

RESOLUTION 20-__

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
DENYING THE APPEAL OF TEMPORARY USE PERMIT NO. 20-1
APPROVING TEMPORARY OUTDOOR SEATING AT
1573 SIR FRANCIS DRAKE BOULEVARD
ASSESSOR'S PARCEL NO. 002-213-10**

WHEREAS, in response to the COVID-19 pandemic and global health crisis, the Town of Fairfax is under a declared State of Emergency and is subject to County of Marin Public Health Officer Orders related to the operation of businesses, including restaurants; and

WHEREAS, as the result of the County Health Officer's orders, restaurants, which usually provide onsite food and beverage service, are prohibited from offering dine-in service and have only been allowed to operate by utilizing food delivery or takeout service; and

WHEREAS, the Marin County Public Health Officer is now allowing restaurants to provide socially distanced outdoor dining; and

WHEREAS, when the Marin County Public Health Officer allows indoor dining it will be severely restrictive and restaurants will still need to provide socially distanced outdoor dining to generate the business revenues necessary to economically survive the pandemic crisis; and

WHEREAS, the Town encourages the patronization of local restaurants and other businesses and desires to allow restaurants to quickly install outdoor dining or curbside pickup areas in a safe manner in compliance with State and County public health directives; and

WHEREAS, the Town Council has found that there is a current and immediate need to allow restaurants and other businesses to use certain outdoor spaces in order to prevent additional economic harm and to allow the public to patronize Town businesses while complying with social distancing requirements, in order to mitigate the threat to the public health, safety and welfare presented by COVID- 19; and

WHEREAS, during a local emergency, Government Code section 8634 authorizes the Town Council, or other designated officials, to promulgate orders and regulations necessary to provide for the protection of life and property; and

WHEREAS, pursuant to California Government Code section 36937, the Town may adopt an urgency ordinance for the immediate preservation of the public peace, health or safety; and

WHEREAS, the Town Council adopted Urgency Ordinance No. 848 on June 3, 2020, which took effect immediately and allowed the Town to permit restaurants and other businesses to temporarily expand into adjacent spaces subject to obtaining required permits in order to encourage the patronization of local restaurants and other businesses; and

WHEREAS, on June 5, 2020, the Town of Fairfax received an application for a Temporary Use Permit (TUP) to create outdoor seating areas at 1573 Sir Francis Drake Boulevard; and

WHEREAS, the Planning Director reviewed the plans submitted for The Lodge at 1573 Sir Francis Drake Boulevard and approved the TUP subject to conditions; and

WHEREAS, the Appellant filed a timely appeal of the TUP approval; and

WHEREAS, the Town Council conducted a public hearing on the appeal of the TUP at its regular meeting of July 1, 2020 and determined that the appeal lacked sufficient merit to warrant overturning or modifying the issuance of the TUP.

NOW, THEREFORE, BE IT HEREBY RESOLVED, that the Town Council of the Town of Fairfax finds The Lodge is in compliance with the requirements of the TUP, there are no significant impacts to the parking supply, the level of noise, or safety and therefore denies the Appeal of the Temporary Use Permit for outdoor seating at the Lodge Restaurant at 1573 Sir Frances Drake Boulevard.

The foregoing resolution was duly passed and adopted at a regular meeting of the Town Council of the Town of Fairfax held in said Town on the 1st day of July, 2020, by the following vote, to wit:

AYES:

NOES:

ABSENT:

Renee Goddard, Mayor

Attest: _____
Michele Gardner, Town Clerk