

RESOLUTION NO. 2016- ____

UPHOLDING THE PLANNING AND BUILDING DIRECTOR'S DECISION AND DENYING THE RE-ESTABLISHMENT OF A BED AND BREAKFAST AND THIRD RESIDENTIAL UNIT AT 1503 LAKE STREET (APN 011-153-010)

1 WHEREAS, the 15,500 square-foot corner lot at 1503 Lake Street (APN 011-
2 153-010) is currently developed with a single-family residence, a detached residential
3 second unit, a utility shed, utility room and a double-car garage with attached carport;
4 and

5 WHEREAS, the property is located within the Medium Density Residential
6 General Plan land use designation and R-1, One-Family Residential Zoning District; and

7 WHEREAS, in 1983, the City granted approval of a two-unit bed and breakfast,
8 which converted the two pre-existing detached residential units to guest units; and

9 WHEREAS, in 1988, the Planning Commission conditionally-approved Use
10 Permit UP 88-11 allowing an increase to the number of bed and breakfast units from
11 two to three units; and

12 WHEREAS, in a letter dated October 23, 2014, the City received a request from
13 the property owner to relinquish the bed and breakfast use permit due to personal
14 circumstances; and

15 WHEREAS, at that time, the City advised the owner's representative that the use
16 permit would be null and void if not re-activated by April 23, 2015 in accordance with
17 CMC 17.44.020(B); and

18 WHEREAS, a request to re-establish the bed and breakfast use was not received
19 by April 23, 2015 and therefore its use permit was null and void; and

20 WHEREAS, based upon the R-1 Zoning District regulations, staff informed the
21 owner that only a single-family residence and a residential second unit would be
22 permissible; and

23 WHEREAS, in response to this information, on December 10, 2014, the owner
24 applied for a building permit to convert the third residential unit to a utility shed by
25 removing the heat source; and

26 WHEREAS, on December 17, 2014, the City finalized Building Permit No. 6433
27 confirming that the third residential unit had been converted to a utility shed; and

28 WHEREAS, on October 24, 2016, City staff met with Realtor Darlene Brissard
29 regarding the property and the possibility of re-establishing the bed and breakfast use
30 and the third residential unit; and

31 WHEREAS, in a City letter dated October 27, 2016, the Planning and Building
32 Director formally notified Ms. Brissard that pursuant to the R-1 One-Family Residential
33 Zoning District regulations it is not possible to convert the utility shed back to a third
34 residential unit since only a primary and secondary residential unit are allowed; and

35 WHEREAS, on October 31, 2016, an appeal was filed by James Flamson and
36 Darlene Brissard regarding the Planning and Building Director's decision to deny the re-
37 establishment of a third residential unit on the property; and

38 WHEREAS, the Planning Commission reviewed the appeal at a public hearing
39 on November 30, 2016, during which the Planning Commission reviewed written and
40 oral testimony provided by the Planning Commission staff report, the appellants and the
41 public, and all other information provided prior to and at the public hearing; and

42 WHEREAS, pursuant to CMC Section 17.40.080, when a conditionally-permitted
43 use ceases to operate for 180 days, the use permit shall become null and void; and

44 WHEREAS, the Planning Commission finds that since the City did not receive a
45 request to re-establish the use prior to April 23, 2015, per CMC Section 17.04.080, the
46 use permit allowing the bed and breakfast use is null and void; and

47 WHEREAS, per CMC Section 17.44.020(B), if a nonconforming use is
48 discontinued for a period of 180 days, all future use shall conform to the current
49 provisions of this title; and

50 WHEREAS, the Planning Commission finds that the third residential unit that
51 previously existed prior to the establishment of the bed and breakfast use was
52 considered a nonconforming use since a third residential unit is not allowed in the R-1
53 District; and

54 WHEREAS, though the pre-existing use of the cottages were residential prior to
55 the establishment of the bed and breakfast use, when the bed and breakfast use was
56 relinquished, the resulting uses on the property needed to comply with the existing R-1
57 District regulations, therefore, re-establishing a third residential unit on the property is
58 not permissible.

59 NOW, THEREFORE, BE IT RESOLVED, based on the staff report, written
60 materials, oral and written testimony, findings and all other information presented on this
61 appeal, that:

- 62 1. The Planning Commission affirms the Planning and Building Director's
63 determination; and
- 64 2. The Planning Commission denies the re-establishment of a bed and breakfast use
65 without the benefit of a new use permit and denies the re-establishment of a third
66 residential unit; and

67 ADOPTED on November 30, 2016 by the following vote of the Calistoga
68 Planning Commission:

69
AYES:
NOES:
ABSTAIN:

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ABSENT:

Paul Coates, Chairman

ATTEST:

Lynn Goldberg, Secretary Planning Commission