

RESOLUTION 2006-099

A RESOLUTION OF THE CITY OF CALISTOGA CITY COUNCIL APPROVING A PRELIMINARY DEVELOPMENT PLAN ALLOWING A 6-UNIT TOWNHOUSE PROJECT AT 1213 ELM STREET WITHIN THE "PD", OAK VILLA TOWNHOUSE PLANNED DEVELOPMENT ZONING DISTRICT (APN 011-243-007)

WHEREAS, Alois and Ursula Tieber are the owners of the subject property for which this application is proposed;

WHEREAS, the Planning Commission has reviewed and considered this application at its regular meeting on October 11, 2006, and prior to taking action on the application, the Commission received written and oral reports by the Staff, and received public testimony. After considering the project, the Commission adopted Resolution 2006-34 recommending approval of the Preliminary Development Plan based upon findings presented in the Staff Report and subject to 38 conditions of approval;

WHEREAS, the City Council reviewed the Preliminary Development Plan during a public hearing at it's regularly scheduled meeting on November 8, 2006. During its review, the Council considered the public record of the October 11, 2006 Planning Commission meetings, including the staff report, findings, minutes, and written materials and testimony presented by the property owners during the hearing;

WHEREAS, this action has been reviewed for compliance with the California Environmental Quality Act (CEQA) and is exempt from the requirements of the CEQA pursuant to Section 15332 of the CEQA guidelines;

WHEREAS, the City Council pursuant to Chapter 17.40.070 has made the following Preliminary Development Plan findings for the project:

1. The proposed development, together with any provisions for its design and improvement, is consistent with the General Plan, any applicable specific plan and other applicable provisions of the Zoning Code including the finding that the use as proposed is consistent with the historic, rural, small-town atmosphere of Calistoga.

Response: The proposed use of the structure as a higher density residential development is consistent with the General Plan designation of the lot. Further, the structures appears to be compatible with the meaning and intent of the pending "PD" district to provide a flexible design so that development is minimized in an area where there are desires to maximize development to greatest extend practicable. The key component to achieving this objective is placing the structure in a location that minimizes the impacts to trees and drainage. These objectives will be addressed through the regulatory process, which has investigated an appropriate location for any future residential development.

2. The site is physically suitable for the type and density of development.

Response: There are no changes proposed to the type of land use (residential) or density (10 to 20 du/ac) presented in this application as compared to previous applications and approvals on the property. The proposed residential development(s) will be required to maintain adequate setbacks from trees and drainage areas and will be in a location that would not create land use conflicts.

3. The proposed development has been reviewed in compliance with the California Environmental Quality Act (CEQA) and the project will not result in detrimental or adverse impacts upon the public resources, wildlife or public health, safety and welfare.

Response: Staff has determined that the proposed project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15332 CEQA Guidelines.

4. Approval of the use permit application will not cause adverse impacts to maintaining an adequate supply of public water and an adequate capacity at the wastewater treatment facility.

Response: Given the history of this property designated on the City's "Stand-by and Other Obligations List", currently being managed by the Public Works Department. "Stand-by or Other Obligations" is recognized as a property with an existing water and/or sewer account, but no active consumption of domestic water or wastewater treatment capacity. This water and wastewater has been previously accounted for and there are no additional water and wastewater connection or meter fees associated with development.

5. Approval of the use permit application shall not cause the extension of service mains greater than 500 feet.

Response: This use will not result in an extension of an existing service main greater than 500 feet.

6. An allocation for water and/or wastewater service pursuant to Chapter 13.16 CMC (Resource Management System) shall be made prior to project approval. Said allocation shall be valid for one year and shall not be subject to renewal.

Response: See previous comment #4.

7. The proposed development presents a scale and design which are in harmony with the historical and small-town character of Calistoga.

Response: The proposed development has incorporated separate ground-related entrances and private open spaces between the residence, adjacent properties, and the street, which is especially important and has historically been implemented in higher density residential developments in the City.

8. The proposed development is consistent with and will enhance Calistoga's history of independent, unique, and single location businesses, thus contributing to the uniqueness of the town, which is necessary to maintain a viable visitor industry in Calistoga and to preserve its economy.

Response: This is a residential project; therefore this finding is not appropriate for residential projects.

9. The proposed development complements and enhances the architectural integrity and eclectic combination of architectural styles of Calistoga.

Response: See previous comments #1 and #2.

NOW, THEREFORE, BE IT RESOLVED by the City of Calistoga City Council hereby approves the Preliminary Development Plan based on the above Findings and subject to the following 38 Conditions of Approval:

1. This permit authorizes the development of a six (6) unit townhouse project on the site consistent the Site Plans received September 19, 2006 and consistent with all other City Ordinances, rules, regulations, and policies. The conditions listed below are particularly pertinent to this permit and shall not be construed to permit violation of other laws and policies not so listed.
2. Approval of this permit is limited to conformance with the land use provisions contained in the City's Zoning Ordinance. Use of the property shall be limited to those uses identified in the Findings above and the Planning Commission Staff Report dated October 11, 2006. Any changes to the approved use are subject to the provisions of the Zoning Ordinance, as it exists now or may be amended in the future.
3. Development and use of the six (6)-unit townhouse project shall conform to all required conditions established herein. Failure to comply with these conditions may result in amendment by the Planning Commission or possible revocation to protect the public health, safety and general welfare of the community, as set forth in the City's Zoning Ordinance.
4. Approval of this Preliminary Development Plan is based on the presentation of materials kept on file by the Planning and Building Department. These materials shall be applied to the building as approved and may only be changed with the approval of a Design Review application approved by the Planning Commission, through the process established in the City of Calistoga Zoning Ordinance. Any future exterior alterations, expansion or other new construction shall be subject to Design Review approval. The Planning and Building Department Director may approve minor amendments to this preliminary development plan provided that the permit is still in substantial conformance with the original approval.
5. Within ten days of City Council approval, project applicant shall sign and return a copy of the Statement of Official Acknowledgment to the Planning and Building Department, agreeing to the Conditions of approval and acknowledging that failure to comply with such conditions shall constitute grounds for potential revocation of the permit approval. By signing same, applicant shall not thereby waive any legal rights applicant may possess regarding said conditions. Failure to comply with this condition shall constitute grounds for potential permit revocation.
6. This determination shall not become effective for a period of ten (10) days from the date of determination, or, if appealed, until a final determination is made on the appeal. Any appeal must be made in the form required by the Planning and Building Department. The term of approval of this permit shall expire two (2) years from the permit's effective

date, unless a Final Development Plan and/or building permit has been issued for the project prior to the expiration date. One extension of a year may be permitted if approved by the Planning Commission.

7. This Preliminary Development Plan is only valid upon completion of the proposed development as approved in this permit. This work shall commence within two (2) years from the date of approval. If a Final Development Plan and/or a building permit is not issued, and work commenced within two (2) years, the applicant acknowledges and understands by accepting this permit that this permit will expire and will no longer be valid. In the event that the expiration of this permit conflicts with the Subdivision, the expiration shall run concurrently with the time limits of the Subdivision.
8. This Preliminary Development Plan is approved contingent upon the applicant applying for and receiving approval to rezone the site from an "R3-VA", Residential/Professional Office – Visitor Accommodations Combination District to a "PD", Planned Development Zoning District. If the site is not rezoned to a "PD", Planned Development Zoning District, this approval shall be null and void.
9. Prior to building permit issuance, the property owner shall obtain a Building Permit for all construction of buildings or structures located on the site, not otherwise exempt by the Uniform Building Code or any State or local amendment adopted thereto.
10. Pursuant to Government Code Section 66474.9, the applicant (including the subdivider or any agent thereof) shall defend, indemnify, and hold harmless the City of Calistoga and its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void, or annul, the Agency's approval concerning this preliminary development plan, which action is brought within the time period provided for in Section 66499.37. The City will promptly notify the subdivider of any claim, action, or proceeding and cooperate fully in the defense.
11. Prior to issuance of all building permits, the property owner agrees to pay all fees associated with plan check and building inspections, and associated development impact fees rightfully established by City Ordinance or Resolution.
12. Prior to building permit issuance, the developer shall be required to pay a traffic signal mitigation fee as required by Section 17.10.030 of the Calistoga Municipal Code, related to the property's location in the area of benefit for the intersection of Foothill Boulevard and Lincoln Avenue.
13. In the event permittee violates or fails to comply with any conditions of approval of this permit, no further permits, licenses, approvals or certificates of occupancy shall be issued until such violation has been fully remedied.
14. Prior to filing the Final Development Plan, the homeowners shall be provided with a complete set of as-built plans for the project which shall include the location of all drainage facilities, utilities, buildings, irrigation pipes, etc.
15. Prior to building permit issuance, the applicant shall review and approve disabled access requirements with the Planning and Building Department and make any necessary

changes in the project design to achieve compliance with such requirements. The Planning and Building Department, in its review, shall pay particular attention to the aesthetic, landscaping, and setback impacts of any ramps or other features necessitated by accessibility requirements.

16. Each unit shall have illuminated address numbers that are clearly visible to the street day and night.
17. Prior to issuance of grading or building permits, the developer shall submit for review and approval by the Public Works Department, in conjunction with the City's Arborist, a soils report that includes appropriate recommendations for the proposed grading and improvements to the site.
18. Prior to issuance of any permits, developer shall submit street improvement plans addressing on site and off site improvements for review and approval by the Public Works Department. The street improvement plans shall include landscape and construction plans for a sidewalk that is adjacent to the existing curb and is designed to retain the trees on and off site. All improvements shall be installed prior to the issuance of an occupancy permit.
19. Prior to building permit issuance, the developer shall submit evidence that the new fire hydrant at the corner of Elm and Myrtle Street is capable of producing a minimum flow of 2,250 gallons per minute for a 2-hour duration. In the event that the hydrant is incapable of producing 2,250 gpm, a fire sprinkler suppression system shall be reviewed, approved and installed subject to the review and approval of the Fire Department.
20. Prior to building permit issuance, the Developer shall agree to provide the Public Works Department with the necessary documentation to show that the existing City sewer mains are adequately sized to accept effluent generated from the project. Each lot shall be separately served with an individual sewer lateral. The developer, if required by the Public Works Department, should also provide the City with a closed circuit television inspection of the sewer line along the Elm Street frontage and repair and/or replace the line if warranted.
21. Prior to building permit issuance, the developer shall be responsible for the removal of the existing steel mainline and the installation of an 8-inch water main, which will connect to the public water main on Lincoln Avenue and extend along Myrtle Street across the frontage of the property with a fire hydrant at the corner of Elm and Myrtle Streets. The line shall be designed and installed to the satisfaction of the Public Works Department. The developer may prepare and submit a reimbursement agreement for those portions of the water line not along the property's frontage.
22. Prior to building permit issuance, an engineered drainage and erosion control plan shall be submitted for review and approval by the Public Works Department. The developer shall provide the drainage improvements necessary to mitigate the impacts generated by the project in a manner satisfactory to the Public Works Department. The applicant shall contact the Public Works Department regarding Drainage Plans (i.e. urban runoff plans and calculations) in order to gather the appropriate information to be contained within

these plans. The Drainage and erosion control plans shall incorporate Best Management Practices (BMP's) in all post-construction design elements.

23. Prior to occupancy, perimeter fencing, landscaping, screening, trash enclosures, and signage shall be subject to review and approved by the Planning and Building Director. The Planning and Building Director shall pay particular attention to the project's pedestrian orientation and amenities; scale and articulation of design elements; exterior colors, textures and materials; window treatment; glazing; and landscaping. All improvements shall be installed prior to a certificate of occupancy being issued.
24. No signage shall be permitted as a result of this approval. All additional signage shall be subject to the approval of the Planning and Building Director.
25. Prior to building permit issuance, a driveway encroachment permit shall be reviewed and approved by the Public Works Department.
26. Mechanical equipment shall not be located on the side of any building, which is adjacent to a residential building on the adjoining lot. Roof locations may be used when the mechanical equipment is installed within a sound rated parapet enclosure.
27. Final building plans submitted for approval of a building permit shall include on the plans a list of all permanent mechanical equipment to be placed indoors, which may be heard outdoors.
28. The developer shall covenant and agree with the City to the specific terms, conditions and restrictions upon the possession, use and enjoyment of the subject property, which terms, conditions and restrictions shall be recorded with the Napa County Recorder's Office as a part of the deed of the property to ensure that one affordable unit is provided and maintained over time and through subsequent sales of the property. An inclusionary requirement of one (1) unit shall apply to the project of which the unit shall be affordable to households between 51 and 80 percent of the (HUD) Napa County annual median income, as specified by the Planning and Building Department.
29. Prior to building permit issuance, a housing agreement shall be submitted for review by the City Attorney and the Planning and Building Director. Such agreement shall specify 1) responsibilities of the developer for making the unit available to eligible owners and 2) responsibilities of the developer to prepare application forms for the potential owner, establish criteria for qualifications, and monitor compliance with the provisions of the agreement. Prior to the issuance of a certificate of occupancy, this affordable housing agreement shall be executed and recorded.
30. Prior to occupancy, the applicant shall install, utilize and maintain a drip irrigation system for the life of the project.
31. Ground mounted equipment, such as backflow prevention devices and utility panels, shall be adequately screened from public view and view from adjoining developed parcels, as shown on construction drawings submitted prior to issuance of a building permit.

32. Prior to occupancy, all required new utilities to the site shall be placed underground to protect the scenic value of the property.
33. Prior to building permit issuance, a Lighting Plan shall be reviewed and approved by the Planning and Building Director. Exterior materials and illumination shall be limited to the extent necessary for safety. Architectural materials and lighting visible from the public right-of-way and adjoining developed parcels shall be prohibited and the light source of fixtures shall be limited in wattage or shielded to retain character of the site and surrounding area.
34. Prior to grading or building permit issuance, the developer shall deposit with the City the amount of \$5,000.00 for review and inspections by the Public Works Department and the City's Consulting Arborist. The City's Consulting Arborist shall be on site during construction or disturbances in the root protection zones (RPZ).
35. Prior to building permit issuance, an engineered foundation system shall be prepared in order to mitigate any potential impact to the on or off site trees for review and approval of the Planning and Building Department and the Public Works Department, in conjunction with the City's Consulting Arborist.
36. Landscaping shall be installed prior to occupancy. All landscaping shall be maintained throughout the life of the project, and shall be replaced as necessary.
37. The Planning Commission may revoke the permit in the future if the Commission finds that the use to which the permit is put is detrimental to the health, safety, comfort and welfare of the public, or constitutes a nuisance.
38. This permit shall be null and void if not used by November 8, 2008, or if the use is abandoned for a period of 180 days.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Calistoga at a regular meeting held this 8th day of November 2006, by the following vote:

AYES: Vice Mayor Gingles, Councilmembers Slusser, Dunsford,
von Pohle and Mayor Alexander

NOES: None

ABSTAIN/ABSENT: None


DR. ANDREW ALEXANDER, Mayor

ATTEST:


SUSAN SNEDDON, City Clerk