



Date: 6 Apr 2023

Project Title: Jamison's Roaring Donkey  
Project Location: Petaluma, CA

Subject: Code Plan and Analysis, Jamison's Roaring Donkey

To: Brian Tatko  
Jamison's Roaring Donkey  
146 Kentucky Street  
Petaluma, CA

Mr. Tatko,

As we discussed, your original set of tenant improvement documents did not include a Code Plan which will assist in discussions on the correct occupancy for your building. My code analysis has been on that basis, "had the code plan been provided what would it have stated?"

One caveat with this code plan and analysis is that the California Building Code 2019 was used in lieu of the CBC in force at the time that the tenant improvement plans were completed. Since another analysis was done with the 2019 CBC, it was felt this should be done to allow an apples-to-apples comparison.

As often occurs, a building can hold more occupant load than a fire marshal will agree to. In the case of Jamison's Roaring Donkey at 146 Kentucky Street in Petaluma, the building is constructed such that the occupant load allowed by the building is 780 people. The occupant capacity is very high due to the large proportion of exits to the actual size of the space. In many bars/restaurants of similar size, the bar would only have a single door at the front and a single door at the rear. The primary access door in an assembly occupancy must provide capacity for half of the building's occupants. The primary access door provides exit capacity for 320 occupants, so therefore the building's actual limit of capacity based upon exit capacity is 720.

Exit Capacity Comparison				Code: California Building Code, 2019 Edition	
Door	Type	Clear Width	Capacity Factor (In/Person)	Occupant Capacity	Expected Occupant Load
Front	Pair	72	0.2	360	159
Front (#2)	Pair	72	0.2	360	99
Rear	Single	36	0.2	60	60
Calculated Exit Capacity:				780	318
Actual Limit (Front Door Occ Load x2)				720	
Notes:					
In an Assembly Occupancy, half the occupant load must be provided by the Primary Access Door (Front Door)					
Rear door exit capacity is reduced by a third for Jamison's Roaring Donkey due to multiple tenant use of exit to the public way. Each of the three tenants share as 36" door, so the exit capacity is reduced by a third.					



The rear door leads to a door which serves three tenants, only one of which, Jamison's Roaring Donkey, was surveyed as a part of this occupancy load analysis. It was assumed for the purposes of the study that each tenant deserves a one third share of the rear exit door serving these tenants, therefore 60 people.

Actual Occupancy of Jamison's Roaring Donkey is calculated by the use and configuration of the individual areas and comes to 318 people. It's unlikely that the bar could physically hold this amount of people and that is why often a fire marshal and an owner will agree to a lower number that is posted within the bar. However, this number is what the bar was "built" to hold if possible.

Jamison's Roaring Donkey			
Occupancy Calculation	Code: California Building Code, 2019 Edition		
Function of Space	Occupant Load Factor (per Table 1004.5)	Area	Occupant Load
<b>Assembly with Fixed Seats</b>			
See plan - Bench Seating			
- Plan SW Bench			3
- Plan W Bench			7
- Plan NW Bench			9
- Plan NE Bench			9
<b>Assembly without Fixed Seats</b>			
- Concentrated chairs Only - Not Fixed	7		
-- Area around bar, including bar seating	7	357	51
- Standing Space	5		
-- Game Area	5	951	190
- Unconcentrated (tables and chairs)	15		
-- Music Room	15	454	30
<b>Mercantile</b>	60		
- Bar Serving Area	60	210	4
- Office 103	60	169	3
- Sound Booth	60	48.41	1
<b>Mercantile (Storage/Stock)</b>	300		
- Keg Chiller	300	168	1
- Storage inside Office 103	300	43	0
- Storage inside Music Room	300	20	0
<b>Stages and Platforms</b>	15		
- Stage in Music Room	15	154	10
Total Occupant Load:			318

Notes:

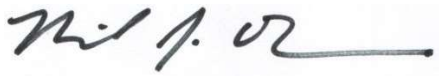
Toilets and Corridor are not counted; Assembly Occupancy Areas are measured as net square footage



In summary, the California Building Code (2019 version) indicates an occupancy of 318 for Jamison's Roaring Donkey. In advising any building owner, I would not consider that your true maximum safe occupancy. This is typically a lower number which is also based upon the number of staff relative to patrons, something an architect has no business in commenting upon, as well as local fire marshal comfort with a potential situation at the establishment. By the California Building Code, any number up to and including 318 is considered acceptable.

For any party outside of Jamison's Roaring Donkey ownership I would like to make it very clear that Alesia Architecture nor the undersigned has no financial interest whatsoever in Jamison's Roaring Donkey. This letter and the attached drawing have been developed in accordance with our interpretations of the California Building Code, 2019 Version. If there are any comments or concerns the undersigned can be contacted at 402-291-6941 or [ronken@alesiaarchitecture.com](mailto:ronken@alesiaarchitecture.com).

Sincerely,



Richard J. Onken, President  
Alesia Architecture, P.C.

Atch

1. Code Plan (Existing Conditions Only)



**Patrick M. Ciocca**  
**Attorney at Law**  
**2901 Cleveland Avenue**  
**Suite 201**  
**Santa Rosa, CA 95403**  
**(415) 265-4200**  
**(707) 286-0058 (fax)**  
[pmcesq@hotmail.com](mailto:pmcesq@hotmail.com)

To: City of Petaluma

Attn: City Attorney, [cityattorney@cityofpetaluma.org](mailto:cityattorney@cityofpetaluma.org); Douglas Hearn, [dhearn@cityofpetaluma.org](mailto:dhearn@cityofpetaluma.org); Charles Lucas, [Clucas@cityofpetaluma.org](mailto:Clucas@cityofpetaluma.org); Fire Marshal, [firemarshal@cityofpetaluma.org](mailto:firemarshal@cityofpetaluma.org); Mayor Kevin McDonnell, [kmcdonnell@cityofpetaluma.org](mailto:kmcdonnell@cityofpetaluma.org)

Re: Jameson's Roaring Donkey and it's recent history with the City of Petaluma

April 30, 2023

All:

I have been asked by my clients - Brian Tatko and Greg Johnson – the proprietors of Jameson's Roaring Donkey (hereinafter JRD) on Kentucky Street, to reach out to the City of Petaluma to discuss a recent string of actions taken by representatives of the City which give my clients a good deal of concern that they are being treated in a discriminatory manner by the City. While my client's do not wish to go so far as to suggest that there has been any intentional bad faith on behalf of these representatives, it is becoming increasingly difficult for them to understand how and why they are receiving such uneven and seemingly arbitrary treatment. In order to explain to you the point of view of my client's, it is necessary to conduct a brief recitation of this recent history.

Some time in the middle of January, Code Enforcement Officer Douglas Hearn came to JRD and conducted an ad hoc inspection of their facility. Based upon this inspection, but more importantly based on his referral to a 2004 ABC occupancy load number, he reduced their occupancy load from 275 to 139. This massive and astounding reduction was levied upon my clients at a moments notice and they were instructed to comply immediately with the new occupancy terms.

I wrote to Mr. Hearn on January 24, 2023 to ask Mr. Hearn why and how this huge reduction had been determined. I pointed out to Mr. Hearn that the 2004 ABC occupancy load of 130 was based upon the load for a restaurant, not a bar. I also pointed out that traditional occupancy load factors such as tables and chairs in a restaurant would naturally result in a lesser occupancy load. Furthermore, I made clear that the occupancy load for the previous tenant – also a bar – had been determined at 275. Surely, I suggested, the 2004 number was too low and it should be reconsidered and reassessed by him immediately. In response, he tersely replied that he “could not find any documentation with that occupancy load. The only record I found was the 130 on the ABC license.” Furthermore Mr. Hearn also indicated that he had issued a notice of violation (hereinafter NOV) to JRD. That violation, it turned out, was for excessive occupancy based on the new load number and also alcohol related incidents which Mr. Hearn blamed on Jameson's Roaring Donkey without any real substantiation as to how my client's bar was the sole and lone

offender in the condition in which some individuals found themselves in the streets of Petaluma late at night.

After a period of back and forth, my clients provided Mr. Hearn with a lengthy document which addressed the concerns of the NOV and outlined a plan of action for JRD and also some pertinent suggestions as to how the City, Police and local bars and restaurants could cooperate and create a better atmosphere in the City at night. To my knowledge, that document, and its myriad and well considered plans and suggestions, has never been addressed.

The fact of the matter is, JRD has in the past received a capacity number from the fire department as “under 300.” Moreover, a cursory review of California Building Code, Chapter 3, Sections 301 – 304 as well as Section 1004 clearly show, without any doubt that an occupancy load of 139 is outrageously low.

Now, all this time we had been assured by Mr. Hearn that it would be acceptable for JRD to submit the opinion of an outside assessor as to what the correct occupancy load for the bar should be. This assurance came from Mr. Hearn himself, who on March 15, wrote to Mr. Tatko “if you want to change the number it would take your own consultant to do that.” And so, Mr. Tatko did just that and provided the City with a full report from Alesia Architects, which opined that “any number up to and including 318 is considered acceptable.” And on April 18 Mr. Tatko emailed Deputy Chief Building Official Charles Lucas, informing him of this assessment and the fact that it had been forwarded to the building department. Mr. Tatko also requested that JRD be granted an increase of their occupancy for the upcoming weekend, based on this report. Mr. Lucas replied that several agencies would have to review these drawings and assessments (Building, Planning, Fire Department) and it was unlikely that this review and the requested changes to the *only recently redetermined* occupancy load would be coming soon.

It is important here to note that, in the interim, JRD has received two fines for being over occupancy and, because of the new restrictions on occupancy load, has lost well over a hundred thousand dollars in revenue. What is even worse, however, is the fact that JRD has been forced to let go valuable employees whom they can no longer afford to employ under the current occupancy load requirements.

My clients cannot but ask how it is that their occupancy load can be so capriciously and immediately reduced – *without any due process whatsoever* - without any real or substantial justification, but when they provided proper documentation, suddenly, lengthy reviews had to take place by numerous departments, all while my clients are hemorrhaging money and losing good, qualified staff. Code enforcement was able to change the number in a heartbeat, but now, after expert assessment has shown that the previous number was, in fact, far more on the mark, it's going to take a while.

And now, in what feels to my clients like an unbelievable and unfair turn, JRD has been informed (on April 20) by Charles Lucas that their occupancy load shall indeed be increased but, “that when the occupant load is increased the required plumbing and toilet facilities may also increase.” So now the proprietors of JRD are being told they have to make substantial repairs and additions to their property in order to get back to the occupancy load which they inherited from their predecessor in interest and have been operating under since they began business? To call these labyrinthine twists and turns imposed by the City on my clients “Kafkaesque” would be an understatement.

My clients want to work with the City of Petaluma. They have endeavored from the beginning to be cooperative and fair. But they have suffered greatly since the imposition of Code Enforcement's arbitrary adjustment to their occupancy load. If anything, the proprietors of JRD should receive understanding and help from the City. Instead, they are thwarted at every turn in their attempts to comply with the rules of the City's numerous departments. They feel they have been discriminated against, as they observe numerous other establishments operate with the seeming grace of the City, and without complying with all the rules.

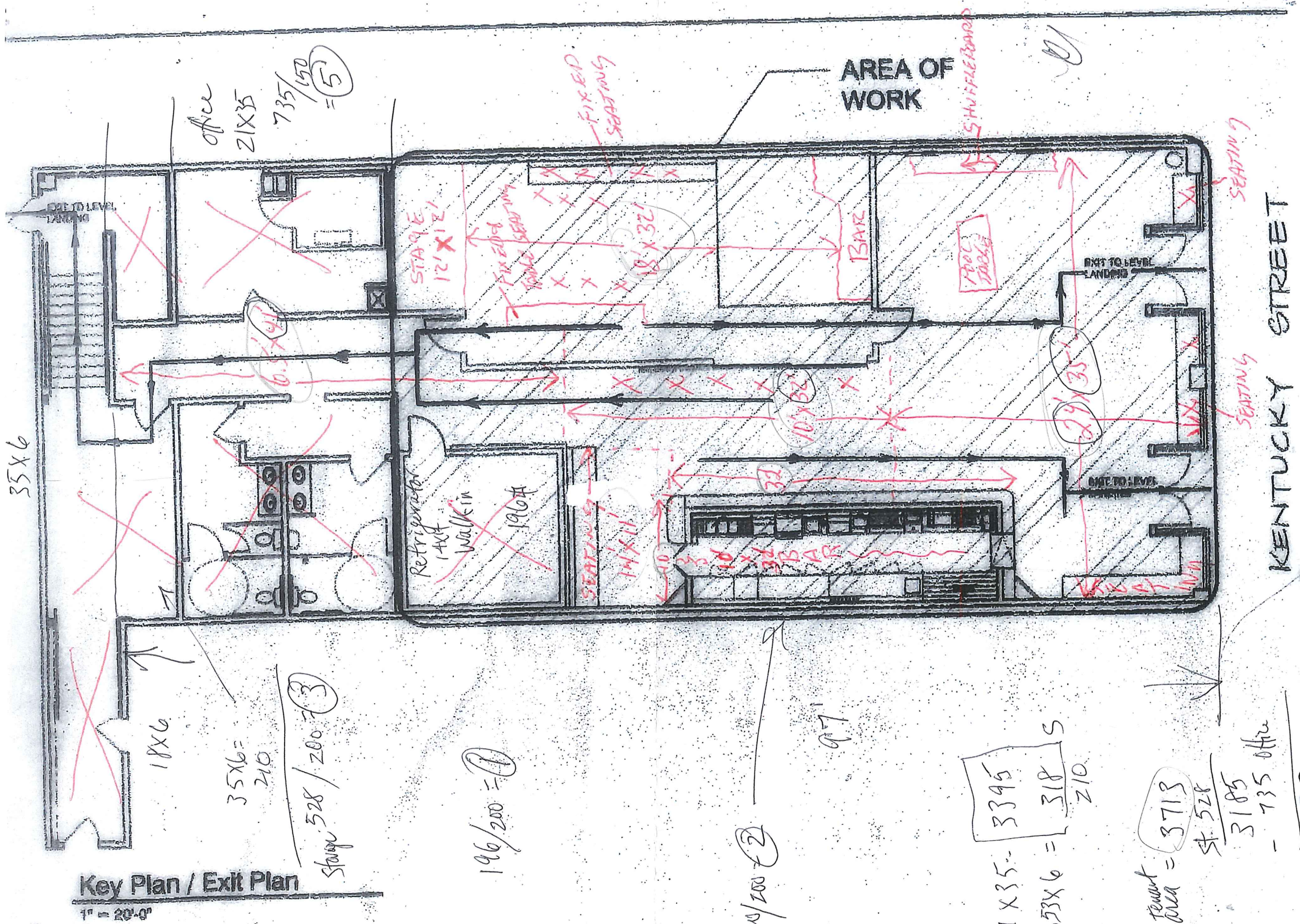
My clients respectfully request the following: 1) that their occupancy load be immediately restored to the previous number of 275, 2) that all citations of NOV's made against JRD be withdrawn and nullified and 3) these completely new demands that they build out their bathrooms also be withdrawn, as they do not request and have never requested an increase in their occupancy load, but rather the fair restoration of their original one which they have been using for the past nine years.

Thank you for your time and consideration.



Patrick Ciocca  
Attorney at Law





Key Plan / Exit Plan  
1" = 20'-0"

KENTUCKY STREET

Stage:  $528 / 200 = 2.64$

$196 / 200 = 0.98$

$320 / 200 = 1.6$

$97 \times 35 = 3395$   
 $(35 + 18) \times 35 \times 6 = 3185$   
 Total = 6580

Total Area = 3713  
 $528$   
 $3185$   
 - 735 Office  
 2450

$196 \times 200$   
 $2254$   
 $- 320$   
 1934

$1934 / 15 = 129$

estimate 139





# CITY OF PETALUMA

11 ENGLISH STREET  
PETALUMA, CA 94952

Kevin McDonnell  
*Mayor*

Brian Barnacle  
Mike Healy  
Karen Nau

Dennis Pocekay  
John Shribbs

Janice Cader Thompson  
*Councilmembers*

May 19, 2023

*Via Email Only*

Patrick Ciocca  
Attorney at Law  
2901 Cleveland Avenue, Ste 201  
Santa Rosa, CA 95403  
[pmcesq@hotmail.com](mailto:pmcesq@hotmail.com)

Brian Tatko  
[briantatko@gmail.com](mailto:briantatko@gmail.com)

Re: Maximum Occupancy

Dear Mr. Tatko and Mr. Ciocca,

Please accept this letter as the City's response to your emails regarding the Roaring Donkey's maximum occupancy.

When the business previously located at 146 Kentucky Street obtained a Conditional Use Permit (CUP), it sought a CUP for a lounge area, with a vision of customers having drinks while sitting and enjoying a relaxing evening. In its application to obtain a CUP, the business advised the City that its capacity would be 130 people. (See page 33 of the CUP, attached as **Exhibit A**). Accordingly, on May 11, 2004, when the Planning Commission issued and approved the CUP for 146 Kentucky Street, it did so with the understanding that the patron capacity for this site would be 130 patrons. Additionally, in the City's May 11, 2004 staff report to the Petaluma Planning Commission, City staff advised that the occupancy would be 130 patrons, which was based on the CUP application. Similarly, when the Petaluma Police Department and Petaluma Fire Marshal made their "public convenience or necessity findings," as required by the California Alcoholic Beverage Control (ABC), and stated in Findings 2 and 3 for the Determination of Public Convenience or Necessity of the of the CUP, they did so based on the maximum occupancy of 130 patrons, as stated in the CUP application (see page 2 and 3 **Exhibit A**). The 130 maximum occupancy for 146 Kentucky Street is corroborated by ABC's 2004 load number cited in your April 30, 2023 letter.

A CUP runs with the land, so the CUP that the previous owner obtained from the City applied to the Roaring Donkey when it was opened at 146 Kentucky Street. The City's documents relating to the official occupancy of 146 Kentucky Street reflect an occupancy of 130 people.

The CUP provides the procedure for an increase in occupancy for 146 Kentucky Street. "Any... expansion as to the nature of the business (type of ABC license, etc.) shall require an amendment to the Conditional Use Permit." (See Condition 3 from the Community Development Department for the May 11, 2004, CUP, attached as **Exhibit A**). To increase the occupancy from 130 patrons to 275 patrons would be considered an expansion of the nature of

*City Attorney*  
11 English Street  
Petaluma, CA 94952

Phone (707) 778-4362

E-Mail:  
[cityattorney@cityofpetaluma.org](mailto:cityattorney@cityofpetaluma.org)



the business under its CUP and would require a modification by the Planning Commission. However, the City does not have any document showing that the Roaring Donkey applied for an amendment to its CUP to change the nature of its business (from an establishment with seats to a standing room bar) and increase its maximum occupancy from 130 patrons to 275 patrons. Also, the California Building Code, which the City adopted pursuant to Petaluma Municipal Code Section 17.04.010, has additional requirements to amend the occupancy.

The City does not know why the Roaring Donkey posted a maximum occupancy of 275 on its facility nor does it have documentation changing its maximum occupancy from 130 to 275. As you know, the maximum occupancy is based on a variety of factors to ensure the safety of the individuals inside the building. We invite the Roaring Donkey to provide us with documents changing the official capacity from 130 to 275 and we would be happy to review them.

The Petaluma community has experienced several problems from patrons who drank at the Roaring Donkey, such as but not limited to, driving under the influence. In response to these problems, the City's safety departments conducted inspections of the Roaring Donkey and the City's Code Enforcement Officer issued Notices of Violation. During this process, the City also advised the Roaring Donkey that its maximum occupancy is 130, not 275. The City is aware of a Fire Department permit issued for Roaring Donkey, wherein the maximum occupancy is listed as 250. However, after a review, it was determined that this number was likely listed as the maximum occupancy because it obtained that number from the Roaring Donkey.

In response to Roaring Donkey's correspondence to the City, the City's Building Official reviewed Roaring Donkey's current floor plans and estimated the occupancy should be around 130-139. On or about February 13, 2023, Code Enforcement Officer Doug Hearn emailed Mr. Tatko advising of the Building Official's review of the current plans. Pursuant to Section 301-304 of the California Building Code, it is the authority of the Building Official to determine the maximum occupancy.

We understand that the Roaring Donkey operated at a higher occupancy before the City began its enforcement actions and would like to increase its occupancy as soon as reasonably possible. Therefore, the City is in the process of scheduling a meeting with the Roaring Donkey and City management. In the interim, we welcome the opportunity to review any documents you may have establishing the Roaring Donkey's occupancy at a higher rate than 130-139 patrons.

We look forward to meeting with you to further discussing this matter with you.

Sincerely,



Jordan Green

**Exhibit A:** May 12, 2004 Conditional Use Permit



# CITY OF PETALUMA

☒ **ADMINISTRATIVE CITATION**

☐ **CORRECTIONS NOTICE**

Citation # 05090

Dept.: Fire Department

Violation Date 03/10/2023 Time 1145 AM ☐ PM ☒ Day of Week FRIDAY Dept. Case # N/A

Location of Violation(s) 146 Kentucky St. Petaluma, CA APN # 006281007

Name of Responsible Person (First, Middle, Last)

Brian James Muldoon (Agent)

Business Name (If Applicable): Notate LLC, DBA "Jennison's Raring Donkey"

Address: 1225 Perth, Way

City: Inverness

State: CA

Zip Code: 94957

## Petaluma Municipal Code Violation(s):

Section	Description and Corrective Action Required	Penalty
CCR Title 19 Division 1 § 3.27	Overcrowding. Exceeding posted occupancy limit. Correction: Do not exceed posted occupancy limit of 139. <u>First Violation</u>	\$250

Violations shall be corrected by 03/11/2023, or an (additional) administrative citation will be issued, and/or other code enforcement action taken.

Total Penalty Due

\$ 250.00

Penalty Due By

04/13/2023

Continuation or Repetition of the noted violation(s) is prohibited.

Issued: 03/13/2023

☒ Mailed ☐ Hand Delivered

Issuing Employee:

Name: Amy Segui, Fire Inspector

Signature: Amy Segui

NOTICE: SEE ATTACHED DOCUMENTS

G/L Acct# 1100.13100.42710

Petaluma Police Department, 969 Petaluma Blvd. North, Petaluma, CA 94952 (707) 778-4372

ISSUING DEPARTMENT



# CITY OF PETALUMA

## NOTICE OF VIOLATION

☒ **ADMINISTRATIVE CITATION**

Citation # 01560 -2

☐ **CORRECTIONS NOTICE**

Dept.: POLICE/FIRE

Violation Date

3-17-2023

Time

9:57

AM ☐

PM ☒

Day of Week

FRIDAY

Dept. Case #

CE 28-22

Location of Violation(s)

146 KENTUCKY ST., PETALUMA, CA

APN #

006-281-007

Name of Responsible Person (First, Middle, Last)

BRIAN THOMAS TATKO (MANAGING MEMBER)

Business Name (If Applicable):

JAMISON'S ROARING DONKEY - NOTATO, LLC

Address:

1225 PERTH WAY

City:

INERNESS

State:

CA

Zip Code:

94957

Section

Petaluma Municipal Code Violation(s)

Description and Corrective Action Required

Penalty

CCR  
TITLE 19  
DIVISION 1,  
3.27/  
PMC  
17.20.050.

OVERCROWDING - EXCEEDING POSTED  
OCCUPANCY - LIMIT OF 139  
CORRECTIVE ACTION: DO NOT EXCEED  
POSTED 139 LIMIT

\$500-

CFC 104.5

FAILURE TO OBEY FIRE CODE  
OFFICIAL ORDERS

\$250-

2ND VIOLATION

Violations shall be corrected by IMMEDIATELY, or an (additional) administrative citation will be issued, and/or other code enforcement action taken.

Total Penalty Due

\$ 750 -

Penalty Due By

4-21-2023

Continuation or Repetition of the noted violation(s) is prohibited.

Issued:

3-20-2023

Issuing Officer:

Name:

JESSICA POWER, FIRE MARSHALL

☐ Mailed

☐ Hand Delivered

Signature:

Jessica Power

NOTICE: SEE ATTACHED DOCUMENTS

G/L Acct#





# CITY OF PETALUMA

## NOTICE OF VIOLATION

☒ **ADMINISTRATIVE CITATION**

Citation # 01559-3

☐ **CORRECTIONS NOTICE**

Dept.: POLICE/FIRE

Violation Date

3-18-2023

Time 11:47 AM ☐ PM ☒

Day of Week

SATURDAY

Dept. Case #

CE23-22

Location of Violation(s)

146 KENTUCKY ST. PETALUMA, CA APN # 006-281-007

Name of Responsible Person (First, Middle, Last)

BRIAN THOMAS TATKO (MANAGING MEMBER)

Business Name (If Applicable):

JAMISON'S ROARING DONKEY - NOTATO, LLC

Address:

1225 PERTH WY

City:

INVERNESS

State:

CA

Zip Code:

94957

Section

Petaluma Municipal Code Violation(s)  
Description and Corrective Action Required

Penalty

CCR  
TITLE 19  
DIVISION 1  
327/  
PMC  
17.20.050  
CFC 104.5

OVERCROWDING-EXCEEDING POSTED  
OCCUPANCY-LIMIT OF 139  
  
CORRECTIVE ACTION: DO NOT EXCEED  
POSTED LIMIT OF 139  
  
FAILURE TO OBEY FIRE CODE  
OFFICIAL ORDERS  
  
3RD VIOLATION

\$1000-  
  
  
  
  
\$500-

Violations shall be corrected by IMMEDIATELY, or an (additional) administrative citation will be issued, and/or other code enforcement action taken.

Total Penalty Due

\$ 1500-

Penalty Due By

4-21-2023

Continuation or Repetition of the noted violation(s) is prohibited.

Issued:

3/20/2023

Issuing Officer:

Name:

JESSICA POWER, FIRE MARSHALL

Signature:

☐ Mailed

☐ Hand Delivered

NOTICE: SEE ATTACHED DOCUMENTS

G/L Acct#



# CITY OF PETALUMA

11 ENGLISH STREET  
PETALUMA, CA 94952

Kevin McDonnell  
*Mayor*

Brian Barnacle  
Mike Healy  
Karen Nau

Dennis Pocekay  
John Shribbs

Janice Cader Thompson  
*Councilmembers*

May 19, 2023

*Via Email Only*

Patrick Ciocca  
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2901 Cleveland Avenue, Ste 201  
Santa Rosa, CA 95403  
[pmcesq@hotmail.com](mailto:pmcesq@hotmail.com)

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Sincerely,



Jordan Green

**Exhibit A:** May 12, 2004 Conditional Use Permit



DJ STATION

DANCE  
FLOOR

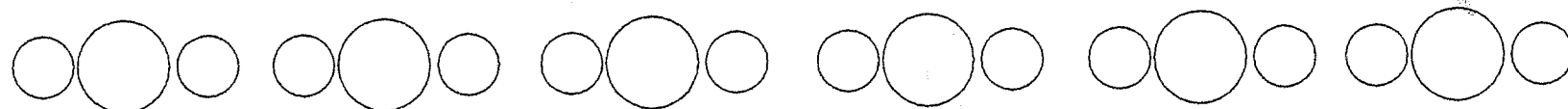
SEATING AGAINST WALL

DANCE FLOOR

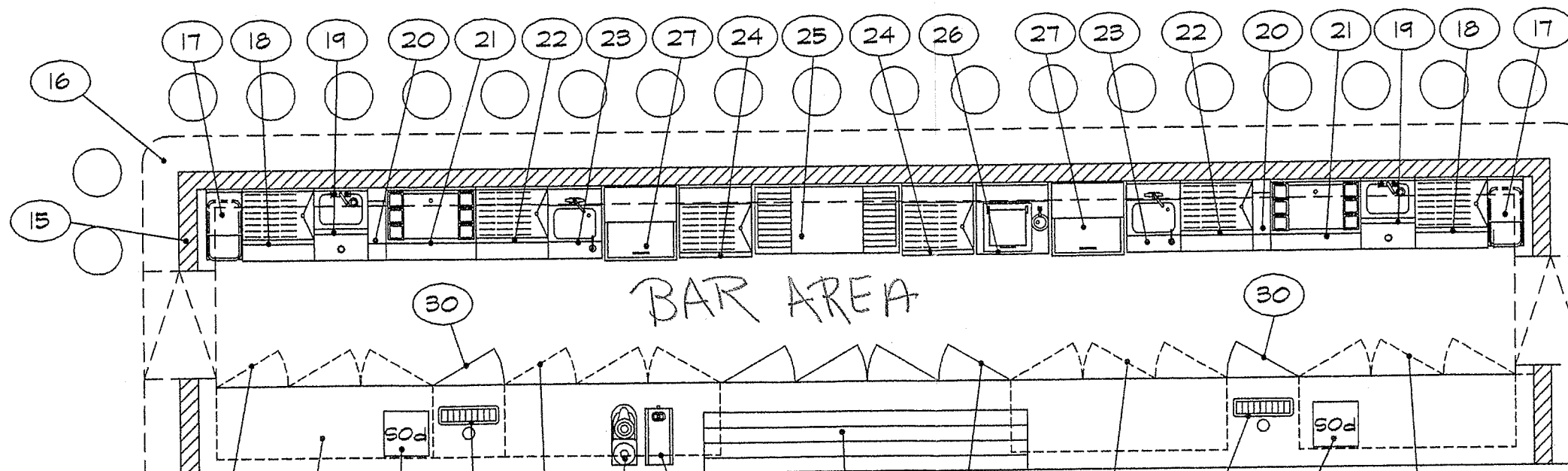
SEATING AREA

ENTRY  
146

RAILING



BAR STOOLS BAR SEATING



BAR AREA

SEATING  
AREA