



TOWN OF FAIRFAX

STAFF REPORT

September 2, 2020

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager
Linda Neal, Principal Planner

SUBJECT: Appeal of Planning Commission approval of a Conditional Use Permit for outdoor dining for the Lodge Restaurant at 1573 Sir Francis Drake Boulevard.

RECOMMENDATION

1. Conduct the public hearing.
2. Uphold the July 16, 2020 decision of the Planning Commission and adopt a resolution denying the appeal.

APPEAL

The appellant is appealing the above Planning Commission action for the following reasons:

1. He was unable to complete his presentation at the July 16, 2020 Commission meeting due to technical difficulties.
2. He wants the table behind the building removed from the approved site plan (Table #1 adjacent to the rear building access ramp and accessible parking space surrounded by the fencing).
3. He wants condition # 19 in the Planning Commission resolution of approval, Exhibit A to the attached Town Council resolution, to be removed or modified. Condition # 19 reads as follows:

The Use Permit shall be scheduled for review by the Planning Commission for revision only if at least 2 complaints are received by unrelated persons residing at different addresses within a 1 month period (note that this is a standard condition used for other commercial businesses with use permits to operate outdoors adjacent to residential zone districts).

4. He would like the signs posted on the sawhorses and the sawhorses identifying the property line between the Lodge and the Caterpillar Academy to be permanent for the life of the Conditional Use Permit.

DISCUSSION

After holding public hearings on an application from the Lodge Restaurant for a Conditional Use Permit for outdoor dining at their June 18th and July 16th, 2020 meetings, the Planning Commission granted the Conditional Use Permit subject to the conditions contained in the attached Resolution No. 2020-04 (Exhibit A to the Council Resolution).

Prior to the approval, the business owners in response to comments at the June 18, 2020 meeting from both the Commission and the public, revised the proposed plan to relocate away from the rear of the building all the outdoor dining tables except one. Most of the tables were placed on the far west side of the site adjacent to the car wash, and towards the front of the site along Sir Francis Drake Boulevard (Attachment B – Outdoor seating site plan). The relocation was to minimize the impacts of the noise generated by outdoor diners on adjacent residential properties to the east and south of the property. The owners also agreed, after meeting with the appellant, to erect a fence around the remaining one table (Table #1) proposed at the rear of the restaurant building to further decrease noise impact on the appellant's property. Table #1 is immediately adjacent to the ADA compliant parking space and the rear access path into the building within the fenced area, and provides one accessible outdoor dining table. In addition to building a fence, the owners agreed to post signs on sawhorses between their property and the property currently in use by the Caterpillar Academy to the east, asking patrons to be respectful of the neighbors, stay on the Lodge property and keep the outdoor noise levels down.

It is also noted that the business hours are from 9 AM to 8 PM on Tuesdays through Thursdays and Sundays and from 9 AM to 9 PM on Fridays and Saturdays between March 1st and November 1st and from 9 AM to 5 PM Tuesdays through Sundays the rest of the year (the restaurant is closed on Mondays).

In addition to the standard Conditional Use Permit Conditions, the Commission included the following specific conditions in their resolution approving the Conditional Use Permit:

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.

For a complete list of the conditions of approval see attached Planning Commission Resolution No. 2020-04 (Exhibit A – attached to Council Resolution). The Town Council can discuss the other conditions of approval because the public hearing is a de novo hearing but only condition #19 is a subject of the appeal.

For additional information see the Commission June 18, 2020 and July 16, 2020 meeting staff reports, attachments and meeting minutes (Attachment D).

FISCAL IMPACT

n/a

ATTACHMENTS

- A. Appeal
- B. Site Plan of outdoor seating plan
- C. Vicinity map showing location of appellant’s property in relation to 1573 Sir Francis Drake Blvd.
- D. June 18, 2020 and July 16, 2020 Planning Commission staff reports and minutes
- E. Letters of concern
- F. Letters of support
- G. Proposed Resolution Denying Appeal (with Exhibit A: PC Reso No. 2020-04)