

PARADISE PLANNING COMMISSION

January 19, 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 Woodhouse 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, Johns, Serna and Chairman Woodhouse. Community Development Director Al McGreehan and Assistant Community Development Director Craig Baker were also present.

1. APPROVAL OF MINUTES

a. Regular Meeting of December 7, 2009

It was moved by Commissioner Serna, seconded by Commissioner Bolin and unanimously carried by those present to approve the minutes of the December 9, 2009 Planning Commission meeting as submitted by staff.

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

MOTION CARRIES.

2. COMMUNICATION

a. Recent Council Actions

Mr. McGreehan reported on recent actions of the Town Council at their regular meetings of December 8, 2009 and January 12, 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:

TOWN OF PARADISE: Proposed text amendments to regulations contained in Paradise Municipal Code Chapters 17.11, 17.34, 17.38 and 17.45. The amendments affect municipal code statutes related to: commercial composting, mobile home park standards, parking regulations, and site plan review permit and use permit revocation procedures.

Community Development Director McGreehan presented the Planning Commission the proposed changes to the PMC regulations as follows: (1) Amends the unintended omission of "Commercial Composting" as a potentially permitted land use within the AR-3 zone; (2) Reduces required parking spaces from two to one-and-a-half per dwelling within mobile home parks that house senior citizens and brings the code into compliance with the recently adopted Housing Element by removing a constraint; (3) Provides consistency with State law regarding parking spaces as handicapped and/or disabled facilities; (4) Increases the minimum parking space requirement for medical office land uses from one per 250 square feet to one per 200 square feet; (5) Clarifies statutory basis by which a use permit revocation proceeding may be initiated; (6) Expands use permit revocation authority to include the Planning Director; and, (7) Expands site plan review permit revocation authority to include the Planning Director.

Mr. McGreehan answered Commissioners' questions to explain those types of situations subject to the use permit or site plan review permit revocation process. He confirmed that the revocation process would include a noticed hearing and mailout and that there is an appeal process; and, that the benefit of the proposed language change from "shall" to "may" provides the staff an opportunity to avoid initiating a revocation process if it is discovered that the use has not been vacated. Mr. McGreehan gave an example of a property that is located in the redevelopment area that was granted a use permit for a care home by the County many years ago. The property has become vacant and the Town has targeted different land uses for that area and should remove that land use entitlement. It was discussed whether or not such a revocation would make the value of the property decrease and it was noted that there would be due process for the property owner via the noticed hearing and mailout.

With regard to the questions asked as to what types of land use decisions would be heard by the Planning Commission or by the Planning Director, Mr. McGreehan explained that criteria has been set by the Town Council and essentially anything with a body of evidence that would generate debate or a policy discussion would be heard by the Planning Commission. He stated that the Planning Director mostly holds hearings regarding site plan review permits and parcel maps. Discussion followed regarding the higher level of judgment for a use permit, and if keeping the word "shall" would be better as it retains the opportunity for a review of permits every three years, noting that the word "may" is subjective. Mr. McGreehan and Mr. Baker discussed that the "shall" commits the staff to a process, but not to an outcome, and that the review could begin anytime after three years; that the word "may" gives the option of retaining a use that is still desirable for the Town, i.e., provides flexibility.

Chairman Woodhouse opened the hearing to the public at 6:50 p.m.

1. Neil Risely, stated that he is a constitutionalist and that he believes having a jury on these issues is a good thing.

Chairman Woodhouse closed the hearing to the public at 6:52 p.m.

It was moved by Commissioner Grossberger, seconded by Commissioner Bolin, to adopt Resolution 10-1, "A Resolution of the Paradise Planning Commission Recommending Town Council adoption of Text Amendments to Paradise Municipal Code Chapters 17.11, 17.34, 17.38 and 17.45 Related to: Commercial Composting as a Potential Land Use in the AR-3 Zone; Mobile Home Park Standards; Parking Regulations; and Site Plan Review Permit and Use Permit Revocation Procedures" with the following amendments to Exhibit A of the resolution: remove the words planning director and insert the words planning commission in Section 5, paragraph A, and in Sections 6 and 7, to remove "and/or planning director" to leave review with the planning commission.

The Planning Commission concurred to hear from Mr. McGreehan prior to taking action on the motion. Mr. McGreehan explained that the proposed change to Section 5, paragraph A, does not vest the revocation authority with the Planning Director and only refers to initiating a proceeding; and, that the changes in Section 6 and 7 refer to circumstances wherein there has been a either violation of terms of a use permit, or with regard to a site plan review permit, that a specific land use is not being performed in a manner that complies with town regulations or conditions of approval; and, that the matter may be heard by the body that made the original decision.

Commissioner Grossberger withdrew her motion and Commissioner Bolin withdrew his second.

It was moved by Commissioner Grossberger, seconded by Commissioner Serna and unanimously carried, to adopt Resolution No. 10-1, A Resolution of the Paradise Planning Commission Recommending Town Council adoption of Text Amendments to Paradise Municipal Code Chapters 17.11, 17.34, 17.38 and 17.45 Related to: Commercial Composting as a Potential Land Use in the AR-3 Zone; Mobile Home Park Standards; Parking Regulations; and Site Plan Review Permit and Use Permit Revocation Procedures."

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

Community Development Director McGreehan excused himself from the Planning Commission meeting to attend another meeting.

b. Item for which a mitigated negative declaration document is proposed to be adopted

RISELY REZONE AND PARCEL MAP (RZ-06-4; PM-06-16) APPLICATIONS proposing a property rezone for a \pm 6.11 acre land area consisting of three properties from Rural Residential-2/3 acre minimum (RR-2/3) to Rural Residential-1/2 acre minimum (RR-1-2) and approval of a parcel map to divide a \pm 4.22 acre property included in the rezone into four parcels of record located at 5887, 5893 and 5913 Kibler Road and further identified as assessor parcel numbers 053-180-162,164 and 165.

Assistant Community Development Director Baker reported to the Planning Commission that this agenda item proposes a property rezone for a total of 6.11 acres that includes not only the

applicant's 4.22 acre property, but also two properties on the north side of the proposed project; that the project includes an offer of right-of-way dedication to facilitate the future extension of Elliott Road, but that this project would not make that improvement; and that the private road improvements would occur immediately to the west. The Town Engineer does not recommend acceptance of all the right of way at this time. Mr. Baker noted for the record that there was a staff error in the hearing notice as the two trees proposed for removal are qualifying trees and that if the Planning Commission took action tonight a condition should be added to modify the turn around to save the two trees. Alternatively, the hearing could be renoticed and the project conditions would include conditions regarding the trees.

Mr. Baker answered questions from the Commission to clarify that the requirements for the A-3a road standard (for 8" of base) would prevent the road from being torn up for any future extension, discussed the access across Rising Star and the drainage requirements for parcel 3.

Chairman Woodhouse opened the public hearing at 7:30 p.m.

1. Neil Risely, project applicant, handed the Planning Commissioners a copy of his presentation, a copy of which is part of the public record, and discussed issues he has with the project conditions recommended to be imposed, including but not limited to: building restrictions on parcels 1,2 and 3 set forth in item 3a and asked that be changed to parcels 2, 3 and 4; that items 6 and 7 on page 6 be removed; that drainage on page 6 item 9 be better defined; add the word "future" to item 16a on page 7 as it relates to buildings constructed on the parcels; asked for a calculation of recreation fees referred to on page 8 item 20; stated that he thinks more property owners should have been notified about the project; that he would like written confirmation that the Town will not use any ordinance to force completion of improvements; and that that he never received the email in the packet from Dennis Schmidt dated 9/20/09 regarding the road way.

Assistant Community Development Director Baker stated that condition 3a was intended to refer to parcels 2, 3 and 4; that conditions 6, 7 and 9 are standard conditions; and that he would assist the applicant in estimating the recreation fees in condition 20. Mr. Baker stated that the improvements set forth in conditions 3a and 3b can only go forward when the homes are built.

Mr. Baker offered to arrange a meeting with Mr. Risely, the applicant,

Chairman Woodhouse closed the public hearing at 8:00 p.m.

It was moved by Chairman Woodhouse, and seconded by Commissioner Bolin, and unanimously carried, to continue the public hearing regarding the Risely Rezone and Parcel Map (RZ-06-4; PM-06-16) applications proposing a property rezone to February 16, 2010 and to re-notice the hearing to include the trees and to expand the notice area.

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

c. Item determined to be exempt from environmental review

McKINNON – Tree Felling permit application proposing the felling of \pm 10 qualifying trees on property located at 8229 Skyway [AP No. 051-141-005]. The trees are proposed to be felled to accommodate the construction of a commercial building and related improvements.

Assistant Community Development Department Director Baker reported to the Commission that the McKinnon tree felling permit application is requesting the removal of ten qualifying trees to facilitate the establishment of a \pm 2,500 square foot retail convenience store, that the application is complete, consistent with the Town's tree felling regulations and is eligible for approval with the recommended findings and conditions of approval.

Chairman Woodhouse referred to a project where in trees were felled, the economy went bad and the project did not reach completion, and asked if there were safeguards to prevent this from reoccurring. Mr. Baker explained that prior to issuance of a tree permit, an onsite analysis must be completed, a wastewater construction permit issued, building plans issued and plan check fees paid, and an engineered site plan approved, as completion of these requirements indicates that the developer is ready to break ground. Commissioner Bolin asked what the lot size of this project is and briefly discussed the 3-acre exemption within the Forest Practice Rules as it relates to commercial timber harvesting. Mr. Baker explained that the activity defines what is commercial timber harvesting and confirmed that this lot is .97 and falls within the 3-acre exemption. Mr. Baker stated that it is the opinion of staff that adequate safeguards are in place to prevent the premature removal of the trees, and that if the Commission imposed any additional regulations on this project that was different that what was done for other projects, then additional findings would have to be developed to state what was different about this project in order that the Commission not be seen as arbitrary in its decision making.

Chairman Woodhouse opened the public hearing at 8:12 p.m.

1. John Hair, stated that he is the owner of property located across the street, that he supports the project and asked the Planning Commission to approve the application so the applicant can get going on the project.

Mr. Baker noted that the applicant was not present at the meeting and that he would contact the owner and confirm that the applicant has read, understood and is in agreement with the conditions of approval. He stated that that the Planning Commission decision may be appealed to the Town Council within ten days of the date of the decision.

Chairman Woodhouse closed the public hearing at 8:17 p.m.

It was moved by Commission Grossberger, seconded by Commission Bolin and unanimously carried by those present to adopt the following findings for approval as provided by staff and approve the McKinnon tree felling permit application (PL09-00402), authorizing the felling of up to ten qualifying trees on property located at 8229 Skyway (APN 051-141-005), subject to the following conditions:

FINDINGS FOR APPROVAL

- A. Find that the proposed project is categorically exempt from environmental review under the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15304 and 15332 (Class 32) of the CEQA Guidelines.
- B. The McKinnon tree felling permit application meets the criteria for conditional tree felling permit approval as outlined within PMC Section 8.12.090 because the proposed tree felling activity is necessary to accommodate the establishment of a permitted land use proposed for a land area that is zoned to accommodate the design of the land use.
- C. The proposed tree felling activity, as conditioned, is consistent with applicable Town zoning regulations regarding commercial timber harvesting.

GENERAL CONDITIONS

- 1. All qualifying trees proposed to be retained and shown as such upon the project site plan submitted to the Town of Paradise on November 10, 2009 for Planning Commission consideration shall be protected during construction activities. The project developer shall submit a tree protection plan designed in accordance with *Town of Paradise Suggested Practices for Protection of Trees on Commercial, Quasi-Public, and Multi-Family Construction Sites* to the Town of Paradise for review, along with the required processing fee.
- 2. Submit landscaping plans and application fee to the Community Development Department (planning division) in accordance with Paradise Municipal Code requirements. IMPORTANT NOTE: No final building inspection or occupancy shall be permitted until the landscape plans for the project have been formally approved by the Town of Paradise and landscape materials have been installed (or bonded to guarantee installation).
- 3. To the maximum extent feasible, existing trees to be retained on the site shall be incorporated into the required landscaping for the project.
- 4. Tree restocking shall be executed in accordance with the requirements of PMC Section 8.12.120, including incorporation of required native replacement trees into proposed landscaping plans.
- 5. The landscape plan for the proposed commercial project shall include provisions for the planting of conifer tree species within landscape areas. All landscape trees shall be a minimum fifteen gallon size and shall be selected and ultimately approved by the Town for inclusion within the landscape plan primarily based upon their ability to provide shade for the project site. Smaller ornamental tree species (i.e. dogwood, crepe myrtle) shall not be considered suitable for purposes of mitigating the loss of native trees on the site. (NOTE: The proposed tree species that are to be incorporated within the project's landscape plan shall include, at minimum, 50% of the total trees planted to be native conifer tree species.)

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

6. OTHER BUSINESS – None.

7. COMMITTEE ACTIVITIES

- d. **Status Report:** The 1/26/2010 Paradise RDA Advisory Committee Meeting was cancelled.

8. COMMISSION MEMBERS

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

Mr. Baker restated that the Council remanded the sign regulations and design review standards back to the Planning Commission which is to be presented before the Commission during its February meeting.

9. ADJOURNMENT

The Planning Commission meeting was adjourned at 8:25 p.m.

Attest:

by Joanna Antierre, Town Clerk
Planning Commission Secretary

Avril Grossberger
Acting Chairperson Grossberger

