



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 06/07/2022

ITEM NO: 26

DATE: May 25, 2022
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Discuss and Identify the Town Council's Objectives for the Summer Promenade Event Series and Provide Direction as Necessary for Modifications to the Conditional Letter of Approval.

RECOMMENDATION:

Discuss and identify the Town Council's objectives for the summer promenade event series and provide direction as necessary for modifications to the Conditional Letter of Approval.

BACKGROUND:

On May 4, 2021, the Town Council allocated \$80,000 of America Rescue Plan Act (ARPA) funds to the Chamber of Commerce to host up to seven Summer Promenade events in Downtown Los Gatos to stimulate the downtown economy. At the time, the Chamber requested the funds to assist with the planning and implementation of the event series on Thursday afternoons. The events closed N. Santa Cruz Ave. with the intent to draw the community together to rediscover Downtown Los Gatos, shop, dine, and reconnect with the community as it weathered the COVID-19 pandemic. Event attractions included music and family entertainment. The 2021 event series was held on July 1, 8, 15, 22, and 29, and August 5 and 12. Under Town Code, the event series required a Special Event Permit, which was issued by the Town to the Chamber.

The Chamber requested the ability to have a "blanket" Alcohol Beverage Control (ABC) permit that allowed the community to essentially have open containers of alcohol at the event as a way to encourage event participants to patronize local businesses and take advantage of the ability for the establishments to sell the "to-go" style beer, wine, and cocktails. One parameter set forth in the Special Event Permit was that no outside alcohol was allowed, and establishments were not permitted to sell outside of their currently approved ABC dispensing areas.

PREPARED BY: Monica Renn
Economic Vitality Manager

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, Chief of Police and Finance Director

BACKGROUND (continued):

As the event evolved over the weeks, Town and Chamber staff worked closely to make modifications and adjust the format as the summer progressed. As we learned together, Town staff worked with the Chamber to address concerns and modified the Special Event Permit to include increased signage that clearly stated the prohibition of outside alcohol and required restaurants to stay within their licenses premise for the sale and service of alcohol.

As the weeks continued, the number of event guests bringing beverages into the event increased as evidenced by the community feedback to staff. Staff also received complaints about the consumption of alcohol by guests that were not properly identified as being over 21 years.

At its August 17, 2021 meeting, the Town Council held a public discussion debriefing the event series. In general, there was support for the event series to continue in the future. The Chamber reported that they “learned a lot” to consider when planning future events. Comments from the Town Council also applauded the event series success and supported future events. Additional feedback included that there should be increased partnership with outside service organizations or other Los Gatos businesses not located downtown; however, the event organizers should limit participation and be sensitive to not overcrowding the streets with tents that hide or cover store fronts. Likewise, there was a suggestion from one Council member to not create an overcrowded environment or allow the event to become “too big.”

Of the \$80,000 granted to the Chamber of Commerce for the 2021 Promenades, about two-thirds was provided to the Chamber prior to the conclusion of the event, and the remaining funds will be allocated once the appropriate invoices, receipts, and other expenditure backup documentation is provided to the Town for ARPA audit purposes.

DISCUSSION:

At its February 15, 2022 meeting, the Town Council allocated an additional \$120,000 of ARPA funds to the Chamber of Commerce to fund a 2022 Summer Promenade event series. During this discussion, the Town Council asked staff about the amount of staff resources required to create an environment where multiple events, including the Promenades, Music in the Park, and Jazz on the Plazz, can take place safely and successfully for all stakeholders. Based on the staff response, the Council unanimously approved the following motion:

*Motion by Vice Mayor Ristow to allocate up to \$120,000 of ARPA funds to the Chamber of Commerce to produce a summer promenade series with the possibility of fewer events if there are limited Town staff resources and with the possibility of sponsorships.
Seconded by Council Member Sayoc.*

DISCUSSION (continued):

Prior to the meeting, the Chamber had submitted a Special Event Permit application and site map (see Attachment 1) for the 2022 Summer Promenades. Following the direction from the Council motion, staff took time to consider how staffing resources could be allocated to support all of the summer events and determined that seven Thursday Promenades could be supported with specific Conditions of Approval (Attachment 2). The approved dates are June 16 and 23; July 7, 14, 21, and 28; and August 4.,

One of the conditions of approval that varied from the request made in the Chamber's Special Event Permit application was the addition of beer/wine gardens, rather than allowing for an open format for alcohol consumption along the entire street as occurred in 2021. For clarification purposes, while these areas are being referred to as beer/wine gardens, these areas are more flexible in that they are designated areas where beer, wine, and cocktails may be dispensed and consumed in compliance with ABC provisions. In addition, the beer gardens are not age restrictive for entry, rather identification is confirmed for the sales, service, and consumption of alcoholic beverages.

Town staff believe that having more controlled environments where alcohol is sold and served provides better control and oversight to ensure that outside alcohol is not being brought into the event, and all those consuming the beverages have been properly identified as 21 years or older.

Additionally, the beer garden model provides an identified purchase and consumption location that achieves the ability to contain large groupings of people and monitor the supply and consumption of alcohol while supporting the Council Member's concern of preventing an overcrowded environment. This condition, noted on page 5 of Attachment 2, allows up to three beer gardens. The sizes and locations of the beer gardens were left up to the discretion of the Chamber of Commerce based on their volunteer resources. Town staff also saw this as an opportunity to create options for businesses located outside of downtown to participate in the event.

The Chamber disagreed with this condition and made several requests for it to be removed. On April 21, 2022, Town staff, including the Town Manager, Chief of Police, Police Captain, Economic Vitality Manager, and Events and Marketing Specialist, met with the Chamber of Commerce to discuss their concerns. At this meeting, staff heard from the Chamber that they had a difficult time preventing some guests from bringing their own alcohol in 2021 as the guests were used to bringing their own alcohol, chairs, etc. when attending music events in Town parks. The Chamber did not believe promotional material with guidance as to how to enjoy the Promenades would be effective. In addition, the Chamber stated that a beer garden model was more expensive and labor intensive to implement.

DISCUSSION (continued):

The Chamber suggested that the Town take on the enforcement issues pertaining to outside alcohol and underage drinking. The Police Chief clarified that the two Officers would be present for security purposes to keep the overall peace of the event. The Town does not have resources to enforce the provisions of the Special Event Permit. The Permit conditions are the responsibility of the event organizer. Given the 2021 experience, staff explained that the Chamber was responsible for ensuring necessary levels of volunteers at each event, providing educational signage related to approved alcohol consumption areas, and that the beer garden conditions would provide for controlled dispensing and consumption area(s) while enjoying music and the other event offerings.

In addition, staff discussed other events in Town and how these are permitted. For example, single events, such as weekend art and wine festivals, lend themselves better to having an open alcohol format within the full event area as most guests attend once during the event. For a weekly event series, momentum and awareness increases with each week, and creates opportunities for guest to come up with work arounds and creative ways to bring in their own alcohol. While Jazz on the Plazz and Music in the Park are also weekly events, by being held in a park, there is better containment and oversight. Also, these events are limited to guests bringing their own beer and wine, along with food, as permitted by the Town Code within Town Parks. Jazz on the Plazz offers a hospitality tent that essentially operates similar to a beer garden with a limited area where the alcohol is dispensed under the provisions of an ABC permit and may not be carried or transferred outside of the gated area.

In early May, the Chamber provided staff with input that they only had the volunteer and financial resources to have one beer garden per Promenade and thus submitted an ABC permit application to the Town to approve with an accompanying site map noting a single beer garden location (Attachment 3). Staff processed this ABC permit, and both the Town Manager and Chief of Police provided their approving signatures.

On Friday, May 20, 2022, the Chamber contacted staff to share that its Board of Directors met earlier in the week and considered cancelling the Promenades due to the restrictions of the beer gardens. Soon after, the Mayor agendaized this item for further review and discussion. Staff is concerned that the Chamber's acknowledgement of not having enough volunteers to staff one beer garden lends concern to the ability to monitor and oversee the entire event area with open alcohol consumption and no designated control parameters.

Staff has had conversations with the ABC and there are multiple ways that this event could be permitted, with nuances associated with each format; however, from a big picture perspective, the ABC only provides the license and permission for the expanded sales and service, and the agency relies on the Town to set the safety and security measures that are necessary for the

DISCUSSION (continued):

community. It is then the expectation that the applicant will follow all Town and ABC provisions completely and responsibly.

It is important to note that the Special Event Permit process is a consistent and transparent process that is applied equitably to applicants. There are many occasions where an application for an event permit contains activities, locations, or other elements that Town staff cannot support. As done with the Chamber's Promenade application, staff works internally to identify alternative options to offer to the applicants so that the event may still take place and be manageable from logistics, staffing, Town Code, and other policy perspectives.

CONCLUSION AND NEXT STEPS:

With this agenda item, staff is asking the Town Council to articulate its objectives for the Summer Promenade event series. While the Chamber of Commerce is the event applicant, the Town is allocating \$120,000 of ARPA funding for the event series, an increase of \$40,000 from the ARPA allocation in 2021, for the same number of number of events. Thus, it seems appropriate to understand the Town Council's objectives with the Promenades and the environment that is intended at the events so that the event permit may be reflective of the Town Council's objectives.

For example, is the intent to provide an outdoor "festival" environment with the primary focus on the event activities, such as music, food, alcohol, and entertainment that is all stationed along the street? Or, is the intent to close the road to create a pedestrian walkway to support an outdoor community gathering with musical entertainment while encouraging event guests to shop and dine within existing establishments?

If the intent is a festival experience, staff recommends that the total number and frequency of the Promenades be reduced to allow for a better allocation of staff resources, assessments, and modifications to address any concerns. With the pandemic impact expected to be significantly less than 2021, staff estimates a considerable increase in attendees at the 2022 Promenades.

The Town Council may also want to consider if this type of event series would be better suited in a park so that it has defined boundaries that can be better managed by the event organizer with its volunteer capacity.

If the intent is focused more on encouraging event guests to visit the local shops and restaurants by offering a closed street and outdoor enhancements that invite guests into merchant locations, then it is recommended that the alcohol consumption be limited to designated areas such as beer gardens as outside alcohol cannot be consumed while going in and out of downtown businesses, even those with an ABC permit.

CONCLUSION AND NEXT STEPS (continued):

ABC prohibits the mingling of licenses, meaning that the dispensing party and licensed boundary set forth by any single ABC license cannot be combined. Alcohol purchased within one licensed area may not cross over into another licensee's boundary, or a retail location without an ABC license. Thus, having an open form of consumption does not allow for guests to enter a retail or restaurant establishment with their beverage purchased at the event.

The Town Council is welcome to identify other objectives and staff will be prepared to support the conversation and suggest parameters that achieve the Council's objectives in a fun and safe event for all ages and meets the Chamber's intended outcomes.

Once the Council provides direction, Town staff will update the Conditions of Approval and issue the Special Event Permit. The first Promenade is scheduled for Thursday, June 16. A debrief of the first Promenade is scheduled at the June 21 Town Council meeting to provide the Council an opportunity to make any other changes to the event series.

PUBLIC COMMENT:

On May 31, 2022, the Chamber of Commerce provided a letter to the Town Council via email (Attachment 4) outlining their concerns and requested modifications to the Special Event Permit. The Chamber highlights that their intent with the event is to create a "COVID- friendly environment in which residents and visitors of all ages, were encouraged to walk up and down the street patronizing merchants and restaurants and socializing, thus boosting economic vitality." The "proposed constraints" of the Special Event Permit "hinder the spirit, intent and success of the event." By creating controlled areas for alcohol sales and consumption, staff's intention was to find a way for the event to maintain the ability to have alcohol sales and consumption, create clear boundaries for guests to purchase and consume alcohol, while patronizing local businesses and enjoying the other amenities of the event.

In addition, when staff met with Chamber staff in April, it was reiterated that the permit allowed up to three beer gardens without a size and location requirement. This permit condition provided flexibility for the Chamber to determine the beer garden placement throughout the event and to offer guests more space to move within the confined area. It was also discussed that this model could use wrist bands to identify those 21 and over, and guest of all ages could be inside the garden areas, providing an opportunity for beer gardens to be created with alcohol dispensing points, family entertainment, and other attractions within the defined area. The Chamber reported that this model was too expensive and labor intensive to implement.

PUBLIC COMMENT (continued):

On a high-level, staff remains concerned with the comments made both in the letter attached and verbally during meetings with staff regarding the Chamber's concerns with the cost and labor associated with alcohol consumption oversight. The Chamber has stated that they lack the ability to monitor smaller beer gardens yet request a format that is similar to one large beer garden with numerous ingress and egress locations and a less defined boundary.

The Chamber describes themselves as "untrained lay people, not capable of policing infractions." Regardless of the number and size of beer gardens or dispensing locations, as the event applicant, coordinator, and ABC licensee, the Chamber of Commerce is responsible to coordinate an event that meets the provisions set forth within the Town Code and Special Event Permit providing, to the best of their ability, a safe event environment. Likewise, it is the expectation of the ABC that the licensee is responsible for implementing and enforcing all ABC provisions. The Los Gatos-Monte Sereno Police Officers that are required to be onsite for the event are not intended to replace the Chamber's responsibility to manage the event, rather to provide more immediate public safety presence and assistance in a crowded event.

COORDINATION:

This report was coordinated with the Police Department, Town Attorney's Office, and Town Manager's Office.

FISCAL IMPACT:

The Council discussion on this matter has no fiscal impact to the Town.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachments:

1. Permit Application with Initial Site Map
2. Conditional Letter of Approval
3. ABC Permit and Site Map
4. Public Comment received from the Chamber of Commerce on May 31, 2022