



TOWN OF FAIRFAX

STAFF REPORT

February 1, 2023

TO: Mayor and Town Council

FROM: Heather Abrams, Town Manager
David Woltering, Interim Planning and Building Services Director

SUBJECT: Receive Update on Parklets and Amplified Music in Parklets

RECOMMENDATION

Staff recommends the Council receive this update on the Town's parklet programs and amplified music in parklets.

BACKGROUND

In June 2020, Fairfax began allowing outdoor dining in response to COVID-19 restrictions via temporary encroachment permits (TEPs) to use the public right-of-way, and temporary use permits (TUPs) for private outdoor spaces. On May 5, 2021, Council extended the term for TEPs and TUPs to May 8, 2022. On April 6, 2022 Council provided direction on new requirements for outdoor dining structures, and the Council extended the current TEPs and TUPs. Next, the Planning Commission reviewed the proposed zoning changes for outdoor dining, and then staff brought an outdoor dining ordinance to the Town Council for first reading on June 15, 2022. At that meeting, the Council directed staff to make several changes to the ordinances and parklet standards guide, and to extend the TEPs and TUPs to December 15, 2022 to allow time for the businesses to be in full compliance with the anticipated ordinances. Critical flaws in any existing parklets were to be fixed by the end of September. The first reading of the ordinances was conducted on August 3, 2022 and the second reading and adoption was completed on September 7, 2022, with the effective date of October 7, 2022. On or after October 7, existing parklet businesses may apply for a replacement parklet permit. Also on this October 6, 2022 Council Meeting Agenda is the Public Hearing for permit fees and public space rental fees for parklets. On October 11, 2022, the Council discussed the option of allowing amplified music in parklets. The Council directed staff to return with information regarding complaints about music in parklets.

DISCUSSION

The Council's direction regarding the requirements of outdoor dining structures going forward has been communicated with the public and the businesses via Town Council Meetings, newspaper articles, the Town Newsletter, and letters directed to the nine businesses that currently have parklets.

Guidelines for construction of parklets were provided in the September 7, 2022 Council Packet. Several of the existing structures need to be significantly remodeled to meet the new requirements. Staff has met with each of the parklet businesses, provided them with a parklet compliance checklist, and completed a detailed on-site inspection of each parklet. Information on amplified music in parklets was delivered to parklet businesses at that time. Staff provided

paper permit application forms and an opportunity to pay via check, however, the Town’s webpage for parklet permit application and on-line payment are not yet fully implemented. Given the rain and busy winter retail season, and not wanting to have significant disruption during the holiday season downtown, staff recognized that construction could not practically be completed by the previous deadline of December 15, 2022. Staff recommends continuing to work with parklet businesses to complete construction this winter, without implementing late penalties until the Town can fully implement its on-line permit system for this program, which should be complete this season.

Amplified Music in Parklets

The ordinances approved at the September 7, 2022 Council Meeting allow for acoustic-music-only to be performed in parklets, and at that meeting, Council directed staff to return with consideration of allowing amplified music to be performed in parklets.

On October 11, 2022, the Council decided not to direct staff to bring back amendments to the Parklet ordinance(s) and possibly to the Fairfax Noise Control Code to formally allow amplified music in parklets. Instead, Council directed staff to monitor the current use of light amplification in the parklets and report back on any complaints received or issues that arose. Staff is unaware of any significant use of amplified music in parklets and have not received any related complaints in the three months since then, and staff recommends not making changes to the existing ordinance. Typically, outdoor amplified music in the Town of Fairfax would be associated with a special event and require an individual permit, given the standards in the Town’s Noise Control Code. This will keep Fairfax consistent with neighboring communities that have parklets, as shown in the table below.

City	Amplified Music Allowed?	Notes
Mill Valley	No	Special Permit Required for amplified music in parklets, one day at a time, sound control and hours limited
Novato	No	
San Rafael	No	
Belvedere	No	No Parklets
Larkspur	No	Conditional Use Permit Required for Music Downtown
San Anselmo	No	
Tiburon	No	Conditional Use Permit Required for Music

Next Steps for Implementing the adopted Parklet Program

Staff will be working to fully implement and make operational the online permitting program for parklets. Additionally, staff will be following up with individual businesses with parklets to answer questions and facilitate submission of applications and the related work to bring those parklets into compliance with the Town’s adopted parklet standards.

FISCAL IMPACT

None at this time.

ATTACHMENT

None