

Jessie Waldman

From: tony graham <tony_maryanne@hotmail.com>
Sent: Sunday, July 9, 2023 4:12 PM
To: Julia Krog; Jessie Waldman
Subject: Pattersons Pub 2020-0012
Attachments: Mendocino Historical Review Board Brief.docx

Good morning, everyone.

Attached please find the Hearing Brief in support of my request for a 2 year extension of my existing 2 year permit for the garden tent between Patterson's Pub and Harvest Market.

I will drop of hard copies of the brief the first thing Monday morning at the Fort Bragg Office for distribution to the MHRB and Staff.

We will see all of you at the "onsite inspection" on Monday before the meeting.

Thanks again everyone for making this all happen.

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Mendocino Historical Review Board
County of Mendocino

Re: Request for Extension of Time for
Existing Permit #2020-0012

Hearing Brief
July 10, 2023

To: Board Members of the Mendocino Historic District
Mendocino County Planning and Building Department

In the Spring of 2020, the world as we know it changed. Facing a global pandemic, every business was shuttered and people were locked in their homes for over 2 years. I was faced with the choice of simply closing Patterson's Pub and at age 75 retiring or somehow trying to reinvent the business and thereby save 25 local jobs and a 3 decade old successful Mendocino landmark. I chose the latter. For several months we served "to go" meals to the locals out of a window and in the fall of 2020, I was able to negotiate the lease of the vacant parcel next door owned by Harvest Market. I then applied to the MHRB for a permit to erect a tent in my driveway and a 2nd tent on the vacant Harvest Market parcel. The two year permit was granted on October 16, 2020 and the findings were:

"(a) the exterior appearance of the two tents is in harmony with the exterior appearance and design of adjacent structures, which are from the late nineteenth century development within the town of Mendocino. (b) The appearance of the two tents would not detract from the appearance of other property within the District which are noted as significant historic resources...(c) The proposed work does not consist of alterations or demolition of any existing structures..."

The permit goes on to provide that:

"15. Upon written request, the Review Board
may consider extending the term of this MHRB Permit"

The permit was granted and there was no appeal so the findings are now final.

2.

As far as I know, Patterson's Pub is the only business in Mendocino that actually has an actual permit for a tent related to the Covid pandemic.

In 2021, I voluntarily took down the driveway tent since I found that it detracted from the Pub's ambience and also to restore the driveway parking.

As far as other permits are concerned, I have ABC licensing for both the driveway and garden alcohol sales and I am also in compliance with the water allocation by the MCCSD. Of my 1,500 gpd allotment I have averaged only 800 gpd for the last 12 months and managed to survive the drought.

Historically, tents have been a part of Mendocino history. A review of the Kelly House Museum website will show many 100 year old historic photographs of logging and fishing era tents all along the coast used for social events, mess hall cooking, lodging, camping, construction and other related uses. All you have to do is look at the preserved historic tents in such places as Camp Curry Village in Yosemite and now the so popular "glamping" tented campsites here in Mendocino.

On review of the Mendocino Town Zoning Code, I could find only one reference to the subject of "tents". At section 20.760.045 it states that:

"No mobile home, trailer, camper home, tents or teepees... shall be constructed, installed...in an uncovered visible area in any portion of the Historic Preservation District...without prior approval of the Review Board.

The bottom line is I did obtain "prior approval" for both tents from the Review Board.

Since the tent was erected, I have developed the lot with vegetation so as to screen the tent from street view. From Lansing Street barely any of the tent is visible through the foliage and from the east, north and south the tent cannot be seen at all.

3.

By way of background, the lot between the Pub and Mendosas Market has been used by me for outside dining and drinking since the 1990's when I converted it from a trash filled, weed and tick infested eyesore on Lansing Street.

On April 10, 2023 I did correspond with Julia Krog, Director of Planning and Building Services, requesting an extension to my existing MHRB permit for the garden tent. This request for an extension was timely and in accordance with Board of Supervisors Resolution 23-047.

At the MHRB meeting of June 12, 2023 there was discussion among some of the board members as to the issue of temporary structures and permit extension time frames. In the June 12, 2023 Memorandum, Planning admits that there is no definition of the word "temporary" in the Mendocino County Code. But then goes on to analogize to the California Building Code asserting that "it seems reasonable to apply this 180 day standard toward lot coverage". Let us not confuse apples with oranges.

Planning is correct in stating that:

"The Review Board does not have authority over lot coverage determination or exceptions" (MHRB Memo June 12, 2023)

This 180 day discussion has absolutely nothing to do with the MHRB granting an extension to my permit and should not be used as a standard or benchmark. After all, in October 2020, the MHRB granted me a 2 year permit.

In addition, as to the issue of "lot coverage", nowhere in MCC section 20.608.031(M) is a "tent" considered or defined as a "structure" for purposes of determining lot coverage.

4.

On another note, there is legislation pending in Sacramento to deal with the aftermath of Covid and the regulatory and zoning consequences:

“Assembly Bill 1217, If passed and signed into law, would sustain many of the permitting leniencies and programs designed to help businesses pivot to outdoor dining by allowing the conversion of parklets, alleyways, and sidewalks to new dining spaces. It also would supersede city and county ordinances...” LA Times March 17, 2023

The legislature through all of its committees is already crafting statewide omnibus legislation to deal with curbside dining structures, parklets, tents and all of the related zoning issues which will supersede local ordinances and regulations. So that nonconforming zoning issues such as lot coverage, setbacks and other nonconforming uses would be allowed and supersede local zoning regulations.

Let us now address Covid. The San Francisco Chronicle has a website that tracks covid cases county by county. For only a 2 week period in June 2023, Mendocino County had 29 new cases of covid. That is almost 60 cases during the summer months. Although this is a sharp decline from the height of the pandemic, covid is still certainly alive and mutating and will rear itself again this fall and winter. So, what then happens if there is a resurgence with mandated masking, social distancing and restricted indoor dining and I had to take my tent down? The cost to put “Humpty Dumpty” back together again is financially unfeasible and onerous.

Finally, what does the public have to say? My customers and employees really like the tented garden which provides for social distancing between 8 tables and lots of fresh air. Inside my Pub, I only have 5 tables and 17 stools and if social distancing restricted inside was required, I would only have 3 tables and 10 bar stools. There is no way that I could financially support such a restricted operation. The other tented restaurants in town and I have collected well over 1,000 customer survey questionnaires supporting the outdoor dining tents. Reviews on YELP and TripAdvisor are uniformly also supportive. The public wants the tents, I need the tent and Mendocino needs successful businesses in order to survive.

5.

We all have been through a lot of trauma these past 3 years including a crippling pandemic, wild fires, inflation, and a drought that left Mendocino begging for water on the international news. Remember all the satellite TV news trucks in town last summer? For more than 2 years tourists were nowhere to be seen. Just look at the decline in the county's bed tax and sales tax revenues with a stagnant economy and unemployment. Also, to be noted is that the State Park campgrounds were closed and shuttered. Highway 128 and 20 were void of visitors. How soon we forget what a nightmare we have experienced and it is not over yet by a longshot.

To argue over whether the permit should be for 6 months or 24 months misses the practical point. There is no way someone can operate a business with the uncertainty of only a 6 month permit or lease. How do you plan for employees and staffing? How do you plan for vendors and suppliers? You can't. Besides, in October 2020 the MHRB found the legal basis for a 24 month permit. If it was legally and factually proper then, it is legally and factually proper now.

In conclusion, the MHRB has already granted me a two year tent permit with all of the legally required factual findings now in place. There has been no change of use or any circumstance that would require a new or amended permit. So that Patterson's Pub can continue to provide for the locals and the tourists, employ and support 26 families, and send tax revenue over the hill, all I am asking for is a two year extension to my existing permit. The bottom line is if the tent has to come down, many of my employees will be on unemployment and looking for work.

Even Julia Krog, the Director of Mendocino County Department of Planning and Building Services is in support of my request for this two year extension. In an April 27, 2023 memorandum to Planner Jessie Waldman, Ms. Krog states:

"There was a condition on MHRB 2020-0012 that provided that Mr. Graham could request that he keep his tent upon written request. I would like to ask that this be queued up for an upcoming MHRB meeting asking the MHRB to accept his request"

6.

Respectfully Submitted,

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