



DATE: August 9, 2018

File: MOD 18-02

TO: ZONING ADMINISTRATOR

UP 08-02

FROM: Shannon Costa, Assistant Planner, 530-879-6807
shannon.costa@chicoca.gov

RE: Modification 18-02 of Use Permit 08-02 (5th Street Steakhouse) to allow for the expansion of an outdoor dining area; 345 and 331 W. 5th Street, APNs 004-221-001 and 004-221-002

RECOMMENDATION

Planning staff recommends that the Zoning Administrator find the project categorically exempt from environmental review and approve Modification 18-02 (5th Street Steakhouse), based on the findings and subject to the recommended conditions of approval.

BACKGROUND AND ANALYSIS

5th Street Steakhouse is located at 345 W. 5th Avenue, on the southeast corner of the intersection at W. 5th Street and Normal Avenue (see **Attachment A**, Location Map). The site is designated Residential Mixed Use on the General Plan Land Use diagram and is zoned RMU-L-COS (Residential Mixed Use with Landmark and Corridor Opportunity Site Overlay).

The applicant is requesting modification of the current use permit (UP 08-02) to allow for the expansion of the existing restaurant outdoor dining area resulting in a site 11,761-square-foot in size (see **Attachment B**, Plat to Accompany Modification 18-02 and **Attachment C**, Use Permit 08-02). Pursuant to Chico Municipal Code 19.42.020, Table 4-6 (*Allowed Use and Permit Requirements for Residential Zoning Districts*) a use permit is required to authorize restaurants greater than 2,500-square-foot in size in the RMU zoning district. The applicant has applied to merge the project site with the adjacent parcel to the east (formally Grace Jr.) to accommodate the expansion.

The proposal includes the expansion of the existing outdoor dining area and patio, a new outdoor bar, landscape features and use of the existing structure on the adjacent parcel for a staff staging area, banquets and events. The existing restaurant building is designated as a historic structure on the City's Historic Resources Inventory and all proposed site improvements, including the design, landscaping, hardscape features and other improvements will be subject to site design and architectural review pursuant to CMC 19.18 (*Site Design and Architectural Review*).

The existing outdoor dining area and banquet room were constructed in 2008, following approval of the use permit and a previously approved Certificate of Appropriateness. Beginning in the early 1970's the structure has been in continuous use as a restaurant and bar. It is not anticipated that impacts associated with the existing restaurant operation including hours of operation, noise and parking would significantly increase as a result of the expansion. Existing noise and lighting levels associated with the outdoor dining area including light music, fire pits and customer conversation are expected to increase only

minimally and the extensive landscaping and perimeter fence design for the project will provide a buffer, keeping these impacts mostly within the bounds of the project site. Currently, hours of operation are Sunday through Thursday 4:30 PM to 9:00 PM, Friday and Saturday from 4:30 PM to 10 PM and Friday lunch from 11:30 AM to 2:30 PM. Hours of operation would not change with the proposed expansion.

The project site falls within the bounds of the Downtown Parking In-Lieu Benefit Area. Pursuant to CMC 19.70.040.G, no parking is required for non-residential uses in the Benefit Area. Additionally, within a two-block radius of the project site, there is a public parking lot at W. 5th Street and Salem Streets and a parking structure on Salem Street, between W. 3rd and W. 4th Streets to accommodate parking needs for the project.

The project is consistent with a number of General Plan policies, including those that encourage “third places” (ED-1.5.1), support locally owned businesses (ED-1.8.2) and enhance the character of Chico’s diverse neighborhoods (CD-4). Although new conditions of approval are issued with the modified use permit, the project remains in compliance with all other previously imposed conditions of approval, including the installation of wood fencing, screening of HVAC units and trash enclosures, and shielding all exterior lighting; therefore, those conditions of approval will be removed from the use permit.

FINDINGS

Environmental Review

The modification is exempt from the California Environmental Quality Act (CEQA), as was the original project approval, pursuant to CEQA Guidelines Section 15303(e), New Construction or Conversion of Small Structures.

Use Permit Findings

The proposed modification does not conflict with the findings set forth in the previously adopted Use Permit 08-02. These findings are as follows:

- A. *The proposed use is allowed within the subject zoning district and complies with all of the applicable provisions of Chapter 19.24 (Use Permits).*

Expansion of the restaurant outdoor dining area resulting in an area of 11,761 square feet is an allowed use in the RMU zoning district, subject to issuance of use permit. This use permit application has been processed in accordance with the requirements of Chapter 19.24.

- B. *The proposed use would not be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of the proposed use.*

The proposed expansion of the outdoor dining area will be compatible with surrounding uses. A restaurant use has been in place for approximately 40 years and has not had a detrimental impact on the health, safety and general welfare of persons residing or

working in the neighborhood of the proposed use. Existing noise and lighting levels associated with the outdoor dining area including light music, fire pits and customer conversation are expected to increase only minimally and the extensive landscaping and perimeter fence design for the project will provide a buffer, keeping these impacts mostly within the bounds of the project site. Current hours of operation would not change with the proposed expansion.

- C. *The proposed use would not be detrimental and/or injurious to property and improvements in the neighborhood of the proposed use, as well as the general welfare of the City.*

Expansion of the existing restaurant outdoor dining area will be completed in compliance with City building and fire code regulations. The project will comply with all applicable building and improvement regulations and standards.

- D. *The proposed entitlement is consistent with the General Plan, any applicable specific plan, and any applicable neighborhood or area plan.*

The project is consistent with a number of General Plan policies, including those that encourage “third places” (ED-1.5.1), support locally owned businesses (ED-1.8.2) and enhance the character of Chico’s diverse neighborhoods (CD-4). The architecture and design will be reviewed by the Architectural Review and Historic Preservation Board to ensure consistency with the City’s Design Guidelines Manual.

- E. *The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses in the vicinity.*

The proposed use will be located on an existing commercial property which has adequate site area to accommodate the proposed expansion. The proposed design includes characteristics, such as architectural style, and materials that complements the historic structure on the site.

PROPOSED MODIFICATIONS

Upon approval, the permittee will be granted a new, modified use permit to replace the existing use permit and includes the following conditions of approval:

1. Use Permit 08-02 authorizes the expansion of a restaurant with outdoor bar and patio area larger than 2,500 square feet, located at 531 W. 5th Street (5th Street Steakhouse) in the RMU district on in substantial accord with the “Plat to Accompany Use Permit 08-02 (5th Street Steakhouse),” and in compliance with all other conditions of approval.
2. The permittee shall comply with all other State and local Code provisions, including those of the Building Division, Public Works Department, Fire Department, and Butte

County Environmental Health. The permittee is responsible for contacting these offices to verify the need for permits.

3. The permittee shall provide a note on the front page of the building plans indicating that the building shall be constructed in compliance with the approval of Modification 18-02 of Use Permit 08-02.
4. Prior to issuance of building permits, the design of all new structures, site improvements, and landscaping for the project shall be subject to review by the Architectural Review and Historic Preservation Board, in compliance with Chico Municipal Code Section 19.18 (Site Design and Architectural Review). Board approval of the final design may result in modifications to the approved plat.
5. No building permits shall be issued prior to recording of the Certificate of Merger (CM 18-06).

PUBLIC CONTACT

A notice was published in the Chico Enterprise Record 10 days prior to the meeting date and notices were mailed out to all property owners and tenants within 500 feet of the project site.

DISTRIBUTION:

Internal (3)

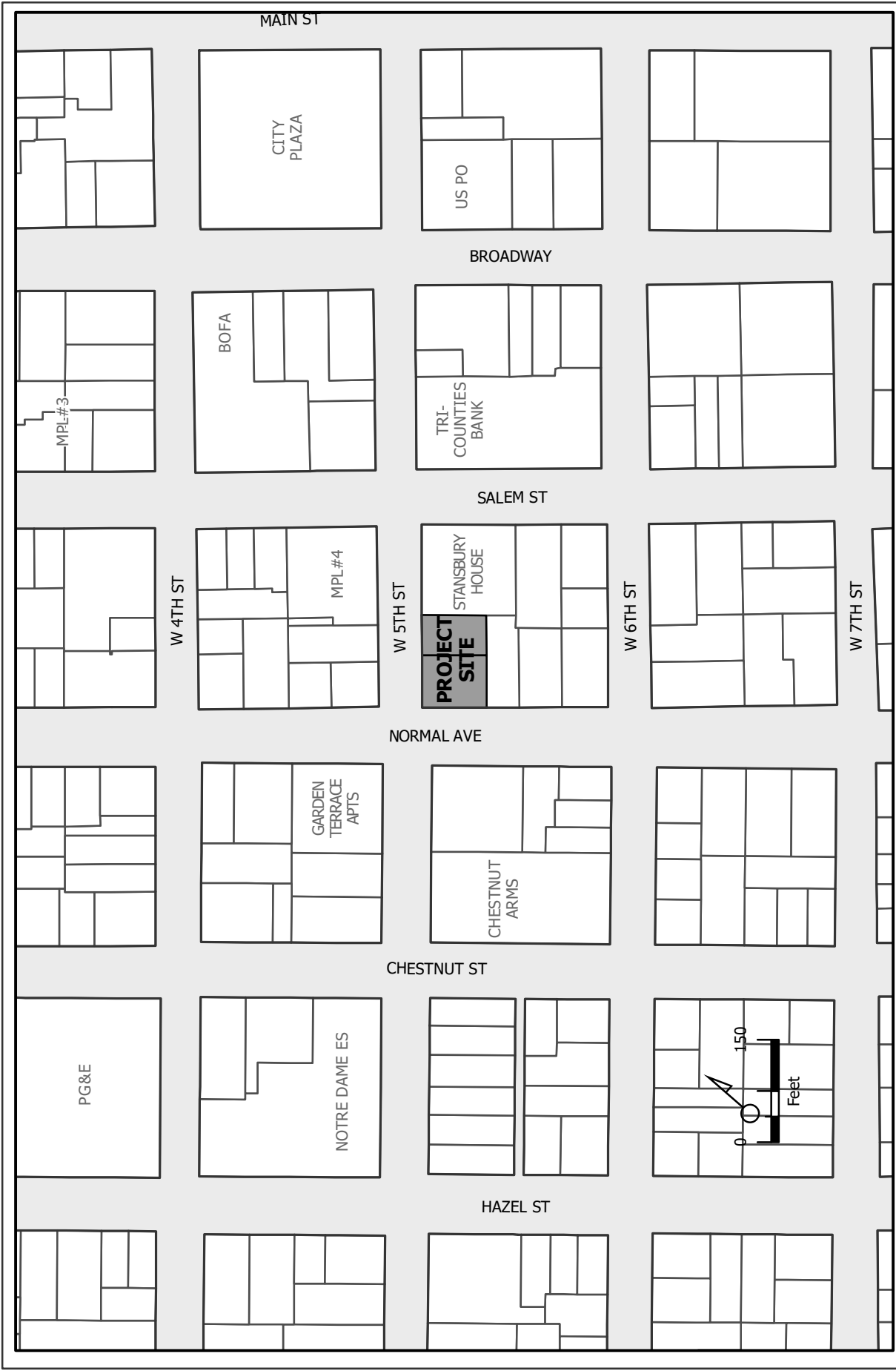
Brendan Vieg, Zoning Administrator
Shannon Costa, Assistant Planner
File: MOD 18-02

External (2)

Kevin Riley 3410 Bell Rd, Chico, CA 95926
Greg Peitz, 383 Rio Lindo Avenue, Chico, CA 95926

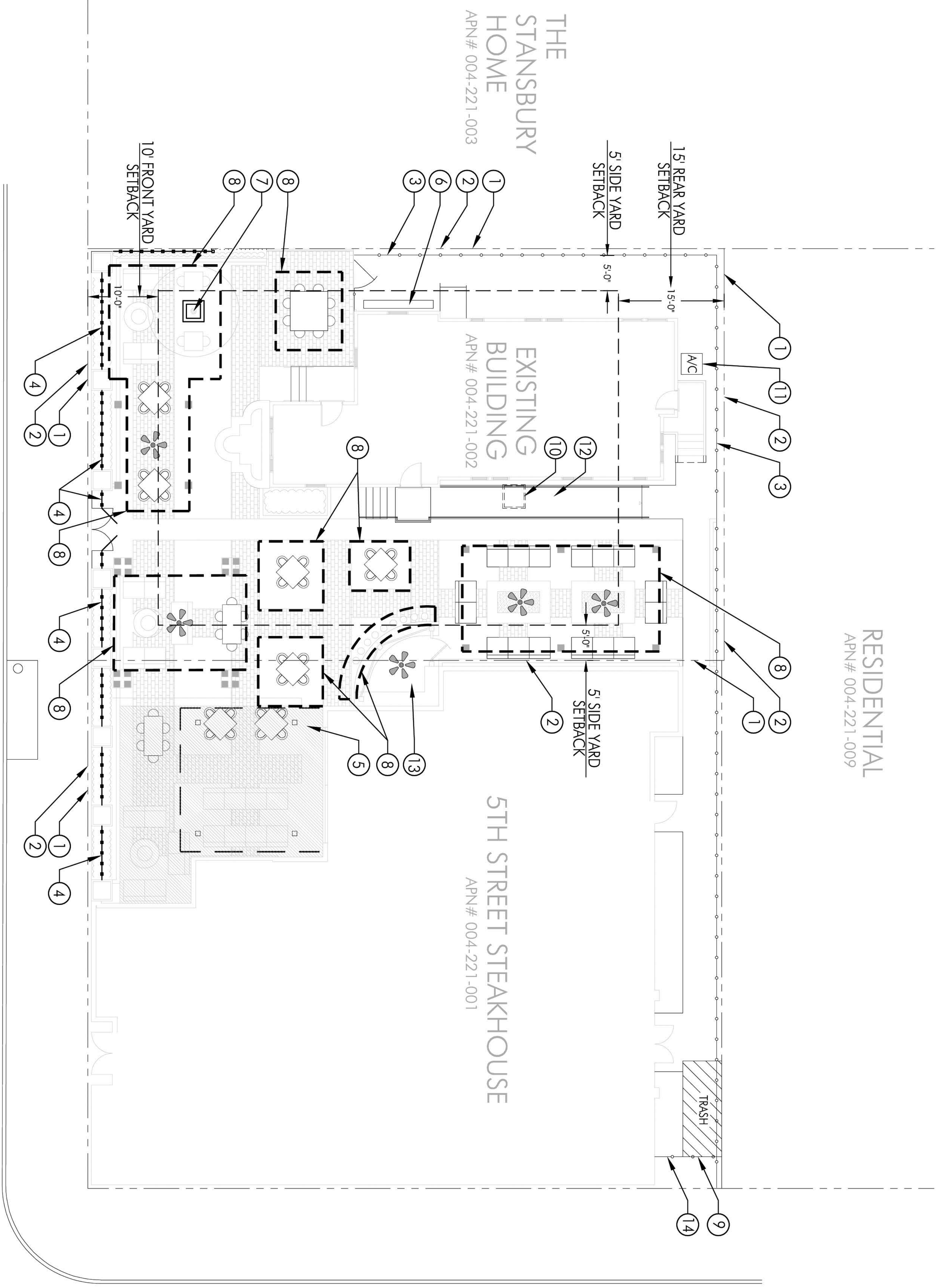
ATTACHMENTS:

- A. Location Map
- B. Plat to Accompany Use Permit 08-02 (5th Street Steakhouse)
- C. Existing Use Permit 08-02 (5th Street Steakhouse)



UP 18-02 modification, AR 17-38 (Fifth Street Steakhouse)
 345 W 5th Street & 331 W 5th Street
 APNs 004-221-(001 & 002)-000

RESIDENTIAL
APN# 004-221-009



PARKING LOT

LAW OFFICE

5TH STREET

NORMAL AVENUE

PLAN LEGEND

SYMBOL	DESCRIPTION
①	LIMIT OF WORK
②	PROPERTY LINE
③	EXISTING WOOD FENCE
④	5' HIGH IRON FENCE.
⑤	EXISTING OUTDOOR PATIO WITH WOOD TRELLIS, STRING LIGHTS, TABLES AND CHAIRS AND PAVERS. SEE SHEET L-0.3 FOR ADDITIONAL INFORMATION
⑥	EXISTING UTILITIES
⑦	EXISTING ORANGE TREE. TO REMAIN.
⑧	OUTDOOR DINING AREA SEE "OUTDOOR DINING AREA" TABLE THIS SHEET. SEE SHEET L-0.3 & L-0.4 FOR ADDITIONAL INFORMATION
⑨	ENCLOSED TRASH AREA. THIS PROJECT WILL UTILIZE THE EXISTING ENCLOSED TRASH AREA LOCATED BEHIND 5TH STREET STEAKHOUSE.
⑩	EXISTING A/C UNIT TO BE RE-LOCATED.
⑪	NEW LOCATION OF A/C UNIT.
⑫	ADA RAMP WITH HANDRAIL.
⑬	OUTDOOR BAR
⑭	EXISTING FENCE / GATE

OPEN SPACE

DESCRIPTION	AREA	PERCENT
TOTAL SITE	5,195 SF	100%
EXISTING BUILDING	1,209 SF	23%
OUTDOOR BAR	104 SF	2%
TOTAL OF BUILDING AND BAR	1,313 SF	25%
TOTAL OPEN SPACE	3,882 SF	75%

OUTDOOR DINING AREA

DESCRIPTION	AREA	PERCENT
TOTAL SITE	5,195 SF	100%
OUTDOOR DINING AREA	1,488 SF	29%
OUTDOOR DINING SEATS SHOWN ON PLAN IS 73		

LANDSCAPE AREA

DESCRIPTION	AREA	PERCENT
TOTAL SITE	5,195 SF	100%
OUTDOOR LANDSCAPE AREA	297 SF	6%

SHEET L-0.1

BFLA PROJECT NUMBER: 1988.1
DECEMBER 20, 2017

ATTACHMENT " "

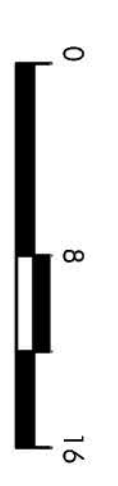
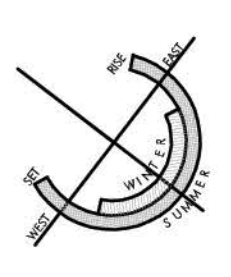
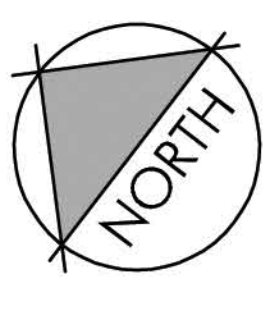
PREPARED BY:

BRIAN FIRTH LANDSCAPE ARCHITECT, INC.
627 BROADWAY, SUITE 220, CHICO, CALIFORNIA 95928
PHONE: (530) 899-1130/ FAX: (530) 899-1920
www.BFLAdesign.com www.facebook.com/BFLAdesign

5TH STREET STEAKHOUSE

SITE PLAN

PREPARED FOR:
KEVIN RILEY
345 W. 5TH STREET
CHICO, CA 95928





**PLANNING SERVICES
DEPARTMENT**

411 Main Street (530) 879-6800
P.O. Box 3420
Chico, CA 95927

PERMIT NO. Use Permit 08-02 (Cold Pop,
LLC/Fifth Street Steakhouse)

CONDITIONAL
USE PERMIT

Permit Description:

In accordance with Chico Municipal Code Sections: **19.42.020, Table 4-2**, Use Permit 08-02 (Cold Pop, LLC/Fifth Street Steakhouse), authorizes the following:

A request to modify a historic structure with the addition of approximately 1,043 square-foot of banquet room. The original 3,200 square-foot historic structure is currently used as a restaurant (Fifth Street steakhouse).

At: **345 West 5th Street**

Assessor's Parcel No.: **004-221-001**

Final Action: Approved by the Zoning Administrator February 12, 2008

Effective Date of the Permit: February 22, 2008

Issuance of Permit:

In accordance with Chico Municipal Code Section 19.30.020, no permit, certificate, or other entitlement may be issued until the effective date. The Permittee shall sign the approved certificate or other entitlement within 30 days of approval indicating full understanding and concurrence with the approval and all conditions imposed by the review authority, or the entitlement will be deemed void.

This permit is hereby issued through the signatures of the Planning Director and the Permittee.

Conditions of Approval:

1. Use Permit 08-02 (Cold Pop, LLC/5th Street Steakhouse) authorizes the expansion of a 3,643 square-foot non-conforming restaurant with a banquet room that is approximately 1,043 square feet on property located at 345 West 5th Street, in substantial accord with the "Plat to Accompany Use Permit 08-02 (Cold Pop, LLC/5th Street Steakhouse)", the approved elevations, and in compliance with all other conditions and approval.
2. The permittee shall comply with all other State and Local Code provisions, including those of the Building and Development Services, Planning Services, and Fire Departments. The applicant is responsible for contacting these offices to verify the need for permits.
3. Development of the banquet room shall be in substantial compliance with the site plan, landscape plan, elevations, and color/material samples on file in association with ARB 05-40.

-
4. The permittee shall screen both the existing and proposed roof mounted HVAC units.
 5. The permittee shall revise the site plan to show elimination of the chain-link fence and installation of a six-foot high solid fence along the entire easterly property line.
 6. All doors on the south side of the banquet facility shall remain closed during use of the facility.
 7. All exterior lighting shall be shielded with downward, fully cut off fixtures.
 8. Fencing shall be installed to obscure the view of the trash receptacles, subject to review and approval by Planning staff.
 9. The permittee shall replace the street tree missing in the tree well on West Fifth Street with a species and size of tree to be reviewed and approved by the Urban Forester.
 10. Prior to any ground disturbing activities conducted during development of the site, the applicant shall provide protective fencing to avoid damage to the oak tree during construction. The developer shall arrange a pre-construction (pre-ground disturbance) site meeting with the Planning staff. The purpose of the pre-construction site meeting includes verification by Planning staff that protective measures (such as temporary fencing) have been implemented around the oak tree.
 11. Project shall be in conformance with Architectural Review 05-40.
 12. Prior to the issuance of building permits, the Planning Services Director shall make all necessary findings to approve a new certificate of appropriateness that will run concurrently with the term of Use Permit 08-02. The new certificate of appropriateness shall be processed in accordance with CMC Section 19.52.040, including all required public noticing requirements.

I hereby agree to accept this Use Permit subject to the provisions of the Chico Municipal Code (CMC) and the conditions specified above. I am aware that this permit becomes null and void if not used within one year of the date of approval as established in CMC Section 19.30.050 and may be subject to revocation pursuant to CMC Chapter 19.14.

Permittee's Signature: _____ Date: _____

This use permit is hereby issued subject to the provisions of the Chico Municipal Code and the conditions specified above.

Zoning Administrator

Date of Permit Issuance: _____

cc: Permittee, Owner, SPCE, Building File, GISA Pierce