

CITY OF CALISTOGA

STAFF REPORT

TO: CHAIRMAN MANFREDI AND MEMBERS OF THE
PLANNING COMMISSION

FROM: ERIK V. LUNDQUIST, ASSOCIATE PLANNER

MEETING DATE: SEPTEMBER 8, 2010

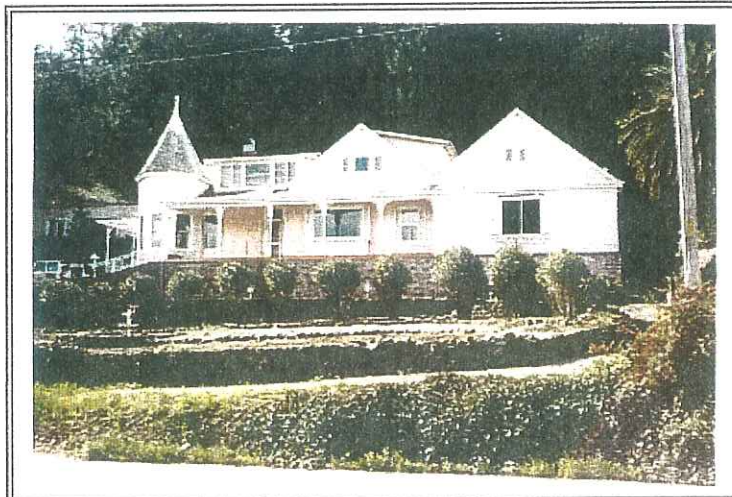
SUBJECT: PINK MANSION USE PERMIT AMENDMENT (8-UNITS)
1415 FOOTHILL BOULEVARD

1 REQUEST

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3 Consideration of an amendment to the previously approved Conditional Use Permit (U
4 95-3) to allow no on site manager and two (2) additional bed and breakfast units on the
5 property currently established with the "Pink Mansion", a six (6) unit bed and breakfast
6 facility, located at 1415 Foothill Boulevard (APN 011-300-011) within the "R-1-10",
7 Single Family Residential District.

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9 HISTORY & BACKGROUND

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11 In August of 1986 a use permit was granted allowing the operation of a six-unit Bed and
12 Breakfast, the "Pink Mansion" with a the prerequisite that prior to adding the sixth unit in
13 the downstairs a owner/manager quarters was to be constructed elsewhere. In 1991-92 the
14 conversion of an existing accessory structure to a residential second unit (i.e.
15 owner/managers unit) was authorized. Since the former use permit was considered expired
16 due to the time lapse a new use permit was warranted to permit the sixth room. On July 26,
17 1995 the Planning Commission granted use permit approval (U 95-3) authorizing the sixth
18 guest accommodation. The bed and breakfast has operated as a 6-unit facility since this
19 approval in 1995.



Pink Mansion circa 1986

31 **PROJECT DESCRIPTION**

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33 On June 18, 2010, City of Calistoga Ordinance No. 667 became effective. Ordinance No.
34 667, among other things, amended Chapter 17.35, *Bed and Breakfast Inns and Facilities*,
35 of the Calistoga Municipal Code (CMC) providing an opportunity for those properties
36 currently developed with a bed and breakfast inn and facility in the R-1-10 District to
37 exceed the development limitations upon the Planning Commission granting a use permit.

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39 On July 20, 2010, an application was received from Toppa Epps and Leslie Sakai-Epps,
40 property owners, requesting authorization to expand their existing 6-unit bed and
41 breakfast facility to 8-units by converting the existing detached owner/managers unit and
42 attached storage room to guest units, see Attachment No. 3.

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44 **STAFF ANALYSIS**

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46 **A. Land Use**

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48 The property is located within the “R-1-10”, Single Family Residential Zoning District.
49 Pursuant to Sections 17.35.040(C)(4) of the Calistoga Municipal Code, the Planning
50 Commission must consider the following special circumstances prior to approval of the
51 request to eliminate the off site manager’s unit and add two guest units:

52

53 a. Proximity to a State highway or major arterial as indicated in the General Plan
54 circulation element; and

55

56 Response: The property is located along Foothill Boulevard (State Route 128),
57 which is a State Highway and is classified as an arterial street in the 2003 General Plan.

58

59 b. The historical character and/or significance of the structure(s) in which the units
60 are to be located; and

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62 Response: This project will preserve the historic qualities of the structure(s) and
63 will be detrimental to the character defining elements of the property.

64

65 c. The character of the proposed site relative to its surroundings; and

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67 Response: As determined by the Planning Commission and City Council during
68 its initial review of the original use permit, the site is physically suitable for the use.
69 There is sufficient landscaping and open space on all sides of the property. The intensity
70 of the use is not such that would adversely affect the residential neighborhood.

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72 d. The nature of ingress and egress; and

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74 Response: The existing driveway is adequate to serve this property and the other
75 properties it serves.

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e. The adequacy of the number and location of off-street parking spaces and maneuvering areas; and

Response: One space is provided for each guest unit and one space is provided just off Foothill Boulevard (generally staff parks in this location for short periods of time). Additionally, adequate turnaround around exists to prevent backing up onto Foothill Boulevard.

f. Provision of rooms accessible to the developmentally disabled; and

Response: In 2000 the Calistoga Board of Building Code Appeals contemplated whether the owner's desire to expand the facility warranted a guest room to be accessible to the disabled. Upon consideration of the Board, the Board granted an appeal authorizing an exception to the building code and accessibility requirements to provide an due to the existing physical constraints. This exception of the Board is still valid. As such, establishing two guest units within the existing structures will not trigger accessibility improvements.

g. A bed and breakfast inn and facility or other visitor accommodation located on the property was authorized by the City on or before January 1, 2010; and

Response: A bed and breakfast facility was originally established in 1986.

h. The property is located within an R-1-10 zone; and

Response: The property is located within the "R-1-10", Single Family Residential Zoning District.

i. The property is established with no more than 10 rental units; and

Response: An eight (8) unit bed and breakfast will be established.

j. Minimum lot size of 10,000 square feet.

Response: The property is approximately 38,610 square feet.

Staff is of the opinion that the proposed eight (8) unit bed and breakfast meets the purpose and intent of the Ordinance and can be found to meet the aforementioned special circumstances for exceptions to the established bed and breakfast thresholds in the residential district. In addition, the proposal is consistent with the policy direction of the General Plan since the project will allow an existing bed and breakfast facility to upgrade and meet the changing demands of customers while strengthening business vitality

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C. Growth Management

This property carries water and wastewater baselines of 1.35 and 1.21 ac-ft/year respectively. Given this, staff believes that the current allocation of water and wastewater is sufficient to accommodate the proposed eight unit bed and breakfast and reduction of the owner/managers unit, based upon the City’s standardized use tables (Resolution No. 99-65). No additional allocation is required at this time.

AGENCY COMMENTS

No outside agency comments have been received to date.

PUBLIC COMMENTS

No public comments have been received to date.

CONDITIONAL USE PERMIT

To reduce repetition, all of the necessary use permit findings are contained in the Resolution, see Attachment No. 2.

ENVIRONMENTAL REVIEW

Under the provisions of Section 15332, In-Fill Development, of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) as stated below, this project is found to be exempt from the environmental review requirements of Chapter 19.10 of the Calistoga Municipal Code, implementing the California Environmental Quality Act of 1970, as amended in that; 1) the proposal is consistent with the General Plan and Zoning District, 2) the subject site is less than five acres and is surrounding by urban uses, 3) approval of the project would not result in any significant effects relating to traffic, noise, air quality or water quality, and 4) the site can be adequately served by all required utilities and public services.

RECOMMENDATIONS

- A. Staff recommends the filing of a Notice of Exemption for the Project pursuant to Section 15332 of the CEQA Guidelines.
- B. Staff recommends adoption of Resolution PC 2010-14 approving Conditional Use Permit Amendment (U 2010-05), amending the previously approved Conditional Use Permit (U 95-3), allowing no on site manager and two (2) additional bed and breakfast units on the property currently established with the “Pink Mansion”, a six (6) unit bed and breakfast facility, located at 1415 Foothill Boulevard (APN

165 011-300-011) within the “R-1-10”, Single Family Residential District, based upon
166 the findings presented in the resolution and subject to conditions of approval.

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168 **SUGGESTED MOTIONS**

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170 Categorical Exemption

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172 I move that the Planning Commission direct Staff to file a Notice of Exemption for the
173 project pursuant to Section 15332 of the CEQA.

174

175 Conditional Use Permit & Design Review

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177 I move that the Planning Commission adopt Resolution PC 2010-14 approving Conditional
178 Use Permit (U 2010-05), amending the previously approved Conditional Use Permit (U
179 95-3), allowing no on site manager and two (2) additional bed and breakfast units on the
180 property currently established with the “Pink Mansion”, a six (6) unit bed and breakfast
181 facility, located at 1415 Foothill Boulevard (APN 011-300-011) within the “R-1-10”,
182 Single Family Residential District, based upon the findings presented in the resolution
183 and subject to conditions of approval.

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

190

191 **ATTACHMENTS**

192

- 193 1. Vicinity Map
- 194 2. Draft Conditional Use Permit Amendment Resolution PC 2010-14
- 195 3. Applicant’s written Project Description dated July 20, 2010
- 196 4. City Council Minute Excerpt of August 5, 1986, include Use Permit U 86-4
197 Findings and Conditions
- 198 5. Use Permit 95-3, Pink Mansion Conditions of Approval
- 199 6. Ordinance No. 667, Bed and Breakfast Uses
- 200 7. Project plans received July 20, 2010

201



1415 FOOTHILL BLVD
APN 011-300-011

VICINITY MAP

1415 Foothill Boulevard (SR 128), Calistoga



**CITY OF CALISTOGA
PLANNING COMMISSION
RESOLUTION PC 2010-14**

A RESOLUTION APPROVING CONDITIONAL USE PERMIT AMENDMENT (U 2010-05), AMENDING THE PREVIOUSLY APPROVED CONDITIONAL USE PERMIT (U 95-3), ALLOWING NO ON SITE MANAGER AND TWO (2) ADDITIONAL BED AND BREAKFAST UNITS ON THE PROPERTY CURRENTLY ESTABLISHED WITH THE "PINK MANSION", A SIX (6) UNIT BED AND BREAKFAST FACILITY, LOCATED AT 1415 FOOTHILL BOULEVARD (APN 011-300-011) WITHIN THE "R-1-10", SINGLE FAMILY RESIDENTIAL DISTRICT

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2 **WHEREAS**, Toppa Epps and Leslie Sakai-Epps, are the property owners of the subject property
3 for which this application is proposed; and
4

5 **WHEREAS**, On July 20, 2010 an application was received from Toppa Epps and Leslie Sakai-
6 Epps, property owners, requesting authorization to expand their existing 6-unit bed and breakfast facility
7 to 8-units by converting the existing detached owner/managers unit and attached storage room to guest
8 units; and
9

10 **WHEREAS**, the Planning Commission considered the requests at its regular meeting of
11 September 8, 2010. Prior to taking action on the application, the Planning Commission received written
12 and oral reports by the staff, and received public testimony; and
13

14 **WHEREAS**, this action has been reviewed for compliance with the California Environmental
15 Quality Act (CEQA) and is exempt from the requirements of the CEQA pursuant to Section 15332 of the
16 CEQA guidelines; and
17

18 **WHEREAS**, the Planning Commission pursuant to Chapter 17.40.070 has made the following
19 Conditional Use Permit findings for the project:
20

- 21 1. The proposed development, together with any provisions for its design and improvement, is
22 consistent with the General Plan, any applicable specific plan and other applicable provisions of
23 the Zoning Code including the finding that the use as proposed is consistent with the historic,
24 rural, small-town atmosphere of Calistoga.
25

26 Response: The property has been used for a bed and breakfast inn for at least 23 years. The guest
27 rooms are within an existing single-family residence and detached cottage, and no alterations to
28 the exterior are proposed. In accordance with General Plan policies, the project will be operated
29 so as to be compatible with adjacent residential uses, periodic inspections will be conducted to
30 ensure compliance with conditions of approval, and no net loss of housing will occur.
31

- 32 2. The site is physically suitable for the type and density of development.
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34 Response: As determined by the Planning Commission and City Council during its initial review
35 of the original use permit, the site is physically suitable for the use. There is sufficient
36 landscaping and open space on all sides of the property. The intensity of the use is not such that
37 would adversely affect the residential neighborhood.
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- 39 3. The proposed development has been reviewed in compliance with the California Environmental
40 Quality Act (CEQA) and the project will not result in detrimental or adverse impacts upon the
41 public resources, wildlife or public health, safety and welfare.

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Response: This project is exempt from CEQA under Section 15332.

4. Approval of the use permit application will not cause adverse impacts to maintaining an adequate supply of public water and an adequate capacity at the wastewater treatment facility.

Response: The City's water system and wastewater treatment facility is adequate to serve this project, no additional impact is anticipated.

5. Approval of the use permit application shall not cause the extension of service mains greater than 500 feet.

Response: Approval of this use permit application shall not cause the extension of service mains greater than 500 feet.

6. An allocation for water and/or wastewater service pursuant to Chapter 13.16 CMC (Resource Management System) shall be made prior to project approval. Said allocation shall be valid for one year and shall not be subject to renewal.

Response: The property has sufficient water and wastewater resources allocation to support the proposed use. No further allocation is warranted.

7. The proposed development presents a scale and design which are in harmony with the historical and small-town character of Calistoga.

Response: The bed and breakfast inn use occurs within an existing single-family dwelling and detached cottage located on the property; no exterior changes are proposed.

8. The proposed development is consistent with and will enhance Calistoga's history of independent, unique, and single location businesses, thus contributing to the uniqueness of the town, which is necessary to maintain a viable visitor industry in Calistoga and to preserve its economy.

Response: The small-scale bed and breakfast inn is independently owned and operated.

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

Response: The bed and breakfast inn is within an existing Victorian style single-family dwelling and detached California style bungalow; no exterior changes to the dwellings are proposed.

NOW, THEREFORE, BE IT RESOLVED by the City of Calistoga Planning Commission that based on the above findings, the Planning Commission approves the proposed project, subject to following Conditions of Approval:

1. The use hereby permitted shall substantially conform to the project description submitted by the applicant and the site plan dated July 20, 2010, except as noted in the permit conditions. This use permit allows an eight (8) unit bed and breakfast facility with no on site manager.

92 The conditions listed below are particularly pertinent to this conditional use permit amendment
93 and shall not be construed to permit violation of other laws and policies not so listed. In addition,
94 all other previously approved permits and conditions of approval (i.e. Use Permit 86-4 and Use
95 Permit 95-3) shall remain valid under the provisions and duration of this permit unless modified
96 herein.

97
98 2 This permit shall be null and void if not used within a one year period, or if the use is abandoned for
99 a period of one hundred and eighty (180) days. This permit shall be valid until it expires or is
100 revoked pursuant to the terms of this permit and/or Chapter 17.40 of the Calistoga Municipal Code.
101 Minor modifications which do not increase environmental impacts may be approved in writing by
102 the Planning and Building Director.

103
104 3 The Planning Commission may revoke the use permit pursuant to Section 17.40 of the Calistoga
105 Municipal Code in the future if the Commission finds that the use to which the permit is put is
106 detrimental to the health, safety, comfort or welfare of the public, or causes a nuisance.

107
108 4 The owner(s) shall permit the City of Calistoga or representative(s) or designee(s) to make
109 periodic inspections at any reasonable time deemed necessary in order to assure that the activity
110 being performed under authority of this permit is in accordance with the terms and conditions
111 prescribed herein.

112
113 5 This use permit does not abridge or supercede the regulatory powers or permit requirements of
114 any federal, state or local agency, special district or department which may retain regulatory or
115 advisory function as specified by statute or ordinance. The applicant shall obtain permits as may
116 be required from each agency.

117
118 6 Prior to occupancy of the new units, a building permit and/or occupancy certificate shall be obtained.
119 Upon building permit issuance all appropriate fees shall be paid.

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121 **PASSED, APPROVED AND ADOPTED** on September 8, 2010 by the following vote of the
122 Calistoga Planning Commission:

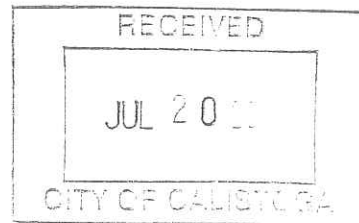
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124 AYES:
125 NOES:
126 ABSENT:
127 ABSTAIN:

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129 _____
130 Jeff Manfredi, Chairman

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132 ATTEST: _____
133 Kathleen Guill
134 Secretary to the Planning Commission

July 20, 2010

City of Calistoga
Planning and Building department
1232 Washington St.
Calistoga, Ca 94515



Att: Planning Commission/Planning Department

My name is Toppa Epps and I reside at 1511 foothill blvd in Calistoga. I am the owner of The Pink Mansion located at 1415 foothill blvd. The Pink Mansion was established as a Bed and Breakfast in 1982 and I, along with my wife Leslie Sakai Epps, purchased it in 1994. We are currently permitted to have 6 rooms. We have tried to get permission to add rooms for many years but were told that we were not zoned properly, as we are in the R1-10 zoning.

On June 18, 2010 the City Council adopted a resolution whereby certain bed and breakfast that reside along foothill blvd may be allowed to expand as long as they meet certain conditions, ie ADA, water, parking, etc. I would like to apply to add two more guest units at The Pink Mansion. The additional units are existing units that have already been built with City of Calistoga building permits. One is a Carriage House (Owners Quarters) and the other is an existing (Storage Room).

As we are all aware, the economy has taken a toll on all of us and we are no exception. We are down 25% from years past and we would really appreciate the opportunity to try and survive this economic downturn and believe this will really help us. Again we have been in business since 1982 and we have tried to be a prominent fixture in this community.

If allowed to amend the Conditional Use Permit we will have 8 permitted rooms which are still far less than what some other Inns throughout Calistoga have. Also this transition will not even be noticed, for the most part, as everything is already in place. Again the rooms are already built and the parking (8 total spots) is already available, making for a smooth transition.

Last but not least, obviously this should help us financially, which means more money in TOT for the City of Calistoga, which means this will be a win/win for everyone.

I appreciate your Consideration,

Toppa Epps

U-86-4, SEYFRIED, APPROVED

Attachment 4

City Planner Richard Avey informed the Council the Planning Commission reconsidered the Seyfried request at its June 25, 1986 meeting. The reconsideration stemmed from the use permit being referred back to the Planning Commission by the Council for clarification.

On April 23, 1986, the Planning Commission recommended the City Council approve U-86-4, allowing the conversion of an existing single family residence into a six-unit bed and breakfast facility. At their May 20, 1986 meeting, the Council referred the permit application back to the planners to have the commission ascertain whether or not the applicant is interested in pursuing an application for only four units.

The applicant would like six units. At the time of the conference with the applicant, he proposed a modification of his previously approved on-site parking scheme. Also, at that time the Planning Commission's conditions were reviewed item by item.

The Commission felt certain clarifications would be appropriate in view of the Council's and the City Attorney's other comments during the Council's deliberation on May 20. In particular, the Commission noted the submittal of the revised parking plan, the possible ambiguity of previous condition number 5 and comments regarding "vesting interest" by recommending approval of a conditional sixth unit. Revised conditions are presented to the Council tonight, said Mr. Avey, which deal with the ambiguity; the City Attorney will address the question of vested rights.

City Attorney Gladstein questioned the wording of Condition No. 4, asking if only the plan need be submitted, or if the work needs to be completed prior to occupancy. Mr. Avey indicated it needs to be done prior to occupancy, and the City Attorney suggested the wording of the condition be altered to reflect this requirement.

Councilmember Gingles questioned the validity of Condition No. 1, if the windows were open. Mr. Avey commented, clearly, the intent is to prevent sound from emanating from the pool area, and opening the windows would be a violation of the condition.

Discussion continued regarding the first condition, with Mr. Avey pointing out as a single family residence there is no specific limitation established for use of pools or lighting in the driveway. Until the time this property receives a permit to operate as a B&B, no restrictions are valid. After approval, the conditions become effective, he said. This statement also applies to the hours of pool use.

The discussion moved to a consideration of whether or not the conditions as they stand resolve or merely postpone a problem? After a good amount of further discussion, City Attorney Gladstein recommended the addition of another condition:

"With respect to Conditions Nos. 1 and 2 above, violation of the regulations restricting pool use can result in an immediate revocation by the Planning Director, of the applicant's right to use the pool in conjunction with the commercial use addressed by this use permit."

Further discussion ensued. In response to a question from the Mayor, Mr. Avey replied the reason the pool is used for B&B purposes in this facility and not in the Silver Rose Inn or at Culvers, is that the owners wish to have it available to their guests.

After yet more discussion, it was moved by Councilmember Gingles, seconded by Councilmember Avila and carried unanimously by a roll call vote, to approve U-86-4, with the following amended findings and conditions.

FINDINGS;

1. That the proposed project is consistent with the general planning and zoning of the area;

2. That the proposed project is consistent with Section 17.40.040 of the Calistoga Municipal Code in that the establishment, maintenance or operation of the use or building applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City;

3. That the proposed project is categorically exempt from CEQA;

4. That the proposed project meets all required criteria for two bonus units in an R-1 zone as set out in Section 17.35.040 C4 of the Calistoga Municipal Code;

5. That the proposed project, as conditioned, will be of distinct benefit to the community'

6. That the applicant has been provided with a statement from the Building Inspector setting out required improvements; and

7. That the findings above and conditions below are applicable to U-86-4.

CONDITIONS;

1. Applicant shall install sound resistant insulation and windows on west side (poolside) of main structure;

2. Pool use shall be limited to 8:00 a.m. - 10:00 p.m., daily;

3. With respect to Conditions Nos. 1 and 2 above, violation of the regulations restricting pool use can result in an immediate revocation by the Planning Director, of the applicant's right to use the pool in conjunction with the commercial use addressed by this use permit;

4. Applicant shall comply with the recommendations of the Department of Environmental Health as set forth in Exhibit A, dated April 16, 1986 and on file in the Planning Department;

5. Prior to occupancy for any B&B purposes, applicant shall submit for approval of the Planning Director and City Engineer, a professionally prepared plan of parking, excavations, drainage improvements, driveway improvements and repairs, and final circulation, including directional signing. Upon approval, all such work shall be completed prior to occupancy for any B&B purposes.

6. Applicant shall submit signage plan for approval of the Planning Director prior to placement of any signs;

7. Applicant shall provide security lighting and other security measures as may be required by the Chief of Police;

8. All existing and proposed water fixtures shall be converted by installation of water conservation devices; and

9. The sixth unit (conversion of one downstairs unit from owner/manager quarters to rental unit) shall not be permitted until replacement manager's quarters are provided by construction of said quarters over the existing pool area.

COUNCIL ADOPTS B&B URGENCY ORDINANCE

City Attorney John Gladstein reviewed the proposed urgency ordinance for the Council; the ordinance would put a halt to approval of any further bed and breakfast facility requests until such time as the revision of the current bed and breakfast ordinance is enacted.

The urgency ordinance was introduced by Councilmember Redmond, by title only, seconded by Councilmember Avila and was adopted by a roll call vote:

ORDINANCE NO. -----
ORDINANCE OF THE CITY OF CALISTOGA, COUNTY OF NAPA,
STATE OF CALIFORNIA AMENDING TITLE 17, CHAPTER 35
OF THE CALISTOGA MUNICIPAL CODE

COUNCIL ACCEPTS FAIRWAY VISTA SUBDIVISION MAP

City Planner Richard Avey informed the Council City Engineer Meade has examined the Final Map of Fairway Vista, has deemed it correct, and has signed the map. Mr. Meade informs the Council bonds have been posted, are satisfactory to the City Attorney, and all appropriate fees have been paid to the City. The City Engineer recommends the Council accept the final map, said Mr. Avey.

Councilmember Gingles asked about some apparent loose ends regarding this development. He mentioned that he, the City Engineer, the neighbors of the project and representatives of Vimark had met June 20, 1986 to discuss the project. At that time, Mr. Gingles pointed out Vimark had agreed to put up fencing between the Vimark property and the neighbors' property, and had also agreed not to construct two-story buildings adjacent to the properties of the neighbors, whose parcels front on Grant Street.

City Attorney Gladstein pointed out he had not been apprised of these discussions, and these conditions had not been included in the already executed Subdivision Agreement. Discussion ensued between City staff, the Council and representatives of Vimark, Inc., as to how to best deal with these additional conditions. Vimark representatives indicated they were aware of these conditions, and were prepared to meet them.

Mr. Gladstein suggested Vimark's president prepare a letter setting forth Vimark's formal acceptance of the two additional

CITY OF CALISTOGA
CONDITIONS OF APPROVAL
U 95-3, Pink Mansion

Planning Commission Approval Date: July 26, 1995

Expiration Date: August 5, 1996

1. U 95-1, Pink Mansion, is approved to permit a sixth guest accommodation at 1415 Foothill Boulevard, APN 11-300-011.
2. Prior to occupancy of the sixth unit, developer shall revise the site plan to eliminate the two proposed parking spaces at the westerly property boundary and provide a regulation handicap parking space near the main entrance to the B&B structure. All parking lot improvements shall be completed prior to occupancy of the sixth unit.
3. Developer shall obtain building permits for all work performed requiring permits.
4. All work in conjunction with this approval shall be performed by individuals who possess a valid City business license.
5. Prior to occupancy developer shall amend the transient tax forms for the Pink Mansion with respect to the increase from five to six units.
6. That any violation of the terms of conditions of approval shall cause this Use Permit to be null and void.

ORDINANCE NO. 667

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA AMENDING CHAPTERS 17.35, BED AND BREAKFAST INN AND FACILITIES, 17.58 AND OTHER PROVISIONS OF THE ZONING ORDINANCE PERTAINING TO BED AND BREAKFAST USES.

The City Council of the City of Calistoga does hereby ordain as follows:

SECTION ONE:

WHEREAS, General Plan Implementation Measure A1, on Page H-93 of the Housing Element, requires that the Bed and Breakfast Ordinance be amended such that through the use permit process a finding is made that no net loss of housing results from a bed and breakfast development; and

WHEREAS, the Economic Development Element, Policy 3 of the General Plan specifically encourages upgrades of existing bed and breakfast inns to meet the changing demands of customers and to strengthen business vitality; and

WHEREAS, on April 20, 2009 the Calistoga Chamber of Commerce submitted a letter requesting planning staff to review the current bed and breakfast regulations; and

WHEREAS, on May 27, 2009 the Planning Commission conducted a study session to discuss and provide direction to staff regarding whether or not to pursue an update to the City's bed and breakfast regulations and other regulations pertaining to such use, as called for in the General Plan and as suggested by the Chamber of Commerce; and

WHEREAS, the Planning Commission at its regular meeting of September 23, 2009 considered the proposed revisions to the Zoning Ordinance and prior to taking action on the application, the Planning Commission received written and oral reports by the staff; and

WHEREAS, subsequent to a duly noticed public hearing the Planning Commission adopted Resolutions PC 2009-26 recommendation to the City Council for the adoption of an Ordinance amending Chapters 17.35, *Bed and Breakfast Inn and Facilities*, 17.58, *Signs and Advertising Regulations*, and 17.36, *Off-street Parking and Loading* of the Municipal Code pertaining to bed and breakfast uses; and

WHEREAS, on October 20, 2009 the City considered the Planning Commission's recommendations at their regularly scheduled meeting and upon close of the public hearing, the City Council recommended that the zoning ordinance amendments be referred back to the Planning Commission for reconsideration; and

WHEREAS, during the Planning Commission meeting of December 9, 2009, a Subcommittee comprised of two Planning Commissioners was established to develop a revised Ordinance to address the City Council's concerns; and

WHEREAS, on April 14, 2010 the Planning Commission reconsidered the proposed revisions to the City's bed and breakfast regulations and other regulations pertaining to such use and considered the recommendations of the Planning Commission Subcommittee. Prior to taking action on the proposed revisions, the Planning Commission received written and oral reports by the staff, and received public testimony; and

WHEREAS, based upon new discoveries the Planning Commission found it appropriate to rescind Resolution PC 2009-26 containing their previous recommendations and adopted Resolutions PC 2010-05 recommendation to the City Council for the adoption of an Ordinance amending Chapters 17.35, *Bed and Breakfast Inn* and other Chapters of the Zoning Ordinance pertaining to bed and breakfast uses finding that the revisions are necessary and proper for maintaining a positive growth in the visitor accommodation climate in the community and are consistent with the policy direction contained in the General Plan; and

WHEREAS, a public notice of the City Council public hearing of May 4, 2010 for this Zoning Ordinance Text Amendment was published in the local newspaper and made available on the City's website; and

WHEREAS, the City Council of the City of Calistoga has reviewed and considered the applicant's request and the Planning Commission's recommendation at its regular meeting on May 4, 2010 and May 18, 2010 as one of its items of business, noticed in accordance with Government Code Section 65090, this Ordinance to be adopted in accordance with Code Section 65850, to include the written and oral staff report, proposed findings and comments received from the general public and interested agencies and parties; and

WHEREAS, the City Council finds the proposed revisions to the City's review procedures for bed and breakfast developments are necessary and proper for maintaining a positive growth in the visitor accommodation climate in the community and are consistent with the policy direction contained in the General Plan; and

WHEREAS, the City Council finds that the proposed revisions will not limit the City's ability to offset and/or mitigate the loss of housing through the required use permit findings; and

WHEREAS, the City Council has been determined this action to not be subject to the California Environmental Quality Act (CEQA) under Section 15061(b)(3) of the CEQA Guidelines.

SECTION TWO:

Chapter 17.35, *Bed and Breakfast Inns and Facilities* of the Calistoga Municipal Code shall be amended as follows:

Chapter 17.35

BED AND BREAKFAST INNS AND FACILITIES

Sections:

17.35.010	Purpose.
17.35.020	General regulations.
17.35.030	Use permit required.
17.35.040	Permit regulations.

17.35.010 Purpose.

- A. It is the purpose of this chapter to establish regulations for the location, use, character, parking, signing and processing of applications for bed and breakfast inns and facilities in residential zones within the City.
- B. Proposed conversions in residential zones to B and B facilities which would eliminate an existing rental unit or units shall not be permitted, unless otherwise provided herein. This admonition pertains to, inter alia, units which contain independent cooking and bathroom facilities.
- C. It is further the purpose of these regulations to encourage the restoration of historic structures. An example of an historic structure is one which is listed by Federal, State and/or recognized Napa County agencies as having architectural or historic significance.
- D. It is further the purpose of these regulations to provide for bed and breakfast facilities which are accessory to and secondary to the primary residential use of land in residentially zoned areas, unless otherwise provided herein. The terms "accessory" and "secondary" mean that the establishment of bed and breakfast facilities in residential zones shall not exceed 49 percent of the use of the land and/or building area on and in which the facilities are to be located. (Ord. 421 § 2, 1987; Ord. 416 § 2, 1986; Ord. 396 § 2, 1984; Ord. 390 § 2, 1983).

17.35.020 General regulations.

- A. For the purposes of this title and Chapter 13.18 CMC (Rates, Billing, Payment and Charges), B and B facilities located in residential zoning districts shall be considered commercial uses.
- B. The establishment of bed and breakfast inns and facilities shall be harmonious with the character of the neighborhood and zone in which they are to be located.
- C. Adequate and surplus off-street parking is of primary concern in the establishment of bed and breakfast inns and facilities. The requirements and development standards for parking as established in Chapter 17.36 CMC shall apply to all B and B facilities, unless otherwise provided herein.
- D. Any facility operating contrary to the terms of this provision shall be subject to immediate closure and permit revocation.
- E. No facility shall be operated without a current business license.
- F. Operation of any B and B facility on a permanent basis shall be by the resident property owner(s) or resident manager. No off-site management shall be permitted, unless otherwise provided herein.
- G. No meals may be served after noon or to persons who are not paying guests, except for those persons who are nonpaying personal guests of the occupying owner-manager of the B and B inn or facility. Occasional special events which involve meals shall be approved by the Director of Planning and Building.
- H. All facilities shall be inspected periodically by the Planning and Building Department for conformance with use permit conditions and the regulations established in this title. Inspection reports shall be forwarded to the Planning Commission for informational purposes, as necessary.

17.35.030 Use permit required.

All bed and breakfast inns and facilities shall require a use permit subject to the provisions of Chapter 17.40 CMC.

17.35.040 Permit regulations.

- A. All applications for a bed and breakfast facility shall be on forms provided by the Planning and Building Department and accompanied by the appropriate fee as established by Council resolution.
- B. Bed and breakfast inns and facilities shall be permitted only where an occupying owner or resident manager maintains his or her primary place of residence on-site. The bed and breakfast inn and facility shall be operated as an accessory use to the owner's/manager's residence. No mix of rental units and B and B units on a single property shall be permitted.
- C. Bed and breakfast inns and facilities shall be limited by spacing and to the number of rental rooms or units by zones as follows:
 - 1. Spacing. R-R, RR-H, R-1, R-1-10, R-2 and R-3 zones: not more than one bed and breakfast facility per each side of a City block or one facility per each 500 feet where conventional blocks are not present.
 - 2. Number of Units.
 - a. R-R, RR-H, R-1, R-1-10, and R-2 zones: not more than two units or rooms;
 - b. R-3 zone: not more than three units or rooms.
 - 3. Maximum. The maximum number of bed and breakfast rental units may be increased in the R-R, RR-H, R-1, R-1-10, R-2 and R-3 zones, subject to a major use permit, when the special circumstances as stated below exist. In no case shall such increase permit the total number of units to exceed six bed and breakfast rental units. Special circumstances to be considered shall include, but not be limited to, the following:
 - a. Proximity to a State highway or major arterial as indicated in the General Plan circulation element; and
 - b. The historical character and/or significance of the structure(s) in which the units are to be located; and
 - c. The character of the proposed site relative to its surroundings; and
 - d. The nature of ingress and egress; and
 - e. The adequacy of the number and location of off-street parking spaces and maneuvering areas; and
 - f. Provision of rooms accessible to the developmentally disabled.
 - 4. Exception. The Planning Commission may authorize an exception to Sections 17.35.040(B), (C) & (D) and 17.36.130(c) parking requirements of this Title, subject to a major use permit, when the special circumstances as stated above and below exist.
 - a. A bed and breakfast inn and facility or other visitor accommodation located on the property was authorized by the City on or before January 1, 2010; and
 - b. The property is located within an R-1-10 zone; and
 - c. The property is established with no more than 10 rental units; and
 - d. Minimum lot size of 10,000 square feet. The Planning Commission, in considering all of the above special circumstances, shall establish

written findings to support approval of bed and breakfast rental unit increases.

- D. Signs identifying bed and breakfast inns and facilities shall comply with the provisions of Chapter 17.58 CMC.
- E. All approved use permits for bed and breakfast inns and facilities shall include a condition requiring conversion of all existing water fixtures by installation of conservation devices.
 - 1. Excepting therefrom, upon Planning Commission approval, authentic historic fixtures. (Ord. 626 § 1, 2006).
- F. To obtain a use permit, a finding shall be made that the proposed bed and breakfast inn and facility would not result in a net loss of housing.

SECTION THREE:

Section 17.14.020(B)(10) in Chapter 17.14, *R-R Rural Residential District* of the Calistoga Municipal Code shall be added and read in its entirety as follows:

- 10. Bed and breakfast inns and facilities, in accordance with Chapter 17.35 CMC;

SECTION FOUR:

Section 17.16.020 in Chapter 17.16, *R-1 Single-Family Residential District* of the Calistoga Municipal Code shall be added and read in its entirety as follows:

17.16.020 Uses allowed.

Uses allowed in a R-1 and R1-10 district are as follows:

- A. Uses Allowed without Use Permit.
 - 1. Single-family dwellings;
 - 2. Second dwelling units in accordance with Chapter 17.37 CMC;
 - 3. Home occupations in accordance with Chapter 17.21 CMC;
 - 4. Uses determined by the Planning Commission to be similar in nature, as provided by the procedures in Chapter 17.02 CMC.
- B. Uses Requiring Use Permits.
 - 1. Repealed by Ord. 599;
 - 2. Bed and breakfast inns and facilities, in accordance with Chapter 17.35 CMC;
 - 3. Churches, public or private schools;
 - 4. Public buildings, public utility substation, parking lots;
 - 5. Temporary subdivision sales offices in conjunction with an approved subdivision;
 - 6. Private recreational facilities for which a membership charge may be made but which are not open to the general public;
 - 7. Geothermal activity (exploration, development, and use);
 - 8. Similar uses determined by the Planning Commission to be similar in nature as provided for according to the procedures in Chapter 17.02 CMC.
- C. Allowed Accessory Uses. Accessory buildings and uses, whose use is clearly

incidental and subordinate to the main use, including a garage, storage shed or similar structure; provided, that no accessory building or use shall be constructed or established prior to the construction of a main building, or on a lot separate from the main building.

D. Prohibited Uses. Uses not specified in subsections (A) through (C) of this section are prohibited.

SECTION FIVE:

Section 17.18.020(B) in Chapter 17.18, *R-2 Single-Family Residential District* of the Calistoga Municipal Code shall be amended and read in its entirety as follows:

- B. Uses Requiring Use Permits.
1. Repealed by Ord. 599;
 2. Bed and breakfast inns and facilities with greater than two units, in accordance with Chapter 17.35 CMC;
 3. Child care nurseries;
 4. Churches, public or private schools;
 5. Public buildings, public utility substations;
 6. Parking lots within 500 feet of C-DD zone;
 7. Mobile home parks;
 8. Private recreational facilities for which a membership charge may be made, but which are not open to the general public;
 9. Geothermal activity (exploration, development and use);
 10. Uses determined by the Planning Commission to be similar in nature as provided for according to the procedures in Chapter 17.02 CMC.

SECTION SIX:

Section 17.19.020(B) in Chapter 17.19, *R-3 Residential/Professional Office District* of the Calistoga Municipal Code shall be amended and read in its entirety as follows:

- B. Uses Requiring Use Permits.
1. Two separate one-family structures;
 2. Multiple-family dwelling units;
 3. Bed and breakfast inns and facilities with greater than two units, in accordance with Chapter 17.35 CMC;
 4. Child care services;
 5. Churches, public or private schools;
 6. Public buildings, public utility substations,
 7. Parking lots within 500 feet of a C-DD zone;
 8. Professional offices, clinics and health care facilities;
 9. Geothermal activity (exploration, development and use);
 10. Similar uses determined by the Planning Commission to be similar in nature as provided for according to the procedures in Chapter 17.02 CMC.

SECTION SEVEN:

If any section or portion of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION EIGHT:

THIS ORDINANCE shall take effect thirty (30) days after its passage and before the expiration of fifteen (15) days after its passage, shall be published in accordance with law, in a newspaper of general circulation published and circulated in the City of Calistoga.

THIS ORDINANCE was introduced with the first reading waived at the City of Calistoga City of Council meeting of the **4th day of May 2010** and was passed and adopted at a regular meeting of the Calistoga City Council on the **18th day of May, 2010** by the following vote:

AYES: Mayor Gingles, Vice Mayor Dunsford, Councilmembers
Garcia, Kraus and Slusser
NOES: None
ABSTAIN/ABSENT: None

ATTEST:



SUSAN SNEDDON, City Clerk



JACK GINGLES, Mayor

