

**CITY OF CALISTOGA
PLANNING COMMISSION
MINUTE EXCERPT**

**Wednesday, August 12, 2009
3:15 PM
Calistoga Community Center
1307 Washington St., Calistoga, CA**

**Chairman Jeff Manfredi
Vice-Chairman Clayton Creager
Commissioner Carol Bush
Commissioner Paul Coates
Commissioner Nicholas Kite**

“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).

1
2 **Vice Chairman Creager** called the meeting to order 3:15 PM. for conducting a Tour of Inspection.

3
4 **Vice Chairman Creager** reconvened the Regular Planning Commission Meeting at 5:35 P.M.

5
6 **A. ROLL CALL**

7
8 **Present:** Vice-Chairman Clayton Creager, Commissioners Carol Bush, Paul Coates, and
9 Nicholas Kite. **Absent:** Chairman Jeff Manfredi. **Staff Present:** Director Gallina, Planning and
10 Building Director, Ken MacNab, Senior Planner, Erik Lundquist, Associate Planner, and Cynthia
11 Carpenter, St. Helena Planning Administrative Assistant. **Absent:** Kathleen Guill, Planning
12 Commission Secretary.

13
14 **F. COMMUNICATIONS / CORRESPONDENCE**

15
16 Conditional Use Permit Amendment U 2000-06(A):

- 17 • Edward Lantz
- 18 • Jack & Midge Geary
- 19 • Cheryle Stanley
- 20 • Eduardo Yanez
- 21 • Julie Garcia
- 22 • Irais Lopez
- 23 • Marta Caldera
- 24 • Ricardo Vera

25
26 **I. PUBLIC HEARING**

27
28 1. **U 2000-06(A):** Consideration of a Conditional use Permit requesting an amendment to a
29 previously approved Use Permit U 2000-06, which would allow amplified music / live
30 entertainment indoors or outdoors any time during business hours by La Prima Pizza, located at
31 1923 Lake Street (APN 011-535-010) in the “CC-DD” Community Commercial-Design District
32 overlay Zoning District. This item is exempt from CEQA (California Environmental Quality Act)
33 under Section 15301 of the CEQA Guidelines.

34
35 **Commissioner Coates** recused himself at this time due to the proximity of his home to the
36 project location.

37

38 **Senior Planner MacNab** provided a brief background and historical context of the application for
39 amplified live music by La Prima Pizza Restaurant. La Prima has asked for unconditional
40 permitting of amplified music indoors and outdoors. The basic layout of the proposal staff is
41 recommending was presented. It was noted that while decibel levels are helpful in quantifying
42 how loud a sound is, it is impossible to state with any conviction that there is no possibility for
43 neighboring residences to be able to hear the indoor music. They might be able to hear music in
44 varying levels of decibel measurements depending on the kind of music, the instruments used, the
45 weather, etc.

46
47 **Vice-Chairman Creager** suggested that another method of measuring the sound level of the
48 indoor amplified music would be to take a census among the neighboring residences periodically
49 as a form of data used when considering whether or not La Prima is within normal levels for noise.
50 He doesn't feel comfortable with the idea of having a specific decibel level as a maximum
51 because it leaves almost no wiggle room to mitigate the situation if the neighborhoods are still
52 inundated with loud music, even while La Prima might be in compliance with a decibel level range
53 approved by the Commission.

54
55 **Betty Nunez**, the applicant, and she addressed the Commissioners, stating that she is concerned
56 about how the application presents itself; she fears that it makes it sound like La Prima is asking
57 to play blasting, loud music and that is not the case. She would like to clarify that they are
58 interested in hosting small group celebrations, say 30 people or so, and want to have a DJ in for a
59 couple of hours. When she can't allow people to use her establishment for such parties, it hurts
60 her business. She wants a fair chance to fight the downturn in the economy, and providing this
61 service to her customers is one way to enhance business.

62
63 She also noted that most of these kinds of requests are proposed during the summer months.
64 They also like to host the occasional private event as well. They want to have a local's night,
65 maybe a teen's night with no alcohol and dancing. She feels that they can still have a lot of fun
66 with these events and manage at the same time to keep the noise level within reason.

67
68 She proposed that much of the historic complaints are just that historic. They come from the
69 previous establishments that were located there prior to La Prima's establishment of a pizza parlor
70 seven years ago. In fact, it is her belief that it is one or two extremely sensitive neighbors who
71 make the calls to the police, and she provided details about the most recent complaint in early
72 August. She stated that on that particular occasion, the police came out to ask them to be quiet
73 and there wasn't even any kind of live music or DJ present at the birthday celebration. There
74 were only kids and adults celebrating together and the only music was their standard background
75 music, which, she noted, has been played for seven years with no complaints, until now, which
76 she feels is no coincidence but a product of their recent application for amplified music.

77
78 **Vice-Chairman Creager** asked Ms. Nunez to comment on the specifications provided as
79 guidelines for amplified music on the outdoor deck. She noted that generally, most of the outdoor
80 music is during the summer when the weather is good. After that, when it's colder, it's all indoors.

81
82 **Commissioner Kite** asked if Ms. Nunez is happy with the current specifications or is she wanting
83 more leeway?
84

85 She explained that yes, she is fine with the specific guidelines laid out to her, however she isn't
86 comfortable with the idea that absolutely zero outdoor music is permitted, ever. She has had to
87 turn away numerous parties wishing to have music outdoors for a celebration, or perhaps a
88 wedding rehearsal supper. This is business she is losing because she can't tell them it's okay just
89 to make sure the music is as low as possible and only for a few hours. She wants to be able to at
90 least allow that kind of party now and then in order to keep the business. It is also her opinion that
91 having live music indoors, at least during the earlier hours when people are eating, is disruptive to
92 their eating experience. It's too loud and distracting inside at those times. But a later time, a later
93 gathering would be okay indoors.

94
95 **Mr. Nunez** explained that he is in total agreement with everything his wife stated. He also wanted
96 to add that it is, in his opinion, absurd that a group can't have a gathering that has been planned
97 for months, on a weekend, early in the evening without somebody complaining! He referenced a
98 recent celebration in Calistoga. He wasn't certain of the date or the occasion for the celebration,
99 but it was a planned celebration with a three-person band in attendance. He was there as well,
100 selling pizza with other vendors.

101
102 He watched that band get shut down, on a Saturday, around six in the evening, because one
103 person in the area complained! That's not fair. That's not reasonable. It's a City, on a Saturday, a
104 weekend day, and it's early evening and there can't be any music outside? A person can
105 complain and shut the celebration down? How is that right?

106
107 **Mr. Nunez** assured the Commissioners that it is not the intent of La Prima to have Judas Priest,
108 Iron Maiden, or Metallica-style (and sound-level) music. He proposed that the negative letters
109 received regarding their proposal aren't even aligned with their actual proposal! What they are
110 intending, and asking permission to do, isn't what the numerous letters are referring to; that
111 seems unfair to him, and a misrepresentation.

112
113 People come to Calistoga to have fun. If they can't, they'll go elsewhere. Perhaps they ought to if
114 they can't find fun here in town, on a weekend, early in the evening, without the risk of somebody
115 complaining and shutting down the whole thing.

116
117 **Commissioner Kite** asked if what they are asking for is more in keeping with the application,
118 which states indoor, outdoor, amplified, seven days a week; or is it more like the written
119 statement? Mr. Nunez explained it is more like the written statement and that the formal
120 application is a bit more severe sounding.

121
122 **Vice Chairman Creager** opened the public hearing for comment. Numerous citizens wrote letters
123 to the City in support of or opposition of the applicant's request. Several of those citizens also
124 turned out for the Planning Commission meeting and reiterated their feelings both for and against
125 the proposal. The most common theme among those opposed to the idea is the fear that there
126 will be loud music at any given hour, infringing on their peace, their quiet streets, and no real way
127 to monitor it or regulate it without involving the police, and even then there is a fear it will continue
128 unabated.

129
130 It is unfortunate that La Prima is in a poor location for the accommodation of outdoor live music.
131 They are at the edge of the City, right up against residential neighborhoods and some residents in
132 those homes are not willing to deal with even the occasional outdoor music infringing on their rural

133 quiet. Indoor music was acceptable almost entirely across the board for those in opposition of the
134 proposal; however, the outdoor music was steadily opposed.

135
136 Also noted as a major concern among several people in attendance is the idea that the restaurant
137 wants to somehow change their business. They're a restaurant. They are permitted to be a
138 restaurant. They are not a nightclub. Neighbors do not want to see this kind of morphing of a
139 business from one use to another.

140
141 However, there were also members of local businesses and the Chamber of Commerce who
142 explained that they sometimes need a place to host a party that has both seating and food. Of
143 course in the valley numerous wineries offer this, but at a very hefty price. La Prima's prices are
144 more reasonable, but it's difficult to host a party at a place that isn't permitted to host.

145
146 **Dennis Gamble**, a direct neighbor to the property, provided a list of numerous neighbors who
147 were in agreement with his opposition of the proposal. Mr. Gamble also provided numerous
148 records of police activity due to complaints about La Prima. In one example, it was noted by the
149 responding officer that Mr. Nunez was verbally combative when the officer pointed out that his
150 previous request to turn the music down and the assurance of Mr. Nunez that he would do so and
151 would stop the music at 10:00 p.m. did not happen. Evidently, Mr. Nunez became combative at
152 that point. The Officer goes on to say he feels that the restaurant is simply too close to the
153 residential areas surrounding the parcel. Those police records were submitted for the official
154 record.

155
156 **Mr. Gamble** further stated his agreement with a previous statement made by a citizen that their
157 concerns are just as important as the concerns of the people who lived in the neighboring homes
158 around the pool that was recently opened. The developer had to do a noise study, at their own
159 expense. He believes that the owners of La Prima ought to have to do the same study, at their
160 own expense, in order to corroborate their statements that they won't be making any trouble or
161 upset the neighbors with loud music. He'd love to see what those findings might be.

162
163 Tom Andrews
164 Drawsky – Franz Valley Road
165 Rex Albright
166 Sonya Spencer – 1901 Lake Street
167 Marie Torrigino - 1873 Lake Street
168 Frank Hawkins - 1910 Carli Drive

169
170 **Vice Chairman Creager** closed the public hearing and invited a rebuttal statement from the
171 applicant. Ms. Nunez explained that the incident mentioned by Mr. Gamble, where a permit was
172 not provided to the officer, was lost in communications with the Senior Planner, who granted the
173 permit over the phone and faxed a copy for Ms. Nunez to sign. She signed it and faxed it back
174 but was told after the fact that the fax was not received. She believed she had a permit; otherwise
175 she would not have permitted the party.

176
177 **Commissioner Kite** questioned if this use proposed for the restaurant is ancillary to the use or if
178 it will be becoming the primary use for La Prima.

180 **Mr. Nunez** reiterated that it is ancillary, that it is on occasion, and that it is not their intent to
181 change their venue or become something other than a restaurant. He also explained his version
182 of what took place with the responding officer on the night mentioned by Mr. Gamble. The
183 responding officer at that time was the 4th officer to come by, and Mr. Nunez explained, again, that
184 they had a permit and would turn the music down by 10:00. The permit was granted until 10:00
185 p.m. As for the accusation of putting a blackberry in the officer's face, he felt there was no way a
186 Mexican guy could do that kind of thing and not get arrested.

187
188 He pointed out that there are six bars in town, and they have a bar, but they don't keep the bar
189 open until one a.m. Also, they have been permitted to have live music. La Prima isn't asking to
190 become a bar.

191
192 **Commissioner Kite** asked about karaoke, music, dance, etc., asking if that's what they plan to
193 do.

194
195 **Mr. Nunez** explained that he is trying to do this in the correct way, in a way that is legal and
196 neighborly. They do not want to turn their establishment into La Prima Disco.

197
198 **Vice-Chairman Creager** noted that this has become a much more difficult discussion than he'd
199 imagined it might be. It is a difficult situation. He felt that he heard the need for mediation, for
200 meetings between the neighbors and business, perhaps with a mediator, to explore this situation.

201
202 **Director Gallina** had a conversation with Ms. Nunez prior to the application's submittal, and at
203 that time she had suggested to her to meet with the neighbors prior to the application in order to
204 iron out some of these issues. Evidently, that meeting did not occur. Perhaps it would be best,
205 she suggested, if the project were continued to a future meeting in order to allow Ms. Nunez to
206 have that meeting with the neighbors.

207
208 It would be beneficial if the neighbors and Ms. Nunez could agree to work together to experiment
209 with the noise levels. It is within the Commissions rights to ask the applicants and neighbors to
210 meet and discuss this project. While the Commission cannot compel the applicants to meet or
211 discuss this with the neighbors, the Commission can provide enough time for that meeting to take
212 place should both parties choose to do so.

213
214 **Commissioner Kite** feels that there must be a balance between the rights of the businesses and
215 the rights of the neighbors. He also noted that with regards to the music it is important to consider
216 each project on its own merit and not assume that just because one restaurant is permitted live
217 music, doesn't immediately allow all restaurants to have live music.

218
219 He feels outdoor music is problematic. However, there are days when Calistoga is celebrating,
220 having music, making noise, and he feels that the neighbors ought to permit La Prima to be a part
221 of that. However, he wants to make sure that whatever is decided, the owners agree to hold up
222 their end of the bargain. He wants to see music an ancillary use to the restaurant. The Vice-
223 Chairman concurred.

224
225 **Vice-Chairman Creager** suggested that perhaps a sub-committee of two could be formed in
226 order to help create some form of proposal that is easier for both parties to discuss, and to ask for
227 more of or less of something based on what is before them, and stick to what is before them.

228
229 **Vice-Chairman Creager** asked Commissioner Kite if he was willing to craft a draft proposal for
230 consideration. Commissioner Kite agreed.

231
232 It was moved by **Commissioner Kite**, seconded by **Vice-Chairman Creager**, to continue this
233 item to the first or second regularly scheduled meeting, and in the interim form a sub committee
234 consisting of Vice-Chairman Creager and Commissioner Kite to create a draft proposal for the
235 accepted parameters of music at La Prima Pizza. This will be made available to both the owners
236 and public. Furthermore, it was moved that the Planning Department issue one special-event
237 permit allowing La Prima a one-time event with live music both indoors and outdoors in order for
238 both the owners and the public to better understand the sound level relative to their respective
239 locations. **Motion carried: 3-0-1-1.**

240
241 **J. ADJOURNMENT**

242
243 There was motion by **Vice Chairman Creager**, seconded by **Commissioner Coates** to adjourn
244 the meeting to the next regularly scheduled meeting of the Planning Commission on August 26,
245 2009, at 5:30 PM. **Motion carried: 4-0-1-0.** The meeting adjourned at 10:15 p.m.

246
247
248 

249 Charlene Gallina, Acting Secretary to the Planning Commission

250 Prepared By Cynthia Carpenter, St. Helena Planning Administrative Assistant

251
252

CITY OF CALISTOGA

STAFF REPORT

TO: CHAIRMAN MANFREDI AND MEMBERS OF THE
PLANNING COMMISSION

FROM: KEN MACNAB, SENIOR PLANNER

MEETING DATE: AUGUST 12, 2009

SUBJECT: CONDITIONAL USE PERMIT (U 2000-06(A)) TO AMEND
USE PERMIT U 2000-06 TO ALLOW AMPLIFIED MUSIC
AND LIVE ENTERTAINMENT AT LA PRIMA PIZZA
RESTAURANT

REQUEST

1
2
3 Consideration of a Conditional Use Permit application requesting an amendment
4 to Use Permit U 2000-06 to allow amplified music and live entertainment indoors
5 or outdoors any time during business hours at property located at 1923 Lake
6 Street (APN 011-535-010) within the "CC-DD", Community Commercial-Design
7 District Overlay Zoning District. This proposed action is exempt from the
8 California Environmental Quality Act (CEQA) under Section 15301 of the CEQA
9 Guidelines.

BACKGROUND

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11
12
13 La Prima Pizza has been operating from 1923 Lake Street since 2002 when the
14 business took over Tomazzo's Steak and Chop House. The space has been
15 operated as a restaurant since 1982 when the City authorized the conversion of
16 a single-family dwelling on the site to a restaurant (Lord Derby's Arms). The
17 property contains a 2,697 square foot building which houses the dining room,
18 bar, kitchen and storage area. A large outdoor dining deck and 21 off-street
19 parking spaces are also located on the site.

20
21 Use Permit 2000-06 (Attachment 3) establishes the conditions under which La
22 Prima Pizza must operate. The permit was originally issued to Tom Gagetta of
23 Tomazzo's, but was transferred to La Prima Pizza in 2002 when the business
24 was taken over.

25
26 On May 7, 2004, La Prima Pizza submitted a request to modify Use Permit 2000-
27 06 to allow: 1) low music inside the bar on a regular basis; and 2) outdoor music
28 up to twice a month until the business closes at 10:00 p.m. (U 2004-04). This
29 application was initiated based on several requests by La Prima Pizza for live

30 entertainment during events such as Cinco de Mayo and Independence Day, but
31 also by customers who requested an opportunity to enjoy live music on
32 weekends when the weather permits. Use Permit 2004-04 was continued after
33 an initial public hearing but never formally acted upon.
34

35 Since 2004, La Prima Pizza has continued with periodic live entertainment
36 events, some authorized by administrative use permits, others not. Recognizing
37 the long-standing interest in having live entertainment events as part of the
38 business, the owner - at the encouragement of the City - has agreed to apply to
39 amend the operating Use Permit.
40

41 On July 23, 2009, the Planning and Building Department received an application
42 to amend Use Permit U 2000-06 to allow amplified music and live entertainment
43 indoors or outdoors any time during business hours.
44

45 **DISCUSSION**

46
47 Live entertainment, and in particular amplified music on the outdoor deck, has
48 been an issue of some debate since the early 1990's. The City's records indicate
49 that an Administrative Use Permit was issued by the City to Lord Derby's in June
50 1994 authorizing live entertainment limited to the hours of 3:00 p.m., to 7:00 p.m.,
51 on weekends only. The business owner was required to monitor the noise
52 generated by the business and maintain the level at no more than 55 Ldn, in an
53 effort to minimize the effects on nearby residential properties. After repeated
54 complaints from adjoining residential property owners, the Planning Commission
55 directed Staff to schedule an annual review of the use permit in 1997 to
56 determine if the business owner was meeting the conditions. During the first
57 year, several measurements were taken of the noise generated from the
58 business and found to be generally in compliance with the 55 Ldn limit. When
59 the business closed shortly thereafter, the noise issue was resolved until April
60 2001 when a complaint was filed that Tomazzo's had initiated (without a permit)
61 outdoor music on the site.
62

63 A review of City Police records reveals that there has been a continuing history of
64 noise complaints associated with amplified music or live entertainment at this
65 location, one as recent as August 3rd. This issue of noise (i.e., music) in a
66 commercial use stems primarily from the fact that the commercial district in which
67 La Prima Pizza is located is adjacent to residential land. Ideally, there is a
68 transition between the more intense commercial land uses (i.e., retail,
69 restaurants, etc.) to residential land uses. However, in smaller town such as
70 Calistoga where zoning districts are more compressed conflicts such as noise,
71 parking and similar issues can result. On this site in particular, it appears that
72 past City efforts have tried to balance the rights of adjoining property owners to
73 reasonably enjoy a residential quality of life with the rights of a commercial

74 business owner to utilize this property for the operation of a restaurant, to include
75 providing services of interest to their customers. Outdoor amplified
76 entertainment was apparently restricted in the past to weekends only, and during
77 limited hours. However, this did not stop the complaints about the offensive
78 noise and Staff monitoring of Lord Derby's were both time consuming and
79 relatively ineffective in bringing about a solution that both the business owner and
80 residential neighbors could agree.

81

82 **STAFF ANALYSIS**

83

84 The City's Noise Ordinance (Municipal Code Section 8.20.020) establishes that it
85 shall be unlawful for any person or business to cause to be used or operated any
86 mechanical device or instrument for the intensification or amplification of the
87 human voice or any sound or noise, in any public or private place, in such a
88 manner that the peace and good order of the neighborhood are disturbed, unless
89 approved through an established permit. This Ordinance provides that the City
90 has the ability to approve live music through a use permit or similar process (it is
91 not prohibited outright). In instances where a person has been practicing a
92 musical instrument or a group of individuals have been engaged in band practice,
93 the City has been substantially more flexible in enforcing this Ordinance (non-
94 commercial activities are provided such flexibility in the Ordinance).

95

96 While Staff does not expect the generation of noise at adjoining properties to
97 exceed "unacceptable" levels as determined by CEQA or the City's General Plan
98 (which is based on standards taken from sources such as the Environmental
99 Protection Agency), what is deemed "acceptable" to some may not be to others.
100 A noise study would quantify the potential affect on nearby properties, but it
101 would not establish a basis for what is "acceptable" to residential property
102 owners. Therefore, the City has not relied on establishing a set standard (i.e., 60
103 dB at residential property lines), and has taken more of a case-by-case approach
104 in reviewing requests for live entertainment. This approach has allowed for
105 consideration of conditions specific to a particular site and the establishment of
106 operational parameters that are tailored to those conditions. Examples of such
107 parameters include:

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116

- Limiting amplified music to indoors only when located near residential uses.
- Allow live entertainment without amplification or inside a business.
- Limiting the days and hours of live entertainment (to include any combination of the other conditions above).

- 117 • Allow live entertainment when associated with private parties (i.e.,
118 weddings, etc.) only.
- 119
- 120 • Allow live entertainment when associated with special events such
121 as holidays.
- 122

123 La Prima Pizza has requested that amplified music and live entertainment be
124 allowed to occur indoors and outdoors any time during business hours. In
125 consideration of nearby residential uses, the history of noise complaints, and
126 parameters that have been established for other businesses that are located
127 adjacent to residential areas, Staff recommends that the following parameters for
128 live entertainment and amplified music be established:

- 129
- 130 1. Live entertainment or amplified music be allowed on Thursdays,
131 Fridays, Saturdays, Sundays and weekday holidays. Suggested hours
132 are as follows:

133 Thursday: 5:00 p.m. to 9:00 p.m., acoustic music only

134

135 Friday: 5:00 p.m. to 10:00 p.m.

136

137 Saturday: 12:00 p.m. to 10:00 p.m.

138

139 Sunday: 12:00 p.m. to 6:00 p.m., acoustic music only.

140

141 Weekday Holidays: 12:00 p.m. to 6:00 p.m.

- 142
- 143
- 144 2. Live entertainment or amplified music should be limited to indoor areas
145 (restaurant and bar) only. No live entertainment or amplified music
146 should be allowed outdoors.
- 147

148 Staff also recommends that the Planning Commission review the Use Permit in
149 six months to assess performance and consider any adjustments to the days
150 and/or hours live entertainment and amplified music is allowed as needed or as
151 requested.

152 **DESIGN REVIEW**

153

154

155 Section 17.28.020 (B)(1) of the Design District overlay requires Design Review
156 approval for all uses requiring a Use Permit in the CC zoning district. Because
157 there are no proposed exterior modifications, there are no substantial design
158 issues to be reviewed, staff is recommending that the requirement for Design
159 Review approval be waived per Section 17.06.020(B)(2) of the Zoning
160 Ordinance.

161 **CORRESPONDENCE**

162
163 As of the writing of this report, Staff has received seven letters and one phone
164 call in response to this application (Attachment 4). One letter is in full support of
165 the project, one letter is supportive of the project if live entertainment is limited to
166 indoor areas, and five letters (one with multiple signatories) are opposed to the
167 project. The primary objection to the application is that associated noise will
168 disrupt the tranquility of the area. A secondary concern is that live entertainment
169 may attract additional patrons and increase traffic and parking problems. The
170 one phone call received also expressed opposition to the project.

171
172 **FINDINGS**

173
174 In addition to the above discussion, the analysis of this project includes reference
175 to the Findings for Use Permit Approval (CMC 17.40.070). These are discussed
176 generally as follows:

- 177
178 1. The proposed development, together with any provisions for its design
179 and improvement, is consistent with the General Plan, any applicable
180 specific plan and other applicable provisions of the Zoning Code including
181 the finding that the use as proposed is consistent with the historic, rural,
182 small-town atmosphere of Calistoga;

183
184 Response: The project site is designated in the City's General Plan and
185 Zoning Ordinance for commercial land uses. The existing restaurant has
186 been operating as a restaurant establishment since 1982. Calistoga is
187 determined in Municipal Code Section 17.02.040 to be primarily,
188 essentially and predominantly a residential community wherein business
189 and commerce are an enhancement and supportive to the quality of life
190 and City's residential character. Efforts to expand activities at an existing
191 restaurant that could adversely affect the adjoining residential quality of
192 life could potentially be inconsistent with the General Plan. However,
193 under the operational parameters that will be established by the conditions
194 of project approval, potential noise impacts to the surrounding
195 neighborhoods will be kept to a minimum and will not significantly detract
196 from the rural, small-town atmosphere of the area.

- 197
198 2. The site is physically suitable for the type and density of development;

199
200 Response: The restaurant and bar is an enclosed space with adequate
201 facilities and space for live entertainment or amplified music. Windows
202 and doors can be kept closed when live entertainment or amplified music
203 occurs to minimize noise levels outside of the restaurant.

204

- 205 3. The proposed development has been reviewed in compliance with the
206 California Environmental Quality Act (CEQA) and the project will not result
207 in detrimental or adverse impacts upon the public resources, wildlife or
208 public health, safety and welfare;
209
210 Response: This project is exempt from CEQA under Section 15301 (Class
211 1 – Existing Facilities).
212
- 213 4. Approval of the use permit application will not cause adverse impacts to
214 maintaining an adequate supply of public water and an adequate capacity
215 at the wastewater treatment facility.
216
217 Response: The City's water system and wastewater treatment facility is
218 adequate to serve this project.
219
- 220 5. Approval of the use permit application shall not cause the extension of
221 service mains greater than 500 feet.
222
223 Response: Approval of this use permit application shall not cause the
224 extension of service mains greater than 500 feet.
225
- 226 6. An allocation for water and/or wastewater service pursuant to Chapter
227 13.16 CMC (Resource Management System) shall be made prior to
228 project approval. Said allocation shall be valid for one year and shall not
229 be subject to renewal.
230
231 Response: The current allocation for water and wastewater is sufficient to
232 accommodate the proposed renovation and reuse of storage warehouse.
233
- 234 7. The proposed development presents a scale and design which are in
235 harmony with the historical and small-town character of Calistoga.
236
237 Response: There are no physical improvements required on the site or
238 that are being proposed as part of the use permit request that would
239 trigger review of this finding.
240
- 241 8. The proposed development is consistent with and will enhance Calistoga's
242 history of independent, unique, and single location businesses, thus
243 contributing to the uniqueness of the town, which is necessary to maintain
244 a viable visitor industry in Calistoga and to preserve its economy.
245
246 Response: The operating parameters established by the required
247 conditions of project approval are consistent with parameters that have

248 been established for other restaurants with live entertainment that are
249 located near residential areas (e.g., Pacifico Restaurant).

250
251 9. The proposed development complements and enhances the architectural
252 integrity and eclectic combination of architectural styles of Calistoga.

253
254 Response: This proposal does not alter the architectural character of the
255 existing structure or other structures in Calistoga. Therefore, this finding is
256 not applicable.

257

258 ENVIRONMENTAL REVIEW

259

260 Under the provisions of Section 15301, Existing Structures, of the State
261 Guidelines for Implementation of the California Environmental Quality Act
262 (CEQA) as stated below, the addition of live entertainment and amplified music is
263 found to be exempt from the environmental review requirements of Chapter
264 19.10 of the Calistoga Municipal Code, implementing the California
265 Environmental Quality Act of 1970, as amended in that the proposed use will
266 occur within an existing commercial structure.

267

268 RECOMMENDATIONS

269

270 A. Based on the above findings, staff recommends the filing of a Notice of
271 Exemption for the Project pursuant to Section 15301 of the CEQA
272 Guidelines.

273

274 B. Based on the above findings, staff recommends adoption of a Resolution
275 approving an amendment to Conditional Use Permit U 2000-06 (U 2000-
276 06(A)) to allow amplified music and live entertainment indoors within La
277 Prima Pizza Restaurant located at 1923 Lake Street (APN 011-535-010)
278 within the "CC-DD", Community Commercial-Design District Overlay
279 Zoning District, subject to conditions of approval.

280

281 C. Based upon the above findings and pursuant to Section 17.06.020(B)(2) of
282 the Zoning Ordinance, staff recommends that the requirement for Design
283 Review approval be waived because there are no substantial design
284 issues to be reviewed.

285

286 SUGGESTED MOTIONS

287

288 Categorical Exemption

289

290 I move that the Planning Commission direct Staff to file a Notice of Exemption for
291 the Project pursuant to Section 15301 of the CEQA Guidelines.

292 Conditional Use Permit

293

294 I move that the Planning Commission adopt Resolution PC 2009-19 approving an
295 amendment to Conditional Use Permit U 2000-06 (U 2000-06(A)) to allow
296 amplified music and live entertainment indoors within La Prima Pizza Restaurant
297 located at 1923 Lake Street (APN 011-535-010) within the "CC-DD", Community
298 Commercial-Design District Overlay Zoning District, subject to the findings in the
299 Staff Report and conditions of approval.

300

301

302 NOTE: The applicant or any interested person is reminded that the Calistoga
303 Municipal Code provides for a ten (10) calendar day appeal period. If there is a
304 disagreement with the Planning Commission, an appeal to the City Council may be
305 filed. The appropriate forms and applicable fee must be submitted prior to 5:00
306 p.m. on or before the tenth calendar day following the Commission's final
307 determination.

308

309

310 ATTACHMENTS:

311

- 312 1. Vicinity Map
- 313 2. Draft Conditional Use Permit Modification for Live Entertainment
314 Resolution PC 2009-19
- 315 3. Conditional Use Permit 2000-06
- 316 4. Correspondence
- 317 5. Applicant's Statement