

MINUTES OF THE REGULAR MEETING OF THE  
YREKA PLANNING COMMISSION HELD  
ON THE 20<sup>TH</sup> DAY OF MARCH, 2013

On the 20<sup>th</sup> day of March, 2013 at 6:30 p.m., the Planning Commission of the City of Yreka met in the City Council Chamber in said city in regular session. The meeting was called to order by Chair Leal and present were:

Commissioners: Deborah Baird, Diane Knitter, Steve Leal, Paul McCoy, Barry Ohlund, Matt Osborn and Richard Rolzinski. Absent: None

Conflict of Interest Declaration – Commissioners Steve Leal, Paul McCoy & Deborah Baird declared a conflict of interest on Item 2, to rebuild the existing duplex and three single family dwellings to the current footprint in the event of fire or other casualty (Applicant: Larry & Patty Dunning).

**PUBLIC COMMENTS** - None.

Consent Calendar: Chair Leal announced that all matters listed under the consent calendar are considered routine and will be enacted by one motion unless any member of the Planning Commission wishes to remove an item for discussion or a member of the audience wishes to comment on an item:

- a. Approval of Minutes of the regular meeting held on February 20, 2013.
- b. Acknowledge receipt of General Plan Housing Element 2011 Annual Report.

Following Commission discussion, Commissioner Rolzinski moved to approve the items on the consent calendar as submitted.

Commissioner Ohlund seconded the motion, and upon roll call, the following voted YEA: Baird, Knitter, Leal, McCoy, Ohlund, Osborn and Rolzinski.

Chair Leal thereupon declared the motion carried.

Discussion/Possible Action – Conditional Use Permit application submitted by Larry & Patty Dunning to rebuild the existing duplex and three single family dwellings to the current footprint in the event of fire or other casualty.

Planning Commissioners Baird, Leal and McCoy announced their recusal. Leal and McCoy stating that they have a conflict of interest by reason of property ownership within 500 feet of the proposed project, and therefore recused themselves and left the Council Chambers. Baird stating that she has a conflict of interest by reason of her business relationship and financial interest with the applicant, and therefore recused herself and left the Council Chambers.

With the recusal of Chair Leal and Vice-Chair McCoy, Planning Commissioner Ohlund was selected to assumed the position of acting Chair.

The Commission reviewed the Conditional Use Permit application submitted by Larry & Patty Dunning to rebuild the existing duplex and three single family dwellings to the current footprint in the event of fire or other casualty. Location: 734 A, 734 B, 736, 738 & 740 W. Lennox Street, Assessor's Parcel No. 053-111-240 & 270, R-1 (Single Family Residential) Zone, LDR (Low Density Residential) General Plan designation.

City Manager Steve Baker presented the Commission with the staff report with included Yreka Municipal Code Section 16.46.130 (a) – Nonconforming Buildings provides that nonconforming buildings or structures damaged or destroyed by fire, explosion, earthquake, flooding, or other act to an extent of more than fifty percent (50%) of their reasonable value, may be restored only if made to conform to all the regulations of the district in which it is located.

Yreka Municipal Code Section 16.46.130 (C) & (D) – provides that the owner of any nonconforming building or buildings may file an application with the Planning Commission for a conditional use permit to reconstruct any building in the event such building or buildings may be damaged to the extent greater than fifty percent (50%) of its reasonable value either before or within six (6) months after any such destruction, or deteriorated to the extent that continued occupancy or utilization of building or structure is a threat to the comfort and safety of the occupants of the occupants of the property. The Planning Commission may grant a conditional use permit for the reconstruction of such building or buildings if it finds that such reconstruction would not be contrary to the public health, safety, comfort, and general welfare and that such reconstruction would be compatible with the properties in the same general area within the same zone.

City staff reviewed the application with the following considerations:

- Lot size does not meet the requirements for one family unit per seven thousand square feet of lot area (YMC 16.18.030.C).
- Lot does not meet the requirements for a duplex in R-1 Zone. Duplex is a permitted use on a corner lot that meets the standards (YMC 16.18.050).
- The duplex (738 & 740 W. Lennox) does not meet the 20 ft. rear setback requirement. The current setback ranges from 11 ft. to 14 ft. (YMC 16.18.040).
- Duplex does not meet the requirement of a two car garage/carport for each family unit. Currently there are no garages (YMC 16.18.040.D.1).
- House (734 B W. Lennox Street) does not meet the 20 ft. rear setback requirement. The current setback is 6 ft. (YMC 16.34.040).
- All three single family dwellings are nonconforming because they do not meet the requirement of a two car garage/carport for each family dwelling. Currently there are no garages on the property located at 734 – 740 W. Lennox Street (YMC 16.18.040.D.1).

A public hearing regarding this proposed use permit was held on December 19, 2012 and no public comments were received. The decision on the conditional use permit was continued until such time as the applicant could submit an application for a boundary line adjustment to merge the two (2) lots into one (1).

The Boundary Line Adjustment has been approved and sent to Mt. Shasta Title Co. for recordation; therefore, it is staff's recommendation that the Planning Commission approve Use Permit No. 4161,

Following Commission discussion, Commissioner Rolzinski moved to approve Conditional Use Permit No. 4161 to rebuild the existing duplex and three single family dwellings to the current footprint in the event of fire or other casualty, subject to the following findings and conditions.

#### FINDINGS:

1. The duplex structure is a multifamily dwelling as described in California Government Code Section 65852.25.
2. The City records do not contain information sufficient to determine when these structures were constructed nor if building permits were obtained for the construction. Under the zoning regulations in effect today the structures are non-conforming because the lot size does not meet the requirements for one family unit per seven thousand square feet of lot area (YMC 16.18.030.C), lot also does not meet the requirements for a duplex (YMC 16.18.050). The duplex (738 & 740 W. Lennox) is non-conforming because there is a 20 ft. rear setback required and the current setback ranges from 11 ft. to 14 ft. (YMC 16.18.040), the duplex is also nonconforming because a two car garage/carport is required for each family unit and there are no garages (YMC 16.18.040.D.1), the house (734 B W. Lennox Street) is non-conforming because there is a 20 ft. rear setback required and the current setback is 6 ft. (YMC 16.34.040), all three single family dwellings are also nonconforming because a two car garage/carport is required for each family dwelling and there are no garages (YMC 16.18.040.D.1).
3. Pursuant to the provisions of California Government Code Section 65852.25(b), the Planning Commission finds that rebuilding the existing structures to the current footprints in the event of involuntary destruction by fire, or other catastrophic event, or by the public enemy will not:
  - a. be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood, because the duplex and single family residence are located in a block that has other multifamily residential units and there will not be unreasonable vehicular traffic, parking congestion, noise, nuisance, or odors because the use will not change from the existing use; and there would be no change in the circulation or traffic patterns in the neighborhood.
  - b. be detrimental or injurious to property or improvements in the neighborhood because the current use would not change, the subject property is zoned R-1 (Single Family Residential) which allows residential uses. The surrounding property uses are also multi-family residential.
4. The dwelling units may be reconstructed, restored, or rebuilt up to their pre-damaged size and number of dwelling units, if the rebuilding and the use conform to the requirements set forth hereafter.

5. Pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3) this action is determined to be exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment.

CONDITIONS:

Based on the foregoing findings, the Planning Commission approves the reconstruction of the existing duplex and the three single family residence to the current footprint in the event of involuntary destruction by fire, or other catastrophic event, or the public enemy. The structures are non-conforming because the lot size does not meet the requirements for one family unit per seven thousand square feet of lot area (YMC 16.18.030.C), lot also does not meet the requirements for a duplex (YMC 16.18.050). The duplex (738 & 740 W. Lennox) is non-conforming because there is a 20 ft. rear setback required and the current setback ranges from 11 ft. to 14 ft. (YMC 16.18.040), the duplex is also nonconforming because a two car garage/carport is required for each family unit and there are no garages (YMC 16.18.040.D.1), the house (734 B W. Lennox Street) is non-conforming because there is a 20 ft. rear setback required and the current setback is 6 ft. (YMC 16.34.040), all three single family dwellings are also nonconforming because a two car garage/carport is required for each family dwelling and there are no garages (YMC 16.18.040.D.1).

The buildings shall not be enlarged or increased, nor be extended to occupy a greater area than that occupied by the current building. Approval is subject to compliance with the following conditions at all times that the use permitted by this permit occupies the premises. Any reconstruction, restoration, or rebuilding undertaken pursuant to Government Code Section 65852.25 shall conform to all of the following:

a. The California Building Standards Code as that code is in effect at the time of reconstruction, restoration, or rebuilding.

b. Any more restrictive local building standards authorized pursuant to Sections 13869.7, 17958.7, and 18941.5 of the Health and Safety Code, as those standards are in effect at the time of reconstruction, restoration, or rebuilding.

c. The State Historical Building Code (Part 2.7 (commencing with Section 18950) of Division 13 of the Health and Safety Code) for work on qualified historical buildings or structures.

d. Local zoning ordinances, including the Historic District regulations set forth in Title 17 of the Yreka Municipal Code, so long as the predamage size and number of dwelling units are maintained with the exceptions approved with this Permit.

e. Architectural regulations and standards, as long as the predamage size and number of dwelling units are maintained.

f. Building permit shall be obtained within two years after the date of the damage or destruction and diligently continued to completion.

Commissioner Knitter seconded the motion, and upon roll call, the following voted YEA: Knitter, Ohlund, Osborn and Rolzinski.

Acting Chair Ohlund thereupon declared the motion carried.

Commissioners Leal, McCoy and Baird returned to their seats at the table.

Discussion/Possible Action – The Commission reviewed the Conditional Use Permit application submitted by John & Lauren Kennedy to construct, establish and operate a 3468 sq. ft. restaurant (2268 sq. ft. addition to existing 1200 sq. ft. building) with a seating capacity of 80 and a maximum of 7 employees per working shift with 34 parking spaces on a +/- 1.17 acre parcel.

City Manager Baker reported that notification of the public hearing was mailed to property owners/occupants located within 300 feet of the project on March 6, 2013 and a Notice of Public Hearing was published in the Siskiyou Daily News on March 8, 2013.

PUBLIC HEARING – To receive public comments regarding a proposed Conditional Use Permit to construct, establish and operate a 3468 sq. ft. restaurant (2268 sq. ft. addition to existing 1200 sq. ft. building) with a seating capacity of 80 and a maximum of 7 employees per working shift with 34 parking spaces on a +/- 1.17 acre parcel. Applicant: John & Lauren Kennedy, Location : 1281 S. Main Street, Assessor's Parcel No. 061-351-240, CH (Commercial Highway) Zone, GC (General Commercial) General Plan designation.

This being the time and date scheduled for the public hearing, Chair Leal opened the public hearing to the audience.

Applicant John Kennedy and partners Brian & Annette Kische were presented to answer questions regarding the proposed project.

There being no further statements or comments received, Chair Leal closed the public hearing.

City Manager Steve Baker presented the Commission with the staff report and the following background - A Conditional Use Permit was issued to Mr. Kennedy in 2005 for the operation of a landscape business. The Use Permit incorporated 2 separate parcels, one fronting on S. Main St. and an adjacent parcel to the west which fronts on Bruce Street. Mr. Kennedy has indicated that he plans to downsize the landscape business and move it entirely to the parcel known as 113 Bruce Street. Mr. Kennedy has been advised of the necessity to submit a new site plan and business license application for the relocation of his landscape business.

City Staff recommends approval of Conditional Use Permit No. 4171 subject to the attached findings and conditions for the conditional use as a restaurant with the determination that this project is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15332 Infill Development of the CEQA Guidelines, and subject to the findings and conditions attached.

Following Commission discussion, Commissioner Ohlund moved to approve Conditional Use Permit No. 4171 with the determination that this project is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15332 Infill Development of the CEQA Guidelines, and subject to the following findings and conditions attached.

FINDINGS:

1. The construction, establishment and operation of a 3468 sq. ft. restaurant (2268 sq. ft. addition to existing 1200 sq. ft. building) with a seating capacity of 80 and a maximum of 7 employees per working shift with 34 parking spaces on a +/- 1.17 acre parcel located at 1281 S. Main Street will not:

- a. be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood, and will not be detrimental to the harmonious and orderly growth of the City of Yreka because it will be located in an area where there are other commercial uses.
- b. be detrimental to property or improvements in the neighborhood and the commercial use will not impair the desirability of investment or occupation in the vicinity for the reason stated in (a).
- c. cause unreasonable vehicular traffic, parking congestion, noise, nuisance, or odors because there is adequate parking available for the proposed use on the site.
- d. adversely affect matters regarding police protection, crime prevention, and security because there are existing businesses adjacent to the site.
- e. adversely affect circulation or traffic patterns in the neighborhood or constitute a nuisance because the proposed use will not change the existing traffic patterns or circulation.

2. The use is compatible with the policies and objectives of the zoning ordinance for a CH (Commercial Highway) zone which allows a restaurant having a seating capacity of twenty-one (21) or more upon approval and validation of a conditional use permit as set forth in Section 16.34.070 (J) of the Yreka Municipal Code in addition to any other permits or licenses.

3. The Planning Commission has determined that the project is exempt from the environmental review pursuant to the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15332 Infill Development of the CEQA Guidelines.

The foregoing findings are based upon the following:

The design of the project and its proposed improvements will not cause serious public health problems or significant environment damage since the proposed project is for a commercial use within an existing commercial neighborhood.

Conditions of approval will provide maximum land use compatibility between the proposed commercial development and the existing commercial neighborhood. None of the findings necessary for denial of this proposal can be found in the affirmative.

CONDITIONS:

1. Permittee granted a permit to construct, establish and operate a 3468 sq. ft. restaurant (2268 sq. ft. addition to existing 1200 sq. ft. building) with a seating capacity of 80 and a maximum of 7 employees per working shift with 34 parking spaces on a project site of 1.7 acres at the location set forth in the application, subject to full compliance with applicable city and state codes. **The premises shall not be occupied or opened to the public until all conditions hereinafter set forth have been complied with by the permittee.**
2. All elements of the project application including site, landscape, and parking plan as approved shall be complied with.
3. Adequate off-street parking facilities shall be provided as follows: one (1) space for each three seats plus one space for each employee of the maximum working shift for the restaurant as set forth in Sections 16.54.020.A.5(a) of the Yreka Municipal Code. As submitted the project requires 34 parking spaces.
4. The off-street parking plan and facilities approved by the Planning Commission shall not be deviated from unless prior approval of the Planning Commission is secured, and all loading, customer, and employee parking areas, access drives and aisles shall be paved and striped and bumper rails or other barriers shall be provided, as determined by the City Building Official, Director of Public Works and in accordance with Section 16.54.090 of the Yreka Municipal Code.
5. Parking required for disabled persons shall be marked, posted, and maintained in accord with provisions of the Motor Vehicles Code, California Building Code and any other law or regulation now or hereinafter enacted relating to parking for disabled persons. A minimum of 2 accessible parking spaces are required for a parking lot or garage with 26 to 50 parking spaces.
6. Use shall be conducted in accordance with the site plan as submitted for the property located at 1281 S. Main Street, as approved by the Planning Commission on March 20, 2013, and the site plan shall not be changed or deviated from without approval of the Planning Commission; provided, however, upon request of the Permittee and showing of good cause, the City Manager is authorized to permit minor modifications of the site plan without resubmission to the Planning Commission.
7. A landscape plan shall be submitted to the City Manager for approval. Installation shall be completed prior to commencement of business with accordance to Yreka Municipal Code 16.52.030.
8. All landscaping shall be installed, maintained, and replaced as necessary as depicted on the approved landscape plan. Water efficient irrigation system shall be installed for the landscaping per Yreka Municipal Code Section 16.52.030 (E).

9. Prior to issuance of the use permit and operation of the new use, the property owner shall provide a copy of the Caltrans encroachment permit to the City building and planning department demonstrating that a valid encroachment permit has been obtained from Caltrans.
10. Permittee shall obtain approval of all required public improvements through the Department of Public Works and its encroachment permit process for construction of and/or connection to any City sewer, water, or storm drain. Plans prepared by a registered civil engineer may be required for the Department of Public Works, in addition to the plans prepared for the Building Department, for any public infrastructure improvements that need to be constructed.
11. Permittee shall submit a grading plan for review and approval by the Building Official prior to construction or any on-site grading.
12. Pursuant to Section 16.54.090 of the Yreka Municipal Code the on-site lighting shall be designed to prevent unreasonable glare to adjoining properties and controlled by such reasonable means as are practical to prevent sky-reflected glare.
13. Permittee shall submit a storm water detention analysis for review and approval of the Director of Public Works and/or Building Official prior to start of construction or any on-site grading. On-site detention or storm drain extension may be required.
14. Permittee shall comply at all times with the zoning district regulations for a CH zone as set forth in section 16.36 of the Yreka Municipal Code.
15. Permittee shall obtain a building permit and shall pay the necessary fees therefor prior to making any building, electrical, mechanical, or plumbing installations and/or improvements to the structure. Public infrastructure improvements such as curb, gutter, sidewalk, curb ramps, driveway approaches, street lights and asphalt concrete street pavement may be required upon issuance of a building permit in accordance with Yreka Municipal Code Section 11.24.030. If such improvements already exist, damaged public improvements shall be repaired and/or replaced to restore the improvements to a condition satisfactory to the Director of Public Works in accordance with Yreka Municipal Code Section 11.24.030.
16. Permittee shall install a grease interceptor in accordance with the California Plumbing Code and shall comply at all times with the requirements for the Fats, Oils and Grease (FOG) Source Control Program.
17. Permittee shall secure a Certificate of Occupancy and approval of the Building Official and Fire Marshal that structure meets building standards and fire regulations of the California Building and Fire Codes prior to use of a subject business for a restaurant.
18. Permittee shall pave all driveway accesses from the project site onto South Main a minimum of 20 feet back from the back of the sidewalk.
19. No signs shall be placed on the premises without first obtaining a sign permit.
20. Permittee shall secure an annual City business license to carry on the business of a restaurant.

21. Use permit granted in accordance with the terms of this title may be revoked if any of the conditions or terms of such permit are violated or if any law or ordinance is violated in connection therewith, or if the Planning Commission finds, with the concurrence of the City Council, that the continuance of the use permit will endanger the public health, safety, or welfare.

22. The site plan approval shall expire and terminate if not used within one (1) year from the date of approval unless, prior to the expiration of one year, a building permit is issued and construction is commenced. Approval may be extended upon written application to the Planning Commission before expiration of the first approval.

Commissioner McCoy seconded the motion, and upon roll call, the following voted YEA: Baird, Knitter, Leal, McCoy, Ohlund, Osborn and Rolzinski.

Chair Leal thereupon declared the motion carried.

#### City Manager Report

City Manager Baker reported the city had received a request from the County Veteran's Service Office, working with local veteran's service organizations to install banners on 28 streetlights poles along Fairlane Road. These banners would be to honor current and former veterans, including deceased veterans. The veteran's groups would be responsible for purchasing and putting up the brackets, and then would put up and remove the banners as scheduled.

#### Commissioner's Statements & Comments

There being no further business before the Commission, the meeting was adjourned.

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Steve Leal, Chair  
Approved by motion of the Planning  
Commission on June 26, 2013