



TOWN OF PARADISE

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P L A N N I N G C O M M I S S I O N A G E N D A

February 15, 2011

6:00 p.m.

CALL TO ORDER

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

ROLL CALL

1. APPROVAL OF MINUTES

- a. Regular meeting of December 21, 2010

2. COMMUNICATION

- a. Recent Council Actions
- b. Staff Comments

3. PUBLIC COMMUNICATION

Comments are limited to a maximum of five minutes duration. If more time is needed, please request staff to place the subject on an agenda for a future Commission meeting.

***** PUBLIC HEARING PROCEDURE *****

- | | |
|------------------------------------|--------------------------------|
| A. Staff comments | C. Close hearing to the public |
| B. Open the hearing to the public. | D. Commission discussion |
| 1. Project applicant | E. Motion |
| 2. Parties for the project | F. Vote |
| 3. Parties against the project | |
| 4. Rebuttals | |

NOTE: Pursuant to Planning Commission Resolution No. 96-001, any person may speak before the Commission regarding the matter under consideration for **a maximum of five minutes** unless granted additional time by the Chair. "In accordance with the Americans with Disabilities Act, if you need a special accommodation to participate, please contact the Community Development Dept., at 872-6291 at least 48 hours in advance of the meeting."

4. CONTINUED PUBLIC HEARING – None.

5. PUBLIC HEARING

- a. Item determined to be exempt from environmental review

ST. THOMAS MORE SITE PLAN REVIEW PERMIT (PL10-00346) APPLICATION: Proposal for the expansion of existing church facilities via the construction of a $\pm 2,585$ sq. ft. rectory and the permanent establishment of two additional portable classrooms upon a ± 6.19 acre property zoned Community Services (CS) located at 767 Elliott Road, AP No. 052-080-110.

6. OTHER BUSINESS

- a. Discussion: Proposed measures to be taken by the Town to regulate medical marijuana dispensaries and medical marijuana collectives and cooperatives through the development and adoption of new zoning regulations.

7. COMMITTEE ACTIVITIES

- a. Status Report: Paradise Redevelopment Advisory Committee Meeting (Commissioner Serna)

8. COMMISSION MEMBERS

- a. Identification of future agenda items (All Commissioners/Staff)

9. ADJOURNMENT

MINUTES

CALL TO ORDER

The meeting was called to order by Chairman Johns at 6:00 p.m.

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

ROLL CALL

Present at roll call: Commissioners Bolin, Grossberger, Serna, Woodhouse and Chairman Johns. Community Development Director Craig Baker was also present.

1. APPROVAL OF MINUTES

- a. Regular meeting of November 16, 2010

It was moved by Commissioner Woodhouse, seconded by Commissioner Bolin, and carried by those present, to approve the minutes of the November 16, 2010 meeting as amended.

VOTE: AYES: Commissioners Bolin, Grossberger, Serna, Woodhouse and Chairman Johns.
NOES: None. ABSTAIN: None. ABSENT: None.

MOTION CARRIED.

2. COMMUNICATION

- a. Recent Council Actions: Community Development Director Baker reported on recent actions of the Town Council at their regular meeting of December 14, 2010.
- b. Staff Comments: None

3. PUBLIC COMMUNICATION – None.

4. CONTINUED PUBLIC HEARING – None.

5. PUBLIC HEARING

- a. Item recommended to be determined exempt from environmental review:

TREE PERMIT MODIFICATION (PL 10-00424) Consideration of a request to modify a condition of approval for a previously reviewed and conditionally approved tree felling permit application proposing to fell a +/-110 qualifying trees in association with

development of the site with a +/- 40,000 square foot mixed-use commercial project on property located at 6480 Clark Road and further identified as APNs 050-200-154, 155 and 156. The specific request is to modify the Planning Commission's previous approval action by extending the effective period of the permit approval by an additional 24 months.

Community Development Director Baker reported that the project applicant/land owner is requesting to modify a conditionally approved tree removal permit assigned to this mixed use commercial project which stipulated a Planning Commission approval of the tree felling permit had a time limit of two years, which means the tree felling permit will expire on January 5, 2011. The project applicant has submitted a formal request for the Planning Commission to grant an additional 24-month period for the tree felling permit.

Mr. Baker reviewed the background of the project, stated that the entire project was rezoned community commercial to accommodate the project, and that the tree felling permit is the only other entitlement associated with the project, as other uses proposed for the project are permitted uses in the community commercial zone (such as retail services, professional offices and restaurants). He explained that as a matter of practice and prudence, tree felling permit applications are not necessarily left open ended in order to accommodate changes in land uses and/or changes in policies or to spur a development along, knowing that there is a deadline.

Mr. Baker stated that the tree ordinance allows modifications based on reasonable conditions and if approved, the permit would expire on January 5, 2013. He stated that staff has prepared findings in support of the request for modification of the tree felling permit. Mr. Baker stated that staff is supportive of the request for an extension in light of the lack of favorable economic circumstances in which to develop the project, and because the proposed project represents the type of development that we would like to see in our community that will improve the Town's revenue base and provide a broader range of services for our citizens.

Commissioner Grossberger asked if the Planning Commission could only grant one extensions. Mr. Baker stated that the Planning Commission can entertain another request and can make the time even longer than what is requested, and the recommendation is to approve for another 24 months.

Chairman Johns opened the public hearing at 6:11 p.m.

1. Ron Sonntag, project applicant, stated that the reason for the request is an economic decision as the market has gone down, that retailers have begun to demand larger and larger discounts for the space, for example, empty retail space in town is leasing at 85 cents per square foot per month which doesn't make it feasible to development new space which requires approximately \$1.10 per square foot, and that he would prefer an even longer extension than 24 months, but that he thinks the 24 month extension would be fair.

Commissioner Johns asked if it looks like it is going to take more than two years and Mr. Sonntag explained that although Applebee's Restaurant is still interested in the site, in order to put in the infrastructure and wastewater treatment, he has to bring in more than one tenant and that it will requires all the square footage to be built to make the project feasible.

Commissioner Serna asked Mr. Baker if the tree permit application expired, would the applicant have to go through the entire process again, and Mr. Baker stated that the zoning on the property does not expire and that there is no other entitlement associated with the project. Although the Town could conceivably change the zoning, this is not the direction the Town wants to go as the Town sees the site as a prime commercial site that is desirable for development with a revenue producing land use. If the tree permit expires, a hearing for the tree removal will have to be held again at a higher cost to the applicant, rather than just a modification fee to an existing permit, and the tree removal plan will require re-evaluation. Mr. Sonntag stated that he paid \$312 fee to request this extension.

Commissioner Bolin asked if 36-months is the longest extension that could be granted and Mr. Baker stated that the municipal code is silent on the term of the approval action and explained that permit expiration is recommended as a matter of practice and that this is not so much a permit, but a permit application approval, as certain conditions must be met before the permit can be issued for tree removal.

Mr. Baker discussed the process extension requests with the Planning Commission explaining that each request is solely at the discretion of the Planning Commission, that customarily, 18 month expirations were recommended, but as the economy has begun to slow down, staff is recommending longer expirations, up to 24 months, and may be recommending longer expirations in the future. He stated that parcel maps last for three years initially and building permits last for up to a year, but stated that those are permits, and not permit approval actions.

Commission Serna asked if Mr. Sonntag has potential customers for the buildings.

Mr. Sonntag responded that the original tenant to anchor the space was ready to sign shortly after the property was rezoned (2009) but since that time, the tenant has assessed taking up other vacant spaces in town but has given him feedback that they want to wait and see what happen with other development in Town, with WalMart, for example.

2. Susan Greenleaf showed the Planning Commissioners on the map where her property is located, near to the proposed development, that she has lived there off and on since 1981, the trees make her place feel like a park, and that will go away after the project moves forward. She stated concern that when the tree are felled, and due to the 20 parking spaces that will go in their place, the car lights will be shining into all areas of her property and is concerned with the visual and sound aesthetics that will occur, that she would like the parking spaces in another area, or that the trees and grassy areas remain, and that she is opposed to the extension of the tree felling permit.

Commissioner Grossberger requested a brief recess to ask a question of Community Development Director Baker. Chairman Johns called for a recess at 6:23 pm and reconvened the meeting at 6:25 pm.

Susan Greenleaf stated that she is not only concerned with the trees along the edge of her property but with the entire development; that the property next to her was not zoned commercial when she

first bought her property; and that she wants to let the Planning Commission know what is happening to her home and that it's going to change dramatically especially with parking spaces pointing straight into her house.

Commissioner Bolin stated that the property is being used appropriately for the zoning and that the developer is trying to save as many trees as possible.

Mr. Baker gave a brief history of the rezoning of the properties surrounding the area, and stated that the purpose of the hearing tonight was to consider the extension of the tree felling permit and that the Planning Commission could take no action on any other aspect of the project.

Ms. Greenleaf stated that she wants the Planning Commission to know what will happen to a home she has lived in off and on for the past 30 years as a result of the tree falling and the development of the project and how it will impact her quality of life, especially with regard to the overhead lights, building lights and lights from cars coming in and out of the parking spaces.

Community Development Director Baker reminded the Planning Commission that a mitigated negative declaration was assigned to the project and adopted by the Planning Commission that addressed lighting and signs on the building and that those mitigations were intended to protect and shield adjoining residences from new light and glare that might be generated from this project, gave examples of the mitigations such as height requirements and placement of signs on buildings, and stated that the obligation is not to eliminate impacts but to reduce significant or potentially significant impacts to less than significant levels, to balance the interests of the neighbors, be they commercial or residential land owners.

Ms Greenleaf stated if the lighting was reduced to less than significant, it will still impact her property and quality of life to have lights on all night long, and would like more trees along the border of her property.

Mr. Baker stated that the Planning Commission made findings that the mitigation measures would successfully reduce those impacts to a less than significant level, that Mr. Sonntag pledged to make a sincere effort to design the landscape plan to help shield her property and others, that Ms. Greenleaf was encouraged to consider planting her own landscaping, and that final approval of the landscaping plan lies with the Town.

Mr. Sonntag stated that if there has been no dialogue, it is because there has been no movement on the development of the project.

Commission Bolin stated that he thinks it is a dual responsibility of a developer and the landowner regarding landscaping, and Commissioner Grossberger discussed the success of the wooden fence she placed on her property to protect her home from lights and glare, discussed the successful landscaping done at the medical office complex located at Bille and Pentz and suggested that Ms. Greenleaf talk to the neighbors who live near that project.

Commissioner Johns closed the public hearing at 6:40 p.m.

Commissioner Bolin stated that he is supportive of at least a 36-month extension, if not a 48 month extension, that the project is a good project and one that the Town wants, and it makes sense to extend the application to prevent the applicant from having to spend more money to come back to the Town for another extension.

Commissioner Grossberger stated that the development of the medical complex she referred to shows good development, and that although she thinks this is a good project with a lot of potential, that the Commission should stick with the recommendation for a 24-month extension because we don't know what will happen next year, we don't know what kinds of policies might come down generated either by our own code changes or by the State code, and her comfort level is with the 24-month extension.

Commissioner Serna stated that looking at the economy, which he doesn't see turning around in less than five years, and until the real estate economy turns around we're not going to see the economy turn around, or vice versa, that he thinks a longer term might suit everybody better and questioned whether any changes in local ordinances would affect this tree permit.

Mr. Baker stated that the Council just recently adopted the 2010 California Building and Fire Codes, which will be effect for the next three years.

Commissioner Woodhouse stated that the project is appropriate for the zoning and before the applicant can pull a tree permit, there are many other administrative hurdles that must be accomplished, such as the building permits will need to applied for, that design review will be needed, and landscape plan will have to be submitted and approved, there are plenty of additional controls on the project, and as such, he doesn't see any problem in extending the permit for 36-months.

Commissioner Grossberger stated that she thinks the Town has the time frames for a reason, that we have bumped the time frame up from 18 months to 24 months, that she thinks it is ok to revisit in another two years as a lot things can happen in that time period, that she thinks it is worth the price paid by the applicant to make sure our Town is what we want it to be.

Commissioner Johns asked if the increments have to be in year periods.

Mr. Baker stated that the Commission shouldn't be arbitrary, that the path of logic should be traceable in the minutes and supported with findings, and if motion is made for something other than 24 months, that reason should be clearly stated.

Commissioner Johns suggested approving a time extension of 30 months, which would be two and a half years, as a form of compromise, as there are many contexts that could be argued for 24 or 36 months, sympathetic to Mr. Sonntag and to Susan Greenleaf, and that he would like to see this be a unanimous decision as he thinks the Commission is on board with approving an extension.

It was moved by Commissioner Bolin, seconded by Commissioner Woodhouse, to adopt the findings provided by staff and to approve the tree felling permit

modification request thereby assigning an additional 36-month long extension of the Planning Commission's original 24-month long approval period, based upon and subject to the following findings and modified condition of approval:

FINDINGS FOR APPROVAL:

1. Find that the proposed tree felling permit modification is exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section 15061 (General Rule Exemption) of the State CEQA Guidelines, because the modification has no potential to cause a significant effect upon the environment.
2. Find that the proposed modification request is reasonable and appropriate because current economic conditions have created an unfavorable environment for the establishment of the proposed commercial development project associated with the Sonntag tree felling permit.
3. Find that approval of the modification request would promote the construction and establishment of a commercial project that will benefit the Paradise community by strengthening the local tax base and providing additional commodities, services and conveniences to the citizens of Paradise.

MODIFIED CONDITION "E"

- E. The approval action of this tree felling permit application shall only valid and in effect for five years (60 months) past its original conditional approval date (January 5, 2009) (to expire January 5, 2014).

ROLL CALL VOTE: AYES: Commissioners Bolin, Serna, Woodhouse and Chairman Johns. NOES: Commissioner Grossberger. ABSTAIN: None. ABSENT: None.

Commissioner Grossberger stated for the record that although she supports the project, she voted no for an extension past the 24-months because she has concerns about the Town Council and the Planning Commission modifying or changing policies using the state of the economy for the reason.

b. Item recommended to be determined exempt from environmental review:

PARADISE MUNICIPAL CODE: Proposed text amendments to subdivision regulations of Chapter 16.09 [Dedications and Reservations] contained within Paradise Municipal Code Title 16 [Town Subdivision Ordinance]. The text amendments are consistent with and further implement an objective of the Paradise General Plan to increase the standard ration of park acreage to population from three (3) acres to five (5) acres per 1,000 population.

Community Development Director Baker explained that State law provides for the dedication of park land or for the payment of an in-lieu fee, or both, when land is divided; and, that our municipal code contains provisions that help to implement those State laws. He referred to the

proposed Planning Commission resolution and explained how adoption will implement the General Plan objective to increase the ratio of park land to five (5) acres per 1,000 population; and, discussed how our code currently provides for the dedication of land for subdivisions of 50 lots or more, which we don't get very many of; or the payment of an in-lieu fee for subdivisions of 50 or less, in order to help the local park district acquire park lands such that the ratio of land to population is achieved.

Mr. Baker further discussed the formula in Section 16.09.020, that the persons per dwelling unit is proposed to be decreased which in some sense mitigates the increase to the fee; and, explained the example given in the Municipal Code regarding a 10 lot subdivision with a value of \$20,000 per acre, that previously would have paid \$1,400 in park and recreation fees would now be required to pay \$2,200, a little more than a 50% increase to the Paradise Recreation and Park District. Mr. Baker stated that the fee would be solely applicable to land division, is not a general tax, and meets the Open Space Conservation Element (OSCE) Objective of the 1994 General Plan. He also pointed the amendment to Section 16.09.050 that open space covenants would be submitted to the town engineer rather than to the planning department.

Mr. Baker also gave the example that for a parcel map application that is three acres in size, creating four lots, the fee today would be \$1,350.13; and, upon adoption of the proposed amendment, the fee would rise to \$2,121.64.

Commissioner Bolin commented that this is a proposal for additional fees in an economy where one cannot produce a marketable lot and that the in-lieu fee would be in addition to the other fees assessed by the PRPD, and that this fee is only on the lot development – more fees will be applicable when building permits are pulled.

Mr. Baker stated that the in-lieu fee is for all subdivisions that are less than 50 lots; that an in-lieu fee enabled by State law is intended to provide an ability to purchase park land for communities; and, that the nexus is that when land is divided, more residents are accommodated; and more residents create a need for more park land; and, that the Town is at approx 4.1 acres now.

Mr. Baker also explained that one of the reasons this matter has not been recommended for implementation was to avoid the appearance of a conflict-of-interest, in that the former Community Development Director is an elected member of the Paradise Recreation and Park District Board (PRPD), and referred to the letter from the PRPD requesting that the Town approve the proposed text amendment to the subdivision regulations, as it is in line with PRPD District policy to reach five (5) acres of developed park land to every one thousand population, an objective of the District's Master Plan.

It was discussed that the current fee was established in 1990; and, that the Paradise General Plan was adopted in 1994; and, Mr. Baker stated that it is staff's recommendation that the proposed text amendments be approved and the proposed resolution adopted as it applies only to land division.

Commissioner Johns stated that he thinks the Commission is ok with increasing the amount of park land, but not with the increase of fees, and the Planning Commissioners discussed the

potential fee impacts as a result of the Town Council adoption of the California State Building Codes Standards. Commissioner Bolin stated that although the fees increases are unknown and it is difficult to predict the impact of new requirements, including those that will come from the Green Building Code standards, such as plan check fees, that he thinks the cost increase will be between \$8,000 and \$12,000 per house in Paradise and as much as \$15,000 to \$20,000 in Chico; and, that the combination of increases of all types of fees, including this in-lieu park fee, is making it cost prohibitive to build either homes or commercial buildings. He stated that he is ok with taking the land value to the one thousand population.

Commissioner Grossberger noted that the fees were set in 1990 based on the housing cost at that time, that the profit margin in housing has increased, that the increase is tied to both General Plan policy and to the Park Master plan policy and that she thinks an increase of population calls for an increase of park land.

The Planning Commission further discussed the availability, location and plans for future park development in Paradise; and clarified that in-lieu monies collected in Paradise must be used in Paradise and need to be used within five years.

Commissioner Serna asked for clarification, and Mr. Baker confirmed, that subdivisions of less than 50 lots are required to pay the in-lieu fee, but that subdivisions over 50 lots could potentially provide either a land dedication or payment of an in-lieu fee, or partial in-lieu and partial land dedication.

Commissioner Johns stated that it appears the Planning Commission wants to support the increase of park land, asked if the formula is linked to the increase of fees, that he thinks the Planning Commission is sensitive to the state of the economy, asked if this could be modified to include a recommendation that the Town Council consider the change to not take effect for a certain period of time. Mr. Baker explained how the calculations are related, that it is good public policy to establish park land for the community, and that if the Planning Commission does not support the resolution as presented, he recommends it not be adopted at this time, to be brought forward at another time.

Commissioner Woodhouse stated that he thinks the Planning Commission should be thinking in terms of the General Plan and vision for the future, that park land is a good thing, that it is the job of the Town Council to consider the political factors of adopting the Planning Commission recommendation, and that he is in favor of adopting the recommendations.

It was moved by Commissioner Johns, seconded by Commissioner Grossberger, to (1) Concur with the project "CEQA determination" adopted by the Town Planning Director and dated December 15, 2010; and, (2) Adopt Planning Commission Resolution No. 10-13, "A Resolution of the Paradise Planning Commission Recommending Town Council Adoption of Text Amendments to Chapter 16.09 of the Paradise Municipal Code Relating to: Land Dedications and Reservations Consistent with the Paradise General Plan.

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

6. OTHER BUSINESS – None.

7. COMMITTEE ACTIVITIES

- a. Paradise Redevelopment Advisory Committee meeting was cancelled.**

8. COMMISSION MEMBERS

- a. Identification of Future Agenda Items – None.**

9. ADJOURNMENT

The Planning Commission meeting was adjourned at 7:20 p.m.

Mitchell Johns, Chairman

Attest:

Joanna Gutierrez, Town Clerk

MEMORANDUM

TO: Paradise Planning Commission **AGENDA NO. 5(a)**

FROM: Craig Baker, Community Development Director

SUBJECT: Paradise St. Thomas More Site Plan Review Permit (PL10-00346) and Tree Felling Permit (PL10-00431) Applications

DATE: February 8, 2011

BACKGROUND:

This agenda item was scheduled for Planning Commission consideration and recommended conditional approval action during the February 15, 2011 Planning Commission meeting. However, the public notices mailed to surrounding landowners and the notice published in the local newspaper did not contain required information regarding the proposed project, particularly as it pertains to the applicant's proposal to fell qualifying trees in order to accommodate the project. As a result of this inadvertent omission of project details, Town staff, supported by a legal opinion from the Town Attorney, is recommending that the Planning Commission simply refer the matter to the Town Planning Director for decision-making action. If a majority of the Planning Commission agrees with this recommendation, the scheduling of project decision-making will only be delayed approximately one week and there will be no legal requirement for a second notice to be published in the local newspaper.

The project proponent, St. Thomas More Catholic Church, is seeking Town approval to modernize and expand existing church facilities by constructing a new rectory and to install two additional portable classrooms for the existing charter school located upon the church grounds. Approximately twenty-three qualifying trees are proposed to be felled and removed in association with the project. No increase in enrollment at the school is proposed – only additional classroom space to relieve crowded conditions within existing classrooms. The proposed project site consists of a ±6.13 acre property currently developed with existing church and school facilities and located at 767 Elliott Road in Paradise.

ANALYSIS:

Paradise Municipal Code (PMC) Section 17.45.420 and Town of Paradise Administrative Policy No. 660 provide for the Planning Director to act upon site plan review applications and associated tree felling permit applications. In such cases the Planning Director's decision may be appealed to the Planning Commission and be subsequently appealed to the Town Council. Town Staff initially scheduled the St. Thomas More site plan review permit application for Planning Commission consideration simply due to the timely nature

of the regularly-scheduled February Planning Commission meeting relative to the completion of staff recommendations for the project. However, in consideration of the omission discovered within the public notice for the project and in the same spirit of timely processing, Town staff now recommends that the Planning Commission refer the permit applications to the Planning Director for re-noticing (mailings only required for Planning Director site plan review hearings and associated tree felling permit applications) and Planning Director consideration on February 23, 2011, rather than delaying the project for possible decision-making action during the next regularly-scheduled Planning Commission meeting on March 15, 2011. The Planning Director is also scheduled to consider a minor parcel map application on February 23, 2011 that is unrelated to this agenda item.

Staff will be prepared to address any questions that the Planning Commission may have regarding details of the proposed project.

REQUESTED ACTION:

Adopt a motion to refer the St. Thomas More Catholic Church Site Plan Review Permit (PL10-00346) and Tree Felling Permit (PL10-00431) Applications to the Town Planning Director for consideration and possible decision-making action at a public hearing scheduled for February 23, 2011.

MEMORANDUM

TO: Paradise Planning Commission **AGENDA NO. 6(a)**

FROM: Craig Baker, Community Development Director

SUBJECT: Workshop Discussion Regarding Possible Measures to be Taken to Regulate the Cultivation of Medical Marijuana Within the Town of Paradise

DATE: February 9, 2011

BACKGROUND:

On February 8, 2011, the Paradise Town Council unanimously adopted Ordinance No. 514, thereby extending an interim urgency ordinance adopted on January 11, 2011 that enacted a moratorium on the establishment of medical marijuana distribution facilities and the establishment or operation of collectives for the cultivation of medical marijuana. The extension of the moratorium will be effective for a maximum period of ten months and fifteen days. The purpose of the ordinance and moratorium is to provide the Town Manager and Town staff an opportunity to study measures that can be taken to regulate the cultivation of medical marijuana distribution facilities and collectives within the Town and to possibly develop zoning regulations that would be presented first to the Planning Commission and ultimately the Town Council for possible adoption.

The purpose of this agenda item is to provide an opportunity for Planning Commission members to discuss the matter of medical marijuana cultivation within the Town of Paradise with Town Attorney Dwight Moore and Town staff. A number of attachments have been assembled and are attached for your reference and review. Included within the assemblage of attachments is a report generated by Town Manager Chuck Rough dated January 31, 2011, outlining several options under consideration to implement the effective regulation of medical marijuana distribution facilities and cooperatives.