



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

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<b>DATE</b>	December 12, 2018
<b>ITEM</b>	<b>Draft Minutes of November 14, 2018 Meeting</b>
<b>RECOMMENDATION</b>	Approve minutes with any necessary changes

**MINUTES**  
**CALISTOGA PLANNING COMMISSION**  
**November 14, 2018**

1 **A. ROLL CALL**

2 Commissioners present: Chair Paul Coates, Vice Chair Tim Wilkes, Alissa McNair,  
3 Walter Abernathy, Scott Cooper. Absent: None. Staff present: Planning and Building  
4 Director Lynn Goldberg, Senior Planner Zach Tusinger.

5 **B. PLEDGE OF ALLEGIANCE**

6 **C. PUBLIC COMMENTS**

7 Sally Manfredi provided information regarding community garden plots.

8 **D. ADOPTION OF MEETING AGENDA**

9 The meeting agenda of November 14, 2018 was accepted as presented.

10 **E. COMMUNICATIONS/CORRESPONDENCE**

11 Six emails regarding Item G.2. were distributed to the Commission.

12 **F. CONSENT CALENDAR**

13 **1. Minutes for the October 24, 2018 Planning Commission meeting**

14 The minutes were accepted as presented.

15 **G. PUBLIC HEARINGS**

16 **1. 940 Highland Court Use Permit and Design Review (UP 2018-11,**  
17 **DR 2018-8):** Consideration of use permit and design review applications for a  
18 single-family home on an existing lot

19 Senior Planner Zach Tusinger presented the staff report, explaining that approval  
20 of a use permit is required due to the proposed residence's location in the RR-H  
21 Zoning District. He circulated samples of the proposed colors and materials to  
22 the Commission for review. The home's construction will have to comply with the  
23 requirements of the Wildland-Urban Interface code due to its location in a Very  
24 High Fire Hazard Area. Staff believes the project is consistent with the Calistoga  
25 General Plan, Zoning Code and residential guidelines, and recommends its  
26 approval.

27 In response to a question from **Vice Chair Wilkes**, Mr. Tusinger confirmed that  
28 the arborist report and tree preservation plan will be included as part of the  
29 home's construction documents. A hydrant pressure test will be submitted as part  
30 of the required fire sprinkler system.

31 In response to a question from **Commissioner McNair**, Mr. Tusinger confirmed  
32 that notice of the public hearing was mailed to property owners within 300 feet of  
33 the project site.

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

35 Aaron Roden, Ryder Homes, noted that approval and construction of this home  
36 will be the last piece of this subdivision. In designing the project, they took  
37 advantage of an open area on the property that has few trees, and picked the  
38 location closest to the cul-de-sac to minimize the amount of grading. The  
39 proposed home was designed specifically for this lot. He contacted adjoining  
40 property owners Dennis McNay and Doug Molitor to review the project and  
41 discuss any concerns.

42 Doug Molitor, 2771 Foothill Boulevard, acknowledged meeting with Mr. Roden  
43 and appreciates the fact that the proposed design will preserve a specimen oak  
44 that he is concerned about. He would prefer the construction of an open-wire  
45 fence instead of the proposed wooden fence to maintain the hillside's open  
46 feeling.

47 Dennis McNay, 2653 Foothill Boulevard, thinks that more trees should be  
48 removed than are proposed to lessen fire danger. He is concerned about project  
49 run-off, and asked what percentage of the lot will be covered by impervious  
50 materials and how the home will be stabilized on the side of the hill.

51 **Chair Coates** replied that state law requires run-off to be addressed by the  
52 building permit plans and that the project's construction plans will provide for  
53 stable construction.

54 Mr. Roden stated that he is willing to construct a box wire fence instead of a  
55 board fence. He noted that a v-ditch running below the house will capture surface  
56 flow and prevent it from draining onto Mr. McNay's property. A geotechnical  
57 engineer will review the project's drainage plans and monitor construction.

58 Mr. Tusinger informed the Commission that the project plans show 5.8% of the  
59 site is proposed to be covered with impervious surface.

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

61 In response to a question from **Vice Chair Wilkes** regarding the protection of  
62 Tree No. 308 from the proposed nearby cut-slope, Mr. Tusinger noted that an  
63 work exclusion zone is proposed in the area surrounding the tree.

64 **Commissioner Cooper** appreciates the willingness of the developer to  
65 immediately accommodate the alternative fence design request.

66 A motion by **Commissioner Cooper** and seconded by **Commissioner**  
67 **Abernathy** to adopt Resolution 2018-20 approving Use Permit 2018-11 and  
68 Design Review 2018-8 for a single-family home located at 940 Highland Court,  
69 with an added condition requiring an open-wire fence, was approved  
70 unanimously.

71 2. **Buster's BBQ Height Variance (VA 2018-4):** Consideration of a variance  
72 request to allow an increase in the height of an accessory structure from 15 feet  
73 to 16 feet 3 inches at 1205 Foothill Boulevard

74 Senior Planner Zach Tusinger presented the staff report, reviewing the four  
75 findings that must be made in order for the Commission to approve the requested  
76 variance. Staff recommends the Planning Commission deny the requested height  
77 variance due to the lack of satisfaction of the required findings. However, should  
78 the Commission support approval of the variance application, staff requests  
79 direction on the required findings for preparation of a resolution, and  
80 recommends that the public hearing be continued.

81 Mr. Tusinger deferred to the applicant **Commissioner Abernathy's** questions  
82 regarding whether the applicant agreed to the method of height measurement,  
83 the cost to bring the structure into conformance with the Zoning Code, and why  
84 he didn't reduce the structure's height sufficiently to conform to the Code when  
85 he lowered it.

86 In response to a question from **Chair Coates**, Mr. Tusinger confirmed that the  
87 plans included with the variance application are "as-builts" that reflect the  
88 structure's current height.

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

90 Charles Davis, applicant, noted that there is a 2-foot 7-inch difference in grade  
91 from the upper end of the arbor to its lower end. This was the case when the  
92 permit was originally issued. He acknowledges that the walls that have been  
93 constructed were not included in the original plans. He is going to considerable  
94 expense to create an attractive setting. The two-foot difference shouldn't matter  
95 to anyone.

96 Sally Manfredi, 1001 Foothill Boulevard, read the email she had submitted to the  
97 Commission. The arbor is not helping to reduce the level of music and she hopes  
98 that the Commission follows staff's recommendation to deny the variance  
99 application.

100 Jeff Smith, 1111 Berry Street, believes that a deviation of 1 foot 3 inches is a  
101 very reasonable amount to approve and greater variances have been approved  
102 for other projects.

103 Michael Nastari, 1407 Washington, thinks that the requested variance is very  
104 reasonable. There isn't a structural problem and it doesn't negatively affect other  
105 properties. He hopes the Commission approves the variance request.

106 Alex Sebastian noted that the building next to the arbor seems considerably taller  
107 and bulkier. Buster has already been penalized by shutting down his business for  
108 several weeks. The requested height differential is an insignificant departure from  
109 the code's standard.

110 Dennis McNay, 2653 Foothill Boulevard, noted that the structure isn't going to  
111 block anyone's view. Special circumstances such the site's sloping property is  
112 why variances are provided for in the code.

113 Maxine Miller, 2412 Foothill Boulevard, reported that the business' owners are  
114 very generous to the community.

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

116 **Commissioner Cooper** acknowledged that Buster's is enjoyed by the  
117 community. However, there are objective standards that the variance request  
118 must be measured against.

119 **Commissioner Abernathy** asked Mr. Davis how much it would cost to bring the  
120 structure into conformity with the code, and whether the project's engineers were  
121 aware of having to account for slope. Mr. Davis replied that he has spent over  
122 \$100,000 on the arbor to date and that the engineers knew about the slope.

123 **Vice Chair Wilkes** asked Mr. Davis whether he consulted with anyone before  
124 lowering the building in response to the City's enforcement actions, and why he  
125 built it higher than was shown on the approved building permit plans. Mr. Davis  
126 replied that the topographic elevations were shown on the site plan, and he  
127 originally built the structure taller than was approved because he wanted to.

128 **Vice Chair Wilkes** asked staff to describe the structure as shown on the original  
129 permit plans. Mr. Tusinger said the side view of the structure showed a level  
130 grade.

131 Mr. Davis asserted that the structure was built as shown on the approved plans.  
132 Its height complies at the back end, but when he brought it to the front while  
133 maintaining the same level, it was higher. The second set of building permit plans  
134 that were approved show this.

135 Director Goldberg advised the Commission that the original permit plans did not  
136 show a retaining wall at the front of the structure or depict a slope on the side  
137 view. She explained that the City approved the second set of "as-built" plans  
138 submitted with the variance application in order to allow Mr. Davis to re-open his  
139 business. They conform to the structural requirements of the Building Code, but  
140 not the Zoning Code's height limitation. Mr. Davis agreed to apply for a variance  
141 to potentially address the excessive height as a condition of him re-opening the  
142 business.

143 **Commissioner McNair** asked Mr. Davis whether he had advised the project's  
144 engineers of the Zoning Code's 15-foot height limitation for the structure. Mr.  
145 Davis replied that he didn't think about it.

146 **Chair Coates** noted that the original site plan does not show the arbor's finished  
147 floor elevation. Therefore, staff would have to interpret the arbor as being  
148 constructed at grade.

149 Mr. Davis acknowledged that he should have had a conference with staff before  
150 constructing the structure. He thought he had lowered it to the approved height.

151 **Vice Chair Wilkes** noted that if plans had been originally submitted that reflected  
152 Mr. Davis' actual intent, the plans would have been corrected by staff as part of  
153 the normal review process and the structure would have constructed consistent  
154 with the height regulations. The height of the structure has nothing to do with the  
155 ability to have outdoor music on the site.

156           **Commissioner McNair** reiterated that the Commission is obliged to make a  
157           number of findings in approving the variance request, and feels that the applicant  
158           hasn't provided sufficient basis to make them. The building is attractive, but it has  
159           to meet the height limitation.

160           A motion by **Vice Chair Wilkes** and seconded by **Commissioner McNair** to  
161           deny the requested height variance due to the lack of satisfaction of the required  
162           findings was approved unanimously.

163           Director Goldberg advised the applicant of his right to appeal the Commission's  
164           decision to the City Council within 10 days.

#### 165   **H. MATTERS INITIATED BY COMMISSIONERS**

166           **Commissioner Cooper** reported that a neighbor on Myrtle and Hazel complained to  
167           him about the level of music at Buster's BBQ on Sunday. He noted that complaints  
168           had also been received from neighbors of the business. **Vice Chair Wilkes**  
169           suggested that staff look at the business' compliance with their use permit.

#### 170   **I. DIRECTOR REPORT**

171           Director Goldberg distributed agenda packets to the Commissioners for their next  
172           meeting.

#### 173   **J. ADJOURNMENT**

174           The meeting was adjourned at 6:33 p.m.

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Lynn Goldberg, Secretary