



TOWN OF PARADISE

5555 SKYWAY • PARADISE, CALIFORNIA 95969-4931

TELEPHONE (530) 872-6291 FAX (530) 877-5059

www.townofparadise.com

Planning Commission Staff:

Craig Baker, Community Development Director
Susan Hartman, Assistant Planner

Planning Commission Members:

Anita Towslee, Chair
Kim Morris, Vice Chair
James Clarkson, Commissioner
Stephanie Neumann, Commissioner
Vacant

PLANNING COMMISSION AGENDA

6:00 PM – February 19, 2019

In accordance with the Americans with Disabilities Act, if you need a special accommodation to participate, please contact Community Development Director Baker, at 872-6291 ext. 114 at least 48 hours in advance of the meeting. Hearing assistance devices for the hearing impaired are available from the Presiding Clerk. Members of the public may address the Planning Commission on any agenda item, including closed session. If you wish to address the Planning Commission on any matter on the Agenda, it is requested that you complete a "Request to Address Council/Commission" card and give it to the Presiding Clerk prior to the beginning of the Council Meeting. All writings or documents which are related to any item on an open session agenda and which are distributed to a majority of the Planning Commission within 72 hours of a Regular Meeting will be available for public inspection at the Town Hall in the Town Clerk or Community Development Services Department located at 5555 Skyway at the time the subject writing or document is distributed to a majority of the subject body. Regular business hours are Monday through Thursday from 8:00 a.m. to 5:00 p.m.

CALL TO ORDER

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

ROLL CALL

1. APPROVAL OF MINUTES

1a. Approve the Regular Meeting Minutes of October 16, 2018.

2. COMMUNICATION

3. PUBLIC COMMUNICATION

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 Commission meeting.

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

- A. Staff comments
- B. Open the hearing to the public
 - 1. Project applicant
 - 2. Parties for the project
 - 3. Parties against the project
 - 4. Rebuttals
- C. Close hearing to the public
- D. Commission discussion
- E. Motion
- F. Vote

NOTE: Pursuant to Planning Commission Resolution No. 96-001, any person may speak before the Commission regarding the matter under consideration for **a maximum of five minutes** unless granted additional time by the Chair. "In accordance with the Americans with Disabilities Act, if you need a special accommodation to participate, please contact the Community Development Dept., at 872-6291 at least 48 hours in advance of the meeting."

4. CONTINUED PUBLIC HEARING - None

5. PUBLIC HEARING

- 5a. Item determined to be exempt from environmental review under CEQA Guidelines section 15061(b)(3) (General rule exemption)

PARADISE MUNICIPAL CODE: Planning Commission consideration of Resolution No. 19-01, A Resolution that, if adopted, would recommend Town Council adoption of proposed text amendments to the Town's zoning regulations contained in Paradise Municipal Code (PMC) Title 17 (Zoning Ordinance). If adopted by the Town Council, the amendment would add an additional circumstance under which lawful nonconforming land uses could be reconstructed after a natural disaster as contained within PMC Chapter 17.39.

6. OTHER BUSINESS

7. COMMITTEE ACTIVITIES

8. COMMISSION MEMBERS

- 8a. Identification of future agenda items (All Commissioners/Staff)

9. ADJOURNMENT

STATE OF CALIFORNIA) COUNTY OF BUTTE)	SS.
I declare under penalty of perjury that I am employed by the Town of Paradise in the Town Clerk's Department and that I posted this Agenda on the bulletin Board both inside and outside of Town Hall on the following date:	
<hr/>	
TOWN/ASSISTANT TOWN CLERK SIGNATURE	



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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

October 16, 2018

6:00 PM

CALL TO ORDER by Vice Chair Kim Morris at 6:00 p.m. who led the Pledge of Allegiance to the Flag of the United States of America.

PLANNING COMMISSIONERS PRESENT: James Clarkson, Ray Groom and Kim Morris, Vice Chair.

PLANNING COMMISSIONER ABSENT: Stephanie Neumann and Anita Towslee, Chair.

1. APPROVAL OF MINUTES

- 1a. **MOTION by Groom, seconded by Clarkson**, approved the Regular Meeting Minutes of August 21, 2018 and the Special Meeting Minutes of September 13, 2018 with one change (page 1 of September minutes; **Kim Morris** needed to be added to Commissioners Present). Roll call vote was unanimous with Commissioner Neumann and Chair Towslee absent and not voting.

2. COMMUNICATION

- 2a. Recent Council Actions

Community Development Director Baker stated that at the October 9, 2018 Town Council meeting Ordinance 571, which is a rezone ordinance, was reintroduced due to a legal description associated with the Ordinance that was not correct. There will be another reading next month, the lot line adjustment that is associated with the amendment will be recorded in December.

- 2b. Staff Comments - None

3. PUBLIC COMMUNICATION

4. CONTINUED PUBLIC HEARING - None.

5. PUBLIC HEARING

- 5a. Planning Commission consideration of a conditional use permit application proposing to replace two older nonconforming mobile homes (432 sq. ft. and 672 sq. ft.) with two new, larger manufactured homes (both (±924 sq. ft.) on a 3.78 acre property zoned Rural Residential-1 acre minimum (RR-1) and located at 874 Buschmann Road in Paradise. The combined number of bedrooms is not proposed to be increased, nor is the residential density on the site proposed to be increased. The property is further identified as Assessor Parcel Number 054-090-061.

Adopt the required findings for approval as provided by staff, and approve the Teeter use permit application (PL18-00195) for property located at 874 Buschmann Road (AP 054-090-061), requesting authorization to expand an existing nonconforming land use, subject to conditions.

Community Development Director Baker reiterated that the Conditional Use Permit is concerning a 3.78 acre property zoned RR-1 with 4 dwellings on the property. The permit application is regarding 2 older mobiles on the property, one 432 sq. ft. and the other 672 sq. ft. The proposed plan is to replace each with a 924 sq. ft. mobile. Mr. Baker stated there has not been any outstanding issues identified. Conditions of approval are reflective of code requirements, fire code, erosion control, and flood zone analysis. A letter from a surveyor or an engineer that indicates that the structure will not be subject to flooding is still required.

Doug Teeter, project applicant, referred to the permit conditions under *Site Development #4* in which evidence of flood zone analysis was needed. Mr. Teeter stated that the exemption letters have already been submitted to the Town Engineer Marc Mattox by Northstar Engineering and confirmed that they are exemption letters not flood analysis letters.

Mr. Baker commented that he thinks Mr. Teeter is correct and that the site plan is exempt from FEMA, but the Town has its own flood zones and special permit zones that are separate from FEMA flood zones. Mr. Baker clarified that the requirement from the Town Engineer is for the applicant to enact the changes requested in the letter from Northstar, from the existing elevations to the proposed elevations.

Vice Chair Morris opened the public hearing at 6:10 pm. and asked to hear from the project applicant.

Doug Teeter, project applicant, covered various aspects of the Conditional Use Permit process such as a hydrogen test, onsite sign off, and trying to make a non-conforming use, under use permit, be conforming.

Mr Baker asked how the fire flow test turned out. Mr. Teeter replied that the water volume was good.

Vice Chair Morris closed public hearing at 6:11 p.m.

Commissioner Groom commented that it is unusual to have a 2 bathroom and 1 bedroom unit, has driven by the property and noticed that it is well maintained and supports the permit application.

Mr. Baker suspected the mobiles were intended to be constructed with 2 bedrooms, but clarified that the onsite manual has a definition of a bedroom. Mr. Baker stated that before projects are finalized the town will inspect the project to make sure that it complies with the conditions of the permit. The “office” on the floor plan will need to be designed to not be a bedroom in order to match the existing bedroom counts.

MOTION by Groom, seconded by Morris, Adopted the required finding as provided by staff, and approved the Teeter conditional use permit application (PL18-00195) for property located at 874 Buschmann Road (AP 054-090-061), requesting authorization to expand an existing nonconforming land use, subject to the following conditions of approval. Roll call vote was unanimous with Neumann and Towslee absent and not voting.

The adoption of this item is subject to the following conditions:

CONDITIONS TO BE MET PRIOR TO ISSUANCE OF BUILDING PERMIT(S)

SITE DEVELOPMENT

1. Submit construction documents and meet the requirements of the Town Building Official regarding building permits and all applicable town-adopted construction code regulations including Wildland Urban Interface construction requirements.
2. The new manufactured homes shall not exceed +/-924 square feet as identified and proposed on conditional use permit application materials submitted to the Town Development Services Department on September 11, 2018.
3. Submit an Erosion and Sediment Control Plan worksheet for approval by the Town Engineer if deemed necessary.
4. Provide material evidence of a flood zone analysis prepared by a civil engineer or a licensed surveyor meeting the requirements of the Public Works Director/Town Engineer and in accordance with recommendations of the letter from NorthStar Engineering dated July 24, 2018 regarding special permit (flood) zone analysis.

UTILITIES

5. Any relocation or rearrangement of existing utility facilities to accommodate this project will be at the developer/applicant expense. There shall be no building construction allowed over or under any existing PG&E facilities or inside any PG&E or PID easements affecting this property.
6. If more than 50 cubic yards of soil is displaced in association with the project, secure the issuance of a town-issued engineered grading plan meeting the requirements of the Public Works Director/Town Engineer and the Town Onsite Wastewater Official.

OTHERS

7. Pay any applicable development impact fees in accordance with Paradise Municipal Code requirements.
8. Apply for and provide the results of a fire flow/hydrant location request.

**CONDITIONS TO BE MET PRIOR TO FINAL BUILDING INSPECTION AND
CERTIFICATE OF OCCUPANCY**

SITE DEVELOPMENT

9. Complete the project in accordance with the Town of Paradise adopted California Building Standards and Town of Paradise approved plans and specifications.
10. Provide adequate fire access in accordance with the requirements of Town of Paradise adopted Fire Codes in a manner deemed acceptable to the Town Building Official/Fire Marshal.

11. Flammable vegetation shall be removed at a minimum distance of one hundred (100) feet from all structures or to the property line, whichever is less in a manner deemed acceptable to the Town of Paradise Fire Prevention Inspector.

OTHERS

12. Design and install built-in interior improvements within the proposed office as shown upon application materials submitted to the Town Development Services Department in a manner deemed acceptable to the Town Onsite Sanitary Official. Schedule an inspection for verification that the total number of bedrooms (as defined by the Town of Paradise) associated with the project has not increased beyond three bedrooms.

Community Development Director Baker announced that an appeal of the Planning Commission's decision can be made within seven (7) days of the decision date.

6. OTHER BUSINESS - None

7. COMMITTEE ACTIVITIES - None

8. COMMISSION MEMBERS

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

Community Development Director Baker updated the Commissioners on the Safeway project and mentioned that the appeal period is over and a Notice of Determination was filed with the State of California and will end after October 26, 2018. It will then be up to Safeway to start the building process. Mr. Baker estimated it will take a year to build.

9. ADJOURNMENT

Vice Chair Morris adjourned the meeting at 6:18 p.m.

Date Approved:

By: _____
Kim Morris, Vice Chair

Attest:

Dina Volenski, CMC, Town Clerk

M E M O R A N D U M

AGENDA NO. 5(a)

TO: Paradise Planning Commission

FROM: Susan Hartman, CDD Manager/Assistant Planner

SUBJECT: Public Hearing - Consider Adoption of a Resolution Recommending Town Council Adoption of Paradise Municipal Code Zoning Regulations Text Amendments Relative to the Reconstruction of Nonconforming Uses

DATE: February 19, 2019

BACKGROUND:

This Town-initiated amendment to the Paradise Municipal Code (PMC) is to address an unprecedented number of lawful nonconforming uses that were involuntary destroyed by the Camp Fire on November 8, 2018. This amendment would allow the possible reconstruction of lawful nonconforming uses within a defined timeframe without the currently PMC required conditional use permit and public hearing.

Lawful nonconforming uses are those lawfully established prior to the Town's incorporation under Butte County zoning regulations and existing continuously on the property, but no longer conform to the current Town of Paradise zoning regulations assigned to the property.

The most common examples of nonconforming uses are residences located within now commercial zoning districts where standalone single-family residences are not a currently permitted use or secondary dwellings in residential zones without the currently required land use entitlement (administrative/use permit). Another common nonconforming use are structures built under reduced or non-existent setback requirements which no longer meet minimum site development standards.

PROPOSED CODE AMENDMENT:

To address the immediate need to reestablish housing and further recovery efforts within the Town of Paradise it is staff's recommendation that Paradise Municipal Code Section 17.39.300 *Restoration of damaged nonconforming use* be modified to include the following text:

"C. Notwithstanding subsection B, those properties destroyed by a natural disaster in a declared state of emergency may be reconstructed as a lawful nonconforming use subject to

the following:

1. Reconstruction shall begin within one (1) year after the affected property being cleared of disaster debris and shall be completed within three (3) years.
2. The reconstructed structure shall not exceed the nonconformity of the original structure in terms of setbacks, floor area, height, and any other property characteristics as determined by the Planning Director.
3. If reconstruction is not started within one (1) year after the property being cleared of disaster debris, the property shall be subject to the use permit requirements of subsection B or may become subject to abandonment under section 17.39.200.”

DISCUSSION:

Paradise Municipal Code section 17.45.500 (*Procedures for zoning district(s) or zoning text amendments*) provides for the Planning Director to initiate the process of zoning code text amendments whenever public necessity, convenience or general welfare are sufficiently compelling to warrant Planning Commission and Town Council consideration of such amendments.

Although the Town of Paradise 1994 General Plan encourages the removal of nonconforming uses, the magnitude to which development and infrastructure was impacted by the Camp Fire is well beyond the intention of this policy and must be weighed against the immediate needs of our displaced community. Removing obstacles to rebuilding, such as nonconforming use permit requirements, following natural disasters rising to the level of a declared state of emergency will help to expedite the recovery efforts and aid in the return of residents and businesses to Paradise.

Town staff has determined, and the Town Attorney has concurred that, the nature of the proposed text amendments are sufficiently minor the possibility of adoption and implementation of the amendments would result in a direct and significantly adverse effect upon the environment. Therefore, the proposed amendments can be found to be exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines section 15302 (Reconstruction) and 15061(b)(3) (General Rule Exemption).

Staff has developed the attached resolution document (and its attached exhibit “A”) that, if adopted by the Planning Commission, would recommend Town Council adoption of text amendments to the Town’s Zoning Ordinance in order to accomplish the objectives outlined in the preceding discussion (added text in the attached “Exhibit A” is shown as shaded).

COMMISSION ACTION REQUESTED:

Please be prepared to discuss the proposed amendments to the Town’s Zoning Ordinance with

staff, other Commissioners and the attending public during the required noticed public hearing. At the conclusion of the public hearing, staff's recommendation is for the Planning Commission to adopt Planning Commission Resolution No. 19-01, "A Resolution of the Paradise Planning Commission Recommending Town Council Adoption of Text Amendments to Title 17 of the Paradise Municipal Code Relative to the Reconstruction of Nonconforming Uses". If deemed necessary by a majority consensus of Planning Commissioners present, staff will be prepared to discuss and make further changes or additions to the text of the attached and proposed resolution prior to Planning Commission adoption.

LIST OF ATTACHMENTS FOR THE PROPOSED ZONING ORDINANCE TEXT AMENDMENT

1. Excerpt from the Paradise General Plan relating to nonconforming uses
2. Copy of the notice of public hearing for the proposed text amendment
3. Copy of Planning Commission Resolution No. 19-01, "A Resolution of the Paradise Planning Commission Recommending Town Council Adoption of Text Amendments to Title 17 of the Paradise Municipal Code Relative to the Reconstruction of Nonconforming Uses"



LAND USE CONTROLS

Goals

- LUG-32** Assure that all land uses in the town conform to the goals and policies of the *General Plan*.
- LUG-33** Strive to eliminate legally nonconforming land uses.

Objectives

- LUO-24** Survey and identify nonconforming uses/structures, and explore the options for eliminating them.
- LUO-25** Establish an ongoing program to reduce the number of nonconforming uses and structures within the next fifteen years.

Policies

- LUP-72** The relocation of nonconforming uses to areas where such uses are permitted shall be encouraged.
- LUP-73** The expansion of existing legally nonconforming uses should be strongly discouraged.
- LUP-74** The Town shall endeavor to improve its present code enforcement program, including seeking ways to fund necessary personnel.
- LUP-75** Proposed commercial additions and expansions should be examined to determine if pedestrian and handicapped accessibility can be enhanced.

- LUP-76** As time and resources permit, the town staff shall revise the local CEQA Guidelines, including a mitigation monitoring program.

Implementation Measures

- LUI-43** Zone properties consistent with their *General Plan* land use classification.
- LUI-44** Review permitted uses in zoning classifications to determine whether changes are appropriate.
- LUI-45** Consistently enforce the regulations of the zoning ordinance when alerted of illegal uses.

THE TERTIARY PLANNING AREA

The tertiary planning area has been defined and addressed in the General Plan because the citizens of Paradise believe that growth and development in this unincorporated area of Butte County could have a dramatic effect on their quality of life. The people of Paradise want to be proactive in the planning of land uses in the tertiary planning area in an effort to cooperatively manage growth from a regional perspective. The goals, objectives, policies and implementation measures are intended to assist in guiding the decision-making process for future growth and development in the tertiary planning area.

**NOTICE OF PUBLIC HEARING
PARADISE PLANNING COMMISSION**

NOTICE IS HEREBY GIVEN by the Paradise Planning Commission that a public hearing will be held on Tuesday, February 19, 2019 at 6:00 p.m. in the Town Hall Conference Room, 5555 Skyway, Paradise, CA, regarding the following matter:

- a. Item determined to be exempt from environmental review under CEQA Guidelines section 15061(b)(3) (General rule exemption)

PARADISE MUNICIPAL CODE: Planning Commission consideration of a resolution that, if adopted, would recommend Town Council adoption of proposed text amendments to the Town's zoning regulations contained in Paradise Municipal Code (PMC) Title 17 (Zoning Ordinance). If adopted by the Town Council, the amendment would add an additional circumstance under which lawful nonconforming land uses could be reconstructed after a natural disaster as contained within PMC Chapter 17.39.

The project files are available for public inspection at the Development Services Department, Paradise Town Hall. If you challenge this project in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Paradise Planning Commission at, or prior to, the public hearing. For further information please contact the Development Services Department at (530) 872-6291, extension 114.

CRAIG BAKER
Community Development Director

**TOWN OF PARADISE PLANNING COMMISSION
RESOLUTION 19-1**

**A RESOLUTION OF THE PARADISE PLANNING COMMISSION RECOMMENDING TOWN COUNCIL
ADOPTION OF TEXT AMENDMENTS TO CHAPTER 17.39 OF THE PARADISE MUNICIPAL CODE
RELATIVE TO THE RECONSTRUCTION OF NONCONFORMING USES**

WHEREAS, the Town of Paradise is legally required to direct and regulate land development and land uses via zoning regulations and other means that are consistent with its current Paradise General Plan as well as current state planning and zoning law; and

WHEREAS, the Paradise Planning Commission finds that there is a compelling need for the Town Council of the Town of Paradise to adopt the foregoing Paradise Municipal Code (PMC) amendments to assist in the Camp Fire recovery efforts, and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on February 19, 2019 to study and consider recommending Town Council adoption of text amendments to PMC Chapter 17.39 as proposed by Town staff; and

WHEREAS, the public review also included review and determination that the proposed PMC text amendment is an activity that is exempt from to the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15061(b)(3) (general rule exemption) because there is no possibility that the amendment would result in a significantly adverse effect upon the environment; and

WHEREAS, the Planning Commission has considered the recommendation of the Town staff, etc., as well as input received during the public hearing; and on the basis of the foregoing, has determined that the text amendment to PMC Chapter 17.39 is warranted at this time in order to aid in the timely rebuild efforts following the Camp Fire.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE TOWN OF PARADISE as follows:

The Planning Commission hereby recommends to the Town Council of the Town of Paradise, adoption of the proposed text amendments to PMC Chapter 17.39 as set forth in **Exhibit "A"** attached hereto and made a part of by reference; and recommends to the Town Council that the proposed Paradise Municipal Code text amendment is not subject to the requirements of the California Environmental Quality Act (CEQA) in accordance with the general rule categorical exemption provisions of CEQA Guidelines section 15061 and section 15302 of CEQA Guidelines (Reconstruction).

RESOLUTION NO. 19-1

PASSED AND ADOPTED by the Planning Commission of the Town of Paradise this 19th day of February, 2019 by the Following Vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Anita Towslee, Chair

ATTEST:

Dina Volenski, Town Clerk

EXHIBIT "A"

SECTION 1: Section 17.39.300 of the Paradise Municipal Code is hereby amended to read as follows:

17.39.300 - Restoration of damaged nonconforming use.

Any lawful nonconforming building or structure destroyed by any means to the extent of more than fifty (50) percent of its assessed value as shown on the latest equalized county assessment roll preceding its destruction may be restored as follows:

- A. Restored and used only in compliance with the regulations specified by this title for the zoning district wherein the building or structure is located; or
- B. Restored and used again as a lawful nonconforming use subject to town approval and issuance of a conditional use permit.
- C. Notwithstanding subsection B, those properties destroyed by a natural disaster in a declared state of emergency may be reconstructed as a lawful nonconforming use subject to the following:
 - 1. Reconstruction shall begin within one (1) year after the affected property being cleared of disaster debris and shall be completed within three (3) years.
 - 2. The reconstructed structure shall not exceed the nonconformity of the original structure in terms of setbacks, floor area, height, and any other property characteristics as determined by the Planning Director.
 - 3. If reconstruction is not started within one (1) year after the property being cleared of disaster debris, the property shall be subject to the use permit requirements of subsection B or may become subject to abandonment under section 17.39.200.