

**PARADISE PLANNING COMMISSION**

**February 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 Community Development Director McGreehan 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, Serna, and Grossberger. Absent: Johns 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 Gill were also present.

Community Development Director McGreehan announced that both the Chair and Vice Chair were absent and that the Planning Commissioners would need to appoint a Commissioner to act as Chairperson for tonight's meeting only.

Town Clerk Gutierrez opened nominations for Acting Chairperson.

Commissioner Bolin nominated Commissioner Grossberger to serve as Chairperson for the meeting of February 16, 2010.

It was moved by Commissioner Bolin, seconded by Commissioner Serna and approved unanimously by those present, to close nominations for Acting Chairperson.

The roll call vote on the nomination to appoint Commissioner Grossberger to serve as Chairperson for the February 16, 2010 meeting was unanimous.

**1. APPROVAL OF MINUTES**

**a. Regular Meeting of January 19, 2010.**

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

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

**MOTION CARRIES.**

## **2. COMMUNICATION**

### **a. Recent Council Actions**

Mr. McGreehan reported on recent actions of the Town Council at their regular meeting of February 9, 2010.

### **b. Staff Comments – None.**

## **3. PUBLIC COMMUNICATION –None.**

## **4. CONTINUED PUBLIC HEARING**

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

**RISELY REZONE, PARCEL MAP AND TREE FELLING PERMIT (RZ-06-4; PM-06-16; PL10-00024) 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), approval of a parcel map to divide a  $\pm 4.22$  acre property included in the rezone into four parcels of record, and the felling of 2 qualifying trees to accommodate road access improvements for property located at 5887, 5893 and 5913 Kibler Road and further identified as assessor parcel numbers 053-180-162, 164 and 165. (Continued from January 19, 2010)

Assistant Community Development Director Baker provided background regarding the continued public hearing for the Risley Rezone, Parcel Map and Tree Felling Permits application, stating that the hearing was continued from January 19, 2010 and renoticed to include a reference to the tree permit application. Mr. Baker reported that he met and discussed the project findings and conditions with the applicant, that the findings contain an amendment regarding the tree felling activity, and that staff recommends approval of the project as mitigated and conditioned.

Acting Chairperson Grossberger opened the public hearing at 6:10 p.m.

1. Neil Risley, project applicant, stated that he concurs with the corrections and items discussed at the last meeting, that his questions have been answered, and that he is ready to move forward.

Chairperson Grossberger closed the public hearing at 6:12 p.m.

It was moved by Commissioner Serna, seconded by Commissioner Bolin and unanimously carried by those present to (1) Adopt Planning Commission Resolution No. 10-2, A Resolution of the Planning Commission of the Town of Paradise Recommending a Rezoning of Certain Real Property Within the Town of Paradise; and, (2) Approve the proposed Risley parcel map (PM-06-16) and tree felling permit applications subject to the following conditions and mitigations:

## **FINDINGS**

1. Find that the proposed project, as mitigated and conditioned, could not have a significant effect on the environment, and adopt a mitigated negative declaration.
2. Find that, as mitigated and conditioned, the project is consistent with the goals and policies of the Paradise General Plan because the project would assign zoning to the project site that is not characterized by severe constraints to residential development and is consistent with existing residential zoned development located upon adjacent and nearby properties.
3. Find that the project, as mitigated and conditioned, is consistent with the spirit and intent of the requested RR-1/2 zoning district, because the land use proposed for the parcels would be residential and parcel sizes proposed are consistent with the requirements of the zone.
4. Find that the project, as mitigated and conditioned, will not result in a significant adverse effect on existing plant and animal life in the project vicinity for the following reasons:
  - a. The project site is located within an area that has been significantly altered by residential development spanning several decades.
  - b. No known outstanding wildlife habitat exists in the immediate project vicinity;  
and
  - c. No known rare or endangered plants exist in the immediate project vicinity.
5. Find that the Risley tree felling permit application meets the criteria for conditional approval as outlined within PMC Section 8.12.090 because the proposed tree felling activity is necessary to accommodate the establishment of the project upon land that is planned to accommodate such land use.
6. Find that the proposed tree felling activity, as conditioned, is consistent with applicable town zoning regulations regarding commercial timber harvesting.

## **CONDITIONS TO BE MET PRIOR TO RECORDATION OF FINAL PARCEL MAP**

### **ROADS/ACCESS**

1. Access to parcels for ingress and egress/public utilities shall be shown on the final parcel map.
2. Submit six copies of stamped and signed road and drainage improvement construction plans to the Town Public Works Department (engineering division) for approval. Pay appropriate plan check and inspection fees. The proposed private roadway must be designed to a modified Town of Paradise A-3a road standard in accordance with the specifications outlined within the memorandum regarding the Risley parcel map from Town Engineer Dennis Schmidt dated September 30, 2009 and on file with the Town of Paradise. Construction and drainage

improvement plans must be approved PRIOR TO CONSTRUCTION or installation of the required facilities.

3. The following notes shall appear upon the final parcel map information sheet:

a. "Prior to the issuance of a building permit authorizing residential development upon Parcel Nos. 2, 3 or 4, the project developer shall secure a town-issued encroachment permit and construct a full width private road access with all necessary drainage facilities for Parcel Nos. 2, 3 and 4 to a modified Town adopted A-3a road standard including a town approved turn around facility in accordance with road construction, drainage Improvements, grading permit requirements and erosion and dust emissions control plans previously approved by the Town of Paradise."

b. "Prior to the issuance of building permits authorizing residential development of Parcel Nos. 2, 3 or 4, the developer shall submit a detailed soil erosion and air emissions control plan addressing additional storm water drainage resulting from the new private roadway and the additional residences to the Town of Paradise for review and approval by the Town Engineer and, if necessary, the Butte County Air Quality Management District." (Mitigation)

4. Provide and record a road maintenance agreement for the proposed private roadway satisfying Town Public Works Department (engineering division) requirements.

5. Indicate on the final parcel map a fifty-foot building setback line measured from the centerlines of Kibler Road and the proposed private access roadway. The building setback line along the proposed private access road shall be situated such that it lays fifty lineal feet from the centerline of the future extension of Elliott Road.

6. Deed thirty feet from the center of the Kibler Road right-of-way to the Town of Paradise or provide a recorded deed document showing that this requirement has been met.

7. Construct or defer by covenant executed with the Town of Paradise a one-half street section upgrade improvement along the project site frontage of Kibler Road to the town-adopted B-2 road standard.

8. Provide an offer of dedication for future Elliott Road right-of-way as proposed and shown upon the parcel map submitted to the Town of Paradise in a manner deemed satisfactory to the Town Engineer.

### **DRAINAGE**

9. Submit engineered plans for a design solution for drainage per requirements of the Town Engineer and the INTERIM DRAINAGE DESIGN GUIDELINES prepared April 2, 1998. This solution shall be designed in a manner that includes the establishment of all necessary drainage improvements both on and possibly off-site to accommodate existing and additional project induced drainage flows without generating any off-site adverse effects.

### **SITE DEVELOPMENT**

10. All easements of record shall be shown on the final parcel map.

## **SEWAGE DISPOSAL**

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

## **UTILITIES**

12. Construct a water main extension satisfactory to the Paradise Fire Department and the Paradise Irrigation District or defer construction of the required water main by covenant executed with the Paradise Irrigation District and place the following note upon the final parcel map information sheet: "Prior to the issuance of a building permit authorizing residential development of Parcel Nos. 2, 3 or 4, the project developer shall construct a water main extension in accordance with Paradise Irrigation District and Paradise Fire Department-approved construction plans."

13. Meet all other requirements of the PID in accordance with the comments provided by PID staff for the Risley parcel map, dated December 17, 2007 and on file with the Town of Paradise.

14. Meet the requirements of other utility companies regarding the establishment of necessary public utility easements.

## **FIRE PROTECTION**

15. The project developer shall execute and record an agreement with the Town of Paradise binding all owners of Parcel Nos. 1, 2, 3 and 4 to 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 September 2, 2008 for the Risley parcel map application and on file with the Town of Paradise.

16. Place the following notes upon the final parcel map information data sheet:

a. "All buildings constructed upon these parcels determined by the Paradise Fire Chief to be subject to the requirements of the Urban Wildland Interface Code shall be built of non-combustible exterior construction meeting the requirements in accordance with the Paradise Fire Department project review memorandum dated September 2, 2008 for the Risley parcel map application and on file with the Town of Paradise."

b. "All owners of Parcel Nos. 1, 2, 3 and 4 are obligated to the terms of a recorded a fuel reduction plan for the parcels meeting the requirements of the Paradise Fire Department."

c. Prior to the issuance of a building permit authorizing residential development of Parcel Nos. 2, 3 or 4, the project developer shall execute a work order with the Paradise Irrigation district to upgrade the existing wharf-type fire hydrant located at the intersection of Kibler Road and Mystic Lane to a municipal-style fire hydrant in a manner deemed satisfactory to the Paradise Fire Department."

17. Meet all other requirements of the Paradise Fire Department in accordance with the Fire Department plan check review for the Risley parcel map dated September 2, 2008 and on file with the Town of Paradise.

### **TREE FELLING**

18. Place the following notes upon the final parcel map information data sheet:

“All qualifying trees proposed to be retained shall be protected during road and drainage improvements construction activities in a manner consistent with the Town of Paradise “Suggested Practices for Protection of Trees on Commercial, Quasi-Public and Multi-Family Residential Construction Sites”.

### **OTHERS**

19. Provide a "Statement of Taxes" from the office of the Butte County Tax Collector.

20. Provide monumentation as required by the Town Engineer in accordance with the State Subdivision Map Act and Town of Paradise standards.

21. 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.

22. Submit the results of an archaeological field survey of the site in the form of a written report. The report shall contain recommendations for any necessary mitigation measures designed to protect any cultural resources found to exist on the site. Any mitigation measures shall be incorporated into the design of the final parcel map. (mitigation)

23. The following notes shall be placed upon the final parcel map information data sheet:

a. At the time of building permit issuance, landowners 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. (mitigation)

24. The Risley final parcel map shall not be recorded unless and until a town-established Rural Residential-1/2 acre minimum zoning is in legal effect for the project site. The resultant parcel configurations shall be in substantial conformance with the Risley parcel map design submitted to the town on September 10, 2009.

### **GENERAL CONDITION**

25. The approval action of the project's tree felling permit application shall only be valid and in effect until the expiration date of the Risley parcel Map.

Assistant Community Development Director Baker announced that the decision of the Planning Commission can be appealed within ten days of the decision date.

## **5. PUBLIC HEARING**

### **a. Item determined to be exempt from environmental review**

**CHAMBERS SITE PLAN REVIEW PERMIT (PL09-00387) APPLICATION: Planning Director referral to Planning Commission- Applicant is 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.**

Assistant Community Development Director Baker reported that a public hearing was held by the Planning Director on January 21, 2010, and that due to public testimony provided by neighboring property owners that revealed concerns regarding the project, the Planning Director exercised his option to refer this matter to the Planning Commission for decision making action. Mr. Baker discussed the two options regarding the Chambers Site Plan Review Permit Application recommended for Commission consideration. The first option is for conditional approval which includes the installation of six foot tall solid wood fencing or equivalent around the entire perimeter of the  $\pm 5,000$  square foot vehicle impound facility; and, the second option is for project denial. If the project is denied, the Town Attorney has recommended that the Planning Commission adopt a resolution that incorporates specific findings related to a denial.

Acting Chairperson Grossberger opened the public hearing at 6:22 p.m.

1. Kelly Chambers, project applicant, stated that he owns Andy's Towing, that he started the business six months ago using the property at 6633 Skyway for impounds thinking that it was OK to use the property, but afterwards he was informed that he needed to submit a site plan application.

Mr. Baker asked if Mr. Chambers received the staff report in the mail, and if he was in agreement with the recommendations. Mr. Chambers acknowledged that he did receive the report, but that it was not that clear to him. Mr. Baker reviewed the issues and the conditions of approval that address the issues, such as the requirement for fencing, the types of vehicles that could be stored at the property, that no dismantling of vehicles could occur at the site, and that certain activities are already prohibited by an agreement between the property owner and the California Highway Patrol. He confirmed that if the project was conditionally approved, the use would be permitted for a not to exceed three year period.

The Planning Commissioners stated that they desire certainty that the applicant understands the implications of either an approval of the project, or the rationale for project denial, before they made a decision on this matter.

2. Barbara Ramsey, 680 Memorial Way, stated that she can see the back of the property from her front door, that there are car bodies and frames on the property that are not stored vehicles, that the property is located along Skyway across the street from a park that hosts community events and in the Town's redevelopment area, that there is a tow service already located two blocks from this proposed location, that this area has a lot of pedestrian traffic, a bus stop is located in the area, and that trying to take vehicles into

this area will create additional traffic safety issues, that she has concern for the trees in the area as there is no provision for a retaining wall or drainage, that she thinks the project is dangerous and does not belong at this location and asked that the project be denied.

3. Kelly Chambers stated that the car frame without wheels and tires does not have anything to do with his tow service and impound yard and the property is currently being cleaned up by the property owners, that the impounded vehicles will be stored in a clean and orderly manner, and picked up by the owners.

Commissioner Bolin clarified the specific section of property that is being used by Andy's Towing and Mr. Chambers stated that he is not responsible for the entire piece of property and that the property owners are getting the property cleaned.

Acting Chairperson Grossberger closed the hearing to the public at 6:45 p.m. and reopened the hearing at 6:46 p.m. for additional comment from citizen Barbara Ramsey.

1. Barbara Ramsey stated that there is a mailbox located at the site that creates a safety concern.

The Planning Commissioners acknowledged that the mailbox location is a different issue and Acting Chairperson Grossberger closed the public hearing at 6:48 p.m.

Acting Chairperson Grossberger asked staff to address the implications of the property being located in the Paradise redevelopment project area. Mr. Baker explained that the staff was solicited for input and there was one comment received that this type of activity was not suited for the redevelopment project area; however, the project does not present a new land use in that area, that it could be argued that approval of this project may improve its appearance, and that the approval is conditioned upon the impound activity being completed screened. He discussed the existing legal, non-conforming land uses that have existed at this site over the years, and code enforcement efforts that have been attempted over the years that did not result in any conclusive evidence of unlawful activities. Mr. Baker stated that the findings for denial address factors such as a vehicle impound yard not promoting economic development of the Skyway corridor and conflicting with the Town's redevelopment plan objectives. Mr. Baker stated that the Planning Commission could require other conditions for approval, such as landscaping on the site, but that conditions imposed upon the project must have a nexus to the project, and be a benefit to the public, promoting the public's health and well being.

Acting Chairperson Grossberger stated that she does not see how this project can be compatible with the goals and objectives or fit with the character of what is planned for the redevelopment area.

Community Development Director McGreehan stated that the redevelopment agency and the redevelopment plan is short lived being only five years old, that the staff has recommended conditional approval with the redevelopment area in mind, especially condition #10 that states the proposed use of the property for impound would not exceed a specified time period, and that the volume of proposed impounds is very low and should not be noticeable to the traveling public when screened.



Commissioner Bolin stated that the proposed use is not a new use, and Mr. McGreehan stated that the tenant did assume the land use was OK based on the current use of the property. Commissioner Bolin commented that the back of the property looks terrible and Commissioner Serna asked if the current uses of the property were grandfathered in. Mr. McGreehan stated that research could not confirm that the uses are unlawful. He discussed circumstances that would provide an opportunity for the use of the land to be changed, and that a better economy might allow the Town to purchase the property.

Acting Chairperson Grossberger stated her concern that due to a business owner being required to go to the expense of installing a fence, that the business will become entrenched within the redevelopment area.

Mr. Chambers stated that he appreciates the Planning Commission concern regarding the fence, and that he does not intend to stay at that location for three years, that he would like to buy his own property for the business. He further stated that he did not realize the Planning Commission was being asked to make a final decision on the project tonight, that he doesn't think he can afford the wood fence as the business is still new and growing and that he would like to the commission to look at allowing an alternative type of fencing.

The commissioners discussed whether or not a chain link fence with slats would be appropriate, what is an acceptable equivalent to solid fencing, and noted that the testimony from the citizens was more about the current land use and resulting poor appearance of the property than about the proposed impound yard. Mr. Baker stated that the existing fence along the south exterior of the property is located in the setback and is covered by a mesh fabric makes it legally conforming, but which becomes translucent under certain conditions, and that if privacy slats were inserted into this 6' fence, it would have to be moved.

**It was moved by Commissioner Serna, seconded by Commissioner Bolin, and unanimously carried by those present to continue the public hearing regarding the Chambers Site Plan Review Permit (PL09-00387) Application to the March 16, 2010 Planning Commission meeting to allow an opportunity for the applicant to meet with staff to discuss other fencing options for the interior fencing; directed staff to provide expanded language for purpose of denial to strengthen a linkage between a denial of the project and the goals and objectives of the Redevelopment Agency Plan in the form of expanded findings for denial; and, directed staff to discuss methods with the property manager by which the property owner could improve the appearance of the entire property.**

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

**MOTION CARRIES.**

## **6. OTHER BUSINESS**

- a. Reconsideration of Planning Commission resolutions [Nos. 09-8 and 09-9] recommending Town Council adoption of text amendments to regulations contained within Paradise Municipal Code Chapters 17.04, 17.37 and 17.41 regarding**

**definitions, sign regulations and design review (Remanded to the Planning Commission by the Town Council).**

**b. Reconsideration of Planning Commission's prior recommendation for Town Council adoption of revised/updated "Town of Paradise Design Standards" (Remanded to the Planning Commission by the Town Council).**

Assistant Community Development Director Baker discussed the changes to the proposed text of the ordinance requested by Town Council, and that the changes were of enough significance that there was a legal obligation to remand the matter back to the Planning Commission for review. Mr. Baker stated that two additional text changes were initiated by planning and management staff that, if approved, would establish all design review applications being reviewed by town staff, resulting in a streamlined, cost reduced process; and, assuring that exterior building color changes (with the exception of single family residences) would be compatible with the town's adopted Design Standards; and, he briefly discussed the memorandum provided by Chairman Woodhouse that respectfully states disagreement with the Council's direction to remove control over font selection, font sizes, colors and changes. Mr. Baker also stated that staff is in support of the ordinance language that permits architectural design review of new sign structures to assure compatibility with building design, such as pylon, pole and monument signs.

Commissioner Bolin asked for an explanation of the color palette, and Mr. Baker explained that the new language reasserts and clarifies the objective of the design standards that colors for new buildings subject to design review must be consistent with the color palette.

Commissioner Bolin asked how an existing business owner would know of this color palette and color requirement, and if a business owner would have to make a request to repaint a building. Assistant to the Town Manager/Business and Housing Services Director Gill explained that the staff would most likely interfere if a business owner were applying an outlandish, garish color to a building; and, once the design standards are adopted, it is staff's intent to educate the public through the local newspaper, newsletters, the Chamber of Commerce and personal visits to businesses to discuss the regulations.

Acting Chairperson Grossberger clarified that the Town Council wishes to eliminate any design review of a sign with regard to colors, font and font size for signs; and Commissioner Bolin clarified that the Town cannot regulate content of a sign. Ms. Grossberger asked if the Council members who own a local business have any conflicts of interest with regard to this matter and staff responded that the Town Attorney is present at all Council Meetings and has an obligation to point out any obvious conflicts and that a financial benefit from removing regulations regarding font, etc., would have to be shown. Ms. Grossberger further stated that she is in agreement with the comments made by Chairman Woodhouse in his memo, and is in disagreement with the Town Council regarding removal of regulation of font, font size and color.

Ms. Gill presented a power point regarding changes made to the design standards, discussed the range of colors in the colors palette, and that the only prohibition would be of fluorescent, obnoxious colors, and that prohibition would also apply to trim colors. Ms. Gill noted that the changes to the document reflect conformity to the unique needs of our Town.

**It was moved by Commissioner Bolin, seconded by Commissioner Serna and unanimously carried by those present to adopt Planning Commission Resolution No. 10-3, A Resolution of the**

Paradise Planning Commission Recommending Town Council Adoption of Text Amendments to Paradise Municipal Code Chapters 17.04, 17.37 and 17.41 Related to: Land Use, Sign and Design Review Regulations.

The Planning Commissioners concurred to direct staff to update the Design Standards in a manner that is consistent with the Town Council's direction and also the additional changes recommended by planning and management staff.

**7. COMMITTEE ACTIVITIES**

- a. **Status Report: Paradise RDA Advisory Committee Meeting – The next RDA meeting is scheduled for March 23, 2010.**

**8. COMMISSION MEMBERS**

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

Commissioner Bolin asked about regulations for removal of trees due to storm activity and why a permit is required. Assistant Community Development Director stated a permit is not required if the tree is damaged by storms, that he will inform the Town's counter personnel of the three classes of tree experts that can make the call if a tree is dangerous due to storm damage and that he will report back to the Planning Commission at the next meeting.

**9. ADJOURNMENT**

The Planning Commission meeting was adjourned at 8:40 p.m.

  
Chairman

Attest:

  
Planning Commission Secretary