

CITY OF CALISTOGA

STAFF REPORT

TO: CHAIRMAN MANFREDI AND PLANNING COMMISSIONERS

FROM: KEN MACNAB, PLANNING AND BUILDING MANAGER

MEETING DATE: MARCH 23, 2011

SUBJECT: CONDITIONAL USE PERMIT REQUEST (U 88-05(A)) TO AMEND
USE PERMIT U 88-05 TO ALLOW LIVE ENTERTAINMENT AT
BUSTER'S BARBECUE RESTAURANT

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3 **REQUEST**
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5 **U 88-05(A):** Consideration of a Conditional Use Permit application requesting an amendment to
6 Use Permit U 88-05 to allow live entertainment at Buster's Barbecue and Bakery, 1207 Foothill
7 Boulevard (APN 011-317-007) within the "DC-DD" Downtown Commercial-Design District
8 Overlay Zoning District. This proposed action is exempt from the California Environmental
9 Quality Act (CEQA) under Section 15301 of the CEQA Guidelines.

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11 **BACKGROUND**
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13 Restaurant use of the subject property began in 1957 when a small drive-in hamburger stand
14 was opened. Over the years a number of different restaurants have operated on the property,
15 including the Jolly Cone, the Calistoga Drive Inn and La Cochina Mexicana. Buster's Barbecue
16 opened in 2000 and has now been in operation for over 10 years.

17
18 In 1982, the City approved Conditional Use Permit 82-15 that allowed reactivation of an expired
19 drive-in restaurant use on the property. In 1983, the City approved Conditional Use Permit
20 U 83-11 allowing for the addition of an indoor dining area. In 1988, the City approved
21 Conditional Use Permit U 88-05 which allowed for the expansion of the restaurant's outdoor
22 dining area and the sale of beer and wine on the property. Conditional Use Permit 88-05
23 (Attachment 3) superseded the previously approved use permits and is the current operating
24 use permit for the restaurant use.

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26 On March 2, 2011, the Planning and Building Department received an application requesting
27 approval of an amendment to Conditional Use Permit U 88-05 to allow indoor live entertainment
28 at the restaurant.

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30 **PROPOSAL**
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32 The applicant is proposing an amendment to Conditional Use Permit U 88-05 to allow live
33 entertainment indoors only, up to four days a week and going no later than 10:00 p.m. Live

34 entertainment would consist of musical performances by "low keyed" jazz or blues musical acts
35 (3 to 4 piece bands with acoustic or amplified instruments and an amplified vocalist). The
36 musical acts would perform in the enclosed patio area that is located adjacent to Foothill
37 Boulevard. Performances would occur on a small stage area located in the northeast corner of
38 the enclosed patio area (see Attachment 4). Hours during which live entertainment events
39 could occur are proposed as follows:

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41 Monday through Friday : 5 p.m. to 10:00 p.m.
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43 Saturday and Sunday : 12:00 p.m. to 10:00 p.m.
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45 DJ music and/or karaoke music is not included as part of the applicant's proposal.

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47 **STAFF ANALYSIS**

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49 The subject site is located at the southernmost end of the downtown commercial area adjacent
50 to the busiest intersection in the city (Foothill Boulevard and Lincoln Avenue). Surrounding land
51 uses include the Craftsman Inn Bed and Breakfast to the west, the Union 76 and former Shell
52 gas stations to the north, private residential units to the east, and a large and relatively
53 undeveloped residential property to the south (see Attachment 5). Areas generally west and
54 south of the subject site are zoned for lower density residential uses. Areas generally north and
55 east of the site are zoned for commercial uses and higher density residential uses. The
56 following analysis is made in consideration of the site's locational context.

57
58 **A. Land Use**

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60 **Background**

61 The subject property has a zoning designation of Downtown Commercial-Design District
62 overlay (DC-DD). The DC-DD Zoning District is intended to provide for a broad range of
63 uses which generate high pedestrian traffic and which do not have large space
64 requirements. The overarching goal in the City's commercial zoning scheme is to
65 preserve and protect the predominantly residential character of the community by
66 providing a balanced mix of commercial and residential uses in accordance with the
67 General Plan.

68
69 Restaurants are allowed in the DC-DD Zoning District as a permitted use pursuant to
70 Section 17.22.040(A)(9) of the Zoning Code. However, Conditional Use Permit approval
71 was required for restaurant uses at the time the restaurant use was re-established on
72 the property in 1982. Consequently, the subject business is currently subject operating
73 under Conditional Use Permit U 88-05 (Attachment 3), which authorizes use of the
74 property as a restaurant and also authorizes sale of beer and wine.

75
76 Section 17.28.020 (B)(1) of the Design District overlay requires Design Review approval
77 for all uses requiring a Use Permit in the DC zoning district. Because there are no
78 proposed exterior modifications, there are no substantial design issues to be reviewed,
79 staff is recommending that the requirement for Design Review approval be waived per
80 Section 17.06.020(B)(2) of the Zoning Code.
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Analysis

The applicant is requesting authorization to have live entertainment at the restaurant. Live entertainment, defined below, is an allowable use in the DC-DD Zoning District with use permit approval by the Planning Commission (Section 17.22.040(B)(16)).

"Live entertainment facilities" means any form of entertainment whether or not aided by amplification which is created or presented by an individual or group of individuals or, in some cases, by animals including, but not limited to: musical performances, comedic performances, theatrical or dance performances, speeches and other oratory performances, etc. The presentation of recorded or transmitted music or entertainment performances unaccompanied by a "DJ" shall not be considered to be live entertainment. (Ord. 558 § 3(A)(2), 1999)."

As stated in the definition above, the presentation of recorded or transmitted music unaccompanied by a DJ shall not be considered to be live entertainment and does not require use permit approval.

Music created by an individual or group of individuals is considered "live entertainment" and is subject to use permit review and approval. Therefore, an amendment to the current use permit is required to allow live entertainment on the premises. Compliance with the required findings for use permit approval is discussed in Section C of this report.

B. Noise

Background

The primary source of noise in the vicinity of the subject site is roadway traffic at the controlled intersection of Foothill Boulevard and Lincoln Avenue (State Hwy's 29 and 128). Noise levels taken at points east and west of the subject site during preparation of the 2003 General Plan Update were measured at 68 to 73 dBA – a level considered to be disruptive to a conversation between two people.

Goal N-1 of the Noise Element in the General Plan is to "preserve current low levels of noise in Calistoga to maintain the City's rural atmosphere." Objective N-1.4 under this goal directs that the potential for new development projects to create unacceptable noise levels at sensitive receptors such as residential areas, hospitals, convalescent homes and schools should be minimized. "Unacceptable" noise levels are defined in Figure N-4 of the Noise Element of the General Plan as noise exceeding 75 dBA (Attachment 6). Policy P.2 under Objective N-1.4 requires that a noise study, including field noise measurement, be required for any proposed project that would: (1) place a potentially intrusive noise source near an existing noise sensitive receptor; or (2) place a noise sensitive land use near an existing potentially intrusive noise source.

The City's Noise Ordinance (Municipal Code Section 8.20.020) establishes that it shall be unlawful for any person or business to cause to be used or operated any mechanical device or instrument for the intensification or amplification of the human voice or any sound or noise, in any public or private place, in such a manner that the peace and good order of the neighborhood are disturbed, unless approved through an established permit.

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Analysis

The applicant's request for a use permit amendment to allow live entertainment has the potential to result in the establishment of a potentially intrusive noise source near two noise sensitive receptors: the Craftsman Inn, located approximately 75 feet from the patio structure; and the private residential units located on the property immediately east of the site, which are approximately 170 feet from the patio structure (see Attachment 5).

Based on recent experience during review of La Prima Pizza's request for live entertainment staff believes that, with certain revisions, live entertainment can be conducted in a manner that would not result in a significant noise impact to the adjacent noise sensitive receptors. These revisions would include: (1) limiting live entertainment performances to small acoustical music acts (acts no larger than a trio and that have no amplified instruments – excluding amplified vocals); (2) limiting performance times to no later than 9:00 p.m. Monday through Saturday and no later than 5:00 p.m. on Sunday; and (3) requiring that doors be installed at the entries into the patio area to attenuate noise.

These revisions represent a substantial change from what has been proposed and may not be desirable to the applicant. Should this be the case, staff recommends that the Planning Commission authorize a test live entertainment event prior to acting on the requested Conditional Use Permit amendment. A test live entertainment event would allow the Planning Commission and interested neighbors to observe conditions during the type of event desired by the applicant and allow staff to make a preliminary/unscientific assessment of noise levels. If noise is measured near or above unacceptable levels (as defined by the General Plan) preparation of a professional noise study may be warranted prior to approval of the applicant's request. The purpose of the study would be to obtain scientifically valid noise measurements and identify measures that could be employed to reduce noise to an acceptable level, should such measures be needed. The noise study would be paid for at the expense of the applicant.

C. Findings for Use Permit Approval

If the applicant is agreeable to the revisions discussed in Section B above, the following findings can be made pursuant to Section 17.40.070 of the Calistoga Municipal Code:

1. The proposed development, together with any provisions for its design and improvement, is consistent with the General Plan, any applicable specific plan and other applicable provisions of the Zoning Code including the finding that the use as proposed is consistent with the historic, rural, small-town atmosphere of Calistoga;

Response: The project site is zoned for commercial land uses. The existing restaurant has been operating as a restaurant establishment since 1957. Calistoga is determined in Municipal Code Section 17.02.040 to be primarily, essentially and predominantly a residential community wherein business and commerce are an enhancement and supportive to the quality of life and City's residential character. Efforts to expand activities at an existing restaurant that could adversely affect the adjoining residential quality of life could potentially be inconsistent with the General Plan. However,

178 incorporation of the measures below as conditions of project approval would ensure that
179 potential impacts will be kept to a minimum and that the project would not significantly
180 detract from the rural, small-town atmosphere of the area.

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182 (A) Indoor live entertainment shall be allowed up to four times per week
183 during the following days and hours:

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185 Monday through Friday : 5:00 p.m. to 9:00 p.m.
186 Saturday : 12:00 p.m. to 9:00 p.m.
187 Sunday : 12:00 p.m. to 5:00 p.m.

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189 (B) Indoor live entertainment shall be restricted to small acoustical music acts
190 (no greater than a trio) using non-amplified instruments (excluding
191 amplified vocals).

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193 (C) Music accompanied by a DJ and karaoke music shall be prohibited.

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195 (D) Live entertainment anywhere outdoors on the subject property shall be
196 prohibited unless authorized through a special event permit.

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198 (E) Doors shall be installed at all entry points into the patio structure and
199 should not be left open during indoor live entertainment performances.

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201 (F) Windows shall be kept shut during indoor live entertainment
202 performances.

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204 (G) Indoor live entertainment shall be conducted in a manner that is ancillary
205 and complementary to the primary permitted use as a restaurant.

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207 (H) The performance of the owner in conducting indoor live entertainment
208 events shall be reviewed quarterly by staff during the first year (and
209 annually thereafter) and reported to the Planning Commission.

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211 2. The site is physically suitable for the type and density of development;

212
213 Response: The patio area is a mostly enclosed space with adequate facilities and space
214 for live entertainment. The installation of doors at all entry points into the patio area will
215 help to attenuate noise. Windows and doors will be kept closed during indoor live
216 entertainment events to minimize noise levels outside of the restaurant.

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218 3. The proposed development has been reviewed in compliance with the California
219 Environmental Quality Act (CEQA) and the project will not result in detrimental or
220 adverse impacts upon the public resources, wildlife or public health, safety and
221 welfare;

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223 Response: This project is exempt from CEQA under Section 15301 (Class 1 – Existing
224 Facilities).

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226 4. Approval of the use permit application will not cause adverse impacts to
227 maintaining an adequate supply of public water and an adequate capacity at the
228 wastewater treatment facility;
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230 Response: The City's water system and wastewater treatment facility is adequate to
231 serve this project.
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233 5. Approval of the use permit application shall not cause the extension of service
234 mains greater than 500 feet;
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236 Response: Approval of this use permit application shall not cause the extension of
237 service mains greater than 500 feet;
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239 6. An allocation for water and/or wastewater service pursuant to Chapter 13.16
240 CMC (Resource Management System) shall be made prior to project approval.
241 Said allocation shall be valid for one year and shall not be subject to renewal.
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243 Response: The current allocation for water and wastewater is sufficient to
244 accommodate the addition of live entertainment one night per week to the existing use.
245 No additional allocation for water and/or wastewater is required.
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247 7. The proposed development presents a scale and design which are in harmony
248 with the historical and small-town character of Calistoga;
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250 Response: No new structures are being proposed as part of the project. The addition
251 of doors at the entry points into the enclosed patio area will require administrative review
252 and approval prior to construction. Through this process staff will ensure that the design
253 does not impact or detract from existing neighborhood qualities.
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255 8. The proposed development is consistent with and will enhance Calistoga's
256 history of independent, unique, and single location businesses, thus contributing
257 to the uniqueness of the town, which is necessary to maintain a viable visitor
258 industry in Calistoga and to preserve its economy; and
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260 Response: Approval of the request for live entertainment will help to sustain an
261 established business in the community. It also will increase opportunities for residents
262 and visitors to enjoy music performed by local and area musicians.
263

264 9. The proposed development complements and enhances the architectural
265 integrity and eclectic combination of architectural styles of Calistoga.
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267 Response: This proposal does not alter the architectural character of the existing
268 structure or other structures in Calistoga. Therefore, this finding is not applicable.
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270 **ENVIRONMENTAL REVIEW**

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272 Under the provisions of Section 15301, Existing Facilities, of the State Guidelines for
273 Implementation of the California Environmental Quality Act (CEQA), the addition of live

274 entertainment as part of an existing restaurant establishment is found to be exempt from the
275 environmental review requirements of Chapter 19.10 of the Calistoga Municipal Code,
276 implementing the California Environmental Quality Act of 1979, as amended, in that the
277 proposed use will occur within an existing commercial facility, will not result in a significant
278 source of noise near a noise sensitive receptor, and involves a negligible expansion of use in an
279 existing facility.

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281 **RECOMMENDATIONS**

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283 *ALTERNATIVE 1:*

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285 Staff recommends the following actions if the applicant is agreeable to the measures identified
286 in Section C.1 (A) through (H) of this staff report:

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288 A. Based on the above findings, staff recommends the filing of a Notice of Exemption for
289 the project pursuant to Section 15301 of the CEQA Guidelines.

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291 B. Based upon the above findings and pursuant to Section 17.06.020(B)(2) of the Zoning
292 Ordinance, staff recommends that the requirement for Design Review approval be
293 waived because there are no substantial design issues to be reviewed.

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295 C. Based on the above findings, staff recommends adoption of PC Resolution 2011-09
296 approving an amendment to Conditional Use Permit U 88-05 (U 88-05(A)) to allow live
297 entertainment indoors at Buster's Barbecue and Bakery, 1207 Foothill Boulevard (APN
298 011-317-007) within the "DC-DD" Downtown Commercial-Design District Overlay Zoning
299 District, subject to conditions of approval.

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301 *ALTERNATIVE 2:*

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303 Staff recommends the following action if the applicant does not want to modify the submitted
304 proposal for live entertainment events:

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306 A. Continue the item to a date uncertain and authorize staff to conduct a publically noticed
307 test live entertainment event.

308

309 **ATTACHMENTS**

310

- 311 1. Vicinity Map
- 312 2. Draft Planning Commission Resolution PC 2011- 09
- 313 3. Conditional Use Permit U 88-05
- 314 4. Site Plan and Floor Plan
- 315 5. Neighborhood Context Map
- 316 6. Figure N-4: Land Use Compatibility Guidelines for Noise Exposure; 2003 General Plan
317 Noise Element
- 318 7. Applicant's proposal for live entertainment events

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322 **NOTE:** The applicant or any interested person is reminded that the Calistoga Municipal Code
323 provides for a ten (10) calendar day appeal period. If there is a disagreement with the Planning
324 Commission, an appeal to the City Council may be filed. The appropriate forms and applicable
325 fee must be submitted prior to 5:00 p.m. on or before the tenth calendar day following the
326 Commission's final determination.
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VICINITY MAP

BUSTER'S BARBECUE



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**CITY OF CALISTOGA
PC RESOLUTION 2011-09**

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A RESOLUTION APPROVING AN AMENDMENT TO CONDITIONAL USE PERMIT U 88-05 (U 88-05(A)) ALLOWING LIVE ENTERTAINMENT INDOORS WITHIN BUSTER'S BARBECUE RESTAURANT LOCATED AT 1207 FOOTHILL BOULEVARD (APN 011-3170-007) WITHIN THE "DC-DD", DOWNTOWN COMMERCIAL-DESIGN DISTRICT OVERLAY ZONING DISTRICT

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WHEREAS, in 1988, the City Council granted a Conditional Use Permit (U 88-05) authorizing a restaurant with beer and wine service at 1207 Foothill Boulevard; and

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WHEREAS, on March 2, 2011, an application was submitted by restaurant owner Charles Davis, requesting approval to amend Use Permit U 88-05 to allow live entertainment to occur at the subject property; and

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WHEREAS, the Planning Commission reviewed and considered this application at a public hearing held during its regular meeting on March 23, 2011, and prior to taking action on the application, the Commission received written and oral reports by the Staff, and received public testimony; and

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WHEREAS, this action has been reviewed for compliance with the California Environmental Quality Act (CEQA) and has been determined Categorical Exempt from the requirements of CEQA pursuant to Section 15301 of the CEQA Guidelines; and

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WHEREAS, the Planning Commission pursuant to Chapter 17.40.070 of the Calistoga Municipal Code has made the following findings for approval of the Conditional Use Permit Amendment (U 88-05(A)):

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1. The proposed development, together with any provisions for its design and improvement, is consistent with the General Plan, any applicable specific plan and other applicable provisions of the Zoning Code including the finding that the use as proposed is consistent with the historic, rural, small-town atmosphere of Calistoga;

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FINDING: The project site is zoned for commercial land uses. The existing restaurant has been operating as a restaurant establishment since 1957. Calistoga is determined in Municipal Code Section 17.02.040 to be primarily, essentially and predominantly a residential community wherein business and commerce are an enhancement and supportive to the quality of life and City's residential character. Efforts to expand activities at an existing restaurant that could adversely affect the adjoining residential quality of life could potentially be inconsistent with the General Plan. Conditions of approval have been incorporated into the project approval that will ensure potential impacts are kept to a minimum and that the project will not significantly detract from the rural, small-town atmosphere of the area.

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2. The site is physically suitable for the type and density of development;

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FINDING: The patio area is a mostly enclosed space with adequate facilities and space for live entertainment. The installation of doors at all entry points into the patio area will help to attenuate noise. Windows and doors will be kept closed during indoor live entertainment events to minimize noise levels outside of the restaurant.

3. The proposed development has been reviewed in compliance with the California Environmental Quality Act (CEQA) and the project will not result in detrimental or adverse impacts upon the public resources, wildlife or public health, safety and welfare;

FINDING: This project is exempt from CEQA under Section 15301 of the CEQA Guidelines (Existing Facilities).

4. Approval of the use permit application will not cause adverse impacts to maintaining an adequate supply of public water and an adequate capacity at the wastewater treatment facility;

FINDING: The City's water system and wastewater treatment facility is adequate to serve this project.

5. Approval of the use permit application shall not cause the extension of service mains greater than 500 feet;

FINDING: Approval of this use permit application shall not cause the extension of service mains greater than 500 feet;

6. An allocation for water and/or wastewater service pursuant to Chapter 13.16 CMC (Resource Management System) shall be made prior to project approval. Said allocation shall be valid for one year and shall not be subject to renewal.

FINDING: The current allocation for water and wastewater is sufficient to accommodate the addition of live entertainment one night per week to the existing use. No additional allocation for water and/or wastewater is required.

7. The proposed development presents a scale and design which are in harmony with the historical and small-town character of Calistoga;

FINDING: No new structures are being proposed as part of the project. The addition of doors at the entry points into the enclosed patio area will require administrative review and approval prior to construction. Through this process staff will ensure that the design does not impact or detract from existing neighborhood qualities.

8. The proposed development is consistent with and will enhance Calistoga's history of independent, unique, and single location

99 businesses, thus contributing to the uniqueness of the town, which is
100 necessary to maintain a viable visitor industry in Calistoga and to
101 preserve its economy; and

102
103 FINDING: Approval of the request for live entertainment will help to sustain an
104 established business in the community. It also will increase opportunities for
105 residents and visitors to enjoy music performed by local and area musicians.

106
107 9. The proposed development complements and enhances the architectural
108 integrity and eclectic combination of architectural styles of Calistoga.

109
110 FINDING: This proposal does not alter the architectural character of the existing
111 structure or other structures in Calistoga. Therefore, this finding is not
112 applicable.

113
114 **NOW, THEREFORE, BE IT RESOLVED** by the City of Calistoga Planning
115 Commission that based on the above Findings, the Planning Commission approves an
116 amendment to Conditional Use Permit U 88-05, subject to the following thirteen (13)
117 conditions of approval:

118
119 1. This permit authorizes an amendment to Conditional Use Permit U 88-05 to allow
120 live entertainment indoors within Busters Barbecue and Bakery restaurant
121 located at 1207 Foothill Boulevard. Indoor live entertainment shall be permitted
122 subject to the following restrictions:

123
124 (A) Indoor live entertainment shall be allowed up to four times per week
125 during the following days and hours:

126
127 Monday through Friday : 5:00 p.m. to 9:00 p.m.
128 Saturday : 12:00 p.m. to 9:00 p.m.
129 Sunday : 12:00 p.m. to 5:00 p.m.

130
131 (B) Indoor live entertainment shall be restricted to small acoustical music acts
132 (no greater than a trio) using non-amplified instruments, excluding
133 amplified vocals.

134
135 2. Prior to commencement of indoor live entertainment events, doors shall be
136 installed at all entry points into the enclosed patio area.

137
138 3. All applicable conditions of Conditional Use Permit U 88-05 remain in effect,
139 except as may be modified by the conditions below.

140
141 4. Music accompanied by a DJ and karaoke music are prohibited.

142
143 5. Indoor live entertainment performances shall not exceed a decibel level of 50 as
144 measured from the east or west property line of the subject property.

145

- 146 6. Windows shall be kept shut during live entertainment performances and doors
147 shall not be left open.
148
- 149 7. Indoor live entertainment shall be conducted in a manner that is ancillary and
150 complementary to the primary permitted use as a restaurant.
151
- 152 8. Live entertainment anywhere outdoors on the subject property is prohibited
153 unless authorized in advance by a City-approved special event permit.
154
- 155 9. This Conditional Use Permit shall be administratively reviewed on a quarterly
156 basis during the first year (and on an annual basis thereafter) or upon receipt of
157 two verified substantive complaints to determine whether any violations of the
158 Conditions of Approval for this Use Permit have occurred. Should it be
159 determined that violation of the Conditions of this Use Permit have occurred, staff
160 shall bring the Use Permit back to the Planning Commission for reconsideration.
161
- 162 10. Posted occupancy limits within the enclosed patio area shall not be exceeded.
163
- 164 11. The owner(s) shall permit the City of Calistoga or representative(s) or
165 designee(s) to make periodic inspections at any reasonable time deemed
166 necessary in order to assure that the activities being performed under the
167 authority of this permit are in conformance with the terms and conditions
168 prescribed herein.
169
- 170 12. The Planning Commission may revoke this use permit in the future if the
171 Commission finds that the use to which the permit is put is detrimental to the
172 health, safety, comfort and welfare of the public, or constitutes a nuisance.
173
- 174 13. This permit shall be null and void if not used by March 23, 2014, or if the use is
175 abandoned for a period of 180 days.
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177 **PASSED, APPROVED, AN ADOPTED** on March 23, 2011, by the following
178 votes of the Calistoga Planning Commission:
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180 AYES:
181 NOES:
182 ABSENT:
183 ABSTAIN:
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186 _____
187 Jeff Manfredi, Chairman
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190 ATTEST: _____
191 Kathleen Guill
192 Secretary to the Planning Commission

MEMORANDUM

June 1, 1988

TO: City Council *msj*
FM: Richard Spitler, Planning Director
RE: Use Permit U 88-5, Jesus and Ana Gonzales

Project Description

The applicants, Jesus and Ana Gonzales, applied for a Use Permit to allow on-sale beer and wine and to add 378 sq. ft. to an existing outdoor dining area at the Calistoga Drive-In, 1207 Foothill Boulevard (A.P. Numbers 11-310-06 and 07). Please refer to revised Site Plan dated 5-25-88.

Planning Commission Recommendation

The Planning Commission gave unanimous approval to the Use Permit (see attached excerpt of the unapproved May 25, 1988 Planning Commission Minutes). The following findings and conditions are recommended:

FINDINGS:

1. The proposed project, as conditioned, is consistent with the Calistoga General Plan and Title 17, Zoning Ordinance, Calistoga Municipal Code.
2. The proposed project is categorically exempt under Section 15301(e) of the California Environmental Quality Act.
3. The project is not subject to the Resources Management System.
4. Consumption of alcoholic beverages at an outdoor restaurant establishment in an uncontrolled area and situated adjacent to a major highway presents a potential safety problem unless certain mitigation measures are taken.
5. The project, as conditioned, will not be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the city.
6. The project increases the potential for traffic hazards unless changes are made to the ingress/egress and on-site circulation pattern.

7. Planning Staff has met with officials of the State of California Alcoholic Beverage Control (ABC) and was informed that the recommended conditions related to the on-sale service and consumption of beer and wine are appropriate due to the uniqueness of the outdoor service area and size of property. In addition, the ABC, upon the recommendation of the City, has the authority to place said conditions on the issuance of the "On-Sale Beer and Wine Eating Place License".

CONDITIONS:

1. That the applicants shall provide 5 additional parking spaces, asphalted and striped to city standards, the location of the parking spaces and ingress/egress shall be in substantial conformance with the amended site plan dated 5-25-88 and the "right hand turn only" sign located at the exit shall be retained.

2. That the existing landscaping shall be retained.

3. That the garbage container located at the southwest property line shall be relocated away from residential property to the satisfaction of the Planning Director. The garbage container shall be screened from view by an enclosure acceptable to the Planning Director and Upper Valley Disposal Co. and shall be steam cleaned at least every 30 days from May 1 to November 1.

4. That the recreational vehicle shall be removed from the site. An accessory structure in compliance with Uniform Building Code may be constructed at a location acceptable to the Planning Director.

5. That use of an outside address system for music or other use is prohibited.

6. That all outdoor lighting shall be placed and aligned in a manner to minimize glare to nearby residences.

7. That the additional outdoor eating area shall be constructed in substantial conformance with the amended site plan dated 5-25-88.

8. That any future expansion or change of use at this property shall be subject to a use permit.

9. That the applicant shall comply with the following restrictions related to the sale, service and consumption of beer and wine only:

a) That the sale, service or consumption of alcoholic beverages shall be limited to the front property dining area only. The applicant shall place two (2) ABC approved signs in the front of the restaurant and 4 ABC approved signs at the rear of the restaurant designating the restricted area. These signs shall be

printed in both English and Spanish and the specific wording and exact location of the signs shall be done in a manner deemed appropriate by the Planning Director.

b) That no alcoholic beverage will be served to any person in a motor vehicle.

c) That alcoholic beverages shall be limited to the accompaniment of food purchase and shall be served by an employee to the customer at a table in the designated area.

d) That alcoholic beverages shall be served only in paper or plastic cups that are red in color and that said cups shall not be used for non-alcoholic beverages.

e) That the sale, service and consumption of beer and wine shall be limited to the hours of 11:00 a.m. through 10:00 p.m. only.

f) That the designated area for consumption of alcoholic beverages, the frontage area facing the restaurant, shall be enclosed by a fence constructed of posts and wooden lattice design at a minimum height of 3 feet and shall not exceed 5 feet in height.

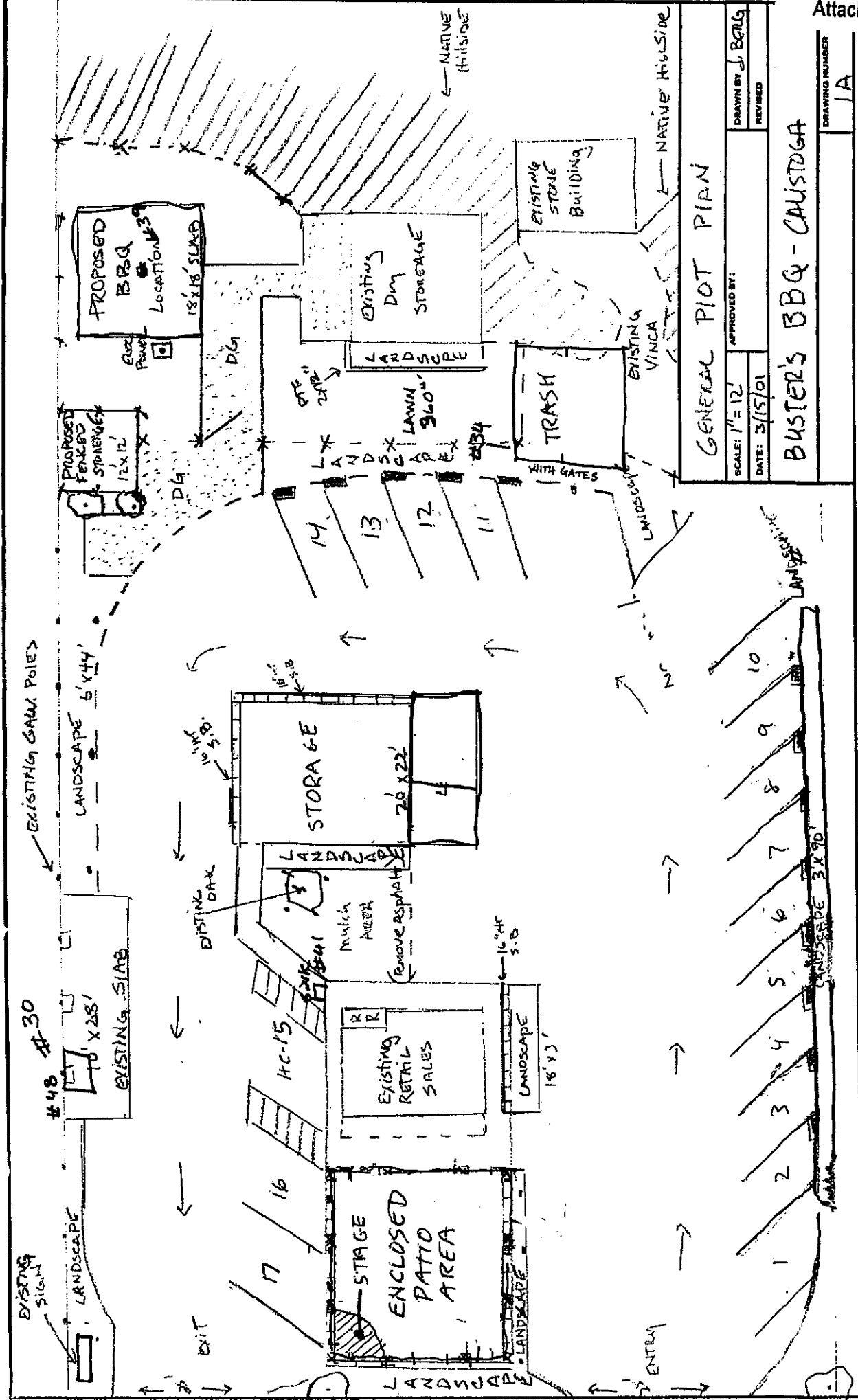
10. All signs shall be subject to the approval of the Planning Director.

11. Failure to abide by the conditions of this use permit and previously issued use permit conditions, where applicable, shall result in summary revocation of this use permit without further action by the city.

12. This use permit amendment supercedes all previous use permit conditions where there is a conflict. Otherwise, the previous use permit conditions shall remain in full force and effect.

13. That this use permit application shall be reviewed by the Planning Commission in six months and annually thereafter. Planning Staff shall submit a summary report regarding compliance or non-compliance with conditions.

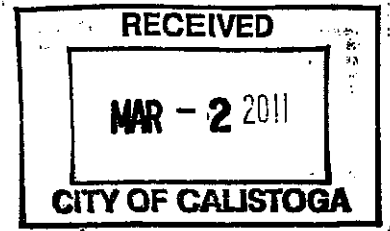
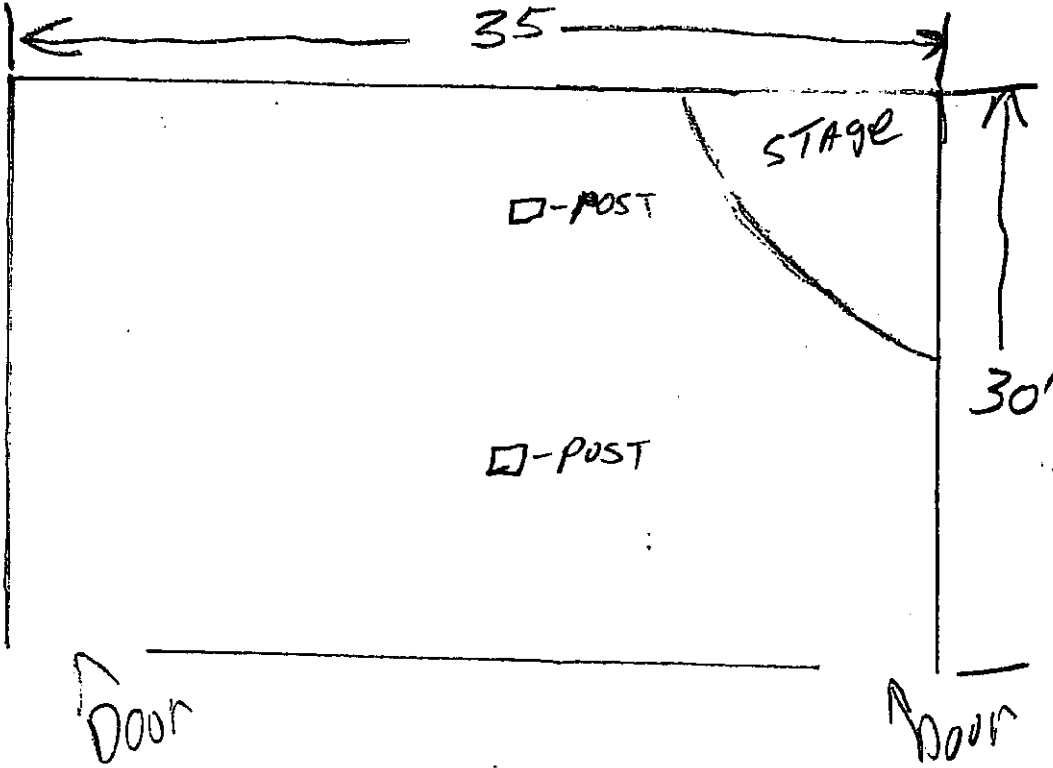
Attachments



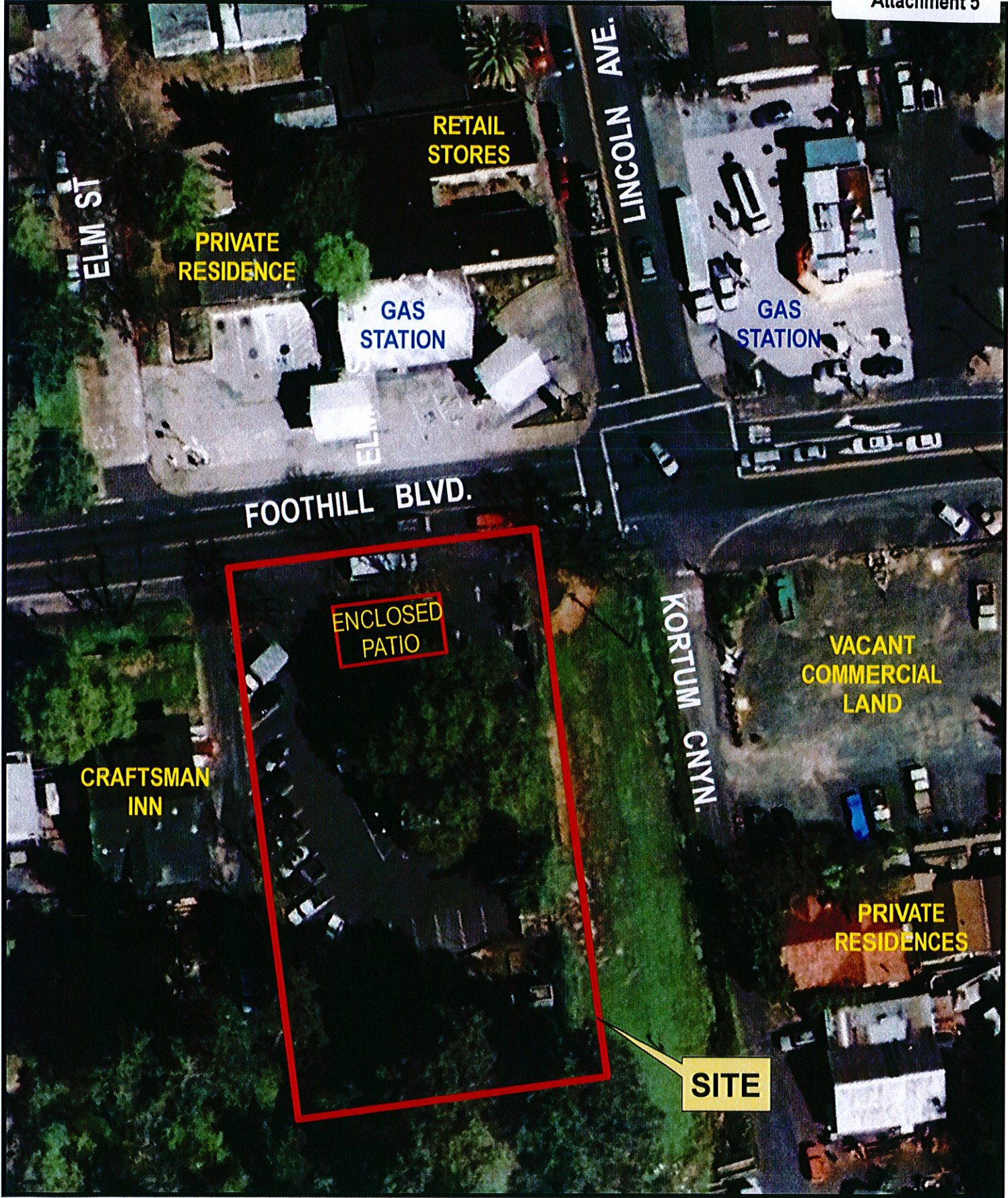
GENERAL PLOT PLAN

| | |
|-------------------------|--------------------|
| SCALE: 1" = 12' | APPROVED BY: |
| DATE: 3/15/01 | DRAWN BY: J. BERG |
| | REVIEWED: |
| BUSTER'S BBQ - CAUSTOGA | |
| | DRAWING NUMBER: 1A |

FOOTHILL BLVD.



FLOOR PLAN
ENCLOSED PATIO AREA



BUSTER'S BARBECUE

NEIGHBORHOOD CONTEXT



FIGURE N-4 LAND USE COMPATIBILITY GUIDELINES FOR NOISE EXPOSURE

| Land Use Category | Exterior Noise Exposure | | | | | |
|---|-----------------------------|----|----|----|----|----|
| | L _{dn} or CNEL, dB | | | | | |
| | 55 | 60 | 65 | 70 | 75 | 80 |
| Residential, hotels and motels | | | | | | |
| Outdoor sports and recreation Neighborhood parks and playgrounds | | | | | | |
| Schools, libraries, museums, hospitals Personal care, meeting halls, churches | | | | | | |
| Auditoriums, concert halls Amphitheaters | | | | | | |

NORMALLY ACCEPTABLE

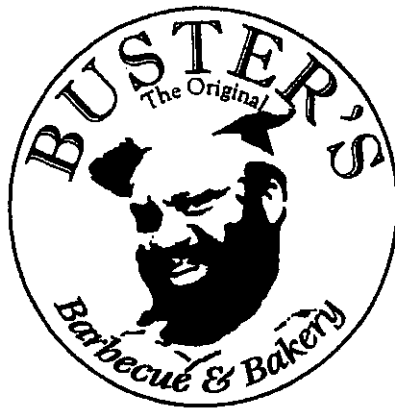
Specified land use is satisfactory: any buildings involved could be of normal conventional construction, no special insulation requirements.

CONDITIONALLY ACCEPTABLE

Specified land use to be permitted only after detailed analysis of the noise reduction requirements and inclusion of noise insulation features in the design.

UNACCEPTABLE

New construction or development should generally not be permitted because mitigation is usually not feasible.



March 2, 2011

Use permit for Buster's BBQ:

We would like to have music in our patio.

This music will be low keyed jazz or blues.

The hours will be approximately 5 pm to 10 pm 3-4 days a week.

Also Saturdays and Sundays afternoon.

¹Includes
No more than a 3-4 piece Band - amplified - includes vocals w/ mic

