



City of Calistoga  
Planning Commission  
**Agenda Item Summary**

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<b>DATE</b>	January 13, 2016
<b>ITEM</b>	<b>Draft Minutes of December 9, 2015 Meeting</b>
<b>RECOMMENDATION</b>	Approve minutes with any necessary changes

# MINUTES

## CALISTOGA PLANNING COMMISSION

December 9, 2015

1 The meeting was called to order at 5:30 pm.

### 2 **A. ROLL CALL**

3 Commissioners present: Chair Jeff Manfredi, Vice Chair Carol Bush, Paul Coates,  
4 Tim Wilkes, Scott Cooper. Absent: None. Staff present: Planning & Building Director  
5 Lynn Goldberg, Senior Planner Erik Lundquist.

### 6 **B. PLEDGE OF ALLEGIANCE**

### 7 **C. PUBLIC COMMENTS**

8 None.

### 9 **D. ADOPTION OF MEETING AGENDA**

10 The meeting agenda of December 9, 2015 was accepted as presented.

### 11 **E. COMMUNICATIONS/CORRESPONDENCE**

12 Copies of an e-mail from Matt Reid regarding Item G.2. were distributed to the  
13 Commission.

### 14 **F. CONSENT CALENDAR**

#### 15 **1. Commission Minutes**

16 The minutes for the November 18, 2015 meeting were unanimously adopted as  
17 presented.

#### 18 **2. Meeting Schedule Approval**

19 The Planning Commission meeting schedule for 2016 was unanimously adopted.

### 20 **G. PUBLIC HEARINGS**

21 **1. Calistoga Pet Clinic Parcel Map PM 2014-1, Use Permit UP 2014-15 &**  
22 **Variance VA 2014-3:** Consideration of a parcel map to divide the property  
23 located at 2960 Foothill Boulevard into 2 parcels, and a use permit amendment  
24 and variance to allow the existing veterinary clinic to be located on a 1-acre  
25 parcel

26 Senior Planner Lundquist presented the staff report for the item. He advised the  
27 Commission that if it did not approve the variance or use permit amendment  
28 applications, the parcel map application could not be approved, and summarized  
29 the revisions that had been made to the parcel map since the Commission  
30 reviewed the application in 2014. Staff believes that access and drainage issues  
31 have been adequately addressed. Allowing the veterinary clinic to be located on  
32 a one-acre lot would be appropriate, since the building is located on the front of a

33 long lot. It has essentially operated on a one-acre site since 2007, so allowing the  
34 lot split would not change the physical arrangement.

35 **Commissioner Wilkes** suggested that the item be considered in two parts, with  
36 initial consideration of the variance and use permit amendment. The other  
37 Commissioners concurred.

38 **Chair Manfredi** opened the public hearing.

39 **Adam Rivera**, Hogan Land Services, reiterated that the clinic would still be  
40 located at the front of the site with approval of the parcel map, so nothing would  
41 change.

42 **Jens Vidkjer**, neighbor to the north of the subject property, has had concerns  
43 about the clinic's potential incompatibility with the neighborhood since the initial  
44 application was considered. There's been an ongoing compliance problem with  
45 the clinic's operations. The Wine Country Animal Lovers group indicated last  
46 summer that it wants to provide an animal shelter there. Intensification of the use  
47 would affect the neighborhood in a big way. The existing use permit's conditions  
48 should be maintained and enforced.

49 **Keith Wepler**, neighbor to the west, is very supportive of Dr. Franquelin's work  
50 and he and his wife are sheltering a cat for WCAL. But the issue is whether the  
51 property owner can split the lot. He's concerned that approving the variance  
52 would apply the rules unfairly. The original requirement was for the clinic to be  
53 located on a five-acre parcel. This was reduced to two acres with the caveat that  
54 it not cause any negative impacts for the neighbors. A variance to reduce the site  
55 to one acre and allow the parcel's use to be intensified with the addition of a  
56 residence would increase the impacts.

57 **Katherine Philippakis**, attorney with Farella Braun + Martel representing the  
58 Wepler and Vidkjer families, is concerned about the inability to make any of the  
59 required findings for the proposed variance. There are no special circumstances  
60 that apply to the property that cause a hardship. It's not being deprived of any  
61 rights because no one else in the neighborhood has a pet clinic on a one-acre  
62 lot, so it's not clear what the hardship is. The variance would allow additional  
63 special privileges, since the clinic is already located on a two-acre parcel.  
64 Furthermore, there is a history of incompatibility problems between the clinic and  
65 the neighborhood, and granting the variance in order to allow the construction of  
66 a residence would increase impacts on surrounding properties. Variances should  
67 only be approved when there is something inherent in the parcel, such as  
68 physical characteristics, which make it different from other properties and makes  
69 it less privileged.

70 **Dr. Steve Franquelin**, owner of the vet clinic on the subject property, observed  
71 that the clinic was once located on a 4,000-square foot lot in the downtown, and  
72 the City supported the move to a rural area because it was a more appropriate  
73 location. There was not a five-acre parcel within the city limits at the time that

74 was feasible to construct the clinic on. Ideally you would have a square lot with  
75 the clinic located in the center that could provide a lot of buffering around it. The  
76 clinic had to be located at the front of the site due to septic and access  
77 considerations, and happens to be near residences. Allowing a division of the  
78 property doesn't change the clinic's impacts on these residences. He is trying to  
79 be a good neighbor and provide a beneficial service to the community. He had  
80 planned to construct a residence and granny unit on the property, along with the  
81 clinic, which would be allowed without the variance. Creating a one-acre lot for  
82 an additional residence would have the same effect.

83 In response to questions from **Commissioner Wilkes**, Dr. Franquelin confirmed  
84 that when the clinic was located on Lincoln Avenue, complaints were extremely  
85 rare and that pet owners parked in front of the building or on the street.  
86 **Commissioner Wilkes** observed that if Dr. Franquelin was to occupy a home on  
87 the property, he could easily deal with the clinic's issues.

88 **Peter Heitz**, 2082 Foothill, recalls when the clinic was required to be on five  
89 acres and was subsequently allowed to be located on two acres, he was  
90 supportive of it because the service was needed, and he didn't want to be a  
91 NIMBY. They were not to have any boarding, which they have continually done in  
92 violation of the terms of the use permit. It's troubling that they are asking for  
93 additional consideration. It sets a dangerous precedent. Since they are operating  
94 outside the terms of their use permit, it seems ludicrous to allow it to be  
95 intensified by reducing the size of the parcel. He thought the rear of the property  
96 was needed for the clinic's septic system and drainage. The applicants should  
97 not receive a benefit when they have not complied with the rules.

98 **Ron McGoldrick**, 2999 Foothill, wasn't originally concerned about the vet clinic  
99 being constructed. However, there was immediately a problem with dogs barking,  
100 which he can hear from his property, even when he is indoors. After he spoke  
101 with Dr. Franquelin, the problem was temporarily resolved, but then the dogs  
102 would return outside and he would have to call the police. Before the clinic  
103 opened, he never had an issue with any neighbor.

104 **Kirsty Gerosa**, with Farella Braun + Martel, noted that a recommended condition  
105 of approval for the parcel requires a septic feasibility study to locate the septic  
106 field and a reserve area for both parcels. Approving the variance would create a  
107 1.1-acre parcel, whereas the Municipal Code requires two acres for a septic  
108 system. Constructing a residence on that parcel would also exceed the allowable  
109 General Plan density for the property. Approval of the variance would therefore  
110 guarantee that the building at the front would have to remain in commercial use.

111 **Dr. Manny Ghumman**, property owner of the subject site, observed that most  
112 pet clinics are located on much smaller parcels. For dog and cat care, you don't  
113 need a large parcel. Dr. Franquelin is very responsive to complaints.

114 **Mike Hogan**, Hogan Land Services, explained that their preliminary studies show  
115 that the soils can adequately accommodate a septic system for the new parcel,

116 and the conditions of approval would require approval from Napa County  
117 Environmental Management.

118 **Peter Heitz** noted that exceptions to Code requirements for the sewer extension,  
119 burial of the overhead power lines and the setback for the emergency vehicle  
120 turnaround are also requested by the applicants. These things should be  
121 considered in totality, rather than piecemealed together.

122 **Adam Rivera** noted that the conditions of approval would require that the  
123 purchaser of the back property be made aware of the clinic's existence.

124 **Dr. Ghumman** thinks that constructing a residence at the back of a lot would  
125 provide a good buffer between the clinic and surrounding residences by blocking  
126 noise.

127 **Commissioner Wilkes** noted that, conversely, allowing an additional residence  
128 would provide one that is closer to the clinic and its impacts.

129 **Chair Manfredi** closed the public hearing.

130 **Commissioner Wilkes** visited the property and neighboring properties, and met  
131 with neighbors. He reviewed all of the minutes for every hearing that has been  
132 held on the clinic, going back to 2003. He cannot agree with several of the  
133 required findings, for example, that the variance is necessary for preservation of  
134 a property right that is substantially the same as other properties. The Zoning  
135 Code specifically requires a two-acre minimum for a veterinary clinic. In terms of  
136 the fourth finding, the proposal is not the minimum variance that would alleviate  
137 the hardship. He does not believe there is a hardship. The need for the variance  
138 is self-imposed. In his experience, clinics are typically located in commercial  
139 zoning districts because there is a lot of traffic and there is no one sleeping there  
140 at night who would be bothered by barking dogs. Shelters are usually located in  
141 industrial areas to provide an even greater buffer and avoid potential conflicts  
142 with residents. In this case, the property is located in a rural residential area that  
143 is supposed to be exceptionally quiet.

144 In response to questions from **Commissioner Cooper**, Mr. Lundquist confirmed  
145 that expansion of the clinic would be subject to the Commission's approval, and  
146 that the City Attorney has not reviewed the statements in Ms. Philippakis' letter.

147 **Vice Chair Bush** believes it's not clear what hardship would be alleviated. In  
148 response to questions from **Vice Chair Bush**, Mr. Lundquist confirmed that a  
149 letter has been sent to Dr. Franquelin advising him of violations to the clinic's use  
150 permit conditions. An application that proposed an expansion of the clinic was  
151 filed with the City, but it was never deemed complete and was returned to the  
152 applicant.

153 **Commissioner Coates** observed that four findings are required by state law to  
154 be made in approving a variance. He does not believe there are special  
155 circumstances or unnecessary hardships in this case, and therefore the variance  
156 cannot be approved.

157 **Chair Manfredi** agrees that the circumstances do not satisfy two or three of the  
158 required findings.

159 A motion by **Chair Manfredi** approving a variance and use permit amendment to  
160 allow a veterinary clinic on a one-acre property located at 2960 Foothill  
161 Boulevard was seconded by **Commissioner Coates** and failed by a unanimous  
162 vote.

163 Mr. Lundquist informed the Commission that because the variance and use  
164 permit amendment were not approved, they could not act on the parcel map  
165 application, and that the Commission's action could be appealed to the City  
166 Council within 10 days.

167 2. **Municipal Code Amendments MCA 2015-3:** Consideration of a  
168 recommendation to the City Council regarding proposed amendments to the  
169 Calistoga Municipal Code to regulate the cultivation of marijuana/cannabis

170 Planning and Building Director Goldberg presented the staff report for the item.  
171 Recent state legislation requires a license for the cultivation of cannabis, except  
172 for qualified patients and caregivers, and provides that cities that do not have an  
173 ordinance regulating or prohibiting the cultivation of marijuana by March 1, 2016  
174 will lose the authority to regulate or ban cultivation within their city limits and the  
175 state will become the sole licensing authority. The City Council has directed staff  
176 to initiate appropriate Municipal Code amendments to prohibit the cultivation of  
177 marijuana/cannabis, based on concerns about its unpleasant odor, hazards  
178 associated with indoor cultivation, the large cultivation area that could be allowed  
179 if a residence contained a number of qualified patients, and its increased  
180 availability to minors. The banning of cultivation by the City is specifically allowed  
181 by the California Health and Safety Code and has been upheld in the courts.  
182 Patients would still be able to receive deliveries of medical marijuana as well as  
183 purchase it at dispensaries outside the city, much as they would obtain any other  
184 prescription that could not be obtained locally. Staff recommends that the  
185 Commission recommend to the City Council approval of Municipal Code  
186 amendments to prohibit commercial cannabis activities and the cultivation of  
187 marijuana in all zoning districts.

188 In response to a question from **Vice Chair Bush**, Ms. Goldberg explained that  
189 problems with current marijuana cultivation are enforced on a compliant basis,  
190 similar to any other code enforcement matter, and that the Police Chief intends to  
191 continue this approach.

192 **Commissioner Cooper** believes that cultivation needs to be regulated. The City  
193 can't let it get out of hand if there is the slightest possibility of a nuisance.

194 **Chair Manfredi** opened and closed the public hearing after there were no public  
195 comments.

196 A motion by **Commissioner Coates** and seconded by **Vice Chair Bush** to  
197 recommend to the City Council approval of amendments to the Municipal Code

198 to prohibit commercial cannabis activities and the cultivation of marijuana in all  
199 zoning districts was approved unanimously.

200 **H. MATTERS INITIATED BY COMMISSIONERS**

201 **Commissioner Wilkes** reported on Sonoma State University's planning  
202 commissioners seminar that he attended on December 5. It was very interesting.  
203 **Commissioner Coates** thanked the Commission and staff for a great year in 2015.  
204 The Commission accomplished good things. **Vice Chair Bush** agreed that it was a  
205 good year and that we have a great City Council. She thanked Chair Manfredi and  
206 Commissioner Coates for their guidance during her time on the Commission.

207 **I. DIRECTOR REPORT**

208 Ms. Goldberg advised that there are no items for the December 16th meeting and  
209 requested that the Commission cancel this meeting. It was the consensus of the  
210 Commission to do so.

211 **J. ACKNOWLEDGEMENT OF OUTGOING COMMISSIONERS' SERVICE**

212 Resolutions were presented to outgoing members Chair Manfredi and Vice Chair  
213 Bush acknowledging their service to the community and the Commission.

214 **K. ADJOURNMENT**

215 The meeting was adjourned at 6:41 p.m.

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Lynn Goldberg, Secretary