

Tracey Hawkins
1910 Carli Drive
Calistoga, CA 94515
October 14, 2009

City of Calistoga, Planning & Building Department;

Planning Commission;

As you now well know, La Prima Pizza has a long and documented history of non compliance with their current use permit. Their current use permit states that they stand to lose this use permit entirely if they are in violation of it. The use permit does not state that if they violate their use permit, they shall be granted an alteration to that permit to allow them to continue the destructive behaviors that the current use permit wisely prohibits. This is to protect the community and we would like the City to do its duty to duly protect its citizens from this known nuisance.

This business also has a long history of non compliance with their Liquor License with the State of California, specifically with respect to the following stated restrictions:

- Entertainment provided shall be not audible beyond the area under control of the licensee (specifically, the building structure. Please note that if music is audible in the street this is in violation of their liquor license. Certainly hearing it in the neighborhood is a violation.)
- The petitioner shall be responsible for maintaining free of litter the area adjacent to the premises under control of the licensee. (Litter in the neighborhood, regardless where the litter came from, is indeed, the responsibility of La Prima owners according to their liquor license.)
- No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under control of the licensee (Please note that people drinking alcohol in neighboring yards IS, in point of fact, a violation of their liquor license regardless of where the liquor is purchased.)
- Gross sales of alcohol shall not exceed the gross sales of food...

The State of California has the following language regarding the use of this location:

*The proposed premises and/or parking lot, operated in conjunction therewith, are located within 100 feet of ten residence; and...the issuance of the applied-for license without ...conditions **would interfere with the quiet enjoyment of the property by nearby residents and constitutes grounds for denial of the application under the provisions of Rule 61.4, of Chapter 1, Title 4 of the California Code of Regulations...the issuance of an unrestricted license would be **CONTRARY TO PUBLIC WELFARE AND MORALS.***** And we agree – allowing live or amplified music at this location would be contrary to the public welfare and is against the wishes of this community.

Our other concerns with altering the current use permit for La Prima are many and varied and include, among other things, a devaluation of our property and interference to our way of life. I am attaching a previous letter which outlines these concerns.

We have all been extremely upset by this issue. We have given it our focused attention since July –four months – and attended several meetings at great sacrifice to us and cost to this City. We trust that you will not expect us to go home tonight wondering when this issue will arise again.

That would once again reward La Prima for electing not to act in accordance with your – the City's - requests - this time for non-payment of money spent on a music sound test that was in direct violation of their existing liquor license as well as being against the wishes of this community.

It was our tax dollars that paid for that sound test. (We wonder when this will be repaid and if will there be interest on the money La Prima owes to the City.)

We cannot help but wonder, if they cannot afford the \$3,500 they owe for the "Music Test", how will they be able to afford to pay the bands and the staff needed to be sure they comply with any change to the use permit? We wonder how La Prima would afford to make any improvements which may be needed to soundproof the building. How would they improve their parking situation?

If this was a financial hardship, why was this process begun? We find it difficult to believe that the owners of three La Prima Pizza establishments indeed have this financial hardship any more than anyone else in this economy – including this city. And yet they expect our tax payer dollars to fund their requests which are so opposed to our rights to enjoyment of our own properties. We, ourselves have made sacrifices to defend our rights in this issue and we would like to see this issue at an end. We would all like to return to our normal lives knowing the City has done its duty.

I believe I speak for many more than myself when I respectfully request that this item not be postponed, but that this change is denied and the issue closed tonight.

Sincerely,

Tracey Hawkins

Attachments: Conditions of ABC for La Prima Liquor License;

Letter Outlining Problems & Concerns

**BEFORE THE
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
OF THE STATE OF CALIFORNIA**

IN THE MATTER OF THE APPLICATION OF

NUNEZ, Aldo M
NUNEZ, Elizabeth
1923 Lake St.
Calistoga, CA 94515

FILE : 47-385997

**PETITION FOR CONDITIONAL
LICENSE**

For issuance of

Under the Alcoholic Beverage Control Act

WHEREAS, petitioner has filed an application for the issuance of the above referred-to license for the above mentioned premises; and,

WHEREAS, the proposed premises and/ or parking lot, operated in conjunction therewith, are located within 100 feet of ten (10) residence; and,

WHEREAS, issuance of the applied- for license without the below described conditions would interfere with the quiet enjoyment of the property by nearby residents and constitutes grounds for denial of the application under the provisions of Rule 61.4, of Chapter 1, Title 4 of the California Code of Regulations; and,

WHEREAS, the issuance of an unrestricted license would be contrary to public welfare and morals;

NOW, THEREFORE, the undersigned petitioner(s) do/does hereby petition for a conditional license as follows, to-wit:

1. Sales, service or consumption of alcoholic beverages shall be permitted only between the hours of 6:00 AM and 12:00 Midnight each day of the week.
2. Entertainment provided shall not be audible beyond the area under the control of the licensee.
3. The petitioner shall be responsible for maintaining free of litter the area adjacent to the premises under control of the licensee.
4. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under control of the licensee.
5. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The premises shall comply with Section 23038 of the B&P Code.

This petition for conditional license is made pursuant to the provisions of Sections 23800 through 23805 of the Business and Professions Code and will be carried forward in any transfer at the applicant-premises.

Petitioner(s) agree(s) to retain a copy of this petition on the premises at all times and will be prepared to produce it immediately upon the request of any peace officer.

To Whom It May Concern,

I am writing to express my opposition to the requested - or any – changes to the La Prima Pizza use permit - U 2009-04 – to allow amplified music/live entertainment indoors or outdoors any time of the day or night.

There are many major concerns related to this action including but not limited to the below:

- As documented by Calistoga Police Department, La Prima Pizza has a long history of misconduct already for violations of their existing permits and noise disturbances reported by residents.
- Serious parking concerns. La Prima has limited parking which does not accommodate the maximum occupancy of their establishment. During past events at La Prima vehicles were parked on streets within residential neighborhoods.
- Parking for large events at La Prima also conflicts with use of/access to the Oat Hill Mining Trail – a popular tourist and residential site.
- At past La Prima Events, individuals who were intoxicated were parked in local neighborhoods and then left in their vehicles – presumably driving while intoxicated through and out of residential neighborhoods.
- Traffic concerns at a major and dangerous intersection. This corner of Lincoln Ave., Lake Street., Hwy 29 and the Silverado Trail is already a busy and confusing intersection – the addition of heavy event traffic and amplified/live music will make things far worse.
- An increase of noise, from music and also from traffic especially late at night and on busy weekends, in close proximity to residential neighborhoods
- Late night music events have the potential for a myriad of concerns. The current permit does not allow for amplified music for good reason – to protect the peace and sanctity of our small town and to reflect the wishes of this community.
- La Prima sits at the corner of a residential district. They were asked to provide notice of this change only to houses within 300 feet. Outdoor amplified music from La Prima will be heard and will be disruptive to households within a much larger radius than 300 feet.
- When La Prima has illegally had amplified music neighbors phoned to ask them to turn it down but La Prima management/owners flatly refused until police were phoned. In addition, La Prima delivery vehicles have been speeding and playing loud music while making deliveries in Calistoga neighborhoods.
- This is a business that has proven to be an inconsiderate neighbor in this regard. We have no reason to believe that they will cooperate with citizen requests to quiet things down in the future, say, at midnight on a Wednesday, for example, if they are having an event or live music! This request shows their blatant disrespect for neighbors, local families and residents' wishes.

Respectfully signed _____

Address _____

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