

AGENDA ITEM: 4.

DATE: 04-16-12

**STAFF REPORT**

**CONDITIONAL USE PERMIT NO. 12-05**

DATE: April 16, 2012

TO: Lancaster Planning Commission

FROM: Planning Department

APPLICANT: Nick's Pizzeria (Dale Maier)

LOCATION: 43755 15<sup>th</sup> Street West

REQUEST: Addition of live entertainment on Friday and Saturday nights to an existing restaurant in the CPD (Commercial Planned Development) Zone

RECOMMENDATION: Adopt Resolution No. 12-09 approving Conditional Use Permit No. 12-05.

BACKGROUND: There have been no prior hearings before the City Council or Planning Commission concerning this property.

GENERAL PLAN DESIGNATION, EXISTING ZONING AND LAND USE: The subject location is designated C (Commercial) by the General Plan and is zoned CPD (Commercial Planned Development), and is developed as an existing 2,691± square-foot restaurant located in the High Desert Medical Plaza. The General Plan designation, zoning, and land use of the surrounding properties are as follows:

	<u>GENERAL PLAN</u>	<u>ZONING</u>	<u>LAND USE</u>
NORTH	C	CPD	Commercial retail and restaurants/ offices/medical (urgent care)
EAST	C	CPD	Commercial retail and restaurants/offices
SOUTH	C	CPD	Commercial retail and restaurants/offices
WEST	O	O	Amargosa Creek/Highway 14

PUBLIC IMPROVEMENTS: The site is bounded to the east by 15<sup>th</sup> Street West, which is improved with two lanes of travel in each direction. All utilities are available to serve the site.

ENVIRONMENTAL REVIEW: The proposed project is not subject to the California Environmental Quality Act (CEQA) per Section 15061(b)(3), which states that “where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA”. As the proposed project is a use permit for live entertainment at an existing restraint, no impacts on environmental resources would be expected to occur.

LEGAL NOTICE: Notice of Public Hearing was mailed to all property owners within a 500-foot radius of the project, posted in three places, posted on the subject property, and noticed in the newspaper of general circulation per prescribed procedure.

ANALYSIS: The applicant is requesting approval to allow live entertainment on Friday and Saturday nights from 10:00 p.m. until 2:00 a.m. within an existing 2,691± square-foot restaurant (Nick’s Pizzeria). A conditional use permit is required for live entertainment to be located in a commercial zone to ensure compatibility with other surrounding commercial users. The proposed use would not create a substantial change in the current operation.

The live entertainment consists of musical performances by local bands, karaoke, live DJ’s, and open mic night for poetry, or other artistic performances. The live entertainment portion would commence after regular business hours. The restaurant proposes to close at approximately 9:00 p.m. on Fridays and Saturdays, and would reopen at 10:00 p.m. for live entertainment after the dining floor area is rearranged to allow for entertainment use. The kitchen would remain open along with the bar for live entertainment patrons. Security will be provided by the Special Ops Security Company, and will arrive 30 minutes prior to opening hours for live entertainment, and will remain one hour after closing or until all the patrons have departed. The security company and staff members will card each person for age verification, and ensure that no one under the age of 21 shall be permitted inside the premises after 10:00 p.m.

The business is currently operating in the High Desert Shopping Center as a bona fide restaurant with a Type 41 alcohol license from the Department of Alcoholic Beverage Control (ABC), which is exempt from the City’s alcohol ordinance distance requirement per Section 17.42.040. The proposed use expansion is in addition to the primary use of a pizza restaurant (Nick’s Pizzeria) offering a sit down dining environment. The applicant is requesting an expansion to the existing use to include live entertainment after normal dining business hours. Staff reviewed the applicant’s request and floor plan, and determined that although ABC categorized this use as a “bona fide restaurant”, the request would operate similarly to a nightclub after 10:00 p.m. on Friday and Saturday nights. The standard hours of dining operation of the establishment would be from 11:00 a.m. until 9:00 p.m. Monday through Friday, and from 12:00 p.m. until 9:00 p.m. on Saturdays and Sundays.

The operation of the restaurant with live entertainment will be conducted by well-trained staff and security in a manner that will maintain a safe and pleasant environment. The entertainment use will contribute to and complement the City's inventory of dining and entertainment venues. The Los Angeles County Sheriff's Department (Lancaster Station) was not opposed to the issuance of the conditional use permit, based on a conducted investigation and the applicant's agreement to the conditions; in particular, the condition that all entertainment patrons be 21 and over, which allows for a more effective regulation of alcohol consumption during entertainment events. In addition, the applicant will install a video surveillance system for all entrances and exits, for added security.

According to the Lancaster Municipal Code, restaurants require one (1) parking space for every 100 square feet of gross floor area, and for entertainment one (1) parking space for every 45 square feet of gross floor area. Therefore, a total of 27 parking spaces are required for the restaurant ( $2,691 \text{ square feet} / 100 = 27$ ), and 60 spaces ( $2,691 \text{ square feet} / 45 = 60$ ) would be required for the live entertainment. The site contains 999 on-site parking spaces, shared with other businesses. Therefore, adequate parking will be provided since the only other business open between the hours of 10:00 p.m. and 2:00 a.m. is the High Desert Medical Center.

Staff is recommending approval of the proposed change to add live entertainment to the existing restaurant, because it meets all the requirements of the zone, and will not adversely affect nearby residences or businesses, and will provide a unique dining and entertainment experience to this area of Lancaster.

Respectfully submitted,

---

Randie Davis, Assistant Planner

cc: Applicant  
Engineer

## RESOLUTION NO. 12-09

### A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LANCASTER, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. 12-05

WHEREAS, a Conditional Use Permit has been requested by Nick's Pizzeria (Dale Maier), to add live entertainment on Friday and Saturday evenings between the hours of 10:00 p.m. and 2:00 a.m., to the existing 2,691± square-foot restaurant, located at 43755 15<sup>th</sup> Street West, in the (CPD) Commercial Planned Development Zone, as shown on the attached site map; and

WHEREAS, an application for the above-described conditional use permit has been filed pursuant to the regulations contained in Article I of Chapter 17.32 and Chapter 17.42 of the Lancaster Municipal Code; and

WHEREAS, notice of intention to consider the granting of a Conditional Use Permit has been given as required in Article V of Chapter 17.32 of the Lancaster Municipal Code, and in Section 65905 of the Government Code of the State of California; and

WHEREAS, staff has performed necessary investigations, prepared a written report, and recommended approval of this application, subject to conditions; and

WHEREAS, public notice was provided as required by law and a public hearing was held on April 16, 2012; and

WHEREAS, the proposed project is not subject to the California Environmental Quality Act (CEQA) per Section 15061 (b)(3), which state that "where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA". As the proposed project is a use permit for live entertainment at an existing restraint, no impacts on environmental resources would be expected to occur; and

WHEREAS, this Commission hereby adopts the following findings in support of approval of this application:

1. The proposed change to add live entertainment to an existing restaurant will be in conformance with the General Plan land use designation of (C) Commercial.
2. The requested use at the location proposed will not:
  - a. Adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area, because the existing building is not in proximity to any sensitive land uses. The proposed live entertainment (band performances, karaoke, DJ's, and open mic night) will be conducted within an enclosed building, an on-site security will be provided to monitor the evening activities. The hours of operation for the live entertainment would be from 10:00 p.m. to 2:00 a.m. Friday and Saturday.

- b. Be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site, because the proposed project is located within a developed commercial center with adequate parking.
    - c. Jeopardize, endanger, or otherwise constitute a menace to the public health, safety, or general welfare, because no one under the age of 21 will be allowed into the establishment after 10:00 p.m., and on-site security would be provided to prevent loitering and malicious behavior. In addition, adequate sewer, water, and drainage systems serve the site.
3. The proposed site is adequately served:
  - a. By 15<sup>th</sup> Street West, which is of sufficient width and improved as necessary to carry the anticipated daily vehicle trips such use would generate; and
  - b. By other public or private service facilities, including sewer, water, fire, and police services are required.
4. The proposed use will not result in a significant effect on the environment because all potential impacts have been found to not be significant as noted in the environmental review section of the staff report prepared for this project.
5. The proposed request of live entertainment to the existing 2,691± square-foot restaurant is adequate in size and shape to accommodate the development feature prescribed in the Zoning Ordinance, or as otherwise required in order to integrate said use with the use in the surrounding areas.
6. The proposed restaurant and live entertainment use will contribute to and complement the City's inventory of dining and entertainment uses.

PC Resolution No. 12-09  
Conditional Use Permit No. 12-05  
April 16, 2012  
Page 3

NOW, THEREFORE, BE IT RESOLVED:

This Commission hereby approves Conditional Use Permit No. 12-05, subject to the conditions attached hereto and incorporated herein.

PASSED, APPROVED and ADOPTED this 16th day of April 2012, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

---

JAMES D. VOSE, Chairman  
Lancaster Planning Commission

ATTEST:

---

BRIAN S. LUDICKE, Planning Director  
City of Lancaster

**ATTACHMENT TO PC RESOLUTION NO. 12-09**  
**CONDITIONAL USE PERMIT NO. 12-05**  
**CONDITIONS LIST**  
**April 16, 2012**

**GENERAL ADVISORY**

1. All standard conditions as set forth in Planning Commission Resolution No. 10-23 for Conditional Use Permits shall apply except for Condition Nos. 4, 7, 8, 11, 13, 14, 16-30, 35-37, and 43-46.

**ADDITIONAL CONDITIONS**

2. Per the direction of the Planning Director, the applicant shall comply with applicable provisions of Chapter 17.42 of the Lancaster Municipal Code.
3. Hours of operation of the restaurant use shall be Monday through Friday from 11:00 a.m. until 9:00 p.m., and on Saturday and Sunday from 12:00 p.m. until 9:00 p.m.
4. Hours of operation of the live entertainment use shall be Friday and Saturday from 10:00 p.m. until 2:00 a.m.
5. Only patrons age 21 and over shall be admitted during hours of operation of live entertainment use.
6. No person under the age of 21 shall serve alcoholic beverages.
7. No self-service of alcoholic beverages shall be permitted.
8. Alcoholic beverages shall not be permitted to be consumed in the parking area or other exterior areas of the premises.
9. The applicant shall monitor the area under its control, in an effort to prevent the loitering of persons about the premises.
10. Loitering in the parking lot shall be prohibited. The onsite manager shall inform all clients that when coming or leaving the building they must not congregate in the parking lot.
11. Management/Security officers shall patrol the parking lot and will remain in the parking lot until all the patrons have left. The applicant must develop a policy on how security officers will address intoxicated patrons leaving the parking lot; the policy must be approved by the Los Angeles County Sheriff's Department.
12. The live entertainment shall not start until the minimum required number of management/security personnel is present and prepared to commence security duties. Management/Security staff must remain on-site until the entertainment portion has stop and all patrons have departed from the parking lot.

13. All exterior doors shall be kept closed at all times when amplified or live music is being played in the restaurant.
14. The applicant shall install a video camera surveillance system for all entrances and exits, compatible with the requirements of the City's forthcoming surveillance ordinance.
15. The Sheriff's Department reserves the right to increase the required number of security guards based on the nature of the event and the number of patrons expected to attend the event.
16. Prior to the transfer of ownership and/or operation of the site the owner shall provide a written copy of the application, staff report and resolutions for the project to the new owner and/or operator.