



# 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:**

Susan Hartman, Community Development Director

**Planning Commission Members:**

Kim Morris, Chair

Anita Towslee, Vice Chair

Lynn Costa, Commissioner

Ron Lassonde, Commissioner

Zeb Reynolds, Commissioner

## PLANNING COMMISSION AGENDA

**6:00 PM – September 15, 2020**

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

### CALL TO ORDER

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

### ROLL CALL

### 1. APPROVAL OF MINUTES

1a. Approval of August 18, 2020 regular meeting minutes.

### 2. COMMUNICATION

2a. Recent Council Actions

2b. Staff Comments

### 3. PUBLIC COMMUNICATION

#### Public Communication Participation

In accordance with Governor Newsom's Executive Order N-29-20, remote public participation is allowed in the following ways:

The Planning Commission meeting is available to be viewed on live-stream at <https://livestream.com/townofparadise>

Public comment will be accepted by email with the subject line PUBLIC COMMENT ITEM \_\_\_\_ to [dvolenski@townofparadise.com](mailto:dvolenski@townofparadise.com) prior to 5:30 p.m. on the day of the meeting and will be read into the record during public comment. Written comments are subject to the regular time limitations of five minutes per speaker, please limit to 400 words or less. If you are unable to provide your comments in writing, please contact the Clerk's office for assistance at (530) 872-6291.

Public comment may be submitted by telephone during the meeting, prior to the close of public comment on an item by calling (530) 872-5951 at the time indicated by the Chair.

Alternately you may send an email with the subject line:

TELEPHONE PUBLIC COMMENT ITEM \_\_\_\_\_ to the Town Clerk, [dvolenski@townofparadise.com](mailto:dvolenski@townofparadise.com) and include your telephone number and you will be called during public comment.

Disabled persons may request reasonable modifications or accommodations relating to the use of telephonic or electronic observation and participation prior to the Council meeting by contacting the Town Clerk at (530) 872-6291 ext. 102.

#### \*\*\* 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

- 4a. Consider Adoption of a Resolution Recommending Town Council Adoption of Text Amendments to Title 17 (Zoning) of the Paradise Municipal Code Relative to Prohibiting the Establishment of Needle and Syringe Exchange Programs within the Town of Paradise not Associated with a Health Facility. (ROLL CALL VOTE)

## 5. PUBLIC HEARING

**5a. MARTIN CONDITIONAL USE PERMIT APPLICATION (PL20-00193):** Planning Commission consideration of a conditional use permit application proposing the establishment of a construction sales and services land use on a vacant 0.72 acre property zoned Community Commercial (CC), located at 800 Elliott Road, Paradise and further identified as Assessor Parcel No. 052-150-028.

**5b. KINNEY SITE PLAN REVIEW PERMIT APPLICATION (PL20-00227):** Planning Commission consideration of a Site Plan Review permit application proposing the rebuild of a single family residence, with an expanded overall size of 1,836 square feet, on a vacant 0.5 acre property zoned Neighborhood Commercial (NC), located at 6911 Clark Road, Paradise and further identified as Assessor Parcel No. 050-081-020.

## 6. OTHER BUSINESS

**6a.** Consider adopting Resolution No. 20-03, A Resolution of the Paradise Planning Commission of the Town of Paradise Determining that the Application for the Log Storage and Processing Yard Temporary Use Permit No. PL19-00383 for Anderson Brothers Corporation has been Withdrawn

## 7. COMMITTEE ACTIVITIES

## 8. COMMISSION MEMBERS

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

## 9. ADJOURNMENT

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



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## PLANNING COMMISSION MINUTES

**August 18, 2020**

**6:00 PM**

**CALL TO ORDER** by Chair Morris at 6:00 p.m. who let the pledge of Allegiance to the Flag of the United States of America.

**PLANNING COMMISSIONERS PRESENT:** Lynn Costa, Ron Lassonde, Anita Towslee and Kim Morris, Chair

**PLANNING COMMISSIONERS ABSENT:** Zeb Reynolds

### 1. APPROVAL OF MINUTES

- 1a. **MOTION by Morris, seconded by Towslee**, approve Regular Meeting Minutes of July 21, 2020. Roll call vote was unanimous with Commissioner Reynolds absent and not voting.

### 2. COMMUNICATION

#### 2a. Recent Council Actions

Community Development Director Susan Hartman informed the Planning Commissioners that the Town Council amended and re-introduced the ordinance regarding defensible space that was introduced last month changing the inspection from required to advisory; and the needle distribution ban ordinance before the Commissioners tonight was a request from the Town Council.

#### 2b. Staff Comments - None

### 3. PUBLIC COMMUNICATION - None

### 4. CONTINUED PUBLIC HEARING - None

### 5. PUBLIC HEARING

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

PARADISE MUNICIPAL CODE: Planning Commission consideration of a resolution that, if adopted, would recommend Town Council adoption of proposed text amendments to the zoning regulations in Paradise Municipal Code (PMC) Title 17 (Zoning Ordinance). If adopted by the Town Council, the amendments would: 1. Add a new chapter of regulations pertaining to needle and exchange programs, as defined by Health and Safety Code Section 121349, et. Seq., within the Town of Paradise; and 2. Specifically enumerates the establishment, operation, conduct, or



engagement in a needle and syringe exchange program within the Town of Paradise to be unlawful.

Community Development Director Hartman provided the Commissioners with an overview of the proposed ordinance that was requested by the Town Council.

The public hearing was opened at 6:22 p.m.

There were no public comments.

The public hearing was closed at 6:24 p.m.

After discussion and concerns regarding the need for additional information, the Planning Commissioners present, all concurred to postpone the public hearing to the next Planning Commission meeting of September 15, 2020 to receive additional information regarding the proposed ban on the needle and syringe exchange program. The Commissioners requested information from law enforcement, a copy of the letter to Assemblyman Gallagher, a revision to the ordinance that would exempt exchange programs in medical clinics, and information from the Butte County Health Department on the benefits of the needle distribution program.

## 6. OTHER BUSINESS

- 6c. **MOTION by Lassonde, seconded by Towslee**, to accept and refer the Planning Commission Annual Report for calendar year 2019 to the Town Council regarding the present implementation status of the 1994 Paradise General Plan. Roll call vote was unanimous with Reynolds absent and not voting.
- 6d. **MOTION by Costa, seconded by Lassonde**, to accept and refer the Planning Commission Annual Report for calendar year 2019 to the Town Council regarding the present implementation status of the 1994 Paradise General Plan Housing Element. Roll call vote was unanimous with Reynolds absent and not voting.

## 7. COMMITTEE ACTIVITIES - None

## 8. COMMISSION MEMBERS

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

Community Development Director Hartman informed the Commissioners that a construction sales and service land use permit would be coming forward at the next meeting.

## 9. ADJOURNMENT

Chair Morris adjourned the meeting at 6:48 p.m.

Date Approved:

By: \_\_\_\_\_

Kim Morris, Chair

Attest:

\_\_\_\_\_  
Dina Volenski, CMC, Town Clerk

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

**AGENDA NO. 4 (a)**

**TO:** Paradise Planning Commission

**FROM:** Susan Hartman, Community Development Director

**SUBJECT:** Public Hearing - Consider Adoption of a Resolution Recommending Town Council Adoption of Text Amendments to Title 17 (Zoning) of the Paradise Municipal Code Relative to Prohibiting the Establishment of Needle and Syringe Exchange Programs within the Town of Paradise not Associated with a Health Facility

**DATE:** September 8, 2020

**BACKGROUND:**

During its July 14, 2020 meeting, the Town Council conducted a brief public discussion concerning the local needle and syringe exchange program, being conducted in the City of Chico by the Northern Valley Harm Reduction Coalition (NVHRC) as authorized by the State Dept of Public Health, and the fact that such services were recently expanded to allow delivery services to homes, RVs, tents, and other non-traditional dwellings. Concern was raised that, if services were further expanded to include Paradise, improper collection and disposal of used needles and syringes via such exchange program services can present an imminent threat to, the health, property, safety and welfare of Town citizens, particularly due to the fact that the current Paradise Municipal Code does not specifically identify or regulate needle and syringe exchange programs within the Town of Paradise.

Points presented during discussion of the subject were acknowledged by the Town Council and they expressed a desire to have local regulations that would prohibit needle and syringe exchange program services within our community. They authorized the Town Attorney and staff to address potential changes to the Paradise Municipal Code (PMC) relative to this subject matter. This Town-initiated amendment to the Paradise Municipal Code is intended to facilitate input from the Planning Commission.

At their August 18, 2020 meeting, the Planning Commission reviewed and discussed the proposed needle and syringe exchange ban ordinance. The majority of Commissioners present felt that additional information was necessary for them to take action. Requested from staff was a copy of a letter from the State Dept of Public Health to Assemblyman James Gallagher that was referenced in the findings for the Ordinance, pre and post exchange program statistics relating to improper needle disposal and increased property destruction from neighboring law

enforcement depts, as well as text amendments that would allow for licensed medical facilities to potential run an exchange program as part of their provided services.

In response to a lawsuit filed by a group of Chico residents and businesses, NVHRC released a press release on August 18, 2020 stating that they were rescinding their syringe exchange program certification from the State Dept of Public Health. A subsequent draft settlement agreement was released and is attached for Commission's review.

#### **PROPOSED CODE AMENDMENT:**

Per direction received from the Town Council, the Town Attorney and planning staff have further researched the subject matter and advises that text regulations within Title 17 (Zoning) of the Paradise Municipal Code warrant amendment in order to: 1) add a new chapter of regulations pertaining to needle and syringe exchange programs, as defined by Health and Safety Code Section 121349, et. seq within the Town of Paradise; and 2) specifically enumerates the establishment, operation, conduct or engagement in a needle and syringe exchange program within the Town of Paradise to be unlawful except as permitted in a health facility.

In response to Commission's requests in August, findings in the Ordinance relating to the detrimental consequences of NVHRC's syringe exchange program have been removed especially in light of the announcement regarding the closure of their program. In addition, wording has been added to the proposed Ordinance that would exempt out needle and syringe exchange programs that are an accessory activity of a licensed "health facility" as defined in the attached Health and Safety Code Sections 1250, 1250.2, and 1250.3.

#### **DISCUSSION:**

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

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

Planning staff, and the Town Attorney have determined, that the nature of the proposed text amendments is sufficiently minor in that there is no possibility adoption and implementation of the amendment would result in a direct and significantly adverse effect on the environment.

Thus, the proposed amendment can be found to be exempt from the requirements of the California Environmental Quality Act [CEQA], pursuant to CEQA Guidelines section 15061 (b)(3) [General Rule Exemption].

**COMMISSION ACTION REQUESTED:**

Please be prepared to discuss the proposed amendments to the Town's Zoning Ordinance with staff, other Commissioners and the attending public during the required noticed public hearing. At the conclusion of the public hearing, staff's recommendation is for the Planning Commission to adopt Planning Commission Resolution No. 20-02, "A Resolution of the Paradise Planning Commission Recommending Town Council Adoption of Text Amendments to Title 17 of the Paradise Municipal Code Relative to Prohibiting the Establishment of Needle and Syringe Exchange Programs Within the Town of Paradise". If deemed necessary by a majority consensus of Planning Commissioners present, staff will be prepared to discuss and make further changes or additions to the text of the attached and proposed resolution prior to Planning Commission adoption.

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

1. Copy of the notice of public hearing for the proposed text amendments.
2. Copy of Notice of Exemption dated August 6, 2020.
3. Health and Safety Code Sections 1250, 1250.2, and 1250.3.
4. Copy of February 27, 2020 letter from the California Dept of Public Health to Assemblyman James Gallagher.
5. Press release from NVHRC dated August 18, 2020 rescinding their syringe exchange program.
6. Draft lawsuit settlement agreement relating to the NVHRC needle and syringe exchange program in Chico, CA.
7. Copy of Planning Commission Resolution No. 20-02, "A Resolution of the Paradise Planning Commission Recommending Town Council Adoption of Text Amendments to Title 17 of the Paradise Municipal Code Relative to Prohibiting the Establishment of Needle and Syringe Exchange Programs Within the Town of Paradise".

**TOWN OF PARADISE PLANNING COMMISSION  
RESOLUTION 20-02**

**A RESOLUTION OF THE PARADISE PLANNING COMMISSION RECOMMENDING TOWN COUNCIL  
ADOPTION OF TEXT AMENDMENTS TO TITLE 17 OF THE PARADISE MUNICIPAL CODE RELATIVE  
TO PROHIBITING THE ESTABLISHMENT OF NEEDLE AND SYRINGE EXCHANGE PROGRAMS  
WITHIN THE TOWN OF PARADISE**

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

**WHEREAS**, the Paradise Planning Commission finds that there is a compelling need for the Town Council of the Town of Paradise to adopt the foregoing Paradise Municipal Code (PMC) amendments to assist with ongoing efforts to minimize an imminent threat to the health, property, safety and welfare of Town citizens, and

**WHEREAS**, the Planning Commission conducted a duly noticed public hearing on September 8, 2020 to study and consider recommending Town Council adoption of text amendments to PMC Title 17 (Zoning Ordinance) as proposed by Town staff; and

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

**WHEREAS**, the Planning Commission has considered the recommendation of the Town staff, etc., as well as input received during the public hearing; and on the basis of the foregoing, has determined that the text amendments to PMC Title 17 (Zoning Ordinance) is warranted at this time in order to prohibit the establishment of needle and syringe exchange programs within the Town of Paradise.

**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 Title 17 (Zoning Ordinance) 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 is not subject to the requirements of the California Environmental Quality Act (CEQA) in accordance with the general rule categorical exemption provisions of CEQA Guidelines Section 15061.



**TOWN OF PARADISE  
PLANNING COMMISSION  
RESOLUTION NO. 20-02**

**PASSED AND ADOPTED** by the Planning Commission of the Town of Paradise this 15th day of September 2020 by the Following Vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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Kim Morris, Chair

**ATTEST:**

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Dina Volenski, Town Clerk

## EXHIBIT "A"

SECTION 1: A new Chapter 17.32.1 [NEEDLE AND SYRINGE EXCHANGE] shall be added to Paradise Municipal Code Title 17 [Zoning Ordinance] to read as follows:

### Sections:

17.32.1.1 Findings and Purpose

17.32.1.2 Prohibition

17.32.1.3 No Zone

### **17.32.1.1 Findings and Purpose.**

- A. The California Department of Public Health (CDPH) may authorize a Needle and Syringe Exchange Program (NSEP) in local communities pursuant to Health and Safety Code Section 121349, et seq.; and
- B. Improper collection and disposal of used hypodermic needles and syringes is inimical to, and presents an imminent threat to, the health, property, safety and welfare of Town citizens; and
- C. Pursuant to the Town's police power, as granted broadly under Article XI, Section 7 of the California Constitution, the Town Council of the Town of Paradise has the authority to enact and enforce ordinances and regulations for the public peace, health and welfare of the Town and its residents; and
- D. Government Code Section 38771 authorizes the Town, through its legislative body, to declare actions and activities that constitute a public nuisance; and
- E. As to matters concerning land use, and of buildings thereon, Title 17 (Zoning) of the Paradise Municipal Code is intended to promote the growth of the Town in an orderly manner and promote and protect the public health safety, peace, comfort and general welfare in conformance with the Town's General Plan; and
- F. Needle and syringe exchange programs are not an enumerated use under Title 17 of the Paradise Municipal Code, which does not specifically identify or regulate needle and syringe exchange programs within the Town of Paradise; and
- G. The operation of a needle and syringe exchange program carries the risk of negatively impacting the Goals and Safety Element of the Town's General Plan; and
- H. The Town Council finds that the commencement, establishment and/or operation of a needle and syringe exchange program, unless operated as an accessory activity of a health facility as defined in Health and Safety Code Sections 1250, 1250.2, and 1250.3, would pose a current and immediate threat to the public health, safety or welfare.

**17.32.1.2 Prohibition.** It shall be unlawful for any person to establish, operate, conduct, or engage in a needle and syringe exchange program, as defined by Health and Safety Code Section 121349, et seq. within the Town of Paradise unless it operated as an accessory activity of a permitted health facility as defined in Health and Safety Code Sections 1250, 1250.2, and 1250.3.

**17.32.1.3 No Zone.** Except as permitted in a health facility, as defined in Health and Safety Code Sections 1250, 1250.2, and 1250.3, no other property in any zone of the Town shall be used for purposes of a needle and syringe exchange program of any type, including as defined by Health and Safety Code Section 121349 et seq. The use of any property for such purpose shall be a public nuisance and may be abated as provided in the Paradise Municipal Code or pursuant to state law. A violation of this Chapter shall be and is hereby declared to be contrary to the public interest and shall, at the discretion of the Town, create a cause of separate action for injunctive relief as well as any other available civil remedies.

PO Drawer 70  
Paradise, CA 95967  
530-877-4413  
legals@paradisepost.com  
2123937

TOWN OF PARADISE - COMMERCIAL DEVELOPMENT  
5555 SKYWAY  
PARADISE, CA 95969

State of California  
County of Butte

That at all times herein mentioned Declarant is and was a resident of said county of Butte over the age of twenty-one years; not a party to nor interested in the within matter; that Declarant is now and was at all times herein mentioned the Legal Clerk of the Paradise Post, a newspaper published twice a week, which said newspaper was adjudged a newspaper of general circulation on November 12, 1946, by Superior Court Order No. 22262 as entered in Book 30 Page 223 of said Court; and that said newspaper is printed and published every Wednesday and Saturday.

## 08/08/2020

and such publications was made in the regular issues of said paper (and not in any supplemental edition or extra thereof).

08/10/2020

G. M. M. M.

Signature

Legal No. 0006508143

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, August 18, 2020 at 6:00 p.m. in the Paradise Town Hall Council Chambers, 5555 Skyway, Paradise, CA, regarding the following matter:

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

PARADISE MUNICIPAL CODE: Planning Commission consideration of a resolution that, if adopted, would recommend Town Council adoption of proposed text amendments to the zoning regulations in Paradise Municipal Code (PMC) Title 17 (Zoning Ordinance). If adopted by the Town Council, the amendments would: 1. Add a new chapter of regulations pertaining to needle and exchange programs, as defined by Health and Safety Code Section 121349, et. Seq. within the Town of Paradise; and 2. Specifically enumerates the establishment, operation, conduct, or engagement in a needle and syringe exchange program within the Town of Paradise to be unlawful.

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

SUSAN HARTMAN  
Planning Director  
8/08/2020

## NOTICE OF EXEMPTION

**To:** File

**From:** Town of Paradise, Development Services Department,  
Planning Division, 5555 Skyway, Paradise, CA 95969

**Project Title:** Zoning Code Text Amendment

**Project Applicant:** Town of Paradise

**Project Location:** N/A

**Project Description:** Amendments to the Town zoning code banning needle & syringe exchange programs not associated with health facilities

**Approving Public Agency:** Town of Paradise

**Person or Agency  
Carrying Out Project:** Town of Paradise

**Exempt Status:**

<input type="checkbox"/>	Ministerial (Section 15268)
<input type="checkbox"/>	Emergency Project (Section 15269)
<input type="checkbox"/>	Categorical Exemption (Section 15302)
<input checked="" type="checkbox"/>	General Rule Exemption (Section 15061)

**Reason for Exemption:** The amendments do not constitute a project under CEQA, no physical activity is planned and there is no possibility of a significant environmental effect.

**Contact Person:** Susan Hartman, Planning Director  
(530) 872-6291 x114

**Signature:**



**Date:** 08/06/2020

**State of California**

**HEALTH AND SAFETY CODE**

**Section 1250**

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1250. As used in this chapter, “health facility” means a facility, place, or building that is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which the persons are admitted for a 24-hour stay or longer, and includes the following types:

(a) “General acute care hospital” means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff that provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services. A general acute care hospital may include more than one physical plant maintained and operated on separate premises as provided in Section 1250.8. A general acute care hospital that exclusively provides acute medical rehabilitation center services, including at least physical therapy, occupational therapy, and speech therapy, may provide for the required surgical and anesthesia services through a contract with another acute care hospital. In addition, a general acute care hospital that, on July 1, 1983, provided required surgical and anesthesia services through a contract or agreement with another acute care hospital may continue to provide these surgical and anesthesia services through a contract or agreement with an acute care hospital. The general acute care hospital operated by the State Department of Developmental Services at Agnews Developmental Center may, until June 30, 2007, provide surgery and anesthesia services through a contract or agreement with another acute care hospital. Notwithstanding the requirements of this subdivision, a general acute care hospital operated by the Department of Corrections and Rehabilitation or the Department of Veterans Affairs may provide surgery and anesthesia services during normal weekday working hours, and not provide these services during other hours of the weekday or on weekends or holidays, if the general acute care hospital otherwise meets the requirements of this section.

A “general acute care hospital” includes a “rural general acute care hospital.” However, a “rural general acute care hospital” shall not be required by the department to provide surgery and anesthesia services. A “rural general acute care hospital” shall meet either of the following conditions:

(1) The hospital meets criteria for designation within peer group six or eight, as defined in the report entitled Hospital Peer Grouping for Efficiency Comparison, dated December 20, 1982.



(2) The hospital meets the criteria for designation within peer group five or seven, as defined in the report entitled Hospital Peer Grouping for Efficiency Comparison, dated December 20, 1982, and has no more than 76 acute care beds and is located in a census dwelling place of 15,000 or less population according to the 1980 federal census.

(b) “Acute psychiatric hospital” means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff that provides 24-hour inpatient care for persons with mental health disorders or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(c) (1) “Skilled nursing facility” means a health facility that provides skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis.

(2) “Skilled nursing facility” includes a “small house skilled nursing facility (SHSNF),” as defined in Section 1323.5.

(d) “Intermediate care facility” means a health facility that provides inpatient care to ambulatory or nonambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability of continuous skilled nursing care.

(e) “Intermediate care facility/developmentally disabled habilitative” means a facility with a capacity of 4 to 15 beds that provides 24-hour personal care, habilitation, developmental, and supportive health services to 15 or fewer persons with developmental disabilities who have intermittent recurring needs for nursing services, but have been certified by a physician and surgeon as not requiring availability of continuous skilled nursing care.

(f) “Special hospital” means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff that provides inpatient or outpatient care in dentistry or maternity.

(g) “Intermediate care facility/developmentally disabled” means a facility that provides 24-hour personal care, habilitation, developmental, and supportive health services to persons with developmental disabilities whose primary need is for developmental services and who have a recurring but intermittent need for skilled nursing services.

(h) “Intermediate care facility/developmentally disabled-nursing” means a facility with a capacity of 4 to 15 beds that provides 24-hour personal care, developmental services, and nursing supervision for persons with developmental disabilities who have intermittent recurring needs for skilled nursing care but have been certified by a physician and surgeon as not requiring continuous skilled nursing care. The facility shall serve medically fragile persons with developmental disabilities or who demonstrate significant developmental delay that may lead to a developmental disability if not treated.

(i) (1) “Congregate living health facility” means a residential home with a capacity, except as provided in paragraph (4), of no more than 18 beds, that provides inpatient care, including the following basic services: medical supervision, 24-hour skilled nursing and supportive care, pharmacy, dietary, social, recreational, and at least one type of service specified in paragraph (2). The primary need of congregate living health facility residents shall be for availability of skilled nursing care on a recurring, intermittent, extended, or continuous basis. This care is generally less intense than that provided in general acute care hospitals but more intense than that provided in skilled nursing facilities.

(2) Congregate living health facilities shall provide one or more of the following services:

(A) Services for persons who are mentally alert, persons with physical disabilities, who may be ventilator dependent.

(B) Services for persons who have a diagnosis of terminal illness, a diagnosis of a life-threatening illness, or both. Terminal illness means the individual has a life expectancy of six months or less as stated in writing by his or her attending physician and surgeon. A “life-threatening illness” means the individual has an illness that can lead to a possibility of a termination of life within five years or less as stated in writing by his or her attending physician and surgeon.

(C) Services for persons who are catastrophically and severely disabled. A person who is catastrophically and severely disabled means a person whose origin of disability was acquired through trauma or nondegenerative neurologic illness, for whom it has been determined that active rehabilitation would be beneficial and to whom these services are being provided. Services offered by a congregate living health facility to a person who is catastrophically disabled shall include, but not be limited to, speech, physical, and occupational therapy.

(3) A congregate living health facility license shall specify which of the types of persons described in paragraph (2) to whom a facility is licensed to provide services.

(4) (A) A facility operated by a city and county for the purposes of delivering services under this section may have a capacity of 59 beds.

(B) A congregate living health facility not operated by a city and county servicing persons who are terminally ill, persons who have been diagnosed with a life-threatening illness, or both, that is located in a county with a population of 500,000 or more persons, or located in a county of the 16th class pursuant to Section 28020 of the Government Code, may have not more than 25 beds for the purpose of serving persons who are terminally ill.

(5) A congregate living health facility shall have a noninstitutional, homelike environment.

(j) (1) “Correctional treatment center” means a health facility operated by the Department of Corrections and Rehabilitation, the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, or a county, city, or city and county law enforcement agency that, as determined by the department, provides inpatient health services to that portion of the inmate population who do not require a general acute care level of basic services. This definition shall not apply to those areas of a

law enforcement facility that houses inmates or wards who may be receiving outpatient services and are housed separately for reasons of improved access to health care, security, and protection. The health services provided by a correctional treatment center shall include, but are not limited to, all of the following basic services: physician and surgeon, psychiatrist, psychologist, nursing, pharmacy, and dietary. A correctional treatment center may provide the following services: laboratory, radiology, perinatal, and any other services approved by the department.

(2) Outpatient surgical care with anesthesia may be provided, if the correctional treatment center meets the same requirements as a surgical clinic licensed pursuant to Section 1204, with the exception of the requirement that patients remain less than 24 hours.

(3) Correctional treatment centers shall maintain written service agreements with general acute care hospitals to provide for those inmate physical health needs that cannot be met by the correctional treatment center.

(4) Physician and surgeon services shall be readily available in a correctional treatment center on a 24-hour basis.

(5) It is not the intent of the Legislature to have a correctional treatment center supplant the general acute care hospitals at the California Medical Facility, the California Men's Colony, and the California Institution for Men. This subdivision shall not be construed to prohibit the Department of Corrections and Rehabilitation from obtaining a correctional treatment center license at these sites.

(k) "Nursing facility" means a health facility licensed pursuant to this chapter that is certified to participate as a provider of care either as a skilled nursing facility in the federal Medicare Program under Title XVIII of the federal Social Security Act (42 U.S.C. Sec. 1395 et seq.) or as a nursing facility in the federal Medicaid Program under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.), or as both.

(l) Regulations defining a correctional treatment center described in subdivision (j) that is operated by a county, city, or city and county, the Department of Corrections and Rehabilitation, or the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, shall not become effective prior to, or, if effective, shall be inoperative until January 1, 1996, and until that time these correctional facilities are exempt from any licensing requirements.

(m) "Intermediate care facility/developmentally disabled-continuous nursing (ICF/DD-CN)" means a homelike facility with a capacity of four to eight, inclusive, beds that provides 24-hour personal care, developmental services, and nursing supervision for persons with developmental disabilities who have continuous needs for skilled nursing care and have been certified by a physician and surgeon as warranting continuous skilled nursing care. The facility shall serve medically fragile persons who have developmental disabilities or demonstrate significant developmental delay that may lead to a developmental disability if not treated. ICF/DD-CN facilities shall be subject to licensure under this chapter upon adoption of licensing regulations in accordance with Section 1275.3. A facility providing continuous skilled nursing services to persons with developmental disabilities pursuant to Section 14132.20 or

14495.10 of the Welfare and Institutions Code shall apply for licensure under this subdivision within 90 days after the regulations become effective, and may continue to operate pursuant to those sections until its licensure application is either approved or denied.

(n) “Hospice facility” means a health facility licensed pursuant to this chapter with a capacity of no more than 24 beds that provides hospice services. Hospice services include, but are not limited to, routine care, continuous care, inpatient respite care, and inpatient hospice care as defined in subdivision (d) of Section 1339.40, and is operated by a provider of hospice services that is licensed pursuant to Section 1751 and certified as a hospice pursuant to Part 418 of Title 42 of the Code of Federal Regulations.

(Amended by Stats. 2015, Ch. 483, Sec. 1. (AB 1211) Effective October 4, 2015.)

**State of California**

**HEALTH AND SAFETY CODE**

**Section 1250.2**

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1250.2. (a) (1) As defined in Section 1250, “health facility” includes a “psychiatric health facility,” defined to mean a health facility, licensed by the State Department of Health Care Services, that provides 24-hour inpatient care for people with mental health disorders or other persons described in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code. This care shall include, but not be limited to, the following basic services: psychiatry, clinical psychology, psychiatric nursing, social work, rehabilitation, drug administration, and appropriate food services for those persons whose physical health needs can be met in an affiliated hospital or in outpatient settings.

(2) It is the intent of the Legislature that the psychiatric health facility shall provide a distinct type of service to psychiatric patients in a 24-hour acute inpatient setting. The State Department of Health Care Services shall require regular utilization reviews of admission and discharge criteria and lengths of stay in order to ensure that these patients are moved to less restrictive levels of care as soon as appropriate.

(b) (1) The State Department of Health Care Services may issue a special permit to a psychiatric health facility for it to provide structured outpatient services (commonly referred to as SOPS) consisting of morning, afternoon, or full daytime organized programs, not exceeding 10 hours, for acute daytime care for patients admitted to the facility. This subdivision shall not be construed as requiring a psychiatric health facility to apply for a special permit to provide these alternative levels of care.

(2) The Legislature recognizes that, with access to structured outpatient services, as an alternative to 24-hour inpatient care, certain patients would be provided with effective intervention and less restrictive levels of care. The Legislature further recognizes that, for certain patients, the less restrictive levels of care eliminate the need for inpatient care, enable earlier discharge from inpatient care by providing a continuum of care with effective aftercare services, or reduce or prevent the need for a subsequent readmission to inpatient care.

(c) Any reference in any statute to Section 1250 of the Health and Safety Code shall be deemed and construed to also be a reference to this section.

(d) Notwithstanding any other law, and to the extent consistent with federal law, a psychiatric health facility shall be eligible to participate in the medicare program under Title XVIII of the federal Social Security Act (42 U.S.C. Sec. 1395 et seq.), and the medicaid program under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.), if all of the following conditions are met:

(1) The facility is a licensed facility.

(2) The facility is in compliance with all related statutes and regulations enforced by the State Department of Health Care Services, including regulations contained in Chapter 9 (commencing with Section 77001) of Division 5 of Title 22 of the California Code of Regulations.

(3) The facility meets the definitions and requirements contained in subdivisions (e) and (f) of Section 1861 of the federal Social Security Act (42 U.S.C. Sec. 1395x(e) and (f)), including the approval process specified in Section 1861(e)(7)(B) of the federal Social Security Act (42 U.S.C. Sec. 1395x(e)(7)(B)), which requires that the state agency responsible for licensing hospitals has ensured that the facility meets licensing requirements.

(4) The facility meets the conditions of participation for hospitals pursuant to Part 482 of Title 42 of the Code of Federal Regulations.

(Amended by Stats. 2014, Ch. 144, Sec. 26. (AB 1847) Effective January 1, 2015.)



**State of California**

**HEALTH AND SAFETY CODE**

**Section 1250.3**

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1250.3. (a) As defined in Section 1250, “health facility” includes the following type: “Chemical dependency recovery hospital” means a health facility that provides 24-hour inpatient care for persons who have a dependency on alcohol or other drugs, or both alcohol and other drugs. This care shall include, but not be limited to, the following basic services: patient counseling, group therapy, physical conditioning, family therapy, outpatient services, and dietetic services. Each facility shall have a medical director who is a physician and surgeon licensed to practice in this state.

(b) The Legislature finds and declares that problems related to the inappropriate use of alcohol or other drugs, or both alcohol and other drugs, are widespread and adversely affect the general welfare of the people of the State of California. It is the intent of the Legislature that the chemical dependency recovery hospital will provide an innovative inpatient treatment program for persons who have a dependency on alcohol or drugs, or both alcohol and other drugs. The Legislature further finds and declares that significant cost reductions can be achieved by chemical dependency recovery hospitals when both of the following conditions exist:

(1) Architectural requirements established by the department encourage a flexible and open construction approach that significantly reduces capital construction costs.

(2) Programs are designed to provide comprehensive inpatient treatment while permitting substantial flexibility in the use of qualified personnel to meet the specific needs of the patients of the facility.

(c) Beds classified as chemical dependency recovery beds in a general acute care hospital or acute psychiatric hospital or a freestanding facility that is owned or leased by the general acute care hospital or the acute psychiatric hospital, that is located on the same premises or adjacent premises thereof, not to exceed a 15-mile radius within the same health facility planning area, as defined January 1, 1981, by the Office of Statewide Health Planning and Development, and that is under the administrative control of the general acute care hospital or the acute psychiatric hospital, shall be used exclusively for alcohol or other drug dependency treatment, or both alcohol and other drug dependency treatment. No general acute care hospital or acute psychiatric hospital or a freestanding facility, as defined in this subdivision, shall, without fulfilling the requirements of the licensing laws and health planning laws, convert beds classified as chemical dependency recovery beds to any other bed classification or provide new chemical dependency recovery beds by increasing bed capacity.

(d) (1) Chemical dependency recovery services may be provided as a supplemental service in existing general acute care beds and acute psychiatric beds in a general acute care hospital or in existing acute psychiatric beds in an acute psychiatric hospital

or in existing beds in a freestanding facility, as defined in subdivision (c). When providing chemical dependency recovery services as a supplemental service, the general acute care hospital, acute psychiatric hospital, or freestanding facility, as defined in subdivision (c), shall provide the supplemental services in a distinct part of the hospital or freestanding facility, if the distinct part satisfies the criteria established by law and regulation for approval as a chemical dependency recovery supplemental service.

(2) For purposes of this subdivision, “distinct part” means an identifiable unit of a hospital or a freestanding facility, as defined in subdivision (c), accommodating beds, and related services, including, but not limited to, contiguous rooms, a wing, a floor, or a building that is approved by the department for a specific purpose. Notwithstanding any other provisions of this subdivision, an acute psychiatric hospital that provides all of the basic services specified in subdivision (b) of Section 1250 may, subject to the approval of the department, have all of its licensed acute psychiatric beds approved for chemical dependency recovery services. Chemical dependency recovery services provided pursuant to this subdivision shall not require a separate license or reclassification of beds under the health planning laws.

(e) If the chemical dependency recovery hospital is not a supplemental service of a general acute care hospital, it shall have agreements with one or more general acute care hospitals providing for 24-hour emergency service and pharmacy, laboratory, and any other services that the department may require.

(f) Any reference in any statute to Section 1250 shall be deemed and construed to also be a reference to this section.

(Amended by Stats. 2006, Ch. 538, Sec. 349. Effective January 1, 2007.)



SONIA Y. ANGELL, MD, MPH  
State Public Health Officer & Director

State of California—Health and Human Services Agency  
California Department of Public Health



GAVIN NEWSOM  
Governor

February 27, 2020

The Honorable James Gallagher  
California State Assembly  
State Capitol, Room 5128  
PO Box 94249-0003  
Sacramento, CA 94249

Dear Assembly Member Gallagher,

Thank you for your letter of February 18, 2020, regarding the Northern Valley Harm Reduction Coalition (NVHRC), a private, community-based organization that CDPH has authorized to conduct syringe services in Chico pursuant to California Health and Safety Code 121349. What follows are our answers to your questions, quoted from your letter.

**1. "Underage Distribution. Health and Safety Code section 11364.5 establishes 18 as the minimum age to have access to drug paraphernalia. ... What is the minimum age to distribute and receive needles through programs established under HSC section 121349? What will the Department do to investigate claims of underage distribution, and what are the penalties for underage distribution?"**

Regarding the legality of syringe access by minors, Health and Safety Code section 11364(c) states that:

*"... as a public health measure intended to prevent the transmission of HIV, viral hepatitis, and other bloodborne diseases among persons who use syringes and hypodermic needles, and to prevent subsequent infection of sexual partners, newborn children, or other persons, this section shall not apply to the possession solely for personal use of hypodermic needles or syringes if acquired from a physician, pharmacist, hypodermic needle and syringe exchange program, or any other source*





*that is authorized by law to provide sterile syringes or hypodermic needles without a prescription."*

As such, syringes distributed by syringe exchange programs, physicians, or pharmacists are not drug paraphernalia under state law, and the subsequent statute 11364.5 does not apply to syringes distributed by or obtained from syringe exchange programs. This policy allows Californians to protect themselves from exposure to communicable disease irrespective of their age. California law similarly allows minors to access sexual health services in order to prevent or treat HIV and sexually transmitted infections.

The United States, including California, has experienced an increase in injection and other drug use in recent years. This phenomenon has led to increases in HIV and viral hepatitis transmission, wounds and infections related to non-sterile injection, and opioid and stimulant drug overdose deaths, including in Butte County. This includes, unfortunately, people in their teens.

A 2019 study by the Urban Institute in partnership with the California Department of Health Care Services, for example, estimated that Butte County residents age 12 and older had the highest rate of opioid use disorder of any county in California at 2.7%, or 35% higher than the state average, and that more than 2,000 county residents do not have access to opioid use disorder treatment due to a lack of health care providers.<sup>1</sup> Hepatitis C virus (HCV) infections, which predominately occur through sharing of used injection equipment, have increased sharply among young people in Butte County in recent years, although no cases have been detected among minors: between 2011-2015, chronic HCV diagnoses among 20-29 year olds in Butte County increased by 89% among women and 107% among men.<sup>2</sup> Overall, in 2016 Butte County's rate of new HCV diagnoses was 15<sup>th</sup> among California counties.<sup>3</sup>

CDPH's goal – shared by local, community-based harm reduction programs like NVHRC – is that young people at risk of harm from injection drug use have access to tools to protect their health and safety if they are currently injecting drugs, and to health care and other services in order to support them at any

<sup>1</sup> Urban Institute. California Opioid Use Disorder and Treatment Needs: Butte County, 2019 Fact Sheet.

<https://www.urban.org/sites/default/files/2019/11/05/butte.pdf>

<sup>2</sup> CDPH. Butte County – Chronic Hepatitis C: Cases and Rates of Newly Reported Cases, 2011-2015

[https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/Converted\\_Butte\\_HCV.pdf](https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/Converted_Butte_HCV.pdf)

<sup>3</sup> CDPH. Chronic Hepatitis C, California, 2016.

[https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/SurvReport\\_HCV\\_2016.pdf](https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/SurvReport_HCV_2016.pdf)

stage of drug use, up to and including abstinence. That is why all syringe services programs authorized by CDPH provide additional services such as opioid overdose prevention, HIV and hepatitis C testing, and collaborate closely with other health and social service providers in order to link at-risk people to care. NVHRC, for example, routinely refers people to Chico's Enloe Medical Center and other providers that offer buprenorphine treatment for opioid use disorder.

**2. "Improper Disposal. Local law enforcement officers have described a rapidly deteriorating situation stemming from the NVHRC syringe distribution program. Officers have seen an increase in property destruction and improper disposal. CDPH required NVHRC, as a condition of approval, to clean up any reported syringe litter within a reasonable time frame. What does CDPH consider a 'reasonable time frame' for NVHRC to clean up reported syringe litter?"**

**3. "Violating Terms of Operation. CDPH required NVHRC, as a condition of approval, to operate a hotline for the public to report improperly disposed syringes. However, the hotline is not adequately staffed, resulting in law enforcement officers now being taken off the beat in order to safely collect improperly discarded syringes. Additionally, NVHRC syringes have been found in Oroville, Gridley, and throughout Butte County. However, NVHRC is refusing to clean up these needles outside the city of Chico. Does this violate the CDPH terms of operation? Should the NVHRC permit be revoked until the organization can get a handle on reporting and syringe collection?"**

CDPH takes very seriously the issue of syringe litter in communities, which typically originates from a number of sources not limited to syringe services programs. CDPH was in communication with Chico Police Department (CPD) leadership before and during the time NVHRC was authorized to provide syringe services, and our staff will follow up directly with the Department for more information on possible issues related to syringe litter and officers collecting syringes. NVHRC met with Chico Police Department officials on February 19, and has told CDPH that they discussed a variety of ways to strengthen communication about the program, including by requesting that CPD direct syringe cleanup requests that they receive to NVHRC. NVHRC and CPD are instituting regular meetings, the next of which is scheduled for March 11, 2020. In addition, CDPH is planning to conduct an evaluation of syringe disposal needs among people who use NVHRC's services, which will help identify ways that the program may increase access to disposal services. Our staff will meet with

NVHRC on this subject during the first week of March and expects to have an evaluation report available in Summer 2020.

NVHRC's reporting system for syringe litter is advertised on their website (<https://nvhrc.com/syringe-litter-report-line>) and was functioning on the day we received your letter. Staffing, response times, and service area for NVHRC's syringe collection system is at the discretion of the program. After reviewing program logs, NVHRC reported to CDPH on February 19, 2020, that while their response time varies depending on the time and location of a report, the average response time since their SSP authorization has been 2 hours.

NVHRC currently offers syringe access services at a single location, once per week in the city of Chico. People who utilize NVHRC likely include residents of neighboring communities that do not offer harm reduction services. Currently, NVHRC's resources permit them to conduct syringe collection services only in the city of Chico. NVHRC told CDPH that they have received two requests from Oroville (and none from Gridley to date); one of the callers was directed to local agencies, and the other from a blocked number to which they could not respond. CDPH staff have been in regular contact with NVHRC regarding their operations and have no reason to believe that the organization has violated any term of CDPH's syringe services authorization or the programmatic requirements described in Health and Safety Code 121349, including with regard to syringe collection activities.

We will discuss with NVHRC the possible need for expanded services in the Oroville and Gridley areas, where, as you note, there may be residents who inject drugs but who do not have sufficient access to services. Indeed, NVHRC's original impetus for organizing a syringe exchange program in Chico was in response to existing syringe litter – the group collected and disposed of more than 7,000 syringes in the months before CDPH authorized them to distribute syringes – and the presence of syringe litter in an area is often one indicator of the need for new harm reduction services.



Thank you for your interest in this matter. If you have additional questions, please feel free to reach out to me or through Monica Wagoner, Deputy Director for Legislation at [monica.wagoner@cdph.ca.gov](mailto:monica.wagoner@cdph.ca.gov).

Sincerely,



Sonia Y. Angell, MD, MPH  
Director, California Department of Public Health  
State Public Health Officer



August 18, 2020

## FOR IMMEDIATE RELEASE

### Northern Valley Harm Reduction Coalition Withdraws Syringe Exchange Certification

Today Northern Valley Harm Reduction Coalition (NVHRC) is announcing they will be rescinding their Syringe Exchange Program (SEP) certification from the California Department of Public Health (CDPH) after a lawsuit filed against NVHRC by a group of Chico residents and businesses.

NVHRC is an all-volunteer harm reduction program that started in 2018 to address an unmet and growing need for evidence-based and life-saving harm reduction services in Chico. NVHRC spent a year distributing naloxone, which can save the lives of people suffering opioid overdoses, providing accessible syringe disposal, referrals, and health education to the community before becoming certified by CDPH to provide safe injection equipment in addition to their core harm reduction services. NVHRC spent the first year of operation meeting with elected officials, law enforcement, social service providers, business owners and public health to get input and feedback about the development of our proposed syringe services program. Once we received our certification in October 2019, NVHRC continued to stay in dialogue with Chico City Council, elected officials and has remained open throughout this process to hearing and addressing community concerns. Despite these efforts, the group's co-founders began to experience harassment, in person and over social media, by a small but vocal group of protestors. The harassment most recently escalated into targeted threats of violence, doxxing and an organized effort to intimidate and humiliate NVHRC program participants.

In addition to providing safer injection supplies, NVHRC operates a syringe litter reporting line, collects thousands of used syringes for safe disposal every week, performs weekly syringe litter cleanups across the City of Chico, provides overdose reversal training, and offers referrals to addiction treatment facilities, medically assisted treatment (MAT) programs, housing, medical care, and more. To date, NVHRC has performed over thirty HIV and Hepatitis C rapid tests and connected people to the appropriate treatment and care. Additionally, NVHRC has distributed over 2,000 boxes of naloxone, and received 45 overdose reversal reports, meaning 45 lives potentially saved.

The plaintiffs filed a lawsuit that includes a claim for violation of the California Environmental Quality Act (CEQA). While the plaintiffs' interpretation of this law is out of sync with the law's intent, members of NVHRC have decided to not squander energy and state resources in the courtroom, and instead take the necessary steps to prioritize the safety of their community members in an



increasingly hostile situation, and to focus their energy on protecting harm reduction services in Butte County over the long term. NVHRC will continue many of our services including syringe litter pick up, safe disposal, naloxone distribution, referrals and outreach in the community.

"Our organization remains invested in the health and wellness of this community. Our decision to rescind our application is part of a larger sustainability strategy to ensure safe syringe access is protected in our region long-term," said NVHRC Program Manager Angel Gomez.

"Obviously this is a setback and loss for the Chico community and people who use injection drugs, but we remain deeply invested in providing public health services to our participants. Though we have stopped providing sterile syringes effective August 17 pursuant to the rescinded syringe program, we will continue to support our participants by providing our other existing services while growing and strengthening our program," Said NVHRC Outreach Coordinator and HIV/HCV Test Counselor, Marin Hambley.

"It's very clear that the plaintiffs in this case are not actually concerned about the environment. They are the same people who support and fund right-wing Republican representatives who have passed bills to get CEQA exemptions for big developments. They are the same people who are encouraging the local police to sweep homeless encampments during a pandemic. They are the same people who have fought against shelters and low-barrier housing options after mass displacement in their community due to wildfires. What is really devastating about this is that the consequence of this kind of hatred is that more people in their community will die from overdose, more of them will contract Hepatitis C and HIV, and overall not only is this a greater cost to taxpayers, it's also completely preventable. This attitude toward people who use drugs is archaic – even the Trump administration supports syringe services as a public health intervention" said Jenna Haywood, the Capacity Building and Community Mobilization Manager at national Harm Reduction Coalition, an organization that provides technical assistance and training for NVHRC and all harm reduction programs across the state.

"I've been working with NVHRC since they started and have seen unwavering dedication to their community and development of a community-based syringe services program that is in line with best practices. NVHRC volunteers did this despite mean-spirited protestors committing violence against them and their participants. I watched the horrific video footage of an elderly participant with a walker being shoved to the ground. Obviously that kind of hatred can be both traumatic and isolating but I want NVHRC to know that they are on the right side of history and they have so many people on their side who will continue to fight with them for the right of their community to have access to public health services and compassionate care," said Savannah O'Neill, the Capacity Building and Community Development Manager of the Harm Reduction Coalition.

For questions please contact [nvharmreduction@gmail.com](mailto:nvharmreduction@gmail.com) or (530) 332-8065

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9 capacity as Director and State Public Health Officer

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22 *Attorneys for NVHRC and Angel Gomez*

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF BUTTE

**GALLAWAY ENTERPRISES, INC.;  
DOWNTOWN CHICO BUSINESS  
ASSOCIATION (a California Non-Profit  
501(c)(6) Corporation); MOLLIE  
MCARTHY-OPENSHAW; MARK D.  
OWEN; LAURIE ANNE MALONEY;  
RACHEL ECCLES; WELDON C.  
LARSON; CHICO FARM AND  
ORCHARD, INC.; W.M. CAMPBELL  
REAL ESTATE; MFC INVESTMENTS,  
LP; LASH'S GLASS LTD; CATHERINE  
SPEAR GURNEY; ROXANNE  
ELDRIDGE; CHABIN CONCEPTS, INC.;  
ANDY WILLHOIT; KAREN WILLHOIT;  
FRANK L. LEWIS; RODNEY SCOTT  
WINKLE; WES HILL; KATE  
PINSONNEUALT; ,**

Plaintiffs and Petitioners,

v.

**CA. DEPT. OF PUBLIC HEALTH; SONIA  
Y. ANGELL, in her official capacity as  
Director and State Public Health Officer;  
NORTHERN VALLEY HARM  
REDUCTION COALITION; ANGEL  
GOMEZ; and DOES 1 THROUGH 100,  
inclusive,**

Defendants and  
Respondents.

Case No. 20CV00871

**SETTLEMENT AGREEMENT**

Date:  
Time:  
Dept:  
Judge: The Honorable Tamara L.  
Mosbarger

Trial Date:  
Action Filed: April 13, 2020

**RECITALS**

1. The Parties to this Settlement Agreement ("the Agreement") are:
  - a. Plaintiffs/Petitioners: GALLAWAY ENTERPRISES, INC., DOWNTOWN  
CHICO BUSINESS ASSOCIATION (a California 501(c)(6) Non-Profit  
Corporation), MOLLIE MCARTHY-OPENSHAW, MARK D. OWEN,

1 LAURIE ANNE MALONEY, RACHEL ECCLES, WELDON C. LARSON,  
2 CHICO FARM AND ORCHARD, INC., W.M. CAMPBELL REAL ESTATE,  
3 MFC INVESTMENTS, LP, LASH'S GLASS LTD, CATHERINE SPEAR  
4 GURNEY, ROXANNE ELDRIDGE, CHABIN CONCEPTS, INC., ANDY  
5 WILLHOIT, KAREN WILLHOIT, FRANK L. LEWIS, RODNEY SCOTT  
6 WINKLE, WES HILL, and KATE PINSONNEUALT (hereinafter collectively  
7 referred to as "Plaintiffs"); and

8 b. Defendants/Respondents: CALIFORNIA DEPARTMENT OF PUBLIC  
9 HEALTH and SONIA Y. ANGELL, Director of the California Department of  
10 Public Health and State Public Health Officer<sup>1</sup> (hereinafter collectively referred  
11 to as "Department"); and

12 c. Defendants/Respondents/Real Parties in Interest: NORTHERN VALLEY  
13 HARM REDUCTION COALITION ("NVHRC") and ANGEL GOMEZ,  
14 Program Manager of NVHRC (hereinafter collectively referred to as  
15 "NVHRC").

16 2. Collectively, the Plaintiffs, Department and NVHRC will be referred to as the  
17 "Parties."

18 3. Plaintiffs are a broad and diverse variety of individual people, small businesses and a  
19 business association in the heart of Chico, and Butte County, California.

20 4. On or about October 14, 2019, the Department approved the application of NVHRC  
21 to operate a Syringe Exchange Program (SEP) in a specified area of the City of Chico and County  
22 of Butte.

23 5. On or about April 13, 2020, the Plaintiffs filed the current action challenging the  
24 approval of the NVHRC SEP application. (Butte County Superior Court Case No.: 20CV00871,  
25 hereinafter referred to as "the lawsuit.")

26 <sup>1</sup> Ms. Angell is no longer the Director of the Department of Public Health or the State  
27 Public Health Officer. Ms. Angell has been succeeded by Acting Director Sandra Shewry and  
28 Dr. Erica Pan will be the Acting State Public Health Officer. Ms. Shewry and Dr. Pan stand in the  
place of Ms. Angell as Director and State Health Officer for the purposes of this action.

6. On or about May 22, 2020, the Department approved an amendment to the SEP application of NVHRC to permit home delivery due to the COVID-19 epidemic.

7. On or about July 1, 2020, Plaintiffs filed the First Amended Petition and Complaint in the lawsuit.

**THEREFORE**, and in consideration of the mutual terms, covenants, and conditions set forth in this Settlement Agreement, which resolves fully the Parties' dispute, and without any of the Parties making any admissions of wrongdoing or liability, the Parties agree and stipulate as follows:

## AGREEMENT

8. NVHRC agrees to withdraw its June 17, 2019 SEP certification application to the Department which the Department approved on October 14, 2019. The rescission is effective August 17, 2020.

9. NVHRC agrees to withdraw its April 23, 2020 Request to Amend the Syringe Services Authorization, approved by the Department on May 22, 2020. The rescission is effective August 17, 2020.

10. Pursuant to the withdrawal from NVHRC, the Department rescinds its approval of the SEP issued October 14, 2019 to NVHRC and the Department rescinds its approval of the Request to Amend the Syringe Services Authorization issued May 22, 2020 to NVHRC. The rescissions are effective August 17, 2020.

11. NVHRC agrees in good faith that it will conduct a sweep in and around the waterways in the City of Chico and at the occupied/unoccupied homeless encampments as they exist on the date of this Settlement, to safely remove and dispose of syringe litter. This will consist of a minimum of three sweeps of two hours each. NVHRC will informally reach out and coordinate its efforts with the City of Chico to identify locations of encampments, obtain security for the sweep if needed, or for any other or additional assistance that the City is willing to provide. City assistance is encouraged but the provision of assistance is not a condition of this settlement. NVHRC will notify Plaintiffs' counsel of the conclusion of this effort within one week after its conclusion.



1           12. Plaintiffs agree to file a notice of settlement within 10 days of the full execution of  
2 this Agreement. Plaintiffs agree to file a dismissal with prejudice within 10 days of receipt of  
3 funds for attorneys' fees and costs agreed upon in Paragraph 15 of this Agreement.

4           13. All Parties mutually release and discharge each other and any current and former  
5 respective officers, employees, members and agents from all claims, demands, causes of action,  
6 and liabilities of any kind or description, whether in law or in equity, in contract or in tort,  
7 whether or not presently known, suspected, claimed, or alleged, that may be based upon, arise  
8 from, or in any manner relate to the lawsuit.

9           14. Each party to this Agreement acknowledges the risk that subsequent to the execution  
10 of this Agreement, it may discover facts, or may incur, suffer or discover losses, damage or  
11 injuries which are unknown and/or unanticipated at the time this Agreement is signed, which if  
12 known on the date of this Agreement, may have materially affected its respective decision to give  
13 the release contained in this Agreement. With this knowledge and understanding, each Party  
14 hereby knowingly and voluntarily assumes the risk of such unknown and unanticipated facts and  
15 claims, and waives any and all rights to set aside or rescind this Agreement, including any and all  
16 rights, benefits and protections under Civil Code Section 1542, which section has been duly  
17 explained to and is understood by each Party, and which reads as follows:

18                   **A general release does not extend to claims which the creditor or**  
19                   **releasing party does not know or suspect to exist in his or her**  
20                   **favor at the time of executing the release and that, if known by**  
21                   **him or her, would have materially affected his or her settlement**  
22                   **with the debtor or released party.**

23 All Parties, being aware of Civil Code section 1542, agree to expressly waive any rights they may  
24 have under this section.

25           15. The Department agrees to pay the sum of \$15,000 for resolution of attorneys' fees  
26 and costs incurred by the Plaintiffs in the lawsuit within 120 days of the full execution of this  
27 Agreement. The payment shall be by check made payable to Gallaway Enterprises, Inc. and  
28 mailed to Walter P. McNeill, 3330 Churn Creek Rd., Ste. D2, Redding, California 96002. The  
Department and NVHRC agree to bear their own attorneys' fees and costs.



1           16. Nothing in this Agreement prevents NVHRC from submitting a new application to  
2 operate a SEP in the City of Chico and/or Butte County to the Department.

3           17. The Department agrees to comply with the California Environmental Quality Act  
4 (CEQA) (Pub. Resources Code, § 21000 et seq.) before the Department, their agents, employees,  
5 and representatives approve or authorize a future SEP application in the City of Chico or Butte  
6 County, California.

7           18. Notwithstanding any provision of this Agreement, the Parties agree that Plaintiffs are  
8 not precluded from filing a subsequent litigation challenging any future approval of a SEP in the  
9 City of Chico or County of Butte, California. Petitioners are not prevented by claim preclusion or  
10 issue preclusion (res judicata/collateral estoppel) from alleging future claims related to public  
11 nuisance, declaratory relief and injunction, violation of local ordinances, violation of the Code of  
12 Regulations, violations of the Health and Safety code or the California Environmental Quality  
13 Act (CEQA) (Pub. Resources Code, § 21000 et seq.) related to a subsequent approval of a SEP  
14 application by the Department.

15           19. The Agreement shall not operate as departmental policy, practice, directive, or be  
16 considered precedential or binding on the Department, except that it shall be a binding agreement  
17 between the Parties.

18           20. The Parties agree that the Agreement is the product of mutual negotiation and  
19 preparation and accordingly shall not be deemed to have been prepared or drafted by either party.  
20 The Parties further agree that any court seeking to interpret the Agreement should construe it as  
21 the product of mutual negotiation and preparation.

22           21. The Parties agree that the Agreement constitutes the sole, entire, and complete  
23 agreement, that no promise, inducement, representation or agreement not expressed in the  
24 Agreement has been made, and the terms of the Agreement are contractual and not a mere recital.  
25 No amendment to the Agreement or any other agreement among any of the Parties hereto  
26 affecting the Agreement shall be effective unless in writing and signed by all Parties to the  
27 Agreement.  
28

1           22. The Parties to the Agreement have been advised or have had the opportunity to be  
2 advised by legal counsel with respect to the terms of the Agreement and understand and  
3 acknowledge the significance and consequences thereof. Each of the signers of the Agreement  
4 hereby represents and covenants that he/she/they have carefully read and fully understands the  
5 contents hereof, is entering into the Agreement without threat or coercion and freely, and  
6 voluntarily signs this Agreement.

7           23. The individuals signing the Agreement on behalf of the Parties represent and warrant  
8 that they are authorized as agents of the respective Parties, acting in their official capacities, with  
9 authority to execute the Agreement. The individuals signing as attorneys for the Parties represent  
10 that the respective Parties are their clients and that they have reviewed this document on their  
11 clients' behalf.

12           24. The Agreement may be executed in one or more counterparts, each of which shall be  
13 deemed an original, but all of which together shall constitute one and the same instrument.

14           25. The Agreement is entered into, and shall be construed and interpreted, in accordance  
15 with the laws of the State of California.

16           26. If any provision or provisions of the Agreement shall be held to be invalid, illegal, or  
17 unenforceable for any reason, the validity, legality and enforceability of the remaining provisions  
18 shall not in any way be affected or impaired thereby.

19           27. The Agreement shall become effective immediately upon execution by all individuals  
20 listed on the signature pages. Fax or electronically conveyed signatures shall have the same  
21 effect as original signatures.

22 ////

23 ////

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1 For Plaintiff/Petitioner GALLAWAY ENTERPRISES, INC.:

2

3

4 Date: \_\_\_\_\_ [name] \_\_\_\_\_  
[title]

5

6 For Plaintiff/Petitioner DOWNTOWN CHICO BUSINESS ASSOCIATION (a California  
501(c)(6) Non-Profit Corporation):

7

8 Date: \_\_\_\_\_ [name] \_\_\_\_\_  
[title]

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10

11 For Plaintiff/Petitioner CHICO FARM AND ORCHARD, INC.:

12

13 Date: \_\_\_\_\_ [name] \_\_\_\_\_  
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16 For Plaintiff/Petitioner W.M. CAMPBELL REAL ESTATE:

17

18 Date: \_\_\_\_\_ [name] \_\_\_\_\_  
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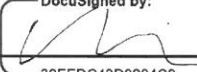
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Additional Signatures on Next Page

21 For Plaintiff/Petitioner MFC INVESTMENTS, LP:

22

23 Date: 8/17/2020 | 6:11 PM PDT [name] \_\_\_\_\_  
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26 For Plaintiff/Petitioner LASH'S GLASS LTD:

27

28 Date: \_\_\_\_\_ [name] \_\_\_\_\_  
[title]

For Plaintiff/Petitioner CHABIN CONCEPTS, INC.:

Date: \_\_\_\_\_  
[name]  
[title]

Date: \_\_\_\_\_  
Mollie Mcarthy-Openshaw

Date: \_\_\_\_\_  
Mark D. Owen

Date: \_\_\_\_\_  
Laurie Anne Maloney

Date: \_\_\_\_\_  
Rachel Eccles

Date: \_\_\_\_\_  
Weldon C. Larson

Date: \_\_\_\_\_  
Catherine Spear Gurney

Date: \_\_\_\_\_  
Roxanne Eldridge

Date: \_\_\_\_\_  
Andy Willhoit

Date: \_\_\_\_\_  
Karen Willhoit

Date: \_\_\_\_\_  
Frank L. Lewis

Date: \_\_\_\_\_  
Rodney Scott Winkle

Additional Signatures on Next Page

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Date: \_\_\_\_\_

Wes Hill

Date: \_\_\_\_\_

Kate Pinsonneault

Date: \_\_\_\_\_

Walter P. McNeill  
McNeill Law Offices  
Attorneys for Plaintiffs/Petitioners  
Approval as to Form

Date: \_\_\_\_\_

Robert L. Berry  
Attorneys for Plaintiffs/Petitioners  
Approval as to Form

Date: \_\_\_\_\_

Brandon Nunes  
Chief Deputy Director of Operations  
California Department of Health Care Services and Acting  
Director Sandra Shewry and Acting State Public Health  
Officer Dr. Erica Pan in their official capacities for the  
Department of Public Health

Date: \_\_\_\_\_

Matthew R. Day, Deputy Attorney General  
Office of the Attorney General  
Attorneys for Defendants/Respondents Department of  
Public Health and Acting Director Sandra Shewry and  
Acting State Public Health Officer Dr. Erica Pan  
Approval as to Form

Date: \_\_\_\_\_

[name]  
[title]  
Northern Valley Harm Reduction Coalition

Additional Signatures on Next Page

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Date: \_\_\_\_\_

\_\_\_\_\_  
Angel Gomez  
Program Manager of Northern Valley Harm Reduction  
Coalition

Date: \_\_\_\_\_

\_\_\_\_\_  
Brian E. Moskal  
Greenberg Glusker, LLP  
Attorneys for Defendants/Respondents/Real Parties in  
Interest Northern Valley Harm Reduction Coalition and  
Angel Gomez  
Approval as to Form

**TOWN OF PARADISE PLANNING COMMISSION STAFF REPORT**  
**PLANNING STAFF REPORT**  
**MEETING DATE: September 15, 2020**

**FROM:** Christopher Smith, Associate Planner  
**SUBJECT:** Martin Conditional Use Permit Application (PL20-00193)  
**DATE:** September 8, 2020

**AGENDA NO. 5(a)**  
**AP 052-150-028**

**GENERAL INFORMATION:**

Applicant: John Martin  
P.O. Box 95  
Paradise, CA 95967

Location: 800 Elliott Road

Requested Action: Conditional Use Permit approval to establish a contracting office and storage of construction equipment and materials.

Purpose: To provide contracting services.

Project Density: N/A

Present Zoning: "CC" (Community Commercial)

General Plan Designation: "TC" (Town Commercial)

Existing Land Use: Temporary office, cargo container, and mobile home.

Surrounding Land Use: North: Elliott Road  
East: Vacant Commercial  
South: Vacant Residential  
West: Queen Drive

Parcel Size: ±0.72 acres

CEQA Determination: Categorically Exempt – CEQA Section 15303, Class 3

Other: An appeal of the Planning Commission's decision can be made within seven (7) days of the decision date.

**NOTE: THE APPLICANT OR A REPRESENTATIVE SHOULD BE IN ATTENDANCE OR THE PLANNING COMMISSION MAY NOT TAKE ACTION ON THIS APPLICATION.**

### **SPECIAL INFORMATION:**

The permit applicant and project developer, John Martin, is requesting conditional use permit approval from the Town of Paradise to establish a contractor's office with vehicle, equipment and materials storage. Use permit application materials indicate that this use is intended to be temporary. One of two existing residential structures was destroyed by the Camp Fire, leaving only a mobile home with most of the lot vacant. The applicant is proposing to initially utilize a temporary commercial office building, as authorized under Paradise Municipal Code Section 17.06.980 through the end of calendar year 2022. The materials and storage will be secured within a cyclone fence and gate.

The 0.72-acre project site is located in the west central portion of the Paradise community at 800 Elliott Road and is situated within the Community Commercial (C-C) zoning district. The site is currently in use with fencing surrounding a mobile office, cargo container and a metal vehicle cover. The mobile home, located on the same property, is outside of the fencing and accessible from an unpermitted Elliott Rd driveway encroachment. The property is a corner lot with approximately 150' of frontage along Queen Drive, a public road, and 168' of frontage along Elliott Rd, a public arterial road. Currently, Martin Construction is using both Elliott Rd and Queen Dr for ingress and egress to the contractor's yard.

Property owners in the neighborhood have reached out to the Town concerning multiple issues. They have submitted pictures and claim that Martin Construction has used their land (driveways) to store roll-off dumpsters, heavy equipment, and employee parking. They are concerned the heavy equipment will erode Queen Drive and that the constant trash, debris, building materials and revolving heavy equipment stored in the area will drive down property values. Some property owners claim to have owned their land for several decades, one dating back to the 1950's, and wish to maintain the family-friendly neighborhood they had before the fire.

### **ENVIRONMENTAL REVIEW:**

As a project consisting of a commercial office not exceeding 2,500 square feet as well as small accessory storage structures, the project belongs to a class of projects that can be determined to be categorically exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section 15301 (Class 3) of the CEQA Guidelines.

### **ANALYSIS:**

Pursuant to Section 17.20.500 of the Paradise Municipal Code, the establishment of a construction sales and service land use with accessory bulk storage of materials is subject



to town approval of a conditional use permit.

After reviewing the application materials and circumstances associated with this application request, it is staff's position that the requested conditional use permit application is reasonable and that the establishment of the proposed construction sales and service land use is vital to the rebuild of the Town of Paradise. However, in response to the multiple letters of opposition from neighboring landowners, staff has developed several recommended conditions of project approval to ensure that this land use is compatible with the existing neighborhood. Therefore, staff recommends Planning Commission approval of the Martin conditional use permit application, based upon and subject to the following recommended findings and conditions of project approval:

**REQUIRED FINDINGS FOR APPROVAL:**

- a. Find that the proposed project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15303 (Class 3) of the CEQA guidelines.
- b. Find that the project, **as 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 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.

**RECOMMENDATION:**

Adopt the required findings for approval as provided by staff and approve the Martin conditional use permit application (PL20-00193) to allow the establishment of a construction sales and service land use to include a contractor's office, vehicle and equipment storage and storage of bulk materials subject to the following conditions:

**GENERAL CONDITIONS OF PROJECT APPROVAL**

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 Design Review approval for the proposed building façades and any business signage.

3. All existing structures and signs on-site, relating to the construction sales and service land use, must meeting minimum property line setbacks.
4. Use of a temporary commercial office building is subject to the issuance of a Temporary Use Permit for a time period ending no later than December 31, 2022.
5. No inoperative or dismantled vehicles shall be stored where visible from off the site.
6. All work within the Elliott Road or Queen Drive 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.
7. Required landscape plans for the proposed project shall be designed to provide for landscaping comprising a minimum of ten percent of the developed area of the site. Landscape Plans shall be designed in accordance with the requirements of the State of California Model Water Efficient Landscape Ordinance (MWELO).
8. Outside light fixtures associated with the project shall be designed to not exceed a height of sixteen feet above finished grade and shall be shielded to prevent the direct projection of light onto adjoining and nearby properties.
9. Minor changes to the interior and/or exterior design of the project may be approved administratively by the Town Planning Director upon submittal of a written request for such changes, if the requested changes are consistent with the overall intent of the project, its environmental document and its approval action. Any requested changes deemed by the Planning Director to be major or significant shall require a formal use permit modification review by the Planning Commission and the payment of the appropriate processing fees.
10. Maintain the property in a manner consistent with the Town of Paradise Design Standards.
11. Pay development impact fees prior to issuance of building permits for project construction in accordance with Paradise Municipal Code requirements.

#### **CONDITIONS TO BE MET WITHIN 60 DAYS OF USE PERMIT ISSUANCE**

##### **ROADS AND ACCESS**

12. Secure the issuance of an encroachment permit from the Town Public Works Department for the unpermitted gravel driveway encroachment along the Elliott Road frontage of the project site, leading to the manufactured home, in a manner deemed

satisfactory to the Town Engineer.

13. Deed forty feet from the center of the Elliott Road right-of-way in a manner deemed satisfactory to the Town Engineer or provide a recorded document showing that this requirement has been met.

## **UTILITIES**

14. Meet the requirements of the Paradise Irrigation District (PID) in accordance with written communication from PID staff regarding the Martin use permit application, dated July 2, 2020 and on file with the Town Development Services Department. If potable water cannot be restored by PID prior to occupancy, evidence of an approved temporary water system will be required.

## **SITE DEVELOPMENT**

15. Meet the requirements of the Town Building Official regarding submittal of construction plans, building permit application, and all applicable town adopted construction code requirements. Use of the temporary commercial trailer will require application and issuance of a temporary use permit in addition to a building permit.
16. A submitted Surveyor's Certification is required prior to the issuance of any building, septic, or engineering permit.
17. Complete the requirements of the Town Onsite Sanitary Official concerning application, permit issuance, and installation of a replacement septic system to serve this property. Provide evidence thereof to the Town Development Services Department (building division).
18. Establish and maintain on-site parking facilities containing a minimum of 4 parking spaces, one of which must be a van-accessible handicap space, in accordance with all town parking ordinance regulations including an accessible path of travel from the public right-of-way to the building.
19. Meet the requirements of the Fire Prevention Inspector in accordance with written comments dated July 1, 2020 (attached).
20. Submit and secure approval of required erosion and sediment control plan and a dust emissions control plan in a manner deemed satisfactory to the Town Engineer. Implementation and maintenance of the approved erosion and sediment control and dust emissions control plans shall be maintained and ongoing for the term of the proposed land use.

21. Equipment and storage areas shall be shielded from off-site view with six-foot-tall sight obscuring fencing along the south and west property lines, at a minimum, in a manner satisfactory to the Town Planning Director and consistent with town zoning regulations.
22. The property owner shall be required to establish and maintain solid waste collection services for the project property, provided by the franchised solid waste hauler, for the duration of the construction sales and service land use.
23. Vehicles and construction equipment shall be stored within fenced area at all times. No storage or parking associated with the construction sales and service land use shall be allowed on Elliott Road or Queen Drive.

#### **CONDITIONS TO BE MET WITHIN 180 DAYS OF USE PERMIT ISSUANCE**

##### **SITE DEVELOPMENT**

24. Submit landscaping plans and current application fee to the Development Services Department (Planning Division) in accordance with Paradise Municipal Code requirements and install approved landscape materials in a manner deemed satisfactory to the town Planning Director. The required landscape plan shall include provisions for the planting of trees in areas adjacent to residential land uses and in areas plainly visible from Queen Drive.

##### **CONDITIONS OF LAND USE OPERATION**

25. Hours of operation for the proposed construction sales and service land use shall be limited from 7:00 a.m. to 6:00 p.m., Monday through Saturday.
26. All activities associated with the proposed contracting service, equipment and storage land use shall be conducted in compliance with the Town of Paradise Noise Control Ordinance.
27. Bulk material storage associated with the construction services shall be contained within storage buildings.

**Failure to uphold and maintain compliance with the conditions of this permit may result in the permit being administratively revoked by the Town of Paradise (PMC Section 17.32.600).**

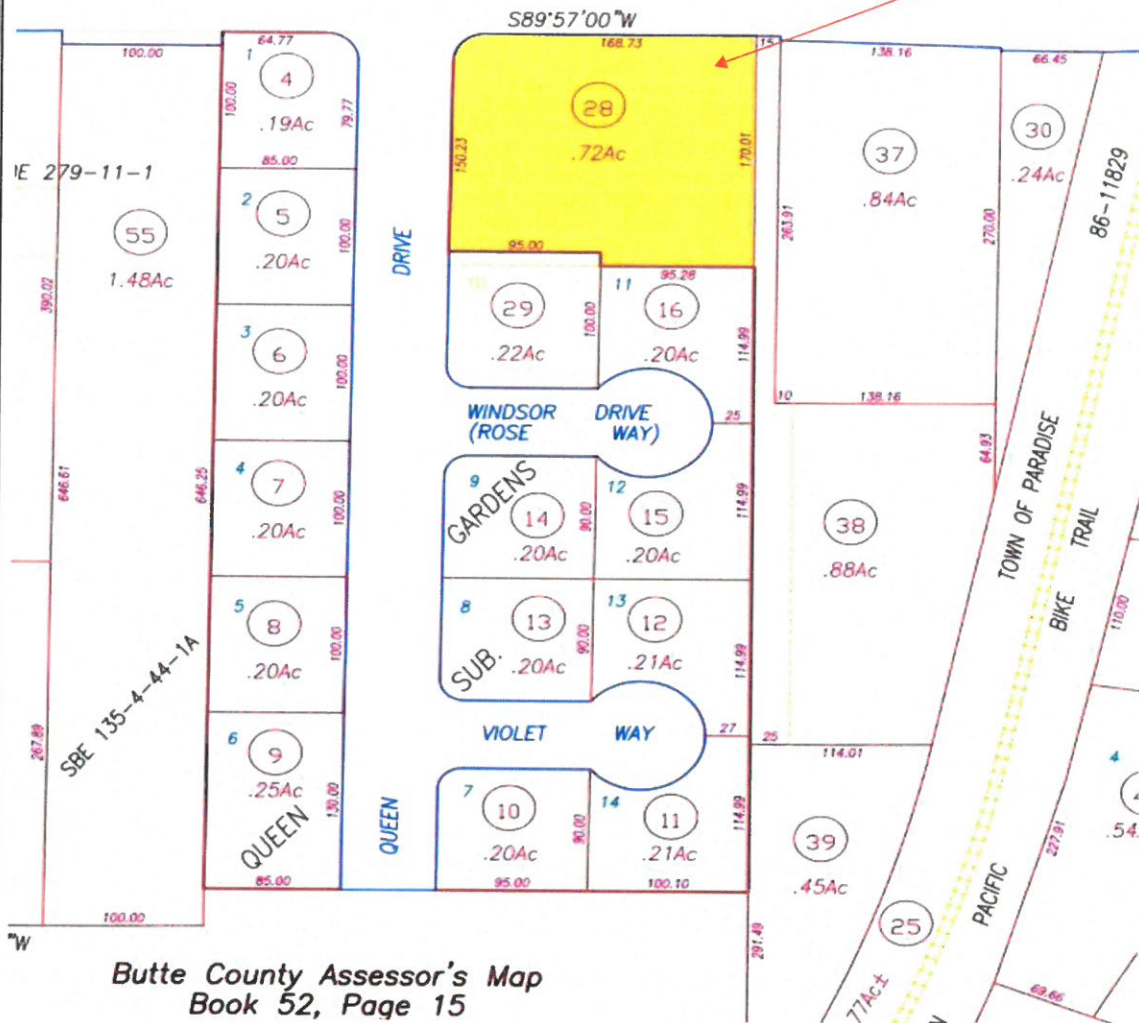
**ATTACHMENTS FOR  
PLANNING COMMISSION AGENDA ITEM 5(a)**

1. Project site vicinity map
2. Notice sent to surrounding property owners for the September 15<sup>th</sup>, 2020 public hearing
3. Mailing list of property owners notified of the September 15<sup>th</sup>, 2020 public hearing
4. Comments received from Fire Prevention Inspector Chris Rainey
5. Comments received from Town Engineer Marc Mattox
6. Comments received from Paradise Irrigation District Representative Jim Ladrini
7. Comments received from Paradise Police Chief Eric Reinbold
8. Comments received from Onsite Sanitary Official Bob Larson
9. Project letters of opposition
10. CEQA Notice of Exemption for the Martin CUP project
11. Conditional Use Permit application submitted by John Martin
12. Project site plan

SEC. 15 T.22N. R.3E. M.D.B.&M.

08

SUBJECT  
PARCEL



Butte County Assessor's Map  
Book 52, Page 15

↑  
N

APPLICANT: John Martin

OWNER: John Martin

800 Elliott Rd

**PROJECT DESCRIPTION:**

Proposed use change to Construction Sales and Services in a Community Commercial (CC) zoning district. Project will include temporary office space and storage.

ZONING: Community Commercial

GENERAL PLAN: TC

FILE NO. PL20-00193

ASSESSOR PARCEL NOS. 052-150-028

MEETING DATE: 09/15/2020

## NOTICE OF PUBLIC HEARING: PARADISE PLANNING COMMISSION

**NOTICE IS HEREBY GIVEN** by the Planning Commission that a public hearing will be held on **Tuesday, September 15, 2020 at 6:00 p.m.** in the Town Hall Council Chambers, 5555 Skyway, Paradise, CA, regarding the following projects:

a. Item to be determined to be exempt from environmental review

**MARTIN CONDITIONAL USE PERMIT APPLICATION (PL20-00193):** Planning Commission consideration of a conditional use permit application proposing the establishment of a construction sales and services land use on a vacant 0.72 acre property zoned Community Commercial (CC), located at 800 Elliott Road, Paradise and further identified as Assessor Parcel No. 052-150-028.

b. Item to be determined to be exempt from environmental review

**KINNEY SITE PLAN REVIEW PERMIT APPLICATION (PL20-00227):** Planning Commission consideration of a Site Plan Review permit application proposing the rebuild of a single family residence, with an expanded overall size of 1836 square feet, on a vacant 0.5 acre property zoned Neighborhood Commercial (NC), located at 6911 Clark Road, Paradise and further identified as Assessor Parcel No. 050-081-020.

The project files are available for public inspection at the Development Services Department, Town of Paradise, Building Resiliency Center at 6295 Skyway. If you challenge these projects 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 Planning Director at, or prior to, the public hearing. For further information please contact the Planning Division at (530) 872-6291 x435.

SUSAN HARTMAN  
Planning Director



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9-15-2020 Use Avery Template 5160

052-150-028-000  
MARTIN JOHN THOMAS  
116 VALLEY VIEW DR  
PARADISE CA 95969

052-080-063-000  
BURKETT FAMILY TRUST  
5830 YORKSHIRE DR  
PARADISE CA 95969

052-080-073-000  
HALE MICHELLE E ETAL  
1694 FILBERT AVE  
CHICO CA 95926

052-080-081-000  
BURKETT FAMILY TRUST  
5830 YORKSHIRE DR  
PARADISE CA 95969

052-080-082-000  
VAIL ALAN G & JANET M FAMILY  
TRUST  
2618 ASPEN VALLEY LN  
SACRAMENTO CA 95835

052-080-108-000  
BRYNING KANDY S  
14813 WILDLIFE DR  
MAGALIA CA 95954

052-080-109-000  
HALE MICHELLE E ETAL  
1694 FILBERT AVE  
CHICO CA 95926

052-080-111-000  
ROMAN CATHOLIC BISHOP OF  
SACRAMENTO  
767 ELLIOTT RD  
PARADISE CA 95969

052-150-004-000  
MCBRIDE KEITH R & BRIDGET R  
1380 EAST AVE #124 BOX 712  
CHICO CA 95926

052-150-005-000  
WATERS JOHN A & LORRAINE M  
1348 W LONGHORN ST  
RATHDRUM ID 83858

052-150-006-000  
MASSEY KENT W & MICHELLE  
316 BYRON WAY  
ORLAND CA 95963

052-150-007-000  
MASSEY KENT W & MICHELLE  
316 BYRON WAY  
ORLAND CA 95963

052-150-012-000  
RITZA ASHLEY D  
PO BOX 3389  
CHICO CA 95927

052-150-014-000  
STEELE VICKIE A  
275 E SHASTA AVE APT 51  
CHICO CA 95973

052-150-015-000  
VALENCIA PAMELA M  
810 WINDSOR DR  
PARADISE CA 95969

052-150-016-000  
SMITH BRANDY & KYLE B  
3152 RAE CREEK DR  
CHICO CA 95973

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

052-150-029-000  
DUTRA STEVE & EVE FAMILY TRUST  
PO BOX 446  
FOREST RANCH CA 95942

052-150-030-000  
STEINEMAN LIDIA R  
543 BILLE RD  
PARADISE CA 95969

052-150-037-000  
WILSON RAYMOND HARRY & TERRY  
J  
PO BOX 5093  
CHICO CA 95927

052-150-038-000  
KEITH JAYNE A  
PO BOX 2455  
PARADISE CA 95967

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



Paradise Unified School District  
6696 Clark Road  
Paradise, CA 95969

Paradise Irrigation District  
6332 Clark Road  
Paradise, CA 95969

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

Paradise Ridge Chamber of  
Commerce  
6161 Clark Road Ste. 1  
Paradise, CA 95969

Paradise Board of Realtors  
PO Box 356  
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  
313 Walnut St., Ste. 140  
Chico, CA 95928

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

*Martin*  
*9-15-2020*



## Town of Paradise

### PARADISE FIRE & RESCUE

767 Birch Street, Paradise, CA 95969  
[www.townofparadise.com](http://www.townofparadise.com)  
(530) 872-6264



## Development Review

Project Name: Martin Conditional Use Permit

Location: 800 Elliott Road

APN: 052-150-028-000

Applicant: John Martin [Applicant & Owner]

Project No. PL20-00193

Date of Plan Review: July 1, 2020

Review conducted by: Chris Rainey, Fire Prevention Inspector 2

The scope of project: Proposed use change to Construction Sales and Services in a Community Commercial (CC) zoning district. Project will include temporary office space and storage.

Development review was performed and the following comments were generated:

### General:

1. Maintain (1) fire extinguisher with a 2A:10B:C rating inside the job trailer.
2. Where security gates are installed, they shall have an approved means of emergency operation (Knox Padlock from Paradise Fire Department). The security gates and the emergency operation shall be maintained operational at all times. Electric gate operators, where provided, shall be listed in accordance with UL 325.

Thank you,  
Chris Rainey  
Fire Prevention Inspector 2  
Town of Paradise  
530-872-6291 x304

## Hartman, Susan

---

**From:** Mattox, Marc  
**Sent:** Thursday, July 23, 2020 8:09 AM  
**To:** Smith, Chris; Peppas, Kevin  
**Subject:** RE: CUP PL20-00193

Good morning Chris:

Only comment on this one is they need a site-specific Erosion and Sediment Control Plan / Storm Water Pollution Control Plan to handle the material storage aspects of the site.

Thanks,

**Marc Mattox**

Public Works Director | Town Engineer  
Town of Paradise | 530-872-6291 x125

---

**From:** Smith, Chris <CSmith@townofparadise.com>  
**Sent:** Monday, June 29, 2020 4:36 PM  
**To:** Mattox, Marc <mmattox@townofparadise.com>; Peppas, Kevin <kpeppas@townofparadise.com>  
**Subject:** CUP PL20-00193

Please find the CUP attached for your review.

Thank you,

**Christopher Smith | Associate Planner**  
530-872-6291 | [csmith@townofparadise.com](mailto:csmith@townofparadise.com)



**TOWN OF PARADISE  
DEVELOPMENT SERVICES DEPARTMENT**

**DEVELOPMENT REVIEW REQUEST**

**TO:** CSS, Onsite, Fire, Engineering, PID, PPD

**FROM:** Susan Hartman, Acting Planning Director *SH*

**REQUEST:** Review and Comment

**DESCRIPTION OF PROJECT:** Proposed use change to Construction Sales and Services in a Community Commercial (CC) zoning district. Project will include temporary office space and storage.

**LOCATION:** 800 Elliot Road, Paradise

**AP NOS.:** 052-150-028

**APPLICANT:** John Martin [Applicant & Owner]

**CONTACT PHONE:** (530) 680-6423

**RETURN DATE REQUESTED:** **July 13, 2019**

**DATE DISTRIBUTED:** **June 29, 2020**

\*\*\*\*\*

**DOES YOUR AGENCY HAVE THE CAPACITY TO SERVE THIS PROJECT?**

\_\_\_\_ YES      ☒ YES, WITH CONDITIONS      \_\_\_\_ NO (EXPLAIN BELOW)

**COMMENTS AND/OR RECOMMENDED CONDITIONS:**

APN 052-150-028 is currently served water through a .75" metered service connection. Code upgrades and other changes may require an increased service connection size. Costs to increase service size are the responsibility of the property owner. Backflow prevention requirements apply to this parcel and is available through PID only. At the time of this response the Water Quality Advisory *has not* been lifted at this parcel. These comments apply to the domestic water supply only. Please contact our office @ 530-877-4971 for questions or assistance with requirements in this response. Jim Ladrini, July 2, 2020, [jladrini@paradiseirrigation.com](mailto:jladrini@paradiseirrigation.com) 530-876-2042

**TOWN OF PARADISE  
DEVELOPMENT SERVICES DEPARTMENT**

**DEVELOPMENT REVIEW REQUEST**

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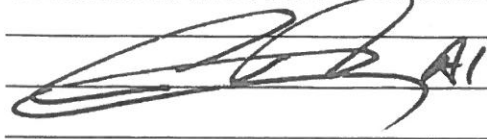
**DATE DISTRIBUTED:** **June 29, 2020**

\*\*\*\*\*

**DOES YOUR AGENCY HAVE THE CAPACITY TO SERVE THIS PROJECT?**

☒ **YES**      ☐ **YES, WITH CONDITIONS**      ☐ **NO (EXPLAIN BELOW)**

**COMMENTS AND/OR RECOMMENDED CONDITIONS:**

 *Eric Reinhold*  
Chief of Police

**NO RESPONSE FROM YOUR AGENCY MAY BE CONSTRUED THAT YOUR AGENCY HAS THE ABILITY TO SERVE THIS PROJECT.**

**PLEASE MAKE A COPY FOR YOUR RECORDS.**



**TOWN OF PARADISE  
DEVELOPMENT SERVICES DEPARTMENT**

**DEVELOPMENT REVIEW REQUEST**

TO: CSS, Onsite, Fire, Engineering, PID, PPD

FROM: Susan Hartman, Acting Planning Director *SH*

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CONTACT PHONE: (530) 680-6423

RETURN DATE REQUESTED: **July 13, 2019**

DATE DISTRIBUTED: **June 29, 2020**

\*\*\*\*\*  
DOES YOUR AGENCY HAVE THE CAPACITY TO SERVE THIS PROJECT?

☐ YES      ☒ YES, WITH CONDITIONS      ☐ NO (EXPLAIN BELOW)

**COMMENTS AND/OR RECOMMENDED CONDITIONS:**

REPAIRS TO SEPTIC SYSTEM MUST BE COMPLETED  
WITH IN 90 DAYS  
FOR 7/6/20

**NO RESPONSE FROM YOUR AGENCY MAY BE CONSTRUED THAT YOUR AGENCY HAS THE ABILITY TO SERVE THIS PROJECT.**

**PLEASE MAKE A COPY FOR YOUR RECORDS.**



March 24, 2020

Community Development Dept.  
5555 Skyway  
Paradise, Ca. 95969

ATTENTION: Susan Hartman, Director

Dear Ms. Hartman,

My family home, built in 1959, was located at 810 Violet Way. My husband and I are the current owners having purchased it from my parents before their deaths. The property is located on the second cul-de-sac off Queen Drive which comes off Elliott Rd. Sadly, the entire neighborhood was destroyed by the Camp Fire. I spent my childhood in that neighborhood and have fond memories of the families and elders I was so fortunate to live among.

Since the 50's there were only a few changes. The first house facing Queen Dr. was rezoned "commercial" and the home was converted into an insurance brokerage. Other than a paved parking lot, from the exterior, the building looked just as it did in my childhood. The other change occurred on the opposite corner property facing Elliott Rd. The woman who lived there set up a couple of rooms in her home as a "hair cutting" salon space. A mobile on the property was converted to house for "at risk youth."

Then the Camp Fire occurred! An individual purchased the property as well as a temporary "use permit" to use the parcel as a "debris removal" contractor. During the town's clean-up process the owner used the entire length of Queen Drive to park trailers and trucks. Now, it appears the owner is planning on staying and using the converted space as a "construction" company. A neighboring property owner informed me that the contractor was given a citation for using the property for construction purposes beyond the temporary permit originally applied for. My understanding is that he intends to apply for a "permanent change of use" to continue running a construction company from this location. We strongly oppose this usage!

We are certainly faced with an overwhelming challenge to "rebuild" our Paradise. It will look different and will take decades to resemble the beautiful town we lived in prior to Nov. 8, 2018. Our love of this community will call on all of us to


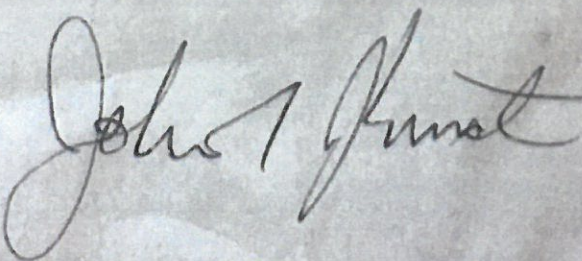


persevere against the odds with strong visions, hard work, co-operation, and patience.

We have participated and attended the "focus" meetings held in the beginning of this process and applaud the outcome focused on the center of town location and "vision" of a walking friendly space. The Queen Drive Subdivision (as it was originally called) is located quite near the proposed "downtown" area. A "construction company" would be a VERY inappropriate usage of the Elliott/Queen parcel I am questioning above. We have an industrial sector of town located on lower Clark Rd. which would be FAR more appropriate. It is no secret the Town is in need of revenues to be generated by businesses returning or starting up. The leaders in our Town Government have been working overtime and must have many sleepless nights thinking about how we "start" a town from "almost" scratch and the "best" way to do this. For that we are grateful!

We are sending this correspondence with the intention of supporting efforts by our Town Governing body to "re-create" the "neighborhood atmosphere" that drew us here in the first place. The Queen Drive/Elliott area is close to churches, schools, businesses, and the "new downtown." Let's encourage useful small businesses on these properties zoned commercial who will be an enhancement to the visual as well as practical services of our returning families.

Sincerely,

Vicki & John Kunst,  
Property owners of 810 Violet Way

P.S. 530-591-3294 Vicki  
530-570-8289 John



## Hartman, Susan

---

**From:** Kent Massey <rosiekosh@aol.com>  
**Sent:** Thursday, July 2, 2020 12:18 PM  
**To:** Smith, Chris  
**Subject:** Re: RE: RE: RE: 800 Elliot

Great. Thanks

Our neighborhood is small. It consists of 12 homes on a short dead-end street with two cul-de-sacs. A construction company yard at the entrance to our neighborhood is not a good fit. Shortly after the fire, Martin sneaked his business in under the radar. With all that was going on, no one in the town paid any attention to the business. This lot is zoned commercial but is provisional and is intended for retail and repair according to conversations I've had with the zoning dept. The business that the zoning accommodated was a one chair beauty salon operated from within the residence. There were no issues with traffic, noise pollution or hazmat storage. Since this was their residence, it was always very well kept. Now, Martin is using this lot as a construction company lay down yard and Heavy equipment storage. Heavy industrial is a far cry from retail and repair. The property is also a horrible eyesore. The lot is surrounded by a temporary cyclone fence. There has been no attempt to clean up the burned and dead trees and foliage on the outside of the fence. Inside the enclosure are piles of building materials, debris piles, a small office trailer, some type of elevated fuel or oil tank and ever changing numbers of pieces of heavy equipment. I first saw this as a problem when we were in the debris removal phase of rebuilding. Martin was using our neighborhood as a parking lot for his large roll-off dumpsters, his equipment trailers and the employees were parking their cars in the driveways of the burned homes. Obviously this lot is too small for a construction company. Also, they have been using the side gate onto Queen Dr. as their entrance and exit to the yard. I don't think Queen Dr was constructed for continuous heavy truck traffic. Paradise Police was notified about the equipment parking issue and they either issued citations or gave a warning. After communicating my concerns about the business to code enforcement, Rick Trent eventually issued a citation which has prompted Martin's application for a use permit. This is a small residential community. Several property owners besides myself are intending to rebuild. Having this construction yard on the corner at the entrance to our neighborhood will certainly drive down our property values and make it a less than desirable place to live. We have lived on Queen Dr since 1974. When the town was working so hard on the downtown rejuvenation and revitalization, our neighborhood was on the map as being in the downtown area. I don't think a construction company yard fits now nor would it have with the town master plan. I will send you some photos and a copy of one of the neighbors letters to Susan. All the neighbors with intentions of coming back mutually agree that Martin Construction Co should not be allowed to operate at 800 Elliott. Sincerely  
Kent Massey

From: Smith, Chris <CSmith@townofparadise.com>  
To: Kent Massey <rosiekosh@aol.com>  
Sent: Thu, Jul 2, 2020 10:54 AM  
Subject: RE: RE: RE: 800 Elliot

Kent,

## Hartman, Susan

---

**From:** esee2248 <esee2248@aol.com>  
**Sent:** Tuesday, July 21, 2020 7:36 PM  
**To:** Smith, Chris  
**Subject:** Rezoning

To whom it may concern:

This will be my 2nd attempt at reaching out to you. My husband and I own property at 801 Windsor which was totally destroyed by the camp fire. Prior to the fire, the property behind us was multifamily. It is on the corner of Queen and Elliott. It is 800 Elliott.

It is my understanding that the construction company which purchased the property after the fire is trying to have it rezoned.

I strongly object to that proposal. It will greatly reduce the value of our property which is already depressed due to the fact of the fire. If it is rezoned we were told by the owner that he intends to put a bar, restaurant and distillery there after its usefulness as a construction yard is done. That is not a good location for that type of usage with single family homes backing up to it. It will not bring families back to the area.

I implore you to keep the property zoned for multifamily or single family use.

Sent from my Verizon, Samsung Galaxy smartphone

# NOTICE OF EXEMPTION

**TO:** File – [PL20-00193]; AP No. 052-150-028  
**FROM:** Town of Paradise, Community Development Department,  
Planning Division, 5555 Skyway, Paradise CA 95969

**PROJECT TITLE:** Martin Conditional Use Permit

**PROJECT APPLICANT:** John Martin

**PROJECT LOCATION:** 800 Elliott Rd, Paradise, CA.

**PROJECT DESCRIPTION:** Proposed Construction Sales and Service land use on a vacant 0.72 ac property zoned Community Commercial. Project will include temporary office trailer and storage containers for construction materials.

**APPROVING PUBLIC AGENCY:** Town of Paradise

**PERSON OR AGENCY CARRYING OUT PROJECT:** John Martin

**EXEMPT STATUS:**  
☐ General Rule Exemption (Section 15061)  
☐ Ministerial (Section 15268)  
☐ Emergency Project (Section 15269)  
☒ Categorical Exemption  
Section 15303; Class 3

**REASON FOR EXEMPTION:** New commercial construction under 2,500 sq ft.

**CONTACT PERSON:** Susan Hartman, Planning Director  
(530) 872-6291

**SIGNATURE:**



---

Planning Director

Date: September 9, 2020

DEPARTMENTAL USE ONLY:

Receipt No. \_\_\_\_\_ Fee \_\_\_\_\_  
Project No. \_\_\_\_\_

**TOWN OF PARADISE  
APPLICATION FOR CONDITIONAL USE PERMIT**

Applicant John Martin Phone 530-680-6423

Applicant's Mailing Address PO Box 95 Paradise CA 95967

Applicant's email address MartinConstructionParadise@aol.com Fax \_\_\_\_\_

Applicant's Interest in Property (Owner, Lessee\*, Other\*) Owner  
\*If applicant is NOT the property owner, the owner's signature or owner-signed letter of authorization MUST accompany this application.

Owner's Name John Martin Phone 530 680 6423

Owner's Mailing Address PO Box 95 Paradise CA 95967

Property Address 800 Elliott Rd. Parcel Size \_\_\_\_\_

Engineer (Name, Address) \_\_\_\_\_

Engineer Phone \_\_\_\_\_ Fax \_\_\_\_\_ Email \_\_\_\_\_

AP Number(s) D52-150-028 Zone \_\_\_\_\_ Existing Use \_\_\_\_\_

Detailed project description: (attach additional sheets if necessary) Temporary Construction Company Site. Mobile job trailer, storage, and parking.

Purpose of project: \_\_\_\_\_

Radial distance to the nearest billboard \_\_\_\_\_

Sq. ft. of proposed structure/project \_\_\_\_\_ Approx. no. yards of cut/fill \_\_\_\_\_

Percentage increase in area of structures on site (example: A 250 sq. ft. addition to a 1,000 sq. ft. building = 25%) \_\_\_\_\_

Distance to nearest fire hydrant \_\_\_\_\_ Distance from centerline \_\_\_\_\_

Days/hours of operation: Days \_\_\_\_\_ Hours \_\_\_\_\_ Proposed no. of employees \_\_\_\_\_

Residential Density \_\_\_\_\_ Max. occupancy \_\_\_\_\_ Max. height of proposed structure/project \_\_\_\_\_

Describe exterior design and exterior finish (Attach additional sheet(s) if necessary.): \_\_\_\_\_

Method of sewage disposal? Portable toilet

Is the proposed project site considered sensitive for archaeological resources? Yes \_\_\_\_\_ No \_\_\_\_\_ (Please consult staff.)

**NOTE: IF YES, PLEASE SUBMIT PAYMENT OF FEES TO "NORTHEASTERN INFORMATION CENTER" FOR ARCHAEOLOGICAL RECORDS INVENTORY SEARCH.**

**I HEREBY DECLARE UNDER PENALTY OF PERJURY THAT THE ABOVE STATEMENTS AND ATTACHED PLOT PLAN ARE TRUE, ACCURATE, COMPLETE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.**

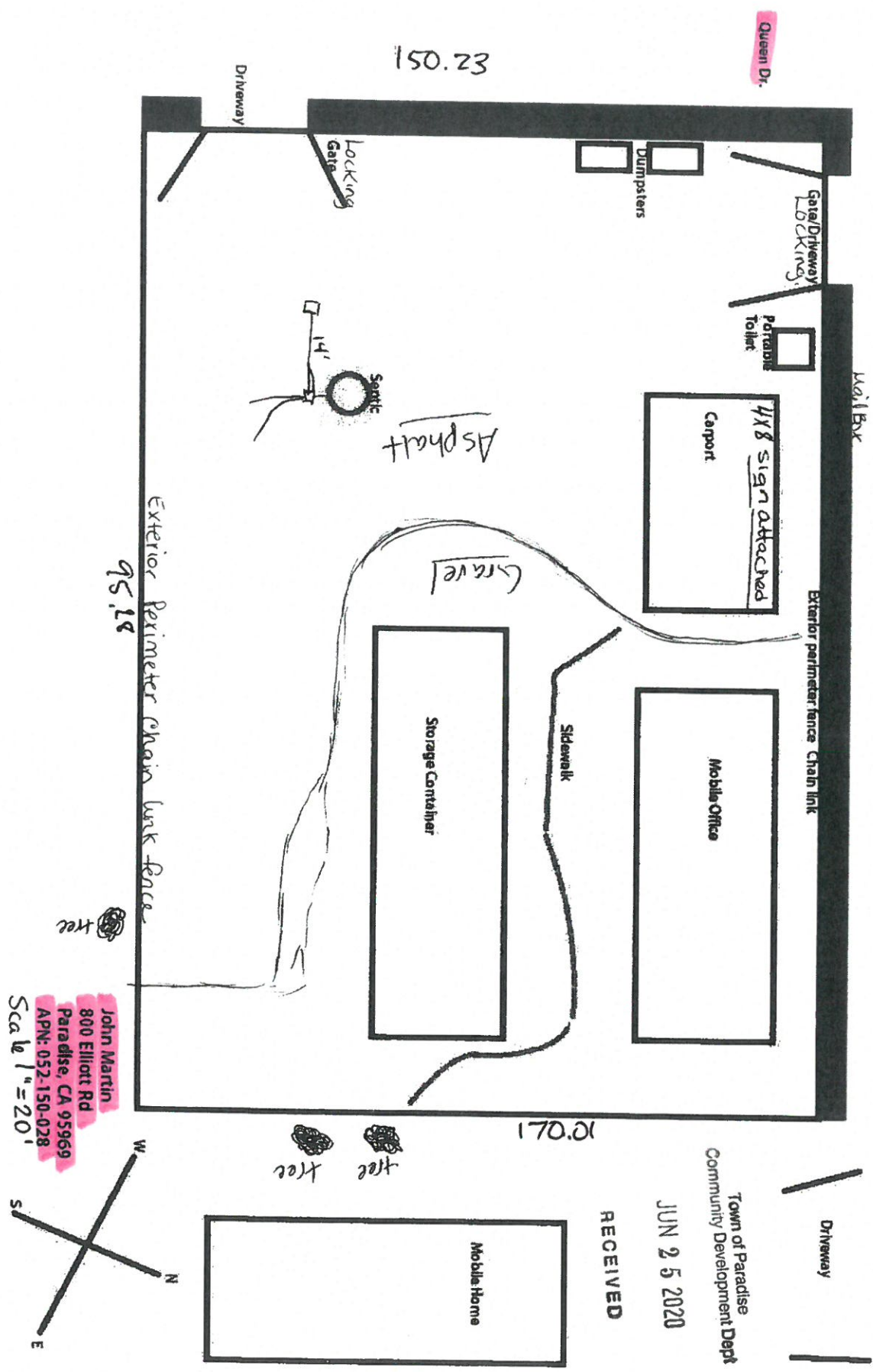
Applicant's Signature [Signature] Date 6/4/2020

Property Owner Signature [Signature] Date 6/4/2020  
(If applicable)

**PLEASE ALLOW 6-8 WEEKS FOR PROCESSING. LONGER IF THE PROJECT IS SUBJECT TO ENVIRONMENTAL REVIEW.**

**NOTE: By signing this application form, the applicant is indicating that the project site is not included on any state or local list of hazardous waste sites compiled pursuant to California Government Code Section 65962.5, effective July 1, 1987.**

Closest Hydrant # 5072  
at approx.  
803 Elliott Rd.



Town of Paradise  
Community Development Dept  
JUN 25 2020  
RECEIVED

John Martin  
800 Elliott Rd  
Paradise, CA 95969  
APN: 052-150-028  
Scale 1" = 20'

[Type here]

**TOWN OF PARADISE PLANNING COMMISSION  
PLANNING STAFF REPORT  
MEETING DATE: September 15, 2020**

**FROM:** Susan Hartman, Community Development Director      **AGENDA NO. 5(b)**  
**SUBJECT:** Kinney Site Plan Review Permit Application (PL20-00227)  
**DATE:** September 10, 2020      **AP 050-081-020**

**GENERAL INFORMATION:**

Applicant: Ann Kinney  
1710 Nord Ave  
Chico, CA. 95926

Location: 6911 Clark Road, Paradise

Requested Action: Site Plan Review Permit approval to rebuild a single-family residence, within the Neighborhood Commercial zoning district, that was destroyed by the Camp Fire.

Purpose: To provide an additional  $\pm 527$  square feet of living area

Present Zoning: Neighborhood Commercial

General Plan Designation: Neighborhood Commercial (N-C)

Existing Land Use: Vacant (due to Camp Fire)

Surrounding Land Use:

North:	Vacant land (previously residential)
East:	Clark Road
South:	Vacant land (previously commercial)
West:	Vacant land (previously residential)

Parcel Size:  $\pm 0.5$  acres

CEQA Determination: Categorically Exempt - CEQA Section 15302, Class 2

Other: An appeal of the Planning Commission's decision can be made within seven (7) days of the decision date.

**NOTE: THE APPLICANT OR A REPRESENTATIVE SHOULD BE IN ATTENDANCE OR THE PLANNING COMMISSION MAY NOT TAKE ACTION ON THIS APPLICATION**

## **PROJECT INFORMATION:**

The project applicant is seeking approval from the Town of Paradise, via site plan review permit approval, to rebuild and expand a previously existing legal non-conforming single-family residence. The  $\pm 0.5$ -acre property is located at 6911 Clark Road, a paved arterial street, and is currently vacant due to the Camp Fire. Previously, the residence was surrounded by other residential land uses to the north and to the west all of which were destroyed in the Camp Fire.

Butte County Assessor records show that the previous residence was legally established in 1957, prior to the Town's incorporation. The proposed rebuild would include an additional  $\pm 527$  square feet of new living area to the previous 1,309 square foot home for a total of 1,836 square feet. The rebuilt residence would contain three (3) bedrooms, like the previous home, and will be able to utilize the existing septic system which passed a post-fire inspection. While the previous home had an attached 2-car garage, at this time only graveled parking is proposed.

## **ANALYSIS:**

As a rebuild of an existing structure, this project has been determined by planning staff to belong to a class of projects which are categorically exempt from environmental review, pursuant to the requirements of the California Environmental Quality Act (CEQA Section 15302).

Pursuant to the provisions of Chapter 17.20 (Neighborhood-Commercial (N-C), Central-Business (C-B) and Community-Commercial (C-C) Zones) of the Paradise Municipal Code, an approved site plan review permit is required to authorize a single family residence on the project site. This project does not qualify as an exempted legal non-conforming rebuild because of the additional square footage so submittal of the Kinney Site Plan Review permit application is consistent with zoning regulations assigned to the project site.

Reviewing agencies have the capacity to serve the Kinney Site Plan Review permit project and as such, town staff is recommending Planning Commission approval of the project, subject to the attached list of conditions developed to ensure orderly development of the site.

## **ANALYSIS CONCLUSION:**

Based upon the circumstances outlined above and the environmental setting of the predominantly residential neighborhood, staff submits that Town authorization to rebuild an enlarged single-family residence is reasonable and appropriate.

**If conditionally approved by the Planning Commission as recommended**, this proposed project can be found to be consistent with the goals and land use policies of the Paradise General Plan. The proposed project, as conditioned, would also be compatible with the previously existing residential land uses that surrounded the project site.



**REQUIRED FINDINGS FOR APPROVAL:**

- a. Find that the proposed project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15302 (Class 2) of the CEQA guidelines.
- b. Find that the proposed project, as conditioned, is consistent with the goals and land use policies of the current Paradise General Plan because project approval would authorize development that is in balance with the previously existing residential neighborhood.
- c. Find that the project, as proposed and conditioned, will be compatible with surrounding land uses and shall not be detrimental to the public's health, safety and general welfare because the land use on the property will continue to be residential in character and no substantial changes in the character of the existing land use on the site are proposed or envisioned.

**RECOMMENDATION:**

Adopt the required findings for approval as provided by staff, and approve the site plan review permit application (PL20-00227) to authorize the construction and installation of a single-family dwelling on a ±0.5-acre property zoned Neighborhood-Commercial, subject to the following conditions of approval:

**GENERAL CONDITIONS OF SITE PLAN REVIEW PERMIT**

1. If any land use for which a site plan review permit has been granted and issued is not established within three years of the permit's effective date, the site plan review permit may become subject to revocation by the Town of Paradise.

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

**SITE DEVELOPMENT**

2. Submit construction documents and meet the requirements of the Town Building Official regarding building permits and all applicable town-adopted construction code regulations including Wildfire Urban Interface construction requirements.

**FIRE**

3. Remove log piles to the satisfaction of the Fire Prevention Inspector per the written comments received August 4, 2020 and on file with the Development Services Department.

**OTHERS**

4. Pay any applicable development impact fees in accordance with Paradise Municipal Code requirements.

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

**SITE DEVELOPMENT**

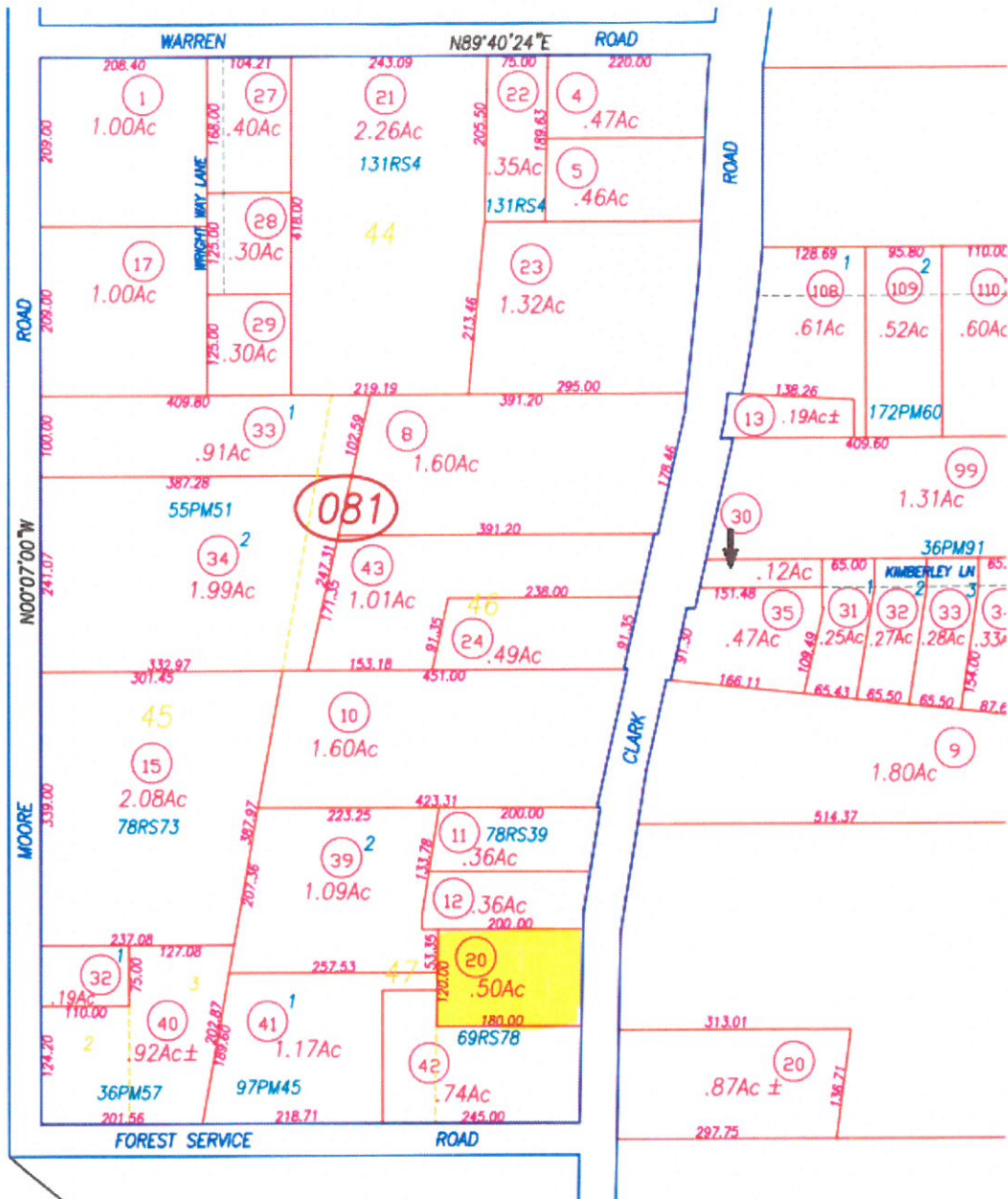
5. Complete the project as per the approved building plans including inspection of the new building sewer line to the existing septic system.
6. All flammable vegetation shall be removed at a minimum distance of one hundred (100) feet from all structures or to the property line, whichever is less.
7. Approved address shall be placed on the residence above the doorway, or in such a position as to be visible from the road accessing the property.

**UTILITIES**

8. Provide evidence that the Paradise Irrigation District water advisory has been lifted for the property.
9. Meet the requirements of all other utility providers regarding the extension or relocation of utility service lines and the establishment of any necessary on-site utility easements.

**LIST OF ATTACHMENTS FOR KINNEY SITE PLAN REVIEW PERMIT APPLICATION  
(PL20-00227)**

1. Project site vicinity map
2. Notice sent to surrounding property owners and the Paradise Post for the September 15, 2020 public hearing
3. Mailing list of property owners and agencies notified of the public hearing
4. Comments received from Fire Prevention Inspector Chris Rainey dated September 4, 2020
5. Completed site plan review permit application and site plan
6. CEQA Notice of Exemption document for the Kinney project



S. 1/4 CRN.

↑  
N

APPLICANT: Anna Kinney

OWNER: Anna Kinney

6911 Clark Rd

**PROJECT DESCRIPTION:**

Proposed establishment of a rebuilt 1,836 square feet single family residence on a vacant 0.5 acre property zoned Neighborhood Commercial (NC), located at 6911 Clark Road.

ZONING: Neighborhood Commercial

GENERAL PLAN: NC

FILE NO. PL20-00227

ASSESSOR PARCEL NO. 050-081-020

MEETING DATE: 09/15/2020

## NOTICE OF PUBLIC HEARING: PARADISE PLANNING COMMISSION

**NOTICE IS HEREBY GIVEN** by the Planning Commission that a public hearing will be held on **Tuesday, September 15, 2020 at 6:00 p.m.** in the Town Hall Council Chambers, 5555 Skyway, Paradise, CA, regarding the following projects:

a. Item to be determined to be exempt from environmental review

**MARTIN CONDITIONAL USE PERMIT APPLICATION (PL20-00193):** Planning Commission consideration of a conditional use permit application proposing the establishment of a construction sales and services land use on a vacant 0.72 acre property zoned Community Commercial (CC), located at 800 Elliott Road, Paradise and further identified as Assessor Parcel No. 052-150-028.

b. Item to be determined to be exempt from environmental review

**KINNEY SITE PLAN REVIEW PERMIT APPLICATION (PL20-00227):** Planning Commission consideration of a Site Plan Review permit application proposing the rebuild of a single family residence, with an expanded overall size of 1836 square feet, on a vacant 0.5 acre property zoned Neighborhood Commercial (NC), located at 6911 Clark Road, Paradise and further identified as Assessor Parcel No. 050-081-020.

The project files are available for public inspection at the Development Services Department, Town of Paradise, Building Resiliency Center at 6295 Skyway. If you challenge these projects 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 Planning Director at, or prior to, the public hearing. For further information please contact the Planning Division at (530) 872-6291 x435.

SUSAN HARTMAN  
Planning Director

050-081-020-000  
KINNEY ANNA ROSINA  
1710 NORD AVE  
CHICO CA 95926

050-081-012-000  
LASSEN GROUP LLC  
1620 HERVEY LN  
SAN JOSE CA 95125

050-081-042-000  
SAUTTER KEITH R & JACQUELINE C  
641 POPLAR ST  
CHICO CA 95928

050-082-022-000  
PINE SPRINGS ASSET PARTNERS LP  
P O BOX 2308  
LAGUNA HILLS CA 92654

050-140-055-000  
CULLETON STEVE J & MAUREEN  
1552 FOREST SERVICE RD  
PARADISE CA 95969

050-081-010-000  
SPREEN FAMILY TRUST  
6953 CLARK RD  
PARADISE CA 95969

050-081-039-000  
CONGDON MICHAEL R & DEBRA S  
620 ACACIA LN  
CHICO CA 95926

050-082-009-000  
CONDIT JEFFERY CHARLES  
7722 PO RIVER DR  
SPOTSYLVANIA VA 22551

050-140-033-000  
CULLETON STEPHEN JAY &  
MAUREEN  
1552 FOREST SERVICE RD  
PARADISE CA 95969

050-140-152-000  
BERNDT TRUST  
PO BOX 7656  
CHICO CA 95927

050-081-011-000  
DEMARCO VALERIE L  
1238 LAS PALMAS DR  
SANTA CLARA CA 95051

050-081-041-000  
SZEHNER DOUGLAS P  
3531 GREENS ST  
PLUMAS LAKE CA 95961

050-082-020-000  
HEGENBART JEROME D &  
KATHERINE S REVOCABLE TRUST  
PO BOX 766  
LOS MOLINOS CA 96055

050-140-054-000  
OKELLEY KATHERINE FRANCIS REV  
LIVING TRUST ETAL  
16115 SKYWAY  
MAGALIA CA 95954

050-140-160-000  
PARADISE INVESTMENT GROUP, LLC

9-15-2020  
Kinney

Paradise Unified School District  
6696 Clark Road  
Paradise, CA 95969

Paradise Irrigation District  
6332 Clark Road  
Paradise, CA 95969

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

Paradise Ridge Chamber of  
Commerce  
6161 Clark Road Ste. 1  
Paradise, CA 95969

Paradise Board of Realtors  
PO Box 356  
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  
313 Walnut St., Ste. 140  
Chico, CA 95928

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

**TOWN OF PARADISE  
DEVELOPMENT SERVICES DEPARTMENT**

**DEVELOPMENT REVIEW REQUEST**

**TO:** Fire, Eng., Onsite, PID, PD, and CSS

**FROM:** Anne Vierra, Assistant Planner

**REQUEST:** Review and Comment

**DESCRIPTION OF PROJECT:** Proposed is a rebuild of a manufactured home at 1836 square feet on a .05 acre property in NC zoning. no previous evidence of permitted structure or previous use permit on file

**LOCATION** 6911 Clark Rd

**AP NOS.:** 050-081-020-000

**APPLICANT:** Redline Installations inc

**CONTACT PHONE:** 530-891-6719

**RETURN DATE REQUESTED:** 8/14/20

**DATE DISTRIBUTED:** 7/31/20

Town of Paradise  
Community Development Dept

SEP 04 2020

RECEIVED

\*\*\*\*\*

**DOES YOUR AGENCY HAVE THE CAPACITY TO SERVE THIS PROJECT?**

☐ YES ☒ YES, WITH CONDITIONS ☐ NO (EXPLAIN BELOW)

**COMMENTS AND/OR RECOMMENDED CONDITIONS:**

Remove log piles to reduce fire hazards.

**NO RESPONSE FROM YOUR AGENCY MAY BE CONSTRUED THAT YOUR AGENCY HAS THE ABILITY TO SERVE THIS PROJECT.**

**PLEASE MAKE A COPY FOR YOUR RECORDS.**



## DEPARTMENTAL USE ONLY:

Receipt No. \_\_\_\_\_ Fee \_\_\_\_\_  
Project No. \_\_\_\_\_TOWN OF PARADISE  
APPLICATION FOR SITE PLAN REVIEW PERMITApplicant Redline Installations Inc. Phone 530-891-6719Applicant's Mailing Address 13407 Garner Ln Chico, ca 95973Applicant's email address permit@redlineinstall.com Fax 530-891-6720Applicant's Interest in Property (Owner, Lessee\*, Other\*) Contractor

\*If applicant is NOT the property owner, the owner's signature or owner-signed letter of authorization MUST accompany this application.

Owner's Name Ann Rosina Kinney Phone 530-762-9694Owner's Mailing Address 1710 Nord Ave Chico, ca 95926Property Address 16911 Clark Rd. Parcel Size 5 acres

Engineer (Name, Address) \_\_\_\_\_

Engineer Phone \_\_\_\_\_ Fax \_\_\_\_\_ Email \_\_\_\_\_

AP Number(s) 050-081-020 Zone NC Existing Use residenceDetailed project description: (attach additional sheets if necessary) Install MH on permanent corner stone foundation system, cut & rock pad, 2-3x3 landings with steps, connect to existing septic, new water line from meter to home. Install 200amp meter on home and wire to panel, rough gradingPurpose of project: Replacement of single family residence that was destroyed during the Camp fire.Radial distance to the nearest billboard N/ASq. ft. of proposed structure/project 1836 Approx. no. yards of cut/fill 550 cubic yards displaced for house padPercentage increase in area of structures on site (example: A 250 sq. ft. addition to a 1,000 sq. ft. building = 25%) 40.26%Distance to nearest fire hydrant ~160' Distance from centerline 50'Days/hours of operation: Days NA Hours NA Proposed no. of employees NAResidential Density \_\_\_\_\_ Max. occupancy NA Max. height of proposed structure/project 16'Describe exterior design and exterior finish (Attach additional sheet(s) if necessary.): See elevation + finishes attachedMethod of sewage disposal? Existing septic system

Is the proposed project site considered sensitive for archaeological resources? Yes \_\_\_\_\_ No \_\_\_\_\_ (Please consult staff.)

[NOTE: IF YES, PLEASE SUBMIT PAYMENT OF FEES TO "NORTHEASTERN INFORMATION CENTER" FOR ARCHAEOLOGICAL RECORDS INVENTORY SEARCH.]

I HEREBY DECLARE UNDER PENALTY OF PERJURY THAT THE ABOVE STATEMENTS AND ATTACHED PLOT PLAN ARE TRUE, ACCURATE, COMPLETE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Applicant's Signature Lucas E. Jones Date 7/14/2020Property Owner Signature Ann R Kinney Date 7-17-20  
(If applicable)

PLEASE ALLOW 6-8 WEEKS FOR PROCESSING: LONGER IF THE PROJECT IS SUBJECT TO ENVIRONMENTAL REVIEW.

NOTE: By signing this application form, the applicant is indicating that the project site is not included on any state or local list of hazardous waste sites compiled pursuant to California Government Code Section 65962.5, effective July 1, 1987.

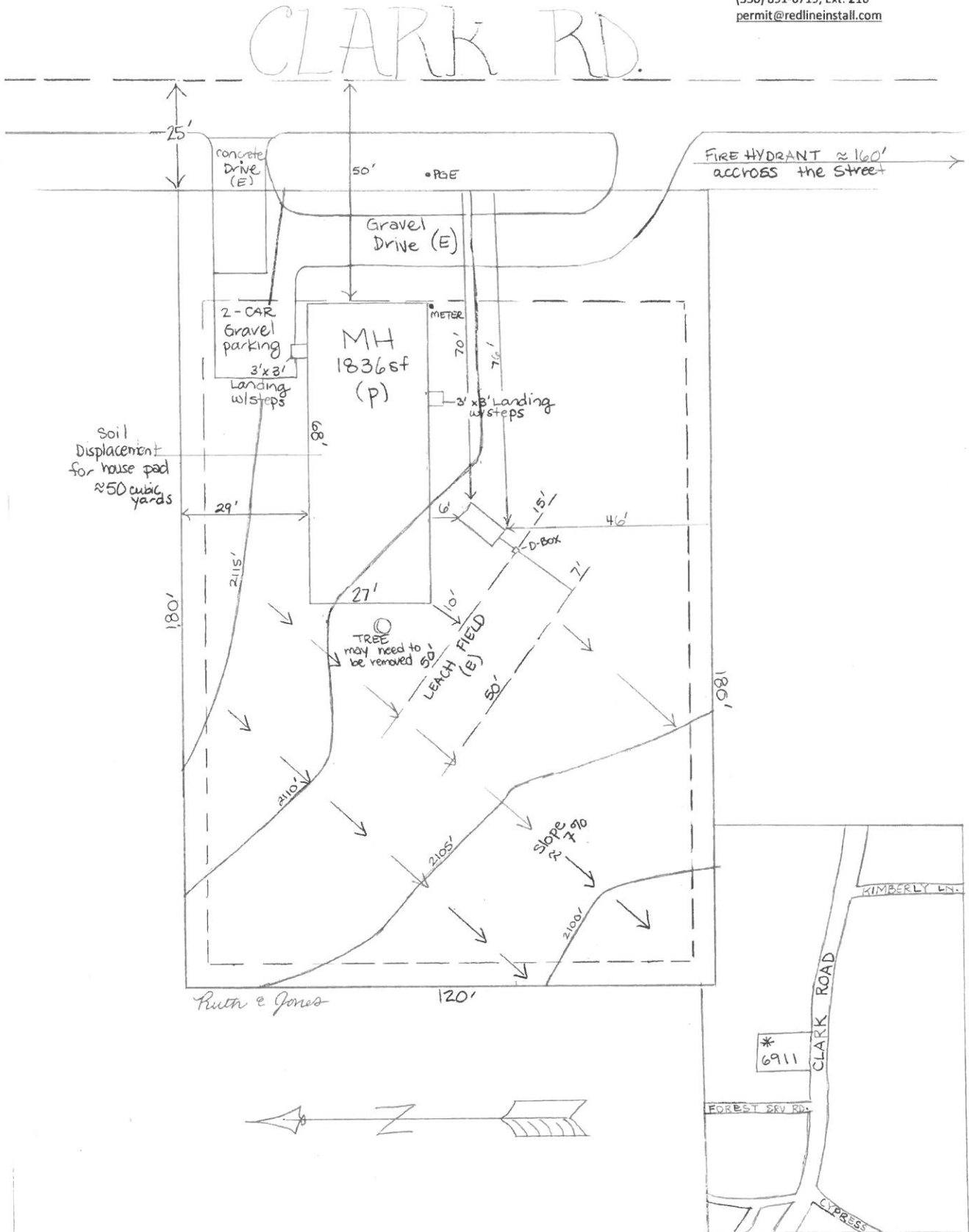
Town of Paradise  
Community Development Dept

JUL 21 2020

RECEIVED

Proposed Replacement Manufactured Home on PFS:  
27' x 68' (1836 sqft)

APN: 050-081-020 .5 ac.  
Site: 6911 Clark Rd.  
Paradise, CA 95969  
Owner: Ann Kinney  
530-762-9694  
Contact: Ruth Jones  
Redline Installations, Inc.  
(530) 891-6719, Ext. 216  
[permit@redlineinstall.com](mailto:permit@redlineinstall.com)



# NOTICE OF EXEMPTION

**TO:** File – [PL20-00227]; AP No. 050-081-020

**FROM:** Town of Paradise, Community Development Department,  
Planning Division, 5555 Skyway, Paradise CA 95969

**PROJECT TITLE:** Kinney Site Plan Review Permit

**PROJECT APPLICANT:** Anna Kinney

**PROJECT LOCATION:** 6911 Clark Rd, Paradise, CA.

**PROJECT DESCRIPTION:** Proposed replacement and enlargement of a previously existing nonconforming single-family dwelling in the Neighborhood Commercial zoning district.

**APPROVING PUBLIC  
AGENCY:** Town of Paradise

**PERSON OR AGENCY  
CARRYING OUT PROJECT:** Anna Kinney

**EXEMPT STATUS:**

- ☐ General Rule Exemption (Section 15061)
- ☐ Ministerial (Section 15268)
- ☐ Emergency Project (Section 15269)
- ☒ Categorical Exemption  
Section 15302; Class 2

**REASON FOR EXEMPTION:** Replacement of prior land use with a same capacity land use

**CONTACT PERSON:** Susan Hartman, Planning Director  
(530) 872-6291 x114

**SIGNATURE:**   
\_\_\_\_\_  
Planning Director

Date: September 10, 2020

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

**AGENDA NO. 6 (a)**

**TO:** Paradise Planning Commission

**FROM:** Susan Hartman, Community Development Director

**SUBJECT:** Planning Commission Statement Verifying the Anderson Temporary Use Permit (PL19-00383) was Withdrawn

**DATE:** September 10, 2020

**BACKGROUND:**

At the March 17, 2020 Planning Commission meeting the Anderson Temporary Use Permit was on the agenda as a public hearing for Planning Commission consideration to issue a temporary use permit for a temporary (end of 2020) wood storage and processing yard in conjunction with the Private Hazard Tree Program. Due to less than a quorum present, the meeting was adjourned to April 21, 2020.

At the April 21, 2020 meeting, the Commission heard testimony for and against the proposed temporary project and ended up rendering a 4-1 vote to approve the Anderson Temporary Use Permit subject to a 7-day appeal period. On April 23, 2020 Mr. Paul Farsai, on behalf of the Blue Oaks Terrace Neighborhood Advisory Committee, filed an appeal with the adopted fee at the Building Resiliency Center.

The appeal was placed on the Town Council's May 12, 2020 meeting agenda. At that meeting, after receiving testimony for and against the project, the Town Council rendered a 4-0 vote, with Councilman Crowder absent and not voting, to uphold the Planning Commission's decision and deny the appeal. The Town Attorney informed the Council that a Resolution would be prepared and brought back at the June 9, 2020 Town Council meeting to approve the findings related to the public hearing.

Prior to the June 9, 2020 Town Council meeting, the Town was served with paperwork noticing the Town that a lawsuit was being filed by the Blue Oaks Terrace Neighborhood Advisory Committee regarding the Town's actions regarding the Anderson Temporary Use Permit.

On June 9, 2020, the project applicant, Mr. Dave Anderson, submitted a written statement that he was withdrawing his temporary use permit application (prior to the Town Council meeting that night where at the Council was scheduled to adopt a Resolution regarding their decision on

the May 12, 2020 appeal hearing). In response, the Town Attorney issued a written statement to the applicant acknowledging and accepting the withdrawal. The project was subsequently voided out in the Town's permitting software, Accela.

The Town and project opponent have been in lawsuit proceedings since June 2020 and have reached a settlement agreement whereby the Town will issue a statement by the Planning Commission confirming that the Anderson Temporary Use Permit application has been fully withdrawn and is in no legal effect.

**COMMISSION ACTION REQUESTED:**

Approve the attached Planning Commission Resolution 20-03 determining that the application for the Anderson Temporary Use Permit has been withdrawn and is of no force or effect as of June 9, 2020.

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

1. Letter of withdrawal by project applicant, Dave Anderson.
2. Letter of acknowledgement and acceptance by Town Attorney, Dwight Moore.
3. Blue Oaks Terrace Neighborhood Advisory Committee settlement agreement.
4. Copy of Planning Commission Resolution No. 20-03, "A Resolution of the Planning Commission of the Town of Paradise Determining that the Application for the Log Storage and Processing Yard Temporary Use Permit No. PL19-00383 for Anderson Brothers Corporation Has Been Withdrawn".

To: Town of Paradise Town Council

JUN 09 2020

RECEIVED

I, David R. Anderson am the President of Anderson Brothers Corporation.

On behalf of Anderson Brothers Corporation, I am withdrawing Application No. PL19-00383, provided the Town of Paradise will not require reimbursement of its attorney fees relating to Butte County Superior Court Case 20CV01082.

Date: 6-9-2020

Signed:   
David R. Anderson





# TOWN OF PARADISE

5555 SKYWAY • PARADISE, CALIFORNIA 95969-4931

June 9, 2020


David R. Anderson  
Anderson Brothers Corporation

RE: Acceptance of the Withdrawal of Application PL19-00383

Dear Mr. Anderson:

On behalf of the Town of Paradise, I am accepting the withdrawal of Application PL19-00383 based on the terms set forth in your withdrawal dated June 9, 2020. A copy of your withdrawal is enclosed.

Sincerely,

  
Dwight L. Moore  
Town Attorney

Encl.

## SETTLEMENT AGREEMENT

This SETTLEMENT AGREEMENT (the "Agreement") is entered into by and between Petitioner and Plaintiff BLUE OAKS TERRACE NEIGHBORHOOD ADVISORY COMMITTEE (referred to herein as "Petitioner"), Respondents TOWN OF PARADISE, a governmental entity; TOWN OF PARADISE TOWN COUNCIL, governing body of the Town of Paradise (collectively referred to herein as "Respondent"), and ANDERSON BROTHERS CORPORATION, a California corporation (referred to herein as "Real Party in Interest"), being collectively referred to herein as the "Parties", and individually as a "Party" with respect to the following agreed facts:

A. A dispute has arisen between the Parties pertaining to an application for issuance of a Temporary Use Permit ("TUP") by Real Party in Interest to Respondent for certain uses to be allowed on the real property of Real Party in Interest, and the opposition of Petitioner to the conditional issuance of the TUP to Real Party In Interest (the "Dispute").

B. Based upon the Dispute, Petitioner filed an action entitled *Blue Oaks Terrace Neighborhood Advisory Committee, Petitioner and Plaintiff, v. Town of Paradise, a governmental entity; Town of Paradise Town Council, governing body of the Town of Paradise; and Does 1-10, Respondents And Defendants, and Anderson Brothers Corporation, a California corporation, Real Parties In Interest*, filed as Butte County Superior Court Case No. 20CV01082 (the "Action").

C. The Parties, and each of them, by and under the terms of this Agreement now desire to buy their peace and fully, finally, and forever settle any and all claims, known or unknown, for any and all costs, losses, and/or damages arising out of this Dispute between the Parties, and arising out of all of the allegations set forth in the Action.

NOW, THEREFORE, for valuable consideration, the receipt, sufficiency, and adequacy of which is hereby acknowledged, the Parties agree as follows:

1. **Incorporation of Recitals.** The recitals set forth under paragraphs A, B, and C above are incorporated herein by this reference as though fully set forth. The Parties agree and acknowledge that the facts recited above are true and correct.

2. **The Settlement.**

(a) Respondent shall issue a statement by its Planning Commission or Town Council in a form acceptable to Respondent which states and confirms that Real Party in Interest Anderson's application for a TUP was fully withdrawn and became a nullity and of no force or effect on or about June 9, 2020, when that application was withdrawn by the Real Party in Interest and the withdrawal was read at a Town of Paradise Council Meeting, such that any further action with respect to the activities described in the application for TUP of Real Party in Interest would require a new TUP application.

(b) During calendar year 2020, Real Party in Interest agrees not to use or apply to use the existing urgency ordinance No. 590 referred to in the application for a TUP on the same real property as was the subject of the original TUP application.

(c) The Parties understand and agree that Respondent previously provided all or substantially all records pertaining to the Dispute to Petitioner and that Petitioner's outstanding Public Records Act Request is deemed complied with and withdrawn.

(d) Within five business days of issuance by Respondent of the statement referred to in (a) above Petitioner shall dismiss the Action, with prejudice, each side to bear their own costs and attorney fees.

3. Releases:

(a) Petitioner, acting on behalf of itself and its subsidiaries, predecessors, successors, heirs, assigns, affiliates, transferees, employees, officers, directors, managers, representatives, attorneys, accountants, agents and servants, hereby releases and forever discharges Respondent and Real Party in Interest and their subsidiaries, predecessors, successors, heirs, assigns, affiliates, transferees, employees, officers, directors, shareholders, indemnitors, managers, representatives, attorneys, accountants, insurers, agents and servants, and each of them, in all capacities (collectively, the "released parties") of and from any and all of the claims, demands, actions, causes of action, suits, proceedings, administrative claims, claims on bonds, administrative actions, fees, fines, penalties, damages (whether special, general, direct, indirect, liquidated, and/or consequential), interest, liens, losses, liabilities, and injury (including, but not limited to, bodily injury, emotional injury, sickness, disease, or death), of every kind, nature, and description, known and unknown, for or because of any matter or thing done, omitted or committed by any one, all or a combination of the released parties that arise out of, or are related to, any one, all, or a combination of (a) the Action, (b) the Dispute.

(b) Respondent, acting on behalf of itself and its subsidiaries, predecessors, successors, heirs, assigns, affiliates, transferees, employees, officers, directors, managers, representatives, attorneys, accountants, agents and servants, hereby releases and forever discharges Petitioner and Real Party in Interest and its subsidiaries, predecessors, successors, heirs, assigns, affiliates, transferees, employees, officers, directors, shareholders, indemnitors, managers, representatives, attorneys, accountants, insurers, agents and servants, and each of them, in all capacities (collectively, the "released parties") of and from any and all of the claims, demands, actions, causes of action, suits, proceedings, administrative claims, claims on bonds, administrative actions, fees, fines, penalties, damages (whether special, general, direct, indirect, liquidated, and/or consequential), interest, liens, losses, liabilities, and injury (including, but not limited to, bodily injury, emotional injury, sickness, disease, or death), of every kind, nature, and description, known and unknown, for or because of any matter or thing done, omitted or committed by any one, all or a combination of the released parties that arise out of, or are related to, any one, all, or a combination of (a) the Action, (b) the Dispute.

(c) Real Party in Interest, acting on behalf of itself and its subsidiaries, predecessors, successors, heirs, assigns, affiliates, transferees, employees, officers, directors, managers, representatives, attorneys, accountants, agents and servants, hereby releases and forever discharges Petitioner and Respondent and its subsidiaries, predecessors, successors, heirs, assigns, affiliates, transferees, employees, officers, directors, shareholders, indemnitors, managers, representatives, attorneys, accountants, insurers, agents and servants, and each of them, in all capacities (collectively, the "released parties") of and from any and all of the claims, demands, actions, causes of action, suits, proceedings, administrative claims, claims on bonds, administrative actions, fees, fines, penalties, damages (whether special, general, direct, indirect, liquidated,



and/or consequential), interest, liens, losses, liabilities, and injury (including, but not limited to, bodily injury, emotional injury, sickness, disease, or death), of every kind, nature, and description, known and unknown, for or because of any matter or thing done, omitted or committed by any one, all or a combination of the released parties that arise out of, or are related to, any one, all, or a combination of (a) the Action, (b) the Dispute.

Each Party understands, acknowledges, and agrees that these releases by each Party also apply to all unknown and unanticipated injuries, debts, losses or damages which are in any way related to, the Dispute and Action as those claims are now known or disclosed or unknown, and each Party waives all rights and all benefits that each Party or any of them may have once had, now have, or in the future may have under the terms of Section 1542 of the California Civil Code with respect to the Dispute and Action, which provides as follows:

**A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.**

4. Owner of Claims and Authority. The Parties, and each of them, warrant and represent that:

(a) Each Party signing below is the sole and lawful owners of all right, title and interest in and to all of the interests released under this Agreement and that each of them have not heretofore voluntarily or involuntarily, by operation of law or otherwise, assigned or transferred or purported to assign or transfer to any person any such claim or any portion thereof; and

(b) Each party signing below is the authorized agent of the individuals or entities that are or may be a party to this Agreement and that each Party is vested with the actual authority to settle and compromise known and unknown claims by and on behalf of said individuals or entities identified in this Agreement and on whose behalf this Agreement is executed.

5. No Admission of Liability. Nothing contained herein shall be construed as an admission by any Party of any liability of any kind.

6. Covenant Not to Sue or Take Administrative Action. Except as otherwise provided in this Agreement, Petitioner and Respondent, and each of them, agree not to sue, complain against, or file a complaint in any administrative action against, or in any way assist any other person or entity in suing, complaining against, or filing a complaint in any administrative action against, any of the released parties with respect to any claim released herein. This covenant may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit or other proceeding which may be instituted, prosecuted or attempted in breach of the covenant contained herein.

7. Representation by Counsel.

(a) Petitioner Blue Oaks Terrace Neighborhood Advisory Committee is represented by G. Braiden Chadwick, Christopher L. Powell and J. R. Parker of Mitchell Chadwick LLP.

(b) Respondent Town of Paradise, a governmental entity, and Town of Paradise Town Council, governing body of the Town of Paradise, is represented by Mark A. Habib of Peters, Habib, McKenna, Juhl-Rhodes & Cardoza, LLP.

(c) Real Party in Interest Anderson Brothers Corporation, is represented by Andrew J. Morrissey of Leland, Morrissey & Knowles, LLP.

The Parties, and each of them, acknowledge to each other that each Party has been advised and is represented by legal counsel of its own choice throughout all of the negotiations which preceded the execution of this Agreement and that they have executed this Agreement after being so advised and without reliance upon any promise or representation of any person or persons acting for or on behalf of the other, except as expressly set forth in this Agreement. Each Party further acknowledges that it and its counsel have had an adequate opportunity to make whatever investigation or inquiry it may deem necessary or desirable in connection with the subject matter of this Agreement prior to the execution of this Agreement. Each Party has read and approved the language of this Agreement, with the assistance of counsel.

8. Entire Agreement/Construction and Interpretation. This Agreement embodies the entire agreement and understanding between the Parties hereto and supersedes all prior agreements and understandings relating to the subject matter hereof. Each Party represents and warrants to the other Party that it is not relying on any other Party for advice. This Agreement is a product of negotiation and preparation by and among each Party and its attorneys. Therefore, each Party expressly waives the provisions of Civil Code section 1654 and acknowledges and agrees that this Agreement should not be deemed prepared or drafted by one Party or the other and shall be construed accordingly.

9. Counterpart Originals and Electronic or Copies of Signatures. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one agreement and a copy of which shall be deemed an original for all purposes. An electronic or facsimile copy of any signature hereto shall have the same force and effect as an original.

10. Modification Only in Writing. Neither this Agreement nor any provision hereof may be changed, waived, discharged, or terminated save and except by an instrument in writing signed by the Party against whom enforcement of the change, waiver, discharge, or termination is sought.

11. No Waiver. Except as limited by this Agreement, no failure to exercise and no delay in exercising any right, power, or remedy hereunder shall impair any right, power or remedy which any Party may have, nor shall any such delay be construed to be a waiver of any such right, power, or remedy, or any acquiescence in any breach or default hereunder; nor shall any waiver of any breach or default by any Party hereunder be deemed a waiver of any subsequently occurring default or breach. All rights and remedies granted to any Party hereunder shall remain in full force and effect notwithstanding any single or partial exercise of, or any discontinuance of, any action begun to enforce any such right or remedy. The rights and remedies specified herein are cumulative and not exclusive of each other or of any rights or remedies which any Party would otherwise have. Any waiver, permit, consent or approval by any Party of any breach or default hereunder must be in writing and shall be effective only to the extent set forth in such writing signed by the Party to be charged and only as to that specific instance.

12. Attorney's Fees to Enforce Settlement Agreement. The prevailing Party in any action or proceeding asserted subsequent to the signing of this Agreement based upon, arising from, or in any way related to a claimed breach of this Settlement Agreement, the Dispute and/or the Action, or the subject matter hereof, including contract claims, tort claims, breach of duty claims, and all other common law or statutory claims, shall be entitled to recover from such other non-

prevailing Party, without limitation, all of its fees and costs incurred in such action or proceeding, whether recoverable as court costs, out-of-pocket costs, or as a matter of contract, of any and every kind, including, but not limited to its actual attorney's fees, expert's fees, and consultant's fees, and such fees shall not be limited by any local rule of court fixing the award of attorney's fees.

13. Non-Exclusive Remedies. In the event of a breach of any provision of this Agreement, the Parties, in addition to and not in lieu of the remedies expressly provided in this Agreement, shall be entitled to exercise such remedies that exist at law or equity to enforce this Agreement including, but not limited to, seeking specific performance.

14. Choice of California Law/Choice of Venue. This Agreement shall be construed in accordance with, and shall be governed by, the procedural and substantive law of the State of California, and the venue of any litigation, arbitration or other formal or informal resolution to resolve any dispute in connection with this Agreement shall be in the County of Butte, State of California.

15. Enforcement of Agreement and Time is Of the Essence. Time is of the essence in the performance of this Agreement. This Agreement is binding on the heirs, successors, partners and assigns of the Parties hereto. Parties agree that this Agreement is binding and enforceable and may be enforced by any Party hereto by a motion under Code of Civil Procedure section 664.6 or by any other procedure permitted by law in the Superior Court of California, County of Butte.

16. Attorney Fees: The Parties hereto shall each bear their own costs of suit and attorney fees incurred in connection with this Action up to and including the date of this Agreement.

17. Headings. Captions, section headings and numbers have been set forth in this Agreement for convenience only and are not to be used in construing this Agreement.

IN WITNESS WHEREOF, and having read and understood all of the terms and conditions of this Agreement in consultation with counsel, each Party hereto has caused this Agreement to be executed as of the day and year set forth below.

AGREED AND ACCEPTED:

Dated: September 2, 2020

*Petitioners/Plaintiffs Blue Oaks Terrace  
Neighborhood Advisory Committee*

By: Paul Farsai

Dated: September 8, 2020

*Respondent Town of Paradise and Town of  
Paradise Town Council*

By: [Signature]



Dated: September \_\_, 2020

*Real Party in Interest ANDERSON BROTHERS CORPORATION*

By: \_\_\_\_\_

AGREED AS TO FORM:

Dated: September 1, 2020

MITCHELL CHADWICK, LLP



G. BRAIDEN CHADWICK

CHRISTOPHER POWELL

J. R. PARKER

*Attorneys for Petitioners/Plaintiffs Blue Oaks Terrace Neighborhood Advisory Committee*

Dated: September 2, 2020

TOWN OF PARADISE AND TOWN OF PARADISE TOWN COUNCIL



MARK A. HABIB

DWIGHT MOORE

*Attorneys for Respondent Town of Paradise and Town of Paradise Town Council*

Dated: September \_\_, 2020

ANDERSON BROTHERS CORPORATION

ANDREW J. MORRISSEY

*Attorney for Real Party in Interest Anderson Brothers Corporation*

Dated: September 2, 2020

Real Party in Interest ANDERSON BROTHERS  
CORPORATION

By: U R

AGREED AS TO FORM:

Dated: September \_\_\_, 2020

MITCHELL CHADWICK, LLP

G. BRAIDEN CHADWICK

CHRISTOPHER POWELL

J. R. PARKER

Attorneys for Petitioners Plaintiffs Blue Oaks  
Terrace Neighborhood Advisory Committee

Dated: September \_\_\_, 2020

TOWN OF PARADISE AND TOWN OF PARADISE TOWN  
COUNCIL

MARK A. HABIB

DWIGHT MOORE

Attorneys for Respondent Town of Paradise and  
Town of Paradise Town Council

Dated: September 2, 2020

ANDERSON BROTHERS CORPORATION

ANDREW J. MORRISSEY

Attorney for Real Party in Interest Anderson  
Brothers Corporation

**TOWN OF PARADISE  
RESOLUTION NO. 20-03**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF PARADISE  
DETERMINING THAT THE APPLICATION FOR THE LOG STORAGE AND  
PROCESSING YARD TEMPORARY USE PERMIT NO. PL19-00383 FOR ANDERSON  
BROTHERS CORPORATION HAS BEEN WITHDRAWN**

**WHEREAS**, on December 23, 2019, Anderson Brothers Corporation submitted an application (Application) for a Log Storage and Processing Yard Temporary Use Permit pursuant to Urgency Ordinance No. 590 section 8; and

**WHEREAS**, during the processing of the Application, Blue Oaks Terrace Neighborhood Advisory Committee (Blue Oaks) filed a lawsuit challenging the approval of the Application by the Town of Paradise (Town); and

**WHEREAS**, the Town and Blue Oaks have settled the lawsuit; and

**WHEREAS**, as part of the settlement, the Town agreed as follows: Respondent shall issue a statement by its Planning Commission or Town Council in a form acceptable to Respondent which states and confirms that Real Party in Interest Anderson's application for TUP was fully withdrawn and became a nullity and of no force or effect on or about June 9, 2020, when that application was withdrawn by the Real Party in Interest and the withdrawal was read at a Town of Paradise Council Meeting, such that any further action with respect to the activities described in the application for TUP of Real Party in Interest would require a new TUP application.

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

**Section 1.** The Planning Commission states and confirms that the Anderson Brothers Corporation Application No. PL19-00383 for a temporary use permit was fully withdrawn and became a nullity and of no force or effect on June 9, 2020.

**Section 2.** Any further action relating to the activities set forth in the withdrawn Anderson Brothers Corporation application will require a new temporary use permit application.

**PASSED AND ADOPTED** by the Planning Commission of the Town of Paradise, County of Butte, State of California, on this \_\_\_ day of \_\_\_\_\_, 2020 by the following vote:

AYES:

NOES:

ABSENT:

NOT VOTING:

---

Kim Morris, Chair

ATTEST:

APPROVED AS TO FORM:

---

DINA VOLENSKI, Town Clerk

---

DWIGHT L. MOORE, Town Attorney