

TO: HONORABLE CHAIRMAN AND PLANNING COMMISSION
FROM: RON WHISENAND, COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: CONDITIONAL USE PERMIT 06-012 - APN: 009-044-007
(APPLICANT: LEVEL 4 RESTAURANT & LOUNGE)

DATE: OCTOBER 28, 2008

Needs: For the Planning Commission to consider an application filed by Justin Sorrentino on behalf of Level 4 Restaurant & Lounge, requesting to allow amplified live music and dancing as an accessory use to the existing business.

Facts:

1. The restaurant is located at 1216 Park Street, the basement of the Acorn building.
2. The site is located within the C1-PD (General Commercial, Planned Development Overlay) Zoning District, and within the Community Commercial (CC) General Plan Land Use category.
3. Table 21.16.200 of the Zoning Code requires the approval of a Conditional Use Permit (CUP) for dance halls in the C1 Zoning District.
4. The application for CUP 06-012 was originally submitted on December 21, 2006, in conjunction with the building permits for the new restaurant & lounge. However, at that time, the applicants chose to postpone the CUP in order to allow for the restaurant & lounge to get established before requesting the addition of the nightclub activities.
5. The restaurant has been in operation for almost one year, and the applicant's are now requesting to go forward with the processing of the CUP.

**Analysis
and**

Conclusions: On August 5, 2008, the City Council approved Conditional Use Permit 07-001, allowing after hours amplified music and dancing "night-club activities" as an accessory use for Downtown Brew restaurant located at 1108 Pine Street. With the approval of CUP 07-001 conditions of approval were adopted that addressed hours of operation of the night-club activities, as well as, establishing security and surveillance requirements. It was the intent of the Council with the approval of the Downtown Brew CUP, that the conditions of approval would be used consistently for bars/nightclubs in the downtown area.

The conditions allowed for nightclub activities to commence on any night of the week with a requirement to terminate at 1:00am. Standard conditions for security, surveillance and noise mitigation were also included.

The attached resolution for Level 4 includes the same conditions as CUP 07-001. One of the main issues with the Downtown Brew CUP, was noise impacts to neighboring businesses. Since Level 4 is in the basement of the building (below street level), it is not anticipated that noise will be an issue. However, the same noise restrictions established with Downtown Brew would apply.

With the conditions of approval required with the CUP, the City will have the ability to regulate the entertainment activities and to enforce the conditions as necessary. The request to allow the entertainment activities would seem reasonable at this downtown location, since it would meet the intent of the Economic Strategy by enhancing the downtown to a mixed use dining, entertainment, culture and shopping destination.

Reference: Paso Robles General Plan and EIR, Paso Robles Zoning Ordinance, Economic Strategy and CEQA.

Fiscal Impact: None.

Options: After opening the public hearing and taking public testimony, the Planning Commission is requested to take one of the actions listed below:

- A. Adopt the attached Resolution approving Conditional Use Permit 06-012;
- B. Amend, modify, or reject the above-listed action;

Attachments:

- 1. Resolution to Approve the Conditional Use Permit 06-012
- 2. Newspaper and Mail Notice Affidavits

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RESOLUTION NO. 08-XXX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PASO
ROBLES APPROVING CONDITIONAL USE PERMIT 06-012
APPLICANT – LEVEL 4.

WHEREAS, on December 21, 2006, Justin Sorrentino on behalf of the Level 4 Restaurant & Lounge, submitted an application for Conditional Use Permit (CUP) 06-012, requesting to operate night club activities as an accessory to the restaurant & lounge located at 1216 Park Street (APN: 009-044-007); and

WHEREAS, the entertainment would include amplified music, consisting of live music, bands, DJs and dancing (collectively, the “Nightclub Activities”); and

WHEREAS, at that time, the applicant’s chose to postpone the CUP in order to allow for the restaurant & lounge to get established prior to requesting the addition of the nightclub activities; and

WHEREAS, the restaurant has been in operation for almost one year, and the applicant’s are now requesting to go forward with the processing the CUP; and

WHEREAS, this application is Categorically Exempt from environmental review per Section 15301c of the State’s Guidelines to Implement CEQA; and

WHEREAS, based upon the facts and analysis presented in the staff report, and public testimony received and subject to the conditions of approval listed below, the Planning Commission finds that the establishment , maintenance or operation for the requested use or building applied for , will not, under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort, convenience and general welfare of the persons residing or working in the neighborhood of such proposed use, or be injurious or detrimental to property and improvements in the neighborhood or to the general welfare of the City.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the City of El Paso de Robles does hereby approve Conditional Use Permit 06-012 subject to the following conditions:

1. This conditional use permit (CUP) authorizes the use of entertainment including amplified music which would include live music, bands, DJs and dancing (collectively, the “Nightclub Activities”) as an accessory to the restaurant use. All Nightclub Activities shall be conducted indoors and shall end no later than 1:00AM.
2. Prior to commencing the Nightclub Activities, the applicants shall apply for a Building Permit for tenant improvements, to make any necessary changes to bring the building into compliance with all necessary Building and Fire Codes related to the proposed change in use.
3. Doors and windows are to remain closed at all times while any type of music or entertainment is playing.

4. Any condition imposed by the City Council or Planning Commission in granting this conditional use permit may be modified or eliminated, or new conditions may be added, provided that the Planning Commission shall first conduct a public hearing in the same manner as required for the granting of the original permit. No such modification shall be made unless the Commission finds that such modification is necessary to protect the public interest and/or neighboring properties, or, in the case of deletion of an existing condition, that such action is necessary to permit reasonable operation and use under the conditional use permit.
5. All new and/or existing site and building mounted lighting shall be fully shielded so that light is directed downward and stays on-site. Cut sheets for new lighting fixtures or shields shall be submitted to the Community Development Department for approval prior to installation.
6. This CUP shall be reviewed informally by the Planning Commission after a 90 day period from the time the entertainment activities have commenced, to determine whether the intent of loitering and noise nuisance is being deterred/controlled. In the event it is determined during this review that a nuisance exists, the Planning Commission may direct a public hearing be scheduled to consider additional mitigation measures.
7. Designated in-house or contracted private security guards are to be onsite during the hours of operation when entertainment is occurring. Entertainment consists of live or amplified music, paid events, dancing or other forms of live entertainment. A minimum of two uniformed and identifiable security guards shall be employed by the business owner. The security guards shall stay on duty until 1 hour after the business has closed to help control loitering within and outside the business.
8. Interior and exterior surveillance cameras shall be in place to record activities in areas open to the public and patrons. The recorded activities shall be saved for seven (7) days and available to the Police Department for investigations related to criminal activity. The location and number of cameras shall be mutually agreed upon by the both the Police Department and business owner.
9. Security lighting shall be in place along the exterior perimeter and parking area to protect patrons and their vehicles from vandals and other types of crime. Prior to the installation of any exterior lighting, lighting plans shall be submitted for review and approval by the Police Chief and the Planning Department. Any new and existing exterior lighting shall be fully shielded.
10. Noise from the night club activities of the establishment shall not exceed the following noise exposure thresholds as measured at the property line of the nearest sensitive receptor (or complaining land use):
 - 70db for residential and transient lodging uses
 - 77db for general office and commercial uses

In the event there are other noise sources that conflict with obtaining an accurate reading for the night club, such as noise from a nearby business or pedestrians, the officer performing the test will need to use judgment relative to the noise source generating the complaint, how

to best obtain the most accurate decibel reading, or waiting for a more appropriate time to perform the test.

11. All existing and new signage (including temporary signs) shall comply with the City Sign Ordinance.
12. A security plan which includes a management training plan, employee and security resource placement, crowd control and security measures, and provisions for overflow customers shall be submitted to the Community Development Department for review, and shall be approved by the Community Development Director and the Police Chief. All server training shall be approved by the Department of Alcoholic Beverage Control. The business owner shall be responsible for on-going training to accommodate changes in personnel.
13. Prior to the commencement of the entertainment activities, all applicable Departments (including Building, Fire, Police & Planning) shall insure that all of the conditions of approval listed in this resolution have been satisfied to the satisfaction of each department representative.

PASSED AND ADOPTED THIS 28th day of October, 2008 by the following Roll Call Vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

CHAIRMAN, ED STEINBECK

ATTEST:

RON WHISENAND, SECRETARY OF THE PLANNING COMMISSION

PROOF OF PUBLICATION

LEGAL NEWSPAPER NOTICES

PLANNING COMMISSION/CITY COUNCIL
PROJECT NOTICING

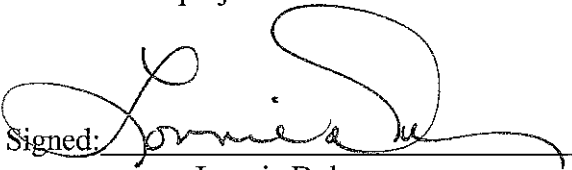
Newspaper: Tribune

Date of Publication: October 15, 2008

Hearing Date: October 28, 2008
Planning Commission

Project: Conditional Use Permit 06-012
(Sorrentino/Level 4)

I, Lonnie Dolan, employee of the Community Development Department, Planning Division, of the City of El Paso de Robles, do hereby certify that this notice is a true copy of a published legal newspaper notice for the above named project.

Signed: 
Lonnie Dolan

forms/newsaffi.691

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Planning Commission of the City of El Paso de Robles will hold a Public Hearing to consider Conditional Use Permit 06-012, a request filed by Justin Sorrentino, on behalf of Level 4 Restaurant & Lounge, to establish the ability to have amplified music and dancing as an accessory to the existing restaurant. The site is located at 1216 Park Street.

This hearing will take place in the City Hall/Library Conference Room, 1000 Spring Street, Paso Robles, California, at the hour of 7:30 PM on Tuesday, October 28, 2008, at which time all interested parties may appear and be heard.

Comments on the proposed Conditional Use Permit may be mailed to the Community Development Department, 1000 Spring Street, Paso Robles, CA 93446 provided that such comments are received prior to the time of the hearing.

If you challenge the Conditional Use Permit application in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.

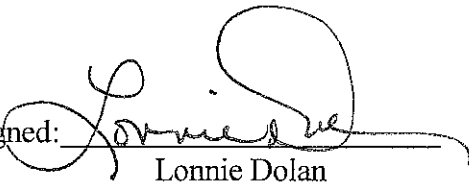
Darren R. Nash, Associate Planner
October 15, 2008 6769569

AFFIDAVIT
OF MAIL NOTICES
PLANNING COMMISSION/CITY COUNCIL PROJECT NOTICING

I, Lonnie Dolan, employee of the City of El Paso de Robles, California, do hereby certify that the mail notices have been processed as required for Conditional Use Permit 06-012 (Sorrentino on behalf of Level 4) on this 10th day of October 2008.

City of El Paso de Robles
Community Development Department
Planning Division

Signed:


Lonnie Dolan

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