARRETT P. GRAHAM
422 Corbett Avenue
San Francisco, Ca. 94114
Telephone: 415-621-5150...e-mail: ggrah75@gmail.com

November 28, 2015

TO WHOM IT MAY CONCERN:

My name is Ryan Iozzia. I reside in a one-room unit above 19 Broadway. I have been living above 19 Broadway for over one year. My rent is \$650 per month.

One condition of my rental is that I cannot have a car. I do not own a car.



Ryan Iozzia

TOWN OF FAIRFAX

JAN 06 2015

RECEIVED

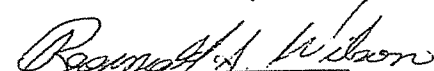
GARRETT P. GRAHAM
422 Corbett Avenue
San Francisco, Ca. 94114
Telephone: 415-621-5150...e-mail: garrett@sfgraham.com

November 28, 2015

TO WHOM IT MAY CONCERN:

My name is Regi Wilson. I reside in a one-bedroom unit above 19 Broadway. I have been living above 19 Broadway for 27 years. My rent is \$500 per month.

One condition of my rental is that I cannot have a car. I do not own a car.


Regi Wilson

The Coffee Roastery
Kelly A. London
Deborah A. London
4 Bolinas Road
Fairfax, CA 94930
415-269-6970 c Deb
415-717-0429 c Kelly
June 30, 2016

Town Of Fairfax
Town Manager
Mayor
City Council Members
142 Bolinas Road
Fairfax CA 94930

RE: Food Trucks

Dear Town Manage, Mayor and City Council Member,

As most of you know, we own The Coffee Roastery, here on the corner of Broadway and Bolinas Roads. We are writing today to express our thoughts regarding the recent appearance, requests and proposed conversation regarding food trucks being allowed in the Town of Fairfax.

We as the owners of the The Alpine Building and The Coffee Roastery and as citizens of Fairfax do not support the visitation or installation of food trucks in town. It is our belief that not only will Food Trucks clutter and downgrade Fairfax, but they will lead to the failure and vacancy of Fairfax downtown buildings.

There are many property and business owners who go through great expense and effort to maintain their/our buildings and business locations. We have to pay rent and mortgages, property taxes, business taxes, business licenses, liability and work comp insurances, employee expenses, and a myriad of other business expenses not to mention everyday maintenance expenses on our property and premises(s). It is unfathomable that an out of town (or even locally owned) food truck can pay some nominal fee, pull up, park itself inside a building shell or in a parking lot and start selling products that compete and take money out of the pockets of many of our local businesses. This is wrong.

Food Trucks do not begin to have the expenses that hard working property owners and business owners have to endure to maintain support of their enterprises. Food Trucks pull up at no or little cost and are suddenly in business. They have an unfair advantage to operate at a much lower overhead and the ability to under-sell their products and undercut brick and motor local business product pricing. This will absolutely lead to failure and vacancy of local brick and mortar business.

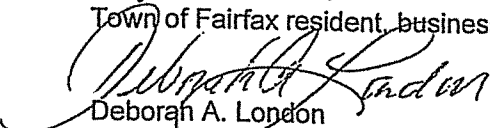
Food Trucks have no or very little blood in the game of what it takes to own and operate properties and businesses. Again, it is our belief that not only will Food Trucks clutter and downgrade Fairfax, but they will lead to the failure and vacancy of Fairfax downtown buildings. We do not support the visitation or installation of food trucks on any basis anywhere in Fairfax. Please vote no on this issue.

Thank you for your time.

Respectfully,


Kelly A. London

Town of Fairfax resident, business owner and property owner


Deborah A. London

Town of Fairfax resident, business owner and property owner

Ps. The only place we feel food trucks somewhat permissible would be those that are included (on a limited basis) in our once a week farmers market venue.

ATTACHMENT **E**



By e-mail to lneal@townoffairfax.org

December 22, 2015

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

Re: 19 Broadway, Use Permit Application

Dear Linda:

I'm writing in support of the Use Permit application for the business located at 19 Broadway, Fairfax.

I have reviewed the Project Description and support the grant of a Use Permit and Parking Variance to the project.

Please let me know if you have any questions.

Sincerely,

David Corkill, Owner
Fairfax Theatre

P.O. Box 750595, Petaluma, CA 94975 * Voice 707-762-0990 * Fax 707-762-3969

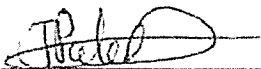
ATTACHMENT

JAN 06 2015

Letter in Support of Use Permit for the Food Truck Serving the 19 BROADWAY Business RECEIVED

I am Jayu Patel, the owner/manager of the Fairfax Inn. I am the neighbor of 17-19 Broadway. We lease the Fairfax Inn from the Grahams, and have been doing business with the Grahams for over 24 years.

I support the Use Permit for the food truck in the parking lot on the Graham's side of the property. I provide our hotel guests with the menus from the food truck in their rooms.



Jayu Patel

Owner/manager, Fairfax Inn.

11/30/15

Date