



## Staff Report to the Zoning Administrator

Application Number: **121238**

**Applicant:** Miranda Leung  
**Owner:** Leung Family Investments  
**APN:** 033-141-56

**Agenda Date:** December 21, 2012  
**Agenda Item #:** 2  
**Time:** After 9:00 a.m.

**Project Description:** The proposal is to allow entertainment at an existing restaurant on Thursday through Saturday nights, to include live music, dancing, karaoke or other variety acts, and also to extend the hours for the sale of alcoholic beverages from 10:00pm to 12:00am on Sunday through Thursday nights and from 11:00pm to 1:00am on Friday and Saturday nights. This requires an Amendment to Commercial Development Permits 05-0126 and 07-0444.

**Location:** The property is located on the east side of 41st Avenue (900 41st Avenue) at about 450 feet north of the intersection with Portola Drive.

**Supervisory District:** First District (District Supervisor: John Leopold)

**Permits Required:** Amendment to Commercial Development Permits 05-0126 and 07-0444.  
**Technical Reviews:** None

### Staff Recommendation:

- Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- Approval of Application 121238, based on the attached findings and conditions.

### Exhibits

- |                                |                                      |
|--------------------------------|--------------------------------------|
| A. Project plans               | E. Assessor's, Location, Zoning and  |
| B. Findings                    | General Plan Maps                    |
| C. Conditions                  | F. Noise Study prepared by Edward L. |
| D. Categorical Exemption (CEQA | Pack Associates Inc.                 |
| determination)                 | G. Comments & Correspondence         |

### Parcel Information

Parcel Size: 14,250 square feet  
Existing Land Use - Parcel: Commercial (Restaurant)  
Existing Land Use - Surrounding: Commercial with residential to the rear of the parcel.

County of Santa Cruz Planning Department  
701 Ocean Street, 4<sup>th</sup> Floor, Santa Cruz CA 95060

Project Access: 41<sup>st</sup> Avenue  
Planning Area: Live Oak  
Land Use Designation: C-C (Community Commercial)  
Zone District: C-2 (Community Commercial)  
Coastal Zone: X Inside         Outside  
Appealable to Calif. Coastal Comm.    Yes      X No

### Environmental Information

Geologic Hazards: Not a mapped constraint  
Soils: No report required  
Fire Hazard: Not a mapped constraint  
Slopes: Level site  
Env. Sen. Habitat: Not mapped/no physical evidence on site  
Grading: No grading proposed  
Tree Removal: No trees proposed to be removed  
Scenic: No change to existing structure  
Drainage: No change to existing drainage  
Archeology: Not mapped/no physical evidence on site

### Services Information

Urban/Rural Services Line: X Inside         Outside  
Water Supply: City of Santa Cruz Water District  
Sewage Disposal: Santa Cruz County Sanitation District  
Fire District: Central Fire Protection District  
Drainage District: Zone 5 Flood Control District

### History

Commercial Development Permit 05-0126 allowed for the demolition of an existing building and the construction of a new 2,100 square foot structure to be used as a restaurant. Subsequently application 07-0444 was approved to amend 05-0126 and to allow for the sale of alcoholic beverages within the existing restaurant (Canton). This application is for a further amendment to Commercial Development Permits 05-0126 and 07-0444 to allow for the addition of entertainment at the restaurant and to extend the hours of alcoholic beverage service.

### Project Setting

The Canton Restaurant is located on 41<sup>st</sup> Avenue, just north of Portola Drive in Santa Cruz. This section of 41<sup>st</sup> Avenue is primarily commercial with office and retail uses including some mixed use development. The nearest residences to the restaurant are on Bye Way to the east, and on Portola Drive to the southeast and the closest residence is over 200 feet from the front door of the restaurant. The restaurant building is located in the northwestern corner of the parcel with parking to the rear and south of the building. Access to the dining area is from the parking area to the south. Both the indoor dining area and a small fenced outdoor dining patio at the western elevation of the building are oriented towards 41<sup>st</sup> Avenue with the kitchen and a second story

storage area located at the rear of the building

### **Zoning & General Plan Consistency**

The subject property is a parcel of approximately 14,250 square feet, located in the C-2 (Community Commercial) zone district, a designation which allows commercial uses. The proposal is to allow for entertainment and to extend the hours of service in an existing restaurant, which is a permitted use within the zone district. The project is consistent with the site's (C-C) Community Commercial General Plan designation. Because the subject parcel is within 200 feet of a residential use, County Code 13.10.654 requires additional discretionary review and a public hearing of the proposal.

### **Local Coastal Program Consistency**

The existing restaurant is in conformance with the County's certified Local Coastal Program and the proposal to add entertainment and extend the hours for the sale of alcoholic beverages within the existing restaurant is not considered to be a Change in Use and therefore no Coastal Review is required of this project

### **Analysis and Discussion**

Following the approval of 07-0444 in December of 2007, the existing restaurant has been serving alcoholic beverages without disruption to either the commercial neighborhood or to the neighboring residential properties that lie to the rear of the parcel. The proposed two hour extension of existing business hours, which would allow for the sale of alcoholic beverages until 12:00am on Sunday through Thursday nights and until 1:00am on Friday and Saturday nights, and the addition of entertainment on Thursday through Saturday nights, is not expected to significantly intensify the nature of the existing use, as the entertainment and alcohol sales will continue to be ancillary to the primary use of the business as a restaurant.

To help staff determine the impacts and potential for disturbance on neighboring properties by the proposed changes, a demonstration event that included a live band and dancing was held at the restaurant on Saturday October 20, 2012. This event was noticed in advance to all residents, tenants and property owners within 300 feet of the restaurant and in addition, signage pertaining to the proposed Amendment to the Commercial Development Permit was posted on the property.

During the demonstration event a noise analysis study was performed by Edward L. Pack Associates Inc. specifically to determine the levels of noise generated by the event on the surrounding noise sensitive land uses from live music produced inside the restaurant. The noise study included continuous sound measurements that started before the band commenced playing and that were continued for an additional half and hour after playing ceased. Readings were taken in two separate locations. Location one was at the western property line of the residences along Bye Way, where there is a gap in the fence allowing a clear view of the rear of the restaurant, and location two was at the corner of the apartment parking lot closest to the restaurant but outside the solid board fence. In addition, short term measurements of sound levels were taken in the parking lot near the southerly property boundary at a point about 68 feet from the front doors of the restaurant to determine levels of music outside the restaurant without influence from extraneous noise sources.

The live band, which consisted of drums, bass, lead guitar and vocals, was situated near the front of the restaurant, just to the left of the front doors. The music, a mixture of contemporary rock/pop tunes, commenced at around 9:15pm and played continuously at a danceable volume until 11:00pm. During this time there were approximately 50 patrons at the restaurant dining and dancing.

The results of the noise analysis study reveal that the noise from live music entertainment is within the limits of the County of Santa Cruz Noise Element and will be barely audible, if heard at all, at the residences within the vicinity of the restaurant. A copy of this study is included as Exhibit F. Further, no specific complaints or comments were received from neighbors or other interested parties following this event, either with regard to noise created by the band or due to noise or other disturbances caused by patrons at the restaurant. Based upon this information staff believe that the proposed project will have little or no impact on the surrounding residential neighborhoods or on adjacent commercial uses. In order to minimize the potential for impacts to adjacent residential properties, this approval will be conditioned to allow alcohol sales and the attendance at entertainment events, only with food purchases. In addition, windows and doors will be required to be kept closed at all times during any entertainment event, except where patrons are entering or leaving the building. The restaurant owner will be responsible for preventing potential disturbance by patrons leaving the restaurant. If there are significant complaints resulting from the increased business hours or from entertainment events at the restaurant, either from noise or from repeated disorderly conduct by patrons, further mitigations, such as a requirement for on-site security personnel, may be required. Further, if disturbance continues and cannot be mitigated, this permit may be revoked.

### **Environmental Review**

Environmental Review has not been required for the proposed project since, as proposed, the project qualifies for an exemption under the California Environmental Quality Act (CEQA) consistent with the CEQA guidelines in Section 153035, Minor Alterations to Land Use Limitations, in that the addition of live entertainment and the extension of the business hours at an existing restaurant has little or no potential to cause environmental impact since no physical changes are proposed.

### **Conclusion**

As proposed and conditioned, the project is consistent with all applicable codes and policies of the Zoning Ordinance and General Plan/LCP. Please see Exhibit "B" ("Findings") for a complete listing of findings and evidence related to the above discussion.

### **Staff Recommendation**

- Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- **APPROVAL** of Application Number 121238, based on the attached findings and conditions.

**Supplementary reports and information referred to in this report are on file and available for viewing at the Santa Cruz County Planning Department, and are hereby made a part of the administrative record for the proposed project.**

**The County Code and General Plan, as well as hearing agendas and additional information are available online at: [www.co.santa-cruz.ca.us](http://www.co.santa-cruz.ca.us)**

Report Prepared By: Lezanne Jeffs  
Santa Cruz County Planning Department  
701 Ocean Street, 4th Floor  
Santa Cruz CA 95060  
Phone Number: (831) 454-2480  
E-mail: [lezanne.jeffs@co.santa-cruz.ca.us](mailto:lezanne.jeffs@co.santa-cruz.ca.us)

1. (E) CRY SUBSTANTIAL
2. (E) CRY PULLBOX, EXTEND (N) CONDUITS INTO BOX PER CRY
3. (E) PULLBOX
4. (E) TELEPHONE PULLBOX, EXTEND (N) CONDUIT INTO BOX PER TELEPHONE COMPANY REQUIREMENTS
5. (N) PACE PULLBOX PER PACE REQUIREMENTS
6. (N) TELEPHONE PULLBOX PER TELEPHONE COMPANY REQUIREMENTS
7. (N) CRY PULLBOX PER CRY COMPANY REQUIREMENTS

APPROVED BY THE  
INSPECTION SERVICE

DATE: \_\_\_\_\_ PERMIT NO.: \_\_\_\_\_

ISSUED TO OFFICER:

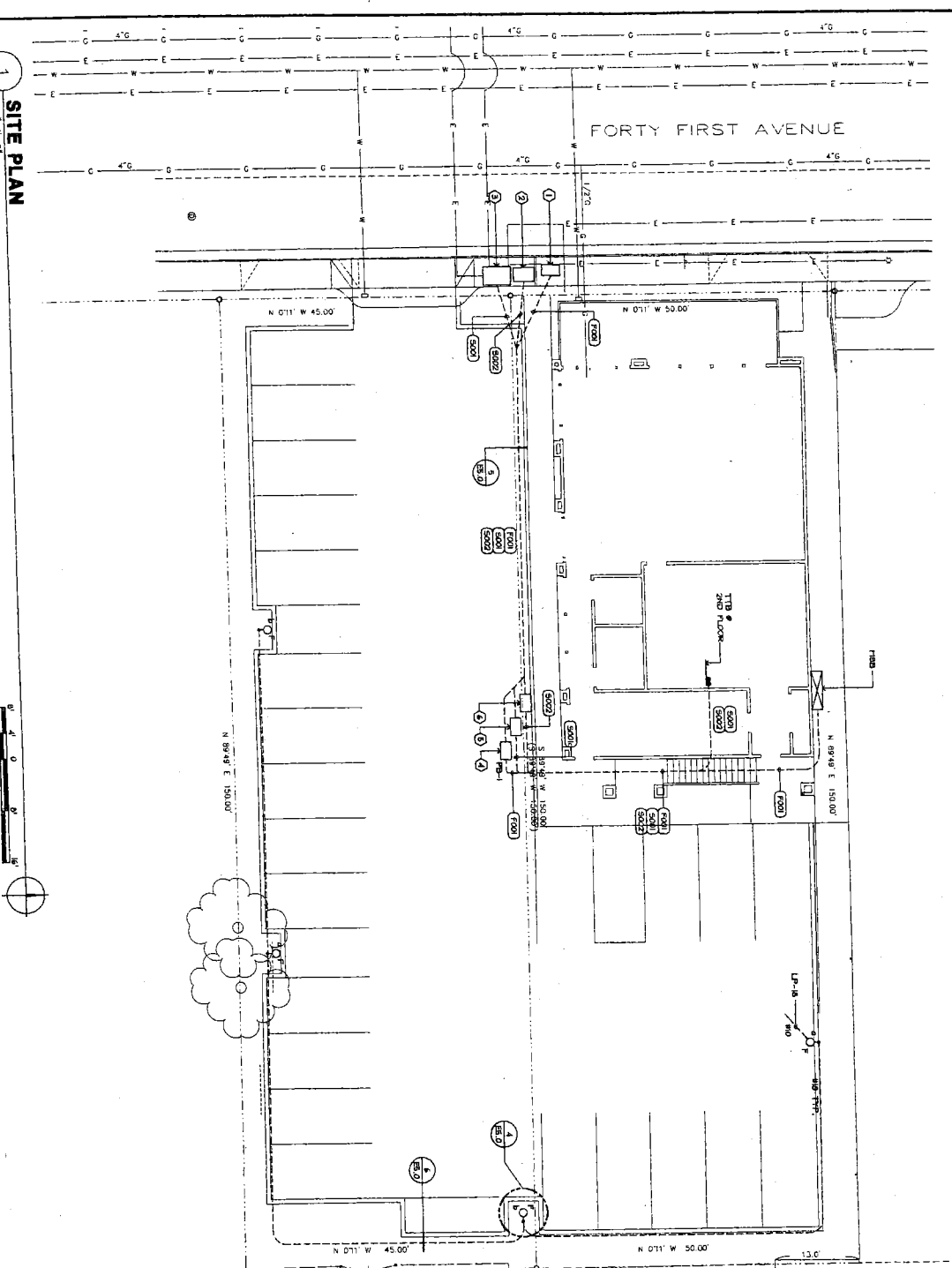
Notation: These plates and registration mark  
remain on the job site until the vehicle  
shall be re-entrained on the street  
prior to the building inspection  
department.

RECEIVED

U.S. DEPARTMENT OF JUSTICE


U.S. DEPARTMENT OF JUSTICE

Communication Circuits  
shall comply to 2001  
Calif. Electrical Code,  
Article 800.



## SITE PLAN

**FEHR ENGINEERING COMPANY, INC.**  
22  
10000 Middlebrook Parkway, Suite 100  
P.O. Box 10000, Middlebrook, PA 17057  
PHONE: (717) 764-0273  
FAX: (717) 768-8624  
TELETYPE: (717) 764-0273  
CONSULTING ELECTRICAL ENGINEERS  
P.E. JOB NO. 030927.00

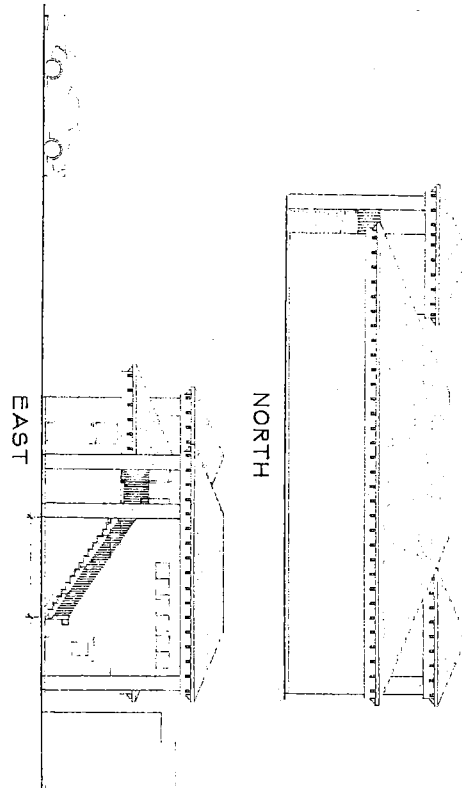


|      |          |  |    |
|------|----------|--|----|
| DATE | 8/1/78   | CANTON RESTAURANT<br>900 41ST AVENUE, CAPITOLA, CALIFORNIA | -6 |
| SOFT | 42 SPERM |  |    |
| NO   |          |  |    |

E2.0

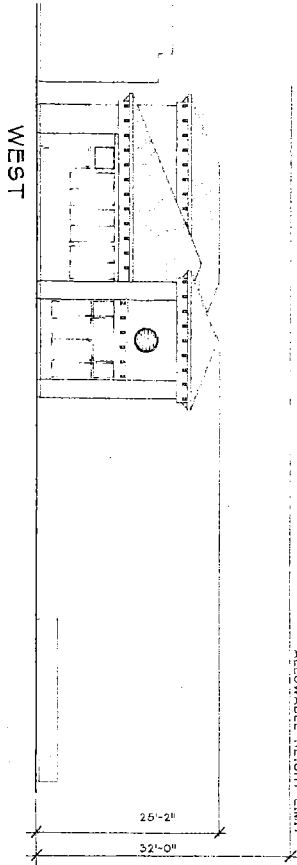
SITE PLAN

EXHIBIT A

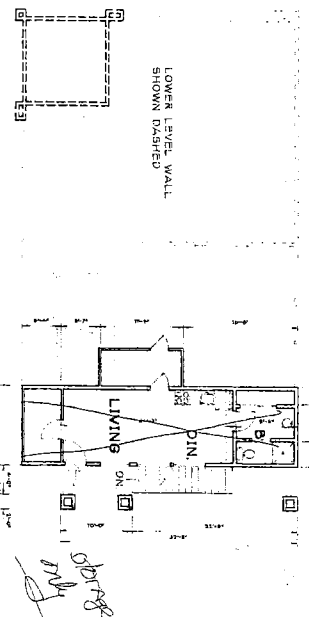


TYPICAL EXTERIOR  
FINISH MATERIALS  
CONC. TILE ROOFING  
2 X 6 FASCIA  
WHITE VINYL WINDOW FRAMES  
2 X 6 OR 4 WIND TRIM  
STUCCO

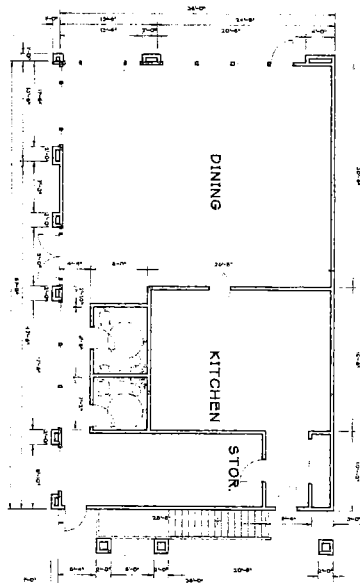
ALLOWABLE HEIGHT LIMIT



UPPER LEVEL



LOWER LEVEL  
FLOOR PLAN



07/06/05  
06/20/05  
04/77/05  
05/07/03  
12/09/02

Rev.  
Date  
12/21/01  
12/02/01

FLOOR PLANS &  
GARAGE FLOOR PLANS &  
EXTERIOR ELEVATIONS

SCALE 1/8"=1'-0"

A RESTAURANT/APARTMENT BUILDING FOR  
LEUNG FAMILY INVESTMENTS, LLC  
3435 MERIDIAN ROAD  
APTOS, CA 95003

-7-

herbert architect  
Ishikawa

3170 SERRAVALLO DRIVE  
APTOS, CA 95003

(231) 627-5740 FAX (231) 669-5742

EXHIBIT A

Sheet  
A2

Exit to Patio

BAR

Entertainment  
Area

Bathrooms  
& Exit

Entry  
Exit



## **Development Permit Findings**

- 1. That the proposed location of the project and the conditions under which it would be operated or maintained will not be detrimental to the health, safety, or welfare of persons residing or working in the neighborhood or the general public, and will not result in inefficient or wasteful use of energy, and will not be materially injurious to properties or improvements in the vicinity.**

This finding can be made in that the project is located in an area designated for commercial uses. The proposed addition of entertainment for patrons at the restaurant will be allowed only in conjunction with food purchases and will only be allowed on Thursday through Saturday evenings. In addition, windows and doors will be required to be kept closed at all times during any entertainment event, except where patrons are entering or leaving the building. As shown by the Noise Analysis Study performed by Edward L. Pack and Associates, the sound levels associated with live entertainment at the restaurant will be within the limits of the County of Santa Cruz Noise Element and will be barely audible, if heard at all, at the residences within the vicinity of the restaurant. The extension by two hours each day, of times during which alcoholic beverages may be sold, from 10:00pm to 12:00am Sunday through Friday and from 11:00pm to 1:00am on Friday and Saturday nights, will comply with all applicable laws and licenses governing the sale of alcohol. Further, the restaurant owners and managers will be required to be responsible for preventing potential disturbance by patrons leaving the restaurant. If there are significant complaints resulting from the increased business hours or from entertainment events at the restaurant, either from noise or from repeated disorderly conduct by patrons, further mitigations, such as a requirement for on-site security personnel, may be required. Further, if disturbance continues and cannot be mitigated, this permit may be revoked. Therefore the project as conditioned will not be detrimental to the health, safety or welfare of surrounding neighbors or the general public.

- 2. That the proposed location of the project and the conditions under which it would be operated or maintained will be consistent with all pertinent County ordinances and the purpose of the zone district in which the site is located.**

This finding can be made, in that the proposed amendment to allow for limited entertainment at the restaurant and to extend business hours, and the conditions under which the restaurant would be operated will be consistent with all pertinent County ordinances and the purpose of the C-2 (Community Commercial) zone district, as the primary use of the property will be a restaurant with extended business hours, and the addition of entertainment on Thursday through Saturday evenings will be ancillary to the existing restaurant use.

- 3. That the proposed use is consistent with all elements of the County General Plan and with any specific plan which has been adopted for the area.**

This finding can be made, in that the proposed amendment to allow for extended business hours and the addition of entertainment on Thursday through Saturday evenings at an existing restaurant, is consistent with the use requirements specified for the Community Commercial (C-C) land use designation in the County General Plan.

The proposed amendment to the business hours of the restaurant and addition of entertainment on Thursday through Saturday evenings will be compatible with surrounding uses, in that the existing restaurant, that includes for the sale of alcoholic beverages will not be materially altered by the proposed changes, in that both alcohol sales and the provision of entertainment will be ancillary to the restaurant use. No changes are proposed to the building, parking area, landscaping, business signage, or the lighting at the existing restaurant that meets all the current site and design standards for the zone district. The addition of live music and other entertainment will comply with Objective 6.9a (Noise Element) in that the noise levels generated will be within the limits of the standards set out in table 6-1 (Land Use Compatibility for Community Noise Environments) and Table 6-2 (Maximum Allowable Noise Exposure). As shown by the Noise Analysis Study prepared by Edward L. Pack and Associates Inc., noise generated by the addition of entertainment within the building is mostly inaudible in the surrounding area.

A specific plan has not been adopted for this portion of the County.

- 4. That the proposed use will not overload utilities and will not generate more than the acceptable level of traffic on the streets in the vicinity.**

This finding can be made, in that the proposed extension of the business hours and the addition of entertainment on Thursday through Saturday evenings is proposed at an existing restaurant. The expected level of traffic generated by the proposed project is not anticipated to change during existing business hours and although the hours of use will be extended by two hours a day, such an increase will not adversely impact existing roads or intersections in the surrounding area.

- 5. That the proposed project will complement and harmonize with the existing and proposed land uses in the vicinity and will be compatible with the physical design aspects, land use intensities, and dwelling unit densities of the neighborhood.**

This finding can be made, in that the primary use of the subject property will continue to be a restaurant that serves alcoholic beverages, and that the addition extended business hours will not materially change the existing use. The addition of entertainment for patrons will be ancillary to the approved restaurant use and will be allowed only on Thursday through Saturday nights within the approved business hours. The proposed addition of entertainment and the extension of the business hours will be conditioned to reduce any impacts to the surrounding neighborhood.

- 6. The proposed development project is consistent with the Design Standards and Guidelines (sections 13.11.070 through 13.11.076), and any other applicable requirements of this chapter.**

This finding can be made in that no changes are proposed to the existing restaurant building, so the project will not change the aesthetic qualities of the surrounding properties and will not reduce or visually impact available open space in the surrounding area.

## Conditions of Approval

**Exhibit A:** Site Plan drawn by Fehr Engineering Company Inc. dated 2/13/06, Floor Plans drawn by Herb Ichikawa as revised 07/06/05, and interior table layout to show proposed entertainment area (not dated).

- I. This permit amends Commercial Development Permits 05-0126 and 07-0444 to authorize the extension of business hours, including the sale of alcoholic beverages, from 10:00pm to 12:00am on Sunday through Thursday nights and from 11:00pm to 1:00am on Friday and Saturday nights, and to allow for the provision of entertainment including live bands, dancing, karaoke or other variety acts on Thursday through Saturday nights. This approval does not confer legal status on any existing structure(s) or existing use(s) on the subject property that are not specifically authorized by this permit. Prior to exercising any rights granted by this permit including, without limitation, any construction or site disturbance, the applicant/owner shall:
  - A. Sign, date, record and return to the Planning Department one copy of the approval to indicate acceptance and agreement with the conditions thereof.
    1. Any outstanding balance due to the Planning Department must be paid prior to making a Building Permit application. Applications for Building Permits will not be accepted or processed while there is an outstanding balance due.
  - B. Provide proof that the Department of Alcoholic Beverage Control (ABC) license for the sale of alcoholic beverages at the restaurant has been amended to reflect the extended business hours, or a copy of an exemption letter.
  - C. Submit proof that these conditions have been recorded in the official records of the County of Santa Cruz (Office of the County Recorder) within 30 days from the effective date of this permit.
- II. **Operational Conditions**
  - A. Alcoholic beverages may be purchased only in conjunction with food purchase.
  - B. Alcoholic Beverage sales must stop at 12:00am except of Friday and Saturday when sales must stop at 1:00am.
  - C. The service of alcoholic beverages must comply with all the requirements of the Department of Alcoholic Beverage Control (ABC).
  - D. All required licenses shall be maintained and amended as required to reflect the additional approved business hours, and all local, state and federal laws pertaining to the sale and consumption of alcohol shall be followed.
  - E. Entertainment at the restaurant, including live bands, dancing, karaoke and other variety acts is allowed only indoors during the hours of operation of the

restaurant. The noise level generated by the indoor entertainment shall not exceed 45 decibels at the property line.

- F. During any entertainment event all doors and windows at the restaurant, including doors and windows to the dining patio, are to be kept closed, except as required by patrons for entry and exit from the building.
  - G. If there are any documented incidents of violence, disturbance of the peace or any other deleterious impacts to the surrounding community that can be demonstrated to be a direct result of the addition of live entertainment or the extension of the hours of alcoholic beverage service, the business owner may be required to hire an independent security officer to patrol the parking area and areas in the vicinity of the restaurant in order to maintain a peaceful and orderly environment and to ensure that such disturbances do not continue. If the business owner fails to successfully mitigate the incident of such complaints, this permit may be revoked.
  - H. In the event that future County inspections of the subject property disclose noncompliance with any Conditions of this approval or any violation of the County Code, the owner shall pay to the County the full cost of such County inspections, including any follow-up inspections and/or necessary enforcement actions, up to and including permit revocation.
- III. As a condition of this development approval, the holder of this development approval ("Development Approval Holder"), is required to defend, indemnify, and hold harmless the COUNTY, its officers, employees, and agents, from and against any claim (including attorneys' fees), against the COUNTY, its officers, employees, and agents to attack, set aside, void, or annul this development approval of the COUNTY or any subsequent amendment of this development approval which is requested by the Development Approval Holder.
- A. COUNTY shall promptly notify the Development Approval Holder of any claim, action, or proceeding against which the COUNTY seeks to be defended, indemnified, or held harmless. COUNTY shall cooperate fully in such defense. If COUNTY fails to notify the Development Approval Holder within sixty (60) days of any such claim, action, or proceeding, or fails to cooperate fully in the defense thereof, the Development Approval Holder shall not thereafter be responsible to defend, indemnify, or hold harmless the COUNTY if such failure to notify or cooperate was significantly prejudicial to the Development Approval Holder.
  - B. Nothing contained herein shall prohibit the COUNTY from participating in the defense of any claim, action, or proceeding if both of the following occur:
    - 1. COUNTY bears its own attorney's fees and costs; and
    - 2. COUNTY defends the action in good faith.

- C. Settlement. The Development Approval Holder shall not be required to pay or perform any settlement unless such Development Approval Holder has approved the settlement. When representing the County, the Development Approval Holder shall not enter into any stipulation or settlement modifying or affecting the interpretation or validity of any of the terms or conditions of the development approval without the prior written consent of the County.
- D. Successors Bound. "Development Approval Holder" shall include the applicant and the successor(s) in interest, transferee(s), and assign(s) of the applicant.

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Minor variations to this permit which do not affect the overall concept or density may be approved by the Planning Director at the request of the applicant or staff in accordance with Chapter 18.10 of the County Code.

**Please note: This permit expires three years from the effective date listed below unless the conditions of approval are complied with and the use commences before the expiration date.**

Approval Date: \_\_\_\_\_

Effective Date: \_\_\_\_\_

Expiration Date: \_\_\_\_\_

\_\_\_\_\_  
Wanda Williams  
Deputy Zoning Administrator

\_\_\_\_\_  
Lezanne Jeffs  
Project Planner

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Appeals: Any property owner, or other person aggrieved, or any other person whose interests are adversely affected by any act or determination of the Zoning Administrator, may appeal the act or determination to the Planning Commission in accordance with chapter 18.10 of the Santa Cruz County Code.

# CALIFORNIA ENVIRONMENTAL QUALITY ACT

## NOTICE OF EXEMPTION

The Santa Cruz County Planning Department has reviewed the project described below and has determined that it is exempt from the provisions of CEQA as specified in Sections 15061 - 15332 of CEQA for the reason(s) which have been specified in this document.

Application Number: 121238

Assessor Parcel Number: 033-141-56

Project Location: 900 41st Avenue, Santa Cruz

**Project Description:** To extend the hours for the sale of alcoholic beverages from 10:00pm to 12:00am Monday through Thursday, and from 11:00pm to 1:00am on Friday and Saturdays, and to allow entertainment on Thursday through Saturday nights at an existing restaurant.

**Person or Agency Proposing Project:** Miranda Leung

**Contact Phone Number:** (831) 588 3726

- A. \_\_\_\_\_ The proposed activity is not a project under CEQA Guidelines Section 15378.  
B. \_\_\_\_\_ The proposed activity is not subject to CEQA as specified under CEQA Guidelines Section 15060 (c).  
C. \_\_\_\_\_ **Ministerial Project** involving only the use of fixed standards or objective measurements without personal judgment.  
D. \_\_\_\_\_ **Statutory Exemption** other than a Ministerial Project (CEQA Guidelines Section 15260 to 15285).

Specify type:

E.   X   **Categorical Exemption**

Specify type: Class 5 - Minor Alterations to Land Use Limitations (Section 153035)

**F. Reasons why the project is exempt:**

Amendment of existing Commercial Development Permits to allow for entertainment and extended hours at an existing restaurant.

In addition, none of the conditions described in Section 15300.2 apply to this project.

\_\_\_\_\_  
Lezanne Jeffs, Project Planner

Date: \_\_\_\_\_

FOR TAX PURPOSES ONLY

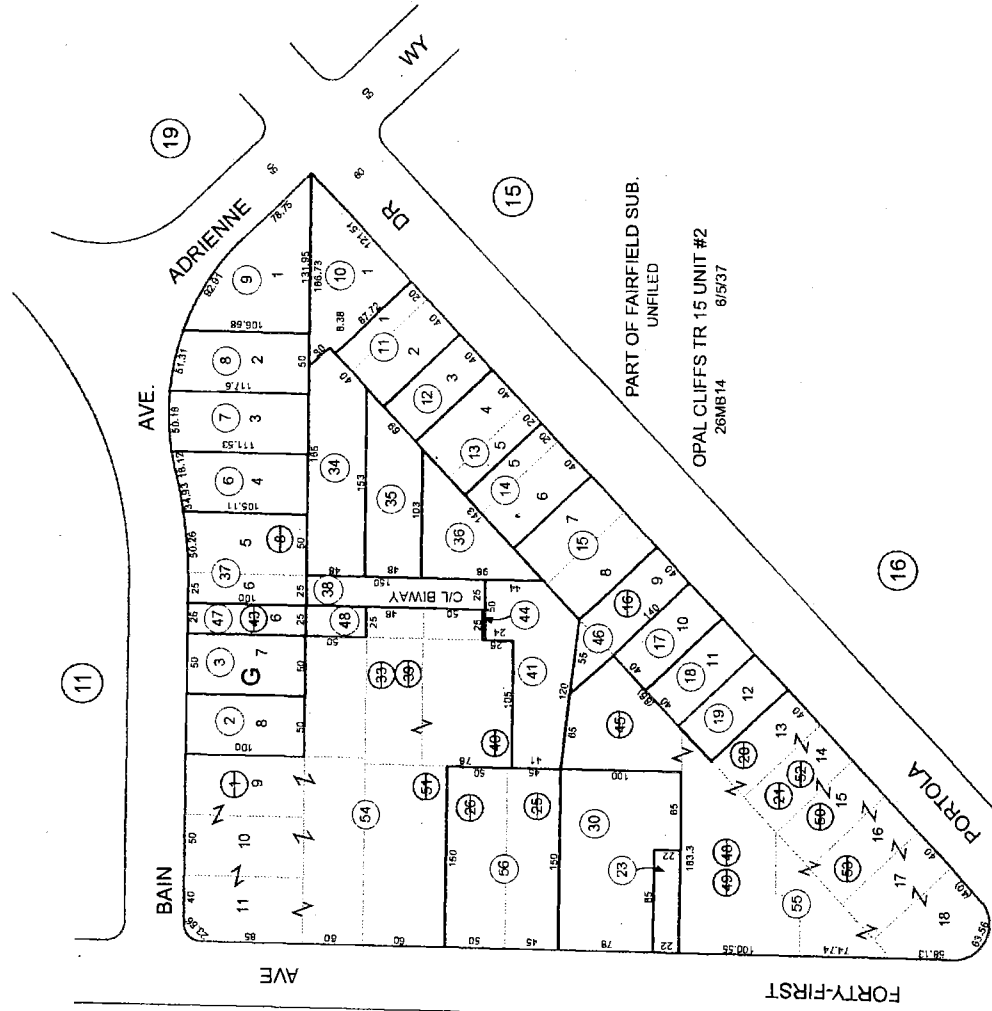
THE ASSessor MAKES NO GUARANTEE AS TO THE ACCURACY OR COMPLETENESS OF THE INFORMATION PROVIDED HEREON. THE ASSessor'S LIABILITY FOR OTHER USES IS NOT TO BE REPRODUCED. ALL RIGHTS RESERVED. © COPYRIGHT SANTA CRUZ COUNTY ASSESSOR, 1995

POR. RANCHO ARROYO DEL RODEO

SEC. 22, T.11S., R.1W. M.D.B. & M.

Tax Area Code  
96-100

33-14



Bk 32  
05

100RS16  
7/30/01

Bk 32  
06

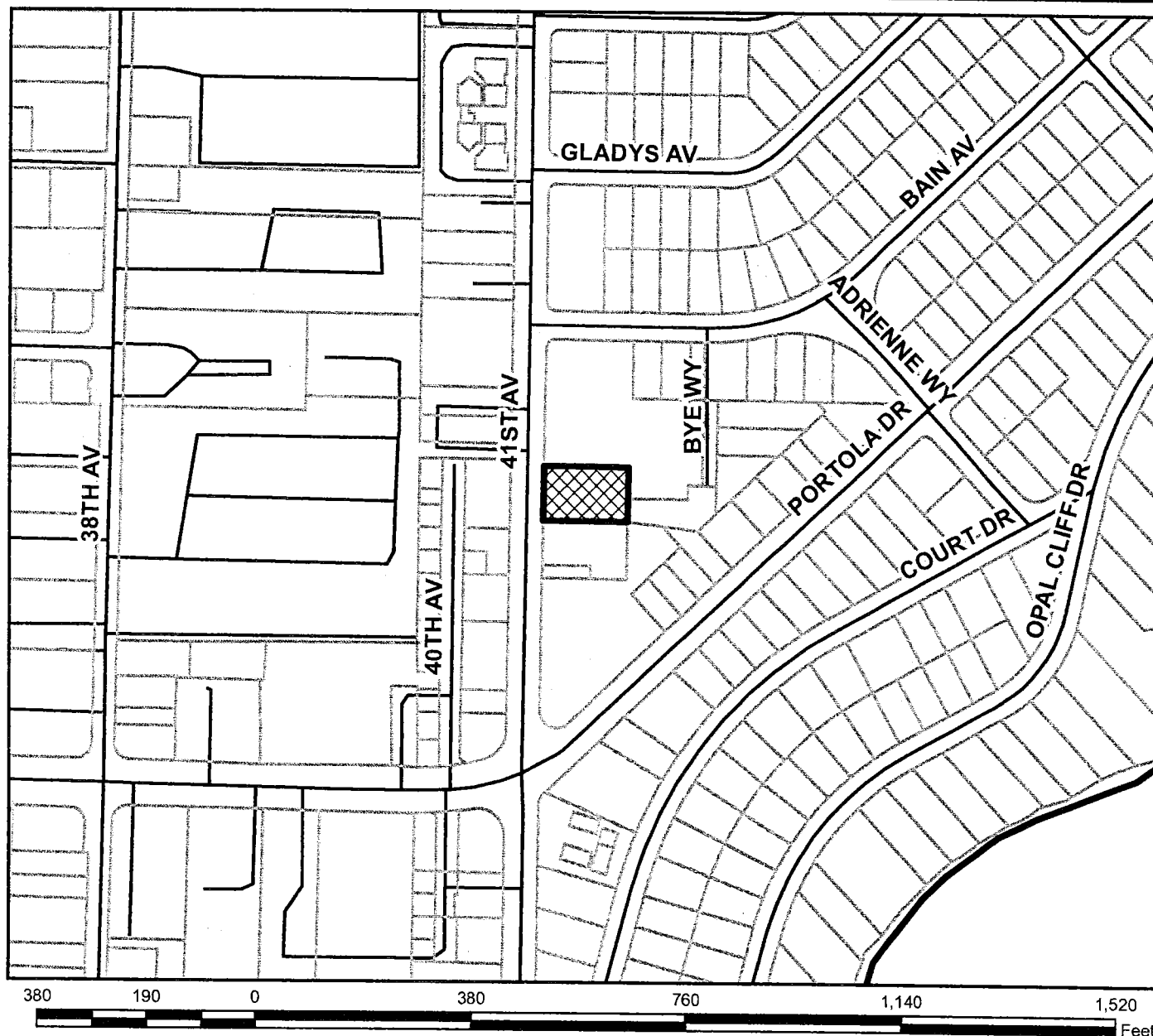
Assessor's Map No. 33-14  
County of Santa Cruz, Calif.  
June 1995

Note - Assessor's Parcel & Block  
Numbers Shown in Circles.





Electronically drafted 6/2/95 kas  
Rev. 11/29/95 CB (Cor)  
Rev. 2/12/97 CB (Cor)  
Rev. 4/9/98 GG (CA consolidation)  
Rev. 8/24/98 GG (Cor changed page 18)  
Rev. 4/13/01 mwm (changed page 18)  
Rev. 7/12/02 DO (Combe form 1-55)  
Rev. 3/20/03 CB (Combe form 1-55)

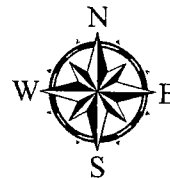


# Location Map



## LEGEND

-  APN: 033-141-56
-  Assessors Parcels
-  Streets
-  County Boundary

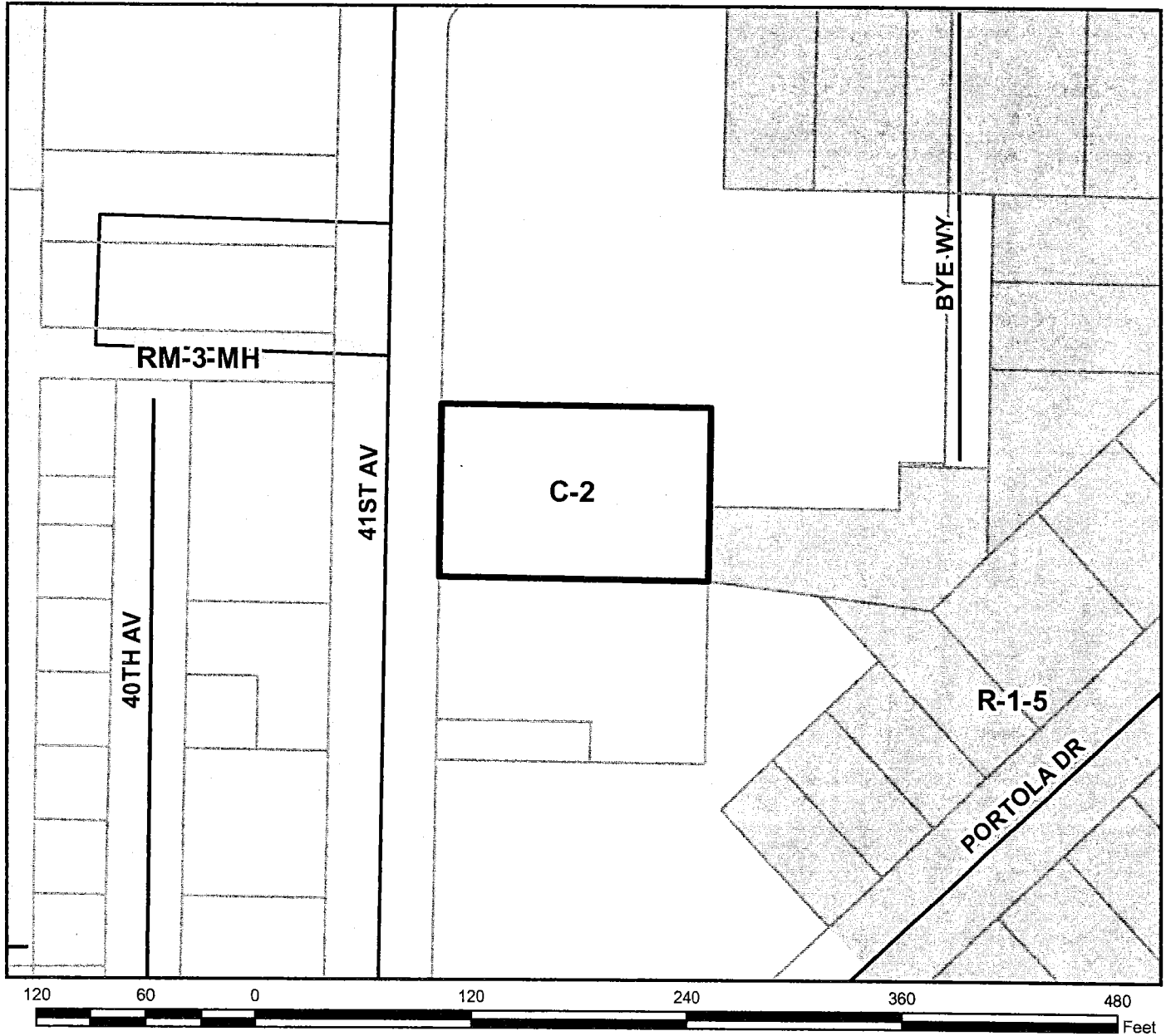


Map Created by  
County of Santa Cruz  
Planning Department  
November 2012





# Zoning Map



## LEGEND



APN: 033-141-56



Assessors Parcels



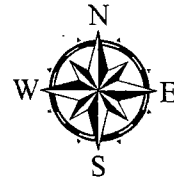
Streets

COMMERCIAL-COMMUNITY

RESIDENTIAL-MULTI FAMILY



RESIDENTIAL-SINGLE FAMILY

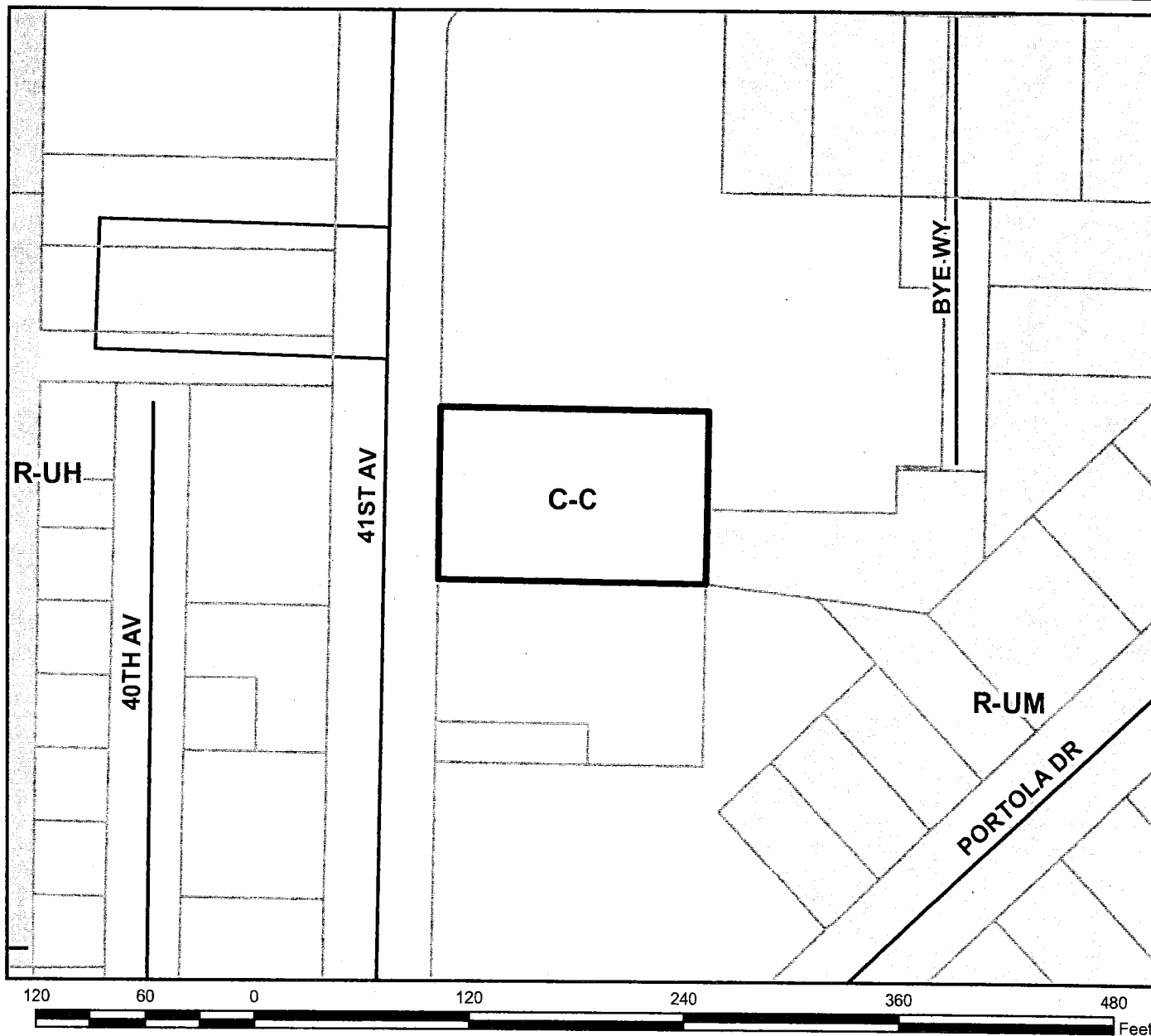


Map Created by  
County of Santa Cruz  
Planning Department  
November 2012

EXHIBIT B



# General Plan Designation Map



## LEGEND



APN: 033-141-56



Assessors Parcels



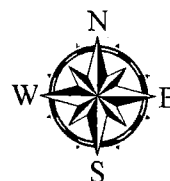
Streets

Commercial-Community

Residential - Urban Medium Density



Residential - Urban High Density



Map Created by  
County of Santa Cruz  
Planning Department  
November 2012



## EDWARD L. PACK ASSOCIATES, INC.

1975 HAMILTON AVENUE  
SUITE 26  
SAN JOSE, CA 95125

*Acoustical Consultants*

TEL: 408-371-1195  
FAX: 408-371-1196  
www.packassociates.com

October 25, 2012  
Project No. 44-057

Ms. Miranda Leung  
Canton Restaurant  
900 41<sup>st</sup> Avenue  
Santa Cruz, CA 95062

Subject: Noise Analysis Study of Live Music, Canton Restaurant, 900 41<sup>st</sup> Avenue,  
Santa Cruz

Dear Ms. Leung:

This report presents the results of a noise analysis study of live music at the Canton Restaurant at 900 41<sup>st</sup> Avenue in Santa Cruz. The purpose of this study was to determine the levels noise at the surrounding noise sensitive land uses from live music produced inside the restaurant. The noise levels generated by music in the restaurant were evaluated against the standards of the City of Santa Cruz Noise Element of the General Plan, Ref. (a).

The results of the analysis reveal that noise from live music entertainment is within the limits of the City of Santa Cruz Noise Element standards and is barely audible, if at all, at the residences within the vicinity of the restaurant. Noise mitigation measures will not be required.

Sections I and II of this report contain descriptions of the noise standards and descriptions of the acoustical setting and project, respectively. Section III contains the analysis of the project-generated impacts. Appendices A and B, attached contain the list of reference, descriptions of the noise standards, terminology and acoustical instrumentation used for the field survey.

## **I. Noise Standards**

The findings presented in this study were evaluated against the standards of the City of Santa Cruz Noise Element of the General Plan. The Noise Element standards are shown in Table I, below.

| <b>TABLE I</b>                                |                      |                   |
|---|----------------------|-------------------|
| <b>Santa Cruz County Noise Standards, dBA</b> |                      |                   |
|   | Daytime              | Nighttime         |
|   | (7:00 am – 10:00 pm) | (10:00 pm-7:00am) |
| Hourly Average ( $L_{eq}$ )                   | 50                   | 45                |
| Maximum                                       | 70                   | 60                |

## **II. Acoustical Setting and Project Description**

The Canton Restaurant is located at 900 41<sup>st</sup> Avenue, just north of Portola Drive in Santa Cruz. This section of 41<sup>st</sup> Avenue is primarily retail/commercial/office uses. The nearest residences to the restaurant are single-family homes along Bye Way to the east and are approximately 230 ft. from the front doors to the restaurant. Other residences in the area are single-family homes along Portola Drive and are approximately 210 ft. from the restaurant doors. There are apartments at the second floor of the mixed-use building (Billabong store) at the corner of 41<sup>st</sup> Avenue and Portola Drive. These apartments are 250 ft. from the restaurant front doors. Continually running mechanical equipment (exhaust fan) on the top of the building generates a constant noise that is the primary, non-traffic related source of noise near the apartments. The resident in the home that is in the apparently vacant lot behind the Chill Out Café was playing stereo music during the analysis period that was distinctly noticeable in the vicinity around the vacant lot.

The live band was situated near the front of the restaurant just to the left of the front doors. The band consisted of drums, bass, guitar and vocals, playing contemporary/pop rock music. The music volume was set to be entertaining and danceable. There were approximately 50 patrons in the restaurant dining and dancing at any given time. The band started to play at 9:15 pm and played continuously until 11:00 pm.

The project proposal, as it relates to noise, includes the use of live music, situated near the front of the restaurant, as done during the demonstration study. Music is proposed to play to 12:00 am Thursday nights and to 1:00 am Friday and Saturday nights. Information on the hours of operation and application was provided by the project sponsor, Ref. (b).

### **III. Project-Generated Noise Impacts**

To determine the levels of noise from the live music entertainment, continuous recordings of the sound levels were made for 2.5 hours from 9:00 pm to 11:30 pm Saturday night October 20, 2012. The measurements were made at two locations, per the requirements of the Santa Cruz County Planning Department. Location 1 was at the western property line of the residences along Bye Way where there is a gap in the fence allowing a view to the rear of the Canton Restaurant. Location 2 was at the corner of the apartment parking lot closest to the restaurant. The fence along the property line is solid and relatively air-tight. The third measurement location requirement at the apartments above the Billabong store was on private property with no public access. Attempts were made to gain access at the time of the measurements, but access was not available.

In addition to the 2.5 hour measurement locations, a short-term measurements (Location 3) of music sound levels were made in the parking lot of the restaurant near the southerly property line contiguous with the vacant lot. The measurement location was 68 ft. from the front doors to the restaurant. These measurements were conducted to determine the levels of music outside the restaurant without influence from extraneous sources.

Figure 1 on page 4 depicts an overview of the area and the noise measurement locations.



Figure 1

The sound levels were recorded and processed using Larson Davis LDL 812 Precision Integrating Sound Level Meters, which yield, by direct readout, a series of descriptors over time. The descriptors included the maximum levels and the continuous equivalent-energy levels ( $L_{eq}$ ).

Table II on page 5 provides the hourly average and maximum noise levels measured during each hour at each measurement location. As the music sound levels at Locations 1 and 2 and at the apartments were not distinctly audible, they were not measurable. Therefore, the music sound levels measured at Location 3 were extrapolated to measurement Locations 1 and 2 and to the second floor apartments above the Billabong store.

The sound meter at the restaurant parking lot location was manually operated to pause and start the meter so that only music sound levels were captured. Over the course of approximately 30 minutes, about 4 minutes of unaffected music sound levels were recorded. The maximum levels when the door were open and closed were recorded.

| TABLE II                                       |                      |                |                |            |                             |                                 |                               |
|--|----------------------|----------------|----------------|------------|-----------------------------|---------------------------------|-------------------------------|
| Canton Restaurant Live Music Sound Levels, dBA |                      |                |                |            |                             |                                 |                               |
| Location                                       | Dist. to Rest. Doors | Time           | Meas. $L_{eq}$ | Meas. Max. | Music $L_{eq}$ <sup>1</sup> | Music Maximum                   |                               |
|  |                      |                |                |            |                             | Rest. Doors Closed <sup>1</sup> | Rest. Doors Open <sup>1</sup> |
| Bye Way  | 230 ft.              | 9:00 -10:00    | 44             | 64         | 34                          | 35                              | 42                            |
|  |                      | 10:00 - 11:00  | 41             | 65         | 34                          | 35                              | 42                            |
|  |                      | 11:00 -- 11:30 | 40             | 60         | Na                          | na                              | na                            |
| Apt. Parking Lot                               | 130 ft.              | 9:00 -10:00    | 44             | 59         | 37                          | 38                              | 45                            |
|  |                      | 10:00 - 11:00  | 45             | 65         | 37                          | 38                              | 45                            |
|  |                      | 11:00 -- 11:30 | 43             | 62         | na                          | na                              | na                            |
| Rest. Parking Lot                              | 68 ft                | 9:00 -11:00    | 50             | 51-28      | 50                          | 51                              | 58                            |
| Second Floor Apts Above Billabong              | 250 ft.              | 9:00 -10:00    | na             | na         | 39                          | 40                              | 47                            |
|  |                      | 10:00 - 11:00  | na             | na         | 39                          | 40                              | 47                            |
|  |                      |                |                |            |                             |                                 |                               |

<sup>1</sup> Music Sound Levels were extrapolated from the restaurant parking lot (Loc. 3) data

The music sound levels were extrapolated to the residential receptor locations by incorporating a sound attenuation rate of:

$20\log_{10}(r_1/r_2)$ , where  $r_1$  = measurement distance and  $r_2$  = distance to receptor.

In addition to the attenuation of sound over distance, the Bye Way receptors do not have a direct view to the doors of the restaurant. A 5 dB reduction factor was also included to account for the off-axis orientation from the source to the receiver. The total sound reduction was calculated to be 16 decibels.

At measurement Location 2, the property line fence provides an additional 7 dB of music sound reduction and this factor was also included in the sound level calculation. The total sound reduction was calculated to be 13 decibels.

We assumed that there is a line-of-sight from the second floor apartments to the restaurant. No further adjustments to the sound attenuation were included for this location. The total sound reduction was calculated to be 11 decibels.


As shown in Table II, the hourly average noise levels ( $L_{eq}$ 's) due to live music within the restaurant are within the 50 dBA  $L_{eq}$  and 45 dBA  $L_{eq}$  limits of the Santa Cruz County Noise Element during daytime and nighttime periods, respectively, at all of the noise sensitive receptor locations in the vicinity of the restaurant. In addition, the music maximum sound levels are also within the 70 dBA  $L_{max}$  and 60 dBA  $L_{max}$  limits of the Santa Cruz County Noise Element during daytime and nighttime periods, respectively. Music from inside the restaurant is primarily inaudible at the residences in the vicinity of the restaurant.

As the music sound levels are within the limits of the standards and are mostly inaudible in the area, noise mitigation measures will not be required.

The above report presents the results of a noise analysis study of live music at the Canton Restaurant at 900 41<sup>st</sup> Avenue in Santa Cruz. The study findings for operational conditions are based on field measurements and other data and are correct to the best of our knowledge. However, significant deviations in the future ambient noise environment, live entertainment sound emission levels or other future changes beyond our control may produce long-range noise results different than those reported herein. If you have any questions or would like an elaboration on this report, please call me.

Sincerely

EDWARD L. PACK ASSOC., INC.



Jeffrey K. Pack  
President

Attachments: Appendices A and B



## APPENDIX A

### References:

- (a) Santa Cruz County General Plan, Santa Cruz County, Department of County Planning and Building, December 19, 1994
- (c) Information on Planned Hours of Operation Provided in the Project Description as Part of the Application Submittal, by Jonathan Kaplan, Esq., by Telephone to Edward L. Pack Associates, Inc., October 25, 2012

## **APPENDIX B**

### **Noise Standards, Terminology and Instrumentation**

#### **1. Noise Standards**

##### **A. Santa Cruz County "Noise Element" Standards**

The noise section of the Santa Cruz County General Plan, adopted December 19, 1994, identifies an exterior limit of 60 dB Day-Night Level (DNL) at outdoor living or recreation areas of residential developments, as shown in Figure 6-1 under Policy 6.9.1. This standard applies at the property line of residential areas impacted by transportation related noise sources.

Figure 6-2 identifies limits on maximum allowable noise exposure for stationary noise sources under Policy 9.6.4 "Commercial and Industrial Development".

|  | Daytime*             | Nighttime*           |
|--|----------------------|----------------------|
|  | <u>7 AM to 10 PM</u> | <u>10 PM to 7 AM</u> |
| Hourly $L_{eq}$ - average hourly noise level, dB | 50                   | 45                   |
| Maximum Level, dB                                | 70                   | 65                   |
| Maximum Level dB - Impulsive Noise               | 65                   | 60                   |

\*Allowable levels shall be raised to the ambient levels where the existing ambient levels exceed the allowable levels. Allowable levels shall be reduced 5 dB if the ambient hourly  $L_{eq}$  is at least 10 dB lower than the allowable level.

At interior living spaces of residential area, the standards established an interior limit of 45 dB DNL for noise levels due to exterior sources.

## 2. Terminology

### A. Statistical Noise Levels

Due to the fluctuating character of urban traffic noise, statistical procedures are needed to provide an adequate description of the environment. A series of statistical descriptors have been developed which represent the noise levels exceeded a given percentage of the time. These descriptors are obtained by direct readout of the Community Noise Analyzer. Some of the statistical levels used to describe community noise are defined as follows:

- $L_1$  - A noise level exceeded for 1% of the time.
- $L_{10}$  - A noise level exceeded for 10% of the time, considered to be an "intrusive" level.
- $L_{50}$  - The noise level exceeded 50% of the time representing an "average" sound level.
- $L_{90}$  - The noise level exceeded 90 % of the time, designated as a "background" noise level.
- $L_{eq}$  - The continuous equivalent-energy level is that level of a steady-state noise having the same sound energy as a given time-varying noise. The  $L_{eq}$  represents the decibel level of the time-averaged value of sound energy or sound pressure squared and is used to calculate the DNL and CNEL.

### 3. Instrumentation

The on-site field measurement data were acquired by the use of one or more of the precision acoustical instruments shown below. The acoustical instrumentation provides a direct readout of the L exceedance statistical levels including the equivalent-energy level ( $L_{eq}$ ). Input to the meters was provided by a microphone extended to a height of 5 ft. above the ground. The meter conforms to ANSI S1.4 for Type 1 instruments. The "A" weighting network and the "Fast" response setting of the meter were used in conformance with the applicable ISO and IEC standards. All instrumentation was acoustically calibrated before and after field tests to assure accuracy.

Bruel & Kjaer 2231 Precision Integrating Sound Level Meter

Larson Davis LDL 812 Precision Integrating Sound Level Meter

Larson Davis 2900 Dual Channel Real Time FFT Analyzer

PROPOSED AMENDMENT TO ADD ENTERTAINMENT AND TO EXTEND THE HOURS OF  
OPERATION AT THE CANTON CHINESE RESTAURANT  
APPLICATION 121238, APN 033-141-56

**PHONE LOG**

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| DATE     | CALLER   | COMMENTS   |
|----------|--|--|
| 10/17/12 | Bob Alderson,<br>905, 40 <sup>th</sup> Avenue                                | General inquiry about the nature of the project. No specific concerns.   |
| 10/17/12 | Suzie Shar<br>N. Branciforte Dr.   | Neighboring business owner. Wanted to know where the restaurant is located. No concerns.   |
| 10/18/12 | Dr. Richard Moffett,<br>(Chiropractic office<br>located opposite<br>Canton). | Stated that the bar that was in this location prior to construction of the existing restaurant caused problems in the area (noise and disturbance by patrons). He is vehemently opposed to the proposal because he is often (up to 5 times/week) in the office with clients until after midnight. Also concerned about customers at the restaurant parking across the street in his parking spaces.  |
| 10/29/12 | Connie Gardner,<br>4225 Bain Ave<br>(outside 300 ft.<br>Notice area)         | Concerned that the proposed project will change the nature of the clientele at the restaurant and that it will become a bar with take-out. Also concerned about noise and potential disturbance by music because she can hear music on the outdoor patio at the Chill Out Café (860 41 <sup>st</sup> Avenue) during Sunday brunch. She confirmed that she did not hear anything on October 20 <sup>th</sup> , 2012 during the demonstration event. Stated that she and other residents on Bain Avenue will fight this proposal because approval of this project would set a precedent allowing other businesses such as Bettie Burger to apply for similar projects. |

**Lezanne Jeffs**

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**From:** Courtney Welles [cwelles@mwelles.com]  
**Sent:** Wednesday, October 17, 2012 4:29 PM  
**To:** Lezanne Jeffs  
**Subject:** Proposal for 41st Ave. business

Dear Planning Department,

I live on Bye Way, a street that is backed up by 41st Ave. The location of application number 121238 to have music and increased hours for serving alcoholic beverages is greatly disturbing to me and my neighbors. There are many private residences that will be bothered by the music. I urge you to NOT ALLOW a permit to increase the noise and traffic on 41st Ave. The businesses on 41st have been slowly encroaching in on our neighborhoods in terms of traffic, noise, and crime. Please say NO to this application (APN:033-141-56).

Thank you,

Courtney Welles

4160 Bye Way

Santa Cruz, Ca. (831)462-3420

Received Nov 7 8:00am

Delivery date? *KS*

Dear Ms. Jeffs,

We are residents in the area affected by pending application 121238 for APN 033-141-56. We ask that the action not be approved. We are concerned that late-hours serving of alcohol, sometimes with entertainment, is essentially the opening of a bar and/or nightclub in neighborhood. We believe this would attract trouble to the area, possibly including gang member attendance and rival gang conflicts. In any event, being that most other establishments in the neighborhood will be closed during the extended hours, there will be few "extra sets of eyes" to see when trouble may be forming, or to be witnesses to any resultant crime. Rather, there will be empty businesses and residents preparing for, or already asleep. Thank you for your consideration.

Sincerely,

Michael & Dorothy Raab

915 40th Ave.

Santa Cruz

*M Raab*

*D Raab*