

PLANNING DIRECTOR A G E N D A

**February 10, 2010
11:00 a.m.**

CALL TO ORDER

1. APPROVAL OF MINUTES – January 21, 2010

2. PUBLIC COMMUNICATION (Public Presentation of Non-Agenda Items)

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 Planning Director meeting.

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

- | | | | |
|----|--------------------------------|----|-----------------------------|
| A. | Staff comments | C. | Close hearing to the public |
| B. | Open the hearing to the public | D. | Project decision |

3. CONTINUED PUBLIC HEARING – None.

4. PUBLIC HEARING

Item determined exempt from environmental review:

- a. Luther Use Permit (PL10-00002) Application proposing to replace a previous existing nonconforming land use [a ±480 sq. ft. residential garage] that was destroyed by a falling tree on commercial zoned property located at 5374 Black Olive Drive, Paradise, AP No. 052-231-003.

5. OTHER BUSINESS - None.

6. ADJOURNMENT

PARADISE PLANNING DIRECTOR
January 21, 2010 – 10:00 a.m.
Town Council Chambers, Room 9
5555 Skyway, Paradise

M I N U T E S

CALL TO ORDER

Planning Director Al McGreehan called the meeting to order at 10:00 a.m.

1. APPROVAL OF MINUTES – December 2, 2009 meeting

The meeting minutes of December 2, 2009 were approved by the Planning Director.

2. PUBLIC COMMUNICATION - None.

3. CONTINUED PUBLIC HEARING – None.

4. PUBLIC HEARING

a. Item for which a negative declaration document regarding environmental impacts is proposed to be adopted:

KOUSA PARCEL MAP (PL09-00074) APPLICATION proposing to divide an existing ±1.77 acre property into two parcels of record on property located at 1656 Nunneley Road, AP No. 054-132-107.

Asst. Community Development Director Craig Baker reviewed the project application for which staff is recommending conditional approval. Upon inquiry by the Planning Director, Mr. Baker deleted condition No. 19 as being an error and irrelevant to the proposed project.

The hearing was opened to the public. Appearing:

1. Mrs. Kousa, Applicant. Mrs. Kousa acknowledged receipt of a copy of the staff report and concurred with the proposed project conditions.
2. James Renfro, project engineer, Engineering Group. Mr. Renfro acknowledged concurrence with the recommended conditions of project approval.

The hearing was closed to the public.

FINDINGS

- a. Find that the proposed project, **as mitigated and conditioned**, could not have a significant effect on the environment, and adopt a mitigated negative declaration.
- b. Find that the project, **as conditioned**, is consistent with the goals and policies of the Paradise

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General Plan, because the resulting sizes and uses of the parcels would be consistent with existing land use in the area, and adequate infrastructure would be in place to serve the parcels.

- c. Find that the project, **as conditioned**, is consistent with the spirit and intent of the zoning district in which the project site is situated, because the land use proposed for the parcels would be residential and parcel sizes proposed are consistent with the requirements of the zone.
- d. Find that the project, **as conditioned**, will not result in a significant adverse effect on existing plant and animal life in the project vicinity for the following reasons:
 1. The project site is currently developed for residential use and is located within an area that has been significantly altered for decades by residential development.
 2. No known outstanding wildlife habitat exists in the immediate project vicinity; and
 3. The site is small (+/-1.77 acres).

CONDITIONS TO BE MET PRIOR TO RECORDATION OF FINAL PARCEL MAP

ROADS AND ACCESS

1. Access to parcels for ingress and egress/public utilities shall be shown on the final parcel map.
2. Deed thirty feet from the center of the Nunneley Road right-of-way to the Town of Paradise or provide a recorded deed document showing that this requirement has been met.
3. Construct or defer by covenant executed with the Town of Paradise a one-half street section upgrade improvement along the project site frontage of Nunneley Road to the town-adopted B-2 road standard.
4. Obtain an approved encroachment permit from the Town of Paradise and construct a full width private driveway access for Parcel No. 2 connecting to Nunneley Road to the Town adopted A-1a road standard in a manner deemed satisfactory to the Town Engineer and the Paradise Fire Department.
5. All easements of record shall be shown on the final parcel map.
6. Indicate on the final parcel map a fifty-foot building setback line measured from the centerline of Nunneley Road and a thirty-foot building setback line measured from the center of the Kibler Road private Road Easement.
7. Place the following note on the final map information data sheet: "Prior to the issuance of a

building permit authorizing residential development upon Parcel No. 1, the project developer shall construct a pro-rata share upgrade improvement to the existing on-site private road (Kibler Road) in accordance with the requirements of the Town Engineer.”

8. Provide a recorded private road maintenance agreement satisfying Town Public Works (engineering division) requirements.

DRAINAGE

9. Place the following note on the final map information data sheet: “Prior to issuance of a building permit authorizing construction on Parcel No. 1, a storm water mitigation plan shall be submitted and approved by the Town Engineer. This plan must address how the additional storm water drainage from the new impervious surfaces will be detained, rerouted, or otherwise mitigated to prevent adverse impacts to the downstream neighboring properties.”

SEWAGE DISPOSAL

10. Satisfy all requirements of the Town of Paradise Onsite Sanitary Official concerning the design of the final parcel map.

UTILITIES

11. Meet all requirements of the Paradise Irrigation District (PID) in accordance with comments provided by PID staff for the Kousa parcel map, dated March 11, 2009, on file with the town Community Development Department.
12. Meet the requirements of other utility companies regarding the establishment of necessary public utility easements.

FIRE PROTECTION

13. Place the following notes upon the final parcel map information data sheet:
 - a. “Prior to Town issuance of future residential building permit(s) for these parcels, the future owners of Parcel Nos. 1 and 2 shall implement and maintain a fuel reduction plan for the parcels meeting the requirements of the Paradise Fire Department in accordance with the Paradise Fire Department project review memorandum dated May 1, 2009 for the Kousa parcel map application and on file in the Town Community Development Department.”
 - b. “All future buildings constructed upon Parcel Nos. 1 and 2 shall be built of non-combustible exterior construction meeting the requirements of the Wildland Urban

Interface Code and in accordance with the Paradise Fire Department project review memorandum dated May 1, 2009 for the Kousa parcel map application and on file in the Town Community Development Department.”

14. Meet all other requirements of the Paradise Fire Department in accordance with the Fire Department plan check review for the Kousa parcel map dated May 1, 2009 and on file in the Town of Paradise Community Development Department.

OTHERS

15. Provide documentation from the office of the Butte County Tax Collector verifying payment of current property taxes and any assessment liens imposed by the town.
16. Provide monummentation as required by the Town Engineer in accordance with accepted town standards.
17. Pay appropriate funds to the local recreation district per requirements of the Paradise subdivision ordinance to offset impact (cumulative) upon area-wide recreation facilities. Provide evidence of payment to the Town Community Development Department planning division.
18. Place the following notes on the final parcel map information sheet:
 - a. “At the time of building permit issuance authorizing new buildings or building additions, owners of Parcel Nos. 1 and 2 will be required to pay any Town of Paradise adopted development impact fees.”
 - b. “If any archaeological resources are uncovered during the course of future development or construction activities, all work shall stop in the area of the find until a qualified archaeologist provides an appropriate evaluation of the discovery.”

It was announced that the decision of the Planning Director can be appealed within ten days of the decision date.

b. Item determined to be exempt from environmental review

CHAMBERS SITE PLAN REVIEW PERMIT (PL09-00387) APPLICATION requesting Town approval to establish a tow service/impound yard on property currently occupied by a vehicle storage/used vehicle sales business occupancy located at 6633 Skyway, AP No. 052-090-044

Mr. Baker reviewed the project application. The proposed tow service/impound yard will be located in the rear of the property and 220 feet from the Skyway. The front portion of the property is currently used for vehicle sales. It appears through archival records that this property has been used for various types of vehicle and mobile home sales/storage for many years before the town was incorporated. Based upon favorable responses from

commenting agencies, including the Police Department, staff is recommending conditional approval of the proposed project.

The subject tow company has rotating assignments with two other towing companies in town that are given to them by the California Highway Patrol, Butte County and the Town of Paradise. The applicant would be transporting 2-4 vehicles per week to and from the impound yard. Mr. Baker stated that access to the impound yard is through a Skyway driveway encroachment. There is no access via Memorial Way. A 6 ft. tall wood fence or equivalent around the impound yard is recommended for establishment to improve the aesthetics of the land use. The applicant has indicated he would be out of town today and he is agreeable to the continuation of this public hearing matter.

The Planning Director opened the hearing to the public. Appearing:

1. David Stewart, Manager of the Towing Company. Mr. Stewart stated that Kevin Horton is Kelly Chambers' business partner. The property is owned by Mike Williams, who is agreeable with the recommended project conditions for the applicant (tenant). Mr. Stewart stated that they have never used the rear property gate. Most of the neighbors' complaints are relevant to the vehicle sales operation, not the towing operation. Mr. Stewart assured that his drivers are respectful and quiet when towing cars onto the property.
2. Kathy Gerevich, adjacent southern property owner. Ms. Gerevich stated her opposition to the towing service at this property site due to noise, chemicals leaking from vehicles, cracking of drywall, driving across her property, and drainage issues from ditches the property owners have made.
- 3.
4. Bill Smith; 692 Memorial Way. Mr. Smith stated that the impound lot is two feet higher than his property and water drains onto his property. In addition, it appears to be a junkyard and there is an oil slick running off this property. He does not have an issue with the applicant, but rather the property owner. He opposes the project application if the drainage is not maintained.

Planning Director McGreehan added that there may also be surface runoff from the Skyway, shedding onto memorial way depending on the level of the storm.

5. Travis Parker, 668 and 664 Memorial Way. Mr. Parker shared his concerns regarding increased traffic, site distance problems, property value reductions, and ground water issues. Mr. Parker also indicated that this is not a good land use relative to the Town's efforts to revitalize the downtown area.
6. Judy Wong, 6689 Skyway, Moongate Restaurant. Ms. Wong expressed her concern about noise and vibrations from the vehicles on the property, and her concern for safety since people may be going in and out of the impound yard at night.
7. Sheryl Smith, 692 Memorial Way. Mrs. Smith indicated that the fence on the subject property along Memorial Way has not been maintained.

8. David Stewart, Manager. Mr. Stewart offered to install another fence to screen the impounded vehicles from view. He is highly conscious of the neighborhood and tries to be respectful. Oil from the vehicles is disposed of properly. In addition, the tow trucks enter the impound yard from the Skyway and not via Memorial Way. Tow trucks are taken home by the drivers at night.
9. Kevin Horton, Business partner. Mr. Horton stated that the property has been sprayed for weeds. Race cars are no longer there, so the neighbors stated noise problem has been eliminated. The tow trucks are not dispatched from this property. He also indicated that the drainage runoff is from the Moongate Restaurant and Jack-in-the-Box, which he believes is more of a Town issue. The property has recently been re-graveled.

The Planning Director closed the hearing was closed to the public.

Planning Director McGreehan stated that except for the proposed tow service/impound yard, existing land uses of this property are grandfathered into the property from 30 years ago despite it being a nonconforming use.

The Planning Director announced that since there is opposition to the project concerning policy issues and the disposition of property improvements, he will refer this agenda item to the February 16th Planning Commission meeting at 6:00 p.m. He encouraged property owners, neighbors and tow truck operators to meet with staff to discuss improvement plans and other issues raised during this public hearing.

5. OTHER BUSINESS – None.

6. ADJOURNMENT

The Planning Director adjourned the meeting at 11:10 a.m.

**TOWN OF PARADISE PLANNING DIRECTOR
PLANNING STAFF REPORT
MEETING DATE: February 10, 2010**

FROM: Craig Baker, Assistant Community Development Director **AGENDA NO. 4(a)**
SUBJECT: Luther Use Permit Application (PL10-00002)
DATE: January 27, 2010 **AP 052-231-003**

GENERAL INFORMATION:

Applicant: Ray and Joy Luther
5374 Black Olive Drive
Paradise, CA 95969

Location: 5374 Black Olive Drive, Paradise

Requested Action: Use permit approval to authorize the replacement of a residential garage that was destroyed by a falling tree.

Purpose: To reestablish a previously-existing, nonconforming accessory land use on the site.

Project Density: n/a

Present Zoning: Community Commercial (CC)

General Plan Designation: Town Commercial (TC)

Existing Land Use: Single family residential

Surrounding Land Use:

North:	Black Olive Drive
East:	Single-family residential
South:	Paradise Memorial Trailway
West:	Single-family residential

Parcel Size: ±0.30 acre

CEQA Determination: Categorically Exempt - CEQA Section 15303 (Class 3 exemption)

Other: An appeal of the Planning Director's decision can be made within seven (7) days of the decision date.

NOTE: THE APPLICANT OR A REPRESENTATIVE SHOULD BE IN ATTENDANCE OR THE PLANNING DIRECTOR MAY NOT TAKE ACTION ON THIS APPLICATION

SPECIAL INFORMATION:

The project applicant is seeking authorization from the Town of Paradise, via use permit approval, to replace a previously-existing, legal nonconforming residential garage structure that was destroyed by a falling tree in 2009. The +/-0.30 acre property is located at 5374 Black Olive Drive, a paved public street, and is currently improved with a single-family dwelling.

Town records indicate that a building permit to construct the garage that was destroyed was issued by the Town of Paradise on October 30, 1986 and that a final inspection of the construction was conducted by town staff on July 29, 1988. The +/-480 square foot replacement garage will be established upon the original foundation of the previously existing garage and will not be expanded beyond its original dimensions. No other structures exist on the property for the shelter of vehicles.

ANALYSIS:

This project has been determined by planning staff to belong to a class of projects which are categorically exempt from environmental review, pursuant to the requirements of the California Environmental Quality Act (CEQA Section 15303).

PMC Section 17.39.300 (*Restoration of damaged nonconforming use*) provides that a damaged, lawful nonconforming structure may be restored and used again as a lawful nonconforming use subject to town approval of a conditional use permit.

ANALYSIS CONCLUSION:

Based upon the circumstances outlined above and the environmental setting of the predominantly residential neighborhood, staff submits that town authorization to replace the garage structure is reasonable and appropriate. Therefore, staff recommends Planning Director approval of the Luther use permit, based upon the following findings:

REQUIRED FINDINGS FOR APPROVAL:

- a. Find that, **as conditioned**, approval of the Luther use permit can be found to be consistent with the provisions of the Town of Paradise zoning ordinance as required because material evidence of record exists demonstrating that the original garage structure existed previously that it was lawfully established via issuance of a Town of Paradise building permit.
- b. Find that, **as conditioned**, approval of the Luther use permit can be found to be consistent with the goals and land use policies of the current 1994 Paradise General Plan because project approval would promote the replacement of a legal nonconforming structure for which evidence of record exists to demonstrate that it was lawfully established in its previous location.

RECOMMENDATION:

Adopt the required findings for approval as provided by staff, and approve the Ray and Joy Luther use permit application (PL10-00002) for property located at 5374 Black Olive Drive (AP 052-231-003), requesting authorization to replace the previously existing garage structure, subject to the following conditions of approval:

GENERAL CONDITIONS OF USE PERMIT APPROVAL

1. If any land use for which a use permit is granted is not established with three years of use permit issuance, the use permit may become subject to revocation by the Town of Paradise.
2. Meet the requirements of the Town regarding the issuance of a building permit, compliance with all applicable construction codes and the scheduling of a final inspection prior to expiration of such building permit.
3. The proposed single-story garage shall be established in the same location as the previously-existing garage and shall be designed and constructed such that it does not exceed +480 square feet in floor area.
4. The proposed garage structure shall be painted the same color as the existing single-family dwelling on the site and shall be constructed with the same color roofing material as the existing single-family dwelling on the site.