



CITY OF PETALUMA

POST OFFICE BOX 61
PETALUMA, CA 94953-0061

Kevin McDonnell
Mayor

November 02, 2023

Councilmembers:
Janice Cader Thompson,
District 1
John Shribbs,
District 2
Karen Nau,
District 3
Brian Barnacle,
at-large
Mike Healy,
at-large
Dennis Pocekay,
at-large

Via Email and Certified Mail

[Sent via e-mail to:
pmcesq@hotmail.com;
briantatko@gmail.com]

Patrick Ciocca
Attorney at Law
2901 Cleveland Avenue
Suite 201
Santa Rosa, CA 95403
(415) 265-4200
pmcesq@hotmail.com

Brian Tatko
briantatko@gmail.com

RE: IZO 24.060(G) Notice of Noncompliance with CUP for 146 Kentucky Street

Dear Messrs. Tatko and Ciocca,

Please accept this letter at the City's Notice, pursuant to Petaluma's Implementing Zoning Ordinance (IZO) section 24.060(G) (attached as Ex. 1) that I find that you have failed to comply with the terms of the Conditional Use Permit (CUP), attached as Exhibit 2, for Jamison's Roaring Donkey (JRD). Condition No. 5 of the CUP states:

Prior to commencement of use, the business owner shall submit to the Chief of Police a detailed security plan. The plan shall include, but not be limited to, the periods of time and staffing levels for security personnel, duties, responsibilities and qualifications of security staff. The plan shall be submitted for review and approval by the Chief of Police. Such plan shall be amended prior to any change in operations include, but not limited to, the periods of time and staffing levels for security personnel, duties, responsibilities and qualifications of security staff for review and approval by the Chief of Police within 14 days of the change in business operations.

Despite repeated requests, the City does not have a submitted and approved security plan for Jamison's Roaring Donkey. On March 20, 2023, the City issued you an administrative citation for failing to comply with your CUP by failing to submit a detailed security plan. On March 25, 2023, the City issued you a second citation for failing to submit a detailed security plan. During our June 8th meeting with you, we discussed the fact that you have not submitted for approval a detailed security plan and urged you to do so as soon as possible. In our October 10th letter to you, we advised you to submit a security plan to the Chief of Police by October 20, 2023. It is November 02, 2023 and despite our repeated efforts, you continue to refuse to submit to the Chief of Police a detailed security plan, as required by your CUP.

Additionally, since the City sent you its October 10, 2023 letter, the City has continued to experience alcohol related problems arising out of JRD's business operations. For example, there have been continued incidents involving reported fights inside the establishment, assaults, disturbances, and DUI drivers. Additionally, patrons have made allegations of being assaulted by JRD security staff.

**Community Development
Department**

11 English Street
Petaluma, CA 94952
Fax (707) 778-4498

Building Division

Phone (707) 778-4301
E-Mail:
building@cityofpetaluma.org

To Schedule Inspections

Phone (707) 778-4479

Planning Division

Phone (707) 778-4470
Fax (707) 778-4498
E-Mail:
petalumaplanning@cityofpetaluma.org

Housing Division

Phone (707) 778-4563
E-Mail:
housing@cityofpetaluma.org



EQUAL HOUSING
OPPORTUNITY

Thus, this is the City's official Notice, pursuant to IZO section 24.060(G), that the City will suspend JRD's CUP, attached as Exhibit 1, for 20 days, beginning November 22, 2023, if the Chief of Police does not receive and approve a detailed security plan. As discussed in the City's October 10th letter, the security plan shall include a list of all the security companies and officers used by JRD, copies of all the security companies' current state permits and each individual's guard cards, including any special authorizations for weapons. The Chief of Police will review with consideration of approval within 10 days of receipt.

IZO section 24.060(G) states:

Revocation. Upon a permittee's violation of any applicable provision of this [Zoning](#) Ordinance, or, upon a permittee's failure to comply with any terms or conditions of a use permit, the Director may send the permittee a certified letter informing the permittee of the facts constituting noncompliance and stating that the permittee has 20 calendar days from the date of the letter to comply with the requirements of this [Zoning](#) Ordinance and/or the terms and conditions of the use permit. If, after 20 calendar days have elapsed from the date of the notice, the permittee has failed to cure the permittee's noncompliance as required, the Director shall send a second certified letter to the permittee suspending the use permit and advising the permittee of the permittee's right to be heard by filing an appeal pursuant to Section [24.090](#). The suspension will be in effect for 20 calendar days from the date of the notice of suspension. If, after the 20-day suspension, the permittee still has not cured the permittee's noncompliance as required, or if the permittee has failed to file a timely appeal, the use permit shall be revoked and terminated and shall be null and void without further action by the City.

Pursuant to IZO section 24.060(G), you have a right to file an appeal pursuant to IZO section 24.090, attached as Exhibit 3.

Furthermore, you also have until November 9, 2023 to complete the other tasks outlined to you in the City's October 10th letter. If those tasks are not completed by November 9, 2023, the City will seek to revoke or significantly modify your CUP.

If you have any questions, please feel free to contact me.

Sincerely,

Brian Oh

Brian Oh
Director of Community Development

Attachments:

1. 2004 Conditional Use Permit
2. City correspondence, October 10, 2023

Attachment 1



CITY OF PETALUMA

POST OFFICE BOX 61
PETALUMA, CA 94953-0061

David Glass
Mayor

12 May 2004

Mike Harris
Mike Healy
Bryant Moynihan
Mike O'Brien
E. Clark Thompson
Pamela Torliatt
Councilmembers

Ms. Jan Rosen
Ms. Sylvie de Segur
725 B Street
Petaluma, CA 94952

RE: Conditional Use Permit and
Determination of Public Convenience and Necessity for
Anexie Inc., dba Infusions
146 Kentucky Street, APN 006-281-007

Dear Ms. Rosen and Ms. de Segur:

At the meeting of May 11, 2004, the Petaluma Planning Commission considered your request for a Conditional Use Permit to authorize the operation of an Alcoholic Beverage Establishment with live entertainment, and also the request that a Determination of Public Convenience or Necessity be made and the findings forwarded to the State of California Alcoholic Beverage Control in favor of the issuance of an ABC Type 48 – on-sale general license to allow the sales of alcohol at 146 Kentucky Street, based on the findings and subject to the conditions listed below.

Findings for the Conditional Use Permit:

1. The proposed Alcoholic Beverage Establishment with live entertainment, as conditioned, will conform to the requirements and intent of the General Plan, as the use is appropriate for the area in which it is proposed to be located, and is a small business as encouraged by the General Plan.
2. The proposed Alcoholic Beverage Establishment with live entertainment, is consistent with the requirements set forth in Zoning Ordinance Section 21-430.24(A)(1 through 13), as conditions have been imposed to regulate operating characteristics.
3. The proposed Alcoholic Beverage Establishment with live entertainment will not constitute a nuisance or be detrimental to the public welfare of the community, as a Conditional Use Permit will provide a benefit to the community by virtue of its presence, and provide the ability to regulate the Alcoholic Beverage Establishment. Furthermore, conditions have

Community Development
Department
11 English Street
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cdd@ci.petaluma.ca.us

Code Enforcement
Phone (707) 778-4469
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Engineering
Phone (707) 778-4301
Fax (707) 778-4498

Inspection Services
Phone (707) 778-4301
Fax (707) 778-4498
To Schedule Inspections:
Phone (707) 778-4479

Permits
Phone (707) 778-4301
Fax (707) 778-4498

Planning
Phone (707) 778-4301
Fax (707) 778-4498

been imposed as conditions of approval to address any potential adverse operating characteristics which have the potential to create a nuisance.

4. The proposed Alcoholic Beverage Establishment with live entertainment has been reviewed under the provisions of the California Environmental Quality Act (CEQA Guidelines, and pursuant to Section 15061(b)(3) of the CEQA Guidelines has been found to be exempt per the general rule that there is no possibility that the activity may have a significant effect on the environment.
5. That the record of proceedings of the decision on the project is available for public review at the City of Petaluma Community Development Department, Planning Division, City Hall, 11 English Street, Petaluma, California.

Findings for the Determination of Public Convenience or Necessity:

1. The proposed use is within a census tract which, pursuant to State Assembly Bill 2897 which amended Section 23958 of the Business and Professions Code, is considered to have an undue concentration of retail liquor licenses. The Planning Commission finds that, pursuant to Section 23958.4(b)(2), this license should be issued to Anexie Inc., dba Infusions, because:
 - a. The sale of beer, wine and spirits will provide a convenience to the patrons;
 - b. The sale of beer, wine and spirits is necessary to ensure the economic viability of the business;
 - c. Although Anexie Inc., dba Infusions proposes to be located within a census tract which experiences an undue concentration of retail alcohol licenses, the sale of alcohol will not create a nuisance or be detrimental to the public health or welfare, as conditions relating to security will limit the potential for nuisances.
2. Per Resolution No. 96-56 N.C.S. the Police Department has reviewed the above referenced application requesting that a determination be made and the finding(s) forwarded to the State of California Alcoholic Beverage Control (ABC) that public convenience or necessity would be served by the issuance of an ABC license (Type 48 – On-Sale General Public Premise) to allow the retail sales of alcohol at 146 Kentucky Street. The Police Department reviewed the subject area for the period January 1, 2003 to the present, and finds that based on the reports generated, an increased burden for Police services is not anticipated at

this location given the proposed operating characteristics of the wine bar/lounge.

3. Per Resolution No. 96-56 N.C.S. the Fire Marshal's office in the Fire Department has reviewed the above referenced application requesting that a determination be made and the finding(s) forwarded to the State of California Alcoholic Beverage Control (ABC) that public convenience or necessity would be served by the issuance of an ABC license (Type 48 – On-Sale General Public Premise) to allow the retail sales of alcohol at 146 Kentucky Street. Based on the details in the submitted application, an increased burden for Fire services is not anticipated at this location.

From the Community Development Department:

Planning Division:

1. This Conditional Use Permit authorizes Anexie Inc., dba Infusions to operate an Alcoholic Beverage Establishment with Live Entertainment at 146 Kentucky Street, APN 006-281-007.
2. Per Zoning Ordinance Section 21-430.16(A) and (B), this conditional use permit is issued to Jan Rosen and Sylvie de Segur, the principals of Anexie Inc., dba Infusions, and may not be assigned or transferred without notification to the Community Development Director. Additionally, notification of a transfer of a conditional use permit shall be required prior to any change in an interest in a partnership or ownership of ten percent (10%) or more of the stock of a corporation to any person not listed on the application filed March 31, 2004.
3. The hours of operation for the alcoholic beverage establishment and live entertainment shall be limited, as proposed by the applicants to 7:00AM to 2:00AM, 7 days per week. Hours of operation for office use may be 24 hours, 7 days per week.
4. Any physical expansion of the facility, or expansion as to the nature of the business (type of ABC license, etc.) shall require an amendment to this Conditional Use Permit. Future use of the basement shall be limited to storage only.
5. The bar/lounge shall be operated in such a manner so that it at no time violates zoning standards regarding noise generation. As such, at times that live entertainment is offered the door(s) to the bar/lounge shall remain closed. At no time shall business activities exceed the Performance Standards specified in Zoning Ordinance Section 22-301 and/or the 1987 General Plan.

*Get
an
amendment*

6. Any proposed exterior changes to the building shall be subject to Site Plan and Architectural Review approval.
7. A Conditional Use Permit for an alcoholic beverage establishment with live entertainment may be recalled to the Planning Commission for review at any time due to complaints regarding lack of compliance with conditions of approval, traffic congestion, noise generation, or other adverse operating characteristics. At such time, the Commission may revoke the conditional use permit or add/modify conditions of approval.
8. The applicants/developers shall defend, indemnify, and hold harmless the City or any of its boards, commission, agents, officers, and employees from any claim, action or proceeding against the City, its boards, commission, agents, officers, or employees to attack, set aside, void, or annul, the approval of the project when such claim or action is brought within the time period provided for in applicable State and/or local statutes. The City shall promptly notify the applicants/developers of any such claim, action, or proceeding. The City shall coordinate in the defense. Nothing contained in this condition shall prohibit the City from participating in a defense of any claim, action, or proceeding if the City bears its own attorney's fees and costs, and the City defends the action in good faith.

Building Division:

9. A building permit shall be required for the tenant improvement.

From the Police Department:

Conditional Use Permit:

1. The operation of an alcoholic beverage establishment shall be the responsibility of the permittees personally (if the applicants are the permittee) or a manager or designated responsible employee of the permittee at all times. The permittee shall designate the names of all such managers and designated responsible employees in the application and shall advise the Police Chief and Community Development Director in writing whenever any change is made.
2. The permittees personally (if the applicants are the permittees) or a manager or a designated responsible employee shall be on the premises at all times during the conduct of business.
3. All employees and managers shall complete a program recognized by the Department of Alcoholic Beverage Control (ABC) at a qualified Responsible Beverage Service Program prior to the commencement of a new business or within ninety (90) days of hire for new employees. The permittees and/or manager of an alcoholic beverage establishment shall

maintain on the premises a file containing the certificates of training for all employees.

4. The alcoholic beverage establishment shall be operated in such a manner so that it or its patrons at no time violate the Petaluma Municipal Code, the Zoning Ordinance and/or the Penal Code standards regarding noise generation. Should complaints be received regarding noise disruption the applicant shall take reasonable and practical steps as directed by the Police Chief and Community Development Director to reduce the intensity, number and/or occurrences of these disruptions.
5. Prior to commencement of use, the business owner shall submit to the Chief of Police a detailed security plan. The plan shall include, but not be limited to, the periods of time and staffing levels for security personnel, duties, responsibilities and qualifications of security staff. The plan shall be submitted for review and approval by the Chief of Police. Such plan shall be amended prior to any change in operations including, but not limited to, the periods of time and staffing levels for security personnel, duties, responsibilities and qualifications of security staff for review and approval by the Chief of Police within 14 days of the change in business operations.
6. The Chief of Police shall be notified by the first day of each month of the live entertainment calendar, so as to be aware of the nights live entertainment is offered.
7. Bar/lounge personnel shall check identification (I.D.) to insure that the clientele are of legal age to enter.
8. The permittees and/or manager shall be responsible for ensuring that the sidewalk is kept clear of patrons during business hours so as to not impede pedestrian traffic.
9. The applicant shall comply with Alcoholic Beverage Control (ABC) laws and regulations. Suspension of the applicant's license by the ABC will constitute sufficient cause or basis for review and possible revocation of a conditional use permit.

From the Fire Marshal

1. The building permit application for the tenant improvement shall comply with the Uniform Fire and Building Codes for an assembly occupancy.

From the Water Resources and Conservation Department

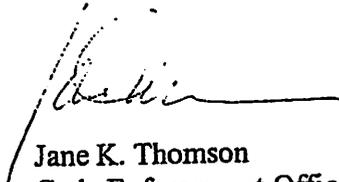
1. Verify that the existing service will provide maximum water demands for domestic, irrigation and any Fire Department requirements.
2. Provide reduced pressure principal backflow prevention devices on water service per city standards 876.01

Within fourteen (14) calendar days following the date of a decision of the Planning Commission (May 11, 2004), the decision may be appealed to the City Council by the applicant or by any other interested party. If no appeal is made within that time, the decision shall be final. An appeal shall be addressed to the City Council in writing and shall be filed with the City Clerk. The appeal shall state specifically the grounds for the appeal and the relief sought by the appellant. The appeal fee as specified by Resolution 2004-028 N.C.S. as adopted by the City Council shall accompany said appeal.

In any case where a conditional use permit has not been used within one (1) year after the date of granting thereof, the permit shall be revoked unless (30) days prior to the one (1) year expiration date, renewal of the permit for an additional period of not more than one (1) year shall be approved by the Community Development Department. If after the one (1) year extension period has expired, a conditional use permit has not been used, then without further action the permit shall be revoked and be null and void.

Should you have any questions regarding this letter, I may be reached Monday through Friday, 8AM to 5PM at (707) 778-4469.

Sincerely,



Jane K. Thomson
Code Enforcement Officer

c: Troy Wright, State of California Department of Alcoholic Beverage
Control, 50 D Street, Suite 130, Santa Rosa, CA 95404
Helen Issel, Tr. et al, P.O. Box 593, Sonoma, CA 95476
Police Department
Project File #04-CUP-0181-CR
s:\planningcommission\letters\146Kentuckyinfusions

APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE(S)

ABC 211 (6/99)

TO: Department of Alcoholic Beverage Control
 50 D Street
 Room 130
 Santa Rosa, CA 95404
 (707) 576-2165

File Number: 412347
 Receipt Number: 1464254
 Geographical Code: 4903
 Copies Mailed Date: April 15, 2004
 Issued Date:

DISTRICT SERVING LOCATION: SANTA ROSA

First Owner: ANEXIE INC
 Name of Business: INFUSION

Location of Business: 146 KENTUCKY ST
PETALUMA, CA 94952

County: SONOMA

Is premise inside city limits? Yes Census Tract 1507.01

Mailing Address: 263 PHOTINIA PLACE
 (If different from PETALUMA, CA 94952
 premises address)

Type of license(s): 48

Transferor's license/name: 345201 / HUFF & CROWD Dropping Partner: Yes No

License Type	Transaction Type	Fee Type	Master	Dup	Date	Fee
48 ON-SALE GENERAL	PERSON TO PERSON TRANSF	P40	Y	0	04/15/04	\$1,250.00
48 ON-SALE GENERAL	ANNUAL FEE	P40	Y	0	04/15/04	\$758.00
48 ON-SALE GENERAL	PREMISE TO PREMISE TRANS	P40	Y	0	04/15/04	\$100.00
48 ON-SALE GENERAL	STATE FINGERPRINTS	NA	N	1	04/15/04	\$39.00
Total						\$2,147.00

Have you ever been convicted of a felony? No

Have you ever violated any provisions of the Alcoholic Beverage Control Act, or regulations of the Department pertaining to the Act? No

Explain any "Yes" answer to the above questions on an attachment which shall be deemed part of this application.

Applicant agrees (a) that any manager employed in an on-sale licensed premise will have all the qualifications of a licensee, and (b) that he will not violate or cause or permit to be violated any of the provisions of the Alcoholic Beverage Control Act.

STATE OF CALIFORNIA

County of SONOMA

Date: April 15, 2004

Under penalty of perjury, each person whose signature appears below, certifies and says: (1) He is an applicant, or one of the applicants, or an executive officer of the applicant corporation, named in the foregoing application, duly authorized to make this application on its behalf; (2) that he has read the foregoing and knows the contents thereof and that each of the above statements therein made are true; (3) that no person other than the applicant or applicants has any direct or indirect interest in the applicant or applicant's business to be conducted under the license(s) for which this application is made; (4) that the transfer application or proposed transfer is not made to satisfy the payment of a loan or to fulfill an agreement entered into more than ninety (90) days preceding the day on which the transfer application is filed with the Department or to gain or establish a preference to or for any creditor or transferor or to defraud or injure any creditor of transferor; (5) that the transfer application may be withdrawn by either the applicant or the licensee with no resulting liability to the Department.

Applicant Name(s)

Applicant Signature(s)

ANEXIE INC

See 211 Signature Page

Troy Weigert

LEGAL RECOURSE STATEMENT: Persons commenting orally or in writing are advised to raise all pertinent issues at this state of review so that possible solutions may be implemented or adopted at the earliest opportunity. If you challenge the action taken by the City of Petaluma in court, you may be limited to raising only those issues you or someone else raised during the public review process, or in written correspondence delivered to the City at or prior to the conclusion of the public review process.

CONSENT CALENDAR:

Consent Calendar items are typically routine in nature and are considered for approval and/or recommendation by the Planning Commission with a single action. The Planning Commission may remove items from the Consent Calendar for discussion. If members of the public wish to comment on Consent Calendar items, they should do so during "Public Comment."

- I. ANNEXIE INC., DBA INFUSIONS**
146 Kentucky Street, APN 006-281-007
File: 04-CUP-0181-CR
Planner: Jane K. Thomson

Consideration of a Conditional Use Permit to authorize the operation of an Alcoholic Beverage Establishment (bar/lounge) with Live Entertainment, and a determination be made and the findings forwarded to the State of California Alcoholic Beverage Control (ABC) that Public Convenience or Necessity would be served by the issuance of an ABC Type 48 license (On-sale General – Public Premise) to allow the sale of alcohol at 146 Kentucky Street.

PUBLIC HEARING:
NEW BUSINESS:

- II. RIVERVIEW SUBDIVISION, McNear Avenue at Mission Drive**
AP No.: 019-210-017, 019, 027, 030, 031, 037
File: 03-PRZ-0187
Planner: Jayni Allsep

Applicant is requesting a recommendation to the City Council of a proposal to 1) prezone the property at McNear Avenue near Mission Drive totaling 22.9 acres to Planned Unit Development (PUD); 2) to annex the prezoned property to the City of Petaluma and 3) to subdivide a 17.11-acre portion of the property into 63 residential lots.

1 CITY OF PETALUMA, CALIFORNIA
2 MEMORANDUM
3

4 *Community Development Department, Planning Division, 11 English Street, Petaluma, CA 94952*
5 *(707) 778-4301 Fax (707) 778-4498 E-mail: planning@ci.petaluma.ca.us*

6
7 DATE: 11 May 2004 AGENDA ITEM NO. CONSENT
8
9 TO: Planning Commission
10
11 FROM: Jane K. Thomson, Code Enforcement Officer
12
13 SUBJECT: Consideration of a Conditional Use Permit and
14 Determination of Public Convenience or Necessity for
15 Anexie Inc., dba Infusions at
16 146 Kentucky Street, APN 006-281-007
17 Project File No(s). 04-CUP-0181-CR
18

19 **RECOMMENDATIONS**

20
21 Staff recommends that the Planning Commission approve the Conditional Use Permit for an Alcoholic
22 Beverage Establishment, and make the determination that public convenience or necessity would be
23 served by the issuance of a Type 48 Alcoholic Beverage License to Anexie Inc., dba Infusions at 146
24 Kentucky Street, subject to the attached draft findings and conditions of approval.
25

26 **PROJECT SUMMARY**

27
28 **Project Planner:** Jane K. Thomson, Code Enforcement Officer
29

30 **Project Applicant:** Jan Rosen and Sylvie de Segur
31

32 **Property Owner:** Helen Issel, Tr. Et Al
33

34 **Nearest Cross Street to Project Site:** Washington Street
35

36 **Property Size:** 8,000 sq.ft. (entire building is 8,000 sq.ft., proposed bar/ounge is 3,500 sq.ft.)
37

38 **Site Characteristics:** Commercial Building
39

40 **Existing Use:** Vacant
41

42 **Proposed Use:** Alcoholic Beverage Establishment with Live Entertainment
43

44 **Current Zoning:** Central Commercial (C-C)
45

46 **Proposed Zoning:** Central Commercial (C-C)

1
2
3 **Current General Plan Land Use:** Community Commercial

4
5 **Proposed General Plan Land Use:** Community Commercial

6
7 **Subsequent Actions if Project is Approved:** Determination and finding(s) forwarded to the State of
8 California Department of Alcoholic Beverage Control (ABC).
9

10 **PROJECT DESCRIPTION**

11
12 **APPROVAL REQUESTED**

13
14 Jan Rosen and Sylvie de Segur, the principals of Anexie Inc., dba Infusions, are requesting a
15 Conditional Use Permit (CUP) to authorize the operation of an Alcoholic Beverage Establishment
16 (bar/lounge) with Live Entertainment at 146 Kentucky Street. Proposed hours of operation for the
17 bar/lounge are Monday through Sunday, 7:00AM to 2:00AM. As a permitted use, the office may be
18 operated seven days per week, 24 hours per day. Ms. Rosen and Ms. de Segur will manage the
19 business together, and employ four (4) to eight (8) employees. No formal kitchen is proposed to be
20 operated; any food service needed will be catered from the Waterfront Grill (owned by Jan Rosen).
21

22 The applicants are also requesting that a determination be made and the finding(s) forwarded to the
23 State of California Alcoholic Beverage Control (ABC) that public convenience or necessity would be
24 served by the issuance of an ABC license (Type 48 – On sale General – Public Premise) to allow the
25 sale of alcohol at 146 Kentucky Street, Assessor's Parcel Number 006-281-007.
26

27 **SETTING**

28
29 The building is located on the east side of Kentucky Street, south of Washington Street (please see
30 attached Location Map). The building is currently vacant, however there is a tenant improvement in
31 progress for a tanning salon in an adjacent space.
32

33 **STAFF ANALYSIS**

34
35 Conditional Use Permit

36
37 Alcoholic Beverage Establishment
38

39 The proposed bar/lounge is located in an area zoned for retail commercial businesses and offices.
40 There are no sensitive uses such as churches, or hospitals in the immediate neighborhood. The
41 Petaluma Hotel, located at the northwest corner of Washington and Kentucky has been a source of
42 complaints in the past, but this has largely been due to past activities at the Phoenix and at Kodiak
43 Jack's, not the Kentucky Street bars. The proposed bar/lounge is considered a compatible use, due to
44 the proposed hours of operation and the stated operating characteristics, and its similarity to other
45 Kentucky Street venues.
46

1 Live Entertainment

2
3 The applicants propose to offer a limited amount of live entertainment, typically in the evening,
4 although live music would be offered for private parties/events. Although the bar/lounge will be
5 subject to the city's noise ordinance, staff recommends that the doors remain closed when live
6 entertainment is offered. This condition has been consistently imposed on other bars.

7
8 Other Activities

9
10 As indicated in their letter of application, the bar/lounge is proposed to be available during the day for
11 meetings, wine releases, seminars, fashion shows, and other such like events, hence the request that the
12 operating hours commence at 7AM.

13
14 The property is located in the downtown parking assessment district, therefore on-site parking is not
15 required.

16
17 Public Convenience or Necessity

18
19 From the Planning Division:

20
21 The Department of Alcoholic Beverage Control (ABC) has determined that an undue concentration of
22 facilities that are licensed to sell alcohol exists in the census tract in which the subject site is located.
23 This evaluation and determination is made exclusively by the ABC, based on their determination that
24 the ratio of on-sale retail licenses to population in the census tract or census division in which the
25 applicant premises are to be located, exceed that permitted. The ABC has informed the city that based
26 on the subject property's location in Census Tract 1507.01 (see attached map), which currently has 46
27 licenses where only 7 are permitted, State law requires the City to make the determination that the
28 issuance of an additional license in this census tract would serve the public convenience or necessity
29 (PCN determination).

30
31 Staff has considered the PCN request, and is able to support a determination that the issuance of an
32 additional license in this census tract would service the public convenience or necessity pursuant to the
33 provisions of Resolution 96-56 N.C.S. As required by the City Council, the project was referred to
34 both the Fire and Police Departments for their input. The following summarizes their responses:

35
36 Police Department: The Police Department reviewed the subject area for the period January 1, 2003 to
37 the present. Detective Frye's written comments from April 16, 2004 are attached, with the
38 recommendations included as conditions of approval.

39
40 Fire Department: The Fire Marshal's written comments from April 20, 2004 are attached, with the
41 recommendations included as conditions of approval.

42
43 General Plan Consistency:

44
45 The General Plan Land Use designation for this site is Community Commercial, which allows for retail
46 businesses and service establishments such as stores, bars, lounges, and offices. The proposed use is
47 consistent with this designation.

1 **Zoning District Consistency:**

2
3 The property is zoned C-C (Central Commercial), which allows for alcoholic beverage sales and live
4 entertainment with a conditional use permit in this district.
5

6 **PUBLIC COMMENTS**

7
8 On April 28, 2004, a public notice was published in the Argus Courier, and mailed to all property
9 owners and occupants within 500 ft. of the project site. To date, staff has received no public
10 comments.
11
12

13 **ENVIRONMENTAL REVIEW**

14
15 The project has been reviewed under the provisions of the California Environmental Quality Act
16 (CEQA Guidelines). Pursuant to Section 15061(b)(3) of the CEQA Guidelines (Exempt per the
17 general rule that there is no possibility that the activity may have a significant effect on the
18 environment), no further environmental review is required.
19

20 **ATTACHMENTS**

21
22 Attachment A: Draft Conditional Use Permit Findings
23 Draft Findings for Public Convenience and Necessity Determination
24

25 Attachment B: Draft Conditions of Approval
26

27 Attachment C: Location Map
28

29 Attachment D: Applicant's Letter of Application and Project Narrative
30 Zoning Affidavit/Undue Concentration Worksheet
31 Planned Operation Worksheet/Licensed Premises Diagram
32

33 Attachment E: Census Tract Map
34

35 Attachment F: Resolution 96-56 N.C.S. regarding Public Convenience or Necessity
36

37 Attachment G: Memo from Petaluma Police Department
38

39 Attachment H: Memo from the Fire Marshal's Office
40

41 Attachment I: Floor Plan
42

DRAFT FINDINGS

Anexie Inc., dba Infusions
146 Kentucky Street, AP No. 006-281-007
File # 04-CUP-0181-CR

Findings for the Conditional Use Permit:

1. The proposed Alcoholic Beverage Establishment with live entertainment, as conditioned, will conform to the requirements and intent of the General Plan, as the use is appropriate for the area in which it is proposed to be located, and is a small business as encouraged by the General Plan.
2. The proposed Alcoholic Beverage Establishment with live entertainment, is consistent with the requirements set forth in Zoning Ordinance Section 21-430.24(A)(1 through 13), as conditions have been imposed to regulate operating characteristics.
3. The proposed Alcoholic Beverage Establishment with live entertainment will not constitute a nuisance or be detrimental to the public welfare of the community, as a Conditional Use Permit will provide a benefit to the community by virtue of its presence, and provide the ability to regulate the Alcoholic Beverage Establishment. Furthermore, conditions have been imposed as conditions of approval to address any potential adverse operating characteristics which have the potential to create a nuisance.
4. The proposed Alcoholic Beverage Establishment with live entertainment has been reviewed under the provisions of the California Environmental Quality Act (CEQA Guidelines, and pursuant to Section 15061(b)(3) of the CEQA Guidelines has been found to be exempt per the general rule that there is no possibility that the activity may have a significant effect on the environment.
5. That the record of proceedings of the decision on the project is available for public review at the City of Petaluma Community Development Department, Planning Division, City Hall, 11 English Street, Petaluma, California.

Findings for the Determination of Public Convenience or Necessity:

1. The proposed use is within a census tract which, pursuant to State Assembly Bill 2897 which amended Section 23958 of the Business and Professions Code, is considered to have an undue concentration of retail liquor licenses. The Planning Commission finds that, pursuant to Section 23958.4(b)(2), this license should be issued to Anexie Inc., dba Infusions, because:
 - a. The sale of beer, wine and spirits will provide a convenience to the patrons;
 - b. The sale of beer, wine and spirits is necessary to ensure the economic viability of the business;

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c. Although Anexie Inc., dba Infusions proposes to be located within a census tract which experiences an undue concentration of retail alcohol licenses, the sale of alcohol will not create a nuisance or be detrimental to the public health or welfare, as conditions relating to security will limit the potential for nuisances.

2. Per Resolution No. 96-56 N.C.S. the Police Department has reviewed the above referenced application requesting that a determination be made and the finding(s) forwarded to the State of California Alcoholic Beverage Control (ABC) that public convenience or necessity would be served by the issuance of an ABC license (Type 48 – On-Sale General Public Premise) to allow the retail sales of alcohol at 146 Kentucky Street. The Police Department reviewed the subject area for the period January 1, 2003 to the present, and finds that based on the reports generated, an increased burden for Police services is not anticipated at this location given the proposed operating characteristics of the wine bar/lounge.

3. Per Resolution No. 96-56 N.C.S. the Fire Marshal’s office in the Fire Department has reviewed the above referenced application requesting that a determination be made and the finding(s) forwarded to the State of California Alcoholic Beverage Control (ABC) that public convenience or necessity would be served by the issuance of an ABC license (Type 48 – On-Sale General Public Premise) to allow the retail sales of alcohol at 146 Kentucky Street. Based on the details in the submitted application, an increased burden for Fire services is not anticipated at this location.

DRAFT CONDITIONS OF APPROVAL

Anexie Inc, dba Infusions
146 Kentucky Street, AP No. 006-281-007
File # 04-CUP-0181-CR

From the Community Development Department:

Planning Division:

1. This Conditional Use Permit authorizes Anexie Inc., dba Infusions to operate an Alcoholic Beverage Establishment with Live Entertainment at 146 Kentucky Street, APN 006-281-007.
2. Per Zoning Ordinance Section 21-430.16(A) and (B), this conditional use permit is issued to Jan Rosen and Sylvie de Segur, the principals of Anexie Inc., dba Infusions, and may not be assigned or transferred without notification to the Community Development Director. Additionally, notification of a transfer of a conditional use permit shall be required prior to any change in an interest in a partnership or ownership of ten percent (10%) or more of the stock of a corporation to any person not listed on the application filed March 31, 2004.
3. The hours of operation for the alcoholic beverage establishment and live entertainment shall be limited, as proposed by the applicants to 7:00AM to 2:00AM, 7 days per week. Hours of operation for office use may be 24 hours, 7 days per week.
4. Any physical expansion of the facility, or expansion as to the nature of the business (type of ABC license, etc.) shall require an amendment to this Conditional Use Permit. Future use of the basement shall be limited to storage only.
5. The bar/lounge shall be operated in such a manner so that it at no time violates zoning standards regarding noise generation. As such, at times that live entertainment is offered the door(s) to the bar/lounge shall remain closed. At no time shall business activities exceed the Performance Standards specified in Zoning Ordinance Section 22-301 and/or the 1987 General Plan.
6. An proposed exterior changes to the building shall be subject to Site Plan and Architectural Review approval.
7. A Conditional Use Permit for an alcoholic beverage establishment with live entertainment may be recalled to the Planning Commission for review at any time due to complaints regarding lack of compliance with conditions of approval, traffic congestion, noise generation, or other adverse operating characteristics. At such time, the Commission may revoke the conditional use permit or add/modify conditions of approval.
8. The applicants/developers shall defend, indemnify, and hold harmless the City or any of its boards, commission, agents, officers, and employees from any claim, action or proceeding against the City, its boards, commission, agents, officers, or employees to attack, set aside, void, or annul, the approval of the project when such claim or action is brought within the time period provided for in applicable State and/or local statutes. The City shall promptly notify the

1 applicants/developers of any such claim, action, or proceeding. The City shall coordinate in the
2 defense. Nothing contained in this condition shall prohibit the City from participating in a
3 defense of any claim, action, or proceeding if the City bears its own attorney's fees and costs,
4 and the City defends the action in good faith.
5

6 **Building Division:**
7

- 8 9. A building permit shall be required for the tenant improvement.
9

10 **From the Police Department:**
11

12 **Conditional Use Permit:**
13

- 14 1. The operation of an alcoholic beverage establishment shall be the responsibility of the
15 permittees personally (if the applicants are the permittee) or a manager or designated
16 responsible employee of the permittee at all times. The permittee shall designate the names of
17 all such managers and designated responsible employees in the application and shall advise the
18 Police Chief and Community Development Director in writing whenever any change is made.
19
- 20 2. The permittees personally (if the applicants are the permittees) or a manager or a designated
21 responsible employee shall be on the premises at all times during the conduct of business.
22
- 23 3. All employees and managers shall complete a program recognized by the Department of
24 Alcoholic Beverage Control (ABC) at a qualified Responsible Beverage Service Program prior
25 to the commencement of a new business or within ninety (90) days of hire for new employees.
26 The permittees and/or manager of an alcoholic beverage establishment shall maintain on the
27 premises a file containing the certificates of training for all employees.
28
- 29 4. The alcoholic beverage establishment shall be operated in such a manner so that it or its patrons
30 at no time violate the Petaluma Municipal Code, the Zoning Ordinance and/or the Penal Code
31 standards regarding noise generation. Should complaints be received regarding noise
32 disruption the applicant shall take reasonable and practical steps as directed by the Police Chief
33 and Community Development Director to reduce the intensity, number and/or occurrences of
34 these disruptions.
35
- 36 5. Prior to commencement of use, the business owner shall submit to the Chief of Police a
37 detailed security plan. The plan shall include, but not be limited to, the periods of time and
38 staffing levels for security personnel, duties, responsibilities and qualifications of security staff.
39 The plan shall be submitted for review and approval by the Chief of Police. Such plan shall be
40 amended prior to any change in operations including, but not limited to, the periods of time and
41 staffing levels for security personnel, duties, responsibilities and qualifications of security staff
42 for review and approval by the Chief of Police within 14 days of the change in business
43 operations.
44
- 45 6. The Chief of Police shall be notified by the first day of each month of the live entertainment
46 calendar, so as to be aware of the nights live entertainment is offered.
47
- 48 7. Bar/lounge personnel shall check identification (I.D.) to insure that the clientele are of legal age
49 to enter.
50
- 51 8. The permittees and/or manager shall be responsible for ensuring that the sidewalk is kept clear
52 of patrons during business hours so as to not impede pedestrian traffic.

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9. The applicant shall comply with Alcoholic Beverage Control (ABC) laws and regulations. Suspension of the applicant's license by the ABC will constitute sufficient cause or basis for review and possible revocation of a conditional use permit.

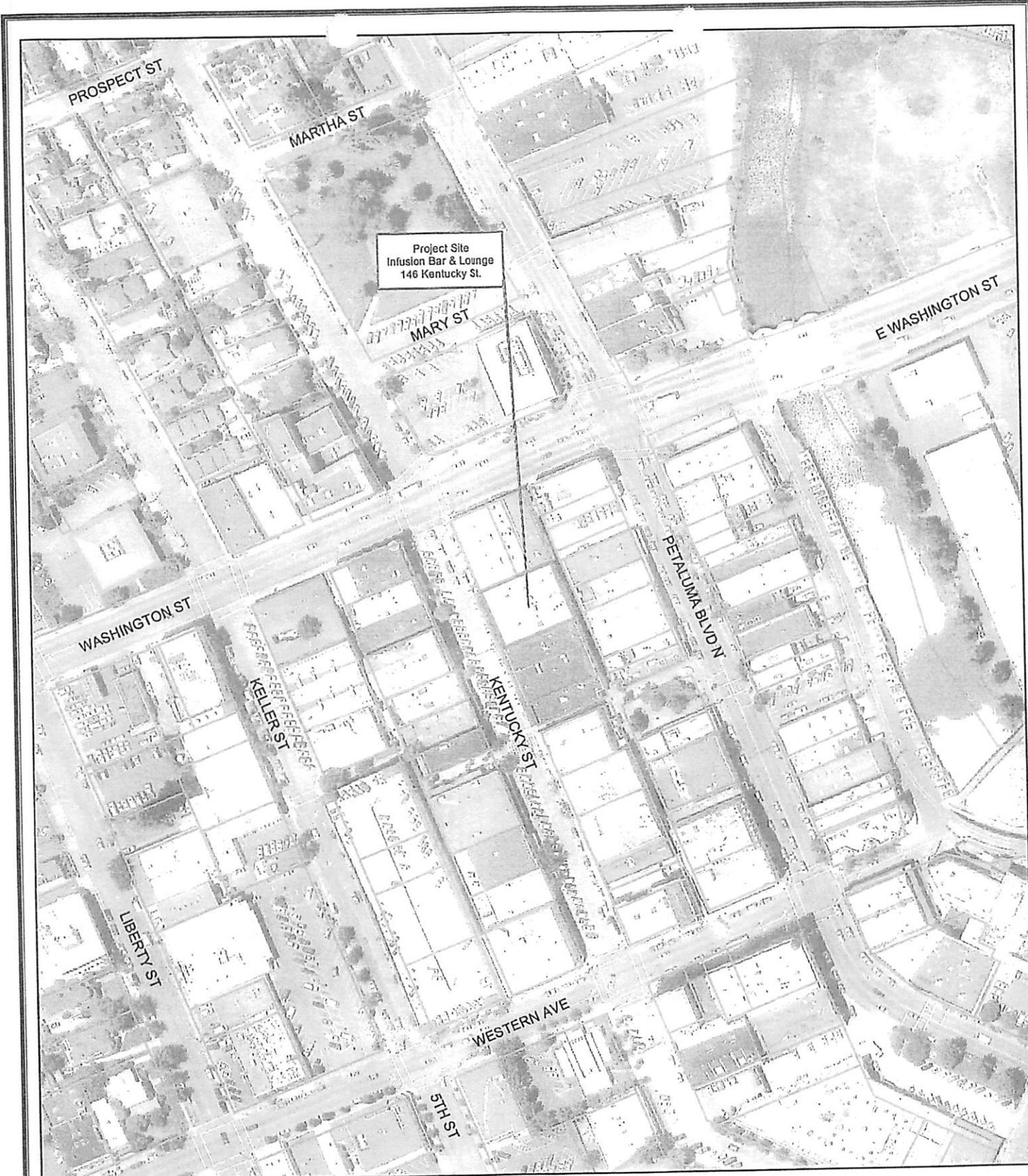
From the Fire Marshal

1. The building permit application for the tenant improvement shall comply with the Uniform Fire and Building Codes for an assembly occupancy.

From the Water Resources and Conservation Department

1. Verify that the existing service will provide maximum water demands for domestic, irrigation and any Fire Department requirements.
2. Provide reduced pressure principal backflow prevention devices on water service per city standards 876.01

h:jk\cup\146KentuckyInfusionsSr



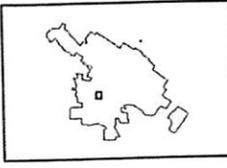
Project Site
 Infusion Bar & Lounge
 146 Kentucky St.


 GIS Division
 Date: 4/12/2004
 0 20 40 60 120 160 Feet

 City of Petaluma
 This map is an aerial photograph with digital overlays. It is not a survey map and should not be used for legal purposes. The City of Petaluma is not responsible for any errors or omissions in this map.

Legend
 Parcel Boundaries

Location Map
 146 Kentucky St.
 City of Petaluma
 California



ATTACHMENT D

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MAR 5 1 2004

PLANNING DEPARTMENT

INFUSIONS

Location:
146 Kentucky Street
Petaluma, CA 94952

Owners:
Jan Rosen and Sylvie de Segur
Anexie Inc

Proposal: The establishment of a bar/lounge in the space formerly occupied by Buena Sera Restaurant. The area encompasses approximately 3,500 square feet including restrooms, hallways, bar, customer seating, small dance floor and music/entertainment area. The upscale establishment will offer unique service to visitors to downtown Petaluma. A location, not now available, to host such special events as:

- Day time meeting location for community groups
- Wine releases by local wineries
- Wine seminars for small groups and the local wine trade
- Small group meetings, which include the service of fine liquor
- High-end fashion shows for local businesses to display their wares
- Private events and parties
- Live music, limited
- Liquor company events for new releases

The bar/lounge will provide a small, intimate dance floor and offer a limited amount of entertainment opportunities. Amplification of music will be kept to a minimum with the intent that the interior noise is not heard outside of the building while the front and rear doors are closed.

All City codes will be met and the Owner/Manager of the facility, Jan Rosen, will work closely with the Police Department to insure that all requirements of the regulations for the operation of an Alcoholic Beverage Establishment and guidelines for the determination of a finding of public convenience and necessity are met by the daily operation of the facility. Located in the center of a downtown block, the establishment will fit nicely as an asset for the afternoon and evening ambiance of downtown entertainment activities and provide an upscale respite for visitors and residents. The proposed location is not within close proximity to any sensitive uses (residential neighborhoods, churches, schools, parks). The nearest of these uses is located approximately 450 feet to the north, across Washington Street.

The proposed lounge will be an amenity to downtown Petaluma, and will be run with the same quiet grace that the other Rosen businesses are operated.

- Infusions will not create any extra burden on the Police or Fire Departments because we will have our own security and also we are not attracting a young crowd. There will be a dress code. I have had liquor licenses since 1976 and at the present time, I have two licenses in Petaluma, with no problems ever. In 1983, we had live music and again we experienced no problems. Because we have always had a reputation of high end establishments, which is created both by atmosphere and price points, we have never had any problems.
- There are no bars/lounges in Petaluma that cater to the mature customer so we will be filling that void. The bar will also be used during the day for special events, meetings i.e. PVP, Morning Rotary Meetings etc. We are obtaining a 48 liquor license. If there is a need to provide food for these events or meeting, I own two restaurants in Petaluma and can bring food and pastries to the premises.
- Currently, I own a restaurant with a bar and my customers are always telling me that they have no where to go after dinner to relax and continue their evening. I would have created that place where my restaurant is now, but there is no room for at that location. Therefore, I have been looking for a location for the past few years. I believe that 146-148 Kentucky Street is the perfect place for the Bar/Lounge. The history of my company is to fill a need for the community. We believe Infusions will do just that.
- Alcohol sales are vital to the function of our business; however we will have a selection of non-alcoholic drinks. Alcohol sales will make up approximately 90% of our sales.
- We will definitely be compatible with the surrounding businesses because our clientele will be both local and from other areas. They will no doubtedly be shopping and eating in the downtown area.
- The proposed use will not have any adverse effect on the welfare of the area residents.
- By issuing the License, we will serve the community because it will give people a place to go which does not currently exist in Petaluma, Santa Rosa or Marin. We will be introducing Petaluma to many new people. Infusions will have events and be very community minded. We are proposing to open at 7 a.m. in order to do community events, continental breakfast meetings, seminars, wine release events and wine seminars. We will be coordinating the wine events with the local markets so that once the people become educated about the new wines, they will then go to the local markets and purchase their wines.

Thursday, April 8, 2004

Anexie, Inc., dba Infusions
146 Kentucky Street

The proposed bar/lounge requires a CUP for alcohol sales per Zoning Ordinance 12-416, and a CUP for Live Entertainment per Zoning Ordinance 12-417. This project is exempt per CEQA Section 15061(b)(3). PCN is required per the ABC.

Conversation this date with Jan Rosen regarding incomplete items:

1. Operating characteristics of the Bar/Lounge:
Days: Monday through Sunday
Hours: 7:00AM through 2:00AM
of Employees: 4 to 8
2. Operating characteristics of the Office:
Days: Monday through Sunday
Hours: 24 hours/day
3. Building Details:
Number of seats: 120
Facility size: 3500 sq.ft. (one floor @ 28' x 125'), however applicants are negotiating with the owner for use of the basement for storage
4. Live Entertainment/Music:
Hours: Noon to 1:30AM
Type: Classical to jazz to rock
5. Exterior Improvement(s):
No façade improvements are proposed at this time



Community Development Department

11 English Street

Petaluma, CA 94952

Email: cdd@ci.petaluma.ca.us

Code Enforcement
Phone: (707) 778-4469
Fax: (707) 778-4498

Engineering
Phone: (707) 778-4301
Fax: (707) 778-4498

Inspection Services
Phone: (707) 778-4301
Fax: (707) 778-4498

Permits
Phone: (707) 778-4301
Fax: (707) 778-4498

Planning
Phone: (707) 778-4301
Fax: (707) 778-4498

To schedule inspections: (707) 778-4479

Environmental Impact Questionnaire

(To be completed by project applicant or property owner - information provided on this form will be used to prepare an Initial Study to assess the environmental effects of your project)

Date Filed: 3/31/04
Project Name: 146 Kentucky St.

A. General Information:

- 1. Applicant Name: JAN Rosen / Sylvie de Segur
Mailing Address: 725 B Street
Phone Number: 778-1788
2. Property Owner (if different from applicant): Helen Issel, TR et al
Mailing Address: P.O. Box 593 Sonoma, CA 95476
Phone Number: 707-996-1041
3. Street Address of Project (if no address, indicate location - i.e., northwest corner of XXX Street and XXX Avenue): 146 Kentucky St.
4. Assessor's Parcel Number(s): portion of 006-281-007
5. Type of Permit(s)/Approval(s) Requested: CUP for Alcoholic Beverage Establishment
6. List and describe any other related permits and/or public agency approvals required for this project, including those required by city, regional, state, or federal agencies (i.e., U.S. Army Corps of Engineers, California Department of Fish & Game, etc.): ABC license (pending)
7. Is this site listed on the State Hazardous Waste and Substances Sites List: NO
8. Existing Zoning District: Central Commercial w/ Downtown Historic DIST. overlay
9. Previous approvals or submittals related to this project, including Preliminary Review:
Project name and file number: N/A

Date of previous approval/review: N/A

Environmental documentation prepared (i.e., Initial Study, Negative Declaration, or Environmental Impact Report):

10. If the project involves a variance, conditional use permit, rezoning, or General Plan amendment application, clearly state the characteristics of the project which trigger the need for such an application: ABE per Sec. 12-416 of Zoning Ordinance

GO ON TO NEXT PAGE

B. Project Description:

1. Proposed use of the site (provide detailed description or attach Project Narrative):
en-site sale of alcohol beverages - bar and lounge.
2. Site size (in acres and square feet): _____
3. Square footage of proposed construction: ~ 3500 SQ. FT.
4. Number of floors of construction and building height: one
5. Amount of off-street parking provided: parking district (garage)
6. Proposed construction schedule, including phases if incremental development: tenant improvements
7. For proposed *Residential* use:
Number of units: _____
If single family - total square footage: _____
If multi-family - unit sizes: _____
Range of sale or rental prices: _____
Household size expected: _____
8. For proposed *Commercial* use:
Type of commercial use (i.e., Neighborhood Commercial, Highway Commercial, etc.): _____
Neighborhood, City or regionally oriented: City oriented, some regional draw
Square footage of sales area: _____
Square footage of loading facilities: _____
9. For proposed *Industrial* use:
Estimated number of employees per shift: _____
Square footage of loading facilities: _____
10. For proposed *Public/Institutional* use:
Describe type of use: _____
Estimated number of employees per shift: _____
Estimated occupancy: _____
Square footage of loading facilities: _____
Community benefits to be derived from project: _____
11. For proposed *Mixed Use*:
Describe types of uses: _____
Square footage of each type of use: _____
Ratio of parking provided for each type of use: _____

C. Environmental Effects: Are any of the following items applicable to the project or will the project result in any of the potential impacts identified below? Respond to each question and provide additional information on any item checked "yes" (attach additional sheets if necessary):

	Yes	No
1. Change in existing features of any bays, tidelands, or hills, or substantial alteration of ground contours, including any grading (also see Question #6). If yes, explanation: _____ _____		X
2. Change in quality or quantity of any ocean, bay, lake, stream, river, marsh, or ground water, or alteration of existing drainage patterns. If yes, explanation: _____ _____		X
3. <u>Change in scenic views or vistas from existing residential areas or public lands or roads.</u> If yes, explanation: _____ _____		X
4. Change in development patterns, scale, or character of the area in the vicinity of the project. If yes, explanation: <u>Downtown Petaluma is a local + regional destination; an upscale lounge will support the expansion of evening activities through the theater project.</u>		X
5. Is the site on filled land or have a slope of 10 percent or more. If yes, explanation: _____ _____		X
6. <u>Change in topography due to grading.</u> If yes, provide the existing average slope. Indicate the greatest change in elevation due to grading: _____ _____		X
7. Result in the removal or damage to any trees or rock outcroppings. If yes, explanation: _____ _____		X
8. Result in significant amounts of solid waste or litter. If yes, explanation: _____ _____		X

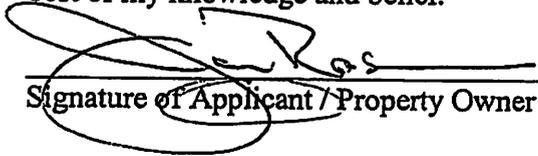
	Yes	No
9. Use or disposal of potentially hazardous materials, such as toxic substances, medical wastes, flammable materials, or explosives. If yes, explanation: _____ _____ _____		X
10. Change in dust, ash, smoke, fumes, or odors in the vicinity. If yes, explanation: _____ _____ _____		X
11. Change in existing noise or vibration levels in the vicinity (use of heavy equipment, pneumatic tools, significant truck traffic, etc.) If yes, explanation: _____ _____ _____		X
12. Change in demand for municipal services, including police, fire, schools, water, sewer, etc. If yes, explanation: <u>The proposed lounge is designed for the mature visitor to Petaluma, no increased services are anticipated.</u> _____ _____		X
13. Change in existing circulation patterns or result in substantial amounts of additional traffic. If yes, explanation: <u>While the lounge is intended to be a draw to clients - it is anticipated that customers will also visit other downtown restaurant and retail uses.</u> _____ _____		X
14. Substantial increase in fossil fuel consumption (electricity, oil, natural gas, etc.): _____ _____ _____		X
15. <u>Is the site adjacent to, or within the vicinity of, any creeks, wetlands, the Petaluma River, parks, marsh, agricultural lands, open space, or airport.</u> If yes, explanation: _____ _____ _____		X
16. <u>Have any prior environmental studies been completed for the project site. Studies would include noise, geologic or geotechnical, traffic, hydrology, tree preservation, cultural resources, etc. If yes, list and provide copies:</u> _____ _____ _____		X

		Yes	No
17.	<p><u>Is the site potential habitat for threatened or endangered fish, wildlife, or plant species. If yes, explanation:</u></p> <p>_____</p> <p>_____</p> <p>_____</p>		X
18.	<p><u>Are there existing structures on the site. If so, explain their current use and age. Will any structures be demolished. If yes, explanation:</u></p> <p><u>Existing building was recently reconstructed following a fire.</u></p> <p>_____</p> <p>_____</p>		X
19.	<p><u>If the site is vacant, provide information on the previous use:</u></p> <p><u>prior to fire: Restaurant: Buena Vista with alcoholic beverage license</u></p> <p>_____</p> <p>_____</p>		X
20.	<p><u>Is the site or structure of known historical or cultural significance. Is the site within an historic district. If yes, explanation:</u></p> <p><u>Downtown Historic District - reconstruction of structure after complete destruction by fire</u></p> <p>_____</p> <p>_____</p>	X	
21.	<p>Please attach labeled photos of the site and the surrounding area.</p>		

Please note that, depending upon the nature of the application, additional studies or analysis may be required including, but not limited to, traffic, tree preservation, noise, and soils.

CERTIFICATION:

I hereby certify that the statements furnished above and in the attached exhibits, if applicable, present, to the best of my ability, the data and information required for this initial evaluation of this project, and that the facts, statements, and information presented are true and correct to the best of my knowledge and belief.



Signature of Applicant / Property Owner (circle one)

March 15, 2004
Date

On Behalf of (if Applicant is other than the Property Owner):

Department of Alcoholic Beverage Control
PLANNED OPERATION (RETAIL)

SECTION I - FOR ALL RETAIL APPLICANTS

1. APPLICANT NAME(S) ANEXIE INC

2. LICENSE TYPE(S) 48

3. PREMISES ADDRESS (Street number and name, city, zip code) 146 KENTUCKY ST PETALUMA 94952 WASHINGTON

4. NEAREST CROSS STREET WASHINGTON

5. TYPE OF BUSINESS (Choose one that best describes the planned operation)

<input type="checkbox"/> Full Service Restaurant	<input type="checkbox"/> Cafeteria/Holbrav	<input checked="" type="checkbox"/> Cocktail Lounge	<input type="checkbox"/> Private Club
<input type="checkbox"/> Deli or Specialty Restaurant	<input type="checkbox"/> Comedy Club	<input checked="" type="checkbox"/> Night Club	<input type="checkbox"/> Veterans Club
<input type="checkbox"/> Cafe/Coffee Shop	<input type="checkbox"/> Brew Pub	<input type="checkbox"/> Tavern	<input type="checkbox"/> Fraternal Club
<input type="checkbox"/> Bed & Breakfast	<input type="checkbox"/> Theater	<input type="checkbox"/> Wine Tasting Room	
<input type="checkbox"/> Supermarket	<input type="checkbox"/> Membership Store	<input type="checkbox"/> Service Station	<input type="checkbox"/> Swap Meet/Flea Market
<input type="checkbox"/> Liquor Store	<input type="checkbox"/> Department Store	<input type="checkbox"/> Convenience Market	<input type="checkbox"/> Drive-In Dairy
<input type="checkbox"/> Variety/Drug Store	<input type="checkbox"/> Gift Shop/Flonst	<input type="checkbox"/> Convenience Market w/Gasoline	
<input type="checkbox"/> Other - describe:			

6. PATRON CAPACITY 130

7. SURROUNDING AREA

<input checked="" type="checkbox"/> Commercial	<input type="checkbox"/> Rural
<input type="checkbox"/> Residential	<input type="checkbox"/> Industrial
<input type="checkbox"/> Other	

8. PREMISES IS LOCATED IN

<input checked="" type="checkbox"/> Free Standing Building	<input type="checkbox"/> Shopping Center (Name):
<input type="checkbox"/> 10 Units or Less	<input type="checkbox"/> More than 10 Units

9. FOOD SERVICE

<input type="checkbox"/> None	<input checked="" type="checkbox"/> Minimal	<input type="checkbox"/> Full Meals
-------------------------------	---	-------------------------------------

10. PARKING LOT? Yes No

11. PATIO? Yes No

12. WILL YOU HIRE A MANAGER? (RUB 57.5) Yes No

13. WILL YOU HAVE A FOOD LESSEC? (RUB 57.7) Yes No

14. MEAL TYPE

<input type="checkbox"/> Dinner House	<input type="checkbox"/> Seafood	<input checked="" type="checkbox"/> American	<input type="checkbox"/> Greek	<input type="checkbox"/> Indian	<input type="checkbox"/> French
<input type="checkbox"/> Fast Food/Deli	<input type="checkbox"/> Other:	<input type="checkbox"/> Chinese	<input type="checkbox"/> Korean	<input type="checkbox"/> Italian	<input type="checkbox"/> Thai
<input type="checkbox"/> Pizza/Pasta		<input type="checkbox"/> Japanese	<input type="checkbox"/> Other:		

15. TYPE OF FOOD N/A

16. HOURS OF FOOD SERVICE

BREAKFAST HOURS	From: _____ To: _____
LUNCH HOURS	From: _____ To: _____
DINNER HOURS	From: _____ To: _____

17. OPERATING HOURS

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Opening Time	7AM						
Closing Time	2AM						

18. ENTERTAINMENT (One or more may apply. Please describe any entertainment with an asterisk (*) below)

<input type="checkbox"/> None	<input checked="" type="checkbox"/> Amplified Music	<input checked="" type="checkbox"/> Patron Dancing	<input type="checkbox"/> Card Room
<input checked="" type="checkbox"/> Recorded Music	<input checked="" type="checkbox"/> Live Entertainment *	<input type="checkbox"/> Bikini/Topless/Exotic	<input checked="" type="checkbox"/> Movies
<input type="checkbox"/> Juke Box	<input type="checkbox"/> Floor/Stage Shows	<input type="checkbox"/> Pool/Billiard Tables	<input type="checkbox"/> Hot Spot/Lottery
<input type="checkbox"/> Other	<input type="checkbox"/> Karaoke	<input type="checkbox"/> Amateur/Pro Sports Events	<input type="checkbox"/> Video/Coin-Operated Games

*Description: JAZZ COMBO

19. PREMISES IS LOCATED ON

<input type="checkbox"/> Major Thoroughfare	<input checked="" type="checkbox"/> Secondary Street
<input type="checkbox"/> Other	

20. TYPE OF STRUCTURE

<input checked="" type="checkbox"/> Single Story	<input type="checkbox"/> Two-Story
<input type="checkbox"/> Multi-Story - Number of stories: _____	

21. PASS-THROUGH WINDOW? Yes No

22. FIXED BARS? Yes - how many: 1 No

23. WHAT PERCENTAGE OF YOUR TOTAL SALES WILL BE ALCOHOLIC BEVERAGES? 90%

24. INFORMATION GIVEN (R-27, R-107, Sec. 25512.5, Sec. 23709.5, etc.)

25. DATE ENTERED INTO CABIN

FOR ABC USE ONLY

RECEIVED

MAR 24 2004

PLANNING DIVISION

Department of Alcoholic Beverage Control
LICENSED PREMISES DIAGRAM (RETAIL)

State of California
GRAY DAVIS, Governor
Business, Transportation & Housing Agency
MARIA CONTRERAS-SWEET, Secretary

APPLICANT NAME (Last, first, middle) ANEXIE, INC

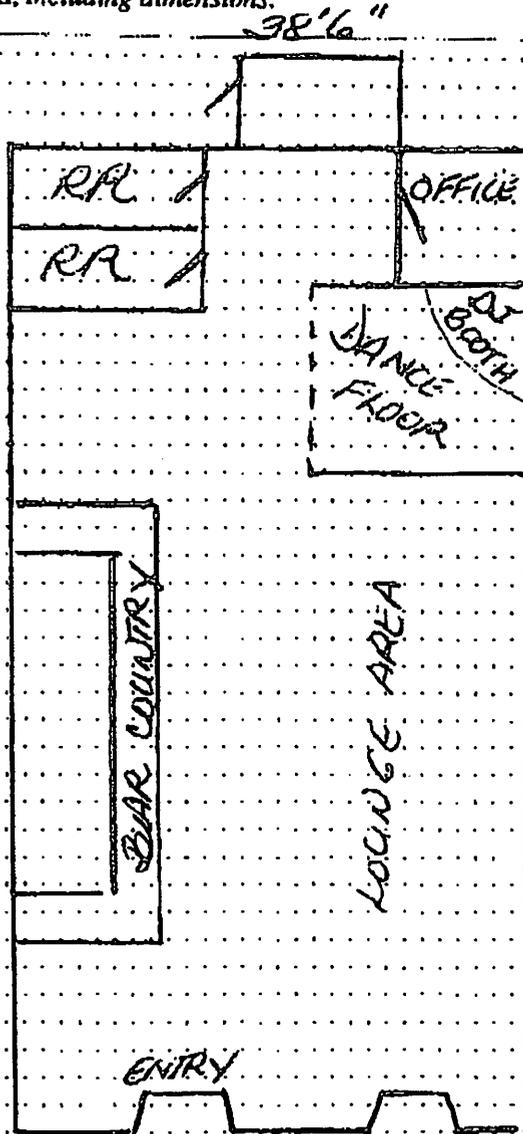
PREMISES ADDRESS (Street number and name, city, zip code) 146 KENTUCKY ST. PETALUMA 94952

LICENSE TYPE 48

NEAREST CROSS STREET WASHINGTON

The diagram below is a true and correct description of the entrances, exits, interior walls and exterior boundaries of the premises to be licensed, including dimensions.

DIAGRAM



NOT TO SCALE

It is hereby declared that the above-described boundaries, entrances and planned operation as indicated on the reverse side, will not be changed without first notifying and securing prior written approval of the Department of Alcoholic Beverage Control. I declare under penalty of perjury that the foregoing is true and correct.

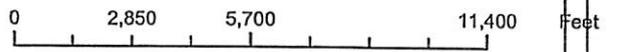
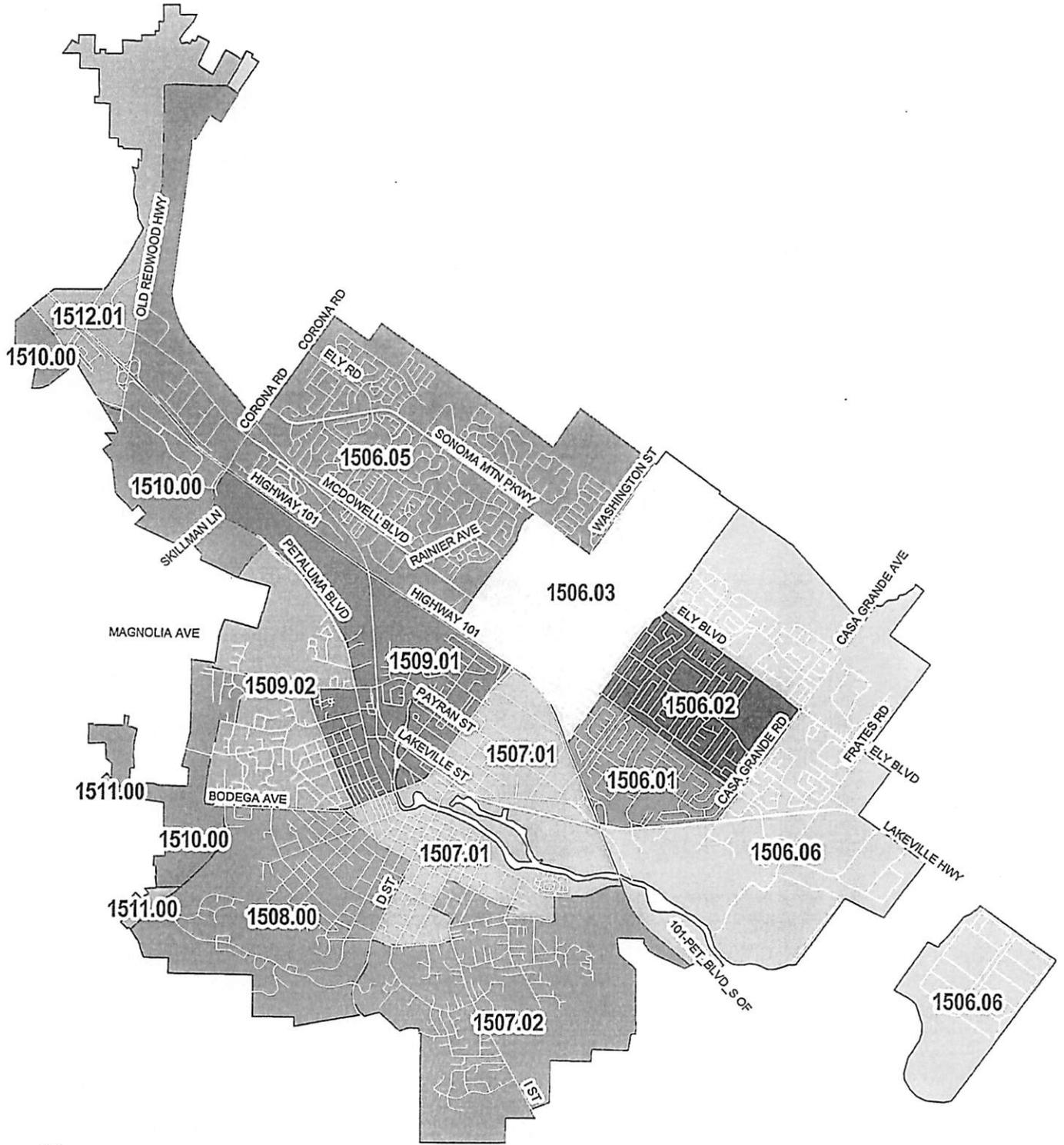
APPLICANT SIGNATURE (Only one signature required) [Signature] DATE SIGNED 3/24/04

CONTINUED CORRECT (See rules) PRINTED NAME FOR ABC USE ONLY INSPECTION DATE

MAR 26 2004

Census 2000 - Census Tracts

City of Petaluma, CA



Resolution No. 96-56 N.C.S.
of the City of Petaluma, California

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**RESCINDING RESOLUTION 95-157 N.C.S. AND ESTABLISHING
GUIDELINES TO BE UTILIZED IN MAKING DETERMINATIONS OF
PUBLIC CONVENIENCE OR NECESSITY PURSUANT TO THE
REQUIREMENTS OF
BUSINESS AND PROFESSIONS CODE SECTION 23958.4**

WHEREAS, pursuant to Business and Professions Code Section 23958.4(b)(2), the Department of Alcoholic Beverage Control (ABC) may grant certain types of alcoholic beverage licenses as set forth in said section: and

WHEREAS, this section precludes the ABC from issuing new licenses within an area identified as experiencing an undue concentration of licensed facilities unless the City Council (as the local governing body of the area in which the applicant's premises are located) determines that the public convenience or necessity would be served by the issuance of said license: and

WHEREAS, the City Council may delegate the duties of determining whether or not public convenience or necessity are met to a subordinate agency or zoning, planning, or law enforcement official: and

WHEREAS, the City Council adopted Resolution 95-157 N.C.S. which established the procedure by which the City of Petaluma will address determinations of public convenience or necessity pursuant to the Business and Professions Code:

WHEREAS, the present procedure does not contain criteria to be employed in making determinations of public convenience or necessity and, the City Council desires to establish formal criteria or guidelines to assist in making more thoughtful and consistent determinations.

NOW, THEREFORE, BE IT RESOLVED that the City Council finds that it is necessary to establish guidelines to be utilized in making determinations of public convenience or necessity pursuant to the Business and Professions Code.

BE IT FURTHER RESOLVED that the City Council hereby concludes that, pursuant to Business and Professions Code Section 23958.4(b)(2) the authority and duty to determine whether or not public convenience or necessity would warrant the issuance of a license notwithstanding a determination that there is undue concentration of licenses as defined in Business and Professions Code section 23958.4(a), shall, from the date of the adoption of this Resolution, by the Planning Commission of the City of Petaluma.

BE IT FURTHER RESOLVED that the City Council hereby rescinds Resolution 95-157 N.C.S. and finds this action to be exempt from the requirements of the California Environmental Quality Act pursuant to the General Rule and establishes the following Guidelines to be utilized in making determinations of public convenience or necessity:

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Determinations of public convenience or necessity shall be made with the following guidelines taken into consideration:

1. Determinations shall be made by the Planning Commission. Actions on determination requests may be appealed to the City Council.
2. Input and recommendation from the Police and Fire Departments should be obtained. This input should cover the activity in the area for a period determined by the Police Chief, to be adequate to show history, or lack thereof, of problems in the neighborhood. The Police Chief should also offer a projection regarding the increased burden for Police services which might be created by the issuance of an additional license;
3. Evidence and/or arguments provided by the applicant addressing the public convenience or necessity that would be served by the additional license;
4. The nature of the proposed use;
5. The extent to which alcohol sales are related to the function of the proposed use and the possibility of the use operating in a viable fashion without alcohol sales;
6. The proximity of the proposed licensed premise to sensitive land uses such as residences, schools, churches, parks, etc. and the effect that existing (and the proposed) licensed premises (may) have on such sensitive land uses;
7. The compatibility or suitability of the proposed use with the uses and/or character of the surrounding area;
8. The effect that the proposed use may have on the welfare of the area residents;
9. The public convenience or necessity which would be served to the community (both immediate and the broader Petaluma area) by the issuance of an additional license;

resoundu-1k3

Under the power and authority conferred upon this Council by the Charter of said City.

REFERENCE:

I hereby certify the foregoing Resolution was introduced and adopted by the Council of the City of Petaluma at a (Regular) ~~(Advisory)~~ ~~(Special)~~ meeting on the 20th day of February, 1996, by the following vote:

Approved as to form


City Attorney

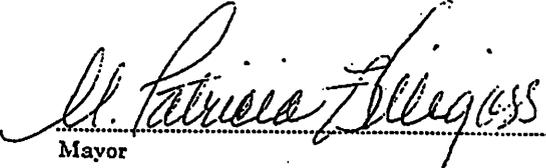
AYES: Hamilton, Stompe, Read, Shea, Vice Mayor Barlas, Mayor Hilligoss

NOES: Maguire

ABSENT: None

ATTEST:


City Clerk


Mayor

CITY OF PETALUMA, CALIFORNIA
MEMORANDUM

Police Department, 969 Petaluma Boulevard North, Petaluma, CA 94952
(707) 778-4372 Fax (707) 778-4476 E-mail: police@ci.petaluma.ca.us

DATE: 16 April 2004

TO: Jane K. Thomson, Code Enforcement Officer
Community Development Department

FROM: Martin D. Frye, Street Crimes Unit 

SUBJECT: Anexie, Inc. dba Infusions
146 Kentucky Street, APN 006-281-007
Conditional Use Permit Application
Public Convenience or Necessity Determination

Conditional Use Permit Application

The Police Department has reviewed the application for a Conditional Use Permit to authorize the establishment of an Alcoholic Beverage Establishment with Live Entertainment, and requests the following conditions of approval be considered by the Planning Commission:

1. The operation of an alcoholic beverage establishment shall be the responsibility of the permittees personally (if the applicants are the permittee) or a manager or designated responsible employee of the permittee at all times. The permittee shall designate the names of all such managers and designated responsible employees in the application and shall advise the Police Chief and Community Development Director in writing whenever any change is made.
2. The permittees personally (if the applicants are the permittees) or a manager or a designated responsible employee shall be on the premises at all times during the conduct of business.
3. All employees and managers shall complete a program recognized by the Department of Alcoholic Beverage Control (ABC) at a qualified Responsible Beverage Service Program prior to the commencement of a new business or within ninety (90) days of hire for new employees. The permittees and/or manager of an alcoholic beverage establishment shall maintain on the premises a file containing the certificates of training for all employees.
4. The alcoholic beverage establishment shall be operated in such a manner so that it or its patrons at no time violate the Petaluma Municipal Code, the Zoning Ordinance and/or the Penal Code standards regarding noise generation. Should complaints be received regarding noise disruption the applicant shall take reasonable and practical steps as directed by the Police Chief and Community Development Director to reduce the intensity, number and/or occurrences of these disruptions.
5. Prior to commencement of use, the business owner shall submit to the Chief of Police a detailed security plan. The plan shall include, but not be limited to, the periods of time and staffing levels for security personnel, duties, responsibilities and qualifications of security staff. The plan shall be submitted for review and approval by the Chief of

Police. Such plan shall be amended prior to any change in operations including, but not limited to, the periods of time and staffing levels for security personnel, duties, responsibilities and qualifications of security staff for review and approval by the Chief of Police within 14 days of the change in business operations.

6. The Chief of Police shall be notified by the first day of each month of the live entertainment calendar, so as to be aware of the nights live entertainment is offered.
7. Bar/lounge personnel shall check identification (I.D.) to insure that the clientele are of legal age to enter.
8. The permittees and/or manager shall be responsible for ensuring that the sidewalk is kept clear of patrons during business hours so as to not impede pedestrian traffic.
9. The applicant shall comply with Alcoholic Beverage Control (ABC) laws and regulations. Suspension of the applicant's license by the ABC will constitute sufficient cause or basis for review and possible revocation of a conditional use permit.

Public Convenience or Necessity Determination

Per Resolution No. 96-56 N.C.S. the Police Department has reviewed the above referenced application requesting that a determination be made and the finding(s) forwarded to the State of California Alcoholic Beverage Control (ABC) that public convenience or necessity would be served by the issuance of an ABC license (Type 48 – On-Sale General – Public Premise) to allow the retail sales of alcohol at 146 Kentucky Street

The Police Department reviewed the subject area for the period January 1, 2003 to the present. Based on the reports generated, an increased burden for Police services is not anticipated at this location given the proposed operating characteristics of the wine bar.

c. H:\jkt\cup\146Kentucky\InfusionsFryememo



CITY OF PETALUMA

POST OFFICE BOX 61
PETALUMA, CA 94953-0061

Kevin McDonnell
Mayor

October 10, 2023

Brian Barnacle
Janice Cader-Thompson, Dist. 1
Mike Healy
Karen Nau, Dist. 3
Dennis Pocekay
John Shribbs, Dist. 2
Councilmembers

Via Email and Certified First-Class Mail

Patrick Ciocca
Attorney at Law
2901 Cleveland Avenue, Suite 201
Santa Rosa, CA 95403
pmcesq@hotmail.com

Brian Tatko
briantatko@gmail.com

Re: 30-Day Notice to Abate Public Safety and Alcohol Related Nuisances

Dear Messrs. Tatko and Ciocca,

We are writing to follow-up on our in-person meeting on June 8, 2023, at City Hall where we discussed critical matters concerning public safety and alcohol-related nuisances related to your business operations at Jamison's Roaring Donkey (JRD). We also addressed your concerns related to the occupancy limits at JRD, which were approved and referenced in the attached 2004 Conditional Use Permit (CUP) and related documents (Ex. 1). In addition to both of you, the City Team in attendance at the meeting included Police Chief Ken Savano, Deputy Police Chief Brian Miller, Police Lieutenant Jeremy Walsh, City Attorney Eric Danly, Community Development Director Brian Oh, Chief Building Official Charlie Lucas, Building Department Official Jerome Hoberg, Assistant City Manager Brian Cochran, and Fire Marshal Jessica Power.

During that meeting, we discussed police calls for service, crime reports, and last drink study results from drivers arrested for driving under the influence relating to JRD. We provided you with copies of the supporting documents, allowing you to directly assess the data that underscores the negative impact of your business operations on our community. As we discussed, alcohol-related nuisance activity arising out of the JRD's business operations is significantly higher than comparable alcohol establishments in Petaluma. As a result, Chief Savano advised you that city staff was preparing to start the process to ask the Planning Commission to revoke your Conditional Use Permit and would not consider or recommend an increase to the approved occupancy limit of 130 persons.

During our June 8 meeting, we also discussed the Notices to Correct, Notices of Violation, and Administrative Citations issued to JRD during the last couple of years. Those violations included failure to comply with your existing Conditional Use Permit because you failed to comply with occupancy limitations, failed to submit a detailed security plan to the Chief of Police, and our operations have negatively impacted police and fire department

City Attorney
11 English Street
Petaluma, CA 94952
Phone (707) 778-4362

E-Mail:
cityattorney@cityofpetaluma.org

services. The violations also included violations of the City's Alcohol Related Nuisance Ordinance (ARNO), building and fire code violations, and failure to maintain a business license. We discussed the outstanding fines and fees owed to the City arising out of unpaid citations through the City's code enforcement program. Despite your assurance that outstanding fines and fees owed to the City would be addressed, an outstanding balance of \$7,260.00 remains unpaid to date.

At the end of our June 8 meeting, you also advised the City that you would take immediate action to abate the alcohol related problems at your licensed alcohol establishment. However, we have not witnessed a tangible reduction in alcohol-related nuisance and criminal activity since our meeting. To the contrary, the City has taken additional calls for service, crime reports, and code enforcement action since our last meeting.

As you can see in the below charts, there have been thirteen (13) police reports related to activity at JRD and a total of one hundred and one (101) calls for service. Thirty-two (32) of those calls for service specifically involved reports of fights, 911 calls, disturbances, assaults, DUI drivers, intoxicated subjects, municipal code violations, alarms, and a suspected overdose. Some of these reported assaults and battery incidents involve allegations that JRD security staff caused serious and great bodily injury to patrons resulting in criminal charges being submitted against those staff members to the Sonoma County's District Attorney's Office for charging consideration. Additionally, law enforcement agencies within Sonoma County have received reports that patrons have been drugged while drinking at JRD and then sexually assaulted at a different location.

To illustrate the adverse impacts to the Petaluma community arising out of JRD's business operations, the police department created the below charts. They determined these totals by reviewing and analyzing calls for service (CFS) and crime reports for the following alcohol establishments.

January 2018 - May 2023

Alcohol Establishment	Calls For Service	Crime Reports
Andresen's	18	2
The Block	103	11
The Buckhorn	43	7
Gales	114	26
The Hideaway	241	59
Mario & John's	28	5
McNear's	168	29
Jamison's Roaring Donkey	224	48

To focus on the 2023 calendar year, they reviewed the data and created the below chart for January through May.

January 2023 - May 2023

Alcohol Establishment	Calls For Service January - May 2023	Crime Reports January - May 2023
Andresen's	0	0
The Block	13	3
The Buckhorn	6	1
Gales	13	3
The Hideaway	15	3
Mario & John's	8	2
McNear's	23	6
Jamison's Roaring Donkey	48	5

To assist in the evaluation of whether JRD made significant improvements to its business operations after the June 8th meeting, police department staff reviewed and analyzed data for the below alcohol establishments for June through September.

June 2023 - September 2023

Alcohol Establishment	Calls For Service June - September 2023	Crime Reports June - September 2023
Andresen's	0	0
The Block	13	0
The Buckhorn	4	1
Gales	14	3
The Hideaway	20	2
Mario & John's	2	0
McNear's	11	3
Jamisons Roaring Donkey	53	8

As you can see by the above chart, the calls for service and crime reports relating to JRD have not decreased, but actually increased since the June 8th meeting.

As you can see below, JRD has had almost three times the amount of calls for service relating to its business operations than comparable alcohol establishments.

2023 Year To Date (January - September)

Alcohol Establishment	Calls For Service 2023 YTD	Crime Reports 2023 YTD
Andresen's	0	0
The Block	26	3
The Buckhorn	10	2

Gales	27	6
The Hideaway	35	5
Mario & John's	10	2
McNear's Saloon and Dining House	34	9
Jamisons Roaring Donkey	101	13

As you may know from your last meeting with the City, during a DUI investigation, it is standard procedure for law enforcement officers to inquire about the location where the driver last drank an alcoholic beverage. The officer notes the driver's answer on their DUI form. To analyze DUI arrests in Petaluma, Petaluma Police staff reviewed the DUI forms that resulted in an arrest for driving under the influence and noted the last place that each driver consumed an alcoholic beverage. During the June 8th meeting, the City provided you the following results from that analysis.

Alcohol Establishment/Place of Last Drink	2022	2023 (January - May)
Andresen's	0	0
The Block	2	0
The Buckhorn	1	1
Gales	0	0
The Hideaway	8	2
Mario & John's	1	2
McNear's Saloon and Dining House	5	0
Jamison's Roaring Donkey	35	11

Source: PPD DUI Reports - DUI Form - Question: Where was your last drink?

Since May 2023, we have updated the year to date "Place of Last Drink Study" totals and the results are provided below. **As you can see, since your commitment to improve JRD's business operations and reduce alcohol-related criminal and/or nuisance activity, there have been 22 additional DUI arrests where the driver's last drink was at JRD.**

Alcohol Establishment/Place of Last Drink	2022	2023 YTD (January - September)
Andresen's	0	0
The Block	2	6
The Buckhorn	1	2
Gales	0	2
The Hideaway	8	6
Mario & John's	1	4
McNear's	5	2
Jamison's Roaring Donkey	35	33

Unfortunately, despite the meeting with City staff, there have been significantly more people arrested for DUI's after consuming alcohol at JRD than any of the other comparable Petaluma alcohol establishments this summer. Further, if JRD doesn't change its business operations, there will be more driver's arrested for DUI after drinking at JRD in 2023 than 2022, despite JRD's assurances that it would improve its business operations and reduce alcohol related nuisance activity.

Four months have passed since City staff met with you to discuss the public safety and alcohol-related nuisance issues arising out of JRD's business operations, wherein you assured us that you would address these matters and comply with the CUP. To date, you have not addressed the notices and citations issued to JRD. You have failed to take reasonable steps to abate the alcohol related problems from your licensed alcohol establishment. You have continued to fail to comply with the requirements of the Conditional Use Permit related to police/fire services. It is very concerning that you have failed to keep your word to us and continue to operate in a matter that risks the safety of our community members.

Based on the history of alcohol-related nuisances and overall public safety issues associated with JRD's business operations and your failure to abate the problems after we met in-person, the City is giving you **30 calendar days from the date of this letter to abate the public safety issues and alcohol related nuisances by taking the following actions:**

1. Provide a detailed security plan to the Office of the Chief of Police by October 20, 2023, which includes a list of all the security companies and officers used by JRD:
 - a. The security plan shall include copies of all the security companies' current state permits and each individual's guard cards, including any special authorizations for weapons.
 - b. The security plan will be reviewed with consideration of approval within 10 days of receipt.
2. Provide a complete list of all JRD employees and provide copies of their Responsible Beverage Service Training (RBS Training) certificates.
3. Continue to limit capacity to 130 persons.
4. Do not make any modifications to the building without seeking and obtaining permission from the applicable City Department(s).
5. Pay your delinquent fines and fees that are due to the City.
6. Pursuant to Petaluma Municipal Code section 10.68.030, take reasonable steps to reduce the number of calls for service associated with JRD, that are not generated by Roaring Donkey staff reasonably seeking law enforcement assistance. JRD may do this by:

- a. Monitoring the consumption of alcoholic beverages by patrons of JRD;
- b. Calling the Petaluma Police Department as soon as practicably possible upon discovering a nuisance activity occurring on or near the alcoholic beverage sales establishment; and
- c. Requesting those persons engaging in nuisance activities to cease those activities, unless the responsible person, or his or her agents or employees, feel that their personal safety would be threatened in making that request.
- d. Engage in public education and awareness campaigns that promote designated drivers and ride share services to reduce incidents of DUI.

If the above tasks are not completed by the end of business day on November 9, 2023*, and if JRD's operations do not change as outlined above within the next 30 days, the City will seek to revoke or significantly modify JRD's Conditional Use Permit (CUP). The City will also pursue administrative action with the Department of Alcohol Beverage Control (ABC) for suspension or revocation of your alcohol license.

If you have any questions, please feel free to contact our office.

Respectfully,



Jordan M. Green
Assistant City Attorney

Attachment(s):

1. May 12, 2004 Conditional Use Permit Letter
2. Alcohol Related Nuisance Ordinance (ARNO) - PMC Chapter 10.68

*Please note the City's Finance office will be closed on November 9, 2023, in observance of the Veteran's Day holiday.

Attachment 2

CHAPTER 10.68

ALCOHOL-RELATED NUISANCE ORDINANCE

10.68.010 Title.

This chapter is entitled and shall be known as the "Alcohol-Related Nuisance Ordinance." (Ord. 2285 NCS §1 (part), 2007.)

10.68.020 Findings, intent and purpose.

A. The city council of the city of Petaluma, pursuant to the city's police powers under Article [XI](#), Sections [3](#) and [5](#) of the California Constitution, and the City Charter established pursuant to such sections, has the authority to enact and enforce laws that promote the public health, safety and general welfare of its residents. Providing alcoholic beverages to persons in a manner that leads to over-consumption of alcohol and related nuisances is a threat to public health and safety, quiet enjoyment of both commercial and residential property, and the general welfare of the city and its residents.

B. The city council finds that, although state law prohibits alcoholic beverage sales establishments from selling alcohol to intoxicated persons and persons under twenty-one years of age, state law does not address the alcohol-related nuisances and criminal activities that result from over-consumption of alcohol, such as littering, loitering, public drunkenness, public urination, vandalism, graffiti, unruly behavior, and escalated noise levels. These activities disturb neighboring merchants and residents and threaten the health, safety and welfare of surrounding property owners and the community at large. California Business and Professions Code Section [25612.5](#) sets forth operating standards for off-sale alcoholic beverage sales establishments and permits cities to adopt more stringent operating standards. These operating standards do not apply to establishments that sell alcoholic beverages for consumption only on site. Moreover, the city's zoning ordinance only regulates on-sale bars and taverns. The city council further finds that the Petaluma police department can more effectively ensure that alcoholic beverage sales establishments are not the source of public nuisances in the community with a comprehensive ordinance that regulates nuisance activities that are frequently associated with the over-consumption of alcoholic beverages.

C. According to the California State Department of Alcoholic Beverage Control, Petaluma has a higher concentration of alcoholic beverage sales establishments per resident population than the statewide average. Numerous studies have shown that areas with higher density rates of alcoholic beverage sales establishments experience higher rates of intoxication, alcohol-related traffic collisions, assaults, homicides and other crimes. A countywide study indicated that seventy percent of those willing to report where they had been drinking prior to being arrested for driving under the influence of alcohol indicated Petaluma bars and restaurants as their place of last drink. Law enforcement personnel have in the past been required to respond to numerous calls for service in

the downtown Petaluma area for alcohol-related problems, including public intoxication, fights, driving under the influence, and property damage. At times, the number of intoxicated persons has required multi-jurisdictional law enforcement response. Downtown merchants consistently complain about the damage to their property and rowdy crowds that occur Thursday through Saturday nights.

D. Pursuant to a paper written by the Santa Rosa Policy Panel on Youth Access to Alcohol, eighty-nine percent of high school juniors reported that alcohol was easy to obtain from local merchants. A study conducted in Berkeley from 2004 to 2006 found that thirty-seven percent of all on-sale outlets sold alcohol to minors. Moreover, the University of Minnesota's Alcohol Epidemiology Program indicated that, in a study of three hundred seventy-two alcoholic beverage sales establishments, seventy-nine percent sold alcohol to obviously intoxicated persons. In order to address these issues, many local jurisdictions in California have adopted mandatory responsible server training programs. A 1999 study published in the Journal of Studies on Alcohol found that responsible beverage server training can reduce underage drinking by changing server behavior. And, a study published in Contemporary Drug Problems in 2000 similarly found that the proportion of highly intoxicated patrons decreased in establishments where server training programs had been implemented. Robert Salz of the Prevention Research Center in Berkeley noted that responsible server training programs were only effective if managers of the alcoholic beverage establishments also participated in the program. The U.S. Department of Justice further indicated that a combination of merchant education and integrated law enforcement provides the most effective programs for reducing underage consumption of alcohol.

E. The city council finds that voluntary responsible beverage sales and service training programs cannot ensure that all alcohol servers receive reliable or effective training. Voluntary training programs also have not been shown to be as successful in reducing over-consumption and sales to minors as mandatory programs with accountability measures and consistent systems of enforcement. An ordinance that mandates training for licensees, servers and managers of alcoholic beverage sales establishments and imposes liability on on-sale and off-sale alcoholic beverage sales establishment owners and operators who operate their businesses in a manner that creates a public nuisance is necessary to deter and prevent such nuisances. Business owners should be held liable for the alcohol-related nuisances resulting from their actions, and such business owners and operators, and not the public, should be responsible for the costs associated with responding to multiple calls for service for alcohol-related nuisance activities.

F. The purposes of this chapter include protecting the public health, safety and welfare by requiring owners and operators of alcoholic beverage sales establishments to attend a California State-certified training program that addresses their legal responsibilities to conduct their operations in a way that does not create nuisances or foster criminal activity; providing enforcement mechanisms to address problems often associated with the public consumption of alcoholic beverages, such as litter, loitering, public drunkenness, public urination, vandalism, graffiti, unruly behavior, and escalated noise levels; holding alcoholic beverage sales establishments responsible for the alcohol-related nuisances that occur on or near such establishments when efforts at obtaining voluntary compliance have failed; authorizing the creation of a regulatory fee program to cover the city's reasonable costs associated with the alcoholic beverage sales establishment program; ensuring the proper maintenance of alcoholic beverage sales establishments to avoid negative impacts on surrounding properties; monitoring alcoholic beverage sales establishments to ensure they do not substantially change their mode or character of operation without obtaining the proper authorization; and reducing the costs to the public of providing multiple

police responses to alcohol-related nuisance service calls, both in terms of monetary costs and availability of law enforcement personnel for other calls. These purposes are implemented by the imposition of administrative, civil, and criminal penalties when an alcoholic beverage sales establishment is the source of public nuisances; implementation of a mandatory training program for those who serve alcoholic beverages; and the imposition of fees to recover the costs incurred by the city in providing multiple law enforcement service responses for alcohol-related nuisance activities attributable to an alcoholic beverage sales establishment.

G. For these reasons, the Petaluma city council declares that providing alcoholic beverages to persons who subsequently engage in alcohol-related nuisance activities such as littering, loitering, public drunkenness, public urination, vandalism, graffiti, unruly behavior, and escalated noise levels within the city is a threat to the public peace, health, safety and general welfare, and a public nuisance as it affects at the same time the entire Petaluma community as well as the neighborhoods in which they occur.

(Ord. 2285 NCS §1 (part), 2007.)

10.68.030 Definitions.

For the purposes of this chapter, the following definitions apply:

- A. "Alcohol." The definition of "alcohol" in Section [23003](#) of the California Business and Professions Code, as amended from time to time, shall apply to this chapter. As of the introduction of this chapter, Section 23003 defined "alcohol" to mean "ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced."
- B. "Alcoholic beverage." The definition of "alcoholic beverage" in Section [23004](#) of the California Business and Professions Code, as amended from time to time, shall apply to this chapter. As of the introduction of this chapter, Section 23004 defined "alcoholic beverage" to mean "alcoholic beverage includes alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances."
- C. "Alcoholic beverage sales establishment" means any off-sale or on-sale commercial establishment where alcoholic beverages are sold, served, or given away.
- D. "Alcohol-related nuisance activity attributable to an alcoholic beverage sales establishment" means nuisance activities that occur on or near an alcoholic beverage sales establishment or that involve a call for service where a law enforcement officer determines that the alcoholic beverage sales establishment provided alcohol to a person involved in the nuisance activity within the preceding three hours, where the nuisance activities are attributable to the operations of an alcoholic beverage sales establishment subject to this chapter and could be abated by reasonable steps by the establishment pursuant to this chapter.
- E. "City" means the city of Petaluma.

- F. "Licensee" means any person holding a license, permit, or other authorization to sell alcoholic beverages to the public issued by the California State Department of Alcoholic Beverage Control.
- G. "Manager" means the person, regardless of job title or description, who has discretionary powers to organize, carry on, control or direct the operation of an alcoholic beverage sales establishment.
- H. "Nuisance activity" includes, but is not limited to, disturbance of the peace, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, littering, loitering, public urination, graffiti, lewd conduct, vandalism, unruly behavior, drug trafficking, or escalated noise levels.
- I. "Off-sale" means the sale of alcoholic beverages for consumption off the premises where sold.
- J. "On-sale" means the sale of alcoholic beverages for consumption on the premises where sold.
- K. "Over-consumption of alcohol" means consumption of an amount of alcohol such that the person is under the influence of alcohol pursuant to California Vehicle Code Section [23610](#), as that provision is amended from time to time.
- L. "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit.
- M. "Reasonable steps" include:
1. Monitoring the consumption of alcoholic beverages by patrons of the alcoholic beverage sales establishment;
 2. Calling the Petaluma police department as soon as practicably possible upon discovering a nuisance activity occurring on or near the alcoholic beverage sales establishment; and
 3. Requesting those persons engaging in nuisance activities to cease those activities, unless the responsible person, or his or her agents or employees, feel that their personal safety would be threatened in making that request.
- N. "Responsible beverage service training" or "RBS training" means an educational course in responsible beverage sales and service methods and practices, conducted by the California Department of Alcoholic Beverage Control or an organization certified by the California Department of Alcoholic Beverage Control, that provides a certificate of completion.
- O. "Response costs" means the costs associated with responses by law enforcement to alcohol-related nuisance activities attributable to an alcoholic beverage sales establishment including but not limited to:
1. Salaries and benefits of law enforcement personnel for the amount of time spent responding to, remaining at, or otherwise dealing with alcohol-related nuisance activities attributable to an alcoholic beverage sales establishment, and the administrative costs attributable to such response(s);

2. The cost of any medical treatment to or for any law enforcement personnel injured responding to, remaining at or leaving the scene of a call based on an alcohol-related nuisance activity attributable to an alcoholic beverage sales establishment;
3. The cost of repairing any city equipment or property damage, and the cost of the use of any such equipment, in responding to, remaining at or leaving the scene of a call based on an alcohol-related nuisance activity attributable to an alcoholic beverage sales establishment; and
4. Any costs recoverable in accordance with California Civil Code Section [1714.9](#).

P. "Responsible person" means a person who is an owner, operator, licensee or manager of an alcoholic beverage sales establishment in the city.

Q. "Server" means any person who, as part of his or her employment, sells, or serves any alcoholic beverage.

(Ord. 2285 NCS §1 (part), 2007.)

10.68.040 Creating and failing to abate alcohol-related nuisances unlawful.

A. It is unlawful and a public nuisance for any responsible person to operate an alcoholic beverage sales establishment in a manner that creates an alcohol-related nuisance activity attributable to an alcoholic beverage sales establishment; fail to ensure property maintenance and operating conditions of the alcoholic beverage sales establishment are compatible with and do not adversely impact abutting properties and the surrounding neighborhood; or fail to take reasonable steps to abate alcohol-related nuisance activities attributable to an alcoholic beverage sales establishment.

B. Upon receiving a complaint from the public or any interested person of a violation of this section, the Petaluma police department may investigate the complaint to determine if an alcohol-related nuisance activity attributable to an alcoholic beverage sales establishment has occurred. If the police officer determines that such activity has occurred, the officer may issue a citation. A police officer may revisit the establishment in three to four weeks to determine if the alcohol-related nuisance activities attributable to an alcoholic beverage sales establishment have been abated.

C. If the police officer conducting the revisit finds that the nuisance activities that were the subject of a prior enforcement action under this chapter within the immediately preceding twelve months have not been abated, then all current remaining violations and future violations of this section by any responsible person at that establishment will be subject to the criminal, civil and/or administrative penalties set forth in this chapter in addition to recovery of response costs in accordance with Section [10.68.090](#), and any other applicable penalties under applicable law.

(Ord. 2285 NCS §1 (part), 2007.)

10.68.050 Responsible beverage service training required.

Every licensee, manager and server shall complete responsible beverage service training within ninety days of beginning such activities or within one year of the effective date of the ordinance codified in this chapter, whichever is later, and every third year thereafter. Licensees shall be responsible for ensuring that all servers and managers they employ comply with this section, and licensees shall provide proof thereof to the city within ten days of completion of said training and shall maintain a file of proof of completion that shall be available for inspection by city employees during regular business hours. (Ord. 2285 NCS §1 (part), 2007.)

10.68.060 Criminal enforcement and penalties for violations.

Violations of this chapter may be prosecuted as misdemeanors punishable by a fine of not more than one thousand dollars or by imprisonment for a period not to exceed six months, or by both fine and imprisonment. At the discretion of the charging officer and/or city attorney, violations of this chapter may also be charged as infractions as defined in Section [19\(c\)](#) of the California Penal Code. Violations charged as infractions shall not be subject to imprisonment and shall be subject to a fine not exceeding five hundred dollars for each offense. If a police officer elects to charge a violation of this chapter as a criminal violation, such officer shall issue a criminal citation with a notice to appear signed by the alleged violator. Alternatively, the city attorney may prosecute violations of this chapter by filing a criminal complaint. (Ord. 2285 NCS §1 (part), 2007.)

10.68.070 Civil and administrative enforcement and penalties for violations.

Violations of this chapter are declared to be public nuisances. Violations of this chapter may be prosecuted as a nuisance and enforced by a civil court action as provided in Chapter [1.13](#) or via administrative enforcement as a nuisance as provided in Chapter [1.14](#). Notwithstanding any other provisions of this chapter, whenever the existence or continuance of any violation of this chapter or any nuisance condition poses an imminent or immediate threat of harm to persons or property, or to public health, welfare or safety, such violation or condition may be summarily abated in accordance with Section [1.15.010](#). Each and every day during any portion of which a nuisance condition exists or continues may be deemed a separate and distinct violation for purposes of setting the amount of penalty to be imposed. (Ord. 2285 NCS §1 (part), 2007.)

10.68.080 Alternative remedies provided.

In addition to the other remedies specified in this chapter, violations of this chapter are subject to the enforcement remedies in Chapters [1.10](#) through [1.12](#) and [1.15](#) of the Petaluma Municipal Code. In addition, the city expressly reserves the right to utilize enforcement remedies available under any applicable state or federal statute or pursuant to any other lawful power of the city. All such remedies shall be alternative to or in addition to

or in conjunction with, and not exclusive of, one another. The election of remedies shall be at the sole discretion of the city. (Ord. 2285 NCS §1 (part), 2007.)

10.68.090 Recovery of response costs.

When the police make the first response within a twelve-month period to an alcohol-related nuisance activity attributable to an alcoholic beverage sales establishment within the city, and a police officer issues a citation for violation of this chapter, the officer shall, in writing, inform a responsible person that:

- A. An alcohol-related nuisance activity attributable to an alcoholic beverage sales establishment has occurred; and
- B. If, upon reexamination, the nuisance condition is not abated within thirty days of the date of the initial response, the responsible person(s) may be charged for any response costs incurred for subsequent responses to the property for an alcohol-related nuisance activity attributable to an alcoholic beverage sales establishment within a twelve-month period.

Within thirty calendar days of the initial citation, an additional written warning shall be transmitted via certified mail to the licensee at the address in the city's business license file for the alcoholic beverage sales establishment.

When a police officer responds to an alcohol-related nuisance activity attributable to an alcoholic beverage sales establishment within the city within twelve months of a citation and warning given to a responsible person at the same alcoholic beverage sales establishment, and such officer issues a second or subsequent citation pursuant to this chapter, all responsible person(s) shall be jointly and severally liable for the city's response costs concerning such second or subsequent alcohol-related nuisance activity attributable to an alcoholic beverage sales establishment, but only to the extent that such responsible person(s) concerning the first citation remain responsible person(s) for the second or subsequent citations at such establishment.

(Ord. 2285 NCS §1 (part), 2007.)

10.68.100 Appeal of administrative enforcement.

A responsible person charged with a violation of this chapter pursuant to Chapter [1.14](#) shall be entitled to pursue the appeal procedures set forth in Section [1.14.070](#) for responsible persons named in notices of violations. (Ord. 2285 NCS §1 (part), 2007.)

10.68.110 Regulatory fee.

The city may establish a regulatory fee program to cover the costs of administering the alcohol-related nuisance program, in accordance with applicable law by resolution of the city council, as said resolution may be amended from time to time. (Ord. 2285 NCS §1 (part), 2007.)

10.68.120 No mandatory duty of care.

This chapter is not intended to impose, and shall not be construed or given effect in a manner that imposes upon the city, or any officer, employee, agent, or representative of the city, a mandatory duty of care toward persons or property within or without the city limits, so as to provide a basis of civil liability for damages, except as may otherwise be imposed by law. (Ord. 2285 NCS §1 (part), 2007.)

The Petaluma Municipal Code is current through Ordinance 2855 NCS, passed June 19, 2023.

Disclaimer: The city clerk's office has the official version of the Petaluma Municipal Code. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.

[City Website: cityofpetaluma.net](http://cityofpetaluma.net)

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