

P L A N N I N G D I R E C T O R A G E N D A

**May 4, 2010
2:00 p.m.**

CALL TO ORDER

1. APPROVAL OF MINUTES – April 15, 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

Item proposed to be determined exempt from environmental review:

- a. **WENDY's SITE PLAN REVIEW PERMIT (PL09-00225) AND TREE FELLING PERMIT (PL09-00250) APPLICATIONS:** Proposal for Town approval to establish a drive-in service facility in association with a restaurant, and the felling of ± 12 qualifying trees on property located at 5987 Clark Road, Paradise; AP No. 053-120-079 **(Continued from April 15, 2010)**

4. PUBLIC HEARING – None.

5. OTHER BUSINESS - None.

6. ADJOURNMENT

PARADISE PLANNING DIRECTOR
April 15, 2010 – 2:00 p.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 2:00 p.m.

1. APPROVAL OF MINUTES – April 5, 2010 meeting

The meeting minutes of April 5, 2010 were approved by the Planning Director.

2. PUBLIC COMMUNICATION

An unnamed citizen requested and received clarification concerning the public hearing regarding the abandonment of land uses on Black Olive Drive.

3. CONTINUED PUBLIC HEARINGS

Item determined exempt from environmental review

- a. Town of Paradise: Abandonment of Nonconforming Land Uses – Pursuant to provisions of Paradise Municipal Code section 17.39.200, the Planning Director on behalf of the Town of Paradise shall consider the evidence of record and determine whether or not to officially declare the nonconforming land use facilities of “Aloha Lodge” and “Aloha Paradise” that previously occupied properties located at 5424 and 5446 Black Olive Drive [AP Nos. 052-223-011, -012 and -013] as Abandoned. (Continued from April 5, 2010)**

The continued hearing was opened to the public by the Planning Director. Appearing: No testimony was presented.

The Planning Director subsequently closed the continued public hearing.

Upon conclusion and closure of the continued public hearing, the Planning Director stated that he had carefully studied the material evidence of public record within the town records along with weighing all public hearing testimony received concerning the subject matter. Subsequently, the Planning Director, on behalf of the Town of Paradise, proclaimed the following listed findings of fact and determination decision actions:

FINDINGS OF FACT:

- a) Records of the State Department of Social Services Community Care Liscensing agency office in Chico, CA. indicate that the Aloha Paradise facility at 5446 Black Olive Drive ceased (or closed) operation on October 8, 2008, and has not been state relicensed for such facility operation since that

April 15, 2010

date.

b) As a resident and employee of the Town of Paradise, the Planning Director has observed that continuously since October 8, 2008 to the present date, the previous land use facility at this property location has not been physically re-established.

c) Records and testimony received have verified that the long standing owner of this subject property, a Mr. Agmata, lost ownership of this property to Monterey Community Bank via foreclosure action(s) that occurred during calendar year 2009.

d) Evidence exists indicating that Monterey Community Bank listed this subject property for sale via the efforts of a Paradise based real estate firm and that the sale of this property was listed as a property with potential ability for the re-establishment of a community care facility land use activity.

DECISION ACTION NO. 1:

1. Based upon the above-noted findings and in conjunction with the material evidence and public testimony of record, the Planning Director has determined , on behalf of the Town of Paradise, that the nonconforming land use facility of "Aloha Paradise" has not been totally abandoned in accordance with the provisions of Paradise Municipal Code Section 17.39.200.

FINDINGS OF FACT:

a) Records of the State Department of Social Services Community Care Licensing agency office in Chico, CA indicate that the Aloha Lodge facility at 5424 Black Olive Drive ceased (or closed) operation on **August 21, 1996**, and has not been state relicensed for such facility operation continuously since that date.

b) As a long standing resident and employee of the Town of Paradise, the Planning Director has observed that continuously since August 21, 1996, the previous land use facility at this property location has not been physically re-established.

c) Material evidence contained within the Town of Paradise maintained record file of this subject property indicates that the long standing property owner, a Mr. Agmata, failed to demonstrate a good faith effort to sustain and/or maintain the nonconforming land use facility at this property location. Such evidence constitutes, but is not limited to, a record of sporadic and infrequent building permit application(s) that were either applied for and never issued or applied for, issued and expired.

DECISION ACTION NO. 2:

1. Based upon the above-noted findings and in conjunction with the material evidence and public testimony of record, the Planning Director has determined , on behalf of the Town of Paradise, that the nonconforming land use facility of "Aloha Lodgee" has been totally abandoned in accordance with the provisions of Paradise Municipal Code Section 17.39.200

It was announced by the Planning Director that the property owner can appeal today's decision within ten days. If no appeal is filed within this time period then the decision actions rendered on behalf of the Town of Paradise shall be in legal effect and force.

Item proposed to be determined exempt from environmental review:

- b. WENDY's SITE PLAN REVIEW PERMIT (PL09-00225) AND TREE FELLING PERMIT (PL09-00250) APPLICATIONS: Proposal for Town approval to establish a drive-in service facility in association with a restaurant, and the felling of ± 12 qualifying trees on property located at 5987 Clark Road, Paradise; AP No. 053-120-079 (Continued from April 5, 2010)**

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

Planning Technician Susan Hartman reported that the project architect requested a continuance of this public hearing for approximately two weeks to address changes to the proposed project plans that were requested during the hearing on April 5, 2010.

The Planning Director closed the public hearing.

The Planning Director continued the public hearing to May 4, 2010 at 2:00 p.m.

4. PUBLIC HEARING – None.

5. OTHER BUSINESS – None.

6. ADJOURNMENT

The Planning Director adjourned the meeting at 3:15 p.m.

Planning Director

ATTEST:

Planning Secretary

MEMORANDUM

TO: Al McGreehan, Planning Director

FROM: Susan Hartman, Community Development Technician

SUBJECT: Continued Public Hearing: Wendy's Site Plan Review Permit [PL09-00225] and Tree Felling Permit [PL09-00250] applications for the proposed drive-in facility in association with a restaurant and the associated tree felling.

DATE: April 28, 2010

SPECIAL INFORMATION:

This memorandum is intended to acknowledge and address additional application materials submitted by the site plan review project architect, Mr. James Thorne, on April 26, 2010. Mr. Thorne submitted these materials to the town in an effort to address and mitigate concerns brought up during the Planning Director public hearing held April 5, 2010 [subsequently continued until April 15, 2010]. During the April 15, 2010 meeting the Planning Director passed a motion to continue the above referenced agenda item to the May 4, 2010 Planning Director meeting as requested by the project architect. The primary purpose of this action was to afford the project applicant and architect an opportunity to re-examine their project application and to possibly modify its proposed design, as it relates to solid waste enclosure locations and parking facility lighting, to better address issues of concern that were expressed by a neighboring, multi-family housing property owner.

On April 26, 2010 a project design resubmittal was received from the architect proposing the following revisions:

- Relocate the solid waste containers enclosure to a location adjacent to the west side of the restaurant;
- Move the two light poles previously located at the far west of the parking facility easterly by approximately 35';
- Relocate the entrance to the drive-thru westerly by approximately 10' to accommodate the revised location of the solid waste enclosure;
- Reduce the parking spaces from 37 to 36 due to the loss of one space as part of relocating the solid waste enclosure;
- Reduce the proposed restaurant seating from 68 to 66 seats to coincide with the reduction in available parking;
- Propose an 8' tall masonry wall along the entire western edge of the proposed parking facility in an effort to afford privacy from the restaurant operations to the neighboring multi-family land use.

ANALYSIS

Project Design

The project applicant is proposing to establish a drive-in service facility in association with the proposed establishment of a restaurant (Wendy's). The ± 2.07 acre project site is located on the south west side of Elliott Road at its intersection with Clark Road. The site is currently developed with a gas station (AM/PM) and convenience store on the north half of the property. The southern half of the property proposed to be further developed is currently vacant.

The proposed drive-in service facility would be integrated with a 3104 sq ft commercial structure to be constructed on the site and would be accessed via a new paved driveway, with a new encroachment from Clark Road, and newly established parking facilities. The new drive-in service facility roadway would exit the site via a proposed commercial driveway encroachment connecting to Clark Road.

The project site is situated within the Community Commercial (CC) zoning district. Access to the site is provided by both Elliott and Clark Roads, two high-volume public arterial streets. The property is identified by assessor parcel number 053-120-079.

Days and hours of operation for the facility are anticipated to be 10 a.m. to 10:00 p.m. with drive-in facility operations extended through 12:00 a.m., seven days a week. The proposed patron occupancy level has been reduced from sixty eight to sixty six people in addition to six employees to comply with the reduction in available parking spaces.

In order to facilitate establishment of the drive-in facility and related restaurant construction, the project applicant has proposed to remove up to 12 qualifying trees from the project site. Pursuant to the requirements of Paradise Municipal Code (PMC) Section 8.12.040, the Wendy's tree felling permit application was submitted with material evidence provided by consulting registered forester, Randolph Vasquez, certifying that all 12 of the qualifying trees proposed for felling on the site will be in the construction zone and will be impacted by the proposed development. Of special note is non-native tree #6 which is shown on the revised map, dated March 8, 2010, as being retained as well as listed as a residual tree in the resubmittal narrative dated October 6, 2009, but the forester's report has it incorrectly labeled to be removed as per the original design submittal. However, the tree is identified as a walnut tree and is therefore not subject to the issuance of a tree felling permit.

Environmental Review

As a project involving construction of a commercial structure in an area characterized by similar land uses, the project belongs to a class of projects that can be determined to be categorically exempt from the requirements of the California Environmental Quality Act (CEQA) as an 'in-fill' project, pursuant to Section 15332 of the State CEQA Guidelines.

ANALYSIS CONCLUSION

Pursuant to Section 17.20.500 of the Paradise Municipal Code, the establishment of drive-in service facilities on the project site is subject to town approval of a site plan review permit.

The proposed project, if conditionally approved by the Planning Director as recommended, is consistent with the Paradise General Plan, existing zoning and would be compatible with the surrounding land uses.

The project has received generally favorable responses from commenting agencies and, in consideration of the manner in which the site is configured; the project appears to be a reasonable location for the establishment of drive-in service facility business occupancy if conditioned prudently. In addition, the project applicant has made good faith efforts to address concerns from neighboring properties to provide privacy from business operations. The proposed function of the project is in compliance with all applicable zoning regulations and can be found to be consistent with Paradise General Plan policies applicable to community commercial land uses.

FINDINGS FOR APPROVAL

1. Find that the proposed project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section 15332 of the State CEQA Guidelines.
2. Find that the project, as conditioned, is consistent with the goals and policies of the Paradise General Plan because the project will result in the establishment of a restaurant land use in an area zoned for such use.
3. Find that the project, as conditioned, is in compliance with all applicable regulations of the Community Commercial zoning district.
4. Find that adequate infrastructure is currently in place to serve the proposed project.
5. Find that the project, as conditioned, will not detrimentally affect existing plant and animal life in the project vicinity for the following reasons:
 - a. The project is located within an area that has been altered from its natural state by long-established residential and commercial land uses;
 - b. No known outstanding wildlife habitat exists in the immediate project

vicinity; and

- c. No known rare or endangered plants are known to exist in the immediate project vicinity.
6. Find that the proposed tree felling activity meets the criteria for tree felling permit approval as outlined within PMC Section 8.12.090 because the proposed tree felling activity is necessary to accommodate the proposed facility establishment, parking and grading improvement plans.

STAFF RECOMMENDATION

After closure of the scheduled public hearing, **adopt the findings provided by staff and approve the Wendy's site plan review and tree felling permit applications** (PL09-00225, PL09-00250) authorizing the establishment of a drive-in service facility and the felling of up to 12 qualifying native trees associated with the establishment of a commercial restaurant building and related improvements on property located at 5987 Clark Road, subject to the following conditions:

GENERAL CONDITIONS OF SITE PLAN REVIEW APPROVAL

1. If any land use for which a site plan review permit has been granted and issued is not established within three years of the permit's effective date, the site plan review permit may become subject to revocation by the Town of Paradise.
2. Site improvements (building, signs, lighting, landscaping, etc.) shall conform to all Town of Paradise applicable design standards.
3. All work within the Clark Road public right of way is subject to Town issuance of an encroachment permit, which will require that the contractor be properly licensed and bonded with the Town of Paradise.
4. Required landscape plans for the proposed commercial building associated with the drive-in service facility shall be designed to provide for the installation and maintenance of street trees in accordance with the requirements of the Town Engineer and landscape plantings specifically chosen and arranged to screen and soften the appearance of the drive-in service facility from pedestrians and vehicular traffic along Clark Road.
5. Outside light fixtures associated with the project shall be designed to not exceed a

height of sixteen feet above finished grade and shall be shielded to prevent the direct projection of light onto adjoining and nearby properties.

6. Pay development impact fees prior to issuance of building permits for project construction in accordance with Paradise Municipal Code requirements.

CONDITIONS TO BE MET PRIOR TO THE ISSUANCE OF A BUILDING PERMIT

ROADS AND ACCESS

7. Submit and secure Town Engineer review and approval of an appropriate number of copies of frontage and off-site improvement plans to include the construction of new driveway aprons to serve the proposed driveway encroachments along Clark Road and the installation of a drainage inlet along Shadowbrook Way.
8. Submit an Engineer's Estimate with a detailed estimate of both onsite and offsite improvements to the Public Works Department (Engineering Division).

DRAINAGE

9. Provide a final design solution for drainage per requirements of the Town Engineer and the **INTERIM DRAINAGE DESIGN GUIDELINES prepared April 2, 1998**. Drainage facilities shall be designed in a manner that provides for the establishment of all necessary drainage improvements to accommodate existing and additional project induced drainage flows without generating any off-site adverse effects.

SANITATION

10. Complete the requirements of the Town Onsite Sanitary Official concerning application, final system design, and the issuance of permit approvals for the installation of a sewage treatment and disposal system improvements to serve all proposed facilities. Provide evidence thereof to the Town Community Development Department (Community Safety Services Division).

SITE DEVELOPMENT

11. Submit three (3) copies of a detailed engineered site plan showing all required project improvements and facilities as shown and approved on the site plan review application. Plans shall be prepared by a registered civil engineer (including final parking facility design) and submitted to the Public Work Department (Engineering

Division) for review and approval. Pay required engineered site plan checking fee. Construction and drainage improvement plans must be approved **PRIOR** to construction or installation of the required facilities.

12. Apply for and secure Town issuance of a grading permit satisfying all Engineering Division requirements. Pay applicable grading permit fees per current fee schedule.
13. Properly abandon or relocate any easements that conflict with the design of the project.
14. Submit a detailed soil erosion prevention plan to the Town Public Works Department for approval by the Town Engineer **PRIOR** to the start of any earthwork. Show all erosion control devices and sedimentation basins required by Paradise Municipal Code 15.04.280.
15. Meet the requirements of the Town Building Official/Fire Marshal regarding submittal of construction plans, interior automatic fire sprinkler plans, building permit applications, and all applicable Town adopted construction and fire code requirements.
16. Secure the issuance of a Town approved tree-felling permit prior to felling any qualifying trees.

TREE FELLING

17. Submit application with fee and secure Town Planning Director review and approval of a professionally designed and accurately mapped "Tree Protection Plan" for the proposed project that provides for tree planting placement as well as existing tree protection measures (fencing, etc.); and prior to the commencement of ground disturbance site work (grading, etc.) for the project.
18. All qualifying trees proposed to be retained and any native saplings proposed to be retained on the site as replacement trees shall be protected during 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.
19. A certified arborist shall be engaged by the applicant to oversee the employment of tree protection measures during all related project site improvement construction that has the potential to effect trees to be retained.

CONDITIONS TO BE MET PRIOR TO FINAL BUILDING INSPECTION AND

CERTIFICATES OF OCCUPANCY

ROAD AND ACCESS

20. Pay appropriate fees, provide the appropriate bonds and insurance certificates, obtain town issued encroachment permit and construct all design-approved work in the right-of-way (including driveway approach and utility relocations). All design features shall meet ADA requirements and comply with the Caltrans A-87 standard, Town ordinances, accepted engineering standards and the requirements of the Town Engineer. Street frontage and driveway improvement plans must be approved **PRIOR** to the construction or installation of the required facilities.

SITE DEVELOPMENT

21. Construct all necessary site, drainage, access, wastewater treatment/disposal and other facilities improvements as required by the Town Engineer and the Town Onsite Sanitary Official. All construction shall be in conformance with generally acceptable engineering and construction practices.
22. 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).

FIRE PROTECTION

23. Meet all other project requirements of the Paradise Fire Department in accordance with the Fire Department development review comments/conditions dated revised November 17, 2009 and on file with the Town Community Development Department.

SANITATION

24. Meet all requirements of Town onsite sanitation staff regarding inspection and approval for the construction and final design of the onsite sewage disposal system.

CONDITIONS OF LAND USE OPERATION

25. Any exterior speakers or communication systems installed to facilitate customer orders shall be operated in a manner that does not create noise disturbances across a real property line and in accordance with Town of Paradise noise ordinance regulations.

26. Any future function of the drive-in service facility that contributes to or creates a traffic or pedestrian hazard shall be corrected to the satisfaction of and in a manner deemed acceptable to the Town Engineer.