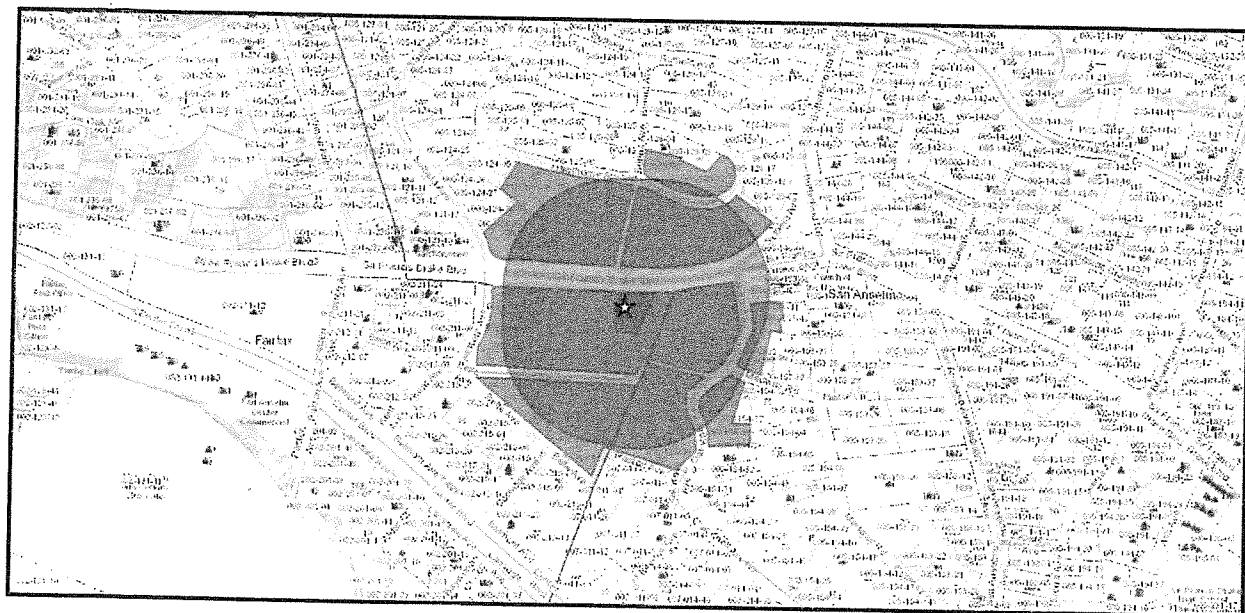


**KTOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: July 16, 2020
FROM: Linda Neal, Principal Planner
LOCATION: 1573 Sir Francis Drake Boulevard; Assessor's Parcel No. 002-213-10
ZONING: Highway Commercial CH Zone
PROJECT: Outdoor seating/service area
ACTION: Conditional Use Permit; Application # 20-5
APPLICANT: Lori and Brian Buckner
OWNER: Same
CEQA STATUS: CEQA categorically exempt, §15301(a).



1573 SIR FRANCIS DRAKE BOULEVARD

BACKGROUND

This item was continued by the Planning Commission at their June 18, 2020 meeting where the Commission gave them the following direction:

1. They are not in favor of using beer kegs as barriers to protect outdoor diners from the vehicles driving through and parking on the site. They would prefer to see the proposed galvanized metal planters used to protect all the outdoor seating areas as they do not believe the beer kegs provide adequate protection. They encouraged the applicant to replace the kegs with the planters as soon as possible to protect patrons during the time when the Temporary Use Permit for outdoor dining during the Covid-19 pandemic is in effect.
2. A sign permit application to legalize the blade signs beneath the front roof overhang be submitted as soon as possible (preferably with this use permit) so the two items can be concurrently reviewed. Some Commissioners indicated that they are not in favor of the six current blade signs as they modify the frontage of the historic structure.
3. Provide verification from the Bureau of Alcohol and Beverage Control (ABC) on whether or not it is necessary, with the tables and seating at the front of the building on private property behind the hitching post wall, to still have a rope and wood bollard barrier between the wall and the sidewalk. These narrow the sidewalk (potentially below the ADA required sidewalk width).
4. Clarify the seasonal hours of rear seating use more specifically than just summer and winter. Staff suggests using daylight savings time and specify the hours to be 9 AM to 8 PM between the start of daylight savings each calendar year (the 2nd Sunday in March) and the end of daylight savings time each calendar year (the 1st Sunday in November), and from 9 AM to 5 PM from the end of daylight savings time each year (the 1st Sunday in November) through the start of daylight savings time (the 2nd Sunday in March).
5. The vegetation at the rear of the site adjacent to the parking spaces should be cleaned up and new "parking" signs shall be erected on the existing fence or some other visible adjacent location to designate where cars are to park. This shall be indicated on the revised outdoor seating site plan.
6. Some Commissioners seemed open to the idea that additional tables might be placed along the western side property line by the car wash. These new locations should be considered as possible alternative locations to replace the 2 picnic tables currently proposed near the existing barn on the neighboring properties. A few Commissioners questioned whether there is adequate room near the barn to place 2 picnic tables and not encroach into the designated parking and backing area. The site plan must clarify all proposed table and chair locations throughout the site and demonstrate adequate room for the seating proposed.
7. Concerns were raised over the impact of the chair placement and people walking beneath the heritage redwood trees on the west side of the site. One Commissioner indicated that at the very least, 6 to 12 inches of mulch should be

required to be kept in place around and throughout the grove as long as outdoor seating is located there to protect the trees. The applicant shall address this issue in their resubmittal.

8. The Commission prefers the driveway access and egress travel path to be that of a one-way circular driveway. The revised plans should show the placement of signs that would clarify that only one of the access driveways is for vehicle entrance and the other is only to be used for exiting the site.
9. One of the Commissioners expressed that the applicant should be allowed to plant whatever they want in the barrier planters and not be restricted to using native and drought tolerant plants. The site plan should be revised to show the applicants preferred plant materials (perennials, annuals, native grasses, mixed species plantings, etc.).
10. The site plan shall be revised to show a more well-thought-out buffer between the outdoor seating and the outdoor play areas of the Caterpillar academy to the east, and to show increased sound buffering between the outdoor seating and the residential areas to the south and southeast of the site. The applicant shall work with the property owner to the east and the owner of the Caterpillar Academy to put in place measures to ensure that patrons of the Lodge do not have access to the Day Care grounds. A lock on the access gate between the Academy employee parking area and the fenced play area was suggested.
11. The applicant shall also work with the neighbors to the southeast and to the south to address their concerns which include noise, visual buffering, and adequate restroom facilities for patrons.
12. Some Commissioners thought the plan should be revised to maintain a 26 foot-wide driveway/backing width between the proposed outdoor seating and the parking spaces, to allow adequate backing up and maneuvering room, the proposed 24 foot-wide driveway being too narrow.
13. The site plan shall indicate proposed locations for additional signage reminding patrons to be respectful of the neighbors and demarcating the Lodge boundaries to keep patrons on the site and not spilling over (sitting on the ground, playing ball, etc.) onto the Caterpillar Academy site.

For the original staff report and attachments on this item see the packet for the June 18, 2020 Planning Commission meeting which can be found on the Town's website at www.townoffairfax.org.

DISCUSSION

The applicants have relocated to the west side of the exit driveway 5 outdoor dining tables that were previously proposed at the rear of the building adjacent to the

accessible ramp, replacing 3 of the smaller tables with picnic tables, and have retained only 1 table adjacent to the accessible ramp and one table at the rear of the property where the existing barn on the neighboring Caterpillar Academy daycare center screens the area from the residential properties to the southeast. Six Adirondack chairs have been retained on the west side of the entry driveway for people to wait for dining seating and 5 smaller tables, seating 2 patrons each, have been located at the front of the building, south of the rock wall and underneath the building roof overhang.

Although not depicted in the revised site plan dated July 1, 2020, the applicants have indicated that the planter and bike rack barricades between the one table at the rear of the building and the entry driveway will be shifted 2 feet north to maintain a driveway width of 26 feet. A Planning Commissioner at the June meeting suggested this as a way to increase the safety of vehicles and diners.

They have replaced the kegs with planters to act as barriers between the table to the rear of the building and the vehicle entry path, and placed sawhorses between the site and the parking area for the Caterpillar Academy parking area. The sawhorses have signs posted explaining the boundary and asking customers to stay on the Lodge side of these barriers. The Caterpillar Academy has agreed to lock their gate to keep patrons who might ignore the sawhorse barricades from entering the fenced yard of the academy, even though no one at the Academy or the Lodge has ever seen any patrons trying to use the fenced area.

They will place signs on each table advising patrons to be respectful of the neighbors and to keep the outdoor noise level down.

They have verified with the ABC that the rope barrier at the front of the site is necessary in order for them to comply with their ABC license for outdoor dining at the front of the property. The barrier will be placed out of the ADA sidewalk travel path. The front space is necessary during their operation under their Temporary Use Permit in order to maintain the required social distancing space between tables. It will be removed once they are operating under the Conditional Use Permit, if approved, when the hitching post wall can act as the required barrier between the table and the public right-of-way.

They have clarified their outdoor dining hours, indicating that during daylight savings time, from March 8th through November 1st each year, business hours will be Tuesday through Thursday and Sundays from 9 AM to 8 PM, and Friday and Saturday from 9 AM to 9 PM. During non-daylight savings time, from November 2 through March 7 each year, the hours will be Tuesday through Sunday from 9 AM to 5 PM. The restaurant is closed on Mondays. The Resolution recommending approval of the project has been amended accordingly.

They will clean up the vegetation at the rear fence but do not want to remove it entirely because it provide a noise, privacy/visual barrier for the residences to the south of the site.

The applicants have contacted their arborist who has indicated that the placement of the chairs and table in the redwood grove will not negatively impact the health of the trees, but will place 6 to 23 inches of mulch under the trees and in the surrounding area to minimize impacts of people walking and sitting amongst the trees.

They are planning on planting the movable “barricade” planters with plants growing up trellises to add additional screening between the outdoor dining areas at the rear of the building. They have also discussed erecting a sound wall between the neighbor to the rear property and the Lodge site. Both parties have agreed to work together to make the wall a reality (Attachment B – applicant’s supplemental information and addendums).

Use Permit

The purpose of the Conditional Use Permit process is to “allow the proper integration into Fairfax of uses which may be suitable only in certain locations in the town or in a zone or only if the uses are designed or laid out on the site in a particular manner.

Visibility

The outdoor seating area will not be visible from Sir Francis Drake Boulevard, or the residences on Hill Avenue to the south due to intervening tall hedges, a fence and trees. The barn and existing main structure at 1569 Sir Francis Drake Blvd. (Caterpillar Academy) on the east side of the site block views of the site from the residence in San Anselmo on Romona Drive to the east, and all the tables but 1 have been moved out of the line of sight from this residence to far west side of the property to a location immediately adjacent to the carwash (see project plans, revision date July 1, 2020). The outdoor seating area will only be visible from the Caterpillar Academy to the east (the carwash is sufficiently below the site that the outdoor areas should not be visible, and is not considered a proximity-sensitive use). The owner of the Caterpillar Academy property has indicated that his only concern is that the tables are maintained on the Lodge property because there is no fence between the 2 sites, so the boundary is not clearly marked. He has spoken to the Lodge owners about this and they have placed the existing single table approved with the Temporary Use Permit (TUP) accordingly. They have also agreed to erect sawhorse barriers with signage when the Caterpillar Academy is not open, to demarcate the property line and advise patrons not to enter the neighboring property.

Traffic

The addition of permanent outdoor restaurant seating for 38 persons, in addition to the 28 seats inside the restaurant, will not cause a significant increase in traffic to the site and is not subject to the Traffic Impact Permit process because it does not involve the construction of any new structures or an addition to a structure that would generate more than 100 average daily traffic trips [Town Code § 17.056.050(1)(a)].

While the majority of the outdoor dining tables have been relocated to the far west side of the site, and there is 5 feet between the vehicle travel path through site and these tables, the staff believes placement of additional planting or some other demarcation between the driveway and the tables would increase the safety of persons dining in this area and has been included this as an additional condition of project approval in the Resolution.

Noise

The noise created by the limited number of 38 diners in the outdoor eating areas is not likely to exceed the permitted noise decibel levels for the adjacent residential dwellings noise zone which is 50 decibels between the hours of 7 AM and 10 PM which encompasses the total outdoor dining hours proposed by the business [Town Code § 8.20.050(B), "Exterior Noise Limits" table]. The relocation of all the outdoor dining tables except 2 to the far west side of the site, adjacent to the car wash which generates its own noise with power washers and industrial vacuums, will greatly decrease the amount of noise that is projected towards the neighboring residential properties.

The addition of the outdoor seating will not increase number of employees beyond the 4 already working on site during the busiest shifts which are experienced on the weekends.

The number of patrons, employees, and hours of operation of this business will not substantially change. The additional noise the outdoor seating would generate is not expected to reach the maximum noise level limitations set forth in the Town Noise ordinance and described above. Ambient noise levels from Sir Francis Drake Boulevard traffic and the power washing/vacuuming at the adjacent carwash is very loud and realistically will drown out any noise generated by the use of the outdoor seating.

No new exterior lighting is proposed. Therefore, the outdoor seating will not negatively impact the neighboring commercial properties or the adjacent residential uses in Fairfax along Hill Avenue to the south and in San Anselmo, along Ramona Drive to the east which are over 70 feet away from the outdoor seating area.

Parking

The site currently accommodates 5 parking spaces including 1 van accessible parking space immediately adjacent to the accessible ramp that accesses the rear of the restaurant building. This will not change.

Town Code 17.052.030(H) requires that 1 parking space be provided for each 200 square-feet of gross floor area for restaurant uses. Therefore, the site complies with the parking requirements.

Design Review

The project involves the placement of only temporary planters, bike racks, tables, chairs and red umbrellas, minor grading to level the patio area and placement of a crushed granite surface that do not constitute new construction of a structure. Therefore, the project is not subject to the Design Review Chapter of the Town Code (Town Code § 17.020.030(B)).

However, the appearance of the exterior furniture, umbrellas, bike racks and planters should be considered with the review of the Conditional Use Permit to ensure that the exterior unfixed improvements are of a quality that will protect the value of private and public investments in the immediate area.

The chosen exterior furniture, planters, bike racks and umbrellas will not conflict with the character of the adjacent buildings or negatively affect the value of adjacent properties (Attachment C).

The table top tables and chairs will be stored inside the building at night while the umbrellas and picnic tables will remain outside.

Signs

The applicants have a sign permit for the historic sign at the front of the building. They have agreed to take down the 6 blade signs and will review their sign needs going forward and will submit the required sign application, if necessary, at a future date.

Recommended Conditions

In addition to the standard conditions of approval contained in the attached Resolution No. 2020-04 recommending approval of the project staff has included the following additional conditions:

1. Live music is not allowed and no music shall be played outside the building nor shall any music be piped from inside the building to the exterior seating area unless such a modification to the Conditional Use Permit is applied for and approved by the Planning Commission.
2. If additional lighting for the outdoor area, or any other changes to the approved plan, are deemed necessary going forward, they shall either be approved by the Planning Director, or if he deems it necessary, shall be approved by the Planning Commission as a modification of this Conditional Use Permit.
3. Existing lighting fixtures currently lighting outdoor areas of the site shall not result in light spilling beyond the access pathways or beyond the enclosed seating area.

4. The lighting conditions are not meant to restrict low level individual table lights that do not cast light beyond the immediate table surfaces.
5. The hanging signs shall be removed and any future signage erected shall obtain a sign permit from either the staff or the Planning Commission as required by the Sign Ordinance, Town Code Chapter 17.064.
6. This Conditional Use Permit shall not be in effect until October 3, 2020, or whenever the Governor's "Roadmap to Resilience" reaches the stage that eliminates the social distancing regulations requiring 6 feet of social distancing separation between diners that are not living together, whichever comes first. If the Marin County Health Department extends social distancing or other coronavirus-related requirements beyond October 3, the applicant shall comply with all applicable requirements.
7. The applicant shall comply with all requirements of the Department of Alcohol and Beverage Control, and shall obtain any necessary permits from the Marin County Environmental Health Department prior to switching from the Temporary Covid-19 Use Permit (TUP) operations to the Conditional Use Permit (CUP) operations.
8. During daylight savings time, from March 8th through November 1st each year, business hours shall be limited to Tuesday through Thursday and Sundays from 9 AM to 8 PM and Friday and Saturday from 9 AM to 9 PM. During non-daylight savings time, from November 2 through March 7 each year, the hours will be limited to Tuesday through Sunday from 9 AM to 5 PM. The restaurant is closed on Mondays.
9. The applicant shall work with the residential property owner directly to the south of the site to erect a sound barrier or other type of barrier to reduce noise spillage from the site prior to implementation of the Conditional Use Permit unless the two parties provide written notice to the Town that both agree the improvement to be unnecessary.

Agency/Department Comments/Conditions

Ross Valley Fire Department – The Fire Department has indicated that the proposal meets or exceeds fire code regulations.

None of the following agencies or departments commented on the proposed outdoor dining area: Ross Valley Sanitary District, Marin Municipal Water District, Fairfax Police, Public Works and Building Departments.

RECOMMENDATION

1. Conduct the public hearing.
2. Move to approve application # 20-5 by adopting Resolution No. 2020-04 setting forth the findings and conditions for approval of the requested Conditional Use Permit.

ATTACHMENTS

- Attachment A – Resolution No. 2020-04
- Attachment B – Applicant's supplemental information

RESOLUTION NO. 2020-04

A Resolution of the Fairfax Planning Commission Approving Application # 20-5 to Allow an Outdoor Eating Areas at 1573 Sir Francis Drake Boulevard for the Existing Lodge Restaurant

WHEREAS, the Town of Fairfax has received an application for a Conditional Use Permit to allow outdoor seating for the existing restaurant; and

WHEREAS, the Planning Commission held duly noticed Public Hearings on June 18, 2020, and on July 16, 2020 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 for outdoor dining; 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 Conditional Use 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:

Conditional Use Permit Findings:

- A. The approval of the Conditional Use Permit will not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment.
- B. The outdoor eating areas are proposed 70 to 100 feet away from the nearest residential units located to the southeast and south of the site and are separated from the residential development by hedges, trees and in some instances buildings which visually screen the outdoor eating areas and help block any noise generated by the use. Therefore, the development and use of property as approved under the Conditional 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.

- C. Approval of the Conditional 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.
- D. Approval of the Conditional 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.

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

Conditions of CUP Permit Approval

1. The project is limited to the table and chair placement depicted in the revised plan dated 7/1/20.
2. During daylight savings time, from March 8th through November 1st each year, business hours shall be limited to Tuesday through Thursday and Sundays from 9 AM to 8 PM and Friday and Saturday from 9 AM to 9 PM. During non-daylight savings time, from November 2 through March 7 each year, the hours will be limited to Tuesday through Sunday from 9 AM to 5 PM. The restaurant shall remain closed on Mondays.
3. 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, planters, outdoor furniture, the ground and the pavement surfaces.
4. 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.
5. Any other changes made to the exterior of the building or site, including but not limited to new lighting, new signs, planters, table and seating relocation, 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.
6. 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.

7. There shall be no storage of any materials, supplies for the business outside the building other than the outdoor furniture.
8. 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.
9. Failure to comply with the conditions for modified Conditional Use Permit # 20-05 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).

Miscellaneous Conditions

10. 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.
11. If additional lighting for the outdoor area, or any other changes to the approved plan, are deemed necessary going forward, they shall either be approved by the Planning Director, or if he deems it necessary, shall be approved by the Planning Commission as a modification of this Conditional Use Permit.
12. Existing lighting fixtures currently lighting outdoor areas of the site shall not result in light spilling beyond the access pathways or beyond the enclosed seating area.
13. The above two lighting conditions are not meant to restrict low level individual table lights that do not spill light beyond the table surfaces. The hanging signs

that increase the number of signs for the business beyond the permitted two (2) shall be removed and any future signage erected shall obtain a sign permit from either the staff or the Planning Commission as required by the Sign Ordinance, Town Code Chapter 17.064.

14. This Conditional Use Permit shall not be in effect until October 3, 2020, or whenever the Governor's "Roadmap to Resilience" reaches the stage that eliminates the social distancing regulations requiring 6 feet of social distancing separation between diners that are not living together, whichever comes first. The proposed plan table locations do not completely comply with social distancing. The plans show tables and chairs in front of the building and in the outdoor sitting area under the redwood trees are inadequately spaced apart, and will need to be spaced to a 6 foot distance. If the Marin County Health Department extends social distancing or other coronavirus-related requirements beyond October 3, the applicant shall comply with all applicable County Health Department requirements.
15. The applicant shall comply with all requirements of the Department of Alcohol and Beverage Control, Control, and shall obtain any necessary permits from the Marin County Environmental Health Department prior to switching from the Temporary Covid-19 Use Permit (TUP) operations to the Conditional Use Permit (CUP) operations.
16. The applicant shall work with the residential property owner directly to the south of the site to erect a sound barrier or other type of barrier to reduce noise spillage from the site prior to implementation of the Conditional Use Permit unless the 2 parties provide written notice to the Town that both agree to waive this.

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

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

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on July 16, 2020, by the following vote:

AYES:
NOES:
ABSTAIN:

Chair Green

Attest:

Ben Berto, Director of Planning and Building Services

1573 Sir Frances Drake Blvd, Application #20-5

JUL 02 2020

Planning Commission,

We would like to address all the concerns voiced during the planning review meeting on 6/18.

We have replaced the kegs as barriers with the galvanized planters as discussed in the original plan already. Please see picture included in this packet. Addendum A

Regarding the blade signs, we will take down the 6 blade signs. We would like some time to review our sign needs going forward and will submit a sign permit with a new plan. We have found the signing to be very important in communicating what The Lodge is and provides to the community. Day to day business in this unprecedented time is taking all our energy and focus. We need more time to submit a thoughtful application. However, we will take the blade signs down in the interim at the planning commission request.

The rope barrier is necessary per our current ABC license for the front seating on the sidewalk. The sidewalk is 8' wide allowing full legal ADA access. The rope barrier is table side, and not hindering the ADA clearance. We have an encroachment permit from the Town of Anselmo and are in compliance. This additional sidewalk space is needed to space tables out appropriately during our TUP. When the TUP is no longer necessary, we can remove the rope barrier and use the Hitching post wall along with signage as the delineation boundary. The ABC requires a boundary for the licensed area.

Clarification of hours.

March 8- Nov 1 Daylight savings (year-round 2021 is pending federal authorization)

Tues -Thurs & Sunday 9am-8PM

Friday- Saturday 9AM-9PM

Nov 2-March 7 Non-Daylight savings

Tues -Sunday – 9AM – 5PM

We are closed on Monday.

Regarding the vegetation at the rear of the property. We will clean this up, however we do not want to remove as it provides a natural sound barrier for a neighbor. Please see plan.

Regarding the table locations by the barn vs the car wash side. Please see plan

Regarding the health of the heritage redwoods with chair placement. We have consulted our site arborists who assured us, this will not have an impact on the redwoods, however, to be sure, we will add 6"-12" of mulch under the redwoods and the surrounding area.

We have added signing indicating one entrance and one exit for the circular driveway. Please see plan.

Regarding planting in the barrier galvanized planters. We are planning to use a trellis with climbing vines to provide some privacy for neighbor on 16 Ramona Dr, Jim Donahue.

We have added temporary barriers to the boundary between the Caterpillar Academy and the driveway. These barriers have signs, explaining the boundary and asking customers to stay on The Lodge property. Please see pictures Addendum B and Plan. We have discussed the concerns of the planning committee regarding a lock on the access gate. They agreed to add. Neither our neighbors at Caterpillar nor any Lodge staff has ever witnessed patrons using the playground of the preschool. However, we have made them aware of the concern and they will take whatever precautions they deem necessary.

We are going to add better looking barriers in the form of wooden sawhorses. The barriers must be movable as Caterpillar academy must be able to access the parking area and the barn on their property.

Regarding the 26' driveway. While the town codes require a 24' driveway we have revised the plan to be 26' driveway at the council's request. Please see plan.

Regarding additional signage asking patrons to be respectful and stay within the boundaries lodge. We have added signs to every table and several other locations in the outside area. We are continually monitoring the entire outside area and reminding customers to be respectful. Please see Addendum C

Regarding our continued communication with neighbors. Please note, we had reached out and discussed our plans with all neighbors that border our property and some beyond. All, including the neighbors directly across from us on Sir Frances Drake Blvd are supportive and most patronize The Lodge on a regular basis. We also met with John Donahue @ 16 Ramona Dr. before the last meeting. Jim's property does not share a border with The Lodge. We have addressed Mr. Donahue's issues as follows:

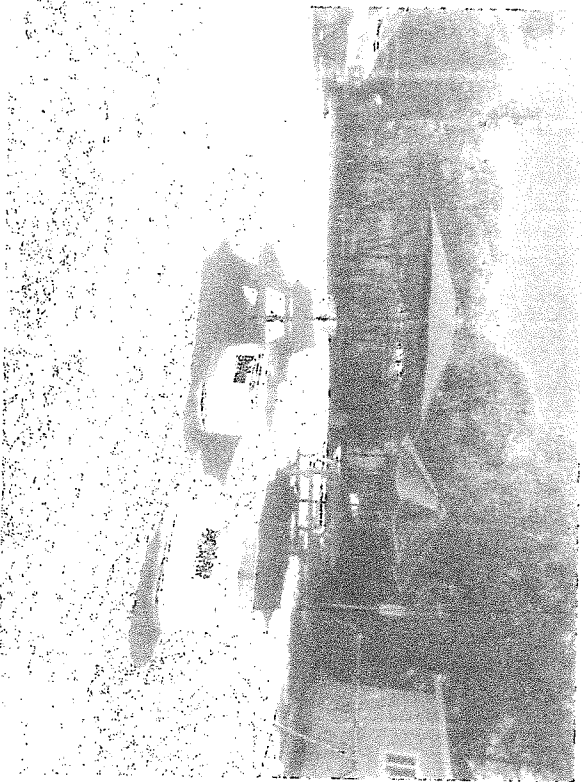
- Moved almost all tables to the West side of the property near the car wash
- Put up a barrier to any children playing or adults lounging on the adjacent caterpillar property
- Increased signage requesting patrons to respect neighbors, keep noise down and stay on The Lodge property.
- We personally along with all staff consistently and frequently monitor the outside dining area. We ask patrons to be respectful, stay within Lodge boundaries and keep noise down whenever needed.

In addition, we have met and discussed the use of the property several times with our neighbor directly behind The Lodge, Bruce Goudie. Bruce has requested that an approved option for a 12' sound wall be part of the plan. Please see his letter to Linda Neal on 6/23 and another letter on 7/1, attached. We have discussed this with Bruce and agree. We will work together to make this happen. In the meantime, we are confident that any issues regarding sound can be worked out but understand his worry about the property being sold in the future. We would therefore like this Approved option as part of this plan. Please see Plan.

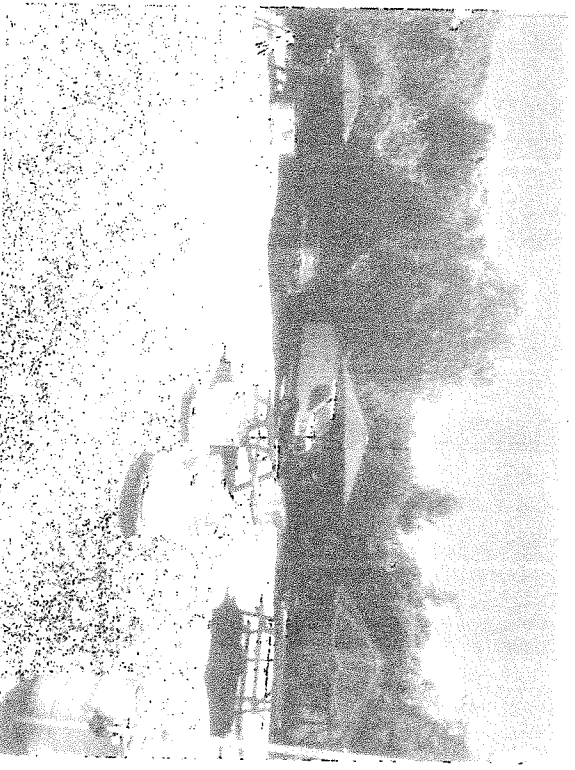
Thanks again for your time and consideration,

Brian & Lori Bruckner

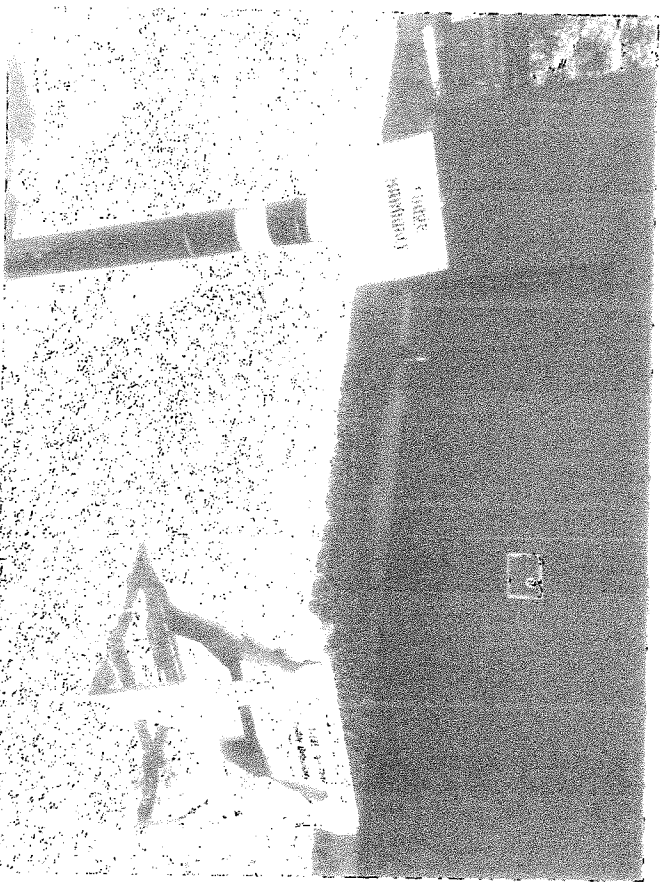
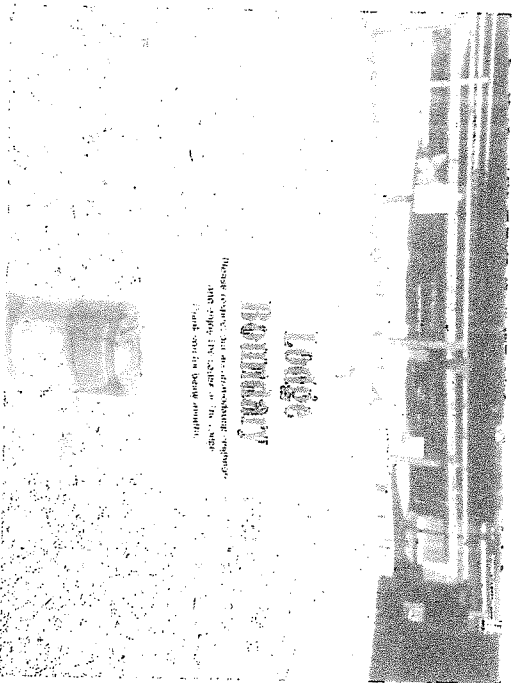
Barriers – Addendum A



Galvanized Planters as barriers



Galvanized Planters as barriers



Boundaries – Addendum B

“Lodge Boundary. Please respect our accommodating neighbors
and enjoy The Lodge at the Lodge. Thank you for being
mindful”



New Boundary Sawhorse



Lori Bruckner <thelodgeffx@gmail.com>

Fwd: Agenda Item 2 at 7/1 Town Council Meeting - Appeal of TUP #20-1

2 messages

Brian Bruckner <brian@bigswingincycles.com>
To: Lori Bruckner <thelodgeffx@gmail.com>

Tue, Jun 23, 2020 at 12:18 PM

----- Forwarded message -----

From: Brian Bruckner <brian@bigswingincycles.com>
Date: Tue, Jun 23, 2020 at 12:01 PM
Subject: Agenda Item 2 at 7/1 Town Council Meeting - Appeal of TUP #20-1
To: <mgardner@townoffairfax.org>
Cc: Lori Bruckner <lori.bruckner1@gmail.com>

Hello

I'm hoping you can please pass this along to all of the Council members.

It seems that our neighbor, Jim Donahue, is appealing the TUP (TUP #20-1) we were granted under the town's Urgency Ordinance No. 848. This is deeply disappointing. All of our other neighbors, including our closest neighbor directly behind us, are supportive of the TUP, especially given the challenging times of trying to run a restaurant during the Pandemic. The TUP we've been given has truly been a life line and we've already been able to increase our employee's hours substantially now that customers can come back and have a place outside to distance and dine.

We've hosted Mr Donahue, and other neighbors to gather input on what we can do to accommodate their wishes. Based on our meetings, we've made notable changes to our outdoor seating layout in an effort to mitigate any noise. These changes include the following:

- Moved most of our tables and seating to the west side of our property, next to the car wash. The sound of the vacuums, pressure washers, and car radios, as well as the traffic on SFDB drowns out any noise from our guests.
- Only two tables remain in the main area of our back lot.
- Created and posted signs on all tables, as well as on our building and fences asking that guests be quiet and respectful of our neighbors.
- Put up barricades with signs noting The Lodge boundary in order to keep children and others from going near Mr. Donahue's property line (which does not share a border with The Lodge).
- We're continuously monitoring the outdoor area and relocating louder guests to the front or west side of the property.
- Making sure our back door remains closed so any noise from inside the building doesn't bleed outside.
- Closing down early (prior to 9 on weekends, 8 on weeknights and Sunday) when business is slow.
- Provided Mr. Donahue our personal cell phones and encouraged him to call or text us anytime there is an issue. He's had our contact information for over two years and has not once reached out to complain about noise or any other issue.

We feel we've gone above and beyond to accommodate Mr. Donahue. Our business is not boisterous or loud. We do our best to "curate" our customers - it's mostly families and health minded outdoor types looking to enjoy a meal outside. It is not a "Bar" or "Beer Garden". Typically, it's just conversational noise, and most of it is drown out by the car wash and SFDB, and it's well below town noise levels for a commercially zoned property.

I've set up a YouTube channel and will be posting daily videos from our busiest times so the Council can see first hand the noise levels. Here is the link to the page:

https://www.youtube.com/channel/UC0zB_hglRc4RfMmmI3jVEUg?view_as=subscriber



Lori Bruckner <lori.bruckner1@gmail.com>

Fw: TUP #20-5

2 messages

bfarquhar@earthlink.net <bfarquhar@earthlink.net>
Reply-To: bfarquhar@earthlink.net
To: Lori Bruckner <lori.bruckner1@gmail.com>

Wed, Jul 1, 2020 at 9:07 AM

Lori, I just sent this, hope its not too late...Bruce

-----Forwarded Message-----

>From: bfarquhar@earthlink.net
>Sent: Jul 1, 2020 9:05 AM
>To: "mgardner@townoffairfax.org" <mgardner@townoffairfax.org>
>Subject: TUP #20-5
>

>Here is an addition to my previous email;

> A lot of business in Fairfax are going to need financing to survive. With a 2nd round of Covis 19 and the economic fallout, this could be the only way to survive. I do not know the situation with the Lodge, but I feel , giving them solid ground to stand on is a must.

> As the neighbor closes to the Lodge, who likes to garden and reads way to much,[retired], I think we can work together.

> This is not a game to be played at the expense of others, and it seems unproductive to impede their survival.

> They have established the closing times and the capacity limit. As far as the soundwall goes, ivy, jasmine,[the Lodge's decision] will absorb and deaden any sound. Thank You for putting in the time.

> Bruce Goudie

> 37 Hill Ave.

> Fairfax,

Lori Bruckner <lori.bruckner1@gmail.com>
To: bfarquhar@earthlink.net

Wed, Jul 1, 2020 at 10:26 AM

Thanks Bruce. Appreciate it. I dont think its too late.

Lori

[Quoted text hidden]



Lori Bruckner <lori.bruckner1@gmail.com>

Fw: TUP #20-5

2 messages

bfarquhar@earthlink.net <bfarquhar@earthlink.net>

Wed, Jul 1, 2020 at 9:07 AM

Reply-To: bfarquhar@earthlink.net

To: Lori Bruckner <lori.bruckner1@gmail.com>

Lori, I just sent this, hope its not too late...Bruce

---Forwarded Message---

>From: bfarquhar@earthlink.net

>Sent: Jul 1, 2020 9:05 AM

>To: "mgardner@townoffairfax.org" <mgardner@townoffairfax.org>

>Subject: TUP #20-5

>

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> As the neighbor closes to the Lodge, who likes to garden and reads way to much,[retired], I think we can work together.

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> 37 Hill Ave.

> Fairfax,

Lori Bruckner <lori.bruckner1@gmail.com>

Wed, Jul 1, 2020 at 10:26 AM

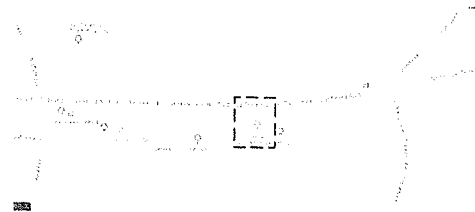
To: bfarquhar@earthlink.net

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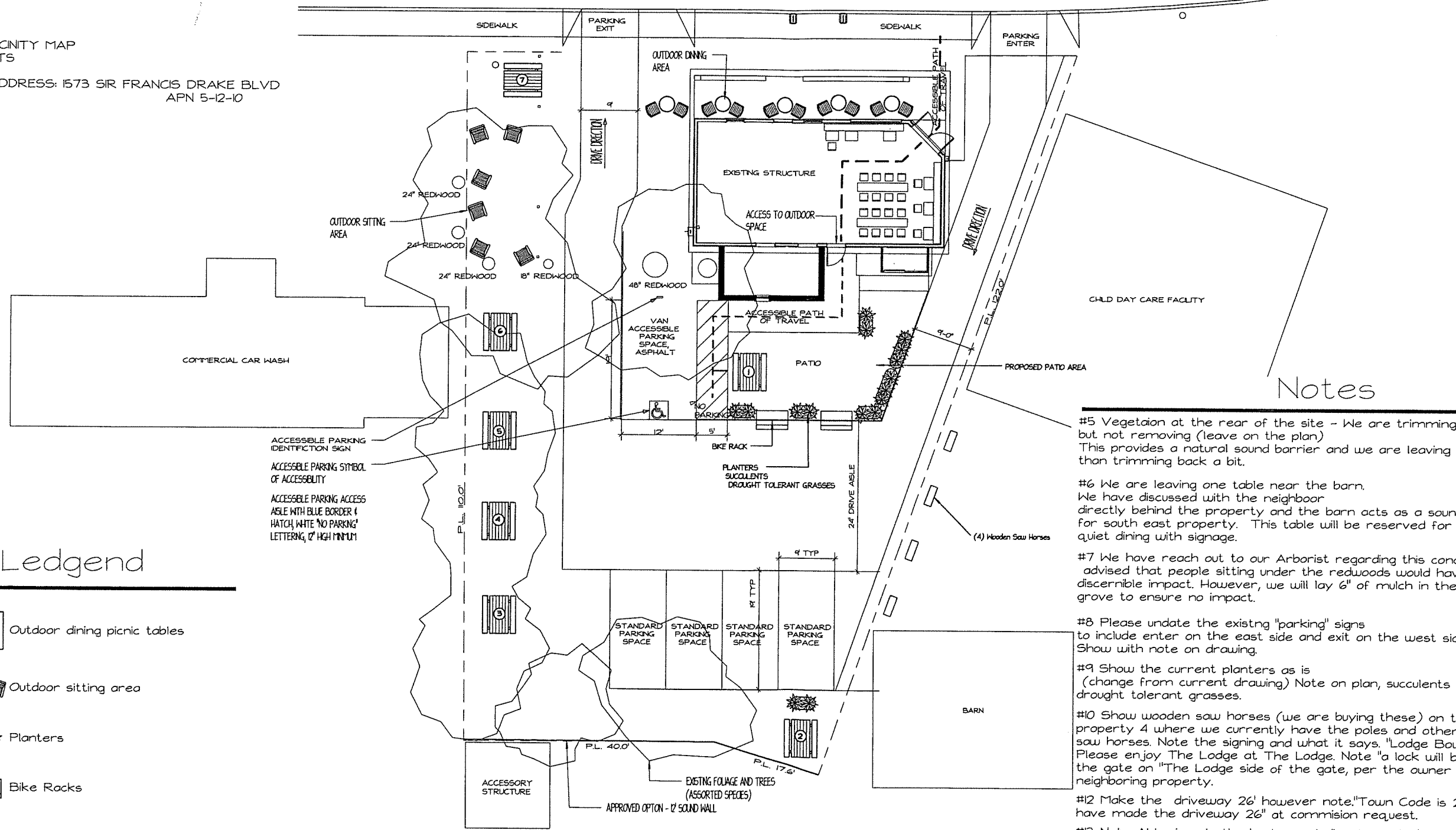
Lori

[Quoted text hidden]

NEAREST CROSS STREET: SUFFIELD AVENUE SIR FRANCIS DRAKE BOULEVARD NEAREST CROSS STREET: OAK KNOLL AVENUE



VICINITY MAP
NTS
ADDRESS: 1573 SIR FRANCIS DRAKE BLVD
APN 5-12-10



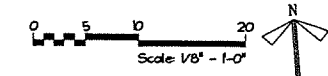
Notes

- #5 Vegetation at the rear of the site - We are trimming this back, but not removing (leave on the plan) This provides a natural sound barrier and we are leaving in place other than trimming back a bit.
- #6 We are leaving one table near the barn. We have discussed with the neighbor directly behind the property and the barn acts as a sound buffer for south east property. This table will be reserved for quiet dining with signage.
- #7 We have reach out to our Arborist regarding this concern. He advised that people sitting under the redwoods would have no discernible impact. However, we will lay 6" of mulch in the grove to ensure no impact.
- #8 Please update the existing "parking" signs to include enter on the east side and exit on the west side. Show with note on drawing.
- #9 Show the current planters as is (change from current drawing) Note on plan, succulents and drought tolerant grasses.
- #10 Show wooden saw horses (we are buying these) on the day care property 4 where we currently have the poles and other saw horses. Note the signing and what it says. "Lodge Boundary" Please enjoy The Lodge at The Lodge. Note "a lock will be placed on the gate on "The Lodge side of the gate, per the owner of neighboring property.
- #12 Make the driveway 26' however note."Town Code is 24", but we have made the driveway 26" at commision request.
- #13 Note ALL signs in the back, remind patrons to be respectful of neighbors. All tables, bussing stations, back fence.

Ledgend

- Outdoor dining picnic tables
- Outdoor sitting area
- Planters
- Bike Racks
- Outdoor dining tables

Outdoor Patio



DATE MAY 12, 2020
REVISED DATE JUNE 22, 2020
REVISED DATE JULY 1, 2020

The Lodge Outdoor Patio Plan
1573 Sir Francis Drake Blvd, Fairfax CA 94930

downward lighting; Condition #47 should specify that the replacement Oak trees should be a variety of sizes including 15-gallon and 24 inch box based on the arborist's review.

Chair Green provided the following comments:

- He appreciated the graphic representations provided by the applicant.
- This is a much improved design.
- They have made efforts to comply with the codes and conform to the neighborhood look and feel.
- He referred to Resolution No. 2020-03, page 4, Condition #9, and asked that it specify that the concrete colors should be darkened with a green or black color.

Commissioner Newton provided the following comments:

- She continues to be concerned about the septic system.
- She referred to Resolution No. 2020-03, the first "Whereas" and stated the address should be added; on page 9, Condition #39, the word "if" should be "in"; Condition #40 should read "the other".

Commissioner Fragoso provided the following comments:

- She asked about a condition pertaining to construction hours. Principal Planner Neal stated those are contained in the Noise Ordinance.
- The resolution should contain the specific days and times. Chair Green stated the code section could be added as Condition #20.1

M/s, Rodriguez/Fragoso, motion to adopt Resolution No 2020-03 with the following modifications: The first "Whereas" shall include the project address; on page 3, Condition #1(a) should include the Dennis Furby letter dated 3-31-20, the Tree Committee recommendation dated 1-23-20, a provision to add lampblack green or a color similar to the natural surroundings to the concrete, and deletion of the reference to the trellis; on page 5, Condition #11, the last sentence should be deleted; on page 6, condition #18, the reference to Toyon, Oak, and Laurel should be deleted; on page 7 the Noise Ordinance code section specifying construction days and times should be added as Condition #20.1; on page 9, Condition #31, the word "if" should be "in", Condition #40 should read "the other", Condition #45 should read July 31st. Condition #46 should include a requirement for Dark Sky and downward lighting, Condition #47 should read the replacement of 11 tree and the Oak trees shall be 24 inch box.

AYES: Clark, Fragoso, Rodriguez, Swift, Chair Green

NOES: Newton

ABSENT: Gonzalez-Parber

(Through a roll call vote).

Chair Green stated there was a 10-day appeal period.

The Commission took a 5-minute break at 10.45 p.m.

3. 1573 Sir Francis Drake Boulevard; Application #20-5 (Continued from 6/18/20 PC meeting) Permit for an outdoor seating area adjacent to an existing restaurant; Assessor's Parcel No. 002-213-10; Highway Commercial CH Zone; Lori and Bryan Brucker, applicants/owners; CEQA categorically exempt per Section 15301(a) and 15303(e).

Principle Planner Neal presented the staff report. She discussed the changes made to the application.

Commissioner Rodriguez asked about the differences in the plan contained in the packet and the revised plan. Principal Planner Neal stated they did not have time to submit a revised plan. She

displayed a marked up plan and stated Table #2 was being relocated from near the barn to the car wash side of the lot and the vegetation planters are being replaced with a six-foot tall, solid wood fence. They have agreed to keep twenty six foot wide driveway width. Chair Green asked if the fence would accommodate the twenty six feet. Principle Planner Neal stated "yes".

Commissioner Rodriguez asked how many seats were originally proposed vs. what is currently being proposed. Principal Planner Neal stated the revised table count would accommodate 38 people. Principal Planner Neal stated the old plan had three small tables (two-seaters) in the front and they are now proposing five, and had two picnic and three small tables at the back of the restaurant and they are now proposing seven tables with only one table at the rear of the building in response to neighbor's comments. The Temporary Use Permit was for six picnic tables. The new plan has seven.

Commissioner Fragoso asked if they were doing the circular, one-way entrance- in on the east and out on the west. Principal Planner Neal stated the applicants should answer that question. Commissioner Fragoso asked if this was the interim or permanent plan. Principal Planner Neal stated it is the permanent plan that would go into effect when the COVID-19 distancing requirements were lifted.

Chair Green asked if the proposed saw horses would be chained to the ground. Principal Planner Neal stated she thought they had to be movable but he should ask the applicant.

Commissioner Newton referenced the ingress and egress configuration and stated the left hand turn off of Sir Francis Drake into the property should occur further along due to the Sleepy Hollow traffic. Making the left hand turn between the car wash and the lodge would make more sense. Commissioner Swift asked if this was reviewed by the Town Engineer. Principal Planner Neal stated "no" since the entrance and exit was not changing.

Commissioner Rodriguez asked about the location for bike racks. Principal Planner Neal stated she should ask the applicant.

Chair Green opened the Public Hearing.

Mr. Brian Buckner, applicant/owner, made the following comments:

- They went to great lengths to try to address the Commission's and the neighbor's concerns.
- They submitted a clear drawing but did have a couple of last minute changes.
- They are trying to get the permanent plan approved due to the on-going uncertainty.
- The vehicular entrance is on the east side and the exit is on the west side.
- There have been no problems with traffic or vehicular flow.
- There is a minimal amount of traffic entering the property.
- The teachers at the child care center occasionally use the driveway as an easement to access their parking spots. There is no parent drop-off and pick-up on the Lodge property.
- They are not getting rid of the planters but the beer kegs are gone.
- They are going to use galvanized planters inside of the fence with bike racks along the fence.
- There are no tables in the Redwood grove.
- They tried to move everything on the car wash side to alleviate the noise issue.
- The table by the barn has been moved to the west side by the car wash.
- The sawhorses are simple barricades to keep people from going onto the day care property.

Chair Green referred to Addendum "B" and asked Mr. Buckner if they would change language on the signs about the boundaries- it is soft and ambiguous. He suggested the following: "Please respect our neighbors and stay within the Lodge boundaries. Thank you for being mindful." The font should be larger. Mr. Buckner stated he would be happy to make this change.

Commissioner Rodriguez asked about the purpose of the six-foot solid fence. Mr. Buckner stated it is to help traffic, mitigate sound, and provide some privacy and has been proposed in response to the neighbor at .

Commissioner Newton asked about the plan for the bike racks. Mr. Lori Buckner stated there were bike racks in the front and some racks behind the fence.

Chair Green asked Mr. Bucker if he communicated with his neighbor. Mr. Bucker stated "yes". He has tried to accommodate the neighbor's concerns.

Mr. Jim Donahue (16 Ramona Drive, San Anselmo) made the following comments:

- He is the neighbor to the southeast.
- Working with the applicant has been good and they got a lot accomplished.
- He has concerns about the patio area and wants that table removed.
- He wants a visual wall between his property and the patio area.
- He does not want cyclists to congregate in that area.
- He played a video.
- He is concerned about the overall density.
- He has pictures of people leaving the Lodge and using the day care facilities.

Commissioner Fragoso asked Mr. Donahue where his house was located. Mr. Donahue pointed it out on the map.

Ms. Lori Bruckner made the following comments:

- There are currently two tables on the patio and they are proposing to move one.
- The fence will provide a lot of privacy for customers while also screening the area from the view of the neighbors. Also, the fence will help muffle noise.
- It would not make sense to have all the tables on one side of the property.

Principal Planner Neal stated the Commission has, in the past, specified that more than one complaint must come in from different addresses in order to schedule a formal review.

Chair Green closed the Public Hearing.

Commissioner Fragoso provided the following comments:

- She would like to see more detail on the fence that would be replacing the planters.
- She thanked the applicant for taking the Commission's comments to heart.
- She asked if the 12' sound wall indicated on the plan would help Mr. Donahue. Principal Planner Neal stated it was being installed for the neighbor directly to the south.
- She wondered if a wall or fence would help to screen Mr. Donahue if placed along the sawhorse line. Principal Planner Neal stated there was an easement for the day care center that allows them to enter their property and a wall or fence would block that access.
- She is concerned about the intensity of use and the safety of the narrow ingress/egress and in particular Table #7 and the new, small table near the low pony wall.
- She would like the following condition added to the Resolution: "The plan should include the elimination of Tables #2, #7, and the small table and two chairs placed outside of the retaining wall in the outdoor dining area".

Chair Green provided the following comments:

- The wall and planters were a reasonable and expensive accommodation. It is worth a try.
- He did not realize how far Mr. Donahue's house was from the subject property.
- He referred to Resolution No. 2020-04 and recommended the following changes: On page 2, Condition #1 shall read: "The project... *and must be revised to depict the correct traffic lanes,*

distances, and table placement."; on page 2, Condition #2, add the following language: "If daylight saving time is abandoned then the dates will prevail."; on page 3, Condition #8 shall read: "There shall be.....including the piping *or other transmission* of prerecorded music..."; on page 4, Condition #14 shall read: "This Conditional Use Permit...Roadmap to Resilience *or other equivalent State plans* reaches..." and "The plans show tables.... to a 6 foot distance *and cannot be movable.*"; on page 4, Condition #15, the word "Control" is used twice.

Commissioner Rodriguez provided the following comments:

- She is not in support of the application.
- It is too dense in terms of the amount of seating and the relationship of the intensity of the people and the day care.
- The Alcoholic Beverage Control (ABC) Board probably does not know there is a day care next door.
- There is inadequate parking.
- They should continue to operate under the Temporary Use Permit and come back with a revised plan.

Commissioner Swift provided the following comments:

- She supports the application as submitted with the amended changes.
- The Lodge is a good addition for the local residents.
- She appreciates the efforts made by the owners and their cooperation with the neighbors.
- She referred to Resolution No. 2020-04 and recommended the following changes; the addition of Condition #18 that allows the eastern entrance sign to remain and removal of the western exit sign with replacement up to the applicant's discretion; the addition of Condition #17: "The applicant will maintain a 6 to 12 inch mulch within the Redwood grove to minimize the impacts of people walking and sitting among the trees".

Commissioner Newton provided the following comments:

- The barrier wall is a nice addition.
- She referred to Resolution No. 2020-04, Condition #14, and stated the second and third sentences should be deleted; on page 1, the word "an" shall be deleted from the title; on page 4, Condition #13 should include language indicating that entrance for vehicles shall be through the eastern driveway and the exit shall be through the western driveway; on page 3, Condition #13 shall state that the existing signs shall be removed prior to the issuance of the Conditional Use Permit.

Chair Green asked staff if they could continue this application. Principal Planner Neal stated the applicant would need to agree to a continuance and a 90 day extension of time for review under the Permit Streamlining Act processing time limits.

Commissioner Swift provided the following comments:

- She is not in favor of a continuance.
- The applicants made changes that addressed the concerns expressed at the prior meeting.

Commissioner Newton provided the following comments:

- They should ask the applicants if they would agree to a continuance.
- They could eliminate the tables suggested by Commissioner Fragoso. There has been an increase in density since the last proposal.

Commissioner Clark provided the following comments:

- She could support this moving forward.
- She understood the concerns about density.
- It is optimistic to think the all the tables will be full all the time.

- She could vote in favor of the project as proposed.

Principal Planner Neal took a straw poll of the Commission: Could you support the project with elimination of table number 7, relocation of table 2 from the rear of the building to the side of the property by the car wash, moving the bike racks inside the fence to where the one table is proposed, and requiring that the planters and the wall get installed.

Four Commissioners (Clark, Fragoso, Swift, Newton) were in favor and two (Rodriguez, Chair Green) were in favor of a continuance.

Mr. Bruckner stated the paddle signs have been removed. He was frustrated because it feels like the "goal line" keeps getting changed. He would be happy to agree to the changes suggested by Commissioner Fragoso. There is plenty of room on the property and the driveway is very safe. They are not an extremely busy business and he would like an approval tonight.

Principal Planner Neal reiterated the need for a condition regarding the required number of complaints.

M/s, Newton/Swift, motion to adopt Resolution No. 2020-04 with the following modifications: On page 2, Condition #1 shall read: "The project is... dated 7/1/20 *except that Tables #2, #7 and the small two-seater by the exit will be eliminated, and the bike rack(s) will be moved to the area across from Table #7.*"; on page 2, Condition #2 the following shall be added: "*If daylight savings time is dispensed with then the dates will prevail.*"; on page 3, Condition #8 shall read: "There shall be....including the piping *or other transmission* of prerecorded music..."; on page 4 Condition #14, the second and third sentences shall be deleted; on page 3, Condition #15, the deletion of the extra word "control"; on page 4, the addition of Condition #17: "The applicant will maintain a 6 to 12 inch mulch within the Redwood grove to minimize the impacts of people walking and sitting among the trees"; the addition of Condition #18 that allows the eastern entrance sign to remain and removal of the western exit sign with replacement up to the applicant's discretion; the addition of Condition #19 that will read: "The Conditional Use Permit shall not be rescheduled for a hearing unless there are complaints received from two unrelated persons living at different addresses.

AYES: Clark, Fragoso, Newton, Swift, Chair Green

NOES: Rodriguez

ABSENT: Gonzalez-Parber

(Through a roll call vote).

Commissioner Rodriguez stated she voted "no" because of density, parking, impact to day care, and sound.

Chair Green stated there was a 10-day appeal period.

4. 131 Canyon Road; Application #20-7

Request for a Hill Area Residential Development, Design Review, Tree Removal, Excavation, Encroachment Permit and a Retaining Wall Height Variance to construct a 1,230 square-foot, 2-bedroom, 1 ½ bathroom, single-family residence with an attached 1 car carport; Assessor's Parcel No. 003-032-16; RS-6 Single-Family Residential Zone; Vlad and Paula Iojica, owners; CEQA Categorically exempt per Section 15303(a).

Chair Green asked staff if they could continue this application. Principal Planner Neal stated the applicant would need to agree to waive the Permit Streamlining Act processing time limits.

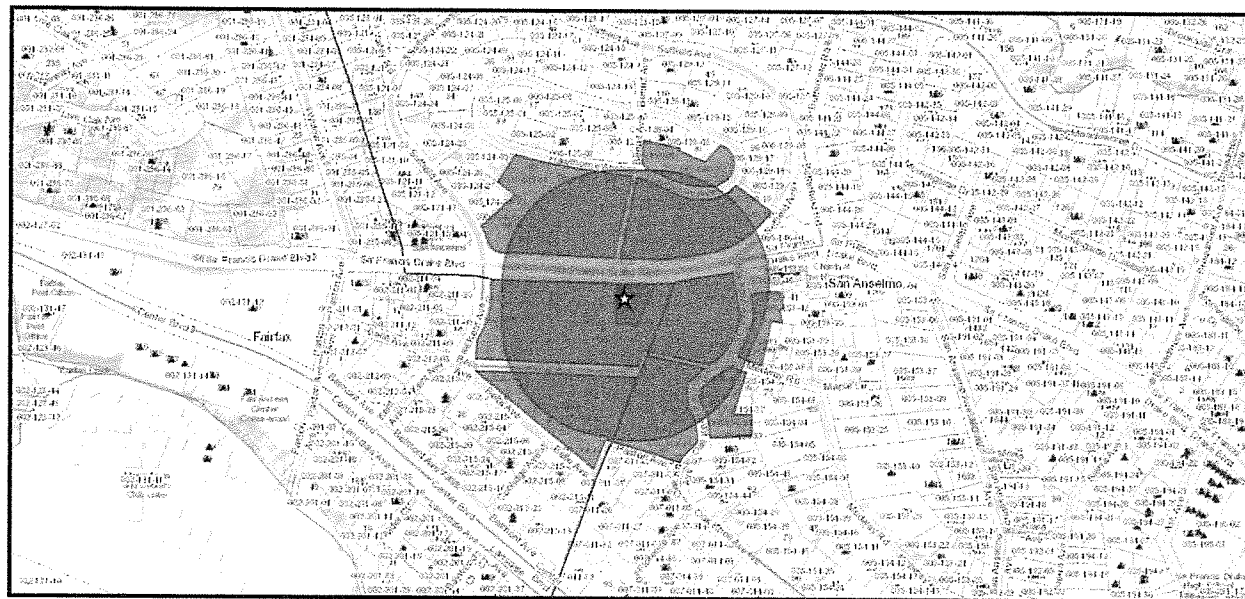
Mr. Vlad Iojica agreed to a continuance.

M/s, Fragoso/Swift, motion to continue application #20-7, 131 Canyon Road, to the August meeting.

AYES: Clark, Fragoso, Newton, Rodriguez, Swift, Chair Green

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

TO: Fairfax Planning Commission
DATE: June 18, 2020
FROM: Linda Neal, Principal Planner
LOCATION: 1573 Sir Francis Drake Boulevard; Assessor's Parcel No. 002-213-10
ZONING: Highway Commercial CH Zone
PROJECT: Outdoor seating/service area
ACTION: Conditional Use Permit; Application # 20-5
APPLICANT: Lori and Brian Buckner
OWNER: Same
CEQA STATUS: CEQA categorically exempt, §15301(a).



1573 SIR FRANCIS DRAKE BOULEVARD

BACKGROUND

The project site is 8,620 square-foot in area and relatively flat with a 4 % slope. The site is located within the Highway Commercial (CH) Zone and is developed with a 985 square-foot, 19 foot-tall commercial building that was constructed in 1906. Five large Coast redwood trees considered "heritage" in size (11 inches in diameter at breast

height) are located on the west side of the building and one Coast live oak, also considered "heritage" in size, is located at the rear of the site.

On September 21, 2017, the Planning Commission approved a Design Review Permit and a Sign Permit to allow the remodel and 91 square-foot expansion of the building along with the placement of the new sign copy "The Lodge" on the historic building sign.

A preschool is located to the east of the site, a carwash to the west, Sir Francis Drake Boulevard to the north and the residential neighborhood on Hill Avenue to the south.

The Town of San Anselmo granted an encroachment permit to allow the placement of 3 tables within the Sir Francis Drake Boulevard right-of-way in 2019.

The Town Council at their June 3 meeting agendized allowing commercial use of both private and public outdoor areas to help reduce the devastating impact of the coronavirus on local businesses. The Council passed an urgency ordinance allowing Temporary Use Permits (TUP) and Encroachment Permits for such uses (see Attachment B for TC resolution and ordinance). Staff received a TUP application from 1573 Sir Francis Drake for temporary use of a portion of its onsite outdoor area for seating, and on June 5 2020 approved a TUP allowing outdoor seating on the site that meets social distancing requirements (see Attachment C).

DISCUSSION

This application is for a Conditional Use Permit (UP) for outdoor seating that will remain in effect while the structure is in use as a restaurant but, if approved, would not go into effect until the Temporary "Pandemic" Conditional Use Permit(TUP) restrictions are no longer in effect, or until October 3, 2020, whichever occurs first. If the County Health Department extends social distancing and other coronavirus public health measures beyond October 3, any and all applicable Health Department requirements would apply to the permanent UP.

The project encompasses: a) the creation of a roughly 406 square foot decomposed granite patio area at the rear of the building adjacent to the unpaved parking lot to accommodate 2 picnic tables and 3 smaller patio tables; b, placement of 1 to 2 picnic tables at the rear of the site west of the adjacent neighboring barn at 1963 Sir Francis Drake Boulevard; c) the relocation of the 3 tables previously approved by Town of San Anselmo within the public right-of at the front of the site into the Fairfax Town limits, to be located at the front of the building underneath the overhanging roof; and, d) placement of seating for persons waiting to eat or have a drink amongst the redwood grove on the west side of the building (no tables). The proposed tables would provide seating for approximately 28 persons. Hours of outdoor service would be from 9 AM to 8 PM during the summer months, and 9 AM to 5 PM during the winter. No new lighting is proposed for the patio area at this time.

The CH Zoning allows restaurant uses in Town Code §17.096.040(11),(63)]. Town Code §17.096.050(B)(1) requires that a Conditional Use Permit be obtained from the Planning Commission for combined uses as follows:

“Permitted principal uses with minor and/or accessory fabrication or assembly activities limited to light manufacturing or processing activities, when the entirety of use, both principal and accessory, is contained entirely within a building”.

Therefore, the proposed outdoor seating and food service area requires the approval of a Conditional Use Permit by the Planning Commission.

Use Permit

The purpose of the Conditional Use Permit process is to, “allow the proper integration into Fairfax of uses which may be suitable only in certain locations in the town or in a zone or only if the uses are designed or laid out on the site in a particular manner.

Visibility

The outdoor seating area will not be visible from Sir Francis Drake Boulevard, or the residences on Hill Avenue to the south due to intervening tall hedges, a fence and trees. The barn and existing main structure at 1569 Sir Francis Drake Blvd. (Caterpillar Academy) on the east side of the site block views of the site from the residence in San Anselmo on Romona Drive to the east (Attachment C – aerial photograph and Marin Map of the site and surrounding area). The outdoor seating area will only be visible from the Caterpillar Academy to the east (the carwash is sufficiently below the site that the outdoor areas should not be visible). The owner of the Caterpillar Academy property has indicated that his only concern is that the tables are maintained on the Lodge property because there is no fence between the 2 sites, so the boundary is not clearly marked. He has spoken to the Lodge owners about this and they have placed the existing 1 table approved with the Temporary Use Permit (TUP) accordingly.

Traffic

The addition of a permanent outdoor restaurant seating area will not cause a significant increase in traffic to the site and is not subject to the Traffic Impact Permit process because it does not involve the construction of any new structures or an addition to a structure that would generate more than 100 average daily traffic trips [Town Code § 17.056.050(1)(a)].

Two bike racks that can accommodate the storage of 6 to 8 bicycles would alternate with 7 above ground planters to create a barrier between the outdoor seating and vehicle parking and driveway areas, and provide additional parking for the many bicyclists that are customers of this business.

Noise

The noise created by the limited number of 28 diners in the outdoor eating areas is not likely to exceed the permitted noise decibel levels for the adjacent residential dwellings noise zone which is 50 decibels between the hours of 7 AM and 10 [Town Code § 8.20.050(B), "Exterior Noise Limits" table]. The proposed outdoor seating hours are 9 AM to 5 PM during the winter and 9 AM to 8 PM during the summer.

The addition of the outdoor seating will not increase number of employees beyond the 4 already working on site during the busiest shifts which are experienced on the weekends.

The number of patrons, employees and hours of operation of this business will not substantially change. The additional noise the outdoor seating would generate is not expected to reach the maximum noise level limitations set forth in the Town Noise ordinance and described above. Ambient noise levels from Sir Francis Drake Boulevard traffic and the power washing/vacuuuming at the adjacent carwash is very loud and realistically will drown out any noise generated by the use of the outdoor seating.

No new exterior lighting is proposed. Therefore, the outdoor seating will not negatively impact the neighboring commercial properties or the adjacent residential uses in Fairfax along Hill Avenue to the south and in San Anselmo, along Ramona Drive to the east which are over 70 feet away from the outdoor seating area.

Parking

The site currently accommodates 5 parking spaces including 1 van accessible parking space immediately adjacent to the accessible ramp that accesses the rear of the restaurant building.

Town Code 17.052.030(H) requires that 1 parking space be provided for each 200 square-feet of gross floor area for restaurant uses. Therefore, the site complies with the parking requirements.

Design Review

The project involves the placement of only temporary planters, bike racks, tables, chairs and red umbrellas, minor grading to level the patio area and placement of a crushed granite surface that do not constitute new construction of a structure. Therefore, the project is not subject to the Design Review Chapter of the Town Code (Town Code § 17.020.030(B)).

However, the appearance of the exterior furniture, umbrellas, bike racks and planters should be considered with the review of the Conditional Use Permit to ensure that the

exterior unfixed improvements are of a quality that will protect the value of private and public investments in the immediate area.

The chosen exterior furniture, planters, bike racks and umbrellas will not conflict with the character of the adjacent buildings or negatively affect the value of adjacent properties (Attachment C).

The table top tables and chairs will be stored inside the building at night while the umbrellas and picnic tables will remain outside.

Signs

Town Code § 17.064.050 limits businesses to having 2 signs, as long as one is a projecting sign. Therefore, while the staff has the authority to approve one of the hanging signs as a projecting sign, only the Planning Commission can approve the other hanging signs beneath the roof overhang. The applicants have indicated they will file an application to request an exception to the Sign Ordinance from the Planning Commission to keep the signs, although they have not done so at this time.

The only sign permit that has been approved for this building is for the reuse of the historic sign on the roof to display the business identification name approved by the Commission when they granted the Design Review Permit and Sign Permit on September 21, 2017.

Recommended Conditions

In addition to the standard conditions of approval contained in the attached Resolution No. 2020-04 recommending approval of the project staff has included the following additional conditions:

1. Live music is not allowed and no music shall be played outside the building nor shall any music be piped from inside the building to the exterior seating area unless such a modification to the Conditional Use Permit is applied for and approved by the Planning Commission.
2. If additional lighting for the outdoor area, or any other changes to the approved plan, are deemed necessary going forward, they shall either be approved by the Planning Director, or if he deems it necessary, shall be approved by the Planning Commission as a modification of this Conditional Use Permit.
3. Existing lighting fixtures currently lighting outdoor areas of the site shall not result in light spilling beyond the access pathways or beyond the enclosed seating area.
4. The lighting conditions are not meant to restrict low level individual table lights that do not cast light beyond the table surfaces.

5. The plant material used in the planters shall be native, drought tolerant species.
6. The hanging signs that increase the number of signs for the business beyond the permitted 2 shall be submitted for review by the Planning Commission and either legalized or removed.
7. This Conditional Use Permit shall not be in effect until October 3, 2020, or whenever the Governor's "Roadmap to Resilience" reaches the stage that eliminates the social distancing regulations requiring 6 feet of social distancing separation between diners that are not living together, whichever comes first (the proposed plan table locations do not comply with social distancing with the picnic tables located only 5 feet apart from each other and the three tabletops in the rear only 2 feet away from the picnic tables and each other and the tabletops at the front of the restaurant only 3 feet apart). If the Marin County Health Department extends social distancing or other coronavirus-related requirements beyond October 3, the applicant shall comply with all applicable requirements.
8. The applicant shall comply with all requirements of the Department of Alcohol and Beverage Control, and shall obtain any necessary permits from the Marin County Environmental Health Department prior to switching from the Temporary Covid-19 Use Permit (TUP) operations to the Conditional Use Permit (CUP) operations.

Agency/Department Comments/Conditions

Ross Valley Fire Department – The Fire Department has indicated that the proposal meets or exceeds fire code regulations.

None of the following agencies or departments commented on the proposed outdoor dining area: Ross Valley Sanitary District, Marin Municipal Water District, Fairfax Police, Public Works and Building Departments.

RECOMMENDATION

1. Conduct the public hearing.
2. Move to approve application # 20-5 by adopting Resolution No. 2020-04 setting forth the findings and conditions for approval of the requested Conditional Use Permit. .

ATTACHMENTS

- Attachment A – Resolution No. 2020-04
- Attachment B – Town Council Urgency Outdoor Use Ordinance and Resolution
- Attachment C - Temporary (Covid-19) Use Permit
- Attachment D- Project distance from residential development map/aerial photo
- Attachment E- photos of proposed outdoor furniture and its locations

RESOLUTION NO. 2020-04

A Resolution of the Fairfax Planning Commission Approving Application # 20-5 to Allow an Outdoor Eating Areas at 1573 Sir Francis Drake Boulevard for the Existing Lodge Restaurant

WHEREAS, the Town of Fairfax has received an application for a Conditional Use Permit to allow outdoor seating for the existing restaurant; and

WHEREAS, the Planning Commission held duly noticed Public Hearings on June 18, 2020, 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 for outdoor dining; 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 Conditional Use 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:

Conditional Use Permit Findings:

- A. The approval of the Conditional Use Permit will not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment.
- B. The outdoor eating areas are proposed over 70 feet away from the nearest residential units located to the southeast and south of the site and are separated from the residential development by hedges, trees and in some instances buildings which visually screen the outdoor eating areas and help block any noise generated by the use. Therefore, the development and use of property as approved under the Conditional 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.

- C. Approval of the Conditional 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.
- D. Approval of the Conditional 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.

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

Conditions of CUP Permit Approval

1. The project is limited to the table and chair placement depicted in the plan dated 5/12/20 and including the 2 picnic tables shown in the ABC site plan marked up by staff "Addendum to 5/12/20 CUP Plans" and to show only seating in and amongst the redwood grove.
2. The outdoor seating area shall be closed between the hours of 8 PM and 9 AM during the summer and 5 PM and 9 AM during the winter.
3. 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, planters, outdoor furniture, the ground and the pavement surfaces.
4. 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.
5. Any other changes made to the exterior of the building or site, including but not limited to new lighting, new signs, planters, table and seating relocation, 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.
6. 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.

7. There shall be no storage of any materials, supplies for the business outside the building other than the outdoor furniture.
8. 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.
9. Failure to comply with the conditions for modified Conditional Use Permit # 20-05 as herein enumerated, may result in revocation or modification of the Conditional 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).

Miscellaneous Conditions

10. 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.
11. If additional lighting for the outdoor area, or any other changes to the approved plan, are deemed necessary going forward, they shall either be approved by the Planning Director, or if he deems it necessary, shall be approved by the Planning Commission as a modification of this Conditional Use Permit.
12. Existing lighting fixtures currently lighting outdoor areas of the site shall not result in light spilling beyond the access pathways or beyond the enclosed seating area.

13. The above 2 conditions are not meant to restrict low level individual table lights that do not spill light beyond the table surfaces.
14. The plant material used in the planters shall be native, drought tolerant species.
15. The hanging signs that increase the number of signs for the business beyond the permitted 2 shall be legalized through the sign permit process by the Planning Commission.
16. This Conditional Use Permit shall not be in effect until October 3, 2020, or whenever the Governor's "Roadmap to Resilience" reaches the stage that eliminates the social distancing regulations requiring 6 feet of social distancing separation between diners that are not living together, whichever comes first (the proposed plan table locations do not comply with social distancing with the picnic tables located only 5 feet apart from each other and the three tabletops in the rear only 2 feet away from the picnic tables and each other and the tabletops at the front of the restaurant are only 3 feet apart). If the Marin County Health Department extends social distancing or other coronavirus-related requirements beyond October 3, the applicant shall comply with all applicable requirements.
17. The applicant shall comply with all requirements of the Department of Alcohol and Beverage Control, Control, and shall obtain any necessary permits from the Marin County Environmental Health Department prior to switching from the Temporary Covid-19 Use Permit (TUP) operations to the Conditional Use Permit (CUP) operations.

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

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

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on June 18, 2020, by the following vote:

AYES:
NOES:
ABSTAIN:

Chair Green

Attest:

Ben Berto, Director of Planning and Building Services

ORDINANCE NO. 848

AN URGENCY ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX AUTHORIZING THE TOWN MANAGER TO ESTABLISH AND ISSUE TEMPORARY OUTDOOR USE PERMITS TO ALLOW RESTAURANTS AND OTHER BUSINESSES TO PROVIDE OUTDOOR DINING AND CURBSIDE PICKUP AND WAIVING ANY APPLICANT FEES IN THE TOWN'S REVIEW PROCESS

WHEREAS, in response to the COVID-19 pandemic and global health crisis, the President of the United States, the Governor of the State of California (the "Governor"), the County of Marin (the "County"), and the Town of Fairfax (the "Town"), have each proclaimed a state of emergency; and

WHEREAS, on March 19, 2020, the Governor issued Executive Order N-33-20 (the "Stay-at-Home Order"), ordering all State of California (the "State") residents to shelter at home or at their place of residence, except as needed to ensure continuity of operations in essential critical infrastructure sectors and additional sectors as directed by the State Public Health Officer; and

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

WHEREAS, the Governor has announced a "Roadmap to Resilience" plan to reopen the state in four stages and on May 4, 2020, the Governor issued Executive Order N-60-20, announcing that the State would move to a "Stage 2" modification of the Stay-at-Home Order, allowing for businesses identified as having a lower risk of COVID-19 transmission to reopen in accordance with State Public Health guidelines; and

WHEREAS, counties throughout the state are in various stages of reopening businesses in Stage 2, and some counties have begun allowing dine-in service at restaurants; and

WHEREAS, State guidelines may prompt restaurants and businesses to create temporary outdoor seating and/or curbside pickup areas as quickly as possible; and

WHEREAS, despite the ability of business to gradually reopen in accordance with State and local health requirements, businesses are limited in their capacity to provide services in their existing facilities due to existing and anticipated social distancing requirements; and

WHEREAS, the Town desires to establish a more streamlined permitting process that would allow businesses 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 intends to provide assistance to local businesses during this time of public health and economic hardships, by encouraging the patronization of local restaurants and other businesses in a safe manner and therefore desires to establish a temporary use permit to allow restaurants and other businesses to temporarily operate in an expanded outdoor capacity in private outdoor spaces including parking lots and areas adjacent to businesses, subject to the review and approval by the Town Manager; and

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

WHEREAS, the Town, pursuant to the police powers delegated to it by the State Constitution, has the authority to enact laws that promote the public health, safety, and general welfare of its residents; and

WHEREAS, based upon the findings above, the Town Council finds that there is a current and immediate need to allow businesses to use certain outdoor spaces in order to prevent additional harm to small businesses in the Town 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, pursuant to California Government Code section 36937, the Town may adopt an urgency ordinance if it is for the immediate preservation of the public peace, health or safety; and

WHEREAS, based upon the findings above, the Town Council finds that this urgency ordinance is necessary for the immediate preservation of the public health, safety and welfare. The Town Council finds and determines that the immediate preservation of the public health, safety and welfare requires that this Ordinance be enacted as an urgency ordinance pursuant to Government Code Section 36937(b) and take effect immediately upon adoption. As described above, businesses in the Town are facing unprecedented hardships related to COVID-19 and the shelter-in-place orders. It is anticipated that restaurants will be able to reopen for in-person dining within a few weeks, and this Ordinance needs to take effective immediately in order to allow the Town to permit businesses to expand into adjacent spaces subject to obtaining required permits. Therefore, this Ordinance is necessary for the immediate preservation of the public peace, health, safety and welfare and its urgency is hereby declared.

NOW, THEREFORE, the Town Council of the Town of Fairfax does ordain as follows:

Section 1. The recitals above are each incorporated by reference and adopted as findings by the Town Council.

Section 2. Compliance with Laws.

Nothing in this ordinance shall require the Town to issue a Temporary Outdoor Use Permit to a Qualifying Business, unless and until that Qualifying Business is authorized to operate under State and County orders. All Qualifying Businesses authorized to reopen must be in compliance with State and County orders regarding reopening protocols.

Section 3. Definitions.

For purposes of this ordinance, the following words and phrases shall have the meanings respectively ascribed to them:

"County Health Officer" means the public health officer of the County of Marin.

"Town Manager" means the Town Manager, or his or her designee.

"Qualifying Business" 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.

"Temporary Outdoor Use Permit" means a permit issued by the Town and obtained by a Qualifying Business to operate within the Town on private property in accordance with the provisions of this Ordinance.

Section 4. Indoor Consumption of Food and Beverages.

All Qualifying Businesses that serve food or beverages onsite shall serve food and beverages according to the State's industry guidance for dine-in restaurants, as it may be amended from time to time. A Qualifying Business is required to prioritize outside seating and curbside pickup, and to reconfigure dining areas to provide for at least six feet of physical distancing. Employees must follow the County Health Officer's guidance relating to face coverings to prevent COVID-19 transmission. Qualifying Businesses that offer sit-down, dine-in meals should still encourage takeout and delivery service wherever possible.

Section 5. Temporary Outdoor Use Permit.

A. A Qualifying Business may temporarily provide or expand seating for outdoor dining on private outdoor property, such as parking lots, in addition to the outdoor dining spaces currently permitted for restaurants under the Fairfax Municipal Code or an applicable conditional use permit, subject to the conditions of a Temporary Outdoor Use Permit. Such a business must obtain a revocable Temporary Outdoor Use Permit prior to operating a temporary outdoor dining area for the purpose of adhering to physical distancing requirements.

B. The Town Council authorizes the Town Manager to create a Temporary Outdoor Use Permit application, to review applications for such a permit, and to issue

such permits with any necessary conditions of approval. Qualifying Businesses or their representative may apply to the Town for a revocable Temporary Outdoor Use Permit.

C. A Temporary Outdoor Use Permit shall authorize the revocable and limited use of outdoor dining seating for restaurants or support the permitted uses of the applicant business in parking lots adjacent to restaurants or other businesses, as specified in the Temporary Outdoor Use Permit, subject to compliance with operational and safety provisions provided by the Town Manager, 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. Provided these conditions are met, the applicant shall not be subject to minimum parking requirements specified in the Fairfax Municipal Code or in a previously granted entitlement, for the duration of the term of the Temporary Outdoor Use Permit, which shall be reasonably related to the requirements of State, County, or local social distancing requirements and the economic impacts of COVID-19. If the applicant intends to use a shared private parking lot for expanded outdoor dining seating or curbside pickup, then the applicant must obtain written consent from other parties with whom the parking lot is shared, and such consent shall be provided upon submission of the permit application. If the applicant is a tenant, the tenant shall obtain the property owner's consent and the property owner must also sign the application for a Temporary Outdoor Use Permit.

Section 6. Application for Temporary Outdoor Use Permit.

A. A Qualifying Business may apply for a Temporary Outdoor Use Permit by submitting an application to the Town Manager, on a form approved by the Town Manager. The application shall be accompanied by any additional information required by the Town Manager. There shall be no application fee required for this Permit.

B. Any Qualifying Business applying for a Temporary Outdoor Use Permit may, in connection with its application for the Permit, be exempted by the Town Manager from any applicable Land Use requirements, including, but not limited to, parking, architectural design or signage requirements.

C. The Town Manager shall consider any application submitted for a Temporary Outdoor Use Permit.

D. The Town Manager may approve an application for a Temporary Outdoor Use Permit only if the operation of the Qualifying Business will be in compliance with the reopening protocols of the State and County, applicable regulations of the California Department of Alcoholic Beverage Control, current building codes, the California Fire Code, and the Americans with Disabilities Act. The Qualifying Business must demonstrate that the public health and safety of the Town will not be threatened by the issuance of the Temporary Outdoor Use Permit. All proposed additional or temporary seating, spaces for curbside pickup, and locations will be reviewed by the Town to ensure compliance with the requirements above and that outdoor seating and curbside pickup areas are safe and secure. The Town will receive each application to ensure that the seating or curbside pickup area will not negatively impact parking supply, noise, or safety.

D. If the application for a Temporary Outdoor Use Permit is approved:

1. The Town Manager may issue a Temporary Outdoor Use Permit on any terms the Town Manager deems necessary to ensure compliance with the reopening protocol of the State of California and the County of Marin and to protect the public health and safety of the Town. The Temporary Outdoor Use Permit shall be valid for an initial 120 days. Permits may be renewed administratively for up to an additional 60 days. All Temporary Outdoor Use Permits shall expire by November 30, 2020.

2. Any Qualifying Business operating onsite and outdoors pursuant to a Temporary Outdoor Use Permit must comply with all reopening protocols of the State and County, as they may be amended from time to time.

3. The Qualifying Business agrees to name the Town as an additional insured on its insurance, and the Town Manager shall determine the minimum coverage and limits required as a condition for the issuance of either permit. If applicant's request for a permit is approved, the Qualifying Business shall furnish proof of insurance coverage to the Town Manager prior to the issuance of a permit.

E. The Temporary Outdoor Use Permit issued pursuant to this Ordinance is nontransferable. Only the Qualifying Business for which the Temporary Outdoor Use Permit was issued shall be permitted to operate under the prescribed terms of the permit.

F. An applicant for a Temporary Outdoor Use Permit shall not be charged application or renewal fees.

G. Any provisions of the Fairfax Municipal Code that would otherwise prevent issuance of a Temporary Outdoor Use Permit shall be temporarily waived.

H. The Town Manager may revoke a Temporary Outdoor Use Permit issued pursuant to this ordinance at any time and for any reason.

Section 7. Appeal.

The decision of the Town Manager regarding a Temporary Outdoor Use Permit shall be final unless appealed. Within ten (10) days from the date the Town Manager issues a decision, the applicant requesting the Temporary Outdoor Use Permit may appeal an adverse determination or any conditions or limitations imposed in either permit. Any other interested person not satisfied with the decision may file an appeal within ten (10) days from the date the written decision was rendered. All appeals shall contain a statement of the grounds for the appeal. Appeals shall be made to the Town Council who shall hear the matter and render a determination as soon as reasonably practicable, but in no event later than thirty (30) days after an appeal has been filed. Following the filing of an appeal, the Town Council shall hold a public hearing on the matter. All determinations on an appeal shall address and be based upon the same findings required to be made in the original determination from which the appeal is taken.

Section 8. Enforcement.

A violation of this Ordinance or the Temporary Outdoor Use Permit constitutes an imminent threat to the public health and is hereby declared to be a public nuisance and shall be subject to the nuisance abatement procedures set forth in Chapter 1.2 of the Fairfax Municipal Code.

Section 9. Term.

This Ordinance remains in full force and effect until this Ordinance is rescinded by the Town Council.

Section 10. Urgency Finding and Effective Date.

The Town hereby finds, determines and declares that this ordinance is necessary to the immediate preservation of the public peace, health or safety, because there is an urgent need to slow COVID-19 transmission as much as possible to protect the most vulnerable and to prevent the health care system from being overwhelmed. Therefore, the Town further finds, determines and declares that this Ordinance shall take effect immediately upon adoption by a four-fifths vote of Town Council pursuant to the authority conferred upon it by California Government Code section 36937.

Section 11. Posting.

The Town Clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be posted within fifteen (15) days after its passage, in accordance with Section 36933 of the Government Code.

Section 12. Severability.

If any provision of this Ordinance or its application to any person or circumstance is held to be invalid, such invalidity has no effect on the other provisions or applications of the Ordinance that can be given effect without the invalid provision or application, and to this extent, the provisions of this Ordinance are severable. The Town Council declares that it would have adopted this Ordinance irrespective of the invalidity of any portion thereof.

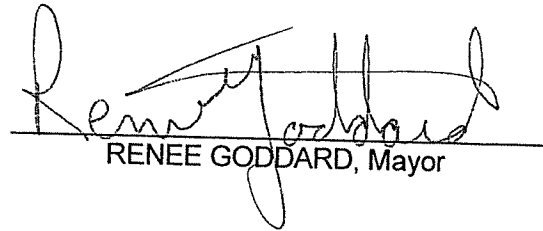
Section 13. CEQA.

This ordinance qualifies for a categorical exemption from the California Environmental Quality Act (CEQA) under Section 15301, Class 1 (Existing Facilities), of the CEQA Guidelines. This exemption applies to a class of projects that are considered not to have a significant effect on the environment. This includes projects that consist of the operation, repair, maintenance, permitting, leasing, licensing or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The proposed project consists of allowing minor site alterations to create temporary ancillary outdoor dining areas or curbside pickup areas

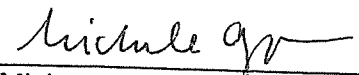
for existing retail businesses and restaurants. The project would not have a significant effect on the environment. The Town Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Marin in accordance with CEQA Guidelines.

PASSED, APPROVED AND ADOPTED by the Town Council of Fairfax, California, at a regular meeting of the Town Council held on the 3rd day of June, 2020 by the following vote:

AYES: ACKERMAN, COLER, GODDARD, HELLMAN, REED
NOES: None
ABSENT: None
ABSTAIN: None


RENEE GODDARD, Mayor

ATTEST:


Michele Gardner, Town Clerk

RESOLUTION 20-19

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF
FAIRFAX AUTHORIZING THE TOWN MANAGER TO ENTER
INTO CERTAIN RIGHT-OF-WAY USE AGREEMENTS FOR
TEMPORARY OUTDOOR USE AND TO CLOSE STREETS FOR
OUTDOOR EVENTS**

WHEREAS, the Town Council has found that the spread of the novel coronavirus (COVID-19), an infectious disease that causes respiratory illness, globally and within the San Francisco Bay Area, could potentially endanger the public health and safety of the residents of the Town of Fairfax and Marin County (the "County"), requiring the Town to take actions to slow the spread of the disease and protect the health of the public; and

WHEREAS, the Town Council proclaimed the existence of a local emergency related to COVID-19 on March 17, 2020; and

WHEREAS, on March 16, 2020, the public health officers of Alameda, Contra Costa, Marin, San Francisco, San Mateo, and Santa Clara Counties announced, with the City of Berkeley, a legal order directing their respective residents to shelter at home as of March 17, 2020, and the County has subsequently superseded this order with successive orders, most recently with a Stay-at-Home order issued on May 15, 2020, which remains in effect until superseded; and

WHEREAS, the existence of the State and County Stay-at-Home orders have drastically impacted local businesses which have been unable to operate unless designated as an essential business. Restaurants and other facilities that prepare and serve food have only been able to operate delivery or carry out service, and retail businesses have had to cease in-person sales; and

WHEREAS, the State Stay-at-Home order is beginning to be relaxed to allow for the gradual reopening of businesses. On April 28, 2020, the Governor announced a four-stage roadmap for relaxing the current Stay-at-Home order to gradually reopen businesses. On May 12, 2020, the Governor issued guidance for the eventual reopening of restaurants in counties certified as meeting state benchmarks for addressing the COVID-19 pandemic. On May 18, 2020, the Governor announced a loosening of rules, giving counties more flexibility in making determinations of how to move through Stage 2, and indicated that Stage 3 could begin as soon as June 2020; and

WHEREAS, despite the ability of business to gradually reopen in accordance with State and local health requirements, businesses are limited in their ability to provide services in their existing facilities due to existing and anticipated social distancing requirements; and

WHEREAS, the Town Council intends to provide assistance to local businesses during this time of public health and economic hardships, by encouraging the patronization of local restaurants and other businesses in a safe manner and therefore desires to establish

standards that allow restaurants and other businesses to temporarily operate in an expanded outdoor areas in the public right-of-way throughout the Town and to give the Town Manager more flexibility to close streets to allow greater pedestrian access.

NOW, THEREFORE BE IT RESOLVED by the Town Council of the Town of Fairfax as follows:

1. Findings. The Town Council finds that the aforementioned recitals are true and correct and are herein incorporated into this Resolution.

2. Temporary Relief. The uses authorized by Sections 3 and 4 below are intended to provide temporary relief to restaurants and other businesses in the form of allowing businesses to use the public right-of-way and other public spaces to display goods or provide additional outdoor dining seating area necessary to serve patrons and meet social distancing requirements and guidelines, consistent with State and County health orders.

3. Right-of-Way Agreements for Temporary Outdoor Use. Restaurants and other businesses may temporarily provide or expand outdoor dining seating or business activity in portions of the public right-of-way, or into other specified public property, in the areas designated by, and at the sole discretion of, the Town Manager or his or her designee, in addition to the outdoor spaces currently permitted for restaurants or other businesses under the Fairfax Municipal Code or an applicable conditional use permit, upon execution of a Right-of-Way Agreement for Temporary Outdoor Use with the Town. Restaurant or business owners or their representatives may apply to the Town for and enter into Right-of-Way Agreements for Temporary Outdoor Use. The Right-of-Way Agreement for Temporary Outdoor Use shall authorize the revocable and limited use of a portion of the public right-of-way or other public property, as specified in the Agreement, subject to compliance with operational and safety provisions provided by the Town Manager or his or her designee, applicable state and County health orders, applicable regulations of the Department of Alcoholic Beverage Control, applicable building and fire codes, and the Americans with Disabilities Act.

The application for the Right-of-Way Agreement for Temporary Outdoor Use shall be prepared by and subject to the approval of the Town Manager or his or her designee as to substance, and by the Town Attorney as to form and legal requirements.

The term of the Right-of-Way Agreement for Temporary Outdoor Use shall be no longer than 120 days, but may be renewed for up to one 60-day period at the sole discretion of the Town Manager or his or her designee. All Right-of-Way Agreements shall expire by November 30, 2020.

4. Closure of Streets for Outdoor Events. Pursuant to Section 21101(e) of the California Vehicle Code, the Town may adopt rules and regulations for highways under its jurisdiction by resolution regarding the temporarily closure of a portion of any street for local special events, and other purposes when, in the opinion of Town, or a public officer or employee that the Town designates by resolution, the closing is necessary for the safety and protection of persons who are to use that portion of the street during the temporary closing.

The Town Council desires that portions of certain streets, including Mono Avenue (i.e., Mono Alley) be used to temporarily allow for open air dining and other business purposes, intended to allow the public to patronize local businesses and dine outdoors. The Town finds and resolves that the closure of such streets is necessary for the protection of persons using such streets for such purposes during designated events. The Town Council authorizes the Town Manager or his or her designee to determine which streets or portions of streets may be temporarily closed, to establish a schedule for outdoor dining/business events, and to order the closure of streets or portions of streets as necessary to allow for such events.

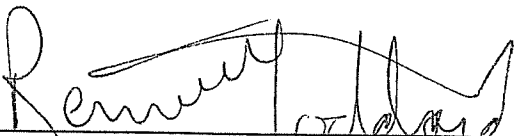
5. CEQA Exemption. The Town Council hereby finds that it can be seen with certainty that there is no possibility that the adoption of this resolution, and the prohibitions established hereby, may have a significant effect on the environment, because the resolution only provides for the temporary uses of developed space. It is therefore not subject to the California Environmental Quality Act review pursuant to Title 14, Chapter 3, Section 15061(b)(3) of the California Code of Regulations. The Town Council further finds that the uses authorized by this Resolution are minor public alterations in the condition of land which do not involve removal of healthy, mature, scenic trees. Therefore, the resolution is exempt from California Environmental Quality Act review pursuant to Title 14, Chapter 3, Section 15304(e) of the California Code of Regulations.

6. Severability. If any provision of this Resolution or its application to any person or circumstance is held to be invalid, such invalidity has no effect on the other provisions or applications of the Resolution that can be given effect without the invalid provision or application, and to this extent, the provisions of this Resolution are severable. The Town Council declares that it would have adopted this Resolution irrespective of the invalidity of any portion thereof.

7. Effective Period. This Resolution shall take effect immediately upon adoption and shall remain valid until rescinded by the Town Council.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Fairfax on the 3rd day of June 2020, by the following vote:

AYES: ACKERMAN, COLER, GODDARD, HELLMAN, REED
NOES: None
ABSENT: None
ABSTAIN: None



RENEE GODDARD, Mayor

ATTEST: 

Michele Gardner, Town Clerk

TEMPORARY USE PERMIT NO. 20-1

Approval of expansion of a restaurant at 1573 Sir Francis Drake Boulevard to include outdoor public seating

WHEREAS, the Town of Fairfax has 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; and

WHEREAS, in response to the COVID-19 pandemic and global health crisis, the President of the United States, the Governor of the State of California (the "Governor"), the County of Marin (the "County"), and the Town of Fairfax (the "Town"), have each proclaimed a state of emergency; and

WHEREAS, on March 19, 2020, the Governor issued Executive Order N-33-20 (the "Stay-at-Home Order"), ordering all State of California (the "State") residents to shelter at home or at their place of residence, except as needed to ensure continuity of operations in essential critical infrastructure sectors and additional sectors as directed by the State Public Health Officer; and

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

WHEREAS, the Governor has announced a "Roadmap to Resilience" plan to reopen the state in four stages and on May 4, 2020, the Governor issued Executive Order N-60-20, announcing that the State would move to a "Stage 2" modification of the Stay-at-Home Order, allowing for businesses identified as having a lower risk of COVID-19 transmission to reopen in accordance with State Public Health guidelines; and

WHEREAS, counties throughout the state are in various stages of reopening businesses in Stage 2, and some counties have begun allowing dine-in service at restaurants; and

WHEREAS, State guidelines may prompt restaurants and businesses to create temporary outdoor seating and/or curbside pickup areas as quickly as possible; and

WHEREAS, despite the ability of business to gradually reopen in accordance with State and local health requirements, businesses are limited in their capacity to provide services in their existing facilities due to existing and anticipated social distancing requirements; and

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

WHEREAS, during this time of public health and economic hardships, the Town encourages the patronization of local restaurants and other businesses in a safe manner via a temporary use permit to allow restaurants and other businesses to temporarily operate in private outdoor spaces; and

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

WHEREAS, the Town, pursuant to the police powers delegated to it by the State Constitution, has the authority to enact laws that promote the public health, safety, and general welfare of its residents; and

WHEREAS, based upon the findings above, the Town Council has found that there is a current and immediate need to allow businesses to use certain outdoor spaces in order to prevent additional harm to small businesses in the Town 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, pursuant to California Government Code section 36937, the Town may adopt an urgency ordinance if it is 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 businesses to expand into adjacent spaces subject to obtaining required permits; and

WHEREAS, the Planning Department has reviewed the plans submitted for the Lodge at 1573 Sir Francis Drake Boulevard and determined that, as conditioned, .

THEREFORE, the Temporary Use Permit (TUP) is approved subject to the following conditions:

1. The TUP shall be conducted in conformance with the plans entitled "Supplemental Diagram" for 1573 Sir Frances Drake, dated 6-1-2020 and herein attached as "Exhibit A", except as further modified by the following conditions.
2. The applicant shall comply with provisions of the May 15, 2020 ORDER OF THE HEALTH OFFICER OF THE COUNTY OF MARIN DIRECTING ALL INDIVIDUALS IN THE COUNTY TO CONTINUE SHELTERING AT THEIR PLACE OF RESIDENCE EXCEPT FOR IDENTIFIED NEEDS AND ACTIVITIES, IN COMPLIANCE WITH SPECIFIED REQUIREMENTS; CONTINUING TO EXEMPT HOMELESS INDIVIDUALS FROM THE ORDER BUT URGING GOVERNMENT AGENCIES TO PROVIDE THEM SHELTER; REQUIRING ALL BUSINESSES AND RECREATION FACILITIES THAT ARE ALLOWED TO OPERATE TO IMPLEMENT SOCIAL DISTANCING, FACE COVERING, AND

CLEANING PROTOCOLS; AND DIRECTING ALL BUSINESSES, FACILITY OPERATORS, AND GOVERNMENTAL AGENCIES TO CONTINUE THE TEMPORARY CLOSURE OF ALL OTHER OPERATIONS NOT ALLOWED UNDER THIS ORDER ("Shelter in Place Order"), and any subsequent Health Order issued by the Health Officer of the County of Marin ("Subsequent Order").

3. The applicant shall further comply with the following, as applicable:
 - a. the June 1, 2020 INDUSTRY-SPECIFIC GUIDANCE OF THE HEALTH OFFICER OF THE COUNTY OF MARIN REGARDING REQUIRED BEST PRACTICES FOR RESTAURANTS ALLOWING SEATED OUTDOOR DINING issued pursuant to the May 15, 2020 Shelter in Place Order and any subsequent updates or guidelines issued by the Health Officer of the County of Marin; and/or
 - b. Any applicable subsequent updates or guidelines issued by the Health Officer of the County of Marin ("Subsequent Guidelines").
4. The applicant shall incorporate and address all applicable Best Practices included in the applicable Guidelines.
5. The applicant shall operate approved outdoor activities in a manner that provides an accessible path of travel allowed as part of approved activities,
6. Outside lighting shall be the minimum necessary for safe function of outdoor seating and shall be shielded from direct offside illumination.
7. The parking spaces shown on the "Supplemental Diagram" as redesignated for outdoor seating may be so used for the duration of the TUP, and shall not be subject to any requirements involving vehicular or parking outside of those as may be determined to be necessary for public safety.
8. Hours of operation involving use of outside seating areas shall be from 9 am. to 10 pm. on Fridays and Saturdays, and 9 am. to 9 pm. on other nights.
9. The premises shall be maintained in a neat and attractive manner at all times.
10. The Town of Fairfax reserves the right, at any time and in its sole discretion, to revoke or modify the TUP to require removal or modification of any or all uses, improvements, structures, and/or materials used to facilitate approved outdoor activities authorized by this TUP.
11. 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.

12. This TUP shall run and be valid for 120 days, or until October 3, 2020, and thereafter shall be null and void until and unless extended by the Town. A determination on whether or not to extend the TUP shall be at the sole discretion of the Town.
13. Any additional changes proposed to the outdoor seating beyond the scope of this approval shall be applied for in writing prior and be subject to review by the Town. Any changes shall be subject to the approval of the Town in writing prior to being made.
14. 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.
15. The applicants shall list on their liability insurance the Town of Fairfax as additionally insured.
16. The applicants must comply with all conditions imposed by an outside agency unless that agency waives its conditions in a written letter to the Department of Planning and Building Services.

Ben Berto, Director of Planning and Building Services

June 5, 2020

Date

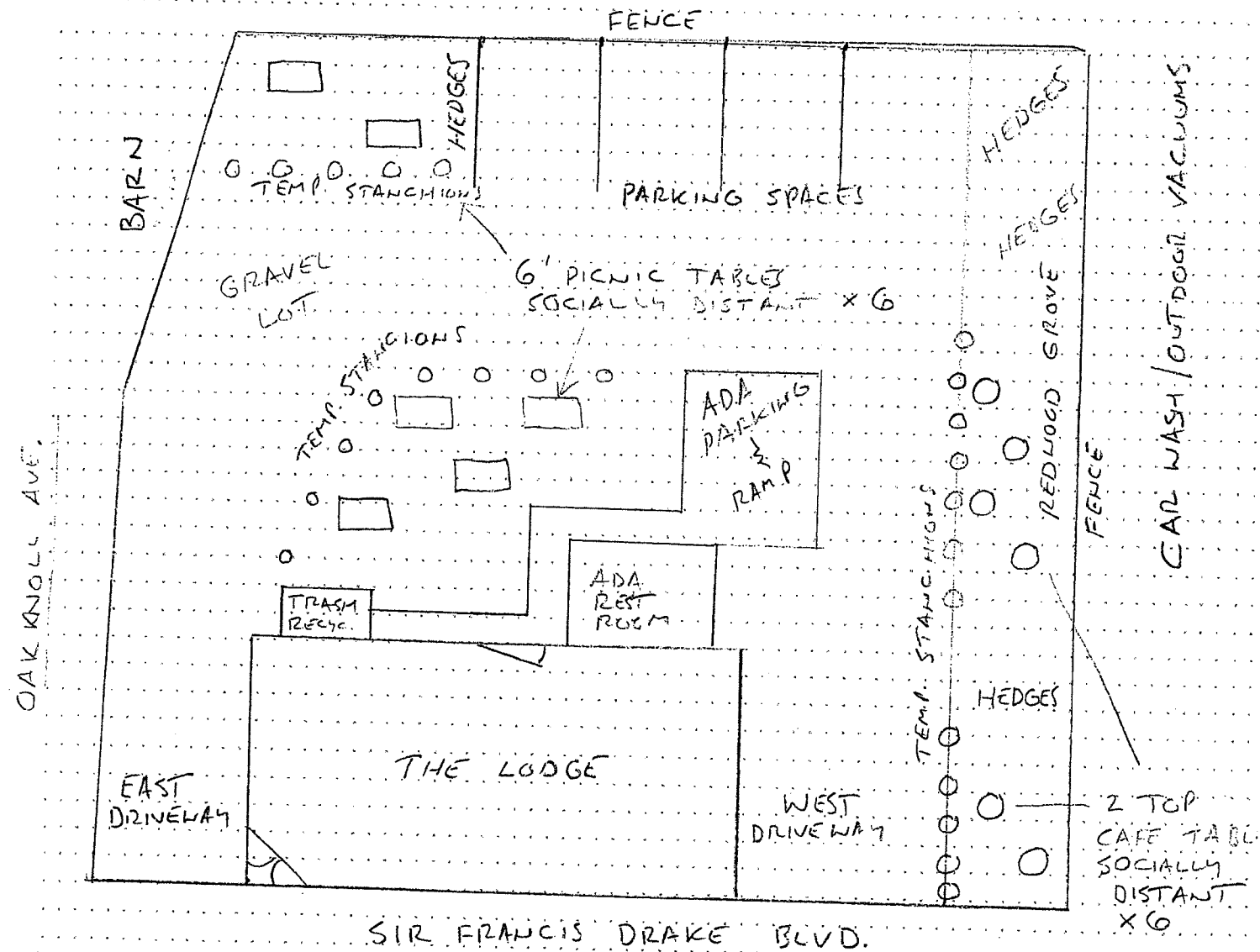
SUPPLEMENTAL DIAGRAM

Instructions to Applicant:

Draw a sketch of the area on which the licensed premises is or will be located. Show adjacent structures and nearest cross streets. *If this is an event for a daily license, catering authorization, event authorization or miscellaneous use, show the area where sales and consumption of alcoholic beverages will occur. Post a copy of this diagram with Daily License, Catering Authorization or Event Authorization where the event is held. Sales and consumption of alcoholic beverages must be confined to the area designated in the diagram and supervised to prevent violations of the Alcoholic Beverage Control Act.*

1. APPLICANT NAME (Last, first, middle) Lori Lynn Bruckner	2. LICENSE TYPE 41
3. PREMISES ADDRESS (Street number and name, city, zip code) 1573 Sir Frances Drake Blvd, CA 94930	4. NEAREST CROSS STREET

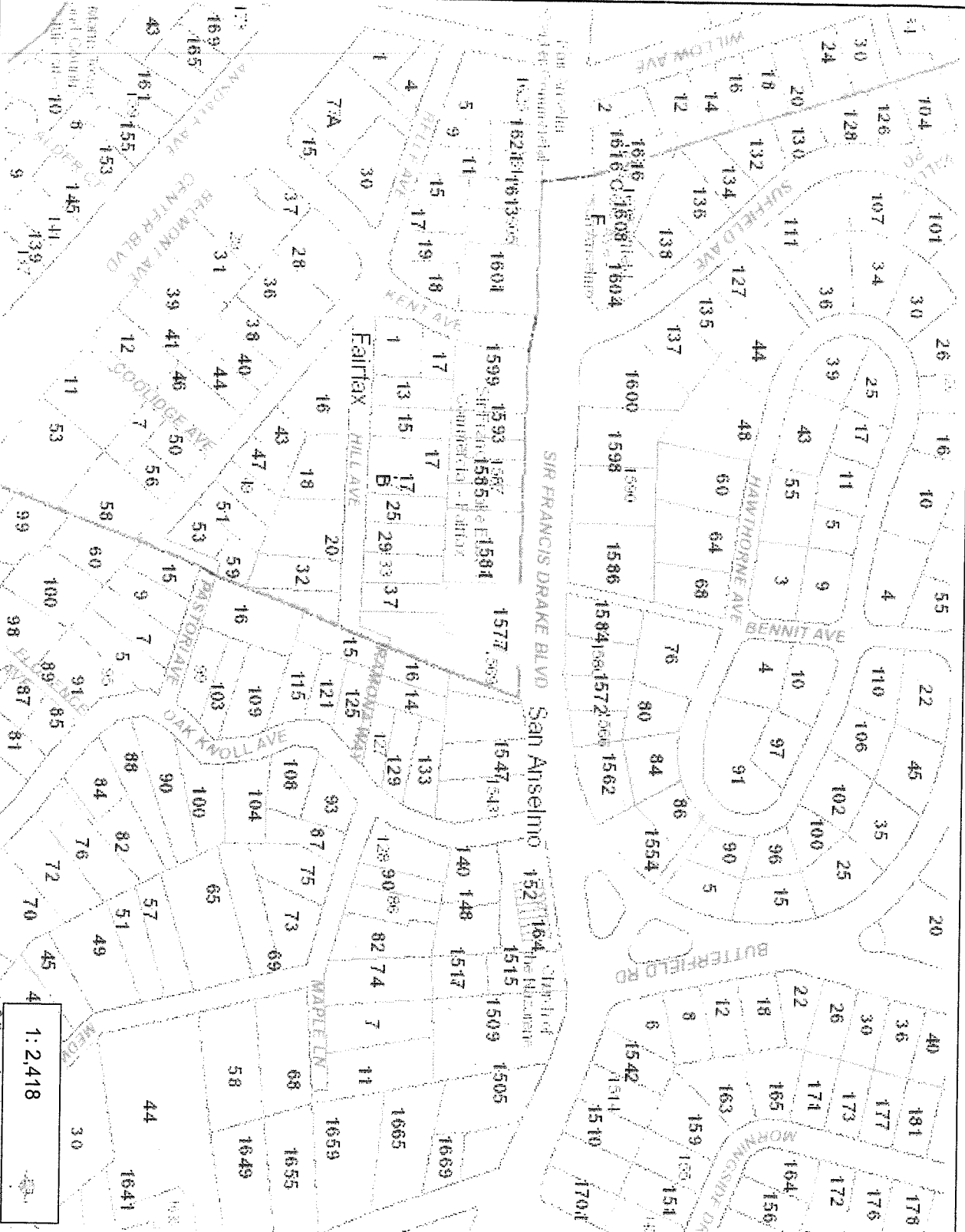
DIAGRAM



I have read the above instructions and I declare under penalty of perjury that the above diagram is true and correct.

APPLICANT SIGNATURE <i>[Signature]</i>	DATE SIGNED 6-1-2020
FOR ABC USE ONLY	
CERTIFIED CORRECT (Signature)	PRINTED NAME
	INSPECTION DATE

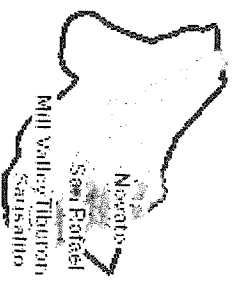
Map Report



NAD_1983_HARN_StatePlane_California_III_FIPS_0403_Feet
 © Latitude Geographics Group Ltd

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THIS MAP IS NOT TO BE USED FOR NAVIGATION



- Legend**
- Parcel Note
 - easement
 - Address centerline
 - Parcel
 - Condominium Common Area
 - Mobile Home Pad
 - City
 - Community
 - Marin County Legal Boundary
 - Other Bay Area County
 - Stream - Perennial (NHD)

Notes

Map Report



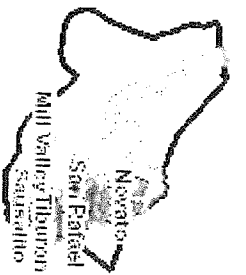
134.3 0 67.16 134.3 Feet

NAD_1983_HARN_StatePlane_California_III_FIPS_0403_Feet
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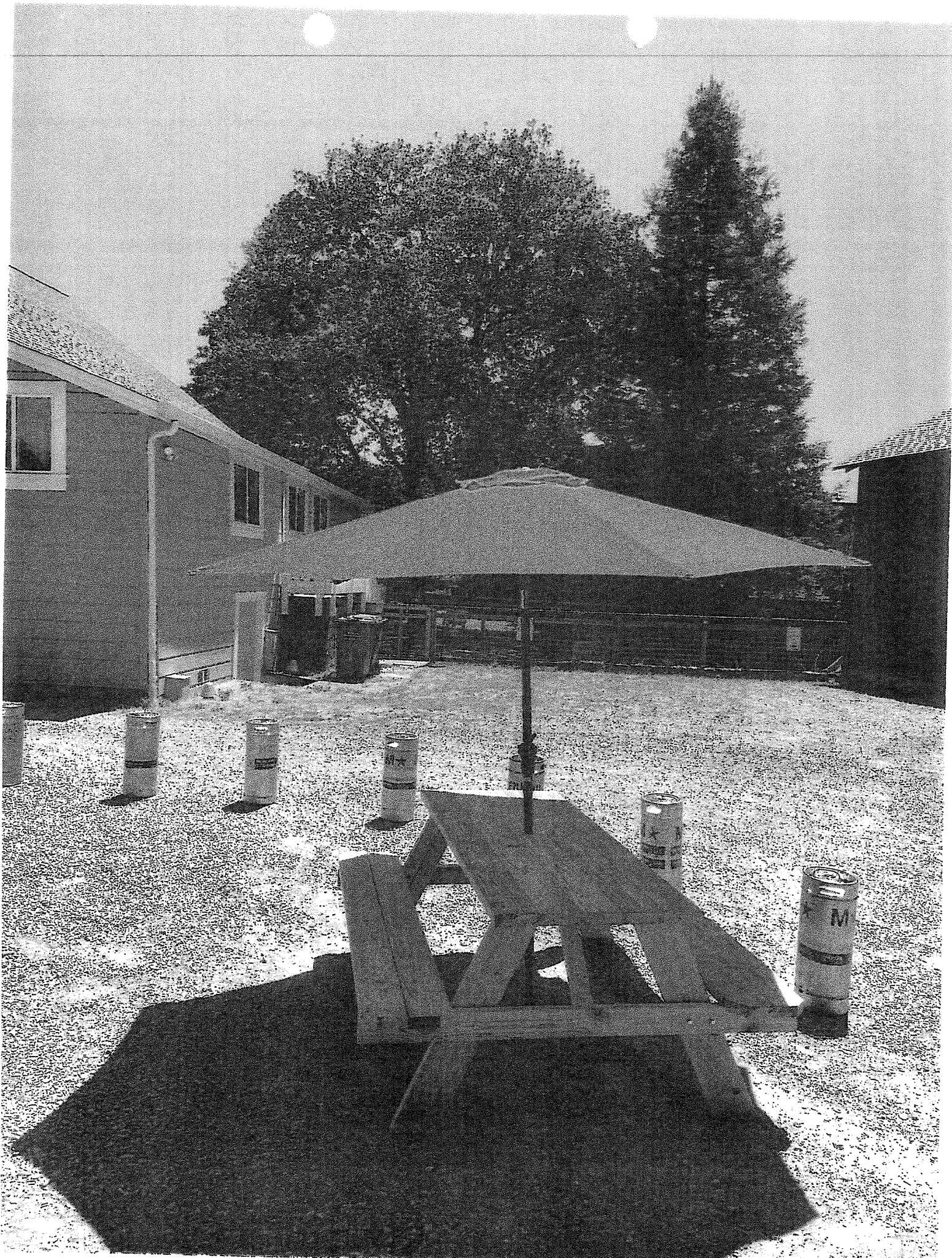
1 : 806



- Legend**
- Parcel Note
 - easement
 - centerline
 - Address
 - Parcel
 - Condominium Common Area
 - Mobile Home Pad
 - City
 - Community
 - Marin County Legal Boundary
 - Other Bay Area County
 - Stream - Perennial (NHD)

Notes







Department of Alcoholic Beverage Control

SUPPLEMENTAL DIAGRAM

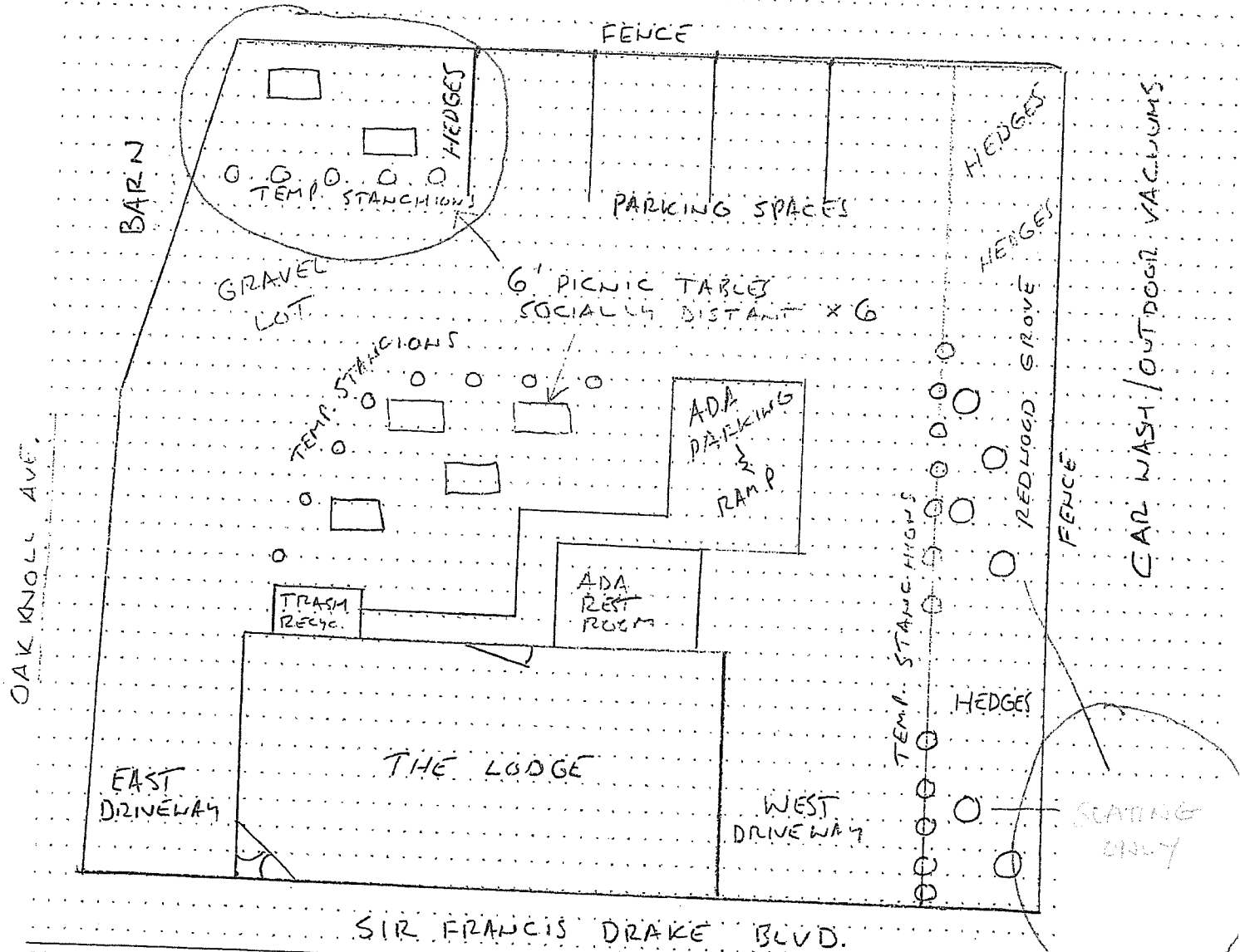
State of California
Gavin Newsom, Governor

Instructions to Applicant:

Draw a sketch of the area on which the licensed premises is or will be located. Show adjacent structures and nearest cross streets. If this is an event for a daily license, catering authorization, event authorization or miscellaneous use, show the area where sales and consumption of alcoholic beverages will occur. Post a copy of this diagram with Daily License, Catering Authorization or Event Authorization where the event is held. Sales and consumption of alcoholic beverages must be confined to the area designated in the diagram and supervised to prevent violations of the Alcoholic Beverage Control Act.

1. APPLICANT NAME (Last, first, middle) Lori Lynn Bruckner	2. LICENSE TYPE 41
3. PREMISES ADDRESS (Street number and name, city, zip code) 1573 Sir Frances Drake Blvd, CA 94930	4. NEAREST CROSS STREET

DIAGRAM



I have read the above instructions and I declare under penalty of perjury that the above diagram is true and correct.

APPLICANT SIGNATURE <i>[Signature]</i>	DATE SIGNED 6-1-2020
CERTIFIED CORRECT (Signature)	FOR ABC USE ONLY
PRINTED NAME	INSPECTION DATE

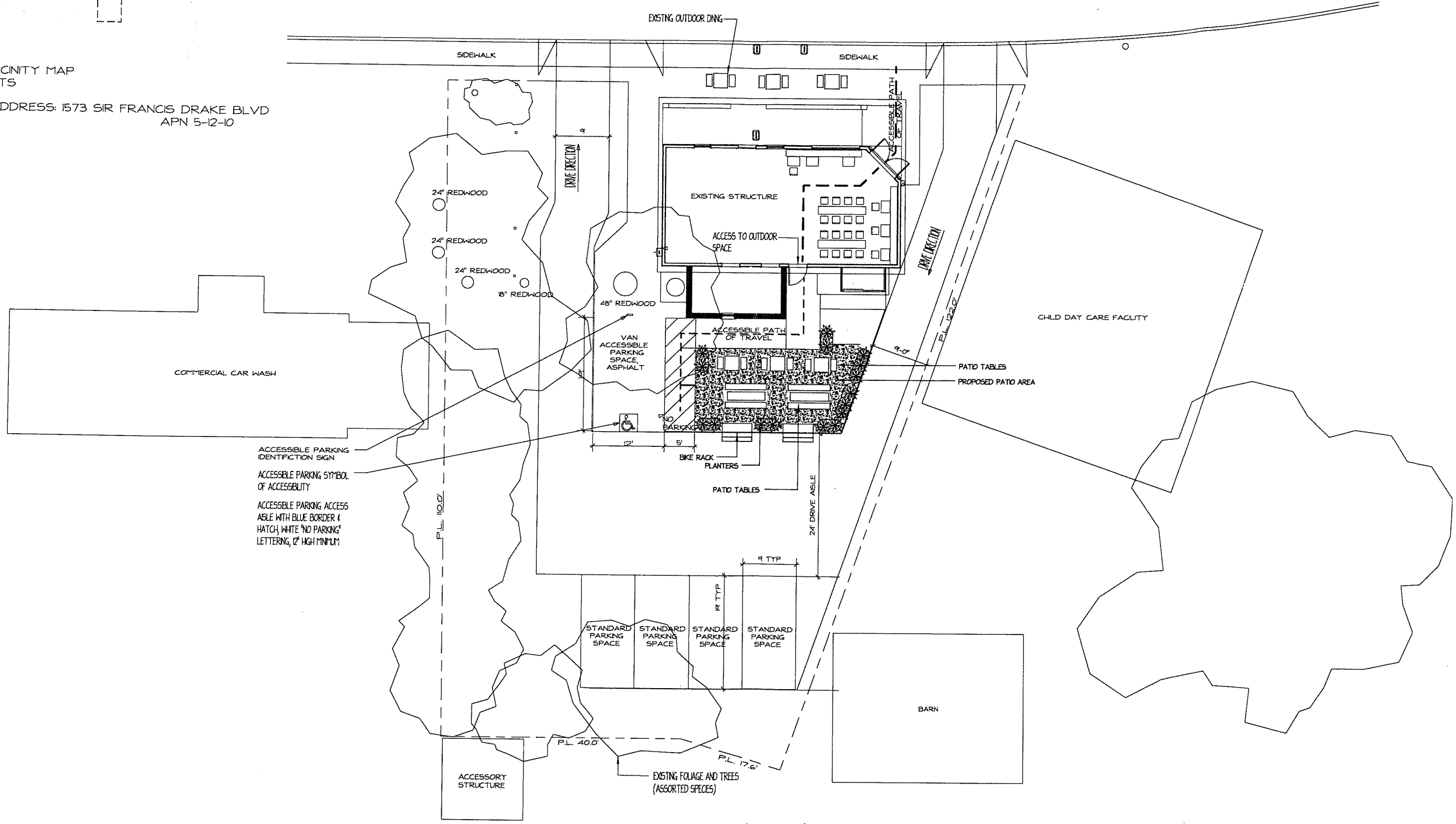
NEAREST CROSS STREET: SUFFIELD AVENUE

SIR FRANCIS DRAKE BOULEVARD

NEAREST CROSS STREET: OAK KNOLL AVENUE

VICINITY MAP
NTS

ADDRESS: 1573 SIR FRANCIS DRAKE BLVD
APN 5-12-10



Outdoor Patio

DATE: MAY 12, 2020

The Lodge Outdoor Patio Plan
1573 Sir Francis Drake Blvd, Fairfax CA 94930

FAIRFAX PLANNING COMMISSION MEETING MINUTES
VIA TELECONFERENCE DUE TO COVID-19
THURSDAY, JUNE 18, 2020

Call to Order/Roll Call:

Chair Green called the meeting to order at 7:00 p.m.

Commissioners Present: Norma Fragoso
Esther Gonzalez-Parber
Philip Green (Chair)
Laura Kehrlein
Mimi Newton
Michele Rodriguez
Cindy Swift

Staff Present: Ben Berto, Planning Director
Linda Neal, Principal Planner

Planning Director Berto noted that individuals wishing to address the Commission should use the "raise your hand" function. The Commission will be flexible in terms of allowing individuals to speak.

APPROVAL OF AGENDA

M/s, Fragoso/Newton, motion to approve the agenda.
AYES: Fragoso, Gonzalez-Parber, Kehrlein, Newton, Rodriguez, Swift, Chair Green
(Through a roll call vote).

PUBLIC COMMENTS ON NON-AGENDA ITEMS

There were no comments.

CONSENT CALENDAR

There were no Consent Calendar items.

PUBLIC HEARING ITEMS

- 1. 1573 Sir Francis Drake Boulevard; Application #20-5
Request for a Use Permit for an outdoor seating area adjacent to an existing restaurant;
Assessor's Parcel No. 002-213-10; Highway Commercial CH Zone; Lori and Brian
Bruckner, applicants/owners; CEQA categorically exempt per Section 15301(a) and
15303(e).**

Principal Planner Neal presented the staff report. She summarized the recommended additional Conditions of Approval listed on page 5 of the staff report.

Commissioner Newton asked staff if they have a recommendation about the timing of the signage. Principal Planner Neal stated staff did not set any time limits to legalize or remove the signage due

to the extra hardships caused by the pandemic but the applicant has indicated he would file an application for an Exception to the Sign Ordinance. The Commission could designate a time limit within which the application must be submitted.

Commissioner Newton asked if the revision to the proposed seating for the Redwood grove area was consistent with the prior proposal. Principal Planner Neal stated the plan was for more substantial chairs. There are no tables proposed for the Redwood grove- just comfortable chairs.

Commissioner Fragoso stated she sees three different layouts and is not clear about what is being proposed. Principal Planner Neal explained the different drawings. The large set with the graph paper was what the applicants thought they wanted to do for the Permanent Use Permit. They discovered things that might work better while operating under the Temporary Use Permit. They want to add the two picnic tables back by the barn and some chairs in the Redwood grove. The other plan is the original site plan before the Lodge opened.

Commissioner Swift asked about the application process for a Temporary Use Permit. She noted the operating hours were different for the Temporary Use Permit (TUP) vs. the Conditional Use Permit (CUP). She asked if the applicant needs ABC approval before the TUP is issued. Planning Director Berto explained the TUP process. He noted staff wanted to speed up the process for the benefit of businesses and things that are "missed" could be addressed in the application for the CUP. Principal Planner Neal stated they are not staying open outside past 8:00 p.m.

Commissioner Swift referred to the large set of plans and the asked about the plans for circulation and whether it made sense to delete the entrances on both sides of the building and create a "loop". Principal Planner Neal agreed- the entrance should be on the east side with the exit on the west side.

Commissioner Kehrlein asked for clarification about the front yard tables. Principal Planner Neal stated the Town of San Anselmo approved the placement of three tables on the Sir Francis Drake Boulevard side of the rock wall which is within the San Anselmo city limits. The application for the CUP shifts the tables into Fairfax under the roof overhang of the building. Commissioner Kehrlein asked about the rope barricade. Principal Planner Neal stated the applicants could answer that question.

Chair Green referred to page 2 of the Resolution and stated the operating hours were not clear. He suggested using dates instead of seasons.

Chair Green asked if staff was supportive of the use of the kegs/canisters. Principal Planner Neal stated the kegs were used for the TUP. They are proposing planters and bicycle racks for the CUP. She was initially concerned about the kegs but is not concerned about the planters. Chair Green stated the kegs could be knocked over very easily.

Commissioner Rodriguez asked about the land use issues surrounding the proximity to a day care and the fence. Principal Planner Neal stated a number of Commissioners had previously raised the issue of a fence. The owners of the day care center and the Lodge are in discussions.

Commissioner Fragoso asked if the neighbors were concerned about parking near the barn. Principal Planner Neal stated the neighbors are concerned that all the improvements and uses take place on the applicant's property. Commissioner Fragoso stated the Supplemental Diagram dated June 1, 2020 has distorted dimensions that cannot be verified on the larger set of plans. There is not enough space for the two tables unless they are taking up a parking space. She asked about the thick black wall between the main building and the proposed permanent patio area. Principal Planner Neal stated that was the addition originally proposed.

Chair Green opened the Public Hearing.

Mr. Brian Buckner, applicant, made the following comments:

- The kegs are temporary and will be replaced by a more permanent planters that will provide a substantial barrier between the guests and the parking lot.
- Everything going on now with respect to the onsite dining situation was done under the Temporary Use Permit.
- They are trying to play catch-up despite the substantial financial losses.
- There is an easement between the two properties allowing the next door residents to use the driveway to access parking spaces.
- They have approval from the ABC to serve wine and beer outdoors.
- The rope barrier is an ABC requirement.
- They will be open until 8:00 p.m. during daylight savings time and then reduce the hours with the reduction in daylight.

Commissioner Newton asked how soon they would get approval of the signage. Mr. Buckner stated he would do it immediately. Commissioner Newton asked for a description of the seating in the Redwood grove. Mr. Buckner stated they were three Adirondack chairs and one rocking chair.

Chair Green asked if the primary clientele would be bike riders. Mr. Buckner stated most of the customers are families who walk to the restaurant and bicyclists that live close by. They do not expect a lot of cars since parking is limited.

Commissioner Swift asked if the parking in the back on the east side was for the day care staff. Mr. Buckner stated "yes". Commissioner Swift asked if the rope barrier would remain even if the sidewalk tables are moved back onto the property under the overhanging roof. Mr. Buckner stated "yes". Commissioner Swift asked if there were other outside areas, aside from the Redwood grove, that could be used for seating. Mr. Buckner stated "yes"- there was a lot of space on the west side near the Privets.

Commissioner Fragoso asked if they were moving forward with the permanent seating arrangement in the larger plan. Mr. Buckner stated "yes". She asked if they would be willing to remove the kegs and install larger planters along that turnaround. Mr. Buckner stated "yes".

Commissioner Gonzalez-Parber asked about the Traffic Impact Permit (TIP) requirements given the seating count of fifty eight. Principal Planner Neal stated reuse of an existing building or expansion of a building triggers the TIP permit- not adding seats outside. Commissioner Gonzalez-Parber asked about the existing parking. Principal Planner Neal stated it is shown on the site plan. The only thing that has been relocated was the accessible parking space. Commissioner Gonzalez-Parber asked if there would be any parking conflicts with the day care employees and the Lodge customers. Mr. Buckner stated "no".

Commissioner Swift asked if the fence between the day care and the Lodge was locked. Mr. Buckner stated he was not sure but there is a gate. He could put up some signs.

Commissioner Newton asked if they plan to use planters where the temporary stanchions are shown on the ABC Diagram. Mr. Buckner stated "yes". Commissioner Newton referred to the rope barricade and asked if the sidewalk would continue to be ADA compliant. Mr. Buckner stated "yes".

Commissioner Fragoso asked about the letter from two of the neighbors on Ramona Way expressing a number of concerns. She wanted a Condition of Approval that would guarantee there will be a discussion. Principal Planner Neal stated there was no guarantee that there will be a satisfactory resolution and they seemed to be at an impasse.

Mr. Jim Donohoe made the following comments:

- He has some major reservations about the outdoor space during the COVID-19 emergency and the application for permanency.
- This application should be postponed until after the pandemic.
- He objected to the noise from the "outdoor beer garden", touch football games in the day care center parking area, and lack of privacy;
- He has discussed modifications to the plans with the applicants including: 1) Moving the outdoor area closer to the car wash; 2) Construction of a sound wall; 3) No play area for the kids while the parents are socializing; 4) Day care should lock its facilities during non-operational hours; 5) Kids should not play in the parking lot of the Lodge; 6) People should not park on the east side of the day care and go into the bar.
- He displayed a video.

Mr. Thad Logan, Sleepy Hollow, made the following comments:

- He supports the patio at the Lodge- it would be a huge amenity for the business.

Principal Planner Neal read an email from Mr. Brian Kelly stating the Lodge is a community friendly establishment in this underserved area of Fairfax. Outdoor dining would be a net positive.

Principal Planner Neal read an email from Ms. Whitney Ball encouraging the Commission to approve the Use Permit application for outdoor dining at the Lodge.

Principal Planner Neal read an email from Mr. Bruce Gaudie expressing concern about the opening and closing hours for the indoor and outdoor areas once the COVID ban is lifted, whether or not there are a sufficient number of parking spaces, the exterior lighting, and allowing music that is not acoustical.

Principal Planner Neal read an email from Mr. Mark Waltering supporting the Use Permit and allowing the property to be utilized in its historic sense.

Principal Planner Neal read an email from Mr. Chris Gerner in support of outdoor dining becoming permanent at the Lodge.

Principal Planner Neal read an email from Vince and Tracy Genovese supporting the application for outdoor seating. This is a community hub and a gathering place for families and friends

Commissioner Newton asked Mr. Buckner if he would submit a different plan that incorporated different planters and moving the tables by the barn. Mr. Buckner stated there were mitigating steps that could be taken to minimize the noise. He could put some tables by the fence that abuts the car wash. He is not opposed to trying to make things better for everybody.

Chair Green suggested some signage by the barn asking people to keep the noise down. Mr. Buckner stated they are not trying to create a "loud beer garden" or a "never ending party".

Chair Green closed the Public Hearing.

Commissioner Newton provided the following comment:

- She appreciated the efforts to re-open.
- She suggested continuing the application for one month given the discussions that the applicant is having with the neighbors.
- She would like to see a revised drawing.
- The applicant would continue to operate under the Temporary Use Permit.

Commissioner Swift provided the following comment:

- They are still trying to work out the table configuration
- They can operate under the TUP.
- She is concerned with the foot traffic and seating in the Redwood grove- it could impact the trees. If they cannot find alternative seating then she would like to see 6"-12" of mulch.
- The parking is in the back of the lot which is overgrown with bushes This area should be cleaned up and identified as parking.
- The parking flow should have the entrance coming in from the east and the exit going out the west.
- She saw no reason to require native and drought tolerant plants in the planter boxes.

Commissioner Kehrlein provided the following comment:

- She is concerned about the back up space provided and stated 26 feet would be better
- She is glad the sidewalk tables are being incorporated next to the building.
- They might need the entire summer to figure out what works best for the business and the neighbors.
- She is concerned about the tables that are next to the barn and the proximity to the residential uses.
- She asked if the rope barricade was necessary since the sidewalk tables are being moved.
- She is concerned about the signage in the front of the building- it is cluttered and difficult to read.
- She supports a continuance.

Commissioner Gonzalez-Parber provided the following comment:

- She thanked the applicants for "hanging in there". It is a great idea.
- She agreed with Commissioner Kehrlein- a 24 foot drive isle is a bit tight.
- The business is an asset to the community and she encouraged the applicants to come up with a solution that works for everybody.
- The TUP gives the applicant an opportunity to experiment.
- She would like to see a more well thought-out buffer given the two, conflicted uses.
- She supports a continuance.

Commissioner Fragoso provided the following comment:

- She loves the outdoor seating idea especially in that Redwood grove.
- She is not supportive of putting chairs on the sidewalk. The sidewalks would no longer be ADA compliant,
- The tables by the barn are not appropriate.
- She is concerned that the kegs are not safe.
- The different sets of plans were confusing.
- They need to know where things are going.
- She appreciated the applicant's discussions with the neighbors.
- She is in favor of keeping the three tables and chairs within the concrete wall.
- She is concerned about the rope and the wooden bollards. It does not allow for full ADA compliance.
- She did not want to see the sign application come back with all the different blade signs.
- She was opposed to any kind of music outdoors- this is a quagmire in the community.
- She wants to see this move forward.

Chair Green provided the following comment:

- He referred to the Resolution, Condition #2, and asked for a more explicit summary of the operating hours.
- He referred to the Resolution, Condition #3, and stated it should read: "The applicants... materials, *approved* signage...".
- This is a terrific project and he is glad they are open for business!

- He also had a problem with the different sets of plans.
- He supported a continuation.

Mr. Buckner made the following comment:

- He is disappointed they could not get this done tonight.
- It seems like requesting to put a few tables out back is a "small ask".

Principal Planner Neal stated staff would need the revised plans at least ten days before the hearing.

M/s, Newton/Fragoso, motion to continue Application #20-5, 1573 Sir Francis Drake Boulevard, off calendar, to enable the applicant to work with staff on addressing the issues brought up tonight.

AYES: Fragoso, Kehrlein, Gonzalez-Parber, Newton, Rodriguez, Swift

NOES: Rodriguez, Chair Green

(Through a roll call vote).

Commissioner Rodriguez stated she thought the application could be approved tonight by the addition of Conditions of Approval.

Chair Green stated he voted "no" because the matters were not that complicated and could have been addressed tonight.

2. Consideration/recommendation to the Town Council of a digitized version of the Ridgeline Scenic Corridor Map (Visual Resources Map No. 9)

Planning Director Berto presented the staff report. He stated no map by this name is to be found in the Zoning Ordinance or the General Plan. There is a "Map of Visual Resources" (Figure S-1) contained in the General Plan and staff believes it should be replaced.

Commissioner Rodriguez commended staff on making this geospatial information available to developers, home owners, etc. She asked if they were deleting the General Plan Map and only opening up the Zoning Ordinance. Planning Director Berto stated the General Plan Map would remain but the Zoning Ordinance would need to be clarified. Commissioner Rodriguez referred to Attachment "B" and asked if the yellow line delineated the Town limits or the Town's Sphere of Influence. Planning Director Berto stated it depicted the Town limits.

Commissioner Rodriguez asked what would trigger application of the Ridgeline Development Ordinance. Planning Director Berto stated this map would eliminate uncertainty about the applicability of the ridgeline development regulations. It almost functions as an Overlay Zone since the regulations apply to areas referred to in the map. Commissioner Rodriguez asked how someone would know to refer to the map and the Zoning Code. Planning Director Berto stated staff would add this as a layer to Marin Map which is available to residents.

Commissioner Newton stated she found a reference to the Visual Resources Map No. 9 (OS-1) along with twelve others, in the 1974 General Plan Open Space Element. She asked if these twelve maps correlate with the hard copy maps she delivered to staff. The visual resources discussed in the 1974 Open Space and Conservation Elements extend beyond the Town's boundaries. There is a provision in the Land Use Element that requires an updating of the OS-1 Map by the Open Space Committee. She asked if this has been coordinated by staff. Principal Planner Neal asked if Map No. 9 is called "Suitability for Open Space" and not "Visual Resources Map". Commissioner Newton stated it has the same name that is in the code. Planning Director Berto stated the challenge with the 1974 General Plan is that the connection between references and actual diagrammatic documents was not clear. He noted the ridgeline scenic corridors are clearly contained in the Visual Resources Map.