

**TO:** HONORABLE CHAIRMAN AND PLANNING COMMISSION  
**FROM:** RON WHISENAND, COMMUNITY DEVELOPMENT DIRECTOR  
**SUBJECT:** CONDITIONAL USE PERMIT 06-012 – LEVEL 4  
**DATE:** MARCH 10, 2009

**Needs:** For the Planning Commission to review the status of Conditional Use Permit 06-012, an existing Conditional Use Permit (CUP) allowing after hours amplified music and dancing for the existing Level 4 Restaurant & Lounge.

**Facts:**

1. The restaurant is located at 1216 Park Street.
2. On October 28, 2008, the Planning Commission adopted Resolution 08-049 approving CUP 06-012 (See Attachment 2) allowing after hours amplified music and dancing subject to conditions of approval being met.
3. Condition No. 6 of the resolution required that the CUP be reviewed by the Planning Commission after a 3-month time period, to determine whether the intent of loitering and noise nuisance is being deterred/controlled. This request for Planning Commission review is in order to meet Condition No.6.

**Analysis  
and**

**Conclusions:** The Planning Commission's approval of the Level 4 CUP was based on conditions of approval added to the project by the Police, Fire, Building and Planning Departments' to insure that impacts from the activities would not impact the neighboring businesses/residents.

The Planning, Building, Emergency Services and Police Departments' have all indicated that all conditions of CUP 06-012 have been met. Furthermore, there have been no complaints to the Police Department in relation to loitering or noise as a result of the entertainment activities for this business.

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

- A. Receive and file this report;
- B. Amend, modify, or reject the above-listed action;

**Attachments:**

1. Resolution 08-049

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RESOLUTION NO. 08-049  
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 28<sup>th</sup> day of October, 2008 by the following Roll Call Vote:

AYES: Johnson, Treatch, Hodgkin, Flynn, Holstine, Peterson, Steinbeck

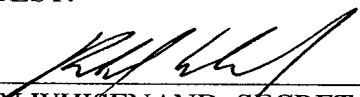
NOES: None

ABSENT: None

ABSTAIN: None

  
 CHAIRMAN, ED STEINBECK

ATTEST:

  
 RON WHISENAND, SECRETARY OF THE PLANNING COMMISSION