

**CITY OF CALISTOGA
PLANNING COMMISSION
REGULAR MEETING MINUTES**

**Wednesday, April 13, 2011
5:30 PM
Calistoga Community Center
1307 Washington St., Calistoga, CA**

**Chairman Jeff Manfredi
Vice-Chairman Paul Coates
Commissioner Nicholas Kite
Commissioner Matthew Moye
Commissioner Carol Bush**

“California Courts have consistently upheld that development is a privilege, not a right.”

Among the most cited cases for this proposition are Associated Home Builders, Inc. v. City of Walnut Creek, 4 Cal.3d633 (1971) (no right to subdivide), and Trent Meredith, Inc. v. City of Oxnard, 114 Cal. App. 3d 317 (1981) (development is a privilege).

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2 **Chairman Manfredi** called the meeting to order at 5:33 PM.
3

4 **A. ROLL CALL**

5 **Present:** Chairman Jeff Manfredi, Vice-Chair Paul Coates, Commissioners Nicholas Kite,
6 Matthew Moye and Carol Bush. **Staff Present:** Ken MacNab, Planning and Building Manager,
7 Erik Lundquist, Senior Planner and Kathleen Guill, Planning Commission Secretary.
8

9 **B. PLEDGE OF ALLEGIANCE**

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11 **C. PUBLIC COMMENTS**

12 Nothing to report.
13

14 **D. ADOPTION OF MEETING AGENDA**

15 There was motion by **Chairman Manfredi**, seconded by **Vice-Chairman Coates** to amend the
16 agenda moving item H. New Business to follow item I. Public Hearings. **Motion carried: 5-0-0-**
17 **0.**
18

19 **E. COMMUNICATIONS/CORRESPONDENCE**

20
21 **F. CONSENT CALENDAR**

22
23 Planning Commission regular Meeting Minutes of March 23, 2011.
24

25 There was motion by **Vice-Chairman Coates**, seconded by **Commissioner Moye** to approve the
26 Consent Calendar as presented. **Commissioner Kite** noted he would abstain from the vote as
27 he was not present during the March 23, 2011 meeting. **Motion carried: 4-0-0-1.**
28

29 **G. TOUR OF INSPECTION**

30 None.
31

32 **H. NEW BUSINESS** - * moved following I. Public Hearings
33

34 **I. PUBLIC HEARINGS**

35
36 **1. U 2011-06:** Consideration of a Conditional Use Permit application to establish retail wine
37 sales, including wine tasting and wine education in an existing 1,200 square foot commercial
38 space located at 1367 Lincoln Avenue (APN 011-221-015) within the “DC-DD”, Downtown

39 Commercial-Design District Overlay Zoning District. This proposed action is exempt from the
40 California Environmental Quality Act (CEQA) under Section 15332 of the CEQA Guidelines.

41
42 **Planner Lundquist** reported W. H. Smith and Sons has been established in the community for
43 over a year and they are interested in relocating to the space formerly occupied by the Candy
44 Cellars (approximately 1,200 sqft). Planner Lundquist reported a conditional use permit was
45 required within the Downtown Commercial zoning district for wine tasting establishments. Staff
46 indicated the proposed use for retail sales, tasting, “sensory education”, and office/storage use
47 was appropriate. Staff also recommended waiving Design Review because there were no
48 substantial changes from their current business operation.

49
50 **Commissioner Kite** asked if the design intent was to maintain the same look and feel as the
51 existing premises.

52
53 **Planner Lundquist** stated that had been reported as their intention.

54
55 **T’Anne Butcher**, 40 View Rd., reported she was the operating manager of the project and noted
56 the plan was to use the same furniture and design from their current store. It would basically be
57 the same business. It would just be more central in town and provide a bit bigger space.

58
59 **Commissioner Moye** asked if the wines poured were W. H. Wines or would they offer others.

60
61 **T’Anne Butcher** reported it would be just their own wines.

62
63 With no further discussion there was motion by **Commissioner Bush**, seconded by **Chairman**
64 **Manfredi** to direct Staff to file a Notice of Exemption for the Project pursuant to Section 15332 of
65 the CEQA Guidelines. **Motion carried: 5-0-0-0.**

66
67 There was motion by Chairman **Manfredi**, seconded by **Commissioner Moye** to adopt Resolution
68 PC 2011-10 approving Conditional Use Permit (U 2011-06) to allow retail wine sales, including
69 wine tasting and wine education in an existing 1,200 square foot commercial space located at
70 1367 Lincoln Avenue (APN 011-221-015) within the “DC-DD”, Downtown Commercial-Design
71 District zoning district, based upon the findings provided in the Resolution and subject to
72 conditions of approval. **Motion carried: 5-0-0-0.**

73
74 **2. U 88-05(A):** Consideration of a Conditional Use Permit application requesting an amendment
75 to Use Permit U 88-05 to allow amplified music / live entertainment at Buster’s Barbecue and
76 Bakery, 1207 Foothill Boulevard (APN 011-317-007) within the “DC-DD” Downtown Commercial-
77 Design District Overlay Zoning District. This proposed action is exempt from the California
78 Environmental Quality Act (CEQA) under Section 15301 of the CEQA Guidelines. *(This item was*
79 *continued from the regular Planning Commission Meeting of March 23, 2011.)*

80
81 **Commissioner Kite** recused himself from discussion reporting he was the property
82 owner/neighbor of the adjoining property to the project.

83
84 **Manager MacNab** confirmed this item was continued from the March 23, 2011 meeting to provide
85 the applicant time to review and respond to the staff recommendations. Manager MacNab
86 reported he had sat down with Mr. Davis and Ms Jolly to explain the recommended alternatives to

87 their initial live music proposal. Mr. Davis expressed that he understood the alternatives but
88 wanted to proceed with the live entertainment as originally proposed and requested to proceed by
89 conducting a live entertainment test event. With the Commissions approval staff will work with Mr.
90 Davis to set the date for the event and provide appropriate public noticing.

91

92 **Commissioner Moyer** asked if there was any response to the public meeting notices on this
93 proposal.

94

95 **Manager MacNab** stated there was no response to the public hearing notices.

96

97 **Commissioner Coates** asked for clarification that this application was for indoor music only.

98

99 **Manager MacNab** confirmed the application was for indoor music only and noted he had
100 encouraged Mr. Davis to present the most "extreme" example of music he would consider
101 appropriate for the music test event.

102

103 **Chairman Manfredi** closed the public portion of the discussion at 5:45 PM.

104

105 There was motion by **Vice-Chairman Coates**, seconded by **Commissioner Moyer** to continue the
106 item to a date uncertain and authorize staff to conduct a publically noticed test live entertainment
107 event. **Motion carried: 4-0-0-1.**

108

109 **Commissioner Kite** resumed his seat on the Planning Commission.

110

111 ***H. NEW BUSINESS**

112 Discussion on Conflict of Interest. Q & A with Legal Counsel Ben Winig

113

114 **Chairman Manfredi** introduced City Legal Counsel representative Mr. Ben Winig.

115

116 **Ben Winig** reported he had prepared some general remarks related to "Conflict of Interest" to
117 initiate informal discussion.

118

119 **Manager MacNab** noted this discussion was arranged as an opportunity for the Commission to
120 review and/or obtain any clarifications they may need. Scenarios were provided as examples of
121 some of the conflict of interest issues that staff has addressed in the past.

122

123 **Commissioner Kite** asked Counsel if he would rather Commissioners ask their questions in a
124 general sense, or should they be more specific.

125

126 **Ben Winig** noted there is a sense of potential liability so public questions should be kept more
127 hypothetical and specific questions should be directed to staff as needed to obtain an appropriate
128 legal response.

129

130 **Ben Winig** provided copies of the most commonly used reference materials i.e. The Political
131 Reform Act, Government Code 10.90, The Brown Act, and Public Service Ethics, which provides
132 nice summaries and scenarios of fair process laws in very clear language including type of
133 penalties and when to call your City Attorney.

134 **Ben Winig** provided a summary review relating to the common law codes and bias in decision
135 making. He reviewed each of the individual scenarios presented by staff and discussed pertinent
136 conflict of interest considerations for each scenario.

137

138 Mr. Winig also responded to a number of questions from the Planning Commission and staff.

139

140 Mr. Winig concluded by encouraging Commissioners to speak to staff when they believe a conflict
141 of interest issue may exist.

142

143 **Manager MacNab** thanked Mr. Winig and the Commission for the very good discussion.

144

145 **J. MATTERS INITIATED BY COMMISSIONERS**

146

147 **Chairman Manfredi** suggested the City needed to review and resolve the Lincoln Avenue
148 sidewalk dining issue, noting tables are coming up all over the sidewalks to the point of people
149 sitting right up to the street curb, with their back to the car traffic. He explained he does not object
150 to sidewalk dining in itself, but believes the situation has the potential for problems that need to be
151 addressed by the City.

152

153 **K. DIRECTOR'S COMMENTS/PROJECT STATUS**

154

155 **Manager MacNab** reported the next regularly scheduled Planning Commission meeting of April
156 27, 2011 will be canceled. The next regular meeting will be held on May 11, 2011, at 5:30 PM.

157

158 **Manager MacNab** provided a brief summary of anticipated projects coming forward including an
159 expansion proposal for Lava Vine Winery and a new winery, T Vine Cellars, to be located in the
160 former Rainbow Ag location. He further reported staff will begin processing the implementation of
161 the Urban Design Plan into the General Plan. Manager MacNab also noted that Planner
162 Lundquist is currently working with Enchanted Resorts toward publication of their EIR to come
163 forward this fall and that Indian Springs is preparing to submit their formal proposal for an
164 upcoming expansion.

165

166 **L. ADJOURNMENT**

167 There was motion by **Commissioner Bush**, seconded by **Commissioner Moye** to adjourn to the
168 next regular meeting of the Planning Commission of Wednesday, May 11, 2011, at 5:30 PM.

169 **Motion carried: 5-0-0-0.** The meeting adjourned at 6:50 PM

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174 _____
Kathleen Guill

175 Secretary to the Planning Commission

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