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**AGENDA ITEM NO.:** 9 (Action Item – Public Hearing)

**PLANNING COMMISSION MEETING DATE:** January 22, 2019

**SUBJECT:** Conditional Use Permit (CUP) 2019-15/Copper Top

#### **EXECUTIVE SUMMARY**

The applicant has applied for a CUP to allow for a restaurant with outdoor seating, located at 442 Main Street in Big Pine, in Inyo County.

#### **PROJECT INFORMATION.**

**Supervisory District:** 4

**Project Applicant:** Copper Top BBQ, 310 Main Street, Big Pine CA 93513

**Property Owner:** Matthew Kerley-Otten

**Site Address:** 442 Main Street, Big Pine CA 93513

**Community:** Big Pine

**A.P.N.:** 003-152-08

**General Plan:** Central Business District (CBD)

**Zoning:** Central Business (CB)

**Size of Parcel:** 0.33 acres

**Surrounding Land Use:**

<b>Location:</b>	<b>Use:</b>	<b>Gen. Plan Designation</b>	<b>Zoning</b>
Site	Vacant (applicant-owned)	Central Business District (CB)	Central Business (CB)
North	Vacant/LADWP	Heavy Commercial (HC)	Heavy Commercial (C4)
East	residential/private	Central Business District (CB)	Central Business (CB)
South	Gas station/private	Central Business District (CB)	Central Business (CB)
West	Vacant/LADWP	Public Service Facility (PF)	Open Space with a 40 acre minimum (OS-40)

**Staff Recommended Action:** **1.) Approve the Conditional Use Permit (CUP) 2019-15/Copper Top and certify the project as a Categorical Exemption under CEQA.**

**Alternatives:**

- 1.) Deny the CUP.
- 2.) Approve the CUP with additional Conditions of Approval.
- 3.) Continue the public hearing to a future date, and provide specific direction to staff regarding what additional information and analysis is needed.

**Project Planner:** Steve Karamitros

**STAFF ANALYSIS**

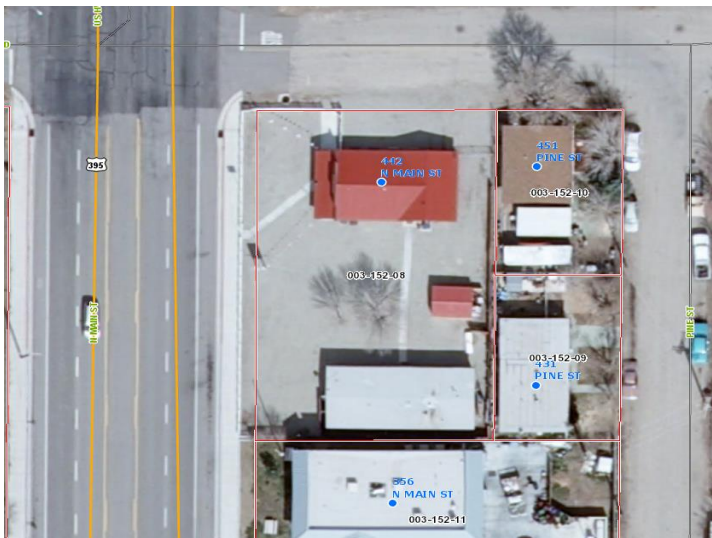
Background and Overview

The applicant has applied for a CUP to operate a restaurant with outdoor seating and onsite parking located at 442 Main Street in Big Pine. The property is zoned CB, which allows for restaurants, but requires a CUP and Planning Commission approval, if the restaurant is going to provide outdoor seating to patrons (ICC 18.44.030(G)). The site is located in a commercial business area along Main Street. The surrounding area is primarily zoned CB.

## Site Proximity Map



## Site Location



### General Plan Consistency

The goal of this project is to allow for a restaurant with outdoor seating. The project is consistent with the General Plan designation of Central Business District (CBD) as it “provides for commercial uses such as small retail sales and...food services.” The (CBD) General Plan designation is compatible with the existing Central Business (CB) zoning designation. It is also compatible with the General Plan’s Land Use Goal to: Provide commercial land uses that adequately serve the existing and anticipated future needs of the community and surrounding environs. The applicant is proposing to relocate their existing restaurant to a new location that can accommodate outdoor seating and onsite parking.

### Zoning Ordinance Consistency

The proposed project is a CUP since the project description specifies outdoor seating for the restaurant. Restaurants are a principal permitted use within the CB zone; however, any principal use when combined with outdoor seating, requires a conditional use permit, per ICC 18.44.030(G). The Central Business zone, within its intent statement, says that it is established for “a variety of small commercial retail and service” purposes. This project will provide more commercial activity by allowing the business to expand its seating capacity.

### **ENVIRONMENTAL REVIEW**

Conditional Use Permit 2019-15/Copper Top was reviewed for compliance with the California Environmental Quality Act (CEQA) and was found to be exempt from further analysis, pursuant to Section 15300 (Class 1) of the CEQA guidelines, as it constitutes the “permitting...of a private structure...involving no expansion of use beyond that existing at the time of the lead agency’s determination.”

### **NOTICING & REVIEW**

The application for CUP 2019-15/Copper Top has been reviewed by the appropriate county departments and no issues were reported. This included reviews by the Environmental Health, Public Works, and the Treasurer’s Office.

The public hearing date for this CUP was noticed on January 7, 2020 in the *Inyo Register* and mailed to property owners within 300-feet of the project location.

### **RECOMMENDATION**

Planning Department staff recommends the approval of Conditional Use Permit No. 2019-15/Copper Top, with the following Findings and Conditions of Approval:

### **FINDINGS**

1. The proposed Conditional Use Permit is an Initial Study with Mitigated Negative Declaration under CEQA guidelines and the provisions of the California Environmental Quality Act have been satisfied.  
*[Evidence: Pursuant to 14 California Code Regulatory Sections 15000 et seq., the proposed project is Categoricaly exempt under CEQA (Class 1) of the CEQA guidelines, as it constitutes the “permitting...of a private structure...involving no*

*expansion of use beyond that existing at the time of the lead agency's determination."*

2. The proposed Conditional Use Permit is consistent with the Inyo County General Plan Land Use designation of Central Business District (CBD).  
*[Evidence: The goal of this project is to allow for outdoor restaurant seating on a parcel of land with a (CBD) General Plan designation. The project is consistent with the (CBD) designation, as this land use designation, according to the General Plan, should "provide for commercial uses such as small retail sales and...food services." The proposed Copper Top BBQ restaurant, is consistent with the General Plan's Economic Development Element Goal (ED-3): "Encourage the development of retail establishments that will reduce resident spending outside the County for retail purchases, services, and entertainment." The applicant's proposed project is consistent with the General Plan's goals since it is a local source for retail goods and services.]*
3. The proposed Conditional Use Permit is consistent with the Inyo County Zoning Ordinance, which permits outdoor restaurant seating, as a conditional use, in the CB zone.  
*[Evidence: Chapter 18.44-CB District requires a conditional use permit for "any permitted use when combined with or involving any outdoor display of goods, outdoor seating, or outdoor business activity" (ICC 18.44.030). The applicant's restaurant business is fully aligned with County zoning code, as a principal permitted use. The CUP is required due to the outdoor seating component in the project description.]*
4. The proposed Conditional Use Permit is necessary or desirable.  
*[Evidence: The General Plan's Economic Development Element states: 'Tourism has increased over the last decade and promoting its continued growth should be a high priority...Clearly delineated, attractive...downtowns enhance the visitor experience to the County, and creating additional attractions will increase sales and property tax revenues to the County.' The applicant is attempting to maintain and grow capacity for a retail food service, utilized by residents as well as tourists, and bring revenue to the County. This is a sustainable model, which is desirable as evidenced by the County's General Plan.]*
5. The proposed Conditional Use Permit is properly related to other uses and transportation and service facilities in the vicinity.  
*[Evidence: The proposed conditional use permit is for a retail business located along US 395. The project will create a driveway and access to onsite customer parking. The project will not cause negative impacts on transportation or service facilities in the vicinity.]*
6. The proposed Conditional Use Permit would not, under all the circumstances of this case, affect adversely the health or safety of persons living or working in the vicinity or be materially detrimental to the public welfare.

*[Evidence: The proposed conditional use permit will not change or increase the current level, or general type, of allowed uses in Big Pine. The project has been evaluated by the Department of Building & Safety and Environmental Health and will not create impacts on the health or safety of persons living or working in the vicinity, nor will it be materially detrimental to the public welfare.]*

7. Operating requirements necessitate the Conditional Use Permit for the site.  
*[Evidence: Any permitted use for the CB zoning district, when combined with outdoor seating, requires a conditional use permit per Inyo County Code Section 18.44.030(G) and is therefore necessary for the operation of Copper Top BBQ.]*

## **CONDITIONS OF APPROVAL**

### **1. Hold Harmless**

The applicant/developer shall defend, indemnify and hold harmless Inyo County agents, officers, and employees from any claim, action or proceeding against the County or its agents, officers, or employees to attack, set aside, void or annul an approval of the county, its advisory agencies, its appeals board, or legislative body concerning Conditional Use Permit No. CUP 2019-15/Copper Top. The County reserves the right to prepare its own defense.

### **2. Compliance with County Code**

The applicant/developer shall conform to all applicable provisions of Inyo County Code and State regulations. If the use provided by this conditional use permit is not established within one year of the approval date it will become void.

### **3. Additional Building Requirements**

The project will follow all building requirements as set by the Inyo County Building and Safety Department. The applicant will work with and get all necessary permits from the Building and Safety Department and shall work with and follow any requirements set by the Department of Environmental Health.