

**CUP19-0010/Poor Reds BBQ Live Music** – As Approved by the Planning Commission April 9, 2020

**Conditions of Approval**

**Planning Services**

1. This Conditional Use Permit is based upon and limited to compliance with the project description, the following hearing exhibits, and conditions of approval set forth below:

Conditional Use Permit CUP19-0010 allows up to 30 live music events per year for Poor Red’s restaurant patrons, from March to November, in an existing semi-enclosed outdoor dining patio. Amplified music for each event shall be limited to the hours of 6:00 pm to 10:00 pm on weekdays and six hours total on weekends and holidays. Event sound system speakers will be located on the north edge of the outdoor dining patio and be oriented to face south, toward the restaurant seating in the center of the patio, as shown and described in Appendix B-1 of Exhibit G (Environmental Noise Assessment, Noise Survey Photographs). No signage or event materials are proposed as part of the project. This Conditional Use Permit (CUP) shall be reviewed by Planning Department staff after the second full year of operation following conditional use permit approval. At this two-year review, the permit holder shall provide Planning Department staff with the following: 1) sound engineer’s noise level readings during at least one typical-sized event taken at a distance of 50 feet from the speakers showing noise levels at the multiple locations identified as sensitive noise receptors or sample areas studied in the original sound analysis done by Bollard Acoustical Consultants on September 24, 2019 during both daytime and evening hours. Said noise level readings shall demonstrate amplified noise remains below maximum noise thresholds approved by the Planning Commission; 2) a written log of all public comments or complaints received associated with live music events, and 3) the number of restaurant patrons at each live music event. This information shall be delivered to the Planning Division no later than May 31, 2022.

By operation of this condition, it is the intent of County to reserve the right to modify or add new conditions, as warranted, for this CUP. The applicant shall pay a fee determined by the Planning and Building Department Director to cover the cost of processing this 2-year review.

Exhibit L .....Site Plan

Any deviations from the project description, exhibits, or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the approved hearing exhibits and conditions of approval hereto. All plans must be submitted for review and approval and shall be implemented as approved by the County.

2. **Permit Expiration:** Implementation of the project shall occur within 24 months of approval of this permit, otherwise the permit becomes null and void. It is the responsibility of the applicant to monitor the time limit and make diligent progress toward implementation of the project and compliance with Conditions of Approval.
3. **Legal Indemnity/Hold Harmless Agreement:** In the event of any legal action instituted by a third party challenging the validity of any provision of this approval, the land owner agrees to be responsible for the costs of defending such suit and shall hold County harmless from any legal fees or costs County may incur as a result of such action.

The land owner shall defend, indemnify, and hold harmless El Dorado County and its agents, officers, and employees from any claim, action, or proceeding against El Dorado County or its agents, officers, or employees to attack, set aside, void, or annul an approval of El Dorado County concerning a conditional use permit.

The County shall notify the applicant of any claim, action, or proceeding, and the County shall cooperate fully in the defense.

4. Restaurant management shall procure a sound level meter and monitor sound levels during each event to ensure the average and maximum sound output of the amplified music and speech is limited to an average of 75 dB at a position 50 feet in front of the speakers. A sound engineer shall be on-site to take sound readings and train restaurant management in appropriate methods of taking sound readings during peak attendance of at least one typical-sized event and during both daytime and evening hours. Records of measured sound levels during each event, including readings taken by a sound engineer, shall be documented and recorded in a log kept on the premises. A copy of this log shall be submitted to the Planning Division no later than May 31, 2022 consistent with Condition of Approval No. 1. Log entries for event dates subsequent to May 31, 2022 shall be made available to County staff upon request.

#### **Environmental Management Division – Solid Waste Unit**

5. Waste and recycling receptacles shall be accessible to participants and restaurant patrons as appropriate for the waste material generated at each event.