



# TOWN OF PARADISE

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## P L A N N I N G C O M M I S S I O N M I N U T E S

**February 19, 2013**

**6:00 PM**

**CALL TO ORDER: 6:04 pm**

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

**ROLL CALL:** Commissioners James Clarkson, Michael Zuccolillo and Jody Jones, Chair.

### **1. APPROVAL OF MINUTES - SWEAR IN - APPOINTMENT OF VICE CHAIR**

- 1a. **MOTION** by Zuccolillo, seconded by Clarkson, approved Minutes from the Regular meeting of January 15, 2013. Roll call vote was unanimous.
- 1b. **MOTION** by Zuccolillo, seconded by Clarkson, adopted Resolution Nos. 13-01 and 13-02, Resolutions of Appreciation for Outgoing Planning Commissioners Bolin and Grossberger. Roll call vote was unanimous.
- 1c. Town Clerk Gutierrez administered Oaths of Office to Newly Appointed Planning Commissioners Stephanie Neumann and Dan Wentland.
- 1d. Roll Call of New Planning Commission: Commissioners James Clarkson, Stephanie Neumann, Daniel Wentland, Michael Zuccolillo and Jody Jones, Chair.
- 1e. Appointment of Planning Commission Vice-Chair for the remainder of the 2012/2013 Fiscal Year.

- a. Appointment of Vice-Chair (Chair Presiding)

Chair Jones opened nominations for the position of Vice-chair, term ending June 30, 2013 (end of the fiscal year).

Commissioner Zuccolillo nominated Daniel Wentland.

**MOTION** by Clarkson, seconded by Zuccolillo, closed the nominations. Commission vote was unanimous.

Roll call vote on Daniel Wentland to serve as vice-chair through the end of the fiscal year was unanimous.

### **2. COMMUNICATION – None.**

**3. PUBLIC COMMUNICATION - None**

**\* \* \* PUBLIC HEARING PROCEDURE \* \* \***

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

**5. PUBLIC HEARING – None.**

**6. OTHER BUSINESS**

- 6a. Community Development Director Baker reported to the Commission regarding the request of Michael Vrbeta for a Planning Commission determination that a proposed change from an existing legal nonconforming use (hair salon) to another nonconforming use (used car dealership) on residentially-zoned property located at 570 Oakwood Lane is of an equally nonconforming nature. Staff recommendation is to deny the request and adopt findings in support of the denial that the proposed used car dealership is an increase in nonconformity; that the Commission does not have authority to authorize a change to a less conforming land use, and find that the 1994 Paradise General Plan discourages expansion of non-conforming land uses. For comparison purposes, Mr. Baker stated that a new auto sales use would be allowed only in the CC zone with a public hearing; and personal services are allowed without a public hearing in CC and CB zones. He also informed the Planning Commission that if they approve this request, there is no ability to assign conditions to the new land use, the use will be transferable to future owners and a General Plan objective is to prevent new, incompatible commercial uses in residential settings.

Commissioner Wentland asked what oversight would be required of staff if the request is granted; that he thinks less traffic would be created by the proposed use than was generated by the previous use; and, could Mr. Vrbeta self impose restrictions on the use of the property by way of written agreement with the Town.

Mr. Baker stated that staff looks at this as a new land use which requires a higher level of review than does personal services as evidenced by provisions of the zoning code and that self-imposed restrictions are not legally enforceable by the Town.

Commissioner Neumann asked if the previous use had been abandoned and Mr. Baker stated that case law does not support the Paradise Municipal Code provision which states that a use can be considered to be abandoned after it has ceased six months.

Commissioner Clarkson stated that the petitioner has already stated that this is not an ideal place for a car lot, that it only makes sense in this case because Mr. Vrbeta already owns the land; and that he doesn't think it will be an issue for future owners and doesn't have any issues with the petition.

Commissioner Wentland stated that the petitioner doesn't plan to use signs.

Mr. Vrbeta stated that the Department of Motor Vehicles requires a 2' sign on the building.

Commissioner Zuccolillo stated that he recalls discussions about changing the zoning in that neighborhood as other nearby properties are zoned commercial.

Community Development Director Baker stated that this neighborhood was once briefly discussed at a staff level as a candidate for Multi-Family (MF) zoning.

Commissioner Wentland stated that there is a mechanic shop in the neighborhood and asked if that is also a non-conforming use.

Community Development Director Baker stated the mechanic shop was legally established under C-2 zoning.

Chair Jones opened the matter for public comment.

Michael Vrbeta, 570 Oakwood Lane, stated that he understands why the staff recommendation is to deny his request; that he is not looking for a zone change or expansion; believes the proposed use to be equally conforming or more conforming than the prior use; there are no comparisons between a beauty shop and a car lot; that water use is much less for an auto shop and less chemicals would be used by a car dealership. He further stated that he does not want the neighborhood to be an unpleasant place to live, as he grew up in that neighborhood and wants it to be an attractive place to live. If this use is approved, he would move to, and be in control of, the property and have pride of ownership. The energy use would be less than that of the beauty shop, and the business would be a part-time business for him as he is already a successful business owner in Town and if he wants to expand he would choose another location, which would cost him thousands of dollars. Mr. Vrbeta asked the Planning Commission to find that the proposed use is equally conforming for environmental reasons and for traffic reduction.

Chair Jones stated that she is concerned that there is no requirement for a public hearing or notices; and, questioned the proposed water usage.

Mr. Vrbeta stated that all neighbors received a notice about the proposed change of use, that he would wash cars once a week and the water would go into the ground and that this is an opportunity that he would like to pursue.

Commissioner Neumann asked if Mr. Vrbeta spoke to property owners or to tenants, and Mr. Vrbeta stated that he spoke to the tenants.

Assistant Planner Hartman informed the Commissioners that the notice was sent to the owners of property directly adjacent to the site and to all property addresses on that street, and that the site was posted.

Commissioner Neumann asked, with respect to the lighting, what were the plans to prevent theft of gas and vandalism. Mr. Vrbeta stated the property is gated and there are motion lights on the property.

Commissioner Zuccolillo confirmed that Mr. Vrbeta and his wife would be the only employees unless business improved; then, one more employee would be added. He asked Mr. Vrbeta what would be the number of cars. Mr. Vrbeta stated that no more than six cars would be allowed because of lack of room.

Commissioner Zuccolillo asked if the DMV states a limit to the number of cars allowed and Mr. Vrbeta stated the license requires at least two cars and a permanent location with a permanent office.

Commissioner Zuccolillo stated that he thinks the land use proposed will be less of an environmental impact than the previous business, and that he hates to see so many empty buildings in Town.

Commissioner Wentland stated that he is pro-business and that the proposed use seems like it will create less of a traffic impact.

Commissioner Neumann stated that she recognizes the General Plan directive relating to new non-conforming use, supports the General Plan and also support business, the prior non-conforming use is being changed and that she thinks a new business in the neighborhood will increase traffic as the previous business has been closed, and asked if this would set precedence.

Community Development Director Baker stated that findings must be made to allow one non-conforming use to go to another.

Commissioner Clarkson stated that he compared the previous use to the one being proposed and doesn't think whether the business was open or closed is part of the equation, that they should determine if this meets the goals of the Town and believes approving this would be moving in the right direction and in the spirit of the General Plan.

**MOTION by Clarkson, seconded by Wentland, to approve the request of Michael Vrbeta to establish a used car dealership on property located at 570 Oakwood Lane which is owned by his parents, Dragutin and Victoria Vrbeta and adopt the following findings set forth below in paragraphs A and B, was approved by roll call vote:**

- A. That pursuant to provisions contained within the Paradise Municipal Code (Zoning Ordinance), the nonconforming land use of a used car dealership is a land use that would constitute a similar level of nonconformity when compared to the existing beauty salon land use on the Vrbeta property.**
- B. That pursuant to the requirements of Paradise Municipal Code section 17.39.400, the Planning Commission has the authority to authorize a change to a more conforming or functionally equivalent land use.**

**ROLL CALL VOTE:**

**AYES: Commissioners Clarkson, Wentland, Zuccolillo and Chair Jones.**

**NOES: Commissioner Neumann**

**ABSTAIN: None**

**ABSENT: None**

Community Development Director Baker stated that there is no appeal period for this determination.

- 6b. Commissioners concurred to accept the 1994 General Plan Housing Element Annual Progress Report for Calendar Year 2012 as presented, and directed staff to forward to the Town Council to consider for approval and subsequent forwarding to the Department of Housing and Community Development.

## PLANNING COMMISSION AGENDA

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- 6c. Commissioners concurred to confirm that the Chairman or Vice Chairman serve as Planning Commission Representative to the Town of Paradise Development Impact Fees Adjustment Board for the remainder of the FY 2012-2013 (Requirement of PMC Section 3.40.070).
- 6d. Commissioners concurred to appoint Commissioner Neumann as the Planning Commission Representative to serve upon the Town of Paradise Landscape Committee (appeals body) for the remainder of the FY 2012-2013 (Requirement of PMC Chapter 15.36).
- 6e. Commissioners discussed the pros and cons relating to establishment of local control of mobile home parks which are now administered by the State of California within the jurisdiction of the Town of Paradise, and whether or not the Town has looked into this matter and if it could be a source of revenue for the Town. Community Development Director Baker stated that he did some research on this issue and that although the State provides a mechanism for local jurisdictions to establish control, some State jurisdiction would still apply, there would be limited ability to apply local oversight, and additional staff resources would be required and the Town may not realize any additional revenue. Mr. Baker stated that limited information was available as there appear to be few jurisdictions that have chosen to some establish authority over mobile home parks, referred to information he was able to find from Orange County and a 94-page report from a workshop conducted by the City of Huntington Beach, in which it was recommended that they not assume local enforcement authority. Commissioner Zuccolillo stated that he would review the information and report back to the Planning Commission if he found any information that would be advantageous for the Commission to discuss.

### 7. COMMITTEE ACTIVITIES – No reports.

### 8. COMMISSION MEMBERS

**Future Agenda Items:** Discussion of the Tree Ordinance and the General Plan Implementation Status Report.

### 9. ADJOURNMENT

Chairman Jones adjourned the Planning Commission at 7:10 p.m.

DATE APPROVED: March 19, 2013

By: \_\_\_\_\_/s/\_\_\_\_\_  
Jody Jones, Chair

\_\_\_\_\_/s/\_\_\_\_\_  
Joanna Gutierrez, CMC, Town Clerk