

**Claremont City Council
Agenda Report**

TO: JEFFREY C. PARKER, CITY MANAGER

FROM: ANTHONY WITT, DIRECTOR OF COMMUNITY DEVELOPMENT

DATE: JANUARY 13, 2009

**SUBJECT: ENTERTAINMENT PERMIT (FILE #08-E02) LOCATED AT 310 YALE AVENUE
(WALTER'S RESTAURANT). APPLICANT – NANGYALAI GHAFARSHAD.**

SUMMARY

The applicant is requesting approval of an Entertainment Permit to allow music at special occasions (i.e., weddings, wedding receptions, graduation parties, etc.) held at Walter's Restaurant. The applicant has received several inquiries to host such functions but the music portion (i.e., live Disc Jockey, live band, etc.) would only be permitted with the approval of an Entertainment Permit. The owner of Walter's Restaurant is proposing that such functions would conclude at 11:00 p.m. on Fridays and Saturdays and by 10:00 p.m. on Sundays, and would limit the number of events to no more than 25 special occasions annually.

Decisions on Entertainment Permits are within the purview of the Community Development Director or his authorized representatives; however, the Community Development Director has requested the City Council review this application as his authorized representative due to the controversial nature of the previous Entertainment Permit request for Walter's Restaurant, which was denied in 2006.

Staff finds the currently proposed Entertainment Permit to be entirely different in nature and within the parameters of the City's regulations, and will be consistent with the City's noise standards.

Staff Recommendation

Staff recommends that the City Council adopt the attached resolution (Attachment A) approving the proposed Entertainment Permit, based on the review criteria of Chapter 5.45 of the Municipal Code, and subject to the conditions.

ANALYSIS

Background

- Walter's Restaurant has a General Plan designation of Claremont Village as well as a zoning designation of Claremont Village (CV). This is the same land use designation for all of the adjacent properties, including the residential buildings/uses to the east of the site.
- The subject restaurant is located within the Claremont Professional building, which is an approximate 12,100 square-foot building. The restaurant occupies approximately 7,500 square feet of the existing building.



- In May of 2006, staff denied an Entertainment Permit for Walter's Restaurant based on the nature of the entertainment, which was similar to a dance club accompanied by loud music (i.e., the bass line). In addition, the hours of operation were proposed to conclude at 1:00 a.m., which was determined to be incompatible with the adjoining neighbors (residential uses) directly to the east of the restaurant (east of the public alley). This document has been provided as Attachment B.

Project Description

The Entertainment Permit is proposed to allow for various special occasions at the subject location. These special occasions could include weddings, wedding receptions, private parties, graduation parties, charitable events, etc. These functions would typically commence at approximately 7:00 p.m. and conclude at 11:00 p.m. on Fridays and Saturdays. Functions held on Sunday would conclude at 10:00 p.m. The applicant would limit the number of events to no more than 25 special occasions annually.

The speakers, for such functions, will be pointed west (away from the residential uses adjacent to the restaurant) to minimize spillover noise generated by the special occasions discussed above. There are three potential locations within Walter's Restaurant for the special occasions. One potential area for the music would be located at the rear (east side) of the restaurant within the patio area. A second location would also be to the rear (east side) of the restaurant within the cottage dining rooms. A third area would be towards the front of Walter's Restaurant within the bistro and bar. A copy of the floor plan outlining the three potential music areas is Attachment C.

An aerial map illustrating the location of the restaurant has been provided (Attachment D). In addition, two letters from the applicant further discussing the request have been included (Attachment E).

Basis for Staff Recommendation

Staff finds the following reasons to approve the requested Entertainment Permit:

- Walter's Restaurant maintains a working relationship with the City in regard to local ordinances and codes, and is in compliance with all applicable state and federal laws, ordinances, and codes. In addition, the applicant did not make false statements in the application for the subject Entertainment Permit.
- The City supports the economic viability of all businesses. The City's willingness to work with businesses to ensure their continued success, yet meet the local rules and regulations of the City, effectively increases their chance for survival. This is further identified as General Plan Policy 3-1.2, which states:
"Support existing businesses in the City, and work to retain the small, independent business character of the City".
- The specific occasions proposed include, but are not limited to, wedding receptions, graduation parties, private company parties, etc. The events would not have an adverse effect on adjacent property or other uses in the vicinity of the premises at which the events

are to be located. In addition, the events will not result in noise levels exceeding the City's noise standards, inadequate and/or spill over parking into adjacent commercial/residential neighborhoods, hours of operation incompatible with adjacent uses, significant new traffic in adjacent neighborhoods, or an increase in criminal activity.

- The Claremont Village (CV) zoning district is assigned Noise Zone 2, which limits the exterior noise levels to 60 decibels from 10:00 p.m. to 7:00 a.m., and 65 decibels from 7:00 a.m. to 10:00 p.m. seven days a week. Although Walter's Restaurant is not required to meet the noise standards of Chapter 16.154 with the approval of an Entertainment Permit (Section 16.154.020.F.2), the business owner will work with the City to ensure the entertainment proposed does not exceed 75 decibels as measures from the adjacent property line. In addition, the business owner will be allowed up to 25 special occasions annually, which is approximately 2 events per month.
- The existing hours of operation for the restaurant are 7:00 a.m. to 9:00 p.m., Sunday – Thursday and 8:00 a.m. to 10:00 p.m., Fridays and Saturdays. The special events would extend the hours of operation to 10:00 p.m. Sunday–Thursday (one hour increase) and 11:00 p.m. Fridays and Saturdays (one hour increase).
- Although an Entertainment Permit was denied in 2006 for this restaurant, the type of entertainment proposed at that time was significantly different from what is being proposed by this specific application. The entertainment permit proposed previously was denied based on the nature of the entertainment, which was similar in nature to a dance club accompanied by loud music. In addition, the hours of operation were proposed to conclude at 1:00 a.m., which was determined to be incompatible with the adjoining neighbors (residential uses) directly to the east of the restaurant (east of the public alley).
- The Police Department indicates no opposition to the issuance of the Entertainment Permit, provided the operators of the restaurant comply with all legal requirements and observes all conditions of approval. To date, the owner of Walter's Restaurant has not been cited for selling alcoholic beverages to minors. The City of Claremont has the authority to revoke the subject Entertainment Permit if it is discovered that the operators of the establishment are violating any conditions of this approval and/or there is an extraordinary result in increased demand of police services.

LEGAL REVIEW

The city attorney has reviewed the subject Entertainment Permit request and signed the attached resolution.

CEQA REVIEW

The City has determined that this proposal is exempt from the California Environmental Quality Act (CEQA) in accordance with Section 3.03(b)(17) of Claremont's Local Guidelines for Implementing CEQA and is categorically exempt pursuant to CEQA guidelines Section 15301(e)(1) (Class 1) (additions to existing structures not resulting in an increase of more than 50 percent of the floor area); therefore, no further environmental review is necessary.

FINANCIAL REVIEW

The applicant has paid the \$200 fixed fee for an Entertainment Permit. All staff costs above this fee have been, and will continue to be, borne by the City.

PUBLIC NOTICE PROCESS

This item was noticed through the regular agenda notification process. Copies of this report are available at the City Hall public counter, Alexander Hughes Community Center, the Youth Activity Center, the Claremont Public Library, and the City website.

In addition, written notice of this meeting was sent to adjacent residents and property owners on December 18, 2008. As of January 7, 2009, no comments have been received. Copies of this report have been sent to the applicant as noted below.

ALTERNATIVES TO THE STAFF RECOMMENDATION

In addition to the staff recommendation, there are the following alternatives:

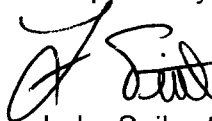
1. Continue the item for additional information for the proposed project elements.
2. Approve the proposal, with modifications to the conditions of approval.
3. Deny the proposal, specifically identifying how the project is inconsistent with the review criteria of Chapter 5.45 of the Municipal Code, as all of the necessary findings cannot be met.

Submitted by:



Anthony Witt
Director of Community Development

Prepared by:



Luke Seibert
Associate Planner

Attachments: A – Resolution Approving Entertainment Permit #08-E02
 B – Denied Entertainment Permit For Walter's Restaurant dated May 12, 2006
 C – Walter's Restaurant Floor Plan
 D – Site Plan
 E – Letters From Applicant Regarding Entertainment Permit

c: Nangyalai Ghafarshad, Walter's Restaurant

LSEIBERT\ENTERTAINMENT PERMITS\08-E02\CC REPORT



RESOLUTION NO. 2009-____

A RESOLUTION OF THE CITY OF CLAREMONT APPROVING AN ENTERTAINMENT PERMIT (FILE #08-E02) FOR WALTER'S RESTAURANT LOCATED AT 310 YALE AVENUE. APPLICANT – NANGYALAI GHAFARSHAD

WHEREAS, on July 31, 2008, Nangyalai Ghafarshad, owner of Walter's Restaurant at 310 Yale Avenue, submitted an application for an Entertainment Permit; and

WHEREAS, the above mentioned property is zoned Claremont Village (CV) with a General Plan designation of Claremont Village; and

WHEREAS, the City Council held a hearing on January 13, 2009, to consider the proposal; and

WHEREAS, the approval of this Entertainment Permit exempts Walter's Restaurant from the noise standards set forth in Chapter 16.154 pursuant to Section 16.154.020(F)(2) of Claremont's Municipal Code; and

WHEREAS, Claremont Municipal Code Section 5.45.010(B) and Section 5.45.060(A) gives the Community Development Director or his authorizes representatives authority to act on Entertainment Permits.

WHEREAS, the Community Development Director authorizes City Council to act as a representative to take action on this Entertainment Permit.

NOW, THEREFORE, the City Council of the City of Claremont, County of Los Angeles, State of California, does hereby resolve:

Section 1. The City has determined that this proposal is exempt from the California Environmental Quality Act (CEQA) in accordance with Section 3.03(b)(17) of Claremont's Local Guidelines for Implementing CEQA and is categorically exempt pursuant to CEQA guidelines Section 15301(e)(1) (Class 1) (additions to existing structures not resulting in an increase of more than 50 percent of the floor area); therefore, no further environmental review is necessary.

Section 2. In accordance with Section 5.45 of the Claremont Municipal Code, the City Council makes the following findings in regard to the Entertainment Permit for the above-described project:

1. Walter's Restaurant maintains a working relationship with the City in regard to local ordinances and codes, and is in compliance with all applicable state and federal laws, ordinances, and codes. In addition, the applicant did not make false statements in the application for the subject Entertainment Permit.
2. The City supports the economic viability of all businesses. The City's willingness to work with businesses to ensure their continued success, yet meet the local rules and regulations of the City, effectively increases their chance for survival. This is further identified as General Plan Policy 3-1.2, which states:

"Support existing businesses in the City, and work to retain the small, independent business character of the City".

3. The specific occasions proposed include, but are not limited to, wedding receptions, graduation parties, private company parties, etc. The events would not have an adverse effect on adjacent property or other uses in the vicinity of the premises at which the events are to be located. In addition, the events will not result in inadequate and/or spill over parking into adjacent commercial/residential neighborhoods, hours of operation incompatible with adjacent uses, significant new traffic in adjacent neighborhoods, or an increase in criminal activity.
4. The Claremont Village (CV) zoning district is assigned Noise Zone 2, which limits the exterior noise levels to 60 decibels from 10:00 p.m. to 7:00 a.m., and 65 decibels from 7:00 a.m. to 10:00 p.m. seven days a week. Although Walter's Restaurant is not required to meet the noise standards of Chapter 16.154 with the approval of an Entertainment Permit (Section 16.154.020.F.2), the business owner will work with the City to ensure the entertainment proposed does not exceed 75 decibels as measures from the adjacent property line. In addition, the business owner will be allowed up to 25 special occasions annually, which is approximately 2 events per month.
5. The existing hours of operation for the restaurant are 7:00 a.m. to 9:00 p.m., Sunday – Thursday and 8:00 a.m. to 10:00 p.m. Fridays and Saturdays. The special events would extend the hours of operation to 10:00 p.m. Sunday–Thursday (one hour increase) and 11:00 p.m. Fridays and Saturdays (one hour increase).
6. Although an Entertainment Permit was denied in 2006 for this restaurant, the type of entertainment proposed at that time was significantly different from what is being proposed by this specific application. The entertainment permit proposed previously was denied based on the nature of the entertainment, which was similar in nature to a dance club accompanied by loud music. In addition, the hours of operation were proposed to conclude at 1:00 a.m., which was determined to be incompatible with the adjoining neighbors (residential uses) directly to the east of the restaurant (east of the public alley).
7. The Police Department indicates no opposition to the issuance of the Entertainment Permit, provided the operators of the restaurant comply with all legal requirements and observes all conditions of approval. To date, the owner of Walter's Restaurant has not been cited for selling alcoholic beverages to minors. The City of Claremont has the authority to revoke the subject Entertainment Permit if it is discovered that the operators of the establishment are violating any conditions of this approval and/or there is an extra ordinary result in increased demand of police services.

Section 3. The City Council hereby approves Entertainment Permit #08-E02 pursuant to Section 5.45.060 and based on the findings outlined in Sections 1 and 2 above, subject to the following conditions of approval:

1. This approval is for the establishment of the entertainment uses generally described as special occasions with music including, but not limited to, weddings, wedding receptions, graduations parties, etc., located within designated areas at 310 Yale Avenue (Walter's Restaurant). This approval shall ONLY be for the activities

described and contained within the building and patio area located at the above-mentioned address.

2. The hours for the entertainment shall not exceed 11:00 p.m. on Fridays and Saturdays, and 10:00 p.m. Sunday–Thursday. No more than 25 special events with music shall occur on the premises annually. To ensure compliance, Walter's Restaurant shall present the City with written confirmation for each special occasion accompanied by the date and type of event.
3. This Entertainment Permit is valid until January 13, 2009. Subsequent Entertainment Permits will be for one year and may be renewed annually thereafter. The City Council may modify or impose additional conditions to ensure the harmonious use of the business with adjacent businesses/residences and may include shorter hours/earlier closing times. If no documented violations of the subject Entertainment Permit occur during the first year of entitlement, then annual renewals of such permit will be conducted at staff level; otherwise they shall be subject to City Council review. Applications for renewal shall be filed with the Community Development Department no later than 30 calendar days prior to the permit expiration date and shall be accompanied by the applicable fee.
4. Forty-eight (48) hours prior to the commencement of each special occasion, Walter's Restaurant shall send notice to adjacent neighbors.
5. The areas of entertainment shall be limited to three specific areas within Walter's Restaurant as illustrated in Exhibit 1 to this resolution.
6. The amplified music in the outdoor seating area shall be limited to a maximum of two speakers and shall not exceed a noise level of 75 decibels as measured from the adjacent property line. The speakers shall be directed away from the residential uses to the east, and placed at heights no taller than the six-foot high wall located along the east side of the subject property. The speaker placement and specification shall be shown on a plan subject to staff approval. In addition, staff may monitor noise levels at any time to determine reasonable compliance.
7. Entertainment shall comply with the Claremont Municipal Code (CMC), and all applicable laws, ordinances, and codes.
8. The applicant and successors shall operate the subject premises in a safe and orderly manner at all times, including compliance with curfew and daytime loitering regulations pursuant to the provision of Section 9.80 of the CMC. Continued/repeated violations of any municipal, Health Code, or other violations, as determined by the City of Claremont, Los Angeles County Health Services Department, Department of Alcoholic Beverage Control (ABC), or Los Angeles County Fire Department, may be grounds for initiation of proceedings for the revocation of this entertainment permit.
9. The maximum number of patrons and staff allowed in the establishment shall not exceed the maximum occupancy for the site as set by the Building Official.

10. Management or employees of the business to which they are connected must continuously supervise all entertainment performances. If at any time in the future the City believes that security is needed, the applicant is required to submit a security plan to the Director of Community Development for review/approval.
11. All entrances and emergency exits shall be kept clear.
12. No signs are approved in connection with this permit.
13. Violations of any of the above conditions shall be cause for revocation of this permit.
14. Noncompliance with any condition of approval shall constitute a violation of the Claremont Municipal Code. Violations may be enforced in accordance with the provisions of the administrative fines program of Chapter 1.14 of the Municipal Code.
15. The applicant/owner, by utilizing the benefits of this approval, shall thereby agree to defend at its sole expense any action against the City, its agents, officers, and employees because of the issues of such approval. In addition, the applicant/owner shall reimburse the City et al for any court costs and attorney fees that the City et al may be required to pay as a result of such action. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the applicant/owner of its obligation hereunder.

Section 4. The Mayor shall sign and the City Clerk shall attest to the passage of this resolution.

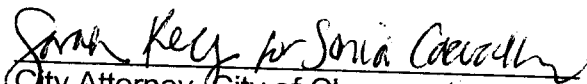
PASSED, APPROVED, AND ADOPTED this 13th day of January, 2009.

Mayor, City of Claremont

ATTEST:

City Clerk, City of Claremont

APPROVED AS TO FORM:

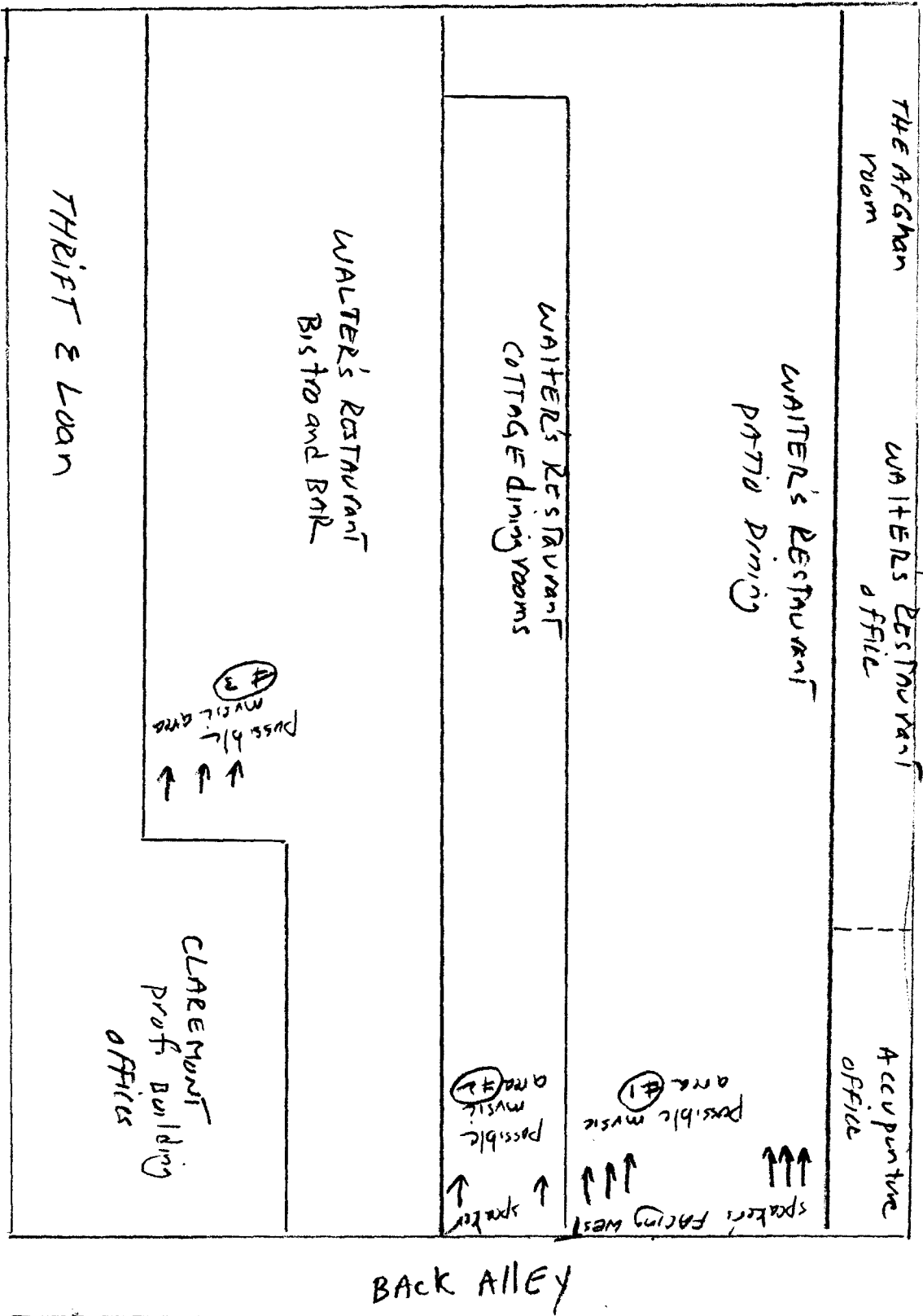

City Attorney, City of Claremont

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EXHIBIT 1

YALE AVE

PARKING LOT



BONITA AVE

BACK ALLEY



CITY OF CLAREMONT

ATTACHMENT B

Community Development Department

City Hall
207 Harvard Avenue
P.O. Box 880
Claremont, CA 91711-0880
FAX (909) 399-5327

Building • (909) 399-5471
Planning • (909) 399-5470
Engineering • (909) 399-5465
Community Improvement • (909) 399-5467
Economic Development • (909) 399-5341

May 12, 2006

April 12, 2006

Nangyalai and Dawoud Ghafarshad
Walters Restaurant
308 and 310 Yale Avenue
Claremont, CA 91711

Dear Messrs. Ghafarshad:

Denial of Entertainment Permit Application #06-MP11 for Walters Restaurant at 310 Yale Avenue

The Planning Division has reviewed your application for an Entertainment Permit to allow a DJ with dancing inside the bistro and bar area until 1:00 a.m. on Friday nights, and outside occasionally on the patio area at the above-referenced address. While we support your successful Village business, we are unable to approve your requested entertainment permit.

Therefore pursuant to Chapter 5.45.60 B 1 and 3 (a), (c) (e) and (f) of Claremont Municipal Code, your application is hereby denied based on the following reasons:

1. The premise at which the entertainment permit is proposed is not in compliance with all applicable City ordinances and codes. Work has been undertaken on the patio area within benefit of any City review and/or permits. In addition, it appears that the seating at the restaurant has been expanded beyond that which had been approved in the past. Further, the business has been providing amplified music with dancing on weekends during the past few months without benefit of an Entertainment Permit. This activity has been ongoing even after being apprised of the need for an Entertainment Permit to allow this activity.
3. The activity for which the permit is requested would have and has had an adverse effect on the adjacent residential uses. There have been reports of noise levels that have awoken adjacent residents from loud music (i.e. particularly the bass line) emanating from the establishment and from patrons loitering in the parking lot after the establishment has closed. The hours of operation until 1 a.m. and outside patio activities are incompatible with the immediately adjacent residential properties.

FILE COPY

FILE COPY

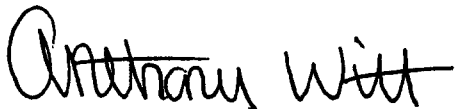
There has been an increase in calls for police service as a result of the entertainment activity for excessive noise and unruly patron behavior that has disturbed the neighbors' peace. Although the Village has a mixed- use character, this proposed activity is creating nuisance issues for the adjacent residential uses.

Staff does not make any findings regarding Sections B2 and B3 (b) and (d) of Municipal Code Section 5.45.60.

In accordance with Section 5.20.130 of the Claremont Municipal Code, any person may appeal this decision to the City Council by filing a written appeal with \$100.00 appeal fee within ten (10) calendar days of the date of this letter (May 12, 2006).

If I can answer any further questions, please call me at (909) 399-5341 or Associate Planner Mark Carnahan at 909-399-5470.

Sincerely,



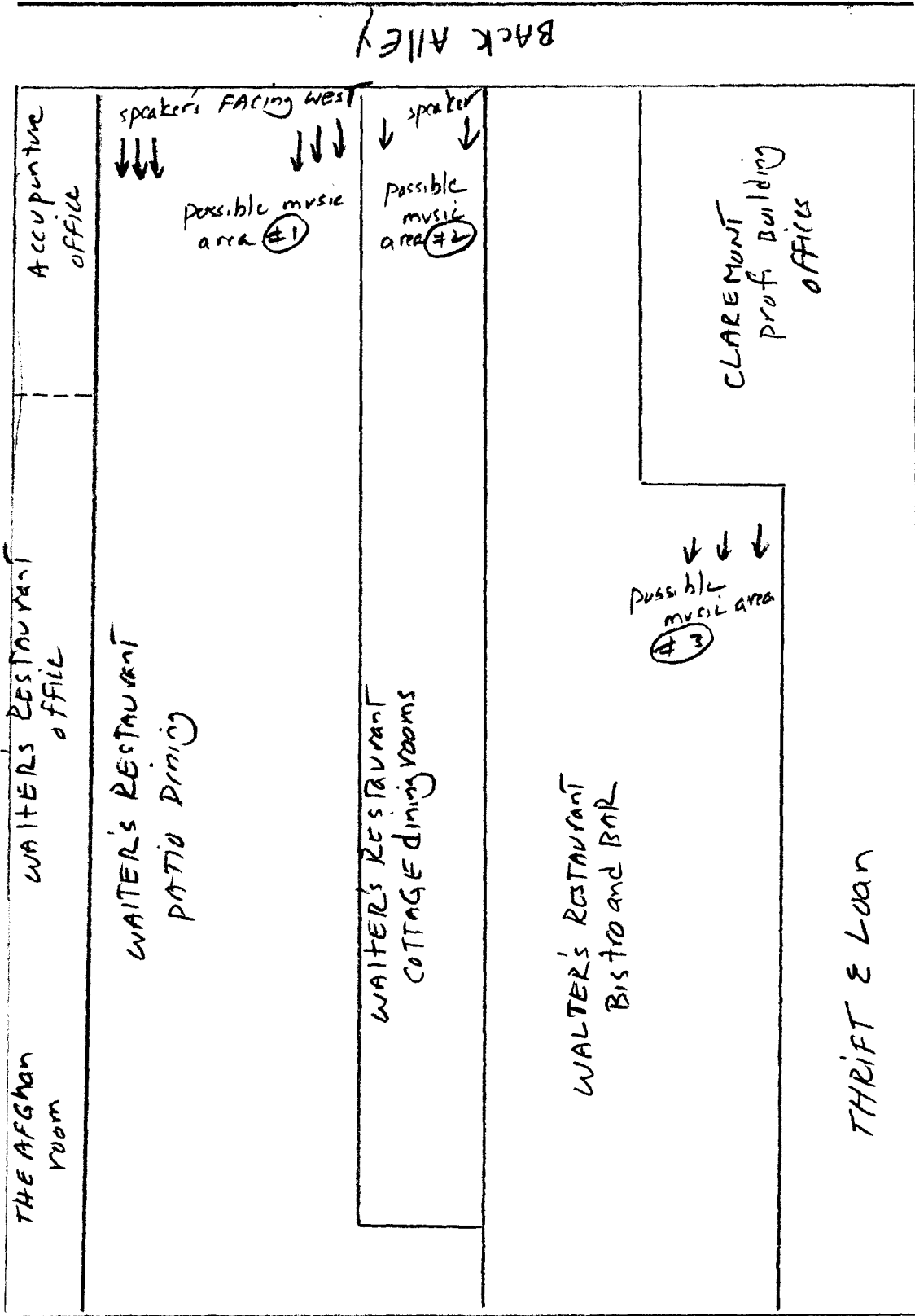
Anthony Witt
Community Development Director

c: City Council
Jeffrey C. Parker, City Manager
Paul Cooper, Police Captain
Lisa Prasse, City Planner
Mark Carnahan, Associate Planner
Herbert Hafif, Property Owner
Adjacent residents

1

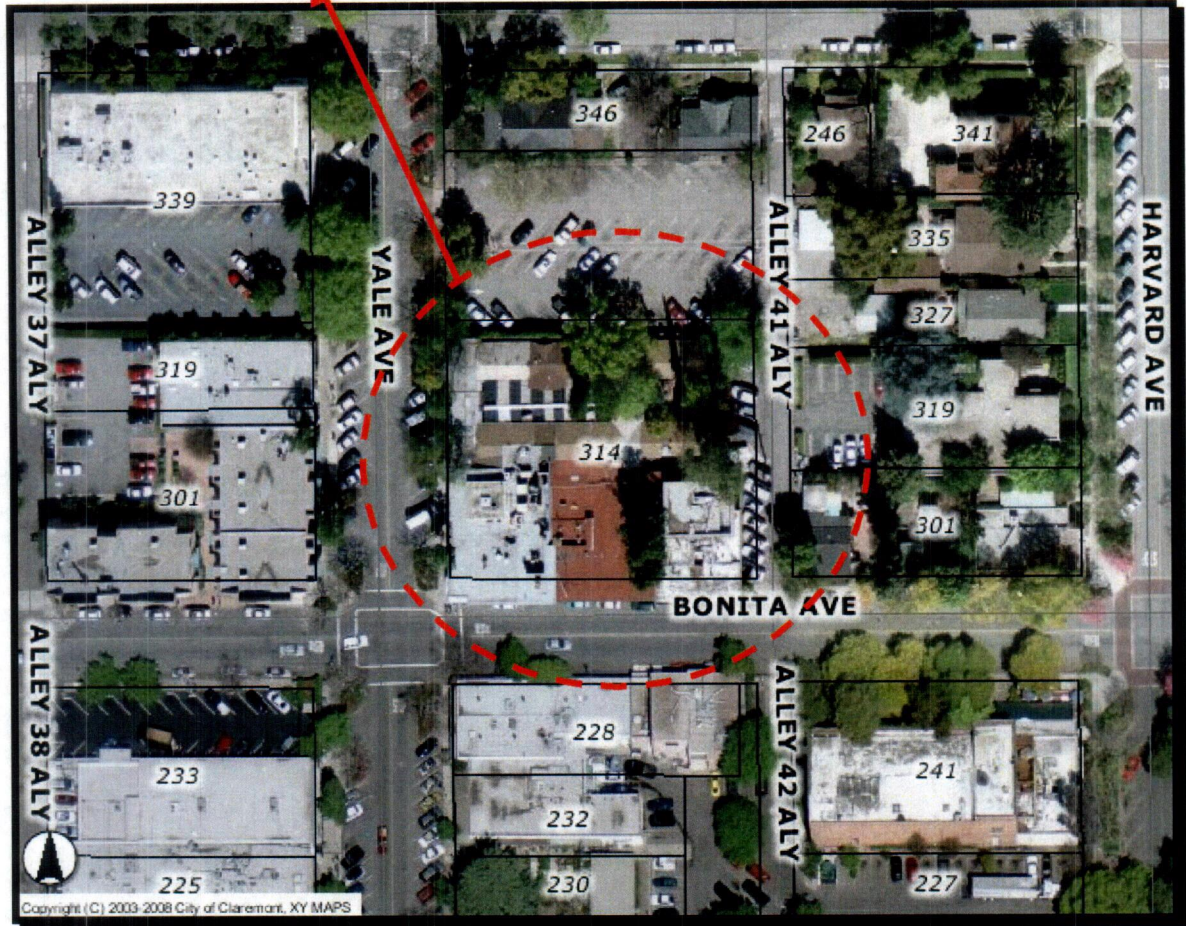
YALE AVE

PARKING LOT



BONITA AVE

Location of Walter's Restaurant





310 N. Yale Ave. Claremont, Ca 91711
909 624-2779 -909-624-4914
Fax 909-624-4364
www.waltersrestaurant.biz

Thursday, July 31, 2008

City of Claremont, Community development department
207 Harvard Ave. Claremont, Ca 91711

Dear Sir/Madam:

I would like to make this letter a part of my application for the entertainment permit. As you all are aware that the economy is not what it has used to be. The merchants in the village are facing three different challenges: 1- The economy is slow overall, 2- summer vacations and 3- Village expansion.

The restaurant business is about 20% lower than last year
Thousands of students and faculty are not in town.

The number of eating establishment in the village has more than doubled.

I have always been a supporter of the village expansion, I believe that in the long run it will benefit our village and our businesses. What I do not understand is that most promotions are done in the west side and by the train station. The north side of town does not get any, and that worries me. If the west side is promoted at the expense of the historical village that is a loss to everyone. This is another reason I am applying for the entertainment permit so I could bring some excitement to the north side of the village. I do not know who is paying for several entertainment bands in west side of the village, if it's paid by the city I hope you consider to do that in the north side as well.

I have lost a couple of wedding receptions because I could not allow music at the patio after 9.00 p.m. At times like this where economy is so bad I can not afford to loose that.

At the end of this letter I would like to mention that at 35 years that I have been in business and resident in the village I have never worked with any local government as cooperative and understanding as the current one and I like to thank all of you for that.

Sincerely


Nangy ghafarshad



310 N. YALE AVE. CLAREMONT, CA 91711 –
(909) 624-2779 - FAX (909) 624-4364
WALTERSRESTAURANT.BIZ

Lisa Prossi
City of Claremont

Dear Lisa:

As you know the number of eating establishment in the village is almost doubled compared to last year, the village eating establishments provides more services Now than did ever before. One of these services is catering banquets, weddings And other functions.

I have invested a lot of money to renovate the outside patio and make it attractive For such functions. Walter's outside dining has received many recognitions.

In order to survive and pay for the investments I have done for the outside patio, The patio has to be used.

I am getting calls for weddings and other functions on the patio which includes some sort of music and if I refuse the music part they will go to some other place.

These functions are not much, out of 360 days a year that we are open maybe we get 25 catering requests and most of them are Friday or Saturday night, I do charity functions Which is on Sunday nights, most of these functions (about 75%) happens in the summer and fall seasons.

What I am requesting is to have permission to have music on the patio till 11.00 p.m. On Friday and Saturday nights and till 10.00 p.m. the rest of the week and this is only For around 25 nights out of 360 nights.

I thank you in advance and appreciate your cooperation.

Sincerely

Nangy Ghafarshad