



"Placerville, a Unique Historical Past Forging into a Golden Future"

Planning Commission Staff Report

Meeting Date: February 18, 2020

Prepared By: Andrew Painter, City Planner. **Date:** February 12, 2020

Item 7.1: Public Hearing: Special Temporary Use Permit (TUP) 20-01 - Sidewalk Dining Area Permit Request – 423 Main Street

Request: The applicant requests approval of a Special Temporary Use Permit for a sidewalk dining area permit within the City's Main Street right-of-way, adjacent to the Bene! Ristorante Italiano business.

Summary Recommendation: Conditionally approve TUP20-01 request as presented.

Background:

Applicant: Ben Butler; c/o Bene! Ristorante Italiano; 423 Main Street, Placerville CA

Location: City sidewalk along frontage of 423 Main Street, Placerville CA;
Assessor's Parcel Number: 001-211-011

Zoning: CBD (Central Business District)

General Plan: CBD (Central Business District)

Existing Land Use: Eating and Drinking Establishment (Food and Beverage Establishment)

Surrounding Land Use: Eating and Drinking Establishments, Commercial Office and Retail

Figure 1. Project Vicinity



Project Site: 423 Main Street

On December 19, 2017, the Applicant received Planning Commission approval of TUP17-04 for the same request under TUP20-01 with the exception of the three portable umbrellas. TUP17-04 expired on December 19, 2018, one year after Commission approval. No extension request was filed. City records indicate that not all TUP17-04 conditions were met. An encroachment permit was not obtained from the Engineering Department as is required under PZO 10-4-19(I).

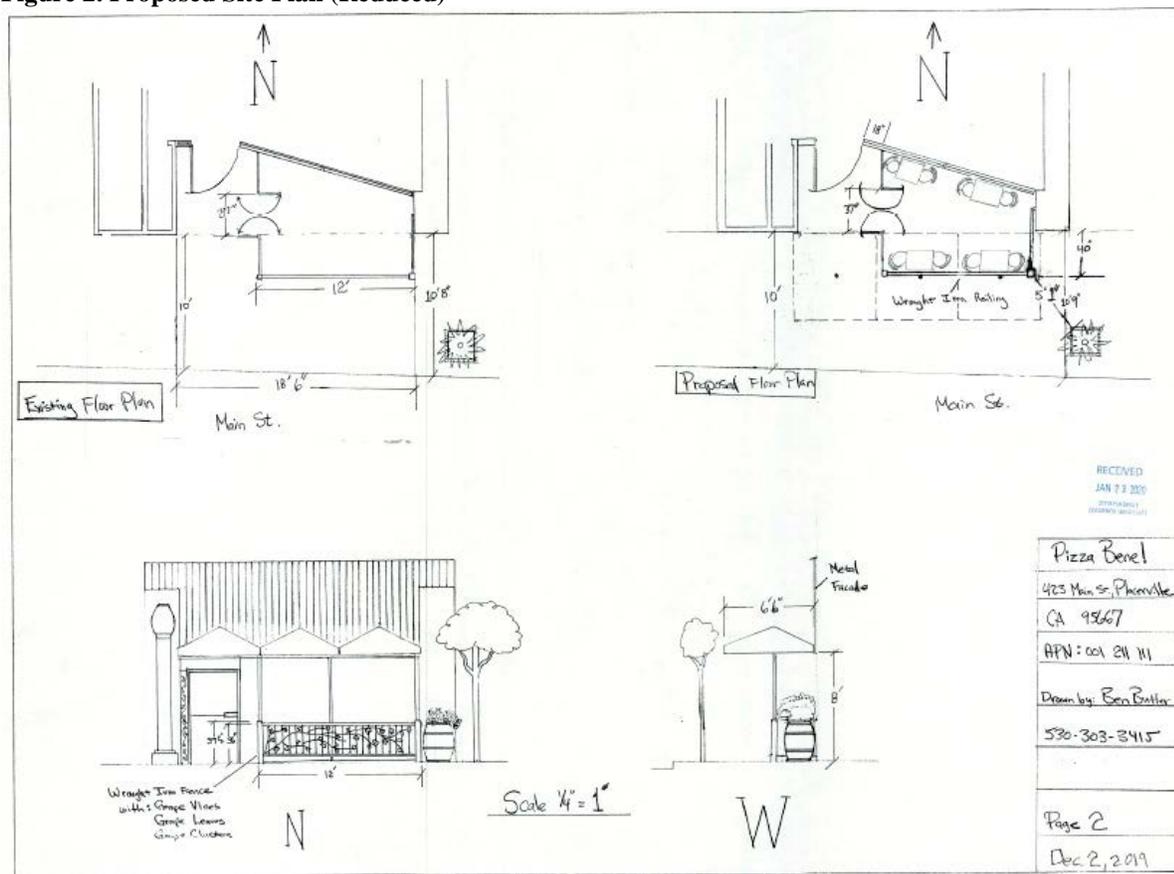
Project Description and Analysis

Project Description

Applicant Ben Butler, Owner of Bene! Ristorante Italiano, seeks approval from the Planning Commission under the City's Sidewalk Dining Regulations (Placerville Zoning Ordinance (PZO) 10-4-19(H-1(b)), for the use of the sidewalk within the City public Main Street right-of-way, adjacent to the Bene! Ristorante Italiano a food and beverage establishment (eating and drinking establishment) business at 423 Main Street, for outdoor sidewalk dining and the serving alcohol involving four tables and eight chairs.

The proposed design features four (4) 28" square metal tables with two metal chairs per table. A barrier design consisting of a 36" tall and 12' in length decorative wrought iron fence with grape vine and grape cluster motif, would separate the dining area from the public walkway along Main Street. Three portable square umbrellas (6'6" by 6'6"), fastened to the railing provide the shading of the sidewalk seating area. The minimum vertical clearance from the sidewalk surface to the umbrellas would be eight feet. Layout would provide a minimum of 5' of unobstructed pathway between the barrier and streetscape furniture, such as an existing street tree and street light. Barrier would be a minimum of 7' from the street curb. A matching gate with 37" opening would provide accessible access to the dining area. All tables and chairs would be removed from the outdoor dining area and stored within the restaurant after restaurant's evening 10:00 p.m. closure. Existing storefront soffit lighting would illuminate dining area for evening use. Italian food, beer and wine would be served. See Attachment A: Applicant Submittal Package.

Figure 2. Proposed Site Plan (Reduced)



Staff Analysis

General Plan Consistency:

Land Use Element - Policy C1. The City shall promote the development and renewal of the downtown as the commercial center of Placerville.

Land Use Element - Policy C2. The City shall assist the private sector in maintaining and improvement the economic vitality of downtown through the provision of public facilities and services and the enactment of land use policies and decisions supportive of downtown's primary commercial role.

Community Design Element - Policy B2. The City shall promote the enhancement of commercial buildings and properties.

Community Design Element – Policy B5. The City shall promote design concepts which will contribute to better pedestrian convenience and safety.

Staff Comment: The sidewalk dining at the Subject location is expected to attract customers and would therefore improve the economic vitality of the private sector business that serves residents, visitors and employees in Placerville. The sidewalk dining design is consistent with General Plan policies that promote development within and improving the economic vitality of downtown.

Zoning Consistency: The purpose and intent of the Sidewalk Dining Regulations (PZO 10-4-19) is to allow limited encroachment of outdoor dining within into the public right-of-way, ancillary to an adjacent food and beverage establishment, where the development layout does not unduly restrict public access, or detract from the appearance of the surrounding area. Sidewalk dining is a permitted use through the issuance of a Sidewalk Dining Area Permit (TUP), subject to the Development Standards and the Operational Standards under PZO 10-4-19(F). A Sidewalk Dining Area Permit involving more than two tables or more than four chairs and/or the dining area would serve alcohol, per PZO 10-4-19(H-1(b)), the Planning Commission is granted authority to review and approve a TUP request.

The Subject TUP20-01 request involves the use of four tables and eight chairs within the Main Street sidewalk right-of-way for outdoor sidewalk dining and the serving alcohol for use by an adjoining food and beverage establishment, Bene! Ristorante Italiano. TUP20-01 requires Planning Commission approval.

The sidewalk dining furniture and barrier design enhance the streetscape. No physical changes to the building are proposed. The request as designed, analyzed by staff, and as conditioned to include all Development and Operation Standards under PZO 10-4-19(F), meets the stated intent of PZO 10-4-19, has and will enhance and enliven the Main Street streetscape..

Environmental Determination: The placement of minor accessory structures for an existing commercial business, such as those made part of the request (chairs, tables, umbrellas and the wrought iron barrier) is Categorically Exempt from environmental review under the California Environmental Quality Act (CEQA) per Section 15311 of the CEQA Guidelines.

Public Noticing: Written notice for this public hearing was mailed to property owners within five hundred feet (500') of the project site on February 3, 2020. Public notice was also published in the Mountain Democrat on February 3, 2020. No public comments were received as of the date of this report.

Conclusion: Proposed request would serve as an amenity for locals and visitors alike. Staff recommends that the Commission approve the request by motion taking the following action:

- I. Adopt the Staff Report as part of the public record.
- II. Make the following findings of fact in support of Special Temporary Use Permit (TUP) 20-01 - Sidewalk Dining Area Permit Request – 423 Main Street:
 1. The request is Categorically Exempt from the California Environmental Quality Act (CEQA) per Section 15311 of the CEQA Guidelines, in that it involves the placement of minor structures (chairs, tables, umbrellas and the wrought iron barrier) on the City sidewalk accessory to the existing Bene! Ristorante Italiano commercial business.
 2. The request meets the purpose and intent of the Sidewalk Dining Regulations by allowing a limited encroachment of outdoor dining within into the public right-of-way, ancillary to the adjacent Bene! Ristorante Italiano food and beverage establishment, where the development layout as proposed and conditioned does not unduly restrict public access, or detract from the appearance of the surrounding area.
- III. Approve the request, 423 Main Street – Special Temporary Use Permit 17-04, subject to the Conditions of Approval provided as Attachment B.

Attachments:

- A. Applicant Submittal Package
- B. Sidewalk Dining Area Permit Conditions of Approval
- Special Temporary Use Permit 20-01

The decision of the Planning Commission is final unless the project or project conditions are appealed to the City Council within ten calendar days.

Attachment A

Applicant Submittal Package

- [Applicant Submittal Package](#)
- [Plan](#)

Attachment B

Sidewalk Dining Area Permit Conditions of Approval - Special Temporary Use Permit 20-01

- I. Special Temporary Use Permit (TUP) 20-01 approval is based upon and limited to compliance with the approved site plan, project description, the Conditions of Approval set forth below:

The project description is as follows: The operation of a sidewalk dining area encompassing approximately 90+/- SF of the City sidewalk right-of-way, immediately adjacent to the front door of the Bene! Ristorante Italiano food and beverage business located at 423 Main Street. The proposed design features four (4) 28" square metal tables with two metal chairs per table. A barrier design consisting of a 36" tall and 12' in length decorative wrought iron fence, with grape vine and grape cluster motif, would separate the dining area from the public walkway along Main Street. Three portable square umbrellas (6'6" by 6'6"), fastened to the barrier railing provide the shading of the sidewalk seating area. The minimum vertical clearance from the sidewalk surface to the umbrellas would be eight feet. Layout would provide a minimum of 5' of unobstructed pathway between the barrier and streetscape furniture, such as the street tree and street light. Barrier would be a minimum of 7' from the street curb.

Any deviations from the project description, conditions, or site plan exhibits shall be reviewed and approved by the City for conformity with this approval. Deviations may require approved changes to the permit. Deviations without the above described approval will constitute a violation of permit approval.

- II. This Special Temporary Use Permit is valid for one year from Planning Commission approval. Renewal permits may be extended for one year periods by the Director of Development Services. Permit holder shall make renewal request prior to the expiration date for renewal by the Director.
- III. Permit holder (applicant) shall comply with all Operational Standards along with the Development Standards under Placerville Zoning Ordinance (PZO) 10-4-19(F), applicable during sidewalk dining operations, as follows:
1. Development Standards.
 - (a) Facilities and equipment shall be of a quality and style that is consistent with the Design Guidelines adopted by the City and any other applicable design standards and policies. The design, quality, materials and colors used for chairs, tables, lighting and other fixtures shall complement the architectural style and colors used on the adjacent buildings. Sidewalk dining furniture, equipment, and other amenities shall be constructed of metal, unless an alternative material is approved by the Director or the Planning Commission.
 - (b) Sidewalk dining areas that have more than four tables or more than eight chairs shall separate the dining area from the walkway with fencing, swag roping, decorative plants, landscape planters, or other architectural barriers that prevent encroachment of tables and chairs into the five-foot pathway being maintained for pedestrian access.

- The Planning Commission may relax this standard when it is clear that there is no reasonable possibility of tables or chairs being moved to encroach on the required pedestrian pathway.
- (c) Lighting will be required for sidewalk dining areas where food will be eaten during the evening hours. The lighting fixtures must be decorative and complement the architectural character of the building and area. Lights mounted on the building shall not cause direct glare or other visual obstruction to pedestrians or vehicle drivers along the street and public walkway, and should illuminate only the sidewalk area.
 - (d) Portable umbrellas may be permitted provided they do not obstruct the public right-of-way or walkway, and do not contain advertising. The minimum vertical clearance from the pedestrian surface for any overhead obstruction including umbrellas shall be eight feet.
 - (e) 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.
 - (f) Sidewalk dining furniture shall be placed immediately adjacent to and abutting the eating establishment and shall not be placed adjacent to the curb. Exceptions to this requirement may be made by the Director or Planning Commission for self-serve seating (i.e., no table service).
 - (g) Dining areas 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 approving authority. Each such barrier shall be easy to remove and store. No barrier shall exceed 36 inches in height. Dining areas that do not serve alcohol are not permitted to delineate the sidewalk dining area with a barrier in order to keep the appearance of an open sidewalk.
 - (h) Use of sound amplification on the exterior of a sidewalk dining area is prohibited.
 - (i) Sidewalk dining area permits 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 Director or Planning Commission, to revoke, prohibit, or limit operation and use of a sidewalk dining area permit 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 event, parades or marches, repairs to the street or sidewalk, or for any other reason.
 - (j) Any sidewalk dining area shall be temporary in nature and designed so that the entire dining area can be easily removed. Sidewalk dining area furniture, equipment, and other amenities must be removed from the public sidewalk dining area for extended periods of eating establishment closure (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 area, and costs of removal shall be borne by the eating establishment.

2. Operational Standards:

- (a) The owner of the primary business is responsible for proper operation of the sidewalk dining area. Sidewalk dining shall be continuously supervised by management or employees. Food establishments serving alcoholic beverages shall have a supervisor, at least 21 years of age, on-site at all times of operation. Any behavior that disturbs

- customers or passersby on the sidewalk will constitute grounds for revocation of any permit(s) to operate an outdoor dining area.
- (b) Establishment is required to maintain all areas in and around the sidewalk dining area in a manner that is clean and free of litter and debris.
 - (c) The sidewalk dining hours of operation shall be limited to the hours of operation of the associated food or beverage establishment.
 - (d) All plans and permits for the sidewalk dining area approved by the City must be kept on the premises for public inspection at all times during which the associated establishment is open for business.
 - (e) Sidewalk dining areas shall be operated in a manner that meets all requirements of the El Dorado County Environmental Management Division and all other applicable regulations, laws, ordinances, and standards. Food establishments serving alcoholic beverages shall also obtain all necessary permits required by the State Alcoholic Beverage Control Department.
 - (f) Smoking and/or vaping of any substance shall not be permitted within any sidewalk dining or seating area authorized pursuant to this Section.
- IV. Permit holder shall obtain all required on-sale licensing from state agencies that authorizes the sale of all types of wine and malt beverages (e.g., beer, porter, ale, stout and malt liquor) for consumption on the premises.
- V. Permit holder shall obtain an Encroachment Permit from the City Engineer per PZO 10-4-19(I) before any sidewalk dining is permitted, and shall obtain and maintain general liability insurance per PZO 10-4-19(E).
- VI. Permit holder shall not initiate approved sidewalk dining until after the 10-day appeal period, after the granting of the permit is affirmed on any appeal is heard by City Council if filed, an Encroachment Permit obtained under Condition V, and upon receipt from the Development Services Department of an official Special Temporary Use Permit.