

MINUTES
CALISTOGA PLANNING COMMISSION
September 26, 2018

A. ROLL CALL

Commissioners present: Chair Paul Coates, Vice Chair Tim Wilkes, Alissa McNair, Walter Abernathy, Scott Cooper. Absent: None. Staff present: Planning and Building Director Lynn Goldberg.

B. PLEDGE OF ALLEGIANCE

C. PUBLIC COMMENTS

None

D. ADOPTION OF MEETING AGENDA

The meeting agenda of September 26, 2018 was accepted as presented.

E. COMMUNICATIONS/CORRESPONDENCE

None.

F. CONSENT CALENDAR

1. Minutes for the September 12, 2018 Planning Commission meeting

The minutes were accepted as presented.

G. PUBLIC HEARINGS

1. Municipal Code Amendment ZOA 2018-3: Consideration of a recommendation to the City Council to amend the Zoning Code to clarify the applicability of lot area and dimension requirements in various zoning districts, and to reformat certain chapters to improve their usability

Director Goldberg presented the staff report, noting that the Planning Commission's consideration of the design review application for the 1514 Washington Street apartments project had raised questions about the ability to develop lots that are nonconforming in terms of lot area and/or dimensions. Staff proposes a restructuring of eight zoning districts to separate the minimum lot area and dimensions requirements from development standards. Additional language related to nonconforming lots is also recommended. She emphasized that no development standards would be altered as part of this proposed reformatting and rewording.

In response to a question from **Vice Chair Wilkes**, Ms. Goldberg confirmed that the proposed language for minimum lot area and dimensions requirements does not refer to "development" in any way.

In response to a question from **Commissioner Abernathy**, Ms. Goldberg replied that the City Attorney had not reviewed the proposed resolution.

Commissioner Cooper commended the members of the public who took the time to research the Zoning Code and thinks it's important to follow through on concerns that are raised to encourage this kind of participation.

In response to a question from **Commissioner McNair**, Ms. Goldberg replied that she had not researched when the existing language regarding lot area and dimension standards had been developed or the language used by other jurisdictions, but opined that it is commonly-used ordinance language. **Commissioner McNair** concurred.

Chair Coates opened the public hearing.

Jeffrey Stambor, 1406 Fourth Street, appreciates the effort to make the regulations more clear and understandable, and not relying on staff interpretation of the applicability of the minimum lot area and dimension requirements. He is concerned that the proposed additional language for the nonconforming chapter raises the question of whether all other development standards apply to a nonconforming lot. The wording could be interpreted to allow a triplex on every lot on Fourth Street. Maybe the City should consider rezoning them to R-1 to better fit the existing neighborhood. He thinks that rather than changing the code, all projects should be required to meet the existing code. He questioned how many nonconforming lots would actually be prevented from developing; he doesn't think it's a substantial number.

Donna Higgins, 1410 Fourth Street, requests a legal opinion from the city attorney regarding staff's view of the applicability of the code to nonconforming lots. It's conjecture to conclude that there was a discussion of minimum lot requirements when the R-3 District was amended in 2014. She thinks there would be no minimum lot requirements if the proposed amendments are adopted, and it's not clear what other requirements wouldn't have to be met. The staff report concludes that the City could be sued if it doesn't allow development, even if it doesn't meet all of the standards. It should be made clear that development has to comply with all standards. She suggests that the east side of Fourth Street be rezoned to match the west side.

Chair Coates closed the public hearing.

Ms. Goldberg clarified that while only a handful of R-3-zoned properties could be subdivided, there are many other properties throughout the city in other zoning districts that could. Strictly applying the nonconforming standard would preclude further development on many lots, primarily located in the downtown neighborhoods. Owners of Fourth Street properties that are developed with single-family dwellings could request that the City Council initiate a rezoning of their properties to R-1 or do so themselves. The R-3 District was applied many years ago to encourage multi-family development in proximity to the downtown; consideration could be given to whether this is still a goal of the City's. The legal-sounding language at the top of page two of the staff report did, in fact, come from the city attorney's office. She believes that the proposed code language clearly states that all development standards would apply to a nonconforming lot

unless developments were approved in some other manner such as a variance or modifications for an affordable housing project. She could revise the second sentence of the proposed nonconforming lot language to clarify that all development standards apply unless otherwise provided.

Vice Chair Wilkes thinks the proposed language is clear; development has to comply with all standards unless a variance is granted. The State sets the threshold for a variance being granted. None of the standards would be changed; they're just being clarified. There's a possibility of changing the land use designation for the Fourth Street properties during the next General Plan update. Property owners also have the ability to apply for a rezoning.

Ms. Goldberg noted that the General Plan land use designation specifies the maximum density for a particular piece of property, which would be another factor in determining the potential number of units that could be developed, along with the minimum development standards.

Commissioner McNair observed that without clarifications to the nonconforming provisions, a property owner might be prevented from reconstructing their home should it be destroyed. She is concerned that if the proposed amendments do not move forward, there is the possibility that the current provisions could be interpreted in a manner that would prevent development.

Ms. Goldberg clarified that the Zoning Code allows the replacement of a nonconforming residential structure if it's pursued in a timely manner.

Commissioner Abernathy feels it's very important for the wording of the proposed amendments to be legally correct. Ms. Goldberg responded that the city attorney's office had reviewed the proposed language in general, but not the draft resolution. She agreed to refer the draft ordinance to the city attorney for review prior to the City Council hearing.

Commissioner Cooper encouraged the community to speak out on matters such as this because the public can make a difference. The Commission does listen and respond.

Chair Coates reopened the public hearing.

Robert Higgins, 1410 Fourth Street, asked why applying for a variance to allow development on a nonconforming lot isn't a possibility instead of amending the code. He questioned how it would be feasible to construct three apartments on a 6,000-square foot lot that comply with all of the development standards. The current regulations appear to require the approval of a variance for these situations, especially since the minimum number of units that can be constructed in the R-3 District is three. If the City denies a variance to allow three units, it seems like it would be open to a lawsuit, especially since the R-3 District doesn't allow the construction of a single-family dwelling or duplex on a property.

Vice Chair Wilkes replied that getting a variance approved is not an easy process and the applicant has to prove a severe hardship of some sort, usually related to physical constraints on development. A property's zoning does not

represent a hardship. It is physically possible to develop three small multi-family units, such as studios, on an undersized lot in a manner that meets the minimum development standards.

Chair Coates agreed that there is very high bar for obtaining a variance. The applicant has to demonstrate that application of the development standards would deprive them of a right enjoyed by the owners of other similar properties.

Ms. Goldberg explained that higher-density zoning is often applied to lots that are already developed at lower-density to encourage lot assemblage, which is likely what happened with several of the downtown properties that are now developed with apartments. The higher-density zoning is not necessarily intended to promote multi-family development on small lots.

Michael Nastari, 1407 Washington Street, asked which of the Commissioners would want to live next door to the 1514 Washington Street apartment project if it's constructed. He thinks there's a double standard. The project should have fewer units because of the limited on-street parking.

Chair Coates thinks it's inappropriate to ask what kind of housing people would live in. However, he does live in a very small unit.

Vice Chair Wilkes noted that the apartment project is not under consideration on this agenda. The genesis of the proposed amendments is to clarify the code's provisions citywide. However, the project will be considered by the Commission at a later meeting and the public's comments are appropriate then.

Chair Coates closed the public hearing.

A motion by **Commissioner Cooper** and seconded by **Commissioner Abernathy** to adopt Resolution 2018-17 recommending to the City Council approval of Zoning Code amendments to clarify the applicability of lot area and dimension requirements in various zoning districts, and to reformat certain chapters to improve their usability was approved unanimously.

H. MATTERS INITIATED BY COMMISSIONERS

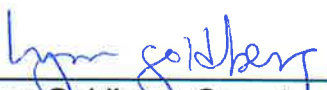
None.

I. DIRECTOR REPORT

Director Goldberg recommended that the Commission cancel its October 10 meeting because she would be at the state planning conference and the Commission concurred.

J. ADJOURNMENT

The meeting was adjourned at 6:15 p.m.


Lynn Goldberg, Secretary