

FINDINGS

Conditional Use Permit CUP19-0010/Poor Reds BBQ Live Music Planning Commission/April 9, 2020

Based on the review and analysis of this project by staff and affected agencies, and supported by discussion in the staff report and evidence in the record, the following findings can be made:

1.0 CEQA FINDINGS

- 1.1 CUP19-0010 has been found categorically exempt pursuant to Section 15305 of the CEQA Guidelines (Minor Alterations in Land Use Limitations), applying to projects with minor alterations in land use limitations in areas with average slopes of less than 20 percent and which do not result in any changes to land use or density.

Rationale: The project site is fully developed and contains average slopes of less than 20 percent. The project would not result in any changes to land use or density because live music would be presented to existing restaurant patrons only. Use and occupancy requirements for the Poor Reds establishment would not change as a result of the project.

- 1.2 The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Planning and Building Department, Planning Services Division, at 2850 Fairlane Court, Placerville, CA, 95667.

2.0 GENERAL PLAN FINDINGS

- 2.1 **The project is consistent with General Plan Policy 2.2.1.2.**

General Plan Policy 2.2.1.2 establishes an appropriate range of land use types and densities within the County. The Commercial (C) Land Use Designation establishes areas suitable for a full range of commercial retail, office and service uses to serve the residents, businesses and visitors of El Dorado County. This designation is considered appropriate within Community Regions, Rural Centers and Rural Regions.

Rationale: The proposed use is consistent with uses allowed in the Commercial (C) Land Use Designation.

- 2.2 **The project is consistent with General Plan Policy 2.2.5.2.**

This policy requires that all applications for discretionary projects or permits shall be reviewed to determine consistency with the policies of the General Plan.

Rationale: Staff has prepared this section on General Plan findings to document the project's consistency with the policies of the General Plan.

2.3 The project is consistent with General Plan Policy 2.2.5.21.

General Plan Policy 2.2.5.21 requires that development projects be located and designed in a manner that avoids incompatibility with adjoining land uses.

Rationale: This project has incorporated several location and design features to ensure proposed live music events will be compatible with adjoining land uses. Specific measures include use of existing structures/landscape features as noise shielding, placement of event sound system speakers to direct sound away from incompatible uses and a condition of approval requiring noise measurement during events to ensure noise levels remain below required noise thresholds in the Zoning Ordinance.

2.4 The project is consistent with General Plan Policy 6.5.1.2.

General Plan Policy 6.5.1.2 requires an acoustical analysis and noise mitigation, if warranted, to ensure proposed noise-generating uses adjacent to noise-sensitive uses (e.g. single-family residences) do not exceed the performance standards of Table 6-2 (Noise Level Protection Standards For Noise Sensitive Land Uses Affected by Non-Transportation Sources).

Rationale: An Environmental Noise Assessment was completed on September 24, 2019 by Bollard Acoustical Consultants (Exhibit G). The noise assessment found that, as proposed and conditioned, noise from outdoor amplified music events would not exceed the performance standards of Table 6-2 and therefore, no noise mitigation measures are warranted for this project.

2.5 The project is consistent with General Plan Policy 10.1.6.1.

General Plan Policy 10.1.6.1 (promotion of local businesses) requires the County to encourage expansion of local business operations that promote tourism and support local economic growth.

Rationale: Staff is recommending project approval as the project is consistent with the goals of this policy. The project would encourage ongoing use of the site as a local/regional travel destination and further support business operations at the Poor Reds establishment.

3.0 ZONING FINDINGS

3.1 The project is consistent with allowed uses in the CM Zone (Table 130.22.020 – Allowed Uses and Permit Requirements for the Commercial Zones).

Table 130.22.020 lists uses allowed within each of the commercial zones. For listed uses, this table also indicates whether a use is allowed by right (“P”), CUP or other planning permit.

Rationale: For the CM zone, outdoor entertainment is allowed by CUP, and therefore this CUP request is consistent with Table 130.22.020.

3.2 The project is consistent with Chapter 130.35 (Parking and Loading).

Chapter 130.35 (Parking and Loading) requires a parking plan be reviewed and approved prior to permitting any new development or uses on a parcel.

Rationale: The project is consistent with Chapter 130.35. Outdoor live music events are not considered new development or a new use because live music would be presented to existing restaurant and bar patrons only. Use and occupancy requirements for the Poor Reds establishment, as reviewed and approved by the County in 2015, would not change as a result of the project. Therefore, the existing parking spaces will be sufficient for the proposed use and no additional parking review is required for this project.

3.3 The project is consistent with Chapter 130.37 (Noise Standards).

Chapter 130.37 prescribes noise standards and thresholds applicable to all discretionary planning permits to ensure new noise generating uses adjacent to sensitive receptors (noise-sensitive land uses) do not cause noise levels exceeding required thresholds.

Rationale: An Environmental Noise Assessment was completed on September 24, 2019 by Bollard Acoustical Consultants (Exhibit G). The noise assessment found that, as proposed, noise from outdoor amplified music events would not exceed the noise level limits in Table 130.37.060.1. (Noise Level Performance Standards for Noise Sensitive Land Uses Affected by Non-Transportation Sources). To ensure ongoing compliance with noise limits in perpetuity, the noise assessment recommended restaurant management procure a sound level meter and limit the average and maximum sound output of the amplified music and speech to an average of 75 dB at a position 50 feet in front of the speakers. This recommendation has been incorporated into the project as Condition of Approval No. 4.

4.0 CONDITIONAL USE PERMIT FINDINGS

4.1 The issuance of the permit is consistent with the General Plan.

The proposed use is consistent with the policies and requirements in the General Plan as discussed in the General Plan section of the Staff Report. The proposed use is consistent with all applicable policies as set forth in Finding 2.0 above.

4.2 The proposed use would not be detrimental to the public health, safety and welfare, or injurious to the neighborhood.

This project has incorporated several location and design features to ensure proposed live music events will be compatible with adjoining land uses, including use of existing structures/landscape features as noise shielding, placement of event sound system speakers to direct sound away from incompatible uses and adding a condition of approval requiring noise measurement during events to ensure noise levels remain below required noise thresholds in the Zoning Ordinance. Use and occupancy of the establishment will not change as a result of the project, as live music events will be presented to existing restaurant patrons only. Accordingly, live music events would not generate significant additional pedestrian or vehicular traffic which could create public health or safety hazards. As proposed and conditioned, the proposed use would not be detrimental to public health, safety and welfare, nor injurious to the neighborhood, and therefore, Finding 4.2 can be made.

4.3 The proposed use is specifically permitted by Conditional Use Permit.

Outdoor entertainment is shown as a use allowed by CUP for the CM zone on Zoning Ordinance Table 130.22.020 (Allowed Uses and Permit Requirements for the Commercial Zones). Therefore, Finding 4.3 can be made.