



TOWN OF FAIRFAX

STAFF REPORT

October 28, 2020

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager

SUBJECT: Receive report on the Town's Business Recovery Programs and provide direction on the extension of the terms of temporary encroachment permits and temporary outdoor use permits beyond the November 30, 2020 expiration date and uses of other public spaces

CONTINUED FROM THE OCTOBER 7th COUNCIL MEETING

RECOMMENDATION

Receive report on the Town's Business Recovery Programs and provide direction on the potential extension of the terms of temporary encroachment permits (TEP's) and temporary outdoor use permits (TUP's) beyond the November 30, 2020 expiration date and uses of other public spaces.

DISCUSSION

In June 2020, the Council took actions to allow for outdoor dining and business uses. Specifically, the Council:

- 1) adopted a resolution allowing staff to issue TEP's to allow outdoor dining and business uses in the public right-of-way such as parks and parking spaces; and
- 2) adopted an Urgency Ordinance allowing TUP's which permit outdoor dining in private spaces such as parking lots; and
- 3) granted staff authority to close portions of the Mono Parking lot and Mono Alley for outdoor seating.

There is no fee for either the TEP or TUP. Both the TEP's and TUP's are good for an initial 120-day period with the ability of staff to issue a one-time 60-day extension. To date, staff has issued 6 TUP's and 9 TEP's (see below). All permits are active under the initial 120-day period and staff anticipates extending them for another 60 days. However, both TEP's and TUP's cannot be extended past November 30, 2020.

Several businesses have inquired about the possibility of the Town extending the TEP and TUP deadlines beyond November 30, 2020. The businesses would like to know so they can invest in improvements (e.g., coverings) to better weatherize the outdoor dining areas for the fall and winter months. Many of the TEP improvements consist of platforms with railings in the public parking spaces. Similarly, TUP improvements consist of tables and umbrellas in private outdoor areas. Several other Marin communities will also be considering the extension of deadlines for the various uses of outdoor public spaces. Other communities have open-ended deadlines for the use of outdoor public and private spaces.

Given the uncertainty of COVID-19 regarding vaccines, limits on indoor uses, and the possibility of a resurgence, *staff is recommending the Town extend the use of TEP's and TUP's through May 31, 2021 (approx. end of Spring 2021)*. This would give businesses the ability to make investment decisions based on the extended expiration date.

It should be noted that at least one downtown business has expressed an interest in making its use of the public parking spaces permanent. Staff believes it would be premature for the Council to consider such requests at this time. *We recommend the Council not consider the matter of making the outdoor uses of parking spaces permanent until after May 2021*. Hopefully, the Council would have more information on the prognosis of COVID-19 and the on-going impact on businesses and residents. While businesses may make such requests prior to May 2021, staff would inform them of the Council's direction.

Should the Council wish to consider the extensions of TEP's through May 31, 2021, staff would return with a resolution to extend the TEP's for consideration at the November 4th Council meeting. The details of the proposed extension would be presented at the November meeting.

Should the Council wish to consider the extensions of TUP's through May 31, 2021, we have scheduled a special meeting agenda for tonight to keep that option available to the Town Council. Specifically, the extension of the TUP's must be done by regular ordinance and, not by an urgency ordinance. Ordinances can be introduced (first reading) at special meetings, but the adoption (second reading) of ordinances can only occur at regular meetings. In order to prevent a significant gap between the current expiration date of TUP's (11/30/20) and the effective date of the regular ordinance to extend the TUP deadline, the Council should consider the special meeting agenda for tonight to introduce an ordinance to extend the expiration dates for TUP's. The adoption (second reading) would be scheduled for the Council's November 4th meeting for consideration. Please refer to the special meeting agenda item for more detail.

As part of its approval in June, the Council also requested monthly updates on the Town's Business Recovery programs. Below is the update.

Temporary Use Permit (TUP)

We have issued six (6) TUP's to the following businesses:

- The Lodge 1573 Sir Francis Drake Boulevard
- Hairfax 31 Bolinas Road
- Mas Masa 31a Bolinas Road
- Mettacine 12e School Street Plaza
- Flying Dutchman Gymnastics 60 Pastori Avenue
- Fairfax Gym 725 Center Blvd.

Temporary Encroachment Permit (TEP)

We have issued nine (9) TEP's to Coffee Roastery, Gestalt Haus, Hummingbird, Amelie Café , Roco Dance, Yoga Mountain, youth Soccer, youth dance, and Fairfax Barbershop. Roco Dance, Yoga Mountain, and youth soccer will be using the ballfield for their classes. A small youth dance

class is being held in Bolinas Park. The Fairfax Barbershop was using the Women's Club patio area. We are also working on compliance issues with other applicants.

Public Spaces

In June 2020, the Council granted staff authority to close portions of the Mono Parking lot and Mono Alley for outdoor dining. We have started closing the lower portion of the Mono Parking lot from Thursday through Sunday, as approved by the Council. The Chamber of Commerce volunteers and Gestalt Haus have teamed up to set up the tables, chairs, and umbrellas as well as to clean the tables and chairs between uses. Staff has added a temporary ADA parking space on Bolinas Road and a temporary ADA space at the top of the lot when the lower portion of the lot is closed. Signage has been created and installed to inform people how to access the lot from Bank Street. Volunteers graciously painted the parking lot to make it more festive. It should be noted that Gestalt Haus customers are also using the Mono Parking lot when closed, but Gestalt Haus has indicated it would no longer close the Mono Alley for its use. Staff anticipates continuing the closure of the Mono Lot as long as demand exists during COVID-19. It is unclear how the space would be used during inclement weather since we would have no ability to provide coverings.

The Chamber is conducting an on-line survey to name the area when it is closed (e.g., Fairfax Plaza). They will also be asking if people would be interested in closing the lower portion of the lot for more than 4 days per week. The Chamber would like to make brief comments regarding their survey at the Council meeting.

Also, there have been requests for the Town to allow music in the Mono Parking Lot. Currently, the County Health Order does not allow for such music unless it is associated with a specific business who can control seating and access to the space to ensure proper social distancing and mask wearing. The Mono Parking Lot is open to the public and not controlled by one business. The possibility exists that if a band played, a crowd could begin to congregate that could not properly socially distance and the band would be forced to stop playing. Staff is not inclined to allow music in the Mono Parking Lot until the County Health Order allows for such uses.

FISCAL IMPACT

To be determined