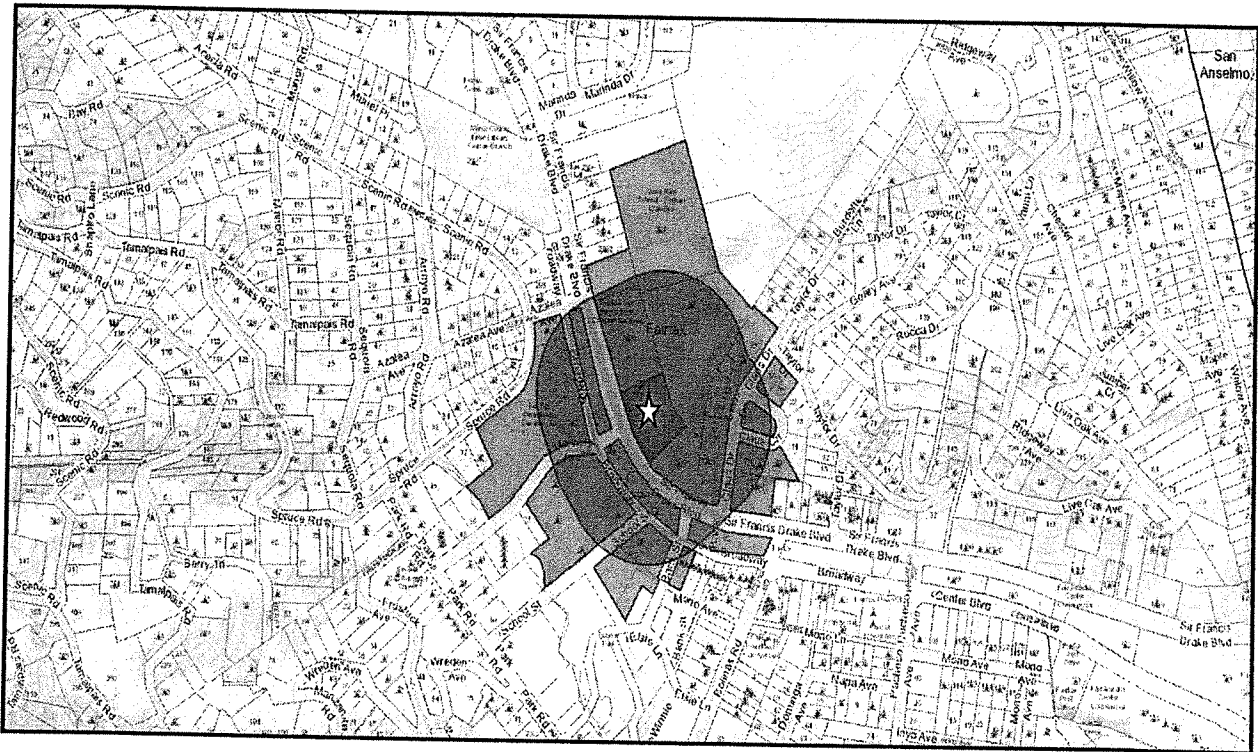


**TOWN OF FAIRFAX
STAFF REPORT**
Department of Planning and Building Services

TO: Fairfax Planning Commission
DATE: March 21, 2019
FROM: Linda Neal, Principal Planner
LOCATION: 2020 Sir Francis Drake Boulevard; Assessor's Parcel No. 001-183-16
ZONING: Highway Commercial CH Zone
PROJECT: Outdoor dining area
ACTION: Use Permit modification and Design Review; Application # 19-04
APPLICANT: Jason Faircloth
OWNER: Naaim Karkabi
CEQA STATUS: CEQA categorically exempt, §15301(a).



2020 SIR FRANCIS DRAKE BOULEVARD

BACKGROUND

This item was continued to the March 21, 2019 Planning Commission meeting from the February 21, 2019 Commission meeting, where the Commission directed the applicant/staff to provide additional project information to them.

For a more detailed description and analysis of the discretionary permits required for the project see the staff report for the February 21, 2019 Commission meeting.

The project encompasses creation of a 792 square-foot outdoor eating area outside the southwest corner of the 3,939 square-foot combination restaurant/bicycle retail and repair/warehouse. 2,704 square feet of the interior space is dedicated to the restaurant/retail portion of the business, while the rear 1,235 square feet makes up the warehouse/bicycle repair and assembly area.

The eating area would be created by the construction of a 2- to 4-foot tall, 12-inch wide, natural finish concrete wall with posts supporting an overhead trellis, and would include access stairs on the west side, and an accessible ramp on the east side of the enclosure adjacent to the ADA parking space. The enclosure would provide tables with bench seating, bar seating, and seating around an outdoor gas flame firepit, for a total seating for 32 persons (18 at picnic benches, 8 bar seats and 6 seats around the fire pit).

DISCUSSION

At their February 21 meeting, the Commission directed staff and the applicant to address the following items (***staff/applicant responses are in bold and italicized font***):

1. Provide cut sheets and illumination information on the proposed exterior lighting fixtures and verify that the locations and numbers of fixtures shown on the plans are complete and accurate. ***The applicant has provided a new site plan sheet that shows the location of the proposed pathway lighting and low voltage table lights (sheet A4.0 dated 3/12/19), as well as details on proposed light fixtures.***
2. Examine the proposed wall/raised patio area and the parking lot grades and provide plans showing how both will meet ADA and Building Code requirements for slopes and grade breaks, ramps, etc. and what will occur with the existing asphalt berm (provide enough information to verify the wall heights in relation to the final parking lot grades). ***See Attachment B.***
3. Provide more information on the proposed fire pit, including size, flame height in relation to the 1.5-foot tall height of the front wall of the outdoor seating enclosure, and the flame height control mechanism. ***The applicant has redesigned the wall enclosure to include bench seats attached to the both***

the south and west facing enclosure walls, which are the lowest walls of the enclosure. The benches will ensure that people do not site on the walls and will provide additional screening of the fire pit flames.

4. Verify the allowable enclosure wall height required by the ABC in relation to the outdoor service of alcoholic beverages. ***The applicant spoke with the ABC and they indicated, "There is no specific height in the ABC Code, only that the licensed areas are to be directly attached to the building, and that it is obvious to the public that the space is part of the restaurant. The ABC Code also requires "No Alcohol Beyond This Point" signs at each exit (Exhibit B – applicant's supplemental information). Staff confirmed with the ABC the applicant's information. The ABC also stated that at least 2 sides of the outdoor eating area need to be enclosed, and the area must be clearly visible from the inside of the establishment.***
5. Provide an outdoor seating floor plan (8 ½ x 11") that shows where the Commission requested "no smoking" signs will be located. ***The applicant has indicated that "No Smoking Within 20 Feet" signs will be posted at the front entrance and at the points of exit from the deck to the parking lot.***
6. Provide a written agreement that the outdoor eating area will be closed no later than 10 PM, Monday through Sunday. ***The applicant has indicated that "Patio Closes at 10:00 PM" signs will be posted on the deck area, and staff has included a Condition of Approval also stipulating the 10 pm deck closure.***
7. Provide some type of treatment(s) for the proposed wall (and immediate area?) that will add articulation, help achieve your goal of creating a separate and individual identity from the grocery store, and also meets the needs of your customers. Consider some type of shade structure/trellis element. ***The revised design includes an exterior trellis with an optional "seasonal fabric shade cover" over a portion of the outdoor seating area (see page A3.0 of the 3/12/19 project plans).***
8. Consider improvements to the current parking lot driveway approaches. ***Fairfax Public Works is investigating whether there is a need to further delineate the entrances to the parking lot and if so, how it should be accomplished.***

Design Review Permit

The applicant has provided new drawings dated 3/12/19 that show the following changes to the design of the outdoor seating enclosure:

1. Concrete columns have been added to the concrete enclosure and will be painted to match the building. The rest of the enclosure wall will remain unfinished gray concrete.

2. The columns support an open trellis structure spanning the entire outdoor eating space. The trellis will be constructed of a metal frame system, with short wood battens on the exterior sides.
3. A fabric shade cover has been included as an option. The fabric would have to meet Ross Valley Fire Department regulations.

The additional bench seats around the front perimeter will provide adequate screening of the gas fire-pit.

The proposed changes increase the articulation of the outdoor seating structure and improve its aesthetics. The project complies with the Design Review Criteria contained in Town Code § 17.020.040.

RECOMMENDATION

1. Conduct the public hearing.
2. Move to approve application # 19-04 by adopting attached Resolution No. 2019-04 setting forth the findings and the amended conditions for the project approval.

ATTACHMENTS

Attachment A – Resolution No. 2019-04

Attachment B – Supplemental information provided by the applicant including color elevations, lighting cut sheets

RESOLUTION NO. 2019-04

A Resolution of the Fairfax Planning Commission Approving Application # 19-04, a Modification of Conditional Use Permit and a Design Review Permit, to Allow an Outdoor Eating Area at 2020 Sir Francis Drake Boulevard, for an Eating Area for the Combination Restaurant/Retail Bicycles Sales and Repair/Warehouse

WHEREAS, the Town of Fairfax has received an application for a modification to the previously approved Conditional Use Permit to operate a combination restaurant, retail bicycle shop with repair services and a warehouse, to include construction of a 792 square-foot outdoor eating area; and

WHEREAS, the Planning Commission held duly noticed Public Hearings on February 21 and March 21, 2019, 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 Modification and Design Review Permit; and

WHEREAS, based on the plans and supplemental information provided by the applicant, as well as the 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 Use Permit Modification and Design Review Permit; and

WHEREAS, the Commission has made the following findings:

The proposal complies Fairfax General Plan Policies and Programs as follows:

Policy LU-7.2.3: Traffic and parking concerns related to new and renewed development shall be addressed in a manner that does not result in undue hardship or significant negative impacts on properties and infrastructure in the vicinity.

Program LU-7.2.3.1: Approve business permits that do not impact neighborhood quality of life, neighborhood character or vehicular circulations and parking.

The proposal complies with the Zoning Ordinance as follows:

Traffic Impact Finding

- A. The proposal complies with Town Code § 17.056.050(A)(3) that requires a traffic study for any project where the incremental development of the property within any five-year-period, results in the cumulative traffic generated by the project exceeding 100 ADT beyond the previous development. The proposed project does not result in an increase of traffic to the site that results in 100 ADT beyond what is currently accessing the site.

Use Permit Findings:

- B. The approval of the use permit will not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment.
- C. The outdoor eating area is proposed over 290 feet away from the nearest residential unit located northeast of the Fairfax Market portion of the building and is separated from the adjacent commercial businesses by either large expanses of parking lot or Sir Francis Drake Boulevard. Therefore, the development and use of property as approved under the use permit will 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.
- D. 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.
- E. Approval of the use permit will result in equal or better development of the premises than would otherwise be the case, and that said approval is in the public interest and for the protection or enhancement of the general health, safety or welfare of the community.

Design Review Finding

- F. As currently redesigned, the project complies will comply with the design review criteria. (Town Code § 17.020.040).

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

1. The project is limited to the development depicted in the plans dated 3/12/19, pages A1.0 through A4.0, the lighting cut sheets submitted by the applicants and the lighting locations as shown in the plans and described by the applicant in his supplemental information and e-mail.
2. The final exterior lighting plan submitted with the building permit application shall be approved by the Planning Director prior to issuance of the building permit and shall limit light-spillage beyond the areas necessary to light access pathways and the outdoor patio, and shall avoid direct offsite illumination.
3. A bicycle parking plan that replaces as much of the bicycle parking being

removed by the project as possible shall be submitted with the building permit application and shall be subject to review and approval by the Planning Director prior to issuance of the building permit.

4. The outdoor seating area shall be closed between the hours of 10 pm, and business opening.
5. 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.
6. 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.
7. Any other 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 Planning Director as required.
8. 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.

9. The project final inspection and issuance of the occupancy permit shall not occur until all the building improvements and bicycle parking improvements are completed and approvals have been received from all agencies and departments with jurisdiction over the project.
10. If questions arrive as to whether or not the amount of traffic generated by the multiuse building has reached an amount that will require a Traffic Impact Permit, the burden shall be upon the applicant and other adjacent business owner to demonstrate to both the Planning Commission and the Town Council that the traffic impact standards do not apply [Town Code § 17.30.050(C)].
11. The applicant agrees to comply with any mitigation measures recommended by any future Traffic Impact Study.
12. There shall be no storage of any materials, supplies for the business outside the building.
13. There shall be no outdoor entertainment, including the piping of prerecorded music to the outdoor eating area without a modification of this Conditional Use Permit by the Fairfax Planning Commission.
14. Failure to comply with the conditions for modified Use Permit # 19-04 as herein enumerated, may result in revocation or modification of the Conditional Use Permit by the Planning Commission, in accordance with Chapter 17.024 of the Fairfax Town Code (section 17.024.090, grounds for revocation and 17.024.100, grounds for modification).
15. Any equipment installed on the either the roof or exterior of the building must be screened from public view.

Marin County Environmental Health Department

16. The project requires the submission and approval of plans by the Health Department prior to issuance of the building permit for the outdoor eating area.

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

The approval of the 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 March 21, 2019, by the following vote:

AYES:

NOES:

ABSTAIN:

Attest:

Chair Swift

Ben Berto, Director of Planning and Building Services

2020 Sir Francis Drake Blvd.

Additional information for Design Review application:

1. The parking lot where the "berm" appears to be will be regraded in front of the new wall to match the grade of the rest of the parking lot. The parking lot will be patched and made smooth in this area.



2. The new ADA parking area will be graded to meet the maximum grade requirements for accessible parking spots. Additionally, the ADA access ramps will be built to all current accessibility codes. New signage and parking lot striping will designate the new ADA stall.
3. Additional Signage
 - a. "No Smoking Within 20 feet" signs will be posted near all entrances and on the deck.
 - b. "No Alcohol Beyond This Point" signs will be posted at the front entrance and at the points of exit from the deck to the parking area.
 - c. "Patio Closes at 10:00pm" signs will be posted on the deck area

4. Fire Pit – The rendering attempts to show the height of the flame. We do not plan to create a bonfire, but more a cozy “campfire” type flame. The gas feed to the firepit will have an adjustable valve on it to make necessary adjustments to the height of the flame as to prevent injury and distractions to passersby.
5. ABC Regulations relating to the height of the barrier between the public areas and the licensed areas: I spoke an ABC Field Licensing Rep over the phone on 3/14 to ask about this. She told me that there is no specific height in the ABC code, only that the licensed area be directly attached to the building, and that it is “obvious” to the public that the space is part of the restaurant. The code does require “No Alcohol Beyond This Point” signs at each point of exit.

Linda Neal

From: Jason Faircloth <jason@woodtownsports.com>
Sent: Thursday, March 14, 2019 12:07 PM
To: Linda Neal
Subject: Re: letter of action

Hi Linda,

Those "pole" lights are shown in the plan view on A3.0. There are 3 of them to illuminate the bar height countertop eating area annotated as "Low Voltage Table Lights, Typ." The inset lights that illuminate the floor area will be placed every 6 feet around the perimeter of the wall, annotated on drawing A3.0 as "Low Voltage Recessed Walking Lights, Spaced 6'-0", entire perimeter wall, typ."

Jason Faircloth
Woodtown Sports, Inc.
M:+1-415-847-8860

From: Linda Neal <lneal@townoffairfax.org>
Date: Thursday, March 14, 2019 at 11:19 AM
To: Jason Faircloth <jason@woodtownsports.com>
Subject: RE: letter of action

Hi Jason,

I am still confused, so the pole lights chosen shine light around their entire circumference, 360 degrees, and will result in light shining into the eating area and into the parking lot and they will project above the top of the wall but are not shown on the new drawings. I believe the Commission will want to know the location of these lights (how many there will be and how far apart they will be spaced) and how far above the wall they are expected to project so they can try and visualize how they will affect the appearance of the outdoor eating area. They really should have been included in the elevation drawing but we will see if we can get away with just a description of how far apart they will be spaced and how far above the wall they will project. These lights are proposed in addition to the low voltage table lights?

Linda

From: Jason Faircloth [mailto:jason@woodtownsports.com]
Sent: Thursday, March 14, 2019 10:42 AM
To: Linda Neal <lneal@townoffairfax.org>
Subject: Re: letter of action

Hi Linda,

The recessed "Step Lights" will be used in a couple of locations:

- inset into the deck facing concrete wall to provide light to the deck surface
- on the steps leading to the front of the building to illuminate the stair treads

The "Pole" lights will be used on top of the perimeter wall to illuminate the eating areas as well as provide a decorative detail.



HINKLEY LIGHTNING, INC.
33000 PIN OAK PARKWAY | AVON LAKE, OHIO 44012
[PH] 330.653.5500 [F] 440.653.5555
HINKLEYLIGHTNING.com | FREDRICKRAMOND.com

Large Post Top or Pier Mount Lantern 1321BK



ITEM NUMBER	1321BK
BRAND	Hinkley Lighting
MATERIAL	Solid Aluminum
GLASS	Clear Seedy
HEIGHT	27.8"
WIDTH	8.3"
VOLTAGE	120v
WATTAGE	1-100w Med.
CERTIFICATION	C-US Wet Rated

FEATURES AND BENEFITS

- Suitable for use in wet (interior direct splash and outdoor direct rain or sprinkler) locations as defined by NEC and CEC. Meets United States UL Underwriters Laboratories & CSA Canadian Standards Association Product Safety Standards
- Fixture is Dark Sky compliant and engineered to minimize light glare upward into the night sky.
- Reflector type or Par type lamp recommended
- For complete warranty information visit ([hyperlink](#))
- 2 year finish warranty
- 12 year warranty on electrical wiring and components
- Bold lines and a clean, minimalist style complement contemporary architecture
- Striking black finish enhances design

FINISH	Black
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AT HINKLEY, WE EMBRACE THE DESIGN PHILOSOPHY THAT YOU CAN MERGE TOGETHER THE LIGHTING, FURNITURE, ART, COLORS AND ACCESSORIES YOU LOVE INTO A BEAUTIFUL ENVIRONMENT THAT DEFINES YOUR OWN PERSONAL STYLE. WE HOPE YOU WILL BE INSPIRED BY OUR COMMITMENT TO KEEP YOUR 'LIFE AGLOW.'

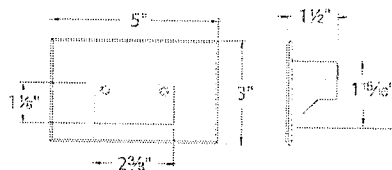
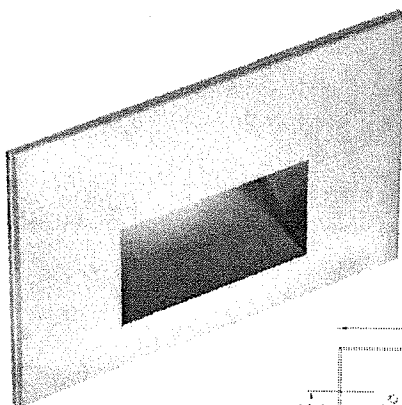
life AGLOW®

RECTANGLE STEP LIGHTS 12V

4011

WAC

LANDSCAPE LIGHTING



Fixture Type:

Catalog Number:

Project:

Location:

PRODUCT DESCRIPTION

Horizontal rectangle step light designed for safety and style on stairways, patios, decks, balcony areas, walkways and building perimeters.

Features an architectural design. Energy efficient for long-lasting outdoor lighting solutions. Creates an attractive, romantic impression at night.

FEATURES

- Solid diecast brass, corrosion resistant aluminum alloy, or cast stainless steel construction
- IP66 rated, Protected against high-pressure water jets
- Conveniently adapts into existing 12V system
- Invisible hardware
- Maintains constant lumen output against voltage drop
- UL 1838 Listed

SPECIFICATIONS

Input: 9-15VAC (Transformer is required)
Power: 2W / 3.1VA
CRI: 90
Mounting: Fits into 2" x 4" J-Box with minimum inside dimensions of 3"L x 2"W x 2"H. Includes bracket for J-Box mount.
Rated Life: 60,000 hours

ORDERING NUMBER

		Color Temp	CRI	Finish	Lumens
4011	12V	27	2700K	90	BBR Bronze on Brass 17
					BK Black on Aluminum 17
					BZ Bronze on Aluminum 17
					WT White on Aluminum 38
		30	3000K	90	BBR Bronze on Brass 17
					BK Black on Aluminum 17
					BZ Bronze on Aluminum 17
					WT White on Aluminum 38
		AM	Amber	-	SS Cast Stainless Steel 23
					BBR Bronze on Brass 11
					BK Black on Aluminum 11
					BZ Bronze on Aluminum 11
					WT White on Aluminum 23
					SS Cast Stainless Steel 14

4011-

Example: 4011-30BK

wacighting.com
Phone (800) 526.2588
Fax (800) 526.2585

Headquarters/Eastern Distribution Center
44 Harbor Park Drive
Port Washington, NY 11050

Central Distribution Center
1600 Distribution Ct
Lithia Springs, GA 30122

Western Distribution Center
1750 Archibald Avenue
Ontario, CA 91760

RECTANGLE STEP LIGHTS 12V

4011

WAC
LANDSCAPE LIGHTING

Magnetic Transformers

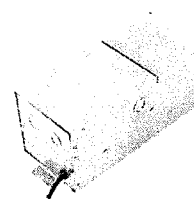
Stainless Steel, 12-15V output, IP65 rated, UL 1838 listed
See transformer spec sheet for details and its accessories

9075-TRN-SS
75W Max

9150-TRN-SS
150W Max

9300-TRN-SS
300W Max

9600-TRN-SS
600W Max



TESTED MAGNETIC LOW VOLTAGE (MLV) DIMMERS

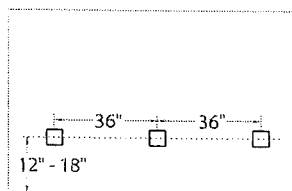
Luminaire				Dimmer		Note
	Manufacturer	Family	Model	Power Rating	Range*	
4011	Lutron	Diva	DVLY-600	600W	23% - 100%	
		Skylark	SLV-600P	600W	17% - 100%	Best performance
		Skylark	S-10P	1000W		Not recommended

*Low end of this range is determined by output current which may not directly translate to the perceived light output

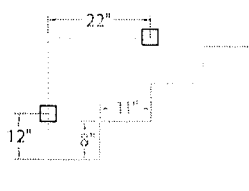
WAC Lighting fixtures are compatible with a variety of dimmers. For your convenience we have included a compatibility chart showing dimmers which have been tested with our products. The recommended list below is based upon testing conducted in a lab, and the results can vary in certain field applications due to a number of factors. Exclusion from the list does not imply incompatibility, just that it has not been tested by WAC Lighting. Please reference the dimmer manufacturer's instructions for installation, or contact a WAC lighting professional at 800-526-2588.

Spacing Recommendations for Optimal Light Distribution

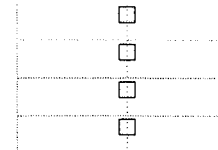
Corridors / Hallways



Stairs - Wall Mount



Stairs - Step Mount



Mount in center of stair as close to the upper tread as possible. For best results use one light per step for steps narrower than 5 feet

waclighting.com
Phone (800) 526.2588
Fax (800) 526.2585

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44 Harbor Park Drive
Port Washington, NY 11050

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1600 Distribution Ct
Lithia Springs, GA 30122

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