

**PARADISE PLANNING COMMISSION**

**November 17, 2009 - 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 Woodhouse at 6:02 p.m.

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

**ROLL CALL**

Present at roll call were Commissioners Bolin, Grossberger, Johns, Serna and Chairman Woodhouse. Community Development Director Al McGreehan, Assistant Community Development Director Craig Baker and Assistant to the Town Manager/Business and Housing Services Director Lauren Gill were also present.

**1. APPROVAL OF MINUTES**

**a. Regular Meeting of October 20, 2009**

It was moved by Commissioner Serna, seconded by Commissioner Grossberger and unanimously carried by those present to approve the minutes of the October 20, 2009 Planning Commission meeting as submitted by staff.

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

**MOTION CARRIES.**

**2. COMMUNICATION**

**a. Recent Council Actions**

Mr. McGreehan reported that a joint meeting was held on November 3, 2009, between the Paradise Redevelopment Agency (RDA) Board of Directors and the RDA Citizens Advisory Committee for the purpose of reviewing the proposed Downtown Capital Improvements Master Plan presented by consultants Design, Community Environment (DC&E).

Mr. McGreehan also informed the Planning Commissioners of several actions taken by the Town Council at their November 10, 2009 Regular Meeting.

**b. Staff Comments – None.**

**3. PUBLIC COMMUNICATION –None.**

4. **CONTINUED PUBLIC HEARING – None.**

5. **PUBLIC HEARING**

Following a report from Community Development Director McGreehan regarding the proposed final updated/revised General Plan Housing Element, a Town initiated amendment to the text of the Housing Element of the 1994 Paradise General Plan, Chairman Woodhouse opened the hearing to the public at 6:17 p.m. There were no speakers for or against the proposed Housing Element and Chairman Woodhouse closed the public hearing at 6:17 p.m.

**Agenda Item 5a:** It was moved by Commissioner Bolin, seconded by Commissioner Johns and carried by those present to adopt Planning Commission Resolution No. 09-6, "A Resolution of the Planning Commission of the Town of Paradise Recommending Town Council Adoption of the Text Amendment to the Housing Element (2008-2014 Housing Element) of the 1994 Paradise General Plan (Town of Paradise Housing Element 2009 Update)."

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

**MOTION CARRIES.**

Community Development Director McGreehan reported to the Planning Commission regarding the proposed text amendment to regulations contained in Paradise Municipal Code Chapter 17.06 that affect municipal code statutes related to medical marijuana sale and distribution. Mr. McGreehan stated that in light of recent action at the federal level relative to the enforcement of federal law regarding the subject of marijuana within areas of the country experiencing adopted state laws permitting the cultivation and use of marijuana for medical purposes, the Town Manager has directed the Town Attorney and planning staff to research this subject and design a text amendment, if necessary, to provide a more definitive and direct statute on this subject. He stated that the current language in the Paradise Municipal Code could be construed to be on point in this matter and is similar to that in other jurisdictions that has recently been legally challenged and upheld by case law. However, since a legal challenge is timely and costly to defend, the Town Attorney has written a proposed text amendment to strengthen the current code by prohibiting the establishment of a location for the purpose of commercial sale and distribution of medical marijuana. The Town Attorney thinks this language is more defensible and would be applied town wide.

Commissioner Grossberger stated that she does not understand the application of the word "pharmaceutical" as marijuana is classified as a class one drug and is not a pharmaceutical, which are classified as two through five drugs.

Commissioner John asked if it is against the law for an individual or groups of individuals to sell marijuana for a profit?

Mr. McGreehan discussed the California Health & Safety Code statutes that allow cooperative efforts of persons who have the required ID cards regarding the cultivation and use of medical marijuana, but that he is not familiar with all of the particulars, that dispensaries can be allowed and are allowed in certain communities and pointed out if a land use is not specifically permitted in a code, it can be construed to be prohibited.

Commissioner Johns stated that it appears we are not creating a precedent by applying land use to this issue.

Chairman Woodhouse opened the hearing to the public at 6:35 p.m.

Speaking in favor of the proposed amendment:

1. Patricia Vance stated that she is in favor of blocking sales and stores that commercially sell marijuana.

Speaking against the proposed amendment:

1. Richard Tognoli, Tognoli Trucking & Grading and SOS Cannabis Collective, stated that he is a cannabis patient, that Proposition 215 was by vote of the people and cannot be weakened, referred to Attorney General 2008 Guidelines regarding Proposition 215, discussed the sale of cannabis by non-profit agencies, stating that there are non-profits operating all over the state who are interested in the needs of their patients, that it is a hard issue for people because it has been an illegal drug for so many years, and that although communities are allowed to set their own guidelines, the patient's needs should be considered first and that the intention is not to make it more difficult for the patient, but to provide a safe and legal source through which they may obtain their medication so the process is not forced to go underground.
2. Nicole Plesari stated that she is a medical marijuana patient, that she has to drive to Chico, Red Bluff and Redding to get her medication and that she would appreciate the local Town government looking at allowing something here in Paradise.

Rebuttals:

1. Patricia Vance, stated that her husband is a pharmacist and that medical marijuana is available to patients at the local pharmacies.
2. Richard Tognoli stated that collectives make medical marijuana accessible to persons who may have recently received a terminal diagnosis and would not otherwise know where to get the medication.

Chairman Woodhouse closed the public hearing at 6:47 p.m.

Commissioner Grossberger stated that she has done research on this issue, is concerned with the language of the proposed PMC text amendment that refers to a "federal" license as there is no such thing, thinks this will open up the Town to a lawsuit if adopted, suggested taking out the word "federal" and send to the Town Council with the language "all applicable licenses."

Chairman Woodhouse stated that he thinks the Planning Commission should go with the language that is suggested by the Town Attorney, that this is a land use issue and if nothing is done and someone tries to open up a dispensary, we will be in the same position as the City of Claremont.

Commissioner Grossberger stated that she is uncomfortable without an explanation from the Town Attorney and would like to either table the matter or hold a special meeting to obtain an explanation from the Town Attorney.

Commissioner Serna stated that he agrees with Commissioner Grossberger, that marijuana sales and cultivation are against federal law and State's rights don't override federal law.

Mr. McGreehan stated that the Planning Commissioner's comments are on point and valid, that he does not think it is a coincidence that the word applicable is included within the proposed text amendment because the direction of the federal government with regard to this issue is not clear. Mr. McGreehan stated that cultivation cannot be precluded, but commercial collection and disbursement can be regulated. He reminded the Planning Commission that in the absence of any land use being allowed, it is deemed to be prohibited and suggested that if the Planning Commission decides to forward this matter to the Town Council that they strongly emphasize that the Town Council seek further clarification regarding their points of concern stated at tonight's meeting.

Commissioner Grossberger stated that she would like to fully understand the intention and meaning of the proposed text language before either passing or not passing this along to the Town Council.

Commissioner Johns stated that he would like a legal interpretation as to whether the language in any way prevents or infringes with the distribution of medical marijuana as allowed by law.

**COMMISSION CONCURRED** to move this agenda item to the end of this agenda with the tentative decision that the hearing be continued to a date certain in order to receive input from the Town Attorney.

Assistant Community Development Director Baker presented and explained the proposed text amendments to various land use and sign regulations contained within Chapter 17.04, 17.20, 17.26 and 17.37 of the Paradise Municipal Code that were first reviewed by the Planning Commission on July 21, 2009 and subsequently discussed at the August 11, 2009 Town Council Meeting at which Council directed staff to consider input from the Chamber of Commerce and take back to the Planning Commission to bring forward along with the proposed revised Design Guidelines.

Chairman Woodhouse opened the public hearing at 7:20 p.m.

Speaking in favor of the proposed amendments: None.

Speaking in opposition to the proposed amendments:

1. Dean Fender, stated that he was a member of the Ad Hoc Chamber of Commerce Committee, that signage is very important and he appreciates the opportunity to weigh in,

and that he is concerned with the cumulative area language as he does think banners or temporary signs should not be included in the cumulative maximum area; that the maximum size of banner should be removed and stick with proportional language; and, that the town wide application will affect the entire Town and he doesn't think we have a lot of sign clutter and asked that the business community not be burdened in these economic time with additional reviews and regulations.

Commissioner Grossberger asked what the time limitation for a banner is and Mr. Baker informed that banners used for business identification signs are limited to 60 days and other banners can be kept up indefinitely.

Mr. Baker discussed the drawings in the packet that explain the requirements for proportional signage, and stated that the changes will not negatively impact the community as only one business might exceed the 300 feet and that particular business is legal non-conforming. He stated that banners and portable signs should be included in the cumulative sign area because these signs already function as permanent signs and that these types of signs are not subject to design review.

Commissioner Bolin asked why some businesses are being asked to take their banners down, and Mr. Baker responded that the ones to be taken down are those that are too big, obstructing pedestrian clearance, are being used for business identification and have been up for more than 60 days, or if a business has more than one banner. Mr. Baker further stated there was time when banners weren't permitted and portable signs required a public hearing.

Chairman Woodhouse asked Mr. Fender if he would like to speak further to the maximum signage issue because he thinks if the signs are de facto permanent signs it makes sense to include them in the total.

1. Dean Fender stated the business concern is that including banners and portable signs in the total cumulative area is more restrictive, that there is already a 300 square foot size limit for banners, and asked if a business is required to undergo a design review process for a sign, will they be asked to include any potential banners or portable signs in the cumulative totals during the application process.

Mr. Baker stated that portable signs and banners are not subject to the design review process.

Commissioner Grossberger asked if there could be time limits placed on banners by their type of use, and Mr. Baker explained the confusion and enforcement problems that were previously created by time limits, and that they felt the limitation on banners used as business identification was sufficient.

Commissioner Bolin stated that he thinks this process is confusing and that this is the wrong time to address this issue as it is already difficult for businesses in this economy, and that there is a perception that these regulations are making it more difficult for businesses.

Mr. Baker stated that he realizes perception is important, and that the current proposed document is not any more complicated than what already exists in our current code, and that he thinks time will show the business community that this is not a harmful document.

Chairman Woodhouse stated that they have discussed why better and tasteful signage is better for new businesses to see when they are coming in and that what they are looking at tonight includes community input.

Chairman Woodhouse closed the public hearing at 7:45 p.m.

Lauren Gill, Assistant to the Town Manager/Business and Housing Services Director, stated that it is her job to help the businesses in this town, that she assists businesses to go through the sign review process and further explained the process of design review that is required for business signs in the redevelopment project area and the rationale behind the requirements. Ms. Gill stated that the intent was to make the process easier by creating consistency between the sign regulations and the design review guidelines as both have the force of law.

Commissioner Bolin asked the cost of the design review process and Ms. Gill stated there is a \$70 fee for design review and \$125 for an administrative permit. Mr. Baker explained the administrative permit applies to light poles and signs proposed to be located within front yard setbacks, which essentially allows for a purchase of an extra 10 feet. Ms. Gill stated that she plans to recommend to the Town Council that the cost for sign design review be included in the administrative permit fee. Commissioner Bolin stated that these fees added to cost of the signs that the business owners have to pay is what hurts the perception, and that we want to bring in business and tax revenues.

Ms. Gill stated that the goal is to help businesses prosper, to make our Town the best that it can be and that most cities have some type of design review process and the Town's process is very affordable by comparison and a lot of time is spent with each business owner during the process. She stated that there has never been an appeal of a staff decision regarding a sign and that the guidelines have the force of law as they are adopted by the Paradise Municipal Code.

Commissioner Bolin noted that in the case of projecting signs and ground mounts, the square footage allowed for each is actually reduced. Mr. Baker stated that the new sizes are more realistic for the zones they would be located in (pedestrian friendly, schools, churches) and that currently he knows of no signs that exceed the recommended sizes.

Commissioner Johns asked if temporary banner signs could be exempted from size requirements and be permitted for 60 days; and, if the business owners have any difficulty in managing or accounting for the square footages of their signs. Mr. Baker stated that is it difficult to enforce time limits and that the business owners are managing to stay under the cumulative sign limitations. Commissioner Johns suggested that perhaps as a compromise the Commission could recommend that this issue be revisited in two years.

Commissioner Bolin stated that he is not in favor of these proposed sign regulations text changes, that he would like two square feet of signage per lineal foot, proportional as opposed to a maximum.

Commissioner Grossberger stated that the Town doesn't appear to have sign blight and would like to see the Town continue in that direction.

Commissioner Serna stated that he agrees and thinks this proposal is in the best interests of the community, that some requirements are necessary, and to remember during their discussions to distinguish between sign regulations and design review guidelines.

Chairman Woodhouse stated that the vision Ms. Gill shared is one that he shares, that attractive communities don't happen by accident, and that he favors going ahead to the Town Council with the recommendation as amended.

**Agenda Item 5c:** It was moved by Commissioner Woodhouse, seconded by Commissioner Johns to adopt Planning Commission Resolution No. 09-8, "A Resolution of the Paradise Planning Commission Recommending Town Council Adoption of Text Amendments to Paradise Municipal Code Chapters 17.04 and 17.37, Related to: Land Use and Sign Regulations", with the following amendment to Section 13, item 5 in the last shaded section after the word and: "excepting temporary or community event banner signs displayed to promote a civic/special community event, " and removal of repetitive words in the table in Section 15 [Projecting signs and Flush (wall mounted) signs].

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

#### **MOTION CARRIES.**

Chairman Woodhouse called for a five minute recess at 8:25 p.m. and reconvened the meeting at 8:30 p.m.

## **6. OTHER BUSINESS**

Lauren Gill, Assistant to the Town Manager/Business and Housing Services Director, stated that she is asking the Planning Commission to consider endorsing the proposed updated Town Design Guidelines that have been reviewed and revised to be applicable town wide, per the direction of the Town Council. Ms. Gill informed the Commissioners that the original design guidelines were developed by an outside consultant, and that staff decided to revise the guidelines in-house as it would be more cost effective and efficient and could better represent the vision for the Town. Ms. Gill stated that if the Design Guidelines are endorsed and go forward to the Town Council, a public hearing will be held and the guidelines may be adopted by ordinance.

Ms. Gill informed the Commission that the original design guidelines were adopted by the Town Council for the downtown area, that the sign regulations within the Paradise Municipal Code are already applicable town wide, and the intent is also to make the design guidelines easier to use and internally consistent with the sign ordinance regulations in order to enhance the ability to influence the future development of the community.

Ms Gill displayed a power point and explained that the following points relating to what the design guidelines are and the reasons for the guidelines:

- Enforceable standards used to enhance design and architectural quality.
- Protect and preserve property values by ensuring good design.

- Provide investor and property owner confidence through design continuity.
- Principles for design that work with existing policies, ordinances, building standards, and the Paradise General Plan.
- Provides an opportunity to aesthetically influence new development.
- RDA Guidelines adopted May 14, 2000 by Town Ordinance 400 Codified into law. (PMC 17.41.200)

She further explained that the design guidelines staff revision process included:

- Dividing the Town into 5 main areas based on geography and project area boundaries - Central Business District, Redevelopment Project Area, Clark Road Commercial Corridor, Industrial/Business Park and Gateway(s) to Paradise.
- Updating the style of the guidelines to reflect a more user-friendly model with graphics and pictures that are intended to represent the goals we would like to see for each of the areas
- Using the current Design Guidelines as a rough layout for setting up the 5 different areas
- Basing changes on input from the Design Review Board, Staff, extensive research and examples of other cities' guidelines and zoning codes.

Ms. Gill stated that this matter first came to the Planning Commission on July 13, 2009, that the recommendations requested by Commission are included in the revised document, and concluded with a discussion of how the design guidelines are applied during a sign application process. Ms. Gill introduced Fred Aldred, member of Design Review Board.

Fred Aldred stated the design guidelines are a good work, but that while the sign ordinance is a law, he thinks the design guidelines are totally subjective, for example, how does one define "bright" when referring to colors, that he doesn't think people can be told what to do based on subjective language, and that the design guidelines need to be guidelines. He stated that the sign ordinance regulations allows a 32 square foot sign, but the guidelines talk about proportional signage, and that it should be one or the other.

Discussion was held wherein it was pointed out that if the design guidelines were not enforceable, then a developer could do whatever they wanted with no oversight; how could the document better define colors; how is the content of signs regulated; and, whether or not subjectivity can be entirely removed from a planning process.

Mr. Aldred stated that he is not arguing the architectural aspect of the design guidelines, only the sign portion because there already is a sign ordinance for regulation, and that he thinks the guidelines are totally subjective regarding signs. He also stated that he thinks the guidelines trump the ordinance and discussed sign content, commercial free speech, the meaning of content neutral.

Assistant Community Development Director Baker stated there is a due process built into the document, that any staff decision is appealable and that he does not see a problem as there have been no appeals of any staff decision.

**Agenda Item 6a:** It was moved by Commissioner Grossberger, seconded by Commissioner Serna and unanimously carried by those present to endorse the

revised/updated Town Design Guidelines with the inclusion of a narrative that describes the boundaries of each of the five sub-geographic areas, further amending proposed text to make certain the document is internally consistent with the sign regulations, and with a recommendation that the title be changed from Design Guidelines to Design Standards.

**MOTION CARRIES.**

**Agenda Item 5b:** It was moved by Commissioner Woodhouse, seconded by Commissioner Serna and unanimously carried by those present, to continue the public hearing regarding the proposed text amendment to regulations contained in Paradise Municipal Code Chapter 17.06, which amendment affects municipal code statutes related to medical marijuana sale and distribution to December 7, 2009 at 5:30 p.m.

**MOTION CARRIES.**

**7. COMMITTEE ACTIVITIES**

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

**8. COMMISSION MEMBERS**

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

**9. ADJOURNMENT**

The Planning Commission meeting was adjourned at 9:45 p.m.

  
Chairman

Attest:

  
Planning Commission Secretary

