

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

Wednesday, February 09, 2011
5:30 PM
Calistoga Community Center
1307 Washington St., Calistoga, CA

Chairman Jeff Manfredi
Vice-Chairman Paul Coates
Commissioner Nicholas Kite
Commissioner Matthew Moye
Commissioner Carol Bush

“California Courts have consistently upheld that development is a privilege, not a right.”

Among the most cited cases for this proposition are Associated Home Builders, Inc. v. City of Walnut Creek, 4 Cal.3d633 (1971) (no right to subdivide), and Trent Meredith, Inc. v. City of Oxnard, 114 Cal. App. 3d 317 (1981) (development is a privilege).

1
2 **Chairman Manfredi** called the meeting to order at 5:31 PM.
3

4 **A. ROLL CALL**

5 **Present:** Chairman Jeff Manfredi, Commissioners Nicholas Kite, Matthew Moye and Carol Bush.

6 **Absent:** Vice-Chair Paul Coates. **Staff Present:** Ken MacNab, Planning and Building Manager,
7 Erik Lundquist, Senior Planner and Kathleen Guill, Planning Commission Secretary.
8

9 **B. PLEDGE OF ALLEGIANCE**

10
11 **C. PUBLIC COMMENTS**

12
13 **D. ADOPTION OF MEETING AGENDA**

14 There was motion by **Commissioner Kite**, seconded by **Commissioner Bush** to approve the
15 agenda as provided. **Motion carried: 4-0-1-0.**
16

17 **E. COMMUNICATIONS/CORRESPONDENCE**

18 The following late communication was provided to the Commission at the beginning of the
19 meeting.

20 Email from Mitch Hawkins, Received 02/08/11, regarding Item I.1. U 2000-06(A) – Live
21 Entertainment Management Plan, La Prima Pizza. Attachment 1.
22

23 **F. CONSENT CALENDAR**

24
25 Planning Commission regular Meeting Minutes of January 26, 2011.
26

27 There was motion by **Commissioner Moye**, seconded by **Commissioner Kite** to approve the
28 Consent Calendar as presented. **Motion carried: 4-0-1-0.**
29

30 **G. TOUR OF INSPECTION**

31 None.
32

33 **H. PUBLIC HEARINGS**

34
35 **1. Squire & Rothberg Multifamily Apartment Modification Project:** Consideration of a Design
36 Review (DR 2011-03) application, requested by William Squire and James Rothberg, to allow
37 modifications to an existing legal non-conforming multifamily apartment building (fourplex) on the
38 property located at 800 Washington Street (APN 011-223-002) having two distinct zoning districts;

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39 a “CC-DD”, Community Commercial – Design District and “R3”, Residential Professional Office
40 District.

41

42 **Planner Lundquist** noted an agenda item description correction identifying the project is actually
43 located within two zoning districts, the “CC” Community Commercial and R-3
44 Residential/Professional Office Zoning Districts. He reported this application is solely for Design
45 Review consideration because the property is currently a developed multi-family property and the
46 existing use will continue as a legal non-conforming use. Staff requested the Commission look at
47 the architectural design elements, noting during this hearing we would not be looking at parking or
48 other development standards as those items are generally reviewed during the multi-family use
49 permit authorization.

50

51 **Planner Lundquist** provided a brief historical summary noting the property is developed with
52 three multi-family buildings A, B and C, a pump house and laundry building. He reported Building
53 B was recently renovated due to disrepair in 2008. Building B is a two story building that currently
54 stands 23’ 3” in height; other two story buildings within the neighborhood are also designed to 23
55 feet in height. The applicant is requesting to redevelop Building A due to significant dry rot and a
56 failing roof. Staff has been working with the property owners to develop a plan that meets the
57 policy of the General Plan and the suggestions in the Urban Design Plan. Staff presented
58 elevation drawings describing a two story building with stucco and a “comp” roof. It was noted
59 that “comp” roofs and stucco are called out specific in the Urban Design Plan for the lower
60 Washington area. Staff reported this project provides a unique opportunity for redevelopment and
61 even though there were no restrictions for affordability the owner is agreeable to provide the units
62 at an affordable rate. The architecture is quite typical of Calistoga and its rural residential
63 character. Staffs recommendation was to approve the project design as presented based on the
64 findings and conditions as described in the staff report and draft resolution.

65

66 **Commissioner Kite** questioned if the buildings have been occupied thus enabling the owners to
67 maintain the legal non conforming use.

68

69 **Planner Lundquist** replied “yes”, noting they will also continue to vest that right through their
70 application for a building permit.

71

72 **Bill Squire**, 9000 Franz Valley School Rd., co- owner of 800 Washington Street stated Planner
73 Lundquist had described the situation fairly. He noted the building does now have tenants, but
74 have been advised of the project and given notice. During preparations for renovations, structural
75 problems were discovered with the foundation. As a result they have given much consideration
76 on what to do and how to comply with existing rules and regulations. He noted the two story
77 multi-family building is what they have come up with, although maybe in the future they may
78 consider utilizing the first floor level as commercial space.

79

80 **Chairman Manfredi** asked the applicant if they had plans for renovation of the pump house.

81

82 **Bill Squire** reported their long term plans included coming back to the Planning Commission with
83 plans to replace the back building too; and the pump house would then disappear. They are also
84 thinking the back section would lend itself to parking. Right now they are just re-establishing
85 Building A.

86

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87 **Chairman Manfredi** stated he liked the looks of the proposed project and the contrast with the
88 neighborhood.

89
90 **Bill Squire** stated he thought that Mary Sikes and Associates had done a good job with the
91 design.

92
93 **Commissioner Kite** agreed the design was pretty, although he shared his concern with the
94 intensification of use, especially related to parking. He asked if the owner could impose rules on
95 the number of tenants/persons allowed in each unit, asking if that can be controlled.

96
97 **Bill Squire** stated as landlords they try to regulate the number of people in the unit and noted they
98 have not really experienced too much of a problem with parking. Guidelines with housing allows
99 for a maximum of two people for each bedroom, plus one. He acknowledged that lower
100 Washington does seem to get the maximum population per square footage of space.

101
102 **Commissioner Kite** stated there is a lot of pressure on the neighborhood. Situations with
103 multiple adults in one unit generate additional cars and traffic.

104
105 **Bill Squire** repeated it has not been a problem in their units, in fact they have apartments with
106 tenants where no one owns a car. It has not been an issue, but it is a concern.

107
108 **Chairman Manfredi** closed the public portion of the hearing at 5:45 PM.

109
110 **Commissioner Bush** reported she had walked down and looked at the property and this proposal
111 is a vast improvement over what is there.

112
113 **Commissioner Moye** acknowledged going to see the property and agreed with Commissioner
114 Bush, this will be a great improvement. He suggested the City work with other landlords on
115 Washington Street to encourage others to do what the Squires are doing. He shared his concern
116 for people living in substandard conditions in that vicinity.

117
118 **Chairman Manfredi** asked what the time frame was for starting the project.

119
120 **Bill Squire** stated they have a demo permit and hope to demolish the building next month. They
121 need to modify the plans and process the building permit. They hope to get the proper permits by
122 the end of March or the beginning of April.

123
124 There was motion by **Commissioner Kite**, seconded by **Commissioner Bush** to adopt
125 Resolution 2011-06 approving Design Review (DR 2011-03), to allow modifications to an existing
126 legal non-conforming multifamily apartment building (fourplex) on the property located at 800
127 Washington Street within the "CC-DD", Community Commercial - Design District and "R-3"
128 Residential/Professional Office district (APN 011-214-003) based upon the findings and conditions
129 of approval as provided in the Resolution. **Motion carried: 4-0-1-0.**

130
131 **I. NEW BUSINESS**

132
133 **1. U 2000-06(A):** Presentation of the Live Entertainment Management Plan required pursuant to
134 Condition No. 9 of approved Conditional Use Permit U-2000-06(A) allowing amplified music and

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135 live entertainment indoors at La Prima Pizza restaurant located at 1923 Lake Street (APN 011-
136 535-010) within the "CC-DD" (Community Commercial – Design District Overlay) Zoning District.
137 This item is for informational purposes only. No action will be taken by the Planning Commission.

138

139 **Manager MacNab** provided a brief recap reporting in 2009 the Planning Commission approved
140 the amended Conditional Use Permit for La Prima which included extensive review and multiple
141 sound tests, before allowing live entertainment one night per week. Subsequently there was an
142 appeal by Mitch Hawkins and in January 2010 there was a de novo hearing with lots of testimony
143 and deliberation. Ultimately the City Council denied the appeal, upholding the Planning
144 Commission's decision approving La Prima to have live entertainment one night per week.
145 Condition #9 of the use permit required a live entertainment management plan be provided and
146 administratively approved prior to commencement of events. On January 13, 2011 the Planning
147 and Building Department received the plan and on January 18 the Planning and Building Director
148 Charlene Gallina approved the plan which satisfied the condition. During the previous Planning
149 Commissions deliberation it was requested that once a management plan was approved staff
150 should come back to the Planning Commission with a noticed agenda item and present the plan to
151 the Commission to report the owner's basic approach on how events will be managed. Although
152 no action is required of the Commission this provides commissioner's an opportunity to ask Mrs.
153 Nunez questions on how the program will work.

154 **Chairman Manfredi** opened the item for public discussion at 5:51 PM.

155 **Caryl Maniscalco, attorney for Mitch Hawkins** reported reviewing the document concerning the
156 event plan and reported things that still bothered her as follows:

- 157 • The use permit as amended allows for live entertainment one night a week from 5- 9 pm, and
158 yet the plan states every night.
- 159 • She took issue with the applicant's attitude stating the applicants tend to scoff at the law and
160 run amuck with the rules.
- 161 • The application actually says they have already provided music, again they do not abide by the
162 rules or laws.
- 163 • The staff report and the event plan are contradictory with regard to the allowable hours of
164 music, one calling out no later than 9:00 PM and the other no later than 10:00 PM.
- 165 • Another consideration should be they are in violation of their liquor license. They are not
166 allowed under their liquor license to have live entertainment. ABC needs to be advised they are
167 approved for live entertainment as part of their use permit.
- 168 • The application letter to the commission talks of a dance floor. The live entertainment is to be
169 more incidental to the primary restaurant use, so the dance floor is not permitted under the use
170 permit .

171 **Manager MacNab** stated he did not see a dance floor on the plan and if Ms. Maniscalco is correct
172 it will not be allowed.

173 **Mitch Hawkins**, 1910 Carli Drive stated prior to this meeting he had surveyed around his
174 neighborhood and the feedback that most want a professional sound test performed. He provided
175 the following objections and comments:

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- 176 • He objected to any intensification of use for this business. Noting during the public hearings
177 the Calistoga Police Department had spoken out against intensification of use
- 178 • Stated the cities reference to CEQA exemption due to water allocations was not appropriate,
179 and this was not the first time. He read aloud CEQA language related to environmental sensitivity
180 and the neighborhood. He announced the neighborhood deserves a full CEQA environmental
181 review.
- 182 • He reminded that this property is within the entry corridor gateway where small town character
183 should be preserved.
- 184 • The general rule is there should be no possibility of impact on the environment.
- 185 • He reported a previous conversation with the city Building Official Brad Cannon related to
186 permitting and any change of a use permit. At that time Mr. Cannon stated such changes
187 triggered the need to bring the structure up to meet the current Building Code requirements. Mr.
188 Cannon had further reported La Prima did not have a certificate of occupancy on file.
- 189 • He reported the parking plan was not up to code, stating mowing the area and posting a sign
190 did not meet code requirements.
- 191 • He asked the Commission to enforce the rules and codes as written.

192 **Betty Nunez**, Sharp Road reported removal of the outdoor speakers, stating they haven't had
193 amplified music since the approval. She clarified speakers had been installed but not in use. Ms.
194 Nunez responded to the comments about ABC stating they dealt with this last year and they had
195 contacted ABC. She advised there have been no noise or trash problems for a whole year,
196 everything had been very calm and ABC was not concerned. She also clarified it is clear the
197 entertainment has been approved for only one night per week.

198 **Chairman Manfredi** asked for confirmation from the owner that she was aware the one night per
199 week was for either Friday or Saturday, and then asked where in the plan or report it referenced a
200 dance floor.

201 **Manager MacNab** stated he has not found any reference to a dance floor in this proposal, but
202 possibly in the earlier application in August there may have been a proposal for a dance floor.

203 **Betty Nunez** stated initially the intent of her proposal was to have events on the deck including
204 events the Chamber or City promotes, especially knowing in previous years her establishment has
205 had live entertainment. Considering the neighborhoods opposition they withdrew the request and
206 understand the live entertainment will be allowed indoors only. She reiterated it is very clear it is
207 allowed either Friday or Saturday, and no later than 9:00 pm. It wouldn't be loud at all, we need to
208 be able to take orders over the phone.

209 **Commissioner Moyer** questioned speakers on the deck.

210 **Betty Nunez** stated it was recommended they take them off and replace them facing the building.
211 Since that time they have replaced them with low planter/speakers. They are better on the ground
212 rather than in the air on the deck. Those speakers were part of a previous use permit for the last
213 eight years and provide only background music during restaurant hours. There has never been a
214 related complaint. The issue has never been about speakers it was about live entertainment.

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215 **Commissioner Kite** clarified the reference to allowable hours until 10:00 PM seems to be for
216 background music and not the live entertainment.

217 **Manager MacNab** referenced Resolution 2010-003, Page 3, item 1 clearly identifies the hours for
218 live entertainment between the hours of 5:00 and 9:00 PM.

219 **Commissioner Kite** provided a word of advice recommending the business owner try not to push
220 their use of music to the limit; and try not to push the limits to the furthest extreme or close to the
221 property line.

222 **Manager MacNab** reported there is only room for a minimal amount of noise. The condition
223 doesn't say no live entertainment, it says no noise in the area out of control of the licensee.

224 **Betty Nunez** reported because of suggested problems with trash and loud speakers blasting ABC
225 had sent an inspector out on three random occasions and found the business to be spotless, with
226 regular customer noise that could be found at any restaurant and they said La Prima was fine.

227 **Manager MacNab** stated ABC was very aware of the application and at no time had they
228 expressed concern with approval of live indoor entertainment or state it would be in violation of the
229 liquor license.

230 **Commissioner Moye** questioned the validity of the comment regarding a certificate of
231 occupancy.

232 **Manager MacNab** reported he and the Building Official Clif Castle had inspected the facility. The
233 restaurant has an occupancy of 80 people posted and Mr. Castle concurred that eighty people is
234 acceptable. One correction had been identified, noting the foyer door doesn't have an exit sign.
235 Once that sign is posted he will re-inspect and will then issue a certificate of occupancy.

236 **Mitch Hawkins** approached the podium directing comment to Chairman Manfredi with his
237 recollection of previous direction from Chairman Manfredi that the La Prima owners were to
238 disconnect or remove the speakers on the deck and no amplified music was to be played until a
239 event plan was in place.

240
241 **Betty Nunez** restated that amplified background music had been allowed on the deck through the
242 previous use permit. They have removed and replaced the elevated speakers that faced the
243 roadway, with low planter speakers redirected toward the building.
244

245 **Chairman Manfredi** response to Mr. Hawkins was "no comment".

246 **Manager MacNab** stated he could say that during the recent inspection, he saw that the original
247 outdoor speakers were removed, and he did not see the planter speakers. They were not on site
248 while they were there.

249 **Commissioner Kite** concluded that whenever anything is done in town there are a range of
250 views. There are sometimes persons that are heavily opposed and those that don't seem to care.
251 The Planning Commission listens to views and tries to come up with a compromise and the
252 applicant must meet the behavior as conditioned. The strongest views inevitably will not be happy

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253 and we ask the applicant to be aware and keep in the spirit of the compromise; don't push the
254 limits. We also ask those with opposing views to show forbearance as there is never a solution
255 that will please everybody. The Commission and staff try to come up with something that is fair to
256 make for a happier community.

257

258 **Chairman Manfredi** thanked everyone for coming, no action was taken.

259

260 **J. MATTERS INITIATED BY COMMISSIONERS**

261

262 **Commissioner Kite** inquired what the status was for consideration of a digital tape of meetings
263 on the City web site.

264

265 **Manager MacNab** reported streaming live or digital documentation on the web was investigated
266 and had a reported cost starting at approximately \$15,000 for setup and a large monthly service
267 fee, and we are not currently in a financial position to do that. He reported archiving video's not
268 broadcasting live may also require upgrades to memory storage.

269

270 It was suggested why not post them on YouTube for free. Staff advised the current taping was
271 not digital.

272

273 **Commissioner Moyer** said he thought it was a great idea when he read Commissioner Kites
274 suggestion in the Minutes and it would be very beneficial.

275

276 **Manager MacNab** agreed it is a great resource and that he would further investigate converting to
277 digital and follow up with the Commission next meeting.

278

279 **Planner Lundquist** noted there would be a live broadcast of the upcoming mediation related to
280 the Rent Stabilization Ordinance on February 16 and 17th, from 9:00 AM, to 5:00 PM.

281

282 **Norma Tofanelli** stated she was glad we were having this conversation and asked if staff could
283 find a way to provide a CD of meetings when someone wants an audio copy of the meeting. The
284 current audio tape that is provided is difficult to find someone who can play them back.

285

286 **K. DIRECTOR'S COMMENTS/PROJECT STATUS**

287

288 **Manager MacNab** referenced previous interest with the old vet clinic building and the adjacent
289 vacant property. He reported Chief Mills is currently working with the property owner and has sent
290 some of the diversion program participants to help clean up the lot next to the vacant building.

291

292 **Manager MacNab** referenced the white envelope distributed to the Commissioners stating
293 enclosed was the Draft Housing Element update. A lengthier full report will be distributed as part
294 of the normal informational packet, but we will not redistribute another Draft Housing Element and
295 Study.

296

297 **Commissioner Moyer** inquired about progress with the Shell gas station project.

298

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299 **Manager MacNab** reported the applicant wants to proceed but has strung along the process.
300 There is a balance owed in their Developer Deposit account and as yet he still does not know
301 what they intend to do with the convenience market.
302

303 **Commissioner Moyer** couldn't believe County had not shut them down for lack of marking. He
304 though Weights and Measure would tell them to cease and desist by now.

305 **L. ADJOURNMENT**

306 There was motion by Chairman Manfredi, seconded by **Commissioner Bush** to adjourn to the
307 next regular meeting of the Planning Commission scheduled for Wednesday, February 23, 2011,
308 at 5:30 PM. **Motion carried: 4-0-1-0.** The meeting adjourned at 6:23 PM.
309

310

311

312

313 _____
Kathleen Guill

314 Secretary to the Planning Commission

315

316 Attachment