



Barone's

EXHIBIT B

PCUP-249
RECEIVED

AUG 05 2009

CITY OF PLEASANTON
PLANNING DIVISION

August 4, 2009

TO WHOM IT MAY CONCERN:

Barone's Restaurant has been in operation in downtown Pleasanton for over fourteen years. We are a full service, fine dining restaurant and are open for food service on a daily basis. Over the last fourteen years we have served lunch and dinner seven days a week. Currently due to economic times, we have shortened our hours and now open daily at 4:00pm for dinner service. We employ about 30 full time/part time employees. We currently have a conditional use permit on the property, which was put into place in 1988. The reason for our proposed amendment is to update the current permit to include music in our outdoor areas and extend the hours.

This is a new feature of our business, initiated to offset declining business due to the recession. We will want to maintain as much breadth as possible regarding the types of entertainers while we develop this market. We will be having a variety of entertainment, which may occur at any given day of the week. Examples of potential entertainers would include live bands, Disc Jockeys, Ipod and/or CD music, stand up comedy night, a winemaker dinner (with commentary from the winemaker), corporate groups, that might have a speaker, and the like. Generally, we plan to select the music to go with the event theme, if there is one. There will be events however, like weddings in which the customer selects the music and/or musicians.

The back patio and the front patio can each accommodate music, though of course the front patio would be for smaller groups. The "dance floor" on the rear patio is on concrete. When music is playing, people do get up and dance on the patio. We monitor noise levels as owners and managers. Our stage and amplified music is strategically positioned so that our music faces Main Street and away from the town homes. This stage is permanent in the sense of being left up continuously, and it is 16 inches high.

We hope to have outdoor food service (weather permitting), including music, as part of our regular operations. If the market allows, we would hope to have outdoor service most evenings. In thinking more precisely about the hours, we would prefer to have outdoor music until 10 p.m. on Sunday through Thursday, and until 11 p.m. on Friday and Saturday. Although there is no customer demand for a full menu after 9 or 10 o'clock, we would like to have the flexibility to remain open nightly until 2:00am, providing limited light foods, snacks and/or appetizers.

Although we currently don't serve lunch, we want to keep all options open during daytime hours, including lunch and breakfast if the opportunity presents itself. During evening hours, we could have events continue on until the statutory closing time. We feel this will benefit not only our business, but also all of the other businesses in the surrounding areas. We have a wonderful reputation with the community and run a professional and well-respected business. Thank you for your considerations.

Sincerely,

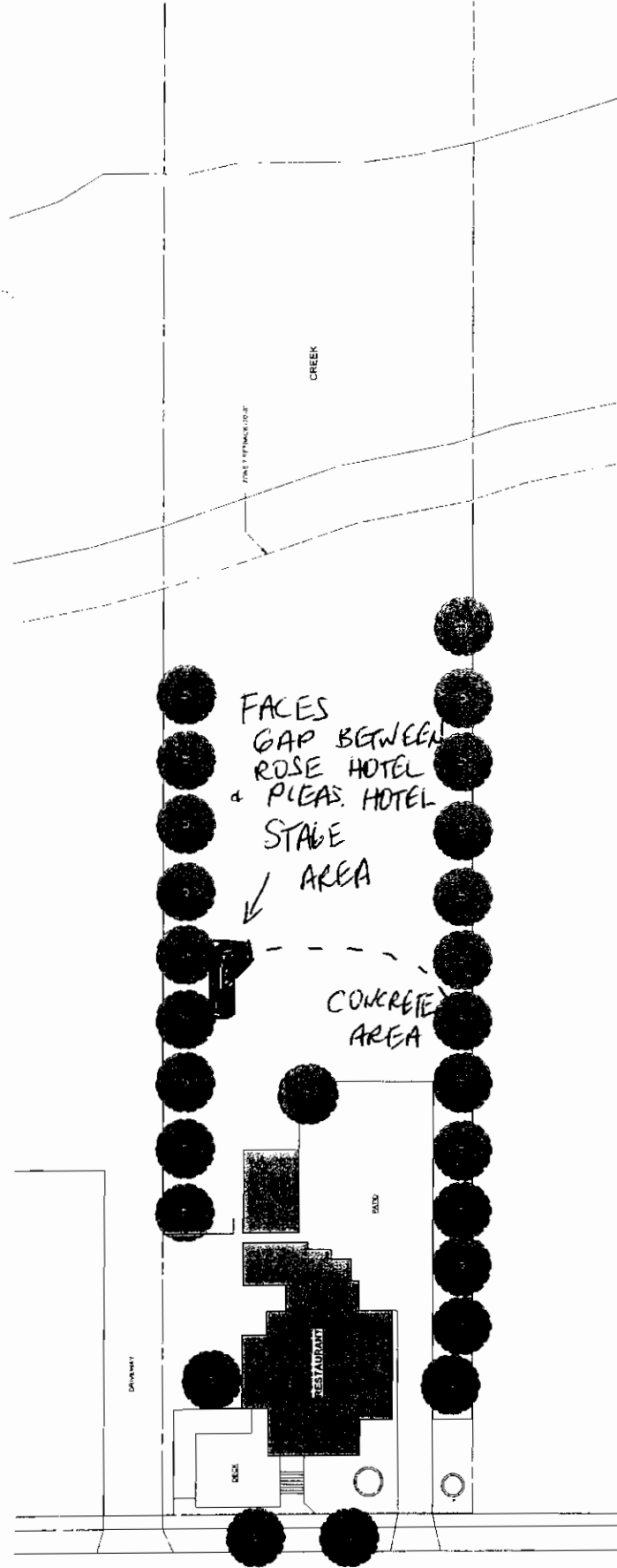
Joseph and Maricela Barone

PCUP-249
RECEIVED

JUL 28 2009

CITY OF PLEASANTON
PLANNING DIVISION

EXHIBIT B



1 SITE PLAN
Scale: 1" = 20'

Pleasanton Downtown Association



DATE: July 30, 2009

TO: City of Pleasanton, Planning Dept.

RE: Approval for Conditional Use Permit for Barone's at 475 St. John Street

The Pleasanton Downtown Association supports uses such as this, which help to create a vibrant, downtown atmosphere. The site of Barone's is zoned CC (Central Commercial) as noted in the previous CUP, "one of the purposes of the "C" District is to provide opportunities for amusement establishments for the convenience of the public." The requested use is in keeping with those of nearby businesses and will provide entertainment for the enjoyment of the individuals and families shopping, dining and strolling throughout our downtown. Outdoor entertainment encourages people to stay downtown helping to avoid the proverbial, "sidewalks rolling up after dark". Additionally, outdoor entertainment has proven to be tremendously beneficial for expanding the retail opportunities into evening. The Pleasanton Downtown Association asks that you support the nighttime vitality of downtown Pleasanton and approve the applicant's request.

Christine Saldivar
Executive Director, Pleasanton Downtown Assoc.

830 Main Street, Suite A
Pleasanton, CA 94566
Phone: (925) 484-2199 / Fax: (925) 484-3064
director@pleasantondowntown.net
www.pleasantondowntown.net

From: DIANE CHURKA
Sent: Friday, July 17, 2009 7:24 AM
To: Mayor and City Council
Subject: BARONE'S CONDITIONAL USE PERMIT

Dear members of the City Council and Mayor,

Apparently, Barone's has been issued a conditional use permit for outdoor music without any public input. Apparently, the condition Barone's was given the permit was on the premise that the Pleasanton Hotel had previously had a permit before they went out of business, therefore, they were entitled to a permit. There was no public notification of any kind.

While it is indeed true that the Pleasanton Hotel did have a permit, the Pleasanton Hotel complied with strict guidelines after receiving citations for their noise. Last night the band at Barone's exceeded all noise limits. The racket overrode the sound of our t.v. set and my whole home vibrated with the loud drum beats. There was not one room in my home where I could find sanctuary. It was hot and it was impossible to open the windows without being inundated. I did call Barone's and subsequently the Pleasanton Police. Officer Paulson spoke to Barone's and informed me they had a conditional use permit. In response to my complaint, the music was turned down to a measurable 65 decibels 20 feet from our property line. On week nights, the Pleasanton Hotel, would cease all music promptly at 10 p.m. on week nights and the loudness was controlled. While the band at Barone's stopped playing prior to 10 p.m., they switched to piano music which they continued to play after 10 p.m.

This is not our first encounter with noise from Barone's. They have installed a sound system around the perimeter of their home. They would play loud music at all hours of the day. When we spoke to them, the excuse given by Mrs. Barone was that her child was hearing impaired. That issue was finally resolved when I countered with my own music...the sound of trains. I was working nights at the time and needed to sleep during the day. Before I retired, I was forced to sleep on a mattress in my closet to find quiet I needed to function on my job as a nurse at UCSF.

We know we live downtown and must endure the sounds of the City, however, I believe there are parameters with which a business must comply. In our own establishment at 780 Main Street, noise was always a concern for our neighbors. We will be selling our home but now I fear I will be unable to sell because of the racket indiscriminately played for their own needs. I do not want to prevent a business from marketing in these difficult times, however, we homeowners have not been considered or allowed to voice our issues before the conditional permit was issued.

Thank-you Officer Paulson for responding last night. There was not much he could do without seeing the conditional use permit but he did promise to secure the information today. Officer Paulson also shut down the music at 10:20 p.m. I too will seek information regarding the parameters of the conditional use permit today. I am really concerned because there was no community input..

Maybe, I am in error and if that is the case, I will cease my complaints and quietly leave. I too have a disability and indiscriminate loud noise is an aggravation. Fortunately, Mrs. Barone, the mother of Joe Barone is hard of hearing and can simply remove her hearing aide. I have asked the Barone's in the past to give us notice of their events so we could seek a hotel room but we have not even been given that consideration.

Thank-you. Your comments would be appreciated. Diane Churka of 507 Saint John Street .

From: [REDACTED]
Sent: Friday, July 31, 2009 7:46 AM
To: Mayor and City Council
Cc: Wayne Weimer
Subject: AFTER HOURS NOISE DOWNTOWN

Dear City,

Thank-you for your response to my questions regarding a use permit for the downtown businesses. As I have declared in past correspondence, I do not wish to prohibit music in our downtown area. I am interested in developing parameters in the current permit that was issued without any public input on July 17th, 2008 without any public input (the same day I called to complain).

It is obvious Barone's will not stop their music until they are called or the police notified. I am still concerned. Last night I called @ 9:15 p.m. at which time Barone's promptly turned off the music. I do not understand why I have to call at all. The permit issued to the downtown on July 17th: Mr. Barone was given a copy of the permit. After listening to the racket for four hours, I was not in the mood to listen an hour longer. There is not one place in my home to find sanctuary. I can only imagine what the decible reading was at the origin. It seems a health issue if the noise is so loud that hearing can be impaired in the establishment. We are now considering selling our home just as several neighbors have done in the past and/or installing soundproof walls and windows to the exterior so no further devaluation will occur. We have been here for 21 years.

It seems a little late for the Planning Dept. to assure us there will be input to the Temporary Use Permit **ONLY** if Barone's asks for a new use permit or if an alteration is made to the current permit. Why wasn't public input allowed for the permit issued so promptly to Barone's on the day I called to complain? Is it because Barone's have threatened to sue?

I am not interested in placing unreasonable restrictions on the permit. This is not just an issue with us, it is an issue of all the surrounding neighborhoods.

Thank-you for your time.

Diane Churka

From: DIANE CHURKA
Sent: Wednesday, August 05, 2009 11:04 AM
To: Brian Dolan
Subject: BARONE'S CONDITIONAL USE PERMIT

Dear Mr. Dolan,

Thank-you for your attention to my concerns. There is the real possibility we may not be in town next week so I will go down to the City to obtain the modifications of the current use permit that Mr. Barone is requesting and respond via letter.

Because we too own a building downtown, we are not asking for an elimination of music. We think it would be reasonable on Thursday through Sunday evenings until 10 p.m. I would think that the Rose Hotel guests would not appreciate it any longer either. That certainly wouldn't help their business. We would not appreciate the music seven days a week or all day long for that matter.

It is obvious Mr. Barone is using the loud music to market his business. That loud music is also effective in keeping customers away.

The Pleasanton Hotel had no problem stopping in a timely manner as their musicians were aware of the time they had to stop beforehand. It would also be nice if we didn't have to call to get the music turned off.

Thank-you once again, Diane Churka

Steve Otto

From: Howard Merrill [REDACTED]
Sent: Saturday, August 01, 2009 11:59 PM
To: Steve Otto
Subject: PCUP-249, Joseph and Maricela Barone

Thank you for the notice about this issue. I'm a neighbor at 568 St. John Street and fully support this application.

We heard music from the Pleasanton Hotel [now The Farmer], Main Street Brewery, the Friday nite concerts in the park, 1st Wed. street party bands, and frequently special events at the Fairgrounds. Thursday night, this week, I heard much of the soundtrack from the movie in the park.

Since there's nothing we can do about annoying noise.. ie. train whistles, sirens, and Harley pipes, let's encourage pleasant sounds like music.

homerr..
568 Saint John St.

Steve Otto

From: Carol Fellman [REDACTED]
Sent: Saturday, August 01, 2009 2:34 PM
To: Steve Otto
Subject: Barone's application to modify conditional use permit

My family lives at 4180 Pleasanton Avenue, which is at the corner of Pleasanton Avenue and St. John's. We received the notification for the meeting on August 12th regarding the application to modify the Barone's conditional use permit to allow for outdoor music and entertainment, and have some concerns which I'm hoping you can clarify.

As things stand, we often hear music from The Brewery on Main Street when they have a band playing. We'd also heard music from the Pleasanton Hotel as well, when that was still in operation. My concern is how loud the music will be when it's coming from outside of Barone's which is literally over the railroad tracks from our development. A band playing inside a building is one thing, but if they have outdoor music, I expect that it will be pretty loud. Would it only be on weekends, and, if so, what hour would it be forced to shut down?

The courtesy of a response would be appreciated. We'll look forward to hearing from you.

Carol and Dan Fellman

Steve Otto

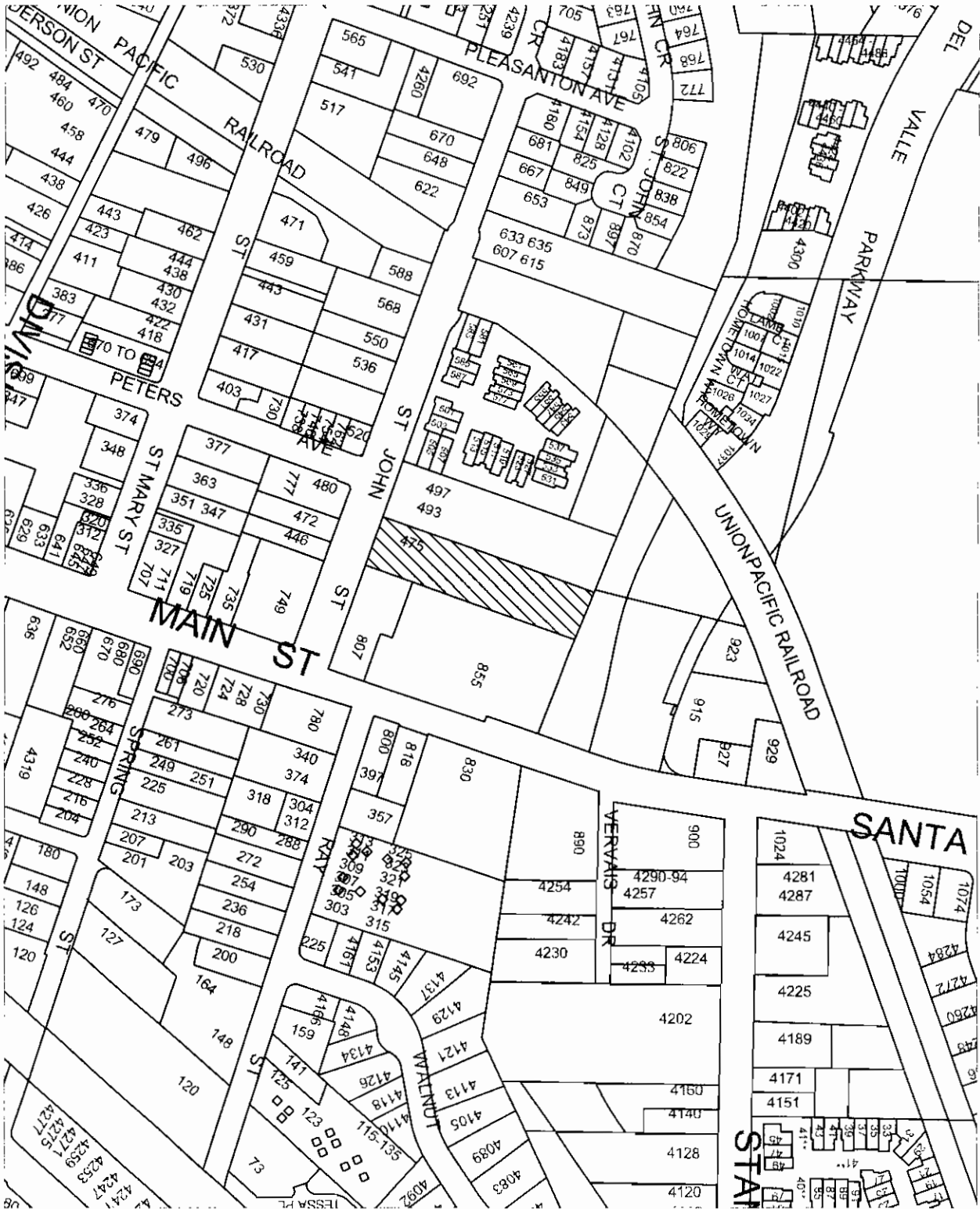
From: Dana Thibodeau [REDACTED]
Sent: Tuesday, August 04, 2009 12:05 PM
To: Steve Otto
Subject: Barones

Steve,

My name is Dana Thibodeau and we live in St.John Court. I'm very concerned about outdoor music. We have two young girls and I really don't want music playing into the night.

Thank you,

Dana Thibodeau

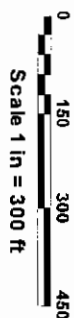
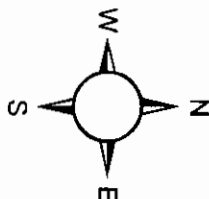


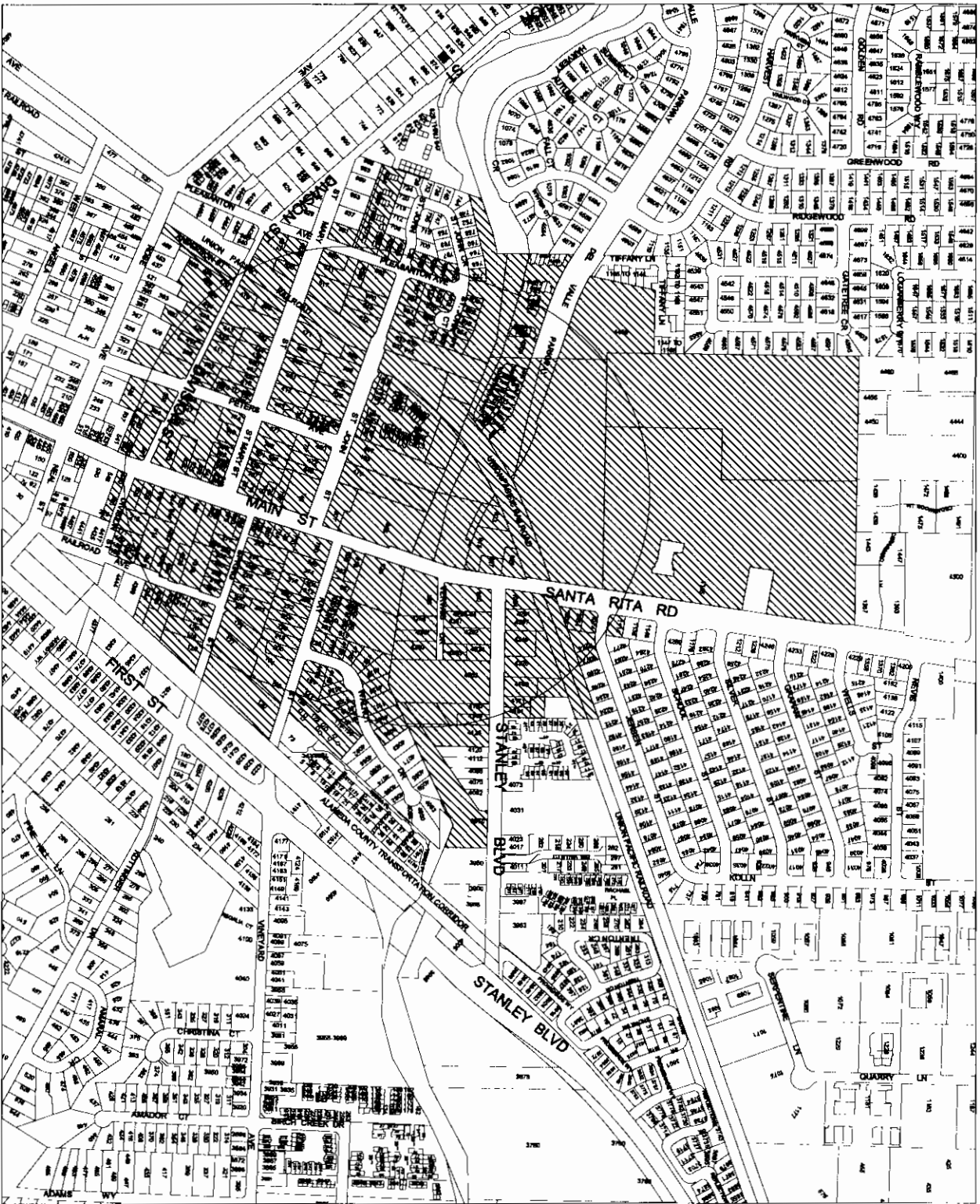
LOCATION MAP

City of Pleasanton

GIS

Department





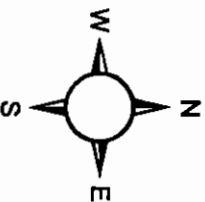
PCUP-249, BARONE'S

City of Pleasanton

GIS

Department

475 ST JOHN (1000FT)



PLANNING COMMISSION CITY OF PLEASANTON

ALAMEDA COUNTY, CALIFORNIA

RESOLUTION NO. PC-88-75

RESOLUTION APPROVING CASE UP-88-25, APPLICATION OF JIM FAZZARI

WHEREAS, Jim Fazzari has applied for a conditional use permit to serve alcoholic beverages after 10:00pm on the site of an approved restaurant located at 475 St. John Street; and

WHEREAS, zoning for the property is CC (Central Commercial) District; and

WHEREAS, at their duly noticed public hearing of June 22, 1988, the Planning Commission considered all public testimony, relevant exhibits and recommendations of the City staff concerning this application; and

WHEREAS, the Planning Commission made the following findings:

- A. That the proposed location of the conditional use is in accordance with the objectives of the zoning ordinance and the purpose of the district in which the site is located.

The subject site is zoned CC (Central Commercial). "Bars" (including restaurants where alcohol is served after 10:00pm) are a conditional use in most subdistricts of the "C" (Commercial) zoning district. One of the purposes of the "C" District is to provide opportunities for amusement establishments for the convenience of the public.

- B. That the proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to the properties or improvements in the vicinity.

The restaurant would not have an adverse effect on any surrounding properties (commercial or residential) due to the ancillary nature of the alcoholic beverage service relative to the overall restaurant operation. As conditioned below, the subject location is appropriate for the proposed establishment.

- C That the proposed conditional use will comply with each of the applicable provisions of the Municipal Code.

The proposed use will comply with all applicable sections of Chapter 18.124 of the Pleasanton Municipal Code regarding conditional uses; and

WHEREAS, minor alterations in land use limitations are categorically exempt from the requirements of the California Environmental Quality Act.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF PLEASANTON RESOLVES AS FOLLOWS:

Section 1. Approves Case UP-88-25, application of Jim Fazzali for a conditional use permit to serve alcoholic beverages after 10:00pm on the site of an approved restaurant located at 475 St. John Street subject to the following conditions:

1. That the use shall conform substantially to the location and details of operation, Exhibit A (dated May 16, 1988), on file with the Planning Department.
2. That if, at any time in the future, the ownership and/or management of the restaurant is unable to control the activities of its patrons such that the presence of the restaurant poses a nuisance to surrounding uses or to the City in general, the Planning Commission may review and, if necessary, attach additional conditions or revoke the subject conditional use permit.
3. That the applicant shall apply for and obtain all applicable City permits for the restaurant establishment prior to the commencement of business.

Section 2. This resolution shall become effective 15 days after its passage and adoption..

THIS RESOLUTION ADOPTED ON THE 22ND DAY OF JUNE 1988 BY THE FOLLOWING VOTE:

AYES: Commissioners Berger, Hoyt, Mahern, Tarver, and
Chairman Michelotti
NOES: None
ABSENT: None
ABSTAIN: None

Resolution No. PC-88-75
June 22, 1988
Page 3

ATTEST

Brian W. Swift

Brian W. Swift
Secretary

Sharrell Michelotti

Sharrell Michelotti
Chairman

APPROVED AS TO FORM:

Dennis Beougher

Dennis Beougher
Assistant City Attorney