

*“We are a welcoming, active and business-friendly rural foothill community built on California’s rich gold rush history”*



**City Manager’s Report**  
**November 12, 2024, City Council Meeting**  
**Prepared By: Pierre Rivas, Development Services Director**  
**Item#: 11.1**

**Subject:** Consideration of an appeal filed by Dana LeBlanc of a fine (third administrative fine) levied on 385 Main Street for failure to respond to Notice to Correct (File: CC# 23-144).

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**Recommendation:** Deny the appeal.

**Purpose:** To consider a timely appeal of a third administrative fine levied against the property owner of 385 Main Street for failure to respond to a Notice to Correct.

City Code Section 1-4A-11 states: The purpose of administrative enforcement is to obtain fair and uniform compliance with the provisions of this code and other applicable laws. (Ord. 1572, 4-24-2001).

**Strategic Plan Strategy:** Maintain/Improve Quality of Life: Strategy 6 – Develop a comprehensive Code Enforcement Program.

**Background:** Due to the COVID-19 restrictions placed on indoor dining at restaurants, the City implemented an outdoor dining program which allowed drinking and dining establishments the ability to apply for a no cost temporary use permit allowing for outdoor dining spaces within the public right-of-way (sidewalks and streets) and within parking lots. The program began on November 19, 2020. Following the elimination of indoor dining restrictions by the State Department of Public Health, and restaurants being allowed 100 percent capacity, on January 25, 2022, the City Council gave directions to staff to discontinue the outdoor dining program.

Prior to and following the COVID-19 outdoor dining program, the City has had a sidewalk dining program allowing businesses (primarily on Main Street) to maintain tables and chairs for customers on the sidewalk adjacent to their place of business under a special temporary use permit (TUP). The permitting process and regulations were created by the City Council on February 28, 2017 (Ordinance 1689). Said regulations are found in the Zoning Ordinance in Section 10-4-19.

**385 Main Street:** On August 17, 2017, the previous business (Centro Café) received approval from the Planning Commission for TUP 17-02, allowing for an outdoor seating area for 385 Main Street. Following a change in business, the owner of Sourdough & Co., Mr. LeBlanc, received approval of a temporary sidewalk dining permit (TSD 20-02) from Staff on July 27, 2020. The use approved under TSD 20-02 remained valid until the program ended on January 25, 2022.

A Notice to Correct for the outdoor dining area and exterior lighting was sent to Mr. LeBlanc and the property owner via certified mail on November 8, 2023, with a deadline to comply or establish an approved correction schedule by November 22, 2023. By January 8, 2024, limited communication from both the business owner and property owner, not initiated by Staff, resulted in the issuance of the First Administrative Fine. The subsequent fines (second and third) were issued on September 18, 2024 and October 2, 2024, respectively.

Staff has prepared a detailed timeline of code enforcement actions for the subject property, included as Attachment 2 of this Staff Report, which provide more information on the subject code case (C#23-144).

**Discussion:** Mr. LeBlanc was personally notified by staff about the need to obtain a special temporary use permit to continue the sidewalk dining. Staff provided him with a copy of the Centro TUP as a template for the completion of his application. After not receiving an application, a Notice to Correct was sent to Mr. LeBlanc on November 8, 2023. Subsequently, a first, second, and third administrative violations letters were sequentially sent to Mr. LeBlanc for failure to submit a TUP application. Prior to the third administrative letter being sent, staff personally met with Mr. LeBlanc, again providing him with a copy of the outdoor dining permit submitted by Centro Cafe.

As detailed in Attachment 2, the business owner is being cited for maintaining an outdoor dining area without a temporary permit and encroachment permit. Other issues include installation of exterior lighting without approval by the Planning Commission, outdoor seating configuration that relegated pedestrians to walk in between tables and chairs, and failure to remove personal abandoned planter boxes located within the bulb out after numerous urgings by staff to remove them (Attachment 3).

The third administrative fine of \$500 was sent certified letter on October 2, 2024, with a deadline of October 14, 2024, to file an appeal. Mr. LeBlanc came into the Development Services office and submitted a TUP application on October 10, 2024. He stated that he had moved and did not receive the third administrative letter of violation and would appeal the associated third administrative fine. A timely appeal (Attachment 1) was filed with the City Clerk on October 14, 2024, within the 10-day appeal period per Code Section 1-4A-30. (Note: Since the tenth day was a Saturday, the appeal period was extended to the following Monday). The first (\$100) and second (\$200) administrative fines on the appeal filed are not timely and not subject to this appeal. Mr. LeBlanc's reason for not receiving the letter was because he had moved and had a new address.

Code Section 1-4B-1 allows the City to recover any and all expenses of abatement. Total staff time spent on this code case is significant.

**Options:**

1. Deny the appeal as recommended by staff.
2. Uphold the appeal and extinguish the third administrative fine.

**Environmental Review:** This action is not a project subject to CEQA review.

**Cost:** The administrative costs of code enforcement would be absorbed by the General Fund.

**Budget Impact:** None



M. Cleve Morris, City Manager



Pierre Rivas, Development Services Director

**Attachments:**

1. Appeal
2. Code Enforcement Timeline
3. Sidewalk Dining Area pictures