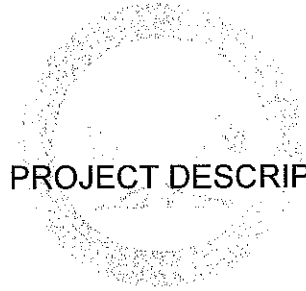




City of Calistoga Planning Commission Agenda Item Summary

MEETING DATE

January 13, 2010



PROJECT DESCRIPTION

CONSENT CALENDAR

1. Planning Commission Minutes for the regular meeting of November 16, 2009.

RECOMMENDATION (S)

Approve as submitted.

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

Monday, November 16, 2009
5:30 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 **Chairman Manfredi** called the meeting to order at 5:37 PM.

3
4 **A. ROLL CALL**

5 **Present:** Chairman Jeff Manfredi, Vice-Chairman Clayton Creager, Commissioners Carol Bush
6 and Nicholas Kite. **Absent:** Commissioner Paul Coates. **Staff Present:** Charlene Gallina,
7 Planning and Building Director, Ken MacNab, Senior Planner, and Kathleen Guill, Planning
8 Commission Secretary. **Absent:** Erik Lundquist. Associate Planner.

9
10 **B. PLEDGE OF ALLEGIANCE**

11
12 **C. PUBLIC COMMENTS**

13
14 **D. ADOPTION OF MEETING AGENDA**

15 There was motion by **Vice-Chairman Creager**, seconded by **Commissioner Kite** to approve the
16 agenda as submitted. **Motion carried: 4-0-1-0.**

17
18 **E. COMMUNICATIONS/CORRESPONDENCE**

19
20 **F. CONSENT CALENDAR**

21
22 **G. PUBLIC HEARING**

23
24 **1. U 2000-06(A):** Consideration of a Conditional Use Permit application requesting a modification
25 to Use Permit U 2000-06 to allow amplified music / live entertainment at La Prima Pizza, 1923
26 Lake Street (APN 011-535-010) within the “CC-DD” Community Commercial-Design District
27 Overlay Zoning District. This proposed action is exempt from the California Environmental Quality
28 Act (CEQA) under Section 15301 of the CEQA Guidelines. *(This item was continued from the*
29 *regular Planning Commission meeting of October 14, 2009.)*

30
31 **Planner MacNab** provided a brief history of the request to amend the La Prima Pizza
32 Conditional Use Permit to include indoor live entertainment one night per week. He reported
33 the applicants proposal had been scaled back significantly since the August proposal, now
34 requesting consideration to have live entertainment/amplified music indoors only, one night per
35 weekend (Friday or Saturday), during hours up to 10:00 pm, proposing acoustical music, non
36 electrical only. The applicant was no longer requesting out door entertainment, no DJ's, no
37 karaoke and proposed limiting the number of nights the indoor entertainment events would

38 occur. This reduced proposal was in response to the concerns expressed by the neighboring
39 residents.

40 **Planner MacNab** provided a summary presentation that included a synopsis of the Noise
41 section of the General Plan (Goal N-1, Policy P.2); with a noise impact Chart from the General
42 Plan describing what is a noise impact, guides, decibel levels, and ranges of noise levels
43 allowed by the General plan. The General Plan identified the normally acceptable first level
44 noise range at 60 decibels and below, further describing conditionally acceptable noise level
45 up to 75 decibels; higher would be unacceptable and should not be permitted in residential
46 areas even with mitigation.

47
48 **Planner MacNab** referenced a live entertainment test that was held on September 25, 2009,
49 reporting this was an un-scientific test with a Calistoga Police Officer taking measurements
50 while live entertainment was going on. All but one reading was within the normal acceptable
51 level for residential. Given the measurements staff believed it was reasonable to assume that
52 professional results would at worst fall within the conditionally acceptable range. Therefore it
53 was staff recommendation that a professional noise study should not be required. However if
54 the Commission should elect to proceed it was staffs suggestion at worst it should be
55 considered within conditionally acceptable noise levels.

56
57 Suggested conditions:

- 58 • Live entertainment one 1 night a week only, no later than 9:00 pm
- 59 • Entertainment shall not be a main attraction; and shall be secondary to the restaurant and
60 bar.
- 61 • Windows and doors should remain closed during events for the purpose that the threshold
62 not be audible from the public right-of-way.
- 63 • Periodic review for compliance on a quarterly basis.

64
65 Continuing the presentation Planner MacNab identified the neighborhood issues including
66 reported noise violations and operating conditions. Staff reported review of eight related
67 Police Reports of incidents that occurred since 2002, complaints included live entertainment
68 and outdoor entertainment noting the responsiveness of owner varied.

69
70 **Planner MacNab** reported in essence if music is heard off the property it is a technical
71 violation due to a corresponding condition in their Alcohol and Beverage license, noting with
72 that condition it makes it difficult. Staff recommended mitigation of this would be to remove
73 speakers on deck, and prohibit outdoor live entertainment outdoors.

74
75 **Planner MacNab** advised another neighborhood issue is parking causing disruption in the
76 neighborhood due to patrons coming to their cars and making noise. The restaurant has 19
77 parking spaces on Fallerli Drive, with three spaces typically used by employees. The existing
78 number of parking spaces is a legal non conforming condition. Staff recommended a condition
79 requiring the vacant area to the West of the restaurant be made available for parking. The
80 neighboring property owners have also reported vandalism and trespassing problems however
81 there were no reported Police incidents. Planner MacNab noted that requiring additional
82 parking on the site could potentially take people out of the neighborhoods and address those
83 problems.

84

85 Reference: Litter. **Planner MacNab** advised the Alcohol and Beverage license dictates the
86 owner must keep the site picked up. Staff proposed adoption of a similar condition that
87 requires weekly litter pickup.
88

89 In conclusion, **Planner MacNab** advised with the suggested changes the findings could be
90 made subject to the conditions and Staff recommended approval of the application.
91

92 **Commissioners Bush and Kite** questioned relative noise levels, not audible from public right-
93 of way, can't hear at all, or not audible with normal ambient noise levels, etc.
94

95 Staff reported that the most strict interpretation would be if any noise were audible from the
96 public right-of way regardless of whatever it was. The Planning Commission may make their
97 interpretation on whether the condition should be interpreted as not audible from right of way
98 or not audible within the General Plan Noise Ordinance guidelines.
99

100 **Vice-Chairman Creager** directed attention to the idea of additional parking asking what sort of
101 treatment would be required for parking in the vacant area.
102

103 **Planner MacNab** noted it would not require much improvement, i.e. hard pack gravel, and
104 some signage. Paving or lighting is not being suggested. The area would be for overflow,
105 noting the parking lot is generally not full.
106

107 **Chairman Manfredi** opened the public portion of the hearing at 5:58 PM.
108

109 **Susan Kopperman**, 1754 Emerald Drive, stated she was trying to understand the reason to
110 have entertainment and not have windows open. The purpose is to attract more business and
111 if the owner can't open the windows how will entertainment attract that business.
112

113 **Dalton Percy**, Consultant in behalf of the applicant, noted Aldo Nunez has been ill for several
114 days. Mr. Dalton presented statements and signatures of residents and patrons in support of
115 the proposed music proposal (see attachment 1), along with a letter from Aldo Nunez for the
116 record (see attachment 2), and proceeded with standard decibel information.
117

118 **Chairman Manfredi** stated if sounds can be heard on public right of way and that is the
119 condition, it has nothing to do with standards.
120

121 **Dalton Percy** proceeded to provide more clarification reporting the threshold for outdoor
122 music is set at 55 decibels.
123

124 **Chairman Manfredi** interrupted stating the standard being recommended is for no noise to be
125 heard beyond the perimeter of property, advising it has nothing to do with decibels.
126

127 **Dalton Percy** asked if there is music/noise from restaurant and there is a call to the Police
128 Department, how they will measure the audibility.
129

130 **Chairman Manfredi** stated simply --"if they can hear it". Consideration is being given for live
131 music, inside, one night a week.
132

133 **Dalton Percy** asked if the Commission finds they are allowed to have music inside, then how
134 do you determine there is a violation.
135

136 **Chairman Manfredi** if someone stands in the parking area and can hear the music they are in
137 violation.
138

139 **Dalton Percy** provided an overview and offered written letter (attachment 3) providing
140 information on his professional experience in the music entertainment.
141

142 **Commissioner Kite** asked if Mr. Nunez would be agreeable with the condition of the windows
143 closed.
144

145 **Dalton Percy** reported Mr. Nunez has installed a new air conditioning unit and he would
146 probably accept such a condition. Outdoor sound could also be reduced by moving traffic
147 along and out the front and guiding people on the patio in a different way during music
148 performances.
149

150 **Mitch Hawkins**, 1910 Carli St., submitted and read aloud correspondence (attachment 4),
151 stating they could easily hear acoustical music inside his house, noting he heard music as
152 recent as today. Mr. Hawkins reported discussion with Brad Cannon, Building Official who
153 acknowledged La Prima Pizza does not currently have established occupancy on file with the
154 City. Parking has been identified as inadequate, and he noted an increase in parking would
155 require CEQA. In conclusion he stated it seemed the Nunez family is being rewarded although
156 the former use permit has been in violation. Mr. Hawkins requested the Planning Commission
157 to please do the right thing.
158

159 **John Potrebic**, 2106 Oat Hill Court, reported he is enchanted with this tourist city, and was
160 concerned the issue of the meeting was about music. People go to this city to enjoy the town
161 and its music. Sound proofing is very expensive, with no benefit to the restaurant. Not audible
162 is a general statement and hearing is very subjective. His observation if you walk the
163 neighborhood on work days as well as weekends is there is a difference in number of parked
164 cars. On the weekend there are more people parked (walkers and bikers), and he assumes
165 the hikers are more likely to throw litter than someone that has been in the restaurant. He has
166 not observed the need for overflow parking and believes it is an undue expense to the owners
167 to create more parking spaces. No one should prevent a customer from parking on Lake
168 Street in the city right-of way. Mr. Potrebic was basically surprised with all these issues noting
169 the City should be happy to have a business that is prosperous and they should take the
170 opportunity to support business.
171

172 **Bisa Potrebic**, 2106 Oat Hill Court, stated the Calistoga festivals, activities, and music, makes
173 everyone happy. It makes business happy and benefits our community. We now have a
174 business that wants music on the premises and there should be a workable solution. Our
175 banners reflect music and mud and we don't want that to false advertise.
176

177 **Julie Garcia**, 1812 Foothill Blvd. stated she was fully in support of La Prima providing music in
178 their restaurant.
179

180 **Carlos Garcia**, 1812 Foothill Blvd., stated his family was also in support of allowing music. It
181 is another opportunity for fun and music in Calistoga.
182

183 **Iris Lopez**, 2315 Foothill Blvd., President of Casa De La Culpuras program stated she was
184 completely in support of La Prima's request to have music. La Prima is known as a family
185 place, for birthdays, graduation, etc., noting there is no other place to go with kids and have
186 fun. In closing she mentioned the children's program has been established primarily through
187 the efforts of Betty Nunez supporting them.
188

189 **John Davis**, 1730 Adele Street shared his concerns with La Prima Pizza stating he likes to eat
190 there and wants them to continue to operate and prosper, but he does not like being disturbed
191 by music. He suggested if the Commission allows intensification to go through it will create
192 more noise and wreck the neighborhood. Mr. Davis further noted a Police report is not written
193 unless you request a report be made. The numbers are askew and he knows there are more
194 than eight incidents. In closing he requested if the Commission determines to allow the music
195 and mitigate measures with noise sound proofing, he requested the work be done first as well
196 as the parking up front prior to allowing music. Mr. Davis suggested with approval of this the
197 Commission will be hard pressed to deny a request from Home Plate if they want to have rock
198 and roll bands.
199

200 **Chairman Manfredi** stated rock and roll bands were not on the table for discussion.
201

202 **John Davis** noted those were his thoughts and requested the Commission consider not
203 allowing change in the use permit.
204

205 **Moran Navarro**, parent, coach and community supporter, stated he heard about the hearing
206 from the newspaper and wanted to comment on the La Prima establishment as a parent and
207 as a coach. He noted he has witnessed both sides of the arguments, and he enjoys his stay
208 when he has gone to La Prima, but we are talking about music and that is part of the package
209 for a business to stay in business today. He agreed there should be limitations to sound, but
210 all rights other establishments have should be allowed to this particular establishment.
211

212 **Judy Cook** stated she has been involved in strolls and festivals and Calistoga is known for its
213 music. Brannan's, Hydro, Calistoga Inn, Pacifico etc have music many nights a week, and she
214 could understand neighborhood upset if the music were every night, but they are only asking
215 for one night a week. She requested the Commission please consider one night a week, they
216 are trying to abide by requests, but it is important the city allow a business to have music one
217 night a week.
218

219 **Caryl Maniscalco**, Attorney representing neighbors, drew attention to the existing Liquor
220 License (ABC License), noting the license conditions state "no sound outside of licensed
221 building". If you grant this you will grant them something they are not allowed to do.
222

223 **Commissioner Kite** stated this proposal is not suggesting anything inconsistent with the
224 Liquor license.
225

226 **Caryl Maniscalco** stated the music is heard all over the neighborhood.
227

228 **Commissioner Kite** acknowledged if in violation yes, however staff is proposing something to
229 address that.

230
231 **Caryl Maniscalco** stated there has never been a citation issued and the neighborhood is not
232 convinced the mitigation measures and conditions will be enforced because there has never
233 been enforcement. She reported her clients were not opposed to neighborhood pizza, but her
234 clients do not believe they should be allowed to have music because the neighbors should not
235 have to hear it. It is appropriate for restaurants in the downtown/commercial neighborhood,
236 but this neighborhood is not commercial and it shouldn't be allowed to become a music venue.

237
238 **Commissioner Kite** questioned Ms. Maniscalco's reference to neighbors/neighborhood and
239 asked for some of idea of who her clients were.

240
241 **Caryl Maniscalco** reported she had more than two clients but not more than fifty.

242
243 **Francisco Carrera** reported support for La Prima to provide music at the restaurant.

244
245 **Sonja Spencer**, 1901 Lake St., stated her concerns were already known. She confirmed Mr.
246 Hawkins comment that he heard music today, noting it may be just an employee turning up the
247 radio. Ms. Spencer reported Mr. Nunez had visited her and on the surface the proposal seems
248 to be a workable compromise, stating the traffic, parking, and trash seems to be resolved, and
249 repair of broken fences and no music on the outside deck has been promised. Only acoustic
250 will be played and will not be heard beyond the walls of the establishment stating it will not
251 impact her in any way. Ms. Spencer stated she was skeptical – yes, but hoped she will not be
252 disappointed. Can the neighborhood rely on the Planning Commission to enforce the
253 conditions she didn't know. She questioned if this is the end of the music issue or just the
254 beginning, stating she was too old to put up with this anymore.

255
256 **Edith Patrone**, Napa resident stated the La Prima Restaurant is a favorite enjoyable place to
257 go and she supports La Prima and their proposal to provide live music.

258
259 **Caryl Maniscalco** drew attention to the statement provided on behalf of Mr. Nunez, and
260 suggested he is already opposing recommendations of staff, even before he has a permit he is
261 fighting and her clients believe they will continue to fight as they have in the past.

262
263 **Dalton Percy**, advised he was at La Prima Restaurant at 2:55 PM today, and as always
264 there was music outdoors, but it could not be heard beyond the edge of the patio.

265
266 **Director Gallina** restated there shall be no music audible from the public right of way,
267 currently non-live music may be played as long as it stays on the deck.

268
269 **Chairman Manfredi** stated he finds that impossible.

270
271 **Dalton Percy** stated he disagreed. He recommends changing the location and direction of
272 the outdoor speakers, also noting in fact there is only one speaker currently operating out of
273 the two existing speakers on the patio. He requested reconsideration of the condition to
274 remove those speakers, recommending speaker re-direction.

275

276 **John Potrebic** asked if there are no incidents reported, what the issue is.
277

278 **Christina Chadsey**, 2421 Dena Way reported she was familiar with the noise, and goes to La
279 Prima a lot because it is a restaurant that welcomes children. She heard the music during the
280 sound test and restaurant patrons could barely hear the music on the patio. She thinks issues
281 raised have nothing to do with the sound and the meeting discussion seems to be taken up
282 with a lot of other things. Ms. Chadsey shared her support for La Prima and their proposal.
283

284 **Jesse Patrone**, shared support for La Prima Restaurant stating she thinks that music is
285 everywhere, we have music in the bank, the stores, etc., and she doesn't think people are
286 opposed to music. Ms. Patrone shared her support for the Nunez family, stating they have
287 done a lot for the community, she would like to continue to go vent, have a beverage and soon
288 listen to music, requesting the Commission come to a happy medium with their decision.
289

290 **Chris Ciriack**, Foothill Blvd. stated she supports La Prima Restaurant, but she can speak for
291 the neighbors knowing how their windows have rattled because of music, and that is the
292 reason they were here. The crux is they believe the permit is identifying conditions La Prima
293 will not follow. They have heard music even while this has been in process. While
294 soundproofing is possible, windows and doors being closed is not doable. She asked the
295 Commission to remember the people that have been here since July. If the Commission
296 grants this request the only recourse will be for the neighbors to pull together again, but in the
297 mean time consider just what they will be subjected to.
298

299 **Betty Nunez**, La Prima Pizza Restaurant owner gave a brief history of her years in business
300 since 2002 and acknowledged they have had only two outdoor events in that time. The
301 activities occurred in July two years ago, one a Sweet Sixteen event with a DJ, from 7 – 9:30
302 pm, unfortunately all the neighbors remember that party and complaints were registered.
303 Another July 12, with an approved permit from Charlene Gallina, for a 21st birthday party,
304 brought in Mariachi's and DJ and the party was indoors. Without those incidents no one would
305 remember us. Ms. Nunez apologized for the first two events.
306

307 **Ms. Nunez** summarized their initial application noting their proposal included six outdoor
308 events, but when they heard the neighbors opposing issues they have modified the proposal
309 dramatically to address neighbors concerns, but she noted the neighbors should also have to
310 be nice to them. She noted with the existing inherited Use Permit it allows for background
311 music but they do not play that music loud because they could not take an order over the
312 phone. Referencing the outside speakers she confirmed only one speaker works and they
313 have only been getting complaints about the speakers since they have been trying to get live
314 music. Ms. Nunez stated they are not violating anything; authorization is part of the original
315 use permit. Betty Nunez stated there is no music venue, no cover, no money making music
316 event, just normal business, and it would be nice to have music on Friday or Saturday nights.
317 They want to provide something very mellow and they are not interested in providing loud
318 music. Their former application did request that but they have retracted that request. She
319 reported they have implemented outdoor litter check/pickup daily and parking spaces are
320 never full except during Cruising Calistoga, she asked for trust, and reminded sometimes loud
321 music does come from the apartments near by. In closing she asked the Commission to
322 please consider La Prima's request. As far as the outdoor speakers she believed the
323 Commission should not take away permitted use that they already have.

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Dalton Percy compared decibels of 110 for a concert at the Oakland Coliseum and a sound meter reading during the recent Calistoga Stroll reading a loud outburst from the Calistoga Inn at 95 decibels. Everyone measures with decibels.

Chairman Manfredi noted they were not interested in numbers and he thought he had made that clear.

Mitch Hawkins stated he wanted to correct earlier information, reporting there were more than two reports for noise without a use permit and he had brought documentation to a previous meeting. He stated it is about truth and trust, and he had heard music earlier in the day. Mr. Hawkins stated he loved good pizza, but he did not want his little girl to cry because the windows are shaking. Music is not working in their quiet neighborhood.

Aldo Nunez stated he wanted the Commission to recognize the parking Zoning Codes have changed after he had bought the business and they are not valid to them. He reported the spaces as counted are incorrect, they have 21 spaces on Falleri, not including the handicap, where there are three spaces, however he is not saying he would not comply, he has no problem with another six spots and making it accessible, including signage for restaurant customers. Also noting he is not building a new business. Mr. Nunez reminded this proposal is about acoustical music, and he did not believe an acoustical guitar would rattle windows.

Caryl Maniscalco stated she had a problem with Mr. Nunez attitude and with him saying they are all lying. In closing she reminded the La Prima liquor license states the music cannot be heard outside of the licensed premises.

Chairman Manfredi closed the public portion of discussion at 7:28 PM.

Chairman Manfredi presented the first question to Commissioners, should a professional noise study be considered.

Commissioners Bush, Creager and Kite agreed there was no need.

Chairman Manfredi asked staff why there was a discrepancy between occupancy and parking.

Planner MacNab stated there are two different codes. The Building Code determines occupancy by square footage. When the Building Official talked with Mitch Hawkins he told him we did not find a copy of occupancy on file at the office so the statement they don't have a certificate of occupancy may be true or may not.

The parking standard is from the Municipal Code and the standard has changed since the initial parking requirements were determined for that property. To address concerns staff suggested additional parking be considered.

Planner MacNab reported application processing included referral of this proposal to all departments, department comments provided in July did not express significant concerns about the proposal, noting the music is always secondary to the restaurant. Environmental

372 Health is primarily interested in the food service only, with no need to comment on a live
373 entertainment proposal. He ascertained that Brad Cannon, Building Official answered
374 occupancy questions in a general capacity.

375
376 **Commissioner Kite** asked staff if the condition made on the ABC license was a general
377 condition and likely found on most ABC licenses.

378
379 **Planner MacNab** advised it was plausible that ABC was either familiar with the original
380 business Lord Derby Arms or it is just general language.

381
382 **Commissioner Kite** asked if the Police telephone dispatch automatically created a formal
383 report for noise or was it by request.

384
385 **Calistoga Police Officers** in attendance advised that anytime there is a call a report is made.

386
387 **Chairman Manfredi** stated keeping in mind a conditional use permit is what governs the
388 operation of the restaurant and the liquor license states music should not be heard beyond the
389 building, he asked Dalton Percy with his technical skills could the premises be sound proofed
390 to meet the conditions.

391
392 **Dalton Percy** stated with modifications such as adding shutters, curtains, etc. he believed it
393 could be done.

394
395 **Chairman Manfredi** asked if his client would be willing to complete the recommendations to
396 sound proof, knowing if music is heard from the restaurant beyond the deck they could loose
397 their use permit.

398
399 **Dalton Percy** stated they would need to make improvements and go from there. Noting he
400 thinks the Nunez family is aware of the risk involved, but he also see's their willingness to give
401 it a good try and learn additional skills in their music venture.

402
403 **Chairman Manfredi** suggested one consideration could be to condition the proposal requiring
404 the applicant to show a plan for sound proofing before they start doing anything so any new
405 music doesn't filter out.

406
407 **Vice-Chairman Creager** agreed a plan could include management of sound and management
408 of the environment, we don't know if the building can contain the music. We should avoid
409 anything that is unnecessary before requiring the expense. Have an event at the scale we are
410 talking about to determine if additional sound proofing is necessary. Don't set the bar so high
411 where there is no opportunity to explore. Move forward carefully, think possibilities here.

412
413 **Chairman Manfredi** noted he was not trying to squash the possibilities, however if we don't
414 condition this for no noise we will be back here again.

415
416 **Vice-Chairman Creager** suggested exploring an event just to be prepared.

417

418 **Planner MacNab** stated staff did take measurements of indoor sound from on the deck, the
419 decibels inside were 85 – 90, and outside were measured at 55 with the door closed, and 65
420 with the door open.

421
422 **Vice-Chairman Creager** asked staff if the property envelope was measured.

423
424 **Planner MacNab** replied “no”, the measurement was just five feet outside the door.

425
426 **Commissioner Kite** stated with reported abuses of music in the past he did not want to
427 encourage the Nunez’s, but he also did not want to encourage the neighbors so sensitive to
428 the noise where if there was any hint of noise in the parking lot they would want the City to
429 shut La Prima down. There has clearly been some non conforming events and he wants the
430 applicant to know there will be significant enforcement consequences if ignored. He would like
431 to get on with music inside that does not produced outside noise, but he does not want to go
432 overboard on requirements.

433
434 **Chairman Manfredi** stated he would like to see a plan to provide additional means of sound
435 proofing. He did not know what this will require, but according to the consultant it could be as
436 easy as drapes, etc. **Chairman Manfredi** wanted to make it clear more has to be done for this
437 to work. Show a plan of initial work to be done.

438
439 **Commissioner Bush** shared concern with a standard that would say you cannot hear
440 anything, because she doesn’t know if that is at all possible.

441
442 **Chairman Manfredi** requested the Commission acknowledge the premise there would be a
443 need for additional work on the interior of the space to soften the music sounds from filtering
444 too far out, and then discuss issues logically.

445
446 **Vice-Chairman Creager** stated we need a commitment from the applicant and assurances
447 this music will not violate their permit and cause consternation within the neighborhood. We
448 have all learned in terms of issues there needs to be better communication between
449 departments and agencies. Calistoga has always been a town of entertainment and we have
450 been desensitized. We know other businesses in town have far more violations than La Prima
451 Restaurant, it is not just them. The key to move forward is identifying a reasonable plan and in
452 some way monitoring the success of the plan so they can make adjustments without going
453 unheard. This will be high maintenance, but justified.

454
455 **Commissioner Kite** stated there needs to be management of music as well as physical
456 changes. He cautioned extremes of this argument and encouraged everyone to be
457 reasonable. Commissioner Kite stated he was in support of a noise management plan.

458
459 **Chairman Manfredi** suggested quarterly review of successes so they can make changes,
460 Planning Commission reviews will be publicized during the first year. If two or more serious
461 complaints are registered the Commission would schedule a public review sooner.

462
463 **Commissioner Kite** stated they needed to be documented, legitimate, well founded
464 complaints.

465

466 Music. There was unanimous consensus to allow limited music one night a week, on Friday or
467 Saturday to 9 PM.

468
469 Outdoor Speakers.

470 **Chairman Manfredi** recommended outdoor speakers should be removed.

471
472 **Commissioner Kite** referenced ongoing operations and recommended at least making the
473 proposal with outside speakers as part of management plan.

474
475 **Planner MacNab** suggested language to keep outdoor music with adjustments to make the
476 speakers inaudible.

477
478 **Commissioner Kite** stated the management plan is to manage the music, but the applicant
479 needs to insure their staff doesn't irritate the neighbors.

480
481 **Planner MacNab** stated it is difficult to definitively determine if what they are proposing will not
482 be heard past the property line, but it may be acceptable within the General Plan Guidelines
483 ordinance.

484 **Commissioner Creager** stated it would be better to talk to ABC to determine the appropriate
485 definition and coordinate standards in accordance with our standards.

486
487 **Planner MacNab** stated it would be easier if we established a number and could use a meter
488 to make a determination. Not audible at all is understandable, but not really reasonable.

489
490 Parking. Staff recommends use of the lot for over flow parking, with signage and garbage
491 cans available, especially with the possibility of music nights becoming popular.

492
493 **Vice-Chairman Creager** suggested we define scope to include landscaping and not dedicate
494 the area entirely to parking. Come up with a plan to put in another three spaces behind the
495 building and another five or six in the field would be more than adequate to cover the rare peak
496 event.

497
498 Commissioners discussed the non paved area available for overflow at peak times,
499 appropriate access signage, permanent landscaping, flex parking, maintenance of the area
500 and consideration that overflow parking may be a problem related to the inadequate Oat Hill
501 Trail parking, but with the perception it is patronage to La Prima.

502
503 **Chairman Manfredi** confirmed the consensus was to require an overflow parking area be
504 available, the area is to be kept mowed, accessible, and include proper access signage. The
505 owner may consider their own signage making it clear the parking is for La Prima patrons and
506 violators will be towed.

507
508 Consequences/Enforcement.

509 **Commissioner Kite** stated he heard the neighbors concerns and we need to address what
510 will happen "if".

511
512 **Director Gallina** reported there is a revocation process, and the Commission has
513 recommended administrative review of this project on a quarterly basis. Director Gallina

514 reported staff will make sure we work close with the Police Department, track complaints and
515 prepare a quarterly report, and continue communication with La Prima. Two confirmed
516 complaints will warrant us to go to the Planning Commission and put La Prima on notice there
517 shall be no music until the issued is resolved.
518

519 **Vice-Chairman Creager** suggested the two verified complaints need to be documented by a
520 Police visit.
521

522 **Commissioner Kite** realizing neighbors are sensitive; this is a compromise and should be a
523 workable solution.
524

525 **Planner MacNab**

- 526 • potentially the Planning Commission is supportive of the request,
- 527 • most significantly the applicant needs to provide a noise management plan;
- 528 • it was suggested for the neighborhood benefit, if approved staff will bring back the plan as
529 an informational item presentation before entertainment commences on the property.
530

531 **Director Gallina** worried about outdoor speakers and questioned if we want to condition to not
532 have music until we have brought the plan before the Planning Commission.
533

534 **Commissioner Bush** requested staff define "cannot hear anything outside the perimeter".
535

536 **Planner MacNab** stated staff will be looking at the definition of ABC and manage to the most
537 restrictive definition.
538

539 **Vice-Chairman Creager** questioned is it no vibrations or no audible vibrations, there needs to
540 be some cut off point. Understanding the outdoor music is part of the whole pending package,
541 i.e. redirecting speakers. We need a whole new management plan and start fresh.
542

543 **Director Gallina** clarified there is a hold on music until there is a management plan and no
544 outdoor speakers until there is a management plan.
545

546 **Chairman Manfredi** asked the applicant if he understood.
547

548 **Aldo Nunez** stated he agreed, as long as everyone realizes some of the noise is not
549 generated by La Prima.
550

551 **Planner MacNab** recapped recommendations captured:

- 552 • Use of vacant lot for overflow parking
- 553 • Signage over flow parking
- 554 • Trash bin installation
- 555 • Music secondary use to restaurant,
- 556 • Sound management plan provided to staff
- 557 • Quarterly review or sooner if there are two or more valid complaints
- 558 • Align with ABC for an interpretation on noise, with the most restrictive recommended
559 action.
560

561 **Commissioner Kite** agreed whatever that standard is, that will be what the live entertainment
562 management plan will need to meet.
563

564 **Planner MacNab** stated he will obtain a better sense of the ABC interpretation and if it is
565 consistent with the noise ordinance that will become the standard.
566 Condition #8, add two verified violations.
567 Conditions #9 and 10, consolidate and modify - preparation of Management plan prior to
568 commencement of live entertainment.
569

570 **Chairman Manfredi** clarified the speakers should be turned off until the management plan is
571 reviewed and approved.
572

573 The applicant requested starting music at 5:00 PM/Staff recommended 6:00 PM. There was
574 **Planning Commission** consensus to allow music to start at 5:00 PM.
575

576 There was motion by **Commissioner Bush**, seconded by **Vice-Chairman Creager** to direct Staff
577 to file a Notice of Exemption for the Project pursuant to Section 15301 of the CEQA Guidelines.
578 **Motion carried: 4-0-1-0.**
579

580 There was motion by **Commissioner Kite**, seconded by **Vice-Chairman Creager** to accept
581 staff's recommendation to waive the requirement for Design Review approval pursuant to Section
582 17.06.020(B)(2) of the Calistoga Municipal Code. **Motion carried: 4-0-1-0.**
583

584 There was motion by **Vice-Chairman Creager**, seconded by **Commissioner Bush** to adopt
585 Resolution PC 2009-19 approving an amendment to Conditional Use Permit U 2000-06 (U 2000-
586 06(A)) to allow amplified music and live entertainment indoors within La Prima Pizza Restaurant
587 located at 1923 Lake Street (APN 011-535-010) within the "CC-DD", Community Commercial-
588 Design District Overlay Zoning District, subject to the findings in the Staff Report and conditions of
589 approval as amended. **Motion carried: 4-0-1-0.**
590

591 H. NEW BUSINESS

592

593 I. MATTERS INITIATED BY COMMISSIONERS

594

595 J. DIRECTOR'S COMMENTS/PROJECT STATUS

596

597 **Director Gallina** reported the Urban Design Plan will be presented for City Council review on
598 December 1, 2009.
599

600 K. ADJOURNMENT

601 There was motion by **Commissioner Manfredi**, seconded by **Commissioner Bush** to adjourn to
602 the next regular meeting of the Planning Commission scheduled for Wednesday, December 09,
603 2009, at 5:30 PM. **Motion carried: 4-0-1-0.**
604

605 The meeting adjourned at 8:30 PM.
606
607
608

609

610

611

612

Kathleen Guill

613 Secretary to the Planning Commission

614

615 Attachments 1 - 4