

PARADISE PLANNING COMMISSION
November 16, 2010 - 6:00 p.m.
Paradise Town Council Chambers
5555 Skyway, Paradise, CA

M I N U T E S

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 were Commissioners Bolin, Grossberger, Woodhouse and Chairman Johns. Commissioner Serna was absent. Community Development Director Craig Baker and Town Clerk Gutierrez were also present.

1. APPROVAL OF MINUTES

a. Regular Meeting of October 19, 2010.

It was moved by Commissioner Bolin, seconded by Commissioner Woodhouse and unanimously carried by those present to approve the minutes of the October 19, 2010, Planning Commission meeting as submitted by staff.

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

MOTION CARRIES.

2. COMMUNICATION

a. Recent Council Actions - Mr. Baker reported on recent actions of the Town Council at their regular meeting of November 9, 2010.

b. Staff Comments - None.

3. PUBLIC COMMUNICATION – None.

4. CONTINUED PUBLIC HEARING – None.

5. PUBLIC HEARING

Item for which a negative declaration document is proposed to be adopted:

- a. South Paradise Sphere Prezone Amendment Plan: The proposed project is a town-initiated prezone plan amendment potentially encompassing a ±1,920-acre land**

area, potentially affecting ±134 properties located within a three mile wide by one mile long land area corridor straddling Neal Road that abuts and is located due south and southwest of the southern limits of the Town of Paradise. The purpose of this proposed action is to promote establishment of updated and corrected prezoning of properties consistent with the Paradise General Plan; and establish current and applicable zoning only if and when properties affected by the prezone plan are ever annexed to the Town of Paradise.

Community Development Director Baker discussed the background of the initial prezone of the area identified as the Town of Paradise South Sphere Prezone Area, accomplished by adoption of Town Ordinance No. 188 that assigned zoning classifications consistent with the 1982 Paradise General Plan and 1984 zoning ordinance regulations. The subsequent annexation policy adopted by Town of Paradise Resolution No. 99-31 stipulates that applications for annexation must include evidence that the Town of Paradise has prezoned affected land areas in a manner that is consistent with the current Paradise General Plan. Mr. Baker reported to the Commission that the primary purpose of the proposed updated and amended "South Paradise Sphere Prezone Plan" is to promote establishment of updated and corrected prezoning of properties consistent with the **current** Paradise General Plan and the current Town Zoning Ordinance regulations [PMC Title 17]; further enhance the annexation policy directives of Town of Paradise Resolution No. 99-31; and establish current and applicable zoning if and whenever subject properties within the affected land areas are ever annexed to the Town of Paradise.

Mr. Baker stated that the current prezone plan has been out of date since 1994 and the zoning classifications refer to zones that are no longer in the Paradise Municipal Code and that Butte County zoning currently affects the properties in this area that are not part of the Town. He further stated that Butte County has adopted a new General Plan and encouraged citizens to visit the Butte County website that displays the new general plan to see if and how it affects their property.

Mr. Baker explained that prezoning is not legally effective zoning and will not have any effect on the use of property unless and until a property is annexed into the Town. Baker explained that annexation applications require a review by the Town, the Paradise Irrigation District and the Local Area Formation Commission (LAFCo); and, that annexations applications are usually driven by a property owner and not by the Town. He stated that notices for this hearing were mailed to the property owners within the prezone area, and that an environmental document was prepared for the plan and that, to a large degree, the 1994 General Plan determines the design of the prezone plan.

Mr. Baker stated that the discrepancy in the prezoning of the South Sphere came to the Town's attention because a property owner adjacent to the town boundary recently applied for annexation into the PID district, which then required an annexation application with the town. The outdated status of the earlier prezone plan was discovered during the town's review of the annexation application. He stated that staff recommends that the Planning Commission make the finding based upon an initial study that the project action could not have significant effect on the environment, adopt the negative declaration environmental document, and adopt the resolution recommending Town Council adoption of the South Paradise Sphere Prezone Amendment Plan.

He briefly discussed the rationale for prezoning, stating that the Town's General Plan gives guidance and direction on zoning within the Town based on the size, constraints and use of

properties, and if any properties in the South Sphere Prezone Area apply for annexation, the pre zoning of the properties would apply. He further stated that there is no new direction proposed by the Town for types of land uses in the area that borders the town limits to the south; and, that although he can't speak to the county's general plan, he understands that the County does intend to make a specific plan for this area as it has been identified as one of several areas where development needs to be carefully managed.

Chairman Johns opened the public hearing to the public at 6:15 p.m.

1. Steve Kozloff asked if the State requires a prezone for this area, that if there hasn't been any prezone since 1989 then he thinks the Town should forget the idea; that he does not want any forecasting for movement towards his property; and, asked if this prezone only came into question for the one property owner who wishes to annex to the Town.

Mr. Baker explained that the issue came up when a property owner requested annexation to the Paradise Irrigation District for water services, and that it doesn't make sense to have a prezone that isn't in compliance with State Law (i.e. prezones must be consistent with land use designations assigned by the Town's General Plan). He explained that staff is recommending that this planning tool be put into place to give the property owners options and it is not intended to be any kind of threat to annex property against property owner's wishes, and that it is prudent (and good planning practice) to have a safety valve for property owners who wish to annex for municipal water services and other municipal services.

Mr. Kozloff asked if the other prezones for areas east of the Town were outdated and Mr. Baker stated that they were not. He discussed that Butte County used to have a "Paradise Urban Reserve" designation policy that restricted land divisions in this area to nothing less than 20 acres which protected Paradise, but with the adoption of the Butte County General plan that policy may have been eliminated; and, that significant growth in that area that would impact services provided by the Town.

2. Bill Trill asked Mr. Baker to clarify the property that is the subject of the annexation and stated that the property mistakenly indicated on a projection of the prezone plan earlier by Mr. Baker is not the property that is the subject of the annexation (property that he owns). Mr. Baker indicated that Mr. Trill was correct and indicated the correct property that is the subject of the annexation application.
3. Art Pollock asked Mr. Baker to clarify the differences between the previous prezone plan and the proposed plan and what affect it would have on the property owners.

Mr. Baker stated that the previous prezone plan calls for zoning district classifications that no longer exist; that the new plan incorporates currently adopted zoning classifications – AG (Agricultural) and AR (Agricultural Residential), which doesn't affect property owners in any way unless they choose to annex to the Town, or if the Town seeks to annex property. Historically, annexations into the Town have generally been at the request of the property owners.

4. Mr. Kozloff expressed concern that if the one property owner is granted an annexation, there might be a cascading affect.

5. Jerry Wood stated that he is a neighbor to the property owner that is requesting annexation and asked if annexing is the first step to taking a property into the Town.

Mr. Baker stated that final approval for land annexation must be granted by the Butte County Local Area Formation Commission (LAFCo), that the Town can only make recommendations for or against an annexation, and that only LAFCo can approve adjustments or changes in jurisdictional boundaries.

6. Jerry Wood stated that he chose property in the county because that is where he wants to be and doesn't want to be part of the Town.

Commission Bolin stated that the public seems to be asking if annexation can happen with a vote, and if the Town decided to annex property, what is the process.

Mr. Baker stated that a vote would not happen for a single property annexation, and that only property owners in an area proposed for annexation would have a vote. He stated that he is not aware of any intention on the part of the Town to propose any annexations and discussed the types of areas that LAFCo would most likely not approve for annexation, such as any property that is not contiguous to the town boundary or contiguous to another property proposed for annexation to the town.

7. Jerry Wood asked if only one property owner is requesting annexation; if there would be any vote by any other property owners; that he thinks if the prezone wasn't approved that none of the property owners would mind; and, that 33 years ago his father bulldozed in a road, named it Prospect Lane, and that even though other people have moved into the area, he doesn't want to see it any other way.

Mr. Baker stated that there would be no property owners voting on an application for an individual property, that the annexation application will require more hearings by the Paradise Town Council and by LAFCo with notification to surrounding property owners, and that the Town has no current plans to initiate annexations this area, although he could not personally guarantee that would not happen, nor could he guarantee any approval for the application of one property owner.

8. Larry Campbell stated that he owns property in the proposed prezone area, that he lives in the Town, and asked if the Town's designations should match those of the County, that he is not happy with the County zoning designation, that he would like to see the environmental document that was prepared for this hearing, and asked if only those property owners with property bordering the Town limits would have the opportunity to annex.

Mr. Baker stated that the environmental document has been available for public viewing and was included as part of the agenda packet for this meeting, discussed land use designations established by the 1994 General Plan, stated that the Town has to pay attention to those land use designations and must establish prezoneing that is consistent with the Town's adopted general plan, and that it is more likely that property owners with property that borders the Town would be approved for annexation.

9. Larry Adkins stated that he lives on the north side of Indian Springs outside of the Town, and asked if his property would be in the prezone plan.

Mr. Baker stated that the property referred to by Mr. Adkins is already in a different prezone plan that was previously approved by the Town Council, but that he may have received a notice for this hearing because of the proximity of his land to the proposed prezone plan area.

10. Clyde Lewis asked if there is a cost associated with the proposed prezone, if the individual requesting the annexation would pay for that cost and if LAFCo has been approached regarding the annexation request.

Mr. Baker stated that the proposed prezone plan has been initiated by staff, which does incur a small cost, that the fact that the previous plan was outdated is not the fault of the applicant, that the applicant will only be responsible for their own annexation costs, and that written comments have been requested and received from LAFCo.

11. Debbie Damani asked what is the difference between AR and AG zoning, if any of the designations have changed the size or allowance over the previous plan or if it is a name change only, if the AG 10 designation might then imply that the property would not be feasible for a five-acre parcel, and asked for assurance that the one annexation application will not generate the further annexation of any other properties.

Mr. Baker stated that the proposed plan is more detailed and more accurately reflects the sizes, land uses and constraints (lack of access and high fire danger for example) of the properties located in the prezone area than the previous and outdated prezone plan, and stated that he thinks that the area is not one in which either the Town or the County will favor a tremendous amount of growth or change, or make a move to develop in the very near future. He stated that generally the AG designation leans toward agricultural use as opposed to the AR designation - residential use on large lots. He stated that although the County's specific plan for that area is not yet developed, it will likely reflect minimum parcel size and land use requirements. Mr. Baker confirmed that the current annexation application would have no effect on other properties in the area.

Commissioner Grossberger provided Ms. Damani with a copy of a page from the Paradise Municipal Code that explains the land use designations and allowable land uses within the zoning designations.

Commissioner Bolin stated that he thinks there should be more concern about the County's proposed zoning plan for the area.

Mr. Baker stated that the Town boundary is the same as the Paradise Irrigation District boundary that was established in the early 1900's.

Commissioner Johns stated that the property is currently under the County jurisdiction, and asked if there was ever an annexation would the size of the current parcels remain the same, in other words, would they be grandfathered in.

Mr. Baker stated that a legally created parcel is always legal, and that it doesn't become illegal because of a change in zoning.

12. Jerry Wood stated that when he hears the words, "right now" or "at this time" with reference to the County, that in his mind it leaves way for some other entity to come in and make changes.

Commissioner Grossberger stated that the County is rezoning the area, and that is where the citizens should be discussing zoning as it relates to that area.

Mr. Baker stated that if the citizens are concerned about land use regulations for the area, then, at the present time, the discussion should occur at the County level as that is the immediate future.

Jerry Wood stated that it is hard for him to believe that the County would want the banana belt of lower Paradise, and Mr. Baker confirmed that they already have jurisdiction over the area, and are developing a specific plan for the area south of Paradise.

Commissioner Bolin asked if this specific area planning is being done by the County for other land areas in the County, and Mr. Baker stated that they are developing plans for a handful of areas of different sizes, and that this area proposed for rezoning by the Town is one of the larger land areas proposed for the development of a specific plan.

Chairman Johns stated that he is impressed with the number of people that attended this hearing and suggested that this may be the opportunity for the land owners in this area to gather and create an association to speak with one voice to the entity that has jurisdiction over their properties.

Chairman Johns closed the public hearing at 7:00 p.m.

Mr. Baker stated that there is an amended Exhibit A for the proposed resolution that corrects the name on the heading and passed out corrected copies to the Commissioners.

It was moved by Chairman Johns, seconded by Chairman Woodhouse and carried by those present to: (1) Make the finding that the proposed project action could not have a significant effect on the environment and to adopt a negative declaration environmental document for the "South Paradise Sphere Prezone Plan" amendment; and, (2) Adopt Planning Commission Resolution No. 10-12, "A Resolution of the Paradise Planning Commission Recommending Town Council Adoption of the South Paradise Sphere Prezone Amendment Plan".

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

MOTION CARRIES.

6. **OTHER BUSINESS – None.**
7. **COMMITTEE ACTIVITIES**

- a. **Status Report: Paradise RDA Advisory Committee Meeting** was cancelled.


8. COMMISSION MEMBERS

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

Mr. Baker informed the Planning Commissioners regarding: (1) The targeted update of the 1994 Paradise General Plan; (2) Time frames regarding the WalMart shopping center project have been pushed back at least 8-12 weeks as studies have revealed a need for additional work and that the additional consultant costs have been sent to Walmart for review; and, (3) The tree removal permit for the Sonntag project on Clark Road is due to expire and if the applicant requests an extension of the approval action via modification of the tree felling permit, the request would be considered by the Planning Commission in December.

9. ADJOURNMENT

The Planning Commission meeting was adjourned at 7:22 p.m.


Chairman Johns

Attest:


Planning Commission Secretary