

**CITY OF CALISTOGA  
PLANNING COMMISSION  
REGULAR MEETING DRAFT MINUTE EXCERPT**

**Wednesday, December 08, 2010  
5:30 PM  
Calistoga Community Center  
1307 Washington St., Calistoga, CA**

**Chairman Jeff Manfredi  
Vice- Chairman Clayton Creager  
Commissioner Paul Coates  
Commissioner Nicholas Kite  
Commissioner Matthew Moye**

“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).

1 **Chairman Manfredi** called the meeting to order at 5:42 PM.  
2

3 **A. ROLL CALL**

4 **Present:** Chairman Jeff Manfredi, Vice-Chairman Clayton Creager, Commissioners Paul Coates  
5 and Matthew Moye. **Absent:** Commissioner Nicholas Kite. **Staff Present:** Charlene Gallina,  
6 Planning and Building Director, Ken MacNab, Senior Planner, Erik Lundquist, Associate Planner,  
7 and Kathleen Guill, Planning Commission Secretary.  
8

9 **2. Zoning Ordinance Text Amendment (ZO 2010-02):** Consideration of interim text  
10 amendments to the Calistoga Municipal Code, initiated by the City of Calistoga, amending Title 17  
11 (Zoning Ordinance) to reduce regulatory barriers to economic development. The proposed  
12 amendments are exempt from the California Environmental Quality Act (CEQA) under Sections  
13 15061(b)(3), 15301, 15303, 15305 and 15332 of the CEQA Guidelines.  
14

15 **Commissioner Moye** recused himself from discussion because he has a winery project that will  
16 be affected by the ordinance.  
17

18 **Chairman Manfredi** opened the public hearing discussion at 5:53 PM.  
19

20 **Planner MacNab** summarized that due to an increased number of commercial vacancies and the  
21 economic downturn there has been dialogue with the Calistoga Chamber of Commerce and  
22 downtown property owners to discuss what the City could do to assist property owners to help fill  
23 the vacant spaces. There was no shortage of ideas for things the city could do to help fill spaces  
24 suggestions included showcasing vacant properties on the City web site, recruiting desired  
25 business and developing handouts explaining permitting procedures. During discussions it  
26 became evident to staff that certain development regulations are problematic and sometimes  
27 create a barrier for drawing new business to Calistoga. In response six “economic development  
28 measures” have been identified for consideration by the City Council that would provide relief from  
29 related development barriers. Planner MacNab recapped the proposed economic development  
30 measures from the Staff report dated December 8, 2010, referencing page 2 through 5 of 6,  
31 starting at line 37 as follows that could be approved through provisions of an interim ordinance.

- 32 1. Time extensions and reactivations of Conditional Use Permits.
- 33 2. Extend the expiration date for approved project applications for various applications from  
34 one to three years.
- 35 3. Reactivation of project approvals that expired in 2008, 2009, or 2010, if requested by  
36 current property owners.

- 37 4. Extend the time limit for maintaining nonconforming status from six months to 24 months to  
38 allow for a longer vacancy period between uses.
- 39 5. Allowing reuse of an existing commercial space without requiring additional parking for non-  
40 conforming/higher demand uses, provided the deficiency is no more than 10 spaces or a  
41 25% reduction, whichever is greater.
- 42 6. Defer collection of Development Impact Fees to the time a Certificate of Occupancy is  
43 issued or as part of an approved payment plan. (New business is sometimes required to  
44 pay for increased water and wastewater.)  
45

46 **Planner MacNab** wanted to make it clear that the proposed provisions would not change the  
47 General Plan or currently permitted land uses, and stated that the measures could provide  
48 significant relief and help business to move into Calistoga. Staff recommendation was to adopt  
49 Resolution PC 2010-18 forwarding a recommendation to the City Council for the adoption of an  
50 Ordinance adding Title 17.12, ECONOMIC DEVELOPMENT MEASURES TO THE MUNICIPAL  
51 CODE (ZO 2010-02).  
52

53 **Commissioner Coates** referenced the Staff Report, page 3 of 6, starting at line 94 questioning the  
54 legality of reactivation of project approvals that had previously expired.  
55

56 **Planner MacNab** noted this question was also raised by the City Manager and it will be forwarded  
57 to the City Attorney tomorrow, but noted appropriate legal notification to the surrounding properties  
58 may be necessary when a property comes in to reactivate.  
59

60 **Director Gallina** stated staff will have that issue resolved before it goes to Council.  
61

62 **Commissioner Coates** asked if they needed to discuss this further due to a potential change.  
63

64 **Director Gallina** suggested that legal notification to property owners within a 300' radius to advise  
65 consideration of reactivation of a use permit should be sufficient for administrative approval, except  
66 if someone has a concern and then it should be scheduled for review a public hearing.  
67

68 **Vice-Chairman Creager** asked if the benefit was to avoid additional fees or shorten the time for  
69 processing.  
70

71 **Planner MacNab** responded advising it is predominately to address the time required to complete  
72 permitting and it helps those that have already attained project approvals, but economic times  
73 have delayed the process and their intent has not changed, they want to go forward. This will  
74 allow them to reactivate when economic conditions are better.  
75

76 **Commissioner Coates** noted that without due process the measure on reactivation could actually  
77 backfire and possibly delay a project.  
78

79 **Vice-Chairman Creager** stated he could see a waiver of fees but still provide a review to see if the  
80 project is still consistent with city policy.  
81

82 **Director Gallina** noted a waiver of fees requires a close look at the issue of cost recovery for staff  
83 time. If the Commission doesn't feel comfortable with the suggested notification/exception

84 process, before we schedule review by the City Council we can bring it back to the Planning  
85 Commission.

86 **Planner MacNab** noted that the measure was not intended to preempt due process and is in the  
87 interest to expedite.

88  
89 **Vice-Chairman Creager** shared concern for unintended consequences of item 2 and 4, although  
90 he understood the benefit for those showing initiative. He suggested it gives more leverage to a  
91 property owner by extending time a property owner could let go an existing business for someone  
92 that will pay higher rent. What is the benefit to initiate new business?  
93

94 **Ken MacNab** stated the perception is right, landlords are leveraging improvement costs on  
95 prospective tenants but, this measure may defer needed improvements. The alternative if a  
96 landlord is unresponsive is that it could deter business from relocating.

97  
98 **Vice-Chairman Creager** if we were to provide more leverage to landlords the benefit should  
99 extend all the way through to the business owners.  
100

101 **Chris Canning**, Calistoga Chamber of Commerce confirmed the initial meeting included a  
102 selection of interested parties, i.e. potential business and property owners to get feedback on  
103 certain Zoning Regulations that make the process complicated in hopes to realize opportunities to  
104 remove or lower some of the barriers. Mr. Canning reminded we do need to position ourselves as  
105 an inviting community to be more attractive than the next town down the road. He reported there  
106 was frank dialogue and afterward the city proposed some changes. So now the excuses have  
107 been removed and the responsibility is back to the property owners. Yes, there could be  
108 unintended consequences, but we have vacancies, some at the three year mark. Some have no  
109 debt service and they are energized to be competitive. A property owner may take advantage of it  
110 but the capital market can take care of it. We are pressing this because we want to poise  
111 ourselves as quickly as possible.  
112

113 **Vice-Chairman Creager** understands there are no specific assurances, he liked the idea of a  
114 more competitive environment and the proof will be in the pudding when it comes up for renewal.  
115 Will property owners use this wisely or continue to improve their personal position. If we can't have  
116 assurance, we will put them on notice that we are watching.  
117

118 **Chris Canning** acknowledged that this removes the excuses and he has seen a significant  
119 decrease in rents being asked for. Some property owners held rents for a long time, lets the help  
120 property owner to help new business to start.  
121

122 **Chairman Manfredi** closed the public portion of the hearing at 6:15 PM.  
123

124 **Commissioner Coates** questioned if the language were recrafted can staff bring it back past the  
125 Commissioners.  
126

127 **Planner MacNab** stated that staff cannot review revised language with Commissioners one at a  
128 time due to the Brown Act and it would be more expeditious if the Planning Commission could  
129 provide direction on the intended support of the proposal. If the Commission is comfortable with  
130 the proposal staff will have the language reviewed by the city attorney for a legal interpretation to  
131 confirm the mail out notification process was adequate.

132 **Commissioner Coates** stated we need to expedite everything, but we also need to do it right. He  
133 asked if an adhoc committee would work.

134 **Chairman Manfredi** suggested removing bullet #3 and passing everything else along. Advise City  
135 Council another component will be coming up.

136  
137 **Vice –Chairman Creager** stated he was comfortable with leaving it up to the city attorney.

138  
139 **Chairman Manfredi** agreed if the city attorney says it works we should go with it. He noted he  
140 was just completely tired of people saying the city is holding them up. With that said he called for a  
141 motion.

142  
143 There was motion by **Vice-Chairman Creager, seconded by Commissioner Coates** to Adopt  
144 Planning Commission Resolution PC 2010-18 as amended, recommending to the City Council  
145 approval of a Zoning Ordinance Text Amendment (ZO 2010-02) adding Chapter 17.12 Economic  
146 Development Measures to the Calistoga Municipal Code to reduce regulatory barriers to economic  
147 development, reworking item 3 to be sure due process is satisfied. **Motion carried: 3-0-1-1.**

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149  
150 Prepared by Kathleen Guill  
151 Secretary to the Planning Commission