

CITY OF CALISTOGA

STAFF REPORT

TO: CHAIRMAN MANFREDI AND MEMBERS OF THE
PLANNING COMMISSION

FROM: KEN MACNAB, SENIOR PLANNER

MEETING DATE: AUGUST 27, 2008

SUBJECT: ZONING ORDINANCE AMENDMENT (ZO 2008-03) –
CHANGE IN REVIEW PROCEDURES FOR FOOD
ESTABLISHMENTS IN THE DOWNTOWN COMMERCIAL
("DC") ZONING DISTRICT

1 **REQUEST:**

2
3 **ZO 2008-03.** Consideration of a Zoning Ordinance Text Amendment, initiated by
4 the City of Calistoga, Chapter 17.22.040 Downtown Commercial (DC) District –
5 Allowed, Conditionally Permitted and Prohibited Uses of the Calistoga Municipal
6 Code, to change review procedures for occupancy of an existing commercial
7 space by a restaurant, bakery, cafe, or similar use, with or without outdoor dining,
8 from a conditionally permitted use under Section 17.22.040(B) to a permitted use
9 under Section 17.22.040(A), subject to administrative review with public notice.
10 Bars and uses with bars, live entertainment and/or dancing would remain as
11 conditionally permitted uses. This proposed action is exempt from the California
12 Environmental Quality Act (CEQA) under Section 15061(b)(3) of the CEQA
13 Guidelines.

14
15 **BACKGROUND:**

16
17 In response to the length of time taken in the processing of JoLe Restaurant's
18 use permit and the need to assist new businesses that desire to locate in
19 Calistoga, the Planning Director was approached by the Mr. Rex Albright,
20 Executive Director for the Chamber of Commerce. After discussion on the need
21 for a use permit and time required to process, the Department was requested to
22 explore an administrative use permit process for allowing restaurants in the
23 Downtown Commercial Zoning District in order to simplify the process.

24
25 Restaurants, bakeries, café's and other similar uses are currently allowed in the
26 Downtown Commercial ("DC") Zoning District with Conditional Use Permit
27 approval by the Planning Commission. Typically, a person seeking to open a

28 new food establishment in Calistoga looks to lease commercial space in an
29 existing building in or near the core downtown area. When a space is found, the
30 proprietor must obtain Conditional Use Permit approval prior to making interior
31 improvements and moving into the space. The Conditional Use Permit process
32 can take several months to complete, during which time the proprietor is often
33 required to compensate the owner for holding the space open.

34
35 Over the years, Planning and Building Department staff has reviewed numerous
36 applications for Conditional Use Permit approval to open a new food
37 establishment in an existing commercial space. Through this experience it has
38 become evident to staff that the issues that typically arise during these reviews
39 are generally the same: parking, water and sewer allocations, bars and live
40 entertainment. While establishments with bars, live entertainment and/or
41 dancing do raise issues that warrant discretionary review and public discussion,
42 staff believes that establishments without such uses can be reviewed through
43 established administrative procedures and practices.

44
45 In the interest of maintaining streamlined development review procedures and a
46 positive business climate in the community, staff is proposing that certain types
47 of food establishments be reviewed and approved administratively rather than
48 through the Conditional Use Permit process.

49
50 **STAFF ANALYSIS**

51
52 Section 17.22.040(B)(14) of the Downtown Commercial Zoning District
53 regulations requires Conditional Use Permit approval for “restaurants, bakeries,
54 bars, cafes, and similar uses, with or without outdoor dining.” The primary
55 purpose of requiring a conditional use permit is to ensure that the use is
56 compatible with adjacent uses and is operated in a manner that does not
57 adversely impact adjoining properties or the environment. Typical questions
58 addressed during the conditional use permit review process include:

- 59
- 60 • Consistency with the General Plan and Zoning Code
 - 61 • Site compatibility
 - 62 • Compatibility with surrounding uses
 - 63 • Measures to reduce or eliminate compatibility issues
 - 64 • Environmental impacts
 - 65 • Adequacy of public services and/or infrastructure
 - 66 • Impact of the use on the community as whole
- 67

68 In applying these questions to a proposal to open a food establishment in an
69 existing commercial space in the DC zoning district, it can be seen that for
70 certain types of food establishments there are very few, if any, issues of
71 compatibility or impact. Consider the following responses to the questions above

72 using JoLe restaurant's recent request for Conditional Use Permit approval to
73 open in an existing commercial space in the Mt. View Hotel as an example.

- 74
75 1. *Is the proposed use consistent with the General Plan and Zoning*
76 *Code?*

77
78 Response:

79 The subject property has a General Plan land use designation of
80 Downtown Commercial. Objective LU-1.1 of the Land Use Element in the
81 General Plan is to enhance and maintain the vibrancy of the downtown.
82 Implementing Policy P2 calls for commercial development to be focused in
83 the downtown area (where they are accessible to residents and tourists).
84 Implementing Policy P5 encourages infill development over peripheral
85 development.

86
87 The property is located within the Downtown Commercial-Design District
88 overlay (DC-DD) zoning district. The DC-DD zoning district implements
89 the Downtown Commercial General Plan land use designation.

- 90
91 2. *Does the proposed use make sense for the site?*

92
93 Response:

94 The subject space had been occupied by commercial uses for over 50
95 years and most recently was occupied by a restaurant similar to the one
96 being proposed. The proposed restaurant is consistent with these General
97 Plan objectives and policies as it is located in the central downtown area on
98 Lincoln Avenue, is expected to serve the needs of residents and visitors in
99 the area, and is occupying an existing commercial space.

- 100
101 3. *Is the proposed use compatible with surrounding uses?*

102
103 Response:

104 The proposed use is located on the ground floor of an existing hotel and
105 in area characterized by a variety of retail uses. Uses immediately
106 adjacent to the subject space include BarVino (bar) to the east and North
107 Star (retail establishment) to the west.

- 108
109 4. *If not, are there things that can be done to make it more*
110 *compatible?*

111
112 Response:

113 With respect to compatibility of uses, staff finds that the proposed
114 restaurant use is consistent with and will complement the downtown retail
115 environment.

116 Staff is aware of a waste management issue associated with the hotel
117 operator and has asked that a waste management plan be provided for
118 review and approval as part of the building permit process.
119

120 5. *Will the project have any environmental effects? What will those*
121 *effects be? What level of environmental review must occur?*
122

123 Response:

124 The proposed project involves occupancy and minor interior alterations to
125 an existing commercial space. No exterior alterations are proposed. The
126 project will not result in a significant increase in traffic above the levels of
127 traffic generated by previous uses. The restaurant will not generate
128 significant levels of noise as the operation is located indoors and no live
129 entertainment is being proposed. Finally, the site is located in an
130 established commercial area that is zoned for commercial uses.
131

132 6. *Can the proposed use adequately be served by existing public*
133 *facilities and services (for example parking, water and sewer*
134 *service)?*
135

136 Response:

137 The subject property is non-conforming with respect to meeting current
138 off-street parking requirements. The sub-standard number of off-street
139 parking spaces has been recognized by the City as a non-conforming
140 condition. Given this and the fact that no expansion or change of use is
141 being proposed, no additional parking or payment of in-lieu parking fees is
142 required at this time.
143

144 The current allocation for water and wastewater is sufficient to
145 accommodate the re-establishment of a restaurant use in this location. No
146 additional allocation is required at this time.
147

148 7. *How will the use, as restricted, affect the community as a whole?*
149

150 Response:

151 The proposed restaurant is consistent with these General Plan objectives
152 and policies as it is located in the central downtown area on Lincoln Avenue
153 and is expected to serve the needs of residents and visitors in the area.
154

155 The above responses are intended to illustrate that, in this instance, a new
156 restaurant locating in a long-established existing commercial space in the
157 downtown area is a relatively benign use. It is also staff's intent to illustrate that
158 while the above responses are specific to the JoLe restaurant application, they
159 are virtually the same that would be made for similar proposals to open a food

160 establishment in an existing commercial space elsewhere in the DC Zoning
161 District.

162
163 Staff does recognize that there are circumstances where a proposed new
164 restaurant or food establishment would warrant conditional use permit review and
165 approval. Such circumstances could include: establishments with bars or that
166 serve alcohol after food has stopped being served; establishments with live
167 music and/or dancing; establishments with outdoor dining in a public right-of-way;
168 or establishments that require an expansion of space. However, staff believes
169 that there are differences between restaurants with a bar or live entertainment
170 and restaurants such as JoLe or food establishments such a bakery, deli or café.

171

172 **PROPOSED TEXT AMENDMENT**

173

174 To implement streamlined review procedures for certain restaurants or food
175 establishments locating in an existing commercial space within the Downtown
176 Commercial Zoning District, staff proposes that the following changes to
177 Subsections A (Allowed Uses) and B (Conditionally Permitted Uses) of Section
178 17.22.040 (Downtown Commercial Zoning District) of Chapter 17.22 Commercial
179 Land Use Districts of the Zoning Ordinance, reading as follows (additions noted
180 in *italics*, deletions noted in ~~strikeout~~):

181

182 1. Section 17.22.040(A) – Allowed Uses

183

184 “X. *Restaurants, bakeries, café’s and other similar uses, with or without*
185 *outdoor seating, pursuant to the following:*

186

187 a. *The proposed establishment meets all of the following criteria:*

188

189 (i) *the establishment is located in an existing*
190 *commercial space and does not require an expansion*
191 *that would increase the square footage of the existing*
192 *floor area by more than 10%; and*

193

194 (ii) *no live entertainment or dancing is being proposed;*
195 *and*

196

197 (iii) *no outdoor seating is being proposed in a public right-*
198 *of-way; and*

199

200 (iv) *the establishment is not a formula business or formula*
201 *restaurant.*

202

- 203 *b. Administrative review and approval by the Planning and*
204 *Building Director, subject to the following:*
205
206 (i) *The proposed establishment meets the requirements*
207 *of all applicable zoning regulations.*
208
209 (ii) *Written notice of the proposed establishment is*
210 *mailed to all property owners within 300 feet of the*
211 *subject property. Such notice shall be given not less*
212 *than 10 days before the date the application is*
213 *scheduled for a decision by the Planning and Building*
214 *Director.*
215
216 (iii) *No substantial concerns are raised by surrounding*
217 *property owners or are identified by the Planning and*
218 *Building Director. If substantial concerns are*
219 *identified, the proposed establishment shall be*
220 *referred to the Planning Commission for review and*
221 *approval pursuant Chapter 17.40 CMC.”*
222

223 2. Section 17.22.040(B) – Conditionally Permitted Uses
224

225 ~~“14. Restaurants, bakeries, bars, café’s and similar uses, with or without~~
226 ~~outdoor dining; Bars;~~

227
228 XX. *Restaurants, bakeries, café’s and other similar uses, with or without*
229 *outdoor seating, not meeting the criteria set forth in Section*
230 *17.22.040(A)(X);”*
231

232 The proposed change in review procedures would not exempt an establishment
233 from complying with other City codes and development standards. For example,
234 staff will continue to review of the adequacy of water and sewer allocations and
235 require Growth Management Allocations when existing allocations are insufficient
236 to accommodate the proposed use. Another example would be parking. A site
237 having a non-conforming parking condition that has not been recognized by the
238 City will continue to be subject to current parking requirements. Proposal’s that
239 cannot meet current parking requirements and/or are not interested in paying In-
240 Lieu parking fees would be subject to Conditional Use Permit review and
241 approval by the Planning Commission.
242

243 Finally, it should be noted that the proposed text amendment includes a provision
244 that would allow for any proposal raising the concerns of nearby property owners
245 and/or the Planning and Building Director to be referred to the Planning
246 Commission for review and approval.

247 **ENVIRONMENTAL REVIEW**

248
249 This action has been reviewed pursuant to the California Environmental Quality
250 Act (CEQA) and determined that this activity is covered by the general rule that
251 CEQA applies only to projects, which have the potential for causing a significant
252 effect on the environment, and where it can be seen with certainty that there is
253 no possibility that the action being contemplated, a change in review procedures
254 for occupancy of existing commercial spaces by certain types food
255 establishments, will have any impact on the environment (Section 15061(b)(3)).
256

257 **RECOMMENDATION**

258
259 Staff recommends Planning Commission discussion and recommendation to the
260 City Council on the adoption of an Ordinance amending Section 17.22.040
261 Downtown Commercial (DC) District – Allowed, Conditionally Permitted and
262 Prohibited Uses of the Calistoga Municipal Code, to change review procedures
263 for occupancy of an existing commercial space by a restaurant, bakery, cafe, or
264 similar use, with or without outdoor dining, from a conditionally permitted use to a
265 permitted use, subject to administrative review with public notice. Staff also
266 recommends that bars and uses with bars, live entertainment and/or dancing
267 remain as conditionally permitted uses, subject to Planning Commission
268 consideration.
269

270 **SUGGESTED MOTION**

271
272 I move that the Planning Commission adopt Resolution PC 2008-41
273 recommending to the City Council adoption of an Ordinance amending Chapter
274 17.22.040 Downtown Commercial (DC) District – Allowed, Conditionally
275 Permitted and Prohibited Uses of the Calistoga Municipal Code, to change
276 review procedures for occupancy of an existing commercial space by a
277 restaurant, bakery, cafe, or similar use, with or without outdoor dining, from a
278 conditionally permitted use under Section 17.22.040(B) to a permitted use under
279 Section 17.22.040(A), subject to administrative review with public notice. Bars
280 and uses with bars, live entertainment and/or dancing would remain as
281 conditionally permitted uses.
282

283 **ATTACHMENTS**

- 284
285 A. PC Resolution 2008-41
286 B. Chapter 17.22.040 A & B