



# TOWN OF PARADISE

5555 SKYWAY • PARADISE, CALIFORNIA 95969-4931

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

[www.townofparadise.com](http://www.townofparadise.com)

**Planning Commission Staff:**

Craig Baker, Community Development Director  
Susan Hartman, Assistant Planner

**Planning Commission Members:**

Daniel Wentland, Vice Chair  
James Clarkson, Commissioner  
Stephanie Neumann, Commissioner  
Michael Zuccolillo, Commissioner

## PLANNING COMMISSION AGENDA

**6:00 PM – February 18, 2014**

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 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, Room 3, 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 - RESOLUTION OF APPRECIATION

- 1a. Approve Regular Meeting Minutes of November 19, 2013 and Special Meeting Minutes of December 3, 2013
- 1b. Adopt Resolutions No. 14-01, A Resolution of Appreciation for Outgoing Planning Commissioner Jones.
- 1c. Appointment of Planning Commission Chair and Vice Chair for the remainder of the 2013/14 Fiscal Year.

## 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                 | 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 determined to be exempt from environmental review under CEQA Guidelines section 15301 (General rule exemption)**

Planning Commission consideration of a recommendation for Town Council adoption of proposed text amendments to the Town's zoning regulations contained in Paradise Municipal Code Title 17 (Zoning Ordinance). If adopted by the Town Council, the amendments would add a new Paradise Municipal Code (PMC) section to regulate the outdoor display of merchandise in commercial zoning districts and amend PMC section 17.32.100 G related to outdoor special sales, parking lot sales, swap meets and other similar sales activities.

## 6. OTHER BUSINESS

### 6a. Discuss and provide direction concerning acceptance and referral of the 1994 General Plan Housing Element Annual Progress Report for calendar year 2013 to the Town Council. (Staff Recommendation: Approval to send to the Town Council)

- 6b. Consideration of a Request for Planning Commission Interpretation of Town Zoning Regulations to Determine if a Proposed Locked Gate Across a Private Road Access Easement Would Constitute a Violation of Town Zoning Ordinance Regulations Prohibiting the Establishment of Fences in Access Easements.

**7. COMMITTEE ACTIVITIES**

**8. COMMISSION MEMBERS**

**9. ADJOURNMENT**

STATE OF CALIFORNIA )	SS.
COUNTY OF BUTTE )	
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/>	
<hr/>	
TOWN/ASSISTANT TOWN CLERK SIGNATURE	



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## PLANNING COMMISSION MINUTES

**November 19, 2013**

**6:00 PM**

**CALLED TO ORDER** by Vice Chair Daniel Wentland at 6:02 p.m.

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

**PRESENT AT ROLL CALL:** Commissioners James Clarkson, Stephanie Neumann, Daniel Wentland and Michael Zuccolillo.

**ABSENT:** Jody Jones, Chair.

### **1. APPROVAL OF MINUTES**

MOTION by Zuccolillo, seconded by Neumann, approved the minutes of the October 15, 2013 Regular Planning Commission meeting by unanimous voice vote, Chair Jones absent and not voting.

### **2. COMMUNICATION**

2a. Community Development Director reported that the Town Council introduced Ordinance No. 534, "An Ordinance Amending Text Regulations Within Paradise Municipal Code Chapter 17.04 Relating to the Definitions of Major and Minor Utility Services", as recommended by the Planning Commission.

2b. Community Development Director Baker stated that he has received questions from Planning Commissioners regarding local rules against blight, and that it is his understanding that the Town Manager may address the Town Council during the next Council meeting on this subject.

### **3. PUBLIC COMMUNICATION – None.**

### **4. CONTINUED PUBLIC HEARING - None.**

### **5. PUBLIC HEARING**

5a. The Planning Commission conducted the duly noticed public hearing regarding the following matter:

a. Item determined to be exempt from environmental review

GILKEY GENERAL PLAN AMENDMENT/REZONE (PL10-00026) APPLICATION:  
Planning Commission consideration of 4 solution recommending Town Council approval of an

amendment to the Town of Paradise General Plan land use designation affecting a +0.24 acre portion of a +4.7 acre property from Community Services (CS) to Central Commercial (CC) and change the zoning from Community Services (CS) to Central Business (CB) to accommodate a lot line adjustment that is intended to resolve conflicting legal descriptions for two adjacent properties and to relocate a property boundary that currently lies beneath an existing commercial building. No physical development is proposed. The property involved is improved with a portion of the Paradise Memorial Trailway in Paradise; APN 052-223-017.

Community Development Director Baker reported that the objective of this General Plan amendment is to accommodate a lot line adjustment to acquire right-of-way and eliminate a lot line that exists beneath an existing building. Mr. Baker further stated that the Planning Commission is not being asked to approve the lot line adjustment as that process is normally executed administratively by the Town Engineer.

Commissioner Neumann stated that she wanted to be certain that action taken by the Planning Commission would not in any way jeopardize the decision of the State with regard to the transfer of property from the former redevelopment agency to the Town. Mr. Baker stated that the Successor Agency and the Oversight Board would need to provide conceptual approval that will be forwarded to the State for their approval before the proposed lot line adjustment could be recorded.

Vice Chair Wentland opened the public hearing at 6:15 p.m.

1. Mica Gilkey stated that she would like to sell this property with proper boundaries and zoning as she has no interest in owning half of Pearson Road and that she thinks the Town has no interest in owning the back of her building.

Commissioner Neumann asked if Community Development Director Baker had knowledge of the Pearson Road right-of-way having been expanded. Mr. Baker stated that the Pearson Road right-of-way was established as an 80' right-of-way in the early 1900's and that the survey mistakes may have been made in the early 1900's as well.

Vice Chair Wentland closed the public hearing at 6:20 p.m.

**MOTION by Neumann, seconded by Zuccolillo**, adopted Planning Commission Resolution No. 13-06, A Resolution Recommending Town Council Adoption of Paradise General Plan Land Use Map Amendment and Rezoning of Certain Real Property within the Town of Paradise (Gilkey; PL12-00020). Roll call vote was unanimous, Chair Jones absent and not voting.

## 6. OTHER BUSINESS

- 6a. Community Development Director Baker informed the Planning Commission that the deadline for Requests for Proposals to a number of consulting firms for a work effort to update the Town of Paradise General Plan Housing Element was extended to November 25, 2013 and that he would like to ask the Planning Commission to set a date for a special Planning Commission meeting shortly after November 25, 2013 to review proposals submitted to the Town and possibly adopt a recommendation to the Town Council for awarding a contract for the Housing Element update.

**The Planning Commission concurred** to set a special meeting for Tuesday, December 3, 2013 at 5:30 p.m. for the purpose of reviewing proposals received in response to the Town's Request for Proposals to update the Town of Paradise General Plan Housing Element.

**7. COMMITTEE ACTIVITIES – None.**

**8. COMMISSION MEMBERS- None.**

**9. FUTURE AGENDA ITEMS** – Community Development Director Baker stated that: (1) There may be a future agenda item regarding a zoning code amendment for Planning Commission to review relating to outside display of retail merchandise; (2) The planning for the development of the second Dollar General Store on Clark Road is moving forward with essentially the same building design as the current store on Skyway; (3) Safeway has installed ground water monitoring wells on two sites related to their proposed remodel/expansion or relocation; (4) Big Five Sporting Goods plans to open escrow in a couple of days on a property in Town; and, (5) There is no news to report regarding the Wal Mart development.

**9. ADJOURNMENT** - The Planning Commission meeting was adjourned at 6:36 p.m.

Date Approved:

By: \_\_\_\_\_  
Vice Chair, Daniel Wentland

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



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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

**December 03, 2013**

**5:30 PM**

**CALL TO ORDER at 5:30 p.m. by Jody Jones, Presiding Chair.**

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

**PRESENT AT ROLL CALL:** James Clarkson, Stephanie Neumann, Daniel Wentland, Michael Zuccolillo and Jody Jones, Chair.

**ABSENT:** None.

### **1. OTHER BUSINESS**

Community Development Director Baker stated that he would like the Planning Commissioners to engage in a discussion relating to the four consultant proposals submitted to the Town of Paradise for a planned and required update of the 1994 Paradise General Housing Element.

Commissioner Neumann stated that she thoroughly vetted all four consultants and her top choice is Pacific Mutual Consultants (PMC) as it has the required experience and included the optional tasks.

Commissioner Clarkson asked which optional tasks might likely be required. CDD Director stated it is possible that neither optional task will be required. If the Town is required or chooses to incur additional expense then that optional task #1 will determine if optional task #2 is necessary – which may entail an amendment to the General Plan Land Use Element.

CDD Director Baker stated that the data needed to make a determination as to whether or not compliance with SB-244 will be required is not currently available to the Town..

Chair Jones stated that her choices, in order, are PMC and Housing Tools – although the information from Housing Tools was sparse and lacked detail. She further noted that Minterharnish didn't meet the deadline specified in the RFP.

Commissioner Zuccolillo stated that he reached similar conclusions and is leaning towards PMC. Good cost breakdown and required experience. He further indicated that Frietas should not even be considered due to their high cost.

Commissioner Wentland stated that PMC is the most professional, but with regard to Housing Tools, everyone needs a start somewhere go gain experience and compete.

Commissioner Clarkson stated that Commissioner Wentland has a good point about providing an opportunity to ‘the little guy’ and that he has no problem with either PMC or Housing Tools.

Commissioner Wentland asked Mr. Baker if he had any reservations regarding Housing Tools. Mr. Baker informed the Commission of his telephone conversations with the City of Chico, that the consultant is competent but the proposal itself did not meet all of the requirements of the Town’s RFP. The Commission and Director Baker discussed the risks and potential costs of not receiving approval by the State on the first submission of the updated Housing Element. Chair Jones stated that although it would be nice to go with a small firm, it has to be awarded to a firm that meets deadlines and provides a detailed scope of work.

**Following a MOTION by Wentland, seconded by Zuccolillo,** the Planning Commission approved by unanimous voice vote to recommend that the Town Council award the contract for the update to the Housing Element of the Paradise General Plan to Pacific Mutual Consultants.

The Planning Commissioners concurred to cancel the December 17, 2013 Regular Meeting.

## 2. ADJOURNMENT

Chair Jones adjourned the Planning Commission meeting at 6:05 p.m.

Date Approved:

By: \_\_\_\_\_  
Daniel Wentland, Vice Chair

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



**TOWN OF PARADISE PLANNING COMMISSION  
RESOLUTION NO. 14-01**

**A RESOLUTION OF THE PARADISE PLANNING COMMISSION  
COMMENDING JODY JONES FOR HER SERVICE TO THE TOWN OF PARADISE**

**WHEREAS, JODY JONES** has faithfully served the Town of Paradise as Planning Commissioner since May 17, 2011; and

**WHEREAS,** during her tenure **JODY JONES** served for a specific time period the Landscape Committee and served as Planning Commission Chairman and Vice-Chairman; and

**WHEREAS,** the citizens of the Town of Paradise have benefited from the efforts of **JODY JONES**; and

**WHEREAS,** her work as a Planning Commissioner for the Town of Paradise has been greatly appreciated; and

**WHEREAS,** the orderly growth of the Town of Paradise has been enhanced by her persistent efforts to pursue progressive improvement to the Town of Paradise; and

**WHEREAS,** the Paradise Planning Commission will greatly miss her insight concerning the needs and desires of the majority of the citizens of the town; and

**WHEREAS,** the Paradise Planning Commission wishes her the very best in the future.

**NOW, THEREFORE, BE IT RESOLVED** as follows:

**THE PLANNING COMMISSION OF THE TOWN OF PARADISE** hereby commends **JODY JONES** with gratitude for her service to the community of Paradise.

**PASSED AND ADOPTED** by the Paradise Planning Commission on this 18<sup>th</sup> day of February, 2014, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Dan Wentland  
Planning Commission Vice Chair

ATTEST:

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Joanna Gutierrez, CMC  
Town Clerk

## M E M O R A N D U M

**AGENDA NO. 5(a)**

**TO:** Paradise Planning Commission

**FROM:** Craig Baker, Community Development Director

**SUBJECT:** Public Hearing - Consider Adoption of a Resolution Recommending Town Council Adoption of Paradise Municipal Code Zoning Regulations Text Amendments Related to the Outdoor Display of Merchandise

**DATE:** February 11, 2014

### **BACKGROUND:**

In order to help attract quality commercial development and improve the aesthetics of the Paradise community, Town staff, along with representatives of the Planning Commission and Town Council, have developed a set of proposed Paradise Municipal Code (PMC) Zoning Ordinance text amendments designed to regulate the outdoor display of merchandise on commercially-zoned properties in Town. The proposed text amendments are proposed by staff for the Town's Zoning Ordinance section pertaining to General Site Development Regulations (PMC Chapter 17.06) and Temporary Use Regulations (PMC Chapter 17.32). The intent of the proposed amendments is to limit the amount of exterior space that can be devoted to the outdoor display of merchandise and to provide for a reduced number of days during which larger parking lot sales and similar sales activities may be conducted.

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 the public necessity, convenience or general welfare are sufficiently served as to warrant Planning Commission and Town Council consideration of such amendments. It has often been the practice of Town staff, based upon cumulative experiences in project development, to seek the adoption of PMC text amendments when it is felt that the amendments would be mutually beneficial to the citizenry of the Town and commercial businesses.

### **DISCUSSION:**

Over the course of the past year or more, Town staff has observed an increase in the number of retail businesses displaying considerable accumulations of merchandise, often used, along their commercial storefronts, parking areas and areas intended for pedestrian use. During this

period, Town staff, Planning Commissioners and Town Council members have experienced a corresponding significant increase in the number of written and verbal complaints from Paradise citizens and business owners alike regarding exterior displays of merchandise. It is largely in response to the growing number of complaints that the proposed zoning ordinance text amendments were developed and are being proposed for your consideration.

Staff-initiated zoning code amendments have often been aimed at promoting economic development. For example, in 1999 and 2012, Town staff developed and carried forward amendments to the Town's parking regulations that were adopted and were designed to assist in economic revitalization for commercial areas of the community. More recently, Town staff brought forward a minor Zoning Ordinance text amendment in part to provide additional opportunities for off-site wastewater disposal solutions.

There is currently no general limit to the size of the area that can be occupied by outdoor displays of merchandise on commercial property in Paradise. Further, the Town's Temporary Use Regulations allow outdoor parking lot sales, flea markets and similar exterior sales activities for a period not exceeding four consecutive days or more than eight days in the same month. These sales activities may occupy up to fifty percent of the off-street parking spaces required for the business. Therefore, these large-scale outdoor sales activities may currently take place for up to 96 days in a calendar year period. As a result of these current regulations, the Town does not have the ability to reduce the visual impact or frequency of large outdoor merchandise displays. The displays are commonly comprised of various used items and can appear haphazard in their arrangement, may obstruct access, and often adversely affect the appearance of businesses and other land uses in the vicinity. The proposed PMC text amendments contained within the attached resolution document are intended to address the size and duration of outdoor merchandise displays, without unnecessarily eliminating the ability for each business to display merchandise outdoors or to unreasonably restrict larger, occasional outdoor special sales activities.

If recommended by the Planning Commission to be adopted by the Town Council, the proposed amendments would accomplish the following objectives:

- Sixteen categories of activities and types of merchandise would be exempt from the new requirements (firewood sales, landscape materials, statuary, vehicles, Christmas tree sales, fruit and vegetable stands, street vendors, areas not visible from a public street, etc.).
- Every business in a commercial zone could display merchandise outdoors in an area located five feet from its storefront along up to 50% of the width of the storefront, excluding parking areas, landscaped areas and access ways.

- Businesses not displaying merchandise along its storefront facing a street could display merchandise in enclosed exterior areas located beyond setback areas.
- Parking lot sales, flea markets and other similar sales activities could be conducted for up to two consecutive days and up to 20 days in the same year.

Town staff has determined, and the Town Attorney has concurred, that the proposed text amendments are minor in nature and that there is no possibility that 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 15061 (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 several text amendments to the Town's Zoning Ordinance definitions in order to accomplish the objectives outlined in the preceding discussion (deleted and added text in the attached "Exhibit A" is shown as ~~strikeout~~ and shaded, respectively).

#### **COMMISSION ACTION REQUESTED:**

Please be prepared to discuss and decide whether or not the Planning Commission should adopt a motion to forward a recommendation to the Town Council, via adoption of Planning Commission Resolution No. 14-02, to adopt a town ordinance amending the text of current PMC Zoning Ordinance (definitions) regulations. If deemed necessary by a majority consensus of Planning Commissioners present, staff will be prepared to make further changes or additions to the text of the attached and proposed resolution prior to Planning Commission adoption.

Attachments

**LIST OF ATTACHMENTS FOR THE PROPOSED ZONING ORDINANCE TEXT AMENDMENT**

1. Copy of the notice of public hearing for the proposed text amendment
2. Copy of Planning Commission Resolution No. 14-02, "A Resolution of the Paradise Planning Commission Recommending Town Council Adoption of Text Amendments to Chapters 17.06 and 17.32 of the Paradise Municipal Code Relative to the Outdoor Display of Merchandise and Outdoor Special Sales"

**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 18, 2014 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 15601 (General rule exemption)

PARADISE MUNICIPAL CODE: Planning Commission consideration of a recommendation for Town Council adoption of proposed text amendments to the Town's zoning regulations contained in Paradise Municipal Code Title 17 (Zoning Ordinance). If adopted by the Town Council, the amendments would add a new Paradise Municipal Code (PMC) section to regulate the outdoor display of merchandise in commercial zoning districts and amend PMC section 17.32.100 G related to outdoor special sales, parking lot sales, swap meets and other similar sales activities.

The project file is 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 111.

CRAIG BAKER  
Community Development Director

**TOWN OF PARADISE PLANNING COMMISSION  
RESOLUTION 14-2**

**A RESOLUTION OF THE PARADISE PLANNING COMMISSION RECOMMENDING  
TOWN COUNCIL ADOPTION OF TEXT AMENDMENTS TO CHAPTERS 17.06 AND 17.32 OF THE  
PARADISE MUNICIPAL CODE RELATIVE TO THE OUTDOOR DISPLAY OF MERCHANDISE AND  
OUTDOOR SPECIAL SALES**

**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 regulate the outdoor display of merchandise in commercial zoning districts, and

**WHEREAS**, the Planning Commission conducted a duly noticed public hearing on February 18, 2014 to study and consider recommending Town Council adoption of text amendments to PMC Chapters 17.06 and 17.32 as proposed by Town staff; and

**WHEREAS**, the public review also included review and determination of whether or not the proposed PMC text amendments is an activity that is subject to the provisions of the California Environmental Quality Act (CEQA); 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 amendments to PMC Chapters 17.06 and 17.32 are warranted at this time in order to regulate the outdoor display of merchandise in commercial zoning districts.

**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 Chapters 17.06 and 17.32 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 amendments are 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.

**RESOLUTION NO. 14-02**

**PASSED AND ADOPTED** by the Planning Commission of the Town of Paradise this 18th day of February, 2014 by the Following Vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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Dan Wentland, Vice Chairman

**ATTEST:**

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Joanna Gutierrez, Town Clerk



## EXHIBIT "A"

SECTION 1: Section 17.06.940 is hereby added to the Paradise Municipal Code to read:

Except as provided in this Section 17.06.940, it shall be unlawful to sell or display merchandise in the exterior area of a building in a commercial zone. Merchandise may be displayed in the exterior area of a building in a commercial zone only in conjunction with the following businesses, areas or activities:

1. Automobile, boat, trailer, camper, motorcycle and construction equipment sales, rentals and outdoor furniture;
2. Retail lumber yards and building materials;
3. Fruit and vegetable stands possessing a valid Town permit;
4. Landscaping, statuary and horticultural plants, materials and supplies;
5. Vending and ice machines when located as an accessory to a permitted use;
6. Gasoline pumps and accessory items when located on pump islands;
7. Christmas tree sales;
8. Special events permitted by Town;
9. Sale of newspapers and other printed material;
10. Vendors permitted under Paradise Municipal Code chapter 5.11;
11. Propane tanks;
12. Firewood sales;
13. Areas not visible from a public street;
14. Outdoor special sales pursuant to Paradise Municipal Code section 17.32.100 G;
15. Merchandise displays within five feet of the building frontage not exceeding fifty percent of the building or business frontage length, provided no parking areas, vehicle access ways or walkways shall be occupied. If the building fronts on more than one street, only one frontage may be used to display merchandise;
16. Businesses not displaying merchandise along building frontages facing streets may display merchandise in enclosed exterior areas located beyond setback and outside landscaped areas, parking areas and vehicle access ways.

SECTION 2: Section 17.32.100 G of the Paradise Municipal Code is hereby amended to read as follows:

G. Outdoor special sales, outdoor art and craft shows or exhibits, swap meets, farmers markets, flea markets, parking lot sales, or similar sales activities, limited to sites in C-C, C-F and C-S zoning districts and to operation for not more than (42) consecutive days or more than a total of eight-twenty days in the same month-year: permitted and subject to the business licenses regulations of Chapter 5.11 of this Code.

## M E M O R A N D U M

**AGENDA NO. 6(a)**

**TO:** Paradise Planning Commission

**FROM:** Susan Hartman, Assistant Planner

**SUBJECT:** Planning Commission Discussion of the Draft Annual Housing Element Progress Report for Calendar Year 2013

**DATE:** February 10, 2014

### **BACKGROUND:**

Government Code Section 65400 requires each local jurisdiction to prepare an annual report on the status and progress in implementing its General Plan Housing Element using forms and definitions adopted by the California State Department of Housing and Community Development (HCD). The annual progress report must be submitted to HCD and the Governor's Office of Planning and Research (OPR).

Section 65400 further states that the annual Housing Element progress report "shall be at an annual public meeting before the legislative body where members of the public shall be allowed to provide oral testimony and written comments." In order to provide an opportunity for members of the public to provide this input, staff desires to provide the progress report for Town Council consideration during their regularly-scheduled March 11, 2014 meeting, thereby facilitating submittal to HCD and OPR within the first week of April, 2014.

The attached annual Housing Element progress report reveals that, of a total of eleven new dwelling units, the majority of permits issued were for above-moderate income dwelling units. The remaining units needed for the 2009-2014 planning period, by income level are: 401 affordable to very low income households; 159 affordable to low income households; 163 affordable to moderate income households and 352 affordable to above moderate income households.

Since the adoption of the Housing Element on December 8, 2009 (Resolution 09-67), staff continues to pursue opportunities to further the implementation of housing program objectives in addition to those programs where implementation involves ongoing directives to promote affordable housing through various means. The report contains a detailed enumeration of each program and its implementation status as of December 31, 2013.

**COMMISSION ACTION REQUESTED:**

Be prepared to publicly discuss this matter and to provide direction via an adopted motion to staff regarding any specific recommendations to be forwarded to the Town Council to facilitate additional and/or further implementation of the 1994 Paradise General Plan Housing Element.

Attachment

# ANNUAL ELEMENT PROGRESS REPORT

## Housing Element Implementation

(CCR Title 25 §6202 )

**Jurisdiction**      Town of Paradise

**Reporting Period**      1/1/2013 - 12/31/2013

**Table A**

### Annual Building Activity Report Summary - New Construction Very Low-, Low-, and Mixed-Income Multifamily Projects

Housing Development Information						Housing with Financial Assistance and/or Deed Restrictions		Housing without Financial Assistance or Deed Restrictions			
1	2	3	4				5	5a	6	7	8
Project Identifier (may be APN No., project name or address)	Unit Category	Tenure R=Renter O=Owner	Affordability by Household Incomes				Total Units per Project	Est. # Infill Units*	Assistance Programs for Each Development	Deed Restricted Units	Note below the number of units determined to be affordable without financial or deed restrictions and attach an explanation how the jurisdiction determined the units were affordable. Refer to instructions.
			Very Low- Income	Low- Income	Moderate- Income	Above Moderate- Income			See Instructions	See Instructions	
051-110-013	SF	O		1			1				
055-050-095	SF	O		1			1				
051-162-038	SF	O		1			1				
051-144-040	MH	R	1								
050-110-005	MH	O	1								
(9) Total of <b>Moderate and Above Moderate</b> from Table A3 ▶▶			1	5	6						
(10) Total by income Table A/A3 ▶▶			2	3	1	5	11				
(11) Total <b>Extremely Low-Income</b> Units*											

\* Note: These fields are voluntary

# ANNUAL ELEMENT PROGRESS REPORT

## *Housing Element Implementation*

(CCR Title 25 §6202 )

Jurisdiction Town of Paradise  
Reporting Period 1/1/2013 - 12/31/2013

**Table A2**

### Annual Building Activity Report Summary - Units Rehabilitated, Preserved and Acquired pursuant to GC Section 65583.1(c)(1)

Please note: Units may only be credited to the table below when a jurisdiction has included a program in its housing element to rehabilitate, preserve or acquire units to accommodate a portion of its RHNA which meet the specific criteria as outlined in GC Section 65583.1(c)(1)

Activity Type	Affordability by Household Incomes				(4) The Description should adequately document how each unit complies with subsection (c )(7) of Government Code Section 65583.1
	Extremely Low-Income*	Very Low-Income	Low-Income	TOTAL UNITS	
(1) Rehabilitation Activity	0	0	0	0	
(2) Preservation of Units At-Risk	0	0	0	0	
(3) Acquisition of Units	0	0	0	0	
(5) Total Units by Income	0	0	0	0	

\* Note: This field is voluntary

**Table A3**

### Annual building Activity Report Summary for Above Moderate-Income Units (not including those units reported on Table A)

	1. Single Family	2. 2 - 4 Units	3. 5+ Units	4. Second Unit	5. Mobile Homes	6. Total	7. Number of infill units*
No. of Units Permitted for <b>Moderate</b>	1					1	
No. of Units Permitted for <b>Above Moderate</b>	5					5	

\* Note: This field is voluntary

# ANNUAL ELEMENT PROGRESS REPORT

## *Housing Element Implementation*

(CCR Title 25 §6202 )

**Jurisdiction**      Town of Paradise

**Reporting Period**      1/1/2013 - 12/31/2013

**Table B**

### Regional Housing Needs Allocation Progress

#### Permitted Units Issued by Affordability

Enter Calendar Year starting with the first year of the RHNA allocation period. See Example.			2007	2008	2009	2010	2011	2012	2013			Total Units to Date (all years)	Total Remaining RHNA by Income Level
Income Level		RHNA Allocation by Income Level	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9		
Very Low	Deed Restricted	412											401
	Non-deed restricted						9	2			11		
Low	Deed Restricted	189											159
	Non-deed restricted				1		26	3			30		
Moderate	Deed Restricted	174											163
	Non-deed restricted				3	3	4	1			11		
Above Moderate		465	51	27	23	3	1	3	5			113	352
Total RHNA by COG. Enter allocation number:		1,240	51	27	23	7	4	42	11			165	1,075
Total Units ▶▶▶													
Remaining Need for RHNA Period ▶▶▶▶▶													

Note: units serving extremely low-income households are included in the very low-income permitted units totals.

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**Table C**

### Program Implementation Status

Program Description (By Housing Element Program Names)		<b>Housing Programs Progress Report - Government Code Section 65583.</b> Describe progress of all programs including local efforts to remove governmental constraints to the maintenance, improvement, and development of housing as identified in the housing element.	
Name of Program	Objective	Timeframe in H.E.	Status of Program Implementation
HI-1: Reduce infrastructure constraints to development	Reduce constraints associated with wastewater disposal.	Dec. 2012	On-going discussion with the City of Chico for the conveyance of wastewater from commercial areas in Paradise to the Chico City sewer system and treatment plan. Town staff to apply for planning grant in early 2014 to fund feasibility study.
HI-2: Affordable housing resources	Promote affordable housing through work with developers.	2008-2014	Development Impact Fee deferral program has been implemented for development applications, including those building affordable and/or multifamily housing.
HI-3: Affordable housing incentives	Reduction in development standards to promote affordable housing.	Mar. 2010	Affordable housing incentives regulations are in place, promoting density bonuses for housing projects that include affordable housing units.
HI-4: Density bonus	Compliance with Government Code Sections 65915 & 65917.	Feb. 2010	Zoning ordinance amendment consistent with GC Sections 65915 & 65917 is tentatively scheduled for calendar year 2014. Density bonuses currently in-place for multi-family projects utilizing clustered wastewater treatment.
HI-5: Publicly owned lands inventory	Develop and maintain inventory of land within Town limits and its sphere of influence for potential housing sites.	Nov. 2009	No new public lands acquired resulting in new housing opportunities since an inventory was compiled in 2009. Phase I of Paradise Community Village, a partnership with CHIP affordable housing, completed construction of 36 affordable housing units in 2013.
HI-6: Housing authority	Support the Housing Authority's role in Public Housing Rental Program and Section 8 housing.	2008-2014	On-going directive; on-going implementation.
HI-7: Small lot consolidation and development	Encourage consolidation of small parcels for residential use.	May. 2010	On-going directive. Opportunities for small lot consolidation did not present themselves during 2013.
HI-8: Promote second units	Encourage development of affordable second units.	Dec. 2010	Second units are promoted through the use of administrative permits acted upon by staff as opposed to site plan review permits which previously required a public hearing. Reduction of 200' stream setbacks to 100' for sewage disposal promotes second unit density previously unavailable.
HI-9: Address discrimination	Provide filing information for discrimination complaints.	2014	On-going directive. Fair housing/non-discrimination requirements are posted at Paradise Town Hall. No fair housing complaints were filed with the Town during 2013.

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HI-10: Annual report	Provide annual report to Town Council and Planning Commission.	Annually	Implemented and on-going. Report for 2013 presented to Planning Commission during Feb 2014, Town Council during March 2014.
HI-11: Housing rehabilitation and improvement	Provide rehab and repair opportunities.	2008-2014	Continuing to aggressively promote and provide housing rehabilitation through CalHOME and HOME funds.
HI-12: Condominium and mobile home conversions	Revise Chapter 16.10 of the Paradise Municipal Code to address conversions.	June. 2011	Not yet implemented, but work effort is underway.
HI-13: Down payment assistance	Pursue housing program grants to fund down payment assistance.	2008-2014	On-going program administered by Business & Housing for payment assistance to lower income first time home buyers.
HI-14: Enforce housing codes	Provide a safe and decent living environment.	2008-2014	Procedure in place through building division for the thorough investigation of housing complaints and the prompt abatement of resulting violations.
HI-15: Conversion of at-risk units	Reduce potential conversion of affordable housing to market-rate.	2008-2014	The Town is notified as a party on title to assisted affordable housing units. Coordination with Butte County Housing Authority is on-going.
HI-16: Removal of constraints	Update town codes to reduce/remove constraints.	2008-2014	Town allows for the application of planned developments to accommodate smaller lot sizes while providing open space for constrained areas, also clustered wastewater treatment facilities for the development. Reductions in sewage disposal setbacks assist development. Deferral of frontage improvements (through covenants) for projects to help encourage the development of special needs housing.
HI-17: Reduce standards for seniors and disabled housing	Revise Zoning Ordinance to provide reduced standards	Dec. 2009	Paradise Municipal Code revised April 2010 to allow for handicapped and/or disabled parking space facilities to be located within a yard setback area subject to the issuance of an administrative permit or Town Engineer review.
HI-18: Emergency shelters and transitional/supportive housing	Revise zoning code to be consistent with requirements of state law.	Aug. 2010	PMC revised October 2010 to include emergency shelters as a land use allowed by right in the Community Services zoning district.
HI-19: Housing for persons with disabilities	Ensure projects for disabled accessibility are reasonably accommodated.	May. 2010	Housing Rehabilitation Program administered through Business & Housing includes projects involving improvements necessary to ensure accessibility for disabled persons.
HI-20: Special needs housing	Provide incentives for development of housing for persons with special needs.	Feb. 2010	Deferral of Development Impact Fees and increased density through the use of a clustered wastewater treatment system are available for interested developers.
HI-21: Energy conservation and efficiency	Promote energy conservation and efficiency in residential development.	July. 2011	Adopted 2013 CA Building Codes which incorporate mandatory green building standards. Inspecting first building project to use SIPS Panels as an alternative building design for energy efficiency. Building Dept open to alternative design submittals.



**ANNUAL ELEMENT PROGRESS REPORT**  
***Housing Element Implementation***  
(CCR Title 25 §6202 )

<b>Jurisdiction</b>	Town of Paradise
<b>Reporting Period</b>	1/1/2013 - 12/31/2013

**General Comments:**

The Town of Paradise saw a modest rise in new construction submittals during this last year due in large part to the 2013 California Building Codes changes. A long standing Tentative Subdivision Map was finally recorded in 2013 resulting in 9 new single family building lots, 4 of which have already been submitted for construction on helping to meeting our RHNA allocation for above-moderate housing. The Town remains committed to providing housing at all income levels and works diligently within the limited budget resources that remain to assist owners with rehabilitation and renovation of existing homes.

## M E M O R A N D U M

**TO:** Paradise Planning Commission

**FROM:** Craig Baker, Community Development Director

**SUBJECT:** Consideration of a Request for Planning Commission Interpretation of Town Zoning Regulations to Determine if a Proposed Locked Gate Across a Private Road Access Easement Would Constitute a Violation of Town Zoning Ordinance Regulations Prohibiting the Establishment of Fences in Access Easements

**DATE:** February 12, 2014

**BACKGROUND:** On February 10, 2014, Mr. Jon Remalia submitted a written request to the Town Development Services Department for a Planning Commission interpretation of zoning regulations as they apply to the proposed establishment of a gate across an existing road easement. In particular, Mr. Remalia wishes to establish a new gate across a private road access easement to his property located at 6501 Gregory Lane in Paradise. Mr. Remalia's written request for Planning Commission consideration is attached for your review.

Mr. Remalia is currently engaged in developing a residentially-zoned property, located at the western terminus of the easement in question, with a dwelling unit. The proposed location of the gate is off-site from the property Mr. Remalia is developing and is located upon lands owned by neighboring property owners. The neighboring property owners, Dana and Denise Bettis, have indicated their strong opposition to the placement of the gate and are currently engaged in a civil lawsuit with Mr. Remalia over this and other issues. Mr. Remalia has indicated that a gate has existed on the road in the past. Mr. Bettis has indicated to staff that he at one time installed a gate in the same easement on his property and subsequently removed it himself after a fairly short period. There is currently no gate across or within the road easement.

Mr. Remalia has stated that he has security concerns and has indicated that the road has no turnaround except upon his property, so he would prefer to install the gate within the easement on the Bettis property approximately 500 feet from Mr. Remalia's property, at or near where Mr. Bettis removed his own gate. Mr. Remalia has constructed post structures on either side of the easement in this location, evidently designed to support an electric gate.

**DISCUSSION:** Paradise Municipal Code (PMC) section 17.06.600(E)(4) states the following, in part: *"No fences shall be installed within public or private rights of way or access easements."* No other portion of the section addresses this issue. With regard to Mr. Remalia's inquiries made of the Town, on June 12, 2013, Town Attorney Dwight Moore provided the following legal opinion:

“Based on PMC section 17.06.600(E)(4), it is my opinion that a gate could be considered to be the equivalent of a fence, which cannot be installed within a private right-of-way or access easement. However, such a gate would be permitted on the entrance to a parcel if it would not be in the easement.”

In a follow-up verbal discussion with Mr. Remalia on July 2, 2013, Mr. Moore further indicated to Mr. Remalia that the Town would not have a problem with a simple gate across an access easement to which he had deeded legal access if all other property owners having legal interest in the easement had a written agreement between all parties guaranteeing access to the easement for all parties. A potential problem with this approach is that, all things considered, Mr. Remalia may have difficulty executing a written agreement with other parties having interest in the easement.

There is no definition of either “fence” or “gate” in the PMC. However PMC section 17.04.500(A) directs that any words not defined in the definitions section shall be defined as set forth in current dictionaries. The current Merriam-Webster dictionary defines a fence as “a structure like a wall built outdoors usually of wood or metal that separates two areas or prevents people or animals from entering or leaving.” Using this definition, it is reasonable to regard the proposed gate as functionally equivalent to a fence, or portion thereof.

The primary reason fences are not permitted within access easements is to keep such easements unobstructed and to protect the access rights of all parties having legal interest in such easements. It is very important to note that this requested interpretation of zoning regulations by the Planning Commission will not only affect Mr. Remalia’s plans and the Bettis property, but will be an interpretation that may well have Town-wide implications, depending upon the Planning Commission’s interpretation of the meaning of PMC section 17.06.600(E)(4).

It is Town staff’s position that Mr. Remalia’s other options should include the installation of a gate upon his own property at the end of the easement and perhaps a sign advising others that there is no public turnaround on the driveway. And although it is clear that Mr. Remalia has an easement to access his property over the property of others, it is doubtful that his rights impliedly allow the establishment of a gate within the easement on the property of others without their express consent.

**COMMISSION ACTION RECOMMENDED:**

Be prepared to publicly discuss Mr. Remalia’s request, including accepting written and or verbal input provided by attending parties. At the conclusion of this agenda item, adopt a motion to:

1. Adopt the following interpretation of zoning regulations: PMC section 17.06.600(E)(4):

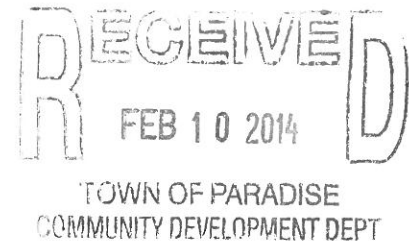
Find that, based upon a review of the definition for a fence contained within the current Merriam-Webster dictionary as required by Paradise Municipal Code (PMC) section 17.04.500(A), the fence language contained within PMC section 17.06.600(E)(4) applies to a locked gate for purposes of the written request filed by Mr. Jon Remalia on February 10, 2014 for a Planning Commission interpretation of zoning regulations and particularly PMC section 17.06.600(E)(4).

Attachments

Honorable Daniel Wentland,  
Acting Chairman, Paradise Planning Commission  
5555 Skyway  
Paradise, California  
95969

February 06, 2014

Jon Remalia,  
Project Manager, Ailamer Investments LLC  
6501 Gregory Lane  
Paradise, California  
95969



Dear Chairman Wentland,

As we have previously discussed Ailamer is experiencing a severe hardship regarding the interpretation of section 17.06.600 and whether a standalone gate solely to limit vehicular access without any linier features is a fence.

Specifically, the first decision involves Section 17.06.600 Yard and Building/structure setback regulations Paragraph E.4 which states:

A non-open or solid fence up to six (6) feet in height above grade may be installed along property lines which do not abut a road or street, or beyond setback lines as required by the zone when the property line abuts a road or street. A non-open or solid fence not exceeding four (4) feet in height above grade may extend into the front yard setback area; and wrought iron and/or chain link fences up to six (6) feet in height above grade may extend into the front yard setback area. **No fences shall be installed within public or private rights-of-way or access easements.** Exclusive of the front yard setback area, fences to a maximum height of eight (8) feet above grade subject to procurement of town building permit issuance may be installed around recycling processing facilities, a wastewater treatment/disposal utility facility, and/or legally established facilities that provide either scrap and salvage services or general vehicle/equipment storage or vehicle impoundment service.

It is Ailamer's and Ailamer's council's opinion that this Zoning Ordinance does not apply in Ailamer's case for numerous reasons.

First and foremost a gate is not a fence. It lacks the elements of a fence and cannot be a "fence" unless other features are associated. We agree that a gate as part of a linier assembly or attached to a structure with linier features that a gate could be part of a fence.

An equal similar instance might be having a tire. A tire is not a automobile. However, when assembled with axles, a frame, motor, and other components it is a part of a car.

Secondly, the instant use is a Vehicular Access Gate on a 500 foot +/- driveway with steep up slopes to the south and 100% drop-offs to the north with no areas for turning around a vehicle. Furthermore, the width and configuration of the easement does not provide enough room for a turnaround at the end of the driveway thereby requiring anyone passing down the road to back out the long driveway. Backing out this curvy 500 foot driveway is unsafe for most drivers.

In addition, the driveway without proper limited access creates a liability nightmare for the underlying property owner, easement owner and the town for prohibiting the installation of safety structures to protect someone who makes a "wrong turn".

Third, the Plan Review for the project which was reviewed by both the Building and Planning Departments on March 27, 2013 not only failed to prohibit the gate but specifically identified the installation of a Knox Box as required by the Town of Paradise Fire Code. As the gate required no building permit the foundation had been built in October 2011 and the reinforcing placed in May 2013 and stone façade partially constructed in June 2013. The plans approved later that year and permits issued identified the gate as "not a part of this project". A fore coming lawsuit filed by Dana and Denise Bettis has halted financing of the project and forced Ailamer to be subjected to interest rates at least 2.5% higher than the locked in rate in May 2013.

Fourth, The current gate is in the location of the pipe gate installed by Dana and Denise Bettis in 2008 or 2009. Prior to that the access had been equipped with 2 thin wall metal posts and a cable gate with rocks in the roadway during some periods. This has been confirmed by former owner Vesta McCart and her family (1985 to 2007). Yourself whom built the McCart home and a Declaration signed by Pete Lindstrom whom has lived in the neighborhood for over 30 years. The materials which this cable gate was constructed of are consistent with the materials used by the Paradise Irrigation District in the early part of the century which is supported by the fact that the road location is one in the same with the "Moody Ditch" which provided water to the Southwest portion of Paradise (Moody Ditch recorded book 1017 page 156). Therefore, even if prohibited by Current Zoning Regulations the function of a vehicle limiting device in this location must be "Grandfathered" as an **Existing Legal Non-conforming Use**.

Lastly, Ailamer believes that the current ordinance prohibiting gates and fences on **any private property** is a violation of the landowner and/or easement owner's California Constitutional and Statutory Rights. The California Civil Code specifically authorizes the gating to prohibit access as a way to protect ones property rights against adverse possession and title or an easement by prescription.

Section 1009 of the California Civil Code states in part:

1009. (a) The Legislature finds that:

(1) It is in the best interests of the state to encourage owners of private real property to continue to make their lands available for public recreational use to supplement opportunities available on tax-supported publicly owned facilities.

(2) Owners of private real property are confronted with the threat of loss of rights in their property if they allow or continue to allow members of the public to use, enjoy or pass over their property for recreational purposes.

(3) The stability and marketability of record titles is clouded by such public use, thereby compelling the owner to exclude the public from his property.

Coupled with the liability identified in the second reason above the installation of a mechanically operated gate protects the owner of both the easement and the fee owner of the lands from loss of right and liability of those using the lands for other than recreational uses.

Article 11 Section 7 of the California Constitution states that:

A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.

The General Laws provide provisions whereby a property owner can gate his drive or roadway to protect himself from others using the drive or road and then later (5 years) claiming some right to continued use.

The current Town of Paradise Ordinance as written applying to "private right-of-ways or access easements" denies the fee owner and/or easement owner the right to protect themselves from losing certain rights as established by the California Civil Code.

Ailamer does not want to restrict the Servant tenement or anyone else that has a legal right to use the roadway. However, Ailamer must protect its roadway from unnecessary wear and tear, of unauthorized use (some summer months generate four instances per day) protect itself and others from any liability related to the roadway and protect the general public from injury on the roadway.

Ailamer in this instance respectfully requests the Planning Commission to solve the issue in the easiest and simplest way. That being making the firm determination that a gate is not a fence and that each is a structure which can be separate and distinct.

In the event that the Planning Commission does not make the "separate and distinct" determination Ailamer requests some action whereby Gates may be permitted on Easements in a manner that limits access to those whom have no legal right to use the lands behind the gate.

**Furthermore, Butte Superior Court on February 05, 2013 set a trial date of March 03, 2014 for this matter to be heard so it is very important to have this matter resolved immediately. We would like to have this matter resolved at 6:00 February 21, 2014. Ailamer's portion of the presentation will be made by Jon Remalia and/or Attorney Bill Apger.**

Jon Remalia,  
Ailamer investments LLC

cc: Craig Baker, Mike Zuccolillo, Jim Clarkson, Stephnie Newman, Bill Apger