

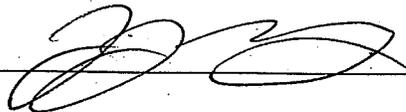
Regional Planning Commission Transmittal Checklist

Hearing Date 6/8/2011
Agenda Item Number 6

Project Number: R2005-02263-(3)
Case(s): Conditional Use Permit Case No. 200500149
Contact Person: Tyler Montgomery, Zoning Permits West

Included	NA/None	Document
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Factual
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Property Location Map
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Staff Report
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Draft Findings
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Draft Conditions
<input type="checkbox"/>	<input checked="" type="checkbox"/>	DPW Letter
<input type="checkbox"/>	<input checked="" type="checkbox"/>	FD Letter
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Other Department's Letter(s)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Burden Of Proof Statement(s)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Environmental Documentation (IS, MMP, EIR)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Opponent And Proponent Letters
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Photographs
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Resolution (ZC, Or PA)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Ordinance with 8.5 X 11 Map (ZC Or PA)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Aerial (Ortho/Oblique) Image(s)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Land Use Radius Map
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Site Plan And Elevations
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Other

Reviewed By: _____





Los Angeles County Department of Regional Planning
 320 West Temple Street
 Los Angeles, California 90012
 Telephone (213) 974-6461
PROJECT NUMBER R2005-02263
RCUP 200500149

PUBLIC HEARING DATE
6/8/2011

AGENDA ITEM
6

RPC CONSENT DATE

CONTINUE TO

APPLICANT

Lance Roberts

OWNER

Lance Roberts

REPRESENTATIVE

Lance Roberts

PROJECT DESCRIPTION

The applicant requests a conditional use permit (CUP) to authorize the continued sale of beer and wine for on-site consumption at an existing restaurant: Froggy's Topanga Fish Market.

REQUIRED ENTITLEMENTS

To continue the sale of beer and wine for on-site consumption at an existing restaurant: Froggy's Topanga Fish Market

LOCATION/ADDRESS

1105 N. Topanga Canyon Blvd., Topanga,

SITE DESCRIPTION

The restaurant is located within a 5,530-square-foot building on the eastern portion of a 1.3-acre property and has a maximum occupancy of 119 persons. A gravel parking lot of 46 spaces is located to the rear of the structure, vehicular access to which is via a driveway north of the structure to Topanga Canyon Boulevard. Topanga Creek runs immediately west of the property. The restaurant would continue to host indoor live entertainment and proposes operating hours of 6:00 a.m. to 11:00 p.m. Sunday through Thursday, and 6:00 a.m. to 12:00 a.m. Friday and Saturday.

ACCESS

Topanga Canyon Boulevard

ZONED DISTRICT

The Malibu

ASSESSORS PARCEL NUMBER

4440028006, 4440028007

COMMUNITY

Malibu Coastal Zone

SIZE

1.28 Acres

COMMUNITY STANDARDS DISTRICT

Topanga Canyon

EXISTING LAND USE

EXISTING ZONING

Project Site

Restaurant

M-1, C-3

North

Hair salon, single-family residences

M-1, C-3, R-1-10,000

East

Single-family residences, vacant land

R-1-10,000

South

Single-family residences, vacant land

A-1-1

West

Topanga Creek, single-family residences, vacant land

R-1-10,000

GENERAL PLAN/COMMUNITY PLAN

Malibu Coastal Plan

LAND USE DESIGNATION

6 (Residential)

MAXIMUM DENSITY

1 dwelling unit/acre

ENVIRONMENTAL DETERMINATION

Class 1 Categorical Exemption-Existing Facilities

RPC LAST MEETING ACTION SUMMARY

LAST RPC MEETING DATE

RPC ACTION

NEEDED FOR NEXT MEETING

MEMBERS VOTING AYE

MEMBERS VOTING NO

MEMBERS ABSTAINING/ABSENT

TO BE COMPLETED ONLY ON CASES TO BE HEARD BY THE BOARD OF SUPERVISORS

STAFF CONTACT PERSON: Tyler Montgomery

RPC HEARING DATE(S)

RPC ACTION DATE

RPC RECOMMENDATION

MEMBERS VOTING AYE

MEMBERS VOTING NO

MEMBERS ABSTAINING

STAFF RECOMMENDATION (PRIOR TO HEARING):

SPEAKERS*

(O) 0 (F) 0

PETITIONS

(O) 0 (F) 0

LETTERS

(O) 0 (F) 0

*(O) = Opponents (F) = In Favor

STAFF ANALYSIS

PROJECT NUMBER

R2005-02263-(3)

CASE NUMBER

Conditional Use Permit No. 200500149

PROJECT OVERVIEW

The applicant requests a conditional use permit (CUP) to authorize the continued sale of beer and wine for on-site consumption at an existing restaurant: Froggy's Topanga Fish Market. The restaurant is located within a 5,530-square-foot building and dining patio on the eastern portion of a 1.3-acre property and has a current occupancy of 119 persons.

DESCRIPTION OF SUBJECT PROPERTY

Location

1105 North Topanga Canyon Boulevard, Topanga, within The Malibu Zoned District.

Physical Features

The restaurant and dining patio occupy 5,530 square feet and are situated on a sloping, 1.3-acre parcel, which is located within a designated Oak Woodland Sensitive Ecological Resource Area (SERA) and bounded on the west by the Topanga Creek Ecologically Sensitive Habitat Area (ESHA), as designated in the Malibu Coastal Plan. A gravel parking lot of 46 spaces is located to the rear of the restaurant structure, accessed by a driveway north of the structure to Topanga Canyon Boulevard. Several oak trees are located on the project site, although none are proposed for removal or encroachment. No increases in occupancy or structural additions are proposed.

ENTITLEMENT

Pursuant to Section 22.56.195 of the Los Angeles County Planning and Zoning Code (Title 22), the applicant is requesting a conditional use permit (CUP) to authorize the continued sale of beer and wine for on-site consumption at an existing restaurant. Pursuant to Sections 22.32.070 and 22.28.210 of the Los Angeles County Planning and Zoning Code (Title 22), premises in Zone M-1 and Zone C-3 may be used for the sale of alcoholic beverages, for either on-site or off-site consumption, provided a conditional use permit has first been obtained. A previous permit, CUP 94056, authorizing the sale of beer and wine for off-site consumption, was approved in 1994 and expired in 2004. Therefore, the applicant is requesting a new CUP to allow for the continued sale of alcoholic beverages at the restaurant. The existing restaurant use is permitted pursuant to Sections 22.32.040 and 22.28.180, subject to the applicable development standards for such a use.

EXISTING ZONING

Subject Property

The subject property is zoned M-1 (Light Manufacturing) and C-3 (Unlimited Commercial).

Surrounding Properties

Surrounding properties are zoned as follows:

- North: M-1 (Light Manufacturing), C-3 (Unlimited Commercial), R-1-10,000 (Single Family Residence—10,000 square-foot minimum lot size)
- South: A-1-1 (Light Agricultural—1-acre minimum lot size)
- East: R-1-10,000 (Single Family Residence—10,000 square-foot minimum lot size)
- West: R-1-10,000 (Single Family Residence—10,000 square-foot minimum lot size)

EXISTING LAND USES

Subject Property

The subject property is developed with a 5,530-square-foot restaurant and dining patio structure. As previously approved in 1985, the occupancy load for the restaurant was 119 persons. The restaurant has a certified occupancy load of 138 persons. However, the applicant is proposing to maintain the current occupancy of 119 persons. There are 46 parking spaces on site.

Surrounding Properties

Land uses within 500' of the subject property consist of the following:

- North: Hair salon, single-family residences
- South: Single-family residences, vacant land
- East: Single-family residences, vacant land
- West: Topanga Creek, single-family residences, vacant land

PREVIOUS PERMITS

Plot Plan No. 32791

Approved the utilization of the structure as a restaurant with an occupancy of 119 persons and the construction and/or legalization of the outdoor dining patio.

Approved August 25, 1985

CUP No. 94056

Approved the sale of beer and wine for on-site consumption at a new restaurant with an occupancy of 70 persons and operating hours of 5:00 p.m. to 9:00 p.m. Sunday through Thursday, and 5:00 p.m. to 10:00 p.m. Fridays and Saturdays.

Approved June 28, 1994

Expired June 28, 2004

ZONING ENFORCEMENT ACTIONS

Zoning Enforcement Case 04-0054957

Opened: February 21, 1995

Violations: utility poles, inoperable vehicles, junk, and salvage being stored on the subject property, freestanding and portable signs in front of the restaurant, illegal occupation of storage shed with electrical utilities.

Result: after 17 inspections indicating various degrees of compliance, the case was closed in 1999, re-opened and closed again in 2001, and then re-opened again in 2003 and finally closed in 2004.

Closed: March 16, 2004

Zoning Enforcement Case 04-0062740

Opened: November 17, 2004

Violation: portable signs and outdoor storage on the subject property; applicant selling beer and wine for on-site consumption with an expired CUP (94056).

Result: applicant filed for a new CUP in September 2005, although enforcement inspections continued to note illegal signs and outdoor storage, which were finally abated in 2008.

Closed: December 1, 2008

LAND USE POLICY MAP

All structures on the subject property are located within the area designated as "6" (Residential I—6 dwelling units/acre) in the Malibu Coastal Plan. Compatible uses are defined in the Plan as primarily residential in nature, although compatible locally serving commercial uses are allowed as well. The sale of beer and wine for on-site consumption in a restaurant would be consistent with this designation. The rear portion of the subject property, in which the parking lot is located, is designated as "5" (Rural Land II—1 dwelling unit/2 acres) in the Malibu Coastal Plan. No development is proposed for this portion of the property, and no new construction or intensification of use is proposed for the project site.

SITE PLAN

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 has proposes to 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 applicant proposes operating hours of 6:00 a.m. to 11:00 p.m. Sunday through Thursday, and 6:00 a.m. to midnight Friday and Saturday, which is an extension of weeknight operating hours from 9:00 p.m. as originally approved to 11:00 p.m. and weekend operating hours from 10:00 p.m. as originally approved to 12:00 a.m. 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.

COMPLIANCE WITH APPLICABLE ZONING STANDARDS

The existing main restaurant structure was built in 1925 as Topanga Elementary School, and the ancillary storage sheds were added during the period of operation of the school on the site between 1925 and 1953. These structures, then, as part of a public school, were not subject to County zoning standards and were legally established pursuant to applicable standards at that time. However, these structures are not affected by the current project, which does not propose any new construction or alteration of the existing structures on the project site.

The use of the site as a restaurant was approved in 1985 (PP 32791), at which time the construction and/or legalization of the outdoor dining patio was also approved. The sale of beer and wine for on-site consumption was approved in 1994 (CUP 94056). The existing structures on the project site are not proposed to be altered and no new construction is proposed for the site, therefore, current M-1 or C-3 zone standards would not be triggered.

Nevertheless, the existing restaurant and project site comply with current code requirements for such uses. The restaurant was approved in 1994 (CUP 94056) with approximately 5,500 square feet of landscaping, which is approximately 10 percent of the site, and therefore, the landscaping is consistent with the standards of the time, as well as with current standards. The lack of distance between several of the structures and the public right-of-way is also consistent with the requirements of the M-1 and C-3 zones, which do not require setbacks. Maximum height and lot coverage requirements are also met.

The Building and Safety Division of the Department of Public Works has certified a maximum occupancy load for the structure of 138 persons. Section 22.52.1110 of the County Code requires that restaurants provide one off-street parking space for every three persons, based on the maximum occupancy load determined by the County Engineer. Therefore, the restaurant would require 46 parking spaces. The gravel parking area to the rear of the structure would provide 46 parking spaces and therefore achieve consistency with this requirement. This meets current requirements for parking. However, the applicant proposes to maintain the restaurant's current occupancy of 119 persons at this time, which was what was approved by the original plot plan in 1985. While CUP 94056 limited the restaurant's occupancy to 70 persons, this permit has since expired, and the applicant now requests to make use of the occupancy of 119 originally authorized by Plot Plan 32791. The restaurant will provide more than one parking space for every three persons based on its proposed occupancy load, and therefore, with the 46 parking space, sufficient parking will be provided on-site.

Section 22.52.880 of the County Code regulates wall business signs. Each business in a C-3 or M-1 zone is allowed three square feet of sign area for each foot of street, arcade, or parking lot frontage, with a minimum allowance of 20 square feet. Because

the restaurant has a parking lot frontage of 240 feet, the Code would allow a wall business sign of 720 square feet. The applicant has already installed signs at the site, although elevations depicting them have not been submitted. As a condition of any approval, the applicant would be required to submit elevation drawings depicting the exact dimensions of all signs to ensure that the sign complies with applicable regulations and standards.

BURDEN OF PROOF

As required by Section 22.56.040 of the Los Angeles County Code, in addition to the information required in the permit application, the applicant shall substantiate to the satisfaction of the Hearing Officer and/or the Commission, the following facts:

- A. That the requested use at the location proposed will not:
 - 1. Adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area; or
 - 2. Be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site, or
 - 3. Jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare.
- B. That the proposed site is adequate in size and shape to accommodate the yards, wells, fence, parking and loading facilities, landscaping and other development features prescribed in this Title 22, of as is otherwise required in order to integrate said use with the uses in the surrounding area.
- C. That the proposed site is adequately served:
 - 1. By highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate, and
 - 2. By other public or private service facilities as are required.

ADDENDUM BURDEN OF PROOF

Per Section 22.56.195 of the Los Angeles County Code, in addition to the findings required pursuant to subsection A of Section 22.56.090, the applicant shall also substantiate to the Commission the following facts in order to authorize the sale of alcoholic beverages:

- A. The requested use at the proposed location will not adversely affect the use of a place used exclusively for religious worship, school, park, playground or any similar use within a 600' radius; and
- B. The requested use at the proposed location is sufficiently buffered in relation to any residential area within the immediate vicinity so as not to adversely affect said area; and
- C. The requested use at the proposed location will not result in an undue concentration of similar premises; a separation of not less than 500' shall not be

construed as undue concentration; provided, however, that the planning agency may find that the public convenience or necessity for an additional facility selling alcoholic beverages for off-site consumption, outweighs the fact that it is located within a 500' radius of any other facility selling alcoholic beverages for either on-site or off-site consumption, in which case the shelf space devoted to alcoholic beverages shall be limited to not more than 5% of the total shelf space in the establishment; and

- D. The requested use at the proposed location will not adversely affect the economic welfare of the nearby community; and
- E. The exterior appearance of the structure will not be inconsistent with the exterior appearance of commercial structures already constructed or under construction within the immediate neighborhood so as to cause blight, deterioration, or substantially diminish or impair property values within the neighborhood.

The applicant's Burden of Proof responses are attached to this document.

ENVIRONMENTAL DOCUMENTATION

This project has been determined to be categorically exempt under the environmental reporting procedures and guidelines of the California Environmental Quality Act (CEQA). If approved, the proposed alcohol permit will be issued for a restaurant that is located in an existing facility for which no new construction or intensification of use is proposed, therefore the project qualifies for a Class 1, Existing Facilities Categorical Exemption.

PUBLIC AGENCY COMMENTS

California Department of Alcoholic Beverage Control

Statistical data from the California Department of Alcoholic Beverage Control (ABC) report that the site of the subject request is not located within a high crime reporting district. The subject property is in Reporting District 1033. The average number of offenses reported for all districts is 164.56 and the actual number of crimes reported for District 1033 is 28.

ABC data show that the site is not within an area experiencing over-concentration of alcohol sales. The subject request is in Census Tract 8001.02, containing a population of 6,422 people. Six on-sale ABC licenses are allowed within this census tract. Currently, five on-sale ABC licenses exist.

Los Angeles County Sheriff's Department

The Malibu/Lost Hills Station of the Los Angeles County Sheriff's Department was consulted regarding the project. Crime statistics were provided for the location for the years 2005-2009. This indicated four (4) written crime reports during this period, including theft of business checks, one assault, one incident of public intoxication, and one incident of domestic violence. There were also 14 calls for service during this period, 8 of which involved complaints about loud music.

PUBLIC COMMENTS

Legal Notification/Community Outreach

The public was properly notified of the public hearing for this project. A total of 77 public hearing notices regarding the proposal were mailed to property owners within the 500-foot radius of the subject property and other interested parties on April 27, 2011. The hearing notice was also published in the *Malibu Times* and in *La Opinion* on May 5, 2011. Case-related materials were also sent to the Malibu Library and posted on the Regional Planning web page. The hearing notice was posted on the property on May 8, 2011. An earlier version of this project, which proposed the sale of a full line of alcohol and to expand the occupancy of the restaurant to 138 persons, generated 15 letters of opposition, who complained about past issues with noise and expressed concerns that increasing capacity would worsen the problem. During this time, the applicant also submitted a petition signed by approximately 1,400 individuals in favor of increasing the restaurant's hours of operation and continuing the sale of alcoholic beverages. However, since the distribution of public hearing notices, staff has received no public comments regarding the current version of the project.

STAFF EVALUATION

The project is not located within a high crime reporting district, and ABC indicates that there is not an undue concentration of alcohol permits within this census tract. There are also no other facilities selling alcoholic beverages for on-site or off-site consumption within 500 feet of the existing restaurant.

The restaurant has been selling beer and wine for on-site consumption at the site for more than 15 years. There are no sensitive uses within 600 feet of the restaurant, and therefore, the proposed use will not have an adverse affect on any such sensitive uses. The proposed use will also enhance the economic welfare of the surrounding community as it will provide a full service restaurant in an area that is traditionally underserved by such uses.

The proposed restaurant would have access to adequate off-street parking and would comply with all applicable development standards of the Los Angeles County Zoning Ordinance and General Plan. It would also be well served by Topanga Canyon Boulevard (State Route 27), a two-lane highway without major level-of-service issues.

The proposed use is sufficiently buffered in relation to nearby residential uses because it is separated by more than 200 feet from the nearest residence, a distance which includes many large trees and Topanga Creek. 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. However, in order to prevent disturbance of neighbors, staff recommends a condition that any live entertainment cease at 10:00 p.m., which corresponds to the time at which more restrictive sound regulations begin under the County Noise Ordinance (Title 12).

The proposed restaurant would have access to adequate off-street parking and would comply with all applicable development standards of the Los Angeles County Zoning Ordinance and General Plan.

The restaurant has had some past zoning violations regarding portable signs, inoperable vehicles, and outdoor storage on the project site. However, since 2008 the facility has been maintained in a neat and aesthetically attractive state. Therefore, it is likely that the facility will continue to blend well into the surrounding community.

As a result of the above mentioned factors, staff believes that the burden of proof for a conditional use permit has been satisfied.

STAFF RECOMMENDATION

Staff recommends approval of Conditional Use Permit No. 200500149, subject to the attached conditions.

FEES/DEPOSITS

If approved, the following fees will apply unless modified by the Commission:

Zoning Enforcement

1. Inspection fees of \$1,000 to cover the costs of five recommended biennial zoning enforcement inspections.

SUGGESTED APPROVAL MOTION

I move that the Regional Planning Commission close the public hearing, determine that the project is exempt from the California Environmental Quality Act pursuant to a Class 1 categorical exemption, and **APPROVE** Conditional Use Permit 200500149 subject to the attached Findings and Conditions of Approval.

Prepared by Tyler Montgomery, Regional Planning Assistant II
Reviewed by Rudy Silvas, Principal Regional Planner

Attachments:

Draft Findings

Draft Conditions of Approval

Applicant's Burden of Proof and Addendum Burden of Proof statements

ABC statistics

Sheriff's Department call log

Petition in favor of previous version of the project with 1,400 signatures (first page only)

15 letters of opposition to previous version of the project

Site photographs

RS:TM

05/26/11

FINDINGS AND ORDER OF THE REGIONAL PLANNING COMMISSION COUNTY OF LOS ANGELES

PROJECT NUMBER R2005-02263-(3)
CONDITIONAL USE PERMIT NUMBER 200500149

REGIONAL PLANNING COMMISSION HEARING DATE: JUNE 8, 2011

SYNOPSIS:

Pursuant to Section 22.56.195 of the Los Angeles County Planning and Zoning Code (Title 22), the applicant is requesting a conditional use permit ("CUP") to authorize the continued sale of beer and wine for on-site consumption and indoor live entertainment at an existing restaurant: Froggy's Topanga Fish Market.

PROCEEDINGS BEFORE THE REGIONAL PLANNING COMMISSION:

Findings

1. Pursuant to Section 22.56.195 of the Los Angeles County Planning and Zoning Code (Title 22), the applicant is requesting a conditional use permit to authorize the continued sale of beer and wine for on-site consumption at an existing restaurant.
2. The restaurant, Froggy's Topanga Fish Market, is located at 1105 North Topanga Canyon Boulevard, Topanga, in The Malibu Zoned District of Los Angeles County.
3. The restaurant and dining patio occupy 5,530 square feet and are situated on a sloping, 1.3-acre parcel, which is located within a designated Oak Woodland Sensitive Ecological Resource Area (SERA) and bounded on the west by the Topanga Creek Ecologically Sensitive Habitat Area (ESHA), as designated in the Malibu Coastal Plan. A gravel parking lot of 46 spaces is located to the rear of the restaurant structure, accessed by a driveway north of the structure to Topanga Canyon Boulevard. Several oak trees are located on the project site, although none are proposed for removal or encroachment. No increases in occupancy or structural additions are proposed.
4. The subject property is zoned M-1 (Light Manufacturing) and C-3 (Unlimited Commercial), which both allow for restaurants as permitted uses and live entertainment in conjunction with a restaurant use, as well as allow for the sale of alcoholic beverages in conjunction with a restaurant use with a CUP.
5. Surrounding properties within the 500-foot radius of the project are zoned as follows:
 - North: M-1 (Light Manufacturing), C-3 (Unlimited Commercial), R-1-10,000 (Single Family Residence—10,000 square-foot minimum lot size)
 - South: A-1-1 (Light Agricultural—1-acre minimum lot size)
 - East: R-1-10,000 (Single Family Residence—10,000 square-foot min. lot size)
 - West: R-1-10,000 (Single Family Residence—10,000 square-foot min. lot size)

6. Land uses within 500 feet of the subject property consist of the following:
 - North: Hair salon, single-family residences
 - South: Single-family residences, vacant land
 - East: Single-family residences, vacant land
 - West: Topanga Cree, single-family residences, vacant land
7. Plot Plan No. 32791 approved the utilization of the structure as a restaurant and the construction and/or legalization of the outdoor dining patio with an occupancy of 119 persons. This permit was approved on August 25, 1985, and was consistent with all applicable development standards at the time of its approval.
8. CUP No. 94056 approved the sale of beer and wine for on-site consumption at a new restaurant with an occupancy of 70 persons and operating hours of 5:00 p.m. to 9:00 p.m. Sunday through Thursday, and 5:00 p.m. to 10:00 p.m. Fridays and Saturdays. This permit was approved on June 28, 1994, and expired on June 28, 2004.
9. The project is consistent with the Countywide General Plan and the Malibu Coastal Plan. All structures on the subject property are located within the area designated as "6" (Residential I—6 dwelling units/acre) in the Malibu Coastal Plan. Compatible uses are defined in the Plan as primarily residential in nature, although compatible locally serving commercial uses are allowed as well. The sale of beer and wine for on-site consumption in a restaurant would be consistent with this designation. The rear portion of the subject property, in which the parking lot is located, is designated as "5" (Rural Land II—1 dwelling unit/2 acres) in the Malibu Coastal Plan. No development is proposed for this portion of the property, and no new construction or intensification of use is proposed for the project site.
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 has proposed to 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 applicant proposes operating hours of 6:00 a.m. to 11:00 p.m. Sunday through Thursday, and 6:00 a.m. to midnight Friday and Saturday, which is an extension of weeknight operating hours from 9:00 p.m. as originally approved to 11:00 p.m. and weekend operating hours from 10:00 p.m. as originally approved to 12:00 a.m. 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.

11. Pursuant to Sections 22.32.070 and 22.28.210 of the Los Angeles County Planning and Zoning Code (Title 22), premises in Zone M-1 and Zone C-3 may be used for the sale of alcoholic beverages, for either on-site or off-site consumption, provided a conditional use permit has first been obtained.
12. The existing main restaurant structure was built in 1925 as Topanga Elementary School, and the ancillary storage sheds were added during the period of operation of the school on the site between 1925 and 1967. These structures, then, as part of a public school, were not subject to County zoning standards and were legally established pursuant to applicable standards at that time. However, these structures are not affected by the current project, which does not propose any new construction or alteration of existing structures at the project site.
13. The use of the site as a restaurant was approved in 1985 (PP 32791), at which time the construction and/or legalization of the outdoor dining patio was also approved. The sale of beer and wine for on-site consumption was approved in 1994 (CUP 94056). The existing structures on the project site are not proposed to be altered and no new construction is proposed for the site, therefore, current M-1 or C-3 zone standards. Nevertheless, the existing restaurant and project site comply with current Code requirements for such uses.
14. The restaurant was approved in 1994 (CUP 94056) with approximately 5,500 square feet of landscaping, which is approximately 10 percent of the project site, which is consistent with the standards of the time, as well as current standards. The lack of distance between several of the structures and the public right-of-way is also consistent with the requirements of the M-1 and C-3 zones, which do not require setbacks. Maximum height and lot coverage requirements are also met.
15. The Building and Safety Division of the Department of Public Works has certified a maximum occupancy load for the structure of 138 persons. Section 22.52.1110 of the County Code requires that restaurants provide one off-street parking space for every three persons, based on the maximum occupancy load determined by the County Engineer. Therefore, the restaurant would require 46 parking spaces. The gravel parking area to the rear of the structure would provide 46 parking spaces and therefore achieve consistency with this requirement. This meets current requirements for parking. However, the applicant proposes to maintain the restaurant's current occupancy of 119 persons at this time, which was what was approved by the original plot plan in 1985. While CUP 94056 limited the restaurant's occupancy to 70 persons, this permit has since expired, and the applicant now

requests to make use of the occupancy of 119 originally authorized by Plot Plan 32791. The restaurant will provide more than one parking space for every three persons based on its proposed occupancy load, and therefore, with the 46 parking space, sufficient parking will be provided on-site.

16. Section 22.52.880 of the County Code regulates wall business signs. Each business in a C-3 or M-1 zone is allowed three square feet of sign area for each foot of street, arcade, or parking lot frontage, with a minimum allowance of 20 square feet. Because the restaurant has a parking lot frontage of 240 feet, the Code would allow a wall business sign of 720 square feet. The applicant has already installed signs at the site, although elevations depicting them have not been submitted. As a condition of any approval, the applicant would be required to submit elevation drawings depicting the exact dimensions of all signs to ensure that the sign complies with applicable regulations and standards.
17. This project has been determined to be categorically exempt under the environmental reporting procedures and guidelines of the California Environmental Quality Act (CEQA). The restaurant, which will sell beer and wine for on-site consumption, is located in an existing facility and does not propose to expand or intensify the existing facility. Therefore, the project qualifies for a Class 1, Existing Facilities, Categorical Exemption.
18. There is not an undue concentration of alcohol sales in the vicinity of the project site. Statistical data from the California Department of Alcoholic Beverage Control (ABC) report that the site of the subject request is not located within a high crime reporting district. The subject property is in Reporting District 1033. The average number of offenses reported for all districts is 164.56 and the actual number of crimes reported for District 1033 is 28.

ABC data show that the site is not within an area experiencing over-concentration of alcohol sales. The subject request is in Census Tract 8001.02, containing a population of 6,422 people. Six on-sale ABC licenses are allowed within this census tract. Currently, five on-sale ABC licenses exist. Additionally, there are no other facilities selling alcoholic beverages for on-site or off-site consumption within 500 feet of the existing restaurant.
19. The Malibu/Lost Hills Station of the Los Angeles County Sheriff's Department was consulted regarding the project. Crime statistics were provided for the location for the years 2005-2009. This indicated four (4) written crime reports during this period, including theft of business checks, one assault, one incident of public intoxication, and one incident of domestic violence. There were also 14 calls for service during this period, 8 of which involved complaints about loud music.
20. Pursuant to the provisions of Sections 22.60.174 and 22.60.175 of the County Code, the community was appropriately notified of the public hearing by mail, newspaper, property posting, library posting and DRP website posting. A total of 77 public

hearing notices regarding the proposal were mailed to property owners within the 500-foot radius of the subject property and other interested parties on April 27, 2011. The hearing notice was also published in the *Malibu Times* and in *La Opinion* on May 5, 2011. Case-related materials were also sent to the Malibu Library and posted on the Regional Planning web page. The hearing notice was posted on the property on May 8, 2011. An earlier version of this project, which proposed the sale of a full line of alcohol and to expand the occupancy of the restaurant to 138 persons, generated 15 letters of opposition, who complained about past issues with noise and expressed concerns that increasing capacity would worsen the problem. During this time, the applicant also submitted a petition signed by approximately 1,400 individuals in favor of increasing the restaurant's hours of operation and continuing the sale of alcoholic beverages. However, staff has received no public comments regarding the current version of the project.

21. The restaurant has been selling beer and wine for on-site consumption at the site for more than 15 years. There are no sensitive uses within 600 feet of the restaurant, and therefore, the proposed use will not have an adverse affect on any such sensitive uses. The proposed use will also enhance the economic welfare of the surrounding community as it will provide a full service restaurant in an area that is traditionally underserved by such uses.
22. The proposed restaurant has access to adequate off-street parking and complies with all applicable development standards of the Los Angeles County Zoning Ordinance and General Plan would also be well served by Topanga Canyon Boulevard (State Highway 27), a two-lane highway without major level-of-service issues.
23. The proposed use is sufficiently buffered in relation to nearby residential uses because it is separated by more than 200 feet from the nearest residence, a distance which includes many large trees and Topanga Creek. 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 any live entertainment cease at 10:00 p.m., which corresponds to the time at which more restrictive sound regulations begin under the County Noise Ordinance (Title 12).
24. The proposed restaurant would have access to adequate off-street parking and would comply with all applicable development standards of the Los Angeles County

Zoning Ordinance and General Plan.

25. The restaurant has had some past zoning violations regarding portable signs, inoperable vehicles, and outdoor storage on the project site. However, since 2008 the facility has been maintained in a neat and aesthetically attractive state. Therefore, it is likely that the facility will continue to blend well into the surrounding community, and the exterior appearance of the restaurant will be consistent with the exterior appearance of other commercial structures in the area and will not cause blight, deterioration, or substantially diminish or impair property values within the neighborhood.

BASED ON THE FOREGOING, THE REGIONAL PLANNING COMMISSION CONCLUDES:

- A. The proposed use is consistent with the adopted general plan for the area;
- B. The requested use at the proposed location will not adversely affect the health, peace, comfort, or welfare of persons residing and working in the surrounding area, and not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site, and will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety and general welfare;
- C. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking, landscaping and other development features;
- D. The proposed site is adequately served by highways of sufficient width, and improved as necessary to carry the kind of traffic such uses would generate and by other public or private facilities as are required;
- E. The requested use at the proposed location will not adversely affect the use of a place used exclusively for religious worship, school, park, playground or any similar use within a 600' radius;
- F. The requested use at the proposed location would not be located a high crime area, as designated by ABC, and is not located within a 500' radius of any other facility selling alcoholic beverages for either on-site or off-site consumption;;
- G. The requested use at the proposed location will not adversely affect the economic welfare of the nearby community; and
- H. The exterior appearance of the structure will not be inconsistent with the exterior appearance of commercial structures already constructed or under construction within the immediate neighborhood so as to cause blight, deterioration, or substantially diminish or impair property values within the neighborhood.

AND, THEREFORE, the information submitted by the applicant and presented at the public hearing substantiates the required findings and burden of proof for a Conditional Use Permit as set forth in Sections 22.56.090 and 22.56.195 of the Los Angeles County Code.

REGIONAL PLANNING COMMISSION ACTION:

1. The Commission finds that Conditional Use Permit No. 2005-00149 is categorically exempt from the California Environmental Quality Act pursuant to a Class 1 categorical exemption.
2. In view of the findings of fact and conclusions presented above, Conditional Use Permit 200500149 is **APPROVED** subject to the attached conditions.

VOTE:

Concurring:

Dissenting:

Abstaining:

Absent:

Action Date:

1. c: Commission Services, Building and Safety.

RS:TM
05/26/11

1. This grant authorizes the continued sale of beer and wine for on-site consumption at an existing restaurant, as depicted on the approved Exhibit "A", subject to all of the following conditions of approval.
2. Unless otherwise apparent from the context, the term "permittee" shall include the applicant, owner of the property, and any other person, corporation, or other entity making use of this grant.
3. This grant shall not be effective for any purpose and cannot be used until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Los Angeles County ("County") Department of Regional Planning ("Regional Planning") their affidavit stating that they are aware of, and agree to accept, all conditions of this grant, and that the conditions of the grant have been recorded as required by Condition No. 8, and until all required fees have been paid pursuant to Condition No. 10. Notwithstanding the foregoing, this condition (No. 3), and Condition Nos. 5, 6, and 7 shall be effective immediately upon the date of final approval of this grant by the County.
4. Unless otherwise apparent from the context, the term "date of final approval" shall mean the date the County's action becomes effective pursuant to Section 22.60.260 of the County Code.
5. The permittee shall defend, indemnify, and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void or annul this permit approval, which action is brought within the applicable time period of Government Code Section 65009. The County shall notify the permittee of any claim, action, or proceeding and the County shall fully cooperate in the defense. If the County fails to promptly notify the permittee of any claim, action, or proceeding, or if the County fails to cooperate fully in the defense, the permittee shall not thereafter be responsible to defend, indemnify, or hold harmless the County.
6. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall within ten days of the filing make an initial deposit with Regional Planning in the amount of \$5,000.00, from which actual costs and expenses shall be billed and deducted for the purpose of defraying the costs or expenses involved in the Regional Planning's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance provided to permittee or permittee's counsel.

If during the litigation process, actual costs or expenses incurred reach 80 percent of the amount on deposit, the permittee shall deposit additional funds sufficient to bring the balance up to the amount of \$5,000.00. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation.

At the sole discretion of the permittee, the amount of an initial or any supplemental deposit may exceed the minimum amounts defined herein. Additionally, the cost for collection and duplication of records and other related documents shall be paid by the permittee in accordance with to Los Angeles County Code Section 2.170.010.

7. This grant shall expire unless used within two (2) years from the date of final approval of the grant by the County. A single, one-year time extension may be requested, in writing and with payment of the applicable fee, before the expiration date.
8. If any material provision of this grant is held or declared to be invalid by a court of competent jurisdiction, the permit shall be void and the privileges granted hereunder shall lapse.
9. Prior to the use of this grant, the permittee, or the owner of the subject property if other than the permittee, shall record the terms and conditions of the grant in the office of the County Registrar-Recorder/County Clerk. In addition, upon any transfer or lease of the subject property during the term of this grant, the permittee, or the property owner if other than the permittee, shall promptly provide a copy of the grant and its conditions to the transferee or lessee of the subject property.
10. **This grant shall terminate on June 8, 2021.** Entitlement to the use of the property thereafter shall be subject to the regulations then in effect. If the permittee intends to continue the sale of beer and wine after such date, whether or not the permittee proposes any modifications to the use at that time, the permittee shall file a new conditional use permit application with Regional Planning prior to the expiration of this permit, or shall otherwise comply with the the applicable requirements at that time. Such application shall be filed at least 6 months prior to the expiration date for his grant and shall be accompanied by the required fee. In the event that the permittee seeks to discontinue or otherwise change the use, notice is hereby given that the use of such property may require additional or different permits and would be subject to the then-applicable regulations. The expiration of this grant shall not apply to the continued use of the restaurant without alcohol sales.
11. The subject property shall be maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions. Inspections shall be made to ensure compliance with the conditions of this grant as well as to ensure that any development undertaken on the subject property is in accordance with the approved site plan on file. **The permittee shall deposit with the County the sum of \$1,000.00.** This deposit shall be placed in a performance fund which, shall be used exclusively to compensate Regional Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval. The deposit provides for **five (5) biennial** (one every other year) inspections. Inspections shall

be unannounced.

If additional inspections are required to ensure compliance with the conditions of this grant, or if any inspection discloses that the subject property is being used in violation of any condition of this grant, the permittee shall be financially responsible and shall reimburse Regional Planning for all additional enforcement efforts necessary to bring the subject property into compliance. The amount charged for additional inspections shall be \$200.00 per inspection, or the current recovery cost at the time any additional inspections are required, whichever is greater.

12. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Regional Planning Commission ("Commission") or a Hearing Officer may, after conducting a public hearing, revoke or modify this grant, if the Commission or Hearing Officer finds that these conditions have been violated, that this grant has been exercised so as to be detrimental to the public's health or safety, or so as to be a nuisance or otherwise determined by County Code Section 22.60.350.
13. All requirements of the Zoning Ordinance and of the specific zoning of the subject property must be complied with unless otherwise modified as set forth in these conditions or as shown on the approved plans.
14. All development pursuant to this grant shall conform with the requirements of the County Department of Public Works, the County Fire Department and Fire Warden, and the County Department of Public Health.
15. All structures, walls, and fences open to public view shall remain free of graffiti or other extraneous markings, drawings, or signage that was not approved by Regional Planning. These shall include any of the above that do not directly relate to the business being operated on the premises or that do not provide pertinent information about said premises. The only exceptions shall be seasonal decorations or signage provided under the auspices of a civic or non-profit organization. In the event of graffiti or other extraneous markings occurring, the permittee shall remove or cover said markings, drawings, or signage within 24 hours of notification of such occurrence, weather permitting. Paint utilized in covering such markings shall be of a color that matches, as closely as possible, the color of the adjacent surfaces.
16. Any new or additional signage shall be in compliance with Part 10 of Chapter 22.52, Title 22 of the Los Angeles County Code.
17. The subject property shall be developed and maintained in substantial compliance with the plans on file marked Exhibit "A". If changes to the site plan are required as a result of instruction given at the public hearing, a revised Exhibit "A" shall be submitted to Regional Planning within 60 days of the date of final approval of the CUP. In the event that subsequent plans are submitted, the written authorization of the property owner is necessary.

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 sale of beer and wine for on-site consumption shall be permitted only between the hours of 9:00 am – 11:00 pm Sunday through Thursday and 9:00 am to 12:00 am Friday and Saturday;
- b. Maximum occupancy of the site shall not exceed 119 persons;
- c. A minimum of 46 on-site parking spaces shall be continuously maintained;
- d. Live entertainment shall occur no more than two dates per month and shall be located inside the restaurant between the hours of 9:00 am and 10:00 pm only. Theatre-grade noise reduction curtains shall be installed and maintained along the north wall of the performance space, and a noise reduction screen or barrier shall be erected and maintained around the perimeter of the outdoor dining patio;
- e. Trash bins shall be screened and located in an area that is not visible from Topanga Canyon Boulevard;
- f. Food service shall be continuously provided during restaurant operating hours;
- g. There shall be no consumption of alcoholic beverages outside the designated areas of the subject facility. The permittee shall instruct all designated employees, who directly serve or are in the practice of selling alcoholic beverages, regarding this restriction. Employees shall be instructed to enforce such restrictions and to call local law enforcement as necessary;
- h. The permittee shall develop and implement a Designated Driver program (i.e. free soft drinks or coffee to a designated driver of a group). The permittee shall submit the program to the Director of Regional Planning for approval prior this grant being considered used. A printed two-sided card explaining this program shall be placed on all tables in the restaurant or an explanation regarding the program shall be printed on the menu;
- i. All servers of alcoholic beverages shall be at least 18 years old;
- j. Temporary signs or banners advertising alcoholic beverage "specials" shall not be displayed on the exterior walls or fascia of the building;
- k. The permittee shall not advertise alcoholic beverages on the exterior walls or windows of the subject restaurant or at any location on the subject property.

- No self-illuminating advertising for alcoholic beverages shall be located on the exterior of buildings or windows;
- l. There shall be no loitering permitted on the premises under the control of the permittee. Signage shall be posted on the premises prohibiting loitering. The signage shall be in English and Spanish;
 - m. The permittee shall instruct all employees in the regulations regarding no loitering and no consumption of alcoholic beverages outside the subject restaurant. Employees shall be instructed to enforce these regulations and to call local law enforcement if necessary;
 - n. The permittee shall provide adequate lighting above the entrance of the premises. This lighting shall be of sufficient power to illuminate and make easily discernible the appearance and conduct of all persons entering or exiting the premises;
 - o. Telephone numbers of local law enforcement shall be posted adjacent to the cashier's area or otherwise prominently displayed for the public to view;
 - p. No live entertainment, dancing or dance floor is authorized for any outdoor portion of the premises;
 - q. There shall be no music or other noise audible beyond the subject property boundary;
 - r. Outside storage is expressly prohibited;
 - s. No lights shall be visible from the exterior of the building after closing time;
 - t. The permittee shall maintain the subject property in a neat and orderly fashion. The permittee shall maintain free of litter all areas on the premises over which the permittee has control;
 - u. The licensee, all managers and present and future servers of the establishment 18 years of age or older shall participate in the LEAD (Licensee Education on Alcohol and Drugs) Program provided by the California Department of Alcoholic Beverage Control, or an equivalent program as approved by the Director of Regional Planning. This training shall be ongoing and all new employees shall be required to attend. The licensee shall display a certificate or plaque in the lobby of the establishment indicating they have participated in this program, and;
 - v. The conditions of this grant shall be retained on the premises at all times and be immediately produced upon request of any County Sheriff, Zoning Enforcement Inspector, or ABC investigator. The restaurant manager and all

employees of the restaurant shall be knowledgeable of the conditions herein.

RS:TM
05/26/11

In addition to the information required in the application, the applicant shall substantiate to the satisfaction of the Zoning Board and/or Commission, the following facts:

- A. That the requested use at the location proposed will not:
1. Adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area, or
 2. Be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site, or
 3. Jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare.

Froggy's Restaurant has for the last 11 years been a place for neighbors to meet, relax and enjoy each others company.

The building has been a school dating back to 1925, is an America Legion - Post 796, and Froggy's serves the community by holding charity events & belly dancing recital. Froggy's is also a place for local artists to display their work and perform.

- B. That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this Title 22, or as is otherwise required in order to integrate said use with the uses in the surrounding area.

Froggy's has walls facing route 27 which runs right in front,

the patio is partially trellised to keep any noise as a minimum. A

large off street parking lot located at the rear of the restaurant surrounded by natural oaks and sycamores not only camouflages the building but serves as a barrier for noise.

- C. That the proposed site is adequately served:

1. By highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate, and
2. By other public or private service facilities as are required

High way 27 runs right in front of Froggy's. The access road to the parking lot has good visibility in both directions and a sign indicating it's location.

ADDENDUM BURDEN OF PROOF, ALCOHOLIC BEVERAGE SALES Section 22.56.195

1. That the requested use at the proposed location will not adversely affect the use of a place used exclusively for religious worship, school park, playground or any similar use within a 600-foot radius;

Froggy's Restaurant offers food and refreshment to the community. We are a free standing structure and there are no churches, schools, or playgrounds within the 600 foot limitations.

2. That the requested use at the proposed location is sufficiently buffered in relation to any residential area within the immediate vicinity so as not to adversely affect said area;

Froggy's is buffered by mature trees, a parking lot and walls.

3. That the requested use at the proposed location will not result in an undue concentration of similar premises, or that the public convenience or necessity for the proposed facility selling alcoholic beverages for off-site consumption outweighs the fact that it is located within a 500 foot of any other facility selling alcoholic beverages for either on-site or off-site consumption, in which case the shelf space devoted to alcoholic beverages shall be limited to not more than five percent of the total shelf space in the establishment;

We will not be selling alcohol for off-site consumption.

4. That the requested use at the proposed location will not adversely affect the economic welfare of the surrounding community;

Froggy's is a landmark in the community and adds to the desirability of real estate in the area.

5. That the exterior appearance of the structure will not be inconsistent with the exterior appearance of commercial structures already constructed or under construction within the immediate neighborhood so as to cause blight, deterioration, or substantially diminish or impair property values within said neighborhood;

Froggy's is spanish in architeecture and design and blends in with the surrounding area. It has and old world charm.

Addendum Burden of Proof, Alcoholic Beverage Sales Section 22.56.195

1. We do not adversely affect any playground, school park, etc. within a 600-foot radius, as we do not have any such facility nearby.
2. To not adversely affect residential areas within the 600-foot radius we have planted Pepper trees to buffer sound, all our performances are held inside where we keep windows and doors closed, we will be installing air conditioning as well so that even in the summer we will keep all windows closed during performances. We also have several signs posted asking our patrons to be quiet and respectful of our neighbors when coming and going.
3. This is not applicable as there is no other facility within said 500-foot radius selling alcoholic beverages, the closest facility that sells alcoholic beverages is 2 miles away. Also we do not have an off site license and do not dedicate any shelf space for this purpose.
4. We do not adversely affect the economic welfare of the community. We, on the contrary, make positive contributions in many ways by providing a beautiful restaurant for people to experience, we provide a place for a small local church congregation to meet, and we hold children's dance recitals. We have also contributed to and have held community fundraisers, and we employ local people including young students and others in our community.
5. We continually beautify and maintain our property to increase the value of the surrounding area. We plant our flowerbeds and keep up on maintenance such as painting, etc. We have a low profile building in a Spanish motif that blends well with surrounding neighborhood.

Department of Alcoholic Beverage Control
Van Nuys District Office
6150 Van Nuys Blvd, Room 220
Van Nuys, CA 91401
Phone: 818-901-5017
Fax: 818-785-6731

State of California



FAX TRANSMISSION

Total Number of Pages 5 (Including this cover sheet)

Original: To follow by regular mail Will not follow

To: city planning

Firm/Office: _____

Fax: _____ Date: 2/24/2010 Time: _____

cc('s): _____

From: Angie Rivera Phone: _____

Subject: Stats for Topanga, California *Amended Copy*

Comments:

NOTICE

This communication is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone, and return the original message to us at the above address.



"Be Energy Efficient"

23958.4 B & P APPLICATION WORK SHEET

APPLICANT: _____

PREMISES ADDRESS: 1105 N Topanga Canyon Blvd, Topanga CA. 90290

LICENSE TYPE: _____

1. CRIME REPORTING DISTRICT

LASD Jurisdiction is able to provide statistical data for the year 2008

Reporting District: 1033

Total number of reporting districts: 374

Total number of offenses: 61,546

Average number of offenses per district: 164.56

120% of average number of offenses: 197.47

Total offenses in district: 28

Location is within a high crime reporting district: NO

2. CENSUS TRACT / UNDUE CONCENTRATION: 2008

Census Tract: <u>8001.02</u>	<u>ON-SALE</u>	<u>OFF-SALE</u>
Population: <u>6422</u> County Ratio	<u>1: 1159</u>	<u>1: 1618</u>
Number of licenses allowed:	<u>6</u>	_____
Number of existing licenses:	<u>5</u>	_____
Undue concentration exists:	<u>NO</u>	_____
Letter of public convenience or necessity required: <u>N/A</u>	_____	_____
Three time publication required: <u>1x</u>	_____	_____

D. Duran 4741
Person Preparing Data

2/24/10
Date

Supervising Investigator

Amended copy

Fax Transmission

January 13, 2010 *2nd request: 2/24/10*

TO: Malibu/Lost Hills Sheriff's Station
ATTN: Crime Analyst & Watch Captain
Phone: (818) 878-1808
FAX: (818) 880-5209

FROM: Mi Kim
Los Angeles County Department of Regional Planning
Phone: (213) 974-6443
Fax: (213) 626-0434

Subject: Conditional Use Permit for the Sale of Alcohol
Project: R2005-02263-(3)
Case: RCUP 200500149
Establishment: Froggy's Topanga Fish Market
Location: 1105 N. Topanga Canyon Blvd

DRP is processing a request for a conditional use permit to continue the sale of alcoholic beverages for on-site consumption at the said establishment.

Crime Analyst: Please provide a service call and crime history report for the project site over the last five years.

Watch Captain: Please provide any comments on or recommendations for the proposed project.

Thank you for your help on this matter. We would appreciate hearing from you within 20 days.

Froggy's Topanga Fish Market – 1105 N. Topanga Canyon Blvd**Crime Stats (crime report written):**

2005 – Business checks taken from office.

2006 – Subject arrested for being under the influence.

An assault occurred at location, victim refused to prosecute the suspect.

2007 – No incidents reported.

2008 – No incidents reports.

2009 – Domestic violence incident reported at the location.

Calls for Service (deputy sent to location):

2005 – Call requesting tow service in the parking lot of location

Call of loud music, informant cancelled the call

Call of motorcyclist involved in solo traffic accident ref: water on roadway, biker drove away

Call of patron verbally threatening everyone and refusing to leave, patron left location

Call of business checks stolen from office, report taken

2006 – Subject arrested for being under the influence

Call of loud music bothering the residents, call was cancelled

2007 – Call of loud live band, area checked, no evidence of loud music

2008 – Call of loud music, bartender contacted and would keep music down

Call of loud music, manager contacted and was cooperative

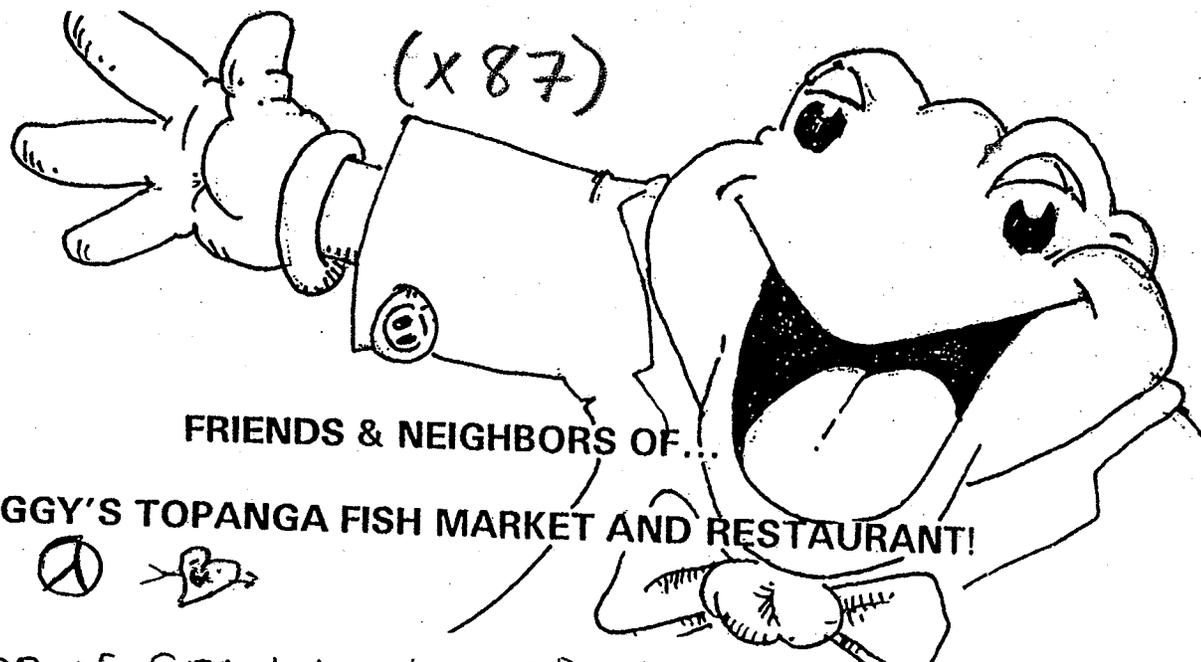
Call of live band at location, location checked, no evidence of disturbance found

2009 – Subject threatened bartender, area checked, subject left the location prior to deputy arrival

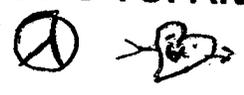
Call of loud music, location checked, no loud party at location

Call of loud party at location, location checked, no loud noises heard

Simi Valley
Ann Creek
Festival



FRIENDS & NEIGHBORS OF...
FROGGY'S TOPANGA FISH MARKET AND RESTAURANT!



I AM IN FAVOR OF GRANTING THE C.O.P. #1 FOR EXTENDED HOURS:
FROM 9:30 TO 10:00 PM SUNDAY THRU MONDAY & FROM 10:00 TO 12:00 P.M.
ON FRIDAY & SATURDAY. 2) NOISE CONTROL AS PER TITLE 12 L.A. COUNTY
CODE. (NOISE MAY NOT EXCEED 60 DECIBELS BETWEEN 7 AM TO 10 PM &
10 PM TO 7 AM 55 DECIBELS. 3) ALCOHOLIC BEVERAGE SALES.

NAME, ADDRESS AND PHONE NUMBERS

- * Stardust * POB 1313 Topanga 323 769 5683
- TONI SWANNER / 141 OLD CARROLL RD / TOPANGA CA 90976
- JEFF " " " " " "
- Claudia Ruffalo / 21000 WILLOW DR / Topanga, CA 90230
- Bella Scheel / 11251 S. Hampshire Blvd. LA, CA 90019
- FRANCIS MORGAN Cock N Bull PUB SM 310 399 9696
- JAYNE GUNNING 3753 W 139th ST, HAWTHORNE CA 90299
- Lynne Kora 821 Rose Ave Venice CA 90291
- Cheryl MURPHY 25615 Mulholland Hwy Calabasas CA 91302
- Meg Gannon 108 West 2nd Street Los Angeles, CA 90012
- Michael Murphy 25615 Mulholland Hwy
- Sa Broun 6133 Chesapeake rd Agave, Ca 91301
- Dennis Skoy 1623 Franklin Chatsworth 818 919 2726
- Cassandra Gomez 833 5th St. #301 CA 90403
- Lisa Lipman 1044 Anstutz Santa Monica CA 90403

Lynne B. Haigh, M.S.W.

21034 Hillside Dr. • Topanga, CA 90290

Diplomate in Clinical Social Work
(310) 455-3736

February 17, 2006

Mr. Sheriff Ali
Enforcement Supervisor
Department of Alcoholic Beverage Control, State of California
6150 Van Nuys Blvd., Rm. 220
Van Nuys, CA 91401

Re: Froggy's Topanga Fish Market
1105 N. Topanga Canyon Blvd.
ABC File 41-295753
Reg. 94031529
[and LA County Regional Planning
RCUP2005-00149
(expired CUP 94-056-(3))]

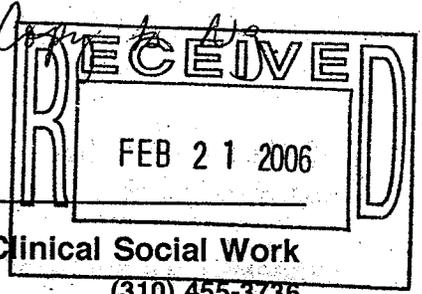
Dear Mr. Ali:

Please find enclosed a copy of the Los Angeles County Sheriff's Department log for Saturday night 2-11-06 when the deputies came to my home and then went to Froggy's restaurant. I obtained the report on 2-14-06, and although the log did not say exactly what Deputy Joe Covarrubias (#471245) had indicated, I spoke with Deputy Loughridge (#443234) on Tuesday and he added the written note.

Last Saturday night 2-11 when I arrived home about 8:30 there was a very large event taking place at Froggy's. There were at least 90 cars there (on site parking is for 35), and since this was a poker tournament I suspect that far more alcohol than restaurant food was being sold. The unpermitted bar was also probably in full swing.

At 9:00 PM a loud band started playing with the noise audible far beyond the premises of the restaurant. I decided to call the Sheriff's Dept. and asked that they verify hearing the music from my porch, and that they go to Froggy's and ask them to stop. Both were done. Dep. Loughridge told me that when they went to Froggy's, the manager told them that Froggy's has a new permit which allows them to have music until 10:00 PM. As I verified with you, this is untrue.

I hope this provides additional documentation that Froggy's is not complying with the conditions of the liquor license. They are not permitted to have live music after 7:00 PM, and noise is not to be audible beyond the area under control of the licensee.



ABC File 41-295753
Reg. 94031529

Froggy's p. 2 of 2

Otherwise, we are being deprived of the quite enjoyment of our homes in the evening, and we are concerned for the value of our property if this continues to get out of hand.

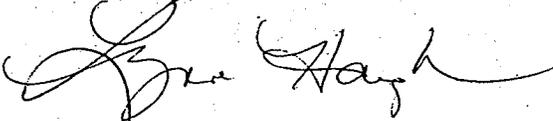
Please call me at 310 455-1696 if you have questions. I think you have also been getting letters from neighbors in the area who are greatly concerned about violations as well the owner's attempt to even expand a business which is already out of compliance.

I know that there are people in the community who would be happy to have a music venue here. They do not live in the quiet, residential area which would be impacted by such noise and the disturbances of a bar scene.

As my neighbors have stated previously, we are happy with a quiet, well run restaurant which serves beer and wine only, closes at 10 PM, has no live music or entertainment after 7:00 PM, and has no noise traveling beyond the premises of the restaurant.

Thank you for your help.

Sincerely,



Lynne Haigh

cc. Adrienne Ng, Zoning Permits, Los Angeles County Dept. of Regional Planning

P.S. Froggy's manager also ^{later} told the
~~Sheriff's deputy~~ ^{Fire dept.} that Froggy's
has an occupancy limit
of 160 persons. JH.

Lynette Kabi
213 974-6483

213 974-6484

LYNNE AND GERRY HAIGH
21034 HILLSIDE DR.
TOPANGA, CA 90290
310 455-1696

Date 8-2-04

Los Angeles County
Department of Regional Planning
Director James Hartil
320 W. Temple St.
Los Angeles, CA 90012

Case No. 94-056-(3)

Department of Alcoholic Beverage
Control: File: 41-295753
Reg.: 94031529

Attn. Inspectors CUP's
Lynette Kabi
Nicole Gudette

Re: Rowboat Fish Market Restaurant, Inc.
Froggy's Topanga Fish Market
1105 North Topanga Canyon Boulevard
Topanga, CA 90290

To Whom It May Concern:

Last night, 8-1-04, Froggy's was again in violation of its permits in that there were bands playing amplified music at the restaurant at least until 10:00 P.M. At this point it is my understanding that the CUP for Froggy's has expired, and that Froggy's is operating without a Conditional Use Permit.

There have been numerous violations at this location through the years which we have tried to work out in a neighborly way. However, this does not seem to be possible as violations persist.

I am enclosing a set of documents which neighbors signed 4 months ago. We presented these petitions to Froggy's and they mostly stopped the amplified music, so I decided not to send the letters on to Regional Planning. However, I know there are continued violations as I have heard the music on at least these occasions, 5/28/04, 6/6/04, and 8/1/04. Thus, I now send the letters.

This is rather rushed as I am leaving town tomorrow on a 2 week vacation. When I return I will be available to discuss this further and would like very much to have a response from you.

Sincerely,

Lynne Haigh & Gerry Haigh
Lynne Haigh

Ng, Adrienne

From: Lynne Haigh [l.b.haigh@verizon.net]
Sent: Thursday, February 16, 2006 8:12 AM
To: Nygren, Jarod
Cc: Ng, Adrienne; Sheriff Ali, ABC ; Ben Saltsman
Subject: Enforcement Letter to Froggy's

Dear Jarod,

You had already left the office yesterday when I returned your call. I would very much like a copy of the letter which you are sending to Froggy's. I do not have a FAX. Please send it by regular mail and email a copy to l.b.haigh@verizon.net. , so we can see it more quickly.

I will be sending you a letter and documentation about the Event at Froggy's on Saturday night 2-11-06. There were at least 89 cars (150-200 people), cars were parked all along the roadway and in the No Parking area across the street. The on-site lot was crammed with 50+ cars. Also, I'll bet the bar was serving much more alcohol than food for this Poker Event. I hope to get a report about occupancy today from the Fire Dept.

At 9 PM the band started playing, and I called the Sheriff who told them to be quiet, as noise was disturbing the neighborhood. The manager told the Sheriff that the permit had changed and they are allowed to have bands and music until 10 PM. That is, of course, untrue. I have a statement from the Deputy Sheriff which I will be sending by mail.

Do we have any recourse if Froggy's continues to violate conditions after the letter?

Thank you again for your help.

Lynne Haigh
21034 Hillside Dr.
Topanga, Ca 90290
310 455-1696 h
310 455-3736 o

