

**CITY OF CALISTOGA  
PLANNING COMMISSION  
REGULAR MEETING MINUTES**

Wednesday, August 26, 2009  
5:30 PM  
Calistoga Community Center  
1307 Washington St., Calistoga, CA

Chairman Jeff Manfredi  
Vice-Chairman Clayton Creager  
Commissioner Carol Bush  
Commissioner Paul Coates  
Commissioner Nicholas Kite

**"California Courts have consistently upheld that development is a privilege, not a right."**

Among the most cited cases for this proposition are Associated Home Builders, Inc. v. City of Walnut Creek, 4 Cal.3d633 (1971) (no right to subdivide), and Trent Meredith, Inc. v. City of Oxnard, 114 Cal. App. 3d 317 (1981) (development is a privilege).

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2 Chairman Manfredi called the meeting to order 5:35 PM.

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4 **A. ROLL CALL**

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6 **Present:** Chairman Jeff Manfredi, Vice-Chairman Clayton Creager, Commissioners Carol Bush,  
7 Paul Coates, and Nicholas Kite. **Absent:** None. **Staff Present:** James McCann, City Manager;  
8 Charlene Gallina, Planning and Building Director; Ken MacNab, Senior Planner; Planning  
9 Commission Secretary Cynthia Carpenter.

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11 **B. PLEDGE OF ALLEGIANCE**

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13 **C. PUBLIC COMMENTS**

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15 **John Davis** of 1801 Foothill Blvd. Stated that he is opposed to the change in the Use Permit for  
16 La Prima Pizza. He owns property at 1730 Adele Street. His tenant has complained and even  
17 threatened to leave should live music, which is already an occasional event, were to be permitted  
18 more often. People from as far away as a 1/2 a mile have noted to him that they can hear the  
19 noise. He noted that there is also extra traffic and he is concerned about having even more traffic  
20 and parking issues. The corner is already congested. If people are forced to park in residential  
21 neighborhoods, it will really begin to disrupt the area. Furthermore, this use, if permitted, will  
22 change the feel of the restaurant to more of a cabaret or night club. When La Prima Pizza took  
23 over this location, they were aware of the location's proximity to the residential part of town. It was  
24 set up as a restaurant. It was not set up as a bar that serves food. It will change the whole  
25 dynamic of the entire area.

26  
27 **Christine Ciriacka** of 1801 Foothill Blvd. Stated that she lives here part time in Calistoga and  
28 owns property at 1730 Adele Street. She is opposed to the loud music and noise. Her tenant is  
29 threatening to leave due to the loud music. Her tenant is so upset she can't even appear or write  
30 a letter. She is very opposed. She has heard from neighbors that patrons have been urinating in  
31 the yards, etc.

32  
33 **D. ADOPTION OF MEETING AGENDA**

34 There was motion by **Commissioner Kite**, seconded by **Commissioner Bush** to approve the  
35 agenda as submitted. **Motion carried: 5-0-0-0.**

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37 **E. COMMUNICATIONS/CORRESPONDENCE**

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F. CONSENT CALENDAR

G. TOUR OF INSPECTION

H. PUBLIC HEARING

1. **Revised Draft Urban Design Plan.** To resume discussion on the Revised Draft Urban Design Plan (UDP) and consideration of public comments received to date. *(This item was continued from the Planning Commission Meeting of June 24, 2009)*

**Director Gallina** provided an overview on the status of the Revised Draft UDP. She reported that the City Council considered the Commission request to create an Ad-Hoc Committee to provide recommendations for the Merchant properties and that their work will be completed within a month. She also stated that the primary purpose of this meeting tonight was to solicit additional public comment and address the list of outstanding issues identified in the staff report. Once Commission direction is provided on these issues and the Ad-Hoc Committee has completed their task, she indicated that revisions would be made to the Revised Draft UDP and brought back to the Commission for final discussion and recommendation to the City Council.

**Chairman Manfredi** opened the public hearing.

**Christopher Layton**, 1010 Foothill Blvd., referencing the Foothill Gateway at Lincoln, stated how heartened he is to learn that the Commission has agreed to look into this in more depth. He explained that he is concerned about the routing of through-traffic onto Silverado Trail. He urges Council to say once and for all that getting serious about getting traffic onto Silverado Trail is absolutely critical. In his letter on August 28<sup>th</sup>, Mr. Layton expressed concern about CalMart, which is central to a parking area proposal; he feels it's vital to protect CalMart at all costs. He wonders if it's a bad idea to use the Ace Hardware parking lot for infill. There isn't much parking as it is. Lastly, Mr. Layton is pleased about the idea of undergrounding of the utilities. He feels it's a terrific idea and hopes it goes through.

**Kristin Casey**, 1132 Denise Drive expressed that she is very thankful for the time given to the public to voice their concerns. Ms. Casey began by reading from her letter submitted to the Planning Commission (see Attached). She noted that between public meetings, specific legislation has been added to the UDP to address green house gas emissions. The City of Calistoga has put in place a Climate Action Plan, has numerous groups who are dedicated to working on mitigating the emissions issues in Calistoga, and the state and local governments, along with the community, will be working on these issues together. Ms. Casey doesn't feel it is fair to use this new legislation to force individual towns into creating and using roundabouts in order to reduce green house emissions. She doesn't feel the UDP is the right place to address this. There are separate and established programs and groups to deal with this on a different track, and she feels it would be better to just delete this from the UDP and let those other groups already in place deal with the emissions issues.

Ms. Casey's second point deals with the issue of the deletion of mention of the driveway into the new subdivision that is located at the gate of the Petrified Forest. This is actually a street into the housing subdivision, and intersects with highway 128 as well as nearly intersecting Petrified

87 Forest Road. She feels it should be placed back in the UDP. A more complete picture of the  
88 congestion in this area is vital. Without mention of it, the degree of congestion won't be as clearly  
89 conveyed.

90 Ms. Casey felt that with regards to the statement regarding connectivity, it should be deleted  
91 because the Northern Crossing is opposed by many and is no longer a part of the Urban Design  
92 Plan. There is already connectivity from Petrified Forest road. The citizens really do not need to  
93 be zipping from place to place on the north end of town in a residential area.

94  
95 Ms. Casey turned to the subject of the General Plan. The UDP shouldn't be promoting a  
96 commercial development that the City has been opposing for the last twelve years. She feels that  
97 the UDP is being used to circumvent the General Plan in order to promote this large commercial  
98 development. That's wrong. What's more, it is her opinion that it is outright illegal to use the UDP  
99 to supersede the City's General Plan, which flatly prohibits commercial development in the RR-H  
100 district, in order to create a loophole that would permit the development. This loophole would be  
101 created by the UDP prompting the necessity of revising the General Plan. This is a round-about  
102 and devious method to permit development that is currently prohibited. She stated that the  
103 Diamond Mountain Estates housing development is permitted, however commercial development  
104 has been denied because it is located in the RR-H district. This district strictly forbids commercial  
105 development and states it is contrary to the General Plan's support and protection of the RR-H  
106 district.

107  
108 Ms. Casey noted that the General Plan was subject to a lengthy and in-depth Environmental  
109 Impact Review, however for some reason, this UDP isn't subject to an EIR. She feels that the  
110 impacts that the UDP could and will have on the urban areas of the city is every bit as potentially  
111 negative and harmful as anything out there and really needs to be subject to an EIR in order to  
112 fully address the negative impacts she feels are imminent. She proceeded on with comments that  
113 State law had declared that a development plan that is in conflict with the General Plan is invalid  
114 at the time of adoption. The UDP is in conflict with the General Plan, and therefore it too will be  
115 invalid at the time it is adopted. She referenced a legal case where it was stated that a City's  
116 General Plan is the guide for all future development within a city. Therefore, the UDP must  
117 adhere to the General Plan. If the City changes the General Plan to fit the UDP, it is misusing the  
118 authority and is breaking the fundamental purpose of a General Plan in the first place. She further  
119 stated that the UDP must be consistent with the General Plan. Also, it is not proper to use the  
120 UDP as a means or vehicle in order to revise or change the General Plan.

121  
122 Ms. Casey stated that she isn't pleased with the idea of taking away CalMart's front parking lot.  
123 Yes, it's not pretty, but it is terribly convenient to the citizens of Calistoga. As for Rainbow Ag  
124 equipment, it should be celebrated, not denigrated. It is part of Calistoga's rural nature and  
125 eclectic charm.

126  
127 Ms. Casey asked when it was the desire of the citizens of Calistoga to remove the City's offices  
128 from the downtown area. Government offices in the downtown is a small-town thing. Plus, even  
129 in good economic times, it's still best to use the resources wisely and be happy with what you  
130 have.

131  
132 **Norma Tofanelli**, 1001 Dunaweal Lane, noted that she and others have repeatedly requested a  
133 Tour of Inspection for the proposed new streets identified in the UDP. She is very apprehensive

1 about the idea of creating roads in areas the State of California has listed as prime farm land.  
136 She wants not only the Commissioners, but the Council to physically walk the area and see for  
137 themselves why there is so much public concern about the proposed roadways. The proposed  
138 roads will create urbanization. She speaks for Pauline, Vince, and Lauren Tofanelli, along with  
139 herself, and asks that they not permit these roads until all decision-making bodies complete a  
140 mandatory tour of inspection of the sites.

141 Ms. Tofanelli also noted that the City's own attorney stated that discussions regarding the UDP  
142 have been in violation of the Brown Act.

143  
144 Ms. Tofanelli further noted that citizens have been assured repeatedly that creation of the UDP is  
145 not for the sake of having a means with which to revise the General Plan in order to permit  
146 development in the RR-H district, but is simply a way to provide specificity of the General Plan.  
147 The General Plan can only be revised for purposes of clarity. She has been assured that the UDP  
148 is not a back-door means to change the General Plan, however noted that the City Manager  
149 stated that the UDP amends the General Plan. If adopted it will give permission to go back and  
150 revise the General Plan. The UDP is to be used as a means to change development and zoning  
151 uses. The purpose of the General Plan is to protect the small-town feel and agricultural uses of  
152 Calistoga. However, this UDP does not address those goals, nor does it support those goals.  
153 Instead, it is a means to change all of those goals and create new development standards that run  
154 contrary to the General Plan.

155  
156 Ms. Tofanelli stated that there is interest in obtaining more information about the projects that the  
157 changes may affect. Mr. Coates, she noted, is the one who has been an advocate for maintaining  
158 the small town feel. He has been a champion for keeping Calistoga rural. However, it was a real  
159 eye-opener to her when she attended the Ad-Hoc Committee meeting with the Merchant family  
160 and heard Mr. Coates support the UDP, which previously he stated he was opposed to, and state  
161 it is time to push it through and move forward. What happened? What changed his mind?  
162 Basically, he reversed himself.

163  
164 Ms. Tofanelli wanted to know what projects are putting the pressure on making the UDP. It's very  
165 alarming, too, when a citizen asked if the purpose of the UDP was in order to help make the  
166 Merchant property more appealing to developers, to be told that yes, basically that is what this will  
167 achieve. She does not feel that is what the UDP was created for.

168  
169 Ms. Tofanelli explained that regarding the Washington to Dunaweal extension it was stated there  
170 was no broad consensus, the Crystal Geyser trucks are leaving town, and Caltrans has showed  
171 repeatedly in their studies that most of the traffic in the area is local. Who will use the extension?  
172 Why does the city think it needs it so badly? Furthermore, how will this affect local businesses  
173 when people no longer have reason to drive by those businesses? Look what could happen to  
174 CalMart. Much of their business depends upon the traffic that passes the store. Travelers  
175 headed to Lake County often stop at the store for provisions.

176  
177 Ms. Tofanelli felt the Washington to Dunaweal extension is an item of high priority for  
178 implementation. She noted at the sewer ponds there is nowhere to put a road without moving all  
179 of that infrastructure. Where will you relocate the ponds? Where can they go? There's no room  
180 except for on the very property in question; the Merchant property. Couldn't you look at other

1 options or places to route that road? Just because it's in the General Plan, and has been forever,  
102 doesn't mean it's a viable option.

183  
184 Ms. Tofanelli also heard that the City is requiring owners provide 20 ft for the bike path on river  
185 side properties, but legal counsel states that it not legal.

186  
187 **Chairman Manfredi** closed the public hearing.

188  
189 **Commissioner Kite** wished to note that what he said, should a road be required near the sewer  
190 ponds and farm, there would certainly be infrastructure costs and changes needed, but he didn't  
191 say he was sure the ponds would have to be moved.

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193 **Commissioner Coates** wished to address Norma's comments. He stated for the record that he is  
194 not in general support of the UDP, and he has been very vocal about that. However, he is the  
195 minority. His position has not changed at all. However, there isn't much one Commissioner can  
196 do if the rest of the Commission is not in support. Therefore, while he is against the idea, he isn't  
197 going to fight a fight that can't be won and will instead need to focus his efforts on helping to push  
198 the proposal through in the best way possible for the town, and to work for positive changes within  
199 the system and codes that will help to mitigate his concerns with the UDP.

200  
201 **Commissioner Coates** does feel it is important to look at the Merchant land and investigate how  
202 it can be used without the taking of agricultural land. However, he doesn't know that outcome and  
203 he will find out when it is looked at during public hearings. He has to deal with the hand that has  
204 been dealt to him. He can't stop the UDP so he can only work towards providing support.

205  
206 **Ms. Tofanelli** noted that it was helpful to hear what Mr. Coates had to say. However, she noted  
207 that the families and the community that live in Calistoga are virtually entirely against this idea. It  
208 is driven by the City and not what the community wants. She asked Commissioner Coates to  
209 elaborate on his comment that there are projects waiting for the UDP to be pushed through. What  
210 projects was he referring to?

211  
212 **Commissioner Coates** stated that all projects, big, little, must use the General Plan for guidance,  
213 however the UDP may supersede the General Plan and now you can't know how your project  
214 should and will proceed. This UDP is too far reaching and will change the rules and therefore all  
215 the plans for the projects that are in the queue. He expressed that he is against the UDP. He is  
216 not happy with it. But he simply does not have the Commission support to fight it. Therefore, his  
217 effort must now be directed towards finding a way to work, to preserve land, to make this work as  
218 well as it can for the community.

219  
220 **Chairman Manfredi** addressed the concerns voiced previously by **Doug Cook** in his letter dated  
221 June 24, 2009.

222  
223 1. Mr. Cook recommended that the City needed more communication and public involvement. He  
224 wants the City to allot more time to obtain further citizen involvement and comment.

225  
226 **Commissioner Manfredi** expressed that this meeting is addressing that concern and is taking  
227 time to discuss Mr. Cook's concerns.

2  
230 2. Mr. Cook noted that support of the City for business ought to be more far-reaching and involve  
231 all kinds of local businesses, and not just the resort aspect of Calistoga's businesses. He wants to  
232 see more opportunity for the citizens.

233 **Commissioner Kite** didn't feel that the GP or the UDP discourages a broad range of businesses  
234 and diverse activities. The plans can't discourage a business.

235 **Commissioner Creager** felt that it is in proper balance within keeping of the City's diversity and  
236 roots, which do include a strong resort community.

237 **Chairman Manfredi** noted that the plan does try very hard to address the live/work aspect of  
238 land. He explained that having more than one land use permitted for property is an attempt to  
239 created more opportunities for small business ventures within Calistoga.

240 **Chair Manfredi** requested that Commission discussion focus on **Carl Sherril's** submitted a letter  
241 that suggests that Dunaweal Lane is not a good option for a bypass. He feels you should route  
242 the traffic from Highway 29 across Deer Park Road and up Silverado Trail.

243 **Commissioner Kite** doesn't feel the plan states where the rerouting ought to be. The plan simply  
244 states that it is a goal in place to create less traffic issues around Lincoln Avenue and to change  
245 the designation from highway in order to make planning of events easier.

246 **Director Gallina** also noted that there will be more discussion about this sort of thing. The  
247 General Plan/UDP only points out options, but it doesn't state where it should go.

248 **Chairman Manfredi** felt that there are options to discuss. He isn't a proponent of using Dunaweal  
249 Lane for a bypass. He would like to explore others.

250 **Chair Manfredi** requested that Commission discussion focus on **Michael Quast** submitted a  
251 request that the UDP ought to discuss and create a parking plan for commercial and public  
252 parking.

253 **Director Gallina** pointed out once more that this kind of detail will come out later on with more  
254 detail and more specificity after the UDP has been adopted. The parking issue is a large one and  
255 she feels that it will most likely be put up high on the list of priorities.

256 **Director Gallina** also noted that public infrastructure is the broad topic, but more specific details  
257 and refinement will come to be after the UDP is adopted. There aren't any details yet. Once there  
258 are then there will be public discussion.

259 **Commissioner Creager** concurred.

260 **Chairman Manfredi** next addressed Kristin Casey's letter.

261 **Chairman Manfredi** stated that the point about green house gasses being taken care of in other  
262 ways is a point well taken. **Commissioner Creager** wanted to see the recommendations on the  
263 report implemented into all of the various aspects of the UDP. **Commissioner Bush** concurred

2 and feels it should stay. **Commissioner Coates** stated that he is uncomfortable with the grey  
277 area that can be problematic. AB32 and AB25 will do what they need to do on their own.

278  
279 **Chairman Manfredi** suggested that the legislation be deleted instead of included in the UDP.

280  
281 Regarding the Petrified Forest Gateway, **Chairman Manfredi** feels that the inclusion of the road is  
282 pertinent and ought to be included. As far as connectivity to that area, he would like to see that  
283 remain because it will be helpful in the future creation of bridges and bike paths, walking lanes,  
284 etc. **Commissioner Creager** agreed, and felt it's not just vehicle traffic but more geared towards  
285 bike paths and so forth.

286  
287 **Chairman Manfredi** felt that the removal of the Diamond Mountain development from the UDP  
288 would be fine. **Commissioner Creager** did note that the Design Review is consistent, and the  
289 Commission gave a positive review to move forward with the project. He didn't find it to be  
290 inconsistent in any way. However, he is okay with removal of that item, too. However  
291 **Commissioner Kite** felt that leaving it in does keep it open to legal challenge but it is a moot point  
292 as it's been decided to remove it.

293  
294 **Commissioner Creager** wished to make sure that people understand that the UDP is for  
295 clarification only, and it doesn't trump the General Plan. It is in keeping with the General Plan and  
296 is simply providing more specific information.

297  
298 **Commissioner Kite** feels that the acid test of the UDP is to find out if the UDP is providing further  
299 clarification on an item, or if it is seen to be some kind of deviation from the UDP and therefore the  
300 general plan. Regarding the CalMart issue, he stated that everything is based on that parcel  
301 being redeveloped. The parking is simply a suggestion should redevelopment be considered,  
302 parking be considered in the rear and not the front of the street.

303  
304 **Commissioner Creager** felt that it ought to say something to that effect, then, rather than  
305 "encourage future development" of that parcel. This is a suggestion. However, keeping the  
306 flexibility for the owner of the parcel and CalMart is important.

307  
308 **City Manager McCann** noted that with regards to the last two points in Ms. Casey's letter that it is  
309 only suggesting changes be made should future development occur. The statement wasn't to  
310 denigrate Rainbow Ag.

311  
312 **Chairman Manfredi** informed that Mr. Deiss had something to say about the CalMart situation  
313 about the traffic issue created by the parking lot traffic in and out of the area. **Commissioner**  
314 **Creager** concurred that it is true that there is a real problem in that portion of the street with traffic,  
315 and Bill Shaw is open to finding measures to mitigate that issue.

316  
317 **Commissioner Kite** explained that the extension of lower Washington is mentioned in the  
318 General Plan. If such a road ever be needed, it ought to look at the option of moving north  
319 towards Silverado. He doesn't feel that the General Plan is requiring building that road. It's a  
320 suggestion. However, as **Commissioner Coates** noted, it's in there, and it would necessitate the  
321 taking of agricultural land to accomplish.

2 **Commissioner Creager** felt that still, there needs to be a balance between what the City may  
321 need in order to keep their options open in the future, and not focus just on the interests of  
325 agricultural land owners. Retaining options for improving circulation patterns is a good idea.  
326 Taking it out, it would remove any flexibility for the City to create better circulation.  
327

328 **Commissioner Kite** wanted to know what the General Plan actually says about connectivity with  
329 regards to Dunaweal Lane. If the GP already addresses the circulation issue, it does discuss the  
330 extension of Washington to Dunaweal Lane. It's the same location as what's being proposed in  
331 the UDP. The UDP is proposing the connection to Silverado Trail to be located at the edge of the  
332 city limits as opposed to adjacent to the mobile home park.  
333

334 **City Manager McCann** noted that no new road is proposed. The issue is that there is a plan line,  
335 or suggestion in place, but nothing more. It's only a suggestion to help mitigate traffic in the  
336 future.  
337

338 **Commissioner Kite** noted that perhaps the language ought to say "should it ever be required"  
339 then other ideas, including the one made by the General Plan, ought to be considered, if that point  
340 is ever reached. That way, more than this one plan line can be considered. The UDP can say  
341 that the line in the General Plan is not the definitive line, just a suggestion of where a road, if  
342 needed someday in the future, may be considered.  
343

344 **Chairman Manfredi** next addressed **Joe Brigg's** noted issues with the proposed winery  
345 language. **Director Gallina** explained that the point of the language is to open the way for small  
346 wineries to be established within Calistoga. He wished to make sure that the winery ordinance  
347 was looked at as discussion is continued.  
348

349 **Chairman Manfredi** next addressed **Carolynne Wilkinson Clair's** submitted a letter with  
350 concerns about access from Fair Way and the use of her parking lot for public parking. Her resort  
351 customers would also be parking there, and she is concerned about the mixing of her paying  
352 customers at the resort and the general public.  
353

354 **Commissioner Creager** noted that it seemed a bit confusing when you look at the language  
355 about access to her property and her proposed parking facility. Her fear is that it would preclude  
356 access off of Lincoln Avenue, which is the main entry. The language ought to reflect that access  
357 to the parking structure would be off of Fair Way, but Lincoln Avenue would be the main means to  
358 get into her resort. It is better to not preclude access from Lincoln Avenue.  
359

360 **Chairman Manfredi** next addressed **Norma Tofanelli's** requested a tour of inspection of the area  
361 where roads are proposed for the Washington extension to Dunaweal Lane. Chairman Manfredi  
362 suggested that it ought to be walked by individual Commissioners. If they were to arrange that on  
363 their own time, then a notice would not be needed. He feels it is important.  
364

365 **Chairman Manfredi** requested Director Gallina to address Jag Patel's issue and staffs request to  
366 revisit the prior recommendation of the Commission on the Resort Character Area.  
367

368 **Director Gallina** noted that Jag Patel wanted to ask that whenever it is decided what the zoning  
369 will be on the parcels along Lincoln Avenue located currently in Community Commercial Zoning  
370 District, he would like to have his property in that area also zoned similarly. She explained that



there has been some talk about making that area developable with only certain kinds of things such as resorts, guest accommodations, restaurants and retail, and residential; all things that would be incorporated around a resort in that area should one be developed. The goal, of course, is avoiding development that isn't compatible with the resort feel; a bank, or a car dealership, for example. She stated that Mr. Patel asks that he also be included in whatever is decided, whether it be a different zoning or overlay, or if it simply stays as CC, he'd like that designation too so that he has more options for development. His property is currently designated as High Density residential.

**Commissioner Kite** noted that his property was designated High Density residential, but it doesn't fit in with that area as the CC zoning, because a CC zoning designation could still have residential build out, but would also allow other uses and provide Mr. Patel with more development options. The Commission concurred, stating that however it is zoned, Mr. Patel's land would be zoned the same.

**Commissioner Coates** feels that considering projects on a case by case basis is more beneficial and provides community input as well. If the community doesn't agree with the proposal of a project, they can discuss it and weigh it to see if it is compatible to the resort feel of that area of town.

The **Commission** in general felt that a list of various uses that could fit in nicely in the Resort Character Area would be very helpful. There should be a list of uses that wouldn't fit in, too, such as a large dealership or shopping center, a bank, a monolithic stretch out to Silverado Trail. However, it ought to be further discussed and the public input should be considered, as well, as the feelings of the stakeholders of the land. Then a land use list of permitted uses can be provided, and the rest can be considered on a case-by-case basis.

**Commissioner Kite** wished to interject some public comments he'd like to address. Undergrounding of utilities ought to be discussed and encouraged in the UDP. **Director Gallina** noted that it is already encouraged and addressed in the UDP to some degree.

**Commissioner Kite** also wanted to know about the Brown Act that is referenced. **City Manager McCann** noted that the City Attorney stated that the City's meetings must be noticed for public comment, documents must be vetted in public, actions must occur through public meetings and deliberation.

Lastly, **Commissioner Kite** asked about the bike paths along the river. **Chairman Manfredi** asked if this was with regards to the concern voiced that the City was going to require that people give up portions of their land for a bike path.

**City Manager McCann** noted that currently, when the Planning Commission grants a property an entitlement like a Use Permit or Parcel Map, one element to consider is that it is consistent to the General Plan. Sometimes there are properties located in specific areas, or they may have a larger impact than others, etc., and so a dedication of an easement may be in order to provide a portion of the bike path. The UDP also talks about the potential for a river trail. The General Plan notes that there is a river, so make it accessible. However, a great deal of research must be done in order to find out if a property or development ought to require or buy or take for such things like a bike trail or walking path.

He further addressed that Ms. Tofanelli commented that on lower Washington, people were told they must give up 20 feet of their back yard in order to get a permit for an additional bathroom. She further noted that Commissioner Coates stated that the mandatory language with regards to requiring giving up land would be removed from the UDP. Therefore, he believes that the specific language ought to be more suggestive rather than imposing an exaction. There needs to be some kind of nexus.

**Chairman Manfredi** suggested that perhaps at the next meeting it would be helpful to get information on the development on Washington Avenue that was required to give up 20 feet of their back yard in order to develop.

**Chairman Manfredi** suggested making a motion to continue this item to the following meeting in order to further discuss these matters.

**City Manager McCann** stated that it may be more beneficial to continue the meeting to a non-specific date in order for the Ad-Hoc Committee to complete their recommendations for the Merchant properties.

It was moved by **Chairman Manfredi**, seconded by **Commissioner Creager**, to continue this discussion to a non-specific date in order for the Ad Hoc committee to complete their discussions and research. **Motion carried: 5-0-0-0.**

## H. NEW BUSINESS

**1. GMA 2010.** Provide a recommendation to the City Council regarding the General Development Objectives for the 2010 Growth Management System Allocation process. *(This item was continued from the Planning Commission meeting of August 12, 2009).*

**Director Gallina** provided a brief review of the recommended Growth Management Objectives.

**Commissioner Kite** asked how many units must be given out by 2010. **Director Gallina** noted that there are not very many. Units put on the ground out of the 350 are 145. These are either building permits issued or actually built.

**Commissioner Kite** noted about 40% build out, then. **Director Gallina** concurred. However, **Commissioner Kite** is nervous about the Growth Management Allocation process because it is difficult to decide what projects will be given priority.

**Commissioner Coates** suggested that perhaps you can update the GMA every six weeks or so rather than it being such a long-lasting document. It would be better if there was a bit more flexibility.

**Director Gallina** suggested that the Commission also provide a recommendation on this concern to the City Council. She provided a list of projects that are likely good candidates for a growth management application.

467 **Commissioner Creager** noted that currently, there are a number of rumors out and about  
468 concerning whether or not the City has enough water resources to sustain new development. He  
469 would like to see some kind of reporting on a monthly basis or so that would address the water  
470 use, the new development uses that have been approved, etc., in order to keep everybody  
471 updated on the status of water and waste water conditions.

472 **Planning Director Gallina** suggested that perhaps the Commission recommend to City Council  
473 suspension of the system for 2 years, with the stipulation, as noted by Chairman Manfredi, that  
474 the Commission can request to reinstate the program at any time it feels water use is becoming  
475 an issue.

476 **Chairman Manfredi** expressed concern over the numerous steps and procedural hindrances that  
477 people with these kinds of applications face. Funding is another issue; if there is funding, but for a  
478 limited time, then the enormous time it takes to get the application process approved may leave  
479 an applicant without any funding, and therefore no project. If there was a way to make the system  
480 easier to use and navigate, one that would support local businesses and projects proposed by the  
481 community, it would make it that much easier for applicants to be approved. If the Commission  
482 felt there was some kind of an issue regarding water, they could always reinstate the program to  
483 deal with it.  
484

485 **Chairman Manfredi** opened the item for public comment.

486 **Bob Fiddaman**, Calistoga Affordable Housing, Inc. indicated that the water issue might be worse  
487 than is being stated. Mr. Fiddaman noted that the numbers don't seem to line up right, and it  
488 comes out that most of the lots haven't been built yet, so he finds about 38 or 40 units that have  
489 gone through the growth allocation process, maybe a few more, but not much. He further stated  
490 that everybody thought there would be a huge rush to build when this program was inducted.  
491 However, that's not happened. He suggested that perhaps allocations could be carried over if  
492 they are unused. Perhaps suspension of the program might be best.  
493

494 However, Mr. Fiddaman cautioned that if they do choose to suspend the program, they must  
495 make sure that the current applicants are not caught off guard and find themselves high and dry,  
496 with all kinds of changes made to the rules and regulations of their projects. He asked if the  
497 Planning Director can be in charge of handing out the allocations. Perhaps the prices could be  
498 expensive enough to make sure only serious applicants apply.  
499

500 **Commissioner Creager** felt that those who are already in the process of applying ought to be  
501 able to have some kind of a grace period in order to get the application in before the program is  
502 reinstated. It isn't fair to do it overnight.  
503

504 **Commissioner Creager** noted that the development of the program was based on a five-year  
505 growth estimate. If there is a reserve that can be drawn upon that retains the original intent of  
506 1.35 per year, there won't be so much potential for somebody getting caught in the middle unable  
507 to move forward.  
508

509 **Bob Fiddaman** had one more suggestion about lines 7-70, in the staff report; the primary purpose  
510 is to have the housing needs for low and very low income categories be considered with higher  
511 priority. His concern is that Calistoga's housing need allocation is about a third at this time as it  
512  
513

5 was three years ago, but one idea is to approach the County of Napa to help with land  
510 acquisitions. He stated that the County has been very supportive of the idea of helping Calistoga  
516 with fund in order to purchase land for housing. It would be to the City's benefit. Even though the  
517 City would be expected to give some kind of payment (housing unit credit) in return, it will be  
518 worth it. He is afraid the language would box the City in and make it unable to use the possible  
519 assistance of the County. Mr. Fiddaman is proposing that if the City were to purchase a parcel for  
520 \$2,250,000, they would ask the County to pay \$2,000,000 of it, and the City would pay \$250,000.  
521 The County of Napa would expect a substantial amount of the housing allocation credit. In  
522 addition, the City would use its water to help the County meet their required Regional Housing  
523 Needs Allocations (RHNA). The County helps financially, takes the credit of some of it to apply to  
524 their allocations, and the City would also get credit towards theirs, and help with finances.  
525 Therefore, Mr. Fiddaman suggested a change in the Residential General Development Objective  
526 wording to remove "remaining regional" on line 70.

527  
528 **Commissioner Coates** asked if the City would provide the resources and water, and the County  
529 would take the credits. He wants to see the City's goals met with their resources prior to meeting  
530 County needs.

531  
532 **Commissioner Creager** explained that currently Calistoga has an underdeveloped housing base.

533  
534 **Commissioner Coates** expressed fear that using the City's resources to meet the County's need  
535 would look bad. It's going to be perceived as using the City's resources for others and not the  
536 citizens.

537  
538 **Director Gallina** recommended that the Commission move forward with a recommendation to  
539 approve the general development objectives with any amendments. In addition, she stated that  
540 the Commission could recommend that the City Council consider suspending the system, with  
541 mechanisms in place so that a person has some protection should the system be reinstated.

542  
543 It was moved by **Commissioner Bush**, seconded by **Commissioner Creager**, that the Planning  
544 Commission recommend to City Council adoption of General Development Objectives for the  
545 2010 Growth Management Allocations.

546  
547 It was move by **Chairman Manfredi**, seconded by **Commissioner Creager**, to recommend to  
548 City Council to suspend the Growth Management Allocation system for an undetermined amount  
549 of time with provisions for protection for applicants who are in the middle of the process should the  
550 system be reinstated. **Motion carried: 5-0-0-0.**

#### 551 **MATTERS INITIATED BY COMMISSIONERS**

552  
553 **Commissioner Coates** made an announcement about the Down Payment Assistant Program.  
554 He stated the there have been about a dozen applicants, local people interested using the City's  
555 Down Payment Assistance Program in buy homes in Calistoga. He thought that the program is  
556 going well and he's really excited.

#### 557 **I. DIRECTOR'S COMMENTS/PROJECT STATUS**

558  
559 **Director Gallina** noted that staff is moving forward with the two committees that were appointed  
560 at the last meeting with regards to the Chevron Canopy and the La Prima Pizza issue. She  
561 announced that Commission Coates has been asked to participate in the Chevron canopy

5 Subcommittee with Commissioner Bush and other staff to help bring a recommendation back to  
563 the Commission.

564  
565 **J. ADJOURNMENT**

566  
567 It was moved by **Chairman Manfredi**, seconded by **Commissioner Kite** to adjourn the meeting  
568 to the next regularly scheduled meeting of the Planning Commission on September 9th, 2009, at  
569 5:30 PM. **Motion carried: 5-0-0-0.** The meeting adjourned at 8:42 PM.

570  
571 

572  
573 Charlene Gallina

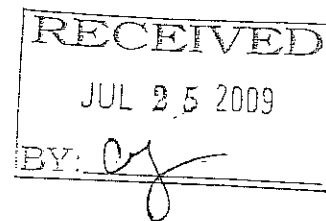
574 Acting Secretary to the Planning Commission

**URBAN DESIGN PLAN  
Correspondence Summary**

	Date Received	Received From		
<b>COMMUNICATIONS AND CORRESPONDENCE</b>				
Received too late to include in the August 26, 2009 Planning Commission Packet				
1	08/25/09	Kristin Casey		
2				
3				
4				
5				
6				
7				
8				
9				
10				

①

Kristin Casey  
1132 Denise Drive  
Calistoga, CA 94515



August 26, 2009

To Chairman Manfredi and Planning Commissioners:

Thank you for taking an additional meeting to consider the public concerns raised concerning the Urban Design Plan.

My first question is: will the current UDP draft be amended between this meeting and its presentation to the City Council, to reflect the changes the Planning Commission directs following your consideration of public input, or will the City Council receive the document as it is currently configured?

The staff report lists only 3 issues raised by me for further discussion, but there were actually more, which I'll set forth below. My references to the UDP document will be to the version showing strike-outs and additions.

- Between public meetings, an extensive addition was made to the UDP regarding specific legislation to reduce green house gases. However, green house gas emission reduction and ways to address it at the regional and local levels are already being fully addressed by the City Council's recent adoption of the Climate Action Plan and GHG resolution, which were presented in public hearings to both the Planning Commission and City Council. Ongoing work on this mission will be undertaken by joint efforts of the City and the Community Resources Commission and the public. AB 32 and SB 375 are not meant as clubs to force individual towns to create roundabouts at their intersections in order to reduce green house gases, and inclusion of these references in conjunction with discussion of intersections in the UDP is misleading. This added verbiage in the UDP is unnecessary and should be deleted.
- Under the Petrified Forest Gateway at page 11, at lines 452 – 454: For an unknown reason reference to the "driveway" serving a recent housing subdivision was deleted. This is actually a street into the subdivision and it does "intersect State Highway 128 very close to the intersection." Reference to this street needs to remain in place, to give a more complete picture of the congestion in this short span of Highway 128. There is no good reason to delete this information.

- The statement regarding “connectivity” at page 12, lines 535 - 537, should be deleted since the so-called “northern crossing” is opposed by many and is no longer included in the UDP, and there is already connectivity from the Petrified Forest intersection to town. Calistoga is a small town – we don’t have to zip across at the northern end where it is essentially rural. A small town doesn’t cry out for faster movement from one area to another.
- The UDP should not be promoting a commercial development that the City has repeatedly denied over the past 12 years and that would be contrary to our General Plan (see pages 19-20). Diamond Mountain Estates has been allowed as a residential development but not a commercial project because such commercial development is forbidden in the RR-H zone. Unless the General Plan is first amended, calling for such a development in the Urban Design Plan is contrary to the General Plan. I have said before and I will say again that in my opinion the UDP cannot legally embody development that is not allowed by our General Plan.
  - To argue that the UDP’s provisions must cause the General Plan to be amended is to advocate an end-run around the General Plan in regard to those items that are inconsistent with the General Plan and which have not gone through the lengthy vetting or EIR that the General Plan went through.
  - The authority of the General Plan requires that it not be forced into a secondary position to the UDP, which is a project that must be “based upon the General Plan.”
  - The California Supreme Court has ruled that “A zoning ordinance that conflicts with a general plan is invalid at the time it is passed.” It follows that, if Calistoga were to adopt an Urban Design Plan which is inconsistent with the General Plan, it too would be invalid at the time it was adopted.
  - From the beginning of the Urban Design Plan process, I have asked that the General Plan be adhered to because “The fundamental constitution of all local land-use policy, governing future growth and development, is the general plan.” Land Waste Management v. Contra Costa County Bd. of Supervisors [First District] (1990) 222 Cal.App.3d 950, 957.
  - The First District Court referred to Government Code section 65860, and stated that “land-use permits must be consistent with zoning ordinances, and that the latter (zoning ordinances) must in turn be consistent with the overall general plan.” Ibid. at page 958. It stands to reason that an Urban Design Plan, which has as its purpose to provide “refinement and guidance” regarding our existing General Plan, has no less a duty to be consistent with the General Plan than our ordinances and use permits have.



- According to the California Supreme Court, “A zoning ordinance that conflicts with a general plan is invalid at the time it is passed” and subsequently amending a General Plan to go with such an invalid ordinance cannot “revive an invalid zoning ordinance.” Further, the Court determined that Section 65860 of the Government Code “does not permit adoption of ordinances which are inconsistent with the general plan...”(and this statute does not permit actions) “to validate ordinances that were inconsistent with the general plan when adopted.” Leshner Communications, Inc. v. City of Walnut Creek (1990) 52 Cal.3d 531, 544-546. Again, this reasoning would legitimately apply to an Urban Design Plan which has as its purpose to provide “refinement and guidance” regarding our existing General Plan. It must not be contrary to the General Plan and it is not the proper vehicle to “amend” the General Plan.

Three final notes:

- Cal Mart’s parking lot is very convenient for local shoppers. I don’t think Calistogans really want Cal Mart to lose the front parking lot just because it offends some esthetic sensibilities (page 26).
- On page 40, rather than denigrate the farm equipment dealership (Rainbow Ag), we should be celebrating Calistoga’s rural and eclectic nature and supporting local businesses.
- When did the citizens of Calistoga agree that our city offices should be removed from downtown? It’s a small-town thing to want City offices in our downtown hub, plus even in good economic times we should strive to curtail unnecessary spending of our tax dollars and make do with what we have to the extent possible. Please delete the call to relocate these offices, at page 43.