

TOWN OF PARADISE

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www.townofparadise.com

P L A N N I N G C O M M I S S I O N A G E N D A

**February 21, 2012
6:00 PM**

CALL TO ORDER

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

ROLL CALL

1. APPROVAL OF MINUTES

- 1a. Regular meeting of January 17, 2012.

2. COMMUNICATION

- a. Recent Council Actions
- b. Staff Comments

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

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 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.

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.

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

7. COMMITTEE ACTIVITIES

8. COMMISSION MEMBERS

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

9. ADJOURNMENT

PARADISE PLANNING COMMISSION
January 17, 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 Vice Chair Bolin 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 Jones, Woodhouse, Zuccolillo and Vice Chair Bolin. Chair Grossberger was absent. Community Development Director Craig Baker and Assistant Planner Susan Hartman were also present.

1. APPROVAL OF MINUTES

a. Regular Meeting of October 18, 2011.

It was moved by Commissioner Zuccolillo, seconded by Commissioner Jones and unanimously carried by those present to approve the minutes of the October 18, 2011 Planning Commission meeting as submitted by staff.

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

MOTION CARRIES.

2. COMMUNICATION

a. Recent Council Actions

Mr. Baker reported on Town Council actions occurring since the October 18, 2011 Planning Commission meeting. Town Council met at a special meeting on November 8, 2011 and adopted Resolution No. 11-46 recommending a modification of mitigation measure assigned to the Paradise Community Village project regarding traffic mitigation fees for signalization of two intersections on State Hwy.191, Clark Road. At the December 6, 2011 Town Council Meeting, Steve "Woody" Culleton was selected as Mayor and Council Member Titus was selected as Vice Mayor. Council also approved an amendment to a development agreement between the Town and PCV regarding wastewater treatment system and vacated an existing public service easement in order to accommodate the PCV project. On January 10, 2012, Town Council authorized the Town

Clerk to advertise for vacancies on the Tree Advisory Committee with a deadline of January 30, 2012. Director Baker explained that the Tree Advisory Committee is utilized by the staff, Planning Commission or Town Council when an expert analysis of trees is needed.

b. Staff Comments

None.

3. PUBLIC COMMUNICATION

Hollis Lundy from L& L Surveying brought to the attention of the Commission that he previously wrote letters to Al McGreehan regarding issues with commercial properties and the survey monumentation that is being destroyed during development and is not being replaced. There are no conditions requiring that the monuments be reset, examples are the drug store at the corner of Elliott and Clark, the gas station at Wagstaff, there are no more monuments and the control points for the intersections can be lost. He thinks that a requirement should be in place to restore the monuments. Commissioner Woodhouse asked what the monuments were. Mr. Lundy explained that they are iron pipe with surveyor tags or centerline intersections that control the Town's right-of-way. The locator points are not being replaced after construction and the Town may not have a record of survey. The company that does the survey knows where the boundary is, but it is not put on record or filed with the county, and the monuments are never set, so it is lost information. Commissioner Zuccolillo asked if there would be an additional cost to set the survey stakes back down. Mr. Lundy stated that monument surveys cannot be replaced unless a map has been filed. There would be an additional cost to the development, but the Town would at least have the information.

4. CONTINUED PUBLIC HEARING – None.

5. PUBLIC HEARING

Community Development Director Baker explained that the project proponent is seeking Town of Paradise approval for a parcel map application to divide an existing ± 3.3 acre property into four new parcels of record. The project site is zoned Rural Residential – 2/3 acre minimum (RR-2/3) and is located in the southwest portion of the Paradise community on the south side of Buschmann Road.

Mr. Baker indicated that Town staff and Paradise Irrigation District staff are supportive of the project and have developed recommended conditions of project approval designed to assure the orderly development of this portion of the Paradise community. Staff is recommending project approval, based upon and subject to a list of findings and conditions. Mr. Baker asked the Commissioners to make a change to condition #12 by changing the word “drainage” to “seasonal creek”.

A letter regarding the Visinoni Parcel Map application was submitted by Bonnie Petersen expressing concerns with legal access for Kemlyn Lane and has been included in the project file.

Vice Chair Bolin opened the public hearing at 6:23 p.m.

Hollis Lundy, L & L Surveying, Project Engineer for the Visinoni project, stated that parcel 2 is the only lot that has a gate but there is no legal access, does not think a condition is necessary; lots are 2/3 acre parcels and property lines were not able to be straight due to configuration of lots.

Vice Chair Bolin closed the hearing to the public hearing at 6:27 p.m.

Commissioners discussed issues that could occur on Kemlin lane if there are no conditions placed on the development and determined to add condition number 25, "If resulting parcels do not possess deeded legal access to Kemlyn lane, all access to the parcels shall be taken via the proposed private roadway and private road easement."

AGENDA ITEM 5(a): It was moved by Commissioner Jones, seconded by Commissioner Zuccolillo, and carried by those participating, to adopt the required findings, with changes in condition #12 and adding condition #25, and approve the Visinoni parcel map application (PL11-00156) proposing to create four parcels of record from an existing ±3.3 acre property located at 678 Buschmann Road, subject to the following conditions:

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

ROADS AND ACCESS

1. Submit three copies of engineered road construction and drainage Improvement plans for the proposed on-site private road to the Engineering Division for approval. Pay appropriate plan check and inspection fees. Plans must be stamped and wet-signed by a licensed civil engineer. All elements of the engineered plans shall be designed in accordance with the requirements of the Town Engineer, based upon accepted engineering standards and the town-adopted A-2a road standard. Road and drainage plans must be approved **PRIOR** to the construction or installation of the required facilities.
2. Access to parcels for ingress and egress/public utilities shall be shown on the final parcel map.
3. Deed thirty feet from the center of the Buschmann Road right-of-way to the Town of Paradise or provide a recorded deed document showing that this requirement has been met.
4. Construct or defer by covenant executed with the Town of Paradise a one-half street section upgrade improvement along the project site frontage of Buschmann Road to the town-adopted B-2 road standard.

5. Place the following notes on the final map information data sheet:
 - a. “Prior to the issuance of a building permit authorizing residential development upon Parcel Nos. 2, 3 or 4, the project developer shall apply for and secure town issuance of an encroachment permit, physically abandon the existing driveway connection to Buschmann Road serving the existing dwelling and construct on-site private road and drainage improvements in accordance with town-approved private road and drainage improvement plans for the Visinoni parcel map. The private road shall be constructed to the town-adopted A-2a standard. Street signs and all pavement markings shall be installed as required and at the developer’s sole expense.”
 - b. “Upon completion of the on-site private road improvements and prior to the issuance of a building permit authorizing residential development upon Parcel Nos. 2, 3 or 4, the project developer shall apply for and secure town approval for a change of address for the existing residence located upon Parcel 1 from a Buschmann Road address to an address assigned to the new private road.”
 - c. “If more than 50 cubic yards of soil are displaced to accommodate road and drainage improvements, the project developer shall apply for and secure town issuance of a grading permit satisfying all engineering division requirements and the current adopted edition of the UBC and pay applicable grading permit fees per current fee schedule.”
 - d. “Prior to the commencement of construction activities associated with private road and drainage improvements, the project developer shall submit an engineered erosion and dust control plan to the Town Engineering Division for approval by the Town Engineer . All erosion control devices and sedimentation basins required by the PMC 15.04.280.shall be shown on the plan.”
6. Apply for and secure town approval for a new road name for assignment to the proposed new private road. Pay current road name review fee.
7. Provide a recorded road maintenance agreement in a form deemed acceptable to the Town Engineer obligating all owners of the resultant parcels to participate in the maintenance of the proposed onsite private road and drainage improvements.

SITE DEVELOPMENT

8. All easements of record shall be shown on the final parcel map.
9. Indicate a fifty foot building setback line measured from the center line of Buschmann Road, a thirty foot building setback line measured from the center of the proposed on

site private road easement and a thirty foot building setback line measured from the center of Kemlyn lane.

10. The proposed on-site private road and public utility easement shall encumber all private road and drainage improvements.
11. Place the following notes on the final map information data sheet:
 - a. “No fences shall be established within the private road and public utility easement serving these parcels. In addition, no solid wood or masonry fences over four feet in height shall be established within building setback areas.”
 - b. “Prior to the issuance of building permits authorizing residential development of Parcels 3 or 4, the project developer shall submit a storm water mitigation plan that minimizes any adverse effects of increased storm water run-off upon adjacent properties and meets the requirements of the Town Engineer.”
12. Establish an on-site drainage easement that encumbers all land within ten feet of the center of the on-site ~~drainage~~ *seasonal creek* and offer for dedication to the Town of Paradise as proposed.
13. Remove any existing fencing located within land to be offered for dedication to the Town of Paradise for additional public street right-of-way.

SEWAGE DISPOSAL

14. Satisfy all requirements of the Town of Paradise Onsite Sanitary Official concerning the design of the final parcel map including delineation of all areas deemed to be unsuitable for wastewater disposal
15. Provide material evidence to the Town of Paradise that the existing water well serving the existing residence on the site has been abandoned in a manner deemed satisfactory to the Butte County Environmental Health Department.
16. Secure the issuance of a Town of Paradise septic system alteration upgrade permit and upgrade and alter the existing septic system serving the existing residence on the site as outlined in the memorandum from Wastewater division staff dated August 24, 2011 and on file in the Town Community Development Department.

UTILITIES

17. Meet the requirements of the Paradise Irrigation District (PID) in accordance with the comments provided by PID staff for the Visinoni project, dated May 23, 2011 and on file with the town Community Development Department.
18. Meet all other requirements of utility companies regarding the establishment of necessary public utility easements.

FIRE PROTECTION

19. Place the following notes on the final map information data sheet:
 - a. “The design of proposed private road access improvements shall be constructed in accordance with the requirements outlined within the Fire Department Project Condition Letter and memorandum dated June 1, 2011 on file in the Town Community Development Department and shall include an adequate turnaround facility at its southern terminus to accommodate fire and emergency vehicle access in accordance with town adopted road standards.”
 - b. “The project developer shall implement and maintain a fuel reduction plan for the parcels meeting the requirements of the Paradise Fire Department in accordance with the Paradise Fire Department Condition Letter and memorandum dated June 1, 2011 for the Visinoni parcel map application and on file in the Town Community Development Department. The fuel reduction plan shall be binding upon future owners of Parcel Nos. 1, 2, 3 and 4 and shall be recorded with the final parcel map.”
 - c. “All buildings constructed upon Parcel Nos. 1, 2, 3 or 4 shall be constructed in accordance with the California Fire Code’s Wildland/Urban Interface Code in effect at the time of building permit application and in accordance with the Paradise Fire Department Project Condition Letter and memorandum dated June 1, 2011 for the Visinoni parcel map application and on file in the Town Community Development Department.”
20. Meet all other requirements of the Paradise Fire Department in accordance with the Fire Department Project Condition Letter for the Visinoni parcel map dated June 1, 2011 and on file in the Town of Paradise Community Development Department.

OTHERS

21. Provide written documentation verifying payment of current property taxes and payment of any assessment liens imposed by the Town.
22. Provide monumentation as required by the Town Engineer in accordance with accepted town standards.
23. 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.
24. The following notes shall appear upon the final parcel map information sheet:
 - a. “At the time of building permit issuance, owner 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."
25. If resulting parcels do not possess deeded legal access to Kemlyn lane, all access to the parcels shall be taken via the proposed private roadway and private road easement.

ROLL CALL VOTE:

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

MOTION CARRIES.

Community Development Director Baker announced that the decision of the Planning Commission may be appealed to the Town Council within ten (10) days.

6. OTHER BUSINESS

Since Chair Grossberger was absent, Planning Commissioners concurred to postpone discussing the content of the current Procedural Rules of Conduct of the Planning Commission Meetings until the regular February Planning Commission meeting.

7. COMMITTEE ACTIVITIES – None.

8. COMMISSION MEMBERS

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

Planning Director Baker stated that there are small projects that he is considering acting on as the hearing officer; 1. A parcel map divide, with no development, two houses are already on the property; 2. Use Permit Modification, asking for an extension of time to fulfill conditions of approval; and, 3. A Use Permit Modification, requesting an extension of time to fulfill conditions of approval due to the economy.

Commissioners inquired about a future Safeway project and the progress of the Walmart Development. Mr. Baker stated that Safeway has been investigating the property on Clark Road across from the CMA church and that the Walmart project is approximately half way through the Environmental Impact Report. Walmart has not yet found a Wastewater Disposal solution that is acceptable to them, and may prefer that the Town build this portion of the development.

9. ADJOURNMENT

The Planning Commission meeting was adjourned at 6:39 p.m.

Date Approved:

Greg Bolin, Vice Chair

Attest:

Dina Volenski, Assistant Town Clerk

MEMORANDUM

TO: Paradise Planning Commission **AGENDA NO. 5(a)**

FROM: Susan Hartman, Assistant Planner 

SUBJECT: Trinity Pines Use Permit Modification Application (PL12-00012);
AP No. 052-150-028

DATE: February 13, 2012

BACKGROUND

On April 28, 2009, the Planning Director conditionally approved a use permit application for the proposed establishment of an adult residential day care facility (Trinity Pines) with a service occupancy capacity of 12 residents within two existing dwelling units on property located at 800 Elliott Rd, Paradise. Trinity Pines provides care for ambulatory, disabled adults in a residential setting helping their clients reintegrate in to the community. Advocates for the project included staff from Butte County Behavioral Health who have worked with the administrators of Trinity Pines at their facility in Yuba City and have found their company to be professional and provide a much needed service within the county.

MODIFICATION REQUESTS

A follow-up Planning Director hearing was held on May 19, 2009 in response to a use permit modification application filed by the project applicants, Trinity Pines, requesting an 18 month deferment of use permit condition nos. 4 & 5 requiring the dedication of right-of-way along Elliott Road as well as the construction, **or deferment by covenant agreement**, of frontage improvements along Queen Drive. The intent of Trinity Pines was to enter into a lease/purchase agreement with the property owners, at the end of which, Trinity Pines would be in the legal position to deed the right-of-way and sign the covenant agreement themselves. Based on a favorable response from the Town Engineer, the deferment was approved for the 18 month extension requested.

On December 20, 2010 a third Planning Director hearing was conducted to once again review a request for an **additional** 12 month deferment for conditions assigned to the modified use permit regarding the Elliott Road right-of-way dedication and Queen Drive frontage improvement covenant agreement. The owners of the property, the Andreas', had been in real estate negotiations with Butte County for the potential purchase of the subject property, however, those negotiations ended without benefit of the sale of the property and additional time was being requested by Trinity Pines to actively seek potential buyers to partner with in their existing business endeavor. The Andreas' have not supported the fulfillment of the conditions requiring right-of-way dedication or the execution of a covenant agreement for frontage improvements.

A fourth Planning Director hearing was held on February 7, 2012 to consider another application for further deferment of modified use permit conditions for the Elliott Road right-of-way dedication and Queen Drive frontage improvement covenant agreement. At this time the property owners, the Andreas', voiced their concerns regarding the long-term tenancy of Trinity Pines since they are dependent on county and state funding for the continued operation of their facility. The Andreas' would still like to sell the property and leave the fulfillment of the required modified use permit conditions the responsibility of a new owner(s) and therefore do not desire to enter into those agreements with the Town at this point. Unfortunately, Trinity Pines has been unable to find a buyer to partner with in the purchase of the property within the timeline of the previously modified use permit.

After almost 3 years of public hearings, staff only supported of the continued, long-term deferment of the Queen Drive covenant agreement for an additional 12 months, but requested the required Elliott Road right-of-way dedication within 60 days of the approved, additionally modified use permit, the preparation of and cost of which is bore solely by the Town. Public testimony from the property owners clearly demonstrated that they were not in agreement with staff's recommendation which lead to their questioning of Town policy requiring right-of-way as part of an entitlement. Pursuant to Town of Paradise Administrative Policy No. 660, regarding the raising of policy issues, the project was then referred to the Planning Commission by the Planning Director for decision-making action.

ENVIRONMENTAL ANALYSIS

As part of the original project approval in April 2009, the project was found to be categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15303 (Class 3) of the State CEQA guidelines. Staff has determined that the proposed modification request is consistent with the original project analysis and will not result in any unforeseen or unintended environmental consequences, as the requested modifications are relatively minor in nature.

RECOMMENDATION

Staff continues to recommend the deferment of the Queen Dr covenant agreement for frontage improvements for an additional 12 months, but requests that the Elliott Road right-of-way dedication be completed within 60 days of the approved modified use permit. If approved by the Planning Commission, the proposed modification request would be consistent with the goals and land use policies of the Paradise General Plan, and should continue to assure that the project will continue to be compatible with existing zoning as well as surrounding land uses.

Staff is prepared to address any questions that the Planning Commission may have regarding details of the proposed project.

REQUIRED FINDINGS FOR APPROVAL:

- a. Find that the proposed modified project remains categorically exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section 15303 (Class 3) of the State CEQA Guidelines.
- b. Find that the project, as modified and conditioned, is consistent with the Town-Commercial designation as shown on the Paradise General Plan land use map; and is consistent with the development goals, objectives and policies of all applicable General Plan elements.
- c. Find that the project, as modified and conditioned, is compatible with surrounding land uses and would not be detrimental to the health, safety and general welfare of the residents of the Town of Paradise.

REQUESTED ACTIONS:

- 1. Open the scheduled and noticed public hearing and solicit testimony from the attending public.
- 2. Close the public hearing and move to adopt the required findings as provided by staff and approve 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 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.*
- 3. Direct staff to re-issue the Trinity Pines use permit, modified in accordance with staff's recommendations, above.

**ATTACHMENTS
FOR
PLANNING COMMISSION AGENDA NO. 5(a)**

1. Notice sent to surrounding property owners for the public hearing concerning the Trinity Pines project modification request scheduled for February 21, 2012
2. Project vicinity map
3. Mailing list of property owners notified of the public hearing concerning the Trinity Pines project modification request
4. Copy of the written modification request dated December 14, 2011, submitted by Trinity Pines on January 10, 2012
5. 8½" x 11" project site plan
6. Minutes from the February 7, 2012 Planning Director hearing
7. Copy of proposed Trinity Pines modified use permit

**NOTICE OF PUBLIC HEARING
PARADISE PLANNING COMMISSION**

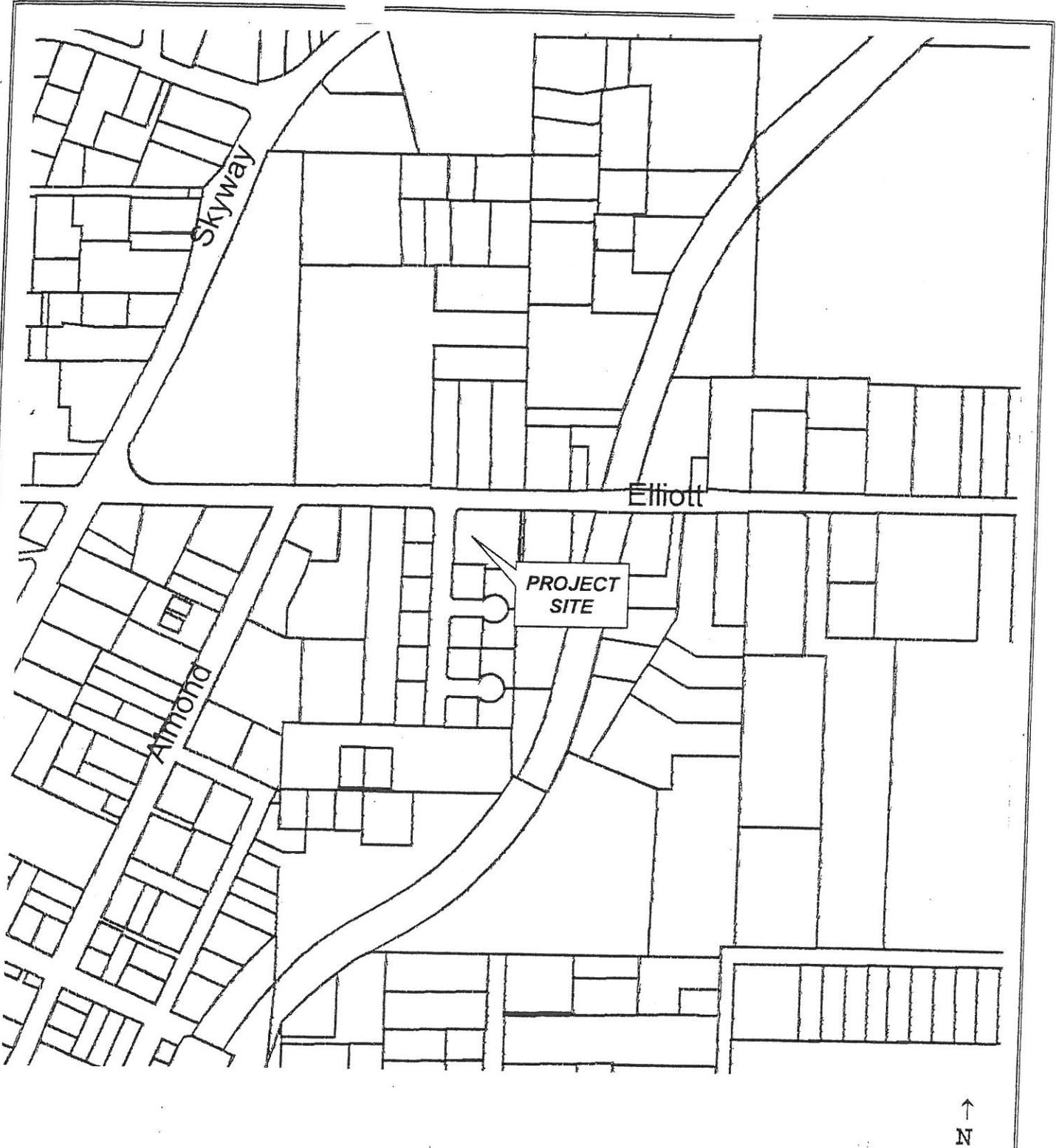
NOTICE IS HEREBY GIVEN by the Planning Commission that a public hearing will be held on Tuesday, February 21, 2012 at 6:00 p.m. in the Council Chambers at Paradise Town Hall, 5555 Skyway, Paradise, CA, regarding the following project:

Item previously determined exempt from environmental review:

- a. **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.

The project file is available for public inspection at the Development Services Department, Town of 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 Town of Paradise Planning Commission at, or prior to, the public hearing. For further information please contact the Development Services Department at (530) 872-6993 or 872-5922.

CRAIG BAKER, Planning Director



APPLICANT: Tina Jordan-Trainque
 OWNER: Laure Andreas

ADDRESS: 800 Elliott Rd

PROJECT DESCRIPTION:

Request to modify the terms and conditions of a previously-approved conditional use permit.

Zoning: CC
 ASSESSOR PARCEL NO. 052-150-028

GENERAL PLAN TC

FILE NO. PL12-00012
 MEETING DATE: 2/21/12

052-080-041-000
TOWN OF PARADISE
5555 SKYWAY
PARADISE, CA 95969

052-080-099-000
PACIFIC GAS & ELECTRIC CO
P O BOX 770000
SAN FRANCISCO, CA 94177

052-080-110-000
ROMAN CATHOLIC BISHOP OF
SACRAMENTO
767 ELLIOTT RD
PARADISE, CA 95969

052-080-063-000
BURKETT FAMILY TRUST
797 ELLIOTT RD
PARADISE, CA 95969

052-080-082-000
VAIL ALAN G & JANET M FAMILY
TRUST
5552 HILLTOP DR
PARADISE, CA 95969

052-080-081-000
BURKETT FAMILY TRUST
797 ELLIOTT RD
PARADISE, CA 95969

052-080-021-000
HARO MIGUEL A
PO BOX 1022
PARADISE, CA 95967

052-080-108-000
BRYNING DAVID A ETAL
815 A ELLIOTT RD
PARADISE, CA 95969

052-080-073-000
KELLY REVOCABLE INTER VIVOS
TRUST
5899 OAKMORE DR
PARADISE, CA 95969

052-080-109-000
KELLY REVOCABLE INTER VIVOS
TRUST
5899 OAKMORE DR
PARADISE, CA 95969

052-150-056-000
PACIFIC TELEPHONE & TELEGRAPH
COMPANY
430 BUSH ST 3RD FLOOR
SAN FRANCISCO, CA 94108

052-150-038-000
KEITH JAYNE A
5846 TULIP LN
PARADISE, CA 95969

052-150-037-000
WILSON RAYMOND HARRY & TERRY
J
816 ELLIOTT RD
PARADISE, CA 95969

052-150-030-000
WESSELMANN BRUCE & DAMERIS
REV LVG TRUST
5870 PENTZ ROAD
PARADISE, CA 95969

052-150-055-000
PACIFIC GAS & ELECTRIC CO
P O BOX 770000
SAN FRANCISCO, CA 94177

052-150-004-000
MCBRIDE KEITH R & BRIDGET R
5867 QUEEN DRIVE
PARADISE, CA 95969

052-150-028-000
ANDREAS LAURENIL & ARTHUR
4815 PROSPECT LN
PARADISE, CA 95969

052-150-044-000
BERNDT ROBERT P TRUST
PO BOX 1596
PARADISE, CA 95967

052-150-036-000
NELSON GERALD V & MICHELE C
4601 YORK RD
PARADISE, CA 95969

052-150-025-000
TOWN OF PARADISE
5555 SKYWAY
PARADISE, CA 95969

052-150-005-000
WATERS JOHN A & LORRAINE M
5861 QUEEN DR
PARADISE, CA 95969

052-150-016-000
BANTA JAMES W & HENRIETTA V
805 WINDSOR DR
PARADISE, CA 95969

052-150-006-000
BIRD LISA
5851 QUEEN DR
PARADISE, CA 95969

052-150-029-000
ERICKSON LARRY
801 WINDSOR DR
PARADISE, CA 95969

052-150-015-000
VALENCIA STEVE & PAMELA
810 WINDSOR DR
PARADISE, CA 95969

052-150-007-000
MASSEY KENT W
5845 QUEEN DR
PARADISE, CA 95969

052-150-014-000
HEIDA NORMAN DENNIS & KAREN
SUZANNE
802 WINDSOR DR
PARADISE, CA 95969

052-150-045-000
BERNDT ROBERT P TRUST
PO BOX 1596
PARADISE, CA 95967

052-150-013-000
WAUHOP GREGORY W (CB DVA)
5836 QUEEN DR
PARADISE, CA 95969

052-150-008-000
NICHOLSON JAMES & DONNA TRUST
300 CLIPPER WAY 1429 Bennett Rd
SEAL BEACH, CA 90740
Paradise, CA 95969

052-150-012-000
JACOBSON NANCY C
~~361 PICHOLINE WAY~~ 129 Taigle Way
CHICO, CA 95928

Paradise Irrigation District
P.O. Box 2409
Paradise, CA 95967-2409

Paradise Recreation & Park Dist.
6626 Skyway
Paradise, CA 95969

Paradise Ridge Chamber of
Commerce
5550 Skyway
Paradise, CA 95969

Paradise Board of Realtors
6178 Center Street
Paradise, CA 95969

Paradise Downtown Business
Association
c/o Fir Street Gallery/Pam Funk
6256 Skyway
Paradise, CA 95969

Butte County Planning
Courier

Paradise Cemetery District
980 Elliott Road
Paradise, CA 95969

Butte Co. Air Quality Mgmt. Dist.
629 Entler Ave., Suite 15
Chico, CA 95928

Butte Environmental Council
116 W. 2nd Street #3
Chico, CA 95928

Pacific Gas & Electric
Laird Oelrichs, Land Agent
350 Salem St.
Chico, CA 95928

Paradise Unified School District
6696 Clark Road
Paradise, CA 95969

APN	Owner	Owner_Add	CityStZIP
052-080-041-000	TOWN OF PARADISE	5555 SKYWAY	PARADISE CA 95969
052-080-099-000	PACIFIC GAS & ELECTRIC CO	P O BOX 770000	SAN FRANCISCO CA 94177
052-080-110-000	ROMAN CATHOLIC BISHOP OF SACRAMENTO	767 ELLIOTT RD	PARADISE CA 95969
052-080-063-000	BURKETT FAMILY TRUST	797 ELLIOTT RD	PARADISE CA 95969
052-080-082-000	VAIL ALAN G & JANET M FAMILY TRUST	5552 HILLTOP DR	PARADISE CA 95969
052-080-081-000	BURKETT FAMILY TRUST	797 ELLIOTT RD	PARADISE CA 95969
052-080-021-000	HARO MIGUEL A	PO BOX 1022	PARADISE CA 95967
052-080-108-000	BRYNING DAVID A ETAL	815 A ELLIOTT RD	PARADISE CA 95969
052-080-073-000	KELLY REVOCABLE INTER VIVOS TRUST	5899 OAKMORE DR	PARADISE CA 95969
052-080-109-000	KELLY REVOCABLE INTER VIVOS TRUST	5899 OAKMORE DR	PARADISE CA 95969
052-150-056-000	PACIFIC TELEPHONE & TELEGRAPH COMPANY	430 BUSH ST 3RD FLOOR	SAN FRANCISCO CA 94108
052-150-038-000	KEITH JAYNE A	5846 TULIP LN	PARADISE CA 95969
052-150-037-000	WILSON RAYMOND HARRY & TERRY J	816 ELLIOTT RD	PARADISE CA 95969
052-150-030-000	WESSELMANN BRUCE & DAMERIS REV LVG TRUST	5870 PENTZ ROAD	PARADISE CA 95969
052-150-055-000	PACIFIC GAS & ELECTRIC CO	P O BOX 770000	SAN FRANCISCO CA 94177
052-150-004-000	MCBRIDE KEITH R & BRIDGET R	5867 QUEEN DRIVE	PARADISE CA 95969
052-150-028-000	ANDREAS LAURENIL & ARTHUR	4815 PROSPECT LN	PARADISE CA 95969
052-150-044-000	BERNDT ROBERT P TRUST	PO BOX 1596	PARADISE CA 95967
052-150-036-000	NELSON GERALD V & MICHELE C	4601 YORK RD	PARADISE CA 95969
052-150-025-000	TOWN OF PARADISE	5555 SKYWAY	PARADISE CA 95969
052-150-005-000	WATERS JOHN A & LORRAINE M	5861 QUEEN DR	PARADISE CA 95969
052-150-016-000	BANTA JAMES W & HENRIETTA V	805 WINDSOR DR	PARADISE CA 95969
052-150-006-000	BIRD LISA	5851 QUEEN DR	PARADISE CA 95969
052-150-029-000	ERICKSON LARRY	801 WINDSOR DR	PARADISE CA 95969
052-150-015-000	VALENCIA STEVE & PAMELA	810 WINDSOR DR	PARADISE CA 95969
052-150-007-000	MASSEY KENT W	5845 QUEEN DR	PARADISE CA 95969
052-150-014-000	HEIDA NORMAN DENNIS & KAREN SUZANNE	802 WINDSOR DR	PARADISE CA 95969
052-150-045-000	BERNDT ROBERT P TRUST	PO BOX 1596	PARADISE CA 95967
052-150-013-000	WAUHOP GREGORY W (CB DVA)	5836 QUEEN DR	PARADISE CA 95969
052-150-008-000	NICHOLSON JAMES & DONNA TRUST	1429 Bennett Rd.	PARADISE CA 95969
052-150-012-000	JACOBSON NANCY C	129 TAIGE WAY	CHICO CA 95928

Art and Laure Andreas
4815 Prospect Lane
Paradise CA 95969

RECEIVED
JAN 10 2012

December 14, 2011

Mr. Craig Baker
Town of Paradise
Community Development Director
5555 Skyway
Paradise, CA

Dear Mr. Baker,

I am writing concerning the use permit for Trinity Pines at 800 Elliott Road, Paradise, CA. which expires at the end of this month, December 2011. At present we, the owners of the property, cannot meet the conditions for the tenants to obtain a use permit from the town because we would like to sell the property.

Another reason is we do not know how long Trinity Pines will rent from us. Since Trinity Pines depends on funding from the county and state they rent from us on a month to month basis. In the current economic conditions, Trinity Pines cannot make any long range plans since they don't know if funding will be available.

The tenants have been and are trying to find someone who could buy the property and rent it back to them and who would be able to meet the town requirements for a use permit. As of right now the tenants have not been successful in finding that particular buyer.

Please do consider the good work that Trinity Pines is doing in providing a safe place and environment for individuals to be able to receive the tools they need to graduate and return to society as independent productive members of our community.

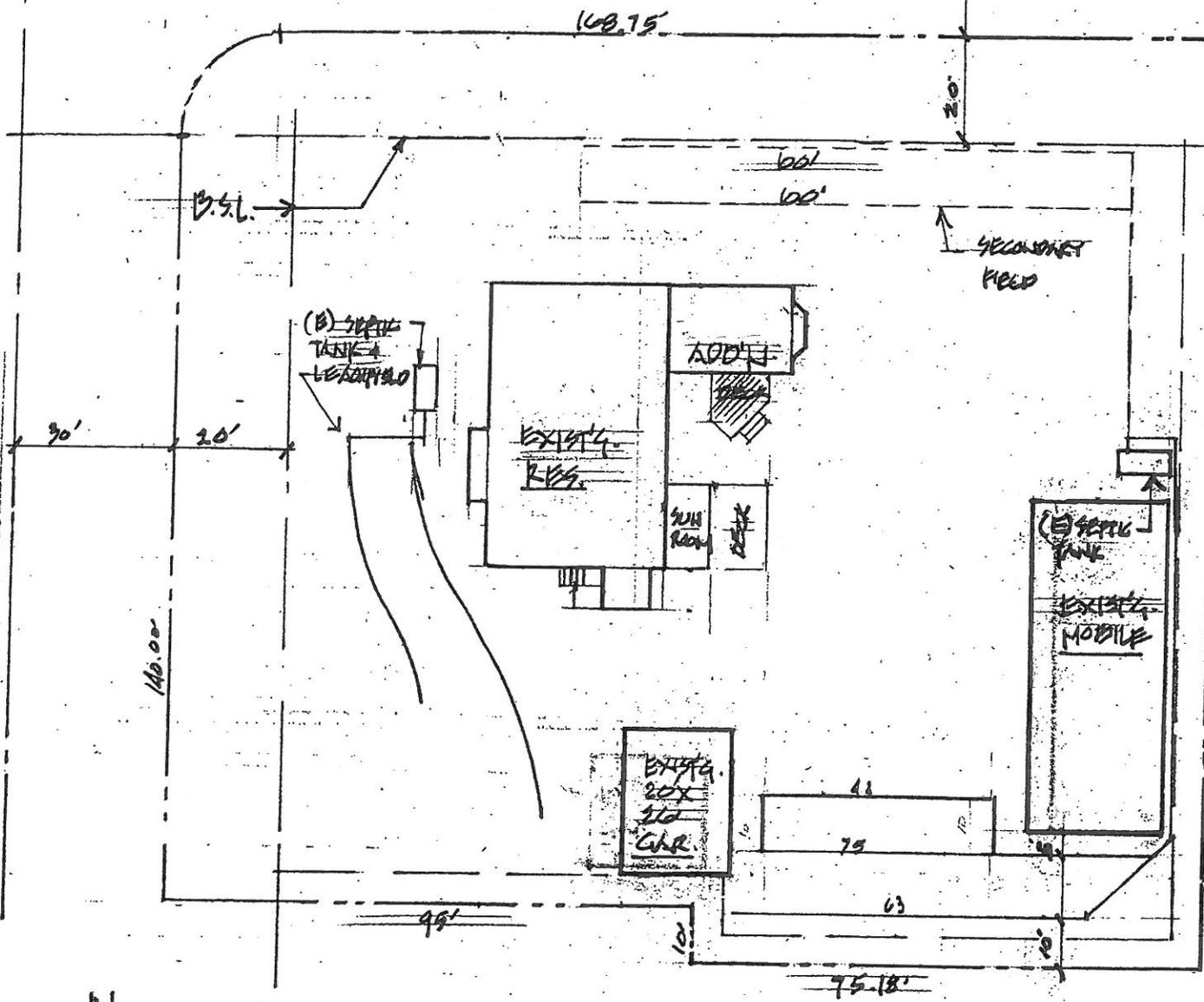
Sincerely,



Art and Laure Andreas

ELLIOTT RD.

QUEEN DR



SITE PLAN
 50' 10=30.00

MR + MRS. ANDREAS
 800 ELLIOTT RD. - PARADISE

RECEIVED

MAR 09 2009

TOWN OF PARADISE

AP# 052-150-028

EXCERPT OF PARADISE PLANNING DIRECTOR MINUTES

February 7, 2012 – 11:00 a.m.

4 b. 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.

Assistant Planner Hartman explained that the property owners are requesting approval from the Town of Paradise to further modify use permit conditions #11 & 12 from the heading *Conditions of Land Use Operation – Business Operation* as previously revised and adopted at the Planning Director public hearing held on December 21, 2010. This is the third request for a time extension to complete the use permit requirements since the original project approval in April, 2009.

Staff has reviewed the project in regards to the issuance of an additional time extension in order to facilitate the potential sale of the property and subsequent completion of modified use permit conditions #11 & 12. At this time, staff is only supportive of extending the timeframe to record the covenant agreement for frontage improvements along Queen Dr (condition #11). The Elliott Road right-of-way dedication is essential to the Town for the maintenance and future upgrade of Elliott Road. Any potential buyer(s) would be buying the property knowing that the current land use necessitates the dedication of right-of-way to the Town. Therefore, staff does not feel that the fact that the property is for sale is a compelling reason to extend the timeframe for the dedication beyond the almost three years already granted.

Planning Director Baker opened the Public Hearing at 11:13 a.m.

Tina Jordan Trainque stated that she asked for the modified use permit and is currently leasing the property. She inquired that if Trinity Pines was not there, and the current use permit did not exist, what would happen with the right-of-way being asked for? She was concerned with how much it would cost the property owner and why should they give away 40 feet of their property when they could potentially receive a financial gain if the property is eventually purchased by the Town for the right-of-way privilege.

Planning Director Baker stated that the planned right-of-way width for Elliott Road is 80 feet; 40 foot from the center line on each side. Often, whenever a planning entitlement, or even a building permit, is requested, it triggers the right-of-way dedication for future road improvements pursuant to municipal code requirements for those applications. Planning Director Baker pointed out that other hearings on the agenda deal with right-of-way dedications and were required to dedicate the right-of-way immediately instead of deferring it. Use permits are intended to be forever and do not expire unless the use permit is revoked. It was noted that the requested right-of-way dedication is a 10 foot strip of property across the Elliott Road frontage that is within the building setback line and cannot be used for building. There is a long standing Town policy of requiring the right-of-way dedication and if the property owner is not in agreement, the Planning Director is required, by Town Administrative Policy, to forward the matter to the Planning Commission under such circumstances. Mr. Baker asked if the applicant or property owner would prefer that the right-of-way dedication decision be referred to the Planning Commission where they would hold a public hearing to review the recommended staff action.

Art Andreas, property owner, stated that it was all dependent on Trinity Pines. They were going to purchase the property and take care of those items. Otherwise, the right-of-way might encumber the sale of the property. He would have to point out to a potential buyer that 10 feet of the property, including landscaping, is not actually part of the property which may provide for a negative situation in selling the property.

Mr. Baker asked Mr. Andreas if it would be beneficial for them to sell the property with the current tenant in place. Mr. Andreas stated that it would be for whoever bought it. Mr. Baker stated that if the property sold, the modified use permit requires the right-of-way dedication within 60 days which would make the new buyer subject to the same requirements, making Mr. Baker unsure of how that would affect the value. Mr. Andreas said that if someone else purchased the property they may not want Trinity Pines there and just want to live there in the residence. A two-family residential land use is subject to a public hearing and the buyer should be made aware of this, too.

Mr. Baker referred back to the recommendation of staff and asked whether or not Mr. Andreas was in disagreement with the policy of the Town to require right-of-way dedication for a use permit. Mr. Andreas answered yes. Mr. Baker stated that without an entitlement the previous two-family land use is non-conforming. Right now the use is conforming because of the use permit.

Mr. Baker asked Mr. Andreas if he was in agreement with staff's recommendations to have an additional 60 days to offer the right-of-way dedication and to execute a covenant agreement within a year. Mr. Andreas said that he and his wife are not in agreement with that. Mr. Baker stated that he had not made any decisions regarding staff's recommendations and that is why he was asking the Andreas' for input.

Mr. Andreas asked that if someone purchased the property and opened a beauty shop, would they need a use permit? Mr. Baker stated that personal services in the Community Commercial zoning district is a permitted use and would not be subject to a use permit.

Mr. Andreas said that there would be an encumbrance to whoever buys it in the future, there would be some cost. Mr. Baker stated that when the Planning Director first heard the application he exercised his discretion to not require a covenant agreement for the Elliott Road frontage which would be a greater cost if Elliott Road was ever improved, but neither Elliott Road or Queen Drive are scheduled for any improvements.

Mr. Baker asked if Mr. Andreas would be in agreement with the two conditions if he were to extend both of the conditions for a year. Mr. Andreas said no, he is hoping to sell the property within a year and it will be up to whoever buys it what they are going to do. Whether they continue the current land use with Trinity Pines or use it for something that does not require a special use permit. As for Trinity Pines, they will have 60 days to either buy or vacate the property because there are no assurances that they will be there next month. Mr. Baker asked if Mr. Andreas was opposed to the proposed condition the way it was written. Mr. Andreas said yes.

Mr. Greg Trainque, Director of Logistics for Woodland Care Center, Parent Corporation for Trinity Pines, stated that since the Andreas' intend to sell the property, he would like to recommend that the use permit be extended for another year, or until the property sells, which would allow them, as an operation, to not worry about the next 60 days and the 12 residents they are taking care of. This would allow the Andreas' to find an outside buyer or for Trinity Pines to find a buyer/investor. Mr. Baker asked if he was the project applicant and if he was in agreement with staff's recommendation. Mr. Trainque stated that he was the project applicant and that they would not be able to find another location, or start another facility, within 60 days; it could take as long as 6 months.

Mr. Baker closed the public hearing at 11:38 a.m.

Mr. Baker stated that pursuant to a Town Administrative Policy, since the property owners and project applicants are not in agreement with staff's recommended action and there appears to be opposition to the policy of requiring right of way dedication for a use permit, the item will be referred to the Planning Commission, there will be a notice published in Saturday's paper and the item will be considered during the Planning Commission meeting of February 21, 2012 at 6:00 p.m. The property owner and applicant will receive a letter regarding the referral.

TOWN OF PARADISE MODIFIED USE PERMIT

DATE February 21, 2012

USE PERMIT NO. PL12-00012

ASSESSOR'S PARCEL NO. 052-150-028

Pursuant to the provisions of the Zoning Ordinance regulations of the Paradise Municipal Code and the conditions set forth below:

Trinity Pines is hereby granted a modified use permit in accordance with application filed on January 10, 2012 proposing the modification of a previously approved, and modified, use permit for the establishment of an adult residential care facility with a service occupancy capacity of 12 residents within two existing dwelling units on property located at 800 Elliott Road, Paradise.

GENERAL CONDITIONS OF USE PERMIT

1. If any land use for which a use permit has been granted and issued is not established within three years of the use permit's effective date, the use permit may become subject to revocation by the Town of Paradise.
2. Secure Town of Paradise design review approval for any new business signs or exterior building modifications.
3. All work within the Elliott 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.

CONDITIONS TO BE MET PRIOR TO COMMENCEMENT OF BUSINESS OPERATION

FIRE PROTECTION

4. The corridor/hallways within the affected dwellings shall be a minimum 44" wide if serving 10 or more residents or 36" if less than 10, determined through inspection by the Paradise Fire Department.
5. Plans for an approved automatic and manual fire alarm system, in accordance with CFC Section 907.2.8 and NFPA 72 2009 Standards, shall be submitted to the Paradise Fire Department for review.

6. If not already present and functioning, an automatic fire alarm system shall be installed in all sleeping areas and hallways leading to the bedrooms in locations and in a manner determined to be acceptable to the Paradise Fire Department.

ROADS AND ACCESS

7. Physically alter the existing Elliott Road driveway in a manner deemed satisfactory to the Town Engineer.
8. Trim and remove vegetation along the project site frontage of Elliott Road to improve traffic sight distances in a manner deemed satisfactory to the Town Engineer.

SITE DEVELOPMENT

9. Establish and maintain on-site parking facilities and pavement markings in accordance with all town parking ordinance regulations and the requirements of the Town Engineer.

CONDITIONS OF LAND USE OPERATION

BUSINESS OPERATION

10. Additional service capacity beyond 12 residents will require a use permit modification application and an expansion to the onsite wastewater disposal system as stated in the Land Use Review by the Onsite Division dated February 23, 2009.
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 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.

**DATE MODIFICATION APPROVED BY THE PLANNING COMMISSION:
February 21, 2012**

NOTE: Issuance of this use permit does not waive requirements of obtaining building and sanitation division permits before starting construction or operation, nor does it waive any other requirements.

PERMIT EFFECTIVE DATE: February 28, 2012

Planning Director

MEMORANDUM

TO: Paradise Planning Commission **AGENDA NO. 6(a)**
FROM: Craig Baker, Community Development Director 
SUBJECT: Review and Discussion Regarding Possible Changes to the current Planning Commission Procedural Rules for the Conduct of Planning Commission Meetings
DATE: February 14, 2012

BACKGROUND:

All Planning Commission meetings are required to be conducted in accordance with the current Procedural Rules for the Conduct of Planning Commission Meetings, established via adoption of Planning Commission Resolution No. 96-001 on February 12, 1996.

During their regularly-scheduled meeting of October 18, 2011, the Planning Commission concurred to direct staff to agendize a discussion of the current procedural rules of conduct for the next Planning Commission meeting to consider whether to revise and/or update the procedural rules via adoption of a new resolution document that would rescind Resolution No. 96-001 and establish a revised set of procedural rules. Accordingly, staff has placed this item on the Planning Commission agenda as requested.

REQUESTED ACTIONS:

1. Please review the attached copy of the current procedural rules of conduct and be prepared to discuss any possible revisions with other Planning Commissioners, members of the attending public and staff.
2. If it is determined by a majority consensus of the Planning Commission that any revisions to the procedural rules is desirable, direct staff to return with a resolution document that would rescind Resolution No. 96-001 and implement the desired revisions to the procedural rules of conduct during the next regularly-scheduled Planning Commission meeting.

If a new resolution document is adopted by the Planning Commission, any revisions to the procedural rules of conduct would become effective immediately.

TOWN OF PARADISE
RESOLUTION NO. 96-001

**RESOLUTION OF THE PLANNING COMMISSION
OF THE TOWN OF PARADISE
RESCINDING RESOLUTION NO. 90-2 AND ADOPTING UPDATED AND
AMENDED PROCEDURAL RULES FOR THE CONDUCT OF
PLANNING COMMISSION MEETINGS**

WHEREAS, the Paradise Planning Commission of the Town of Paradise adopted Resolution 90-2 on March 12, 1990, and with its adoption thereby prescribed and established procedural rules for the conduct of Planning Commission meetings; and

WHEREAS, the Planning Commission of the Town of Paradise has determined that the public interest is best served if the established procedural rules of conduct of Planning Commission meetings are occasionally reviewed and updated by formal amendment in order to aptly serve the current needs of the Paradise community.

NOW, THEREFORE BE IT RESOLVED AS FOLLOWS:

SECTION 1. Planning Commission Resolution No. 90-2 is hereby rescinded.

SECTION 2. The Planning Commission of the Town of Paradise hereby adopts the following procedural rules for the conduct of its meetings:

A. QUORUM. Three (3) members of the Planning Commission shall constitute a quorum for the transaction of business. Motions may be passed by a majority of members present and voting. When no quorum exists, any member of the Planning Commission may adjourn the meeting to the next regularly scheduled meeting or to a date specified by the majority of those present. The Secretary of the Planning Commission may adjourn as specified above if no Commissioner is present.

B. PUBLIC MEETINGS. All meetings shall be held in full compliance with the provision of state law, applicable provisions of the Paradise Municipal Code, and these procedural rules. All regular and special meetings as well as study sessions of the Commission shall be open to the public. Whenever a regular scheduled Commission meeting falls on a public holiday honored by the Town of Paradise, no regular meeting shall be held on that day. Such regular meetings may be rescheduled to another business day or canceled by motion adopted by the Planning Commission or administratively by the Planning Director.

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C. AGENDA. All reports, proposed ordinances, resolutions, or other matters to be submitted to the Planning Commission by town staff shall be made available for review by the Commission and the public not later than during the fifth calendar day preceding the next regular scheduled Commission meeting. The Secretary of the Planning Commission shall have prepared an agenda of all such matters according to the order of business and provide a copy to each Planning Commissioner and make it available to the public at the cost of reproduction.

D. ORDER OF BUSINESS. All regular meetings of the Commission shall consider and dispose of matters in substantially the following order, except as otherwise may be ordered by the Chair of the Commission or majority of the Commission:

- | | |
|-------------------------|------------------------------|
| 1. Call to Order | 7. Continued Public Hearings |
| 2. Pledge of Allegiance | 8. Public Hearings |
| 3. Roll Call | 9. Other Business |
| 4. Approval of Minutes | 10. Committee Activities |
| 5. Communication | 11. Commission Members |
| 6. Citizen Forum | 12. Adjournment |

~~The provisions of this section shall be directory and not mandatory.~~

E. OFFICERS

1. Selection

- a. A Chair and Vice-Chair shall be elected annually from among the Commission's membership at the first meeting in July to serve at the pleasure of the Commission.
- b. The Vice-Chair shall succeed the Chair if he/she vacates the office before the term is completed, the Vice-Chair to serve the unexpired term of the vacated office. A new Vice-Chair shall be elected at the next regular meeting.

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- c. In the absence of the Chair and Vice-Chair, any other member shall call the Commission to order, whereupon a chair shall be elected from the members present to preside.

2. **Responsibilities**

The responsibilities and powers of the officers of the Planning Commission shall be as follows:

a. **Chair**

- (1) Preside at all meetings of the Commission.
- (2) Call special meetings of the Commission in accordance with legal requirements and the Rules of Procedure.
- (3) Sign documents of the Commission.
- (4) See that all actions of the Commission are properly taken.
- (5) Assist staff in determining agenda items.

b. **Vice-Chair**

During the absence, disability or disqualification of the Chair, the Vice-Chair shall exercise or perform all the duties and be subject to all the responsibilities of the Chair.

F. **ADJOURNED/SPECIAL MEETINGS.** In the event it is the wish of the Planning Commission to adjourn its meeting to a certain hour on another day, a specific date, time and place must be set by the Commission prior to the regular motion to adjourn. Special meetings of the Planning Commission may be held at any time upon the call of the Chair or by a majority of the voting members of the Commission or upon request of the Town Council following at least twenty-four (24) hours notice to each Commission member and to the press. The time and place of the

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special meeting shall be determined by the convening authority. The Commission may be convened as a whole or as a committee of the whole in the same manner as prescribed for the calling of a special meeting for the purpose of holding a study session provided that no official action may be taken and no quorum shall be required. Such meetings shall be open to the public.

G. ROLL CALL. Before proceeding with the business of the Commission, the Commission Secretary shall call the roll of the members and the names of those present shall be entered into the minutes. The time of arrival of a Commission member who was absent at roll call shall be entered into the minutes.

H. GAINING THE FLOOR. Every Commission member desiring to speak shall first address and gain recognition by the Chair. Such member shall confine his/her remarks to the question under consideration. After gaining recognition, a member may ask questions of staff who may answer or may defer to another member of staff or other person.

Members of the town staff, after recognition from the Chair, shall hold the floor until completion of their remarks or until recognition is withdrawn by the Chair.

A Commission member, once recognized, shall not be interrupted while speaking, unless called to order by the Chair, or unless a point of order or personal privilege is raised by another Commission member, or unless the speaker chooses to yield to a question by another Commissioner. If a Commissioner is called to order, he/she shall cease speaking until the question of order is determined, and if determined to be in order, he/she may proceed.

I. PROPRIETY OF CONDUCT. Members of the Commission and the public must observe order and shall not by conversation or in any way make or disturb any other member of the Commission, or refuse to obey the orders of the Commission or the Chair, except as this resolution may provide.

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J. PUBLIC COMMUNICATION. No person shall be entitled to speak to the Commission at a public meeting who has not been recognized by the Chair. Unless allowed by the Chair, no person shall speak for more than five (5) minutes on one item of business.

The purpose of public communication is to provide information to the Commission which it may not have. The right to speak before the Commission shall be limited to the public communication portion of public hearings and to any time the Chair will allow such communication.

The Chair may bar from further speaking at that meeting anyone who:

1. Makes any personal, impertinent, or defamatory remarks;
2. Becomes boisterous or disruptive;
3. Speaks without being recognized by the Chair;
4. Violates any rules of order established by this resolution or by the Commission.

The ruling of the Chair to bar any member of the public from speaking further at that meeting shall be final and conclusive, subject only to the right of appeal by any Commissioner to the entire Commission.

Any person who engages in disorderly conduct, such as hand clapping, stamping of feet, whistling, using profane language, yelling, or similar demonstration which disturbs the peace and good order of the meeting, shall, at the request of the Chair, or a majority of the Commission, be removed from the Commission Chambers.

K. ADDRESSING THE COMMISSION. Interested parties or their representatives may write to the Planning Commission regarding any matter that is under the jurisdiction of the Commission.

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In order to expedite public hearings, whenever a group wishes to address the Commission on the same issue, the Chair may ask the group to have one spokesperson speak. Other members of the group may speak if facts or comment were not presented by the spokesperson.

No person shall address the Commission unless first recognized by the Chair. Each person desiring to address the Commission shall approach the podium, state his//her name and address for the record, state the subject which he/she wishes to discuss, and state whom he/she is representing if other than himself/herself.

Comments from the floor shall be limited to five (5) minutes unless more time is granted by the Chair. Comments shall be limited to the subject matter before the Commission.

Should the issue discussed from the floor require more than five minutes, the Chair, or a majority of the Commission may place the issue on a future Commission agenda.

All comments from the floor shall be addressed to the Commission as a whole and not to any member only. No questions shall be asked of any Commission member or member of the town staff without first obtaining permission from the Chair. Anyone violating this section shall be called to order by the Chair.

L. **ENFORCEMENT OF ORDER/POINTS OF ORDER.** Any Commissioner may move to require the Chair to enforce the procedural rules and an affirmative vote of the Commission majority shall require the Chair to do so. The Chair shall determine all points of order subject to the right of any Commission member who requests full Commission ruling on the question; and the question shall be: "Shall the decision of the Chair be sustained?" The majority vote shall conclusively determine such questions of order.

M. **POINTS OF COMMISSION PRIVILEGE.** The right of a Commission member to address the Commission on a question of personal privilege shall be limited to cases in which his/her integrity, character, or motives are questioned, or when the welfare of the Commission is concerned. A Commission member raising the point of

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personal privilege may interrupt another Commission member who has the floor only if the Chair allows such interruption.

A Commission member moving the adoption of a resolution or motion shall have the privilege of closing debate, subject to a majority of the Commission voting that the debate should be continued. If a matter contains two or more propositions, any Commission member may ask to address and rule on the propositions separately. A majority vote of the Commission is necessary to so separate propositions.

N. VOTING. The passage of every motion shall be by voice vote or roll call vote and entered in the record. Any member of the Commission may demand a roll call vote on any matter before the Commission prior to a vote on the motion. Any Commission member may explain his/her vote during a roll call vote.

Commissioners shall vote in the affirmative by saying "aye" or "yes," and in the negative by saying "nay" or "no." Commission members shall state their vote when asked by the Chair or by the Commission Secretary during roll call vote. All votes of the Commission shall be recorded in the minutes of the meeting in which the voting took place.

Every member shall vote on the question before the Commission, unless he/she abstains for cause. An abstention vote shall be considered "not a vote."

1. Change of Vote. After voting is completed, but before the result of the vote is announced, any member of the Commission may change his/her vote. No Commission member may change his/her vote after the vote has been announced by the Chair unless a majority of the Commission grants consent.

2. Tie Vote. A tie vote shall be considered as defeating the motion.

3. Failure of an Item to Pass. A majority vote of the Commission against a motion or tie vote shall defeat the motion

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4. Abstention/Disqualification.

- a. Any Commission member may abstain himself/herself from voting for any stated or unstated reason..
- b. Any Commission member which is directly affected financially or personally by a decision of the Planning Commission should abstain from voting on the motion, but may participate as a Commission member in the discussion of the matter.
- c. When a Commissioner disqualifies himself/herself from voting, the Commissioner shall state prior to the consideration of such matter by the Commission that the disqualification is due to a possible conflict of interest and the Commissioner shall leave the dais or voting area.

5. Abstract of Commissioner's Remarks. A Commission member may request the Chair to place an abstract of his/her comments on any subject under consideration by the Commission entered into the minutes. The Chair must grant his/her consent in order for the abstract to be placed in the minutes.

6. Right to Record Reasons for Dissent. Any Commissioner shall have the right to enter into the minutes his/her reasons for dissent or protest of an action taken by the Commission.

7. Reconsideration. A Commission member who voted in the majority on a motion may, at the same meeting the motion was passed, move to reconsider the action taken, unless a procedural step was violated, in which case, the Planning staff shall return the matter to the Commission at the next available meeting.

O. PROCEDURAL RULES - VIOLATION OR MODIFICATION SHALL NOT INVALIDATE. Insofar as is practicable, the business of the Commission shall be conducted substantially in the order and manner provided in this resolution; provided, however, that the failure of the Commission to observe or enforce procedural rules shall in no manner effect the validity or legality of any action or proceeding taken by the Commission. The Commission, in its discretion, reserves the right to govern its own proceedings.

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P. RULES OF DEBATE.

1. All Commission members may debate, state motions, second motions, and vote.

2. Except as provided within this resolution, or provided by law, Robert's Rules of Order, Newly Revised, shall govern the conduct of regular meetings of the Commission and all special meetings unless otherwise announced at the beginning of the special meeting.

3. Procedures at a regular or special meeting may vary from Robert's Rules of Order unless a Commission member objects during the time the matter is before the Commission.

4. The Chair may allow by a majority consent of the Commission, a member of the Commission to introduce a resolution, motion, or other matter which is not in the regular agenda order. Any Commission member may introduce a matter which is in the regular agenda order.

Q. PUBLIC HEARING - OPENING. The Chair or his/her designee shall announce the beginning of a public hearing and shall request from staff any information pertinent to the public hearing. After any presentation by staff and any questioning by the Commission of staff, the Chair shall open the public hearing. If the hearing is opened to the public, 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.

R. PUBLIC HEARING - EVIDENCE RECEIVED. During the public hearing, the Commission shall receive all oral and written evidence relative to the matter being considered. Written evidence presented shall become the property of the Town of Paradise for one year after the public hearing, at which time it shall be disposed of or retained at the discretion of the Planning Director.

RESOLUTION NO. 96-001

RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF PARADISE
RESCINDING RESOLUTION NO. 90-2 AND ADOPTING UPDATED AND AMENDED
PROCEDURAL RULES FOR THE CONDUCT OF PLANNING COMMISSION MEETINGS

S. PUBLIC HEARING - CONTINUANCE. The Commission may continue to a date certain any public hearing unless a state law or regulation requires immediate review of the project and the town and the applicant cannot agree to a specified date for the continuance. No further advertisement of a hearing continued to a date certain shall be required.

If circumstances require that a hearing be continued to a date uncertain, the public notice requirements of the original hearing shall be required for the new hearing when the matter is rescheduled.

T. PUBLIC HEARING - CLOSING. When the Chair determines that sufficient evidence has been presented, then no further testimony shall be presented. Should the Chair, or a majority of the Commission desire further testimony, they may request it at any time prior to the decisive vote on the project or agenda item.

U. TESTIMONY UNDER OATH. The Chair, or a majority of the Commission may require anyone presenting testimony before the Commission to be sworn as a witness and testify under oath.

V. INVESTIGATIONS AND HEARINGS. The Commission shall have the discretionary right to make investigations and conduct hearings with respect to all matters within its powers and to all matters pertaining to the administration thereof.

W. ADJOURNMENT. The Commission shall adjourn each regularly scheduled meeting by a voice vote of the majority of those present and voting. Adjournment will be to the next scheduled Commission meeting unless another date has been selected by majority vote of those present and voting. The Commission may continue a meeting to a date certain by majority vote of those present and voting.

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RESOLUTION NO. 96-001

RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF PARADISE
RESCINDING RESOLUTION NO. 90-2 AND ADOPTING UPDATED AND AMENDED
PROCEDURAL RULES FOR THE CONDUCT OF PLANNING COMMISSION MEETINGS

PASSED AND ADOPTED by the Planning Commission of the Town of Paradise this
12th day of February, 1996, by the following vote:

AYES: Commissioners Hall, Higginbotham, Shane, Titus and
Chairman Duncan

NOES: None.

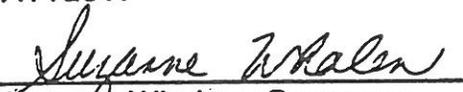
ABSENT: None.

NOT VOTING: None.



Larry R. Duncan, Chairman

ATTEST:



Suzanne Whalen, Secretary

MEMORANDUM

TO: Paradise Planning Commission **AGENDA NO. 6(b)**

FROM: Craig Baker, Community Development Director 

SUBJECT: Discussion Regarding Survey Monumentation Replacement Requirements During Commercial Development

DATE: February 14, 2012

BACKGROUND

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. Lundy cited several recent examples. Of particular concern to him was the loss of surveyed property corners and monuments establishing the limits and locations of public rights-of-way, intersections and easements. Mr. Lundy also made reference to correspondence he had sent to the Town on the subject (attached). At the conclusion of his comments, the Planning Commission agreed to discuss the issue further at the next available Planning Commission meeting.

DISCUSSION

Section 8771 of the California Business and Professions (B&P) Code, part of the Professional Land Surveyors' Act, sets forth requirements for survey monumentation to be reset whenever they are destroyed, damaged, covered or otherwise obliterated in the process of improving any streets, highways, other rights-of-way or easements. The municipalities staff researched often include a reference to this requirement when public works projects are put out to bid. An example of this type of requirement from the City of Chico is attached to this memorandum. The Town of Paradise has imposed similar requirements. An example of the Town's approach is also attached, as is B&P Code section 8771.

Staff also discussed the matter of preserving and replacing survey monumentation with the Town's contract Town Engineer, Ken Skillman. Mr. Skillman is a licensed Civil Engineer and a licensed Land Surveyor. He is very familiar with State of California requirements for preserving, replacing and recording survey monumentation and is wholeheartedly in support of any Town effort to eliminate the loss of this valuable information. An email communication from Mr. Skillman expressing his support to staff is attached to this memorandum as well.

REQUESTED ACTION

Please review the attached materials and be prepared to discuss this matter with other Planning Commissioners, Staff and the attending public. Inasmuch as the requirements for resetting and, if necessary, recording survey monumentation is a matter of State law, it may not be necessary for the Planning Commission to recommend the development of new local regulations or policies to help prevent the loss of survey monumentation. However, should a majority of the Planning Commission share the concerns of Mr. Lundy and Mr. Skillman, your staff will forward a report to engineering staff communicating your support for consistently requiring compliance with B&P Code section 8771 when public improvements are constructed.

ATTACHMENTS

1. Letter from Hollis Lundy of L&L Surveying to Al McGreehan regarding the loss of survey monumentation dated May 10, 2007
2. California Business and Professions Code Section 8771
3. Addendum to Town of Paradise Pinewood Drive Street Repair Project requiring preservation of survey monumentation, approved by Town Engineer Dennis Schmidt on October 6, 2009
4. Excerpt of City of Chico requirements for public improvements (Enloe Campus Storm Drain and Street Improvements) from 2010
5. Email communication from Mr. Skillman dated February 14, 2012, expressing his support to staff for preserving survey monumentation



L & L SURVEYING

1007 Bille Rd. - P. O. Box 671 - Paradise, CA 95967-0671
Telephone: (530) 877-4300 - FAX: (530) 877-2251

May 10, 2007

Al McGreehan
Town of Paradise
5555 Skyway
Paradise, CA 95969

Ref: Town Monumentation

Dear Mr. McGreehan:

I would like to bring something to the Town of Paradise's attention that, as a surveyor, I have noticed happen in the past.

When constructing commercial projects, some of the property corners are destroyed and not replaced. By this process we have less and less monumentation in the Town's commercial areas.

In the parcel map or subdivision process, final monuments are part of the final map. There is no final map involved with a site plan for commercial construction because most of the time they are building on existing lots.

I think a statement in the permit process such as "monuments to Town of Paradise Engineer's satisfaction to be established at the end of the project, and Record of Survey to be filed, if necessary."

The Subdivision Map Act states that:

1. A Corner Record will work if monuments destroyed are of record on a Record of Survey Map
2. A Record of Survey would be required if not of record or discrepancy is found.

Please let me know if I can be of any assistance on this matter.

Sincerely,



Hollis Lundy, PLS

HL:jk

California Business and Professions Code Section 8771

a) Monuments set shall be sufficient in number and durability and efficiently placed so as not to be readily disturbed to assure, together with monuments already existing, the perpetuation or facile reestablishment of any point or line of the survey.

(b) When monuments exist that control the location of subdivisions, tracts, boundaries, roads, streets, or highways, or provide horizontal or vertical survey control, the monuments shall be located and referenced by or under the direction of a licensed land surveyor or registered civil engineer prior to the time when any streets, highways, other rights-of-way, or easements are improved, constructed, reconstructed, maintained, resurfaced, or relocated, and a corner record or record of survey of the references shall be filed with the county surveyor. They shall be reset in the surface of the new construction, a suitable monument box placed thereon, or permanent witness monuments set to perpetuate their location if any monument could be destroyed, damaged, covered, or otherwise obliterated, and a corner record or record of survey filed with the county surveyor prior to the recording of a certificate of completion for the project. Sufficient controlling monuments shall be retained or replaced in their original positions to enable property, right-of-way and easement lines, property corners, and subdivision and tract boundaries to be reestablished without devious surveys necessarily originating on monuments differing from those that currently control the area. It shall be the responsibility of the governmental agency or others performing construction work to provide for the monumentation required by this section. It shall be the duty of every land surveyor or civil engineer to cooperate with the governmental agency in matters of maps, field notes, and other pertinent records. Monuments set to mark the limiting lines of highways, roads, streets or right-of-way or easement lines shall not be deemed adequate for this purpose unless specifically noted on the corner record or record of survey of the improvement works with direct ties in bearing or azimuth and distance between these and other monuments of record.

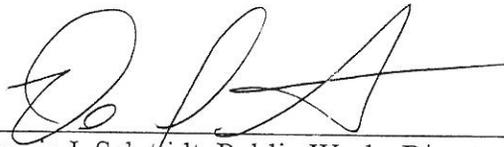
(c) The decision to file either the required corner record or a record of survey pursuant to subdivision (b) shall be at the election of the licensed land surveyor or registered civil engineer submitting the document.



TOWN OF PARADISE.

5555 SKYWAY • PARADISE, CALIFORNIA 95969-4931
TELEPHONE (530) 872-6291 FAX (530) 877-5059
www.townofparadise.com

Addendum No. 1 Pinewood Drive Street Repair Project Town of Paradise Project

Approved by  October 6, 2009.
Dennis J. Schmidt, Public Works Director/Town Engineer

Pages to follow – Addendum No. 1 1 page

Notice to all plan holders. Following are revisions and updates to the plans and specifications for the above referenced project. ***This bid opening date and time for this project has NOT changed. Bids open at 10.00 AM, Monday, October 12, 2009.***

Description of Change(s):

The following are to be added to the plans and specifications bid unit.

1. The existing centerline monumentations that are in hand wells at the street intersections of Pinewood Drive and Pinewood Court; Pinewood Drive and Chandler Drive; Chandler Drive and Hollis Hill Drive are to be preserved and re-set by a licensed land surveyor in their original position and as shown on the recorded Subdivision Map. Monuments to be placed in a hand well per Butte County Std. Dwg. No. S-11. Hand well cover to be brought to new road grade.

When monuments have been re-set a “corner record” shall be filed with the Butte County Recorder’s office. All costs associated with this work shall be included in Contractor’s lump sum bid.

2. The Engineer’s Estimate cost for this Pinewood Drive Street Repair project is \$125,000.00.

End of Addenda No. 1.



CAPITAL PROJECT SERVICES DEPARTMENT
PUBLIC WORKS PROJECT

NOTICE TO CONTRACTORS
GENERAL AND SPECIAL PROVISIONS
PROPOSAL AND CONTRACT

FOR

**ENLOE CAMPUS STORM DRAIN
AND STREET IMPROVEMENTS**

PROJECT NO. MAJC/50103-000-4140 & 4190

For use in connection with:

- (1) State of California
Department of Transportation
STANDARD SPECIFICATIONS May 2006
- (2) City of Chico
STANDARD PLANS
CONSTRUCTION SPECIFICATIONS

Prepared By or Under the Supervision of:

Robert Greenlaw R.C.E. 62529
License Expiration Date: December 31, 2011



BID OPEN DATE: _____ **2010**
FOR INFORMATION PURPOSES ONLY.

13. Construction Layout and Staking

Description of Work: This work shall consist of furnishing and setting construction stakes and marks to establish the lines and grades required for the completion of the work as shown on the plans and as specified in the Standard Specifications and these Special Provisions. Also included in this work shall be the re-establishment of all control monuments as delineated on the plans.

The Contractor shall be responsible for re-establishing control monuments disturbed by his negligence at his expense.

The Contractor shall protect and not disturb existing monuments (e.g. property corners, centerline monuments, etc.). The Contractor shall be responsible for re-establishing, at his/her own expense, existing monuments disturbed during construction in accordance with Professional Land Surveyors Act.

The second paragraph of Section 2-1.056 of the Standard Specifications shall not apply to construction staking work.

The contract drawings show sufficient control points and control lines as may be necessary for the Contractor to establish proper control for the work. The Contractor shall check and verify the accuracy of all control and verify the accuracy of all control lines and shall report any and all discrepancies to the City prior to starting construction.

All contract work shall be constructed to conform to the lines and grades shown on the contract plans and the Contractor shall provide construction layout and staking for all items of work, including the following:

Alignments: One set of centerline reference stakes will be set at 50 foot intervals and at the beginning and end of all curves. The radius points for all curb returns at each intersection shall be set.

Street Grades: Blue tops shall be set to grade for subgrade and for finish rock grade at 50 foot intervals (25 foot intervals on vertical curves) and at all changes in grade.

Curb and Gutter: Stakes for curb and gutter shall be set no more than five feet from the proposed work and maximum of 50 foot intervals (25 foot in vertical curves and horizontal curves with a radius of less than 2000 feet) and at all changes in grade or alignment.

Sanitary Sewers and Storm Drains: Sanitary sewers and storm drains shall be staked on an appropriate offset from the centerline of pipe at 50 foot intervals on tangents and 25 foot intervals on all horizontal curves.

Manholes and Drop Inlets: All manholes, drop inlets, and the beginning and end of all curves or changes in alignment layout and grade shall be staked on an appropriate offset.

The Contractor shall furnish to the Engineer two complete sets of all alignment layout and grade information for all construction staking. The City reserves the right to check any and all construction layout and staking made by the Contractor for control of any contract item of work.

All computations necessary to establish the exact position of the work from control points shall be made by the Contractor. All computations, survey notes, and other records necessary to accomplish the work shall be neat, legible and accurate. Copies of such computations, notes, and other records shall be furnished to the Engineer prior to beginning work that requires their use.

Construction stakes shall be removed from the site of the work when no longer needed.

The Contractor shall re-establish control points at the locations designated on the contract plans. Re-establishment shall be performed by a registered Civil Engineer, authorized to practice land surveying, or a licensed Land Surveyor. A minimum of three points referencing the control point shall be set, clear of construction, prior to the commencement of work. The control point shall be reestablished after construction is complete.

Re-established control points shall be a 1½" brass cap monument with an 18" x ½" shaft, set in ground.

Baker, Craig

From: Skillman, Ken
Sent: Tuesday, February 14, 2012 4:00 PM
To: Baker, Craig
Subject: Perpetuation of Monumentation

Hi Craig:

The B& P Code Section related to survey monument perpetuation is Section 8771 (<http://law.onecle.com/california/business/8771.html>). Some surveyors get a little carried away in their interpretation of a "monument", but I wholeheartedly agree with either doing before and after Corner Record filings with the County Surveyor or filing a Record of Survey if numerous monuments are going to be obliterated. Paul Derr has informed me that two Section Corners fall just beyond the limits of construction of the South Libby Road Project (at Newland and at Bennett), and Public Works is researching record maps to ascertain whether any additional subdivision corners, street centerline intersections and beginning and ending of curves fall within the overlay area that weren't already picked up on the topographic survey. You can inform the Planning Commission that I am also a Licensed Land Surveyor and that I shall comply with this law for all current and future infrastructure projects.

Feel free to contact me should further questions arise.

Kenneth G. Skillman III, P.E., P.L.S.
Paradise Town Engineer