

**CITY OF CALISTOGA
PLANNING COMMISSION
MEETING MINUTES**

**Wednesday, June 13, 2012
5:30 PM
Calistoga Community Center
1307 Washington St., Calistoga, CA**

**Chairman Jeff Manfredi
Vice Chairman Paul Coates
Commissioner Carol Bush
Commissioner Nicholas Kite
Commissioner Walter Kusener**

“California Courts have consistently upheld that development is a privilege, not a right.”

Among the most cited cases for this proposition are Associated Home Builders, Inc. v. City of Walnut Creek, 4 Cal.3d633 (1971) (no right to subdivide), and Trent Meredith, Inc. v. City of Oxnard, 114 Cal. App. 3d 317 (1981) (development is a privilege).

MEETING CALLED TO ORDER AT 5:34 p.m.

A. ROLL CALL

Present: Chairman Jeff Manfredi, Vice Chairman Paul Coates, Commissioners Carol Bush, Nick Kite and Walter Kusener. **Absent:** None. **Staff Present:** Ken MacNab, Planning and Building Manager, and Erik Lundquist, Senior Planner.

B. PLEDGE OF ALLEGIANCE

C. PUBLIC COMMENTS

None.

D. ADOPTION OF MEETING AGENDA

Chairman Manfredi proposed that the Planning Commission consider Item I-1 first [Berry Street Cottages].

MOVED by Vice Chairman Coates, seconded by Commissioner Kusener, to approve the meeting agenda of May 23, 2012 as amended.

The motion carried with the following vote:

- AYES: (5) Manfredi, Coates, Bush, Kite, Kusener
- NOES: (0)
- ABSTENTIONS: (0)
- ABSENT: (0)

E. COMMUNICATIONS/CORRESPONDENCE

None.

F. CONSENT CALENDAR

MOVED by Commissioner Bush, seconded by Chairman Manfredi, to approve the regular meeting minutes of May 23, 2012 as provided.

The motion carried with the following vote:

- AYES: (5) Manfredi, Coates, Bush, Kite, Kusener
- NOES: (0)
- ABSTENTIONS: (0)
- ABSENT: (0)

G. TOUR OF INSPECTION

None.

I. NEW BUSINESS

[This item was taken out of order from the published agenda]

1. **BERRY STREET COTTAGES (CDR 2012-01):** Review of conceptual plans to rezone and subdivide a 7,200 square foot property located on the corner of Berry and Myrtle Streets into three 2,400 square foot lots. The subject property is currently developed with three small detached homes. Each of the existing homes would be retained on an individual lot as part of the project. No action on the conceptual plans is being requested at this time. The project site is located at 1110 Myrtle Street (APN 011-242-001) within the "R-3", Residential/Professional Office Zoning District.

Planning Manager MacNab gave the staff report.

Commissioner Bush asked if deed restrictions were necessary to ensure affordability. **Planning Manager MacNab** responded that without a deed restriction there is no guarantee that the units would be rented or sold at affordable levels.

Commissioner Bush asked if requiring affordability was necessary for rezoning the property. **Planning Manager MacNab** explained that generally there must be some benefit when rezoning to PD, and that since the site is already developed staff believes dedication of one or more units as an affordable unit would provide that benefit.

Vice Chair Coates asked for clarification on how the garage that straddles a property line between two of the proposed lots would work.

Commissioner Kusener asked what the price range was for moderate income homes. **Planning Manager MacNab** reviewed price range information provided on Page 8 of the staff report.

Chairman Manfredi asked for an explanation of lot size requirements in the R-3 zoning district. **Planning Manager MacNab** responded that there are two standards in the R-3 district addressing lot size. The first is a minimum lot size requirement of 6,000 square feet. The second standard is a minimum lot area per unit requirement of 2,000 square feet.

Bob Beck, 1018 Cedar Street (owner, applicant). Mr. Beck discussed the ownership of the property and the long term plan of the owners to divide the property to provide flexibility in future use and sale of property.

Mr. Beck stated his opinion that given the size of the homes and proposed lots the price of the homes would inherently be affordable.

Mr. Beck stated that he believes that the pride of individual ownership will help ensure the proposed lots/properties stay well-maintained and will be a benefit of the project.

Mr. Beck provided comparative information on lot coverage.

Mr. Beck discussed the issue of whether deed restrictions were necessary. Mr. Beck stated that current rents being charged are approximately \$1,200, well below the \$1,900 that would be allowed if the units were restricted to moderate income. Mr. Beck stated that \$1,200 reflects the market value and does not believe the market would support higher rents.

Regarding for sale pricing, Mr. Beck stated that he believed the homes might sell in the neighborhood of \$200,000 – well below the \$310,000 that moderate income deed restriction would allow.

Mr. Beck stated that it was his opinion that the units/lots by their very nature will be affordable and restrictions are unnecessary.

Mr. Beck questioned staff's position that there must be some additional benefit in return for allowing rezoning of a property to Planned Development. Mr. Beck stated he believes the benefit of creating home-ownership opportunities is enough and there is no need to extract additional restrictions.

Mr. Beck stated that restrictions may result in unintended consequences – citing the likelihood that restrictions will make future purchase and sales of the homes more complicated.

Tom Crowley, 493 Downhill Lane (owner, applicant). Mr. Crowley discussed the garage and their intentions to reconstruct the garage.

Mr. Crowley also discussed the issue of second stories, noting that there are a number of two story homes in the neighborhood. Mr. Crowley stated that while there were no immediate plans to build a second story they would like to keep that option open.

Chairman Manfredi asked Mr. Crowley what the current heights of the homes are now and noted there's a height restriction of 25 feet.

Commissioner Kite asked Mr. Crowley what the immediate plans for the homes was and for clarification on the garage structures.

Commissioner Kusener asked for clarification on what the owners intent is after the property is subdivided, asking if the lots will be sold or kept by the current owners.

Commissioner Kusener asked **Mr. Beck** what the square-foot value of homes in the subject are of town are. Mr. Kusener expressed some skepticism that the value of the homes is what the applicant states.

Commissioner Kusener expressed some doubt about rezoning if the only merit is that it provides the owners some flexibility in their use and disposition.

Mr. Beck stated that in addition to providing personal flexibility he believes there is benefit to the project because it may open the door for consideration of smaller lots and smaller homes.

Planning Manager MacNab cautioned the Planning Commission that moving forward with allowing smaller lots and smaller homes in established neighborhoods on a case-by-case basis would be of concern to staff.

Chairman Manfredi invited members of the public wanting to comment on the proposed development concept to come forward.

Clarence Luvisi, 285 Rosedale Road. Mr. Luvisi noted that affordable housing is a big issue and that proposed project looks like a win-win situation.

Mr. Luvisi asked several questions related to zoning and why there is a need to change the zoning on the property.

In regards to second stories, Mr. Luvisi suggested that single-story be allowed in the front portion of the property with two-story development located further back towards the rear of the property.

Chairman Manfredi closed the public comment period.

Commissioner Kite asked why the R-3 district has a 6,000 square foot minimum lot size. **Planning Manager MacNab** stated he did not know for sure, but speculated that 6,000 feet was determined to be an appropriate minimum for multi-unit development projects.

Commissioner Kite asked staff if they were aware of other communities that have zoning which allows or provides for 2,400 square foot lots. **Planning Manager MacNab** responded that he knows the City of Santa Rosa has such a standard and that it is likely other communities do too. Mr. MacNab also noted that in the Housing Element there is a program action calling for consideration of converting the R-2 district into a district that would allow small lot attached development.

Commissioner Kite observed that there were other properties in the area with multiple units and asked if staff had any idea if these properties or others were contemplating making similar requests. **Planning Manager MacNab** responded that staff did not know if any other owners were contemplating coming forward with similar proposals, but that if the Commission supports the concept it would not be surprising if they did.

Senior Planner Lundquist added that the Planning Commission should consider how community character can be retained and noted one way to ensure that it is would be to require design guidelines for individual units.

Commissioner Kite stated he thought this project may have significant policy implications and suggested that City Council input on this issue may be warranted.

Vice Chair Coates informed the Commission that one thing the Housing Element Advisory Committee did strongly support the creation of moderate income ownership opportunities. Mr. Coates stated he is more inclined to support the concept because the units are existing and sees this project as a great opportunity to provide affordable homeownership in the community. Mr. Coates stated that he thought the PD zoning is an appropriate tool to apply to make this opportunity happen.

Chairman Manfredi asked for clarification on what the process would be for adding a second story. **Planning Manager MacNab** stated it depends on whether the PD addresses second stories. He stated that if the PD does not contain any second story provisions, the addition of a second story would only require a building permit.

Vice Chair Coates commented that it might be preferable to have any future second story addition to the homes go through design review.

Chairman Manfredi lead the Commission through the questions posed by staff in the staff report and brought the Commission to consensus on the following issues:

1. Deed Restrictions

Commissioner Kusener stated he thought these units would by their nature tend to be affordable and asked if the restrictions would help in complying with State housing laws. **Planning Manager MacNab** stated that while restricting an existing unit to be affordable is worth reporting on, the State is primarily interested in the creation of new affordable units.

Commissioner Kite asked if the applicant's statement that deed restrictions would make sale of the lots more difficult was true. **Planning Manager MacNab** stated that while restrictions would likely create an extra hurdle to go through, they are common and are not insurmountable.

Commissioner Kite asked about the City's experience with for-sale deed restricted homes. **Planning Manager MacNab** stated that the City has had some bad experiences with for sale homes that it had second position on, but would not foresee similar troubles with these homes because they are in private ownership.

Vice Chair Coates stated that securing loans is a very difficult process in today's market and expressed concern that another layer of government bureaucracy may make sale an insurmountable proposition. Mr. Coates stated that he believes the homes will be affordable by nature and that the Commission should take this into consideration when determining if any additional public benefit should be required.

Commissioner Kite reiterated his comment that this may be a policy issue that warrants City Council input/direction.

Commissioner Bush concurred with Vice Chair Coates suggestion that the size of the homes and lots in and of themselves will likely keep the homes affordable and no additional requirements are needed.

Chairman Manfredi stated he thought this would be a precedent setting project and that since a precedent is being set it would be appropriate to require a deed restriction on one of the properties.

Vice Chair Coates asked for clarification from Chairman Manfredi on what a deed restriction would look like. **Chairman Manfredi** responded that a restriction should be for moderate income at 100% of the median County income. Mr. Coates stated he thought that would be reasonable and suggested that even 80% of the County median income would be reasonable.

Commissioner Kusener stated that he does not believe the City needs to mandate any affordability level.

Vice Chair Coates asked Mr. Beck for pricing information in Saratoga Manor. **Mr. Beck** approximated that homes in Saratoga Manor were selling between \$135,000 and \$175,000.

Commissioner Kite asked if the deed restriction simply regulates sales price or if it is household income based. **Planning Manager MacNab** stated that the restriction would limit the sales price to a price affordable to a moderate income household.

Chairman Manfredi took a final poll of the Commission on this issue. It was the majority consensus of the Planning Commission that establishment of a deed restriction on one lot is appropriate for considering rezoning the property to Planned Development. The Planning Commission directed staff to work with the applicant on identifying the appropriate level of affordability.

2. Driveways/On-Site Parking

Commissioner Kite stated he believed that it was very unlikely that the garages on the center and westerly lots would be used for parking cars. Mr. Kite stated he was comfortable with allowing these to be accessory storage structures (non-habitable).

Commissioner Kusener asked for clarification from Commissioner Kite on whether he supporting garages on the subject lots. **Commissioner Kite** clarified that he does not believe there is

- AYES: (4) Manfredi, Coates, Kite, Kusener
- NOES: (0)
- ABSTENTIONS: (1) Bush
- ABSENT: (0)

2. HOUSING ELEMENT IMPLEMENTATION (CMC 2012-01):

Consideration of text amendments to the Calistoga Municipal Code, initiated by the City of Calistoga, amending Title 17 (Zoning) and Title 19 (Environmental Protection) to: (1) establish transitional and supportive housing as recognized uses in the R-1, R-2, and R-3 Zoning Districts; (2) allow emergency shelters "by right" in the CC Zoning District; (3) amend provisions of the Growth Management System program to remove potential constraints to housing development and add lower-income and special needs housing groups as a priority class; and (4) allow agricultural employee housing for six or fewer persons in the R-1 Zoning District by right.

Planning Manager MacNab informed the Planning Commission that each Commissioner has a conflict of interest on this item because their residences and/or businesses are within 500 feet of the potentially affected Zoning Districts. Mr. MacNab explained that the Political Reform Act (Section 87101 of the California Government Code) provides a limited exception that allows for an official to participate when they have a conflict of interest if the official's participation is legally required. In this instance, the legal requirement is that it takes three Commissioners to form a quorum to convene and act on an item.

Mr. MacNab asked the Commission to draw straws to determine which three Commissioners would participate in the item. Chairman Manfredi, Commissioner Kite and Commissioner Kusener drew the "short straws" and were selected to participate out of legal necessity.

Vice Chair Coates recused himself from the item because his residence and business are located within the affected zoning districts.

Planning Manager MacNab gave the staff report.

Commissioner Kite asked for clarifications on the definitions of supportive and transitional housing and on agricultural employee housing.

Commissioner Kite asked if the changes would allow for different forms of development than would otherwise be allowed in the zoning district. **Planning Manager MacNab** stated that it would not.

Commissioner Kite asked for clarification on operational aspects and requirements of agricultural employee housing. **Planning Manager MacNab** stated he only had limited information on what agricultural employee housing is and that staff would review and revise the definition of agricultural employee housing based on State requirements to better define and convey the use.

Commissioner Kusener stated he wasn't totally clear on what the difference would be between agricultural employee housing and other housing which business employee occupy. **Planning Manager MacNab** stated that there shouldn't be any outwardly visible difference.

Commissioner Kusener expressed some concern that the proposed changes would open the door to more intensive development or development that is out of character with existing neighborhoods and zoning.

Commissioner Kusener asked for clarification on emergency shelters and questioned why public structures that are used for emergencies aren't identified or considered. **Planning Manager MacNab** clarified that emergency shelters in the context of the code amendments being presented are independently owned and operated for persons who may be permanently or temporarily in need of shelter.

MOVED by Commissioner Kite, seconded by Chairman Manfredi, to adopt Planning Commission Resolution PC 2012-17 recommending that the City Council approve text amendments to the Calistoga Municipal Code, revising Chapters 17.04 (Definitions), 17.16 (R-1 Single-Family Residential District), 17.18 (R-2 Multiple-Family Residential District), 17.19 (R-3 Residential/Professional Office District), 17.22 (Commercial Land Use Districts) and Chapter 19.02 (Growth Management System) to implement program actions contained in the General Plan Housing Element.

The motion carried with the following vote:

- AYES: (3) Manfredi, Kite, Kusener
- NOES: (0)
- ABSTENTIONS: (2) Coates, Bush
- ABSENT: (0)

J. MATTERS INITIATED BY COMMISSIONERS

None.

K. COMMENTS/PROJECT STATUS

Planning Manager MacNab reminded the Planning Commission meeting that a special meeting was scheduled next week to review the Enchanted Resorts development project. Mr. MacNab also stated that the regular meeting of June 27, 2012 was being reserved for the Enchanted Resorts project.

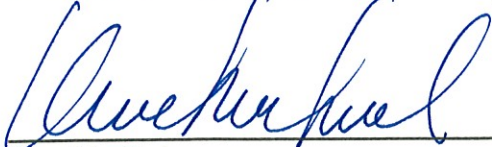
L. ADJOURNMENT

MOVED by Chairman Manfredi, seconded by Commissioner Kusener, to adjourn to a special meeting of the Planning Commission on June 20, 2012.

The motion carried with the following vote:

- AYES: (3) Manfredi, Kite, Kusener
- NOES: (0)
- ABSTENTIONS: (0)
- ABSENT: (2) Coates, Bush

MEETING ADJOURNED AT 7:23 p.m.



Ken MacNab,
Planning Commission Secretary