

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

Wednesday, April 25, 2012
5:30 PM
Calistoga Community Center
1307 Washington St., Calistoga, CA

Chairman Jeff Manfredi
Vice Chairman Paul Coates
Commissioner Carol Bush
Commissioner Nicholas Kite
Commissioner Walter Kusener

“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).

MEETING CALLED TO ORDER AT 5:32 p.m.

A. ROLL CALL

Present: Chairman Jeff Manfredi, Vice Chairman Paul Coates, Commissioners Carol Bush, Nick Kite and Walter Kusener. **Absent:** None. **Staff Present:** Ken MacNab, Planning and Building Manager, and Erik Lundquist, Senior Planner.

B. PLEDGE OF ALLEGIANCE

C. PUBLIC COMMENTS

Dennis McNay, 2653 Foothill Boulevard. Mr. McNay noted existing and potential development conditions along Silverado Trail near the edge of town. Mr. McNay observed that this development is going to be using water and wastewater and that during harvest season traffic generated by the wineries and resorts will cause congestion. Mr. McNay asked if the cumulative impacts of greenhouse gas emissions were being considered by the Planning Commission's in its review of new development in this area.

D. ADOPTION OF MEETING AGENDA

MOVED by Commissioner Bush, seconded by Vice Chair Coates, to approve the meeting agenda of April 25, 2012 as provided.

The motion carried with the following vote:

- AYES: (5) Manfredi, Coates, Bush, Kite, Kusener
- NOES: (0)
- ABSTENTIONS: (0)
- ABSENT: (0)

E. COMMUNICATIONS/CORRESPONDENCE

Chairman Manfredi noted receipt of one late communication.

F. CONSENT CALENDAR

MOVED by Commissioner Kite, seconded by Chairman Manfredi, to approve the regular meeting minutes of April 11, 2012 as provided.

The motion carried with the following vote:

- AYES: (5) Manfredi, Coates, Bush, Kite, Kusener
- NOES: (0)
- ABSTENTIONS: (0)
- ABSENT: (0)

G. TOUR OF INSPECTION

None.

H. PUBLIC HEARINGS

1. **LAVA VINE WINERY.** Consideration of Conditional Use Permit (U 2011-05) and Design Review (DR 2011-05) applications, requested by Joseph and Jill Cabral, to allow a new 30,000 gallon (approximately 12,600 cases) per year winery on the subject parcel with the construction of a new 5,214 square feet winery building and associated infrastructure on the property located at 963/965 Silverado Trail within the "CC-DD", Community Commercial - Design District (APN 011-050-043).

Chairman Manfredi noted that this item has been continued from the February 8, 2012 meeting of the Planning Commission.

Commissioner Kite announced he was recusing himself from this item because he has a business relationship with the applicant. Mr. Kite also stated that he would be recusing himself from the following item as well [*Busters BBQ Live Entertainment*] because he is a neighboring property owner.

Senior Planner Lundquist gave the staff report.

Commissioner Kusener asked for clarification on the "left turn lane" condition. **Senior Planner Lundquist** explained that the applicant was being required to install a left turn lane but that the design of the left turn lane had not been finalized.

Chairman Manfredi opens the public hearing.

Joseph Cabral, 965 Silverado Trail (owner/applicant, Lava Vine Winery). Mr. Cabral made the following comments:

- The project has been revised to eliminate previously proposed uses.
- The winery will be closed during bottling operations.
- The previously proposed office space has been eliminated, which should help reduce parking demand.

Mr. Cabral concluded his comments and made himself available for Commissioner questions.

Commissioner Bush asked for clarification on what restrictions would be placed on proposed custom crush operations. **Senior Planner Lundquist** responded that the only restriction on custom crush operations would be the total production limits for the winery.

Commissioner Kusener asked if custom crush operations would be done by winery staff or by the staff of the custom producer. **Mr. Cabral** stated that it would be done by his staff. **Mr. Cabral** stated he did not know how many custom producers he would have.

Senior Planner Lundquist stated there was no limitation proposed on the number of custom producers that could be allowed at the winery.

Commissioner Kusener asked what percentage of business would be custom crush. **Mr. Cabral** stated that it was not his intent to be a custom crush facility, but would like to option to allow some custom crush activity.

Commissioner Kusener asked how the recently adopted 75% rule applies to this project. **Mr. Lundquist** stated that the winery has been conditioned to meet the 75% rule and that any production at the winery would have to comply with the rule.

Chairman Manfredi asked why Mr. Cabral's position on custom crush has changed. Mr. Manfredi stated he would rather limit production to the winery only.

Mr. Cabral stated that it would be nice to have custom crush as an option so that his wine maker could do some custom production at the winery.

Vice Chair Coates asked for clarification on the number of days the winery would be closed for bottling.

Commissioner Kusener noted that he visited the property and still has concerns about parking. Mr. Kusener asked Mr. Cabral if he had talked to staff about filling in a trench so that the parking area could be widened.

Mr. Cabral stated he had not and then explained the proposal to the Commission.

Senior Planner Lundquist noted that filling in the drainage trench may require an update to the drainage calculations that have been submitted for the project.

Commissioner Kusener stated he would like to see the project conditioned to widen the parking area.

Commissioner Kusener asked if Mr. Cabral would be willing to eliminate a shed addition to the back of the existing house. Mr. Kusener stated that he thought removal of the shed would improve circulation.

Chairman Manfredi stated that he too met with Mr. Cabral at the property. Mr. Manfredi concurred with Commissioner Kusener's suggestion that the Commission consider requiring that the shed be removed.

Bob Fiddaman, 1300 Cedar Street. Mr. Fiddaman reminded the Commission that he was at the February 8th meeting expressing his support for the project and that he continues to support the project. Mr. Fiddaman offered the following comments:

- Believes that Mr. Cabral has addressed the concerns of the Planning Commission.
- Notes improved quality of graphics and plans submitted for the project.
- Stated that he hopes the Planning Commission does not make removal of the back shed a condition of project approval.
- Provided background on how Napa County regulates custom production and suggested that one approach to the issue might be to limit the number of custom producers.

- Explained that custom crush is a common practice and is helpful in letting a winery grow into their facility.
- Notes that the project is consistent with the General Plan and Zoning regulations.
- States that he does not believe parking is going to be an issue, notes that Mr. Cabral has received a letter from CalMin stating that they will allow Mr. Cabral to use their parking spaces. Mr. Fiddaman also noted that there is some parking available along the CalMin property on Silverado Trail.

Chairman Manfredi closed the public hearing.

Commissioner Kusener expressed concern about use of parking spaces along Silverado Trail.

Vice Chair Coates expressed concern about the adequacy of parking during busy times in accommodating circulation. Mr. Coates indicated support for filling the trench to improve parking conditions.

Commissioner Kusener asked Mr. Cabral if he would be willing to reduce the proposed production of the winery to 10,000 cases.

Vice Chair Coates suggested that the Commission consider initially approving a 10,000 case production limit and be open to allowing an increase in production at a later date if operationally things appear to be going well.

Mr. Cabral stated he does see there being much operational difference resulting from a 2,000 case reduction. Mr. Cabral stated that would like to have approval for 12,600 cases as requested.

Chairman Manfredi thanked Mr. Cabral for the changes that have been made in response to previous Commission comments and then summarized discussion and direction by the Planning Commission:

- A. Satisfied with the revised condition regarding the left turn lane.
- B. Support for filling the trench to allow for widening of the parking area, with direction to staff to include it as a condition of project approval.
- C. Would like to see letter from CalMin on parking submitted for file [*Mr. Cabral submitted the requested letter at the meeting*].

- D. Support for allowing the requested winery production of 12,600 cases.
- E. Support for allowing custom crush at the winery.
- F. Encouragement for Mr. Cabral to explore removal of the shed at the back of the winery.

Senior Planner Lundquist confirmed that the Planning Commission was only adding one new condition requiring that the trench be filled to allow more room for parking.

MOVED by Vice Chair Coates, seconded by Commissioner Bush, to adopt Resolution PC 2012-01, adopting a Mitigated Negative Declaration, finding that with the inclusion of mitigation measures, the project will not have a significant adverse impact on the environment.

The motion carried with the following vote:

- AYES: (4) Manfredi, Coates, Bush, Kusener
- NOES: (0)
- ABSTENTIONS: (1) Kite
- ABSENT: (0)

MOVED by Chairman Manfredi, seconded by Commissioner Bush, to adopt PC Resolution PC 2012-02, as amended, approving a Conditional Use Permit and Design Review allowing a new 30,000 gallon (approximately 12,600 cases) per year winery on the subject parcel with the construction of a new 5,214 square feet winery building and associated infrastructure on the property located at 963/965 Silverado Trail within the "CC-DD", Community Commercial - Design District (APN 011-050-043), based upon the findings and subject to conditions of approval, as amended, contained in the Resolution.

The motion carried with the following vote:

- AYES: (4) Manfredi, Coates, Bush, Kusener
- NOES: (0)
- ABSTENTIONS: (1) Kite
- ABSENT: (0)

2. **BUSTERS BBQ LIVE ENTERTAINMENT.** Consideration of a Conditional Use Permit application requesting an amendment to Use Permit U 88-05 to allow amplified music / live entertainment at Buster's Barbecue and

Bakery, 1207 Foothill Boulevard (APN 011-317-007) within the "DC-DD" Downtown Commercial-Design District Overlay Zoning District. This proposed action is exempt from the California Environmental Quality Act (CEQA) under Section 15301 of the CEQA Guidelines.

Chairman Manfredi noted that this item has been continued from the April 13, 2011 meeting of the Planning Commission.

[Commissioner Kite had previously announced that he was recusing himself from this item because he was a neighboring property owner.]

Planning Manager MacNab gave the staff report.

Vice Chair Coates asked at what distance would the proposed noise threshold of 60 dBA be measured. **Planning Manager MacNab** stated that the threshold would be measured at the property line of the subject site.

Chairman Manfredi opened the public hearing.

Charles Davis, 1207 Foothill Boulevard (applicant/proprietor). Mr. Davis commented on two of the recommended conditions:

1. Times. Mr. Davis expressed concern that the proposed weekend afternoon hours are during the peak restaurant time. Mr. Davis requested that the time frame be changed to 3 p.m. to 9 p.m.
2. Number of Events. Mr. Davis requested that number of events allowed be increased from two to three.

Mr. Davis responded to the comments regarding noise levels inside the restaurant. Mr. Davis stated that it is his intent to make acoustical improvements inside the building that would reduce perceived noise levels.

Mr. Davis also stated that he would install a sound system that would allow him to control the noise levels of individual instruments if necessary as well as the overall sound levels.

Commissioner Kusener asked Mr. Davis about why the proposed weekend hours of 12:00p to 4:00p do not work.

Mr. Davis explained that hours overlap with busiest times of the restaurant, and that changing the hours would allow him to hold events during off-peak times.

Commissioner Bush asked if periodically allowing events go to 9:00 p.m. would be acceptable. **Mr. Davis** said it would be.

Commissioner Kusener confirmed that when events are held there will be no change to how alcohol is sold on the property.

Commissioner Kusener asked for clarification on the condition related to replacement of the doors, and if Mr. Davis had been advised of this beforehand. **Planning Manager MacNab** stated that Mr. Davis is aware that the doors were not installed with required building permit review and knows that the doors cannot be kept closed while the enclosed patio area is occupied.

Commissioner Kusener asked Mr. Davis if he had any concern about keeping the doors closed during live entertainment events. **Mr. Davis** responded that he had no concern about closing the doors and that he would make the doors code compliant.

Commissioner Kusener asked Mr. Davis if he had any concerns about the availability of parking. **Mr. Davis** responded that parking is another reason why he would like the hours to be changed, noting that parking is pretty full during peak restaurant times and would be more available if events are held during off-peak times.

Commissioner Bush asked what the seating capacity was inside the enclosed patio area. **Mr. Davis** stated he believed it was rated for 65 people.

Ann Scott, 4281 Scott Way. Ms. Scott asked how air quality [*smoke from the barbecue*] would be monitored during “spare the air” days. Ms. Scott acknowledged that it wasn’t the City’s responsibility to enforce, but believes it should be honored. Ms. Scott also asked about the monitoring of noise and air quality levels related to motorcycles. Ms. Scott stated that the police department has been unwilling to enforce noise laws.

Ms. Scott stated that there is a parking problem related to Busters, noting that customers park along Foothill and run into Busters to buy food to go. Ms. Scott stated she believes this is a safety issue.

Mr. Davis responded to comments made by Ms. Scott related to air quality compliance.

Ms. Davis reiterated her point that air quality compliance is not being honored.

Planning Manager MacNab responded to Ms. Scott's question on how noise levels related to live entertainment would be enforced by the City.

Dennis McNay, 2653 Foothill Boulevard. Mr. McNay shared with the Planning Commission previous discussions he's had with the California Highway Patrol on enforcement of noise levels and stated it was his understanding that given budget constraints noise enforcement is a low priority.

Norman Kiken, 1520 Diamond Mountain Road. Mr. Kiken shared his observation of the test live entertainment event, stating that he did not hear any noise and thought the event looked well run.

Clarence Luvisi, 285 Rosedale Road. Mr. Luvisi stated that he supports the proposal for live entertainment. Mr. Luvisi shared his observations about air quality and smoke generated by Busters.

Chairman Manfredi closed the public hearing.

Vice Chair Coates asked Mr. Davis to confirm that he was willing to install acoustical measures, fix the doors and install sound controls. **Mr. Davis** confirmed that he was willing to do this. Mr. Coates stated that these measures give him a level of comfort about the proposal.

Chairman Manfredi noted that the primary use the property is a restaurant, and that music should be provided for the enjoyment of diners in a manner that adds to the ambiance of the restaurant.

Chairman Manfredi reviewed the noise attenuation measures Mr. Davis stated he is willing to install, including installation of sound controls and making the doors code compliant. Mr. Manfredi suggested that in addition to these measures proper signage should be installed to make it clear that doors are to be kept closed during live entertainment events. Mr. Manfredi also noted that Mr. Davis stated a willingness to make acoustical retrofits to the interior of the restaurant. Mr. Manfredi proposed that all of these measures be incorporated as conditions of approval and required before live entertainment events begin.

Chairman Manfredi polled the Planning Commission on thoughts about the hours, days and number of events that should be permitted. Mr. Manfredi suggested that the hours should be consistent across all days.

Commissioner Bush suggested that the hours be set from 4:00 p.m. to 8:00 p.m., with the ability to go to 9:00 p.m. four times per year. The

Planning Commission concurred with these hours, provided that there is advance notice of the times when events would go to 9:00 p.m.

Vice Chair Coates asked for clarification on how notification of a 9:00 p.m. event would work.

Chairman Manfredi acknowledged that was consensus on the hours and asked the Commission for thoughts on how many days per week events should be allowed.

Vice Chair Coates suggested that live entertainment be allowed three times per week.

Commissioner Kusener asked the Commission if there would be any concern with a Friday, Saturday, Sunday schedule. Commissioners responded that any three days could be chosen by Mr. Davis, and if those were the days he wanted it would be OK.

Commissioner Kusener asked if the space was air conditioned. **Mr. Davis** stated that it was.

Planning Manager MacNab summarized the Commission's position as follows:

- There is support for the request to allow live entertainment.
- Prior to commencement of live entertainment events the following must occur: (1) installation of a sound control system; (2) installation of signage stating that the doors must be kept closed during live entertainment events; (3) installation of acoustical measures inside the enclosed patio area; and (4) installation of code compliant doors.
- Live entertainment can be held between the hours of 4:00 p.m. to 8:00 p.m., up to three times per week on any day.
- Up to four times per year, live entertainment events may go to 9:00 p.m. with advance notification to the Planning Department.

MOVED by Vice Chair Coates, seconded by Chairman Manfredi, to direct staff to file a Notice of Exemption for the project pursuant to Section 15301 of the CEQA Guidelines.

The motion carried with the following vote:

- AYES: (4) Manfredi, Coates, Bush, Kusener
- NOES: (0)
- ABSTENTIONS: (1) Kite
- ABSENT: (0)

MOVED by Commissioner Bush, seconded by Vice Chair Coates, to waive the requirement for Design Review approval pursuant to Section 17.06.020(B)(2) of the Zoning Ordinance, because there are no substantial design issues to be reviewed.

The motion carried with the following vote:

- AYES: (4) Manfredi, Coates, Bush, Kusener
- NOES: (0)
- ABSTENTIONS: (1) Kite
- ABSENT: (0)

MOVED by Commissioner Kusener, seconded by Vice Chair Coates, to adopt Planning Commission Resolution PC 2011-09 approving an amendment to Conditional Use Permit U 88-05 (U 88-05(A)) to allow amplified music and live entertainment indoors within Buster's Barbecue and Bakery located at 1207 Foothill Boulevard (APN 011-317-007) within the "DC-DD", Downtown Commercial-Design District Overlay Zoning District, subject to conditions of approval as amended.

The motion carried with the following vote:

- AYES: (4) Manfredi, Coates, Bush, Kusener
- NOES: (0)
- ABSTENTIONS: (1) Kite
- ABSENT: (0)

[The Planning Commission takes a five-minute recess]

3. **WAYSIDE INN EXPANSION.** Consideration of an amendment to the previously approved Conditional Use Permit (U 87-7) eliminating the owner/manager residence requirements associated with the "Calistoga Wayside Inn", and authorizing a 4th bed and breakfast unit, located at 1523 Foothill Boulevard (APN 011-300-003) within the "R-1-10", Single Family Residential District. The property owners are Susan and David Devries. This proposed action is exempt from the California Environmental Quality Act (CEQA) under Section 15332 of the CEQA Guidelines.

Senior Planner Lundquist gave the staff report.

Chairman Manfredi opened the public hearing.

Doug Cook, 1447 Second Street (applicant/owner's representative). Mr. Cook stated that he and his wife would be the off-site managers. Mr. Cook thanked staff for the report.

Mr. Cook clarified that the proposal was to go from a three room bed and breakfast to a four room bed and breakfast.

Mr. Cook requested that condition language be clarified regarding: (1) off-site manager requirements; (2) interior and exterior alterations; (3) time frames for switching over to no on-site manager; (4) flexibility on exiting; (5) administrative review frequency; (6) clarification on additional units; (7) and identification of specific parking spaces.

Commissioner Kite asked whether breakfast would be served to guests and noted that the kitchen appears to be readily accessible to guests. Mr. Kite expressed some concern that with open access to the kitchen a future owner may be tempted to use the residence as vacation rental unit.

Senior Planner Lundquist stated that staff concurred with the suggestions and corrections proposed by Mr. Cook. Mr. Lundquist reviewed proposed alternative language for Condition No. 6.

Mr. Cook asked for clarification on how the other two bed and breakfast facilities that have no on-site manager requirement have addressed Mr. Kite's concerns about future conversion to a vacation rental unit.

Chairman Manfredi responded that those facilities have had similar conditions imposed on them and that this project is not being treated any differently.

Chairman Manfredi closed the public hearing.

MOVED by Chairman Manfredi, seconded by Vice Chair Coates, to direct staff to file a Notice of Exemption for the project pursuant to Section 15332 of the CEQA Guidelines.

The motion carried with the following vote:

- AYES: (5) Manfredi, Coates, Bush, Kite, Kusener
- NOES: (0)
- ABSTENTIONS: (0)
- ABSENT: (0)

MOVED by Commissioner Kite, seconded by Commissioner Bush, to adopt PC Resolution PC 2012-14 approving Conditional Use Permit Amendment (U 2012-01), amending the previously approved Conditional Use Permit (U 87-7), eliminating the owner/manager residence requirements associated with the "Calistoga Wayside Inn", and authorizing a 4th bed and breakfast unit, located at 1523 Foothill Boulevard (APN 011-300-003) within the "R1-10", Single Family Residential District, based upon the findings presented in the resolution and subject to conditions of approval, as amended.

The motion carried with the following vote:

- AYES: (5) Manfredi, Coates, Bush, Kite, Kusener
- NOES: (0)
- ABSTENTIONS: (0)
- ABSENT: (0)

I. NEW BUSINESS

None.

J. MATTERS INITIATED BY COMMISSIONERS

Commissioner Kite thanked staff for their efforts to send letters out to suspected operators of illegal vacation rental units. Mr. Kite asked staff if there is an update on efforts to adopt code amendments that would allow for increased fines.

Senior Planner Lundquist responded that staff has prepared a memo discussing possible code amendments and forwarded that memo to the City Manager for consideration.

Chairman Manfredi commented as an aside that the City of St. Helena may likely reconsider its decision to legalize three dozen illegally operating vacation rentals.

K. COMMENTS/PROJECT STATUS

Planning Manager MacNab informed the Commission that the May 9, 2012, meeting of the Planning Commission will be cancelled.

L. ADJOURNMENT

MOVED by Chairman Manfredi, seconded by Commissioner Kite, to adjourn to the next regular meeting of the Planning Commission.

The motion carried with the following vote:

- AYES: (5) Manfredi, Coates, Bush, Kite, Kusener
- NOES: (0)
- ABSTENTIONS: (0)
- ABSENT: (0)

MEETING ADJOURNED AT 7:24 p.m.

Ken MacNab,
Planning Commission Secretary