



PLANNING COMMISSION

AGENDA REPORT

MEETING DATE: APRIL 28, 2014

ITEM NUMBER:

PH-1

SUBJECT: PLANNING APPLICATION PA-14-03 FOR A CONDITIONAL USE PERMIT TO PROVIDE LIVE ENTERTAINMENT IN CONJUNCTION WITH AN EXISTING BAR AT 1824 NEWPORT BOULEVARD

DATE: APRIL 18, 2014

FROM: PLANNING DIVISION/DEVELOPMENT SERVICES DEPARTMENT

PRESENTATION BY: CHELSEA CRAGER, ASSISTANT PLANNER

FOR FURTHER INFORMATION CONTACT: CHELSEA CRAGER (714) 754-5609
chelsea.crager@costamesaca.gov

DESCRIPTION

The proposed project is a request to allow live entertainment in the form of a three-piece band for an existing bar (The Boulevard) within 200 feet of a residential zone.

APPLICANT

The applicant is Steve Sheldon of the Sheldon Group, authorized agent for the property owner Robert Ziemer.

RECOMMENDATION

Staff recommends that the Planning Commission:

- Find that the project is exempt from the provisions of the California Environmental Quality Act under Section 15301, for Existing Facilities; and
- Approve the project by adoption of Planning Commission resolution, subject to conditions.

BACKGROUND

The subject property is located on Newport Boulevard near the intersection of Harbor Boulevard and Newport Boulevard. The existing bar occupies a 2,352 square foot space in a C2 (General Business) zone. Zones abutting the property include C2 and P (Off-Street Parking).

The existing bar is a legal, nonconforming use that is open daily from 3:00 pm to 2:00 am. Previously called "The Helm," the bar was renamed to "The Boulevard" in 2012 when the property owner took over the lease. There have been no Code Enforcement complaints related to the bar's operation since the bar was renamed. Staff has contacted the police department for information on calls for service to the property, and at the time of this report has not heard back. This information will be provided at the public hearing.

ANALYSIS

The applicant is requesting live entertainment for the bar in the form of a three piece band. Because the property is within 200 feet of residentially zoned properties (multi-family residential to the east), approval of a conditional use permit is required. Uses immediately adjacent to the subject property are a bar (Goat Hill Tavern) to the north and a retail use (NewForm Kitchen and More) to the south.

The hours of operation of the existing bar are 3:00 pm to 2:00 am seven days a week, and the proposed live entertainment will be allowed during that entire period except as conditioned to end at least 30 minutes prior to closing.

Parking

City Code requires that bars be parked at a rate of 10 spaces per 1,000 square feet. With 2,352 square feet of gross floor area and 20 provided spaces, the bar is short four parking spaces, however the existing bar is legal nonconforming. Because the proposed project does not increase the floor area or intensity of the use, additional parking is not required.

Noise

Although the property is within 200 feet of residentially zoned properties, noise impacts as a result of the live entertainment are not anticipated. The live entertainment will be conducted entirely within the existing building with closed doors and will occur at the front of the bar, close to Newport Boulevard. This allows the bar itself as well as the parking area to buffer the noise of the live entertainment. Additionally, there will be no dance floor permitted in conjunction with the live entertainment, further ensuring that there will be no noise impacts to the surrounding properties.

Because the proposed use does not intensify the use or expand the floor area, there will be no effect on the safety and compatibility of the design of parking areas, landscaping, luminaries, and other site features. With the recommended conditions of approval, the proposed live entertainment should not have any negative effect on the surrounding properties.

GENERAL PLAN CONFORMANCE

The proposed live entertainment is permitted in the C2 zone with a conditional use permit. Subject to conditions, the proposed use is in conformance with the 2000 General Plan. Specifically the project complies with Land Use Objective LU-1F.1, "Protect existing stabilized residential neighborhoods, including mobile home parks (and manufactured housing parks) from the encroachment of incompatible or potentially disruptive land uses and/or activities." In that there will be no noise impacts to the surrounding neighborhood, the project will protect existing residential neighborhoods.

ENVIRONMENTAL DETERMINATION

The project is exempt from the provisions of the California Environmental Quality Act under Section 15301, for Existing Facilities.

CONCLUSION

Approval of the conditional use permit will allow live entertainment to take place at the existing bar, The Boulevard. The project satisfies the required findings for the requested conditional use permit and is consistent with the intent of the General Plan and Zoning Code.

ALTERNATIVES

The Planning Commission has the following alternatives:

1. Continue the project to a later Planning Commission meeting to allow time for further analysis or project revisions.
2. Direct staff to prepare a resolution for denial of the project.



CHELSEA CRAGER
Assistant Planner



JERRY GUARRACINO
Interim Assistant Director of Development
Services

- Attachments:
1. Draft Planning Commission Resolution and Exhibits
 2. Applicant's Description of Use
 3. Vicinity Map and Zoning Map
 4. Project Plans

- Distribution:
- Director of Economic & Development Services/Deputy CEO
 - Senior Deputy City Attorney
 - Public Services Director
 - City Engineer
 - Transportation Services Manager
 - Fire Protection Analyst
 - Staff (6)
 - File (2)

Steve Sheldon
901 Dove Street, Suite 140
Newport Beach, CA 92660

Robert Ziemer
1822 Newport Boulevard
Costa Mesa, CA 92627

RESOLUTION NO. PC-14-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA APPROVING PLANNING APPLICATION PA-14-03 LOCATED AT 1824 NEWPORT BOULEVARD

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by Steve Sheldon, as the authorized agent on behalf of the property owner, Robert Ziemer, requesting approval of a conditional use permit to allow live entertainment in the form of a three-piece band for an existing bar (The Boulevard) within 200 feet of a residential zone; and

WHEREAS, a duly noticed public hearing held by the Planning Commission on April 28, 2014 with all persons having the opportunity to speak for and against the proposal;

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A," and subject to the conditions of approval contained within Exhibit "B," the Planning Commission hereby **APPROVES** Planning Application PA-14-03 with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the staff report for Planning Application PA-14-03 and upon applicant's compliance with each and all of the conditions in Exhibit "B", and compliance of all applicable federal, state, and local laws. Any approval granted by this resolution shall be subject to review, modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

PASSED AND ADOPTED this 28th day of April, 2014.

Jim Fitzpatrick, Chair
Chair, Costa Mesa Planning Commission

STATE OF CALIFORNIA)
)ss
COUNTY OF ORANGE)

I, Claire Flynn, Secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution was passed and adopted at a meeting of the City of Costa Mesa Planning Commission held on April 28, 2014 by the following votes:

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

ABSTAIN: COMMISSIONERS

Secretary, Costa Mesa
Planning Commission

EXHIBIT "A"

FINDINGS

- A. The proposed project complies with Costa Mesa Municipal Code Section 13-29(e) because:

Required Finding: The proposed use is compatible and harmonious with uses on surrounding properties.

Response: As conditioned, there are no noise impacts anticipated to the surrounding neighborhood, nor to the adjacent bar or retail use.

Required Finding: Safety and compatibility of the design of the parking areas, landscaping, luminaries, and other site features including functional aspects of the site development such as automobile and pedestrian circulation have been considered.

Response: The proposed use will not have any effect on the safety and compatibility of design at the subject site. The proposed live entertainment will take place indoors with no increase in the intensity of the use.

Required Finding: The project, as conditioned, is consistent with the General Plan.

Response: The proposed use is permitted in the C2 zone with approval of a conditional use permit and is therefore consistent with the General Plan and Zoning Code. Specifically, the proposed use is consistent with Land Use Objective LU-1F.1 – to protect existing neighborhoods, in that there will be no noise impacts to the nearby residential neighborhood.

Required Finding: The planning application is for a project-specific case and does not establish a precedent for future development.

Response: Approval will apply to this project-specific location. Conditions have been included that are specific to the proposed project.

- B. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(2) in that:

Required Finding: The proposed use is substantially compatible with developments in the same general area and would not be materially detrimental to other properties within the area.

Response: The use, as conditioned, is not anticipated to have any negative effects on the surrounding properties. Specifically, noise effects to the surrounding properties will be avoided by keeping all live entertainment indoors.

Required Finding: Granting the conditional use permit will not be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to property or improvements within the immediate neighborhood.

Response: Potential noise impacts have been considered and the project will not have a negative impact on the surrounding neighborhood because the live entertainment will be conducted within the building.

Required Finding: Granting the conditional use permit will not allow a use, density, or intensity which is not in accordance with the General Plan designation and any applicable specific plan for the property.

Response: The proposed project does not include any change in density or intensity at the subject property. There is no specific plan applicable to this property.

- C. The project is exempt from the provisions of the California Environmental Quality Act under Section 15301 for Existing Facilities.
- D. The project is exempt from Chapter IX, Article 12, Transportation Demand Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT "B"

CONDITIONS OF APPROVAL

- Plng.
1. The use shall be limited to the type of operation described in this staff report: live entertainment in the form of a three piece band. Any change in the operational characteristics including, but not limited to, hours of operation or provision of entertainment will require approval of an amendment to the conditional use permit, subject to Planning Commission approval.
 2. The licensee shall not employ or use the services of any full- or part-time active or reserve peace officer currently employed by the City of Costa Mesa or any contiguous agency for security purposes.
 3. The maximum occupancy, as determined by provisions of the Uniform Building Code or other applicable codes, shall be posted in public view within the premises, and it shall be the responsibility of management to ensure that this limit is not exceeded at any time. Occupant loads for the open patio area and the enclosed building area shall be calculated and posted separately.
 4. There shall be no room or designated area reserved for the exclusive use of designated persons or "private club members."
 5. The parking lot shall be posted with signs directing customers and employees to use consideration when entering their cars and leaving the parking lot.
 6. Hours of operation for the live entertainment shall end at least 30 minutes before closing of the existing bar; 3:00 pm to 1:30 am seven days a week.
 7. Music shall not be audible beyond the area under control of the licensee.
 8. The business shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The applicant and/or business owner shall institute whatever security and operational measures are necessary to comply with this requirement.
 9. The live entertainment shall at all times be conducted within the building and shall not utilize any outdoor patio space.
 10. While live entertainment is underway, the doors of the business are to remain closed.
 11. There shall be no dance floor provided at the business.
 12. Developer shall defend, indemnify, and hold harmless the City, its elected and appointed officials, agents, officers and employees from any claim, action, or proceeding (collectively referred to as "proceeding") brought against the City, its elected and appointed officials, agents, officers or employees arising out of (1) City's approval of the project, including but not limited to any proceeding under the California Environmental Quality Act. The indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and cost of suit, attorney's fees, and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the applicant, the City and/or the parties initiating or bringing such proceeding. This indemnity provision shall include the applicant's obligation to indemnify the City for all the City's costs, fees, and damages that the City incurs in enforcing the indemnification provisions

set forth in this section.

13. All sales and service staff (within 90 days of hire) shall complete Responsible Beverage Service (RBS) training with a provider approved by the California Department of Alcoholic Beverage Control. A copy of the training certificates shall be kept on premises and presented to any authorized City official upon request.
14. On-site security shall be provided in conjunction with any live entertainment.

CODE REQUIREMENTS (PA-14-03)

The following list of federal, state and local laws applicable to the project has been compiled by staff for the applicant's reference. Any reference to "City" pertains to the City of Costa Mesa.

- Bldg. 1. Comply with the requirements of the 2013 California Building Code, 2013 California Electrical Code, 2013 California Mechanical Code, 2013 California Energy Code (or the applicable adopted, California Building Code, California Electrical Code, California Mechanical Code, and California Energy Code at the time of plan submittal or permit issuance) and California Code of Regulations also known as the California Building Standards Code, as amended by the City of Costa Mesa. Areas of alteration and additions shall comply with the 2013 California Green Building Standards Code section 5.303.2.

Project Description

February 24, 2014

Project Name: The Boulevard
1824 Newport Blvd.
Costa Mesa, CA 92627

Project Location: The Boulevard
1824 Newport Blvd.
Costa Mesa, CA 92627

Applicant/Agent: Sheldon Group
Contact: Steve Sheldon / Danielle Jacobs
901 Dove Street, Suite 140, Newport Beach, CA 92660
(949) 777-9400

Property Owner: Robert Ziemer
c/o Old Car Nut
258 E. 20th Street
Costa Mesa, CA 92627

Entitlements Requested: Amend the existing Conditional Use Permit (CUP) from the City of Costa Mesa to allow for live entertainment.

Existing General Plan Land Use Designation: General Commercial

Existing Zoning Classification: C1 (Local Business)

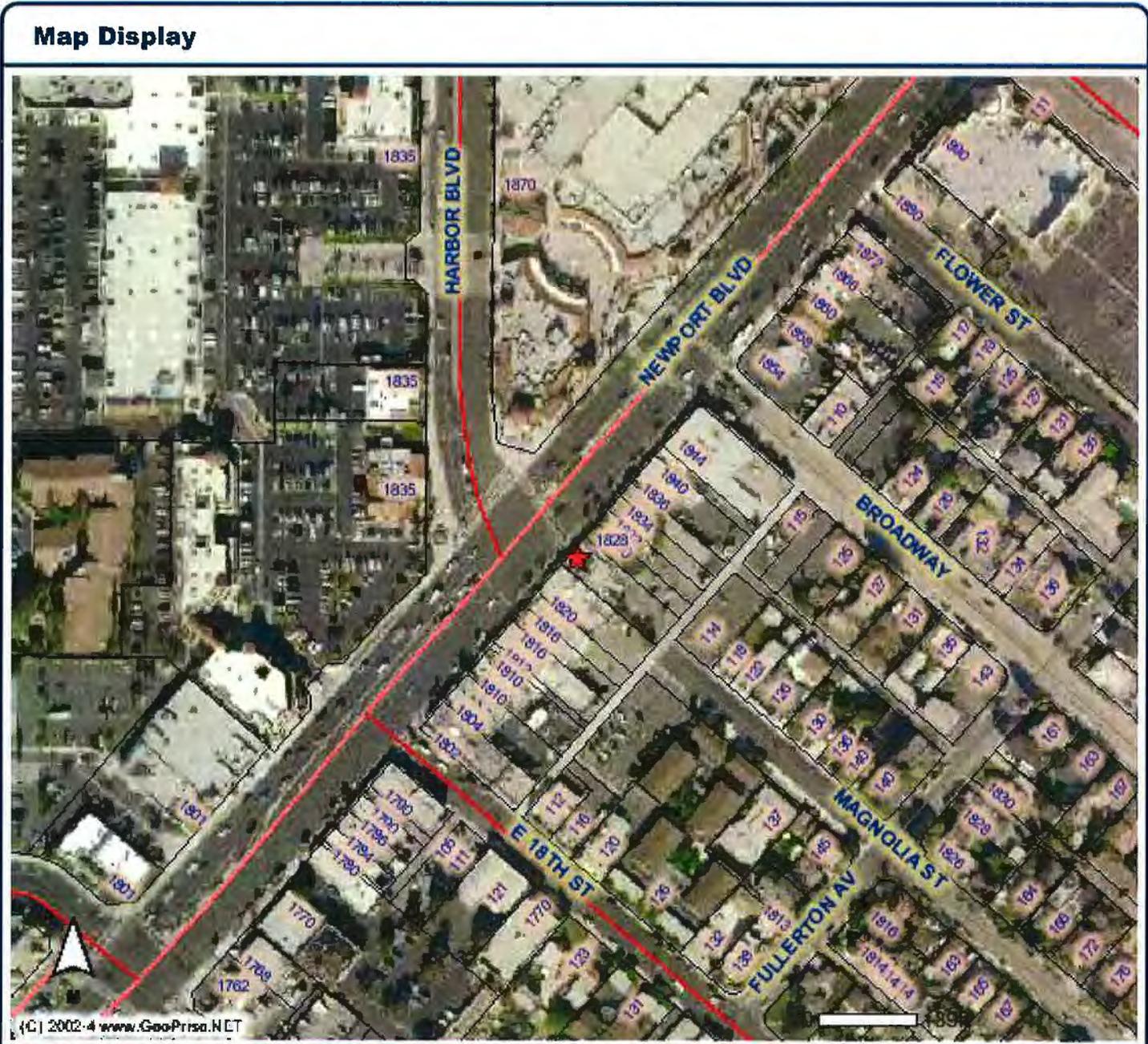
Current Project Information: Formerly known as The Helm, Robert "Zeb" Zeimer took over the lease upon expiration on March 15, 2012. At that time, he invested monies on improvements, including a rebranding of the bar and renamed it The Boulevard. He upgraded the women's restroom, upgraded the bar, and hired and professionally trained new employees. The Boulevard is 2352 square feet. The Boulevard holds an ABC Class 48 license in which no minors may enter the premises.

Proposed Project Description: The Boulevard would like to amend its existing CUP to allow for live entertainment in the bar. The live entertainment would run contiguous with its existing operating days and hours which is Sunday-thru Monday 3p.m. – 2a.m. The band would consist of a vocalist and a guitarist and keyboard that play amplified music. The bar doors would remain closed to minimize noise to the outside neighbors while the band is playing.



Legend

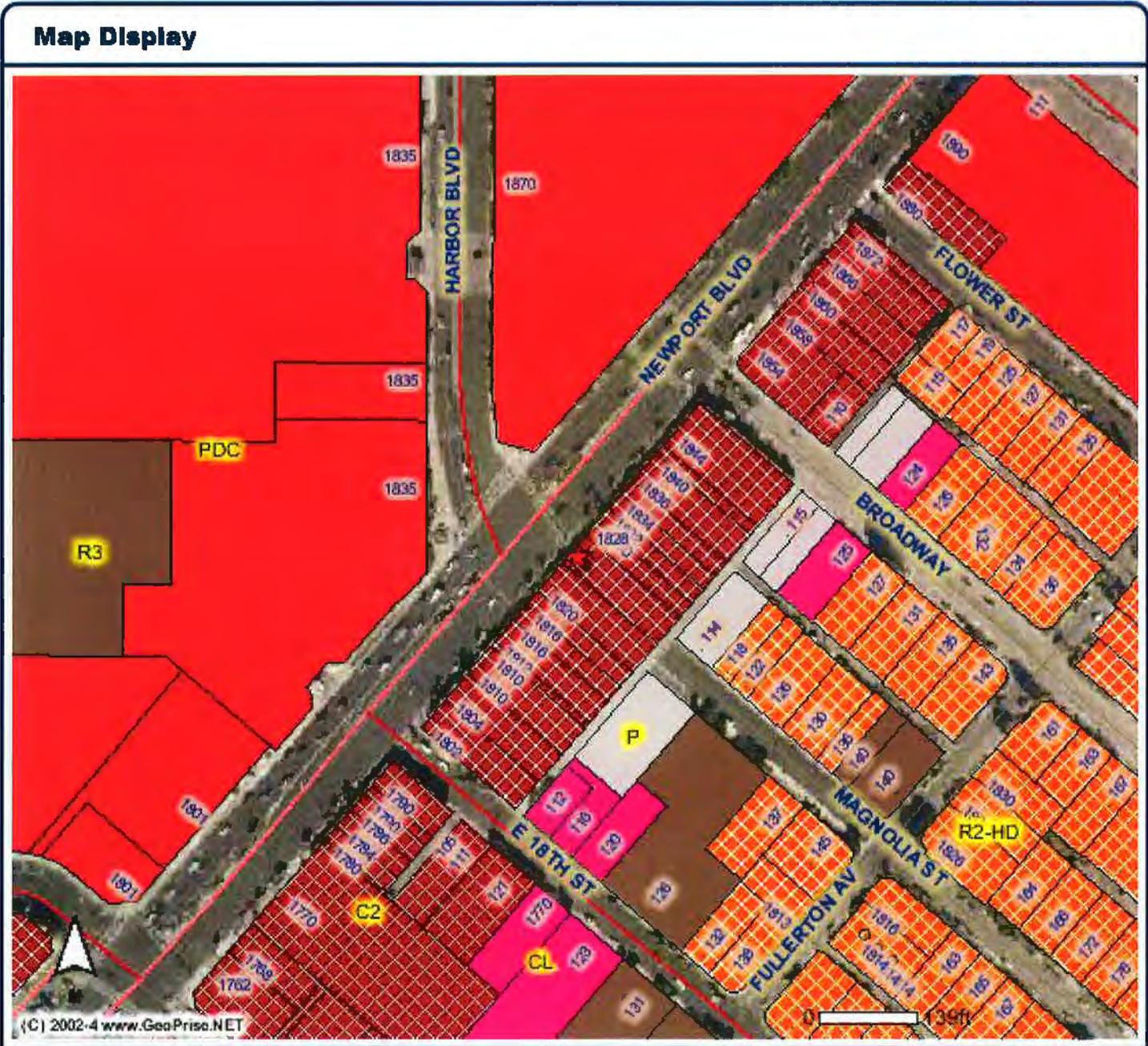
Address Small	 Freeway	 Freeway Major	 Primary
Address Points	 Roads	 Newport BLVD (cont)	 SECONDARY
	 Collector (cont)		 Hydrology Channels





Legend

Address Small		Freeway		Newport BLVD		Street Names
Address Points		Roads		Primary		Street Centerlines
		Collector		SECONDARY		Parcel Lines
		Freeway		Hydrology		
		Major (cont)		Channels		



PLANNING DATA

EXISTING BUILDING AREAS
 GROSS BUILDING AREA = 2,352 SQ. FT.
 NET USABLE AREA (PUBLIC) = 1,955 SQ. FT.

GENERAL DATA

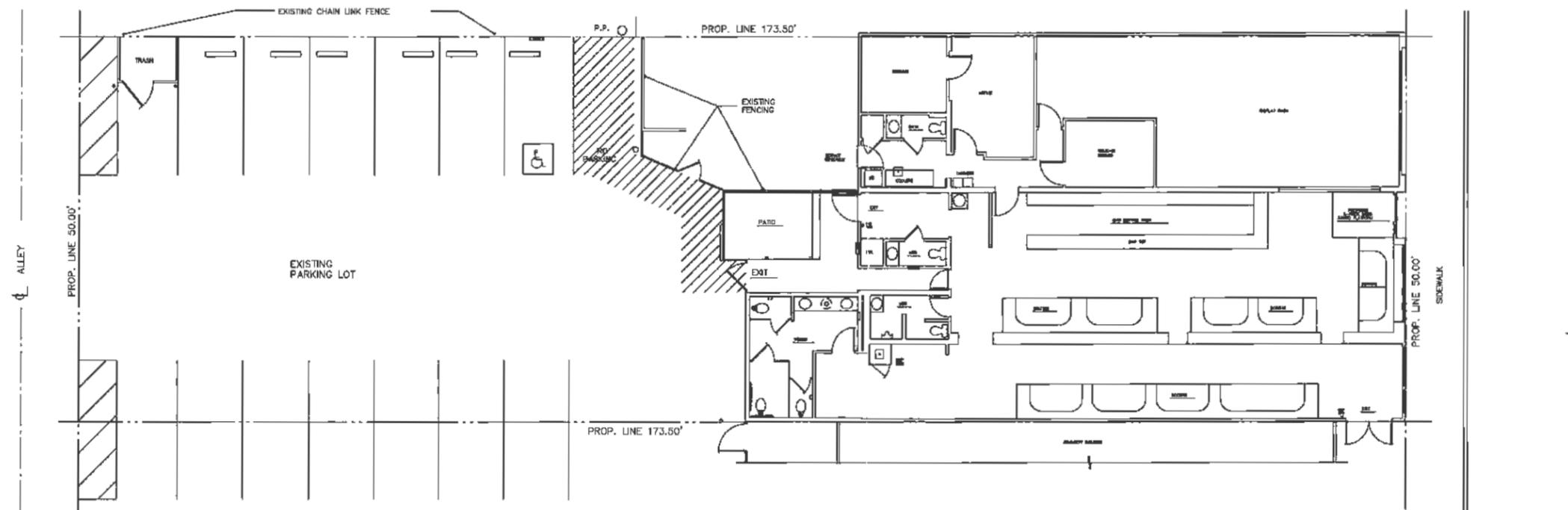
OCCUPANCY — B
 CONSTRUCTION TYPE — II-B UNSPRINKLERED
 ALL RELATED WORK SHALL CONFORM TO THE :
 2013 EDITION OF THE C.B.C.
 2013 EDITION OF THE C.M.C.
 2013 EDITION OF THE C.P.C.
 2013 EDITION OF THE C.E.C.
 2008 BUILDING ENERGY EFFICIENCY STANDARDS
 (TITLE 24 ENERGY CODE)
 2010 CALIFORNIA GREEN BUILDING STANDARDS CODE

PROPERTY ADDRESS
 1824 NEWPORT BLVD.
 COSTA MESA, CA 92627

LEGAL DESCRIPTION
 LOT 22
 TRACT 2771
 A.P.# 053-302-05

LEGAL OWNER
 ROBERT ZIEMER
 258 E. 20TH. ST.
 COSTA MESA, CA 92627
 (949) 645-2877

ATTACHMENT 4



SITE PLAN

15

NORTH
 SCALE 1/8"=1'-0"

PROJECT TITLE - THE BOULEVARD BAR
 1824 NEWPORT BLVD
 COSTA MESA, CA 92627

SHEET TITLE - SITE PLAN / PLANNING DATA

DATE

DRAWN BY.

JOB NO.

REVISION
 DATE

REVISION
 DATE

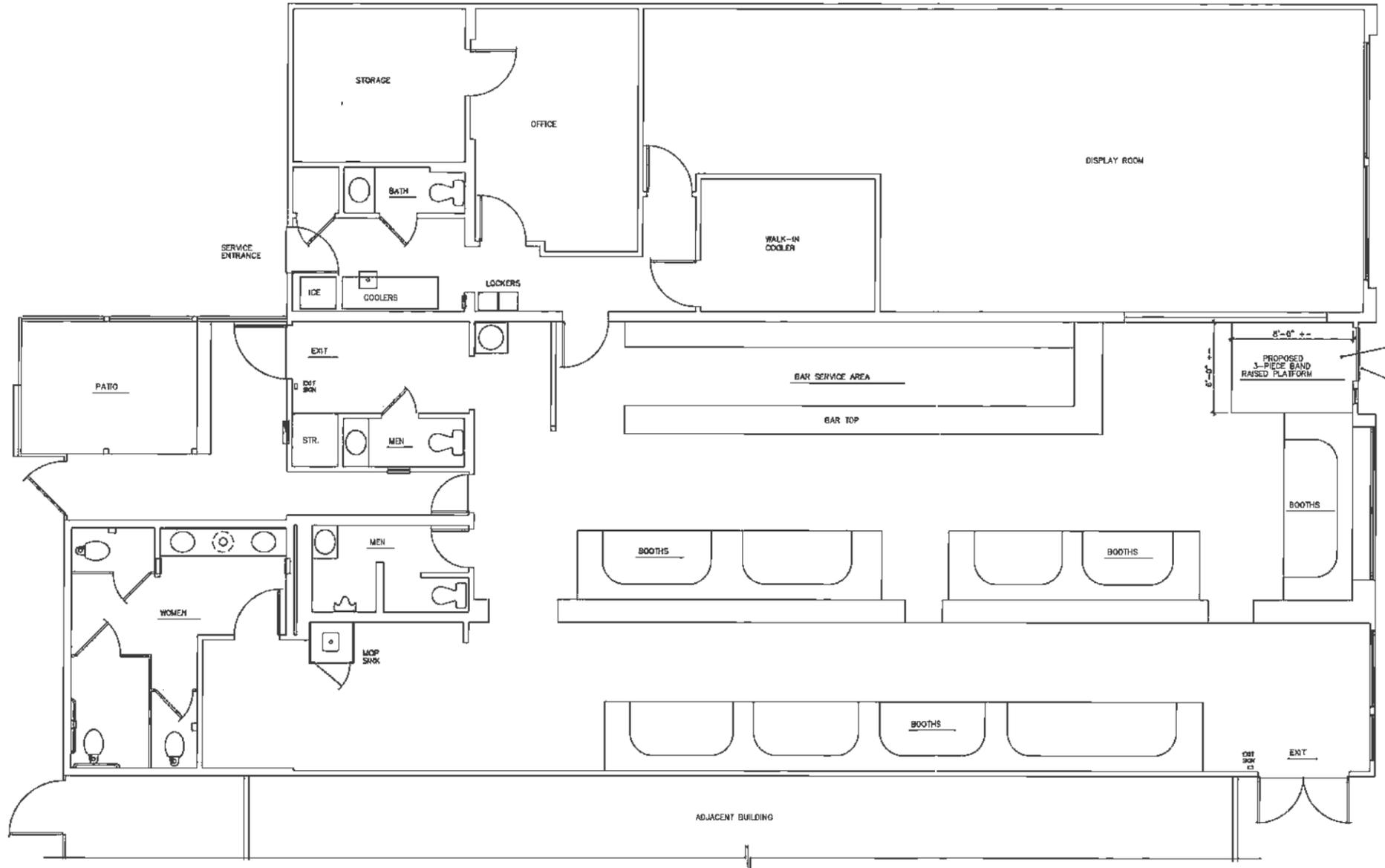
REVISION
 DATE

SHEET NO.

OF SHEETS

GENERAL PLAN NOTES

1. THIS PLAN REPRESENTS ALL EXISTING WALLS AND ROOM USES.
2. THIS PLAN SHOWS THE LOCATION OF THE PROPOSED 3-PIECE BAND PLATFORM.



LOCATION OF PROPOSED RAISED BAND PLATFORM
 DOOR SHALL BE REPLACED WITH FIXED TEMPERED GLASS FILLING EXISTING DOOR JAMB OPENING STARTING 24" ABOVE FLOOR

FLOOR PLAN

16



PROJECT TITLE

SHEET TITLE

DATE

DRAWN BY

JOB NO.

REVISION DATE

REVISION DATE

REVISION DATE

SHEET NO.

OF SHEETS

Dr. Deborah Barrett, J.D., Ph.D.
120 East 18th Street
Costa Mesa, CA 92627
Tel (949) 722-7818 Fax (413) 751-9389
Email: Barrett@zcoc.org

To: Costa Mesa Planning Commission

Re: Application PA-14-03 Live Entertainment at The Boulevard

From: Deborah Barrett, Business Property Owner

Date: April 18, 2014

I cannot attend the scheduled hearing on April 28. I would like to voice my opposition to the granting of a conditional use permit for live entertainment at The Boulevard. The restrictions that exist are appropriate and they should not be waived or altered.

I have an office building nearby. We are a neighborhood of small businesses, apartments and homes. We are experiencing increasing problems every year in the areas near the Goat Hill Tavern and The Boulevard. There need to be some limits on these businesses if we are to co-exist in the same zone.

To create more noise is the last thing we need. The thumping, reverberating bass from the music at the Goat Hill is relentless....and goes until 2 am most nights of the week, not just weekends. It can be heard for more than one block away. Calling the bar or the police accomplishes nothing.

A three piece combo can mean many things. A jazz group with a piano, stand up bass and vocalist is going to have a different impact than a drum set with bass and lead electric guitars. But the real issue is the amplifiers, microphones, p.a system and speakers!

More entertainment will create more bar business and more problems in the neighborhood, with no plans for dealing with related issues. We are having problems due to lack of management and crowd control, especially when they close at 2 am. Shouting, screaming, verbal fighting, physical fighting, empty beer bottles, broken glass, graffiti, trash, and public urination and defecation are all part of what we deal with on a regular basis. We never see any private security guards in the lot, even though these are their customers.

Besides having an adverse effect on the safety and peaceful enjoyment of our properties, all of this is de-valuing the properties in this area, as it begins to be regarded as a "strip" and a bad neighborhood.

I am strongly opposed to the granting of the conditional use permit. But in the alternative, if a permit is to be granted, I would request that the following be considered:

- a) No live entertainment outside the building and no speakers outside to the neighborhood or to any outdoor bar/garden/smoking area. Keep the sound of the music inside the building, rather than being heard throughout the neighborhood.
- b) No live entertainment later than midnight
- c) Limit the entertainment to three pieces (including vocalist)
- d) Require increased security presence, clearly identified, patrolling the entire parking lot. I believe their presence alone will have a preventative impact, but they could also ask people to quiet down, pick up any bottles people are holding and, of course, call the police immediately when people are disturbing the peace, fighting, etc.

In closing, I ask the Commission to consider what is a fair balancing of interests of those of us with homes or non-bar businesses in East Costa Mesa.

Sincerely,



Deborah Barrett

PH-1



City of Costa Mesa
P.O. Box 1200
Costa Mesa, CA 92628-1200

Hasler

04/16/2014

US POSTAGE

FIRST-CLASS MAIL

\$00.34⁰



ZIP 92626
011D11638932

425 452 06
Woodco Investment Co Inc
Po Box 2286
Newport Beach Ca 92659

IMPORTANT PUBLIC NOTICE

OFFICIAL PUBLIC NOTICE

The Costa Mesa Planning Commission will hold a public hearing as follows to consider:

HEARING DATE:	April 28, 2014	HEARING TIME & LOCATION:	6:00 P.M. Council Chambers City Hall 77 Fair Drive Costa Mesa, CA
Application No.	PA-14-03	Applicant:	Sheldon Group
Site Address:	1824 Newport Boulevard	Zone:	C2
Contact:	Planning Division (714) 754-5245	Environmental Determination:	Exempt- Section 15301 Existing Facilities
Email:	PlanningCommission@ costamesaca.gov	Website:	costamesaca.gov

Description: Conditional use permit to provide live entertainment (3-piece band) in conjunction with an existing bar (The Boulevard). The hours of operation are 3pm to 2am daily, which will remain unchanged.

Public Comments: Oral or written comments must be received by the Planning Division prior to the hearing date (see above) or presented in-person at the hearing. If you challenge this action in court, you may be limited to raising only those issues you, or someone else raised, at or prior to the hearing.



City of Costa Mesa
 P.O. Box 1200
 Costa Mesa, CA 92628-1200

Hasler

FIRST-CLASS MAIL

04/16/2014

US POSTAGE

\$00.34⁰



ZIP 92626
 011D11638932

425 452 07
 Glenda Lewis
 Po Box 2286
 Newport Beach Ca 92659

IMPORTANT PUBLIC NOTICE



OFFICIAL PUBLIC NOTICE

The Costa Mesa Planning Commission will hold a public hearing as follows to consider:

HEARING DATE:	April 28, 2014	HEARING TIME & LOCATION:	6:00 P.M. Council Chambers City Hall 77 Fair Drive Costa Mesa, CA
Application No.:	PA-14-03	Applicant:	Sheldon Group
Site Address:	1824 Newport Boulevard	Zone:	C2
Contact:	Planning Division (714) 754-5245	Environmental Determination:	Exempt- Section 15301 Existing Facilities
Email:	PlanningCommission@costamesaca.gov	Website:	costamesaca.gov

No

Description: Conditional use permit to provide live entertainment (3-piece band) in conjunction with an existing bar (The Boulevard). The hours of operation are 3pm to 2am daily, which will remain unchanged.

Public Comments: Oral or written comments must be received by the Planning Division prior to the hearing date (see above) or presented in-person at the hearing. If you challenge this action in court, you may be limited to raising only those issues you, or someone else raised, at or prior to the hearing.

