

PARADISE PLANNING COMMISSION
February 21, 2012 - 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 Chair Grossberger at 6:01 p.m.

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

ROLL CALL

Present at roll call were Commissioners Bolin, Jones, Woodhouse, Zuccolillo and Chair Grossberger. Community Development Director Craig Baker and Assistant Planner Susan Hartman were also present.

1. APPROVAL OF MINUTES

a. Regular Meeting of January 17, 2012.

It was moved by Commissioner Woodhouse, seconded by Commissioner Bolin to approve the minutes of the January 17, 2012 Planning Commission meeting as submitted by staff.

VOTE: AYES: Commissioners Jones, Woodhouse, Zuccolillo and Bolin.
NOES: None. ABSTAIN: Chair Grossberger. ABSENT: None.

MOTION CARRIES.

2. COMMUNICATION

a. Recent Council Actions

Mr. Baker reported on Town Council actions occurring at the February 7th meeting. Town Council appointed Tom Cole and Stephanie Neumann to the Tree Advisory Committee and adopted a resolution approving the Master Bicycle and Pedestrian plan which keeps the Town eligible for potential grant funding for Pedestrian Projects, Safe Routes to Schools and other projects.

On February 7th the Planning Director held three public hearings and approved a use permit modification and a parcel map application. The other use permit modification relating to Trinity Pines, is on tonight's agenda for a public hearing.

b. Staff Comments

None.

3. PUBLIC COMMUNICATION – None.

4. CONTINUED PUBLIC HEARING – None.

5. PUBLIC HEARING

5a. Item previously determined to be exempt from environmental review:

TRINITY PINES Use Permit Modification (PL12-00012) Application requesting the modification to the terms and conditions of a previously-approved conditional use permit for the establishment of an adult residential care facility for up to twelve residents on property located at 800 Elliott Road, Paradise, AP No. 052-150-028.

Community Development Director Baker introduced Assistant Planner Hartman who explained that the Trinity Pines Modified Use Permit application for an adult care facility at 800 Elliott Road, was originally heard and approved in April 2009 and 2010. The modification requests deferment of the dedication of right-of-way along Elliott Road; and deferment of construction frontage improvements in front of Queen Drive. Staff is recommending a 60 day extension for completion of the right-of-way dedication along Elliott Road; and, a 12-month extension for completion of the covenant agreement relating to frontage improvements along Queen Drive. (Conditions 11 and 12) The 2011 application did not request a specific timeline for these conditions.

Chair Grossberger opened the public hearing at 6:09 p.m.

1. Jon Remalia expressed his concern with conditions for sidewalk standards being waived for the Paradise Community Village (PCV) project and asked if this would be considered for Trinity Pines. Trinity Pines facility is located on one of the nicest parcels on Elliott Road, and thinks that the covenant requiring frontage improvements is a restriction on the property that decreases the value. He stated that he thinks if the Town is taking the easement, they should pay the property owner for the easement as he is familiar with other jurisdictions that provide payment for an easement. He also thinks that since PCV sidewalk standards were waived that this project should be given the same consideration.

Art Andreas, property owner, stated that he was concerned with the loss of the property value, because even if the improvements were not made, the covenant will be on record. He stated that this tenant will be the ones affected by the 60 days notice because they have not been able to find a prospective buyer and that he cannot do the improvements because the tenants have a month to month lease and may not be there in a month. He will have to notify the tenants of the conditions and they will have the option to buy the property, find a buyer for the property that they could rent from or they will have to move out.

Planning Commissioners asked for clarification of the land use and ownership and tenant responsibilities.

Mr. Baker stated that arrangements between property owners and tenants are strictly between them and that the Town does not get involved. Mr. Baker explained that when a use permit is issued, it goes with the land/property, the permit cannot go with the tenant and is assigned to the property forever unless it is revoked. When this application was first heard by the Planning Director in 2009 there were several issues including the covenant agreement for frontage improvements on Queen Drive, a covenant agreement for frontage improvements on Elliott Road and right of way dedication on Elliott. The Town never sought a covenant for Elliott Road, only for Queen Drive. The covenant states that there will be no opposition to the formation of an assessment district for street improvements or frontage improvements will be done when asked by the Town. Improvements on Queen Drive are not imminent, it is not a street on the list for improvements.

Mr. Baker stated that the PCV sidewalk improvements were not waived but were deferred to a subsequent phase of the project and that Trinity Pines is not a phased project. Mr. Baker also explained that he is not familiar with payments for right of way dedication and that is not something the Town does, unless additional right-of-way is sought by the Town to accommodate a capital improvement project.

Planning Commissioners asked about the current zoning of the property. Mr. Baker stated that it is Community Commercial, and clarified that in 2009 when the use permit was granted, that as part of the conditions, there was a right of way dedication and covenant which were requested prior to commencement of operations and that Trinity Pines requested deferring the conditions for a year so that the business could begin operating and then in 2010 requested another deferral which was approved for 12 months.

Art Andreas stated that he is the property owner and the property is not currently for sale, explained that at the initial meeting for the Use Permit they stated that they would not meet the Towns requirements for a right of way dedication or covenant agreement but would allowed Trinity Pines time to try to find a buyer for the property. Mr. Andreas stated that if the Commissioners only approved the request for 60 days then he would tell Trinity Pines that they had 60 days to find a buyer or vacate the property and that he would be putting the property on the market to sell.

Mr. Baker stated that there was no cost to the owner for the right of way dedication and that the Town will absorb the cost for recording the documents, but the owner is required to pay the approximate \$200 recording fees for the covenant agreement.

Mr. Baker explained that the town still owns a dedicated 30' from the center of the road and the planned right of way dedication is an additional 10' strip from what the Town already owns. The planned right of way width from the center line is 80 ft., 40ft from the center on each side.

Mr. Andreas shared that he was here to support Trinity Pines, but is not willing to comply with the conditions, that he expected Trinity Pines to be here to support the request and if the Planning Commission does not approve the Use Permit and Trinity Pines has to vacate the property in 60 days, he will put the property on the market.

1. Jon Remalia stated that the property appears to be 168' by 140' approximately ½ acre. He understands that septic systems are based on the net square footage of the property and that if 10' is taken off two sides that will reduce the size of the property by 3,000.

Ms. Hartman explained that new parcels are calculated on net and existing parcels are calculated on gross and half of the abutting roadway, if it is a public road. Regardless of the size of the right of way it would still be measured from the center of the road.

Chair Grossberger closed the public hearing at 6:50 p.m.

Commissioners discussed that the proposed conditions could be forcing an existing business out of a property which would leave a vacant building; that there are no pending improvements scheduled for Elliott Road and also questioned how critical it is for the current tenants to stay if they are not at the public hearing to defend their position/request.

Mr. Baker stated that if the Planning Commissioners removed the conditions it would be a sharp departure from previous practices and cannot recall there ever being any opposition to these types of conditions from any project. Mr. Baker also provided options available to the Planning Commissioners which would be to continue the public hearing to a date certain time and place or continue the public hearing until the next Planning Commission meeting, which would eliminate having to send out another notice.

Chair Grossberger re-opened the public hearing at 7:03 p.m.

Mr. Andreas stated that he misunderstood the question asked at the last Planning Director meeting and thought that he had to agree to the changes within 12 months if the property was not sold.

Planning Commissioners confirmed that Mr. Andreas would not agree to the conditions for the Use Permit regardless of who occupied the property and that at the end of the extension he would ask Trinity Pines to vacate the property.

Chair Grossberger closed the public hearing at 7:06 p.m.

Motion by Jones, seconded by Bolin , adopted the required findings as provided by staff, directed staff to re-issue the Trinity Pines use permit with no further extensions and approved the Trinity Pine Use Permit modification application (PL12-00012) affecting property identified as Assessor Parcel No. 052-150-028, subject to the modifications to project condition nos. 11 & 12 to be worded in the following manner:

11. *Not later than 12 months beyond the effective date of the modified use permit, construct or defer by covenant agreement executed with the Town of Paradise, a one-half street section upgrade improvement along the project site frontage of Queen Drive to the town-adopted B-1 road standard.*
12. *Not later than ~~sixty (60) days~~ **12 months** beyond the effective date of the modified use permit the property owner shall deed forty feet from the centerline of Elliott Road to the Town of Paradise or provide a recorded deed document verifying that this requirement has been fulfilled.*

ROLL CALL VOTE:

AYES: Commissioners Bolin, Jones and Zuccolillo.
NOES: Commissioners Woodhouse and Chair Grossberger. Due to concern of the absence of Trinity Pines, the project applicant, at the meeting.
ABSTAIN: None.
ABSENT: None.

MOTION CARRIES.

Community Development Director Baker announced that the decision of the Planning Commission may be appealed to the Town Council within seven (7) days.

6. OTHER BUSINESS

6a. Discussion regarding the content of the current Procedural Rules of Conduct of Planning Commission Meetings and consideration of whether to direct staff to return with a Planning Commission Resolution rescinding Planning Commission Resolution No. 96-001, resulting in changes to the current Procedural Rules.

Mr. Baker explained that the Procedural Rules of Conduct for the Planning Commission compared to the Town Council has basically one difference which is that the Town Council allows for three (3) minutes of discussion on an item and the Planning Commission allows for five (5) minutes of discussion on an item. This may be due to the fact that the Planning Commission is an appointed body and may not be considered as formal as the Town Council.

Planning Commissioners discussed the Planning Commission Procedural Rules of Conduct and considered that by reducing the presentation time from five minutes to three minutes, the Planning Commission would be consistent with the Town Council rules of conduct. The Commissioners could concur to allow someone to speak longer than three minutes, but the shorter time limit also provides the Chair greater control over the meeting, especially for potentially controversial issues. Currently, the Planning Commission often does not put a time limit on speakers.

There was also discussion that the Town Council is expecting the Planning Commission to do a thorough job of approving projects and that individuals should have the opportunity to discuss items that they feel strongly about and not be limited on time.

1. Jon Remalia stated that it is his feeling that if a commissioner cannot listen for five minutes that they should find something else to do; thinks it important that in-depth topics be allowed adequate discussion and suggested doing the meeting like Chico and not let a new agenda item begin after a certain time and that cutting the time infringes on the public's right to be heard, and that he does not think that five minutes is excessive.

Motion by Woodhouse, seconded by Grossberger directed staff to return with a Planning Commission Resolution rescinding Planning Commission Resolution No. 96-001, resulting in changes to the current Procedural Rules specifically changing "Item J. PUBLIC COMMUNICATION – from five (5) minutes to three (3) minutes."

ROLL CALL VOTE:

AYES:	Commissioners Jones, Woodhouse and Chair Grossberger
NOES:	Commissioners Bolin and Zuccolillo
ABSTAIN:	None.
ABSENT:	None.

MOTION CARRIES.

6b. Discussion regarding survey monumentation replacement requirements during commercial development.

Mr. Baker explained that during the Public Comment portion of the January 17, 2012 Paradise Planning commission meeting Mr. Hollis Lundy of L & L Surveying expressed concern regarding the loss or destruction of survey monumentation in the Town of Paradise, primarily as a result of commercial property development along public streets. Mr. Baker stated that there is a section in the Business and Professions (B&P) Code with an emphasis on monumentation that helps locate public rights of way and public easements and seeks to preserve that monumentation having to do with streets and highways that surveyors and engineers are required to adhere to. The contracted Town Engineer is a surveyor and engineer and supports the preservation of this information and will continue to include this requirement on projects.

1. Jon Remalia stated that he thinks what is worse than a monument getting destroyed is when a monument is put back in by someone who is not qualified and who replaces the monument with different placement and dimensions but leaves the original surveyors number.

Planning Commissions discussed the item and directed staff to follow the law and continue to enforce the B&P Code when public improvements are constructed.

7. COMMITTEE ACTIVITIES

Chair Grossberger inquired about the existence of Redevelopment Agencies. Mr. Baker stated Redevelopment Agencies have been eliminated by state law, that the Town is the Successor Agency and that a committee has to be formed to determine what will happen to RDA projects.

Mr. Baker shared that Walmart is still working on a wastewater solution and that Walmart's lead team has changed composition and they are still working on a development agreement for the project. Mr. Baker stated that the Town Council will be considering direction for a wastewater solution for commercial areas of Town in the near future.

8. COMMISSION MEMBERS

a. Identification of future agenda items (All Commissioners/Staff) - None

9. ADJOURNMENT

The Planning Commission meeting was adjourned at 7:53 p.m.

Date Approved:

April Grossberger, Chair

Attest:

Dina Volenski, Assistant Town Clerk