



Memorandum

To: Charles Witherington-Perkins, Director of Planning and Community Development

CC: Randy Recklaus, Village Manager

From: Sam Hubbard, Development Planner

Date: 10/27/2021

Re: Proceed at Own Risk Request – Cortland’s Garage Patio Enclosure, 1 N. Vail Ave.

Attached is “Proceed At Own Risk” request to allow issuance of a building permit that would enable construction of an approximately 960 square foot fabric canopy enclosure over a portion of the existing outdoor patio at Cortland’s Garage restaurant in Downtown Arlington Heights. The request comes from Brian Roginski (“petitioner”), who is both the restaurant and property owner. The proposed structure is intended to remain year-round and has been designed accordingly; it would include permanent concrete footings in the ground, electrical wiring in the support beams, and a thermostat wired to electric heaters on the interior. Consequently, the project requires an amendment to the existing Special Use Permit (SUP) that governs the restaurant, as well as approval of a Planned Unit Development (PUD) since the structure would be over 500 square feet and the property is located within the B-5, Downtown zoning district. The petitioner has applied for the necessary zoning entitlements and appeared before the Design Commission on October 26, 2021, which resulted in a recommendation of denial of the canopy design. The project is expected to appear before the Plan Commission on November 17, 2021, and a copy of the plans depicting the proposed canopy enclosure have been included with this transmittal.

Project Background:

In November of 2020, the petitioner approached the Village to inquire about the necessary approval process to allow a canopy enclosure. At that time, the petitioner was informed that the structure would require, at a minimum, a Design Commission application and possibly other approvals depending upon the specifics of the proposal. The petitioner submitted a Design Commission application towards the end of November 2020. During initial review of the detailed plans submitted along with the Design Commission application it was determined that an amendment to the existing SUP was required, as well as approval of a PUD, both of which required an appearance before the Plan Commission and ultimately approval the Village Board. The petitioner was informed of this in January of 2021, along with a request for several revisions to the design that staff asked to be addressed prior to bringing the project before the Design Commission.

On March 24, 2021, the petitioner submitted a building permit application to allow the proposed structure, which permit was subsequently rejected for a number of Building Code issues and also because the Design Commission process had not been completed and the Plan Commission process had not been started.

A complete Plan Commission application was filed with the Village on October 11, 2021. Staff has expedited review of this application and a tentative hearing with the Plan Commission is scheduled for November 17, 2021.

The petitioner would like to begin construction on the canopy enclosure as soon as possible and they have submitted the attached request to Proceed At Own Risk to allow issuance of the building permit prior to finalizing the zoning entitlement process.

Issues:

As no Plan Commission hearing has yet occurred, it is unknown what issues, if any, adjacent property owners or residents may have with this project. There may be concerns regarding noise, hours of operation, and the non-permanent look/nature of the fabric canopy structure. In their recommendation of denial, the Design Commission emphasized that the design of the permanent fabric canopy on a historic building in Downtown Arlington Heights had to be enhanced so that it was more compatible with the overall Downtown aesthetic. The Design Commission was open to a continuance to allow the petitioner additional time to address their concerns, however, the petitioner requested a vote on the matter in an effort to continue through the zoning entitlement process with the current design.

When reviewing the Special Use Permit amendment, the Plan Commission and Village Board have several options to consider, which are generally summarized below:

1. Approve the application as proposed.
2. Approve the application with conditions, which may relate to the appearance of the structure, use of the structure, or the size of the structure.
3. Deny the application.

Proceed At Own Risk Options

The Staff Development Committee has identified three primary options for the Village Board to consider:

1. Install a true temporary tent, per the applicable permit guidelines (attached for reference).
2. Approve the Proceed At Own Risk request, subject to certain stipulations as outlined below.
3. Defer the request until completion of the zoning entitlement process.

Recommendation

It is recommended that the Village Board **NOT APPROVE** the petitioners' request to "Proceed At Own Risk". Should the Village Board find that the request does not merit approval, the petitioner has the option to install a temporary tent via the standard building permit process, which could be removed at such time as the zoning entitlements are potentially granted.

Should the Village Board determine that the request has merit, the Staff Development Committee recommends approval subject to the following conditions:

1. That the Petitioner understands they are proceeding at their own risk since SUP amendment and PUD approvals have not been granted by the Village.
2. Issuance of a building permit shall be subject to compliance with all applicable building permit procedures and Building Code requirements. Any required permit fees must be paid at time of permit issuance, and said permit fees will not be refunded if the permit is ultimately revoked by the Village.
3. Should the proposed SUP amendment, PUD approval, and/or any of the other associated variations or Design Commission approvals be denied, the building permit will be revoked by

the Village. The petitioner will be required to remove the structure and return the patio to an acceptable finish within 14 days.

4. All costs associated with any such removal shall be solely at the petitioners' expense.