



CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Mark Brodeur, Zoning Administrator

FROM: Wendy Lao, Associate Planner

MEETING DATE: January 14, 2016

SUBJECT: Consideration of Sidewalk Dining License at Pavel’s Backerei located at 219 Forest Ave. Pacific Grove, CA 93950

CEQA STATUS: Categorical Exemption, Section 15301 (Class 1) – Existing Facilities

RECOMMENDATION:

Review the application and consider a recommendation of final approval.

BACKGROUND:

Application: Sidewalk Dining License #15-778 **Location:** 219 Forest Ave.

APN: 006-282-016 **Zoning:** C-D (Commercial Downtown)

Applicant: Paul & Johanna Wainscoat

Discussion:

The applicant is requesting a Sidewalk Dining license for placement of 4 tables, 10 chairs, and 4 planters on the sidewalk adjacent to the eating establishment. The furniture will encroach a maximum of 3 feet (34.13%) onto the public sidewalk for a distance of approximately 21 feet, totaling 63 square feet of total sidewalk. This is in compliance with the Sidewalk Dining License requirement that allows sidewalk dining and associated furniture to occupy a maximum of 45% of the gross total width of the public sidewalk. The site includes a traffic sign pole, and the sidewalk furniture is located a minimum of 4 feet 5 inches away from the traffic sign pole. A site plan and site photographs are included as attachments.

Environmental Review:

The proposed project is Categorical Exempt from CEQA requirements, pursuant to Section 15301 (Class 1) – Existing Facilities. The proposed alterations involve a negligible expansion to the existing use.

Attachments:

1. Attachment A – Site Elevations and Photographs
2. Attachment B – Draft Permit

RESPECTFULLY SUBMITTED:

Wendy Lao

Wendy Lao, Assistant Planner

219 Forest Avenue – Pavel's Backerei Application for Sidewalk Dining



Front Elevation



South Elevation



North Elevation



CITY OF PACIFIC GROVE

Community & Economic Development Department – Planning Division

300 Forest Avenue, Pacific Grove, CA 93950

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Sidewalk Dining License #15-778 For a property located at 219 Forest Avenue

FACTS

1. The subject site is located at 219 Forest Ave., Pacific Grove, 93950 (APN 006-282-016)
2. The project site is located in the Commercial-Downtown zoning district.
3. The subject site is developed with an existing eating establishment called Pavel's Backerei.
4. The applicant is requesting to place tables, chairs, and planters on the publicly owned sidewalk.
5. This project has been determined to be CEQA Categorical Exempt under CEQA Guidelines 15301.
6. The eating establishment placing the furniture has provided proof of public liability insurance, naming the City as an additional insured, in the amount and form subject to approval of the City Attorney.

FINDINGS

1. Sidewalk Dining Licenses are interruptible and terminable licenses for use granted by the City. No property interest shall be conveyed to the eating establishment or to any other person. The City shall have the right and power, acting through the Zoning Administrator, to revoke, prohibit, or limit operation and use of a Sidewalk Dining License at any time by reason of anticipated, threatened, or actual problems or conflicts in the use for the sidewalk area. Such circumstances may arise from, but are not limited to, changing patterns of sidewalk use, scheduled festivals or similar events, parades or marches, repairs to the street or sidewalk, or for any other reason.

LICENSE

Sidewalk Dining License #15-778 to allow:

Table, chairs, and planters to be placed on the public sidewalk adjacent to the eating establishment located at 219 Forest Ave.

CONDITIONS OF APPROVAL

1. This License shall expire and be null and void if an encroachment License has not been applied for within one (1) year from and after the date of approval. Application for extension of this approval must be made prior to the expiration date.
2. These terms and conditions shall run with the land, and it is the intention of the CEDD Director and the Licensee to bind all future owners and possessors of the subject property to the terms and conditions, unless amended. Amendments to this License may be achieved only if an application is made and approved, pursuant to the Zoning Code.
3. Development of the site shall conform to the approved plans on file with the Community & Economic Development Department and to the Building Code, with the exception of any subsequently approved changes.
4. Tables, chairs, benches, umbrellas, waiter stands, barriers, tray stands, planters, trash receptacles, and other furniture normally associated with dining (collectively hereafter for convenience, "furniture") may be placed on the sidewalk but shall not be placed so as to obstruct the minimum unobstructed pedestrian travel width of the sidewalk defined as a minimum of five feet. All applicable Americans with Disabilities (ADA) requirement minimums shall be met. Sidewalk dining furniture placed on the sidewalk shall be of a consistent design and employ similar materials and colors as approved by the City to complement all other approved sidewalk furniture and fixtures, such as street lights and bicycle racks, throughout the City.

Item 3a

5. Furniture shall not be attached, drilled into, adhered to, chained to, or otherwise affixed to the sidewalk, tree, pole, or other furniture, or to any permanent structure or building.
6. The eating and drinking establishment shall only allow self-serve eating for the sidewalk dining tables. No table service is allowed.
7. Eating establishments serving alcohol shall delineate and separate the sidewalk dining area with a non-affixed, removable barrier/fence (e.g. a planter box, rope, fence, or other material approved by the Zoning Administrator). Each such barrier shall be easy to remove and store. No barrier shall exceed 36 inches in height. Barriers shall not be chain link fencing, solid wood walls, cyclone fencing, or any material bearing advertising. Eating establishments that do not serve alcohol are not required to delineate the sidewalk dining area.
8. Eating establishments, and all others, are prohibited from making any modification to the public sidewalk such as straining the concrete, painting, or tiling. Minor patching of holes and cracks, and the elimination of trip and fall hazards, are to be referred to the Public Works Department for modification.
9. Use of sound amplification on the exterior of an eating establishment is prohibited.
10. Sidewalk dining and associated furniture shall not occupy more than 45% of the gross total width of any public sidewalk.
11. Businesses placing furniture shall be responsible for keeping the furniture and immediately surrounding area clean and presentable at all times, and to this end shall promptly clean and remove all litter, spillage, and other materials. If in the opinion of the Community & Economic Development Director or the Chief Planner, the sidewalk dining is not kept clean or presentable, the City will alert the property owner of the infraction. Upon receipt of a written notice, the business owner shall take action within 7 days.
12. Sidewalk dining furniture, equipment, and other amenities must be removed from the sidewalk dining area for extended periods of non-use (two weeks or more). The City may require removal during special events, etc. The City shall have the right to unilaterally remove unapproved exterior furniture and/or equipment from the sidewalk dining space, and costs of removal shall be borne by the eating establishment.
13. Each eating establishment may use umbrellas provided each shall maintain the seven-foot minimum sidewalk clearance for the entire height of the umbrella. The base weight of the umbrella shall be of appropriate size and design to avoid tipping over in the wind. Freestanding gas heater shall not be utilized where umbrellas are present, for fire safety. Umbrellas shall not bear commercial logos.
14. The annual licensing fee associated with the continued use of the public sidewalk shall be paid in a timely manner in accordance with the Master Fee Schedule. Negligence to pay the fee can result in revocation of the Sidewalk Dining License.
15. Approved Sidewalk Dining Licenses may be revoked by the Zoning Administrator at any time, for violation of any of these restrictions or conditions.

NOW, THEREFORE, BE IT RESOLVED BY THE ZONING ADMINISTRATOR OF THE CITY OF PACIFIC GROVE:

1. The Zoning Administrator determines that each of the Findings set forth above is true and correct, and by this reference incorporates those Findings as an integral part of this License.
2. The Zoning Administrator authorizes Approval of Sidewalk Dining License #15-778

3. This License shall become effective upon the expiration of the 10-day appeal period.
4. This License shall not take effect until the owner acknowledges and agrees to all terms and conditions and agrees to conform to and comply with those terms and conditions.

Passed and adopted at a regular meeting of the Zoning Administrator of the City of Pacific Grove on the 14th day of January, 2016, by the following vote:

APPROVED:

Mark Brodeur, Zoning Administrator

The undersigned hereby acknowledge and agree to the approved terms and conditions, and agree to fully conform to, and comply with, said terms and conditions.

Paul & Johanna Wainscoat, Owner

Date