City of Calistoga
Planning Commission

Agenda Item Summary

DATE	December 14, 2016
ITEM	**Draft Minutes of November 30, 2016 Meeting**
RECOMMENDATION	Approve minutes with any necessary changes

MINUTES

CALISTOGA PLANNING COMMISSION

November 30, 2016

A. ROLL CALL

Commissioners present: Chair Paul Coates, Alissa McNair, Scott Cooper, Walter Abernathy. Absent: Vice Chair Tim Wilkes (excused). Staff present: Planning and Building Director Lynn Goldberg

B. PLEDGE OF ALLEGIANCE

C. PUBLIC COMMENTS

None.

D. ADOPTION OF MEETING AGENDA

The meeting agenda of November 30, 2016 was accepted with the acknowledgement that Item G.1. had been withdrawn and would not be heard.

E. COMMUNICATIONS/CORRESPONDENCE

The Commission was provided with copies of letters related to the public hearing items.

F. CONSENT CALENDAR

1. Planning Commission Minutes

The minutes for the November 9, 2016 meeting were unanimously adopted as presented.

G. PUBLIC HEARINGS

1. **Administrative Appeal AP 2016-1:** Consideration of an appeal regarding the Planning and Building Director's decision to deny the re-establishment of a bed-and-breakfast operation and a third residential unit on the property at 1503 Lake Street

   Planning and Building Director Goldberg announced that the appeal had been withdrawn by the appellant and they have submitted an application for a three-unit bed-and-breakfast operation. The item was tabled by the Commission.

2. **Municipal Code Amendments MCA 2016-1**: Consideration of a recommendation to the City Council regarding the regulation of residential cultivation of marijuana

   Ms. Goldberg presented highlights of her written staff report. Although it is now lawful for individuals 21 years and older to possess six marijuana plants for personal, non-medical use under the recently-passed Control, Regulate, and Tax Adult Use of Marijuana Act, the City is still allowed to prohibit commercial marijuana businesses and outdoor cultivation. The City Council has indicated a

preference for continuing to ban both of these. However, the City can enact and enforce reasonable regulations for indoor residential cultivation. The proposed amendments to the Zoning Code are intended to minimize the associated potentially-negative impacts. She noted that staff is hoping to get regulations in place as soon as possible, since residential cultivation is now legal, and that a ban could be revisited at a later date based on the actions and experiences of other jurisdictions. Two letters have been submitted to the Commission, one in support of allowing outdoor cultivation and the other opposed.

Commissioner Cooper agreed that it's important to have regulations in place that could be adjusted in the future as warranted.

Chair Coates opened the public hearing.

Sylvia Cottrell provided some information about the cannabis growing cycle. She feels that potential criminal activity, such as trespassing on someone's property to steal plants, would be minimal due to the de-criminalization of cultivation and the limited number of plants that can be grown at a residence. Just a few plants would be sufficient for personal cultivation. Based on her experience, odors associated with six outdoor plants would be negligible, even when they are mature. Past experience with outright prohibition on alcohol didn't work, but now alcohol is well-regulated and acceptable. The legalization of recreational marijuana should be viewed in a similar positive light.

Elizabeth Tangney would like to be able to grow marijuana in her garden. Allowing three plants would be a good compromise and limit potential odor problems, especially since plants can only be grown half of the year. Limiting cultivation to indoors creates fire hazards and makes it seem like a criminal activity. We should focus on our attention to educating youth, if that's the concern about outdoor cultivation. Marijuana is going to be around for a long time and will eventually be legalized by the federal government, so we should deal with getting comfortable with it, rather than just re-banning it.

Ben Johnson noted that the lights and fans associated with indoor cultivation result in high energy demands that are very expensive. That could be avoided by taking advantage of Calistoga's climate and natural sunlight. He supports allowing cultivation on parcels that are large enough to have a garden, and keeping it away from schools, apartments and business areas.

Jeremiah Moore observed that if the City bans outdoor cultivation, it won't be eligible for grant money from the State. Ms. Goldberg explained that the funding is likely to be very limited and restricted to certain uses. The City would also have to allow the retail sale of cannabis to be eligible for it. Staff will monitor the amount of funding ultimately available and bring it to the Council's attention if it proves to be substantial.

In response to a question from **Commissioner Cooper**, Ms. Goldberg explained that it wouldn't be necessary for a certain number of supporters of outdoor cultivation to sign a petition to the City Council. They could simply show up at the

Council public hearing, or communicate their opinion by sending letters or emails to the Council.

Chair Coates closed the public hearing.

Commissioner McNair isn't surprised that few people spoke up last year on the proposed cultivation ban, because personal cultivation was limited then. Now that it's legal, more people are willing to express their opinions. She supports reasonable regulations instead of a complete ban on outdoor cultivation, so she has concerns about the draft ordinance. It's very difficult to measure or monitor odors, and she's not particularly concerned about them given the local agricultural environs that generate potentially-offensive smells and are protected by the Right to Farm Act. Trying to regulate smell by using filters on exhaust fans adds another financial burden to indoor cultivation. She suggests limiting outdoor cultivation to larger parcels to minimize potential impacts on neighbors. It's not appropriate on small parcels, especially those near schools. Minimum setbacks of plants from property lines, and from businesses or residences on adjoining properties could be required. Those could be reduced if adjoining neighbors agreed. There are opportunities to explore reasonable regulations.

Commissioner Cooper observed that it's the Commission's duty to listen to the community, and that if there was significant opposition to outdoor cultivation, there would be some opponents at the meeting. However, all of the public speakers tonight are in support. Growing indoors is cumbersome and complicated. Although a grower informed him that 40 pounds of cannabis could be harvested from six plants with intensive effort, he doesn't see the harm in allowing the outdoor cultivation of two plants by a non-professional. The city's decision makers should give credence to the public's views on the issue. He agrees that if anyone is allowed to grow a few plants outdoors, there won't be a problem with trespassing and theft. Separation between cultivation and schools should be required.

Commissioner Abernathy supports starting with a conservative approach, such as the ban on outdoor cultivation, then modifying it as warranted after we gain more experience with the issue.

Chair Coates observed that the Commission's role is to gather public input on the issue and make a recommendation to the City Council. The public will have ample opportunity to make their opinions known to the Council before their hearing. He is concerned with potential problems related to unapproved access to plants grown outdoors. However, allowing two outdoor plants wouldn't likely create odor problems and could be a compromise that is generally acceptable. He agrees that outdoor cultivation should be prohibited adjacent to schools, because it would just be teasing people, and should be limited to residential areas. The City could do a test run, and if complaints arise from outdoor cultivation, the regulations could be revised accordingly.

Commissioner McNair agrees with Chair Coates' suggestions. She would still like outdoor cultivation to be limited to larger parcels outside the city core.

Commissioner Abernathy thinks if cultivation is limited to certain areas of town, it could become complicated and difficult for people to understand. He supports staff's recommendation for a complete ban on outdoor cultivation. However, the City should continue to explore the issue.

Chair Coates agrees that having different regulations for different parts of town would be very difficult to explain and implement.

A motion by **Commissioner McNair** and seconded by **Commissioner Cooper** to adopt the resolution recommending to the City Council approval of amendments to the Municipal Code to regulate the personal cultivation of marijuana, with modifications to allow up to two plants to be cultivated outdoors and to ban outdoor cultivation on properties adjacent to schools, was approved on a 3-1 vote (Abernathy dissent).

3. **Zoning Code Amendments ZOA 2016-2**: Consideration of a recommendation to the City Council to revise the requirements for use permits

Ms. Goldberg presented highlights of her written staff report. The proposed amendments are intended to streamline the review process for some entitlements and reduce processing costs. There is also a need to add procedures for reviewing administrative use permits. Staff is also recommending the establishment of a temporary use permit for certain types of uses and events.

Commissioner Cooper appreciates any efforts to streamline regulations and lower costs to businesses.

Chair Coates opened the public hearing.

Michael Quast presented written copies of his comments to the Commission. The proposed regulations should be modified to not require payment of the full processing fee for modifications to a use permit, since they're simpler to process. An appeal process should be provided for in the use permit regulations. A longer re-initiation term should be provided for uses that cease; six months is too short, especially if a property is being sold or if there are problems moving tenants out. Owners should be allowed to put a use permit in stand-by mode. He is concerned about the process for determining whether an application is complete; often there are never-ending staff requests for detailed information that are so burdensome that applicants give up after considerable expense. There should be set information that is required so that everyone is treated the same. He appreciates the effort to streamline the use permit process.

Chair Coates closed the public hearing.

In response to a request from **Commissioner McNair**, Ms. Goldberg responded briefly to Mr. Quast's comments. She noted that appeals are already provided for in other Municipal Code chapters. Staff doesn't usually charge for minor modifications to use permits. It's desirable to require a new use permit after a

previous one has lapsed for an existing building, since every operation is different and it gives the City the ability to adjust the conditions of approval accordingly. Determining whether an application is complete is necessarily subjective, since staff must ensure that decision makers have adequate information to make findings and impose conditions, and that environmental assessments can be prepared. Staff works closely with applicants to expedite the submittal and review of applications.

Chair Coates supports any efforts by the City to streamline and simplify entitlement processing. He is very comfortable with how applications are currently processed and thinks that staff goes out of their way to expedite them. Having complete applications is very important. He noted that it's impossible for the Commission to understand and comprehensively address extensive public comments such as Mr. Quast's that are provided to them at the meeting. They should be given to staff and the Commission in advance so that they can be evaluated and properly responded to.

A motion by **Commissioner Abernathy** and seconded by **Chair Coates** to adopt a resolution recommending to the City Council approval of revisions to Zoning Code requirements for use permits was approved unanimously.

H. MATTERS INITIATED BY COMMISSIONERS

None.

I. DIRECTOR REPORT

Ms. Goldberg advised the Commission of items schedule for its next meeting.

J. ADJOURNMENT

The meeting was adjourned at 6:47 p.m.

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Lynn Goldberg, Secretary