

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

**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 **C. TOUR OF INSPECTION**  
5

6 **PA 2009-01, CDR 2009-01:** Shortly thereafter, the Planning Commission left the Community  
7 Center to inspect the project site for the Enchanted Resorts development proposal to be located  
8 at 515 Foothill Boulevard.  
9

10 The purpose of this inspection was to view the physical characteristics of the site and proposed  
11 layout of buildings only. The following City representatives were in attendance on the tour of  
12 inspection: Vice Chair Creager, Commissioners Coates, Kite and Bush. Absent: Chairman  
13 Manfredi. Members of the project team and the public were also in attendance. Staff member in  
14 attendance was Associate Planner, Erik Lundquist.  
15

16 **Vice Chairman Creager** reconvened the Regular Planning Commission Meeting at 5:35 P.M.  
17

18 **A. ROLL CALL**  
19

20 **Present:** Vice-Chairman Clayton Creager, Commissioners Carol Bush, Paul Coates, and  
21 Nicholas Kite. **Absent:** Chairman Jeff Manfredi. **Staff Present:** Director Gallina, Planning and  
22 Building Director, Ken MacNab, Senior Planner, Erik Lundquist, Associate Planner, and Cynthia  
23 Carpenter, St. Helena Planning Administrative Assistant. **Absent:** Kathleen Guill, Planning  
24 Commission Secretary.  
25

26 **B. PLEDGE OF ALLEGIANCE**  
27

28 **D. PUBLIC COMMENTS**  
29

30 **E. ADOPTION OF MEETING AGENDA**

31 There was motion by **Commissioner Bush**, seconded by **Commissioner Coates** to approve the  
32 agenda as submitted. **Motion carried: 4-0-1-0.**  
33

34 **F. COMMUNICATIONS / CORRESPONDENCE**  
35

36 **Vice-Chairman Creager** announced correspondence that has been passed out tonight regarding  
37 the following Agenda Items:  
38

39 Design Review 2009-03 – Chevron Canopies & Corporate Identity:

- 40 • Dieter Diess
- 41 • Pam Kinzie
- 42 • George Caloyannidis
- 43 • Nick Kite/Wine Way Inn

44

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

- 46 • Edward Lantz
- 47 • Jack & Midge Geary
- 48 • Cheryle Stanley
- 49 • Eduardo Yanez
- 50 • Julie Garcia
- 51 • Irais Lopez
- 52 • Marta Caldera
- 53 • Ricardo Vera

54

## 55 H NEW BUSINESS

56

57 **1. PA 2009-01, CDR 2009-01:** Pre-Application Conference/Conceptual Design Review for the  
58 Enchanted Resort Project. This project is located within an 88 acre hillside. The applicant  
59 proposes to amend a portion of the previously approved 35-lot subdivision to accommodate a  
60 resort as well. As presented, the project proposes to accommodate 13 home sites, a resort hotel  
61 with 36 cottages featuring 110 hotel units, a restaurant, ballroom, fitness center, and spa facilities.  
62 In addition, the applicant proposes a residence club featuring 20 homes which offers buyers an  
63 undivided fee-simple interest in a specific property, as well as access to a residence club. The  
64 project site is located at 515 Foothill Boulevard, which is within the Rural Residential Hillside  
65 General Plan Land Use Designation and Zoning District. (Property APNs 011-310-031 through  
66 011-310-041 & 011-310-044; 011-320-007; 011-320-039 through 011-312-069).

67

68 **Commissioner Kite** recused himself from discussion of this project.

69

70 **Associate Planner Lundquist** provided an overview of the project and issues identified to date,  
71 as well as, areas of Commission focus for discussion.

72

73 **Aaron Harkin**, Project Manager for Enchanted Resorts, introduce his project team and presented  
74 the Commissioners and attending community members a conceptual overview of the layout and  
75 concept of their plan.

76

77 **Rick Riess** of Icon Resorts assured the Commissioners that their intent is to create a resort  
78 facility that is sustainable, attractive, understated, and able to fit into the rural character of  
79 Calistoga. It is not their intention to create a hard, angular eyesore that runs contrary to the  
80 town's rural character.

81

82 **Bruce Wright** of SB Architects provided various examples of their projects around the world,  
83 providing examples from both local projects, like the Calistoga Ranch, to resorts in Sonoma and  
84 further abroad, in Dubai. They work around the world, but feel most at home in the North Bay.

85

86 It was noted that the concepts provided are in the very early stages of development and are not  
87 the final project. The intent of the developers and contractors is to give an overview of the ideas  
88 and concepts in mind, allowing for community and City input as they shape their vision into more  
89 concrete plans and development ideas.

90

91 **Aaron Harkin**, the Project Manager for Enchanted Resorts concluded the presentation and  
92 stressed that the vision for this property, the housing development, and the resort area, is one that  
93 will be intermingled with the natural beauty and wildlife in the area. As was seen in the 3D  
94 imaging, their goal is to make the resort complementary to the surrounding vegetation and  
95 geography of the land; not the other way around. Mr. Harkin feels certain that any negative  
96 impacts can be mitigated and made to be less than significant. He is excited about this project,  
97 and he hopes that the City and community members will be excited about the possibilities as well.

98

99 **Associate Planner Lundquist** stressed again that this project could have numerous benefits to  
100 the City and community, but it is critical that the project be developed carefully in order to assure it  
101 is complimentary to the surroundings, the City, and community members.

102

103 He further noted that the General Plan Land Use Designation and Zoning of the property doesn't  
104 allow resort-type development. However, he reiterated that the idea of a resort on the property,  
105 as well as the need to change the General Plan and Zoning in order to allow resorts, has been  
106 entertained in the past.

107

108 He urged the Commissioners to carefully consider the various points of possible concern in order  
109 for planning staff to provide clearly defined feedback on the project from the Commission.

110

111 **Vice-Chairman Creager** opened discussion and asked for feedback from those who attended the  
112 site visit earlier in the day.

113

114 **Ann Scott**, 4281 Scott Way, attended the site visit. She noted that as a small town, there is a  
115 need to consider their limited resources, such as water. She was concerned about the impacts on  
116 the wildlife, fire safety, and vegetation. She also noted that there are predictions of an El Nino for  
117 this coming winter, and the run-off would be significant. She further expressed her reservations  
118 regarding the impact all of this new development would have on traffic.

119

120 **Charles Delimur**, 1771 Diamond Mountain Road, has mixed feelings about the project. He is  
121 very impressed with the presentation provided by the development team for the project and feels  
122 that they provided information on what looks to be a terrific project. That said he still has some  
123 reservations. He was nervous about the initial 35 units first proposed, but noted that they would at  
124 least be tucked into the vegetation, and not terribly noticeable. However, this new proposal will  
125 significantly change the scope of the project and potential negative impacts, especially the impact  
126 from development up near the ridgeline. It will impact light, noise, and views.

127

128 **Richard Swenson**, 1309 Diamond Mountain Road, feels the project is a bunch of bull. He  
129 doesn't believe this project, nor the developers behind the project, truly plan to be stewards of the  
130 land. They're slick. They aren't interested in stewardship. They want to attract travelers of the  
131 very highest-end, the people who would use Calistoga as their second residence, not their actual  
132 home. The elegant, the rich. What about the common person who lives here? What can this  
133 possibly do for the common person in Calistoga?

134

135 He noted that employment will be generated, but feels that the folks who generally work in such  
136 establishments don't live locally anyhow. He's not heard a thing about providing housing for the  
137 local workforce, nothing! He surely couldn't ever visit that kind of resort. It takes over three  
138 thousand bucks to get into the gate. He doesn't believe that the developers are being truthful.  
139 There will be noise issues, impacts on wildlife, and other areas with negative impacts. What is in  
140 this for the folks who call Calistoga their home? He can't see anything in it for them.

141

142 **Charles Knight**, 1296 Diamond Mountain Road heard that this project would be on City water. Is  
143 that true? Are there any wells up there? What is the plan for water up there?

144

145 **Aaron Harkin**, project manager, answered the question. He explained that there are actually  
146 three wells on-site. Currently, the wells are used for irrigation. They will be using the wells for  
147 water for the development, but he isn't certain about the exact amount of water that will be used  
148 by the development until more information and research has been done.

149

150 **Vice-Chairman Creager** explained that the 35 units have been approved for hook-up to City  
151 water. The wells, if he understands correctly, are to be used for irrigation purposes.

152

153 **Associate Planner Lundquist** concurred, explaining that research and reports with regards to  
154 the predicted water-use will be compared to available water in the City's resources, and if there is  
155 available water to cover the water and waste water needs of the development, then the  
156 Commission will be given proposals for consideration.

157

158 **Mr. Knight** noted to the Commissioners that researchers can make errors, and what looks to be  
159 abundant water for this project could possibly be an error, and if that is the case, as sometimes  
160 occurs with such research and reporting, could the City impose some kind of clause that would  
161 stop water use? He wants to have some kind of assurance that if that happens, and water use is  
162 higher and has a worse impact on neighboring wells, that he will be able to maintain his water  
163 use, and they will have to find alternative water sources.

164

165 **Norman**, 1520 Diamond Mountain Road, feels his property could very well be the most impacted  
166 by this project. He is concerned about noise and water use, and how his view might be impacted  
167 by this new development.

168

169 **Vice-Chairman Creager** asked for clarification as to the number of private residences proposed.

170

171 **Bruce Wright**, Project Architect explained that instead of the initial 35 residences proposed, the  
172 project now is proposing only 13 residences.

173

174 **Rudy VonStrasser**, 1510 Diamond Mountain Road, noted that ideally, 35 homes would never  
175 have been approved for building 30 years ago, but since that is where it stands, he can't really  
176 see how a resort added to the development would really create much more impact than the  
177 proposed and permitted 35 homes. He explained that he is very concerned about water use, and  
178 he wants a condition of approval that the project won't be permitted to use well water for their  
179 development. He noted that in his experience, you can find a consultant to tell you what you want  
180 them to tell you. Regardless of what a consultant might say, there's only so much water in the  
181 ground.

182 Also of concern are the echo and acoustic properties in the area that really amplify sound. He can  
183 hear much more clearly the sounds a quarter of a mile away in his area than if he were down on  
184 the valley floor in Calistoga. He can't explain the details as to why sound travels so much more  
185 up on Diamond Mountain but it does, and it's been noted before.

186

187 Lastly, he'd like to know if there is any way to get rid of the two run-down houses at the bottom of  
188 the hill. He noted that they won't be there in the near future if this is permitted, so why not get rid  
189 of them sooner rather than later? It's a real eyesore and one seen immediately upon entering that  
190 side of the City of Calistoga.

191

192 **Nick Kite**, 1019 Foothill Blvd., is concerned about permitting this project. He noted that this  
193 development is driven by money. He concedes that the estimated Transient Occupancy Tax  
194 (TOT) revenue is super, but he wants to see more information about what the City might be able  
195 to do with some of that money. Can some of it be used for affordable housing?

196

197 He also feels that there is a lot of rural residential hillside. Converting this portion will set a  
198 precedent for rural residential hillside property all over town. What if the other owners in the area  
199 wish to convert their hillside too? If you will allow it for the big boys (developers), what about  
200 some smaller entity who wants to convert as well?

201

202 **Kristin Casey**, who lives at 1132 Denise Drive, is opposed to this proposal because it sets a  
203 precedent. If it doesn't set a precedent, then it's unfair. She disagrees with the idea that there are  
204 a lot of rural hillside residential areas. She noted only a small area of such land in Calistoga.

205

206 She pointed out that large-scale development has not been permitted in the past on residential  
207 hillside zoning areas because Calistoga has a historic desire to keep them rural. That said, what  
208 does the City want to do? Does the City truly want to get rid of the rural residential hillside  
209 designations in favor of a more easily developable designation so as to permit commercial  
210 development in those areas? She feels strongly that once the City allows it in one area, it will find  
211 more and more property owners asking to change their designations too because of the precedent  
212 set by the City. *(See Attached Kristin Casey letter dated and received on August 12, 2009)*

213

214 **Rex Albright**, Executive Director for the Calistoga Chamber of Commerce recommended that the  
215 City move forward with this project as recommended in the staff report. The Chamber of  
216 Commerce feels that the project will not be readily visible from the City. They feel that the  
217 development group is honest in their desire to maintain the natural beauty of the land and be good  
218 stewards.

219

220 He explained that it is the intent of the developer to consider the possibility of affordable housing,  
221 as well as discussion about other things that this development might be able to provide money for,  
222 such as parks and parking areas. He noted that until developers are permitted to move forward,  
223 they can't provide funds for community projects that are currently just sitting on the table, unable  
224 to be realized because of a lack of funds. He believes that it will benefit the City and the  
225 community and have relatively little impact on the surrounding areas or on Calistoga itself.

226

227 **Vice Chair Creager** closed the public comment portion of this item.

228

229 **David Gilbreth**, Project Team Attorney, requested the opportunity to address several of the  
230 comments and concerns that were raised by the public. First and foremost, he wanted to address  
231 the idea that should the City approve the proposal it would be setting a precedent. He noted that  
232 legally, what the City chooses to do to one property or group of properties isn't a guarantee that  
233 they will do the same for other similar properties in the future.

234

235 Second, he explained that his company and the project representatives have spent a great deal of  
236 time, energy, and money identifying residential properties within the area, and he feels that there's  
237 no other place that can sustain a project such as this. He also noted that on other pieces of  
238 property the environmental impacts can't be mitigated. This property is unique; the only one that  
239 can support such a development.

240

241 He is asking that the City not prematurely deny this project. He would like to have the opportunity  
242 to prove how they can mitigate possible negative impacts of this project, to evaluate it, show the  
243 City how it can work and how it's a unique project.

244

245 Mr. Gilbreth noted that one community member felt that there was nothing in the project for the  
246 City. He doesn't agree. 4.5 million dollars of TOT and other potential benefits are, in his opinion,  
247 a definite contribution to the City. There is a lot of good that can come from this project;  
248 affordable housing, jobs, money for the City, a spectacular asset to the City. It generates a great  
249 deal for the community. He rejects the concept that there's nothing in it for the community. He  
250 respects the various points of view but doesn't have to agree with it.

251

252 As to the issue of water, he explained that this project has no intention of putting a burden on the  
253 City's water or the local wells. He can't possibly know every aspect of this but can say with  
254 certainty that until there is more information available from research should they be permitted to  
255 move forward, he doesn't anticipate the need, nor is there any intent, to use or unduly tax the  
256 City's water resources.

257

258 **Associate Planner Lundquist** noted that now that the applicant has been able to provide a fairly  
259 comprehensive overview of their project with enough detail therein, the City can begin the process  
260 of fleshing-out potential areas of concerns, and this will take place in part by creating a full EIR,  
261 and not an EIR provided by the applicant or their representatives, but an EIR originating from the  
262 City. The City's General Plan has historically had overlays in order to protect their most important  
263 assets and lands in order to slow down the process, and facilitate the ability to really consider  
264 carefully any project approvals for the designated overlay lands. He is confident in this  
265 methodology.

266

267 **Vice-Chairman Creager** asked Mr. Lundquist for clarification about obtaining water use through  
268 the City.

269

270 **Associate Planner Lundquist** explained that the City is in charge of permitting well-water usage  
271 and can deny such use if enough evidence is provided that a given project will unduly tax the  
272 supply available. That's the City's call and it is used in this sort of situation to make certain water  
273 is available.

274

275 Residential areas are permitted to apply for wells, so should it come to that, there is potential that  
276 all of the residential lots could, in fact, apply for variances in order to obtain and use a well.

277 **Director Gallina** noted that in her planning experience, even though a General Plan identifies  
278 numerous policies that need to be implemented, if the City were to so choose. She indicated that  
279 no city can possibly implement each and every policy in the General Plan at once. Program  
280 implementation usually occurs over a period time. However, it is important to note that as the City  
281 reviews this development proposal, staff will go through the General Plan and identify policies and  
282 programs that need to be addressed with this project. For example, the City's Municipal Code  
283 does not have a hillside regulation as identified in the General Plan. It should be noted that even  
284 though the Municipal Code does not specifically provide for hillside regulations, the City will be  
285 very sensitive to the concerns surrounding hillside development. Therefore, staff will be all the  
286 more vigilant when considering hillside development in order to address concerns about view  
287 shed, traffic, water, and so forth.

288  
289 With regards to the rate of growth and use of City resources, the City does have a Growth  
290 Management System in place that permits 8 acre feet per year of commercial development.  
291 Should the Council choose to move forward for this project, the City can create a Memorandum of  
292 Understanding that will outline the actual permitted water use for this project (based on future  
293 research that will be provided by the applicants as they move forward), and that allotted water will  
294 be subtracted from the overall commercial development permitted. This will ensure that water use  
295 is accounted for and the City doesn't permit development that goes above the available water  
296 stores.

297  
298 **Vice-Chairman Creager** stressed that while he has no problem with second-home community  
299 developments in general, it is the people who live and work in Calistoga that should be the  
300 primary beneficiaries of available water for development, and not part-time residents who don't  
301 really have as much of a vested interest in the town. Even though residential development is  
302 part of the project, it isn't created or intended for the full-time Calistogan, but visitors and part-time  
303 residents. In his mind, that is commercial, and water used for this project ought to come from the  
304 allotted amount per year for commercial, not residential, water use as stipulated by the City.

305  
306 He then noted that the Commission has been charged to address the five main  
307 concerns/questions proposed by the Planning Department staff. Moving forward, the Commission  
308 discussed the five proposed concerns in order to provide information and recommendations to the  
309 City Council. It was also noted that while only five questions were postulated, the Planning  
310 Director suggested that there are far more questions and concerns that the Commission may wish  
311 to weigh-in on.

312  
313 It was the Commission's general view that there is great potential for this project to affect the City  
314 in both positive and negative ways.

315  
316 The project would create many positives for the City:  
317 ○ Providing jobs  
318 ○ Transient Occupancy Taxes and revenue  
319 ○ A world-class attraction in the City that would generate more visitors to the City  
320 ○ A resort that benefits the City rather than 35 exclusive mega-homes that would not benefit the  
321 City and the residential units proposed having been lowered from the initial 35 to 13.

322  
323 It was also noted, however, that there is a great potential for negative impacts on the following:  
324

- 325 ○ Water use (citing the possibility that each residential unit could apply for a variance in order to
- 326 have a well, creating up to 35 wells instead of the proposed three.)
- 327 ○ Traffic – not only would the various visitors and residents create traffic, wear and tear on the
- 328 roadways (causing the City to pay large sums of money for upkeep), and environmental
- 329 impacts on the air-quality, but also the additional impacts of the numerous people who work
- 330 full-time running such an establishment. That’s a huge impact on traffic.
- 331 ○ View shed for the hillside would certainly be impacted. There is simply no way to completely
- 332 hide and mitigate the compromising of the views provided currently should the development be
- 333 approved and built.
- 334 ○ Noise will be an issue.
- 335 ○ Affordable housing will be needed in order to allow those people who work at this resort to
- 336 actually afford to live in the City where they work.
- 337

338 **Commissioner Coates** noted, however, that while all of the above stated impacts have potential  
339 negative impacts on the City, a Memorandum of Understanding and the research needed to  
340 mitigate these potential issues would allow the City to go through each concern, one by one, and  
341 address them publically and fully. That is the biggest way that the City can ensure their citizens  
342 that all possible affects are researched fully and mitigated as much as possible before approving  
343 such a project. The citizens can feel safe knowing that the City will follow this course of research  
344 and public discussion. The citizens will be able to voice their concerns every step of the way.

345  
346 It was agreed that a comprehensive EIR must be provided and expanded to cover more concerns  
347 noted by the public. Also agreed upon was that this project does fit within the guidelines of the  
348 City’s General Plan.

349  
350 **The Commission** was in agreement that the design of the proposed project fits within the nature  
351 and ambiance of Calistoga as proposed. Some concern was expressed about the number of  
352 visitor accommodations proposed and infrastructure required to sustain the project, but stated that  
353 this issue would resolve itself when the project was better defined and environmental issue and  
354 appropriate mitigation are identified. It was also agreed upon that this project has the potential  
355 to enhance the entrance corridor.

356  
357 The possible impacts on the environment are much too large a question to answer at this time, but  
358 the Commission agreed that a comprehensive EIR will address the concerns voiced by the  
359 citizens and staff.

360  
361 **Vice Chairman Creager** proposed that the Commission allow the applicants the opportunity to  
362 address the various concerns that have been raised by Planning staff, the citizens of Calistoga,  
363 and the Planning Commission.

364  
365 Discussion on this item concluded.

## 366 I. PUBLIC HEARINGS

367  
368  
369 1. **U 2000-06(A):** Consideration of a Conditional use Permit requesting an amendment to a  
370 previously approved Use Permit U 2000-06, which would allow amplified music / live  
371 entertainment indoors or outdoors any time during business hours by La Prima Pizza, located at  
372 1923 Lake Street (APN 011-535-010) in the “CC-DD” Community Commercial-Design District



373 overlay Zoning District. This item is exempt from CEQA (California Environmental Quality Act)  
374 under Section 15301 of the CEQA Guidelines.

375

376 **Commissioner Coates** recused himself at this time due to the proximity of his home to the  
377 project location.

378

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

387

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

395

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

403

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

408

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

418

419 **Vice-Chairman Creager** asked Ms. Nunez to comment on the specifications provided as  
420 guidelines for amplified music on the outdoor deck. She noted that generally, most of the outdoor  
421 music is during the summer when the weather is good. After that, when it's colder, it's all indoors.  
422

423 **Commissioner Kite** asked if Ms. Nunez is happy with the current specifications or is she wanting  
424 more leeway?  
425

426 She explained that yes, she is fine with the specific guidelines laid out to her, however she isn't  
427 comfortable with the idea that absolutely zero outdoor music is permitted, ever. She has had to  
428 turn away numerous parties wishing to have music outdoors for a celebration, or perhaps a  
429 wedding rehearsal supper. This is business she is losing because she can't tell them it's okay just  
430 to make sure the music is as low as possible and only for a few hours. She wants to be able to at  
431 least allow that kind of party now and then in order to keep the business. It is also her opinion that  
432 having live music indoors, at least during the earlier hours when people are eating, is disruptive to  
433 their eating experience. It's too loud and distracting inside at those times. But a later time, a later  
434 gathering would be okay indoors.  
435

436 **Mr. Nunez** explained that he is in total agreement with everything his wife stated. He also wanted  
437 to add that it is, in his opinion, absurd that a group can't have a gathering that has been planned  
438 for months, on a weekend, early in the evening without somebody complaining! He referenced a  
439 recent celebration in Calistoga. He wasn't certain of the date or the occasion for the celebration,  
440 but it was a planned celebration with a three-person band in attendance. He was there as well,  
441 selling pizza with other vendors.  
442

443 He watched that band get shut down, on a Saturday, around six in the evening, because one  
444 person in the area complained! That's not fair. That's not reasonable. It's a City, on a Saturday, a  
445 weekend day, and it's early evening and there can't be any music outside? A person can  
446 complain and shut the celebration down? How is that right?  
447

448 **Mr. Nunez** assured the Commissioners that it is not the intent of La Prima to have Judas Priest,  
449 Iron Maiden, or Metallica-style (and sound-level) music. He proposed that the negative letters  
450 received regarding their proposal aren't even aligned with their actual proposal! What they are  
451 intending, and asking permission to do, isn't what the numerous letters are referring to; that  
452 seems unfair to him, and a misrepresentation.  
453

454 People come to Calistoga to have fun. If they can't, they'll go elsewhere. Perhaps they ought to if  
455 they can't find fun here in town, on a weekend, early in the evening, without the risk of somebody  
456 complaining and shutting down the whole thing.  
457

458 **Commissioner Kite** asked if what they are asking for is more in keeping with the application,  
459 which states indoor, outdoor, amplified, seven days a week; or is it more like the written  
460 statement? Mr. Nunez explained it is more like the written statement and that the formal  
461 application is a bit more severe sounding.  
462

463 **Vice Chairman Creager** opened the public hearing for comment. Numerous citizens wrote letters  
464 to the City in support of or opposition of the applicant's request. Several of those citizens also  
465 turned out for the Planning Commission meeting and reiterated their feelings both for and against  
466 the proposal. The most common theme among those opposed to the idea is the fear that there

467 will be loud music at any given hour, infringing on their peace, their quiet streets, and no real way  
468 to monitor it or regulate it without involving the police, and even then there is a fear it will continue  
469 unabated.

470

471 It is unfortunate that La Prima is in a poor location for the accommodation of outdoor live music.  
472 They are at the edge of the City, right up against residential neighborhoods and some residents in  
473 those homes are not willing to deal with even the occasional outdoor music infringing on their rural  
474 quiet. Indoor music was acceptable almost entirely across the board for those in opposition of the  
475 proposal; however, the outdoor music was steadily opposed.

476

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

481

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

486

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

496

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

503

504 Tom Andrews

505 Drawsky – Franz Valley Road

506 Rex Albright

507 Sonya Spencer – 1901 Lake Street

508 Marie Torrigino - 1873 Lake Street

509 Frank Hawkins - 1910 Carli Drive

510

511 **Vice Chairman Creager** closed the public hearing and invited a rebuttal statement from the  
512 applicant. Ms. Nunez explained that the incident mentioned by Mr. Gamble, where a permit was  
513 not provided to the officer, was lost in communications with the Senior Planner, who granted the  
514 permit over the phone and faxed a copy for Ms. Nunez to sign. She signed it and faxed it back

515 but was told after the fact that the fax was not received. She believed she had a permit; otherwise  
516 she would not have permitted the party.

517  
518 **Commissioner Kite** questioned if this use proposed for the restaurant is ancillary to the use or if  
519 it will be becoming the primary use for La Prima.

520  
521 **Mr. Nunez** reiterated that it is ancillary, that it is on occasion, and that it is not their intent to  
522 change their venue or become something other than a restaurant. He also explained his version  
523 of what took place with the responding officer on the night mentioned by Mr. Gamble. The  
524 responding officer at that time was the 4<sup>th</sup> officer to come by, and Mr. Nunez explained, again, that  
525 they had a permit and would turn the music down by 10:00. The permit was granted until 10:00  
526 p.m. As for the accusation of putting a blackberry in the officer's face, he felt there was no way a  
527 Mexican guy could do that kind of thing and not get arrested.

528  
529 He pointed out that there are six bars in town, and they have a bar, but they don't keep the bar  
530 open until one a.m. Also, they have been permitted to have live music. La Prima isn't asking to  
531 become a bar.

532  
533 **Commissioner Kite** asked about karaoke, music, dance, etc., asking if that's what they plan to  
534 do.

535  
536 **Mr. Nunez** explained that he is trying to do this in the correct way, in a way that is legal and  
537 neighborly. They do not want to turn their establishment into La Prima Disco.

538  
539 **Vice-Chairman Creager** noted that this has become a much more difficult discussion than he'd  
540 imagined it might be. It is a difficult situation. He felt that he heard the need for mediation, for  
541 meetings between the neighbors and business, perhaps with a mediator, to explore this situation.

542  
543 **Director Gallina** had a conversation with Ms. Nunez prior to the application's submittal, and at  
544 that time she had suggested to her to meet with the neighbors prior to the application in order to  
545 iron out some of these issues. Evidently, that meeting did not occur. Perhaps it would be best,  
546 she suggested, if the project were continued to a future meeting in order to allow Ms. Nunez to  
547 have that meeting with the neighbors.

548  
549 It would be beneficial if the neighbors and Ms. Nunez could agree to work together to experiment  
550 with the noise levels. It is within the Commissions rights to ask the applicants and neighbors to  
551 meet and discuss this project. While the Commission cannot compel the applicants to meet or  
552 discuss this with the neighbors, the Commission can provide enough time for that meeting to take  
553 place should both parties choose to do so.

554  
555 **Commissioner Kite** feels that there must be a balance between the rights of the businesses and  
556 the rights of the neighbors. He also noted that with regards to the music it is important to consider  
557 each project on its own merit and not assume that just because one restaurant is permitted live  
558 music, doesn't immediately allow all restaurants to have live music.

559  
560 He feels outdoor music is problematic. However, there are days when Calistoga is celebrating,  
561 having music, making noise, and he feels that the neighbors ought to permit La Prima to be a part  
562 of that. However, he wants to make sure that whatever is decided, the owners agree to hold up

563 their end of the bargain. He wants to see music an ancillary use to the restaurant. The Vice-  
564 Chairman concurred.

565

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

569

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

572

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

581

582 **2. DR 2009-03:** Consideration of a Design Review application to install two 24' x 34' fueling  
583 canopies (each approximately 16 feet in height) over the existing fuel dispensing pumps and to  
584 change the corporate color scheme of the dispensing pumps and convenience store from yellow  
585 and red (Shell) to blue and white (Chevron) at the gas station located at 1108 Lincoln Avenue  
586 (APN 011-254-003) within the "DC-DD", Downtown Commercial-Design District Overlay Zoning  
587 District. No changes to use or operations are being proposed as part of this application. This  
588 proposed action is exempt from the California Environmental Quality Act (CEQA) under Section  
589 15303 of the CEQA Guidelines.

590

591 **Commissioner Kite** recused himself from the discussion of the project.

592

593 **Senior Planner MacNab** provided an overview of the project and explained that there are only  
594 portions of the Design Review that are ready for consideration this evening, so the Commission is  
595 being asked to consider the signage proposed and pump markings. If after that the Commission  
596 wishes to provide feedback regarding the canopies, that would be fine, and members of the public  
597 may have comments as well.

598

599 **Vice Chairman Creager** asked how this particular application was different from previous  
600 applications by other similar entities, other gas stations, and how is it similar?

601

602 **Senior Planner MacNab** explained that due to the previous applications the tone and  
603 specifications were set for future applicants and the regulations that were created prior now  
604 dictate the current applications. The applicant is willing to work with the City to keep the heights  
605 and sizes of the structures lower than what they'd prefer, and they also agreed to create the  
606 canopies in such a way as to structurally support photo-voltaic panels in the future. However,  
607 there are no calls for a complete redo because this application is simply a modification of what is  
608 already permitted or has already been permitted.

609

610 **Vice Chairman Creager** opened the discussion by inviting a statement from the applicant.

611 **Aslam Ali**, representing the applicant, noted that the applicant is working hard with the Planning  
612 Department in order to comply with regulations and still obtain permits for new signs and the  
613 canopies. As of yesterday, Mr. Ali believed that both the canopies and the signs were permitted,  
614 however this afternoon he discovered that there were reservations with regards to the canopies,  
615 and he isn't quite clear as to why.

616  
617 He proposed that what the applicant is asking for is no different than what the gas station across  
618 the street has; the same kind of canopy, the same kind of changes. The applicant is willing to  
619 settle for smaller signs, to make changes to the sizes of the canopy, etc. The applicant would like  
620 the Commission to look into the possibility of having the canopies.

621  
622 It was explained to the Commissioners that the need for a canopy is important for the environment  
623 in order to lower the issue of contaminants in water run-off, both primary and secondary. He  
624 stressed that their company is very willing to make any changes in order to comply.

625  
626 **Senior Planner MacNab** clarified that the applicants are requesting that the request for the  
627 canopies be considered only under Design Review, and not require a Use Permit.

628  
629 **The Vice Chairman** opened the public hearing for comment.

630  
631 **Dieter Diess**, a resident of Calistoga, asked that the Commission look at this proposal not as just  
632 another gas station on a corner in some town, but as the gateway to the historic heart of  
633 Calistoga. That gateway is important and ought to be protected and enhanced, not detracted  
634 from. He notes that the canopy design of the station already present, and feels that to then add  
635 the proposed canopies for this station will in effect make the entrance to the historic areas of  
636 Calistoga two gas stations. He'd like to see the gas stations try to design and modify the typical  
637 feel and look of the gas station.

638  
639 **Christopher Layton**, 1010 Foothill Blvd., expressed concerned about the engineer's statement  
640 because he's not certain that there is a real need for the canopies, however the **Vice Chairman**  
641 noted that installation of the canopies to prevent tainted water run-off is indeed a required  
642 mitigation,

643  
644 **Christopher Layton** provided examples of tasteful options that address the needs of the stations,  
645 but still maintain a natural beauty for the entrance to the City. He noted the "old time" feel of the  
646 proposed ideas he has provided.

647  
648 **Nick Kite**, 1213 Foothill Blvd and as a very close neighbor to the gas station, noted numerous  
649 concerns he has with this proposal as is. He provided a letter to the Commissioners as well,  
650 which was included in the staff report. Specifically, he noted that he feels that the applicant's  
651 requests are simply being made in order to boost their business and use large, ugly signage to  
652 announce to people as far away as possible the location of their gas station. It's corporate  
653 ugliness at its worst. As for the lighting at night, while the Commission requests in their conditions  
654 that the lights be turned off, this station is open all day, every day of the year. When will they turn  
655 off their lights? He is opposed to the station being open all night because of the nuisance it  
656 causes to the neighbors who must deal with idling trucks, noisy conversations, loud music and  
657 such issues in the middle of the night. Not only must he hear it, but his paying guests are subject

658 to it as well. He is wholeheartedly against the proposal as is and hopes that the Commission will  
659 not accept this monstrosity of signage proposed by the applicant.  
660

661 **Mr. Kite** also asked if the addition of the canopies and signage isn't an intensification of use of the  
662 permit that is already in place. If they were proposing additional, larger signage, etc. then that  
663 would trigger the need for Design Review and Conditional Use Permit. He noted that it is possible  
664 to see the illumination of the new signs as constituting an intensification of use. In fact, he would  
665 urge the Commission to carefully question the applicant about their plans for the inside of the  
666 store. Do they plan to offer further food options than they currently have? That's an intensification  
667 of use, and they should not be permitted to make that kind of change, regardless of whether or not  
668 the signage is approved. He urges they deny the application. Should the Commission approve  
669 the application, he would urge them to make certain that the new spanner not be any larger than  
670 the current one, and only signage changes made. He believes that making the spanner larger  
671 would be an intensification of use and would trigger Design Review and Conditional Use Permit  
672 applications. Last of all, he would ask that the signs not be permitted to be illuminated.  
673

674 In conclusion, he feels the comments by the applicants about how the neighbors don't mind, or  
675 that it's just a canopy, underlines his belief that they are not sympathetic to the actual needs and  
676 wishes of the neighbors as well as the City as a whole, and ought to alert the Commissioners to  
677 what their attitude is in general as they apply.  
678

679 **Yazmin Ali**, 20 Oak of Pleasanton, owns the property in question. She wanted to explain that the  
680 proposal to install the canopy is driven by the change from Shell to Chevron, as well as the  
681 mitigation of impact on the environment. She also stated that during the rainy season, it is good  
682 for the community. She feels the canopy will add to the look of the City.  
683

684 She explained that in response to concerns about changes inside, she isn't planning on making  
685 any changes in the store. She isn't planning on choosing Chevron's option to have a store that  
686 would be designated as "extra mile" which would make changes inside. They do not wish to  
687 participate and will be keeping their current offerings in the store.  
688

689 **Ms. Ali** also stressed that they are very willing to work with the staff and City to make whatever  
690 changes or arrangements needed in order to have the necessary canopy and still comply with the  
691 needs and desires of the City.  
692

693 Lastly, **Ms. Ali** explained that the spanners are brand-specific and Shell's spanners are different  
694 than Chevron spanners, however she isn't aware of the spanners being larger in any way. Mr. Ali  
695 explained that they are choosing the smaller version of the spanners in order to keep the sizes  
696 comparable to what they currently have.  
697

698 The **Commissioners** generally agreed that the proposed color changes and signage are  
699 permissible and are of a design that could be approved. However, they also were in general  
700 agreement that the canopy design must be considered separately for a Use Permit in order to  
701 further discuss and consider the design elements. Furthermore, they were not in support of  
702 lighting the signs.  
703

704 **Vice Chairman Creager** suggested adding to the proposal on the table that the Commissioners  
705 ask somebody local to help the applicants to design a new canopy plan. He noted that some time

706 ago, there was a church proposed that was, in his mind, hideous and a local architect offered his  
707 services pro-bono in order to create a new design that was agreeable to the church members as  
708 well as the City. He asked if all parties were agreeable to allowing local architects to work with the  
709 applicants to create a new proposal to resubmit to the Planning Commission.

710  
711 **Director Gallina** expressed her belief that the signage ought to be included in this new design  
712 process because perhaps they will be changed in order to better fit in with the new design.

713  
714 **Senior Planner MacNab** also clarified that the addition of the canopies, when considered with  
715 relation to the code, could be considered an intensification of use if the canopies are considered  
716 as adding additional floor area to the existing building. That is debatable. However, he further  
717 stated that it is his belief that the location of this gas station at the entrance to the historical portion  
718 of Calistoga should provide ample reason for these changes to be considered under both Design  
719 Review and Conditional Use Permit. He concurred that Mr. Kite's statement that this constitutes  
720 an intensification of use, but he also noted that this is based on just one staff member's  
721 interpretation. Lastly, the Commission consideration during Design Review as well as Conditional  
722 Use Permit would lengthen the process for the applicants.

723  
724 **Director Gallina** agreed that as Commissioner Coates noted, the applicants are working hard to  
725 work with the City and it would be good to have a member of the Planning Commission meet with  
726 both the applicants and the architects in order to represent the City and be able to report back to  
727 the City.

728  
729 It was moved by **Vice-Chairman Creager**, seconded by **Commissioner Coates**, to continue  
730 consideration of the Design Review application to approve installation of two fueling canopies over  
731 two existing fueling pumps, and to change the corporate color scheme of the dispensing pumps  
732 and the convenience store from yellow and red to blue and white, and consideration of an  
733 alternative canopy cover for the station located at 1108 Lincoln Avenue to the Meeting of  
734 September 23, 2009 and to establish a Committee made up of Commissioner Bush, George  
735 Caloyannidis, Dieter Diess, and Christopher Layton to work with the applicant to consider, during  
736 an interim period, an integrated design scheme for the canopy and corporate coloration. **Motion**  
737 **carried: 3-0-1-1**

738  
739 **J. NEW BUSINESS (Continued)**

740  
741 **1. GMA 2010.** Provide a recommendation to the City Council regarding the General  
742 Development Objectives for the 2010 Growth management System Allocation process.

743  
744 It was moved by **Vice-Chairman Creager**, seconded by **Commissioner Coates** to continue this  
745 item to the regularly scheduled meeting of August 26<sup>th</sup>, 2009.

746  
747 **K. MATTERS INITIATED BY COMMISSIONERS - None**

748  
749 **L. DIRECTOR'S COMMENTS / PROJECT STATUS – None**

750  
751 **M. ADJOURNMENT**

752



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753 There was motion by **Vice Chairman Creager**, seconded by **Commissioner Coates** to adjourn  
754 the meeting to the next regularly scheduled meeting of the Planning Commission on August 26,  
755 2009, at 5:30 PM. **Motion carried: 4-0-1-0.** The meeting adjourned at 10:15 p.m.

756

757

758

759 \_\_\_\_\_  
Charlene Gallina, Acting Secretary to the Planning Commission

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

761