



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

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<b>DATE</b>	January 25, 2017
<b>ITEM</b>	<b>Draft Minutes of November 30, 2016 Meeting</b>
<b>RECOMMENDATION</b>	Approve minutes with any necessary changes

# MINUTES

## CALISTOGA PLANNING COMMISSION

November 30, 2016

### A. ROLL CALL

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

### 4 B. PLEDGE OF ALLEGIANCE

### 5 C. PUBLIC COMMENTS

6 None.

### 7 D. ADOPTION OF MEETING AGENDA

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 had been withdrawn and would not be heard.

### 10 E. COMMUNICATIONS/CORRESPONDENCE

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

### 13 F. CONSENT CALENDAR

#### 14 1. Planning Commission Minutes

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

### 17 G. PUBLIC HEARINGS

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

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23 withdrawn by the appellant and they have submitted an application for a three-  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

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

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

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

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

43 **Chair Coates** opened the public hearing.

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

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

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

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

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

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

77 **Chair Coates** closed the public hearing.

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

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

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

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

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

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

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

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

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

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

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

139 **Chair Coates** opened the public hearing.

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

152 **Chair Coates** closed the public hearing.

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

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

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

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

175 **H. MATTERS INITIATED BY COMMISSIONERS**

176 None.

177 **I. DIRECTOR REPORT**

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

179 **J. ADJOURNMENT**

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

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Lynn Goldberg, Secretary