

RESOLUTION NO. 2007-031

A RESOLUTION OF THE CITY OF CALISTOGA CITY COUNCIL SUSTAINING THE PLANNING COMMISSION'S DECISION TO APPROVE THREE VARIANCES (VA 2006-05) ALLOWING THE LOCATION OF PARKING WITHIN THE REQUIRED FRONT, SIDE, AND REAR YARDS IN CONJUNCTION WITH THE CONSTRUCTION AND OPERATION OF THE HIGHLANDS CHRISTIAN FELLOWSHIP AT 970 PETRIFIED FOREST ROAD WITHIN THE "RR", RURAL RESIDENTIAL ZONING DISTRICT (APN 011-360-030)

WHEREAS, Upper Valley Ministries are the owners of the subject property for which this application is proposed; and

WHEREAS, the Planning Commission has reviewed and considered this application at its regular meeting on December 6, 2006 and February 15, 2007, 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 findings and approved the three (3) Variances (VA 2006-05), subject to 10 Conditions of Approval; and

WHEREAS, on February 23, 2007, the applicant appealed the Planning Commission's action to the City Council; and

WHEREAS, the City Council finds that this appeal is a de novo hearing; and

WHEREAS, the City Council reviewed the appeal during a public hearing at its regularly scheduled meeting on April 17, 2007. During its review, the Council considered the public record of the December 6, 2006 and February 15, 2007 Planning Commission meetings, including the staff report, findings, minutes, and written materials and testimony presented by the appellant during the hearing; and

WHEREAS, the City Council readopted a Mitigated Negative Declaration previously adopted by the Planning Commission on February 15, 2007, finding that with the incorporation of mitigation measures, the project will not have a significant adverse impact on the environment; and

WHEREAS, the City Council pursuant to Chapter 17.42 has made the following Variance findings for the project:

1. Conditions apply to the property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size or shape, topography, or other circumstances over which the applicant has no control.

Response: The property has a shallow lot depth relative to its width along its frontage with Petrified Forest Road. In addition, there are large oak trees located on the eastern property frontage (which are to be preserved) and a hill that blocks east bound vehicle visibility. These physical constraints require that the site be developed with the building on the west side and the parking on the east side of the property, as opposed to having the parking behind the building. The required front, side and rear parking lot setbacks would render a significant amount of the property unusable. Therefore, the shape of the lot and presence of a hillside to the west presents a physical hardship to reasonable development of the property.

2. The variance is necessary for the preservation of a property right of the applicant substantially the same as is possessed by owners of other property in the same zone or vicinity.

Response: Other properties with similar Rural Residential zoning have narrower portions of the property facing the street and can therefore utilize a greater portion of their property for development. Therefore, if strict compliance to the required front, side and rear yard setbacks for parking were to be applied to the Highlands Christian Fellowship, the owner would be denied a privilege that other nearby property owners with similar zoning enjoy.

3. The authorization of the variance will not be materially detrimental to the purposes of this Title, be injurious to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of City development plans or policies.

Response: Allowing parking to be located within 15 feet of the front property line rather than 20 feet and 5 feet of the side and rear property line rather than 20 feet required pursuant to Chapter 17.36 of the Calistoga Municipal Code will not result in a health and safety impact on traffic or adjacent properties. The parking lot will be separated from Petrified Forest Road by a 15-foot wide walkway and landscaped berm and separated by fencing and landscaping along the rear property line, which will reduce the visual impact to a level of insignificance.

4. The variance requested is the minimum variance which will alleviate the hardship.

Response: Given the shape and location of the subject property there is not a more suitable location on the site for the construction of the proposed parking lot that would comply with the strict application of the front and rear yard setback requirements and that would not cause undue environmental impact. A strict application of the Zoning Ordinance would result in impractical difficulties or unnecessary hardships to the applicant and would result in unreasonable deprivation of the allowable uses of the property within an "RR" District. This Variance has been found and is necessary to enable the establishment of a church that is consistent with the neighborhood character.

NOW, THEREFORE, BE IT RESOLVED by the City of Calistoga City Council hereby sustains the planning Commission's decision to approve three (3) Variances (VA 2006-05), based on the above Findings and subject to the following 10 Conditions of Approval:

1. This permit authorizes parking spaces located in the front, side and rear yards as submitted on March 15, 2006 and January 19, 2007 to the Planning and Building Department. Minor alterations that do not result in increased environmental impacts may be approved in writing by the Planning and Building Department Director.
2. This project shall substantially conform to the project description and site plan received by the Planning and Building Department on March 15, 2006 and January 19, 2007.
3. This permit shall be valid until it expires or is revoked pursuant to the terms of this permit and/or Title 17 of the Calistoga Municipal Code.

4. Prior to construction, a building permit shall be reviewed and approved by the Planning and Building Department.
5. One hundred and sixteen (116) required off-street parking shall be provided for the Highlands Christian Fellowship, as required by the Calistoga Municipal Code.
6. A Final Landscape Plan shall be submitted, in conjunction with the Building Permit, for review and approval by the Planning and Building Director and all landscape improvements shall be installed pursuant to the plan prior to the occupancy. Bonding in lieu of landscaping shall not be permitted without approval by the Planning and Building Director and a schedule of landscaping approved as part of the bonding request.
7. The applicant shall obtain approval of a Final Grading Plan that reduces to the extent possible the discharge of drainage onto adjoining properties, and identifies the location of fill materials. This plan shall require review and approval of the Public Works Director prior to issuance or as part of issuance of a building permit.
8. The permit holder shall permit the City of Calistoga or its representatives or designees to make periodic inspections at any reasonable time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.
9. This permit shall be null and void if not used by February 15, 2008, or if the use is abandoned for a period of one (1) year.
10. This permit may be revoked if the use for which the permit was granted is conducted as to be detrimental to the public health, safety, or welfare or as to be a nuisance, or upon other grounds as listed in Section 17.42.050 of the Calistoga Municipal Code.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Calistoga at a regular meeting held this **17th day of April 2007**, by the following vote:

AYES: Councilmembers Kraus, Garcia, Slusser, Vice Mayor
Dunsford, and Mayor Gingles
NOES: None
ABSTAIN/ABSENT: None

ATTEST:


DOROTHY ROADMAN, Deputy City Clerk


JACK GINGLES, Mayor