

MINUTES OF THE REGULAR MEETING OF THE  
YREKA PLANNING COMMISSION HELD IN  
THE YREKA CITY COUNCIL CHAMBER IN SAID CITY  
ON THE 17<sup>th</sup> DAY OF FEBRUARY 2010

On the 17<sup>th</sup> day of February, 2010 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 Knitter and present were:

Commissioners: Deborah Baird  
Diane Knitter  
Steve Leal  
Mark McAllister  
Barry Ohlund  
Matt Osborn  
Richard Rolzinski

Absent: None

**USE PERMIT – RESIDENTIAL CARE FACILITY FOR MENTALLY ILL  
CAREN SPAULDING – 2109 FT. JONES RD. WITHDRAWN**

Staff reported that the application for a use permit to establish and operate a co-ed, fourteen bed, adult residential care facility for a maximum of 14 mentally ill clients, with six full time employees plus one administrator submitted by Caren Spaulding for Care N Hearts, Inc. was withdrawn by the applicant.

No further discussion or action was taken on this agenda item.

**SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT – USE PERMIT  
SHASTA VALLEY ASPHALT & AGGREGATE PLANT EXPANSION OF OPERATIONS  
J.F. SHEA COMPANY by JAMES MURRAY- 451 GRANITE COURT DENIED**

The posted agenda item No. 2 included the following items:

REVIEW/POSSIBLE ACTION - Resolution certifying the Supplemental Environmental Impact Report for the proposed expansion of operations of the Shasta Valley Asphalt and Aggregate Plant by modification of Use Permit #2858 allowing nighttime plant operations, production of rubberized asphalt concrete, removal of non-disturbance area on west side of site, relocation of the existing stormwater detention basin, and relocate proposed office structure and landscaping. Assessor’s Parcel No. 053-681-110, M-2 (Heavy Industrial) zone, I (Industrial) General Plan designation.

REVIEW/POSSIBLE ACTION - Resolution making Findings of Fact, Issuing a Statement of

Overriding Consideration, and adopting a Mitigation Monitoring Program for the Shasta Valley Asphalt and Aggregate Plant modification of Use Permit #2858.

PUBLIC HEARING/POSSIBLE ACTION – Consideration of an application for a modification of Use Permit #2858 allowing nighttime plant operations, production of rubberized asphalt concrete, removal of non-disturbance area on west side of site, relocation of the existing stormwater detention basin, and relocate proposed office structure and landscaping. Assessor's Parcel No. 053-681-110, M-2 (Heavy Industrial) zone, I (Industrial) General Plan designation.

Mary Frances McHugh, City Attorney, requested that the Commissioners report any *ex parte* contacts regarding this project. Commissioner's Knitter, Ohlund, Rolzinski, Baird, McAllister, Leal, and Osborn all had *ex parte* contacts regarding the proposed project including: newspaper articles, e-mails and letters from John Richter regarding the project, online research, personal conversation with proponents, and minimal conversation with customers. No objection was made by project proponent.

Staff reported that the Technical Committee previously commented on the Supplemental Environmental Impact Report and made no further comment on it or the proposed Findings of Fact, issuing a Statement of Overriding Consideration, and adopting a Mitigation Monitoring Program. Providing the Planning Commission approves the environmental documents the Technical Committee recommended approval of the Use Permit modification subject to the conditions presented.

Staff also reported that at the applicant's request this matter was continued from the January 20, 2010 to the February 17, 2010 meeting of the Planning Commission because they could not attend the January 20<sup>th</sup> meeting. Because public hearing notices had been mailed out prior to the applicant's request, public comment was taken at the January 20, 2010 meeting and because the February 17<sup>th</sup> meeting was a continuance of the public hearing on the Use Permit, the public would be offered the opportunity to comment at this meeting.

Pacific Municipal Consultants (PMC) was the consulting firm that prepared the Supplemental Environmental Impact Report for the project. Mark Teague, representing PMC, provided a background on the project, a description of the project, and reported that they were requested to evaluate noise and odor. He explained the findings of the Report.

Staff read two letters into the record that were in opposition to the proposed project, one from Edythe Davis, 118 Court Street, Yreka, and one from Marie d'Agay, 511 N. Fairchild Street, Yreka.

This being the time and date set for a public hearing for consideration of an application for a modification of Use Permit #2858 allowing nighttime plant operations, production of rubberized asphalt concrete, removal of non-disturbance area on west side of site, relocation of the existing stormwater detention basin, and relocate proposed office structure and landscaping on the property located at 451 Granite Court, Chair Knitter opened the public hearing to the audience.

The following are people who commented in opposition to the project during the hearing:

John Richter, 1018 Quarry Court, Yreka  
John Timm, 574 N. Main Street, Yreka  
Nita Still, Montague  
Louise Gliatto, 1003 Limestone Circle, Yreka  
Hal Pickens, 109 Turre Street, Yreka  
Linda Stone, 804 Helwig Court, Yreka  
Bill Davis, 1010 Juniper Drive, Yreka  
Mike Wells, 236 Montair Drive, Montague  
Melody Cabrera, 600 Jackson Street, Yreka  
Jennifer Silveira, 640 Yama Street, Yreka  
Lisa Budesilich, 1020 N. Foothill Drive, Yreka  
Dave Coon, 945 Holcomb Road, Montague  
Ron Coleman, 901 Montague Road, Yreka  
Ken Rogers, 245 N. Foothill Drive, Yreka  
Cathy Lyman, 920 Juniper Drive, Yreka  
Janet Johnson, 221 S. Oregon Street, Yreka  
Daylor Saner, 4218 Cooley Road, Montague  
June Salvestro, 1004 Limestone Circle, Yreka  
Shannon Salvestro, 854 Montague Road, Yreka  
Andy Jura, 1089 Foothill Drive, Yreka

Their concerns included: decline in real estate values, concern regarding odors, air quality, noise, health, highway deterioration, negative impact to tourism, and quality of life for existing residents.

Four photographs taken in 2000 were submitted for the record by June Salvestro.

There was a concern regarding possible conflict of interest. (For the record, City Attorney McHugh confirmed that there are no conflicts of interests with the Commissioners on this project.)

The following are people who commented in favor of the project during the hearing:

Bill Turner, P.O. Box 766, Yreka,  
Thomas Cooper – 419 Third Street  
Jim Johnson, 221 S. Oregon Street, Yreka,  
John Silva, 306 Florentine, Yreka,  
Rick Dean, 326 Herzog Blvd, Yreka,

Their comments included: the City needs to support new business and business expansion in Yreka, nighttime operations are needed for safety of workers on streets and highways, EPS regulations exist to restrict use for environmental safety, project is in a heavy industrial zone, jobs are needed, the project would create many jobs (more than 3 or 4 at the site),

including workers at a job site, workers staying at local hotels, eating at local restaurants, approval would benefit public traveling on the roads.

Project proponent, Ed Kernahan, 21860 Parkway Dr, Red Bluff, reported that the project is located in a heavy industrial zone, by an existing sawmill. In response to questions, he stated there is a residential subdivision in Redding located 500 feet from each of a 500,000 gallon oil supply facility, an operating mill, a sewer plant, and a rock crusher. The subdivision is successful, all units are occupied. He stated the company has three plants in the Redding area, all have residential neighbors; the company has had no complaints. Mr. Kernahan responded to Commissioner's questions.

Commissioners asked questions of Mr. Kernahan.

There being no further comments from the public, the public hearing was closed and discussion was opened to the Commission.

All Commissioners made comment raising issues such as business is needed but not at the detriment of its residents, concerns raised regarding truck noise and odors, the project is located in a heavy industrial zone, health issues, and potential property value decline vs. new jobs.

City Attorney McHugh requested that the record reflect her notification to the Commission that any information presented to the Commissioner's outside of the Council Chambers on this evening or not formally submitted to or by Staff cannot be considered in the Commissioner's decision. The decision can only be made on what is presented in the room and record before them.

Following Commissioners comments Chair Knitter entertained a motion to certify the Final Supplemental Impact Report, no motion was made.

Chair Knitter entertained a motion of denial. Commissioner Mark McAllister moved to deny the certification of the Final Supplemental Environmental Impact Report for the Shasta Valley Asphalt and Aggregate Plant modification of Use Permit #2858 based upon the documentary evidence and testimony given that the application for modification of Use Permit Number 2858 does not conform to Yreka Municipal Code Section 16.44.040, as the documentary evidence and testimony does not demonstrate the project will not be materially detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of such proposed use or be materially detrimental to property or improvements in the neighborhood or to the general welfare of the city.

Commissioner Baird seconded the motion. The motion carried by the following vote:

AYES: Baird, Knitter, McAllister, Ohlund, Rolzinski  
NOES: Leal, Osborn

Action could not be taken on the agenda item regarding consideration of an application for a modification of Use Permit #2858 because the Final Supplemental Environmental Impact Report was not certified for the project.

The Planning Director was directed to prepare a resolution documenting the Commissioner's action.

Chair Knitter announced that there would be a five minute recess.  
Chair Knitter brought the meeting back to order following the recess.

**USE PERMIT – CHARTER SCHOOL  
INTEGRATIVE CENTERS FOR SCIENCE & MEDICINE WITHDRAWN**

Staff reported that the application for a use permit, submitted by Noel Boaz for Integrative Centers for Science & Medicine, to establish and operate a K-12 charter school with health science focus and emphasis on services to Native Americans on the property located at 106 Ranch Lane was withdrawn.

No action was required.

**MITIGATED NEGATIVE DECLARATION – BARHAM STORMDRAIN PROJECT  
CITY OF YREKA NO ACTION**

Commissioner Leal recused himself from participating in this agenda item to prevent a possible conflict of interest due to ownership of property located within 500 feet of the proposed project and he left the room.

This being the time and date set for a public hearing for comment on the Draft Initial Study/Mitigated Negative Declaration for the Barham Stormdrain Project submitted by the City of Yreka. The proposed project implements storm drainage improvements recommended in the City of Yreka Master Plan of Drainage. The proposed project consists of replacement of approximately 3,250 feet of 10 to 18 inch stormdrain pipe with a 36-inch pipeline. The existing stormdrain pipe extends from the Barham detention basin to an existing outfall at Yreka Creek. The zoning designations on the project site are CT (Commercial Tourist), CH (Commercial Highway), R-1 (Single Family Residential) CPO (Commercial Professional Office), R-3-12 (High Density Residential), and RSC (Recreation, School, Conservation, and Open Space). The General Plan designations are O (Open Space), LDR (Low Density Residential), HDR (High Density Residential), RA (Residential Agriculture), and GC (General Commercial). The project is located mostly on Assessor's Parcel No's: 053-642-220 and 053-031-020. Chair Knitter opened the public hearing to the audience.

Staff reported that the Technical Committee made no recommendation or comment on the document. No action will be taken by the Planning Commission at this meeting; this agenda item is to take comments only.

There being no comment from the public the public hearing was closed.

No action was taken on this agenda item.

Commissioner Leal returned to the Commissioner's table.

## **PUBLIC COMMENTS**

None.

## **APPROVAL OF THE MINUTES OF THE JANUARY 20, 2010 MEETING**

The Commission, having received a copy of the minutes of the regular meeting held January 20, 2010, approved the minutes on a motion made by Commissioner McAllister and seconded by Commissioner Rolzinski.

### **TENTATIVE PARCEL MAP EXTENSION**

#### **GWENDOLYN DAVIS – 502 SHERMAN ST**

**APPROVED**

The Commission reviewed the application submitted by Gwendolyn Davis for consideration of a one year extension of Permit No. 3569 for a tentative parcel map for a minor subdivision creating three (3) parcels, 0.19, 0.20, 0.32 acres plus a 1.05 acre remainder on approximately 1.76 acres, on the property located at 502 Sherman Street, Assessor's Parcel No. 62-041-050, R-1 (Single Family Residential) zone, LDR (Low Density Residential) General Plan designation.

Staff reported the Technical Committee recommended approval of a one year extension subject to modification of Condition No. 13 as follows:

13. Submittal and approval of improvement plans, prior to improvement construction, to the Director of Public Works for all public improvements including but not limited to water, sewer, storm drain, street light, curb, gutter, sidewalk, and street construction (based on "R" values with a minimum section of 6" base rock and 2" asphalt concrete) and other public improvements pursuant to Chapter 15.32 of the Yreka Municipal Code. (Modified 2/10)

A Negative Declaration was filed for this project April 28, 2006.

A tentative map approval has an initial life of two years. The map may be extended for up to five years at the discretion of the local agency. This is the second extension request.

Following Commission discussion, Commissioner Rolzinski made a motion to approve the application for a one year extension of Permit No. 3569 for a tentative parcel map for a minor subdivision creating three (3) parcels, 0.19, 0.20, 0.32 acres plus a 1.05 acre remainder on approximately 1.76 acres, on the property located at 502 Sherman Street, Assessor's Parcel No. 62-041-050, R-1 (Single Family Residential) zone, LDR (Low Density Residential) General Plan designation. Approval is subject to the Findings and Conditions of Approval previously approved and modified on March 19, 2008 with the modification of Condition #13 as follows:

13. Submittal and approval of improvement plans, prior to improvement construction, to the Director of Public Works for all public improvements including but not limited to water, sewer, storm drain, street light, curb, gutter, sidewalk, and street construction (based on "R" values with a minimum section of 6" base rock and 2" asphalt concrete) and other public improvements pursuant to Chapter 15.32 of the Yreka Municipal Code. (Modified 2/10)

The project approval is based on Staff's and Technical Committee's recommendations and subject to full compliance with all applicable city, state, and federal laws and regulations.

Commissioner Ohlund seconded the motion. The motion carried by the following vote:

AYES: Baird, Knitter, Leal, McAllister, Ohlund, Osborn, Rolzinski  
NOES: None

**USE PERMIT EXTENSION - RESTAURANT & RETAIL/OFFICE USE**  
**MK & A, LLC DBA CASA RAMOS BY MARCO RAMOS** **APPROVED**

The Commission reviewed the application submitted by Marco Ramos of MK & A, LLC dba Casa Ramos for extension of Use Permit #3568 to construct, establish, and operate a 6,400 sq. ft. restaurant and a 4,125 sq. ft. retail/office building with 111 parking spaces on a project site of 1.7 acres on the property located at 1515 S. Main Street/175 Greenhorn Road.

Staff reported the Technical Committee recommended approval of a one year extension subject to the conditions previously approved and modified on February 18, 2009.

Following Commission discussion, Commissioner Ohlund made a motion to approve the application for a one year extension of Use Permit #3568 to construct, establish, and operate a 6,400 sq. ft. restaurant and a 4,125 sq. ft. retail/office building with 111 parking spaces on a project site of 1.7 acres on the property located at 1515 S. Main/175 Greenhorn Road, Assessor's Parcel No. 62-041-050, CH zone, GC General Plan designation. Approval is subject to the Conditions previously approved and modified on February 18, 2009.

The project approval is based on Staff's and Technical Committee's recommendations and subject to full compliance with all applicable city, state, and federal laws and regulations.

Commissioner McAllister seconded the motion. The motion carried by the following vote:

AYES: Baird, Knitter, Leal, McAllister, Ohlund, Osborn, Rolzinski  
NOES: None

**USE PERMIT EXTENSION – 81 UNIT APARTMENT COMPLEX**  
**NATIONAL AFFORDABLE COMMUNITIES BY WAYNE DEITZ** **APPROVED**

The Commission reviewed the application submitted by Wayne Deitz for National Affordable Communities, Inc. for an extension of Use Permit #3457 to construct, establish,

and operate an 81 unit family apartment community on a project site of approximately 6.75 acres. The project will consist of 10 two story wood frame structures. Project is located at 520 N. Foothill Drive, Assessor's Parcel Nos. 53-651-760 and 53-642-520. The project's zoning is M-1 (Light Industrial) and land use designation is I (Industrial).

Staff reported that no building permit or other development permits have been requested by this applicant since the approval of the Use Permit. The permit was first issued February 16, 2005, since then there have been 4 extensions, the last extension was granted February 18, 2009 and expires on February 18, 2010.

This Use Permit is subject to a one year term if no development has been initiated. YMC Sec. 16.44.050. The Planning Director can give a one year extension administratively, if the applicant gives reasonable justification for not utilizing the permit as required. Thereafter any requests for extension are subject to Planning Commission review and approval. Expiration of a conditional use permit is different from revocation of a use permit. Revocation implies government action to take away the permit, expiration on the other hand is termination of the permit by its own terms. A conditional use permit may be made to expire when the applicant fails to commence construction within a certain time. The justification is to prevent the uses of land from being tied up when the applicant has "no good faith intent to presently commence upon the proposed use". But complex projects require greater preparation and planning and therefore the necessary good faith intent to proceed may be shown by evidence of pre-construction activities, such as hiring engineers and architects. *Community Development Commission v. City of Fort Bragg*. A conditional use permit which expires by its own terms cannot create a fundamental vested right to develop. *Metropolitan Outdoor Advertising v. City of Santa Ana*.

The applicant has demonstrated the hiring of engineers and architects, as the original site plan submitted was prepared for this project. The applicant's current justification for the extension is to seek federal or state funding for the project, which require applicant to submit a competitively awarded application for funding. The timing of that application process is twice annually, and it is the Technical Committee's understanding that the applicant intends to apply for the March round of funding. Staff received correspondence from the applicant that it is their intention to apply for the March funding. Possession of a use permit is assumed to be one of the criteria for funding eligibility.

**It is a condition of approval for the approved Parcel Map that North Foothill Drive from Center Street will have no parking on the northbound lane and there will be bike lanes on both sides of the street.**

The Technical Committee had no firm recommendation for the Commission on this matter. The Technical Committee discussed the project and its lack of development. The Technical Committee weighed whether to recommend extension or not. The Technical Committee was concerned that if the matter were tabled for further study to determine if extension is consistent with the law, policy, and is reasonable, that it might not allow applicant sufficient time to apply for the first funding cycle this year. The Technical Committee was also concerned about the applicant's failure to pursue the development. The Planning Commission may grant the extension, or table the request for future action,

or deny and state reasons. The Planning Commission may also determine not to act at all, in which case the use permit would terminate by its terms. The Technical Committee felt that either denial or no action could be problematic to the applicant.

A Negative Declaration was filed for this project on February 18, 2005.

Following Commission discussion, Commissioner Rolzinski made a motion to approve a one year extension of Use Permit #3457 to construct, establish, and operate an 81 unit family apartment community on a project site of approximately 6.75 acres. The project will consist of 10 two story wood frame structures. The project is located at 520 N. Foothill Drive, Assessor's Parcel Nos. 53-651-760 and 53-642-520. The project's zoning is M-1 (Light Industrial) and land use designation is I (Industrial). The approval is based on Staff's and the Technical Committee's recommendations and subject to full compliance with all applicable city, state, and federal laws and regulations and the findings and conditions previously approved and modified on February 18, 2009.

Commissioner Ohlund seconded the motion. The motion carried by the following vote:

AYES: Baird, Knitter, Leal, McAllister, Ohlund, Osborn, Rolzinski  
NOES: None

#### **COMMISSIONER'S STATEMENTS & COMMENTS**

None.

There being no further business before the Commission, the meeting was adjourned at 9:20 p.m.

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Pamela J. Hayden, Planning Director