



TOWN OF FAIRFAX

STAFF REPORT

April 21, 2021

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager

SUBJECT: Discuss/consider extensions to the terms of temporary outdoor encroachment and temporary use permits from May 31, 2021 to September 7, 2021, discuss the use of outdoor public spaces (e.g., parking spaces), and provide direction to staff

RECOMMENDATION

Discuss/consider extensions to the terms of temporary outdoor encroachment and temporary use permits from May 31, 2021 to September 7, 2021, discuss the use of outdoor public spaces, and provide direction to staff.

BACKGROUND

In June 2020, in response to COVID-19 restrictions, the Council took actions to allow for outdoor dining and business uses. Specifically, the Council adopted: 1) a resolution allowing staff to issue temporary outdoor encroachment permits (TEP's) to allow outdoor dining and business uses in the public right-of-way such as parks and parking spaces and 2) an urgency ordinance to establish a temporary use permit (TUP) process to allow businesses to apply to use their outdoor private spaces (e.g., parking lots) for their business activities. There is no fee for the TEP or TUP. Both permits are approved administratively by staff.

In November 2020, the Council adopted: 1) a regular ordinance establishing TUP's in November 2020 and adopted a resolution setting an expiration date of May 31, 2021 for TUP's and 2) adopted a resolution extending the expiration date for TEP's from November 30, 2020 to May 31, 2021. The Council granted a six-month extension due to the uncertainty regarding COVID-19 restrictions and the initial capital investment by businesses to build outdoor structures.

Many of the TEP improvements consist of platforms with railings in the public spaces. There are six (6) businesses with structures in the public right of way (e.g., parking spaces), two (2) businesses using the sidewalks, and one primarily using the Mono parking lot. To date, eight (8) TUP's have been issued. Staff is working on compliance and updates with TEP's and will report the number of businesses with TEP's at the Council meeting.

DISCUSSION

Marin County is currently in the orange tier and trending to the yellow tier which will have more relaxed COVID-19 restrictions. Recently, the Governor announced the elimination of a statewide color tier system and "fully opening" the California economy as early as June 15th, if the current statewide trends continue and certain conditions are met. However, it is unclear what "fully reopen" means and the possibility exists the June 15th date will be pushed back.

As May 31st is coming up soon, staff recommends an extension of the expiration date for TEP's and TUP's to allow time for the Council to have a more robust discussion with the community and businesses regarding the use of the outdoor spaces. Staff is suggesting an approximate three (3)

month extension to September 7th, the day after Labor Day. The proposed extension would run through the remainder of spring and the majority of summer. Presumably, all K-12 schools will be in session by then and represent a return to normalcy. This timeframe will allow us to better evaluate the use of the outdoor spaces when indoor space restrictions are presumably lifted, as well as any impact to parking in the downtown area. Approximately 20 public parking spaces are impacted by the TEP's and closure of a portion of the Mono parking lot.

As part of the process, staff would prepare a community-wide online questionnaire to solicit input from the community regarding the uses of the outdoor public spaces. However, the Council will probably want to begin discussing the uses of the public spaces. Specifically, there are two key policy issues to be discussed: 1) should the closure of a portion of the Mono parking lot be continued if 100% indoor dining is allowed and 2) should businesses be required to open part of their outdoor dining areas in the public parking spaces to other members of the public (i.e., parklets)? The community questionnaire would help provide some input on these key topics.

Should the Council desire to extend the expiration date, staff would return at the May 5th Council meeting with two required resolutions to allow for the extension to September 7, 2021. In addition staff would return with a preliminary schedule for public outreach including the preparation of the community-wide questionnaire. The Town's proposed extension would be similar to the other Marin communities who allow outdoor business uses in parking spaces. San Rafael's program runs through November 2022. The extended date was established with the goal of encouraging owners to build better designed structures. Novato's and Mill Valley's outdoor programs are slated to expire at the end of this year.

FISCAL IMPACT

n/a