



TOWN OF FAIRFAX

STAFF REPORT

July 1, 2020

TO: Mayor and Town Council

FROM: Ben Berto, Planning and Building Services Director
Garrett Toy, Town Manager

SUBJECT: Appeal of a Temporary Use Permit for outdoor seating for the Lodge Restaurant at 1573 Sir Francis Drake.

RECOMMENDATION

Uphold the decision of the Planning Director (Town Manager designee) and deny the appeal of the administrative approval the Temporary Use Permit (TUP) for outdoor seating for the Lodge restaurant at 1573 Sir Francis Drake.

BACKGROUND

The world, nation, state, and local jurisdictions including the Town of Fairfax are attempting to cope with an unprecedented pandemic(COVID-19). All the above jurisdictions have proclaimed a state of emergency in regard to this pandemic.

On March 19, 2020, the Governor issued Executive Order N-33-20 (the "Stay-at-Home Order"). As a result of the State and County Health Officer's Stay-at-Home Orders, restaurants, which usually provide onsite food and beverage service, were first closed and then prohibited from offering inside dining service.

As a result of "Stage 2" modification of the Stay-at-Home Order, businesses identified as having a lower risk of COVID-19 transmission have been allowed to reopen in accordance with State Public Health guidelines.

With the stage 2 modifications, the Town Council recognized businesses could use outdoor spaces to serve the public while complying with social distancing and other public health requirements to protect public health, safety and welfare. The Council also acknowledged a current and immediate need to allow businesses to begin to recover from the economic harm from the Covid-19 pandemic and stay-at-home orders. The Marin County Health Officer has also modified the Shelter-in-Place order to allow for the reopening of retail and restaurants under strict operational guidelines.

Accordingly, the Town Council adopted Urgency Ordinance No. 848 on June 3, 2020, which took effect immediately. The Ordinance allows the Town Manager to establish and issue temporary outdoor use permits to allow restaurants and other businesses to provide outdoor dining, among other uses. Specifically, Temporary Use Permits (TUP) allow businesses to expand into adjacent private outdoor spaces.

The Town received an application for a Temporary Use Permit (TUP) to create public outdoor seating areas at 1573 Sir Francis Drake Boulevard on June 5, 2020. After reviewing the plan and confirming that approvals for the outdoor seating use had been received from the State Alcoholic Beverage Control Board and the Ross Valley Fire Department, the Planning Director conditionally approved a Temporary Use Permit (TUP) for the outdoor seating (see Attachment A for copy of TUP approval).

DISCUSSION

A nearby resident filed an appeal within the required timeframe. Per the Urgency Ordinance provisions, such appeals are heard by the Town Council. The appellant writes "The Lodge (1572 [sic] Sir Francis Drake) has expanded outdoor seating to include food and alcohol, resulting in a major increase of noise and privacy at our house. The Lodge has not consulted neighbors who would be most affected."

Under the TUP Ordinance, the Lodge is a "Qualifying Business" which means any retail business, restaurant, winery, brewery, or bar, that demonstrates it will operate in compliance with reopening protocols of the State of California and the County of Marin. The TUP was issued to allow the Lodge to use its outdoor parking lot for outdoor seating. Per the Ordinance, the Lodge is required to comply with operational and safety provisions provided by the Town Manager or his designee, applicable State and County health orders, applicable regulations of the California Department of Alcoholic Beverage Control, the California Fire Code, and the Americans with Disabilities Act.

Staff finds the Lodge is in compliance with the requirements of the TUP and that there are no significant impacts to the parking supply, noise, or safety. The Lodge has tried to be sensitive to their neighbors' concerns. It should be noted that ambient noise levels are already considerable due to Sir Francis Drake traffic and the adjacent car wash. The current operation features no live music. Conversational noise is not significant. None of the current onsite parking was eliminated to accommodate the outdoor seating. The applicants have already shifted the seating to the west side of the property away from the appellant and posted signs requesting patron consideration of neighbors (see attached photos). No further changes to the Lodge's temporary operations are recommended.

ATTACHMENTS

- A. Appeal of Lodge Restaurant Temporary Use Permit
- B. Temporary Use Permit for Lodge Restaurant
- C. Proposed Resolution denying appeal of Lodge Restaurant Temporary Use Permit
- D. Site plan
- E. Site photos