



Los Angeles County  
Department of Regional Planning

*Planning for the Challenges Ahead*



Richard J. Bruckner  
Director

June 2, 2011

TO: Pat Modugno, Chair  
Esther L. Valadez, Vice Chair  
David W. Louie, Commissioner  
Harold V. Helsley, Commissioner  
Curt Pedersen, Commissioner

FROM: Tyler Montgomery  
Zoning Permits West Section

**SUBJECT: PROJECT NO. R2005-02263-(3)  
CONDITIONAL USE PERMIT NO. 200500149  
June 8, 2011 Public Hearing  
Agenda Item No. 6**

Agenda Item No. 6 is a request by the applicant, Lance Roberts, for a conditional use permit to continue selling beer and wine for on-site consumption at an existing restaurant: Froggy's Topanga Fish Market. The project site is located at 1105 North Topanga Canyon Boulevard in Topanga, within The Malibu Zoned District of Los Angeles County.

Since the preparation of the staff report, staff has received seven letters (attached) and four phone calls from area residents regarding the project. All of these communications objected to the proposed extension of the restaurant's closing time from 9:30 p.m. to 11:00 p.m. Sunday through Thursday and from 10:00 p.m. to midnight on Friday and Saturday. Residents assert that during and immediately after the restaurant's closing time, a great deal of noise emanates from the parking lot to the rear of the structure. This noise is primarily from patrons loudly conversing, opening and closing car doors, and the starting and idling of car engines. Due to the position of the parking lot at the bottom of a canyon, this noise is audible to a large number of residents on the opposite side of Topanga Creek, and many have indicated that prolonging the restaurant's hours of operation would have a strong adverse affect on neighborhood peace.

The correspondence previously reviewed by staff seemed to indicate that noise complaints by area residents were due to live entertainment at the restaurant. For this reason, staff drafted a condition of approval (18d) that, in part, mandated that live entertainment cease by 10:00 p.m. However, given this new information regarding parking lot noise, staff recommends revising the findings and conditions of approval to mandate a closing time of no later than 10:00 p.m. for the restaurant itself. The suggested revised findings (10 and 23) and condition of approval (18a) are attached hereto, along with the aforementioned seven letters from area residents.

Enclosure:  
Revised Findings No. 10 & 23 and Condition 18a  
Seven (7) letters of opposition to the extension of business hours

MK:TM

**DRAFT REVISED FINDINGS:**

10. The restaurant is located within a 5,530-square-foot building and patio on the eastern portion of a 1.3-acre property, and as previously approved in 1985, it has a current occupancy of 119 persons. A gravel parking lot of 46 spaces is located to the rear of the structure, which is accessed by a concrete driveway north of the structure to Topanga Canyon Boulevard. Topanga Creek is located immediately to the west of the property. Four storage sheds are located on the southeastern portion of the property, with areas of 264 square feet, 150 square feet, 500 square feet, and 700 square feet, respectively. The height of structures on the site ranges from 15 feet to 19 feet above grade. In order to better preserve three heritage oak trees in the rear parking lot area, the applicant will extend the radii of two existing protective fences by five feet and a third protective fence by ten feet. No development is proposed within the protected zone of any oak tree. Approximately 5,500 square feet of landscaping currently exists on the project site. *The restaurant would operate between 6:00 a.m. and 10:00 p.m., seven days a week.* The restaurant would continue to host indoor live entertainment, which was previously approved as an allowable use in conjunction with a restaurant with an occupancy load of less than 200 persons. This entertainment would be limited to no more than two nights per month. No other businesses within 500 feet of the restaurant sell alcoholic beverages for either on-site or off-site consumption. There are also no sensitive uses (schools, churches, etc.) within 600 feet of the facility.
  
23. *While more than 200 feet from the nearest residence, the facility is located at the bottom of a canyon, which has the tendency to amplify sound, especially from the rear parking lot, for area residents to the west. However, the closing of the restaurant at 10:00 p.m. ensures that the use will be sufficiently buffered from residential areas, as any noise before this time is less likely to disturb sleep or violate the County Noise Ordinance (Title 12).* Also, the fact that the restaurant will only serve beer and wine for on-site consumption and does not propose any new construction makes it unlikely to adversely affect the health, comfort, or economic welfare of the surrounding community. While there have been some complaints in the past from area residents regarding loud music emanating from the facility, the Sheriff's log indicates that these were quickly resolved by the restaurant's operators. In addition, to ameliorate these concerns, the applicant has proposed to allow indoor live entertainment only, limit these performances to no more than two nights per month, and maintain the current occupancy of the restaurant at 119 persons, as well as to maintain sound insulation facilities in the restaurant. *In order to prevent disturbance of neighbors, a condition will require that the restaurant close by 10:00 p.m., which corresponds to the time at which more restrictive sound regulations begin under Title 12.*

**DRAFT REVISED CONDITION:**

18. This grant allows for the continued sale of beer and wine for on-site consumption at an existing restaurant, located at 1105 North Topanga Boulevard in Topanga, subject to the following conditions:
  - a. *The hours of operation for the restaurant shall commence no earlier than 6:00 a.m. and shall cease no later than 10:00 p.m., seven days a week;*

## Montgomery, Tyler

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**From:** PALELLAA@aol.com  
**Sent:** Saturday, May 28, 2011 9:10 AM  
**To:** Montgomery, Tyler  
**Cc:** l.b.haigh@verizon.net.palellaa  
**Subject:** Froggy's R2005-02263, RCUP 200500149

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Tyler,

Myself Andrea Palella and husband, Dieter Bruehl, have lived at 21385 Summit Rd , Topanga ,above Froggie's, since early 1970's. We have been part of this conditional use permit process for over 15 years. The current request asks for changes and extensions to the closing time for Froggies to be until 11pm and 12 midnight.

What this will be doing is turning Froggies restaurant into Froggies neighborhood **bar** between 10 and 11 or 12. Drinking is what people will be doing during those extended hours. They then will be pulling out onto Topanga Cyn Blvd at midnight in a residential neighborhood then driving thru the canyon . Lights will be glaring in the adjacent neighborhood. Approving this request is absurd .

We are very much against this change in closing time and do not see the need for this extension. Most people have eaten their dinner by 9 or 10 which is the time restaurants are closing or earlier. Most restaurants ,esp in the canyon , do not need to be open until 11 and 12, only bars !!! . Offering a van to drive people home if they had too much to drink will not work, I think we all really know that. People will not request this service. Our neighborhood already has that condition in place for the Dog ranch traffic up to the mesa, . People still drive their own dogs, adding to the hillside traffic.

We are also shocked that this extended time information has just became available. The letter sent to neighbors did not state it therefore giving the impression there were no changes.

There is a big distinction between those who live in the neighborhood and those who want this venue and change and don't live in the immediate neighborhood yet still in Topanga Canyon. How many of the petition signers or those who may show up at the hearing, live on Summit Rd ,Hillside Dr, or Stonewall ( not counting anyone that works or performs at Froggies).

We have heard music coming from Froggies in our living room when their are live bands or dj events. The sound travels up the canyon above Froggies.

The Alcohol and Beverage lisc does not permit this change in time and should be adhered to.

After so many years trying to maintain a residential quality of life , we should not need to continually be examining, fighting and looking for things being sneaked in , which apparently has happened here.

Again, what will take place between 10 and 11 and 12 is... more drinking!! This should not be encouraged and taking place in this residential neighborhood and on blind curves .

As well, this will negatively effect home values and will need to be disclosed upon any sale.

We are requesting an extension to this hearing to be in October.

What do we need to do to prevent this time change from being granted.

Sincerely

Andrea Palella

Dieter Bruehl

21385 Summit Rd

Topanga CA 90290

310 4555 2746

## Montgomery, Tyler

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**From:** Robin Rudnikoff [rrudnikoff@sbcglobal.net]  
**Sent:** Sunday, May 29, 2011 11:08 AM  
**To:** Montgomery, Tyler  
**Subject:** Froggy's permit pending for closing 11&12 midnight,live music

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Tyler,

My husband, Paul Rosenberg and I are writing about the upcoming CUP Hearing regarding Froggy's restaurant in Topanga.

I have been a permanent resident above Froggy's, since 1997. My husband bought our house in 1968 and has resided here since then. We have been part of this conditional use process for between 14 and 43 years.

The current request asks for changes for closing time to be extended until 11 and 12 midnight and seems is already recommended by the County!

This is truly horrifying to us. This turns this restaurant into primarily a bar until 11pm and 12am. Statistically, people who are drinking until then consume way more than anyone who should be driving, especially on a canyon road filled with S curves. Patrons, many of whom have had way too much to drink, will pull out onto Topanga Cyn Blvd at midnight in a residential neighborhood where people have invested in homes for the quiet and solace of nature. This will increase the risk of drunken driving and severely affect safety that we value highly. We hear enough sirens multiple times daily simply from bad and inexperienced canyon drivers. Adding too much alcohol consumption makes NO SENSE.

We are very much against this change in closing time and do not see the need for it. Most restaurants, especially in the canyon, are not open to 11pm and 12am, and frankly food service at that hour would not support the cost of staff, etc. The hours only need to be extended for highly profitable liquor sales. This is entirely about the bar staying open!!!

We should not need to continually be examining and looking for things being sneaked in hoping we won't notice, which apparently has happened here. We guard the canyon's laid back residential quality of life that is not available elsewhere. We are shocked that this information just became available today. The letter sent to neighbors did not mention that time changes were requested.

There is a big distinction between those who live in the neighborhood and those who want this venue and don't live in the immediate neighborhood. I cannot imagine that our police presence is in favor of this either! How could it be that this time change is recommended to be approved, based on what need? What will take place between 10 and 11 and 12 is more drinking. This is exactly what we do not need on this blind curve and in our neighborhood.

We can hear the music coming from Froggy's in our bedroom when their windows are open and certain events take place.

The Alcohol and Beverage license does not permit this and we strongly insist that it be adhered to.

We strongly request postponement to this hearing. The local neighborhood needs time to read and respond to this and was given only a couple of days to do so. We request the hearing be moved to October. What do we need to do to not allow this time change to be granted?

Sincerely

*Robin*

C. Robin Rudnikoff  
21122 W. Hillside Dr.  
Topanga, CA 90290

**Direct Line 310.455.3111**

Cell 818.458.0712  
efax 310.878.0218

[rrudnikoff@sbcglobal.net](mailto:rrudnikoff@sbcglobal.net)

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## Montgomery, Tyler

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**From:** ken Wheeland [ksafarri@gmail.com]  
**Sent:** Sunday, May 29, 2011 6:25 PM  
**To:** Montgomery, Tyler  
**Subject:** Froggy's in Topanga

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Tyler Montgomery  
Planner  
Zoning Permits West Section  
Department of Regional Planning  
320 W. Temple Street  
Los Angeles, CA 90012

I am writing about the upcoming CUP Hearing regarding Froggy's restaurant in Topanga. I am asking for a continuance to the June 8th hearing so we can have time to relate our concerns on this matter.

We first moved to Hillside Drive in February 1987 at that time there was a restaurant in the building Froggy's now owns. It was open late and had a bar which attracted a late night crowd. From about 10:30pm until closing time you could hear many loud conversations and cars and motorcycles noisily leaving on Topanga Canyon Blvd. We hear some of same from Froggy's now, but it ends around their closing time.

We also hear the amplified music through the windows on the north side of the building. I have had conversations with Lance about the music and the windows and have asked him to at least close the windows, but that does not always happen.

I have tried to not call and complain every time I hear the music but have called several times and spoke with Lance and several employees at least 8 times in the last 3 years. I usually call after 10:00 pm and ask them if they could turn down the music and have received different replies, one of the last ones was "Well, call the Sheriff and they will laugh at you".

I have never called the Sheriff to complain, though I guess I should have to have it on the record. When we first started talking with Lance about the restrictions the neighbors wanted on the restaurant he said that we don't have to put on restrictions, all he wants is to have a family restaurant and sell beer and wine with meals and close and go home at 10:00 on weekdays and 11:00 on weekends.

We have been very accommodating to the needs of this local business despite the fact that Froggy's has overstepped the restrictions on many occasions. However, in a neighborhood with many school-age children, we cannot continue to ignore more than the occasional overstep and are not willing to compromise our way of life in this neighborhood for the benefit of one business.

It is upsetting to us that Lance is disregarding our wishes and the promises he made to us when he opened the business. These last minute changes jeopardize the neighborhood good will.

Ken Wheeland and Susan Raphael

21026 Hillside Drive  
Topanga Ca. 90290

## Montgomery, Tyler

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**From:** Lynne Haigh [l.b.haigh@verizon.net]  
**Sent:** Monday, May 30, 2011 3:47 PM  
**To:** Montgomery, Tyler  
**Cc:** Andrea Palella; Ken Wheeland; Robin Rudnikoff  
**Subject:** Froggy's Fish Market R2005-02263, RCUP200500149 - SEE ATTACHMENT  
**Attachments:** RPC Froggy'sLetter\_MondayFinal.pdf; ATT1224138.htm

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Tyler Montgomery  
Planner, Zoning Permits West  
Los Angeles Department of Regional Planning  
320 W. Temple St.  
Los Angeles, CA 90012

**I am writing to strongly oppose Froggy's request for expanded operating hours, sales of alcohol, and hours**

**for live entertainment.** This business has been out of compliance with the conditions of his Alcoholic Beverage

Permit and his CUP for 16 years. I do not think it is appropriate for you to now allow expansion of Froggy's in ways which are detrimental to our residential neighborhood.

Operating hours to either 11 PM or midnight every night means that people don't leave until after midnight, so there is loud noise from people, who have mostly been drinking, and from vehicles leaving the parking lot. Noise from Froggy's is not supposed to be audible beyond the premises, but that is not controllable and difficult to enforce. PLEASE SEE MY ATTACHED STATEMENT TO THE REGIONAL PLANNING COMMISSION.

**I am also requesting that the scheduled June 8 Regional Planning Commission Hearing be postponed.**

Although we received Notice of Hearing postcards in early May, the only information on the RPC website until 5-26-11 indicated to us that existing conditions for Froggy's were being maintained with the restaurant continuing to "host indoor live entertainment (no hours listed) and maintaining its operating hours of 6 AM to 9:30 PM Monday through Friday, and 6 AM to 10 PM on Friday and Saturday." This turned out to be misleading to the residents in our neighborhood.

Sometime on 5-26-11 the RPC Staff Report was posted on your website indicating a request and recommendation for major expansions in operating hours, alcohol sales, and nighttime live entertainment at Froggy's. As this was posted just before the long Memorial

Day weekend and less than 2 weeks before the hearing, we basically have about a week to understand and prepare for

a Hearing regarding a restaurant we have been concerned about for 15 years.

Thank you for your consideration to these matters, and I look forward to talking with you Tuesday, hopefully at 9 AM.

*Lynne Haigh*  
*21034 Hillside Dr.*  
*Topanga, CA 90290*  
[lbhaigh@verizon.net](mailto:lbhaigh@verizon.net)  
h. 310 455-1696 • c. 310-710-0883

To: Los Angeles County Regional Planning Commission c/o Tyler Montgomery, Zoning Permits West

From: Lynne Haigh, 21034 Hillside Dr., Topanga, CA 90290 [lbhaigh@verizon.net](mailto:lbhaigh@verizon.net) c 310-710-0883

Re: **Opposition to expanded operating hours, alcohol sales, and nighttime live entertainment for Froggy's Fish Market located in Topanga Canyon** Case # R2005-02263, RCUP 200500149

**1. It seems to border on nonsense for the Regional Planning Commission and for Froggy's restaurant to maintain that a few pepper and oak trees around Froggy's parking lot will buffer loud noise from 10 PM to midnight.**

This parking lot sits at the bottom of a quiet, rural, steep walled canyon where sound is amplified as it travels upward and where there are about 70 single family residences within 200' to 500'. Loud noise comes from patrons who have been drinking; errant car alarms; and motorcycles and cars gunning their motors as they ascend a steep, narrow driveway.

**From 10 PM to midnight Froggy's will become, functionally, an un-permitted bar.**

People do not tend to eat from 10 PM to midnight. Most likely they drink alcohol and become louder. **The noise from such a situation is disturbing to neighbors. NO other restaurant in Topanga is open after 10 PM.**

Extending Froggy's operating hours and alcohol sales until 11PM on weeknights and 12 midnight on Friday and Saturday will simply degrade the living environment of at least several hundred people. These Topanga residents will not be able to peacefully and comfortably enjoy their homes at night. Loud noises late at night will also be detrimental to the use, enjoyment, and valuation of their properties. Froggy's is in a residential neighborhood. Noise until midnight is not appropriate.

Furthermore, the permit issued in 1995 by the California Department of Alcoholic Beverage Control, states that "issuance of the applied-for license without the below-described conditions would interfere with the quiet enjoyment of the property by nearby residents and constitute grounds for the denial of the application." We think this should be adhered to. Among the conditions,

#3 Sales, service or consumption of alcoholic beverages shall be permitted only between the hours of 11 am and 9:30 pm, S-Th; and 11am and 10 pm F and Sat.

#7 Entertainment and other premises noise shall not be audible beyond the area under control of the licensee and

# 8 Live entertainment and dancing shall be limited to the hours of 10 am to 7 pm daily with three exceptions.

**2. Likewise, it seems to border on nonsense that loud, amplified music in a large, cavernous, window-filled room can be blocked by air-conditioning, and by "theatre grade noise reduction curtains" around the performance area which I assume means the stage.**

Does this include the north wall of the large room which is almost completely large, old-school-type, noise-emitting windows which would also need to be covered by such curtains? The owner has, we think, proposed such enhancements for years and has yet to install them.

Extending nighttime hours for live entertainment to two dates per month would impinge on the quiet enjoyment of their property by nearby residents.

5-30-11

To: Los Angeles County Regional Planning Commission c/o Tyler Montgomery, Zoning Permits West

From: Lynne Haigh, 21034 Hillside Dr., Topanga, CA 90290 [lbhaigh@verizon.net](mailto:lbhaigh@verizon.net) c 310-710-0883

Re: **Opposition to expanded operating hours, alcohol sales, and nighttime live entertainment for Froggy's Fish Market located in Topanga Canyon** Case # R2005-02263, RCUP 200500149

**3. It is very difficult to be confident that any extended Conditions would be conscientiously adhered to by the owner or reliably enforced by the Regional Planning Commission.**

For the past 16 years, Froggy's owner and the CUP applicant has had a very poor record of compliance with ABC and CUP conditions, zoning regulations, and agreements with neighbors. For almost a year Mr. Roberts sold alcohol with an expired CUP and he only started complying with noise and hours restrictions when a Notice of Violation (2006) was issued, at near-by resident's request, by the LA County Department of Regional Planning.

As we have little reason to think this would change once a new CUP is issued, we would like to know how any new conditions would be adequately enforced.

We also think that the owner installed an un-permitted, but still operating, bar years ago.

**4. Furthermore, it seems to be nonsense to assume that the Public Comments and Petition containing 1400 names and submitted by Froggy's has any merit.**

If one extrapolates from your one included page, it is clear that none of the people who signed the petition will be adversely affected by extended hours, more noise, and increased alcohol sales late at night. Most do not even live in Topanga. On the other hand, we longtime residents of this neighborhood are justifiably very concerned about impacts on our lives and our homes. (Looking at the one page included in the RPC report, you note that of 14 names, only 3 live in Topanga and those **do not** live in the area affected by Froggy's.)

Thank you for your attention to these concerns,  
Lynne Haigh  
Topanga

## Montgomery, Tyler

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**From:** Lynne Haigh [l.b.haigh@verizon.net]  
**Sent:** Wednesday, June 01, 2011 5:24 AM  
**To:** Montgomery, Tyler  
**Cc:** Andrea Palella  
**Subject:** Re: Froggy's R2005-02263, RCUP 200500149

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Tyler,

Thanks for talking with us yesterday. I think it was very constructive.

My one further thought is that if music is permitted at night until 10 PM, that should only occur after the air conditioning and sound proof curtains are installed all along the north wall and if that system works so that sound is not audible beyond the premises.

Also, windows must be closed.

Thank you,

*Lynne*

[lbhaigh@verizon.net](mailto:lbhaigh@verizon.net)

h. 310 455-1696 • c. 310-710-0883

On May 26, 2011, at 3:58 PM, Montgomery, Tyler wrote:

Lynne,

I just got back from vacation this week, and I have been absolutely swamped. Since you probably would like to speak about this case for more than just a few minutes, it probably wouldn't make sense for me to call you this afternoon. I still have a lot I have to get done before the end of this week. Would you be able to talk sometime on Tuesday, May 31? Just let me know when, or you can give me a call anytime Tuesday. I am familiar with the issues you and other have with Froggy's, though, and I have read the letters you previously submitted.

Sincerely,

Tyler Montgomery  
Planner  
Zoning Permits West Section  
Department of Regional Planning  
320 W. Temple Street  
Los Angeles, CA 90012  
<http://planning.lacounty.gov>  
213-974-6462

## Montgomery, Tyler

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**From:** Tom F [tfoote@gmail.com]  
**Sent:** Tuesday, May 31, 2011 3:49 PM  
**To:** Montgomery, Tyler  
**Subject:** Conditional Use Permit Case.No. 200500149  
**Attachments:** project\_r2005-02263\_hearing-notice.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Mr. Montgomery;

I write with some concerns about the proposed CUP extension for Froggy's Topanga Fish Market. I have no opposition to Froggy's continuing to operate and to sell beer and wine during the hours allowed by their former permit.

However, as a neighbor (20935 Hillside Drive), I do oppose any increase of their operating hours under the proposed new CUP. I often hear loud motorcycles revving their engines when leaving Froggy's at the end of the night. To have this noise shifted to after midnight on Fridays and Saturdays and after 11 p.m. the rest of the week would be a nuisance particularly for those with children or infants. With the exception of Froggy's, our neighborhood is very quiet during the late evening hours.

I also have concern that the proposed extension of operating hours was buried in the fine print of the application and was not properly noticed to the public. For instance, in the Notice of Public Hearing (enclosed) it says nothing about any extension to the operating hours.

I strongly suspect that there are many neighbors who are unaware of the proposed extension of operating hours and would be opposed were they notified.

Thank you very much for your consideration.

Yours,

Tom Foote  
(310) 319-5415 (work)

## Montgomery, Tyler

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**From:** Robin Soper [rrrobinsoper@gmail.com]  
**Sent:** Tuesday, May 31, 2011 6:17 PM  
**To:** Montgomery, Tyler  
**Subject:** Froggies permit

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Mr Montgomery,

I am writing about the upcoming CUP Hearing regarding Froggy's on June 8th.

We have lived on Hillside Drive since August of 1999 during which time Froggies has undergone a couple of incarnations from restaurant to coffee shop to Church and now currently a restaurant again.

We hear the amplified music through the windows on the North side of the building on a regular basis and since our 2 daughters age 1 and 7 sleep at the front of the house, they are 1st in line to be woken up by it. I have had conversations with Lance about the music and the windows and have asked him to at least close the windows, but that does not always happen.

I understand that this is a business and he has the right to make money but as you can understand, live,loud music was never on the menu when this restaurant opened and I don't see why it needs to be now. This is a RESEDENTIAL neighborhood that has many young children in it that will be adversely affected by the issuance of this permit. I like Froggies as a restaurant and it functions well in the neighborhood as that, not a bar with late night music.

It is upsetting to us that Lance is disregarding our wishes and the promises he made to us when he opened the business. These last minute changes jeopardize the neighborhood good will.

Robin Soper and Monica McCarthy (and little Maude and Ray)

21017 Hillside Drive  
Topanga Ca. 90290

**Andrew Sheldon**

21070 Summit Road  
Topanga, California 90290  
310-455-1460

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May 31, 2011

Tyler Montgomery  
Planner, Zoning Permits West  
Los Angeles Department of Regional Planning  
320 W. Temple St.  
Los Angeles, CA 90012

*Sent via email:  
TMontgomery@planning.lacounty.gov*

**SUBJECT: 1105 N. Topanga Canyon Boulevard (Froggy's Restaurant); Case # R2005-02263,  
RCUP 200500149**

Dear Mr. Montgomery:

I am writing to strongly oppose Lance Roberts' request for expanded operating hours at Froggy's Restaurant. As neighbor/homeowners (21070 Summit Road), my wife and I live with our two young children less than 200 feet of the restaurant and less than 100 feet of the rear (creek-side) parking lot. For reasons detailed in this letter, I believe the necessary findings for burden of proof in this case cannot justifiably be made. I request that you change the staff recommendation as to the applicant's request for expanded hours of operation from "approve" to "do not approve". I also request that you include all of the conditions contained in the 1995 Alcoholic Beverage License into the CUP (a copy of that Alcoholic Beverage License is attached hereto).

My reasons for opposing any increase of their operating hours under the proposed new CUP are not only related to noise from music. I regularly hear cars and motorcycles closing doors, starting engines, and car stereo playing at closing time. I also have strong concerns about the societal elements that would be brought into our neighborhood with longer hours for the beer and wine sales (which currently are done in connection with food service). Longer hours of alcohol sales would transition the restaurant into what must be considered an outright bar. Loud and disorderly conduct inevitably comes with later night patrons. For the ending time of parking lot noise to be extended to midnight (or later) on Fridays and Saturdays and 11 p.m. (or later) the rest of the week, would cause a major disruption to our lives and to the lives of our neighbors. We believe the expansion of business hours would adversely affect our peace, comfort, and welfare; be materially detrimental to the enjoyment and valuation of our property; and potentially menace the neighborhood by creating conditions for disorderly conduct.

Our neighborhood is very quiet during the late evening hours with Froggy' being the only exception. I would have no opposition to Froggy's continuing to operate during the hours allowed by the 1994 Conditional Use Permit and 1995 Alcoholic Beverage License for restaurant, entertainment, and selling beer and wine. Members of our neighborhood compromised with Mr. Roberts and Regional Planning during his procurement of entitlements in 1994 and 1995. We see no reason why the terms of the original entitlements should be relaxed at this time, especially since there are many more families with young children living in the neighborhood near to the restaurant now than there were then.

Tyler Montgomery  
May 31, 2011  
Page 2 of 2

The people who signed Froggy's petition are not the people who will be adversely affected by extended hours, more noise, and increased alcohol sales late at night. Most do not even live in Topanga. On the other hand, both new and longtime residents of the surrounding neighborhood are justifiably very concerned about impacts on their lives, homes, and families.

Finally, I would like to point out that the proposed extension of operating hours was not shown in the project description provided on the Notice of Public Hearing and Factual documents posted on the website at the time I received the postcard notification in the mail. Extension to the operating hours was introduced in a staff report posted last week. That staff report indicated there were no letters of opposition received in relation to the current version of the project. Yet, at the time the staff report was written the public had not been notified of the proposed expansion of operating hours.

I appreciate the opportunity to provide comments. Please call me at (310) 455-1460 if you have any questions.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Andrew Sheldon", with a long horizontal flourish extending to the right.

Andrew Sheldon

Attachment: 1995 Alcoholic Beverage License

*Attachment A*

**BEFORE THE  
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL  
OF THE STATE OF CALIFORNIA**

IN THE MATTER OF THE APPLICATION OF

Rowboat Fish Market Restaurant, Inc.  
Froggy's Topanga Fish Market  
1105 N. Topanga Canyon Blvd.  
Topanga, CA 90290

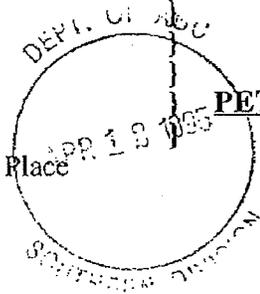
FILE 41-295753

REG.

RECEIVED

APR 19 1995

Hearing and Legal Unit  
Dept. of Alcoholic Beverage Control  
SACRAMENTO



**PETITION FOR CONDITIONAL  
LICENSE**

For Issuance of an On Sale Beer and Wine Eating Place License

Under the Alcoholic Beverage Control Act

**WHEREAS**, petitioner(s) has/have filed an application for the issuance of the above-referred-to license(s) for the above-mentioned premises; and,

**WHEREAS**, area residents have protested the issuance of the applied-for license; and,

**WHEREAS**, the protest(s) deal(s) with the proposed operation of the applied-for premises; and,

**WHEREAS**, the proposed premises and/or parking lot, operated in conjunction therewith, are located within 100 feet of residence(s); and,

**WHEREAS**, issuance of the applied-for license without the below-described conditions would interfere with the quiet enjoyment of the property by nearby residents and constitute grounds for the denial of the application under the provisions of Rule 61.4, of Chapter 1, Title 4, of the California Code of Regulations; and,

**WHEREAS**, the issuance of an unrestricted license would be contrary to public welfare and morals;

**NOW, THEREFORE**, the undersigned petitioner(s) do/does hereby petition for a conditional license as follows, to-wit:

1. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records which reflect separately the gross sale of food and the gross sales of alcoholic beverages of the licensed business. Said records shall be kept no less frequently than on a quarterly basis and shall be made available to the Department on demand.
2. The sale of beer and/or wine for consumption off the premises is strictly prohibited.
3. Sales, service or consumption of alcoholic beverages shall be permitted only between the hours of 11:00AM and 9:30PM Monday through Thursday, 11:00AM and 10:00PM Friday, 10:00AM and 10:00PM Saturday, and 10:00AM and 9:30PM Sunday. Notwithstanding the aforementioned limitation, sales, service and consumption of alcoholic beverages shall be permitted from 10:00AM on December 31 of any year until 1:00AM of the next calendar day.
4. The doors leading from the interior of the premises to the exterior, including doors which lead to the patio from the interior, shall be kept closed at all times during the operation of the premises, except in cases of emergency and to permit deliveries, and patron & employee entry or exit.

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Kowboat Fish Market Restaurant, Inc.

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5. The parking lot of the premises shall be equipped with lighting of sufficient power to illuminate and make discernible the appearance and conduct of all persons on or about the parking lot. Lighting in the parking lot shall be directed, positioned and shielded in such a manner so as not to illuminate the windows of adjacent residences nor to disturb the normal privacy and use of any neighboring residences, taking into account the rustic character of the neighborhood. Parking lot lighting shall be shut off within one hour after closing time.
6. The subject alcoholic beverage license shall not be exchanged for a public premises type license.
7. Entertainment and other premises noise shall not be audible beyond the area under control of the licensee.
8. Live entertainment and dancing shall be limited to the hours of 10:00AM to 7:00PM daily. However, live entertainment and dancing is permitted from 10:00AM on December 31 of any year until 1:00AM of the next calendar day. Also, on any two added days per calendar year, to be selected by the licensee, live entertainment and dancing is permitted to the extent of the time permitted for the sales, service and consumption of alcoholic beverages as stated in Condition #3 above so long as the licensee gives the Department of Alcoholic Beverage Control's Van Nuys District Office written notice of such election at least 10 days prior to each of the two occasions.
9. The promotion of alcoholic beverages using happy hours, price discounts, signage or advertising is prohibited.

This petition for conditional license is made pursuant to the provisions of Sections 23800 through 23805 of the Business and Professions Code and will be carried forward in any transfer at the applicant-premises.

Petitioner(s) agree(s) to retain a copy of this petition on the premises at all times and will be prepared to produce it immediately upon the request of any peace officer.

The petitioner(s) understand(s) that any violation of the foregoing condition(s) shall be grounds for the suspension or revocation of the license(s).

DATED THIS 11<sup>TH</sup> DAY OF APRIL, 1995

Jance Roberts  
Applicant/Petitioner

