

RESOLUTION NO. 2015-036

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA, GRANTING AN UNDERGROUNDING UTILITY WAIVER AND AN EXCEPTION FROM THE SEWER CONNECTION REQUIREMENTS FOR THE BRANSTAD PARCEL MAP PM 2014-4

WHEREAS, on March 25, 2015, the Planning Commission adopted Resolution PC 2015-11 for the Branstad Parcel Map PM 2014-4 allowing the division of the property located at 957 Petrified Forest Road, into two parcels; and

WHEREAS, per CMC §16.16.090 and Condition No. 12 of Resolution PC 2015-11, the property owner is required to underground the existing and proposed utilities within the subdivision; and

WHEREAS, per CMC §16.16.130 and Condition No. 14b of Resolution PC 2015-11, the property owner is required to connect to the City's sanitary sewer system; and

WHEREAS, per §16.02.080 of the Calistoga Municipal Code the property owners have requested that the requirement of placing all existing utilities underground be waived and per §16.16.130(B) an exception from the sanitary sewer connection requirements be granted; and

WHEREAS, the City Council reviewed and considered the requested undergrounding utility waiver and sewer connection requirement at its meeting on April 21, 2015, and prior to taking action on the application, the Council received written and oral reports by staff, and received public testimony; and

WHEREAS, the City Council, pursuant to CMC §16.02.080(B) has made the following findings:

1. **Finding:** The granting of the modification will not be detrimental to the public welfare or injurious to the other property in the territory in which the property is situated.

Supporting Evidence: Allowing the existing overhead utilities to remain would not result in foreseeable impacts to the public welfare or harmful impacts to the neighboring properties.

2. **Finding:** The property is to be devoted to such use that it is impossible or impracticable in the particular case for full compliance.

Supporting Evidence: It is impractical for the property owners to underground utilities along their frontage when undergrounding of the utilities along other sections of Petrified Forest Road is highly unlikely.

3. **Finding:** Approval of any waiver or modification does not result in lots which are in conflict with the zoning ordinance.

Supporting Evidence: The purpose and intent of the zoning ordinance is: 1) to provide a plan of development for the City, and to guide, control and regulate the future growth of the City in accordance with the City's General Plan, and 2) to protect the established character of the City. Granting a waiver from the underground public utilities requirement will not be in conflict with the stated purpose of the Zoning Ordinance and would not alter the character or order of development already existing in the neighborhood.

WHEREAS, the City Council, pursuant to CMC §16.02.080(B)(2), has evaluated the criteria for granting an exception to the sewer connection requirements and finds that the likelihood of adjoining properties to connect to the sewer mainline is nil and that the property size and soil conditions would support the use of septic systems for each of the proposed lots.

NOW, THEREFORE, BE IT RESOLVED that based upon the above findings, the City Council waives the requirement to underground the existing utilities and grants an exception from the sanitary sewer connection requirements within the Branstad Parcel Map PM 2014-4, subject to the following conditions of approval:

1. Prior to occupancy, all new utilities shall be underground subject to the review and approval of the Planning and Building Department.
2. Prior to occupancy, a notice shall be recorded which shall run with the deed on the property advising subsequent property owners of the lack of public sewer facilities and of the potential for failure of the private septic system(s). The deed notice shall further advise successor property owners that the City of Calistoga has no obligation to provide public sewer facilities to the property in question even in the event of the failure of the private septic system(s).
3. Prior to occupancy, the property owner shall execute and record a hold harmless agreement with the deed of the property. Said agreement shall relieve the City of Calistoga of any and all liability that might arise from the use, and or failure of the private septic system(s). Said hold harmless agreement shall be in a form acceptable to the City Attorney.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Calistoga at a regular meeting held this 21st day of April 2015, by the following vote:

AYES: Vice Mayor Dunsford, Councilmembers Kraus, Barnes and Lopez-Ortega
NOES: None
ABSENT: None
ABSTAIN: None


CHRIS CANNING, Mayor

ATTEST:

KATHY FLAMSON, City Clerk