

SPECIAL PARADISE PLANNING COMMISSION

March 18, 2008 - 6:00 p.m.

Paradise Town Council Chambers

5555 Skyway, Paradise, CA

M I N U T E S

CALL TO ORDER

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

ROLL CALL

Present at roll call were Commissioners Griffin, Johns, Grossberger, Mannel and Chairman Woodhouse. Community Development Director Al McGreehan and Assistant Community Development Director Craig Baker were also present.

1. APPROVAL OF MINUTES

a. Regular meeting of February 20, 2008

It was moved by Commissioner Mannel, seconded by Commissioner Griffin and carried by those present to approve the minutes of the February 20, 2008 Special Planning Commission meeting with a correction to page 3 to reflect the vote for the Skyway Meadows Tentative Subdivision (SD-08-1) Map Application.

ROLL CALL VOTE: AYES: Commissioners Griffin, Johns, Grossberger, Mannel and Chairman Woodhouse. NOES: None. ABSTAIN: None. ABSENT: None.

MOTION CARRIES.

2. COMMUNICATION

a. Recent Council Actions

Mr. McGreehan reported upon recent actions of the Town Council at their regular meetings of February 26 and March 11, 2008.

b. Staff Comments – None.

3. PUBLIC COMMUNICATION – None.

4. CONTINUED PUBLIC HEARING - None.

5. PUBLIC HEARING – None.

6. OTHER BUSINESS

a. Referred Matter: Discuss proposed reforms to the Town of Paradise Tree Preservation Ordinance [PMC Chapter 8.12]; and Develop Recommended Action to the Town Council

Chairman Woodhouse explained that this matter is an assignment from the Town Council that consists of a limited review of the proposed changes to the tree preservation ordinance and the Council's request

for Planning Commission input. Chairman Woodhouse acknowledged receipt of several letters of comment from the public suggesting further ordinance changes and that some are beyond the scope of the Planning Commission's assignment.

Craig Baker presented the proposed Tree Preservation Ordinance revisions that reflect input by Town Attorney Dwight Moore and Town planning staff. The Planning Commission discussed the following proposed changes:

- Tree felling permit applications will be considered and acted upon by the Planning Commission or Planning Director, depending on which body is authorized to act upon the land use entitlement that is associated with the tree removal. As a result, the Tree Permit Review Committee would be dissolved.
- A qualifying tree will be measured by its diameter at breast height (DBH), an industry standard.
- Tree felling permit applications will no longer be required to be posted at the primary tree felling access site.
- Violations of the regulations will be an infraction, rather than a misdemeanor, to eliminate a possible jury trial.
- Appeals to include property owners who share a property line with tree permit applicant's property.
- Tree felling permits will no longer be required for public utility companies that perform work on public utilities; and the Town of Paradise will be exempt from tree felling permits for Town-funded capital improvement projects.
- Clarification for verifying the necessity for tree felling on town-approved construction activities.
- Timing of tree permit review: prior to issuance of any town permit whenever it is a permitted land use; and concurrently with any required hearing.
- Protection policies and regulations for trees not being felled during construction.
- Restocking requirements: a 1:1 replacement and either a) restocking on site with minimum 5 gallon native trees or b) in lieu fee paid into a fund exclusively for planting and maintaining of trees on Town or other local publicly-owned property.
- No processing fees for heritage tree applications.
- Second opinion by a tree expert can be required by Town staff, Planning Commission and/or Planning Director at the sole expense of a permit applicant.
- Qualified tree felling for a single family residential construction still subject to an administrative decision (Town Manager or designee).
- Additional text changes designed to clarify existing provisions and eliminate redundancy.

Mr. Baker stated that over the last four years the Tree Permit Review Committee met 17 times to consider 16 tree felling permit applications. Only five tree felling permit applications were subject to a planning hearing. If the new ordinance had been in place, the Planning Commission would have had an additional five hearings. The dissolution of the Tree Permit Review Committee will not create an additional burden to the Planning Commission. Mr. Baker added that it has been difficult to fill seats for the Tree Permit Review Committee.

Town Manager Chuck Rough stated that the Planning Commission is the quasi-judicial body for the Town. In providing complete land use review the Planning Commission should include tree permit and landscape plan applications in order to consider a project in its totality.

Commission Griffin requested clarification of the legal ramifications of a misdemeanor vs. an infraction for violation of the tree felling regulations. Mr. Baker responded that the fine for a violation will remain \$1,000 per count (or tree). However, an infraction does not require a jury trial, which is more cost effective for the Town. A lien on the property can result from failure to pay a fine.

Commissioner Grossberger requested clarification of a staff comment that the review of tree permit applications is cumbersome for the Town staff, and that the responsibility for tree permit review should be placed with the Planning Director or Planning Commission. Mr. Baker responded that besides the additional cost and staff time to process a public notice for an additional hearing body, when an environmental document is presented for adoption the Tree Permit Review Committee has no discretionary authority to change it; whereas the Planning Director or Planning Commission may amend it before its adoption.

The agenda item was opened to the public by Chairman Woodhouse. Appearing:

1. Tom Gomez, Tom's Tree Service. Mr. Gomez requested that the handouts for tree felling policies be amended to delete the word "suggested" if the regulations are actually in force and effect. Mr. Gomez also pointed out that Ponderosa and Digger Pines are subject to Western Gall Rust (Hip Cankor) that require the trees to be removed, and they should therefore be exempt from tree permit application fees. Mr. Gomez stated that gaffing and topping of trees is prohibited in the regulations only for landmark trees, but should be applied to all trees. In addition, Mr. Gomez suggested that three categories be added to the handouts: certified arborist, registered professional forester and contractor.

The Planning Commission discussed the three types of tree experts. As an alternative, the regulations could provide certain standards be required to be practiced such as those of the International Society of Arborists (ISA) no matter who is protecting the trees. Mr. Baker responded that this could result in an enforcement problem for town staff. Mr. Baker stated the tree experts are not the ones actually removing the trees. According to town staff, usually the tree experts are certified arborists or registered professional foresters. Those contractors with seven or more years of experience are not providing expert analysis, because they don't do that kind of work or they don't realize they qualify under our regulations. The scope of the definition could be amended to include only registered professional foresters or certified arborists. Commissioner Mannel stated that he would like to keep the current definition, but he also supports local certification. Mr. Baker added that the annual tree permit issued to utility companies with a filing fee is not currently subject to oversight due to town staffing. They operate under the supervision of an arborist.

2. Stephen Sayre, 6802 Rexdale Lane. Mr. Sayre submitted and reviewed a letter to the Planning Commission. Mr. Sayre supports the use of the ISA Standards for tree protection. He recommended the establishment of an urban forest task force which would include tree experts to restudy this matter and he would encourage service groups to participate.
3. John Hollister. Mr. Hollister is fearful that the proposed amendments to the tree felling regulations will result in more tree felling and a lack of control by town staff to moderate the tree felling. In addition, Mr. Hollister believes that replacing large trees with saplings will diminish the Town's viewshed due to the high mortality rate of saplings. He supports the retention of large trees for future generations.

THE PLANNING COMMISSION TOOK A TEN MINUTE RECESS.

4. Pat Witt, 1770 Forest Glen Road. Ms. Witt explained her opposition to the proposed amendments to the Tree Preservation Ordinance. She suggested that: the fine for violations of tree regulations be increased from \$1,000; extend the length of time tree permit violations can be reported; and increase the tree replacement ratio.

5. Germaine Armstrong, 5975 Maxwell Drive. Ms. Armstrong supports an urban forest task force for the review of tree permit applications.
6. Dawn Garcia, 5866 Crestmoore Drive. Ms. Garcia objected to the proposed Ordinance amendments because she believes it reduces its effectiveness and oversight. Eliminating the Tree Permit Review Committee will remove the “checks and balances” for tree felling Ms. Garcia suggested: an increase in the tree replacement ratio; use of tree permit fees to fund projects that protect public properties adjacent to streams and wetlands; include a certified arborist on staff; retain the misdemeanor penalty for tree regulations violations; and require the Town and public utilities to pay tree permit fees.

Mr. Baker responded that the Town is exempt from tree permit fees as it is a conflict of interest to issue a permit to itself, and further, local government is not subject to permit requirements.

7. Denice Britton, Chairman of the Tree Permit Review Committee and Certified Arborist. Ms. Britton submitted written comments to the Planning Commission and reviewed her concerns as follows:
 - a. PG&E should be able to maintain trees around their power lines without a permit, but should be monitored for potential irreverent tree felling.
 - b. The Town may remove trees for Capital Projects without a tree permit as long as they adhere to the same tree removal guidelines as everyone else.
 - c. Educate Town field inspectors to follow tree regulations and monitor their enforcement. Commercial property development should be reduced from its permitted 80% maximum impervious area coverage to 60%-70% to permit more property area for trees. Strengthen the tree regulations to reflect what percentage of trees should be retained on a property.
 - d. Show all trees proposed for retention and felling on the maps submitted for tree permit applications.
 - e. Tie the completion of mitigation measures and tree restocking to certificates of occupancy.
 - f. The problem with the CEQA process is that when a subdivision comes before the Tree Permit Review Committee to remove trees for road improvements, the application does not take into account the removal of trees for residential construction. There is a cumulative impact that is not considered in the CEQA document.
 - g. Retention of the Tree Permit Review Committee would provide another level of oversight for land use projects.
 - i. She opined that approval decisions by the Tree Permit Review Committee reflected planning division recommendations because a member of Town staff was Chairman of the Tree Permit Review Committee and the application reports were prepared by staff. In addition, the conflict of interest continues because staff will go before the Town Council with the proposed changes to the Tree Preservation Ordinance.
 - j. The members of the Tree Permit Review Committee were not advised of its potential dissolution.
 - l. Define the type of enforcement, tree protection and improve restocking requirements.
 - m. Property owners surrounding, not just adjoining, the property proposed for tree removal should also be notified of a Tree Permit Review Committee hearing.
 - n. The fine for violations of the tree regulations should be more than \$1,000.
 - o. Create a task force to monitor the tree regulations. They could be temporary and could include a contractor, council member or additional types of individuals in the community.

5. James Lear, 5866 Crestmoor Drive. Mr. Lear suggested that: tree replacement could be 1½:1, and should apply to any felled tree; replacement trees be a minimum of 5 gallons, 2 years old and 1-2 feet high rather than seedlings; inspect a replacement tree’s health within a year or two of

planting; the size of a felled tree should determine the size of the replacement tree: and a restocked tree should be able to grow to at least 25% of the height of a felled tree.

6. Jamie Holliman. Mr. Holliman supports the ability of neighboring property owners within a 300 foot diameter of a tree permit applicant to appeal a Tree Permit Review Committee decision. He also supports the retention of a misdemeanor designation for tree regulation violations. Mr. Holliman supports standards for advice and guidelines for tree protection. He is unsure whether the Planning Commission's empathy for people's concern for tree retention is ingrained in their values to enable them to be responsible for tree felling decisions. He further suggested that Denice Britton be invited to Planning Commission meetings as an advisor, so that the process can be retained either through a new member of the Planning Commission or through a task force.

Commissioner Mannel stated that the Planning Commission has qualified members who can make good decisions for the community. Mr. Baker added that the proposed revisions reflect a statutory opportunity for the Town to require a second opinion from a tree expert to provide additional input at the developer's expense. Commissioner Grossberger asked how staff would know a second opinion is needed if they do not, as Mr. Baker stated, have the expertise.

7. Bob Hobden, 1658 Paradisewood Drive. Mr. Hobden spoke in opposition to the dissolution of the Tree Permit Review Committee.

Commissioner Mannel stated his belief that the best forum to address the issues concerning trees in the community would be during the general plan review and update process. Goals and objectives would be the best task force for their implementation.

Chairman Woodhouse closed the agenda item to the public.

After a brief discussion, the Planning Commission unanimously concurred to continue this agenda item to their next regular meeting on April 7, 2008.

9. ADJOURNMENT

The Planning Commission was adjourned at 9:50 p.m.

Attest:

Chairman Woodhouse

Planning Commission Secretary