

**PLANNING COMMISSION**  
MEETING OF JANUARY 6, 1997

**ROLL CALL**

The meeting was called to order by Chair Monfort at 7:30 P.M. in the Council Chambers of the Chico Municipal Center. Commissioners present were Barry Belmonte, Jeff Carter, Brenda Crotts, Jolene Dietle, Kirk Monfort, Jonathan Studebaker and Michael Wright. Staff present were Director of Public Works E.C. Ross, Assistant City Attorney Lori Barker, Acting Planning Director Tom Hayes, Housing Specialist Dave Burkland, Consulting Senior Planner Pam Figge, Associate Planner Ed Palmeri and Administrative Secretary Karen Kracht.

**DISCUSSION OF EX PARTE COMMUNICATION (IF APPLICABLE)**

None.

**CONSENT CALENDAR**

1. **Use Permit No. 96-34 (Dinov)** - A request to allow the serving of alcohol, specifically beer, in conjunction with a new restaurant which will be located within 300 feet of a residential district. The property is located at 1354 East Avenue, Suite E, and identified as Assessor's Parcel No. 048-061-050, in a N-C Neighborhood Commercial zoning district. This project has been determined to be Categorically Exempt from environmental review pursuant to Section 15301, Existing Facilities, of the California Environmental Quality Act (CEQA).

**Requested Action:** Staff is recommending that the Commission approve this use permit subject to the findings and conditions of approval as listed in the staff report.

Commissioner Wright moved for approval of Use Permit No. 96-34 making the required findings and conditions of approval as listed in the staff report. Commissioner Studebaker seconded the motion which was unanimously approved.

**REGULAR AGENDA**

2. **An appeal of the Planning Director's approval of Administrative Use Permit No. 1648 (Catalyst/City of Chico), Located at 1413 Salem Street and Identified as Assessor's Parcel No. 005-168-001** - A request to modify a use permit to allow the construction of an 800-square foot addition to an existing building and use as a women's group home/shelter in a P-Q Public or Quasi-Public zoning district. The expansion will accommodate four additional clients and office space. The facility currently houses up to 20 clients which include women and children. This project has been determined to be Categorically Exempt from environmental review pursuant to Section 15303, New Construction or Conversion of Small Structures, of the California Environmental Quality Act (CEQA).

Commissioner Wright stated that he would be abstaining from this item as the applicant is a client.

Consulting Sr. Planner Figge reviewed the request to modify a use permit previously approved by the Commission. She noted that while the modification was approved by the Planning Director subject to conditions listed in the staff report, an appeal was filed by a member of the public. She reviewed the history of the use permit, originally approved in 1984. This modification is for the purposes of providing administrative offices and spaces for four additional clients in the shelter. She listed the concerns of the appellant and other neighbors, including incompatibility of land use,

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architecture, parking, maintenance of yard and structure, and lighting. She explained that as the property is leased to Catalyst from the City of Chico, maintenance of the property is required to be provided by Catalyst. She noted that the applicant has indicated a willingness to limit the 800 square foot addition to be used only for administrative offices. The office use would provide better operation of internal facilities and would not impact the neighborhood. She stated that the property appears to be a large student rental or multi-family development, rather than a single-family home. She explained that in order to provide the image that the residence is not used as a shelter, clients are not supposed to be parking vehicles around the residence, and thus do impact other on-street parking in the area. She read the recommended conditions of approval as listed in the staff report.

Commissioner Carter noted that the applicant had submitted a letter proposing that the design of the additional building be similar in design and color to the existing house. He inquired if that would require Architectural Review Board approval. Consulting Sr. Planner Figge replied that the approval could be given administratively by staff.

Commissioner Studebaker asked if the City monitors the condition of the property and if there is any difference in the process as there is under City ownership. Consulting Sr. Planner Figge responded the lease does require an annual inspection, and while at one time there was a service doing the yard maintenance, that would be verified when the property is checked during the annual review. Assistant City Attorney Barker stated that the only variation is that the City annually does inspect the property pursuant to the lease. There is also a report filed with the City quarterly which provides the number of clients served as part of that lease. The landscaping is paid for and done by the organization.

The public hearing was opened at 7:45 p.m.

Glenda Strode, 1350 Salem Street, stated that they had opposed the opening of the center when it was first approved in 1984. Since that time, because of events which have occurred at the site, an atmosphere of distrust has developed between the City, the neighbors and the center personnel. She expressed concern for the amount of on-street parking which impacts the surrounding neighborhood, though she noted that there is an unused, unpaved parking area located off the alley. She also expressed concern for the visual impacts of the lack of maintenance, for both the yard and the home, the amount of exterior lighting and the high fence which does not fit the architecture of the neighborhood. She suggested that an annual review by the City is not enough of an inspection as a drive-by will not ensure that there are only 20 clients present and that the building is being maintained. She stressed that of the area's 25 homes, 20 are owner-occupied and 5 are student rentals. She stated that the Catalyst residents are not neighbors, and do not interact with the neighborhood in a positive manner. She stated that she was opposed to the use permit modification as the added space will lead to more clients being served in this residential neighborhood.

Andy Holcombe, 1339 Esplanade, attorney for the applicant, stated that there is a great need for the services of Catalyst, and a greater possible need for those who could be clients. The Fair Housing Act requires that if there is a group of people requesting housing, it should be granted special consideration. He indicated that prior modification of the caretaker's unit was done to meet public policy, legal requirements and to meet Americans with Disabilities Act (ADA) requirements. He stated that the condition of parking area does not impact the neighbors, only the staff that parks there. He added that the property is under City lease that requires routine maintenance and capital improvements be completed.

Rachael Muratore, 557 Grand Smokey Court, president of Catalyst, stated that there is regular maintenance for the yard, which is done weekly during the summer. She noted that while the back fence is high, it is similar to other fencing in the neighborhood. She indicated that since 1992,

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Catalyst has worked with the City for Community Development Block Grant (CDBG) funds for reroofing, painting the exterior, and installing mini-blinds with lace curtains in the downstairs windows. She agreed that there was a lot of play equipment in the backyard, which is necessary as there can be up to 14 children at the residence at one time. She stated that the lighting on the caretaker's unit and the house exterior are 60 watt bulbs in encased glass fixtures, provided for safety purposes. She noted that they would be willing to change those fixtures to motion-sensitive lighting.

Wayne Cook, 1436 Broadway, stated that he lives on the same block, as well as owns and operates two rental homes across from the property. This is the type of project that is needed and, with a small number of clients, it can fit into the neighborhood. He stated that the current use is not in keeping with the neighborhood with as many clients as are served at the facility. He suggested that fear of social reprisals are keeping some neighbors from speaking out against this project. He stated that he does not object to the facility, though he would not like to see a greater number of clients. He asked that the alley be kept clean, and noted that the parking off the alley is not used and is full of weeds. He expressed concern that an office, currently located in an upstairs bedroom, will be used to house additional clients. He stated that there is no way to monitor the number of clients at the facility. He asked that the Commission not allow Catalyst to add 800 sq feet of development to the property.

Ms. Muratore stated that there currently is a volunteer office upstairs, which was in the staff report. She stated that they will not have more than 20 bed spaces at any time, and would comply with what is agreed to and required by the Commission.

Chair Monfort inquired if, as there is a large unmet need, would beds be 'found' if they are needed and are there plans to expand elsewhere. Ms. Muratore replied, if expansion were to take place, it would be to another city, as the organization serves all of Butte County. She stated that this modification of the use permit is to create an office for the shelter director, as there currently is not one, not to add bed space. She stated that she felt office space would not be impacting the neighborhood, though she understood the emotion behind the neighbors' concerns.

Chair Monfort confirmed that the original request was for office space and a bedroom, which has been changed to have the same amount of space but without the bedroom. Ms. Muratore stated that they were not changing the square footage as the architect plans were designed for it, and the money has to be used by June, 1997. She added that there will be two offices located in the building, one for the shelter director and the other for the phone volunteers. She added that it will also provide access for handicapped clients, and bed space for the sleepover person.

Commissioner Belmonte asked if the facility is always at capacity. Ms. Muratore stated that at times it is full, but often there will only be two or three clients on site. She added that the closest similar facility is in Yuba City.

Andy Holcombe, a previous speaker, stated that it should be clarified that 20 clients be allowed at the facility at all times. He added that as Catalyst currently has 24-hour on-site supervision, he asked that the language for Condition 4.b. be changed to 24-hour as opposed to permanent caretaker.

Dan Evers, 1454 Broadway, stated that many of the area residents are in the process of restoring homes and the neighborhood. He stated that neighborhood interaction is important in that process, which is made more difficult with this facility not participating in that process. He suggested that the applicant should consider one of the many office spaces available throughout town. He expressed concern for the possible impact of social pressures on the neighborhood. He asked that the

modification request be denied and that the applicant find office space elsewhere, in favor of the need to protect the neighborhood as an important part of the social fabric.

Commissioner Studebaker asked how often yard maintenance is performed on the property. Ms. Muratore stated that it is done weekly during growing seasons, less in winter, though there was a gap in service during the spring.

The public hearing was closed at 8:30 p.m.

Chair Monfort asked if the City does monitor the number of clients at the residence. Assistant City Attorney Barker stated that the CDBG funding agreement does require that Catalyst provide the City with quarterly reports showing the number of clients served during that quarter, but it is not broken down further than quarterly.

Commissioner Carter inquired what rights of inspection the City has maintained. Assistant City Attorney Barker replied that the City has the right to go onto the property yearly, for the purposes of inspection, but retains the right to go onto the property at any time with adequate notice. If there was a suspicion of a zoning or building code violation, the City would have to have permission to go onto property to inspect the violation.

Commissioner Dietle stated that this is a worthwhile endeavor which provides a necessary service. She noted that neighborhood complaints are not regarding the residents or the facility staff's behavior, but are toward the maintenance of the property. Because the property owner is the City, the complaints are directed toward the City. She stated that she felt the recommended conditions of approval deal with those concerns.

COMMISSIONER DIETLE MOVED TO APPROVE MODIFICATION TO ADMINISTRATIVE USE PERMIT NO. 1648 (CATALYST/CITY OF CHICO). COMMISSIONER WRIGHT **BELMONTE** SECONDED THE MOTION.

Commissioner Studebaker suggested a condition be added to allow for a semi-annual review of the landscape maintenance. Commissioner Dietle replied that if it were a continuing problem, staff would hear from the neighbors. She stated that she did not feel the need to take up staff's time with an additional inspection.

Commissioner Belmonte stated that the modification to the use permit does provide an opportunity to address concerns of the neighbors. He stated that he would be in favor of approval with those conditions.

Commissioner Carter suggested two additional conditions: (1) As the reporting currently used does not include daily accounts, he asked that monthly reports, or quarterly reports broken down to the number of daily clients be required. (2) The addition must conform with the design of the existing house both in style and color, to be approved administratively. Commissioner Dietle accepted the amendments.

Commissioner Belmonte inquired if the lighting was addressed in the conditions. Consulting Sr. Planner Figge read Condition 6, and noted that there are Municipal Code requirements dealing with direct lighting. Commissioner Crofts confirmed that the condition also addresses the light on 14th Street.

THE MOTION WAS UNANIMOUSLY APPROVED AS AMENDED.

The Commission was in recess from 8:35 p.m. through 8:45 p.m.

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3. **Tentative Vesting Subdivision Map S-96-9 (Allan's Glen Subdivision)** - Proposed subdivision and development of 5.15 acres to create 18 lots (average 7,000 SF) for single family residential use on property rezoned R-1, Single-Family Residential zoning district located on the south side of West Lindo Avenue, and the east side of Holly Avenue, Assessor's Parcel No. 043-620-001. A Mitigated Negative Declaration of Environmental Impact is proposed for this project pursuant to the California Environmental Quality Act (CEQA).

Acting Planning Director Hayes presented the staff report, noting that the site is currently an orchard. Lot 18 will contain an existing single family residence, with a garage and outbuilding, and had initially been proposed for the existing septic to remain. He asked that as the existing garage in relation to the eventual property lines have not been verified at this time, a condition be added to the resolution, Item K. "That the location relative to the future property lines to the west and north be verified via a survey prior to recordation of the map and any variances be approved by the Planning Commission."

Chair Monfort verified that the applicant is aware of the hardship conditions required on variances.

Acting Planning Director Hayes noted that the property is currently in the County, but in the process of annexation.

Commissioner Carter questioned why the street does not connect to Holly Avenue, other than with the pedestrian connection. Acting Planning Director Hayes responded that the Development Review Committee (DRC) felt that as there are existing subdivisions to the east and south, and the property is such a size that it is important to maximize the use of the site, there was not much to be gained by providing the road connection.

Commissioner Carter noted that this is the first project to provide the new 'General Plan Checklist', which was helpful. He noted that in the Checklist there was a reference to the advantage of Lindo Channel as an amenity, even though there is only one lot created which will have the advantage of being along Lindo Channel and it will be oriented toward the interior of the subdivision. Acting Planning Director Hayes responded orienting one house onto West Lindo, which was projected to be a fairly busy street, offered too little benefit to warrant such a condition.

Commissioner Carter noted that the Checklist contained repeated reference to this project as infill development and, as such, several goals were listed as "does not apply," while nowhere in the General Plan is there compliance just because of infill development. He asked that staff not consider a project on the basis of infill, rather to use what is unique to the project because of configuration and size.

The public hearing was opened at 9:00 p.m.

Jim Stevens, NorthStar Engineering, representing applicants, discussed the orientation to Lindo Channel, noting that the property is constrained by street access points in close proximity to the intersection and the bridge. He added that in the construction of the bridge there was an elevation change which begins further down Holly Avenue, making access difficult. He stressed that available access points are limited. Mr. Stevens reviewed the staff report and conditions of approval. He

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presented a sketch of the proposal to save the garage. He proposed that the westerly entrance to the garage be closed off, which would ensure that the lot would qualify for the 20 percent reduction in setback. That would provide the necessary setback to allow Planning Director approval to vary from required minimum setbacks. He added that the applicant would agree to the addition to the Resolution Acting Planning Director Hayes had spoken of. In order to reduce pavement and flag lots, he proposed that a landscaped circle be placed in the cul-de-sacs at all three knuckles; thus, providing interest to the cul-de-sac's, reduce paving, and consistency. He stated that he had two points to clarify within the Department of Public Works Subdivision Report. The first regarding storm drainage; would like the language expanded to allow the possibility of putting the storm drainage through the pedestrian path to Holly Avenue (Section A.2.a.1 of the Subdivision Report). And that the grading plan requirements be altered to reflect the finished pad grades, not the finished floor grades (Page 7 of the Subdivision Report).

Chair Monfort questioned if Lindo Avenue or Holly Avenue is intended to function as a collector, and Lindo Avenue is not a major collector, could Lot 17 be reoriented. Director of Public Works Ross replied that Holly Avenue is the collector in the area. Mr. Stevens added that it would be difficult to turn Lot 17 as the lot is 140 feet wide. He also noted that orienting the house to the Channel with the access to the back would cut off the view of the Channel from other lots in the subdivision.

Commissioner Carter stated that constraints on the project, such as elevation, need to be brought to the attention of the Commission in order to determine if the project complies with the General Plan to the extent possible.

Chair Monfort asked if the elevation would limit views from other lots if Lot 17 were reoriented. Mr. Stevens explained that in order to maintain the required setbacks on the lot, it would need to be made more deep, possibly creating a retaining wall situation.

Commissioner Crotts asked if the applicant was proposing placing trees in the circles within the cul-de-sacs. Mr. Stevens stated that the proposal will have to be approved by the Urban Forester, as trees would increase shading but possibly impact site distances.

Commissioner Dietle reviewed the language for the requirement of an agricultural land mitigation fee, and questioned if it applied to this site. Acting Planning Director Hayes explained that the language was designed to allow flexibility as it is unclear what will happen with that fee. He noted that staff will have to research if this property was included in the original agricultural land listing. Mr. Stevens added that the General Plan does not distinguish between the agricultural land listing and all agricultural land. He indicated that the applicant is not opposed to the condition as it is in the General Plan.

Commissioner Dietle inquired if this property is a viable orchard. Mr. Stevens replied that it is harvested yearly.

Acting Planning Director Hayes explained that a joint committee is being formed by the County and the City to define clear criteria for determining what is agricultural land, either by soil type and/or vacant land. He noted that it could be subjective as to what land would be subject to the fee.

Commissioner Belmonte questioned how the amount of the fee was determined. Mr. Stevens stated that the General Plan indicates it is a negotiated fee. Acting Planning Director Hayes stated that once a negotiated payment is determined at, if within two years it is decided that no mitigation fee is to be applied, the money would be returned to the applicant.

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Regarding air quality mitigations, Chair Monfort inquired if there are plans to wire the garages with 220v, and natural gas be piped to all fireplaces and patios. Mr. Stevens replied that he did not know if those additional lines were planned, but that he could pass on the request to the applicant.

John Merz, 178 Terrace Drive, questioned if the Commission had jurisdiction over this proposal prior to the annexation being completed. Acting Planning Director Hayes stated that the City routinely processes tentative maps for property in the process of annexation. The map is not finalized and recorded until after annexation is completed.

Mr. Merz asked that discussion be reagendaized to allow the public opportunity to review the newly presented material. He then reviewed the Subdivision Report, and asked for clarification of the definition 'scenic street.' Acting Planning Director Hayes replied that the material presented by Mr. Stevens is actually a larger scale drawing of the map presented to the Commission with the staff report. He added that the General Plan Community Design Element talks of scenic roadways which exist along creeks. He noted that staff is in the process of developing specific design standards for those roads, typically providing for street improvements along developed streetside, but not the creekside.

Chair Monfort asked where the bike lanes will be along the scenic streets with those design standards. Director of Public Works Ross responded that although there will be no gutter on creekside, there will be a paved vehicle and bike lanes.

Mr. Merz requested a copy of a storm drainage master plan at such time as it is presented to the Department of Public Works. He questioned why, in the Other Public Services section, does the Subdivision Report state that "with no recommendation for inclusion..." while there are recommendations from other public agencies which have been made and are being included as exhibits to the report. Chair Monfort replied that the recommendations are built into the project. Director of Public Works Ross explained that these letters were received as comments as part of the Subdivision Report, not as items to be mitigated within the report. He added that they are not recommendations by the Department of Public Works.

Mr. Merz reviewed the Initial Study, and noted that on Page 7, Hydrological Factors, (Item C-5) as development of over five acres requires a permit from the Water Quality Control Board and thus, should not be checked as having no impact. He also questioned the impact of the storm drainage peak flows with no new outfalls as it is unknown at this time if one would be necessary. He noted that the Initial Study stated that "no base information available for a 100 year event," although the FEMA reports have been received by the City. He stated that feedback from Urban Forester should have been added regarding the impacts of the strips on the storm drainage detention as the proposed approach may not work if the soils are not porous enough. He suggested that the Commission direct staff to provide a presentation explaining how maintenance districts are put together, reviewed and monitored. He noted that this project, with its proximity to the Holly Avenue bridge, should be considered a key location for public transportation.

Acting Planning Director Hayes explained that the transit routes for the City are constantly being reviewed and are arranged to serve those who will most use it. He added that if a neighborhood center develops in the area, it may become necessary to add a transit route.

Chair Monfort stated that as the project develops over time, it may show development of transit needs. Based on the current transit system, the Commission cannot require a bus shelter. Acting Planning Director Hayes noted that funding sources are part of the formula to determine transit needs as subsidization of the transit system is provided through gas tax and other funding sources.

He added that there are situations where it is appropriate for one developer to provide full mitigation for improvements to be utilized for an entire area, if the projects impact is very significant.

Mr. Merz suggested that projects are dealt with on a piecemeal basis without the full overall view. He expressed concern with the agricultural fee mitigation, noting that the first paragraph of the mitigation does say that the amount of the fee shall be made by an appraisal. He stated that an appraisal is a fair way to determine value. He added that within two years the Council may have made a determination, but if they do not, this fee will remain in place. He indicated that a mitigation fee of some sort is required by the General Plan and does apply to this site as it is a producing orchard. Mr. Merz stated that with the current school district overcrowding, the school mitigation fee will only partially offset the cost of housing the classrooms. He indicated that he would like the City to address this issue by a moratorium on development until it is resolved. He stated that he is not opposed to this infill development, but asked that the unresolved issues, including storm drainage quantity and quality, public transit, school fees, be addressed.

The public hearing was closed at 9:50 p.m.

COMMISSIONER WRIGHT MOVED TO APPROVE RESOLUTION 96-14, APPROVING TENTATIVE SUBDIVISION MAP S96-9 (ALLAN'S GLEN), MAKING THE FINDINGS AND SUBJECT TO THE CONDITIONS OF APPROVAL LISTED IN THE STAFF REPORT, WITH THE ADDITION TO THE RESOLUTION OF ITEM K. TO READ, "THE LOCATION RELATIVE TO THE FUTURE PROPERTY LINES TO THE WEST AND NORTH BE VERIFIED VIA A SURVEY PRIOR TO RECORDATION OF THE MAP THAT IF VARIANCES ARE NEEDED, THEY BE APPROVED BY THE PLANNING COMMISSION," AND THE ADDITIONAL CONDITION THAT 220V. OUTLETS AND GAS LINES BE PROVIDED. COMMISSIONER DIETLE SECONDED THE MOTION.

Chair Monfort inquired if the approval was with the understanding that the handouts replaced the appropriate sections of the map. Mr. Stevens stated that the handouts were a larger scale of what was previously provided.

Director of Public Works Ross stated that he would like to condition the approval for the cul-de-sac circles as staff has not been able to review them. He added that concerns with the circles were the impact on onsite parking and the impact on the required safety turnaround radius. The Commission concurred.

THE MOTION WAS UNANIMOUSLY APPROVED.

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The Commission was in recess from 9:50 p.m. until 10:00 p.m.  
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4. **Use Permit No. 96-29 (Curry Brandaw/Drake Dufour)** - A proposal to construct and operate a 49,000± square foot assisted living facility consisting of fifty-three (53) assisted living suites and a sixteen (16) suite Alzheimer wing on 2.53 acres located at the southeast corner of Lassen Avenue and Cohasset Road, Assessor's Parcel No. 048-390-008, in an area designated on the City of Chico General Plan Diagram as Office and zoned R-P Residential-Professional/Business Office zoning district. A Mitigated Negative Declaration of Environmental Impact is proposed for this project pursuant to the California Environmental Quality Act (CEQA).

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Commissioner Dietle stated that she would be abstaining from this item as her business has significant dealings with one of the applicants.

Assoc. Planner Palmeri presented the staff report and reviewed the planning background of the area. Staff has recommended denial as this project does not meet the expectations for use of the site which were established when the Northeast Chico Specific Plan was adopted and the site's proximity to the airport. He indicated that the goals for this area in the Northeast Chico Specific Plan was to allow office uses and allow those living in proximity the opportunity to work close to home, and that uses in the area be compatible with air operations at Chico Municipal Airport (CMA). He noted that the site is not within any airport clear zones or the 1000-foot wide approach-departure corridor which require specific comment from the Butte County Airport Land Use Commission (ALUC), though it was submitted to them for review. He added that the project has been to the ARB, and though there are no design standards specifically adopted for the area, the existing buildings are all single story with similar building materials; this project does not use those materials and is two story.

Commissioner Carter verified that no comments were received from the ALUC. Assoc. Planner Palmeri stated that a Request for Comments was sent to the ALUC for advisory comments only, and no response had been received from them.

Commissioner Wright asked about the history of the zoning designations in the area. Assoc. Planner Palmeri replied that the General Plan designates the area Offices, in which there are some instances it would be permitted to have some type of residential uses. The Northeast Chico Specific Plan designation had been NC Neighborhood Commercial, which encourages both office and professional office uses, as there was no office zoning at that time. In 1994, during the General Plan adoption, this site became R-P Residential Professional - Business Office district, in the consolidation of zoning designations. The use is consistent with the General Plan with the current zoning designation.

Commissioner Wright verified that the Specific Plan did not envision this type of use. Assoc. Planner Palmeri stated that while the General Plan view is broad, the Specific Plan narrows the uses specific to that area. Acting Planning Director Hayes stated that while the Specific Plan had zoned the site N-C Neighborhood Commercial as there was no office designation, the clear intent was to provide that the area be developed for office use. In addition, the N-C, Neighborhood Commercial zoning designation was conditioned limiting the type of use to offices with a maximum development of 750 square feet of floor area per acre. With the adoption of the new General Plan, an outside firm organized the massive rezoning of the entire urban area, in which the R-P zoning was applied without reviewing the zoning history of the area. The C-O Commercial Office zoning district, which does not allow residential uses, would have been more appropriate. He explained that staff is relying on the historical intent of the zoning and land use in that area to recommend denial.

Chair Monfort reviewed the intentions of the Specific Plan zoning, and that the airport concerns appear to be negated as the site is not in a clear zone or departure zone and the ALUC has not responded on the project. He noted that the historical zoning had considered airport issues as relevant. Acting Planning Director Hayes reviewed the plat for this site in relation to approach and departure zones.

Commissioner Carter verified that the original specific plan considered the site's proximity to airport. Assoc. Planner Palmeri explained that there are differences between the way noise contours were examined in 1979 and are examined due to the type of air traffic. The current noise contours do not include this project site.

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Commissioner Carter asked when the Request for Comments was forwarded to ALUC. Assoc. Planner Palmeri explained that it was sent to them in early December.

The public hearing was opened at 10:20 p.m.

Jeff Kraus, 3300 E. 1st Avenue, Suite 490, Denver, Colorado, introduced the development team on this project. He noted that the zoning on this site allows for such a use with a use permit. He stressed that the current businesses in the area are in support of the use. He stated that since the zoning and area uses support the proposed use for the site, the use is consistent and compatible. He indicated the site's attributes of being on a bus route, across the street from a Butte County Fire Station, and in proximity to other care facilities of various levels. He added that the project has received conceptual approval from the ARB.

Chair Monfort inquired if the site will be fenced. Mr. Kraus replied that the Alzheimer's wing will be a totally secured unit, while the remainder of the building will have an open feel. He noted that only sections of the facility will be two-story, with the ends being single story.

Melissa LeClerc, Curry Brandaw Architects, 2260 McGilchrist, Suite 100, Salem, Oregon, explained the concept of assisted living residence as being a minimal care facility, while not being an apartment residence or a nursing home, with meals served in a cafeteria. She stressed that the project will create 30 new jobs for the area, as opposed to a mini-storage being built on the site, which is also an allowed use. The primary focus of the facility is to create residences and to serve needs of seniors. She reviewed the locations of existing senior housing projects are in the vicinity and stressed their importance as when the residents require a higher level of care, they will not have to move into another neighborhood.

She indicated that the design standards of the existing office park were met through varying the building height. She pointed out that there are some of office buildings in the area which have the same eave height. She indicated that the proposal is consistent with the General Plan and the Neighborhood Commercial designation. She added that the General Plan indicates that a mix of uses is desirable; this project would mix uses in the neighborhood. She reviewed other businesses in the area including offices, a church, a law school, a mini-storage and a fire station.

Chair Monfort reviewed the proposed fencing and inquired how the residents will be transported around the City. Ms. LeClerc stated that the Alzheimer's wing will be fenced, though the residents will be encouraged to feel unencumbered within the fenced area. She noted that the other residences will not be fenced in order to promote an open-neighbor character. There will be shuttle service to places away from the facility. She added that there will be a system of connected walking paths for exercising, though many of the residents will be fairly frail and wandering off the site will not be encouraged. She added that many of the residences along Cohasset Road will most likely be rented first as it will provide the impression that the resident is 'part of the action'.

Eric Robertson, engineer on the project, expressed concern that staff is basing their recommendation to deny this proposal based on an 18-year-old study which has not proven to be accurate. He noted that if Office designated properties were in demand in the area, the parcel would have been developed.

Acting Planning Director Hayes noted that the General Plan is a 20-30 year plan, which analyzed land use needs over a long term. There is an adequate amount of office use land designated for office use proportionally to other land uses, all of which will be developed over a long period of time. Mr. Robertson stated that the General Plan is a dynamic document which evolves, while the Northeast Chico Specific Plan was developed 18 years ago and did not evolve.

Acting Planning Director Hayes stated that staff is not opposed to assisted senior housing in general, but cautioned that it may not be appropriate for this site.

The public hearing was closed at 10:40 p.m.

FINDING THAT THE PROJECT HAS MERIT, COMMISSIONER BELMONTE MOVED TO ADOPT THE NEGATIVE DECLARATION AND APPROVE USE PERMIT NO. 96-29 (CURRY BRANDAW/DRAKE DUFOUR) SUBJECT TO THE CONDITIONS OF APPROVAL AS LISTED IN THE STAFF REPORT, AND FINDING THAT (1) THERE ARE OTHER SIMILAR TYPE FACILITIES IN THE GENERAL LOCATION OF THE PROJECT, (2) THIS PROJECT HAS NOT MET WITH ANY NEGATIVE COMMENTS FROM THE BUTTE COUNTY AIRPORT LAND USE COMMISSION, (3) THIS PROJECT DOES CONFORM WITH MIXED USE OF THE NEIGHBORHOOD; AND (4) THAT THE PROJECT IS CONSISTENT WITH THE GENERAL PLAN. COMMISSIONER WRIGHT SECONDED THE MOTION WHICH WAS APPROVED 4-2-1 (COMMISSIONER CARTER AND CROTTS OBJECTED. COMMISSIONER DIETLE ABSTAINED).

5. **Discussion of the City's Capital Improvement Program** - Chair Monfort is requesting that the Commission consider making a recommendation to Council to guarantee implementation of certain items in the Capital Improvement Program.

Chair Monfort suggested that this item be discussed with the City Council at a joint meeting. He stated that the concern was if public improvements be covered up-front or whether the current process should be continued.

Commissioner Belmonte stated that discussion dealing with capital transportation improvements could be widened to allow for discussion of other, broader improvements.

Acting Planning Director Hayes explained the current funding process. He stated that the concern is that traffic impacts occur before major improvement can be put in place.

Commissioner Belmonte stated that there is also concern among the Commissioners, although fiscal responsibility is not a direct concern of the Commission, regarding the whole capital improvement process.

### **CORRESPONDENCE**

6. **General Plan Annual Report**, copy of report forwarded to City Council and Planning Commission, incorporating Commission revisions.
7. **Jesus Provides Our Daily Bread**, update report from Katy Thoma, Executive Director.
8. **Request regarding the City's Capital Improvement Program**. A letter to City Manager Tom Lando from Betty Volker, Chairperson for Sierra Club Yahli Group, dated December 26, 1996, requesting preparation of a Capital Improvement Program. A copy of City Manager Tom Lando's response, dated December 26, 1996, is also enclosed.

### **BUSINESS FROM THE FLOOR**

None.

**ADJOURNMENT -**

There being no further business, the meeting was adjourned at 10:50 P.M. to the Adjourned Regular meeting of January 13, 1997.

March 3, 1997  
Date Approved

/s/  
Tom Hayes  
Acting Planning Director

**PLANNING COMMISSION**  
MEETING OF JANUARY 13, 1997

**ROLL CALL**

The meeting was called to order by Chair Monfort at 7:30 P.M. in the Council Chambers of the Chico Municipal Center. Commissioners present were Barry Belmonte, Jeff Carter, Brenda Crotts, Jolene Dietle, Kirk Monfort, Jonathan Studebaker and Michael Wright. Staff present were Community Development Director Tony Baptiste, Assistant City Attorney Lori Barker, Acting Planning Director Tom Hayes, Associate Planner Ed Palmeri and Administrative Secretary Karen Kracht.

**DISCUSSION OF EX PARTE COMMUNICATION (IF APPLICABLE)**

None.

**CONSENT CALENDAR**

1. Minutes of Regular Meeting of November 4, 1996.

**Requested Action:** Approve with any corrections/revisions required.

2. Minutes of Regular Meeting of December 2, 1996.

**Requested Action:** Approve with any corrections/revisions required.

3. **Administrative Use Permit No. 96-35 (Nava)** - A request to allow a large family day care home serving up to 12 children located at 188 Greenfield Drive and identified as Assessor's Parcel No. 006-570-037, in a R-1 Single Family Residential zoning district. This represents an appeal of the Planning Director's approval of December 13, 1996. This project has been determined to be Categorically Exempt from environmental review pursuant to Section 15301, Existing Facilities, of the California Environmental Quality Act (CEQA).

**Requested Action:** Appeal of the Planning Director approval of the use permit was withdrawn. No action by the Commission is required at this time.

4. **Use Permit No. 96-38 (Somers)** - Use permit to allow outdoor sales of flowers at existing businesses located at 2538 Esplanade (Arco Gas Station) and 959 Nord Avenue (Star Liquors), Assessor's Parcel Nos. 006-060-048 and 043-290-114, in a C-1 Restricted Commercial District. This project has been determined to be Categorically Exempt from environmental review, pursuant to Section 15305, Minor Alterations of Land Use Limitations, of the California Environmental Quality Act (CEQA).

**Requested Action:** Staff is recommending that the Commission approve this use permit subject to the findings and conditions of approval as listed in the staff report.

Chair Monfort removed this item from the Consent Agenda.

COMMISSIONER CARTER MOVED APPROVAL OF ITEM NUMBERS 1, 2 AND 3 OF THE CONSENT AGENDA AND CLARIFIED THAT ITEM 3 REQUIRES NO ACTION AS THE APPEAL WAS WITHDRAWN. COMMISSIONER STUDEBAKER SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

#### **ITEMS REMOVED FROM THE CONSENT CALENDAR**

##### **4. Use Permit No. 96-38 (Somers)**

Chair Monfort asked about the requirement that a parking place be provided. Acting Planning Director Hayes replied that the Municipal Code requires that a parking place be provided somewhere on the property, or on an adjacent parcel, with an administrative use permit. In order to mitigate the impact of additional use, some parking needs to be accommodated. He noted that the applicant is aware of the provisions.

Commission Crofts asked if the parking will need to be marked. Acting Planning Director Hayes replied that it would not. He added that verification from the property owner authorizing the use is part of the application process.

COMMISSIONER CARTER MOVED APPROVAL OF USE PERMIT NO. 96-38 (SOMERS). COMMISSIONER STUDEBAKER SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

#### **REGULAR AGENDA**

##### **5. Use Permit No. 96-28 (Omni 2 Regional Foundation) - A request to authorize a two year interim use permit to re-open and operate an existing amusement park including provision of live music and/or live entertainment on occasion, with proposed hours of operation 11:00 a.m. to 10:00 p.m. Sunday through Thursday, and 11:00 a.m. to 11:00 p.m. on Fridays and Saturdays, on 5.65 acres located at 2275 Elm Street, Assessor's Parcel No. 005-490-035, which is zoned M-1 Limited Manufacturing. This project has been determined to be Categorically Exempt from environmental review pursuant to Section 15301, Existing Facilities, of the California Environmental Quality Act (CEQA).**

Assoc. Planner Palmeri reviewed the staff report and explained that there have been some changes in staff's recommendations on the proposal. He noted that this is a new application for a new use permit, separate from the previous use permit which was revoked. He explained where the 150 parking spaces would be placed on the Fun World site and on an adjacent parcel, with access from 23rd Street. He indicated that staff has determined that under CEQA, a Mitigated Negative Declaration is necessary as the project no longer meets the criteria for a Categorical Exemption. As such, the Commission may hear testimony, discuss the merits of the project; then, direct staff to proceed with the environmental review.

Commissioner Carter reviewed the location of the proposed parking adjacent to the Silver Dollar Fairgrounds and inquired on the City's future plans for 23rd Street. Assoc. Planner Palmeri replied that current plans do not include 23rd Street going through. He added that Fun World has indicated that they will not be using the fairground property; staff is recommending that the property line be fenced.

Assoc. Planner Palmeri noted that the applicant has dropped their initial request for serving and sale of alcohol on the site. He explained that as it is the off-season, the applicant wishes to make improvements to the water slide and receive the final certificate of occupancy. He stated that the applicant is requesting they be allowed occasional outdoor music events. He noted that previous outdoor events at the site resulted in neighborhood complaints due to noise. Staff is recommending that live music be allowed through an administrative use permit twice per year. He indicated that staff has contacted similar parks and feel that based on previous activity at the park and at other

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parks, 150 parking spaces would be adequate. He added that the applicant would be required to submit engineered plans, meeting minimum City standards, for the access road to E. 23rd St., to be reviewed by the Department of Public Works and Building Division. He stated that it will be necessary to build a chainlink fence along the parking area in order to protect balance of the property which has environmentally sensitive areas. He indicated that after receiving notice of the project, neighbors have meet with staff citing a number of concerns as listed in the staff report. With the recommended conditions of approval, those issues that the City can effectively address are dealt with. He also reviewed the correspondence received by the Commission.

Regarding the environmental review, Assoc. Planner Palmeri explained that the project does require additional environmental review. Staff has met with the Army Corps of Engineers and US Fish and Wildlife regarding the access road and parking area. The Army Corps of Engineers have indicated that there are no wetland issues for the specific area.

Assoc. Planner Palmeri explained that if the Commission does desire to move forward with a decision at this meeting, a Motion of Intent could be adopted, pending completion of the environmental documents. He stressed that all conditions of approval and applicable sections of the Municipal Code, be complied with prior to the reopening of the park, with verification from staff.

He noted that the applicants have been working effectively with the Mosquito Abatement District. He pointed out that whoever operates the Fun World facility will need to address the conditions, as the use permit runs with the land, not with the owner. He reviewed the recommended conditions of approval, with the addition of a condition regulating the hours the generator may be operated, from 11:00 a.m through the close of business hours, only after the sound attenuating materials have been installed.

Commissioner Carter inquired if chain link fencing will be required along both sides of the parking area in order to prevent trespassing on the fairgrounds or wetlands. Assoc. Planner Palmeri replied that the Commission can discuss fencing along all boundaries, as the recommended condition is regarding the south side, protecting the wetland property.

Assoc. Planner Palmeri noted that staff is recommending the removal of Condition No. 16, and not limit the permit to two years. He suggested that a condition be placed allowing a review period of 6 months or 1 year. He explained that in regards to Condition 14, in lieu of a recorded agreement, staff would request that a letter from the property owner and applicant regarding the applicant's intentions to purchase and/or use the property.

Commissioner Carter verified that the only access to the Gabrych property is on 23rd Street, and expressed concern that if the land owner gives Fun World an easement or agreement for parking, and the applicant doesn't purchase the remainder of the property, access to 23rd Street would be needed for the remainder of the property. Comm. Development Director Baptiste stated that the City does have some easement rights already in the ground so future cooperation may provide for joint use. He added that if the applicant does follow through with future development of the 12 acres, the parking can be moved.

Commissioner Wright asked if parking issues are addressed through the administrative use permit process. Assoc. Planner Palmeri replied that staff can place parking restrictions on such a use permit based on information from the applicants to project the number of patrons attending the event. Acting Planning Director Hayes added that in most cases of live concert events, staff does rely on existing parking areas and on-street parking. As 23rd Street may not have on-street parking, temporary arrangements could be made with neighboring businesses.

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Commissioner Studebaker asked when staff met with the neighbors. Assoc. Planner Palmeri replied that staff has met with the neighbors frequently at the office, creating a regular dialog, but specifically shortly before the staff report was published. The applicant has received the staff report, which lists the neighborhood's concerns.

Commissioner Studebaker expressed concern with the rough drawings included in the staff report. Assoc. Planner Palmeri explained that it is typical to bring schematic drawings to the Commission in order to show how an area will function for ingress and egress. Acting Planning Director Hayes added that a Motion of Intent would allow for the additional environmental review, which would include having more complete drawings for that review.

Commissioner Carter questioned if the rough drawings only encompassed the 75 feet from the southerly property line, which was acceptable to the Army Corps of Engineers; as a wetland's delineation would be necessary north of that line. Assoc. Planner Palmeri indicated that the applicants diagram does show the 75 feet being the acceptable area.

Commissioner Carter verified that the Gabrych property, which would include the parking area, is zoned M-1. Assoc. Planner Palmeri noted that the M-1 designation would allow for uses such as industrial, light manufacturing and warehousing.

Commissioner Belmonte stated that the applicant's rough drawing is less than what he had hoped would be provided to the Commission. He noted that the area to be considered for the outdoor events is not shown on that drawing. Assoc. Planner Palmeri drew the Commission's attention to the blueline drawing displayed, which does show all the affected areas.

The public hearing was opened at 8:30 p.m.

Glenda Driver, President of Omnii 2 Regional Foundation, the applicant, displayed a color representation of the amusement park.

Commissioner Belmonte stated that he would like the public to have an opportunity to review the representation. The display was placed for public review. Assoc. Planner Palmeri noted that the representation depicts only existing uses.

Ms. Driver noted that she had additional maps of the existing storm drainage improvements on the 12-acre parcel. She indicated that due to the sewer installation, US Fish and Wildlife does not feel that the development of the 75 feet would be a problem. Assoc. Planner Palmeri stated that there are no plans to proceed with the extension of 23rd Street.

Ms. Driver described the purpose of Omnii 2 Regional Foundation is to care for American youth by establishing jobs and opportunities for them. She stated that they have difficulty with the idea of a two-year interim permit. She explained that the lenders want to ensure that they will be in operation for more than two years as most grants mandate a three-year track record for funding. She added that the Foundation hopes to be able to input the park's revenue into other programs for youth and children in the community.

Ms. Driver stated that the organization feels they have addressed the community concerns, including that of the generator. She noted that the Building Permit for the generator requires that a muffler be installed as well as other sound-attenuating material. She stated that the only time the generator has been started since the Building Permit was issued was when the new elements were installed. She indicated that the fence between the parking area and the remaining wetland acreage was desired to protect the park, and they intend to place pylons with chains between the parking

area and the fairground property. She pointed out a letter from Rolls Anderson & Rolls, an engineering firm, indicating that it is possible to enter onto the property without going onto the fairgrounds property. She expressed concern that the Commission packets had one letter from the engineer attached, but not the other two letters which show progress and solutions. She stated that the Foundation is opposed to the condition requiring an administrative use permit for the live entertainment events. She indicated that the Foundation desires to be able to provide young people the opportunity to have a place to perform blues or other music.

Commissioner Studebaker noted that there are other instances where the Commission has required organizations to have administrative use permits for live events. Ms. Driver replied that the Foundation wants to have the control to book talented young people to perform without much notice.

Chair Monfort noted that staff has recommended the Commission delete the condition limiting the permit to two years.

Ms. Driver drew the Commission's attention to the petition attached to the staff report, which included 50 to 60 signatures of those who would not be opposed to Fun World. She indicated that she had instructed their lenders to contact the Community Development Director. She noted that, at some time in the future, they would like to develop the other 12 acres on this site; they have hired Carol Whitman to conduct the wetlands delineation. She stated that she does not understand the need for an environmental study for the 75-foot parking area. She added that they would not be opposed to conducting traffic and environmental studies for the development of the remaining area.

Commissioner Carter noted that when Ms. Driver last addressed the Commission, the lender had testified that a Notice of Default had been filed and inquired if a Notice of Sale is still pending. Ms. Driver stated that they currently have a working agreement with the lender.

Commissioner Studebaker asked what types of live music would be performed, with how many people in the audience and what measures would be available should parking become a problem for the events. Ms. Driver replied that the only suitable types of music for the facility are Christian, blues, jazz and country. She indicated that they do not expect there to be more than 100 present for the events. She added that there have been some discussions with other businesses in the area. If parking becomes a problem, those discussions could be pursued.

Commissioner Studebaker stated that as country music is extremely popular in the area, events involving country music may generate an attendance of more than 100 people, and parking problems may occur. Ms. Driver replied that they feel the situation is different than just going to a concert.

Chair Monfort inquired if the Foundation would rather not have a limitation on the music events. Ms. Driver stated that they are not arguing about the amount allowed, but that the events either be allowed or not allowed. She indicated that they do not want to build a masonry fence as recommended by staff, as there are some nice shrubbery around the facility.

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The Commission was in recess from 9:05 p.m. through 9:20 p.m.  
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Ken Rice, 2153 Elm Street, stated that he has appreciated the efforts by Planning staff who have bent over backwards to accommodate both the neighborhood and the Fun World owners. He

**PLANNING COMMISSION**

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expressed concern regarding the use of the generator, as it was abused by running it from 9:00 a.m. through 6:00 p.m. for days at a time. He indicated that the Police were called regarding the noise and reviewed the logs he kept regarding the noise. He stressed that generators are usually operated by businesses for backup power only. He suggested that the Foundation could save money by not having a generator, and thus not have to build a sound wall around it. As for the masonry wall, he acknowledged that there are bushes on the south side of the property, though behind the house to the south, there is a chainlink fence. He noted that when the Fun World project was initially proposed, the developer told neighbors it was to include a dirt berm wall toward the adjacent neighborhood, but the wall has never been built. He expressed concern with the proposed live entertainment area, which is in proximity to the neighborhood. He explained that the speakers for the entertainment would face toward the neighborhood. He noted that a daycare center is being built on the adjacent vacant property. He asked that the sound wall be built for the entire length of that side of the property to protect the neighborhood and that the generator be used only for backup power.

Mr. Rice requested that the Commission require the waterside to be enclosed in order to avoid reoccurrences of confrontations between those on the waterside and a neighbor in his backyard. He suggested that the current owners of Fun World may not fully understand the problems as they have not talked with the neighborhood. He indicated that if the applicants were to go through the environmental review process, they would have more of an understanding of what is required and that their rights are not being taken away by conditions of approval.

Jane Dolan, Butte County Supervisor, stated that the Mulberry District is within her district. She indicated that there are serious compatibility issues which have not been resolved with the neighborhood. She stressed that the proposal does not qualify for a CEQA categorical exemption, as there are no existing uses on the site and historical record shows that each additional step should have environmental review. She reviewed the surrounding uses; a retail center to the north, soon to be a migrant head start daycare center to the east, and to the west, an improved residential neighborhood with existing stock of low and moderate income homes. She suggested that the hours of operation proposed are too late as the site is within a year-round school district. A closing hour of 7:30 p.m. would be acceptable.

Supervisor Dolan stated that it is her belief that the condition to not allow alcohol will be violated. She suggested that the Commission should have a better plot plan to approve the project. She noted that the Commission cannot place a condition that debts be paid, as a group which wants to put money into the community should pay debts first. She expressed concerns with the use of the generator, and asked why a use like this would propose a diesel generator as its power source. Other issues with the generator include noise, safety and gas spills. She asked that the Commission reject this approval until all environmental review has been completed.

Chair Monfort noted that the concerns addressed by the neighbors were addressed by the recommended conditions. Supervisor Dolan stated that the hours of operation are not acceptable close to homes in a year-round school district. She urged that environmental review be completed, including a focused environmental impact report on the generator.

Tim Carroll, 2026 Franklin Street, stated that Supervisor Dolan has expressed most of the neighborhood concerns. He expressed concern with the removal of the recommendation of the two-year permit. He questioned that if this were a serious proposal, why were engineer's drawings not available. He asked that environmental review on the wetlands and a traffic study be completed prior to approval. He asked why the generator was necessary. He suggested that the applicants have shown bad faith with regard to the neighbors and the fairgrounds.

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David Howard, Richard L. Harriman Attorneys, 643 Flume Street, stated that he would present staff with a written summary of legal issues in the near future. He read the CEQA regulations for categorical exemption for existing facilities, noting that the exemption applies only to activities with no expansion of existing use. He suggested that the development of 1.5 acres of parking and roads are part of the facility, and thus, is an expansion of the facility. Acting Planning Director Hayes explained that staff recommendation is not a categorical exemption; but rather, if the Commission passes a Motion of Intent, direction would be given for additional environmental review, most likely resulting in a mitigated negative declaration.

Mr. Howard stated that there are a number of elements of the proposal resulting in the expansion of the use; including the hours of operation, as there are no operating hours at this time, the juice bar, storm drainage for the additional parking and development, and the inclusion of both indoor and outdoor live music. He noted that the recommended conditions do not include a restriction of decibels for the indoor entertainment. He stressed that fencing is necessary to restrict trespassing and encroachment onto the wetlands.

Mr. Howard inquired about the time limit on speakers imposed by the Commission. Assistant City Attorney Barker stated that it is appropriate to have a time limit for all speakers, allowing all equal opportunity and time to address the Commission.

Mr. Carroll, a previous speaker, inquired why staff is requesting any decision from the Commission until after the environmental documents are provided. Acting Planning Director Hayes explained that particularly with highly controversial projects, staff does ask for direction prior to the completion of environmental documents.

Wanda Story, 1450 Guill Street, stated that the Omnii 2 Foundation has not kept their promises to the Commission and the neighborhood in the past. She expressed concern with the business and the proposed hours of operation. She urged the Commission to deny the application.

Bill Story, 1450 Guill Street, stated that he was concerned with the use of the generator. He noted one instance when the generator was running, where he had driven by the site and found no employees present. He indicated that as country music is popular in this area, he had concerns that adequate parking be available and that attendance limits be set per Fire Marshall requirements. He stated that he does not want this use at this site as it will negatively affect the community, neighborhood children and the safety of the neighborhood as a whole.

Tom Corron, 2225 Elm Street, stated that he attends Chapman School, and feels that this facility is important to the area children. He stated that he was speaking for many young people when asking the Commission to give Fun World another chance.

Barbara Smith, 558 E. 23rd Street, read a letter from a neighbor, a copy of which was provided to the Commission prior to the meeting, opposing the Fun World operation with live entertainment. She stated her belief that there should be environmental review and determination, prior to project approval. She read an excerpt from minutes of the March 4, 1996 Commission meeting. She expressed concerns regarding the condition of the slides, location of the fire hydrant and hours of operation. She stressed that while the park operators have stated they have increased safety equipment, employees do need to be instructed in use of those items. She presented pictures of the Gabrych property and safety hazards in the area.

Craig Iseley, Spartan Partners Twenty, attorney for the lender, stated that his company has been the lender for the property since 1986 and they feel that the use can be successful in the future. He acknowledged that there was a Notice of Default, to which a Trustee's Sale was conducted.

Mr. Iseley, in response to Commissioner Carter's question about the lease of the property, replied that the lease is for two years with the option to purchase. He added that there is nothing in the lease to grant an automatic extension, but the lease could be continued if so requested.

Mike MacMahon, 2132 Elm Street, stated that he has not have had any problems with Fun World, or its operators. He indicated that he had friends who count on Fun World for a job.

Lynn MacMahon, 2132 Elm Street, stated that she has been an area resident for six years. She indicated that traffic problems from Fun World is not an issue in the area. She pointed out that the Silver Dollar Fairgrounds also creates a large amount of noise during events such as racing and live concerts, and do impact the neighborhood. She noted that her teenage children have used the Fun World facilities to occupy their time. She stated that she felt it is important for the community to find something for children to do to provide structure. She stressed that mishaps happen in all amusement parks. Many residents in the area use and walk to the facility.

John Geiger, 1528 Warner Street, stated that the Commission should have the best interests of the whole community in mind; the community is better off for the facility there. He stressed that City staff has been working with Omnii 2 to attempt to resolve the problems. With this in mind, short of removing the park, it may not be possible to resolve the conflicts with all the neighbors.

Mr. Howard, a previous speaker, noted that the CEQA categorical exemption cannot be used when there will be a more than negligible expansion. He stated that there are court precedents which state that a reasonable possibility that activity will have an impact on the environment precludes exemption. He pointed out that City staff has stated that live entertainment noise would have an impact on the neighborhood. Given the impacts of activities at the Fairgrounds including stock car racing, live concerts and tractor pulls, the Fun World facility will result in a consistent impact on the neighbors' lives. He expressed concern for the potentially sensitive areas which exist in the area of the expansion for parking. He asked that the Commission continue the hearing to allow for public review of new information and allow the preparation of better scale drawings.

Chair Monfort noted that the site has been available for review, as well as the documents discussed at this meeting, most of which were included in the staff report.

Lisa Corron-Walton, 2225 Elm Street, stated that the water slides are in her backyard. She indicated her belief that the Fairgrounds have a greater impact on the neighborhood. She noted that she has been appointed Community Liaison for Omnii 2 Foundation, and is available to relay any messages or concerns from the community to the Foundation.

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The Commission was in recess from 10:20 p.m. to 10:35 p.m.  
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Shanon Sanger, 6179 Opal Lane, Paradise, stated that she is employed by Fun World. She indicated her desire to work at the park before Omnii 2 took ownership. She noted that it has her intent to bring cartoon-style characters into the park to associate with the children. She indicated her belief that the concerns of the neighborhood will be met by the recommended conditions. She suggested that the condition requiring masonry fencing be modified to have the wall only where there are spaces between the existing greenery, as the area that faces the neighborhood has many trees.

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Evelyn Carr, Director of Omnii 2 Regional Foundation, addressed the concerns regarding use of the generator. She explained the generator holds 10 gallons of gasoline which equates to less than 4 hours of use. The generator is used as an emergency necessity since the park does not currently have electricity, and they must maintain the landscaping. She agreed that it is noisy, but pointed out that when they purchased the generator it did not have the necessary housing, installation or muffler. The housing, installation and muffler have been purchased, but have not all been installed at this time. An abutment around the generator will be built after all additional parts have been installed. She indicated that after the park is open and operational, the generator is to be used only for occasional use; while 8:00 a.m. is early, emergencies do not have a time schedule. She stated that the park operations can save \$2,000 to 4,000 by using the generator for 2 to 4 hours per day.

Chair Monfort questions if the local power rates are such that it is less expensive to run a generator. Ms. Carr replied that they can save \$2,000 by using the generator to run the irrigation and pump system.

Ms. Carr addressed the Foundation's mission to assist children of all ages, through programs to provide jobs, housing, references, educational needs, and help latchkey children. She indicated that the Foundation came to Chico with good intentions, but various things have hindered the organization before they could proceed. She expressed her belief that the Foundation was not told the seriousness of the problems within the park prior to its purchase. She stated that she felt the organization has been falsely charged by the staff and the community.

Commissioner Studebaker stated that City staff has been working effectively with Omnii 2 on this project. He indicated that he found previous comments made by Ms. Carr to be hurtful to protected group members and suggested that a new era of cooperation needs to begin.

Ms. Carr stated that she had found it necessary to respond to comments and to defend the Foundation against representation in the local newspaper. She indicated that the Foundation was grossly hurt both financially and by reputation; the Foundation responded appropriately at that time. Commissioner Studebaker suggested that if the Foundation has problems with the newspaper, comments should be directed at the newspaper, not at City staff or the Commission.

Commissioner Dietle asked if the Foundation viewed the property prior to its purchase. Ms. Carr responded that the site was reviewed four times, all during inclement weather, and the owner did not show them all of the property. She indicated that they have had to remove an underground storage tank with State approval.

Commissioner Dietle asked if there are plans for the continued use of the generator, and what the timeframe is for providing a permanent power source. Ms. Carr explained that the financial backing will not be committed until a use permit is approved. The generator is used only when necessary for irrigation and repair work. After the park is in operation, by mid-April, the generator will be used only in the evening. Operation of the entire park does require an outside power source. By September, the generator is intended for emergency use only. It was not purchased as a main source of power and is too costly for full time usage. She added that a sincere attempt will be made to not run the generator once Pacific Gas and Electric (PG&E) power has been restored to the park.

Cindy Rice, 2153 Elm Street, stated that she attended a neighborhood meeting at which Omnii 2 Foundation said they would work with the neighbors, but the Foundation representatives did not want to hear any neighborhood opposition. She noted that when she questioned if the live entertainment event held at the park on July 4, 1996, was permitted by the City, she was told by Foundation staff that it was okay with City staff. She stated that she has not had a good experience with Foundation staff or the organization when displaying concerns.

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Ms. Story, previous speaker, inquired if the Commission had received correspondence from the Building Division regarding the generator. Commissioner Carter informed Ms. Story that the correspondence was included in the supplemental correspondence provided to the Commission.

Doug Campbell, 364 Brookside Avenue, stated that he had attended a meeting with the Foundation, during which Ms. Carr stated that their purpose for installing the generator was that they would not be at the whim of PG&E. He explained that his company did not end up doing business with the Foundation. He questioned the validity of the organization's non-profit status.

Glenda Driver, a previous speaker, expressed concern with the attack on the Foundation's reputation and provided the Commission with a number of references and contacts.

Mike Briton, 1155 Woodland Avenue, stated that he took his children to Fun World shortly after the Foundation took over the facility. He indicated his belief that during that visit, two busloads of young people who appeared to be gang members, arrived at the park, stayed together as a group and did not participate in park activities. He explained that he moved his family to Chico to get away from the gangs. He acknowledged that while there is a need to recreate those in rehabilitation programs in Sacramento, it should not be in done in Chico. He asked that the Commission deny this use permit.

Leroy Sycks, 69 Brentfield Circle, Saratoga, California, stated that he has brought his 14 grandchildren to Fun World. He stated that he is concerned with the rehabilitation of children and to provide them an opportunity to enjoy themselves away from gang activity. He stated that none of the Board of Directors of Fun World or Omnii 2 Foundation have any gang connections, or invite gang members to Fun World. He stressed that he can assure the Commission that public relations is a matter of importance to the Foundation and to provide a safe environment for children. He indicated that the ideal of the Foundation is to provide a clean environment for young people.

Barbara Smith, a previous speaker, stated that there were many parties at Fun World at which Fun World employees said alcohol was served. She expressed concern with the health and safety of the park's patrons.

Tom Carron, a previous speaker, stated that he never witnessed gang activity at Fun World.

The public hearing was closed at 11:20 p.m.

Commissioner Belmonte asked if staff had any reference to the underground storage tank. Comm. Development Director Baptiste stated that he would research the permit, which would be required by the Fire Department.

Commissioner Belmonte inquired what percentage of the park would be used to bring in youths from other communities to recreate. Ms. Carr responded that youth served are from this area and are not bussed in. She added that she will provide City staff with the information regarding the removal of the gas tank.

Chair Monfort asked if the new information would bring about the issue of toxic waste on the site. Comm. Development Director Baptiste stated that underground tank removals are handled by the Fire Department; this removal seems to have been undertaken in the proper fashion.

Commissioner Dietle noted that such discussions need be continued if it is determined that the project has merit; thus, without that determination of merit, a decision can be made at this meeting. Commissioner Studebaker stated that he would like to continue the hearing in order to receive more

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information, and not to vote on a Motion of Intent to approve the proposal. Chair Monfort agreed that a Motion of Intent suggests that if the environmental review determines there will only be minimal impacts, the project's land issues would be approved. Commissioner Belmonte stated that the issues have not been clearly resolved, and new information may have an impact on Commission decisions.

Chair Monfort cautioned the Commission to consider that the environmental review will address any environmental dangers, leaving only the land use issues. Character is not part of a project, and would be inappropriate for Commission consideration. The application has to stand on its merits, whoever the applicant is. Commissioner Belmonte noted that no Commissioner has made representation regarding any character.

Commissioner Crotts expressed concerns regarding access from 23rd Street, and what an environmental review would say to the impact on the traffic circulation in that area. Comm. Development Director Baptiste stated that he has discussed the proposal with Director of Public Works E.C. Ross, who indicated that the volume of traffic would not adversely impact traffic on Whitman. He added that it was made clear to applicants that if they do proceed with an expansion on the Gabrych property, it would require traffic studies.

Commissioner Carter stated that there is a land use compatibility concern which has been displayed by testimony regarding gangs, generators and mosquito fish. He noted that while the use is a historical use in this location, it does not mean the Commission must allow the expansion of the use. He added that by allowing the encroachment into M-1 zoning, it might limit the nature of the use of the remainder of the lot. The compatibility and the desire to expand the historic use is in question. He stated that moving forward with a Motion of Intent to have an environmental study completed may not be appropriate. He noted staff has stated that Silver Dollar Fairgrounds has indicated a willingness to have discussions toward an agreement for Fun World parking. He inquired if a irrevocable agreement for the Gabrich property was necessary. Assistant City Attorney Barker replied that such a condition would only be acceptable if the easement or license is irrevocable with the term of the use permit.

Commissioner Carter expressed concerns with the encroachment into M-1 designated land and the impact on the nearby residential area.

Commissioner Wright asked if it was common practice to allow operations acquiring parking on another parcel. Assistant City Attorney Barker stated that it is the City Attorney's position to require an irrevocable agreement to provide that parking.

Commissioner Wright reviewed a previously approved item on this agenda regarding parking requirements.

Acting Planning Director Hayes stated that some Commissioners have indicated they would not support a Motion of Intent. He indicated that staff would like direction regarding the land use prior to proceeding with the environmental review. He added that another option would be to postpone any action until the environmental review has been completed. If the Commission foresees a denial of the use permit, then staff would request a Motion of Intent to allow the preparation of the necessary findings for denial.

Chair Monfort described the concerns that may be addressed by the environmental review, including traffic on Whitman, noise, and wetlands issues. Commissioner Crotts indicated that the wetlands on the 75-foot parking area may not be a concern as it has already been disturbed. Chair Monfort

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added that the level of service on Whitman may not be impacted by the addition of 100 cars, and the noise impacts may be shown to unmitigatable to a level of significance.

Comm. Development Director Baptiste reviewed a letter submitted by Omnii 2, from Butte County Public Health, dated September 7, 1995, which shows that a copy was provided to the City's Fire Department. Based on that letter, it does appear that a fuel tank was discovered and appropriately removed.

Commissioner Belmonte noted that there are several changes from the original staff report, which listed categorical exemption, to the notice of underground tanks. He stated that the public should be allowed the opportunity to review and respond to the new material, and staff be allowed to present the information. He added that he does not feel it is right to untimely delay the process to continue this discussion pending the appropriate review.

COMMISSIONER BELMONTE MOVED TO CONTINUE THIS ITEM, INSTRUCT STAFF TO PREPARE THE ENVIRONMENTAL INFORMATION, AND ALLOW FOR PUBLIC RESPONSES.

Commissioner Carter verified that staff would prepare the necessary environmental review. Assistant City Attorney Barker recommended that if the Commission does continue this matter, it be continued until such time as the environmental information be completed.

Commissioner Dietle stated that she would vote against continuance, but would like to have Commission discussion of the conditions in order to provide staff direction. She suggested that the condition regarding hours of operation be modified to Sundays through Thursdays with closure at 9:00 p.m. She also suggested that the operation of the generator be conditioned that the installation of sound attenuation materials and sound enclosure be completed prior to operation of the generator and then be used for emergency backup only and that PG&E power be restored prior to the park opening. She added that a condition should also be placed to require a parking barrier between the parking area and the fairgrounds.

Commissioner Belmonte stated that a number of conditions may need to be reviewed and modified as a result of the environmental review.

COMMISSIONER BELMONTE RESTATED THE MOTION TO CONTINUE USE PERMIT NO. 96-28 WITH THE INTENT TO ALLOW STAFF THE OPPORTUNITY TO CONDUCT THE NECESSARY ENVIRONMENTAL REVIEW AND REVIEW OF THE CONDITIONS OF APPROVAL REFLECTING THE ENVIRONMENTAL REVIEW. COMMISSIONER CROTTS SECONDED THE MOTION.

Commissioner Carter stated that he was prepared to act and approve a motion to deny the use permit, but as it would appear to die for lack of a second, he would be in support of the completion of an environmental review.

Commission Crotts agreed that 9:00 p.m. closure for the amusement park may be late on a school night in a year-round school district; 8:00 or 8:30 p.m. may be more appropriate.

Ms. Carr stated that she would not accept continuance, and desired a Commission decision at this meeting.

Ms. Driver inquired what timeframe the environmental review would require. Assoc. Planner Palmeri stated that assuming there are no unanticipated problems, it would take roughly 30 days to complete the review.

Ms. Driver stated that the Foundation's lender has given approval on the time delay.

THE MOTION WAS APPROVED 4-3 (COMMISSIONER DIETLE, WRIGHT AND CHAIR MONFORT OPPOSING).

#### **ADDENDUM ITEM**

- a. **Staff clarification of the notification of the Airport Land Use Commission, as requested by Commissioners Belmonte and Carter.** Commissioners Belmonte and Carter have requested clarification regarding the notification of the Airport Land Use Commission of the use permit request for an assisted living facility at the corner of Cohasset Road and Lassen Avenue, Use Permit No. 96-29 (Curry Brandaw/Drake Dufour). The public hearing and Planning Commission approval of the project took place at the Regular Meeting of January 6, 1997.

Acting Planning Director Hayes stated that members of the Commission have asked for clarification on the process used on the subject use permit. Staff is confident that they had forwarded a "Request for Comments" to the County, but it was not received by the Airport Land Use Commission (ALUC) staff, and record of it being sent is not available. He noted that from the City's legal council, staff was under no obligation to get comments from ALUC in this instance, but staff did agree to send a request for advisory comment. He explained that the only option open to the Commission at this time is through the appeal process. The Council has the option to rehear the item. In addition, the City Manager can appeal the item to Council, or an aggrieved party may appeal to Council. Commission cannot request an item be heard by the Commission for a second time, after a Motion of Approval has been adopted.

Commissioner Belmonte expressed concern that the information was presented one way and maybe should have been represented differently; as a result, the information may have changed the decision of the Commission. He noted that while it may be the City Attorney's opinion that there was no obligation to get information from ALUC, in a workshop on the use permit, staff was directed by the Commission to forward any project to ALUC for comment any time a project may influence airport land use. Staff should still be obliged to get that response.

Commissioner Carter explained that the position taken by this Commission was a result of a General Plan zoning issue and the absence of an airport issue. The staff report had cited that no comment had been received from ALUC, and when questioned staff had indicated that ALUC had been solicited for comments and no response had been received. The Commission has shown a new era of cooperation with the ALUC, specifically with regard to Bidwell Ranch. Airport use has been an issue of land use with this Commission. He expressed concern that some of the Commission may not have voted in favor of this application had they known that ALUC had not been solicited for comments. The vote may have been postponed until opinions had been solicited. He questioned the validity of a vote by a Commission which was based on misinformation. He asked for assurances that this would not happen in the future.

Assistant City Attorney Barker stated that the Commission could speak to Council members or the City Manager to seek an appeal.

Commissioner Studebaker stated that he would like some sort of mechanism where ALUC review could get checked prior to Commission action.

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Acting Planning Director Hayes stated that he has directed staff to place a "Comment" section in each staff report which will include what "Requests for Comments" were requested and the resulting comments received. He reminded the Commission that staff was operating under the impression that a "Request for Comments" had been forwarded to the ALUC, and was not intending to deceive the Commission. Staff had recommended denial of the use permit based on historical consistency and on airport proximity.

Commissioner Belmonte stated that if it is the wish of the Commission to pass on a communication to the Council, there was a set of facts presented which may not have been accurate and thus, the Commission action may not have been correct. He expressed general displeasure with Planning Division staff with regard to issues such as the previous agenda item in which it was noticed and prepared for a Categorical Exemption and is actually to be a Mitigated Negative Declaration, the lack of meetings of the Neighborhood Subcommittee and the Agricultural Mitigation Committee. He stated that he would like to see some positive action and a schedule to address these issues.

Commissioner Carter verified that unless someone appeals the Commission's action, there will be no Council action. Assistant City Attorney Barker added that an appeal would also take a majority Council vote in order to hear the appeal. The Commission can request that the Council bring the matter up on their own. She pointed out that the agenda item did not contain language for Commission action on this, rather was agendized as a staff report. She stressed that the appeal must be filed within 15 days of the Commission action.

Commissioner Carter inquired if there is an emergency exemption to the Brown Act which could be used in this instance. Assistant City Attorney Barker replied that the Commission could determine by a two-third vote to take action subsequent to the agenda being posted.

Commissioner Carter asked if any member of ALUC may appeal the Commission's decision. Assistant City Attorney Barker replied that anyone who lives in the City of Chico may appeal the decision.

Bob Hennigan, Airport Land Use Commission member, stated that there are important issues which should have been raised with regard to the subject use permit. He displayed a map which suggests that this area would be subject to noise in excess of 60db by the year 2010. He suggested that by allowing development in this area, the City is trading some development for the airport's future. He expressed concern that the City, by determining ALUC input unnecessary, has begun to make decisions without full public process. He also expressed concern that limiting future airport operations, due to development, will impact the area economically and socially, including the financial institutions which fly their checks to the Bay Area, and the arrival of medical organs for transplant.

Chair Monfort inquired if the types of recommendations made by ALUC are also made to major airports. Mr. Hennigan stated that major airports are being required to purchase housing areas to mitigate for noise.

Chair Monfort noted that there have been discussions in the past on how all airport concerns should get to the Council. Acting Planning Director Hayes stated that the airport Comprehensive Land Use Plan (CLUP) and the Airport Environs Plan, are still going through the public process. The airport manager was involved in staff recommending denial on the use permit in question.

Fred Geurst, Airport Land Use Commission chairperson, stated that relations between the City and ALUC have deteriorated in the last several years. It is to the City's advantage to maintain the airport's viability, to which adverse impacts do not help. He expressed his appreciation that the

Commission would like to reconsider their decision. He noted that during his 10-year tenure on ALUC, they have never failed to answer a Request for Comments.

Assistant City Attorney Barker explained that the Chair of the Commission may call a special meeting providing the agenda is posted with 24-hour notice. As the next Council meeting is the following Tuesday, January 21, with no other meetings to be held during the appeal period, a Commission decision would be necessary prior to noon, Friday, January 17. The Chair can adjourn this meeting and call a meeting for Friday morning.

Commissioner Carter asked that Chair Monfort move that the Commission call a meeting on Friday, January 17, 1997, to consider what action should be taken as the previous vote on the matter may have been based on mistaken information, and request that the Council call up the decision on Use Permit No. 96-29.

Commissioner Dietle verified with Assistant City Attorney Barker that she would have to abstain on this vote as she abstained on the Use Permit.

Commissioner Carter verified that if the Commission acts favorably on this item on Friday, the Council agenda for January 21 could be amended.

Commissioner Belmonte stated that the Commission must make decisions in the public interest, and therefore must put all due effort into correcting erroneous actions. He urged staff to meet future deadlines.

The Commission discussed available times, and concluded that the Commission members would be available at 9:00 a.m on Friday, January 17, 1997.

CHAIR MONFORT MOVED THAT A SPECIAL MEETING BE HELD AT 9:00 A.M. ON JANUARY 17, 1997 TO DETERMINE WHAT ACTION WOULD BE ASKED OF COUNCIL, IF ANY, REGARDING USE PERMIT NO. 96-29. COMMISSIONER CARTER SECONDED THE MOTION WHICH WAS APPROVED 6-0-1 (COMMISSIONER DIETLE ABSTAINED).

### **CORRESPONDENCE**

6. A response from Bob Hennigan, dated January 3, 1997, to a letter sent by City Manager Tom Lando, dated December 3, 1996, regarding Chico Municipal Airport.

### **BUSINESS FROM THE FLOOR**

None.

### **ADJOURNMENT -**

There being no further business, the meeting was adjourned at 12:30 A.M. to the Regular Meeting of February 3, 1997.

March 17, 1997  
Date Approved

/s/  
Tom Hayes  
Acting Planning Director

**PLANNING COMMISSION**  
SPECIAL MEETING OF JANUARY 17, 1997

**ROLL CALL**

The meeting was called to order by Chair Monfort at 9:00 a.m. in Conference Room 1 of the Chico Municipal Center. Commissioners present were Barry Belmonte, Jeff Carter, Brenda Crotts, Jolene Dietle, Kirk Monfort, Jonathan Studebaker and Michael Wright. Staff present were Assistant City Attorney Lori Barker, Senior Planner Stacey Jolliffe and Administrative Secretary Karen Kracht.

**DISCUSSION OF EX PARTE COMMUNICATION (IF APPLICABLE)**

None.

**REGULAR AGENDA**

1. **Consideration of action in regard to requesting the City Council to consider Commission's action in granting Use Permit No. 96-29 (Curry Brandaw/Drake Dufore)**  
- A proposal to construct and operate a 29,000± square foot assisted living facility consisting of fifty-three (53) assisted living suites and a sixteen (16) suite Alzheimer wing on 2.53 acres located at the southeast corner of Lassen Avenue and Cohasset Road, Assessor's Parcel No. 048-390-008, in an area designated on the City of Chico General Plan Diagram as Office and zoned R-P Residential-Professional/Business Office zoning district. The use permit was granted on January 6, 1997, and a Mitigated Negative Declaration of Environmental Impact was adopted for this project pursuant to the California Environmental Quality Act (CEQA).

Commissioner Dietle stated that she would be abstaining this item due to business with the applicant.

Chair Monfort reviewed the subject use permit, the public hearing and the vote on the motion to approve the use permit at the January 6, 1997 Regular meeting. He noted that at the January 13, 1997 meeting, Commissioner Belmonte had indicated that the vote may have been different had more information been available. This is a Special Meeting with the idea that the Commission may desire to have the Council review the decision. He noted that staff had initially recommended denial based on airport proximity and General Plan zoning. He reviewed the Airport Land Use Commission (ALUC) report, which was provided to the Commission at this meeting.

COMMISSIONER CARTER MOVED TO 1) PURSUANT TO SECTION 2.80.350 OF THE MUNICIPAL CODE, ASK THE CITY MANAGER TO APPEAL THE DECISION BECAUSE THE DECISION WAS CONTRARY TO THE POLICY OF THE COUNCIL THAT COMMISSION DECISIONS BE BASED ON ALL FACTS; AND 2) SHOULD THE CITY MANAGER NOT APPEAL THE ITEM TO THE COUNCIL, REQUEST THAT THE COUNCIL REVIEW THE DECISION BASED ON THE FACT THAT NOT ALL NECESSARY INFORMATION WAS AVAILABLE TO THE COMMISSION. CHAIR MONFORT SECONDED THE MOTION.

The public hearing was opened at 9:05 a.m.

Norm Rosene, an alternate to the Airport Land Use Commission, stated that he had not heard about this use permit previously. He urged the Commission to strongly request that Council allow for input from the ALUC on this use permit. He noted that the ALUC not only reviews a project's impact on the airport, but also reviews CalTrans and other airport related planning law.

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Commissioner Belmonte stressed that at time the issue of the subject use permit came up before the Commission, the correct information was not provided to the Commission and the Commission is now taking steps to correct that. The concern was that all information should have been provided relative to ALUC comments. Direction was provided to staff to contact ALUC. The information from ALUC could more than likely have changed the vote on the issue. He stated that he would encourage notification to Council with any project found to have incomplete or erroneous information, and such projects should be reviewed by the Council.

Commissioner Studebaker stated that he would vote for the motion, despite the fact that there appears to be a deadlock on the Council and it is important that they get this message from the Commission. He stressed the importance of health and safety factors in all land use decisions. The Commission has demonstrated that they desire a good working relationship with ALUC, and intend to continue that relationship. Future projects in the area should contain ALUC opinions.

Sr. Planner Jolliffe stated that staff sent a "Request for Comments" to ALUC, though ALUC did not receive it. Staff has now made provisions to ensure that future "Requests" are received by stating in staff reports which parties were sent "Requests for Comments" and what responses were received.

Chair Monfort noted that some members of ALUC feel aggrieved. He indicated that there seems to be some disagreement between ALUC and the City.

Commissioner Wright noted that comments have been heard indicating that some Commissioners may have changed their vote due to ALUC's input. He stated that the property is not in ALUC jurisdiction and is not in the airport clear zones. If there is a change of vote, then the Commission may be redefining those airport areas without going through the proper process. He noted that while he appreciates the concerns of the other Commissioners, the issue is not just a general comment of not having all information; thus, the original vote was appropriate.

Commissioner Belmonte stated that he was in favor of this project, and still is in favor of the project, but is opposed to the way it was presented. The process used was not the best process, and information was presented which was not correct. He stated that he would like to prevent this from occurring in the future. The message to the Council should be that there was an error made and should be reviewed by the Council.

Chair Monfort stated that he is in favor of the issue being reviewed by the Council.

THE MOTION WAS APPROVED 5-1-1 (COMMISSIONER WRIGHT OPPOSED, COMMISSIONER DIETLE ABSTAINED).

Commissioner Carter explained that the City Manager has the option to appeal a Commission action prior to the end of the 15-day appeal period. Should that not be done, then the Council can call up the record on its own accord.

Commissioner Belmonte requested that information be provided to the Commission to schedule workshops on neighborhood planning and agricultural mitigation.

### **BUSINESS FROM THE FLOOR**

None.

**ADJOURNMENT**

There being no further business, the meeting was adjourned at 9:50 A.M. to the Regular meeting of February 3, 1997.

March 17, 1997  
Date Approved

/s/  
Tom Hayes  
Acting Planning Director

**PLANNING COMMISSION**  
MEETING OF FEBRUARY 3, 1997

**ROLL CALL**

The meeting was called to order by Chair Monfort at 7:30 p.m. in the City Council Chambers of the Chico Municipal Center. Commissioners present were Barry Belmonte, Jeff Carter, Brenda Crotts, Jolene Dietle, Kirk Monfort, Jonathan Studebaker and Michael Wright. Staff present were Assistant City Attorney Lori Barker, Acting Planning Director Tom Hayes and Administrative Secretary Karen Kracht.

**DISCUSSION OF EX PARTE COMMUNICATION (IF APPLICABLE)**

Chair Monfort stated that he had received a telephone call before meeting regarding Item 1. on this agenda. The caller, an area property owner, had indicated he could not attend the meeting. He expressed concerns with regard to noise, lighting and fence repair.

Chair Monfort announced that a use permit request for Zepeda had been withdrawn prior to publication of the notice, though it had been mailed to the neighboring property owners; thus, that hearing would not be held at this meeting.

**REGULAR AGENDA**

1. **Use Permit No. 97-1 (Johnson)** - Located at 190 Cohasset Road and identified as Assessor's Parcel No. 006-120-094, in a C-1 Restricted Commercial zoning district, this Use Permit is a request to allow a youth sports activity center utilizing the location's existing buildings. The proposed hours of operation are 9:00 a.m. through 9:00 p.m. seven days per week. Use of this site is proposed for the temporary term of one year. This project has been determined to be Categorical Exempt from environmental review pursuant to the California Environmental Quality Act (CEQA).

Acting Planning Director Hayes reviewed the staff report, and noted that the use, a sport center for youth, is not specifically identified in the Municipal Code. The site has been unoccupied for a number of years, and has come under disrepair. He indicated that the recommended conditions of approval were prepared to reflect that the initial request was for a one-year use permit, additional conditions have been provided should the use remain at the location for more than the one year. He noted that staff did receive a telephone call from an occupant of an adjacent apartment who, among other issues, was concerned that he had not received notice. He explained that in the case of apartment dwellings, notice is mailed to the property owner, and unless staff is aware that the property is a multi-family dwelling, individual notification is not always provided.

Commissioner Carter verified that Condition Nos. 11 and 12 are to be completed following the initial year, thus, the applicant will have 24 months to comply.

Commissioner Belmonte inquired if the project would also have to be approved by the Architectural Review Board (ARB). Acting Planning Director Hayes explained that unless the exterior is to be modified, only the landscaping for the extended use would require ARB approval.

Chair Monfort questioned why a one-year permit was not adequate to staff. Acting Planning Director Hayes replied that it is the City Attorney's opinion that if a use is appropriate on a site for a one-year time, then it would be appropriate for an indefinite; thus making a denial of a similar future use difficult. He added that the Municipal Code does not allow for such temporary permits. He added that the assumption is that the use could be there indefinitely.

The public hearing was opened at 7:45 p.m.

Adele Johnson, 55 Sunbury Road, the applicant, stated that the initial operation of the facility would include batting cages and lessons within the main building, with the other buildings eventually housing more gymnasium-style activities. The outdoors is all asphalt.

Chair Monfort inquired if outdoor basketball was a foreseeable activity. Ms. Johnson replied that the only useful asphalt area would be between the buildings, and the eastern-most square area. She noted that the owner of the property does wish to do something else with the property in the future; thus limiting the time frames of this use.

Chair Monfort noted that the residences along the north boundary would be impacted by noise from the use. If the outdoor use was expanded north of the buildings, it would be necessary to provide noise abatement, such as a masonry wall. Ms. Johnson stated that, within reason, she would prefer to not have outdoor activities excluded.

Commissioner Belmonte verified with Ms. Johnson that the project is not anticipated to be at this location for more than one year. Ms. Johnson explained that the lease is for one year, and the property owner has indicated that it would not be renewed.

Bob Green, real estate agent on the property, stated that the owner feels this is a good interim use for the property while he plans the future development for either commercial, office or residential use of the property.

Commissioner Belmonte noted that if it is one-year permit, then not as much would be required financially of the applicant. Mr. Green stated that this is a good interim use of the site, and would allow Ms. Johnson to get the business established.

Commissioner Belmonte applauded the idea to provide positive activities for youth.

Mr. Green indicated that the property owner has been approached by a number of people for future uses of the property.

Chair Monfort inquired if there was exterior lighting at the site. Ms. Johnson stated that Diamond Lumber, a previous occupant of the site, had installed exterior lighting on most of the buildings. She added that it is her intention to have most of those lights working.

Commissioner Studebaker asked for Ms. Johnson's response to the Police Department concerns with loitering after hours, as indicated in the staff report. Ms. Johnson stated that after 9:00 p.m., the closing hour of the facility, the gates will be locked; if loitering does become a problem, they will have to hire security at night. Mr. Green noted that there are currently two holes in the fence, which will be repaired.

Commissioner Carter inquired if there are any concerns regarding traffic, exit and egress, on the eastern-most driveway. Ms. Johnson stated that the main entrance will be on the other side, with the employee lot on the Cohasset Road side. She noted that there is a concern with the crossing at the bike path across Cohasset Road. Mr. Green added that the line of sight will be enhanced once the landscape maintenance has been completed.

Chair Monfort suggested that there be an entrance to the site off the bike path, possibly with a lockable swing gate with an asphalt walkway. Commissioner Carter expressed concern that such an entrance might increase loitering. Ms. Johnson stated that an entrance off the bikeway would

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not be a problem. Mr. Green added that such an entrance would be acceptable if it were a temporary solution.

Mr. Green expressed concern with Condition No. 10 requiring that a sewer application be filed. Acting Planning Director Hayes explained that, because of the conversion to a new use, the City's Engineering Division would require a new sewer application in order to determine impact of the site to existing sewer capacities.

Acting Planning Director Hayes inquired if there is an intent to complete any modifications which might require a building permit. Ms. Johnson stated that the City has to approve the new electrical panel, which would require a building permit. Mr. Green stated that changing access to sewer, or the capacity of the site, would be unnecessary given the short-term use.

Chair Monfort asked if such an application may cause a number of sewer changes for the site. Acting Planning Director Hayes noted that the original use may have required less sewer capacity. Ms. Johnson stated that there are currently only two restrooms on the site, which will not be increased.

Commissioner Belmonte asked what occupancy of the site is allowable with only two restrooms available. Acting Planning Director Hayes stated that the building occupancy is determined by Fire Code and Building Code, though if more facilities were added to accommodate the amount of people, the sewer capacity needs would increase.

Commissioner Belmonte stated that if an occupancy number was known, then the permit could be conditioned to limit the occupancy to that level. Acting Planning Director Hayes stated that if it is the intent of the applicant to add facilities or change the use, that would have a greater impact than the current sewer capacity of the line was designed to accommodate. If only an electrical permit is needed, that would not trigger the response for a new sewer application.

Commissioner Carter verified that Condition 10 requires an application be filed, and depending on the information in that application, additional materials may be required.

Brian Katz stated that he operates a business adjacent to the property to the west. He indicated that the lighting on the site is up to standard on the exterior of the building. He added that he would like a provision for some type of security against late night loitering.

Commissioner Carter stated that Condition 3 requires that regular inspections of the site by facility staff take place. He asked if the Commission has any authority to require patrolling of surrounding areas. Assistant City Attorney Barker stated that in order to place such a condition, a nexus must exist. Unless there was a real concern, based on experience, the condition must be very limited.

The public hearing was closed at 8:10 p.m.

As the property owner and the applicant both testified that this is to be a temporary use, Commissioner Carter asked the Commission to consider a temporary use permit for 12 to 18 months, thus avoiding the expanded conditions. Commissioner Studebaker stated that he would prefer an 18-month permit to allow for additional time in relocating the business.

Acting Planning Director Hayes explained that staff is concerned that there are no provisions in the Municipal Code for a temporary use permit, other than uses such as a temporary job trailer at a construction site. As such, there are no provisions for placing conditions on a temporary use permit. It is cleaner to handle placing all conditions that would be necessary over the long term, with

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the use of phased conditions. Assistant City Attorney Barker added that with the provisions of the Code, the Commission does have the authority of granting a use permit for a limited time. However, if a use permit is being granted for a use which is not appropriate for the long term, on the theory it is temporary, if the use does last longer, it is difficult to add or change conditions. She recommended that if the use permit is to be granted for a less than permanent basis, conditions should reflect the future of the use on a site.

Commissioner Belmonte asked if the Commission opted to grant the use permit and require review at one year, could additional conditions be added at that time. Assistant City Attorney Barker replied that the Commission could not add conditions at that time; rather, would have to revoke the use permit and approve a new permit.

Chair Monfort suggested that a condition be worded such as "If the outdoor areas north and east of the buildings were used, then a masonry wall would need to be built along the north edge of the property."

Assistant City Attorney Barker stressed that the extent of the conditions is irrelevant to the change of the use. If the use changes and/or if the use is discontinued for one year, the permit ceases to exist. She urged the Commission to consider that the use could be of a longer term.

Commissioner Carter stated that there are compatibility issues with other uses in the area.

Chair Monfort stated that the site has good bicycle connections, proximity to Butte College extension and a sports club.

**COMMISSIONER BELMONTE MOVED APPROVAL OF UP 97-1 (JOHNSON), MAKING THE REQUIRED FINDINGS AND WITH THE RECOMMENDED CONDITIONS AS LISTED IN THE STAFF REPORT.**

Commissioner Belmonte indicated that he was willing to entertain other conditions of approval. He stated that it is important to encourage vacant property to become productive. He noted that this use should be encouraged as it is a temporary use with other plans for the site in the future.

**COMMISSIONER STUDEBAKER SECONDED THE MOTION.**

Chair Monfort stated that he had some amendments to the conditions of approval for the Commission to consider. The first of which was changes to Condition 4, add to the end of the last sentence "and all external security lighting shall be directed and shielded to avoid spillover of light to adjoining properties." Chair Monfort questioned if those lights could be seen from the residential areas to the north. Acting Planning Director Hayes replied that the shielded and directed lighting would provide coverage to the ground, not to neighboring properties.

Chair Monfort suggested the addition of a Condition 11, "In the event outside areas north and east of Building "C" are used for outside activities, then a masonry sound wall, at least six feet in height must be constructed along the north property line, extending from the west side of Building "C" to the east property line." He also suggested the addition of a new Condition 12, "Construct a permanent connection from eastern-most parking lot to the City bike/pedestrian path." Condition 11, as listed in the staff report, then would become Condition 13, as it falls after the 12-month time frame segment, allowing up to two years for the construction.

Commissioner Belmonte accepted the changes as recommended by Chair Monfort.

Commissioner Carter verified that any modification to the exterior of the building would require a Building Permit and inquired if, at the eastern access to the property, the City retains authority to review if right a turn exit can be required at a certain time. Acting Planning Director Hayes replied that exterior changes to the building would require ARB approval. Regarding the exit, the Engineering Department may have the authority to review for such adjustment, but the authority for the installation would have to be reviewed.

Commissioner Carter suggested that an additional condition (Condition 14) be added "At the end of the 12-month period, if the use remains, the City shall evaluate the traffic safety associated with ingress and egress to the site and suggest modifications, if needed." Commissioner Belmonte accepted the amendment.

Ms. Johnson indicated that she had been informed that the existing monument sign outside the building was larger than currently allowed, and inquired if it could be used. Acting Planning Director Hayes stated that the change in use, and the fact that the sign has not been in use for more than one year, does trigger the regulation that the sign conform to current standards. It may be possible, through a variance procedure, though the sign would still have to conform for the amount of total free standing signs allowable.

The public hearing was closed at 8:35 p.m.

THE MOTION, AS AMENDED BY CHAIR MONFORT AND COMMISSIONER CARTER, WAS UNANIMOUSLY APPROVED.

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The Commission was in recess from 8:35 a.m. to 8:45 p.m.  
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2. **Use Permit No. 96-30 (Hignell and Hignell)** - A request for a use permit to allow the construction and operation of a 40-bed residential care facility on property located at 1650 Humboldt Avenue, Assessor's Parcel No. 002-050-234 (portion), in an R-P Residential Professional/Office District. A Mitigated Negative Declaration of Environmental Impact is proposed for this project pursuant to the California Environmental Quality Act (CEQA).

Acting Planning Director Hayes reviewed the staff report for the request to allow a residential care facility in an R-P Residential Professional zoning district. He noted that the proponents have changed the size of the facility to accommodate 49 residents. The increased size would not cause a problem for parking. He indicated that there is only one significant mitigation, the requirement for a noise study, though staff is recommending that it be eliminated because the proposed building is beyond the 65 db noise contour generated by SHR 32 and the Building Permit process ensures that the building will comply with construction standards reducing interior noise to 45 db.

Chair Monfort inquired if there are plans to extend the facility to the north. Acting Planning Director Hayes replied that such an expansion is assumed due to the placement of the building. He noted that other changes to the application include the removal of the covered parking area. He reviewed that a number of General Plan design goals are met within this project, including having the majority of the parking on the side of the building. The actual design will be processed through the ARB.

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Commissioner Belmonte asked why Condition No. 5 included language regarding paint colors when the project will be approved by the ARB. Acting Planning Director Hayes replied that it is part of the routine process to have the ARB involved, and suggested that the language be removed. He noted that there have been discussions to require a permit to change color approved through discretionary permits or the ARB process. Commissioner Belmonte asked that the language be eliminated in the condition.

The public hearing was opened at 8:50 p.m.

Dan Shedd, representing the applicant, reviewed the size of the project and noted that the residential care facility will be licensed by the State.

Commissioner Carter asked if the applicant would agree to the language change for Condition No. 5, as discussed by Commissioner Belmonte. Mr. Shedd responded that they would like it to be changed as suggested.

The public hearing was closed at 8:53 p.m.

Commissioner Carter inquired if any further changes by the applicant would require ARB approval. Acting Planning Director Hayes stated that if a change were to be made in the design, it would require ARB approval.

COMMISSIONER CARTER MOVED FOR APPROVAL OF USE PERMIT NO. 96-30 (HIGNELL AND HIGNELL) AND ADOPTING THE MITIGATED NEGATIVE DECLARATION, WITH THE REQUIRED FINDINGS AND CONDITIONS OF APPROVAL AS LISTED IN THE STAFF REPORT, WITH THE DELETION OF THE MITIGATION REQUIRING A NOISE STUDY AND STRIKING THE SECOND SENTENCE FROM CONDITION 5. COMMISSIONER STUDEBAKER SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

### **CORRESPONDENCE**

3. **Letter** from members of Stop Bidwell Ranch, dated January 6, 1997, expressing appreciation for the Commission's review of the Bidwell Ranch proposal.
4. **Jesus Provides Our Daily Bread**, update report from Katy Thoma, Executive Director.
5. **Memorandum** from Planning Division regarding forwarding copies of the Groundwater Model/ Water Budget and the Draft Resource Monitoring Program.

Chair Monfort inquired if a Commission discussion regarding the Groundwater Model/Water Budget and the Draft Resource Monitoring Program would be agendaized for a later meeting. Acting Planning Director Hayes stated that a special public meeting, with the consultant present, will be held on February 27, 1997. He indicated that neither document would be adopted by Council; rather, comments will be received and forwarded to the Commission and Council, and the documents will be used as functional tools. Council's approval would be a budgetary action.

### **BUSINESS FROM THE FLOOR**

Chair Monfort stated that discussions on the Draft Development Land Use and Development Regulations (DDLUDR) had ceased when Council had indicated workshops should not be held prior to the November election, and the new Council was seated. There has been no action since that

**PLANNING COMMISSION**

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time. Acting Planning Director Hayes suggested that the Commission agendize a workshop for February 10, 1997, to discuss how to progress with the document.

Commissioner Belmonte stated that he would like to renew the presence of the Neighborhood Subcommittee, as there are neighborhood meetings and workshops being held by the City without the benefit of the Neighborhood Subcommittee being involved. He also noted that the Agricultural Land Mitigation Subcommittee which was established has not yet met.

Acting Planning Director Hayes noted that staffing and time priorities have been a problem recently, but is in the process of trying to restart the process. He suggested that any neighborhood meetings being conducted by the City may have been Engineering Division issues, and are not concerns associated with the Neighborhood Subcommittee. Commissioner Belmonte stated that the Subcommittee should be included in the process for any neighborhood meeting held by the City, as a fact-finding part of the Subcommittee's process.

Acting Planning Director Hayes stated that he would agendize the Planning Division's 1996/1997 work program for February 10, 1997 meeting.

Commissioner Studebaker asked Assistant City Attorney Barker if passage of Proposition 208 has been reviewed as it does add additional constraints on the Commissioners. Assistant City Attorney Barker stated that a presentation would be prepared for the Commission on that issue.

Acting Planning Director Hayes noted that there are two upcoming conferences; Planning Commissioner conference is in Monterey, and the national American Planners Association conference is in San Diego. He asked if any of the Commissioners were interested in attending either conference, they should contact the Planning Division.

**ADJOURNMENT -**

There being no further business, the meeting was adjourned at 9:15 p.m. to the Adjourned Regular Meeting and Workshop of February 10, 1997.

March 17, 1997  
Date Approved

/s/  
Tom Hayes  
Acting Planning Director

**PLANNING COMMISSION  
ADJOURNED REGULAR MEETING OF FEBRUARY 10, 1997**

**ROLL CALL:** The meeting was called to order by Chair Monfort at 6:00 p.m., in Conference Room No. 1, Chico Municipal Center. Commissioners present were: Barry Belmonte, Jeff Carter, Brenda Crotts, Jolene Dietle, Kirk Monfort, Jonathan Studebaker, and Michael Wright. Staff present were: Assistant City Attorney Lori Barker, Community Development Director Tony Baptiste, Acting Planning Director Tom Hayes, Senior Planner Stacey Jolliffe, Senior Planner Brad Pierce, Associate Planner Claudia Sigona, Assistant Planner Ed Palmeri, and Machine Stenographer Joni Rice-Grimm.

**DISCUSSION OF EX PARTE COMMUNICATIONS (IF APPLICABLE):** None.

**SPECIAL WORKSHOP:**

1. A Workshop was held to discuss the formatting of staff reports, project compliance with General Plan policies, and the process of private project development. This item was continued from October 7 and November 4, 1996.

Acting Planning Director Hayes indicated that Commissioners had expressed some concern with regard to their ability to determine sufficient conditions for projects and that the new staff report format could alleviate those concerns by allowing for more precise presentation to the Commission.

He continued that the format would provide information on a project's consistency with the General Plan, City development and regulatory standards, as well as environmental review mitigation. He believed there would be exceptions in compliance due to site and project variables, and that the General Plan served as a guideline for the best interest of Chico, and in those cases, staff would provide alternatives for consideration.

Acting Planning Director Hayes explained that the new format would remain consistent for all projects, thereby offering more familiarity and greater ease in reviewing particular information; it would list neighborhood characteristics, comments from agencies, staff, and neighbors of a project; conditions of approval; a list of who was noticed and their comments; environmental reports; all General Plan findings; actual staff recommendations as to those findings; and all other relevant documents.

In response to Commissioner Carter, the Acting Planning Director indicated the new format would include an attached checklist that will identify all General Plan development policies that relate to project compliance.

In response to Commissioner Studebaker, Associate Planner Sigona indicated that staff would be meeting with developers to review the compliance checklist during the preliminary review process so staff and the developer could be prepared for the next step of the project with a design that was more consistent with the General Plan's goals, objectives, and policies.

Assistant Planner Palmeri added that offering as much information at the beginning to the developers and utilizing the Development Review Committee, to create an awareness of possible concerns, the format would provide for a better communication system and less frustrating process.

In response to Commissioner Studebaker, Community Development Director Baptiste explained that the Development Review Committee was composed of staff from various City departments (i.e., Police, Fire, Community Development) and local agencies (i.e., phone, gas, electric, cable, and water) that were involved in development processes. Those entities were invited to a weekly meeting where applicants could receive suggestions and feedback, and that a focus was placed on design flaws and an overall viewpoint.

Commissioner Carter encouraged constructive cooperation between the City, developers, and other entities by offering incentives for a higher-level of compliance in their projects.

Bill Brouhard, a local developer, stated that City staff were professionals and were helpful in dealing with the multitude of requirements for a subdivision. He believed frustration occurred when after many months of working together with staff and others, the Planning Commission or Council would override a staff decision that had been logically, and professionally considered, based on comments of someone who may not be knowledgeable of the process. He suggested that if the Commission or Council had specific concerns over a project, those could be addressed and clarified prior to a public meeting.

In response to Commissioners Carter and Studebaker, Mr. Brouhard agreed an informal workshop with the Commission, developers, and staff following a project from beginning to end, including financing and compliance issues could make the process better understood for future developments. Also, that for specific projects, neighbors could be invited to attend planning meetings where discussion of policy and design were included so they might better understand the issues involving their area.

Mr. Brouhard further suggested the City Planning Division encourage certain development designs by displaying pictures of what they were and were not interested in, so a developer could visually see what design was most welcomed and vice-versa. Also, making one-page summaries available for developers listing site distances, zoning setbacks, or other basic information would be helpful in the design stage of a project. Mr. Brouhard suggested that the Builders Industry Association (BIA) could possibly work with staff to organize a workshop that could follow a hypothetical project from start to finish, so that all participants could clearly understand the process. The Commission concurred.

Assistant Planner Palmeri noted that through the staff's efforts in continuing education and working through the transition of the General Plan to its implementation, more professionalism was created, and with those efforts, staff would provide the best quality service to the developers possible.

Chair Monfort felt the Commission could assist staff in those efforts by being prepared for the meetings through careful study of the reports in the agenda packets

and getting clarifications as needed prior to the public meetings.

In response to Chair Monfort, Acting Planning Director Hayes suggested that if there were concerns with regard to a report discovered the week prior to the Planning Commission meeting, clarification should be requested from the person who drafted that report. After that time period, the question should be directed to the person who would be making the presentation at the meeting.

The workshop was adjourned at 7:30 p.m., to the Adjourned Regular Planning Commission meeting in the Council Chamber.

The Commission met in the Council Chamber at 7:35 p.m., for the Adjourned Regular Planning Commission meeting. Commissioners present were: Barry Belmonte, Jeff Carter, Brenda Crotts, Jolene Dietle, Kirk Monfort, Jonathan Studebaker, and Michael Wright. Staff present were: Acting Planning Director Tom Hayes, Public Works Director E.C. Ross, Assistant City Attorney Lori Barker, and Machine Stenographer Rice-Grimm.

**DISCUSSION OF EX PARTE COMMUNICATION (IF APPLICABLE):** None.

**REGULAR AGENDA:** The following items were considered in the order listed. Any person could speak on items listed on the Regular Agenda. In order that all items could be considered, any item could be continued to another meeting if it appeared there would be insufficient time for full consideration of the item.

3. **Tentative Vesting Subdivision Map S-96-10 (Crawford):** Proposed subdivision and development of 4.32 acres to create 17 lots for single-family residential use on property rezoned R-1, Low-Density Residential located on the west side of Mariposa Avenue, at the easterly terminus of Artesia Drive, Assessor's Parcel No. 048-680-045. A Mitigated Negative Declaration of Environmental Impact was proposed for this project pursuant to the California Environmental Quality Act (CEQA).

Acting Planning Director Hayes reported that an attachment had inadvertently been left out of the packet and noticing of the adjoining property owners had not been completed. He requested that this item be postponed to March 3. The Commission concurred.

4. **Review of the 1996/1997 Work Program for General Plan implementation, as published in the 1996 Annual Report, dated December 20, 1996:** Acting Planning Director Hayes explained that some items included in the report may be postponed to the following year and possibly completed in-house as opposed to being completed by consultants.

In response to Chair Monfort, the Acting Planning Director explained that neighborhood planning was most useful in determining resident's and property owners desires for their particular neighborhood. Such information could be useful in resolving neighborhood planning issues, such as traffic, land use and facilities improvements. Further, the subcommittee would return to the Planning Commission with recommendations, should the Council agree to proceed with establishing a neighborhood planning program within next year's budget.

Commissioner Belmonte requested that the Commissioners be noticed of future

neighborhood meetings so they could take that opportunity for fact finding as to how the neighbors wanted to approach specific issues.

Commissioner Carter suggested that the discussion with regard to Title 19 should be a priority and not postponed until the Council appointed a seventh Councilmember. He believed that since the meetings were open and all candidates could attend, discussions should begin as soon as possible.

Acting Planning Director Hayes indicated that staff would attempt to gain agreement by the Council for the Commission to hold independent work sessions in order to accumulate comments and responses, so that when the seventh Councilmember was elected, the ground work would have been completed and all parties would be prepared to commence discussions.

Chair Monfort expressed concern with regard to the Title 19 Greenbelt Feasibility Plan, as there were expiration clauses written in some development project agreements, and those would need to be addressed.

Acting Planning Director Hayes reported that Ken Milam had returned to staff for a period of time, was working on that issue, and would attempt to initiate meetings so the discussions could begin.

**BUSINESS FROM THE FLOOR:** The Chairperson invited anyone in the audience wishing to speak to the Commission to identify themselves and the matter they wished to discuss, which would involve matters not already on the posted agenda. If the Commission agreed to discuss the matter at this time, no action would be taken until a subsequent meeting.

Assistant City Attorney Barker reported that a workshop on Proposition 208 would be held February 20 at 2:00 p.m., and was open to Commissioners.

**ADJOURNMENT:** There being no further business, the meeting was adjourned at 7:56 p.m., to the Regular Meeting of March 3, 1997.

\_\_\_\_\_  
March 3, 1997

Date Approved

\_\_\_\_\_  
/s/

Tom Hayes  
Acting Planning Director

**PLANNING COMMISSION**  
**MEETING OF MARCH 3, 1997**

**ROLL CALL**

The meeting was called to order by Chair Monfort at 7:30 p.m., in the Council Chambers of the Chico Municipal Center. Commissioners present were Barry Belmonte, Brenda Crotts, Jolene Dietle, Jonathan Studebaker, and Michael Wright. Commissioner Carter was absent. Staff present were Acting Planning Director Hayes, Public Works Director Ross, and Machine Stenographer Rice-Grimm.

**DISCUSSION OF EX PARTE COMMUNICATION**

None.

**CONSENT AGENDA**

1. Minutes of Special Workshop Meeting of November 12, 1996.
2. Minutes of Special Meeting of November 18, 1996.
3. Minutes of Regular Meeting of January 6, 1997.
4. Minutes of Adjourned Regular Meeting of February 10, 1997.

COMMISSIONER WRIGHT MOVED TO APPROVE THE CONSENT AGENDA ITEMS WITH THE EXCEPTION OF ITEM NO. 3. COMMISSIONER DIETLE SECONDED THE MOTION WHICH UNANIMOUSLY CARRIED.

**ITEM REMOVED FROM THE CONSENT AGENDA**

3. Minutes of Regular Meeting of January 6, 1997: Commissioner Studebaker requested clarification on the vote of Item No. 2, as the voting record appeared to be inconsistent. The Commissioners agreed the record should be amended to read that Commissioner Belmonte seconded the motion, rather than Commissioner Wright, and that Commissioner Wright had abstained.

COMMISSIONER DIETLE MOVED TO APPROVE ITEM NO. 3 WITH THE AMENDMENT. THE MOTION WAS SECONDED BY COMMISSIONER WRIGHT WHICH UNANIMOUSLY CARRIED.

**REGULAR AGENDA**

5. Tentative Vesting subdivision Map S-96-10 (Crawford): Proposed subdivision and development of 4.32 acres to create 17 lots for single-family residential use on property rezoned R-1, Single-Family Residential located on the west side of Mariposa Avenue at the easterly terminus of Artesia Drive, Assessor's Parcel No. 048-680-045. A Mitigated

Negative Declaration of Environmental Impact was proposed for this project pursuant to the California Environmental Quality Act (CEQA).

(This evening the Commission received a letter from Eco-Analysts, dated March 3, 1997 with regard to wetland classification; and a letter from Dominick Ielati, dated February 24, 1997, requesting improved drainage if the project was approved.)

Acting Planning Director Hayes reviewed his report describing the development, street connections, future plans, drainage, and mitigation measures.

In response to Chair Monfort, the Acting Planning Director indicated that opportunities had been taken to inform residents of the future connections to be made between the north and south streets.

Acting Planning Director Hayes noted that the information before the Commission included: a survey on the property from a qualified biologist; a report from a botanist stating that no wetland or endangered plant species were found on the property; and a response from the California Regional Water Quality Control Board noting several permits required prior to recordation of the map. He added that a condition of approval for the project would be the design of an improvement plan for storm water drainage and elimination of surface run off onto adjacent parcels.

Mark Risso, representing Mr. Crawford, the owner of subject property, indicated there were no objections to the conditions and mitigations of approval.

In response to Chair Monfort, Mr. Risso explained that his client had no plans to build homes on the lots, but was subdividing the property for individual purchases.

Acting Planning Director Hayes noted that the property was not within the Chico City limits at this point in time, but was in the process of annexation; therefore, the Planning Division was planning for that annexation by preparing the project to adhere to City standards.

Jack F. White explained that, as a resident on Mariposa Avenue, he was concerned about the effects of development on drainage and requested that the City require mitigation for drainage improvement.

Cy Weagle, a Mariposa Avenue resident, believed an undue burden would be imposed upon the current residents if they were required to share in road improvements as development occurred.

Public Works Director Ross indicated that as development occurred in the area, improvements would be necessary to Mariposa Avenue and those residents facing Mariposa would share in the expense of that improvement.

Commissioner Belmonte believed that because part of the project's future was based on connection to Mariposa Avenue, a portion of the fees collected from the developer should be made available for road improvements to Mariposa Avenue so as not to become a burden on current residents.

Public Works Director Ross indicated that some fees were directed to arterial road improvement, but he did not believe that Mariposa would be eligible for such funds. In this case, each parcel would be responsible for improving the portion of road fronting their property.

Mr. White stated that he had spoken with a City engineer who assured him that he would not be required to install curbs, gutters, sidewalks, or connect to the City sewers due to annexation. Public Works Director Ross confirmed that information.

COMMISSIONER WRIGHT MOVED TO APPROVE THE MITIGATED NEGATIVE DECLARATION. THE MOTION WAS SECONDED BY COMMISSIONER DIETLE WHICH UNANIMOUSLY CARRIED.

6. Modification of a Condition for Planned Development Use Permit for Camden Park Subdivision, Formerly Matrix Manor (Lee): Proposed modification of a condition which limited minimum lot size to 4,750 square feet requesting minimum to be 4,500 square feet on lots 5 through 9 in the Camden Park subdivision zoned R-1, Low-Density Residential located on the south side of West Lassen Avenue and the north side of Henshaw Avenue, a portion of Assessor's Parcel No. 006-360-010. A Mitigated Negative Declaration of Environmental Impact was proposed for this project pursuant to the California Environmental Quality Act (CEQA).

Commissioner Dietle abstained from discussion of this item due to a conflict of interest.

Acting Planning Director Hayes reported that this was a modification to a project previously approved by the Commission. The modification would not have a significant impact on density issues for zoning in the area, however, it did create smaller lots.

Wes Gilbert, Gilbert Engineering representing the developer, reported that the current configuration was within one or two feet of the one previously approved by the Commission.

COMMISSIONER BELMONTE MOVED TO APPROVE THE MODIFICATION. THE MOTION WAS SECONDED BY COMMISSIONER STUDEBAKER WHICH UNANIMOUSLY CARRIED.

Commissioner Studebaker requested that minutes be provided from the meeting which a project was first approved when a modification was being requested.

### **BUSINESS FROM THE FLOOR**

- c Charlie Preusser, representing the South of Campus Neighborhood Association, explained that the Association began in an effort to create a neighborhood plan in conjunction with the General Plan. They had been encouraged by the Planning Commission and City Council to develop a subcommittee of neighbors, renters, landlords, and business owners. That had been accomplished and the group met regularly since September, 1996. Those meetings culminated in the development of by-laws and identification of several issues to be included in a neighborhood plan. Mr. Preusser continued that the Association had notified staff periodically of what was being done by the Association and they had been invited to attend their meetings.

Mr. Preusser reported that the meetings were normally held at the Newman Center and he was attempting to recruit Father Newman to become a mediator in the Association's continued efforts. The next meeting would be held on March 15 from 3:00 to 5:00 p.m., and he requested that the Commissioners attend.

Richard Elsom, Association member, believed the concept of neighborhood planning was positive as it dealt with situations on a more local, personal level; the area south of the campus was a historical district, and it was important to maintain its character; and that the Association would provide the opportunity for neighbors to express their views on safety, improvements, and concerns or praises. He encouraged all those interested to attend the meeting on the 15th of March, state their concerns, assist in maintaining the attractiveness of the area, and participate in the neighborhood's future.

Chair Monfort explained, by law, that no more than three Planning Commission members could attend the neighborhood meeting, however, there were three Commissioners who were a part of the subcommittee and those were Commissioners Belmonte, Carter, and Studebaker. Chair Monfort agreed to be an alternate if one of the existing members could not attend.

- c Acting Planning Director Hayes reminded the Commissioners with regard to a meeting to be held in Monterey and determined there was no interest in attending.

### **ADJOURNMENT**

There being no further business, the meeting was adjourned at 8:30 p.m., to the Adjourned Regular Meeting of March 17, 1997.

\_\_\_\_\_  
March 17, 1997  
Date Approved

\_\_\_\_\_  
/s/  
Tom Hayes  
Acting Planning Director

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**PLANNING COMMISSION  
ADJOURNED REGULAR MEETING OF MARCH 17, 1997**

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**ROLL CALL**

The meeting was called to order by Chair Monfort at 7:30 p.m., in the Council Chambers of the Chico Municipal Center. Commissioners present were Barry Belmonte, Jeff Carter, Brenda Crotts, Jolene Dietle, Kirk Monfort, Jonathan Studebaker, and Michael Wright. Staff present were Acting Planning Director Tom Hayes, Senior Planner Ed Palmeri, and Machine Stenographer Rice-Grimm.

**DISCUSSION OF EX PARTE COMMUNICATION**

None.

**CONSENT CALENDAR**

1. Minutes of Adjourned Regular Meeting of January 13, 1997.

**Requested Action:** Approve with any corrections/revisions required.

Commissioner Carter removed this item from the Consent Calendar.

2. Minutes of Special Meeting of January 17, 1997.

**Requested Action:** Approve with any corrections/revisions required.

3. Minutes of Regular Meeting of February 3, 1997.

**Requested Action:** Approve with any corrections/revisions required.

4. Minutes of Regular Meeting of March 3, 1997.

**Requested Action:** Approve with any corrections/revisions required.

5. **Use Permit 97-2 (Weil) -- 125 Yellowstone Drive:** A request to allow the construction and operation of a dental ceramic studio (lab) with approximately 12 employees located at 125 Yellowstone Drive and identified as Assessor\*s Parcel No. 006-500-027, in a R-P Residential-Professional zoning district. This project had been determined to be Categorically Exempt from environmental review pursuant to Section 15303, New Construction, of the California Environmental Quality Act (CEQA).

**Requested Action:** Staff recommended that the Commission approve this use permit subject to the findings and conditions of approval as listed in the staff report.

Commissioner Carter removed this item from the Consent Calendar.

COMMISSIONER STUDEBAKER MOVED APPROVAL OF ITEM NOS. 2, 3, AND 4 OF THE CONSENT CALENDAR. THE MOTION WAS SECONDED BY COMMISSIONER CROTTS AND UNANIMOUSLY CARRIED. COMMISSIONER CARTER ABSTAINED FROM ITEM NO. 4 AS HE WAS NOT PRESENT AT THAT MEETING.

**ITEMS REMOVED FROM THE CONSENT CALENDAR**

1. **Minutes of Adjourned Regular Meeting of January 13, 1997:** Commissioner Carter requested that the last paragraph on page 10, the first sentence be changed to read "Commissioner Carter stated that there is a land use compatibility concern," striking the remaining portion of the sentence.

Commissioner Studebaker added that the meeting should have stated adjournment would be to the Special Meeting on January 17 at 9:00 a.m.

COMMISSIONER CARTER MOVED TO APPROVE THE MINUTES WITH THE TWO AMENDMENTS. COMMISSIONER STUDEBAKER SECONDED THE MOTION WHICH UNANIMOUSLY CARRIED.

5. **Use Permit 97-2 (Weil) -- 125 Yellowstone Drive:** Commissioner Carter asked if there were only three conditions to the permit. Acting Planning Director Hayes verified that there were only three conditions of approval which were listed in the report.

COMMISSIONER CARTER MOVED APPROVAL OF THE USE PERMIT SUBJECT TO THE FINDINGS AND CONDITIONS OF APPROVAL AS LISTED IN THE STAFF REPORT. THE MOTION WAS SECONDED BY COMMISSIONER BELMONTE WHICH UNANIMOUSLY CARRIED.

**REGULAR AGENDA**

6. **Use Permit 97-6 (Zepeda) -- 1205 Park Avenue:** A request to allow the sale of food from a motorized vehicle (food wagon) located in the parking area of an existing liquor store located at 1205 Park Avenue and identified as Assessor\*s Parcel No. 005-136-014, in a C-1 Restricted Commercial zoning district with a TC Transit Corridor Overlay. The proposed hours of this operation were 11:00 a.m., through 10:00 p.m., seven days each week. This project had been determined to be Categorically Exempt from environmental review pursuant to Section 15301(e.1), Existing Facilities, of the California Environmental Quality Act (CEQA).

(This evening, the Commission received a letter from the property owner stating permission for the above use and a letter from Lydia Shepherd regarding the use and applicability of the request.)

Senior Planner Palmeri reviewed the report citing the history of the request, regulations, and compatibility with the area. He noted that there had been permits issued in the past for temporary food wagon units, but in each of those cases the permits were considered for sites where the applicant planned to construct a permanent structure.

The Senior Planner continued that comments opposing the permit had been received from neighbors; a business owner, indicating a detrimental effect the food wagon had on his delicatessen business; and concerns from the Chico Police Department with loitering, littering, vandalism, and unruly encounters.

Commissioner Wright asked what terms were considered in other parking lots when they were used for activities such as go cart rides. Acting Planning Director Hayes explained that in other situations where parking spaces were utilized for something other than the intended purpose, such as a go-cart track, some requirements were waived as they were temporary as opposed to Mr. Zepeda's request for permanent use. Also, that those types of uses were placed in an area as far from the normal business activity as possible.

Commissioner Studebaker asked the Acting Planning Director to describe the plans for Park Avenue and what stages they were in. The Acting Planning Director reported that the improvements being made on Park Avenue were continuing with the work on the bicycle path to begin in the summer; continued landscaping improvements south of 20th Street; and preliminary work on the transit corridor (Park Avenue is a portion of the corridor) have begun to determine what opportunities exist for further improvements to the area. He added that there were no additional improvements plans for Park Avenue north of 20th Street at this time.

The applicant, Elias Zepeda, spoke through an interpreter requesting the opportunity to continue his business which he had operated within Butte County for seven years; that he had never experienced problems with area residents or the Health or Police Department; he left the areas where he sold food clean; and that the customers of his business rarely remained in the area for more than five minutes as they bought their food to go. Further, that no chairs or tables would be available for their use, and the truck would leave the site each day at closing and return the next day.

Commissioner Studebaker asked for a description of the type of people served by Mr. Zepeda. Mr. Zepeda stated that most of his clientele were Latino, but some Fairview students were serviced.

Commissioner Monfort clarified that a temporary permit was being requested and asked if the applicant had plans to purchase property in the area. Mr. Zepeda stated that a Realtor was searching for an appropriate piece of property for purchase and permanent placement of the business operation.

In light of the staff report recommending denial of a permanent use permit, Mr. Zepeda requested the Commission grant him a permit on a temporary basis, for six months to a year, to give him the opportunity to prove that he could run the business without negative impacts and allow him time to save money to purchase property so his business could find permanent placement within the City of Chico.

Luis Jacobo, owner of the Mi Ranchito Meat Market, expressed support for Mr. Zepeda's request stating he knew the applicant to have no problems with the Health or Police Departments, parking should not be a concern as the parking lot was never full, and he believed Mr. Zepeda's business would be good for the City of Chico.

Loretta Hildebrand, co-owner of Mi Ranchito Meat Market, stated her support for Mr. Zepeda's request noting her knowledge of him as a hard working individual. She indicated that the number of businesses on Park Avenue was dwindling, and Mr. Zepeda's food wagon business would be an asset to the area.

Carlos Tovar, Chico business owner, stated that he had known the applicant for 15 years, knew him as a hard worker and honest, and requested that the Commission grant the use permit.

No one else spoke from the audience and Chair Monfort closed the discussion to the public.

Chair Monfort expressed concern over an emerging policy allowing temporary businesses to operate at a location with the permission of the property owner but without the intent of a permanent facility being built, and the possibility of infringement on other businesses that were paying property taxes and making improvements in the area.

Acting Planning Director Hayes indicated that staff's intent was to develop a standard by which permanent businesses would locate in the area and whether a business was appropriate or incompatible with that standard.

Chair Monfort agreed that the area needed encouragement to remain viable, however, as there weren't many businesses moving into the area and the improvements by the City were in the preliminary stages, Mr. Zepeda's operation would not create a negative impact.

COMMISSIONER STUDEBAKER BELIEVED MR. ZEPEDA HAD DEMONSTRATED HIS WILLINGNESS TO FIND A PIECE OF PROPERTY FOR A PERMANENT BUSINESS LOCATION AND THAT A TEMPORARY PERMIT SHOULD BE ALLOWED. HE MOVED TO APPROVE A TEMPORARY USE PERMIT FOR ONE YEAR BUT SUGGESTED THE HOURS BE REDUCED FROM 11:00 A.M. TO 9:00 P.M., AS OPPOSED TO 11:00 A.M. TO 10:00 P.M.

The Acting Planning Director suggested that if the Commission was going to consider a temporary use permit, a six month review should be included in the conditions. Further conditions could include the permission from the property owner to make a restroom available; a provision made for site clean up following the operation during the day; customers be served on private property; the vehicle be removed from the property at the end of each work day; that only one parking place would be occupied by the vehicle; and that no tables or chairs be set out.

Commissioner Dietle seconded the motion and suggested the hours requested on the application would not create a significant impact and should be allowed.

Commissioner Studebaker agreed to retain the requested hours of operation stating his initial concern had been with the comments of the Police Department.

Commissioner Carter believed the issuance of a use permit in this case could set a precedent in allowing this type of permit without a nexus with the intent for a permanent location. He was also concerned with the impact to the General Plan although major improvements in the area were not planned soon.

CHAIR MONFORT REQUESTED A VOTE ON THE MOTION TO APPROVE A ONE-YEAR, TEMPORARY USE PERMIT WITH THE ADDED CONDITIONS WHICH UNANIMOUSLY CARRIED.

Senior Planner Palmeri explained to Mr. Zepeda that the use permit had been granted and a list of conditions would be forwarded to him the following day. He added that there was an appeal period of 15 days and Mr. Zepeda could not operate his business until after that time period.

Chair Monfort noted that there would be no six month review period and Mr. Zepeda could return to the Commission after one year to request a renewal.

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The Commission recessed for 13 minutes and reconvened at 8:53 p.m.  
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7. **Variance V-97-1 (Cook):** Variance request to allow a reduction of the required number of parking spaces for six student rental units formerly known as the Language Houses located on the north side of Third

Street between Chestnut and Hazel Streets in a P-Q Quasi-Public District. This project had been determined to be exempt from environmental review, pursuant to Section 15305, Minor Alterations in Land Use Limitations, of the California Environmental Quality Act (CEQA).

Acting Planning Director Hayes summarized the staff report citing the history of the Language houses; the planned restoration; parking availability; that the P-Q zoning would be changed to an R-3 zone, which was appropriate for this neighborhood; and that there had been similar variances granted in the past.

He further explained that a minimum of 43 parking spaces were required for the homes, bicycle parking would be provided, and some vehicle parking spaces were available in the nearby CSUC parking lot. As this was an impacted area, he believed a variance was appropriate, and staff recommended the request be granted.

Commissioner Wright asked if there was a way to restrict the number of cars that the tenants could have. The Acting Planning Director reported that, although the number of automobiles per housing unit could be restricted, enforcement of such a policy would be difficult. Also, that incentives for not using a motor vehicle had been discussed, such as the CSUC free bus ridership program and reduced rental rates for those not owning a motor vehicle.

Chair Monfort asked if there was a City ordinance forbidding parking on a lawn. Commissioner Studebaker reported hearing complaints regarding people parking on sidewalks and lawns. The Acting Planning Director reported that parking was allowed only on improved parking spaces and those vehicles parking on sidewalks and lawns would be cited.

Stan Merritt, local property owner, expressed concern with the number of occupants he believed would be occupying the houses, agreed with the suggestion of offering incentives to not have an automobile, and was unconvinced a variance should be granted in this case.

Mike Campos, local property owner, expressed appreciation of the restorative work being done on the historical houses and believed the area to be an impacted area making the variance necessary. Mr. Campos continued that the parking meters were placed in front of the houses by the University when the homes were planned for demolition. Now that this half-block was returning to residential use, the meters should be removed, which he believed would assist in alleviating the parking problem.

Chair Monfort asked if this matter should be forwarded to the Parking Place Commission. The Acting Planning Director stated that if the Planning Commission wished to pursue the removal of the parking meters, the issue should be forwarded to the Parking Place Commission for review, who would then refer it to the Council for final approval.

Wayne Cook, applicant, agreed the removal of the meters would alleviate much of the parking concern and that he planned to build a safe, fenced area for bicycle storage in an effort to encourage that use.

Commissioner Dietle asked if Mr. Cook understood that one of the conditions of approval stated that only one person would be allowed per bedroom. Mr. Cook reported that the largest of the houses was expected to house 15 females. As far as the condition to limit one occupant per bedroom, Mr. Cook stated he was unaware of the condition until recently. He noted that two sororities had submitted applications for rental of the houses.

Charlie Preusser, South of Campus Neighborhood Association, expressed support for the remodeling of the homes and their intended use. Also, he believed sororities and fraternities were regulated differently than single-family residences and were allowed fewer parking spaces per bedroom. He supported granting of the variance.

Commissioner Carter noted that a sorority required a specific use permit. As this was not a request for a use permit for a sorority, he asked if the Planning Commission would be asked to consider altering this variance as far as the maximum occupancy requirement at another time. Acting Planning Director Hayes explained that although the variance could be altered, he would not recommend that procedure when the use permit application from the sorority was presented to the Commission. Further, that parking requirements were based on the number of bedrooms in each house, not the number of occupants.

Commissioners Wright, Carter, and Deitle believed the number of occupants influenced the impact of parking in the area and that should be considered as well as the number of bedrooms in each house.

Gary Simmons, supported the variance and stated the P-Q Public Quasi zoning, which was University zoning, should revert back to residential.

Mr. Campos informed the Commission that landlords were held to strict regulations by the state of California with regard to occupancy.

Commissioner Carter asked for a description of an Extended Single-Family home. Acting Planning Director Hayes explained that an Extended Single-Family home would be considered the same as a large single-family boarding room facility with regard to Fire and Building Codes, and that one parking space per bedroom was required. Further, that he agreed with Mr. Campos from the standpoint that an attempt to control occupancy of a residential structure would be difficult. He was also not certain what ability the Commission had to limit occupancy beyond those limitations imposed by the Health Codes which prevent overcrowding.

Commissioners Studebaker and Wright agreed the needs of and impact to area residents should be addressed with regard to parking.

Chair Monfort suggested eliminating the first sentence of Condition No. 4 which stated the maximum occupancy allowed in the houses. Further, if sorority status was applied for, the parking requirement could be reduced at that time.

Mr. Cook noted that he had interviewed a number of applicants for rental of the houses and knew that of the two sorority applications, a number of the potential occupants did not have automobiles, and he would encourage bicycle use. Also, that there would only be one occupant per bedroom with the exception of the two houses at 544 and 504 West Third Street, which would house 15 and 9 occupants respectively.

Commissioner Studebaker asked Mr. Cook to clarify what steps he planned to take in defining the boundaries of the parking lot and if permits would be offered on a first come, first served basis. Mr. Cook explained that he was involved in discussion with the University regarding the maintenance and administration of the parking lot, also that he would receive 31 permits to distribute among the residences. If that proposal was agreed upon, the permits would be distributed by Mr. Cook, although the terms of that distribution were not determined at this point.

Commissioner Wright asked how many of the 31 parking spaces would be designated for the handicapped. The Acting Planning Director reported that he was not certain if handicap parking spaces would be required due to the historical and non-conforming status of the houses. If the applicant received permits from CSUC, as indicated above, handicap spaces would be available elsewhere in the parking lot.

Commissioner Belmonte stated that as the parking requirements as set forth in the Municipal Code are based on the number of bedrooms, not the occupancy, it would be difficult to administer a occupancy:vehicle ratio.

COMMISSIONER BELMONTE MOVED TO APPROVE THE ORDINANCE WITH THE AMENDMENT THAT THE FIRST SENTENCE OF CONDITION NO. 4 BE STRICKEN AND THE CONDITION THAT THE PARKING PLACE COMMISSION AND COUNCIL APPROVE REMOVAL OF THE PARKING METERS IN FRONT OF THE RESIDENTIAL PROPERTY BE REMOVED. COMMISSIONER CROTTS SECONDED THE MOTION.

Mr. Campos requested that the removal of parking meters be amended to include the meters on Third and Fourth Streets as they were also residential streets and making those spaces available would assist with the overflow of parking from this new housing area.

Commissioner Belmonte agreed to include the parking meters in residential areas in the proximity of Mr. Cook's six homes.

Acting Planning Director Hayes suggested that the Commission request removal of the parking meters as a recommendation and not a condition of approval of the variance due to the fact that the information was not available as to the positive or negative aspects of that action and the Parking Place Commission would be provided sufficient information to make that decision.

Commissioner Dietle expressed concern with regard to allowing occupancy over what was required in the conditions even though enforcement would be difficult. She suggested that on Condition No. 4, the first sentence be modified to read, "The maximum occupancy of the building shall be 53 persons, one person per bedroom, as depicted in the Plat to Accompany Variance V-97-1, excepting 534 West Third Street which would be allowed a maximum of 15 persons, and 504 West Third Street, which would be allowed a maximum of 9 persons."

Mr. Cook agreed to the condition modification, Commissioner Belmonte accepted it as a friendly amendment, and Commissioner Crotts agreed to second the amended motion.

Commissioner Wright expressed support for the variance only if the parking meter removal was approved. Commissioners Dietle and Studebaker agreed that was a necessary factor in their decision as well.

Acting Planning Director Hayes stated the variance would then be subject to the approval of the parking meter removal by the Parking Place Commission and ultimately the City Council.

Commissioner Belmonte restated the motion in that the variance would be granted subject to the approval by the Parking Place Commission to remove the meters in front of the residential properties.

Commissioner Dietle believed if a contingency for removal of the meters was to be placed on the variance, it should include the meters in front of the subject property only and should not be contingent on

removal of meters in the proximity of these houses as they were separate issues. She requested the contingency include the meters on West Third Street between Chestnut and Hazel, on both sides of the street.

Commissioner Studebaker stated this should be considered stronger than a recommendation.

Commissioner Carter expressed concern that the time element involved in processing the variance and condition through different entities and completing this approval could be lengthy and requested removing the meter removal condition from the variance approval so as not to delay the project further. Commissioner Belmonte believed the only way the variance would be approved would be if the condition was required and approved. Commissioner Carter then removed his request.

CHAIR MONFORT CALLED FOR A VOTE TO AMEND THE FIRST SENTENCE OF CONDITION NO. 4 TO LIMIT OCCUPANCY AT 544 WEST 3RD TO 15 AND 504 WEST 3RD TO 9, AND THE REMAINING HOUSES TO ONE OCCUPANT PER BEDROOM, AND TO FURTHER CONDITION APPROVAL OF THE VARIANCE SUBJECT TO REMOVAL OF PARKING METERS ON WEST 3RD STREET BETWEEN CHESTNUT AND HAZEL STREETS. THE MOTION, AS SO STATED, CARRIED UNANIMOUSLY.

#### **CORRESPONDENCE**

8. **Jesus Provides Our Daily Bread**, update report from Katy Thoma, Executive Director.

Acting Planning Director Hayes reported that the Center was controversial, there had been a number of concerns expressed at the initial meeting, and another meeting would be scheduled.

9. **Letter to the City Council**, from George Matthews, dated March 5, 1997.

#### **BUSINESS FROM THE FLOOR**

Acting Planning Director Hayes reported that copies of the revised final draft groundwater study/budget and Resource Monitoring Program would be coming to the Commission and that the final draft HRCP and these documents would be the subject of a March 27 public hearing. He requested that the Commissioners inform staff if they intended to attend the meeting as it was necessary not to exceed a quorum and create a conflict with the Brown Act.

Charlie Preusser, South of Campus Neighborhood Association, reported on its meeting held over the weekend stating there were approximately 50 attendees which included a cross section of the neighborhood. Some concerns were presented and he believed a joint effort of the neighbors would prove fruitful. Mr. Preusser noted the next meeting would be held Wednesday, March 19 at 6:00 p.m., in a Conference Room of the Municipal Building complex.

Commissioner Belmonte clarified the role of the Commissioners in the subcommittee as one of information gathering for a proposed overlay district and future recommendations to the Council. He continued that the Neighborhood Subcommittee was not responsible for the formation of the overlay district.

He requested that if the subcommittee was disbanded after making the recommendations to the Council, the Subcommittee be apprised and provided the opportunity to revisit the issue in order to determine further recommendations.

The Acting Planning Director indicated that the Neighborhood Planning Subcommittee was continuing to work on that issue and would attempt to orchestrate more neighborhood meetings and recommendations. The fraternity and sorority subcommittee had apparently been disbanded.

The Acting Planning Director reminded the Commission that this item needed to be agendaized for April 7 to allow further discussion.

**ADJOURNMENT**

There being no further business, the meeting was adjourned at 10:33 p.m., to the Regular Meeting of April 7, 1997.

July 7, 1997  
Date Approved

/s/  
Tom Hayes  
Acting Planning Director

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**PLANNING COMMISSION  
MEETING OF APRIL 7, 1997**

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**ROLL CALL**

The meeting was called to order by Chair Monfort at 7:30 p.m., in the Council chambers of the Chico Municipal Center. Commissioners present were Barry Belmonte, Jeff Carter, Brenda Crotts, Jolene Dietle, Kirk Monfort, Jonathan Studebaker, and Michael Wright. Staff present were Senior Planner Stacey Jolliffe, Senior Planner Ed Palmeri, and Machine Stenographer Rice-Grimm.

**PRESENTATION**

Chair Monfort presented a resolution, posthumously, in honor of Planning Director Ken Milam, who passed away during the evening of Wednesday, April 2, 1997. Among other attributes, the resolution stated that Ken Milam had provided the City of Chico purposeful direction that would have a lasting, positive influence.

COMMISSIONER CARTER MOVED TO INTRODUCE AND ADOPT THE RESOLUTION AS WRITTEN. COMMISSIONER STUDEBAKER SECONDED THE MOTION WHICH UNANIMOUSLY CARRIED.

Chair Monfort commented on Mr. Milam's spirit and efforts on behalf of the City. Senior Planner Jolliffe added that Mr. Milam had a sense of vigor and life and he would be missed.

**DISCUSSION OF EX PARTE COMMUNICATION**

None.

**CONSENT CALENDAR**

1. Minutes of Regular Meeting of December 9, 1996.

**Requested Action:** Approve with any corrections/revisions required.

2. Minutes of Adjourned Regular Meeting of March 17, 1997.

**Requested Action:** Approve with any corrections/revisions required.

(This item was removed from the Consent Calendar at the request of Commissioner Belmonte.)

COMMISSIONER CARTER MOVED TO APPROVE CONSENT CALENDAR ITEM NO. 1. COMMISSIONER STUDEBAKER SECONDED THE MOTION WHICH UNANIMOUSLY CARRIED.

**ITEMS REMOVED FROM THE CONSENT CALENDAR**

Minutes of Adjourned Regular Meeting of March 17, 1997 (Removed from the Consent Calendar, Item No. 2): Commissioner Belmonte believed the minutes were incomplete; it should have included more details of a discussion with regard to the occupancy of fraternity/sorority homes being built near the University; that he had stated the criteria for the number of parking spaces was to be determined on the

number of bedrooms in the home and not by the number of occupants; and that his requested response to his comments from Acting Planning Director Hayes were not included.

COMMISSIONER BELMONTE MOVED THAT THE MINUTES BE REVISED AND RETURNED TO THE COMMISSION FOR REVIEW AT A FUTURE MEETING.

Commissioner Studebaker requested the questions should be included as it became more difficult to understand the response without that statement. He also commented on the formatting and font style.

Senior Planner Jolliffe stated she had not attended the meeting so she could not comment on the content. Further, that there had been a temporary change in personnel which could affect the writing style and formatting of the minutes. She reported the desire of staff to offer a complete record, however, it could be difficult to prepare that record if some subtleties of an issue were not particularly clear.

Senior Planner Jolliffe stated that the minutes would be reviewed, and if there was additional guidance on how the Commission wanted the minutes prepared to provide that information to staff for direction.

COMMISSIONER STUDEBAKER SECONDED THE MOTION WHICH UNANIMOUSLY CARRIED.

### **REGULAR AGENDA**

3. **Use Permit 97-4 (Guillon) -- 2795 Esplanade:** A request to allow automotive rentals and sales including the conversion of a portion (500 square feet) of an existing building for the sales and rental business located at 2795 Esplanade and identified as Assessor's Parcel No. 006-370-007 in a C-1 Restricted Commercial District. This project had been determined to be exempt from environmental review, pursuant to the California Environmental Quality Act (CEQA), Section 15301 (Existing Facilities).

Senior Planner Jolliffe described the request and identified two primary issues of compatibility and parking requirements. She stated that the General Plan allowed for the use and had reviewed pertinent General Plan policies determining that this permit would allow for an infill use consistent with the General Plan policy. She reported that staff found the automobile-related use to be specifically consistent with the General Plan land use designation criteria.

Senior Planner Jolliffe noted that a seventh condition had been added requiring that, prior to issuance of building permits, the applicant would submit a detailed site plan to include parking design, driveway aisles, parking dimensions, and adding existing and proposed fencing to the extent they impacted parking and on-site circulation.

Senior Planner Jolliffe concluded that staff believed appropriate findings for the use permit were present and recommended approval.

In response to Commissioner Carter's request for clarification about a site plan being submitted with the application, Senior Planner Jolliffe stated the applicant had submitted a conceptual site plan and that a more detailed plan would be needed prior to issuing a permit.

Chair Monfort opened the discussion to the public.

Doug Guillon, applicant, offered to answer any questions of the Commissioners, and stated he would be meeting next week with Community Development Director Baptiste with regard to signage.

As there was no one else wishing to speak from the audience, Chair Monfort closed the discussion to the public.

COMMISSIONER CARTER MOVED TO APPROVE USE PERMIT 97-4 AS PRESENTED BY STAFF WITH THE ADDITION OF CONDITION NO. 7 STATED BY SENIOR PLANNER JOLLIFFE. COMMISSIONER CROTTS SECONDED THE MOTION WHICH UNANIMOUSLY CARRIED.

4. **Use Permit 97-3 (Sommer) -- 1293 East First Avenue:** A request to allow for expansion of an existing nonconforming health club facility in a N-C Neighborhood-Commercial District located at 1293 East First Avenue and identified as Assessor's Parcel No. 045-712-001. This project had been determined to be exempt from environmental review, pursuant to the California Environmental Quality Act (CEQA), Section 15303 New Construction or Conversion of Small Structures.

Commissioner Carter informed the Commission that he had performed legal work for the applicant and removed himself from the discussion due to possible conflict.

Senior Planner Palmeri explained that this use permit request was for an expansion of a nonconforming use—a health club.

The Senior Planner responded to Chair Monfort that the nonconformance related to the fact that the use was not provided for in the ordinances and that changes or increases in the use required Planning Commission action.

Senior Planner Palmeri reviewed the history of the site noting that the Planning Commission approved the use for a health club in 1991. He continued that the health club was requesting an expansion which would allow for daycare and other areas, would continue to be open 24 hours a day, and would remodel the entrance to the building of which the design would be submitted to the Architectural Review Board (ARB).

Senior Planner Palmeri reported that when this matter was before the Commission in 1992, the Commission had requested staff to monitor impacts and, after six months, staff reported to the Commission that no complaints were received from the neighbors or filed with the police department. He added that no complaints had been registered to date.

Senior Planner Palmeri indicated that a concern of staff was the addition of the lap and leisure pools and potential disturbance for the nearby residents. He reported that sound mitigation included a 20-foot buffer an 8-foot high masonry wall around the perimeter of the lap and leisure pool area. Therefore, staff had included conditions prohibiting the use of the outdoor area by large parties or gatherings of people after certain hours of the day; that there not be amplified

sound or loud music permitted in that area; and that, per the City Code, the lighting not be allowed to shine into the residential properties.

The Senior Planner continued that another issue staff considered was parking availability and that a parking analysis was completed for the entire shopping center. He reported that staff indicated the use, as well as all existing uses, met Parking Code requirements and that the parking proposed for redevelopment would be required to meet the City's current standard for landscaping.

Staff recommended that the use permit for the nonconforming expansion be approved with the findings and conditions of approval as submitted.

Chair Monfort opened the discussion to the public.

Chair Monfort asked if the leisure pool would have a diving board.

Larry Coffman, architect for the project, displayed drawings showing the preliminary design for the facility noting the intent was to create a facility that would provide more options for its members; the pool area was an element of the exercise opportunities, especially with regard to older citizens; and, to his knowledge, no diving board was planned.

Mr. Coffman continued that an 8-foot high concrete block wall would enclose the pool area to allow for privacy of the members and neighbors and for sound control. Also, that landscaping had been integrated in the plan, access for emergency vehicles would be provided, and the parking spaces would be landscaped to the current City standard.

Mr. Coffman, responding to Chair Monfort, stated that the rear building addition would house the cardiovascular, weight training, and spinning bike area.

Chair Monfort expressed concern that loud music may disturb the neighbors as the sound traveled through the windows. Mr. Coffman explained that the windows would be high, and members would probably listen to television and music through headphones while performing their exercises. However, if sound was determined to be a problem, the windows could be double-glazed to prevent a disturbance.

Chair Monfort suggested adding a condition stating no diving board would be allowed in order to maintain a lower noise level.

No one else spoke from the audience and Chair Monfort closed the public hearing.

COMMISSIONER BELMONTE MOVED APPROVAL OF THE USE PERMIT.  
COMMISSIONER STUDEBAKER SECONDED THE MOTION.

Commissioner Belmonte stated that the fitness center had been good neighbors and commended Mr. Sommer for utilizing an existing building.

Commissioner Belmonte clarified that his motion was for the use permit and accompanying conditions of approval but agreed that Chair Monfort could add a condition stating no diving board be allowed.

Chair Monfort asked that Condition No. 4 be reviewed by the ARB, and that the lighting be unobtrusive. Senior Planner Palmeri indicated the project would be reviewed by the ARB.

CHAIR MONFORT THEN CALLED FOR A VOTE ON COMMISSIONER BELMONTE'S MOTION WHICH UNANIMOUSLY CARRIED WITH COMMISSIONER CARTER ABSTAINING.

5. **Repeal of Northeast Chico (Foothill Park) Specific Plan:** Proposed repeal of the Specific Plan in effect for approximately 570 acres of land generally located north of East Avenue, east of Cohasset Road, south of Sycamore Creek, and west of the Sycamore Creek Diversion Channel. The project had been determined to be partially exempt from California Environmental Quality Act (CEQA) review pursuant to Public Resources Code Section 21083.3. A negative declaration had been prepared for those aspects of the project determined not to be exempt.

Senior Planner Jolliffe reported that the first time the Commission heard of the Foothill Park Specific Plan was in conjunction with the Foothill Park East project. At that time the City Attorney determined that the Specific Plan was inconsistent with the General Plan, and this inconsistency would need to be removed in order to approve the proposed subdivision. Further, staff's intent was to have the General Plan supersede the Specific Plan when the General Plan was adopted in 1994, however, staff was in error in that respect. This repeal was an effort to make the Specific Plan consistent with other regulations currently in place. She noted that the Specific Plan was general, not specific, and established land uses for the 570 acre alignment, and that each condition was outlined in the staff report.

The Senior Planner continued that the Commission had previously directed staff to review and address the community design issues with the Master Design Manual. It was determined the provisions of the Specific Plan had been superseded by the General Plan or were covered by standard conditions of approval that had evolved over time. Senior Planner Jolliffe stated staff's recommendation was for the Commission to repeal the Specific Plan.

Senior Planner Jolliffe mentioned that the Specific Plan included two large vernal pools which warranted further study. One remained undeveloped as part of the Giampaoli property, was covered by the resource management area, and therefore, was protected. The other vernal pool was developed in 1982 and had a requisite study performed at the time. Although not as stringent as present, the study determined there was no Meadowfoam in the area which was the plant of concern. Also, there were no other plants listed on the endangered species in the area, so the property was developed with either Foothill Park 10 or 5, which was difficult to determine as the road alignments had been changed in that area.

Commissioner Belmonte expressed dissatisfaction that the City's legal counsel was not present at this evening's meeting as he believed this item could present a legal concern. Further, at a

previous Commission meeting, a legal concern was raised with regard to occupancy and the number of parking spaces required which could have been answered by the Acting City Attorney.

He continued that the Council had recently emphasized that no more than a reasonable amount of time was to be spent on a project, therefore, Commissioner Belmonte did not feel the Planning Commission should discuss the Foothill Specific Plan without the presence of Counsel.

Chair Monfort asked why counsel was necessary in this case. Commissioner Belmonte stated the Commission could be spending time on a subject which would ultimately have to be continued due to the lack of resources available to the Commission.

Chair Monfort stated he had no questions of a legal nature and believed staff made a correct determination in that the General Plan superseded the Specific Plan, and the Commission, in fact, did need to repeal the Northeast Chico Specific Plan. He suggested the Commission proceed with the discussion, and if a question of a legal nature developed, the matter could be continued to a future meeting.

Commissioner Belmonte believed that staff was not in a position to determine legal opinion. He emphasized that due to the fact that the Commission was directed to monitor their time, to be as time-efficient as possible, and not overburden themselves with a project, it was unfair to the developer, City, and the Commission not to have all resources available during the time when a decision was pending.

Senior Planner Jolliffe reported that the Acting City Attorney had made herself available for the meeting, and based on the fact that she was overburdened with commitments, a decision was made that her presence was not required. The Senior Planner believed that the legal opinion on the need to repeal the Specific Plan was valid, along with her understanding of the legal rationale for the repeal, prompted her to not request the Acting City Attorney's presence at the meeting.

Commissioner Studebaker clarified that the matter was a legislative act and not a judicial one, so this was a recommendation to the Council, not approval of the repeal. The Senior Planner agreed.

Commissioner Carter indicated that he had requested clarification on a few items from Senior Planner Jolliffe prior to the meeting which were satisfactorily answered, but added, that in light of the time constraints that had been imposed on the application process, there could be questions of a legal, transportation, or public works nature, with respect to future applications, which the City counsel or other City staff would need to address.

COMMISSIONER CARTER THEN MOVED TO ADOPT THE RESOLUTION TO REPEAL THE SPECIFIC PLAN, BASED ON THE STAFF REPORT. THE RESOLUTION WOULD BE NUMBERED AFTER ADOPTION. COMMISSIONER DIETLE SECONDED THE MOTION.

Chair Monfort expressed concern that the map provided in the report included the Floral Avenue extension which crossed the wetland area. Senior Planner Jolliffe indicated the map was an old one and had since been revised. She emphasized that this was not a vote for approval but for recommendation to the Council.

CHAIR MONFORT CALLED FOR A VOTE ON THE MOTION WHICH UNANIMOUSLY CARRIED.

**Note:** Items 6 and 7 were continued to the April 21, 1997 Commission hearing in order to allow for further property owner notification and so that the Acting Planning Director could be in attendance. Since public notice was published in the Enterprise Record, persons may be in attendance at this meeting and may wish to speak on these items.

6. **Canyon Oaks Tentative Subdivision Map:** A request to revise the conditions of approval of the Canyon Oaks Tentative Subdivision Map and to modify City of Chico street design standards, section 18R.08.035(G), deleting requirements to design and construct a comprehensive pedestrian access system, in lieu of standard sidewalk installation to serve the Canyon Oaks project.

No one spoke on this item and it was continued to April 21, 1997.

7. **Variance V-97-1 (Cook):** Reconsideration of conditions for a previously approved variance to allow a reduction of the required number of parking spaces for six, multi-family, residential units formerly known as the Language Houses located on the north side of Third Street, between Chestnut and Hazel Streets in a P-Q Quasi-Public District, identified as Assessor's Parcel Nos. 004-047-013, 014, 015, 016, 017, and 018. This project had been determined to be exempt from environmental review pursuant to Section 15305, Minor Alterations in Land Use Limitations of the California Environmental Quality Act (CEQA), Section 15305, Minor Revisions to Land Use Limitations.

No one spoke on this item and it was continued to April 21, 1997.

8. **Neighborhood Planning Subcommittee -- Fraternity/Sorority/Social Organization Overlay District:** Discussion regarding delegation of Planning Commission Neighborhood Planning Subcommittee to meet with the South of Campus Neighborhood Advisory Association to discuss a fraternity/sorority/social organization district.

Chair Monfort indicated this was a discussion item and no action would take place this evening.

Senior Planner Palmeri reported that the City Neighborhood Planning Subcommittee had requested the Planning Commission's permission to meet with the South of Campus Neighborhood Advisory Association on the fraternity/sorority/social organization overlay zone.

Commission Studebaker believed this matter involved two separate committees. Also, that there was no new information to report and the recommendations presented a year ago and forwarded to the Council were sufficient.

Chair Monfort noted that those recommendations were returned from the Council and Commissioner Wright had stated concerns which he wanted addressed.

Senior Planner Palmeri stated that there were a number of issues that could be reviewed, but staff was not in a position to move forward with that particular discussion this evening. He

believed staff's request was for authorization to meet with the neighborhood group and discuss the concepts that Council had agreed to or modify those concepts.

Chair Monfort suggested Commissioner Wright participate on the Subcommittee and work with the neighborhood groups in formulating a plan.

Commissioner Belmonte asked if the Subcommittee should be reestablished in order to maintain continuity with the project since there had already been discussions held.

Commissioner Carter suggested sending the concept to the Overlay Committee substituting Councilmember Wright for one of the existing members, then return to the Planning Commission so a public hearing could be held.

Commissioner Studebaker offered his seat on the Committee to Commissioner Wright who accepted.

Senior Planner Palmeri clarified the Subcommittee would consist of Planning Commissioners Crotts, Monfort, and Wright.

Chair Monfort opened the discussion to the public.

Rick Rees, representative of the Student Activities Office at the University, requested that a motion include an invitation to representatives from fraternities and sororities to participate.

Charlie Preusser, representing the South of Campus Neighborhood Association, stated that the Association was looking forward to working with a Subcommittee set up by the Planning Commission and would be happy to work with anyone interested in the project.

Mr. Preusser agreed the University students should be treated equally with neighboring residents, and that a form of identification of the zone should be placed in the area. He referred to a document previously provided to the Commission of some issues he wished to address and requested the Commission move forward with official recognition of the Association and work with the police department to create a concept for a student program.

Chair Monfort stated that the document referred to by Mr. Preusser was not presently available to the Commissioners. Senior Planner Palmeri indicated the document would be provided to the Commissioners. Chair Monfort requested it be provided to the Subcommittee.

COMMISSIONER CARTER MOVED THAT A REFERRAL BE MADE TO THE FRATERNITY/SORORITY OVERLAY ZONING COMMITTEE TO STUDY THE MATTER, WITH THE DIRECTIVE THAT THEY MAKE RECOMMENDATIONS TO THE PLANNING COMMISSION, AND THE MATTER BE SET FOR PUBLIC HEARING. FURTHER, THAT THE COMMITTEE SUBSTITUTE COMMISSIONER WRIGHT FOR COMMISSIONER STUDEBAKER. COMMISSIONER CROTTS SECONDED THE MOTION WHICH UNANIMOUSLY CARRIED.

9. **Neighborhood Planning Subcommittee -- Status Report:** Commissioner Studebaker reported to the Commission on the Subcommittee's activity and progress.

Reading from his report, Commissioner Studebaker stated that based on staff recommendation and the overwhelming display of interest by people attending the meetings held by the Neighborhood Subcommittee, along with comments made by many concerned citizens expressing support of neighborhood involvement, the Subcommittee recommended that staff formalize the neighborhood map for Chico.

Furthermore, the Committee would anticipate scheduling a neighborhood meeting for purposes of presenting the neighborhood map of Chico and establish implementation. A mission of the Subcommittee was to establishing a mechanism for neighborhood groups to have a means of communicating with City government.

Commissioner Studebaker continued that he had met with Acting Planning Director Hayes who believed May would be a good time for the suggested meeting which could be held at Neal Dow school.

Commissioner Carter clarified that this evening's meeting involved discussion of two meetings; one with the Planning Commission to consider the neighborhood map; and the other involving the Neighborhood Association to be held in mid-May at Neal Dow. Commissioner Studebaker concurred.

Commissioner Carter did not believe the agenda allowed the Commission to act on the item this evening, but asked if the suggestion was to set up a public hearing before the Planning Commission to consider the map, staff's recommendations with regard to the map, and to direct the Subcommittee to have a meeting in the Neal Dow neighborhood. Commissioner Studebaker concurred.

Chair Monfort requested clarification on the scheduled meeting in May, which would be include the public hearing on the map.

Commissioner Carter believed many of the neighborhoods had already held meetings on the subject, so the Planning Commission should meet on the map and plan of action quickly.

Commissioner Belmonte stated that if the map was prepared well, it would be a simple matter to determine its feasibility. The Subcommittee knew of the interest and there were a number of neighborhoods moving forward on the issue.

Chair Monfort encouraged staff to make every effort to place the item on the next meeting agenda.

**CORRESPONDENCE:** The following reports and communication items were provided for the Commission's information. No action could be taken on any of the items unless the Commission agreed to include the item on a subsequent posted agenda.

10. **Jesus Provides Our Daily Bread:** Update report from Katy Thoma, Executive Director.
11. **Memorandum dated March 14, 1997, from Management Analyst Cindy Pierce:** Joint meeting with City Council scheduled for Thursday, May 29, 1997.

Chair Monfort requested a discussion be included on the May 5 agenda to prepare for this meeting, and suggested the Commissioners consider reviewing up-front funding for projects and capital improvements with the Council.

12. **Notice of Special Airport Commission Meeting:** Wednesday, April 16, 1997, at 4:00 p.m., in City Council Chambers.

Commissioner Crotts requested clarification on the purpose of this meeting. Senior Planner Palmeri reported the meeting would consist of the Airport Commission, Airport Land Use Commission, the Chico City Council, the Planning Commission, and the Butte County Board of Supervisors to discuss land use and authority for the airport area.

Chair Monfort encouraged the Commissioners to attend the meeting.

**BUSINESS FROM THE FLOOR:** Charlie Preusser informed the Commission that the South of Campus Neighborhood Association's next meeting would be Wednesday, April 9, beginning at 6:00 p.m., in Conference Room #2 at the Chico Municipal Building.

**ADJOURNMENT:** There being no further business, the meeting was adjourned to the joint City Council, Airport Commission, Butte County Supervisors, Airport Land Use Commission, and Planning Commission meeting of Wednesday, April 16, 1997, at 4:00 p.m.

\_\_\_\_\_  
May 5, 1997  
Date Approved

\_\_\_\_\_  
/s/  
Tom Hayes  
Acting Planning Director

**PLANNING COMMISSION  
ADJOURNED REGULAR MEETING OF APRIL 21, 1997**

**ROLL CALL**

The meeting was called to order by Chair Monfort at 7:30 p.m., in the Council Chamber of the Chico Municipal Center. Commissioners present were Barry Belmonte, Jeff Carter, Brenda Crotts, Jolene Dietle, Kirk Monfort, Jonathan Studebaker, and Michael Wright. Staff present were Acting Planning Director Tom Hayes, Acting City Attorney Lori Barker, and Machine Stenographer Joni Rice-Grimm.

**DISCUSSION OF EX PARTE COMMUNICATION (IF APPLICABLE)**

With respect to Regular Agenda Item No. 4, Commissioner Studebaker disclosed that he was a tenant of a property owned by the applicant, however, the agenda item property was not the same in which he resided, he had not spoken with the applicant regarding the issue prior to the meeting, and he did not feel there was a conflict with him participating in any discussion.

**CONSENT CALENDAR**

1. Minutes of Regular Meeting of December 16, 1996.

**Requested Action:** Approve with any corrections/revisions required.

COMMISSIONER CARTER MOVED APPROVAL OF THE ITEM ON THE CONSENT CALENDAR. THE MOTION WAS SECONDED BY COMMISSIONER WRIGHT WHICH UNANIMOUSLY CARRIED.

**ITEMS REMOVED FROM THE CONSENT CALENDAR**

None.

**REGULAR AGENDA**

2. **General Plan Amendment/Rezone No. 97-01-D** – A proposal to: (1) amend the General Plan land use designation from Community Commercial to Public Facilities and Services for four parcels owned by the State located generally on the south side of West 2nd Street between Hazel and Normal Streets, Assessor's Parcel Nos. 004-047-012 and 004-048-004, 006 & 007 and concurrently rezone Assessor's Parcel No. 004-048-004 from R-P Residential-Professional/Business Office to OS-2 Secondary Open Space; and (2) amend the General Plan designation from Community Commercial to Medium-High Density Residential for six privately owned parcels located on the north side of West 3rd Street between Hazel and Chestnut Streets, Assessor's Parcel Nos. 004-047-(013-018), and concurrently rezone the parcels from OS-2 Secondary Open Space to R-3 Medium-High Density Residential. A Mitigated Negative Declaration of Environmental Impact was proposed for this project pursuant to the California Environmental Quality Act (CEQA).

Acting Planning Director Hayes reported a correction in the above description in that this was a Negative Declaration and not a Mitigated Negative Declaration. He continued that this amendment and rezone was prompted by the disclosure that this area had been designated as Community Commercial when the General Plan was adopted in 1994 and some zoning had been applied to that designation which was incorrect. The

majority of the property before the Commission this evening included parcels on the west and east side of Chestnut mostly developed as off-street parking facilities for the University. Two parcels located along West Third Street would be rezoned to University zoning of that the entire University shared and was essentially Public Facilities and Service and OS-2 Open Space Secondary as a zoning designation. He stated that the OS-2 Open Space Secondary had been applied to the University for a number of years as a public school facility within that particular zone.

He continued that the remainder of the General Plan amendment and rezone before the Commission this evening included an error that was discovered at the time the language houses came forward with the understanding that they would be purchased for private development. It was discovered that the subject parcels had been designated Community Commercial which was incorrect and zoned OS-2 Open Space Secondary which was zoning historically applied to University property. The proposal for the six dwelling units, now under private ownership, were for them to be developed into multi-family units. This redevelopment required a General Plan amendment from Community Commercial to Medium-High Density Residential and concurrent rezoning from OS-2 Open Space Secondary to R-3 Medium-High Density Residential.

Chair Monfort asked if the property on the northeast corner belonged to the University and if it received any special protection. Acting Planning Director Hayes stated that property at that location was the Alumni House which was a private foundation and should retain R-3 zoning.

He added that all University property, included in this amendment, would be rezoned to OS-2, and being State property it was preempted from dealing with the City in any discretionary permits regardless of what the zoning was.

No one spoke from the audience and Chair Monfort closed the discussion to the public.

COMMISSIONER CROTTS MOVED APPROVAL OF THE GENERAL PLAN AMENDMENT/REZONE 97-01-D. COMMISSIONER STUDEBAKER SECONDED THE MOTION WHICH UNANIMOUSLY CARRIED.

3. **Variance V-97-1 (Cook)** – Reconsideration of conditions for a previously approved variance to allow a reduction of the required number of parking spaces for six multi-family residential units formerly known as the Language Houses located on the north side of Third Street between Chestnut and Hazel Streets, identified as Assessor's Parcel Nos. 004-047-013, 014, 015, 016, 017, and 018 in an OS-2 Secondary Open Space District (proposed R-3 High-Density, Multi-Family Residential). This project had been determined to be exempt from environmental review pursuant to Section 15305, Minor Alterations in Land Use Limitations of the California Environmental Quality Act (CEQA), Section 15305, Minor Revisions to Land Use Limitations.

Acting Planning Director Hayes reported that during the Planning Commission meeting held on March 17, the Planning Commission approved a variance for the Language Houses located on the north side of West Third Street between Chestnut and Hazel. The Commission was concerned despite the findings for the variance that there was a significant parking problem in the area and applied a few conditions. One condition limited the maximum occupancy of the buildings. He continued that according to the Acting City Attorney's opinion, Federal and State law and Case law prohibit setting occupancy limits other than Housing statutes regarding overcrowding.

The Acting Planning Director recommended that the first part of Condition No. 4, which placed the maximum occupancy of the buildings to 61 persons, be deleted as a condition or a portion of that condition for the variance. Also, that there be reconsideration of the condition added requiring that the variance be subject to the removal of meter parking on West Third Street. He reported that the Parking Place Commission had recommended the removal of 13 meters on West Third Street. However, because the meters were directly associated with paying the bond for both the parking structure and other parking facilities downtown, staff would recommend that the Council not approve removal of the meters.

Acting Planning Director Hayes recommended that the Commission review and either approve or deny the variance on the merits of the findings. If the Commission felt that it needed to deny the variance, that would then allow the applicant the option to appeal that decision to Council. It was staff's opinion that given the location and proximity of the project to the University, the fact that there were hardships in terms of the maintaining the historical integrity of the structure and grounds, and the actual size of the parcels being significant from a historical standpoint, that there were definite positive findings that could be made for approving the variance with the two conditions removed.

Commissioner Studebaker asked what specific hours were on the parking meters in front of the houses. Acting Planning Director Hayes stated they were the same as any other in town and terminated at 6:00 p.m., and the City had authority to enforce the metered parking during those daytime hours only.

Commissioner Crotts asked if there was a provision for residents, if there was a meter in front of their home to have a permit to park without putting money in the meter. Acting Planning Director Hayes replied there was no provision unless they were located in a special parking district.

Acting Planning Director Hayes requested the Commission not to depend on parking in the public right-of-way to determine whether it wished to approve or deny the variance. Staff did not typically consider parking in the street as a means of offsetting any parking that was available on site.

Commissioner Wright asked if the applicant had made any attempt to mitigate the parking concern with the Chico State University by leasing spaces from them in their parking lot

for tenant parking. Acting Planning Director Hayes suggested Mr. Cook reply to that question.

Chair Monfort opened the discussion to the public.

Stan Merritt, an area property owner, requested clarification with regard to the parking behind the Language Houses which he understood to number 31 but did not believe to be designated for these particular homes. Acting Planning Director Hayes believed the 31 spaces were guaranteed to Mr. Cook, but suggested Mr. Cook explain the terms.

Mr. Merritt reported that he had conducted a survey of his tenants and discovering that 60 of the 65 tenants owned a car. He felt fortunate that off-street parking was available to his tenants, but was concerned with the impact of insufficient parking that the Language House tenants may have on his tenant's parking. Although, he agreed that a good portion of the meters should be removed, he felt the area would be impacted by allowing the variance.

Mike Campos, property owner of a home at 326 Chestnut, indicated that the Parking Commission was in agreement that the parking meters should not be located in front of residences. He had addressed the Parking Commission with regard to meters being removed in the entire area. Their approval of the meter removal would need to be processed through the Internal Affairs Committee, then submitted to Council. He did believe the meters would ultimately be removed. He expressed concern that the delay in approval of the variance would place Mr. Cook in a situation where cash flow would be inhibited.

Commissioner Wright asked Mr. Cook if he had attempted to negotiate additional parking with the University. Mr. Cook explained that in order to purchase or lease a parking space from the University, it was necessary to be a faculty or staff member, or a student. Also, that there were two different ways of receiving a parking permit: (1) was to purchase a "hunting" permit, which authorized a person entrance to the parking lot and the opportunity to search for a parking space; (2) a person could reserve a particular space at a higher price.

As far as removal of the parking meters in front of the houses, Mr. Cook indicated that he had reduced his request of meter removal to just the meters located directly in front of the houses, due to the fact that he understood the revenue from the meters was obligated to retire the debt of the parking structure. Also, that the parking spaces in front of the houses were not guaranteed for his tenants, and he did not believe all his tenants would own a car. As far as the 31 spaces behind the houses, Mr. Cook stated that those spaces were his property and would be numbered and reserved strictly for his tenants.

He reported that the Parking Commission approved the request for the removal of 12 meters but were concerned with establishing a precedent with regard to residential meter removal. Mr. Cook had searched parts of the City for similar situations and saw no areas

with meters in front of residences. He believed more rehabilitation of historic houses would be done and the Planning Commission would need to consider a long-term plan regarding parking regulations and meters in residential areas.

Mr. Cook requested approval of the variance as a practical and reasonable decision.

Acting City Attorney Barker elaborated on the subject stating that the parking meter revenue was not only used to pay the parking structure bond, but the City was also required to maintain a certain level of parking revenues in excess of the amount of debt service required each year. The meters did produce a significant amount of revenue as they were in a prime location near the University which was one reason staff was recommending they not be removed. At present the City was meeting its requirement for parking meter revenue, and she doubted that the City Manager would recommend the removal of any meters that produced significant revenue.

Commissioner Wright asked if there were provisions that the street parking spaces could be leased from the City such as was done in the parking garage. Acting City Attorney Barker responded that although the City did lease parking spaces in the garage, to her knowledge there were no leases available for street parking. It was a potential alternative if the lease could provide the same revenue the meter produced.

Acting Planning Director Hayes believed that the revenue from the meters would provide more revenue than the cost of purchasing a reserved parking space permit for a University parking lot.

Commissioner Belmonte believed an issue previously debated by the Commission had to do with the number of people that would occupy a house was not an appropriate consideration for determining the number of parking spaces, therefore, he believed the condition should be removed from the variance. He did not feel removal of the parking meters was a decision for the Commission to make, but should be made by the Parking Commission, Internal Affairs, and the City Council.

No one else spoke from the audience and Chair Monfort closed the public hearing.

COMMISSIONER BELMONTE MOVED TO APPROVE THE VARIANCE AS STATED IN THE REPORT WITH THE CONDITION THAT THE INAPPROPRIATE LANGUAGE BOTH REFERRING TO OCCUPANCY AND CONDITION NUMBER 4 AND THE REQUIREMENT TO REMOVE THE PARKING METERS BE DELETED. COMMISSIONER CARTER SECONDED THE MOTION.

Commissioner Belmonte believed it was unfair and unnecessary for this matter to have been brought to the Planning Commission again. He believed that Mr. Cook had presented the project to the Commission, there had been discussion of the matter, and the concerns were covered. Further, he did not believe that staff had the time or resources

to provide the Commission with all the information necessary to make a decision and believed it to be inefficient use of staff's, the Commission's and Mr. Cook's time.

Commissioner Wright indicated he would vote against the variance because there could be another way to mitigate the revenue of the parking meters or provide other parking opportunities. He stated that some businesses had to purchase easements from adjoining neighbors which had not been considered in this case. Further, that if Mr. Cook's assumptions were correct with regard to more requests of this nature being brought forward, the Commission should consider long-term plans rather than on a case-by-case basis.

Commissioner Dietle recalled the previous discussion which placed Condition No. 9 on the approval because there was a concern about the number of people living in the houses and the number of parking spaces available. She did not recall it as having had anything to do with staff 's ability to present the facts sufficiently.

Commissioner Studebaker indicated that student housing was often associated a number of events held during the year, such as relatives visiting from out of town, alumni visits, and other events that would need requiring parking spaces. He believed if the Commission approved the variance, a larger traffic concern could be created, therefore, he would oppose the variance.

Chair Monfort urged the Commissioners to carefully consider an opposing vote. He understood there would be parking concerns, but that was largely due to the historical nature of the neighborhood. He explained that the homes were built during a time when parking was not a concern, and a standard solution may not be possible. The Commission should consider a long-term solution that would preserve the historical significance of the area and not require houses to be razed in order to provide parking. He urged a yes vote.

ON THE MOTION TO APPROVE THE VARIANCE, THE MOTION CARRIED AS FOLLOWS: AYES: COMMISSIONERS BELMONTE, CARTER, CROTTS, AND CHAIR MONFORT. NOES: COMMISSIONERS DIETLE, STUDEBAKER, AND WRIGHT. ABSENT: NONE.

4. **UP 97-8 (Boyd/Theta Upsilon), 504 West Third Street** – A request to allow operation of a sorority house in an existing structure located at 504 West Third Street and identified as Assessor's Parcel No. 004-047-018 in an OS-2 Secondary Open Space District (proposed R-3 High-Density, Multi-Family Residential). This project had been determined to be categorically exempt from environmental review pursuant to the California Environmental Quality Act (CEQA), Section 15301, Existing Facilities.

Acting Planning Director Hayes reported that stated that this was a nine bedroom house which would be occupied by 15 members of a sorority. The request had been analyzed

through the City's standard process and the City Police Department requested the usual conditions on the Use Permit with regard to noise and alcoholic beverages. The conditions which included limiting the hours of social events and cleaning up the site were listed in the report. Chair Monfort clarified that the Police Department was aware that the list of conditions were the same standards applied to other fraternity and sorority houses.

Acting Planning Director Hayes agreed and stated that staff was working with the South of Campus Neighborhood Association with the Fraternity/Sorority/Social Organization Overlay District which would allow for less stringent enforcement.

Commissioner Carter requested clarification of the parking requirements. He believed that as there were 31 parking spaces for the six houses, that would average five parking spaces per house and the requirement for this sorority would be four. Acting Planning Director Hayes indicated that given the fact this was an impacted district, the normal standard would be one parking space per bedroom. He added that the Commission had just approved the variance that would apply to all six of the houses so the parking standards were not necessarily relevant.

Commissioner Wright asked if there were another property in that area that wanted to rent to a sorority and they had nine bedrooms, would the same application be made of one parking space per two bedrooms. Acting Planning Director Hayes indicated that the fraternity/sorority parking standards included in the Code was one space per two bedrooms. However, if it was in the impacted zone it would be one space per bedroom.

Commissioner Wright stated he did not recall seeing a provision for an architectural review for landscaping and exteriors in this case. Acting Planning Director Hayes explained that when exterior remodeling work was being done or if there was a significant change it would generate a building permit, therefore, there would have to be exterior remodeling for that to generate the architectural review process. He further noted, that because this type of conversion of use triggers a building permit, architectural review would be activated if significant exterior changes were proposed. If there refurbishing was done on the exterior, maintenance, repair, or other standard improvements an architectural review would probably not be generated.

Commissioner Wright asked if that should have been considered when the rehabilitation of the buildings began instead of at this stage. Acting Planning Director Hayes stated that in terms of architectural review there were standard conditions that staff always applied and those provisions should be in the report. Chair Monfort added that was due to the fact that the Use Permit stayed with the property.

Chair Monfort opened the discussion to the public.

Sandy Boyd, the applicant, requested clarification on Condition No. 4, and if she needed to prepare for a presentation to the Architectural Review Board. Commissioner Carter believed that this subject dealt with any alteration or subsequent changes after occupation

and lease of the building, and this was a standard condition placed on most fraternities/sororities in a multi-family unit.

COMMISSIONER STUDEBAKER MOVED TO APPROVE THE USE PERMIT SUBJECT TO CONDITIONS OF APPROVAL NOS. 1-14. COMMISSIONER CROTTS SECONDED THE MOTION WHICH UNANIMOUSLY CARRIED.

**Note:** **Items 5 and 7 have been continued to the May 5, 1997, Commission meeting in order to allow for further property owner notification. Since public notice was published in the Enterprise Record, persons may be in attendance at this meeting and may wish to speak on this item.**

5. **UP 97-10 (Peters) 931 West 5th Street:** – A request to allow a 6,000 square foot expansion of a fitness facility (Gold's Gym) within an existing building of property located at 931 West 5th Street and identified as Assessor's Parcel No. 004-203-001 in an M-1 Light Manufacturing District. This project has been determined to be exempt from environmental review, pursuant to the California Environmental Quality Act (CEQA), Section 15301, Minor Alterations to Existing Land Use.
6. **Canyon Oaks Tentative Subdivision Map** – A request to revise the conditions of approval of the Canyon Oaks Tentative Subdivision Map and to modify City of Chico street design standards Section 18R.08.035(G), deleting requirements to design and construct a comprehensive pedestrian access system in lieu of standard sidewalk installation to serve the Canyon Oaks project. A certified Environmental Impact Report was adopted for the Canyon Oaks Subdivision and other discretionary approvals when approved in 1986.

Acting Planning Director Hayes reported that this was the first foothill project in the City, and a number of special conditions or modifications were approved due to private improvement facilities being extended throughout the site.

One of those modifications included the roads being approved at a significant narrower size than was required by the City of Chico under normal street standards and that no normal curb or sidewalk sections be applied to the development of the project. Also, the street lighting system was modified to allow private street lighting by individual property owners in order to provide for the safety of pedestrians.

Acting Planning Director Hayes stated that in the absence of the normal public street standards which included a sidewalk section of four feet on both sides; in consideration of the fact that this was a foothill type development and staff did not have a standard for same; and in order to keep the impact of the development of the foothill at a minimum, staff requested the Commission to approve a lesser street standard but require a comprehensive plan for pedestrian access throughout the Canyon Oaks project which should be submitted prior to the recordation of any final subdivision map.

The Acting Planning Director continued that the parcel map created for Canyon Oaks had been split into ten parcels basically to allow for phasing of final maps. At present there had been only one parcel of that original parcel map, tentative map Phase One, that had been finalized and recorded. Phase One provided an aggregate walkway along one side of all streets (4' wide), except for the steep hill section of Oak Hollow leading from Canyon Oaks Drive to the water tank, which was constructed of asphalt.

He continued that the aggregate path suffered two design problems. The first problem was such that the design of the pathway did not allow for retention of the aggregate, therefore when it rained, the aggregate washed away. The second problem occurred when individual property owners built improvement structures in the public utility easement thereby obstructing the continuous walkway. Therefore, Phase One did not have a continuous walkway system existing within that particular portion of the project. Staff determined that when the property sellers came forward with a proposal for Phase Two that the City would require no additional maps be recorded until a final solution to the pedestrian access system was presented and approved.

Phase Two was currently before the City and an improvement plan had been approved but with the note that a four-foot continuous aggregate, asphalt, or all-weather path be provided along one side of all streets within Phase Two and that no obstructions be built within that four-foot area. It provides for a continuous walkway system within Phase Two, and that standard would be applied throughout the remainder of Canyon Oaks.

In the absence of receiving any other type of comprehensive plan to resolve the concerns, staff's felt that in lieu of the fact that this was a gated community and included private facilities, it was staff's opinion that the City should ensure a provision for safe pedestrian access to future residents of Canyon Oaks as the project developed

The Acting Planning Director reported that due to the fact that the streets were narrow and winding, that street lighting was not installed to City standards, and an unsafe situation existed where the street was used as the main pedestrian walkway or access way it was staff's recommendation that the Commission approve the four foot wide all weather or aggregate path that would be maintained in that condition along one side of all streets within Canyon Oaks, and that it be continuous and not obstructed, with the exception of the driveways.

Commissioner Carter asked if staff was requesting the Commission to approve the conditions of approval or reaffirm the conditions originally placed on the development. Acting Planning Director Hayes requested a reaffirmation of the established conditions.

Chair Monfort opened the meeting to the public.

Eric Martin, managing agent for the Canyon Oaks Property Owners Association, presented a petition requesting the deletion of the pedestrian access condition of the Canyon Oaks Tentative Subdivision Map. The petition listed seven reasons for the request some of which included a concern for a pathway design that would be routed around the

mailboxes, grading, drainage, encroachment of properties, and that the residents did not and would not use the pathways.

Acting Planning Director Hayes clarified that the property owners of Phase One were concerned that the City would require the path to be replaced and finished which was not the intent of the staff in making the recommendations. Staff realized substantial improvements had occurred in Phase One that obstructed the pathways. At present any ability to attempt to rectify that would be very difficult. It was staff's intent to require the provision for the remainder of Canyon Oaks as it developed so staff that the problem could be exacerbated.

The Acting Planning Director described the phase locations on the map.

Commissioner Carter believed the post office had standards for the placement of the mailboxes, and those standards may impede the pathways. Acting Planning Director Hayes agreed they did have standards which could be included in the design phase of a future development and that a comprehensive plan needed to be developed; an option would be to install a central group of mail boxes.

Commissioner Carter expressed concern that a decision made this evening may set a precedent for the future.

Greg Brown, property owner of two lots in Phase One, stated he had filed a final map for six lots in Phase One that did not include this condition. He referred to the area as the Pinnacle, or Phase Two. He believed it would be difficult to extend the pedestrian pathway to the Pinnacle since it was not required in the first phase.

Acting Planning Director Hayes reported that condition was not applied to the end of Phase One because there would have been no continuity with the rest of that phase.

Commissioner Carter expressed concern that a map was not provided showing the various phase boundaries. He was uncomfortable that Phase One had been relieved of a condition placed on it that would have an impact on the other phases without the Commission's review.

Chair Monfort asked if staff was requesting that the Commission allow the condition to be placed on the remaining phases. Commissioner Carter asked staff to clarify the request for the removal of the condition from Phase One be approved.

Acting Planning Director Hayes confirmed the request and described the phases on a map provided by a member of the audience.

Patrick Cole, architect, stated he had designed the first home in Canyon Oaks, Phase One and wrote the design guidelines for Phase Two including the Pinnacle to which Mr. Brown had referred.

The design of that home in Phase One was a step in new territory, using information gathered from different sources, and that the requirements for a four-foot gravel walkway or on-site parking were unknown until a late date. Mr. Cole stated that due to the steep topography, the pathways were incompatible and it was necessary to place the embankments close to the road in order to install the last minute parking to accommodate the City's requirement.

Mr. Cole continued that other issues included the gravel being washed away in the path as it was not maintained. He requested the staff verify who was responsible to maintain the walkway, who would own it, and would bear the liability for it.

The Acting Planning Director responded that the streets in the Canyon Oaks Subdivision were private and would not be maintained by the City. Further, that there was a public access easement of 20 feet that was included on the map. Mr. Cole noted that since there was no parking allowed on the street, there was room for pedestrian use and being a gated community, traffic would be limited and the residents would show consideration for each other.

Mr. Cole noted that the property owners of the area did not want the pathway requirement and did not believe it would be an asset to their neighborhood. They wished to maintain a rural feeling in the area and suggested possibly painting a line, such as a bicycle lane, on the roadway rather than installing pathways.

Commissioner Carter suggested further studies to resolve the situation should be done. In this case exceptions were made with regard to urban requirements by allowing narrower streets. He was not prepared to eliminate the requirement for Phases Two through Ten and believed the issue should to be reexamined in greater detail. He noted an option would be for the developer to post a bond and pay an in lieu fee which would be returned if the Commission and City staff did not make a decision on the requirements in a certain period of time. Commissioner Carter felt if Phase Two was relieved from the condition, then the other phases would be subject to the same condition.

Acting Planning Director Hayes suggested that if one phase was relieved of the condition, the entire project be provided the same regulation. Also, he would not recommend that the street be striped for a pedestrian walkway.

Bill Dudman, resident of Canyon Oaks, requested that the condition be removed, deleting the requirement of the pathway. He did not believe it was feasible to place a four-foot pathway in Phases Three or Four due to the natural terrain unless materials were brought in to build up the slope. He continued that the gates were open at present for construction vehicle access, however, in the future the gate would be closed and the Association was reviewing their funds to see if a manned gate was possible which would cut down on the traffic and pose less danger for the pedestrians.

No one else spoke from the audience, and Chair Monfort closed the public hearing.

Commissioner Carter believed that staff should examine the matter in greater detail and provide more in-depth information as to the phases of development and the development that had occurred in phase one. He also requested clarification on what authority staff took in allowing the condition to be ignored as far as the last six parcels where the final map was recorded without the condition.

Acting Planning Director Hayes explained the final map without the condition had been approved by staff.

He believed this may be a situation where pedestrian access was appropriate, in other parts it may not be appropriate, or that pedestrian access was not appropriate for any portion of the project. He did not feel there was enough information available to make a determination. Commissioner Carter felt that type of information was necessary to make a reasoned, educated decision on the request. Further, that any decision with less than full information could compound concerns in that area.

COMMISSIONER CARTER MOVED TO TABLE THE DISCUSSION UNTIL STAFF COULD RETURN WITH MORE COMPLETE INFORMATION ON THE MATTER. COMMISSIONER WRIGHT SECONDED THE MOTION.

Chair Monfort asked Commissioner Carter to modify the motion so future maps for this project would not be brought forward to the Commission before staff returned with that information.

Commissioner Carter stated that there was a current condition on the map, and although staff had already made an exception, the condition should be applied absent legislative action.

CHAIR MONFORT CALLED FOR A VOTE ON THE MOTION WHICH UNANIMOUSLY CARRIED.

The Acting Planning Director noted that staff would do the research and return to the Commission as soon as possible.

Commissioner Belmonte commended staff for their diligence and hard work, however, he felt that being a public trust, it was incumbent upon the Commission to be as effective with its time as possible. He believed the Commission had a responsibility to expedite matters while being as fair as possible, and that an effort should be made to supply the resources and all pertinent information to the Commission in order not to prolong the process. He expressed bewilderment that a map was presented from the residents which provided more detailed information than the City's map. Due to the fact that time constraints had been placed on the Commission for project review, he believed it was important that its time was well spent.

7. **General Plan Amendment/Rezone No. 97-01-A** – A proposal to amend the General Plan land use designation from Medium-Density Residential to Office for 5.36 acres (three parcels) located at the northwest and northeast corners of W. East Avenue and Cussick Avenue, Assessor's Parcel Nos. 042-450-022, 045, and 046, and concurrently rezone the parcels from R-1 Single-Family Residential and R-2 Medium-Density Residential to R-P Residential-Professional/Business Office. A Mitigated Negative Declaration of Environmental Impact was proposed for this project pursuant to the California Environmental Quality Act (CEQA).

### **CORRESPONDENCE**

8. **Benedict Ranch Neighborhood Meeting** – 6:30 p.m. on April 23, 1997, at Parkview School.

In order to prevent the meeting from having to be noticed, it was requested that no more than three Commissioners attend the meeting. Commissioner Carter lived in the area and wished to attend, however, according to the Acting City Attorney, he would count as one of the three.

Commissioner Carter reported that he would abstain from any action taken through the Commission with regard to this matter and indicated that if three other Commissioners were in attendance at the meeting, then he would leave.

Chair Monfort asked who on the Commission had planned to attend the meeting. Commissioner Studebaker and Chair Monfort expressed their intent to attend.

9. **Letter from Instructor Pam Figge, CSUC** – Requests that the Commission receive a public presentation from the Geography 228/Rural and Town Planning 301 Site Planning class on the "Analysis and Feasibility of a Ring Transportation Corridor - Mangrove Avenue Segment." The "Ring Corridor" feasibility study was a policy objective in the Chico General Plan, Community Design Element. The letter noted various dates and times on which the class could make the presentation. The presentation would take approximately one hour.

**Requested Action** – Schedule the presentation as a special Planning Commission workshop, specifying the desired date and time as suggested in the letter.

The Commission scheduled Monday, May 12 from 6:00 to 7:00 p.m., for the one hour presentation.

10. **Neighborhood Planning Subcommittee** – Presentation of conceptual map showing possible neighborhood boundaries; discussion at May 5, 1997, Planning Commission meeting.

Acting Planning Director Hayes distributed two maps to the Commissioners. One map was a conceptual neighborhood boundary drafted by staff. The other map was the actual

boundaries of the schools. By overlaying the two, it presented a more clear, visual guide with regard for the issues in defining the neighborhoods. The discussion of the maps would be held on May 5.

**BUSINESS FROM THE FLOOR** – Chair Monfort noted that the subcommittee on the fraternity/sorority/social organizations agreed to meet on Thursday at 4:00 p.m., in the Municipal Building Conference Room.

**ADJOURNMENT** – Chair Monfort adjourned the meeting at 9:26 p.m., to the regular meeting of May 5, 1997.

June 2, 1997

Date Approved

/s/

Tom Hayes  
Acting Planning Director

**PLANNING COMMISSION**  
**MEETING OF MAY 5, 1997**

**ROLL CALL**

The meeting was called to order by Chair Monfort at 7:30 P.M. in the Council Chambers of the Chico Municipal Center. Commissioners present were Barry Belmonte, Jeff Carter, Brenda Crotts, Kirk Monfort, Jonathan Studebaker and Michael Wright. Commissioner Jolene Dietle was absent. Staff present were Acting Planning Director Tom Hayes, Senior Planner Ed Palmeri and Administrative Secretary Karen Kracht.

**DISCUSSION OF EX PARTE COMMUNICATION**

Chair Monfort stated that he had received a telephone call from Rick Coletti regarding Cardiff Estates, Item No. 7 on the agenda for this meeting, indicating that he disagreed with statements made in the staff report. Chair Monfort added that he had been informed that Mr. Coletti had also contacted Commissioner Dietle with the same message.

**CONSENT CALENDAR**

**1. Minutes of Adjourned Regular Meeting of April 7, 1997.**

**Requested Action:** Approve with any corrections/revisions required.

**2. Benedict Ranch Tentative Vesting Subdivision Map 95-4 (Leen Bros. Enterprises) - A request to subdivide approximately 32.6 acres into 129 single family residential lots with two remainder lots on property rezoned R-1, Low Density Single Family Residential, located on the south side of East Eighth Street and on the west side of Bruce Road (Assessor's Parcel No. 002-160-060). The site is designated in the City of Chico General Plan Diagram as Low Density Residential (2.1 to 7.0 dwelling units per gross acre). The single family lots will range in size from approximately 8,000 square feet to 5,100 square feet with an average lot size of 6,000 square feet. A Mitigated Negative Declaration of Environmental Impact is proposed for this project pursuant to the California Environmental Quality Act (CEQA).**

**Requested Action:** Continue this item indefinitely as per the applicant's request.

**3. Memorandum from Acting Planning Director Hayes, dated April 29, 1997, regarding the use of Neighborhoods Map.**

**Requested Action:** Approve with any corrections/revisions required.

Chair Monfort stated that he had questions regarding the requested action on Item No. 3.

Acting Planning Director Hayes stated that the Commission received the Draft Neighborhood Map, which contains minor revisions to the previous version. Staff is requesting that the Commission agree to this preliminary map and direct staff and the Neighborhood Subcommittee to go forward with a scheduled neighborhood meeting to be held June 5, 1997 at the Neal Dow School multi-purpose room. The meeting will allow the opportunity for neighbors to respond to neighborhood boundaries proposed on the map and to respond to a survey of neighborhood concerns. The survey will allow the neighbors

to list their top three concerns within their neighborhood. Acting Planning Director Hayes added that the neighborhood meeting would be widely published through display advertisements in both newspapers, an announcement on the City's homepage and the Chamber of Commerce homepage on the Internet, as well as notice to various neighborhood groups. In addition to those measures, staff is also working with the school district on a flyer to be distributed to students and a public service announcement for the media.

Commissioner Studebaker suggested that a press release to media news departments be included in the program.

Chair Monfort removed Item 3 from the Consent Agenda.

Commissioner Carter stated that he would abstain from Item No. 2 as he resides in the affected neighborhood.

COMMISSIONER STUDEBAKER MOVED TO APPROVE ITEMS 1 AND 2. COMMISSION CROTTS SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

#### **ITEMS REMOVED FROM THE CONSENT AGENDA**

3. **Memorandum** from Acting Planning Director Hayes, dated April 29, 1997, regarding the use of Neighborhoods Map.

Chair Monfort requested that the requested action be clarified. Acting Planning Director Hayes stated that staff would like confirmation of the directive from the Commission to proceed with the neighborhood meetings based on the preliminary map.

COMMISSIONER BELMONTE MOVED TO CONFIRM THE DIRECTIVE FROM THE COMMISSION. COMMISSIONER STUDEBAKER SECONDED THE MOTION.

Commissioner Carter suggested that as many schools have billboards, it may be possible to have an announcement on a billboard, or place a sign on it.

Commissioner Belmonte verified that there will be a Neighborhood Subcommittee meeting prior to the neighborhood meeting.

Commissioner Crotts inquired if there will be a larger version of the neighborhood map, showing the boundaries, available at the neighborhood meeting. Acting Planning Director Hayes replied that there would be a larger map with improved resolution.

THE MOTION WAS APPROVED BY A 6-0 VOTE.

#### **REGULAR AGENDA**

4. **Use Permit No. 97-7 (Chico Evangelical Free Church)** - A request to allow a two-phased expansion of the existing church facilities located at 1193 Filbert Avenue to include acquisition of an adjacent single family residential lot identified as 665 Bryant Avenue, Assessor's Parcel No. 045-291-003, as well as future demolition of the existing residence, and construction of an 11,600 square foot building addition to be used for Sunday school and Bible study. This project has been determined to be Exempt from environmental review pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA).

Sr. Planner Palmeri reviewed the staff report. He explained the applicant is proposing a two phased project. The first phase would include the removal of the swimming pool to add overflow parking. The second phase would be the construction of 11,000 sq. foot building to be used to house Sunday School classes. He stressed that the request is not to hold a traditional K-8 school on the premises. He stated that the project will not increase noise levels in the community. Currently the church exceeds the amount of parking spaces, with overflow far exceeding Municipal Code requirements. He noted that the use permit procedures contained in the Code make it possible to allow for an expansion over a period of time set by the Commission; in this instance staff suggests a five year period. He reviewed the findings and conditions contained in the staff report, noting that the conditions includes the elimination of the requested parking entrance onto Bryant Avenue in favor of extended landscaping (Condition 8). He added that the neighbors have expressed to staff that there are concerns which include parking, traffic and noise.

Chair Monfort verified that no additional parking is needed or required with the addition of the building. Commissioner Wright inquired that if no parking is needed, why is this permit requests. Sr. Planner Palmeri suggested that the Commission direct that question to the applicant.

Commissioner Wright questioned if the definition of Sunday School activities is established as taking place on Sundays, or if after school activities would be allowed. Sr. Planner Palmeri replied that the request is for Sunday School; if the church desires to expand the use to include after school activities, it would require an expansion of the use permit. Under the conditions of the permit, the church can use the property for regular church activities, but not for a regular school or daycare.

The public hearing was opened at 7:55 p.m.

Stan Figgins, 4685 Songbird, representing the applicant, presented a brief history of the Evangelical Free Church. He noted that in 1987 the congregation grew to 540 people, outgrowing the existing facility. At that time a use permit was granted to add a building where parking currently exists. As a result of a drop in the congregation, the addition was not built. He indicated that there may not be adequate parking when the building which was approved in 1987 is built. He added that the church is involved in the community by providing services, including allowing neighborhood youths to use basketball facilities. He indicated that church activities are planned around anticipated traffic and time of day.

Mr. Figgins stated that he is aware of the concerns of the neighbors, primarily those living on Bryant Avenue, regarding the aesthetics and traffic on Bryant Avenue. He indicated that the trees on the subject parcel will remain as they are within the setback. He expressed concern with the recommended setbacks, suggesting that having a wide setback may isolate the street side of the building. He asked that the setback be reduced to 20 feet for the length of the property. He indicated that during the past Sunday, church representatives conducted a small traffic study, which concluded that 3 cars traveled down Bryant to access the church for services and 8 cars left the church to go down Bryant after services. He suggested that parking on Bryant Avenue should not be an issue as no activities centered in that area, and with the setbacks and the building not being accessible from the street the existing foliage can remain.

Chair Monfort asked where current Sunday school activities are located. Mr. Figgins replied that currently the small and cramped classes are held in the existing building. If the congregation grows to the anticipated level, additional space will be necessary.

Chair Monfort reviewed the changes in congregation size since 1987, and verified with Mr. Figgins that, should the congregation get back to 1987 levels, the church would like to be able to house the Sunday school activities.

Don Holm, 651 Bryant, reviewed the letters he wrote which are included in the Commission packets and handed out prior to this meeting. He indicated his belief that the project will have an environmental impact on neighborhood. He explained that the proposed use will move church activities within 20 feet of his children's bedroom. He stressed that the church has a number of activities which take place throughout the week. Parking on the street mainly occurs on weekdays, usually in the existing smaller buildings. He indicated that the project has the potential to cause glare as the existing parking lot has high lighting standards, expansion of which will highly impact the neighborhood. He noted that although staff is recommending against it, the project description does include an exit onto Bryant Avenue. He expressed concern that if the church increases the building space, they will also expand the use.

Mr. Holm urged the Commission to consider the cumulative impacts of the project. He noted that the church has grown over the years to a point where it is out of scale with the neighborhood. He suggested that it is inappropriate to build an 11,000 sq. foot building to replace a small residential house, creating an unmitigatable impact on the neighborhood. He indicated his belief that the Commission cannot make the required use permit findings that the proposed use will not be detrimental to the welfare of the neighborhood and that the use will not be injurious to the property improvements, as it will have a negative impact. He stated that while limited in scope for this project, the church has indicated that they would be interested in purchasing other properties in the neighborhood by approaching himself and one other neighbor. He questioned why there is not a master plan in order to determine future impacts. Mr. Holm noted that the church currently is located on over 3 acres, 1 acre of which is unused. He suggested the church consider expanding into that unused area.

Chair Monfort noted that the applicant has stated that the sanctuary size limits the size of the congregation. He added that access to the current building location leads to parking on streets and not in the parking lot. Mr. Holm suggested that if there is a door opening onto Bryant Avenue, it will encourage parking on Bryant Avenue. He asked that if the Commission's desire is to approve the use permit, than that should be determined, and then reopen the public hearing to discuss possible conditions for that approval. He stressed that he does not believe that the use can be mitigated.

Phil Harrold, 668 Bryant Avenue, noted that he recently purchased his property and did not receive notice of this hearing. He stated that while the staff report indicates that there are 144 paved parking spaces, he had counted 157 spaces, which appears adequate for the existing congregation. In addition, there are approximately 100 spaces available in the gravel area. He noted that in 1987 the church had submitted a plan to build in what is now the parking area, leaving plenty of room in that parking area without impacting the surrounding neighborhood, such as this plan calls for. He stated that removing residential housing in the neighborhood in order to provide parking and build a large building does not make a use compatible with the neighborhood. He added that while he is not in opposition to increasing the Sunday school or Bible study program, the church does not need to expand into the neighborhood.

Jim Matthews, 665 Bryant Avenue, current owner of the subject site, stated that he had listed the property twice in the past 1 ½ years without a sale. He acknowledged that this sale is a significant financial interest. He stated that he had purchased the property 20 years ago and never had a complaint regarding the church. He stated his belief that the church is showing respect and sensitivity toward the neighborhood. He urged that if further conditions are necessary, they be worked out and use permit granted.

Louisiana Knox, 636 Bryant Avenue, stated that she was opposed to expansion of the church facilities. She noted that the neighborhoods of Bryant and Filbert Avenues have recently been experiencing major improvements in the houses. She stressed that it is important to consider the size of the building requested, which can contain up to 20 classrooms. She indicated that the church does own a sizeable amount of property at the location. She stated that she was not opposed to Bible school or Sunday school activities, but such a use is not appropriate neighborhood use.

David Wilson, 648 Bryant Avenue, stated that traffic between Filbert Avenue and other adjacent neighborhoods would be increased this use, negatively affecting the neighborhood. He compared the size of the proposed building to the Mangrove Plaza (Safeway) parking lot, stressing that it would have a visual impact on the neighborhood. He expressed concern with the future of the use, noting that past experiences demonstrate that a small addition may lead to larger additions in the future. He noted that the applicant's representative had stated that the trees on Bryant Avenue 'could' remain; if those trees were removed it would have a large impact on the neighborhood.

Suzanne Toaspern-Holm, 651 Bryant Avenue, stated that she is opposed to the project. She noted that the project would remove a beautiful house. She stated that the neighbors should be able to sell their houses, and suggested that one neighbor has a problem selling their home. She noted that the presence of the church may be impacting the remaining residences.

The public hearing was closed at 8:35 p.m.

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The Commission was in recess from 8:35 p.m. to 8:45 p.m.

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Commissioner Wright noted that the staff report is geared toward a Sunday school addition, while the neighborhood testified that there are other uses in addition to Sunday school. He stated that if used throughout the week, given the size of the building, there could be an impact.

Chair Monfort stated that in order to avoid parking and traffic problems onto Bryant Avenue, a condition could be placed to require that access to the building be toward the parking lot. He indicated concern with tearing down a residence, especially in view of offers to purchase other properties in the neighborhood. He noted that the church could then become a large institution covering the block.

Commissioner Carter stated that he hoped that the neighbors and the applicant would have worked together on a solution. He expressed concern on the effect that the loss of a house could have on a residential neighborhood. He added that if the location of a church can have an effect on a sale of residential property, what effect would it have in the future once the use has grown. He stated that the Commission can mitigate light, glare and noise concerns, but cannot mitigate for the loss of a house.

Commissioner Crotts agreed with Commissioner Carter, adding that construction would have to be oriented in a way to encourage use of the parking lot. Given the amount of existing church property, she stated that she was troubled with removal of a residence to create parking.

Commissioner Belmonte noted that the analysis section of the staff report referred to a similar use permit which was applied for in 1987. He inquired if that use permit was conditioned similar to this recommendation, and if other particulars were available on that expansion. Sr. Planner Palmeri stated that the prior request was for expansion, but the conditions on that permit are not similar to those

recommended. Commissioner Belmonte stated that while it is a good sign for the community for churches in Chico to be expanding, if it will have a negative impact on residential properties it needs to be dealt with. He added that formal neighborhood groups could have assisted in resolving this problem prior to being before the Commission. He inquired if the church could expand without purchasing the additional property.

Mr. Figgins stated that while he does not know all the specifics of the prior permit, it was to be a two-story, 12,000 sq. foot building, located behind sanctuary. He added that those building plans could be pursued.

COMMISSIONER WRIGHT MOVED TO DENY USE PERMIT NO. 97-7 (CHICO EVANGELICAL FREE CHURCH), BASED ON THE FINDING THAT THE REMOVAL OF THE RESIDENCE IS INCONSISTENT WITH THE GENERAL PLAN. COMMISSIONER STUDEBAKER SECONDED THE MOTION.

Commissioner Studebaker stated that he understands the needs of the church, the overriding factor is the loss of existing housing.

THE MOTION TO DENY THE USE PERMIT WAS UNANIMOUSLY APPROVED.

- 5. Use Permit No. 97-10 and Variance No. 97-2 - 931 West 5th Street (Peters)** - A request to allow a 6,000 square foot expansion of a non-conforming use, a fitness facility (Gold's Gym), within an existing building on property located at 931 West 5th Street and identified as Assessor's Parcel No. 004-203-001 in an M-1 Light Manufacturing District. The project also includes a request for a variance for reduced parking requirements. This project has been determined to be exempt from environmental review, pursuant to the California Environmental Quality Act (CEQA), Section 15301, Minor Alterations to Existing Land Use.

Commissioner Carter stated that he would be abstaining as he has provided legal service to the owner.

Chair Monfort inquired if he should also abstain as he is a patron of the facility. Acting Planning Director Hayes replied that in order to be a conflict of interest, there must be some financial involvement or a belief that one cannot act fairly. Chair Monfort noted that his membership is paid, thus there is not a financial conflict, and that he believed he could act fairly.

Acting Planning Director Hayes reviewed the staff report on the request to expand the fitness facility. He explained that the existing 12 parking spaces were approved through a variance several years ago. With the expansion, the total off-street parking would be 25, approximately one-half of the needed spaces. He noted that the primary clientele are college students who live in the area and bicycle to the facility, and that there have not been any complaints received by staff regarding the parking. He reviewed the findings and conditions of approval for both the use permit and the variance. He stressed that there is a non-improved right of way which further constrain the ability to expand the parking.

Commissioner Studebaker verified that American's with Disabilities Act accessibility will be met by through Condition No. 2. Acting Planning Director Hayes added that Condition No. 2 requires that the applicant meet all city, state and federal codes.

The public hearing was opened at 9:05 p.m.

Mike Peters, 705 Townsend Court, owner of Gold's Gym, stated that while the expansion will be doubling the size of the building, the membership is only expected to increase by 200 members or 25 percent. He stressed that most of the patrons bicycle and/or live within a few blocks of the facility.

The public hearing was closed at 9:05 p.m.

COMMISSIONER BELMONTE MOVED APPROVAL OF USE PERMIT NO. 97-10 AND VARIANCE NO. 97-2 - 931 WEST 5TH STREET (PETERS) MAKING THE FINDINGS AND SUBJECT TO THE CONDITIONS AS LISTED IN THE STAFF REPORT. COMMISSIONER STUDEBAKER SECONDED THE MOTION WHICH WAS APPROVED 5-0-1 (COMMISSIONER CARTER ABSTAINED).

6. **Use Permit UP-97-12 (McDonald)** - A request to allow a temporary dwelling facility (less than 640 square feet), attached to a primary single family residence, for the purpose of caring for a disabled relative on property located at 2131 Notre Dame Blvd., Assessor's Parcel No. 002-240-059 in an R-1 Single Family Residential zoning district. This project has been determined to be exempt from environmental review, pursuant to Section 15301 (Existing Facilities) and Section 15303 (New Construction or Conversion of Small Structures) of the California Environmental Quality Act (CEQA).

Acting Planning Director Hayes presented the staff report, noting that the use permit provisions do provide the opportunity for have a second dwelling unit on a site to care for convalescing friend or relative of the owner of the property. He added that the definition of a second unit within the Municipal Code specifies that the second unit be a mobile unit. This permit uses that same provision, but it is conditioned on processing a text amendment to change the definition of a second unit to allow for an existing attached structure on that site to be converted. While the garage onsite has been converted to some extent, this request will add a kitchen facility. In addition, the recommended conditions are no different than if it were a mobile unit, including annual verification of the need for the use.

Chair Monfort inquired if the condition monitoring the use would continue if the property changes hands. Acting Planning Director Hayes explained that in situations like this, it is closely monitored by staff with annual review and thus, the new owners would be notified within one year. He added that it is staff's recommendation that monitoring and tracking occur.

The public hearing was opened at 9:12 p.m. to which there was no comment.

COMMISSIONER CARTER MOVED APPROVAL OF USE PERMIT UP-97-12 (MCDONALD), MAKING THE FINDINGS AND SUBJECT TO THE CONDITIONS OF APPROVAL CONTAINED IN THE STAFF REPORT. COMMISSIONER CROTTS SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

7. **Cardiff Estates Vesting Tentative Subdivision Map (Land's End Real Estate)** -The project consists of a request to subdivide approximately 3.5 acres into 18 lots for single family residential development on property zoned R-1 Single Family Residential, located on the east side of Marigold Avenue, east of Arch Way, Assessor's Parcel No. 048-063-073. The site is designated Low Density Residential (2.1 to 7.0 dwelling units per gross acre) in the Chico General Plan. Proposed lot sizes range from approximately 5,100 square feet to 6,700 square feet. The proposed subdivision design incorporates three modifications from City design

criteria, including reduced lot depth for several lots, reduced lot area for a flag lot and a modification from street alignment criteria. A Mitigated Negative Declaration of Environmental Impact is proposed for this project pursuant to the California Environmental Quality Act (CEQA).

Sr. Planner Palmeri presented the staff report. He noted staff's concern regarding the modification to the design criteria which may result in several undevelopable lots without further Commission consideration in the future. He explained the Engineering Department's concern with the street alignment affecting driver response time during vehicle maneuvers. He noted that the well, mobile home and accessory structure will be removed from the site. Staff prepared an environmental review and mitigated negative declaration. He added that the property has received Army Corps of Engineers clearance. He stated that staff has concerns regarding lot sizes and depth. He reviewed the recommendation for approval of the subdivision, but denial of the design criteria modification.

Chair Monfort verified staff's concern regarding lot depth, and noted that it may be difficult to maintain the density without that modification. He expressed concern that the density may not be able to be maintained without variances later to allow property development. Sr. Planner Palmeri agreed that there could be a loss in density without the reduced lot depth. Based on lot shape, the street and curve of the street, it would be difficult to get the lot depth and maintain densities. He explained that staff is concerned that the project be buildable and can be developed.

Commissioner Carter noted that the Commission must deny the map if the finding could be made that the project would be undevelopability. He added that if the Commission does deny the modification, then it cannot approve the map.

The public hearing was opened at 9:25 p.m.

Rick Coletti, Land's End Real Estate, the applicant, stated that he was disappointed that staff has indicated that the project does not contain adequate open space. He inquired if staff completed any models to support the conclusions of inadequate open space or buildability. Sr. Planner Palmeri replied that while staff has not run models, the City does have design criteria which require 80 foot depth; that depth is to provide adequate open space and provide for buildable lots.

Mr. Coletti stated that they did discuss this project at a meeting with staff in December, 1996. He urged the Commission to be creative in reviewing the proposal. He noted that the lot depth for Ravenshoe Homes was 70 feet was approved by the Commission. He presented the Commission with four sets of maps and diagrams.

Chair Monfort suggested that the maps be placed up for public review during the next recess.

Mr. Coletti stated that the project is developable and reviewed possible house plans which can be used on constrained lots. He suggested that by being creative with depth and width of the lot, the rear yard setbacks can be maintained. He did agree that there may be some cases where an Administrative Use Permit would be required to encroach into the frontyard setbacks. He indicated that this application attempts to accomplish densities set forth in the General Plan and provide the lowest price per square foot in subdivisions currently on the market.

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The Commission was in recess from 9:40 p.m. to 9:45 p.m.

Chair Monfort inquired why Mr. Coletti did not request a Planned Development. Mr. Coletti replied that he had built a Planned Development previously where problems were caused by the necessary homeowners association, as such associations have to pay State mandates which amount to approximately \$50.00 per month per lot.

Commissioner Carter verified that the proposal would require a maintenance district for storm drainage, and inquired if the maintenance could be provided through a homeowners association.

Wes Gilbert, Gilbert Engineering, project engineer, stated that if the subdivision is publicly maintained there are not the same difficulties or charges if it were to be maintained privately through a homeowners association.

Chair Monfort stated that it may be possible to build the project as suggested, but the Commission cannot condition a map to require it to be built as suggested. He added that a Planned Development allows the Commission to discuss the buildout of a lot. Mr. Coletti stated that a home buyer or builder will consider lot size and usability prior to purchasing a lot. The intent of the proposal was to have the minimum number conditions to allow for free-market input. He noted that while he has three building footprints which would fit on the lot, to increase the footprint would require variance or use permit, which the Commission does have jurisdiction over.

Acting Planning Director Hayes reviewed the design criteria required for this type of application. Mr. Coletti replied that the building footprints are not built to the setback. He reiterated his request that the Commission be creative and see that this plan can be accomplished.

Chair Monfort noted that while the Commission can be creative, and Mr. Coletti can be creative, whoever he may sell the lots to may not be creative resulting in a barrage of use permit applications.

Commissioner Carter noted that while the City works with applicants to give the flexibility to implement the General Plan, part of the concern is that the Commission would like to see the arrangement put in place. If the Commission approves the request as submitted, then the lots will have no restrictions on the type of houses other than setbacks. He stressed that the Community Design Element guidelines, as included in the General Plan Compliance Checklist, are checked at "Least Compatible," with the comment that it was marked as such due to the lack of house plans. He stated that he would like to see some commitment to what will happen in the future.

Mr. Coletti stated that the floor plans he has suggested are recycled floor plans from a project that is currently being built, as such he could not guarantee what will happen with this project. There are many possibilities for what can be done on these maps. He suggested that a note be placed on the map that there be no further encroachment into the rear yard setback. He reiterated his concern regarding the marketability of the project.

Commissioner Carter reviewed the evolution of the Ravenshoe subdivision, stressing that in order to implement General Plan goals, the Commission does have to work with applicants in dealing with these issues and to do so requires plans to aid visualization. He noted that while the developer/builder is trying to build homes, the Commission is trying to build neighborhoods.

Acting Planning Director Hayes noted that the City is going through the process of updating the Development Code in order to implement the General Plan and provide flexibility. Currently, Titles 18 and 19 of the Municipal Code do not allow that flexibility.

Mr. Coletti stressed that the Ravenshoe Subdivision was approved by the Commission with 70 foot deep lots, to which there was no discussion. Initially the design for Ravenshoe was used to create this application. He noted that there will be problems with developing Lots 1 and 3 and the flag lot.

Commissioner Carter suggested that Arch Way be realigned. Mr. Coletti stated that he had suggested the street be centered, though the Engineering Division had conflicts with it. He noted that he would be willing to redesign the map to center the Arch Way intersection.

Commissioner Belmonte inquired what Engineering's conflict with alignment of Arch Way was. Mr. Gilbert added that Engineering does not like staggered intersections for a through street as Arch Way will eventually become when it connects to Cactus Avenue.

Commissioner Belmonte stated that Mr. Coletti has shown the initiative with the street design and that the Commission would have appreciated Engineering's input.

Chair Monfort inquired if Arch Way is to act as a residential street or a collector. Acting Planning Director Hayes replied that collectors by definition need to provide connection between major facilities. Arch Way will never do that; rather, it will be a residential street allowing connectivity. Even if it goes through to Cactus Avenue, Cactus is not a through street, and thus will not lead to further connections. The connectivity is to provide an east/west connection to the neighborhood center.

Discussion ensued regarding the use of T-intersections and staggered intersections. Acting Planning Director Hayes noted that there are safety concerns, which are affected by the number of turning movements.

Mr. Coletti stated that while the Commission does not have the benefit of Engineering's input at this meeting, the project has been delayed to get to this point. He asked that a decision be made so escrow on the property can be closed.

Jerry Olio, 2595 Cactus Avenue, noted that zoning was previously granted for the Cactus Avenue area to allow one acre lots for the unique neighborhood. He stated that this development backs up to that area, and will abut property where horses are kept, including his own. He expressed concern that when higher density backs into this rural type of area, a conflict is created and complaints arise regarding smells and noises. He added that he was concerned with Arch Way connecting to Cactus Avenue, creating additional traffic on Cactus Avenue.

Chair Monfort explained that the continuation of Arch Way will not cause increased traffic on Cactus; rather, it will provide Cactus Avenue residents access to the neighborhood center without going to East Avenue.

Mr. Olio stated his belief that this project is not in the character of the existing neighborhood.

The public hearing was closed at 10:25 p.m.

Chair Monfort stated that he would like some assurances that what the Commission believes it may be approving is what occurs. Acting Planning Director Hayes stated that the Commission could approve the tentative subdivision map with the recommendation that the street be aligned straight through to Arch Way or that it be offset. The median in Marigold could be made wider to provide for greater access and to accommodate off-set streets.

Chair Monfort noted that some of the General Plan Checklist categories can become irrelevant when working with tentative subdivision maps. Acting Planning Director Hayes stated that the Community Design Element was not intended to be specific. He suggested that situations like this one should be dealt within the Development Code review.

Commissioner Carter stressed that the applicant, City staff and the Commission all need to work together to implement General Plan. He noted that the applicant is willing to try to develop a parcel of land in compliance with the General Plan. He indicated that the flag Lot is a result of trying to align Arch Way. He suggested that the flag lot could possibly be removed if the applicant is willing to wait a few weeks to allow Engineering to participate in the discussions. He added that while he is ready to proceed at this meeting, approving the map with flag lot would be continuing a design which already exists.

Commissioner Belmonte stated that as some of the conditions on this project were placed by Engineering, it would be appropriate for Engineering to be at the meeting. This would help provide the Commission with all the necessary resources available, in order to make the best decision. He stated that he would recommend the realignment of Arch Way and to stagger the intersection to the center of the property.

COMMISSIONER BELMONTE MOVED TO APPROVE CARDIFF ESTATES VESTING TENTATIVE SUBDIVISION MAP (LAND'S END REAL ESTATE) MAKING THE FINDINGS CONTAINED IN THE STAFF REPORT; WITH THE CONDITION THAT THE REALIGNMENT OF ARCH WAY TO MORE ALIGN WITH CENTER OF PROPERTY, AND; ADOPT THE MITIGATED NEGATIVE DECLARATION. COMMISSIONER CROTTS SECONDED THE MOTION.

Chair Monfort verified that the realignment of Arch Way will remove the need for the design criteria modifications.

Commissioner Carter stressed that whenever a subdivision report is presented within a staff report, a representative from the Engineering Division should be present to respond to questions regarding the buildout of subdivision. He stated that if the Commission does approve this application, the Commission should collectively remember the understanding presented, though the Commission's previous experience with this applicant has been successful.

Chair Monfort verified that, in allowing for objections from the Engineering Division, it would be better for the Commission to adopt a Motion of Intent to approve the map. Commissioner Belmonte inquired if a Motion of Intent would further delay the applicant's desires. Acting Planning Director Hayes stated that a Motion of Intent would require final action, which could be accomplished at the Adjourned Regular Commission meeting to be held in two weeks.

Commissioner Belmonte stated that he would leave the motion as it stands.

THE MOTION WAS UNANIMOUSLY APPROVED.

Commissioner Studebaker stressed that on all future subdivision maps all available resources should be present at the meeting. Acting Planning Director Hayes noted that the Commission's concerns will be passed on to the Engineering Division.

8. **General Plan Amendment/Rezone No. 97-01-A** - A proposal to amend the General Plan land use designation from Medium Density Residential to Office for 5.36 acres (three parcels) located at the northwest and northeast corners of W. East Avenue and Cussick Avenue, Assessor's Parcel Nos. 042-450-022, 045 and 046, and concurrently rezone the parcels from R-1 Single Family Residential and R-2 Medium Density Residential to R-P Residential-Professional/Business Office. A Mitigated Negative Declaration of Environmental Impact is proposed for this project pursuant to the California Environmental Quality Act (CEQA).

Acting Planning Director Hayes presented the staff report. He noted that the City has done an arterial noise study which does recommend policy changes, though it has not been adopted. He indicated that there will be an office use proposed for one of the parcels if this amendment is approved, the property owner of the other parcel has yet to contact the City.

Commissioner Carter inquired if the Commission could wait on rezoning the northwest corner pending the adoption of the arterial noise study. Acting Planning Director Hayes replied that as the City initiated the rezoning, not the land owner, there is no urgency.

Chair Monfort reviewed the development constraints in the area. Acting Planning Director Hayes reviewed the surrounding development.

Commissioner Carter noted that R-P Residential Professional would allow various uses on the site.

COMMISSIONER CARTER MOVED TO DEFER ACTION ON THE NORTHWEST CORNER PENDING ACTION ON NOISE STUDY BY THE CITY COUNCIL AND APPROVE NORTHEAST CORNER OF CUSSICK AND W. EAST AVENUE AS RECOMMENDED BY STAFF.

Commissioner Carter explained that as there is an administrative draft of an Arterial Noise Study which could be adopted by the Council within the next few months, there may be policy changes regarding design standards for residential development along arterials. This may change the desired uses of the property.

Commissioner Belmonte inquired if the Cussick Neighborhood Council was informed of the rezone, and if so what was their response. Acting Planning Director Hayes noted that the Cussick Area Neighborhood Council did receive a copy of the staff report and, though he believed that comments had been provided, no response was available in the packet and thus may not have been provided.

COMMISSIONER WRIGHT SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

## **CORRESPONDENCE**

9. **Memorandum** from Acting Planning Director Hayes, dated April 29, 1997, regarding the topics/issues to be discussed with the City Council during the scheduled joint meeting on May 29, 1997.

Acting Planning Director Hayes explained that this is opportunity for the Commission to voice items to be included on the agenda for the joint meeting with Council.

Chair Monfort asked that discussion be scheduled regarding capital improvements and funding some of them up-front rather than waiting for development fees to pay for them. He also stated that discuss should be held regarding workshops on the General Plan, for the education of the Council, Commission and the public.

Commissioner Studebaker reiterated that time should be spent discussing the neighborhood planning program.

Acting Planning Director Hayes verified that staff can receive more items, as the agenda will be prepared during the next week.

10. **Jesus Provides Our Daily Bread**, update report from Katy Thoma, Executive Director.

No Comment.

**BUSINESS FROM THE FLOOR**

Chair Monfort noted that the Commissioners had been contacted by Pam Figge, Instructor for California State University, to receive a presentation by a Site Planning class, to be held on Monday, May 12, at 5:30 p.m. in Conference Room 1 of the Municipal Building.

**ADJOURNMENT** -

There being no further business, the meeting was adjourned at 10:55 P.M. to the 5:30 p.m. Workshop Meeting of May 12, 1997 and the Adjourned Regular Meeting of May 19, 1997.

June 2, 1997  
Date Approved

/s/  
Tom Hayes  
Acting Planning Director

**PLANNING COMMISSION**  
MEETING OF MAY 12, 1997

**ROLL CALL**

The meeting was called to order by Chair Monfort at 5:34 P.M. in Conference Room 1 of the Chico Municipal Center. Commissioners present were Barry Belmonte, Jeff Carter, Brenda Crotts, Jolene Dietle, Kirk Monfort, Jonathan Studebaker and Michael Wright. Staff present were Acting Planning Director Tom Hayes and Community Development Director Tony Baptiste. Others present were California State University, Chico instructor Pam Figge and the California State University, Chico "Site Planning" class.

**REGULAR AGENDA**

1. Public presentation from the California State University, Chico, Geography 228/Rural and Town Planning 301 Site Planning class on "Analysis and Feasibility of a Ring Transportation Corridor - Mangrove Avenue Segment." The "Ring Corridor" feasibility study is a policy objective in the Chico General Plan, Community Design Element.

Pam Figge made a brief introduction and thanked the Commission for scheduling a special meeting to receive the class presentation.

Class members each presented portions of the feasibility study to the Commission.

The objective of the class was to study the feasibility of implementing a "Ring-Transportation Transit Corridor" as described in General Plan policy. The conclusions stated that despite constrained right-of-way and auto-oriented existing development, measures should be initiated to enhance other transportation facilities in the corridor.

It was suggested that sidewalks be widened and a 10 foot median be installed in Mangrove Avenue to provide more of a boulevard appearance to the street.

Class members concluded that the most important elements to improve upon were more trees, intensification of uses including residential opportunities, and taking advantage of redevelopment opportunities.

It was suggested that public off-street parking be provided along the corridor to support use of public transit and to reduce the need to drive into the downtown core.

It was noted that several opportunity sites had been identified along the Mangrove segment. According to class presenters these sites could be redeveloped with mixed commercial uses to strengthen the transit corridor concept.

It was suggested that a residential density of 12 dwelling units per acre within one-quarter mile of the corridor would be needed to support transit intervals (lead times) of every 15 minutes.

Class members responded to Commission's and staff's questions and indicated that they would provide copies of the feasibility study to each Commissioner, following some final revisions.

The Commission thanked the class for its informative presentation and recommendations for implementing this important General Plan concept.

**BUSINESS FROM THE FLOOR**

None.

**ADJOURNMENT**

There being no further business, the meeting was adjourned at 7:00 P.M. to the Adjourned Regular Meeting of May 19, 1997.

June 2, 1997  
Date Approved

/s/  
Tom Hayes  
Acting Planning Director

**PLANNING COMMISSION**  
**MEETING OF MAY 19, 1997**

**ROLL CALL**

The meeting was called to order by Chair Monfort at 7:30 P.M. in the Council Chambers of the Chico Municipal Center. Commissioners present were Barry Belmonte, Jeff Carter, Brenda Crotts, Jolene Dietle, Kirk Monfort, Jonathan Studebaker and Michael Wright. Staff present were Acting Planning Director Tom Hayes, Senior Planner Ed Palmeri, Assistant City Attorney Lori Barker, Director of Public Works E.C. Ross and Administrative Secretary Karen Kracht.

**DISCUSSION OF EX PARTE COMMUNICATION**

None.

Commissioner Wright noted that he would be abstaining from Item No. 6 as his firm represents the applicant.

Commissioner Dietle indicated that she would be abstaining from a portion of Item No. 7 due to business conflicts.

**CONSENT CALENDAR**

1. **Use Permit No. 97-13 - 1010 Mangrove Avenue (Abbaszadeh)** - A request to allow the operation of a dental office with approximately 10 employees located in a 3225 square foot business suite of an existing building located at 1010 Mangrove Avenue and identified as Assessor's Parcel No. 003-220-055, in a C-1 Restricted Commercial zoning district. The General Plan zoning designation for this property is Community Commercial. This project has been determined to be Categorically Exempt from environmental review pursuant to Section 15301, Existing Facilities, of CEQA.

**Requested Action:** Approve this use permit subject to the findings and conditions of approval as listed in the staff report.

2. **Use Permit No. 97-15 - 881 Mangrove Avenue (North Valley Building Systems for Chico Cemetery)** - A request to allow the expansion of an existing 450 square foot crematory with the new construction of a 3,080 square foot building in which 1,200 square feet will be used as the new crematory and 1,880 square feet will be used for a waiting room and maintenance/storage on property located at 881 Mangrove Avenue, identified as Assessor's Parcel No. 003-210-001, in an OS-2 Secondary Open Space zoning district. The General Plan designation for the property is Public Facilities and Services. This project has been determined to be Categorically Exempt from environmental review, pursuant to Section 15301, Existing Facilities, of CEQA.

**Requested Action:** Approve this use permit subject to the findings and conditions of approval as listed in the staff report.

3. **Use Permit No. 97-17 - 221 West 4th Avenue (North Valley Building Systems)** - A request to allow additional building height (one foot) for an accessory structure (16 feet high) on property located at 221 West 4th Avenue, identified as Assessor's Parcel No. 003-033-019, in an RD-1 Low Density Residential zoning district. The property is designated in the General Plan as Low Density Residential. This project has been determined to be Categorically Exempt from

environmental review, pursuant to Section 15303, New Construction or Construction of Small Structures, of CEQA.

**Requested Action:** Approve this use permit subject to the findings and conditions of approval as listed in the staff report.

Chair Monfort noted that staff requests that Item No. 3 be continued. Sr. Planner Palmeri explained that the applicant submitted additional information which results in the need to renote the public hearing.

COMMISSIONER STUDEBAKER MOVED APPROVAL OF CONSENT CALENDAR ITEMS NOS. 1 AND 2. COMMISSIONER CROTTS SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

COMMISSIONER STUDEBAKER MOVED TO CONTINUE ITEM NO. 3 TO THE JUNE 2, 1997 REGULAR MEETING. COMMISSIONER CROTTS SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

#### **ITEMS REMOVED FROM THE CONSENT AGENDA**

None.

#### **REGULAR AGENDA**

- 4. Modification of Planned Development Use Permit No. 2194 - 1366 East Avenue (Safeway, Inc.)** - A request to allow the development of an existing building pad with the installation of 38 parking spaces on property located at 1366 East Avenue (East Avenue Marketplace), identified as Assessor's Parcel No. 048-061-047 in a PD/N-C Planned Development/Neighborhood Commercial zoning district. The General Plan designation for the property is Community Commercial. This project has been determined to be consistent with the previously adopted Negative Declaration for General Plan Amendment and Prezone No. 157, including Planned Development Use Permit No. 2194, pursuant to Section 15162, Subsequent EIRs and Negative Declarations, of CEQA.

Sr. Planner Palmeri noted that the applicant has requested that the item be continued to the June 2, 1997 Regular meeting.

COMMISSIONER STUDEBAKER MOVED TO CONTINUE ITEM NO. 4 TO THE JUNE 2, 1997 REGULAR MEETING. COMMISSIONER CROTTS SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

- 5. Use Permit No. 97-11 - 114 West 15th Street (Harris)** - A request to allow the operation of a card room in a 1,500 square foot business suite in an existing shopping center located at 114 West 15th Street, identified as a portion of Assessor's Parcel No. 005-176-005, in a C-1 Restricted Commercial zoning district with a TC Transit Corridor Overlay. The hours of operation will be from 10:00 a.m. through 5:00 a.m. Monday through Sunday and will have approximately three employees. The General Plan zoning designation for this property is Community Commercial. This project has been determined to be Categorically Exempt from environmental review pursuant to Section 15301, Existing Facilities, of (CEQA).

Chair Monfort verified the hours of operation requested are 10:00 a.m. through 5:00 a.m.

Sr. Planner Palmeri reviewed the staff report, noting compatibility issues both with the shopping center and the adjoining residential uses. He indicated that while the use has extended hours, there will be no alcoholic beverages served. He pointed out that the operation of card rooms are significantly regulated through the Municipal Code.

Commissioner Carter noted that the staff report had indicated that a prior use permit for the Wild Hare Saloon had included a condition requiring a six month review, and inquired why a similar condition was not included for this request. Sr. Planner Palmeri explained that as alcohol will not be served, it would be a less intense use.

Commissioner Carter asked if other card rooms in Chico are open until 5:00 a.m. Sr. Planner Palmeri replied that while he was not aware of any, the applicant might better answer that question.

Commissioner Studebaker verified that no public comments were received from the neighborhood. Sr. Planner Palmeri stated that a public notice was mailed to the neighbors and the applicant was instructed to be in contact with as many people as possible. Staff has not received any correspondence as of 5:00 p.m. before the meeting, nor were any telephone calls received.

The public hearing was opened at 7:45 p.m.

Angela Harris, 662 East 8th Street, the applicant, stated that State law requires that card rooms close at 5:00 a.m. She added that to her knowledge, all local card rooms are open until that time.

The public hearing was closed at 7:45 p.m.

COMMISSIONER WRIGHT MOVED APPROVAL USE PERMIT NO. 97-11 - 114 WEST 15TH STREET (HARRIS), SUBJECT TO THE FINDINGS AND CONDITIONS OF APPROVAL AS CONTAINED IN THE STAFF REPORT. COMMISSIONER BELMONTE SECONDED THE MOTION WHICH WAS APPROVED 7-0.

- 6. Vesting Tentative Subdivision Map 96-12 Woest Orchard Subdivision (Caporale):** The project consists of a request to subdivide 12.7± acres into 30 single family residential lots on property rezoned R-1, Single Family Residential Zoning District, located on the north side of Oak Way, approximately 200 feet east of Glenn Haven Drive (Assessor's Parcel Number 042-140-023). The site is designated in the City of Chico General Plan Diagram as Low Density Residential (2.1 to 7.0 dwelling units per gross acre). The single family lots will range in size of approximately 10,500 square feet to 25,100 square feet. In addition to subdivision of the land the applicant is also requesting annexation of the property into the City of Chico. A Mitigated Negative Declaration of Environmental Impact is proposed for this project pursuant to the California Environmental Quality Act (CEQA).

Sr. Planner Palmeri reviewed the staff report. He indicated that the annexation of the property was completed as of May 5, 1997. He noted that while the property was an orchard, it has not been productive for a number of years, nor has it been irrigated in recent years in anticipation of development. He stated that the proposed density is approximately 2.4 units per acre. The Chico Unified School District has indicated that the project will be subject to school fees. He noted that staff has received two letters in opposition to the subdivision expressing concerns with traffic, with the focus of attention on Nord Avenue (State Highway Route 32)/Oak Way intersection.

Commissioner Carter reviewed the General Plan Compliance Checklist, noting that the assessment done for new residential neighborhood compliance indicated that there will be no impact. He suggested that the impact could better be assessed by viewing the design plans for the homes, and noted that no design plans have been submitted. He asked what could be done to encourage submittal of design plans. Sr. Planner Palmeri stressed that as the Commission is reviewing a subdivision, not a planned development, that level of detail is not required. Once a subdivision has been approved, it is open to the developer to what they want to do with the project, such as sale to another developer for buildout.

Commissioner Carter inquired if the General Plan policies for new residential development can be observed within the subdivision process. Sr. Planner Palmeri replied that it would be appropriate for larger planned subdivisions and planned developments to be reviewed for compliance with those policies. In the case of other subdivisions, staff does inquire if the type of residential structure is known.

Chair Monfort suggested that subdivision compliance with the General Plan be added to the agenda for the joint meeting with Council. Acting Planning Director Hayes stated that during the process of the General Plan review and adoption, the question was discussed at length to determine what extent the review of development of single family homes would occur. Historically, the City has not regulated single family housing to that level. During those discussions, the intent was to review the transition between streets, connectivity, continuity and entrance statements. The review and approval of actual floor plans and architecture was not provided for through the General Plan.

Chair Monfort reviewed an item from a previous agenda where a modification was requested and approved. Acting Planning Director Hayes suggested that such provisions could be considered through the development code update.

Commissioner Carter noted that such discussion is not limited to use of the General Plan compliance checklist. He suggested that discussions with the Council include direction in how to work with developers in implementing the Community Design Element of the General Plan.

Commissioner Carter reviewed the Subdivision Report section dealing with bringing Oak Way to current standards, and questioned if time limits could be placed on the length of time the public right-of-way could be encroached upon. He pointed out that a current subdivision, Walnut Park, has encroached on the right of way for an extended period of time. Director of Public Works Ross explained that Walnut Park has had problems; and that staff is working with the developer on resolving the situation. He added that while there are no conditions placed on a project requiring time frames, he was not aware of any mechanism to put time limits on a contractor unless it is a safety issue.

Assistant City Attorney Barker stated that there are bonding requirements placed on subdivisions. Commissioner Carter requested the City Attorney's office research the possibility of imposing time restrictions and additional bonding requirements. Director of Public Works Ross noted that all subdivision improvement agreements do require bonding throughout the two year contract.

Chair Monfort asked who would be responsible to monitor the thresholds and install a traffic light at the intersection of Oak Way and State Highway Route 32 (SHR 32). Director of Public Works Ross replied that he would have to research the intersection to determine if it is included in the Street Facility program, and noted that CalTrans may not have such a program, although they do review their intersections. The intersection, as it is part of a State Highway, would require CalTrans to install the signal. CalTrans would pay 2/3rds of the cost.

Chair Monfort asked if a traffic study was completed for this project. Director of Public Works Ross stated that this project was not large enough to trigger such a study.

In response to a question from Commissioner Carter, Director of Public Works Ross reviewed the warrants for a traffic signal, which included time delays, accidents which could have been prevented by a traffic signal, volume of traffic during peak times and other such indicators.

The public hearing was opened at 8:07 p.m.

Jim Stevens, NorthStar Engineering, representing the applicant, stated that to require the preparation of the house plans would be a unique event for development in Chico. He explained that the applicant is considering selling the lots, or selling some of the lots and building on others; thus, it would be premature to provide building plans. He noted that the Butte County Association of Governments (BCAG) has renewed interest in rerouting State Highway Route 32 (SHR 32) along Eaton Road, and has gone out to bid on its design. In using the industry standard for average daily trips (ADT), this project will result in 290 additional daily vehicle trips onto Nord Avenue and 29 peak hour trips. He stressed that the incremental impacts will be minor, splitting in two directions at Nord Avenue, though Nord Avenue is already impacted.

Chair Monfort expressed concern with the size of the lots in comparison with the surrounding lots. Mr. Stevens reviewed conditions of approval, and questioned if requirement of a sewer stub would be covered by the sewer service reimbursement agreement. He also asked if Oak Way would require a 30 foot roadway (as stated in the staff report) or if the standard 31 feet would be necessary. Director of Public Works Ross stated that determination of the reimbursement for sewer would be made at the time of submittal. He also agreed that a 31 foot roadway would be required for Oak Way.

Mr. Stevens confirmed that the two requirements for acquisition of conservation easements, one for Swainson's Hawk and the other for agricultural mitigation, could be covered with one dedication, and where that conservation easement could be located. Sr. Planner Palmeri stated that the City typically would not require two separate easements. Acting Planning Director Hayes stated that if the applicant chooses to purchase land for the easement, it would need to be located within Butte County. He explained the three options for agricultural mitigation, noting that the Council and County are working jointly on agricultural mitigations at this time.

The public hearing was closed at 8:21 p.m.

COMMISSIONER CARTER MOVED APPROVAL OF VESTING TENTATIVE SUBDIVISION MAP 96-12 WOEST ORCHARD SUBDIVISION (CAPORALE), BASED ON LACK OF GROUNDS FOR DENIAL, MAKING FINDINGS AS LISTED IN THE STAFF REPORT, ADOPTING THE MITIGATED NEGATIVE DECLARATION AND ADOPTING THE RESOLUTION. COMMISSIONER DIETLE SECONDED THE MOTION WHICH WAS APPROVED 6-0-1 (COMMISSIONER WRIGHT ABSTAINED).

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The Commission was in recess from 8:20 p.m. through 8:30 p.m.

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7. **Various Minor Amendments to General Plan Land Use and Zoning Designations.** The minor amendments will correct errors, oversights and inconsistencies identified since the adoption of the Plan and zoning, and will generally reflect existing land use. All amendments are addressed by the certified final EIR for the General Plan and urban area zoning adoption.

**Rezone No. 97-01-C** -A proposal to rezone a 0.43 acre parcel located at 1299 E. 9th Street, Assessor's Parcel No. 004-333-026, from R-1 Single Family Residential to PD/C-1 Planned Development Restricted Commercial to be consistent with the existing General Plan designation of Community Commercial.

**Rezone No. 97-01-G** -A proposal to rezone seven parcels identified as 1638-1704 The Esplanade and 165 E. 7th Avenue, Assessor's Parcel Nos. 003-394-007, 010, 011 and 004-401-023 through 026, from C-1 Restricted Commercial to R-P Residential-Professional/Business Office to provide consistency with the existing General Plan designation of Offices.

**Rezone No. 97-01-H** -A proposal to rezone four parcels identified as 488, 560, and 570 E. 3rd Street, Assessor's Parcel Nos. 004-094-009, 017, 018, & 019, from R-3 Medium-High Density Residential and R-P Residential-Professional/Business Office (portion of 004-094-017) to R-1 Single Family Residential to provide consistency with the existing Low Density Residential General Plan designation.

**Rezone No. 97-01-K** -A proposal to rezone several parcels totaling approximately 56.71 acres located along E. Lassen Avenue and Ridgewood Drive, east of Cohasset Road, Assessor's Parcel Nos. 048-390-all but 007, 008, & 035 and 048-430-006, 007, 012, & 013, from R-P Residential-Professional/Business Office to C-O Commercial Office which is consistent with the existing General Plan designation of Offices.

**Rezone No. 97-01-L** -A proposal to rezone properties along Commercial Avenue and properties on the east side of The Esplanade from Commercial Avenue to 465 feet northerly of Commercial Avenue, Assessor's Parcel Nos. 006-200-001 through 005, 011-013, 015, 017, & 019-020 from R-1 Single Family Residential to C-2 General Commercial; Assessor's Parcel No. 006-210-004 from R-2 Medium Density Residential to C-2 General Commercial; and a twenty-two acres located on the east side of The Esplanade, 135 feet south of Commercial Avenue, Assessor' Parcel No. 006-200-008, from R-1 Single Family Residential to R-2 Medium Density Residential to be consistent with the existing General Plan designations of Commercial Services and Medium Density Residential, respectively.

Acting Planning Director Hayes noted that as the actual property owners names were not included, he would read them for the Commission knowledge. He described the property location and named the property owners for each proposed rezone.

Commissioner Dietle stated that she would be abstaining from Rezone 97-01-K due to a conflict of interest.

Commissioner Carter noted that he would be abstaining from Rezone 97-01-G due to conflict of interest.

Acting Planning Director Hayes reviewed the staff report and explained that as staff comes across inconsistencies made at the adoption of the General Plan, the inconsistency is recorded for correction. These are some of those corrections. He reviewed each rezone, explaining both the adopted and proposed zoning and General Plan designation, and the uses in the area. Regarding Rezone 97-01-K, he noted that the major property owner, Dan Drake, has indicated opposition to the rezone and requested that it be postponed until the Development Code update has been completed. The Butte County Airport Land Use Commission (ALUC) staff did submit a letter on Rezone 97-01-K, indicated that CO Commercial Office is not consistent with the airport approach zone; however the RP Residential Professional was also not consistent.

Chair Monfort verified that the reason Rezone 97-01-K was submitted to the Commission was for consistency. Acting Planning Director Hayes noted that there is no urgency with the rezone.

Chair Monfort opened the public hearing to receive comment on each Rezone separately.

There was no comment received for Rezones 97-01-C or -G.

#### **Rezone 97-01-H**

Richard Elsom, P.O. Box 5024, stated that he was a representative on the General Plan Task Force. He noted that during the General Plan update process, there was discussion regarding the use of creeks. He expressed concern that the property is in political contention and questioned the colors on the displays. Acting Planning Director Hayes reviewed the display legend.

Mr. Elsom expressed concern that the property is not viable for single family residential. He requested that the Commission look at this area closer, with a discussion regarding the property in relation to the neighborhood and downtown, and possible future uses of the area, suggesting that outdoor cafes and other uses could be considered.

George Matthews, 312 Orient Street, stated that the neighborhood has been in battle regarding the zoning in the area in an attempt to prevent fraternities locating in the area. He stated that no single family would want to live in the house, which is now in a state of disrepair. He stated that he would like to see the property remain R-1 Single Family Residential, as a means of protection for the neighborhood.

Andrea Matthews, 312 E. 3rd Street, stressed that the current zoning on the property was in error as the Council had previously voted to zone the area R-1 Single Family Residential.

#### **Rezone 97-01-K**

Bill Brouhard, representing Dan Drake, property owner of six parcels contained within Rezone 97-01-K, stated that the RP Residential Professional designation is consistent with the General Plan, and may not be a clean up, but an attempt to accommodate the Butte County ALUC. He explained that CO Commercial Office is intended for offices which support commercial uses; there are no commercial uses within Foothill Park. He stated that the property owner desires continued development of RP, and asked that the Commission not act on this item at this time. He suggested that the development of the property could be greatly impacted by the revisions of the Development Code.

There was no comments received on Rezone 97-01-L.

The public hearing was closed at 9:05 p.m.

Commissioner Carter stated that although all the Rezones are based on the same environmental work, the Commission would have to reincorporate findings with each Rezone. Chair Monfort agreed that the Rezones are separable and as there are abstentions on some, he called for the Commission to vote on each Rezone separately.

Commissioner Carter verified that staff would revise the draft Resolution, making separate resolutions for each Rezone.

COMMISSIONER CARTER MOVED FOR APPROVAL OF REZONE 97-01-C, MAKING THE FINDINGS AS LISTED IN THE STAFF REPORT. COMMISSIONER DIETLE SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

COMMISSIONER DIETLE MOVED FOR APPROVAL OF REZONE 97-01-G, MAKING THE FINDINGS AS LISTED IN THE STAFF REPORT. COMMISSIONER WRIGHT SECONDED THE MOTION WHICH WAS APPROVED 6-0-1 (COMMISSIONER CARTER ABSTAINED).

Chair Monfort reviewed the location of Rezone 97-01-H. Acting Planning Director Hayes noted that while R-1 zoning would probably not remain on the site in the long-term, it will protect the property until an appropriate development is proposed.

COMMISSIONER CARTER MOVED FOR APPROVAL OF REZONE 97-01-H, MAKING THE FINDINGS AS LISTED IN THE STAFF REPORT. COMMISSIONER CROTTS SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

Commissioner Carter suggested that the Commission not act on Rezone 97-01-K as there is no compelling need to act at this time. He suggested there be a Commission workshop with the owners and the Butte County ALUC regarding this area.

COMMISSIONER CARTER MOVED TO NOT ACT ON REZONE 97-01-K. COMMISSIONER BELMONTE SECONDED THE MOTION WHICH WAS APPROVED 6-0-1 (COMMISSIONER DIETLE ABSTAINED).

COMMISSIONER CARTER MOVED FOR APPROVAL OF REZONE 97-01-L, MAKING THE FINDINGS AS LISTED IN THE STAFF REPORT. COMMISSIONER CROTTS SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

8. **Amendment to Title 19 Land Use Regulation of the City of Chico** - A proposed code amendment to add "Veterinary offices, hospitals and animal boarding kennels when conducted entirely within a building" as uses permitted subject to use permit authorization within the following zoning districts: C-1 Restricted Commercial, N-C Neighborhood Commercial, C-O Commercial Office, and R-P Residential- Professional/ Business Office. Pursuant to Section 15378 of the California Environmental Quality Act (CEQA), this action has been determined not to be a "project" and does not require environmental review.

Acting Planning Director Hayes reviewed the staff report, noting that staff did receive a request to develop a veterinary clinic for cats. Historically the City has allowed veterinary clinics and boarding kennels in industrial or commercial zones. As the business has become more specialized and tailored, it has been asked that the Commission consider making the uses more permissive. He noted that staff researched

current animal clinics in Chico and that most were located in zoning districts where they were non-conforming. Despite being inconsistent with zoning, staff was unaware of complaints or conflicts with adjoining land uses.

The public hearing was opened at 9:15 p.m.

Howard Slater, 3731 Morehead Drive, noted that traditional considerations of animal clinics no longer apply as new facilities are entirely indoors and do not result in additional noise or odors. He added that specialty practices have developed and need a different environment. He stressed the difficulty in finding a professional area in Chico which had the zoning to allow such a use. He reviewed a display he provided of a potential animal clinic. He suggested that impact on the area is similar to other professional uses. He urged the Commission to recommend the change to the Municipal Code.

Chair Monfort noted that one person from the audience pointed out to him during the break that the roof should be a lighter shade than the one presented on the display.

Dr. Elizabeth Colleran, 1721 Chico River Road, stated that she is a veterinarian who specializes in felines. A facility such that she would like to offer, would be new to Chico, but not to the State. She indicated that many of the things often considered nuisances for veterinary medicine, such as noise and odors, would not occur with this type of project.

Georgie Bellin, The Group Real Estate Brokers, representing the owner of property at East and Cussick, stated that staff had encouraged Dr. Colleran to look at locating in M-1 Limited Manufacturing zoned areas. Those areas, while zoned correctly, would not suit the purposes of the use. She indicated that her office surveyed feline only veterinarians in other areas, many who were in medical offices and complexes. She stressed that if allowed in R-P Residential Professional zones with a use permit, the City would still have oversight of the clinics.

George Matthews, a previous speaker, stated that he is a member of the American Council for an Energy Efficient Economy, an organization who studies the effect of different colored roofs and parking lot materials to reduce ambient heat. He stressed that the black roof depicted on Mr. Slater's example would heat up the entire neighborhood.

The public hearing was closed at 9:28 p.m.

COMMISSIONER DIETLE MOVED TO FORWARD AMENDMENT TO TITLE 19 LAND USE REGULATION OF THE CITY OF CHICO, ADDING VETERINARY OFFICES TO THE C1, CO, NC AND RP ZONING DISTRICTS TO THE CITY COUNCIL. COMMISSIONER STUDEBAKER SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

9. **General Plan Amendment / Rezone 97-01A** - Although the General Plan Amendment/Rezone was recommended to the Council for approval by the Commission at the May 5, 1997 Regular Meeting, a letter from the Cussick Area Neighborhood Council had been received by staff prior to the meeting and had inadvertently not been distributed to the Commission. Commissioner Belmonte requested that the letter be forwarded and this item placed on the agenda for discussion.

Chair Monfort noted that the staff report states that the letter will be forwarded to the Council for their consideration. Acting Planning Director Hayes indicated that the Council could amend the rezone if they

feel it is appropriate. He added that the staff planner working on this item had prepared the report in advance of the Commission's packet distribution, the letter was received after that time and placed in that file, not attached to the packet as is staff's practice.

Commissioner Studebaker stressed that the Commission needs to have as much information as possible for each agenda item. Letters from the community are important.

Acting Planning Director Hayes stated that staff also desires for the Commission to have the information, and do not overlook such things other than by accident.

**BUSINESS FROM THE FLOOR**

None.

**ADJOURNMENT** -

There being no further business, the meeting was adjourned at 9:30 p.m. to the Joint Meeting with City Council on May 29, 1997 at 7:30 p.m. and the Regular Meeting of June 2, 1997 at 7:30 p.m.

June 16, 1997  
Date Approved

/s/  
Tom Hayes  
Acting Planning Director

**PLANNING COMMISSION**  
MEETING OF JUNE 2, 1997

**ROLL CALL**

The meeting was called to order by Chair Monfort at 7:30 P.M. in the Council Chambers of the Chico Municipal Center. Commissioners present were Barry Belmonte, Jeff Carter, Brenda Crotts, Jolene Dietle, Kirk Monfort, Jonathan Studebaker and Michael Wright. Staff present were Director of Public Works E.C. Ross, Assistant City Attorney Lori Barker, Acting Planning Director Tom Hayes, Senior Planner Stacey Jolliffe and Administrative Secretary Karen Kracht.

**DISCUSSION OF EX PARTE COMMUNICATION**

Commissioner Carter stated that he had received a telephone call from Jim Matthews regarding Item No. 10, Evangelical Free Church, who indicated his belief that the application was sufficiently different from the previous version.

Commissioner Carter added that he also had an office and telephone conference regarding Foothill Park East with Bill Brouhard. Chair Monfort stated that he was also was party to that meeting, and indicated that all the topics of that meeting be repeated at this meeting.

Commissioner Belmonte stated that he had also received a telephone call from Mr. Matthews, during which Mr. Matthews indicated that there had been sufficient change in the proposal.

**CONSENT CALENDAR**

**1. Minutes of Adjourned Regular Meeting of March 17, 1997.**

**Requested Action:** Approve with any corrections/revisions required.

Commissioner Studebaker pulled Item No. 1 from the Consent Calendar.

**2. Minutes of Adjourned Regular Meeting of April 21, 1997.**

**Requested Action:** Approve with any corrections/revisions required.

**3. Minutes of Regular Meeting of May 5, 1997.**

**Requested Action:** Approve with any corrections/revisions required.

**4. Minutes of Special Workshop Meeting of May 12, 1997.**

**Requested Action:** Approve with any corrections/revisions required.

5. **Amendment to Title 19 Land Use Regulation of the City of Chico** - A proposed code amendment to change the definition of a Temporary Dwelling Facility under Section 19.04.587 to include existing structures, attached or detached to a primary residence, which can be converted to allow the use of a temporary dwelling facility as allowed by a use permit under Section 19.26.310 of Title 19. Pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA), covering the activity by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and where it can be seen with certainty that there is no possibility that the subject activity in question may have a significant effect on the environment.

**Requested Action:** Recommend Council approval of this text amendment to the Municipal Code.

6. **Use Permit No. 97-17 - 221 West 4th Avenue (North Valley Building Systems)** - A request to allow additional building height (two and one-half feet) for an accessory structure (17 feet 6 inches high) on property located at 221 West 4th Avenue, identified as Assessor's Parcel No. 003-033-019, in an RD-1 Low Density Residential zoning district. The property is designated in the General Plan as Low Density Residential. This project has been determined to be Categorically Exempt from environmental review, pursuant to Section 15303, New Construction or Construction of Small Structures, of CEQA. This item was continued from the May 19, 1997 agenda.

**Requested Action:** Approve this use permit subject to the findings and conditions of approval as listed in the staff report.

Commissioner Carter pulled Item No. 6 from the Consent Calendar.

7. **Use Permit No. 97-18 - 3012 Cohasset Road (Thorman)** - A request to allow the use of an existing attached second dwelling unit (1200 square feet) on 4.3 acres located at 3012 Cohasset Road and identified as Assessor's Parcel No. 048-400-008, in a R-1 Single Family Residential zoning district and R-P Residential Professional Business zoning district. The property is designated Low Density Residential in the General Plan. This project has been determined to be Categorically Exempt from environmental review pursuant to Section 15301, Existing Facilities, of CEQA.

**Requested Action:** Approve this use permit subject to the findings and conditions of approval as listed in the staff report.

8. **Use Permit No. 96-08 (Jesus Provides Our Daily Bread)** - A request to allow a one year extension of the use permit which allowed operation of a food program for the underprivileged with two meals served daily (7:30-8:30 a.m. and 3:30-4:30 p.m.) at 346 Cherry Street, and identified as Assessor's Parcel No. 004-114-003 (The Newman Center), in an R-3 Medium-High Density Residential zoning district. The property is designated Medium High Density Residential in the General Plan. The extension would allow the applicant additional time to secure a permanent location for the operation. This project is Categorically Exempt from environmental review pursuant to Section 15301, Existing Facilities, of CEQA.

Commissioner Wright pulled Item No. 8 from the Consent Calendar.

Commissioner Dietle stated that she will be abstaining from Item No. 3 as she was absent from that meeting.

COMMISSIONER CARTER MOVED APPROVAL OF CONSENT CALENDAR ITEM NOS. 2, 3, 4, 5 AND 7. COMMISSIONER DIETLE SECONDED THE MOTION THAT WAS UNANIMOUSLY APPROVED.

### **ITEMS REMOVED FROM THE CONSENT AGENDA**

#### **1. Minutes of Adjourned Regular Meeting of March 17, 1997.**

Commissioner Studebaker stated that he felt the Commission had previously requested that the minutes be changed to reflect the questions asked throughout the minutes.

Acting Planning Director Hayes stated that staff could try to piece the information together, which would require a entirely new set of minutes to be created from the video tape.

Commissioner Studebaker stated that he would be willing to accept the current minutes if the style is not used in the future.

Acting Planning Director Hayes noted that the style was used by a substitute to the normal meeting staff, as she had been instructed to use by the City Clerk.

Commissioner Belmonte stressed that this is the second time the Commission has seen and not agreed with these minutes. Acting Planning Director Hayes stated that staff will redo them.

COMMISSIONER STUDEBAKER MOVED THAT MINUTES BE CORRECTED TO REFLECT QUESTIONS WHERE THEY WERE ASKED AT THE MEETING. COMMISSIONER BELMONTE SECONDED THAT MOTION WHICH WAS APPROVED 7-0.

- 6. Use Permit No. 97-17 - 221 West 4th Avenue (North Valley Building Systems)** - A request to allow additional building height (two and one-half feet) for an accessory structure (17 feet 6 inches high) on property located at 221 West 4th Avenue, identified as Assessor's Parcel No. 003-033-019, in an RD-1 Low Density Residential zoning district. The property is designated in the General Plan as Low Density Residential. This project has been determined to be Categorically Exempt from environmental review, pursuant to Section 15303, New Construction or Construction of Small Structures, of CEQA. This item was continued from the May 19, 1997 agenda.

Commissioner Carter stated that he removed the item from the Consent Calendar to review Finding No. 4, as listed in the staff report, which quotes from the General Plan regarding architectural consistency. He stated that the surrounding land uses was discussed in the staff report, while the surrounding architecture was not. In past when the Commission has varied from the standard building requirements, more information had been provided regarding consistency with the surrounding neighborhood. He asked

if there had been any comments received by staff from the surrounding neighbors. Acting Planning Director Hayes stated that no comments, either written or by telephone, had been received.

Commissioner Carter stated that the proposal is for a substantial structure in an evolving neighborhood. Acting Planning Director Hayes stated that while it is to be built on a large lot, it is a sizeable structure.

COMMISSIONER WRIGHT MOVE TO APPROVE USE PERMIT NO. 97-17 - 221 WEST 4TH AVENUE (NORTH VALLEY BUILDING SYSTEMS), BASED ON THE FINDINGS AND CONDITIONS OF APPROVAL AS CONTAINED IN THE STAFF REPORT. COMMISSIONER DIETLE SECONDED THE MOTION.

Acting Planning Director Hayes reminded the Commission that as the item was removed from the Consent Calendar, the public hearing must be opened.

The public hearing was opened at 7:45 p.m. to which there was not comment.

The motion was unanimously approved.

8. **Use Permit No. 96-08 (Jesus Provides Our Daily Bread)** - A request to allow a one year extension of the use permit which allowed operation of a food program for the underprivileged with two meals served daily (7:30-8:30 a.m. and 3:30-4:30 p.m.) at 346 Cherry Street, and identified as Assessor's Parcel No. 004-114-003 (The Newman Center), in an R-3 Medium-High Density Residential zoning district. The property is designated Medium High Density Residential in the General Plan. The extension would allow the applicant additional time to secure a permanent location for the operation. This project is Categorically Exempt from environmental review pursuant to Section 15301, Existing Facilities, of CEQA.

Commissioner Wright stated that he was concerned with the request, and acknowledged that the Jesus Center has done a good job in the neighborhood. He questioned the items placement on the agenda. He reviewed that the City Attorney's office has been cautious in the past regarding temporary use permits. He inquired if, by continuing to approve a temporary use permit, the Commission could run into danger of it becoming a permanent use.

Assistant City Attorney Barker replied that the longer a use is considered temporary, the more difficult it would become to argue that the use is not an appropriate long term use for the location. This would result in the need to make findings similar to revocation when denying a permit.

Commissioner Wright asked when the fire occurred at the former center. Acting Planning Director Hayes suggested that the question be directed to the applicant.

The public hearing was opened at 7:48 p.m.

Katie Thoma, Executive Director for the Jesus Center, stated that the fire occurred on February 6, 1996. She noted that the location of the use is owned by the Catholic Church, not the Jesus Center. It is the goal of the Jesus Center build and expand their services; the Newman Center does not have the facilities for that expansion. There are several possibilities for future permanent locations, two of which are being researched at this time, though the option remains to rebuild and relocate at the Park Avenue site.

Commissioner Wright questioned why the one-year extension was not requested at the prior hearing. Ms. Thoma replied that the organization was overly optimistic that a permanent location had been found. Many resources were spent on property at the fair grounds, which was ultimately denied by the fair grounds administration.

Commissioner Wright expressed concern that the Commission had told the neighbors at a previous hearing that the Commission would not extend the use permit, this is now the third request for an extension. Ms. Thoma stated that she had contacted the neighbors to inquire if there had been any problems or any complaints to air; no problems were reported, although the neighbors did state that they do not want the clients in their neighborhood.

Commissioner Studebaker inquired if the applicant would object to a condition that a neighborhood meeting be held when University classes begins in the fall. Ms. Thoma replied that they do not object and would also be willing to distribute flyers describing the use and providing emergency contact telephone numbers.

Chair Monfort inquired if the number of meals has declined over the year. Ms. Thoma responded that while the number served had declined, it has recently been rising, due likely to welfare cuts.

Lewis Everett, 1485 Oakridge Drive, stated that he owned several properties in the area. He indicated that the presence of the Jesus Center has not been a problem. He indicated his belief that as long as the Jesus Center's operation does not impact the neighborhood, it is an acceptable use. He stressed that during the hearing on the initial permit he had spoken against the proposal, that position has changed.

The public hearing was closed at 7:50 p.m.

COMMISSIONER CARTER MOVE APPROVAL ON THE ONE-YEAR EXTENSION OF USE PERMIT NO. 96-08 (JESUS PROVIDES OUR DAILY BREAD), BASED ON THE FINDINGS AND CONDITIONS OF APPROVAL AS LISTED IN THE STAFF REPORT WITH THE ADDITIONAL CONDITION TO REQUIRE A NEIGHBORHOOD MEETING BE HELD UPON THE RECONVENING OF UNIVERSITY CLASSES. COMMISSIONER CROTTS SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

## **REGULAR AGENDA**

- 9. Modification of Planned Development Use Permit No. 2194 - 1366 East Avenue (Safeway, Inc.)** - A request to allow the development of an existing building pad with the installation of 38 parking spaces on property located at 1366 East Avenue (East Avenue Marketplace), identified as Assessor's Parcel No. 048-061-047 in a PD/N-C Planned Development/Neighborhood Commercial zoning district. The General Plan designation for the property is Community Commercial. This project has been determined to be consistent with the previously adopted Negative Declaration for General Plan Amendment and Prezone No. 157, including Planned Development Use Permit No. 2194, pursuant to Section 15162, Subsequent EIRs and Negative Declarations, of CEQA. This item was continued from the May 19, 1997 agenda.

Acting Planning Director Hayes noted that the Commission has received a letter from the applicant requesting a continuance to no date certain.

COMMISSIONER STUDEBAKER MOVE TO CONTINUE MODIFICATION OF PLANNED DEVELOPMENT USE PERMIT NO. 2194 - 1366 EAST AVENUE (SAFEWAY, INC.)

INDEFINITELY. COMMISSIONER DIETLE SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

- 10. Use Permit No. 97-7 (Chico Evangelical Free Church)** A proposed expansion of the Chico Evangelical Free Church located at the southwest corner of Filbert and Bryant Avenues, including properties located at 1193 Filbert Avenue and 665 Bryant Avenue, and identified as Assessor's Parcel Nos. 045-291-003 and 016, in an R-1 Single Family Residential zoning district. This use permit was denied by the Planning Commission on May 5, 1997. The applicant has now submitted a revised application and requests that the Planning Commission grant a new public hearing pursuant to the provisions of Section 19.06.040, Resubmittals, of the Chico Municipal Code.

Acting Planning Director Hayes reviewed the staff report. He indicated that in order to re-hear the proposal, the Commission must make the finding that is a significant change from the prior submittal. He noted that the revised proposal retains the single family home on Bryant Avenue and reduces the size of the building addition. The Commission's motion denying the previous proposal was based on the finding that the removal of the single family home was inconsistent with the General Plan. He stated that the Church proposes to use the residence for visitors or caretakers use. He stressed that this hearing is not to go into details of the proposal, but to determine if there has been enough of the concerns addressed to allow for a re-hearing of the proposal.

Commissioner Studebaker verified that the public hearing on the proposal could be held at the next regularly scheduled meeting, June 16th, if the Commission grants a new hearing. Acting Planning Director Hayes added that if approved, the June 16th public hearing would be noticed tomorrow.

The public hearing was opened at 8:00 p.m. Chair Monfort stressed that the issue is whether the proposal is sufficiently different to have hearing, not the merits of the proposal.

Stan Figgins, 4685 Songbird, representing Evangelical Free Church, stated that it is his belief that the revised proposal is sufficiently different from the previous version, in that it does not request the removal of the single family residence. He indicated that the residence would not be office building, rather would be residence for employee of the church, or someone associated with the church. He noted that two sides of the proposed new building would be adjacent to the church, one side facing the house, and the far side would face the adjacent neighboring home buffered by additional landscaping. He expressed concern that the neighbors had voiced their objections to the plan just prior to the meeting, not allowing the applicant the opportunity provide an alternative.

Chair Monfort inquired why an alternative was not presented to use the existing church property. Mr. Figgins replied that the proposed building would be more efficient and safer, being attached to the existing buildings.

Chair Monfort reviewed that concerns had been voiced at the previous hearing with the possibility of the church becoming a large regional institution, not an appropriate use for that location. Mr. Figgins stated that the size of the church is regulated by the size of the sanctuary, not the size of the classrooms.

Don Holm, 655 Bryant Avenue, stated his belief that the current proposal is not sufficiently different to facilitate a new hearing. He explained that the proposal would still change a single family lot, resulting in a high density lot. He noted that the same issues still exist - why is the applicant applying to use parcel when they have a significant amount of available land and a description of the long term plans for the facility. He acknowledged that this proposal is more sensitive to the neighborhood.

David Wilson, 648 Bryant Avenue, reviewed that Mr. Figgins had stated at the previous hearing that the church had consulted with the neighbors. He stated that he had not been consulted.

Jim Matthews, 665 Bryant Avenue, reviewed the purpose for this hearing, and expressed his opinion that the applicant had made a concession to address the issues raised at the prior meeting.

Louisiana Knox, 636 Bryant Avenue, stated that she had reviewed the new proposal and felt that even though the area of the building has been slightly reduced, the entire proposal is not significantly different. She expressed concern that although the house would be left standing, the large building would be immediately behind it, detracting from the home and the adjoining neighborhood. She added that the single family home, on a R-1 Low Density Residential lot, would become a high density use.

Mr. Figgins asked for clarification of the density concerns. Chair Monfort explained that the property is in an R-1 Low Density Residential neighborhood. The proposed use would be a more intensive than exists in the area.

Mr. Figgins stressed that the use of the facility will be based on the size of the congregation.

Ms. Knox explained that her use of the word density is the actual building coverage of the area. Currently the neighborhood consists of residences with small axillary buildings, such as garages and storage sheds. This proposal is for a sizeable building with many people using it.

The public hearing was closed at 8:15 p.m.

COMMISSIONER CARTER MOVED TO GRANT THE REQUEST FOR NEW HEARING FOR USE PERMIT NO. 97-7 (CHICO EVANGELICAL FREE CHURCH) ON BASIS THAT THE APPLICATION IS SUFFICIENTLY DIFFERENT. COMMISSIONER BELMONTE SECONDED THE MOTION.

Chair Monfort verified that the previous denial was based on destruction of the residence, this proposal would be deemed different as it does not destroy the residence.

Commissioner Carter clarified that this approval is to grant a new hearing, not the use or the merits of the project.

Commissioner Wright stated that he would vote against the motion. He noted that the applicant proposes to reduce the size of classroom building, and house may or may not be used for church purposes. If that house is used for church purposes, it is not clear what the house would be used for. He noted that concerns raised at the prior hearing were not only for the removal of the home, also the use of the proposed building for non-church activities throughout the week.

Commissioner Belmonte stated that by using the same site, it is unescapable that there be similarities between the proposals. He stressed that while it is difficult to keep the issues separated, the matter before

the Commission at this meeting is not matter of approving the use, but consideration if there is enough difference to hold a hearing on the use.

The motion was approved 6-1 (Commissioner Wright opposed).

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The Commission was in recess from 8:20 p.m. to 8:30 p.m.

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- 11. Use Permit No. 97-19 - 40 Comanche Court (Smith/Chico Recovery Center)** - A request to allow a family counseling center for dependency outpatient programs, family programs, and transitional living accommodations with six (6) beds for overnight use, operating 24 hours per day and 7 days per week on property located at 40 Comanche Court and identified as Assessor's Parcel No. 040-030-078, in a RS-20 Suburban Residential and OS-1 Primary Open Space zoning district. The property is designated Very Low Density Residential in the General Plan. This project has been determined to be Categorically Exempt from environmental review pursuant to Section 15301, Existing Facilities, of CEQA.

Acting Planning Director Hayes reviewed the staff report, noting that the facility would provide counseling and rehabilitation. The site was previously used for residential care facility for children, then as a crisis intervention home for children. He reviewed the recommended conditions of approval contained in the staff report.

The public hearing was opened at 8:35 p.m.

Ron Smith, the applicant, stated that he was present to address any questions the Commission may have.

Chair Monfort verified that this would be a less intense use that previously uses at that location. Mr. Smith stated that it is currently used as a crisis center, the proposed use for a mainly outpatient facility.

The public hearing was closed at 8:38 p.m.

COMMISSIONER WRIGHT MOVED TO APPROVE USE PERMIT NO. 97-19, SUBJECT TO THE FINDINGS AND CONDITIONS OF APPROVAL CONTAINED IN THE STAFF REPORT. COMMISSIONER DIETLE SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

- 12. Vesting Tentative Subdivision Map Foothill Park East (Drake)** - The project site is generally located south of Sycamore Creek (south fork), westerly of the Sycamore Creek Diversion channel, north of the northern termini of Ceanothus, Marigold, and Cactus Avenues, and east of a line extended north of the northern termini of Ceanothus Avenue, identified as Assessor's Parcel Nos. 048-020-060 and 061. The project consists of a request to subdivide 142 acres of the 172.83 acre site into 121 parcels. 110 parcels are proposed for single-family development in Phase I and would be approximately 7,800 square feet in size. Phase I would also include the dedication of land for a 3.6 acre neighborhood park and 2.14 acres for a linear bicycle/pedestrian loop system. The map would also create 8 larger parcels, between 5 and 18 acres in size, which would be subject to future subdivision into single-family lots. Approximately 24 acres would be dedicated

for road rights-of-way. The northernmost 31 acres, extending from Sycamore Creek south to the proposed subdivision will be set-aside as a wetlands preserve, consistent with an Army Corps of Engineers' 404 permit. The City of Chico General Plan designates the site as a low-density residential site (2.1 to 7 dwelling units per acre) with an Open Space for Environmental Conservation Overlay within a Special Development Area. An Environmental Impact Report has been prepared for this project pursuant to CEQA. Draft Environmental Impact Report (DEIR), and Recirculated Draft Environmental Impact Report (RDEIR) were previously circulated for 45-day public review periods. The Final EIR, containing comments received on the DEIR and RDEIR, and responses to those comments, are also subject to Commission action.

Commissioner Dietle stated that she will abstain from this item due to a conflict of interest.

Sr. Planner Jolliffe introduced Cathy Spence-Wells and Michael Wells from CSW Planning Associates, present to address the Environmental Impact Report for Foothill Park East (EIR), and Matt Henry, Fehr and Perrs Associates, the traffic consultant for the EIR.

Sr. Planner Jolliffe reviewed the proposed development map, noting that the site was previously graded with an Army Corps of Engineers 404 Permit which as designed to mitigate environmental impacts for three projects and allow construction of vernal pools on two preserves. She explained that the City's role with this project, the land use for the site, is in connection with several other regulatory agencies. With three projects involved in the 404 Permit, it is difficult to determine what open space was set aside for this project, though the proportional amount would be 175 acres to mitigate for this project. She reviewed the surrounding land uses.

Cathy Spence-Wells, CSW Planning Associates, reviewed the three documents which result in the environmental impact report, the Draft Environmental Impact Report (DEIR), Recirculated Draft Environmental Impact Report (RDEIR), and Final Environmental Impact Report (FEIR). In the DEIR several impacts were identified as significant, including viewsheds/open space and vehicular emissions, which remained significant following mitigation. She stated that the RDEIR was completed to address airport compatibility concerns and update the project description. An analysis of Airport Noise was added in the RDEIR, where impacts on airport operations were deemed less than significant based on the CalTrans Manual, as required by CEQA. The FEIR includes all comments received on DEIR and RDEIR, responses to those comments, and text changes based on those comments. Two traffic mitigations were removed from the FEIR, though several mitigations were added for air quality management. The Commission is being asked to certify the FEIR, and to adopt findings of overriding considerations on the remaining unmitigatable impacts.

Matt Henry, Fehr and Peers Associates, noted that in preparation of the traffic analysis, 16 intersections near the site were reviewed, including traffic counts conducted while school was in session in the vicinity of the affected schools. Other modes of transportation were also reviewed. He noted that it was determined that the East Avenue/Cohasset Avenue intersection would have cumulative impacts, though the project by itself does not create that impact. There would also be cumulative impact to the intersection of Manzanita/Vallombrosa Avenues, which will require a traffic signal. He indicated that the entire area was originally planned for larger densities; the street system was not reduced. This is why the project is not projected to have more impacts on the roadway system.

He noted that another issue of concern regarding residential street impacts is the extension of Ceanothus and Marigold Avenues. After the project is in place and those roads are extended, there will be 1500 vehicles per day, on roads which currently have 200 vehicles per day. He compared the number of

vehicle trips to those which currently occur on other streets in the vicinity (North Avenue with 1520 vehicles per day, Floral with 3000 per day and Ceres with 4000 vehicle trips per day). He noted that they had also considered extending Cactus Avenue, which would result in some traffic shift, but not a significant amount.

Ms. Spence-Wells noted that air quality is one of the areas identified as having cumulative significant impacts. She pointed out that the General Plan acknowledged that there will be a significant impacts on air quality. She noted that different types of air pollutants were reviewed in the EIR, including particulate matter raised during the construction phase and emissions from wood burning devices. Several mitigations were placed on the project which will reduce some of those emissions. The majority of the air quality impacts would be through vehicle emissions. Computer models have indicated that the emissions from the project will exceed acceptable levels for Butte County.

Ms. Spence-Wells stated that the EIR process reviewed special status species and the appropriateness of the wetland mitigations established by the Army Corps of Engineers. Potential habitats were identified for nesting raptors, mainly Swainson's Hawk, and determined that the impacts would be less than significant once mitigations were in place. In the vernal pool habitat, Butte County Meadowfoam had been found in 1992, though subsequent surveys did not find the species on the site. She added that the 13 acres of reconstructed vernal pools were made in accordance with the 404 Permit, and surveys of the pools have determined that they were successful. In January, the Army Corps of Engineers relieved the applicant of further review for fairy shrimp due to the large population of the species.

Sr. Planner Jolliffe reviewed the open space/viewshed issues involved in the project. She noted that the issue is difficult to quantify and the density of zoning and flatness of the site make it difficult to avoid. She stated that due to the proposed alignment of the Eaton Road extension and other site constraints, several options were reviewed for a 15 acre section of the site along Eaton Road. She recommended increased density for a 15 acre area along Eaton Road, which could be done with a future General Plan amendment.

Sr. Planner Jolliffe noted that in review of potential airport issues, CalTrans standards were utilized. While the Butte County Airport Land Use Commission (ALUC) found the project inconsistent with the 1978 Airport Environs Plan, they did submit five conditions for consideration which were recommended for inclusion by staff. Those conditions included a 1,000 foot air corridor along Sycamore Creek, which would be finalized prior to map recordation.

Commissioner Studebaker questioned if the Salter and Associates Study prepared for the Bidwell Ranch project was referenced. Sr. Planner Jolliffe acknowledged that the Salter and Associates study was used, and while there were concerns raised on the validity of the study, ALUC has indicated that the inclusion of the final mitigation measures did address their concerns. She reviewed the five conditions as recommended by ALUC.

Commissioner Carter asked if any development would be permitted in the air corridor. Sr. Planner Jolliffe replied that development would not be permitted in the air corridor as it is an open space corridor; only a small portion of this project would be affected by that condition.

Sr. Planner Jolliffe reviewed the design of the proposed project, which includes 110 single family lots and several larger parcels which would be subject to future subdivision. Three traffic circles are proposed to provide identity and traffic calming. She reviewed a plat depicting the bicycle and pedestrian path system. She stressed that while the project proposes to develop only a portion of the site, a Master Design Manual has been prepared to control future development of the other parcels which includes roads and

landscape design. Staff did identify two concerns with the design; based on previous Commission input, residences should be front loaded onto the neighborhood park which is not currently mandated in the Design Manual and buffering the sound wall along Eaton Road. As Eaton Road is a major arterial roadway, the standard setbacks may not provide a large enough landscape buffer. Staff recommends that there be a minimum 20 foot landscaping buffer, excluding the sidewalk. The applicant requests a 14 foot setback.

Regarding the Preserve Management Plan, Sr. Planner Jolliffe noted that it addresses concerns regarding future ownership, funding for maintenance, and uses of the 230 acre preserve. Dan Drake, the applicant, has proposed that the City take ownership of the preserve. The City Council has indicated a willingness to consider that option. She noted that the resolution does make recommendations to Council regarding the preserve. She noted that the residents in the project may have a desire to use the preserve. She reviewed the recommendation to open the lower 30 acres south of Sycamore Creek for public access, leaving the remainder of the preserve more restricted. Any change to the use of the preserve will require modification of the Army Corps of Engineers 404 Permit. She stated that it would be appropriate for ownership of the preserve to remain with the applicant until the Army Corps of Engineers monitoring requirements are met. She reviewed possible funding for the preserve, noting that this is the first preserve management plan presented to the Planning Commission. The Farm Credit Project provided an endowment to finance the Wurlitzer Preserve; the City has provided funds to maintain the Doe Mill Preserve. This project proposes to fund long term through a maintenance district, with the initial improvements funded by the applicant.

Sr. Planner Jolliffe reviewed the findings required by the state Subdivision Map Act and the recommendations as contained in the staff report.

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The Commission was in recess from 9:30 p.m. through 9:40 p.m.

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Commissioner Carter asked staff to address the Master Design Manual. Sr. Planner Jolliffe stated that only some of the measures included in the Manual are mandatory, others are advisory. Future maps will come before the Commission for approval and would be compared to this Manual. Staff will use the Manual for administrative reviews. She noted that a future Commission could choose to ignore advisory sections of the manual, should it so desire.

Chair Monfort questioned if the future street layout is mandatory. Sr. Planner Jolliffe replied that while not mandatory, criteria for the street layout is specified. Future Commissions may reject a proposal to develop sections of this project based on those considerations. Assistant City Attorney Barker added that the Master Design Manual could provide the Commission or Council a basis for rejecting future development which is inconsistent with the Manual.

Chair Monfort noted that the basic goals and objectives of the project would be carried out through the Design Manual. Commissioner Carter stated that the open space abutment is mandated in the Design Manual.

Chair Monfort asked Ms. Spence-Wells if air quality mitigations including front and rear electrical outlets and providing natural gas to patios and fireplaces were added. Ms. Spence-Wells stated that the natural gas lines to fireplaces had not been added. She explained that the FEIR contained mitigations which were directed by the Butte County Air Quality Management District. She noted that the amount of air pollution

caused by one gas powered lawn mower is the equivalent of 15 automobiles going 25mph, and speculated that the noted provisions may be mandated in the future.

The public hearing was opened at 9:45 p.m.

Bob Hennigan, 5130 Anita, stated that while he is a member of ALUC, he is representing himself at this meeting. He expressed concern that while this project was submitted to ALUC some months ago, he had been told that it was withdrawn. Butte County staff stated that as it was submitted and it could not be withdrawn. ALUC found that it was not consistent with the 1978 Airport Environs Plan. He explained that if the project was submitted to ALUC, and found inconsistent with the Environs Plan, then the City Council must hold a public hearing to determine any override of ALUC.

Chair Monfort reviewed that the staff report indicates that the project was submitted to ALUC for review, and ALUC provided five conditions of approval. Mr. Hennigan stated that it is up to ALUC to find if a project is in compliance.

Commissioner Carter questioned how the five conditions were arrived at if ALUC did not approve them. Mr. Hennigan replied that the five conditions were agreed upon by ALUC as ways of improving the project, although the project was found to be inconsistent. He asked that the Commission determine that the project must be submitted to Council to make overriding findings, or be submitted back to ALUC.

Commissioner Belmonte verified that although the project was deemed inconsistent by ALUC, ALUC felt there was little to be done to stop the project and offered the five items for consideration. He noted that there has been a joint meeting between the City Council, the Commission and ALUC. That meeting resulted in the preparation of a Memorandum of Understanding (MOU) for project review if it is within two miles of airport. He confirmed that this project had been submitted prior to the time that discussion took place.

George Matthews, 312 Orient Street, stated his belief that the DEIR was not consistent with sections of the General Plan regarding land use and design issues. He added that he felt the cumulative impacts as addressed in the DEIR, are inadequate as it refers to the General Plan and the General Plan Environmental Impact Report. He suggested that such a reliance on the General Plan Environmental Impact Report is not adequate or in compliance with CEQA. He reviewed the Master Design Manual section regarding energy conserving design. He noted that over the lifetime of a building, energy will cost approximately the same as construction of the building. He indicated that statements in the Master Design Manual which suggest that placement of the buildings to the north will facilitate shading, are incorrect as many of the homes will have poor energy efficiency based on orientation.

Bill Brouhard, project manager, stated that the cooperative design process was used to address large scale planning. He reviewed that the applicant held workshops with the Commission to review design possibilities, provided the planning team with insight for what the Commission desired and facilitated the development of the Master Design Manual. He stressed his belief that the proposal is in harmony with the General Plan as many of the ideas used in this project came from the General Plan. He noted that the project has had extensive environmental review through the DEIR, RDEIR and the FEIR. He reviewed the proposal. He pointed out that the project will have an integrated neighborhood park, bike paths and linear trailways. He added that the project does promote a sense of neighborhood, as indicated in General Plan, through land marking neighborhood entries and encouraging pedestrian and bicycle travel. The Master Design Manual is intended to be used as a bridge between the actual use and the General Plan. He reviewed the components of the project which relate to the General Plan, including a neighborhood

park, bicycle and pedestrian transportation and layout to open space. He also reviewed the potential traffic impacts in relation to the adjoining County residents.

Mr. Brouhard stated that the 230 acre preserve, adjacent to airport, will be an addition to airport safety. In respect to the ALUC comments, he stated that he had not been informed that the proposal had been withdrawn, in fact he had assurance that it had not been as the public comment period was extended to accommodate ALUC's schedule.

Sr. Planner Jolliffe stated that the 1978 Airport Environs Plan calls for one acre lots in this area. The City's legal staff has advised that the override adopted at the time of the General Plan are applicable to this development. She indicated that Planning staff have no knowledge that the proposal was withdrawn and correspondence between City staff and ALUC have occurred as recently as April, 1997.

At Commissioner Studebaker's request, Sr. Planner Jolliffe reviewed the last correspondence between the City and ALUC, which was a letter from ALUC to the City commenting on the RDEIR and provided the five recommended conditions after stating that the project is inconsistent with the 1978 Environs Plan.

Mr. Brouhard stressed that this project will protect the airport departure zone as it meets and exceeds the CalTrans requirements. He noted that the applicant is not in opposition to the ALUC recommended conditions.

Sr. Planner Jolliffe noted that Mr. Hennigan was speaking for himself privately, not for ALUC.

Mr. Brouhard stated that the DEIR was recirculated to review the airport issues. He asked for clarification regarding the signage which would be required along the trailway. He suggested that as the reason for the mitigation is to inform the citizens of Chico that there is an airport and an emergency overflight corridor, it should be a City obligation as it applies to all development and residents.

Mr. Brouhard reviewed sections of the draft resolution which he felt may need corrections. He noted that the resolution includes staff recommendations with regard to sound walls; while he was not in opposition to staff's position, he asked that the language be altered to allow some flexibility in order to address sound and privacy concerns. Another requested change, page 50, Item 15.b., regarding the Eaton Road streetscape, is to reduce the landscape buffer to 14 feet. He noted that the proposal exceeds City standards and is more complete than previous developments in Chico.

Chair Monfort stated that the issue with the sound wall is not only aesthetics, but also noise control. He questioned if a reduced buffer would be adequate. Mr. Brouhard stressed that the proposal is exceeding existing standards; the recommended buffer is even further in addition to those standards.

Mr. Brouhard requested that Exhibit 'C' to the Subdivision Report be changed to an 8 foot wide paved bike lane, rather than the 12 foot depicted on the current exhibit. He noted that in the FEIR there is a mitigation to install 110 volt outlets in the front and back of the homes, as well as have Class A roofs.

Chair Monfort asked the Director of Public Works to review bike path requirements. Director of Public Works Ross noted that he would not be opposed to an 8 foot wide bike path as the bike path to airport is also 8 feet wide.

Chair Monfort inquired if it was possible to have a permeable fence and still provide some privacy. Mr. Brouhard stated that if the resolution language was worded to allow privacy, it would allow the flexibility

for the developer to work with staff on a solution for the four lots at the south end of the Y-intersection. Sr. Planner Jolliffe noted that the wording was not intended to address the four lots Mr. Brouhard is concerned about. Staff's concern is the sound walls within the public rights-of-way, and suggested that the condition be modified to except the lots at the south end of the Y-intersection.

Commissioner Carter suggested that if the homeowner desires more privacy, then the homeowner could build a fence. He added that the issue is not just an aesthetically pleasing fence, only dealing with fence in public right-of-way. He noted that the General Plan encourages homeowners to frontload onto the neighborhood park. If privacy is a concern for the homeowners, they will be able to build a fence within their yard. Sr. Planner Jolliffe noted that the homeowner would then have to build the fence in compliance with the Municipal Code, which is currently 3 feet high in the front yard.

Mr. Hennigan, a previous speaker stated he is not speaking in opposition of the project, rather is addressing a procedural item.

Commissioner Studebaker asked if Mr. Hennigan would agree with staff's position that ALUC has reviewed this project. Mr. Hennigan stated that ALUC confirmed their previous position regarding development of the site.

Commissioner Belmonte asked if the ALUC would provide the same report if the project were to be submitted again. Mr. Brouhard noted that if there is a procedural problem, ALUC can appeal any Commission decisions to the City Council.

Commissioner Belmonte reviewed that at a recent meeting with Council, the City Manager stated that any project with ALUC's jurisdiction would be forwarded to ALUC for review.

Assistant City Attorney Barker noted that comments from ALUC regarding the RDEIR are contained within the FEIR. She also noted that there was a conceptual agreement at the joint meeting between the City Council, Planning Commission and ALUC that the City and ALUC would enter into an MOU which would address ALUC review of projects between the time the MOU was entered into and the time ALUC adopted a new comprehensive airport land use plan. It was the Assistant City Attorney's recollection from that joint meeting that there was not a firm commitment to send all currently pending projects to ALUC for review prior to execution of the MOU, rather that a determination for such projects would be made on a case by case basis. She explained that the City Attorney's position is that since the City Council made the override findings required at the time the General Plan was adopted in response to ALUC's comments on the General Plan, the City is not legally required to forward projects to ALUC which are consistent with the General Plan. With regard to possible withdrawal of the project from ALUC review, staff is not aware that any withdrawal had been attempted and, at any rate, the project had been reviewed by ALUC and ALUC had submitted its comments to the City.

Commissioner Belmonte stressed that the City Manager had indicated that ALUC approval would be necessary for any project within ALUC jurisdiction. He verified that ALUC felt that there were significant inconsistencies and if the City chose to override those inconsistencies, then ALUC requested that the Commission consider the five conditions. He indicated his belief that it is not healthy to have that kind of shadow hanging over the project. He questioned if ALUC had the opportunity to review this project now, would their position be the same.

Mr. Brouhard stated that while he appreciated that the Commission is concerned that an appeal may be made because of procedural problems. He expressed concern that this Commission may be restructured in the near future, and stressed that the applicant desires a decision by this Commission .

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The Commission was in recess from 10:55 p.m. through 11:10 p.m.

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Liz Mosher, 30 Rusty Lane, expressed displeasure with the hearing process and the late hour. She reviewed the traffic consultant's discussion. She noted that after the grading was done on the project site, the number of species of wildflowers on the site has dramatically diminished. She expressed concern regarding impacts to schools. She noted that Marigold School, the elementary school which would serve this development, has over 580 students without adequate facilities for the existing students. She stated that she felt the Commission should address this problem.

Commissioner Studebaker stated that while he agrees with the principles Ms. Mosher suggested, the Commission is held within certain legal boundaries. He suggested she address those concerns to the City Council, to the School Board, and her State legislator. Ms. Mosher stated her belief that the Commission should recognize that the citizens want development to come after schools.

Chair Monfort stated that State law fixes the amount that the City can charge developers to facilitate schools. Ms. Mosher suggested that the City work with the school district to ensure that the school be built prior to development. Chair Monfort stressed that it is illegal for the Commission to deny a subdivision map on the basis of school facilities.

Commissioner Belmonte verified that Ms. Mosher felt that the lateness of the hour has affected neighborhood input. He suggested that she attend an upcoming neighborhood meeting with the Neighborhood Subcommittee of the Planning Commission.

John Merz, 178 Terrace Drive, reviewed that the staff report references a number of documents which need to be reviewed. He requested the Commission continue the item to allow for further public review. He suggested that the Land Management Plan be reviewed by the Habitat and Resource Conservation Plan Committee (HRCP) as the Land Management Plan sets the standards which will be used for future projects. He expressed concerns regarding the Master Design Manual, suggesting that a specific plan would have been more appropriate. In respect to concerns regarding schools, he pointed out that the staff report indicates that the school district has stated that they will not be requiring additional fees due to the repealed specific plan, not due to the apparent school district policy to not increase fees if the densities do not increase. He inquired why staff recommended a change from the mitigation listed in the FEIR, Mitigation 4.3.3, to require that the applicant provide a "uninstalled facility" should transit facilities not be provided. He asked for clarification on the General Plan Amendment recommendation as indicated on Page 23 of the staff report.

Sr. Planner Jolliffe reviewed that the narrow area which will be created by the Eaton Road extension and the utility easements does not accommodate single family development at typical densities. She added that development along the existing Eaton Road corridor has mainly been multi-family.

Mr. Merz suggested that the multi-family recommendation be reviewed as it will be a change of density, and thus, may change the EIR. He noted that project site is contained within the HRCP area. He stated that he felt the resource management area discussion contained within the staff report is inadequate as the

project site is in a resource sensitive area. He suggested that cluster design concepts should be used. He indicated that the Commission did not have the full context of what is proposed in relation to commercial and other uses. If the project does not have schools to service existing school children, public welfare is in jeopardy, which is basis for turning down a project.

Martha Claudio, 2615 Ceanothus Avenue, stated her belief that this is a well-planned development. She agreed that impacts on schools will be a problem and stated that she is In favor of this project.

Jerry Olio, 2595 Cactus Avenue, stated his belief that the City of Chico does not need to maximize development. He stressed that development will have stop sometime; either when the Council will put a stop to it, or when no one will want to come to Chico. He urged the Commission to deny this project and stop maximizing development in Chico.

The public hearing was closed at 11:45 p.m.

Chair Monfort suggested that the Commission resolve this matter, either tonight or a subsequent special meeting.

Commissioner Carter stated that the Commission, staff and the developer have worked on this for a year and that all would like resolution.

Chair Monfort reviewed the actions being requested of the Commission which include directing staff to initiate a Rezone/General Plan Amendment, adopt the resolution recommending Council authorization to implement the Foothill Park Land Management Plan, and adopt a resolution certifying the FEIR and approving the Foothill Park East Vesting Tentative Subdivision Map. He indicated that he agreed that the area indicated for the rezone be upzoned.

Commissioner Crotts moved to direct staff to initiate a Rezone/General Plan Amendment for the 15 acre area between the proposed Eaton Road extension and the powerline easement. Commissioner Belmonte seconded the motion which was approved by a vote of 5-1-1 (Commissioner Studebaker objected, Commissioner Dietle abstained).

Chair Monfort questioned the funding mechanism for the Foothill Park Land Management Plan and reviewed the recommended funding suggested in the staff report. Sr. Planner Jolliffe summarized the two option contained in the Land Management Plan as an endowment, funded by the applicant and a maintenance district, funded by future homeowners. She stated her opinion that costs associated with public use of the 30 acres preserve area should not be required of the developer. She noted that the staff position a maintenance district is recommended as endowments will lead to higher home costs.

Chair Monfort inquired if the maintenance district will have a Consumer Price Index indicator included. Assistant City Attorney Barker stated that all future maintenance districts will have such an inflator included. She expressed concern that Proposition 218 contains language that assessments can be repealed or lowered using the initiative process; thus it may not be a permanent funding source.

Chair Monfort asked why staff is recommending the City take ownership rather than a nonprofit organization. Sr. Planner Jolliffe stated the City cannot require the applicant to dedicate the land, but that the applicant has indicated a desire to dedicate the property. She explained the recommendation was based on a previous Council motion regarding a willingness to accept title to the preserve pending resolution of

outstanding sewer assessment issues. She noted that any acceptance of that land would be conditioned on the applicant first fulfilling the obligation to the Army Corps of Engineers permit process.

Chair Monfort noted that costs associated with ownership by a nonprofit organization are estimated to be quite lower in the Land Management Plan. Sr. Planner Jolliffe agreed, noting that non-profit organizations often have lower labor costs and a better return on endowment investments.

Chair Monfort noted that there is no recommendation in the resolution for a funding mechanism. Assistant City Attorney Barker explained that it was intentionally left open was to allow for the flexibility of using other funding mechanisms.

Commissioner Carter suggested that the City may want to control the preserve, and thus condition the dedication on fulfillment of the Army Corps permit requirement. He indicated that he felt there was uncertainty within the resolution regarding how the assessment district would be established. Sr. Planner Jolliffe stated that the specifics are contained within conditions of approval on the project itself and the assessment districts are approved by the City Attorney.

Commissioner Carter stated that due to Proposition 218, the maintenance district should be created while it is still under one ownership.

Commissioner Carter verified that the final map will not be recorded until these issues are worked out. He suggested that the resolution should be flexible to allow for future changes.

Chair Monfort suggested that Page 5 of 6 of the resolution regarding the Foothill Park Land Management Plan be changed to recommend that the preserve be funded either by maintenance district or endowment. Commissioner Carter inquired if the language needs to be retained on Lines 12 and 13 of Page 5 of 6 to keep the flexibility. Assistant City Attorney Barker noted that it could be a policy decision that the City may not want it to be dedicated.

Commissioner Carter moved to adopt Resolution 97-10 recommending Council authorization to implement the Foothill Park Land Management Plan, modifying Item 5.b. adding endowment language and Item 3.b. striking Lines 13-15. (These lines indicated that the preserve not be dedicated until Army Corps of Engineering requirements are met. The remaining language recommends any acceptance of dedication require the applicant maintain Army Corps of Engineering permit requirements.) Commissioner Crotts seconded the motion which was approved by a vote of 5-1-1 (Commissioner Studebaker opposed, Commissioner Dietle abstained).

Chair Monfort noted that there had been testimony suggesting a number of changes to the proposed resolution certifying the FEIR. He reviewed the request to modify Exhibit "C" to the Subdivision Report, to show the bicycle path be reduced from 12 feet to 8 feet wide; the request that the landscape buffer along Eaton Road extension be modified from 20 feet excluding sidewalk to 14 feet; the request to modify language that required only permeable fencing be allowed along frontage to the park; and that the City assume the obligation to inform the public of overflights, and signage be directly adjacent to overflight zone, not 1,000 feet away.

Commissioner Carter stated that he would not be in favor of eliminating the permeable fencing requirement. He noted that the homeowner will be able to do some landscaping and fencing as desired. He indicated that he would not be opposed to requiring overflight signage and education, or the modification of the bikepath width as it will reduce paving. He questioned the setback recommendation.

Sr. Planner Jolliffe stated that the City does not have established policies with regard to sound walls, though the General Plan does contain policies to provide adequate landscape buffers for sound walls. She indicated her interpretation that past landscape buffering of sound walls was not adequate.

Commissioner Carter moved that the changes suggested by the applicant are acceptable, with the exceptions regarding view-permeable fence at the Y-intersection and leaving the 20 foot buffer on Eaton Road.

Commissioner Wright inquired if the Commission can direct the City to provide the overflight education. Assistant City Attorney Barker replied that the Commission can direct the City to take the obligation of a mitigation. The applicant is suggesting that the mitigation is not just for this project, but for the City at large. Sr. Planner Jolliffe read the recommendation as stated by ALUC.

Commissioner Wright asked if the educational requirement is an enforceable condition and what would happen if the City does not comply. Sr. Planner Jolliffe stated that the Commission could delete the condition. It is enforceable as it must be done prior to receiving a Certificate of Occupancy. Commissioner Carter noted that a nearly identical condition was eliminated from the Bidwell Ranch project.

Commissioner Carter amended his previous motion so that Condition 22, requiring education for overflights, be deleted. Commissioner Wright seconded the motion which was adopted by a vote of 5-1-1 (Commissioner Studebaker opposed, Commissioner Dietle abstained).

Chair Monfort moved that the additional conditions requiring the piping of natural gas to fireplaces and patios and electrical outlets be required outside the residences.

Commissioner Crotts inquired if there are changes in what is required by Butte County Air Quality Management Board that would affect this development. Ms. Spence-Wells stated that there were not.

Chair Monfort moved that the language regarding lighting standards in the resolution be modified to add that if the City standard be changed, those standards could be used for this project.

Commissioner Carter stated that a meeting was held between City staff and others to review the policy issue that street illumination on the rural fringe be less than what is required within the urban city. He agreed that if there is a change in City lighting standards, it should be allowed.

Director of Public Works Ross stated that the Subdivision Report could be changed to add the language "and any other standard as applicable".

Commissioner Carter seconded the motion which was approved by a vote of 5-1-1 (Commissioner Studebaker objected, Commissioner Dietle abstained).

Chair Monfort inquired about the transit facilities section regarding "unbuilt" transit facilities. Director of Public Works Ross explained that at this time the need has not been anticipated to provide mass transit facilities, or shelters. The language was provided so the facilities could be installed as appropriate, or if the developer would purchase the shelter, it could be stored at the City's Operation and Maintenance yard. Assistant City Attorney Barker suggested that the language be altered to clarify that the facilities are bus shelters.

Commissioner Belmonte inquired if any action by the City must include Council producing overriding findings for ALUC, and that those findings be made public. Assistant City Attorney Barker reviewed that when the General Plan was adopted, it was submitted to ALUC. ALUC determined that the General Plan did not comply with the 1978 Airport Environs Plan. Council made findings of override regarding that decision when they adopted the General Plan. ALUC desires more specific findings, which are not generally required for a legislative act. There is no more opportunity to challenge the findings Council initially adopted with the General Plan.

Commissioner Belmonte stated that he would like to review those findings and ensure that those findings were aired in a public hearing.

Commissioner Carter stated that ALUC will continue to find projects inconsistent with Airport Environs Plan until it is updated. He suggested that the ALUC recommendation possibly could be that the City review and update the Airport Environs Plan. Acting Planning Director Hayes reviewed the process by which the Council adopted findings overriding ALUC's inconsistency determination. The joint meeting with Council, ALUC and the Commission resulted in the Council direction that projects be submitted to ALUC. ALUC is subject to the 1978 Airport Environs Plan, and may not be able to approve any project in the area which meets the General Plan requirements until that plan is updated. A Comprehensive Airport Land Use Plan is in the process of completion at this time.

Commissioner Belmonte noted that in that transitional time, the project must include the required overriding findings. He asked that those findings be included in this resolution. Assistant City Attorney Barker suggested that this resolution be revised to summarize the history of the issue and refer to the overriding findings included in the City Council Resolution adopting the General Plan, a noticed public hearing.

Commissioner Belmonte verified that the findings were made in a public meeting. Acting Planning Director Hayes stated that the findings were specifically and verbally reviewed in the adoption of the General Plan.

Commissioner Belmonte agreed that it would be acceptable to amend the resolution to add a paragraph providing the history of the issue and refer to the overriding findings included in the resolution adopting the General Plan.

Commissioner Studebaker stated that as he was not comfortable with the conclusions reached in the Airport Impacts Study prepared for the Bidwell Ranch project by an acoustical engineer. That report is relied on for this project. He stated that he would be opposing this project for that reason.

Commissioner Carter stated that he does share some of the concerns raised at this meeting. He suggested that this is the type of project that the General Plan had in mind when it was written. He stated that the project applicant should be commended for working with staff and the Commission for implementing as many procedures and policies of the General Plan as possible.

COMMISSIONER CARTER MOVED APPROVAL OF VESTING TENTATIVE SUBDIVISION MAP FOOTHILL PARK EAST (DRAKE) SUBJECT TO THE FINDINGS AND CONDITIONS CONTAINED THEREIN, AND ADOPT RESOLUTION NO. 97-11, MAKING THE ENVIRONMENTAL FINDINGS LISTED IN THE STAFF REPORT, AMENDED AS PREVIOUSLY DISCUSSED, AND CERTIFICATION OF THE FINAL ENVIRONMENTAL IMPACT REPORT. COMMISSIONER WRIGHT SECONDED THE MOTION. THE MOTION WAS APPROVED BY A

VOTE OF 5-1-1 (COMMISSIONER STUDEBAKER OBJECTED, COMMISSIONER DIETLE ABSTAINED).

**BUSINESS FROM THE FLOOR**

None.

**ADJOURNMENT** -

There being no further business, the meeting was adjourned at 12:45 A.M. to the Adjourned Regular Meeting of June 16, 1997.

July 7, 1997  
Date Approved

/s/  
Tom Hayes  
Acting Planning Director

**PLANNING COMMISSION**  
MEETING OF JUNE 16, 1997

**ROLL CALL**

The meeting was called to order by Chair Monfort at 7:30 P.M. in the Council Chambers of the Chico Municipal Center. Commissioners present were Barry Belmonte, Jolene Dietle, William Hamilton, Kirk Monfort, Jonathan Studebaker, Larry Wahl and Michael Wright. Staff present were Director of Public Works E.C. Ross, Assistant City Attorney Lori Barker, Police Sergeant Mike Weber, Community Development Director Tony Baptiste, Community Development Assistant Clif Sellers, Senior Planner Stacey Jolliffe, Senior Planner Ed Palmeri and Administrative Secretary Karen Kracht.

Chair Monfort welcomed William Hamilton and Larry Wahl to the Commission and expressed appreciation for the dedication of the two Commissioners Jeff Carter and Brenda Crotts, who are no longer on the Commission.

**DISCUSSION OF EX PARTE COMMUNICATION**

Commissioner Wright stated that he had received a telephone call from Bob Capshaw regarding lighting issues to be discussed in Item 6.

**CONSENT AGENDA**

**1. Minutes of Adjourned Regular Meeting of May 19, 1997.**

**Requested Action:** Approve with any corrections/revisions required.

Commissioner Studebaker moved for approval of the Minutes of May 19, 1997. Commissioner Dietle seconded the motion which was approved 5-0-2 (Commissioners Wahl and Hamilton abstaining as they were not on the Commission at that time).

**REGULAR AGENDA**

- 2. Use Permit No. 97-7 (Chico Evangelical Free Church)** - A **revised** request to allow an expansion of the existing church facilities located at 1193 Filbert Avenue to include acquisition of an adjacent single family residential lot at 665 Bryant Avenue, identified as Assessor's Parcel No. 045-291-003, and construction of a 9,600 square foot building addition to be used for Sunday school and Bible study. The revised project proposes to retain the existing residence and reduces the size of the building expansion by 2,000 square feet. The property is in a R-1 Single Family Residential zoning district and is designated Low Density Residential in the General Plan. This project has been determined to be Categorically Exempt from environmental review pursuant to Section 15301(e)(2), Existing Facilities, of the California Environmental Quality Act (CEQA).

Sr. Planner Jolliffe reviewed the staff report, and explained the modifications from the previous request, including the reduction of building size and retention of the single family home. She noted that staff received a number telephone calls from concerned neighbors regarding the project. These concerns addressed issues including future expansion of the church over time, the possibility that the single family home may become a retail property, the environmental review process and the option of the church expand on its own property. She stated that the City does not regulate rental properties, and thus would have no control over the use of the house as a single family home. She explained that the project met the criteria

for a categorical exemption of CEQA, as the changes to the environment are minor. She reviewed the conditions of approval provided in the staff report, with the additional conditions of approval as listed on a handout to the Commission just prior to this meeting.

Chair Monfort asked about the modifications to Condition No. 3, as described in the handout. Sr. Planner Jolliffe explained that the City's legal council expressed concern because the City does not have the legal right to require annexation, the modified condition will require that if there is an expansion of the church facility, the use permit would be reviewed by the City.

Chair Monfort questioned if a school would constitute a new or expanded use of the church facility, even if it is on property under County jurisdiction. Sr. Planner Jolliffe replied that the proposal would be forwarded to the City's Planning Director for review of the future expansion's effect on this use permit and the area in general. She noted that if sewer service would be required for the expansion, annexation would also be required at that time.

Commissioner Wright inquired if the added condition requiring the retention of the existing residence should be modified to prohibit office use. Sr. Planner Jolliffe stated that the applicant has indicated that the residence would be used as a residence for a pastor or other church representative. It would be a modification of the use permit to put an office in that location.

Commissioner Wright questioned how the condition regarding length of time, five years, would affect the use permit in respect to the parcel merger. Sr. Planner Jolliffe noted that the church facility is already permitted by right. She explained that the merger is proposed as the requested building would cross property lines. The time limit is established to activate the use permit, or construct the building, not to begin the use itself.

Commissioner Hamilton asked how the condition regarding City review of future expansion under County jurisdiction would be enforced. Sr. Planner Jolliffe replied that any expansion on the County properties will be forwarded to the City and would then be evaluated by the Planning Director for its impact on the use permit.

Commissioner Studebaker reviewed the need to merge the parcels in order to construct the proposed building.

The public hearing was opened at 7:45 p.m.

Stan Figgins, 4685 Songbird, representing the applicant, reviewed the request, which the church feels will round out their facility by adding classroom capacity. He stated that the church needs to be able to prosper and grow and reach the capacity of its sanctuary. He indicated that the expansion is an economic measure to attract people and resources. He reviewed that the original submittal was denied by the Planning Commission based on the planned removal of the single family home. That residence will remain, and will not be an office, but used by a person associated with the church. He stated that the current proposal consolidates the buildings so that access to the church, classrooms and offices is through the parking lot.

Mr. Figgins indicated that a neighborhood meeting was held on June 9, 1997, which 11 out of 31 area households attended. No compromises occurred at that meeting. He suggested that the concerns of several Bryant Avenue residents were not able to be addressed. He noted that the main issue from the previous request was the impact to the property on Bryant and its impact on the adjoining neighborhood. He stressed that the single family residence would remain. The view of the proposed building would be

shielded from Bryant Avenue by the single family home and a landscaped buffer. He explained that the neighbors suggestion to build on the existing parcel would greatly impact church parking. He stated that parking is a valuable asset, placing a building on the existing overflow parking would risk congestion and parking on the street. He reviewed the other options the church had considered, noting that two independent studies had agreed that the current proposal is the best option.

Commissioner Wright questioned if the current entrance to the classroom building access would be limited to the Filbert entrance. Mr. Figgins acknowledged that during the week and evenings there is some parking on Filbert Avenue. He stressed that the entrance for the expansion will be onto the parking lot.

Commissioner Wahl inquired what impact a denial of this permit would have on the church. Mr. Figgins expressed concern that parking will be limited if a building is added on the existing property. He stressed that the church would find an alternative and continue to grow.

Commissioner Wright asked how the church came to the conclusion that additional space is needed in addition to current classroom and office facilities. Mr. Figgins stated that two independent studies conducted on the needs of the church, both of which came to the same conclusion that additional space is required.

Commissioner Wright reviewed the layout of the proposal, and suggested that the expansion would double the size of the sanctuary. Mr. Figgins explained that during church services there is a nursery and classes for younger children in the rooms adjoining the sanctuary. Roughly 30 percent of the 400 congregation members have children. He added that 80 percent of the adults attend Sunday school classes.

In response to a question from Commissioner Hamilton, Mr. Figgins agreed that there is need for some growth, though most of that growth will occur in the next 10 to 20 years. He added that the church expects to reach 85 to 95 percent of capacity and remain at that level.

Commissioner Hamilton asked for the current seating capacity of the church. Mr. Figgins replied that the capacity of the sanctuary is 540 people.

Commissioner Wright verified that there are non-Sunday uses of the facility. Mr. Figgins reviewed that the church offers Wednesday night services, youth activities throughout the week, single mothers organization meetings and prayer meetings, as well as offering use of the facility for other functions and for a election polling site.

Commissioner Dietle inquired if there are plans to operate a private school at the site and verified that to do so would constitute a change to the use permit and thus require Commission review. Mr. Figgins responded there are no plans at this time for that type of expansion. He noted that there had been a nursery school there three years ago which has been disbanded.

Lee Hotchins, 10 Sky Mountain Circle, pastor for the Evangelical Free Church, stated that other community related activities do occur at the church facilities throughout the week, which include basketball games and classes for the Parent Education Network. He stressed that the church allows these activities to facilitate the relationship between the church and the community.

Barbara Rupp, 1628 E. 8th Avenue, stated that she was speaking as a member of the Evangelical Free Church and as a realtor. She stated that it is her experience that home buyers do not generally voice

negative comments with regard to living near a church. She noted that she researched property values in Chico in the vicinity of churches. She explained that in the vicinity of both the Evangelical Free and First Lutheran churches for recently purchased homes, the average cost per square foot within one block of the church is \$84 per square foot, which reduced to \$79 per square foot outside that block. She urged the Commission to approve this use permit.

John Schwartz, 292 Parmac Drive, stated that he is a member of the church board. He noted that a church is allowed by use permit, and stated that he feels that the evidence supports the required findings as listed in the staff report. He reviewed the layout of the sanctuary. He stressed that the church does need more Sunday school space.

Commissioner Wright inquired if it might be more cost effective to renovate the unsuitable space in the old structure. Mr. Schwartz expressed concern that to renovate the existing structure would require that the sanctuary be closed during construction. He added that such a renovation would prove infeasible for sections of the building. He reiterated the need for the additional classrooms.

Mike Lundberg, 943 Bryant, stated that he had chosen to locate on Bryant because of proximity to the church and schools. He stated that he believes that the church is accountable to its members and to the community. He added that the church has been a good neighbor in the past and will continue to be. He urged the Commission to support the use permit.

Phil Harrold, 668 Bryant Avenue, expressed concern regarding compatibility of the proposed use with the neighborhood. He noted that while he was not opposed to church expansion for Sunday school or office needs, he was concerned with future growth of the facility. He questioned what point the church will reach its build out. He indicated that he had been approached by the church to purchase his property in the past. The intent of the church at that time was to build a school on the site. He added that he was aware the others in the neighborhood were also approached.

Chair Monfort verified that Mr. Harrold was aware that a school would require a modification of the use permit.

Mr. Harrold reviewed the location of other churches in the vicinity. He stressed that the church is currently located on a large parcel of land, much of which is used for overflow parking. He questioned if the Commission would indeed revoke the use permit, or tearing down the building, should the Church later decide to expand onto other sections of their property. He asked the Commission to consider how far can the church will be allowed to grow before it is detrimental to the neighborhood.

Don Holm, 651 Bryant, expressed concern with the proposal to convert a single family residential lot from a owner-occupied single family home to a rental unit and a large building. He noted that the environmental review should consider property values and the character of the neighborhood. He stressed that to reduce the single family home from being located on a 1/2 acre lot to a 17 foot rear yard will have major impact on the lot. He suggested that the cumulative impacts of the project have not been considered. He stated that Mr. Figgins had told him that the Church would be willing to purchase his property also. This would provide for cumulative impacts. He stated that at the neighborhood meeting, the neighbors did offer to withdraw their opposition if the church would be willing to commit to not purchasing further properties in the area. The church was not willing to accept that compromise on the basis of the uncertainty of the future. He stated that he was not opposed to the church activities, but does object to the conversion of residential property to institutional property.

Chair Monfort noted that the proposed conditions would not allow the applicant to use the home for office purposes.

Mr. Holm stressed that the project will have a negative impact on area property values. He stated his belief that the proposal violates General Plan policies to retain the scale and character of the neighborhood and the Municipal Code, Section 19.36.050.a, requiring 60 percent landscaped open space, as the church has almost no landscaped open space. He added that the Municipal Code does not allow expansion of a non-conforming use onto adjacent parcels, Section 19.24.080.a. He agreed that the church may need more space, but that his concern was for the neighborhood. He urged the Commission to deny the use permit.

Edgar Knox, 636 Bryant Avenue, noted that the neighborhood has developed in recent years with extensive remodeling and landscaping. He stressed the importance of maintaining the character of the neighborhood. He stated his belief that even though the house would remain, it would become a facade to cover the building behind it. He expressed concern that the church has not clarified if their future plans include acquiring other property in the area, as the church has made overtures to at least three other property owners. He added that the church has adequate space to put a large building on their existing property. He stressed that the church has indicated a desire to remain a medium-sized church. He suggested that while the church may feel this is an ideal solution to solve their space problems, they may not have adequately explored other options, including offering two services and Sunday school classes. He urged the Commission to take a long-range view in the matter and reject the proposal.

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The Commission was in recess from 8:30 p.m. through 8:45 p.m.  
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Suzanne Holm, 651 Bryant Avenue, expressed opposition to the project.

Bob Rose, 961 Karen Drive, stated that he is a member of the Evangelical Free Church and asked the Commission to support the use permit.

David Wilson, 648 Bryant Avenue, stated that he is not opposed to the church purchasing the property. He stated that he has improved and expanded his property considerably, using the backyard and the depth of the lot. He stressed that the size of the lots in the neighborhood create a character worth maintaining.

Jim Matthews, 665 Bryant Avenue, suggested that several of the speakers are more concerned with what might happen with the church in the future rather than if the church is a good neighbor. He stated that he purchased the house 20 years ago, during which time the church has been excellent neighbor. He indicated that he felt that the majority of the church neighbors purchased property because of the proximity to the church.

Al Rautt, 1198 Vallombrosa, urged the Commission to consider the potential for future expansion. He stressed his belief that it would not be necessary for the church to cross residential boundaries to expand, particularly as adding to the number of services could potentially double the size of the congregation. He urged the Commission to deny the proposal.

Louisiana Knox, 636 Bryant Avenue, stated that she is in opposition to the requested permit. She emphasized that the Commission had stated that the reason the original request had been denied because

the single family home would be removed. She expressed that a concern of many of the neighbors is that the owner-occupied single family parcel will no longer exist under this proposal. She indicated that the neighborhood meeting held did not resolve concerns as the church would not commit to limiting the number of members or setting a maximum growth rate. In addition, the church could not provide a benefit to the neighborhood in particular, rather it would provide benefits for the good of the community as a whole. She asked that the Commission deny the permit and urge the applicant to build any church expansions on the existing property.

Mark Dawson, 1095 E. Lassen Avenue, stated that he is in support of the use permit.

Mr. Figgins stated that the church has spoken to one other neighbor, offering to purchase property. Any other offers were not made seriously. He indicated that he was unaware of any previous discussion of purchasing property for a K-8 school. He disagreed that growth limits or the future size of the congregation is an issue for this use. He reviewed the four findings as listed in the staff report which must be made for approval of a permit, and indicated that each finding was substantiated.

Commissioner Studebaker verified that the church sanctuary has 540 seats and no plans to grow beyond that. Mr. Figgins restated that a church is limited by the size of the facilities they have. He stressed that the growth of the church will be slow and consistent.

The public hearing was closed at 8:55 p.m.

Commissioner Studebaker asked staff to address the Municipal Code sections described by Mr. Holm. Sr. Planner Jolliffe stated that a Code section referenced in the public hearing requires open space. She explained that if this lot is reviewed individually, it would not meet the open space requirement; that requirement will be met through the lot merger. She noted that the recommended conditions of approval include landscaping throughout the parking lot and limiting entrances to the building expansion. She added that the other Code section was with regard to the expansion of non-conforming use. The Church is not a non-conforming use, though some of the facilities may not be up to current standards; thus, that Code section is not applicable.

Commissioner Wright asked that Condition 3 be clarified. Assistant City Attorney Barker reviewed the suggested language. She explained that as any development of the parcel which is under County jurisdiction would affect City properties, the County would forward any proposal for that site to the Planning Division for review. Under that review, the City would only be able to review the use and make recommendations, and would not have jurisdiction to approve or disapprove the use. With that review, the Planning Director would be able to determine if there would be a substantial change to the use of the facility, and a modification of this use permit would be required.

Commissioner Wright questioned if it would be possible to mitigate any further additions to the existing facilities, particularly if it is on the County parcel. Sr. Planner Jolliffe stated that the process is intended to facilitate a cooperative process and allow City review for landscaping and architecture, and to suggest conditions of approval in the County process.

COMMISSIONER BELMONTE MOVED TO APPROVE USE PERMIT NO. 97-7 (EVANGELICAL FREE CHURCH), BASED ON THE FINDINGS AND CONDITIONS OF APPROVAL AS NOTED IN THE STAFF REPORT AND AMENDED IN THE ADDITIONAL HANDOUT.

Commissioner Belmonte stated that the current proposal brought forward is a good compromise, taking into account the concern of neighborhood to retain the scale and character of the neighborhood. He stressed that the proposal will ensure that the new building will not be able to be seen from Bryant Avenue; thus, retaining the character of the neighborhood and providing a good transition.

COMMISSIONER STUDEBAKER SECONDED THE MOTION.

Commissioner Wright agreed that some of the issues have been addressed, but noted that there are additional concerns. He expressed concern regarding the possible future expansion onto the back parcel, which will not have City oversight. He indicated his belief that the proposal will change the character of the neighborhood. He stated that he is opposed to the motion.

Commissioner Belmonte stated that while he is also concerned with the future use of the parcel, if there is any use proposed it would generate a nexus to require annexation or would be reviewed by the City as it will have an impact by City property. He added that many possible uses would require that the parcel be connected to City sewer service, and thus annex. At the very least, the proposed permit would require the City to review the impacts.

Commissioner Wright reviewed Sr. Planner Jolliffe's comment that the County/City review would allow the City to review landscaping and/or architecture but not denial of the project. Sr. Planner Jolliffe stated that development of the parcel in the County would require a County use permit, which would then provide an opportunity for the City to make recommendations on conditions of approval which may be appropriate.

Commissioner Wright suggested that it may be likely that the County would not deny the use of the property. He inquired if denial of a use permit constitute a regulatory taking. Assistant City Attorney Barker replied that regulatory taking does not apply to a use permit.

Chair Monfort suggested that anything built on the County parcel will need to be connected to sewer, and inquired if annexation would then be required. Director of Public Works Ross replied that if a parcel which needed sewer service is immediately adjacent to City boundaries, the parcel would be required to annex for the sewer service.

Commissioner Belmonte asked that the Commission confine the issues to those required for the findings for this use permit.

THE MOTION WAS APPROVED 5-2 (COMMISSIONERS DIETLE AND WRIGHT OPPOSED).

- 3. Use Permit 97-16 (Gulbransen)** - A request to allow the construction and operation of a 2290 square foot building to be used for private events and banquets on property located at 853 Manzanita Court, and identified as Assessor's Parcel No. 006-240-034 in a C-1 Restricted Commercial zoning district. The property is designated Community Commercial in the General Plan. Based on the initial study for environmental review prepared for this project, the Planning Division is recommending that a negative declaration be adopted pursuant to the California Environmental Quality Act (CEQA). A "negative declaration" is a determination that a project will not have a significant impact on the environment.

Commissioner Dietle stated that she will be abstaining from this item as the applicant has financial dealings with her employer.

Sr. Planner Jolliffe presented the staff report and reviewed the parking requirements. She also reviewed the findings and recommended conditions of approval as contained in the staff report.

Chair Monfort verified that the required parking would be able to be achieved on the lot. Sr. Planner Jolliffe explained that the detail will be worked out with Engineering Division following action on the use permit.

The public hearing was opened at 9:15 p.m.

Brant Knightingale, 1340 Jeannie Lane, Paradise, representing the applicant, stated that he would like to clarify that the hours of operation will be 7:00 a.m. to 12:00 a.m. to allow for breakfast to be served early. Sr. Planner Jolliffe stated that staff would support that modification as there would not be amplified noise at that hour.

Chair Monfort questioned if the encroachment into the creekside setback that currently exists would be removed. Mr. Knightingale explained that the building is not in the setback, the fence is.

Sr. Planner Jolliffe noted that the project will be subject to Architectural Review Board approval.

The hearing was closed at 9:20 p.m.

COMMISSIONER STUDEBAKER MOVED FOR APPROVAL OF USE PERMIT 97-16 (GULBRANSEN), MAKING THE FINDINGS AND WITH THE CONDITIONS AS LISTED IN THE STAFF REPORT, WITH THE MODIFICATION THAT HOURS OF OPERATION BE FROM 7:00 A.M. THROUGH 12:00 A.M. COMMISSIONER WAHL SECONDED THE MOTION WHICH WAS APPROVED 6-0-1 (COMMISSIONER DIETLE ABSTAINED).

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The Commission was in recess from 9:20 p.m. through 9:30 p.m.  
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**4. East First Avenue and Verbena Avenue Public Street Subdivision No. 97-3 (City of Chico) - A request to allow the subdivision of 1.76 acres into 10 lots for the development of single family residences on property located at the southeast corner of the intersection of the East First Avenue extension and Verbena Avenue, identified as Assessor's Parcel Nos. 045-380-025, 026 and 027 in a R-1 Single Family Residential zoning district. The property is designated Low Density Residential in the General Plan. This project has been determined to be consistent with the previously adopted Mitigated Negative Declaration for the East First Avenue and Verbena Avenue Park and Residential Site (adopted May 1994), pursuant to Section 15162, Subsequent EIRs and Negative Declarations, of CEQA.**

Sr. Planner Palmeri reviewed the staff report for the property which is owned by the City of Chico. He noted that there was a previous mitigated negative declaration affecting this property which was adopted by the City Council. All the mitigation measures contained in that Negative Declaration will also be

adopted with this subdivision. He reviewed the proposed subdivision which has an overall density of 3.85 units per acre. One of the issues previously addressed was in regards to traffic and circulation; the proposal is for Shepard Lane not to connect to E. 1st Avenue, but be retained as bicycle and pedestrian access only. The subdivision will incorporate a Class 1 bicycle path. He reviewed the grounds for denial for subdivision per the Subdivision Map Act, and noted that staff feels that as there are not grounds for a denial of the subdivision.

Chair Monfort verified that as the Mitigated Negative Declaration was adopted some time ago, it does not require airshed factors which have been included in recent subdivision such as piping natural gas to patios and fireplaces. Sr. Planner Palmeri suggested that if the Commission desires such mitigation, it would be appropriate to add those as conditions to the map.

Chair Monfort stated that he would recommend such a condition following the public hearing.

Commissioner Belmonte reviewed the history of the project and inquired if the number of lots in the subdivision has changed. Sr. Planner Palmeri replied that the number of lots in the current proposal is consistent, though it was initially was proposed for higher density development, which has now been reduced. Commissioner Belmonte stated that it was his belief that there had been 8 lots proposed in 1994, a lower density to what is proposed at this time.

Community Development Assistant Sellers stated that the environmental documents anticipated residential development at two locations, with 14 units proposed for this area, and another section of the site to have a Planned Development at 24 units per acre. Council did not pursue any development on that section at that time. It will require further action by Council before that area can be developed.

Commissioner Studebaker inquired if school mitigation would be applied. Sr. Planner Palmeri replied that school mitigation is standard mitigation for all subdivision projects.

The public hearing was opened at 9:45 p.m.

Ron Husa, 2 Renee Circle, stated that it was his belief that the final Council decision was that all the properties would be 1/4 acre or larger developed with single-story, single-family homes. The proposed map has lots as small as 1/6th of an acre. He expressed concern with the future development of the remaining 11 acres of the site, and how the development of that acreage would affect both the existing residences and those in this proposal.

Community Development Assistant Sellers stated that while staff does not recall a commitment to 1/4 acre lots, the parcels do correspond in size to the adjacent parcels. In response for concerns for the westerly boundary, he reiterated that the development of that property would require further Council public hearings and action.

Chair Monfort inquired if the large map was to scale. Director of Public Works Ross replied that it is relatively to scale.

Chair Monfort compared the lot sizes proposed to those of adjacent lots.

The public hearing was closed at 9:50 p.m.

Chair Monfort reviewed his request to add a air quality mitigation to supply natural gas to patios and fireplaces. He indicated that the Butte County Air Quality Management District is attempting to slow the use of charcoal and are soon to be requiring gas fireplaces. He added that he would also like to encourage requiring 110v outlets on the outside of houses to encourage use of electrical lawn-maintenance equipment. He noted that in the traffic study for Mitigated Negative Declaration, Page 251, it requires that a stop sign be installed at E.1st Avenue and Verbena. He noted that the City has opted for a Y-intersection, such as that at Woodland and Cypress Avenues. He suggested that a T-intersection or a traffic circle be considered. He added that as the Subdivision Report indicates that a maintenance district is to be setup to maintain the bikeway on Shepard Way, it could also pay for the maintenance of the traffic circle.

COMMISSIONER WAHL MOVED TO APPROVE EAST FIRST AVENUE AND VERBENA AVENUE PUBLIC STREET SUBDIVISION NO. 97-3 (CITY OF CHICO) SUBJECT TO THE FINDINGS AND CONDITIONS OF APPROVAL AS WRITTEN BY STAFF. COMMISSIONER HAMILTON SECONDED THE MOTION.

Commissioner Wright stated that he would not vote in favor of the motion as it does not include the electrical outlets and gas piping as suggested by Chair Monfort. He stressed that it is not appropriate to exclude the City from measures required of other developments. He noted that he is not in support of a traffic circle at this time.

Commissioner Dietle stated that as the Commission has imposed the electrical outlets and gas piping on private developments in the recent past, the Commission must also impose it on a City project. She added that she is not in support of requiring a traffic circle.

Commissioner Belmonte agreed with Commissioner Dietle. He added that he would like to see further studies on traffic circles.

Commissioner Wahl asked where is the nearest natural gas connection would be. Director of Public Works Ross stated that natural gas will be available to all these units.

Community Development Director stated that outdoor electrical outlets are required by the Building Code.

THE MOTION WAS NOT APPROVED BY A VOTE OF 1-6 (COMMISSIONERS BELMONTE, DIETLE HAMILTON, MONFORT, STUDEBAKER AND WRIGHT OPPOSED).

COMMISSIONER BELMONTE MOVED APPROVAL OF MOVED TO APPROVE EAST FIRST AVENUE AND VERBENA AVENUE PUBLIC STREET SUBDIVISION NO. 97-3 (CITY OF CHICO) SUBJECT TO THE FINDINGS AND CONDITIONS OF APPROVAL LISTED IN THE STAFF REPORT, WITH THE ADDITION OF A CONDITION TO INCLUDE GAS LINES TO BE RUN TO FIREPLACES AND PATIOS. COMMISSIONER HAMILTON SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

- 5. Walnut Park Vesting Tentative Subdivision Map (Capshaw)** - A request to modify a condition of approval of a previously approved and finalized Vesting Tentative Subdivision Map to allow installation of alternative pedestrian scale street lights not in conformance with City design criteria. Walnut Park Subdivision is located at the northwest corner of East 8th Street and Centennial Avenue. The Walnut Park Subdivision consists of 31 single-family lots on 14.7 acres. This project has been determined to be consistent with the previously adopted final Environmental Impact Report adopted for the Walnut

Park Vesting Tentative Subdivision Map (adopted July 1994), pursuant to Section 15162, Subsequent EIRs and Negative Declarations, of CEQA.

Director of Public Works Ross reviewed the request to modify the standards for the design criteria for street lights. He described the three different approved light standards. He stressed that staff has requested the calculations for the level of lighting from the supplier. That information has not yet been received. He reviewed a display depicting the proposed lighting and the line of light it would create. He recommended that in order to protect Bidwell Park by confining the light, the proposed lights should not be allowed. He stated that without having the information from the manufacturer, it is difficult to make a specific recommendation. He reviewed the standard requirements for street lighting in different areas.

Chair Monfort questioned what effect lowering the standards would have on the light levels. Director of Public Works Ross explained that there is a concern regarding the uniformity level, to maintain light from section to section of a street to avoid blinding a vehicle driver. He added that lowering the standard would require more lights to uphold the recommended lighting level.

Commissioner Hamilton asked what the fixed costs are for maintaining lights and what effect a new standard could have. Director of Public Works Ross stated that if the City were to adopt a new standard, it would require the City to cover the additional maintenance costs and stock a supply of the additional lights. He stressed that staff is also concerned with glare levels, as the lower the light is to the ground, the higher the amount of glare.

Chair Monfort verified that two previous subdivisions, Mission Ranch and Carriage Park already use this standard. Director of Public Works Ross noted that Carriage Park has a maintenance district to cover the street lighting. He acknowledged that there are other subdivisions in the City which do not meet the standard, but he does not recommend that such a policy be continued.

Chair Monfort suggested that the Commission may want to consider having different standards for different areas within the City. He asked how long it would be before staff could provide the Commission with a new standard to review. Director of Public Works Ross replied that further standards could be available for review in a few months, as the information from the manufacturer must be available to make a recommendation.

The public hearing was opened at 10:10 p.m.

Bob Capshaw, 191 Chico Canyon Road, the applicant, reviewed the lighting plan and stressed that the lighting standard does have a top to reduce the amount of lost light. He noted that while the City offers an alternative standard, a candy-cane standard, no developer in the City has used the light as it is not economically feasible. He indicated that he has been working with Sternberg, the manufacturer, on the lighting. He explained that this light standard is cost-effective and compared the costs for other City-approved standards (the proposed Sternberg light costs \$800 per light, \$1650 for the candy-cane light, and \$750 for the standard SLK-1 (cobra) light). He stressed that the project is in a rural area with few lights. He noted that the 8-foot planting strip holds the street lights and trees; the trees will affect the amount of light actually reaching the ground. He stressed that the proposed standard is shorter, and thus beneath the canopy of the trees at full growth.

Chair Monfort asked Director of Public Works Ross if the City were to reduce the amount of light required, would there still be a need for twice as many candy-cane lights. Director of Public Works Ross

replied that in order to achieve the level of lighting being required, 0.4 lumens, given the function of uniformity and the height of the fixtures, it would be necessary to require decreased spacing between the lights. He stressed that these lights are being considered for the interior of the subdivision, not on East 8th Street or Centennial Avenue. He noted that Mr. Capshaw had stated that the cobra heads on Centennial Avenue will change the rural atmosphere of the road, along with the full street improvements and street trees.

George Matthews, 318 Orient Street, speaking as an individual, noted that on a recent Architectural Review Board project, the board received a complaint about bad exterior lighting. He reviewed documentation from the Energy Commission on lighting in Vermont and suggested that the City can save money on directing light toward the ground. He urged the Commission to create standards which are rural or semi-rural. He asked the Commission to encourage developers to not use the cobra lights, which can provide an excessive amount of light. He urged the Commission to be flexible.

Greg Steele, 603 Parkwood Drive, stated that he is concerned with the preservation of the neighborhood. He noted that there are three active neighborhood councils in the City, including the South Bidwell Park Neighborhood Council of which he is a member. He indicated his belief that it is important to emphasize the rural and semi-rural neighborhoods. He suggested that Finding D, as contained in the staff report, can be made as the project with City standards is inconsistent with the existing surrounding area which does not have sidewalks, curbs, gutters or street lights. He agreed that Centennial Avenue may require larger street lights as it handles increased traffic in the future. He suggested that Mr. Capshaw wait on the project for two months while the lighting standard is being researched, and if that is not possible, he urged the Commission to allow a variance within the interior of the project.

Commissioner Belmonte inquired, in regards to the neighborhood council comments, did the neighborhood council have a dialog with City staff and/or the developer. Mr. Steele stated that the outcome of the meeting with Director of Public Works Ross and the City Manager was that the information from the manufacturer had not yet been received to make a recommendation based upon.

Commissioner Belmonte stated that the Commission will need to act on this request at this meeting unless it is with the agreement of the developer to delay the project.

Mr. Capshaw stated that as there have been many delays on the project at this point, he would like a determination as soon as possible. He stated his belief that this proposal has the best possible light fixture for the cost. He noted that he would like to have the same fixtures on Centennial Avenue also and urged the Commission to establish a rural lighting standard.

Commissioner Belmonte stressed that compatibility with existing neighborhoods is important, although whatever lighting is installed, it would not be compatible with the neighborhood. He pointed out that the neighborhood residents would like less light and asked staff if it is possible to reduce the amount of lighting required. Assistant City Attorney Barker replied that this request is for a modification of City standards. The Municipal Code allows modification of this standard as long as findings can be made, based on several items, as listed in the staff report. Director of Public Works Ross added that if the Commission does make the finding, staff will need direction as to how to modify the standard based on type of light, glare and uniformity.

Mr. Capshaw reviewed that the subdivision has already been wired for the cobra head pattern, which could be used with the proposed standard.

Commissioner Belmonte suggested that Mr. Capshaw ask for a workshop between the Bidwell Park Neighborhood Council and the Commission to discuss the lighting standards to be placed on East 8th Street and Centennial Avenue. Mr. Capshaw stated that a meeting was held with staff, including a Councilmember and a former Commission member. He stressed that the Engineering Department has recommended that one light standard be used throughout the City.

Commissioner Hamilton stated that a standard needs to be established for future uses and to reduce maintenance costs. Director of Public Works Ross explained that the cost is not that appreciable for this particular light, though it does not meet the City's standards. The proposed fixture does not keep the light from going into the night air, as the cobra head does, which is the current City standard.

Commissioner Hamilton asked staff to address concerns regarding the light getting lost in the tree canopies, and if a lower standard would save in tree trimming costs. Director of Public Works Ross stated that the problem does occur often, although the Urban Forester does try to place trees at the best possible distance. Lowering the standard would not have a significant impact on the cost of maintaining the street trees.

Commissioner Hamilton asked if staff could accept the proposed standard as the fixed costs are low and if such a standard could be used as an alternative in the future. Director of Public Works Ross expressed concern that the glare factor has not been addressed. He noted that there are other issues which relate to the fixtures.

Mr. Capshaw pointed out that the staff report states that the light fixture proposed is putting out 60 percent of the light required. He explained the problems associated with light escaping into the night. One-third of the light with the proposed standard is directed down. All these proposed fixtures will be installed in a planter area, and be within a tree canopy. He stressed that he would like these fixtures approved and the standard adopted for use on Centennial Avenue at a later date.

Mr. Steele again reviewed Section D of the required findings. He suggested that the developer be allowed to use these fixtures for the interior of the subdivision and consider the fixtures on Centennial Avenue at a later date. He added that the neighbors and the developer agree on the fixture for the interior of the project.

Commissioner Belmonte stated that if this project was located in a more developed area, it would make sense to go with City standard. But because it is close to the Park and within an area which has already been developed without street lights, a rural standard is more desirable.

Commissioner Dietle pointed out that light spilling into the Park should not be a concern as the Park is closed at night.

The public hearing was closed at 10:55 p.m.

Sr. Planner Jolliffe stated that she had visited the Carriage Park subdivision after dark to observe the proposed lighting fixture. Based on that observation, the light spillage provides more appearance of light. If the standards are amended to provide more rural character, this light may not provide that. She commended Mr. Capshaw for challenging staff to review the street light standard.

Commissioner Wahl inquired why, if the surrounding neighbors do not have street lights, is this subdivision required to install street lights. Director of Public Works Ross stated that it is required that any development occurring within the City of Chico to meet the standards adopted by the City Council.

COMMISSIONER WRIGHT MOVED TO APPROVE THE REQUEST FOR MODIFICATION FROM THE CITY LIGHT STANDARDS FOR INTERIOR STREETS OF THE WALNUT PARK SUBDIVISION, SUBJECT TO FUTURE REVIEW FOR THE 8TH STREET AND CENTENNIAL AVENUES FRONTAGES, BASED ON THE FINDING THAT AN INTERFACE WITH RURAL AREAS AND BIDWELL PARK, AND THE FINDING THAT THE EXISTING SURROUNDING NEIGHBORHOOD DOES NOT CONTAIN LIGHTING FIXTURES. COMMISSIONER DIETLE SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY APPROVED.

Chair Monfort suggested that the Commission consider establishing a rural standard, which would provide lower intensity, cut-off and uniformity. Director of Public Works Ross stated that staff can investigate the types of light standards would meet the criteria and return to the Commission at a later date.

Mr. Capshaw asked that cosmetics and cost also be considered.

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The Commission was in recess from 11:00 p.m. through 11:15 p.m.  
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**6. Rezone No. 97-04** - A proposal to adopt an overlay zone for the South Campus Area generally described as those properties bounded on the north by West First Street and the California State University, Chico campus, on the east by Salem Street, on the south by West Ninth Street and on the west by the City limits, excluding Rosedale School and properties on Via Los Arboles. The proposed overlay zone will not change the existing zoning. If approved the overlay zone would allow fraternities, sororities and other social organizations as permitted uses on properties zoned R-3 Medium-High Density Residential Zoning District and RHD Residential High Density Zoning District. The organizations would be allowed to install organizational identification signs, have a limited number of fund raising events, meet less stringent off-street parking requirements and provide information regarding organization's officers and sponsors to the City and neighborhood council(s). Based on the initial study for environmental review prepare for this project, the Planning Division is recommending that a negative declaration be adopted pursuant to the California Environmental Quality Act (CEQA). A "negative declaration" is a determination that a project will not have a significant impact on the environment.

Chair Monfort noted that as an ordinance has not been presented to the Commission, following the public hearing, the Commission will most likely continue this item.

Sr. Planner Palmeri reviewed the staff report. He noted that the fraternity/sorority issue has been around for a number of years. In May 1996, The Commission recommended an outlined detailed plan to the Council for an overlay district. The concept of an overlay district is to allow for specific uses for specific purposes in a certain area; this district would include administrative permits to allow social organizations to receive a permit. The Social Organization Subcommittee of the Planning Commission considered the boundaries for the proposed overlay zone, and have recommended the boundaries be limited to the area

described in the staff report. The parking incentive would allow social organization to have only two parking spaces, rather than paving over the yards to provide parking, thus retaining the character of the neighborhood. He noted that another major concern is the proposed limitations regarding special events. These events would be an opportunity for the organizations to raise funds. The proposal recommends that such events be allowed a limited number of times per year under a permit process. The permit process for the events would protect the City and ensure neighborhood compatibility, as well as protect the organizations. He stated that the draft ordinance is being prepared, although there are still some legal issues to be ironed out.

Commissioner Studebaker expressed concern that, as a former member of the Subcommittee and having attended some of the South Campus Neighborhood Council meetings, there has not been much input from the fraternities and sororities. Sr. Planner Palmeri agreed that recently staff has not received much input from the 'Greek houses' but noted that notices of this hearing were mailed to all the properties, both owners and occupants, in the affected area.

Commissioner Studebaker stressed his concern with a proposal to implement an overlay zone for a group of people from whom there has been little heard from. Sr. Planner Palmeri indicated that the Fraternity/Sorority/Social Organization Subcommittee that met several years ago did meet with the Greek houses before developing the proposal which was presented to the Council in May, 1996.

Chair Monfort noted that there were a number of students present at the last Fraternity/Sorority Subcommittee meeting.

Commissioner Hamilton questioned if the boundaries could be changed. Sr. Planner Palmeri replied that although the overlay zone has some limitations within the area, it would not preclude an organization from applying for a use permit in a R-2 or R-3 zone. He added that staff and Commission have received a letter from Mr. Stahl, who would like his property, south of the boundary, to be included. He explained that the boundary lines were chosen as a reflection of several things, including the concentration of social organization and natural boundaries such as 9th Street. In terms of the westerly extent, Walnut Street was chosen as to not encourage a number of students walking across major arterials. He stressed that it is appropriate to draw some line for a boundary.

Community Development Director Baptiste stated that there are several issues which need to be discussed. One of the primary concerns is how to deal with special events or fund raisers, determining how many events would be allowed, and what constitutes a special event. He stressed that the Police Department does have serious concerns that a definition for special events be established.

Sergeant Mike Weber, Chico Police Department, explained that it is not unusual for fraternities, sororities, or other social organizations to have large gatherings ranging from 100 to 800 people who have been drinking. He noted that in his 20 years of experience, the relationship between the Police Department and the fraternities has never been better. He stressed that use of the Building Code and land use regulations are the best tools to help control the area. He explained that Police resources must be pulled into an area to monitor these large events. If four events are allowed per fraternity, it could severely impact the Department's resources. He noted that the proposed area already an impacted area for parking.

Community Development Director Baptiste suggested that a possible definition of special events would include the number of participants and the hours the event would be held, thus making the parameters understandable to all people and organizations involved.

Chair Monfort reviewed that the Commission's approval of use permits for these organizations over the years have contained several different conditions, each different from the other permits. The subcommittee had agreed to subject the organizations to the same rules and regulations of every other citizen. Private citizens do have fund raisers and parties. If the neighbors complain, the police could be called to shut it down. By requiring an organization to receive a permit for an event, there would be record of an individual's name and phone number to contact.

Sgt. Weber replied that there have been several parties and gatherings by fraternities or sororities which have not generated complaints. The concern is for gatherings of several hundred persons and the potential for what could occur.

Community Development Director Baptiste suggested that if the problem has to do with the size of the event, and the permit process is to be used, the size of the event should be considered in the conditions. By subjecting the organizations to the same rules as the rest of the community, those rules may not allow functions which are not allowed in residential areas, such as live bands, banners and advertising. He added that another issue of concern with the prior proposal was the requirement for University affiliation, and whether that would be extended to affiliation with Butte College, as well as the inclusion of the broader term 'other social organizations.'

Chair Monfort stated that the Subcommittee has desired to remove the requirement of University affiliation.

Commissioner Hamilton suggested that four special events per year is appropriate, and may be excessive. Community Development Director Baptiste noted that there also could be multiple events occurring in the neighborhood on a single night.

Commissioner Hamilton suggested that the Commission discuss the situation with fraternities and sororities prior to determining the boundaries.

Commissioner Wright inquired if several large party problems had been traced to an organized student group or to a large complex(s) which resulted in several parties combining. Sgt. Weber replied that the problems can be caused by both organized fraternities and non-affiliated individuals. The concern is that the events will require Police resources to be pulled into the area and away from other parts of the community.

The public hearing was opened at 11:50 p.m.

Charlie Preusser, 1405 W. 3rd Street, representing the South Campus Neighborhood Council, stated that the original logic in establishing a large boundary zone was to allow a large enough stock of housing for organizations without raising the cost of the homes. He indicated that on the other side of Walnut Street, there are approximately 20 fraternities and sororities which do not have established houses, several of which do not have their 'letters' displayed. He expressed concern that if the parking requirement were reduced to two parking spaces per house, it would be only on existing houses which are not currently inhabited by organizations. He noted that at the intersection of W. 5th Street and Hazel there is a large fraternity house who had to put in parking at the cost of most of the yard. Other houses in the area do not have onsite parking, even two spaces, without removing the yard. He reviewed the land uses west of Walnut Street as being mainly student housing and other high-density housing. In addressing special events, the South Campus Neighborhood Council proposal had requested that the special events be separate, in order to reflect what is occurring in the area. He stated that the County has a similar

ordinance commonly called the "Dance Hall and Skating Rink Ordinance." He suggested that the area be considered as a "Student Overlay Zone," so other organizations can locate in the area without needing special use permits. He questioned why Commercial zoning was not included in the overlay district, as one fraternity is located in a Commercial zone.

Commissioner Studebaker noted that following the last "Greek Week" a number of fences were destroyed and asked what could be done to prevent this from occurring.

Mr. Preusser stated that he does not know why the fences were destroyed then, but noted that it does happen periodically. He stated that the Commission should react to changes in neighborhoods; fraternities and sororities are identifiable as part of those changes. He noted that Butte College had 4800 students between the ages of 18-25, and that California State University Chico has 11,000 students between the ages of 18-25. Those individuals should be able to choose to live in an area predominantly with a student lifestyle. He pointed out that at a recent Neighborhood Meeting for the Planning Commission's Neighborhood Subcommittee, it was suggested that the neighborhood define itself, such as the Cussick Area Neighborhood Council has done.

Paul DiGirolamo, 1046 W. 6th Street, stressed that the proposal is for an overlay district, and will not supersede existing laws. He noted that every problem discussed by Sgt. Weber is covered by current laws. He questioned why there hasn't been enforcement against commercial activities in the Residential zones, as they already exist and if such activities are only enforced in the neighborhood south of campus. He stated that he lives in a Commercial district. He suggested that if the City allows people the opportunity to be responsible, they might live up to it.

Bill Priel, 666 Esplanade, stated that he owns property in the area being considered for the overlay district. He noted that while he did not find out about the proposal until recently, he was not opposed to it but does have reservations. He inquired if the Greek letters for the fraternities/sororities will be required to meet with the City sign ordinance regulations. He urged the Commission to clarify what is considered a fund raising event. He cautioned against less stringent parking requirements as parking for his and other area businesses are impacted with University parking at this time. He pointed out that there is a lack of continuity as the social organizations change officers ever year. He added that there is also a lack of continuity between County and City police protection throughout the area. He stressed that off-street parking is required by the Building Code, and should be required of all buildings. He suggested that there be a meeting between the Subcommittee and area business owners.

Kesham Jennings, 1022 Normal Street, stated that he was representing the South Normal Homeowners Association. He expressed concern that the area is impacted by students, and thus, raises the ambient noise levels. He noted that most of the residents in the area are renters, with few owner-occupied homes. He expressed concern with the notification process as he did not find out about this hearing until the last minute. He stated that even though everyone is a citizen, the students in general often do not necessarily respect the homeowners rights.

David Stahl, 905 Dayton Road, stated that he is in support the concept. He stressed that these events and activities are already happening. He stated that he would like his property to be included in the overlay zone, as it is large and could be used by a social organization. He noted that he had always been lead to believe that it would be included in the area.

Carolyn Lundberg, 629 Paseo Companeros, stated that she has owned property in the area. She stated that she was not opposed to the University, but expressed concern that most of the students are in Chico for

only a few years. She indicated her belief that the proposal would have significant impact on the environment. She urged that the boundary be established at West 7th Street in order to protect the 8th and 9th Street corridor and to protect the residents in the area to the south. She suggested that student housing takes on an unkept look and would become a redevelopment area. She stressed that there is a difference between a single-family residence and a student organization residence.

Karen Larson Cannell, 1620 Camper Lane, stated that she was not opposed to 'Greek' activities. She indicated that she had lived in the area, but now that she is starting a family they have specifically moved away from student housing. She stated that she was in support the Subcommittee proposal to extend the overlay zone to State Highway Route 32.

Maxine Rogers, 10 Coolwater Commons, stated that she owns property at 618 Salem and another on West 6th Street. She stated that she is opposed to the overlay concept as she felt is overly broad. She indicated her belief that each organization should have to go through the permit process as each neighborhood block is different. She noted that many of the area houses have already been converted into student rentals. She expressed concern with regard to the proposal to allow less-restrictive parking requirements as the City residents pay to have streets swept, which cannot occur if the cars are not moved. She stated that the area already has a problem with litter and parking on lawns, which would not be improved by this proposal. She suggested that the Commission address off-street parking needs and street sweeping.

Craig Bard, 230 Walnut Street #127, stated that he is a member of the South Campus Neighborhood Association. He stated that the members of the S. Campus Neighborhood Association are unanimously opposed to ending the overlay zone at Warner Street. He urged the Commission to allow the neighborhood to decide where the boundary of the neighborhood is. He indicated that he was pleased that many of the points in opposition to the proposal are things which are being addressed. He suggested that the west side of Walnut street has the same atmosphere as the east, thus, the proposed boundary is not the actual neighborhood. He urged the Commission to have a vision for the future.

The public hearing was closed at 12:35 a.m.

COMMISSIONER WRIGHT MOVED TO CONTINUE REZONE 97-04. COMMISSIONER DIETLE SECONDED THE MOTION.

An unidentified member of the public asked that the boundary be established before discussing the specifics of permitting special events and parking requirements.

Sr. Planner Palmeri suggested that the public hearing be continued to the July 7, 1997 Regular Meeting as Council has indicated a desire to resolve this issue.

THE MOTION WAS UNANIMOUSLY APPROVED.

### **COMMUNICATIONS**

7. **Letter from the Cussick Area Neighborhood Council**, dated May 23, 1997, regarding the M&T Ranch Tentative Map.

### **BUSINESS FROM THE FLOOR**

Commissioner Wright reviewed the correspondence received by the Commission at this meeting regarding a meeting at the airport on June 27th. He inquired if a majority of the Commission would like to adjourn to that meeting.

THERE BEING A CLEAR MAJORITY, COMMISSIONER STUDEBAKER MOVED TO ADJOURNED TO A SPECIAL MEETING THE CHICO MUNICIPAL AIRPORT ON JUNE 17, 1997. COMMISSIONER DIETLE SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

**ADJOURNMENT**

There being no further business, the meeting was adjourned at 12:37 A.M. to the Special Meeting of June 27, 1997 and the Regular Meeting of July 17, 1997.

July 21, 1997  
Date Approved

/s/  
Tom Hayes  
Acting Planning Director

## **PLANNING COMMISSION**

Meeting of June 27, 1997

An adjourned meeting of the Planning Commission was held at 9:00 a.m. on Friday, June 30, 1997, at Pacific Flight Services, 109 Convair Avenue at the Chico Municipal Airport.

### **Roll Call**

Present were: Commissioners Belmonte, Dietle, Hamilton, Wahl and Wright. City staff: City Manager/Airport Manager Lando, Risk Manager Koch, Director of Public Works Ross, Acting Planning Director Hayes, Management Analyst Forbes, Administrative Analyst Serl and Administrative Secretary Wallick.

Present from the City Council: Vice Mayor Andrews and Councilmembers Bertagna and Jarvis.

Present from the Airport Commission: Chair Lucas and Commissioners Coggins, Mohler and Sherwood.

Present from the Butte County Airport Land Use Commission: Commissioners Campbell, Gerst, Hennigan, Lambert and Alternate Commissioner Rosene.

Others present: Butte County Supervisor Curt Josiassen, and Fred Davis, Mark Francis, Bob Linscheid, Norm Nielsen and Margaret Schmidt of the Chico Economic Planning Corporation, Steve Iverson of the California Department of Forestry.

### **Summary of Meeting**

The Planning Commission met in joint session with the City Airport Commission which hosted an Airport orientation at Pacific Flight Services, the fixed base operation, to provide an opportunity to discuss matters relating to land use in the area surrounding the Airport, and to provide elected and appointed officials and staff an opportunity to view the land uses from the air.

Airport Commission Chair Lucas welcomed those in attendance and described the purpose of the meeting and the process to be used in viewing the land uses from the air, courtesy of Pacific Flight Services.

City Manager Lando provided introductory remarks regarding the Airport, the purpose and locations of the clear zones and the flight tracks to be flown for land use viewing.

While groups of those in attendance viewed the land uses from the air, others toured the Air Traffic Control Tower and California Department of Forestry Air Attack Base.

### **Adjournment**

Upon completion of flights and tours, the meeting was adjourned at 10:30 a.m. to the Regular Meeting of July 7, 1997.

July 21, 1997  
Date Approved

/s/  
Tom Hayes  
Acting Planning Director

**PLANNING COMMISSION**  
MEETING OF JULY 7, 1997

**ROLL CALL**

The meeting was called to order by Acting Planning Director Tom Hayes at 7:30 P.M. in the Council Chambers of the Chico Municipal Center. Commissioners present were Barry Belmonte, Jolene Dietle, William Hamilton, Kirk Monfort, Jonathan Studebaker, Larry Wahl and Michael Wright. Staff present were Director of Public Works E.C. Ross, Senior Civil Engineer Tom Alexander, Associate Civil Engineer Tom Varga, Assistant City Attorney Lori Barker, Building Official Dave Purvis, Acting Planning Director Tom Hayes, Senior Planner Ed Palmeri and Administrative Secretary Karen Kracht.

**SELECTION OF OFFICERS**

- 1. Selection of a Chairperson.** The Commission will elect a chairperson.

Acting Planning Director Hayes called for nominations for the chairperson.

Commissioner Belmonte nominated Commissioner Monfort. A vote was taken which was 5-2 (Commissioners Hamilton and Wahl opposed), electing Commissioner Monfort as chair.

- 2. Selection of a Vice-Chairperson.** The Commission will elect a vice-chairperson.

Chair Monfort called for the nominations for vice-chairperson.

Commissioner Studebaker nominated Commissioner Belmonte. Commissioner Dietle nominated Commissioner Wright. Chair Monfort nominated Commissioner Dietle. Commissioner Hamilton nominated Commissioner Wahl.

A vote was taken on the four nominations. All four failed to reach a consensus of the majority of the Commission.

Commissioner Dietle suggested that another vote be taken on the nominations. The chair again called for a vote on the nomination of commissioner Dietle and she [Commissioner Dietle] was elected vice-chair by a vote of 4-3 (Commissioners Belmonte, Studebaker and Wahl opposed).

Chair Monfort noted that the rezone for the Fraternity/Sorority/Social Organization, an overlay zone, is not on this agenda as had been anticipated. Sr. Planner Palmeri explained that staff is currently anticipating holding the next public hearing at the July 21 Adjourned Regular meeting. He noted that the Fraternity/Sorority Subcommittee is currently working with neighborhood groups in preparation for a recommendation.

3. **Appointment of Commissioners to Various Committees.** The Commission will appoint members to Planning Commission Subcommittees, including Neighborhood Planning, Fraternity/Sorority/Social Organization, City Council Agricultural Land Mitigation Committee, as well as to serve as alternates to the Architectural Review Board.

Chair Monfort called for volunteers to the various committees with Planning Commission representation. The appointments were made as follows; Neighborhood Planning Subcommittee - Commissioners Studebaker, Belmonte and Hamilton, Fraternity/Sorority Subcommittee - Commissioners Wright, Monfort and Studebaker, Council/County Agricultural Land Committee - Commissioner Belmonte, and alternate representation to the Architectural Review Board - Commissioners Wahl and Hamilton.

#### **DISCUSSION OF EX PARTE COMMUNICATION**

None.

#### **CONSENT AGENDA**

4. **Minutes of Adjourned Regular Meeting of March 17, 1997.**

**Requested Action:** Approve with any corrections/revisions required.

5. **Minutes of Regular Meeting of June 2, 1997.**

**Requested Action:** Approve with any corrections/revisions required.

Commissioner Wahl and Commissioner Hamilton stated that they would be abstaining from both items as the meeting were held prior to their being appointed to the Commission.

Commissioner Studebaker pulled Item No. 4 from the Consent Agenda.

COMMISSIONER DIETLE MOVED TO APPROVE THE MINUTES FROM THE REGULAR MEETING OF JUNE 2, 1997. COMMISSIONER WRIGHT SECONDED THE MOTION WHICH WAS APPROVED 5-0-2 (COMMISSIONERS HAMILTON AND WAHL ABSTAINED).

#### **ITEMS REMOVED FROM THE CONSENT AGENDA**

4. **Minutes of Adjourned Regular Meeting of March 17, 1997.**

Commissioner Studebaker asked that the response be clarified at the bottom of Page 2 to reflect that the Commission was told that there were no firm plans for that area. He explained that the statement had an affect on his vote on the project.

Acting Planning Director Hayes suggested that the following statement be added to the response: "He added that there were no additional improvement plans for Park Avenue north of 20th Street at this time." Commissioner Studebaker accepted the revision.

COMMISSIONER DIETLE MOVE TO APPROVE THE MINUTES FROM MARCH 17, 1997 AS REVISED. COMMISSIONER STUDEBAKER SECONDED THE MOTION WHICH WAS APPROVED 5-0-2 (COMMISSIONERS HAMILTON AND WAHL ABSTAINED).

## **REGULAR AGENDA**

- 6. Use Permit UP-97-9 (Golden Gate Petroleum)** - A request to allow the development and operation of a gasoline dispensing facility including a roll over car wash, convenience store and fast food restaurant with drive through on property located at the northwest corner of Baney Lane and Forest Avenue in a C-1 Restricted Commercial zoning district, identified as Assessor's Parcel No. 002-370-063 (ptn.). The site is designated Community Commercial in the General Plan. Based on the initial study for environmental review prepared for this project, the Planning Division is recommending that a negative declaration be adopted pursuant to the California Environmental Quality Act (CEQA). A "negative declaration" is a determination that a project will not have a significant impact on the environment.

Sr. Planner Palmeri presented the staff report on the proposal to develop the 1.1 acre site with a convenience store, quick service fast food restaurant with a drive through and a car wash. He noted that the Commission was handed three modifications to the proposed mitigations, which have been approved by the applicant for Commission review. He stated that this market will service the existing residential subdivisions to the east of the project, as well as others who may be coming from other commercial uses in the area. Staff is recommending that the findings can be made to approve the facility and the adoption of the negative declaration. He then reviewed the proposed conditions of approval.

Commissioner Belmonte stated that he will be abstaining due to a business interest within 300 feet of the project.

Commissioner Studebaker questioned the modification of Condition No. 4 requiring additional parking lot shading and it will be implemented. Sr. Planner Palmeri explained that this condition is a carryover from a previous subdivision of the area. Compliance with the condition will be verified upon plan check. Assistant City Attorney Barker added that architectural review will provide additional scrutiny.

Chair Monfort inquired if the diagram in the packet is accurate. Sr. Planner Palmeri noted that while it has yet to be reviewed by the Architectural Review Board (ARB), this is the most accurate plan to date.

The public hearing was opened at 7:50 p.m.

Jim McGrath, RHL Design Group, 1137 North McDowell Blvd, Petaluma, representing the applicant, stated that the project has been in the process for over six months, with representatives meeting with staff over that time to discuss design, traffic circulation and other issues. He stated that the applicant has reviewed the staff report and mitigations and agree with the conditions of approval. He noted that the project has received preliminary ARB approval and, following Commission action, it will be returned to ARB for final review, at which time the additional landscaping and shading will be implemented. He indicated that representatives from Golden Gate Petroleum were present to address questions on the operations of the facility. He stressed that the applicant did, at staff's request, hire a consultant to produce a detailed traffic and air quality study, from which the mitigation measures were drawn from that study.

The public hearing was closed at 7:55 p.m.

COMMISSIONER WRIGHT MOVED TO APPROVE USE PERMIT UP-97-9 (GOLDEN GATE PETROLEUM), SUBJECT TO THE FINDINGS AND CONDITIONS OF APPROVAL CONTAINED

IN THE STAFF REPORT, AND ADOPT THE MITIGATED NEGATIVE DECLARATION. COMMISSIONER DIETLE SECONDED THE MOTION.

Chair Monfort reviewed the modifications to the conditions of approval.

THE MOTION WAS APPROVED 6-0-1 (COMMISSIONER BELMONTE ABSTAINED).

Sr. Planner Palmeri noted that there is a 15-day appeal period following Commission action on this use permit.

- Use Permit No. 97-22 (Alternative Materials Technology)** - A request to allow a paint manufacturing business, with up to 40 employees. The proposal is to relocate and expand an existing business on Humboldt Road where water based paints are mixed and sold for commercial use in large quantities, and begin the new use of manufacturing solvent based paints. The business will occupy a total of 27,000 square feet within a new 45,000 square foot building on property located at 311 Otterson Drive, Assessor's Parcel No. 039-060-105 in a M-1 Limited Manufacturing zoning district. The General Plan designation for the property is Manufacturing and Warehousing. Based on the initial study for environmental review prepared for this project, the Planning Division is recommending that a negative declaration be adopted pursuant to the California Environmental Quality Act (CEQA). A "negative declaration" is a determination that a project will not have a significant impact on the environment.

Acting Planning Director Hayes presented the staff report, adding that a use permit is required as the business will be producing a solvent-based paints which are not a permitted use in Limited Manufacturing districts. Staff believes that the use is compatible and of similar nature to other M-1 Limited Manufacturing businesses. The applicant has presented material displaying the types of solvents and related mixing processes. He reviewed the adjacent uses, including Duckback and the Southern Pacific Tank Yards which are in close proximity, and in M-1 Limited Manufacturing and M-2 General Manufacturing districts. He stated that Dave Purvis, Building Official, is present to answer any questions regarding the control and containment in the manufacturing process so as not to impact adjacent businesses or residences. He reviewed that staff is recommending approval of the use permit and adoption of the mitigated negative declaration.

Chair Monfort noted that the applicant has supplied additional evidence of the product production, which shows that air quality, water quality, and Butte County environmental requirements are met. He asked if approval from the Water Pollution Control Plant Supervisor is a normal request. Acting Planning Director Hayes replied that normally such requests are a combined effort of the Fire Department and Water Pollution inspection and permitting process, which will verify that the details and handling of the materials will not have an impact on the sewer system.

Chair Monfort inquired about the parking requirements. Acting Planning Director Hayes stated that as the neighboring business is a warehousing use, which are low parking generators, the parking on the site will be shared. With the overall size of the two buildings, City parking requirements will be met.

Commissioner Studebaker inquired if the empty drums will be completely empty or will they have just been emptied.

The public hearing was opened at 8:10 p.m.

Harold Schooler, representing the applicant, stated that the company has been in Chico for a number of years, although some of their products are made in Yuba City and Berkeley. This permit will allow the consolidation of their operations to Chico. He stressed that Alternative Materials Technology does not manufacture the raw materials, and does ship the end product in bulk form, not in retail-style gallon cans. The company in the future, with this approval, will bring 15 jobs back to Chico and create additional jobs with growth. He reviewed the production process in which the vapor elements are combined in a hooded environment for the safety of the operator and saving the vapors for future condensation and reuse. The vapors are product and must be saved, otherwise relates to a loss of product. In response to Commissioner Studebaker's question, he stated that the drums stored in back are either new drums to be used for product, or are drums which are recycled for refilling. He stressed that the Department of Transportation requires that the drums be entirely empty before reuse.

Chair Monfort reviewed the current process for disposal of waste materials and inquired how the new process will be different. Mr. Schooler stated that the applicant is working with the City to be able to recycle as much product as possible and use the sewer system for the water-based waste. The solvent material used to clean each bin will be saved for future use in the same color product.

Hall Sharp, 312-M Otterson Drive, stated his concern regarding the fumes which are lost in the hood and its effect on the surrounding area.

Bill Maligie, 1630 Greenhaven Lane, the applicant, described in the closed-loop processing used, in which very few of the fumes will escape the system. He explained that when DuckBack had odor problems they were manufacturing fiberglass spas and hot tubs and painting in an open air process.

Chair Monfort inquired if there will be a scrubber on the filter system. Mr. Maligie replied that there would not be a scrubber as the vapors are to be reused.

Mr. Schooler stressed that they have been working with the Butte County Air Quality District to ensure that the expelled air be clean. He noted that permits for the operation are required from various agencies including Butte County Air Quality, City of Chico Water Pollution Control, and the Regional Water Quality Control Board.

The public hearing was closed at 8:15 p.m.

COMMISSIONER DIETLE MOVED TO APPROVE USE PERMIT NO. 97-22 (ALTERNATIVE MATERIALS TECHNOLOGY) BASED ON THE FINDINGS AND CONDITIONS OF APPROVAL CONTAINED IN THE STAFF REPORT AND ADOPT THE MITIGATED NEGATIVE DECLARATION. COMMISSIONER WRIGHT SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

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The Commission was in recess from 8:15 p.m. through 8:25 p.m.  
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- 8. Vesting Tentative Subdivision Map S-97-1 (Holdgraffer)** - A request for subdivision of 4.56 acres for a residential project containing 17 single family lots and one lot for office use on property located at 2369 Ceanothus Avenue, and identified as Assessor's Parcel No. 048-201-023, 030. The property is in R-1 Single Family Residential and R-P Residential Professional/Office zoning districts and designated Low Density Residential and Office in the General Plan. Based on the initial study for environmental review prepared for this project, the Planning Division is recommending that a negative declaration be adopted pursuant to the California Environmental Quality Act (CEQA). A "negative declaration" is a determination that a project will not have a significant impact on the environment.

Commissioner Dietle stated that she will be abstaining from this item as her employer has business with one of the property owners on this item.

Acting Planning Director Hayes reviewed the history of this site, which included a previous submittal which was approved by the Commission; then, upon appeal, the Council upheld the appeal and denied the subdivision. The initial submittal was for a planned development and subdivision in order to provide for smaller lot sizes than are normally permitted for an R-1 subdivision. This proposal does not include a planned development, as it proposes lot sizes which meet City requirements for R-1 single family homes. Other changes from the initial proposal includes a reduction in the number of lots to 17, thus increasing the lot sizes, and a public street with standard improvements and an access to flag lots, instead of two narrow private streets.

Acting Planning Director Hayes reviewed the concerns expressed by neighbors, both with this proposal and the previous one. The first of these concerns is that the existing residents on Keri Lane may share back yards with more than one single family residence to the north. He noted that staff, in reviewing subdivision development throughout the urban area, has determined that because of the piece-meal development throughout Chico, there are many such situations. Another concern was the possibility of soil contamination. A study was conducted prior to the current submittal, during which the applicant did dig the holes for the study at the locations directed by the consultant. It was determined that there were no toxics on the site and that some feet below the surface there is a hard pan area, which would limit percolation of contaminants beneath that level. A concern was also expressed that, as in the initial proposal which contained a lot drawn out of the existing single family home on Ceanothus, the additional lot would change the character of the neighborhood; that lot was left out of this proposal. A condition requiring a 15 foot setback, standard for the City, was included in the first proposal after hearing concerns from neighbors, due to the small lot size. Because this subdivision is a standard subdivision, that condition is not specifically recommended as a 15 foot rear yard setback is required for all R-1 development.

He reviewed the proposal. He noted that there is one additional lot which is designated for office use with frontage on East Avenue. That lot will have access from East Avenue, not through this subdivision. He stated that a mitigation and monitoring program for the negative declaration is proposed. He noted within the subdivision report there is a condition that when finalizing the map, any additional, excess right-of-way along the north side of the street should be dedicated to the property owner to the north. Assoc. Civil Engineer Varga stated that the subdivision report does require that developer offer any excess right-of-way to the north to the adjacent property owner.

Chair Monfort noted that in the initial proposal, the private street with the hammerhead was conditioned to not allow on-street parking and inquired if a similar condition was required. Assoc. Civil Engineer Varga stated that the access will be a joint driveway with conditions that normal off-street parking be provided on-site. The access will be posted and striped for a fire lane.

The public hearing was opened at 8:45 p.m.

Mark Risso, MER Consulting, representing the applicants, stated that the applicants agree with the staff and Subdivision Reports, and will offer the excess right-of-way to the neighbor to the north. He indicated that they will review the configuration of Lot 8, as it was suggested by the Subdivision Report that the proposed configuration may be difficult to build on. He stated that in his opinion that the proposed lots are comparable to the adjacent lots. He stressed that the current proposal reduces the density from the previous proposal by 25 percent.

Susan Proctor, 2415 Ceanothus, stated that her property is the property against the right-of-way. She noted that the first proposal had a 30-foot buffer zone to the private road. She expressed concern with privacy, as there is a chain link fence along the property line which is 4 feet from the house and 6 feet to the pool. She requested that trees and/or landscaping be provided against the fence and that the sidewalk be placed against the road. She also expressed concern with storm drainage, as the back of the site is 3 to 4 feet lower than the existing residences, especially those on Keri Lane. She stated that she is not opposed to development, although it will affect her property. She noted that she is also concerned with the condition of Ceanothus.

Chair Monfort inquired if a storm water management plan had been considered. Assoc. Civil Engineer Varga stated that the storm drainage plan does require that all drainage from and onto the property be controlled within the project storm drainage system. Grading will be limited to stay within this requirement.

Teresa Hildenbrand, 1486 Keri Lane, asked that a condition be added to ensure the requirement for a 15-foot setback. She indicated her belief that the plot map is incorrect. She indicated that having portions of 3 rear yards backing into one existing rear yard will change the character of the existing residence. She suggested that Lots 2, 3 and 4 be removed and the size of the remaining lots be increased. She questioned the validity of the toxics study, and indicated that where the samples were conducted was not where the applicant was observed digging previously.

Shelia Englund, 1474 Keri Lane, stated that she does like the proposed density of the project. She agreed with the previous speaker's concerns regarding the three lots to the one existing lot. She expressed concern that there is an existing storm drainage problem in the neighborhood which may be made worse with further development. She also questioned the validity of the toxic study, as the former resident, a toxics transporter, was seen using a backhoe in the rear yard during the night time. She added that she would appreciate a soil sample be taken in areas chosen by the existing neighbors. She noted there is an approximate two foot difference between the grading levels for the project site and the Keri Lane properties.

Commissioner Hamilton confirmed with Assoc. Civil Engineer Varga that the storm drainage system will also control water coming onto the project site from the existing residential areas.

Carol Levensaler, 1492 Keri Lane, asked that the property lines as noted on the plot map be reviewed by the engineer, noting a 20 to 30 foot discrepancy with existing fence lines and those on the plot plan. She reviewed the plot map with Mr. Risso. She stated that when the Council denied the previous map, they did so because they felt it was detrimental to the existing neighborhood as every lot on Keri Lane would back onto two or more lots. That situation remains. She expressed concern that the toxic study may not have been adequate to clarify the toxic issues which are a concern to the neighbors and to future project

residents. She noted that a toxic fire occurred on the property in 1983, prior to reports from the neighbors of the backhoe operating at night.

Mr. Risso stressed that the project must take care of new drainage on the property, regardless where it comes from. He indicated that the proposal from Mrs. Proctor to move the sidewalk against the roadway is acceptable, although the Public Works Department has not commented on it. As for the Keri Lane property lines, he stated that he would verify the line-up of the lot lines of the Keri Lane properties against the proposed lots, though the line-up of the proposed lots is correct. He noted that one lot on Keri Lane is a 160 foot wide lot, making it extremely difficult to have only one lot against it. He stated that the toxic study was conducted by a reputable company; Mr. Hayes did nothing but dig holes and did not determine where the holes would be dug.

Commissioner Studebaker confirmed that the consultant did choose where the samples were taken.

Ms. Levensaler stated that the Council discussion had included the consideration of level 1 and level 2 toxic reports, and inquired which level study was completed. She expressed concern that one home on Ceanothus Avenue will be surrounded on three sides by streets, changing its character.

John Parker, 565 East Avenue, stated that the project began 4 to 5 years ago. At that time residents on Keri Lane had expressed some concerns which were addressed by the applicant. He stated that he felt the planned development should have been acceptable to the existing neighbors, as it addressed their previous concerns. As for the toxics concerns, he stated that Mr. Hayes is a reputable businessman who would not do something to injure that reputation. He urged the Commission to approve this project.

Commissioner Hamilton inquired if some natural border would be created by the easement toward the property to the north. Acting Planning Director Hayes replied that under the standard right-of-way design criteria, there would be a sidewalk directly along the fence. He added that the Commission could consider a modification to those design criteria to have the normal landscaping along that fence line and the sidewalk moved to the street.

Chair Monfort inquired if a parkway would be considered for Ceanothus. Acting Planning Director Hayes replied that although this is possible, it is not anticipated at this time as it would require the City to purchase additional right-of-way. He noted that the improvements installed at the intersection of Ceanothus and East Avenues wrapped onto Ceanothus, where the sidewalk is a curbside sidewalk. Assoc. Civil Engineer Varga stated that it is current City standard to have the sidewalk separated from the street.

The public hearing was closed at 9:15 p.m.

Chair Monfort inquired if the toxics consultant is insured over future toxic findings at the site. Assistant City Attorney Barker stated there would have been some sort of general liability coverage.

Chair Monfort stated that the methodology was standard and acceptable, though he questioned the judgment of having the applicant dig the holes for the samples.

Commissioner Hamilton asked about the placement of the sidewalk and if the easement would be extended into the road or into the adjacent property. Acting Planning Director Hayes explained that if the Commission desired to modify the design criteria, the sidewalk would go against the curb, moving the planting strip along the fence; thus, it would not impact the size of the right-of-way. The normal park strip

requirements are ground cover and street trees. If additional landscaping is desired by the Commission, it should be added as a condition.

Chair Monfort inquired if a maintenance district was included in the proposal to maintain the landscaping. He also suggested the property owner may wish to plant sight-obscuring vines on the chain-link fence. Assoc. Civil Engineer Varga replied that a maintenance district would have to be added to cover that landscape maintenance.

Commissioner Belmonte noted that at a previous meeting before the Commission, Mr. Risso had stated that the East Avenue storm drainage pipe is inadequate to handle this project. Assoc. Civil Engineer Varga responded that a condition of approval with the project does acknowledge that there are two storm drainage pipes in the area; if it is determined that those pipes cannot handle the additional capacity, it will be required of the developer to provide for that storm drainage. Prior to recordation of the final map, the storm drainage plan and capacity would be reviewed and approved by the Director of Public Works.

COMMISSIONER WRIGHT MOVE TO ADOPT THE MITIGATED NEGATIVE DECLARATION AND APPROVE THE VESTING TENTATIVE SUBDIVISION MAP 97-1 (HOLDGRAFFER) AS RECOMMENDED, WITH THE ADDITIONAL CONDITION TO HAVE SITE-OBSCURING LANDSCAPING BE ADDED TO THE PROPERTY LINE AND A MODIFICATION TO THE DESIGN CRITERIA TO PLACE THE SIDEWALK ALONG THE CURB. COMMISSIONER HAMILTON SECONDED THE MOTION WHICH WAS APPROVED 5-1-1 (COMMISSIONER BELMONTE OBJECTED AND COMMISSIONER DIETLE ABSTAINED).

Acting Planning Director Hayes noted that with subdivision approvals there is a 10-day appeal period.

(Discussion on this item continued following the Commission recess.)

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The Commission was in recess from 9:20 p.m. through 9:40 p.m.  
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Chair Monfort stated that during the break he had spoken with the applicant on the previous item. The applicant agreed to install natural gas lines in the fireplaces and to the patios.

CHAIR MONFORT MOVED THAT A CONDITION BE ADDED TO THE PREVIOUSLY APPROVED VESTING TENTATIVE SUBDIVISION MAP 97-1 (HOLDGRAFFER), TO REQUIRE TO THE INSTALLATION OF NATURAL GAS LINES TO PATIOS AND FIRE PLACES. COMMISSIONER WRIGHT SECONDED THE MOTION.

Commissioner Wright stated that he seconded the motion based on the fact that the developer was not opposed.

The public hearing was opened to which there was no comment.

Commissioner Hamilton expressed concern with the cost of installing gas lines to patios, which is passed on to the home buyers. He stated that he questioned the merits of including such a condition in all future subdivisions. He stated that propane barbeques are inexpensive and should be the personal choice to the person buying the home.

Commissioner Wahl stated that he also disagrees with making it a mandatory requirement of all subdivisions. He added that until or unless gas line installation is required by Code it may be micro-managing subdivision development.

Chair Monfort explained that other areas of the country do forbid burning of charcoal or wood to lessen air quality impacts. The cost, while being passed on, may save on future retrofit costs.

Commissioner Hamilton stated that if it is an environmental concern, then those conscious of the concerns will purchase the appliance. He added that he is not opposed to gas piping of fireplaces.

The public hearing was opened.

Sonny Bruning, 6 Sterling Court, stated that while he agreed with the intent of the suggested condition, it does add cost to the homes. He expressed concern with establishing a precedent.

Chair Monfort agreed that there is a precedent, as the Commission has imposed the condition on several recent subdivisions.

The public hearing was closed.

THE MOTION WAS APPROVED 4-2-1 (COMMISSIONERS HAMILTON AND WAHL OPPOSED, COMMISSIONER DIETLE ABSTAINED).

(Further discussion regarding the adoption of this motion took place later in the meeting.)

9. **Vesting Tentative Subdivision No. 96-14 / Planned Development Use Permit No. 96-35 (Bruning)** - A request for subdivision of 15.44 acres for a planned development residential project containing 69 single family lots and two 16-unit apartment units on property located on the north side of Springfield Drive east of Forest Avenue, identified as Assessor's Parcel No. 002-370-066, in an R-2 Medium Density zoning district. The property is designated Medium-Density Residential in the General Plan. Based on the initial study for environmental review prepared for this project, the Planning Division is recommending that a negative declaration be adopted pursuant to the California Environmental Quality Act (CEQA). A "negative declaration" is a determination that a project will not have a significant impact on the environment.

Sr. Planner Palmeri reviewed the staff report, and noted that the planned development is a two step process; the first of which is conceptual and before the Commission at this time. Based on Commission input, once the recommended modifications are made, the proposal will again be heard by the Commission. The total density being proposed of both single family and multi-family is 7.5 units per acre. He explained that previous grading on the property created ponding. These wetlands are addressed in the mitigated negative declaration. He reviewed the surrounding land uses which include an elementary school and an adult only, manufactured housing project, Springfield Manor. He stated that when Springfield Manor was developed, it was envisioned that this property would also be developed with manufactured housing.

Chair Monfort questioned who had envisioned the expansion of the mobile homes park. Sr. Planner Palmeri replied that both the developer of Springfield Manor and those residing in Springfield Manor had envisioned it.

Sr. Planner Palmeri reviewed the proposed house plans. He noted that the multi-family units will be required to have approval by ARB. He pointed out the Director of Public Works suggests that the proposal be revised to eliminate any impact on driveways for Springfield Drive. He stated that a number of comments have been received from the neighbors, who have indicated that they do not feel that the single family homes are compatible with the adult-only neighborhood. Those residents have suggested that a masonry wall be required along the adjacent property line between the Springfield Manor development and the proposed homes. Staff is not in support of the suggested wall, due to connectivity concerns and residential nature of the area. Should the Commission find that a sound wall is appropriate, or if the applicant is able to reach some agreement, any sound wall should be presented to the ARB for consideration. He noted that any main structure in an R-2 district is required to have a 15 foot easement; thus, those in Springfield Manor who have a very narrow setback will have the additional 15 foot area between the buildings. He reviewed the staff-recommended modifications to the planned development and subdivision.

Commissioner Studebaker inquired if there was a neighborhood meeting conducted by the developer. Sr. Planner Palmeri replied that there was. A member of the audience stated that it was held in early June, 1997.

Chair Monfort questioned why the Department of Public Works does not recommend facing houses onto Springfield Drive. Assoc. Civil Engineer Varga explained that Springfield Drive will become a major circulation element between Forest Avenue and Notre Dame upon build out. While it is a local street, due to its nature and adjacent land uses, it will be heavily traveled.

The public hearing was opened at 10:05 p.m.

Sonney Bruning, Plan Tech Development, 6 Sterling Court, representing the applicant, explained that the project will have rear two-car garages. He reviewed the traffic flows. He agreed to face all driveways facing onto an internal street and not onto Springfield Drive. He stated that he did meet with the neighborhood to try to reduce any concerns or misinformation. Many of those concerns were taken into account, while trying to meet median income pricing. He noted that the conceptual housing designs are displayed for review.

Commissioner Studebaker asked Mr. Bruning to comment on the request for a sound wall. Mr. Bruning stated that as both projects are residential in nature, they should be compatible. He acknowledged that the Springfield Manor development is surrounded on three sides with sound walls buffering from the noise of busy roads. He indicated that he would be willing to replace the existing chain link fence with redwood fencing for 1300 linear feet rather than his required 500 linear feet, or place the amount of such fencing into a fund to pay for a portion of the desired masonry fencing. He noted that there is an existing wood fence along a portion of the northwestern boundary.

Chair Monfort questioned how it was determined what outdoor sports would be provided for in the multi-family area. Mr. Bruning explained that the intent was to keep the area attractive when not in used and to not use hard surface areas.

Commissioner Hamilton inquired what the cost would be if a requirement to install patio gas lines was placed on the project and how would the requirement be met. Mr. Bruning replied that the installation would be rough-plumbed and hard capped off for future use. While the availability of natural gas barbeques may be less than those of the propane style, it has become customary to offer natural gas lines for both patios and fireplaces as an option to the home buyer. The cost is less than \$50 per unit.

Commissioner Hamilton questioned if the gas line is an option the homeowner may choose. Mr. Bruning stated that while most home buyers may not use the option, it is provided and listed as an option. Commissioner Hamilton asked that staff provide information regarding the cost and availability of natural gas barbecues.

Pat Jennings, 2050 Springfield Drive, #109, stated that most of Springfield Manor is developed with manufactured homes with attached two-car garages. The residents paid premium price for their site from the original developer, Mr. Ashby, the applicant on the current proposal. And while the stone wall bordering three of the sides was beautifully landscaped, it was not installed on the fourth side. She noted that the developer did meet with the neighbors, but an agreement on fencing did not occur. The project developer is proposing a wooden fence, which is not acceptable to the neighbors because of durability, security, and privacy. She indicated her belief that the senior citizen lifestyle is not compatible with single family lifestyles, and because of that difference the masonry fence should be allowed. She stated that the wood fence would also impact the privacy desired with the use of the clubhouse and outdoor activity areas, as well as the aesthetics of the neighborhood and maintenance of the landscaped boundary. She suggested that a masonry fence could provide an attractive element to the proposed homes. She stressed that the property values of the Springfield Manor homes would be negatively impacted if the wall is not built.

Dick Fedsenthal, 2050 Springfield Drive #309, stressed that Springfield Manor is a senior citizen community. He expressed concern that whatever fence is installed, it be 'unclimbable' in order to protect the existing neighborhood. He stated that children do tend to climb. He urged the Commission to make a masonry wall a condition of the use permit.

Charlotte Martin, 2050 Springfield Manor, #119, indicated that as the manager of Springfield Manor she was representing the owners of the park and the residents. She stressed that as senior citizens, the residents value security, privacy and lifestyle. A sound wall would preserve the lifestyle as they continue to live it. She indicated that the side was left open to allow for future expansion; now that there is to be no expansion, without an adequate wall there development would negatively impact the residents. She suggested that neighboring children may be drawn to the gated community of Springfield Manor if they can view the pool. Ms. Martin stated that she had inquired about alternative fencing and noted that the desired block wall would be expensive - approximately \$68,000. A proposed alternative fence, similar to one used at Mission Ranch, would cost approximately \$44,000. The property owners have discussed the issue with Mr. Bruning without coming to an agreement and Mr. Ashby has been unavailable to them. She noted that the rear yards of the project will be within three feet of the Springfield Manor homes as manufactured homes have side yards and not rear yards. She asked that the Commission require that something better than a wood fence be built in order to protect the lifestyle and ambient noise levels of the Springfield Manor residents.

Chair Monfort inquired if some landscaping could be used to help alleviate concerns. Ms. Martin stated that the property owners desire a continuity of a wall fence.

Don Martin, 2050 Springfield Manor, #119, stated that wood fences do not offer much durability, using the example of homes on Forest Avenue. He noted that a slated, cyclone fence would require stronger poles to be installed.

Commissioner Dietle stated that she disagreed that the wood fences in the area are deteriorated. Mr. Bruning stated that the proposal from the property owners was to build a block wall. He indicated that he has negotiated with the property owners for a payment toward a different type of fence. The fence

height is limited to be a 6-foot fence is easy to climb regardless of the materials used. The Springfield Manor residents have indicated that a wood fence is not acceptable. The audience agreed.

Commissioner Hamilton noted that a masonry fence is a large cost to pass on to other homeowners. Chair Monfort inquired if a slatted fence would be acceptable. Mr. Bruning stated that he would not be opposed to a slatted fence. He reviewed the history of the project site, as Mr. Ashby did develop Springfield Manor which was purchased by three people, including additional acreage in the back. Those owners returned the 15 acres to Mr. Ashby approximately 1.5 years ago. He noted that he would be willing to pay a portion of the funds to build a masonry wall if there was some written agreement that it be installed properly as to not delay this subdivision.

Ms. Martin, a previous speaker, stated that Mr. Bruning may not be aware of all the history of the project. She stressed the need to find a type of fence material that is agreeable to both parties which is not made of wood.

Sr. Planner Palmeri stressed that this is a preliminary hearing, not for final Commission action; this will allow more time for discussions between the applicant and the Springfield Manor residents and property owners. The decision does not need to be made at this meeting.

Acting Planning Director Hayes suggested that staff could help mediate the situation.

Chair Monfort suggested that a fencing material be found between wood and stone, such as a slatted fence.

The public hearing was closed at 10:40 p.m.

Sr. Planner Palmeri reviewed the staff recommendations dealing with the redesign of the access to Springfield Drive. He inquired if the Commission desired conditioning the lots which back onto Springfield Manor to be single-story.

Chair Monfort noted that as there is a five foot setback within Springfield Manor, it would help ensure privacy for those in Springfield Manor if the housing profiles are kept to one-story.

The public hearing was re-opened at 10:45 p.m.

Mr. Bruning stated that the existing property owners of Springfield Manor split the property at that line, albeit close to the existing residences. He expressed concern that the lots in question are to be the largest lots in the subdivision. He indicated that he has considered the adjoining neighbors by not having windows opening out toward the rear, or have sight-obscuring glass installed.

Acting Planning Director Hayes stated that requiring single-story homes be built is not an unusual condition and has been used in less critical situations. He noted that staff had originally indicated that sight-obscuring or no windows onto the rear yard may be an option.

Commissioner Dietle inquired if the applicant would have less objection to a requirement for single-story homes if a reduced setback was granted. Mr. Bruning stated his belief that the developer should not be penalized for decisions made in the past by the property owners of Springfield Manor.

Acting Planning Director Hayes reviewed that the original intent for the site was to continue a second phase of the manufactured housing which allows for a smaller lot size.

Mr. Bruning asked that he not be prohibited from designing two-story homes with sight-obscuring detail.

Chair Monfort suggested the language be added to Condition 2 to add "or show design alternatives."

Commissioner Wahl inquired how much additional concrete is needed to place the rear garages. Mr. Bruning stated that there would only be an additional few yards of concrete from a standard front garage as the majority of the area will be made up of driving strips including grass. He added that the grass will also help with the storm drainage.

Commissioner Wahl noted that as there are 90 lots in Springfield Manor, of which only 10 percent will be directly affected by not building a brick wall. Mr. Bruning stated that the clubhouse and pool has a separate fence, separated from the property line by a street and parking area. He stressed that it is also a direct "good neighbor" relationship.

Ms. Martin, a previous speaker, stated that she objected to this discussion without neighborhood input.

Commissioner Hamilton suggested that staff help mediate the situation in a neighborhood meeting.

Mr. Fedsenthal, a previous speaker, stated that the Springfield Manor property owners were not offered an alternative in establishing that property line. The lot split was made before the property was purchased. He indicated that the property owners had attempted to purchase an additional area from the owners of the subject site in order to build a recreational vehicle storage area. That purchase was never made.

Ernestine Seklah, 2050 Springfield Drive, #128, stated that her bedroom is three feet from a wooden fence, which is three feet from the neighbors door. If the 10 percent of the residents have their fence that close to the property line, there will be a total of 18 feet from the adjacent single-family home to their home. Those homes in Springfield Manor were purchased on the belief that the manufactured home development would be extended. It is a 'gated community' with three sides covered and the fourth side is left open. The Commission is in the position of helping those 10 percent of residents.

Commissioner Dietle asked if the current property owners of Springfield Manor were willing to offer to purchase an area to store vehicles, could they spend that money to build the sound wall.

Ms. Jennings, a previous speaker, asked there is a need for a recreational vehicle storage area as well as a fence. There was no need to put money into a fence at that time. The fence issue should be resolved. She stated that the neighborhood would be willing to negotiate with Mr. Bruning.

The public hearing was closed at 11:00 p.m.

Sr. Planner Palmeri asked if there was a consensus of the Commission with regard to the other recommendations by staff, other than Condition No. 2 which has already been modified.

Commission concurred with the recommendations.

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The Commission was in recess from 11:00 p.m. to 11:10 p.m.  
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Chair Monfort stated that some of the Commission have indicated confusion regarding the second motion on Item No. 8 (Tentative Vesting Subdivision Map 97-1 (Holdgraffer)). Acting Planning Director Hayes clarified that the motion made following the recess was done to add a condition. The vote was on the whether or not to add the condition, not the entire project.

Commissioner Wahl inquired if such a motion could be made in accordance with parliamentary procedures. He suggested that the Commission be instructed in parliamentary procedures. Assistant City Attorney Barker replied that the motion was not necessarily against parliamentary procedures. She stated that if the Commission so desires, the Commission could hold a workshop on parliamentary procedures.

Commissioner Belmonte asked that Item No. 8 be reopened for clarification of the vote.

Assistant City Attorney Barker stated that the Commission could vote to reconsider the main motion, though the item would have to be re-noticed. The addition of that condition may not be a major modification to the prior approval.

Chair Monfort reviewed that it was the addition of a condition which was being proposed, not a reconsideration of the entire project. Commissioner Wright stated that he thought the motion to add the condition was a friendly amendment to the motion.

Commissioner Hamilton suggested that as the additional condition would not have changed the vote on the project itself, the motion should stand. The Commission concurred.

**10. Foothill Park East Vesting Tentative Subdivision Map** - At the request of Commissioner Studebaker, staff will provide a review of the procedures used to receive and forward comments from the Butte County Airport Land Use Commission regarding the Foothill Park East Environmental Impact Report.

Acting Planning Director Hayes reviewed the project history and status of Foothill Park East and the process used in coordinating comments from the Butte County Airport Land Use Commission (ALUC). He stated that the initial Draft Environmental Impact Report (DEIR) did not address overflight issues, which were provided in the Revised Draft Environmental Impact Report (RDEIR). The RDEIR was submitted to the ALUC, whose staff prepared a staff report, which made several remarks and comments regarding the environmental impact report which City staff felt was inaccurate. At that time, ALUC members decided that the Foothill Park East was inconsistent with 1978 Environs Plan, as required by law, and suggested five conditions. The General Plan was also deemed inconsistent with the 1978 Environs Plan. The Comprehensive Land Use Plan (CLUP) will supersede the 1978 Airport Environs Plan at some point in the future. Until the CLUP is adopted, any development in the area will be inconsistent with the 1978 Environs Plan if the development is consistent with the General Plan. The County staff report to ALUC was not presented to the Commission because it did not represent ALUC's action. He indicated that staff discussed the matter with a County representative, who verbally agreed with City staff's determination that the although inconsistent with the 1978 Environs Plan, the five recommended conditions were the action of ALUC. Staff is confident that the correct information, which was necessary by law, was provided to the Commission.

Commissioner Studebaker stated that the staff clarification should have occurred when the information was brought to the Commission's attention. He expressed concern with the timing of this item. He explained that after it was brought to his attention, he requested a special meeting to clarify the situation.

This was requested to allow the Commission who had voted on the project to discuss the situation. He noted that he was called out of town, when he had returned he still did not have his answers. He wanted it clarified to the Commission who voted on this project to be aware of the situation prior to Council approval. He questioned if there a procedure to follow to call special meeting.

Acting Planning Director Hayes stated that although he could not recall the exact circumstances, the timing of the issue was difficult. He added that staff was also not convinced that there was a majority of the Commission who felt the issue needed to come forward. He apologized, and although it was not clear as to why the information was not included in the packet, it had been included in the cover memo to the RDEIR.

Commissioner Studebaker stated that at the time there may have been a majority vote to call a special meeting. He stated that he would like to be provided with a copy of the procedures to call a special meeting in case issues come up in the future.

Chair Monfort stated that he had felt that a special meeting was not needed if the issue could be settled. He indicated that he had been told by Community Development Assistant Clif Sellers that he would contact Commissioner Studebaker to resolve the issue.

### **COMMUNICATIONS**

**11. Jesus Provides Our Daily Bread**, update report from Katy Thoma, Executive Director.

### **BUSINESS FROM THE FLOOR**

None.

### **ADJOURNMENT**

There being no further business, the meeting was adjourned at 11:28 P.M. to the Adjourned Regular Meeting of July 21, 1997.

August 4, 1997  
Date Approved

/s/  
Tom Hayes  
Acting Planning Director

**PLANNING COMMISSION**  
**MEETING OF JULY 21, 1997**

**ROLL CALL**

The meeting was called to order by Chair Monfort at 7:30 P.M. in the Council Chambers of the Chico Municipal Center. Commissioners present were Barry Belmonte, Jolene Dietle, William Hamilton, Kirk Monfort, Jonathan Studebaker, Larry Wahl and Michael Wright. Staff present were Assistant City Attorney Lori Barker, Police Captain Reuben Gurrola, Community Development Director Tony Baptiste, Acting Planning Director Tom Hayes, Senior Planner Ed Palmeri and Administrative Secretary Karen Kracht.

**DISCUSSION OF EX PARTE COMMUNICATION**

Commissioner Studebaker stated that he had a conversation with a gentleman who had addressed the Commission at the previous hearing regarding Item 10, Rezone 97-04, expressing concerns regarding including commercial zones and the already-impacted parking on 5th Street. The citizen wanted his concerns to be included in the discussion scheduled for this meeting.

Commissioner Dietle stated that she had a brief conversation with David Stahl who wanted his property included in the overlay zone to be discussed in Item 10.

**CONSENT AGENDA**

**1. Minutes of Adjourned Regular Meeting of June 19, 1997.**

**Requested Action:** Approve with any corrections/revisions required.

**2. Minutes of Adjourned Meeting of June 27, 1997.**

**Requested Action:** Approve with any corrections/revisions required.

**3. Parcel Map No. 97-01 (Enloe) - A request to subdivide 180 acres into four (4) parcels and a remainder piece. The property to be subdivided is located south of Humboldt Road, west of Bruce Road, north of East 20th Street with the westerly property line approximately 300 feet west of the future Notre Dame extension. The property is further identified as Assessor's Parcel Number 002-018-081 and Assessor's Parcel No. 002-022-002. The current zoning for the property to be subdivided is: 40 acres of P-Q Public/Quasi Public; 4 acres of R-3 High Density Residential; 40 acres of R-2 Medium Density Residential; 93 acres of R-P Residential-Professional/ Business Office and 3 acres of N-C Neighborhood Commercial. There are 49.2 acres of Open Space zoning (park, creekside greenway and wetlands mitigation area) and 29.5 acres of Resource Conservation area which is not part of the parcel map application. The proposed parcel map divides the property into parcels which are consistent with the General Plan designations and zoning districts adopted for the property. A Final Environmental Impact Report (FEIR) was certified by the City Council on October 1, 1996 for this project.**

**Requested Action:** Approve this Parcel Map subject to the findings and conditions of approval as listed in the staff report.

Commissioner Studebaker removed this item from the Consent Agenda.

4. **Use Permit No. 97-28 (Dani) - 755 Eastwood Avenue** - A request to allow temporary dwelling facility for a caregiver and to allow an additional (13') feet in height above the permitted fifteen (15') foot maximum height for an accessory building. The additional height will allow for a second story and roof design to conform with the existing residence architecture at 755 Eastwood Avenue, on property zoned R-1, Single Family Residential Zoning District, and identified as Assessor's Parcel Number 004-480-001. The site is designated in the City of Chico General Plan Diagram as Low Density Residential. This project has been determined to be Categorically Exempt from environmental review pursuant to Section 15303, New Construction or Conversion of Small Structures and Section 15305, Minor Alterations In Land Use Limitations, of California Environmental Quality Act (CEQA).

**Requested Action:** Approve this use permit subject to the findings and conditions of approval as listed in the staff report.

Sr. Planner Palmeri pointed out that the Commission and Council have recently approved an amendment to the Municipal Code which will become effective at the end of the month. Any action on this item will take effect after that time.

5. **Use Permit No. 97-23 (Slater/SAFOR)** - A request to allow office uses in a C-1 zoning district, combining existing buildings and uses at the former Christian and Johnson retail nursery with new construction and removal of some existing buildings, to create a mixed use retail/office complex with heavy emphasis on landscaping and architecture to maintain the historic integrity of the site on property located at 250 Vallombrosa Avenue, identified as Assessor's Parcel No. 003-190-052, in a C-1 Restricted Commercial zoning district. The General Plan designation for the property is Community Commercial. Based on the initial study for environmental review prepared for this project, the Planning Division is recommending that a negative declaration be adopted for this project pursuant to the California Environmental Quality Act (CEQA). A "negative declaration" is a determination that a project will not have a significant impact on the environment.

**Requested Action:** Continue this item to the August 4, 1997 Regular Meeting.

6. **Use Permit No. 97-25 (Brown) - 231 Nord Avenue** - A request to allow the sale of food from a motorized vehicle (food wagon) located on private property at the northwest corner of the Nord Avenue and W. First Street intersection, 231 Nord Avenue, identified as Assessor's Parcel No. 043-230-026, in a C-1 Restricted Commercial zoning district. The site is designated in the City of Chico General Plan Diagram as Community Commercial. This project has been determined to be Categorically Exempt from environmental review pursuant to Section 15301(e.1), Existing Facilities, of the California Environmental Quality Act (CEQA).

**Requested Action:** This application has been withdrawn by the applicant.

COMMISSIONER WRIGHT MOVED TO APPROVE CONSENT AGENDA ITEMS 1, 2, 4, 5 AND 6. COMMISSIONER DIETLE SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

**ITEMS REMOVED FROM THE CONSENT AGENDA**

**3. Parcel Map No. 97-01 (Enloe)**

Commissioner Studebaker noted that according to the staff report, Council has adopted a General Plan amendment and rezone for the parcel to a higher density. He inquired if the school mitigation fees would be at the higher level due to that rezone. Acting Planning Director Hayes confirmed that because the densities would have been raised, the project would be subject to the higher mitigation. The General Plan designation and zoning was R-1 for the entire site which was subsequently redesignated to the current zonings and designations. Any increase in density is subject to higher school mitigation fees.

Miles Pustejovsky, NorthStar Engineering, representing the applicant, stated that Acting Planning Director Hayes is correct, the school mitigation fees are at the higher level. The fee was included in the agreement between the City and Enloe Hospital.

COMMISSIONER DIETLE MOVED TO APPROVE PARCEL MAP NO. 97-01 (ENLOE) SUBJECT TO THE FINDINGS AND CONDITIONS OF APPROVAL CONTAINED IN THE STAFF REPORT. COMMISSIONER STUDEBAKER SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

**REGULAR AGENDA**

7. **Administrative Use Permit No. 97-22 (Guanzon) - 14 Patches Drive** - An appeal of an approved administrative use permit to allow a minor encroachment into the side and rear yard setback areas (not to exceed more than 25 percent of the required setback) at property located at 14 Patches Drive, identified as Assessor's Parcel Number 011-690-034, in an R-1 Single Family Residential Zoning District. The site is designated in the City of Chico General Plan Diagram as Low Density Residential. This project has been determined to be Categorically Exempt from environmental review pursuant to Section 15305(b), Minor Alterations in Land Use Limitations, of the California Environmental Quality Act (CEQA).

Sr. Planner Palmeri reviewed the staff report. He noted that the construction was completed prior to receiving the required permits. The applicant was informed of the process and then applied for the administrative use permit, which the Planning Director approved. After the neighbors were notified of the permit, staff received an appeal; two property owners have submitted letters in opposition to the structure. It is staff's position that it is a normal structure to be found within residential areas and it was built with privacy in mind. He indicated that there is a two-story residence on the property, which allows views which are more invasive. He reviewed the site constraints.

The public hearing was opened at 7:45 p.m.

Larry Guanzone, 14 Patches Drive, displayed photographs from various angles showing the privacy screening. He also provided two letters from adjacent property owners who are in support of the patio. He noted that the rearyard fence is not built at the property line, but 15 inches in front of the property line.

Chair Monfort verified the solution is to cut back the structure rather than to move it.

Commissioner Dietle inquired if the letters are from neighbors on either side of Mr. Guanzon's property, and not in the rear. Mr. Guanzon stated that they are from the neighboring parcels. He stressed that those neighbors do not feel that the patio would decrease their property values for any of the neighbors.

Chair Monfort asked if there would be landscaping around the structure. Mr. Guanzon stated that there will be shrubs behind the structure with additional landscaping around and on the structure.

Commissioner Dietle questioned why the applicant did not seek out permits before construction. Mr. Guanzon stated that he was under the impression that he did not need a permit if the patio was not attached.

Commissioner Hamilton asked why he had that impression. Mr. Guanzon stated that he did not think a permit was needed if there was not a roof. Sr. Planner Palmeri explained that, in this case, as the structure is approximately 9 feet in height a permit would have been necessary.

Community Development Director Baptiste stated that a permit is needed if a detached covered structure is over 120 square feet, measured at the roofline.

There being no further comment, the public hearing was closed at 7:50 p.m.

Commissioner Dietle stated that it is unfortunate that the applicant has gone through the expense of installing the structure without a permit. She stressed that the setbacks are there to respect the privacy of the neighbors. She suggested that the Commission require it be moved to meet the setback requirements.

Chair Monfort asked if the structure would have to be moved even if a permit is approved. Sr. Planner Palmeri explained that as the exact property line is on the other side of the fence, it does appear that if an encroachment is approved, the applicant would only have to trim a few inches off the structure, more on the side yard.

Commissioner Dietle inquired how often are these types of permits have been approved. Sr. Planner Palmeri replied that encroachments are a fairly regular request, of the 22 prior administrative use permits applied for this year, most are for encroachments into setbacks. The concern with the side yard setback is to provide the 3 foot clearance for fire safety.

Chair Monfort asked if the applicant had come in for building permits, would he have been instructed to apply for an administrative use permit, and if so, would the lot have been considered to be a case that required special circumstances. Sr. Planner Palmeri stated that the use permit would still have been applied for if the same location was desired. It probably would not have been considered special circumstances as another location may have been found on the lot.

Commissioner Dietle stressed that the structure was built without a permit, does encroach into the setback and the neighbors feel it to be invasive. She added that the neighbors probably did consider the 2-story homes in the area prior to purchasing their home, but not with additional structures in the backyard.

Commissioner Hamilton complimented the deck, and suggested that the structure was not a real hindrance to the neighbors. He agreed that privacy is a factor on the lot, and stressed that the applicant will need to cut off part of the deck to achieve the required setback.

Commissioner Wahl noted that there are two neighbors in support, and two in opposition.

Chair Monfort suggested that the encroachment on the side yard be approved, but not the rear yard.

Commissioner Hamilton asked what can be seen from the structure. Mr. Guanzon stated that someone sitting on the deck cannot see over the rear fence, but he was unsure of the view when standing.

Chair Monfort asked where the pier block is on the structure. Mr. Guanzon stated that it is either 1.5 or 3 feet into the structure.

Commissioner Belmonte stated that the applicant is already making an effort to be a good neighbor by allowing the fence to be within his property line.

COMMISSIONER BELMONTE MOVED APPROVAL OF ADMINISTRATIVE USE PERMIT NO. 97-22 (GUANZON). COMMISSIONER STUDEBAKER SECONDED THE MOTION WHICH WAS APPROVED 6-1 (COMMISSIONER DIETLE OPPOSED).

- 8. Use Permit No. 97-24 (Slater & Son)** - A request to allow construction of a 4,000 square foot office building to be used as a veterinary hospital for felines only, located at the northeast corner of Cussick and West East Avenues, identified as Assessor's Parcel No. 042-450-046, in an R-P Residential-Professional/Business Office zoning district. All activities for the use will be conducted entirely within the building. The property is designated Offices in the General Plan. Based on the initial study for environmental review prepared for this project, the Planning Division is recommending that a negative declaration be adopted for this project pursuant to the California Environmental Quality Act (CEQA). A "negative declaration" is a determination that a project will not have a significant impact on the environment.

Acting Planning Director Hayes presented the staff report. He noted that the Commission and Council recently saw this site for a zoning correction and Code amendment to allow veterinary office type uses in different districts, including CC Community Commercial with a use permit. This is the first request for a feline-only veterinary hospital with all facilities located indoors. The 4,000 square foot building will be located at East and Cussick Avenues with parking in the rear. He reviewed the proposed office hours, and noted that there will be staff present 24 hours per day in order to take care of the animals. He indicated that staff did receive two letters; the first, from RSC Associates, indicated that they do not oppose the use if it is restricted to feline veterinary service. The second letter was from the Cussick Neighborhood Council who noted that they have had some communication with the applicants and did like the location of the parking to the rear, although they have concerns with the entrance to the facility on East Avenue and its effect on the animals. They suggested an entrance from the building directly onto the parking lot. He noted that this request includes an encroachment into the setbacks both toward East Avenue and Cussick Avenue.

Chair Monfort stated that the reason to put parking to the rear is not only aesthetic, but also to place the curb cut and traffic flow away from the street. He verified with Acting Planning Director Hayes that the project would not be able to have direct access onto East Avenue.

Chair Monfort verified that the project will be subject to approval from the Architectural Review Board (ARB) and inquired if the Cussick Neighborhood Council concern regarding the entrance ways could be

addressed at that level. Acting Planning Director Hayes replied that the ARB can work with the applicant regarding elevations.

The public hearing was opened at 8:13 p.m.

Howard Slater, 3731 Morehead Avenue, representing the applicant, stated that the proposed use is for a feline veterinary clinic, which is a specialized practice. He indicated that the project will have little or no impact on the neighborhood, other than that generated by normal medical offices. He stressed that there will be no smells, odors or negative impacts generated from this project. He indicated that the project will provide a buffer between the heavy traffic on East Avenue and the adjacent neighborhood.

Chair Monfort asked if there is a back door which could be used. Mr. Slater stated that there is a side door. He noted that they have met with the Cussick Neighborhood Council to address most of their concerns.

Commissioner Dietle noted that many people transporting cats generally have them in a carrier; thus limiting impact of the traffic on cats.

Dr. Elizabeth Colleran, DVM, 1721 Chico River Road, stated that she has been impressed working with the Planning staff. She stated that she was there to answer any questions the Commission may have regarding the use.

The public hearing was closed at 8:15 p.m.

COMMISSIONER WAHL MOVED TO APPROVE USE PERMIT NO. 97-24 (SLATER & SON).  
COMMISSIONER HAMILTON SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

Tracy Crow, 2212 Honeyrun Road, stated that he was present to address Item No. 4, Use Permit 97-28 (Dani) and asked for clarification on the hearing process. Chair Monfort explained that the item was approved on the Consent Agenda, during which the item was introduced and opportunity for Commissioners and members of the public to remove the item from the Consent Agenda.

Mr. Crow stated that it was not clear to him when an audience member could speak as they were not asked. He stressed that he would like to comment on the item. He added that he was also confused by the comment from Sr. Planner Palmeri. Chair Monfort explained that there was a recent Code amendment, approved by the Commission and Council, which will allow the use. That amendment, although approved, will not be in effect until the end of this month.

Chair Monfort asked for direction from legal counsel as to the process to hear Mr. Crow's concerns. Assistant City Attorney Barker replied that everyone has had the opportunity to speak on the item. She noted that the applicant on the item has left the meeting with the impression that the permit had been approved. She stated that she would not recommend taking any further action on this time, and Mr. Crow could appeal to the Council. Acting Planning Director Hayes stated that another option would be for the Commission to reschedule and renote the item for the August 4th Regular Meeting.

Chair Monfort stated that he was under the impression there was some urgency with the applicant to proceed; thus, an appeal may be the best course of action.

Commissioner Belmonte verified that at the end of the month this will be an authorized use. Sr. Planner Palmeri replied that it will be an authorized use with a use permit; the permit is necessary not only for the care provider unit but also for the height of the structure.

Mr. Crow stated that the height issue is a concern to be addressed.

Sr. Planner Palmeri stated that the applicant has indicated that they wanted to proceed forward as soon as possible.

Commissioner Belmonte suggested that the Commission consider holding a special meeting as it is an unfortunate situation. He stressed that the Commission has, in the past, rescheduled an item due to circumstances. Assistant City Attorney Barker stressed that there is a legal notice requirement of 10 days, which would make August 4th the first available date.

COMMISSIONER WAHL MOVED TO REAGENDIZE USE PERMIT 97-28 (DANI) TO THE AUGUST 4, 1997 REGULAR MEETING. COMMISSIONER WRIGHT SECONDED THE MOTION WHICH WAS APPROVED 6-1 (COMMISSIONER STUDEBAKER OPPOSED).

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The Commission was in recess from 8:25 p.m. through 8:40 p.m.  
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Chair Monfort explained that as the applicant on Item 4 is present and those wishing to comment are also present, the public hearing will be held at this meeting.

**4. Use Permit No. 97-28 (Dani) - 755 Eastwood Avenue**

Sr. Planner Palmeri reviewed the staff report. He explained that the use will be reviewed annually to determine if it is still necessary. As for the structure, it is to be used as a care provider's room over a garage. The purpose of the height is to maintain the Tudor style of the main unit. There is some limitation to where it can be located as there is a pool located adjacent to the house.

Chair Monfort verified that when the need for this is no longer there, then the care providers space will need to be reverted to storage. Sr. Planner Palmeri noted that the design of the structure is such that the area can be converted into a storage area, and the kitchen facilities will be removed.

The public hearing was opened.

Lorie Ataman, 777 Eastwood Avenue, expressed concern regarding the location and the height of the structure. She indicated her belief that it will increase the density of the neighborhood. She explained that due to the large lot sizes, there is the equivalent of one small lot between the houses in the area. The additional structure will be close to her residence, impacting privacy, noise and, if the care provider smokes tobacco, air quality. It will also affect her viewscape as it will block the view of the sunset from her residence. She stated that she is also concerned with the effect the additional parking will have on the neighborhood. She noted that the applicant has removed three trees from the site, trees which had provided substantial shade for her house. She indicated that there are two other trees near the site which

the applicant may wish to remove, further impacting her property. She urged the Commission to consider the future use of the structure, suggesting that the property could change hands, leading to the structure being used as a rental. She suggested that the applicant consider alternatives, such as converting the basement or building an addition onto the home. She asked that if the Commission does approve the request, that there be a greater setback requirement and there be a fence or shrubbery placed on the property line.

Tracy Crow stated that he agreed with previous speaker. He stated that the problem is that it is to be a two-story building on the property. He suggested that the property is large enough to provide parking on-site.

Commissioner Wahl asked where Mr. Crow's residence is in relation to the applicants. Mr. Crow replied that he does not live in the area, but is a friend of Ms. Ataman. He stated that they object to a two-story structure being built in the neighborhood.

Commissioner Wahl asked if there are any other two-story buildings in the neighborhood. Mr. Crow replied that the only two-story residence is that of the applicant.

Aaron Dani, 755 Eastwood Avenue, the applicant, stated that he was present to address any questions the Commission may have.

Commissioner Hamilton inquired if Mr. Dani had discussed the request with his neighbors. Mr. Dani replied that he had spoken with Ms. Ataman regarding this proposal.

Mr. Dani indicated that he will instruct the care provider living in the structure that he will not allow smoking or loud noise. He noted that the basement of his residence floods during the winter; thus, he cannot convert the basement. As for the landscaping, there is a tree which has been left standing due to Ms. Ataman's concerns. He stated that the house is a Tudor-style home built in 1929, with a high-peaked roof, which are prevalent throughout the neighborhood. He indicated that on Ms. Ataman's property, there are birch trees which will block any view eventually. He stressed that the structure has been redesigned to have no windows facing toward the neighboring house. There is a fence going down the side which does need to be replaced, but the funding for both neighbors has prevented its replacement.

Chair Monfort confirmed that no windows face onto the neighboring property.

Commissioner Stuebaker confirmed that the structure will have to revert to storage if it is no longer needed. Mr. Dani stated that he has tried to address any concerns of the neighborhood.

Chair Monfort inquired if there would be landscaping in the setback. Mr. Dani stated that there will be landscaping as the structure will be 8 to 10 feet away from the property line.

The public hearing was closed.

Commissioner Dietle asked if any action was required by the Commission, or if a reaffirmation of the prior vote was necessary. Assistant City Attorney Barker stated that the Commission can affirm the prior action or offer another motion, but if no action is taken then prior action stands.

COMMISSIONER WAHL MOVED TO AFFIRM THE PRIOR ACTION BY THE COMMISSION APPROVING USE PERMIT NO. 97-28 (DANI). COMMISSIONER DIETLE SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

9. **Use Permit No. 97-30 (Kappa Sigma Delta) - 544 West Third Street** - A request to operate a sorority house in an existing structure located at 544 W. Third Street and identified as Assessor's Parcel No. 004-047-013, in a R-3 Medium High Density Residential zoning district. The site is designated in the City of Chico General Plan Diagram as Medium High Density Residential. This project has been determined to be Categorically Exempt from environmental review pursuant to Section 15301, Existing Facilities, of the California Environmental Quality Act (CEQA).

Acting Planning Director Hayes reviewed the staff report, including the history of the property, the former 'Language Houses.' He noted that the Commission previously approved the use of another sorority house at the east end of this housing row; this is the northwest corner of W. Third and Hazel Streets. Staff is recommending approval of the request based on the findings and conditions of approval contained in the staff report. He noted that the owner has, through the lease agreement with the sorority, imposed further conditions more stringent than staff is recommending.

Commissioner Dietle asked if these conditions are identical to those imposed on the other sorority, which was approved in April, 1997. Sr. Planner Palmeri stated that they are not identical. Many of the conditions approved for the other sorority have been addressed in the lease agreement, such as hours of operation and amplified music. He noted that at that time of the prior approval, staff was not aware of the lease conditions.

Commissioner Dietle verified that the City cannot enforce the lease agreement conditions. Sr. Planner Palmeri added that staff also left out of this permit certain standards which set out in the Municipal Code, such as noise and trash collection, which are enforceable without being an added condition.

Commissioner Dietle asked what the difference is between this permit and the permit approved in April for the same development. Sr. Planner Palmeri stated that it is not necessary to have all the conditions spelled out in detail. He noted that the parking has been acquired, and that with the requirement to provide the City with a list of names of the officers, if there is a problem with the use someone can be contacted. He acknowledged that the proposed conditions, or lack thereof, is a change in staff's approach, as in the past staff has spelled out in detail sections of the Municipal Code for emphasis.

Chair Monfort stated that there have been many meetings reviewing the variety of conditions placed on Fraternities and Sororities. The Police Department is able to enforce the Municipal Code, rather than keep track of separate use permits.

Sr. Planner Palmeri stated that if the Commission is not comfortable with the approach, they can apply additional conditions necessary to make this use acceptable. Commissioner Dietle stated that she would like to see conditions match the use permit recently approved for the same street.

Commissioner Wahl asked if there is a condition included that no alcohol be consumed on-site, or served on-site. Acting Planning Director Hayes stated that there is a condition imposed by lease agreement restricting alcohol consumption. He added that another stipulation of the lease is that large events must be held offsite.

Commissioner Dietle confirmed that these conditions are not on the permit, but are contained in the lease. Commissioner Hamilton stressed that the City is not in the business of enforcing prohibition on sororities.

Commissioner Dietle restated her request that the same conditions be applied on this sorority as those which were placed on a sorority house that is four houses away and was approved three months ago.

Chair Monfort asked if the conditions for the prior use permit addressed noise levels. Sr. Planner Palmeri reviewed the conditions of the prior use permit. Chair Monfort noted that the conditions on the prior permit have three additional conditions addressing amplified sound and hours of operation. It is up to the neighbors to complain to the Police Department to have the conditions enforced.

Commissioner Studebaker verified that there is a condition included to require compliance with all laws and ordinances to be applicable to residents and guests. Sr. Planner Palmeri stated that such a condition is standard.

Commissioner Belmonte asked how the next item on the agenda will affect this permit. Acting Planning Director Hayes explained that further action on the overlay district may supersede the use permit.

Commissioner Wright verified that if the overlay district is approved, and the approved conditions are less stringent than the approved use permit, the sorority can then apply under the new administrative permit. Assistant City Attorney Barker stressed that the overlay district will require action by the Commission, which will be a recommendation to Council. It may be some time before the Council takes action on the overlay district, and if approved, there will be another 30 days before it takes effect. Action on this permit will allow the sorority to be in place during that time.

The public hearing was opened at 9:16 p.m. to which there was no comment.

COMMISSIONER DIETLE MOVED TO APPROVE USE PERMIT NO. 97-30 (KAPPA SIGMA DELTA) - 544 WEST THIRD STREET, MAKING THE FINDINGS CONTAINED IN THE STAFF REPORT, WITH STIPULATION THAT THE CONDITIONS OF APPROVAL MATCH THOSE USED FOR USE PERMIT 97-8 (BOYD/THETA UPSILON), WHICH WAS APPROVED IN APRIL. COMMISSIONER BELMONTE SECONDED THE MOTION.

Commissioner Wahl asked if a parking requirement would be included. Sr. Planner Palmeri replied that there was a variance to cover parking for the entire four units.

Commissioner Studebaker stated that he would like to have asked questions of the applicant.

Sr. Planner Palmeri verified that there would be one change in the condition listing that the "Plat to Accompany Use Permit No. 97-8" be changed to read "Use Permit No. 97-30." He re-read the conditions which were placed on the prior use permit.

THE MOTION WAS UNANIMOUSLY APPROVED.

- 10. Rezone No. 97-04** - A proposal to adopt an overlay zone for the South Campus Area generally described as those properties bounded on the north by West First Street and the California State University, Chico campus, on the east by Salem Street, on the south by West Ninth Street and on

the west by the City limits, excluding Rosedale School and properties on Via Los Arboles. The proposed overlay zone will not change the existing zoning. If approved, the overlay zone would allow fraternities, sororities and other social organizations as permitted uses on properties zoned R-3 Medium-High Density Residential Zoning District and RHD Residential High Density Zoning District. The organizations would be allowed to install organizational identification signs, meet less stringent off-street parking requirements and provide information regarding organizations officers and sponsors to the City and neighborhood council(s). Based on the initial study for environmental review prepare for this project, the Planning Division is recommending that a negative declaration be adopted pursuant to the California Environmental Quality Act (CEQA). A "negative declaration" is a determination that a project will not have a significant impact on the environment.

Sr. Planner Palmeri reviewed the staff report and the history of the proposal. It should be noted that the proposed overlay district does not eliminate the use permit process for those organizations which may wish to locate outside of the boundaries for the district, nor does it eliminate existing Municipal Code requirements which are already in place. In fact, the proposed district relies heavily on existing Code regulations. The recommended language does consider parking requirements different for fraternities and sororities within the boundaries than for areas outside of the district; it is suggested that four parking places provided for each fraternity and/or sorority in the area. In addition, the organizations will be required to provide names, addresses and telephone number of officers and sponsors as part of the ministerial permit. Staff also suggests that a photograph of the sponsor be required. He noted that there has been discussion to broaden the allowed organizations from fraternity and sororities in order to add other social organizations. He stated that staff has been advised that there is no definition for social organizations which could be used, while there are definitions in the Code for fraternity and sorority houses. He asked the Commission to consider both the proposal itself and the boundaries proposed. The boundaries included are those suggested by Council, although the Fraternity/Sorority Subcommittee of the Planning Commission suggested limiting the boundary at Walnut Street. A letter received by the Commission also recommends the Walnut Street boundary. The South Campus group recommends that the boundary go south to 7th Street and west but not all the way to the City limits.

Commissioner Dietle asked if the suggested permits, which are to be approved by the Planning Director, be appealed. Sr. Planner Palmeri responded an the proposal is for a ministerial permit to be based on certain criteria; if those criteria are met, the permit cannot be appealed. Assistant City Attorney Barker stated that there may be a way to appeal a permit, as Title 19 of the Municipal Code provides that any person aggrieved by a Planning Director decision can appeal to the Commission.

Commissioner Wright inquired if there is a process to review a permit if violations of the permit occur. Sr. Planner Palmeri stated that if there are violations of the permit, then the organization cannot meet the permit requirements.

Commissioner Dietle suggested that such a permit process would be eliminating the neighbors right to appeal. Commissioner Hamilton stressed the need to have public comment.

Commissioner Wright questioned if the process for the permit would be similar to that of the administrative use permit, where the neighbors are notified once the permit has been approved. Assistant City Attorney Barker stated that there is not a notification process for the neighbors on a ministerial permit. Sr. Planner Palmeri added that the only people who would be notified are the property owners who must sign the permit to acknowledge the use.

She explained that a ministerial permit is based on information provided, such as names and addresses, a copy of the organizations bylaws, and an acknowledgment to comply with Codes. If those conditions are met, the Planning Director must approve the permit, it is not a discretionary permit. The permit will have to be renewed annually by providing the information.

Chair Monfort asked if the permit process could be changed to reflect that if the organization does not meet the requirement that all laws be followed that the permit not be renewed. Assistant City Attorney Barker stated that such a change would make the renewal of the permit discretionary.

Commissioner Wright stated that it was the Subcommittee's intent to allow some discretion by the Planning Director if an organization did meet the conditions of the permit during the prior year. Assistant City Attorney Barker asked what guidance the Commission would like to give the Planning Director for that. Chair Monfort explained that the Subcommittee did not want to provide direction of a specific number of violations, rather to allow for denial of flagrant abuse. He added that a denial recommendation would be a judgement call of law enforcement officers who are actually working with the organization.

Commissioner Dietle suggested that requiring these organizations to come before the Commission allows the Commission an opportunity to impress the importance of these conditions. She expressed concern that the proposal ignores the uniqueness of each property within the zone, regardless of the neighbors or property constraints. She added that she also objected to the fact that an appeal by the neighbors would only be provided for upon the organization not complying with the regulations.

Assistant City Attorney Barker expressed concern that within the proposed ordinance, the term 'similar social organizations' has not been defined. She stated that unless it can be specifically defined, it is too vague, making the ordinance unenforceable. The Municipal Code does not regulate who lives in a house together, rather the use of a house for fraternity and sorority activities.

Commissioner Studebaker stated that the social organization definition was desired to include other groups. Assistant City Attorney Barker stated that there is nothing to prevent an organization's members to live in a house, only the types of activities and signage.

Commissioner Hamilton suggested that the proposal start with a fraternity and sorority overlay with a sunset date to allow for revisions if necessary, and expansion to other organizations, if definable.

Commissioner Studebaker suggested that instead of social organizations, the term 'student living organizations' be used. Assistant City Attorney Barker expressed concern that there needs to be a definition to make it enforceable.

Chair Monfort suggested a definition for social organizations be "a group of people, two-thirds of the membership being students, with bylaws and social activities in addition to educational pursuits."

Commissioner Wahl expressed concern that such a definition can be too broad. Chair Monfort noted that the types of organizations for inclusion would be those such as Red Barn and the Ski Team.

Commissioner Wahl asked what the intent of the overlay district is.

Commissioner Hamilton asked the audience if there are representatives from organizations other than fraternities or sororities present. Two responded.

Commissioner Dietle stated that the neighbors do not benefit from the overlay district as they lose the right to appeal.

Chair Monfort stated that the intent of the overlay district is to bring organizations into the system. He noted that organizations have been becoming afraid that they will not have the ability to get use permits needed. Sr. Planner Palmeri added that the intent is to encourage the fraternities/sororities/social organizations to be located in close proximity to the California State University, Chico (CSUC).

Commissioner Wahl asked why the houses on 3rd Street, the "Language Houses" were not included in the overlay district. Sr. Planner Palmeri stated that the boundaries need to be amended to include those houses.

Commissioner Dietle stressed that in her opinion this ordinance does not provide any advantages to organizations other than hang a sign and to provide garbage enclosures. It does limit the rights of the neighborhood to object.

Chair Monfort reviewed the history of a fraternity, which purchased a house without receiving a use permit, then removed their letters and still are functioning as a fraternity at the location.

Commissioner Wahl stated that the proposed ordinance does not acknowledge the rights of those who live in the area and do not want to live next to a fraternity. He asked about the process for those who own property outside of the zone who desire it to rent to a fraternity.

Commissioner Wright stated that the benefit of the zone is to create a compatible area to accommodate the use of fraternities and sororities and get those organizations who have not been part of the process into the loop.

Commissioner Studebaker stated that the only recent permit requests have been for the "Language Houses." He indicated his belief that the proposed zone may not greatly affect the use of the area. He suggested that this proposed ordinance is a first part of the process, with the special events portion to be reviewed at a later date.

Commissioner Dietle verified that an organization can abandon its previous permit and apply for ministerial permit. She questioned when the other important issues will be addressed, such as special events. Sr. Planner Palmeri explained that the Subcommittee recognized that the special events issues are complex and may take some time. They asked that it be addressed separately in order to get the overlay district functioning.

Commissioner Dietle expressed concern that the essence of the ordinance has yet to be laid out after four years of discussions.

Acting Planning Director Hayes stated that the noise ordinance is the section of the Municipal Code which generates the most complaints; it will function over the overlay zone. He suggested that the overlay zone may encourage fraternity and sorority houses to apply for a permit and thus, every organization will be subject to the same regulations. The question is what happens at the end of the year when a group does not live up to those requirements, and how are the requirements to be enforced. He noted that the proposed ministerial permit is similar to the Home Occupation Permits, which has a process which exists, operates and is non-discretionary; the only way to enforce it is if the City receives a complaint. The proposed process will provide a one-year review in order to receive complaints.

The Commission was in recess 10:00 p.m. through 10:15 p.m.

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The public hearing was opened at 10:15 p.m.

Mark Francis, 31 Burney Dr, stated that the suggested border to the east of Salem is to far, given the number of business uses on Salem. These businesses could be negatively affected by a fraternity and/or sorority locating adjacent to them without public input. He stressed that the Commission is here for a reason, and the public should be able to comment on the location of a fraternity/sorority/social organization. He noted that the previous version of the proposal put conditions on the organizations which were meant to protect the neighborhood. He stated that the Commission should hold to that review.

Chair Monfort verified that Mr. Francis was on the City Council which sent this item to the Commission.

Charlie Pruesser, 1405 W. 3rd Street, stated the Council unanimously approved the idea of an overlay zone in concept, sent this to the Commission with instruction to change the old Code requirements to allow the use by right. He stressed that there should be an area for a student organization to live in their house without having any more restrictions than anyone else. He stated that over 40 percent of the population in Chico is college students. He indicated fraternities and sororities often live in the area west of Walnut when they originate. As the organization grows and can afford a more expensive home, they move to the area east of Walnut. He stated that students make good neighbors. He emphasized there currently is not a neighborhood which is an appropriate place for a fraternity or sorority without being overly regulated. He asked that the City enforce the laws. He noted that not all noise complaints or party complaints are caused by fraternity or sororities.

Paul DiGirolamo, 1046 W. 6th Street, stated that this proposal will level the playing field and allow for some accountability by the organizations. He quoted the noise ordinance. He noted that the Commission imposed stringent conditions on a previously approved fraternity use permit at the urging a neighbor, the same neighbor who supported live bands for an adjacent business. He suggested that the complaints against fraternities, sororities and other student organizations are based on age. He stated that he was in support of the proposal as it will provide an incentive to operate student organizations in a certain area and allow for accountability of those organizations.

Maxine Rogers, 10 Coolwater Commons, asked if City staff had met with the South Campus Association at a time when the residents were not notified, and why there had not been a meeting with the property owners in the area who did not belong to the group. Sr. Planner Palmeri replied that there have been a number of meetings between the Subcommittee and neighbors; those meeting were noticed and posted. There were also internal staff meetings, which were not noticed.

Caroline Lundberg, 622 Paseo Companeros, noted that the residents on the west side are varied, with a limited amount of students. She expressed concern with parking and noise in the area. She pointed out that a house with 6 bedrooms could house a fraternity with 12 residents, each with their own vehicle. She stated that she noticed a problem in the area of her property on 9th and 10th Streets with parking on lawns. She indicated her belief that the proposal, as it stands, would be giving people privileges without the representation of the area property owners, and would allow the area to become impacted with these organizations. This could devalue the property of the area. She urged the Commission to add a governing board for the permits if there is to be an overlay zone. She stated that the citizens of Chico would like to think that on Thursday, Friday and Saturday nights that the Police Department will not be so impacted with

a small area of the City as to neglect the rest of the City. She stated that although the westside of Chico is a unique area, but to impact the entire City by the actions of a segment of the community would not be fair to the community as a whole.

Margaret Allen, 944 Normal Avenue, stated that she is part of an organization, the Normal Neighborhood Association, which represents block between 9th and 10th Streets on Normal Avenue. She stated that she does like to live around students. She expressed concern that the neighborhood organization became aware of the overlay zone within the last year. She noted that she did try to contact someone with the South Campus Neighborhood Association, who did not return her calls. She expressed concern with the noise and property damage which occurs in the neighborhood. She noted that no specific number of organizations has been given; if each of the unknown number of organizations were to have four special events per year, there would be a cumulative affect on the neighborhood. She stressed that the quality of life needs to be preserved for both the students and the other residents. She suggested that the use of the area is being changed in order to support parting aspect of the students.

Chair Monfort noted the intent of the Subcommittee is not to relax and create a party atmosphere.

Bob Ray, 1046 W. 6th Street, a member of the South Campus Neighborhood Association, stated that the intent of the proposal is to create a area in which these organizations should go, and would be welcomed. He stressed that students are not criminals, noting that he leaves his car doors unlocked and his vehicle remains safe. It is easier to hold someone accountable if there is a problem, rather than not know who to contact. He stated that he often has live bands perform at this home. He stated that the South Campus Neighborhood Association does agree that the southern boundary for the proposed zone should stop at 7th Street as 8th and 9th Streets are State Highway Route 32 (SHR 32). He suggested that the proposal failed the first time as it was too small of an area with too many restrictions. He indicated his belief that the types of activities associated with fraternities and sororities do occur all the time in the proposed area. He suggested that the proposal is to have a way to have some accountability and promote responsibility among the organizations.

Ron Chambers, 441 W. 2nd Avenue, Apt. #1, stated that the proposed zone will benefit businesses who draw from student support. He added that individuals not previously associated with fraternities and sororities would gain through the proposal better access to the organizations activities, including community service activities. He suggested that, as part of the overlay zone, every house be required to have two parking spots, and if those spots are not available on-site, they be assigned parking areas on the street; thus towing vehicles of non-residents. As for the restrictions on banners, he stated that there should not be special regulations for banners, or the posting of letters, as any person can have sign on house to denote who lives there.

Peggy Clark, 1630 Camper Lane, stated that she wrote a letter in opposition to the proposal which was signed by twelve individuals. She stressed that consideration should be given to the permanent residents of the City, who live here year round, not just for those who live here 9 month of the year. She noted that she did not receive notification of any neighborhood meetings.

Greg Morris, 1020 W. 2nd Street, president of Tau Kappa Epsilon fraternity, stressed that many students are registered voters of Butte County and deserve the same rights as other citizens. The majority the people living in the area are young and do not complain of noise levels. He stated that the fraternity has only one neighbor who complains, although he supported a neighboring business in their request to have live bands. He stressed that the fraternity does follow the conditions placed on their use permit as they do not want the permit revoked although they cannot be sitting on their porch during the week after 10:00

p.m. This proposal for an overlay zone would remove that discrimination. He suggested that many organizations do not go through the use permit process as it costs an estimated \$500 and takes 2 to 3 months before it is acted on. He noted that his organization does file a special event form with the Police Department and inform all the neighbors of an event. This requires that the events be planned, organized, that restrooms are provided, and the event is controlled. He compared a fund raising party to a yard sale or car wash, and suggested that it is not a commercial activity. He suggested the City evaluate what is legal in terms of fund raising.

Rick Rees, Student Activities Director at California State University Chico, stated that he has been working for with student organizations 17 years. He noted that the proposal originated when Ray Schoenfeld requested that there be a place for uses like this. He agreed that there should be a place that is attractive for fraternities and sororities to locate. He noted that if given the opportunity and it is attractive, over time the organizations will move into the area. He stressed that it is his experience that the farther away from campus an organization is, the more problems the organizations has with its neighbors. He stated his belief that the way to solve the problems is not through the restrictions placed on use permits, but through the efforts of the Community Outreach Division of the Police Department. He reminded the Commission that there are at least 10 fraternities and 21 sororities were preexisting to the 1977 ordinance regulating use permits; these organizations were grandfathered in with no additional conditions.

Commissioner Wahl asked what the official possession of CSUC is on this overlay zone. Mr. Rees stated that he cannot speak for CSUC, or its president. The Student Activities Office is in support of the proposal and will help to get as many of the organizations into the south campus neighborhood and to work with the Chico Police Department. He noted that the current ordinance is adequate, with most groups being granted permits, but the ordinance does not solve problems and creates restrictions which are not enforced.

Commissioner Studebaker asked if Mr. Rees felt that this ordinance may bring more organizations into the process. Mr. Reese stated that the preexisting groups may not join as they are currently without regulation.

Commissioner Wahl asked if the Police Department receives more calls for those organizations which are away from the south campus area.

Captain Reuben Gurrolla, Chico Police Department, agreed that the problems are more directed outside the south campus area. He suggested that the localization of the problems is in direct response to the Community Outreach program, which is intensified in the south campus area, where they are in a position to contact the residents and build trust and cooperation. Those outside the area are not as accessible.

Mr. Pruesser pointed out that the streets between 8th and 9th Streets do not house students, but tend to be the residence of older people and several are starter homes, bought by younger families, while the east side of Walnut Street is heavily student populated. He added that if the City cannot define what a student social group is, then there will be no restriction on this use. He asked if social organizations which are not associated with fraternities or sororities can put up group name. Sr. Planner Palmeri replied that while they can install a sign, it must be limited to a total area of one square foot.

Mr. Pruesser urged the Commission to determine a definition for the concept of a student living group.

Richard Elsom, P.O. Box 5624, stated that he was speaking only as representing himself. He noted that Commissioner Hamilton had questioned the lack of public discussion on individual permits. He stated his belief that if a group of students want to live together and call themselves something, then they should be able to do so without additional requirements. He stated that he would like to see boundaries going farther west. The issue is that if a group of people happen to call themselves a fraternity, then the group is held to tougher standards than a group who chooses not to call themselves a fraternity. In the current process, members give up some rights when becoming a fraternity. If several organizations join in this process, then the overlay zone will be a benefit to the City. He indicated that he was in favor of southern boundary ending at 7th Street. He added that although the proposal addresses only a small portion of the problems of the area, it is important to forward a recommendation to the Council.

Commissioner Wahl questioned what rights are being given up by joining a fraternity. Mr. Elsom responded that by having a fraternity house, a permit is needed to hold group meetings and to have larger letters displaying identity than allowed for regular residential. No official fraternity function can be held within a house without a use permit. He stated that the intent is to have the same regulations for both individuals and groups.

Commissioner Wahl asked if the condition placed on the fraternity prohibiting sitting on the porch after 10:00 p.m. was appealed to Council. Mr. Elsom stated that he was not aware if it was appealed. The permit was originally based on the minimum conditions, the additional conditions were placed as a result of a neighbors complaints.

Commissioner Wahl suggested that the fraternities and sororities should join together in listing conditions which they can live under, although it would not affect those who already have a use permit. Mr. Elsom stated that not having an overlay zone will not change the situation. The overlay zone may bring in organizations who have not previously been recognized by the City. He explained that the neighborhood is asking to be allowed to chart their own course and for recognition from the City that this is a unique neighborhood.

Commissioner Hamilton stated that if this proposal does not move forward from this meeting, it does not prohibit fraternities and sororities from applying for a use permit, even though it does cost money to apply for a use permit. The Commission cannot take away the rights of those who live or own property in the area. He noted that there are students who do not want to live next to a fraternity or sorority. This proposal is not a solution to all of the problems, only for the use permit process in which the neighbors will not have any input until the organization had been there for one year.

Mr. Elsom questioned that if there is no concern with noise or parties, why is this process necessary. He stated that organizations have had difficulties when appearing before the Commission for a use permit, including hostile neighbors protesting the use.

Commissioner Hamilton asked why the fraternities and sororities deserved preferential treatment over the property owners and other residents in the area. Mr. Elsom restated that the Council asked that the Commission determine a plan. He stressed that most of those vocalizing opposition to the proposal do not live in the area. The proposal will bring fraternities and sororities closer to campus, under the umbrella of the south campus area and under the Community Outreach program of the Police Department. Since 1977, the use permits were imposed on the fraternity and sorority organizations. Now the residents in the area are asking the condition for use permits be removed.

Commissioner Hamilton noted that everyone agrees that there is a problem in the area. He expressed concern that removing the requirement for use permit may not be taking care of the problems as the residents who live in the area have the opportunity to voice their opposition. He suggested that the only people who will lose on the situation are those who do not want a fraternity or sorority at the property.

Greg Morris, previous speaker, stated that the benefit to the City will be from the organizations. He suggested that use permit restrictions do not help the situation and do anger the fraternity members. He indicated that generally, fraternities do make good neighbors as they want to work with the neighbors. He noted that since 1977, if a fraternity or sorority wished to locate in the south campus area the Commission has generally approved the permit even though the neighbors object.

Commissioner Belmonte asked why an organization would wish to declare itself a fraternity, when it can operate without that banner. Mr. Morris replied that the posting of letters identifying the house encourages membership. He indicated that fraternity involvement is symbolized by the house. If they do not have a house they often are considered a club and membership does not grow. Thus, if a fraternity was denied a permit, the membership would decline and the fraternity would eventually close.

Commissioner Belmonte stated that, based on Mr. Morris statements, being a fraternity is a different set of circumstances than being a group of people co-existing. In order to achieve neighborhood compatibility, different sets of conditions have to apply to both fraternity and residential uses, as the goals and/or activities of both are not the same. Everyone wants to have the same rights and privileges as everyone else. If a group wants to be different, then they have to accept different conditions.

Mr. Morris stated that the newer fraternities want the same regulations as those fraternities which existed prior to use permit regulations.

Commissioner Belmonte expressed concern that the area being considered for the overlay zone is a large area which encompasses a large variety of uses, including student uses. There are a specific set special interest people involved in this proposal, that want to set policy to govern an area that has multiple uses, which may not be reflected by that special interest. This proposal could be included in a neighborhood plan so that area businesses, residents, students and organizations could be involved in creating it and making the compromises necessary to allow it to function without alienating specific factions. He noted that there is not an ongoing means of addressing neighborhood plans.

Bob Ray, a previous speaker, reviewed that as of the 1990 Census, 43 percent of the population of Chico is between 18 and 28 years old. He stated that there are 13,000 students who attend CSUC, pay rent and put money into this community. The majority of the area businesses would not be affected by this overlay as they are open during the day and not at night. Those businesses which are open at night, probably are student orientated and would profit from more students living in this area. The difference between six people moving into a house and the house next door with six rooms housing a fraternity is meetings and letters; restrictions which are placed on one and not on the other.

Commissioner Belmonte reviewed that Mr. Morris had testified that fraternities are different as they have goals and objectives. Mr. Ray replied that the activities in the area are the same regardless of who lives where. He suggested that the members want to remain a fraternity in order to provide a history for their organization.

Commissioner Belmonte stressed that the president of a fraternity testified that fraternities are different, and they are willing to do something to retain that value. Mr. Ray replied that the fraternities each want

to be the most popular club, have the best house and have a tradition; for this the fraternities have had to pay with restrictions.

Commissioner Hamilton stated that although most people are in bed at 10:00 p.m. and want quiet, the condition placed on the Tau Kappa Epsilon fraternity should be removed. Commissioner Belmonte explained that the fraternity had a history with many difficulties. Those conditions were put in place and the fraternity agreed to those conditions. While the conditions were more stringent than most, it was agreed upon. It was a choice the fraternity made.

Mr. Ray expressed his belief that conditions such as those placed on the Tau Kappa Epsilon fraternity are not legal under the Constitution. There are laws which address most all situations, under which no one group of people has more restrictions than any other organization. As for the area property values, he suggested that the values in the area may rise if this overlay zone becomes appealing to students.

Charlie Pruesser, a previous speaker, stated that he objected to the idea that 'if your different, there is a different standard for you.'

Commissioner Belmonte explained that he was attempting to get a better understanding of the issues. He verified that currently, a sorority or fraternity does require a use permit, and noted that he does not know the history behind that requirement. He added that if the fraternities and sororities want to be different and known by a certain name, then they should pay for that difference in some way. He expressed concern that this proposal is engineered in such a way that those people who might oppose the ordinance are being left out.

Mr. Pruesser suggested that business owners may be happy to have students in their neighborhood.

Paul DiGirolano, a previous speaker, stated that because the group is different, does not require additional regulation. He suggested that many of the problems of local youth are being targeted onto the fraternities and sororities as they are different and full of young people. There are students who are responsible. He pointed out that students donate an average 2,000 hours per year in volunteer organizations. He suggested that the student's economical contribution in Chico is incalculable. He stated that Chico is better than surrounding areas, with lower crime rates and better standard of living. He suggested that that is because of the students. He stated that students are capable and willing to take responsibility for their neighborhoods.

Mr. Morris pointed out that the Commission has heard much from those who are not involved in or with fraternities. He stressed that fraternities are different and have different needs. Fraternities have selected members, perform rituals and have to earn their position. Businesses and residences do not have to have use permits. He stated that fraternities and sororities should not have to have use permits either.

Commissioner Dietle stated that some businesses do require use permits, due to the types of business, zone and hours of operation. She expressed concern that the proposed ordinance requires that the other property owners give up their right to be proactive if a fraternity desires to reside in their area.

Commissioner Belmonte quoted from the first page of the staff report describing the Council direction to create an overlay zone to allow residential organizations to be a permitted use subject to some restrictions. The current proposal still requires that fraternities and sororities must have a ministerial permit. It is not clear what the land use issues are for fraternities and sororities. In reviewing the land use issues

surrounding the zoning, he suggested that the Commission might find that there is no need to have special permits other than to sign up with the neighborhood police association.

Commissioner Dietle stated that there were most likely very good reasons to put the current ordinance in effect in 1977. She stated that while most of the problems in the area are not done by the Greek houses, the Greek Houses are required to have use permits, and thus know that they are being held accountable for their actions.

The public hearing was closed at 12:00 midnight.

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The Commission was in recess from 12:03 p.m. through 12:15 p.m.  
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Commissioner Dietle stated that the current process to require a use permit does work.

COMMISSIONER DIETLE MOVED TO FORWARD A RECOMMENDATION TO COUNCIL TO ABANDON THE CONCEPT OF AN OVERLAY ZONE FOR THE SOUTH CAMPUS AREA. COMMISSIONER WAHL SECONDED THE MOTION.

Chair Monfort stated that if the motion fails he wishes to modify the proposal.

Commissioner Hamilton stated that regardless of the outcome of the vote, is should not stop the flow of communication as there are bigger questions.

Commissioner Belmonte expressed frustration that the time and energy spent on this issue could end without further direction. He urged that the communication continue with the neighborhood group.

THE MOTION FAILED 4-3 (COMMISSIONERS HAMILTON, MONFORT, STUDEBAKER AND WRIGHT OPPOSED).

CHAIR MONFORT MOVED TO RECOMMEND COUNCIL APPROVAL OF THE REZONE WITH THE FOLLOWING CHANGES: REMOVE THE REFERENCE TO SOCIAL ORGANIZATIONS, CHANGE THE BOUNDARIES TO EXTEND EAST TO NORMAL STREET, SOUTH TO 7TH STREET, WEST TO WALNUT SOUTHERLY TO 6TH STREET THEN TO HICKORY, NORTHERLY TO CALIFORNIA STATE UNIVERSITY, CHICO CAMPUS; AND THE ADMINISTERIAL PERMIT TO BE SIMILAR TO ADMINISTRATIVE USE PERMIT. COMMISSIONER WRIGHT SECONDED THE MOTION.

Chair Monfort explained that the boundary was chosen as it excluded most single family residential areas. He added that the change from a ministerial permit to an administrative use permit will provide that the neighbors and property owners are noticed and it can be appealed. He indicated his belief that given the area and its residents, the appeals may happen on an infrequent basis.

Sr. Planner Palmeri clarified that the boundary does include the "Language Houses."

Commissioner Studebaker asked if the language in Condition 5 of the proposed ordinance, which requires compliance with all state, federal and local ordinances, is strong enough. Chair Monfort stated that the language says that they must agree to abide by all regulations. Assistant City Attorney Barker noted that although the language in the original proposal was stronger, the applicant does have to abide by the laws. Chair Monfort agreed that stronger language could be used. Assistant City Attorney Barker suggested that the language be changed, "The applicant shall acknowledge that all state and local code provisions are to be met..."

Commissioner Wahl suggested that a two-year sunset clause be included. Sr. Planner Palmeri stated that if the overlay zone is not functioning as planned, it can be brought back to the Commission at anytime. Assistant City Attorney Barker cautioned that if there is a sunset clause is used, those organizations who received an ministerial permit would then be without a permit. Sr. Planner Palmeri stated that staff would want to report to the Commission on a regular basis and work with Police and the community to review the situation. This could be done annually or every six months, depending on the Commission's wishes.

Commissioner Wright suggested that providing this mechanism for this area may encourage some renovation of the properties in the neighborhood. Any sunset clause would discourage that investment in property.

Commissioner Wahl questioned how many places are affected by the changes in the boundaries, residences which could be used for that fraternities or sororities or are existing housing for them. Chair Monfort stated that he had walked through the area to review the uses, especially owner-occupied single-family homes. He indicated his intent to exclude residential neighborhoods where there would be conflicts.

Commissioner Hamilton suggested a friendly amendment to change westerly boundary to Walnut, southerly to 7th Street. He reviewed that there had been testimony that those organizations which are located closer to CSUC have more community involvement and less trouble. The area from 7th to Walnut is a natural boundary and is a contained area.

Chair Monfort reviewed previous testimony regarding two organizations in the area west of Walnut which would not be included in the smaller area. Commissioner Hamilton stated that he would like to see those two groups move into the area closer to campus. He suggested that the smaller boundary would bring a unity to the neighborhood.

Sr. Planner Palmeri stated that based on list provided by CSUC, for fraternities and sororities who have houses, the majority of the houses are within the suggested boundaries.

Commissioner Wahl asked if the fraternities and sororities within the area are in good standing with CSUC. Chair Monfort noted that such a condition was explicitly eliminated from the proposal due to testimony received and concerns from CSUC.

Mr. Reese stated that the organizations listed are in good standing with CSUC .

COMMISSIONER WAHL MOVED THAT THE MOTION BE TABLED TO ALLOW FOR COMMENT ON THE NEW BOUNDARIES. COMMISSIONER BELMONTE SECONDED THE MOTION.

Commissioner Wright noted that there is a motion and a second on table to be voted. He stated that he would oppose the motion to table as it be postponed the decision to another public hearing after receiving extensive comments.

Chair Monfort agreed to the modification to change the boundary would be westerly to Walnut, southerly to 7th Street.

Assistant City Attorney Barker stated that the motion to table does take precedence.

The motion to table the item was defeated 2-6 (Commissioners Dietle, Hamilton, Monfort, Studebaker and Wright opposed).

THE VOTE ON MOTION TO RECOMMEND APPROVAL BY COUNCIL AS MODIFIED WAS APPROVED 4-3 (COMMISSIONERS BELMONTE, DIETLE AND WAHL OPPOSED).

**BUSINESS FROM THE FLOOR**

None.

**ADJOURNMENT**

There being no further business, the meeting was adjourned at 12:45 A.M. to July 22, 1997 at 2:00 p.m. in Conference Room 1, for Planning Director interviews and a 7:00 p.m. joint meeting with the City Council regarding the General Plan; and the Regular Meeting of August 4, 1997 at 7:30 p.m.

August 18, 1997  
Date Approved

/s/  
Tom Hayes  
Acting Planning Director

**PLANNING COMMISSION**  
MEETING OF AUGUST 4, 1997

**ROLL CALL**

The meeting was called to order by Chair Kirk Monfort at 7:30 P.M. in the Council Chambers of the Chico Municipal Center. Commissioners present were Barry Belmonte, Jolene Dietle, William Hamilton, Kirk Monfort, Jonathan Studebaker, Larry Wahl and Michael Wright. Staff present were Assistant City Attorney Lori Barker, Acting Planning Director Tom Hayes, Senior Planner Ed Palmeri and Administrative Secretary Karen Kracht.

**DISCUSSION OF EX PARTE COMMUNICATION**

None.

**CONSENT AGENDA**

**1. Minutes of Regular Meeting of July 7, 1997.**

**Requested Action:** Approve with any corrections/revisions required.

COMMISSIONER DIETLE MOVED TO APPROVE THE CONSENT AGENDA. COMMISSIONER STUDEBAKER SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

**REGULAR AGENDA**

- 2. Amendment to Title 19 Land Use Regulations, of the Chico Municipal Code, to Provide a Definition for and to Allow "Assisted Living Facilities"** - A proposal to recommend to Council the adoption of a land use definition entitled "Assisted Living Facility," an amendment to Chapter 19.04.127. The proposal also includes an amendment to Chapter 19.34 add "Assisted Living Facility" to the list of uses allowed with a use permit in the R-S Suburban Residential, R-1 Single Family Residential, RD-1 Low Density Residential, R-2 Medium Density Residential, R-3 Medium-High Density Residential, RHD Residential High Density and R-P Residential-Professional/Business Office zoning districts. Pursuant to Section 15378 of the California Environmental Quality Act (CEQA), these actions have been determined not to be a "project" and do not require environmental review.

Acting Planning Director Hayes reviewed the staff report to allow, with a use permit, assisted living facilities for the elderly in which extensive medical care is not necessary, in all residential districts. The use permit would allow the Commission to make discretionary decisions on the use on a case by case basis. He pointed out that as the demographics of society changes, this type of use is going to become in high demand.

Commissioner Wright asked what the definition of elderly is, pointing out that the Federal agency, Housing and Urban Development (HUD), also allows handicapped in most definitions of elderly. Acting Planning Director Hayes explained that staff is proposing to define elderly by using the State definition, for licensing purposes, of 60 years old and over.

Commissioner Belmonte noted that many individuals who require assisted living facilities may not be elderly. Acting Planning Director Hayes explained that staff was attempting to meet a specific need for

the elderly. He suggested that, should Commission desire, the definition could be expand definitions within the land use regulation update currently in process. This proposal would meet the need of several inquiries which staff has received. The current definition of group care facilities does include some facilities which would not be appropriate in some residential districts. He noted that the draft ordinance also specifies elderly.

Chair Monfort verified that if an applicant proposes a large facility, staff would advise them to locate in a higher density area. He inquired if parking requirements will be set out in another ordinance. Acting Planning Director Hayes added the use will require a use permit, regardless of the residential density. Under the current regulations in the Code, parking for residential care facilities requires one space for every three beds, which is also appropriate for this use.

Commissioner Wahl noted that the draft ordinance specifies 7 or more elderly individuals; he inquired if a similar ordinance was required for 7 or fewer residents. Acting Planning Director Hayes explained that facilities for 1 through 6 persons is allowed outright in any residential district per State law. This ordinance addresses facilities with larger than 7 beds. The use permit provisions would allow the Commission flexibility in the use and to condition the requests as appropriate.

Commissioner Belmonte expressed concern that in the event there is a facility which desires to fill a need for assisted living for those who may not meet the definition of elderly, then the facility would not fall under this ordinance. He suggested that the definition be changed to be 'assisted living for the elderly' or open it up to assisted living for anyone who has that need.

Commissioner Hamilton stated that it is well known that there is a growing need in the community for elderly assisted living, which the City needs to accommodate. He expressed concern that other problems may arise if the definition is expanded to other individuals.

Commissioner Studebaker stated that the definition should be expanded in order to not exclude other populations, such as those with disabilities, who may also benefit.

Chair Monfort suggested that if staff would like more time to consider expanding the definition to include assisted living facilities for the elderly and others, or include the term elderly in the title and return to the Commission at a later date for additional definitions. Acting Planning Director Hayes replied that staff had difficulty expanding the definition to include other groups. An immediate specific need could be met by limiting the definition to "elderly." He stressed that the ordinance does not affect the group care facilities which defines residential care facilities for a broad range of other populations.

Commissioner Belmonte stressed that in order to meet the specific need the definition should be specify 'assisted living facilities for the elderly,' making it as clear and succinct as possible. Commissioner Wahl added that the definition of elderly must meet the State definition.

The public hearing was opened at 7:50 p.m. to which there was no comment.

Commissioner Studebaker verified that as this ordinance is targeted to the elderly, staff would bring further amendments to the Commission. Acting Planning Director Hayes stated that staff could agendize a discussion of group care facilities.

Chair Monfort verified that the State preempts local control over group care for one through six individuals, similar to what is mandated for day cares.

COMMISSIONER BELMONTE MOVED TO APPROVE AN AMENDMENT TO TITLE 19, LAND USE REGULATIONS, OF THE CHICO MUNICIPAL CODE, TO PROVIDE A DEFINITION FOR AND TO ALLOW "ASSISTED LIVING FACILITIES," TO BE MODIFIED TO ALLOW "ASSISTED LIVING FACILITIES FOR THE ELDERLY" AND TO INCLUDE THE STATE DEFINITION OF ELDERLY. COMMISSIONER DIETLE SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

Chair Monfort asked if there was a Commission consensus of a need for a workshop on this issue. Commissioner Studebaker stated that he felt that there was. Commissioner Dietle pointed out that other types of living facilities are covered in the Code, though it can be amend further if the need arose. Commissioner Belmonte suggested that staff determine if there is a need for assisted living facilities for populations, then a workshop be scheduled.

Acting Planning Director Hayes explained that this item was brought forward to the Commission as there has been a shift in the demographics and a rise in elderly situations. Commissioner Studebaker stated that there should be a level playing field for other groups as well. Acting Planning Director Hayes stated that staff must reflect the needs of the community as closely as possible. He stated that if there is a need to expand the definition, staff will bring it to the Commission.

- 3. Amendment to Title 19 Land Use Regulations, of the Chico Municipal Code, Temporary Unpaved Parking Facilities** - A proposal to recommend to Council an amendment to Title 19 Land Use Regulations, Sections 19.28.190 and 19.14.080, to allow for temporary unpaved parking facilities for businesses in manufacturing zoning districts that need additional parking (in excess of required off-street parking) to accommodate seasonal increases of employees, to be permitted subject to a use permit issued by the Planning Director. Pursuant to Section 15378 of the California Environmental Quality Act (CEQA), these actions have been determined not to be a "project" and do not require environmental review.

Acting Planning Director Hayes reviewed the staff report, and noted that the amendment has been proposed to assist industrial manufacturing businesses which have periodic spikes in employment during certain times of the year. He explained that this proposal might provide a relief to manufacturing businesses, allowing them to have unpaved parking facilities in addition to the regular required improved parking, although there would be administrative review to allow for appropriate conditions to be placed. He noted that many of these manufacturing businesses are located where there is a limited amount of on-street parking. He noted that one Commissioner had expressed a concern to staff on the issue of whether there should be a periodic review established so if the facility becomes an ongoing use, more landscaping and improvements be required. He stressed that the nature of this proposal is to provide parking on an annual, seasonal basis.

Chair Monfort suggested changing the parking regulations to recognize these needs and to set standards which are not nearly as demanding, such as minimal improvements and some landscaping. Acting Planning Director Hayes reviewed the sections of the Code, as listed in the staff report.

Commissioner Hamilton expressed concern that approval of this type of parking would set a precedent. Acting Planning Director Hayes explained that the proposal would provide for parking that is in addition to the required spaces, and would acknowledge a need, seasonally in some cases, for overflow parking on-site.

Commissioner Hamilton verified that the administrative permit would allow the City to have some control.

Acting Planning Director Hayes presented the example of a school photography business south of town who has the need to have additional on-site parking during the fall when their employment spikes dramatically. Commissioner Belmonte asked if photography is considered industrial. Acting Planning Director Hayes stated that it is a use that is permitted in the M-1, Limited Manufacturing District.

Commissioner Belmonte questioned how many businesses would be affected by this proposal. Acting Planning Director Hayes replied that while it is not known how many existing business would need this type of facility, there are a number of agricultural business who may want to take advantage of it. The Code currently does not provide for overflow seasonal temporary parking.

Chair Monfort noted that Chico Nut has a gravel lot which is full during the season. Acting Planning Director Hayes acknowledged the example, and noted that the Chico Nut property was developed in the County.

Chair Monfort stated that the proposed ordinance does not discuss the conditions which the Planning Director might place on a proposal or how long the permit would be approved for. He suggested that there be an analysis if there is a pattern developing, the types of improvements which may be required, and a time limit to the permit discussed.

Acting Planning Director Hayes stated that staff could return to the Commission with actual development standards to be imposed.

Commissioner Belmonte asked that when staff does return to the Commission, the presentation should include an estimate of the number of businesses which might be affected and the conditions to be required, in order to clarify the issue.

Commissioner Wahl suggested that there may not be a need, as only one business has requested the parking.

Sr. Planner Palmeri suggested that rather than conditions being placed in the ordinance, direction be provided by the Commission in order to allow flexibility and discretion to respond to specific site needs. He stressed that there is a seasonal agricultural base in this area which would benefit from the proposed condition. He noted that temporary parking does occur now, although it does not meet Code requirements.

The public hearing was opened at 8:10 p.m. to which there was no comment.

Commissioner Belmonte asked that staff return to the Commission with more detail to clarify the issues to be addressed.

Commissioner Hamilton stated that there is a situation which needs to be addressed to which the Commission must provide staff with direction. He suggested that if a request for temporary parking is consistent over a number of years, then staff address it with further improvements. He stated that the proposal is sound and solves a problem which currently exists.

Acting Planning Director Hayes stated that staff would return to the Commission, providing more detail on the issues and the number of businesses which might be affected.

4. **Use Permit No. 97-23 (Slater/SAFOR)** - A request to allow office uses in a C-1 zoning district, combining existing buildings and uses at the former Christian and Johnson retail nursery with new construction and removal of some existing buildings, to create a mixed use retail/office complex with heavy emphasis on landscaping and architecture to maintain the historic integrity of the site on property located at 250 Vallombrosa Avenue, identified as Assessor's Parcel No. 003-190-052, in a C-1 Restricted Commercial zoning district. The General Plan designation for the property is Community Commercial. Based on the initial study for environmental review prepared for this project, the Planning Division is recommending that a negative declaration be adopted for this project pursuant to the California Environmental Quality Act (CEQA). A "negative declaration" is a determination that a project will not have a significant impact on the environment.

Acting Planning Director Hayes reviewed the staff report to redevelop the property next to the Camellia Street bridge. He noted that there is an easement on the north side of the creek to which the property owner has a grant of license from the City through the year 2003. The Grant of License provides for the driveway along the creek, which will continue to exist for access to the rear of the building. At the termination of the License, it is envisioned that the driveway may be included in a bike path for the area. The design of the complex has been through the Architectural Review Board (ARB), which gave its preliminary approval of the design. He reviewed the proposed conditions of approval.

Chair Monfort inquired if ARB considers the site design and what affect the Grant of License has on the proposal. Acting Planning Director Hayes stated that the ARB is charged to look at site design, landscaping and building elevations for commercial projects. Assistant City Attorney Barker added that the terms of the Grant of License is that the easement only be used as a driveway.

The public hearing was opened at 8:20 p.m.

Howard Slater, 3731 Morehead Avenue, representing the property owner, stated that this project has personal importance to him as he lived behind this property during his youth. He stressed that the property has historical significance and persona; as such, the design of project was intended to be in keeping with history of the site and to be of a low impact on the site and the neighborhood. He noted that there will be extensive landscaping of the streetscapes, keeping much of the existing mature plants. The project will also be oriented to the least impact area. He added that as the nursery is the only part of Christian and Johnson being closed, the gift and floral shop will remain at the location. The architecture of the gift shop was used throughout the design. He stated that all the conditions suggested by staff are acceptable.

Glen Bruno, 20 Constitution Drive, architect on the project, reviewed the site design for the proposed project. He pointed out that an extensive amount of infrastructure does go through the parking lot, including sewer and water mains.

Chair Monfort stated that although the object is to get people out of the parking lot and into the project, it is one of the most visible locations in Chico. He inquired if more could be done to extend an inviting view to those driving by. Mr. Bruno noted that much of the extensive mature landscaping along the streetscape will remain.

Chair Monfort asked where the restaurant will be in the project. Mr. Bruno stated that the delicatessen will be on the south side of the building, along the creek.

Richard Elsom, P.O. Box 5624, stated that although the proposal is a nice looking project with many good aspects, there is potential to use the Lost Park area. He stressed that the approval of this project should not impede future Lost Park plans, as indicated in the Mitigated Negative Declaration. He suggested a condition that an easement be agreed to along the driveway to Camellia Way to ensure there will be space for a bikeway following redevelopment of the bridge. He verified that no trees will be impacted in the park based on this construction. He expressed concern that the setback requirements be increased to be equal to street frontage setback requirements, as there are major fire hazards with trees and vines in the park. He noted that while there are plans to clean-up the south side of Lost Park, there are not plans for the north side of the park. He stated that the Grant of License was specifically given for a landscaping service. He verified that the fence will be removed, as indicated under Mitigation Measure G.1. He stressed his concern that the restoration of Lost Park will occur, and suggested the possibility of orienting the proposed deli towards Lost Park. He also suggested that the project face out onto the Park. He stated that he was also concerned with drainage as the amount of impervious surface areas will be increased by 11 percent, and if the drainage does go to Big Chico Creek, it will go through Lost Park.

Chair Monfort asked Mr. Bruno if the south side of the existing building, where the delicatessen is proposed, will have a porch, or if the building will have be reoriented in the future. Mr. Bruno stated that the building will not have a patio, though it does have windows facing out onto Lost Park and will not need to be reoriented. He noted that Lost Park is an asset to the project, although no one is in agreement on the future development of Lost Park. He stressed that this project is to stand on its own merit, though the project will be poised to take advantage of the Park.

Chair Monfort verified that the chain link fence will be removed. Mr. Bruno stated that whatever needs to be done will be, including the fence removal. Mr. Slater added that anything that has been placed there by Christian and Johnson will be removed, including a debris pile that was placed by mistake. The area with Grant of License is paved, and must, according to the Grant, remain as is. He noted that at the time this License was agreed upon, there was a section of Christian and Johnson property which was given to the City in the area which potentially will have the bike path on it. He stressed that the applicant is supportive of something to be done to enhance the Lost Park; the City and the community need to make a decision on the Lost Park.

Chair Monfort noted the prior speaker's concern that this project will not impede any progress with the restoration of Lost Park. Mr. Slater stressed that the project was designed to capitalize on any future of Lost Park, and not detract from it.

The public hearing was closed at 8:50 p.m.

COMMISSIONER DIETLE MOVED TO APPROVE USE PERMIT NO. 97-23 (SLATER/SAFOR) BASED ON THE FINDINGS AND CONDITIONS OF APPROVAL LISTED IN THE STAFF REPORT. COMMISSIONER WAHL SECONDED THE MOTION.

Chair Monfort inquired if conditions could be placed affecting the Grant of License. Acting Planning Director Hayes replied that the License is an established legal agreement between the City and the property owner, which does sunset.

Commissioner Belmonte asked staff to address the concern that the project does not meet the standard for no-net increase in storm water runoff. Acting Planning Director Hayes explained that the no-net increase is an established City policy toward storm water as it relates to Little Chico Creek and Comanche Creek.

The policy has yet to be expanded to the north side of Chico. He stressed that the project would be subject to the Best Management Practices relating to first half-inch of runoff.

THE MOTION WAS UNANIMOUSLY APPROVED.

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The Commission was in recess from 8:55 p.m. through 9:10 p.m.

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5. **Use Permit No. 97-32 (Chuck Patterson)** - A request to allow a parking lot sale on August 28 through September 1 at the Chico Mall, 1950 E. 20th Street (Assessor's Parcel No. 002-140-010 and 002-450-042) in a C-1 Restricted Commercial Zoning District. The property is designated Community Commercial in the General Plan. This action has been determined to be Categorically Exempt from environmental review pursuant to Section 15323, Normal Operations of Facilities for Public Gatherings, of the California Environmental Quality Act (CEQA).

Chair Monfort noted that there are two issues associated with this item, the use permit for Chuck Patterson and direction to staff on how to handle future similar situations.

Sr. Planner Palmeri reviewed the staff report on the request to allow Chuck Patterson's Auto World use of another site for an outdoor sale for a specific period of time. He noted that this is being done industry-wide in terms of moving off their permanent site to other locations, such as a shopping center, for a short period of time. The Code does allow that there can be an administrative use permit for a business located at the site. In this case, the use will not create a problem for the location. He questioned whether the Commission wished to allow such events to occur in the city of Chico. He noted that there had been a problem in the past when an organization from outside this area wished to hold such an event. Regarding this particular request, staff is recommending approval based on the conditions listed in the staff report.

Chair Monfort asked if there has only been one other request to sell products on another businesses location. Sr. Planner Palmeri replied in the past there have been several approved requests of similar nature. It has become a vehicle industry desire to hold these off-site sales. He pointed out that, aside from this current request, if the Commission does want to allow for other approvals for off-site sales, it would not be just for automotive sales, but other types of goods as well.

Commissioner Belmonte inquired, as these types of uses have gone on for quite some time, what makes it different to require that it come to the Commission. Sr. Planner Palmeri explained that there have been a number of requests approved based on a certain section of the Code, that allowing for temporary outdoor sales in conjunction with established commercial uses. It has been determined by the City Attorney's office that this section of the Code was intended to allow for on-site outdoor sales associated with the existing business. Other sections of the Code do apply toward this request, allowing for off-site outdoor sales with a use permit. This is the first use permit of this type to come before the Commission. He added that the retailer has expressed that they would like a shorter time frame than that of the use permit process, in which to set up their sales.

Assistant City Attorney Barker stated that the confusion results from the temporary outdoor sales in conjunction with established retail uses being allowed by administrative use permit. Upon examination of the Section allowing the administrative use permit, the proper interpretation is that it was not intended to apply to another business to have sales on the property of the home business.

Commissioner Belmonte questioned why, as the businesses has made the same request in the past, was this request handled differently. Assistant City Attorney Barker explained that a determination was made that the Code was interpreted incorrectly, this request is the first to come forward following that conclusion. If the Commission desires these types of requests to be handled administratively, then staff will prepare an amendment to the Code to address these issues. Either way, the Code does need to be amended to clarify the issue.

Commissioner Belmonte asked if staff is recommending the Code be amended to require administrative approval, or will these requests return to Commission each time. Acting Planning Director Hayes explained that until staff is directed to prepare a Code amendment either way, these requests will continue to come before the Commission. If the Commission desires to allow off-site sales, the Code can be amended to reflect that. He cautioned that if such events are allowed, there may be proliferation of these types of sales.

Commissioner Dietle expressed concern that there may have be competing businesses from out for the area which may desire to hold that type of sale.

Commissioner Belmonte inquired if such a Code amendment would require permits to be requested by non-profit organizations before holding car washes and other fund raisers.

Commissioner Dietle stated that those types of issues are handled in other areas of the Code. She stressed that the question is if the City wants this type of event to occur often. She noted that these requests being granted in the past as an administrative use permit was in error.

Commissioner Wahl suggested that if these events are good for one business, then it would be good for other businesses. If it proves to be good for business, then it would be used.

Assistant City Attorney Barker advised that an amendment to the Code cannot be drafted to prohibit sales from out-of-area businesses.

Chair Monfort compared the proposal for allowing off-site sales to big box retail who send profits out of the area, and to local taco wagons who do not invest in property. He noted that the Commission has had conversations to encourage owners of taco wagons to invest in property and have granted temporary use permits for taco wagon for that purpose.

Commissioner Dietle inquired where the sales tax generated in Chico by an out-of-area business goes. Assistant City Attorney Barker stated that she would assume because the sale occurs in Chico, the sales tax would remain in Chico.

Commissioner Studebaker asked if there is an appeal process for an administrative use permit. Sr. Planner Palmeri stated that the appeal process for an administrative use permit would bring the appeal before the Planning Commission. He noted that prior to approval of an administrative use permit, notice is sent to all property owners within 300 feet of the project site, but the notice is not published in the newspaper.

Commissioner Belmonte stated his opinion that this request should have been handled as an administrative use permit until the Commission determine the process for future requests. He stated that he would like staff to agendize Commission discussion of the Code sections in order to make that determination.

The public hearing was opened at 9:25 p.m.

Mike Patterson, 1155 Almond Vista Court, representing the applicant, stated that the intent of the request is to sell new and used vehicles to other businesses. He noted that past sales held at Walmart have been successful.

Commissioner Wright asked if Chuck Patterson's has held similar sales at other locations outside of Chico. Mr. Patterson stated that the franchise agreements in the vehicle industry do not allow competing vendors of the same make to sell vehicles in the same area.

Commissioner Wright inquired if the sales tax report does require information regarding where the sale was made. Mr. Patterson stated that he does not know if the sales tax report requires that information, although he was aware it was not asked on the Department of Motor Vehicles forms.

Commissioner Dietle asked why the applicant was told to come before the Commission, as they have had similar sales in the past. Mr. Patterson stated that they had two similar sales at held at Walmart. He noted that he had been informed by staff of the questions revolving around such use permits. Sr. Planner Palmeri reviewed the history of the controversy and stated that staff felt comfortable in informing the applicant that the issue will be brought to the Commission.

The public hearing was closed at 9:30 p.m.

COMMISSIONER BELMONTE MOVE APPROVAL OF USE PERMIT NO. 97-32 (CHUCK PATTERSON) SUBJECT TO THE FINDINGS AND CONDITIONS OF APPROVAL CONTAINED IN THE STAFF REPORT. COMMISSIONER STUDEBAKER SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

Commissioner Wahl asked why the City needs to be involved in off-site sales. Sr. Planner Palmeri stated that it is important that the City be involved to ensure neighborhood compatibility and that the parking used for the sale will not impede parking for the business at that location nor that it impede the traffic flow and emergency access. Acting Planning Director Hayes stressed that the City has the responsibility to make sure that the circulation flow, emergency access and parking are met.

Commissioner Wahl asked Mr. Patterson what arrangements were made with the Chico Mall to conduct the sale. Mr. Patterson stated that the only condition was that in exchange of allowing the use, the advertising for the sale contain the name 'Chico Mall' and that the required permits from the City be obtained. He indicated his belief that their past sales have been beneficial for the business, customers and the City.

Commissioner Hamilton suggested that staff can handle future requests for off-site sales.

Commissioner Belmonte inquired when the last similar permit was approved, and suggested that the item could have come before the Commission prior to a request being filed. Acting Planning Director Hayes stated that the discussion came up only recently regarding the interpretation of the Municipal Code sections. It was thought this was a good opportunity to get direction from the Commission.

Commissioner Hamilton suggested that the Commission direction be to allow the Planning Director discretion on such items and that the conditions placed on the use not be too cumbersome.

Commissioner Wright stressed that such decisions by the Commission must be made at a publicized public hearing, agendized for discussion. This must be done in a separate hearing.

COMMISSIONER WRIGHT MOVED TO AGENDIZE DISCUSSION ON OFF-SITE SALES FOR A PUBLIC HEARING. COMMISSIONER BELMONTE SECONDED THE MOTION.

Commissioner Wahl asked why the staff report questioned the necessity of allowing future outdoor events of this type. Sr. Planner Palmeri explained that these types of sales may not involve just motor vehicles, but could involve a wide range of goods. If the Commission feel that is appropriate for commercial properties within the City, for the business at the existing site and the people who developed the area, then the Municipal Code should be amended.

THE MOTION TO AGENDIZE A HEARING WAS APPROVED 7-0.

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The Commission was in recess from 9:40 p.m. to 9:45 p.m.  
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- 6. Use Permit No. 97-27 (Office Max/Pets Mart)** - A request to develop a 24,000± square building for a retail office supply outlet (Office Max) and a 26,000± square foot building for a retail pet store (Petsmart) which includes a pet adoption center and 1,900 square foot veterinary service use and two parcels for drive through restaurants. The site is located on the southwest corner of Skyway and Notre Dame Blvd, and consists of four parcels containing 17± acres (Assessor's Parcel Nos. 002-330-001, 002, 003 and 004). The site is zoned C-2, General Commercial Zoning District and is designated in the City of Chico General Plan Diagram as Commercial Services. Portions of the project are addressed in the General Plan Environmental Impact Report; the Planning Division is recommending adoption of a Mitigated Negative Declaration for the balance of the proposed project, pursuant to the California Environmental Quality Act (CEQA).

Chair Monfort noted that Home Depot, which will also be located on the property, did not require a use permit.

Commissioner Wright stated he would be abstaining as he has holdings in one of the companies.

Sr. Planner Palmeri reviewed the staff report considering the uses, other than the Home Depot building which is allowed by right, including an Office Max, Petsmart and Burger King. He noted that there are extensive off-site improvements being included with this application, involving the reconstruction of the Skyway/State Highway Route (SHR) 99 interchange, improvements to Skyway and the Skyway/Notre Dame intersection. He reviewed that the Commission has had previous discussions regarding the placement of drive-through restaurants and the location of the stacking lane. Staff did discuss the stacking lane with the applicant. The applicants indicated that reorienting the building would cause a conflict with the pedestrian access to the restaurant. The other option is to apply a condition for berming and landscaping adjacent to Notre Dame Blvd. in order to hide the view of the car. He reviewed the staff recommendations to adopt the mitigated negative declaration and approve the use permit.

Chair Monfort asked staff to review the road improvements to be made by this project. Sr. Planner Palmeri reviewed the improvements to the off-ramp, the improvement to the site itself and the Skyway along the property. He added that the applicant's engineer will address those issues.

The public hearing was opened at 10:00 p.m.

Steve Honeycutt, local land use consultant for the project, introduced others associated with the project including Jeff Nicoles, real estate manager for Home Depot, Francis Chew, architect, and several representatives from Burger King. He noted that the Home Depot building and the site have been conceptually approved by the ARB. Conceptual approval of Office Max, Petsmart, and Burger King are scheduled for ARB on Wednesday, August 6, as well as a review of landscaping of the entire project site. He noted that there will be extensive landscaping throughout the project site and at the on-ramp. As staff indicated, Home Depot itself is entitled in the C-2 zone and pointed out that concerns of 'big box retail' was noted in the general plan. He also noted that there are two restaurant buildings to be considered in the use permit, one of which is identified as Burger King, and the other, interior to the site, does not have a tenant at this time. He acknowledged that there have been significant traffic mitigations for the project, as well as other significant impacts, including those for the small wetlands on the site. He stated that as the drive-through at Burger King will be adjacent to Notre Dame Blvd. and the Skyway, because of the layout of access to the site it cannot be moved to comply with the ideal of having the drive-through on the interior to the project. He stated that the applicant is proposing to do extensive berming and landscaping along that edge to minimal visual impact.

Mr. Honeycutt reviewed the road improvements to be made by the project. These improvements include significant modifications to the on-ramp pattern onto the Skyway from SHR 99. He noted that the improvements to the interchange must be made with the approval and cooperation of CalTrans and the City engineers. He stated that the improvements also include the widening the Skyway from the bridge to Notre Dame Blvd. to two lanes. He stressed that although Home Depot is financing the improvements, less than 65 percent of the traffic through that intersection will be a result of this project. He added that in addition to almost \$1,500,000 in highway improvements, the project will be paying urban area street fees, in excess of \$850,500, which will be used for the Capital Improvement Program throughout the City.

Chair Monfort asked if there would be sidewalk on the frontage. Mr. Honeycutt stated that the north side of the Skyway will have the pedestrian walkways over the bridge. Sidewalks will be installed on the Notre Dame Blvd frontage of the property. He added that there will be extensive improvements at the new intersection, which have yet to be determined. He stated that it is not known if there will be striping for bicycles as there is not room for bike striping across the bridge itself.

Sharon Wallace, 1258 Glenwood Avenue, stated that she was a member of the General Plan Task Force. She indicated that she was present to address Home Depot, as the Task Force had desired to see the reuse of resources whenever possible. She confirmed with staff that it was suggested to the Home Depot representatives to reuse the Fred Meyer site. She expressed concern that the City needs to take a stand on the preservation and reutilization of existing resources. She suggested that the median income of Chico has not changed enough to warrant the amount economic activity necessary to maintain the amount of retail and the City should rethink how it markets itself. She stressed that all 'big box' commercial development in the area has occurred in the last 10 years. She asked that a marketing and economic analysis be done prior allowing large retailers to develop.

The public hearing closed at 10:15 p.m.

Sr. Planner Palmeri noted that there were extensive discussions with Mr. Honeycutt and others regarding the Fred Meyer building. Based on the needs of the company, and the construction of the building, it could not be used.

Chair Monfort asked how large the Fred Meyer building is, what future the building may have, and if there is any contingency that the City would own it. Acting Planning Director Hayes replied that the Fred Meyer building is 185,000 square feet. He noted that the Fred Meyer company is expanding, just not into California. He indicated his belief that Fred Meyer will not default on the building.

Commissioner Studebaker stated that he found it interesting that this application is being considered following a joint meeting with Council where concerns were raised regarding superstores and drive-throughs. He stated that he would have liked to have better direction from Council on these issues prior to making a decision. Commissioner Dietle stated that the Commission does not need direction from Council on big box retailers as the local government issue of who will do business in the area is not an issue at this point. She pointed out that there have been Commission discussions in the past regarding the drive-through issues. Chair Monfort added that it was agreed during the previous discussions on drive-throughs that this is the type of location to have them. Commissioner Dietle agreed that this is the type of development to allow drive-throughs, and stressed that they still are an allowed use in the City.

Acting Planning Director Hayes reviewed that the Commission did direct staff to address the design of drive-throughs in the revised land use regulations.

COMMISSIONER DIETLE MOVE APPROVAL OF USE PERMIT NO. 97-27 (OFFICE MAX/PETS MART) SUBJECT TO THE FINDINGS AND CONDITIONS OF APPROVAL CONTAINED IN THE STAFF REPORT. COMMISSIONER BELMONTE SECONDED THE MOTION.

Commissioner Belmonte stated that he was in support of the motion, He noted that the issues raised on appropriateness of drive-throughs had all indicated that this is an appropriate place.

Chair Monfort stated that he would also vote for approval, and noted the General Plan guiding principles to maintain Chico's prominence as center of retail in the tri-county area. He suggested that those who do not like this type of project express their opinion by not patronizing the establishment.

Commissioner Belmonte reviewed the condition that off-site improvements be completed prior to receiving a Certificate of Occupancy. He inquired if that would take longer than the projected date of completion for the building.

Mr. Honeycutt stated that the applicants are prepared to have the street improvements completed prior to opening the doors. He noted that he is already working with Cal Trans and the design process has already begun.

Jeff Nicoles, Home Depot, stated that the present schedule anticipates that CalTrans will allow construction to begin by January and completed in June. He indicated that they are trying to coordinate that June date with the store being finalized. He added that they would not be opposed to be some language being added to allow flexibility.

Commissioner Belmonte asked if the language could be changed for that condition. Assistant City Attorney Barker replied that the applicant can request a modification to the use permit if it appears that the time frames cannot be met. Sr. Planner Palmeri suggested that the applicants can come back before the

Commission in March or April if a modifications would be necessary, or if there has been significant work done toward meeting the condition.

Commissioner Belmonte suggested the Commission approve the use permit as it stands and if there are unforeseen circumstances, a modification could be requested.

Chair Monfort noted that if the reason these mitigations are being required are to address public safety issues, then the Commission may not want the businesses operating without those mitigations in place.

Commissioner Wahl asked what necessitated these projects going before ARB. Sr. Planner Palmeri responded that the Municipal Code requires that all commercial buildings be reviewed by the ARB to consider the structures, parking lot, layout and landscaping.

THE MOTION WAS APPROVED 5-1-1 (COMMISSIONER STUDEBAKER OPPOSED AND COMMISSIONER WRIGHT ABSTAINED).

### **COMMUNICATIONS**

7. **Memorandum from Senior Planner Ed Palmeri**, dated July 24, 1997, regarding Gas Barbecues - Availability and Price.

Commissioner Hamilton asked where the information for the memorandum was obtained. Sr. Planner Palmeri noted staff found information on the Internet, as well as speaking to local vendors. It was noted that there is no price differential by the manufactures from propane compared to natural gas and can be ordered if it is not in stock.

### **BUSINESS FROM THE FLOOR**

Chair Monfort asked that at the recent joint meeting with the City Council, Jackie Ferris-Reese, member of the Chico Unified School District Board (CUSD), had indicated that she and/or Mr. Weissenborn, Facilities Manager for CUSD, would be willing to address the Commission regarding school fees and state regulation on the fees. He asked that a discussion be scheduled. Commissioner Wahl asked that both CUSD staff and school board representation present the issues. Acting Planning Director Hayes stated that staff would schedule a meeting and invite CUSD representatives.

### **ADJOURNMENT**

There being no further business, the meeting was adjourned at 10:38 p.m. to a joint meeting with City Council on August 12, 1997 at 7:00 p.m. and the Adjourned Regular Meeting of August 18, 1997 at 7:30 p.m.

September 8, 1997  
Date Approved

/s/  
Tom Hayes  
Acting Planning Director

**PLANNING COMMISSION**

Meeting of August 12, 1997

An adjourned meeting of the Planning Commission was held at 7:00 p.m. on Tuesday, August 12, 1997 at a meeting of the City Council.

**Roll Call**

Commissioners present were Barry Belmonte, Jolene Dietle, William Hamilton, Kirk Monfort, Jonathan Studebaker, Larry Wahl and Michael Wright.

**Discussion**

The City Council discussed issues relating to the General Plan during which the Planning Commission, though present, was not actively participating. Subsequent meetings of similar nature were scheduled.

**Adjournment**

The meeting was adjourned at 8:30 p.m. to the Regular Meeting of August 18, 1997.

September 8, 1997  
Date Approved

/s/  
Tom Hayes  
Acting Planning Director

**PLANNING COMMISSION**  
MEETING OF AUGUST 18, 1997

**ROLL CALL**

The meeting was called to order by Chair Kirk Monfort at 7:30 P.M. in the Council Chambers of the Chico Municipal Center. Commissioners present were Barry Belmonte, Jolene Dietle, William Hamilton, Kirk Monfort, Jonathan Studebaker, Larry Wahl and Michael Wright. Staff present were City Attorney David Frank, Associate Civil Engineer Tom Varga, Acting Planning Director Tom Hayes, Senior Planner Stacey Jolliffe and Administrative Secretary Karen Kracht.

**DISCUSSION OF EX PARTE COMMUNICATION**

None.

**CONSENT AGENDA**

**1. Minutes of Adjourned Regular Meeting of July 21, 1997.**

**Requested Action:** Approve with any corrections/revisions required.

Commissioner Studebaker removed this item from the Consent Agenda.

- 2. Use Permit 97-31 (Tropea)** - Use permit to allow an existing building to be utilized for wholesale, retail, importing, music lessons, food preparation, arts organization and support offices on property located at 265 Humboldt Avenue, Assessor's Parcel No. 004-432-003 in a C-2 General Commercial District. The project is designated Downtown South in the General Plan. This project has been determined to be Exempt from environmental review, pursuant to the California Environmental Quality Act (CEQA), Section 15301, Minor Alterations to Existing Land Use.

COMMISSIONER DIETLE MOVE TO APPROVE ITEM NO. 2. COMMISSIONER WRIGHT SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

**ITEMS REMOVED FROM CONSENT**

**1. Minutes of Adjourned Regular Meeting of July 21, 1997.**

Commissioner Studebaker pointed out that on Page 21, the vote was incorrectly reported to have been 2-6, which should have reflected the 2-5 vote.

COMMISSIONER STUDEBAKER MOVED TO APPROVE THE MINUTES FROM JULY 21, 1997 AS AMENDED. COMMISSIONER DIETLE SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

### **REGULAR AGENDA**

- 3. Vesting Tentative Subdivision Map S-96-14/Planned Development Use Permit 96-35 (Bruning)**  
- Final review of a proposed subdivision and planned unit development of 15.44 acres for a residential project containing 69 single family lots and two 16 unit apartments on property located on the north side of Springfield Drive east of Forest Avenue, identified as Assessors Parcel No. 002-370-066 in an R-2 Medium Density Residential zoning district. The property is designated as Medium Density Residential in the General Plan. Based on the initial study for environmental review prepared for this project, the Planning Division is recommending that a mitigated negative declaration be adopted for this project pursuant to the California Environmental Quality Act (CEQA). A "negative declaration" is a determination that a project will not have a significant impact on the environment as mitigated.

Acting Planning Director Hayes presented the staff report and reviewed the concerns expressed during the preliminary review of this project by the Commission. He explained that there has been an agreement negotiated regarding the fence concerns, which is spelled out in a letter distributed to the Commission at this meeting. That agreement requires a precast concrete fence to be installed along the western boundary, with the cost shared between the developer and the property owner. The fence will require architectural review. The remaining conditions have been complied with, including the detention pond layout, the plat of which is included in the Commission's packet. He noted that there have been some jurisdictional wetlands identified on the site which will require permits from both the Army Corps of Engineers and Fish and Wildlife. Staff is recommending that the project be phased, with development on the southern side of the project occurring first as these wetlands must be avoided and mitigated. He reviewed other issues of concern and the resulting conditions, including that of the lots along the western edge must be developed either with single story or have translucent windows on the second story. He added that the lots along Springfield Drive have been reconfigured from the original proposal as to not front onto Springfield Drive in order to address the Engineering Division's concerns. He pointed out that staff is also recommending a condition be placed to provide additional parking in the final subdivision map for any lot which does not have at least 22 feet of curb frontage. Staff is recommending approval of the final planned development plan and the tentative map based on the findings contained in the staff report.

The public hearing was opened at 7:45 p.m.

Sonny Bruning, representing the applicant, stated that a survey of the wetlands has been conducted and the wetlands will be mitigated. He stressed that he does not want to develop the project in phases, and asked that any phasing conditions be removed.

The public hearing was closed at 7:47 p.m.

COMMISSIONER DIETLE MOVED APPROVAL OF VESTING TENTATIVE SUBDIVISION MAP S-96-14/PLANNED DEVELOPMENT USE PERMIT 96-35 (BRUNING) BASED ON THE FINDINGS AND CONDITIONS OF APPROVAL AS LISTED IN THE STAFF REPORT. COMMISSIONER WAHL SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

4. **Use Permit No. 97-26 (Champion Christian School)** - Use permit to allow the construction and operation of a private school for seventh and eighth grades to be developed in two phases with a total of 10 classrooms and 25 students per classroom on property located at 2531 Floral Avenue, identified as Assessor's Parcel No. 048-300-044, in an R-1 Single Family Residential Land Use District. The General Plan designates this parcel as Low Density Residential. Based on the initial study for environmental review prepared for this project, the Planning Division is recommending that a mitigated negative declaration be adopted for this project pursuant to the California Environmental Quality Act (CEQA). A "negative declaration" is a determination that a project will not have a significant impact on the environment as mitigated.

Acting Planning Director Hayes reviewed the staff report for the expansion of an existing private school operating out of the Nazarene Church site on East Avenue. This school site is owned by the applicant. The school proposes to develop six portable buildings, of which five will be used for classrooms (two classrooms in each), accommodating 250 7th and 8th grade students. He described the proposed layout of the site.

Chair Monfort verified that the property owner also owns the cul-de-sac behind the church.

Acting Planning Director Hayes explained that staff is proposing that there be modification of the site plan to bring the portable buildings toward the street, locate the parking behind the buildings and join the parking lot to the cul-de-sac to the church property. This will provide access for emergency vehicles. It will also address concerns regarding visual impacts to Floral Avenue, which is designated as a minor arterial, and is essentially a residential street. He also noted that the ultimate development plans for Floral Avenue include medians which would limit, or prohibit, left hand turns. The use of the cul-de-sac will allow for better traffic flow. He reviewed the recommendations and findings listed in the staff report.

Commissioner Wright asked staff to address the drop-off/pick-up of students on Floral Avenue and if it would be appropriate to require a drop-off zone. Acting Planning Director Hayes stated that the drop-off for students could be a problem in either case, although having parking at the rear will provide better opportunity for traffic flow and may alleviate the drop-off potential on Floral Avenue. He added that he was not aware of any drop-off zones in the public right-of-way. Assoc. Civil Eng. Varga explained that the practice has been to require pull-out areas on the sites themselves. He noted that the existing school on the site does not have a problem with drop-off traffic.

Chair Monfort reviewed that currently the school is located entirely on the Nazarene Church property, while this site will locate facing Floral Avenue.

Commissioner Wright suggested that a condition be placed to require parents to drop off students in the parking area. Assoc. Civil Eng. Varga stated that while the Commission could add such a condition, it may not be enforceable. He expressed staff's desire to allow flexibility for the applicant within the site constraints.

Commissioner Belmonte expressed concern that a driveway from Floral Ave to the church property may create a safety problem with children walking in the driveways. Acting Planning Director Hayes reviewed that the driveway would go against the north property line, meeting the parking lot on the western portion of the site. Any access from the church facility and school would require children going across some drive paths.

The public hearing was opened at 8:00 p.m.

Marsha Hidden, 10 Casa Del Rey Ct, principal of Champion Christian School, urged the Commission to consider approving this request without the "must" or mandatory language. She stated that the school would like to have the flexibility to work with staff on the issues. She indicated her belief that the landscaping will mitigate the impact onto Floral Avenue. She added that in her initial conversations with the Fire Department, it was suggested that the emergency vehicles could back out of the site rather than have a turn-around. She expressed her doubt that there will be a problem of parents dropping off students on Floral Avenue with drop-off and congestion, as the lockers, student congregation area and offices would remain on the existing Nazarene site. Any traffic flow on the site will create safety hazard for the students; the parking is for the staff and is not intended for the students or parents. She added that the gymnasium and play area will be located on the rear of the property, which will also keep students away from Floral Avenue.

Chair Monfort noted that in his experience with the City's Traffic Committee, there is a continuous cycle of traffic problems associated with schools and drop-off areas, to which schools historically have tried various alternatives. He asked if the applicant would object to an additional condition that there be no parking on Floral Avenue. Ms. Hidden stated that such a condition would be acceptable.

Chair Monfort reviewed the suggestion that the parking be pulled away from the street to provide better continuity within the residential neighborhoods. Ms. Hidden stressed that the parking would be placed behind a berm, providing a landscaped view.

Chair Monfort inquired if there would be additional bicycle parking. Ms. Hidden stated that there is a bicycle parking area on the other side of the gymnasium and would likely remain there as it is close to the lockers.

Commissioner Studebaker asked if the existing house structure would remain. Ms. Hidden explained that the house would be dismantled, noting that an attempt was made to donate it to the Fire Department for training, but there were insurance problems.

Germain Boivin, 2511 Floral Avenue, project neighbor, expressed concern with the final view of the project from Floral Avenue or the neighboring properties. Acting Planning Director Hayes shared the site plan, which indicates about a 10 to 15 foot setback to the buildings, with a landscaped planter along the south property line. Ms. Hidden also reviewed site plan with Mr. Boivin.

The public hearing was closed at 8:10 p.m.

Commissioner Belmonte expressed concern for the safety of the children, and suggested that the parking area be placed at the current facilities.

COMMISSIONER BELMONTE MOVED TO APPROVE USE PERMIT NO. 97-26 (CHAMPION CHRISTIAN SCHOOL) AS PROPOSED, BASED ON THE FINDINGS AND CONDITIONS OF APPROVAL CONTAINED IN THE STAFF REPORT. COMMISSIONER STUDEBAKER SECONDED THE MOTION.

Chair Monfort asked that a condition be added to the motion that a loading zone through the existing church property be provided. Commissioner Belmonte accepted the amendment.

Commissioner Dietle noted that one of the existing conditions requires architectural review, Condition No. 4, and asked if that condition should be amended. Commissioner Belmonte suggested that it may be

stronger to eliminate Condition No. 4 and include a condition to require a turn-around from the existing facility.

Chair Monfort inquired why staff had not proposed to have the additional parking at the existing facility, thus eliminating the need for the parking on this lot. Acting Planning Director Hayes explained that because it is a separate parcel, owned by a separate entity, the Code does require that development have its required parking on the site.

Commissioner Belmonte stated the amendment to the motion is that Condition No. 4 be reworded to have design for the drop-off.

THE MOTION WAS APPROVED 7-0.

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The Commission was in recess from 8:20 p.m. through 8:30 p.m.  
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5. **Use Permit No. 97-29 (Chico Unified School District)** - A request to allow the phased construction of a new junior high school for 1,400 students. Phase I will accommodate approximately 500 students, with Phase II to be built at a later date. Over 100 employees are anticipated to serve in the completed facility. Related permit approvals include Office of Public School Construction, Department of the State Architect, State Department of Education, Army Corp of Engineers, and United States Fish and Wildlife Service. Use Permit No. 2038 was previously approved for the proposal by the Chico Planning Commission on April 17, 1989, including adoption of a mitigated negative declaration, however, the use permit has since expired. The project site is located at the southeast corner of Humboldt Road and the Notre Dame Boulevard extension, Assessors Parcel No. 002-180-090, in a P-Q Public or Quasi-Public zoning district. The General Plan designation for the property is Public Facilities and Services/Junior High School. Based on the initial study for environmental review prepared for this project, the Planning Division is recommending that a mitigated negative declaration be adopted for this project pursuant to the California Environmental Quality Act (CEQA). A "negative declaration" is a determination that a project will not have a significant impact on the environment as mitigated.

Sr. Planner Jolliffe presented the staff report. She stressed that the School District must have the construction contract in place by August 29, 1997 in order to receive State funding. The use permit is for both phases, although only the first phase will be developed at this time. She reviewed the proposed uses of the adjoining vacant properties, including a recreation center. She noted that staff and the applicant have been working with Butte Environmental Council, the Army Corps of Engineers and Fish and Wildlife regarding the biological species found on the site, although surveys have yet to be conducted.

Chair Monfort asked how the losses will be mitigated. Sr. Planner Jolliffe explained that Fish and Wildlife has indicated a desire that the mitigation be the dedication of land adjacent to the Enloe site, to which the District has agreed to put money in an escrow account to implement the mitigation measures. If there are no resources found, the money will be returned to the School District.

Sr. Planner Jolliffe noted that the site will contain a bus area which would also provide a drop-off area, and a separate parking lot in front of the site. Prior to the second phase of construction, revisions can be made to address further drop-off problems at that time. The current parking proposed does meet the requirements of Phase 1, but most likely not those of Phase 2.

Chair Monfort inquired where the bicycle parking and lockers would be located. Sr. Planner Jolliffe indicated that, while the areas are designated on the map, Mike Weissenborn, Facilities Planner for the School District, will review the plats. Regarding bicycle paths, she noted that there is a facility along Little Chico Creek. Ultimately the right-of-way of Humboldt Road will allow for a bicycle lane in the roadway, though it is not a part of the City's bicycle plan.

Chair Monfort stated that as there is no shoulder on Humboldt Road, the Commission may need to make a recommendation to the Traffic Committee to include that path in the bicycle plan.

Sr. Planner Jolliffe reviewed the findings and conditions contained in the staff report, and noted that there has been a cultural resources study completed.

The public hearing was opened at 8:35 p.m.

Mike Weissenborn, Facilities Planner for Chico Unified School District, expressed appreciation for staff, Fish and Wildlife and the Army Corps of Engineers in their assistance with working out the biological concerns and meeting the timing necessary for the funding. He added that the proposed mitigations are acceptable to the District. He reviewed the traffic flow and traffic pull-outs, noting that the original design had included the extension of Notre Dame Blvd and widening of Humboldt Road, which will not be in place for Phase 1 of this project. As the site develops, the District will need to work with the City to improve Humboldt Road. He added that there currently are sufficient existing bike paths to help the traffic flow for Phase 1. He reviewed the location of the bicycle racks, which will be next to what will be the industrial technology building. At build out, the permanent bicycle racks will be located elsewhere on the site.

Chair Monfort asked if an awning will be placed over the bicycle racks. Mr. Weissenborn explained that any covered area is included in the State's calculation of classroom space, thus the District does not want to cover the bicycle area. The only permanent structures on the site will be classroom buildings. He stressed that while this project has been in process for a number of years, funding for this project is available through Proposition 203, which is for districts ready to move ahead with construction.

Commissioner Studebaker inquired if this project could result in high schools going back to 10th through 12th grades, as opposed to the 9th through 12th as they currently are. Mr. Weissenborn stated that while he had once felt that such a split would occur, the reduction of class sizes for lower level elementary students could possibly result in expanding junior high grades from 6th through 8th. Also, the state regulations specify the size of the sites for each school level; this parcel is not large enough to take on high school students. As the sixth grade class moves up, if this project is not built, then the District will have to install relocatable classrooms on the junior high campuses.

Commissioner Belmonte reviewed the Student Housing Master Plan, published by Chico Unified School District in 1996, which notes the need for a high school. He asked how many students are presently housed at Pleasant Valley High School and verified that the junior high is being moved forward because of available funding. Mr. Weissenborn stated that as of this meeting, Pleasant Valley High School has 2033 students for this school year, which may rise as enrollment has not closed. This is beyond capacity

and portable classrooms have been installed to help cover the amount of students. While the junior high is being processed because of available funding, the District does need the facility which has been proposed for some time.

The public hearing was closed at 8:45 p.m.

Commissioner Studebaker stated that the site is a needed service and will be good for the community.

COMMISSIONER STUDEBAKER MOVED TO APPROVE USE PERMIT NO. 97-29 (CHICO UNIFIED SCHOOL DISTRICT) SUBJECT TO FINDINGS AND CONDITIONS OF APPROVAL AS CONTAINED IN THE STAFF REPORT. COMMISSIONER DIETLE SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

CHAIR MONFORT MOVED THAT THE COMMISSION MAKE A RECOMMENDATION TO THE TRAFFIC COMMITTEE TO CONSIDER MAKING HUMBOLDT ROAD A CLASS 2 BICYCLE PATH. COMMISSIONER WRIGHT SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

Sr. Planner Jolliffe verified that portions of Humboldt Road will be developed by the school project.

## **COMMUNICATIONS**

**6. Jesus Provides Our Daily Bread**, update report from Katy Thoma, Executive Director.

No Comment.

## **BUSINESS FROM THE FLOOR**

Acting Planning Director Hayes stated that the Commission does need to adjourn to the Thursday, August 21, 1997 City Council meeting.

Chair Monfort noted that Commissioner Wahl had desired that a workshop be held with School District representatives. The Council will be holding a similar meeting, which the Commission is invited to attend. That meeting should resolve the issues of concern to the Commission.

Commissioner Belmonte asked what are the legal requirements for having a General Plan annual report, and its relation to the recent and continuing Council meetings discussing issues within the General Plan. He expressed concern that the Council may make a determination on General Plan issues without giving the opportunity for public input which is part of the annual review process.

City Attorney Frank stated that the process which is underway bears no relationship to the annual report process. The Council is holding meetings discussing issues which are of concern, including density and neighborhood consistency, and is trying to work through the areas of the General Plan which contain ambiguities. This is an ad hoc process to determine understanding of General Plan policies, problem areas which may be resolved without amendments, and what has to be done with those that do. In the event it is determined that it is necessary to change the General Plan, the Council must enter into the set process

of a general plan amendment. A general plan amendment would require environmental review and public hearings before both the Commission and Council.

Commissioner Belmonte asked for the City Attorney's office to prepare a memorandum spelling out the process as dictated by law to amend the General Plan. City Attorney Frank stated that the process is as described, similar to that used for zoning changes. At this time the Council has not stated that they are pursuing general plan amendments.

Commissioner Studebaker expressed concern that the Council may want to amend the General Plan. City Attorney Frank stated that while that may happen, under state general plan law each local agency has the flexibility to implement a plan as appropriate to the jurisdiction. He stressed that state law does not require that a planning commission, or a general plan exist; but, as the City of Chico has chosen to have them, they are also subject to the laws that govern them.

Commissioner Studebaker expressed concern that originally the Planning Commission was asked to come before Council to discuss what the issues were, but the Commission is now excluded from the discussion on the topics. City Attorney Frank stressed that the Commission has not been left out or excluded; rather, the Council has discovered that there are topics which they need to review. The Council has to reach an understanding as to what is in the Plan and what needs to be applied.

Commissioner Belmonte stated that there is confusion about what is being done, not just among the Council and Commission, but also among the public.

Chair Monfort stressed that the Council has made it clear that Commission is invited, as well as members of the General Plan Task Force, to attend. This allows for public, Commission and Task Force input.

Acting Planning Director Hayes noted that Council has identified four major items, of which density is the first to be addressed. There has been an invitation to Commission to attend and participate as individuals. No changes to the General Plan have been agreed upon, and if it would be agreed on, it would be required to go through the entire process of a General Plan amendment.

Commissioner Studebaker asked if there was a precedent for amendments to come from Council to the Commission for approval. Acting Planning Director Hayes stated that the Council can remand an item to the Planning Commission for consideration. The Municipal Code specifies that, in terms of zone changes, if there is substantial change from what the Commission considered that it be remanded to the Commission. All amendments to the General Plan must go through the procedure of coming before the Commission and the Council for public hearing and determination. City Attorney Frank stated that State law requires that all amendments be funneled through the Planning Commission, though Planning Commission jurisdiction is established by local ordinance. The Chico Municipal Code does provide that the Commission does have jurisdiction.

Commissioner Belmonte asked if staff has started work on the Annual Report. Acting Planning Director Hayes stated that while staff has been waiting for some of these meetings and issues to be discussed, some of the contents of the Annual Report is established by State law and will not be affected by this process.

Commissioner Belmonte verified that because of the way the City is structured, any planning changes, such as a general plan amendment must go through the Planning Commission. He reiterated that he would like a thorough listing of the process of how General Plan amendments will be handled and how they are

reported to the State. Acting Planning Director Hayes stated that the amendment process is formal and set. The process being used now by Council is informal and anything that comes from that process which requires an amendment will have to follow General Plan amendment procedures.

Commissioner Studebaker asked if these types of discussions have happened previously. Acting Planning Director Hayes pointed to other issues which have occurred over the years, such as the greenline. He stressed that the General Plan is a dynamic document, meant to be changed as new solutions or problems need to be addressed. A good general plan may last for a prolonged period of time with proper amendments.

Chair Monfort verified that the General Plan issues of density are to be discussed at the Council meeting on Thursday night, August 21, 1997.

### **ADJOURNMENT**

There being no further business, the meeting was adjourned at 9:10 p.m. to the City Council meeting to be held on Thursday, August 21 at 7:00 p.m. and the to the Regular Meeting Planning Commission meeting of September 8, 1997 at 7:30 p.m.

September 22, 1997  
Date Approved

/s/  
Tom Hayes  
Acting Planning Director

**PLANNING COMMISSION**  
**MEETING OF SEPTEMBER 8, 1997**

**ROLL CALL**

The meeting was called to order by Chair Kirk Monfort at 7:30 P.M. in the Council Chambers of the Chico Municipal Center. Commissioners present were Barry Belmonte, Jolene Dietle, William Hamilton, Kirk Monfort, Jonathan Studebaker, Larry Wahl and Michael Wright. Staff present were Assistant City Attorney Lori Barker, Director of Public Works E.C. Ross, Acting Planning Director Tom Hayes and Administrative Secretary Karen Kracht. Transportation Coordinator Lynn McEnespy arrived at a later time.

**DISCUSSION OF EX PARTE COMMUNICATION**

None.

**CONSENT AGENDA**

**1. Minutes of Regular Meeting of August 4, 1997.**

**Requested Action:** Approve with any corrections/revisions required.

**2. Minutes of Adjourned Meeting of August 12, 1997.**

**Requested Action:** Approve with any corrections/revisions required.

COMMISSIONER STUDEBAKER MOVED APPROVAL OF THE CONSENT AGENDA. COMMISSIONER HAMILTON SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

**REGULAR AGENDA**

- 3. Non-Discretionary Permit 97-25 For Large-Family Day Care (Batchelder)** - An appeal of a Planning Director approval of a non-discretionary permit to allow a large family day care home serving up to 14 children, including those under age 10 residing in the home, at 1684 Oak Vista Avenue, Assessor's Parcel No. 045-630-010 in an R-1 Single Family Residential District. This parcel is designated Low Density Residential in the General Plan diagram. This project has been determined to be Exempt from environmental review, pursuant to the California Environmental Quality Act (CEQA), Section 15301, Minor Alterations to Existing Land Use.

Acting Planning Director Hayes presented the staff report, noting that two additional letters were received by the Commission at this meeting. He noted that the Fire Code provisions have been met, although Building Code inspection has yet to take place.

Commissioner Studebaker noted that there have been concerns of a second business being run at the site. Acting Planning Director Hayes explained that the other business, a wood cutting business, is operated at another location by one of the applicants, although some equipment, including a wood splitter, is kept on the site. The State licensing board would address any safety issues in relation to the day care. The parking of the large truck used for the wood splitting business can be addressed through conditions on this permit.

The public hearing was opened at 7:45 p.m.

Karen Batchelder, 1684 Oak Vista Avenue, the applicant, stated that she had spoken with the Building Official, who indicated that there need not be a building inspection if there are 12 or fewer children cared for

at the site. The wood splitter has been moved to the garage per the State licensing board's request. She indicated that studies have been done, available through Valley Oaks Children Center, which show that day cares do not reduce property values for neighboring properties.

The following people spoke in favor of the request: Heidi Erickson, 1687 Oak Vista Avenue; Tawny Beem, 74 Black Apple Way; Betsy Biermann, 466 Mohave Court; Suzanne Weber, 25 Glenshire Lane.

Peggy Glander, 9 Doris Way, expressed concerns regarding traffic and parking.

Chair Monfort verified with Ms. Batchelder that she had distributed a letter, a copy of which was enclosed in the Commission's packet, regarding parking requirements.

The public hearing was closed at 8:00 p.m.

COMMISSIONER STUDEBAKER MOVED APPROVAL OF NON-DISCRETIONARY PERMIT 97-25 FOR LARGE-FAMILY DAY CARE (BATCHELDER), SUBJECT TO THE FINDINGS AND CONDITIONS OF APPROVAL CONTAINED IN STAFF REPORT. COMMISSIONER DIETLE SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

- Amendments to Title 19 Land Use Regulation of the Chico Municipal Code:** The following amendments to Title 19 Land Use Regulations of the Chico Municipal Code pertain to previous Commission discussions regarding seasonal overflow parking facilities. Pursuant to Section 15378 of the California Environmental Quality Act (CEQA), these actions have been determined not to be a "project" and therefore, do not require environmental review.

Amend Section 19.28.190 entitled "Off-Street Parking - General Development Requirements" to add subparagraph (H) allowing unpaved seasonal overflow parking facilities for businesses in manufacturing zoning districts that need additional parking (in excess of the required off-street parking) to accommodate seasonal increases of employees. Such parking would be subject to obtaining an Administrative Use Permit.

Further amend Section 19.14.080 entitled "Uses permitted with a use permit issued by planning director," by adding subparagraph (AA): "Seasonal overflow parking facilities (in excess of required off-street parking) in conjunction with manufacturing businesses, located in manufacturing zoning districts, that by the nature of their operation need to accommodate seasonal increases of employees."

Acting Planning Director Hayes presented the staff report for seasonal overflow parking with development standards. Commissioner Wright inquired how the 90 day period was arrived at for a definition of seasonal, to which staff explained that most agricultural harvest seasons last 90 days or less. Commissioner Wahl requested to be provided the list of 20 seasonal businesses.

There was no public input received in the public hearing.

COMMISSIONER DIETLE MOVED TO RECOMMEND COUNCIL APPROVAL OF AMENDMENTS TO TITLE 19 LAND USE REGULATION OF THE CHICO MUNICIPAL CODE - TEMPORARY SEASONAL PARKING. COMMISSIONER HAMILTON SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

5. **Five-Year Nexus Study for the City of Chico Capital Improvement Program** -By memorandum dated July 11, 1997, the Director of Public Works forwards the City of Chico Capital Improvement Program, 1998-89 to 2002-03 (CIP) to the Planning Commission. The CIP identifies major projects needed within a five-year period funded from various sources. The CIP includes cost estimates for each project, proposed funding sources, a total of funds required and funds available. Projects have been determined according to the following priorities; Priority 1, projects needed within one year; Priority 2, projects needed within two to three years; or Priority 3, projects needed within four to five years. The project list has been further categorized into Tier 1, Tier 1a and Tier 2. Tier 1 projects are recommended for funding, Tier 1a are dependent on grant funding and Tier 2 projects are recommended if funding becomes available. A list of currently identified projects needed beyond five year period is also included. Public Works Department staff will review the document and respond to Commission questions. Commission action is not requested at this time.

Director of Public Works Ross presented the staff report, noting that the Capital Improvement Program (CIP) was introduced to the Council in March, after which several public meetings were held. The Council will again review the CIP in October for budget year 1998-99, finalizing the capital projects budget approximately in February 1998.

Chair Monfort verified that the Commission can make recommendations to Council regarding priority levels for projects.

Commissioner Studebaker verified that review of the CIP is a new process for the Commission. Acting Planning Director Hayes stated that the City did have 5 and 20 year CIP plans, but the formality of it has not taken place before. Director of Public Works Ross explained that the 5-year CIP will be reviewed annually. Commissioner Wright verified that the CIP will be approved by Council, and not by the Commission. Director of Public Works Ross stated that the Commission can request to review the 5-year CIP.

Commissioner Wright inquired if recently completed traffic studies were used to establish the priorities. Director of Public Works Ross replied that the priorities are in part based on development locations, although the amount of development fees and other issues affect the priorities as well.

Commissioner Hamilton inquired why a \$50,000 project is listed for the foundation of Stansbury House. Director of Public Works Ross explained that it is an extensive project, which the City is considering doing in phases.

Chair Monfort and Commissioner Belmonte stressed that projects have come before the Commission which have had major impacts on the CIP program. Commissioner Belmonte expressed that it would be helpful for the Commission to know what capital projects are being considered which may affect development in a particular area, but budget or funding need not be provided.

Commissioner Studebaker inquired on the budget items including a defibrillator for the Fire Department and acquisition of the Senator Theater. Director of Public Works Ross explained that such an acquisition will be at the direction of Council. The City has done similar acquisitions using Capital Projects funding for parks, the former Rolls Anderson & Rolls building on Fir Street and the construction of the Municipal Center.

Chair Monfort inquired about the sidewalk replacement funds included in the draft CIP and why mass transit facilities and other street improvements were not being made at the same time. Director of Public Works Ross replied that street improvements are constructed for capacity reasons, although sidewalks are replaced

at the same time. In areas where capacity related improvements are not required, sidewalk replacements are proposed to be completed without other street improvements. He noted that there is not a nexus fee for pedestrian traffic. Commissioner Studebaker expressed his appreciation for the sidewalk replacement funding.

Chair Monfort noted that there have been previous discussions before the Commission regarding the crossing of Bidwell Park at Manzanita Avenue. The design of the crossing is included in the CIP, while the construction is not. Director of Public Works Ross explained that it may take some time for the design to be completed. Once it has been completed, funding priority would be reviewed.

Acting Planning Director Hayes noted that if the entire circulation network is built and maintained, the assumption of the General Plan is that alternative transportation needs will be met.

The public hearing was opened at 8:45 p.m.

Greg Steele, 603 Parkwood Drive, expressed concern for the use of redevelopment funds being used for street improvements, as the funds may be diverted to other projects. He also was concerned that no set-aside has been recommended to pay for one-half of the cost to expand State Highway Routes 32 and 99, which was a policy decision made by Council.

Jon Luvaas, 1980 Wild Oak Lane, reviewed Section 5.6 from the General Plan, regarding linking services and public facilities to development and adopting an adequate facilities ordinance. He reviewed a study which analyzed public costs of new residential development. The study states that the cost per single family home in Chico is \$21,400 in public costs, not including expansion of public buildings.

Susanne Gibbs, 1162 East 7th Street, inquired if the CIP includes retrofit of old storm drains, and if Best Management Practices (BMPs) have been included in the costs of new storm drains. Director of Public Works Ross explained that the nexus report recognizes that storm drains are reviewed as part of new development, which does include BMPs, although no retrofit of old storm drain lines are anticipated.

COMMISSIONER WAHL MOVED TO HOLD A WORKSHOP TO REVIEW THE CAPITAL IMPROVEMENT PROGRAM AND PROVIDE A RECOMMENDATION TO COUNCIL, IF DESIRED, FOLLOWING THAT WORKSHOP.

The Commission discussed the need for a workshop and what would be reviewed in such a workshop, to be held before the end of January, 1998. It was agreed that the Commission may wish to make recommendations to Council regarding the CIP. Commissioner Studebaker stressed that the workshop be held after the Council provides a more clear direction to the Commission.

COMMISSIONER HAMILTON SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

#### **BUSINESS FROM THE FLOOR**

Acting Planning Director Hayes noted that the Commission received agenda packets for the Council meeting scheduled for September 9, 1997, which included a report from the Neighborhood Planning Subcommittee. That report will be scheduled for Commission discussion at an upcoming meeting. Commissioner Belmonte

noted that the subcommittee's report recommends that the Council consider having Council representation on the subcommittee as there are multi-jurisdictional concerns.

In response to a question for Commissioner Hamilton, Acting Planning Director Hayes stated that the rural lighting standards will be reviewed by the Commission on the upcoming September 22nd agenda.

Greg Steele, a previous speaker, asked that the City Attorney's office review what the Planning Commission's involvement is in a general law city vs a charter city, in relation to the CIP. Assistant City Attorney Barker explained that whatever the planning agency is, one of the functions of the Council, or its delegate, is to review the CIP. She noted that a memorandum has been prepared per a Commission request at prior meeting to explain the process as dictated by law to amend the General Plan, and the Commission's role in that process. That memorandum will be forwarded to the Commission once it has been finalized.

**ADJOURNMENT**

There being no further business, the meeting was adjourned at 9:35 p.m. to a City Council meeting on September 9, 1997 at 7:00 p.m. and the Adjourned Regular Meeting of September 22, 1997 at 7:30 p.m.

September 22, 1997  
Date Approved

/s/  
Tom Hayes  
Acting Planning Director

**PLANNING COMMISSION**  
MEETING OF SEPTEMBER 22, 1997

**ROLL CALL**

The meeting was called to order by Chair Kirk Monfort at 7:30 P.M. in the Council Chambers of the Chico Municipal Center. Commissioners present were Barry Belmonte, Jolene Dietle, William Hamilton, Kirk Monfort, Jonathan Studebaker, Larry Wahl and Michael Wright. Staff present were Assistant City Attorney Lori Barker, Director of Public Works E.C. Ross, Associate Civil Engineer Rich Burgi, Acting Planning Director Tom Hayes and Administrative Secretary Karen Kracht.

**DISCUSSION OF EX PARTE COMMUNICATION**

None.

**CONSENT AGENDA**

**1. Minutes of Adjourned Regular Meeting of August 18, 1997.**

**Requested Action:** Approve with any corrections/revisions required.

**2. Minutes of Regular Meeting of September 8, 1997.**

**Requested Action:** Approve with any corrections/revisions required..

COMMISSIONER STUDEBAKER MOVED APPROVAL OF THE CONSENT AGENDA. COMMISSIONER DIETLE SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

Chair Monfort noted that there had been a change in format for the minutes, which the Commission has found acceptable.

**REGULAR AGENDA**

Chair Monfort noted that Items 3 and 4 have been continued.

- 3. Use Permit UP-97-33 (Lewis/ARCO)** - A request to allow the replacement of an existing gas station and food-mart with a new facility to operate on a 24 hour basis within 300 feet of a residential district on property located at 2538 Esplanade (Assessor's Parcel Nos. 006-060-053 and 048). The property is designated Community Commercial in the General Plan and located in a C-1 Restricted Commercial and C-2 General Commercial zoning district. This project has been determined to be exempt from environmental review, pursuant to the California Environmental Quality Act (CEQA), Section 15302 , Replacement or Reconstruction.

This item has been continued to October 6, 1997 meeting.

4. **Vesting Tentative Subdivision Map S-97-4 (Engelbert)** - A proposed subdivision of 6.8 acres for a residential project containing 38 single family lots on property located on the east side of Marigold Avenue, approximately 1600 feet north of East Avenue in an R-1 Single Family Residential zoning district. The property is identified as Assessor's Parcel No. 048-063-028 and designated Low Density Residential in the General Plan diagram. Based on the initial study for environmental review prepared for this project, the Planning Division is recommending that a mitigated negative declaration be adopted for this project pursuant to the California Environmental Quality Act (CEQA). A "negative declaration" is a determination that a project will not have a significant impact on the environment as mitigated. Based on action to be taken by the Airport Land Use Commission (ALUC) at its September 17, 1997 meeting, it is anticipated that project approval may include the adoption of findings overriding an ALUC determination that the project is inconsistent with the Chico Municipal Airport Environs Plan.

This item has been continued to an unspecified date.

5. **Rural Street Lighting Standards** - A report regarding lowering the levels of street lighting for residential subdivisions, the Director of Public Works is recommending the reduction of laminaire wattage of cobra head street lights on residential streets from 100 watts to 70 watts. This item is for discussion only.

Director of Public Works Ross introduced Traffic Engineer Rich Burgi, who researched this item. He reviewed handouts displaying the specifications for the lighting standards approved for the interior of the Walnut Park subdivision. He verified that the standard would become one of the standard streetlight fixtures approved by the City. The posts are similar to the candy-cane fixture, costing \$800 to \$1,000 per standard. He explained that when the street standards were revised in 1995 the street light standards were not changed. He reviewed a chart of the proposed modification of lighting required on residential streets.

Chair Monfort noted that the proposal will save both City and developers money. He verified that no action was required on this item.

#### **CORRESPONDENCE**

6. **Letter regarding the Status of the Habitat and Resource Conservation Plan (HRCP)**, from Community Development Assistant Clif Sellers, dated September 10, 1997.

Chair Monfort stated that he found the letter informative, and verified that the Commission would be notified when the meeting was scheduled.

7. **Memorandum regarding the Role of the Planning Commission in the General Plan Process**, from Assistant City Attorney Lori Barker, dated September 16, 1997.
8. **Jesus Provides Our Daily Bread**, update report from Katy Thoma, Executive Director.
9. **Letter in support of Jesus Provides Our Daily Bread**, from Joel M. Olsen, dated September 11, 1997.

**BUSINESS FROM THE FLOOR**

Chair Monfort inquired on the status of the Neighborhood Planning Subcommittee. Commissioner Belmonte explained that the Subcommittee desires to include a Council member and a representative from the County. Commissioner Studebaker requested that the item be placed on a future Commission agenda for discussion, preferably for the October 20<sup>th</sup> meeting. Acting Planning Director Hayes suggested that the date be left open pending other business before the Commission.

Acting Planning Director Hayes reviewed that a joint Council/Commission meeting has been scheduled for September 29, 1997 to discuss development of the Teichert Pond area. In addition, the Council will be meeting on September 30<sup>th</sup> regarding the Commission's recommendation to adopt a campus overlay district. A majority of the Commissioners stated that they would be attending the September 30, 1997 Council meeting; thus, the Commission would also adjourn to that date.

**ADJOURNMENT**

There being no further business, the meeting was adjourned at 7:48 p.m. to a City Council meeting on September 29, 1997 at 6:00 p.m., the City Council meeting of September 30, 1997 at 7:00 p.m. and the Regular Meeting of October 6, 1997 at 7:30 p.m.

October 6, 1997  
Date Approved

/s/  
Tom Hayes  
Acting Planning Director

**PLANNING COMMISSION**  
MEETING OF OCTOBER 6, 1997

**ROLL CALL**

The meeting was called to order by Chair Kirk Monfort at 7:30 P.M. in the Council Chambers of the Chico Municipal Center. Commissioners present were Barry Belmonte, Jolene Dietle, William Hamilton, Kirk Monfort, Jonathan Studebaker, Larry Wahl and Michael Wright. Staff present were Assistant City Attorney Lori Barker, Director of Public Works E.C. Ross, Acting Planning Director Tom Hayes and Administrative Secretary Karen Kracht.

**DISCUSSION OF EX PARTE COMMUNICATION**

Chair Monfort announced that Benedict Ranch will be continued to the October 20, 1997 Adjourned Regular Meeting.

**EX PARTE COMMUNICATIONS**

Commissioner Studebaker stated that, in regard to Item No. 4, he is a resident of the area; as he does not own property in the area, there are no economic conflicts and he will be voting on the item.

Commissioner Wright stated that he received a telephone call from Jim Stevens, the engineer on Item No. 6, Benedict Ranch, explaining changes which have been made in the project. Commissioners Studebaker, Wahl, Dietle, Hamilton and Monfort stated that they had each received a similar call.

Commissioner Dietle stated that she had also spoken with Mr. Engelbert, the applicant on Item No. 5.

**CONSENT CALENDAR**

**1. Minutes of Adjourned Meeting of September 22, 1997.**

**Requested Action:** Approve with any corrections/revisions required.

- 2. General Plan Amendment/Rezone No. 97-03 (Farrar) - Proposal applicable to the southerly 2.5 acres (approximate) of two parcels located at the northwest corner of East Avenue and Ceanothus Avenue, Assessor's Parcel Nos. 048-060-038 & 042, which would amend the existing Offices General Plan land use designation to Community Commercial and would change the zoning from R-P Residential - Professional / Business Office to PD/N-C Planned Development Neighborhood Commercial to facilitate a commercial development at that location. Based on the initial study for environmental review prepared for this project, the Planning Division is recommending that a mitigated negative declaration be adopted for this project pursuant to the California Environmental Quality Act (CEQA). A "negative declaration" is a determination that a project will not have a significant impact on the environment as mitigated.**

**Requested Action:** Staff is requesting that this item be continued indefinitely.

Acting Planning Director Hayes removed this item from the Consent Agenda.

3. **Use Permit UP-97-33 (Lewis/ARCO)** - A request to allow the replacement of an existing gas station and food-mart with a new facility to operate on a 24 hour basis within 300 feet of a residential district on property located at 2538 Esplanade (Assessor's Parcel Nos. 006-060-053 and 048). The property is designated Community Commercial in the General Plan and located in a C-1 Restricted Commercial and C-2 General Commercial zoning district. This project has been determined to be exempt from environmental review, pursuant to the California Environmental Quality Act (CEQA), Section 15302, Replacement or Reconstruction.

**Requested Action:** The applicant requests that this item be continued to the October 20, 1997 meeting.

COMMISSIONER STUDEBAKER MOVED APPROVAL OF ITEMS 1 AND 3 OF THE CONSENT AGENDA. COMMISSIONER WAHL SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

#### **ITEMS REMOVED FROM CONSENT**

2. **General Plan Amendment/Rezone No. 97-03 (Farrar)**

Acting Planning Director Hayes noted that this item has been noticed for the November 3 Regular Meeting.

COMMISSIONER DIETLE MOVED TO APPROVE THE CONTINUANCE OF GENERAL PLAN AMENDMENT AND REZONE NO. 97-03. COMMISSIONER WAHL SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

#### **REGULAR AGENDA**

Chair Monfort explained that the Commission would be taking Item No. 6 out of order.

6. **Vesting Tentative Subdivision Map 95-4 Benedict Ranch Subdivision (Leen Bros. Enterprises)**  
- The project consists of a request to subdivide 32.6+ acres into 106 single family residential lots on property rezoned R-1, Low Density Residential, located on the south side of East Eighth Street and on the west side of Bruce Road (Assessor's Parcel Number 002-160-060). The site is designated in the City of Chico General Plan Diagram as Low Density Residential (2.1 to 7.0 dwelling units per gross acre). The single family lots will range in size of approximately 12,000 square feet to 6,500 square feet with an average lot size of 9,000 square feet. In addition to subdivision of the land the applicant is also requesting annexation of the property into the City of Chico. The proposed subdivision is twenty-three (23) single family residential lots less than a previous submittal by the applicant. Based on the initial study for environmental review prepared for this project, the Planning Division is recommending that a mitigated negative declaration be adopted for this project pursuant to the California Environmental Quality Act (CEQA). A "negative declaration" is a determination that a project will not have a significant impact on the environment as mitigated.

Commissioner Dietle stated that she will be abstaining on this item. She later clarified that she has business dealings with one of the applicant property owners.

Acting Planning Director Hayes explained the applicant has requested that this item be continued to the October 20, 1997 Adjourned Regular meeting. He noted that the residents of the neighborhood have submitted additional materials.

- 4. Use Permit No. 97-35 (King of Kings Church)** - Request to allow a church facility including a sanctuary with weekly services, a Bible school, a day care center, and associated ancillary uses at 371 E. 5th Street and 539 Flume Street (formerly Gold Country Market and ARC), on the block bounded by E. 5th and E. 6th Streets, Flume and Orient Streets, Assessor's Parcel Nos. 004-178-002, 003, 004 & 005, on property split-zoned C-1 Restricted Commercial and R-P Residential-Professional/Business Office. The property is nonconforming for parking requirements Hence, the applicant requests modification of a nonconformity as well as shared parking. The project area is designated Downtown in the Chico General Plan. This project has been determined to be exempt from environmental review, pursuant to the California Environmental Quality Act (CEQA), Section 15301a, Existing Facilities.

Acting Planning Director Hayes presented the staff report and reviewed the recommended findings and conditions of approval contained in the written staff report.

Commissioner Studebaker questioned what the ancillary uses are, as mentioned in the staff report. Chair Monfort quoted from a letter received at the meeting which expressed concern regarding possible other uses including drug rehabilitation and soup kitchen facilities.

The public hearing was opened with Roger Houtsman, one of the applicants, being the only person who spoke. He indicated that the ancillary uses include board meetings, counseling, wedding rehearsals and other church functions.

COMMISSIONER WRIGHT MOVED TO APPROVE USE PERMIT NO. 97-35 (KING OF KINGS CHURCH), BASED ON THE FINDINGS AND CONDITIONS OF APPROVAL CONTAINED IN THE STAFF REPORT. COMMISSIONER DIETLE SECONDED THE MOTION.

Commissioner Studebaker stated that he would vote for the motion because the building has been vacant for some time. However, the subject property had been a commercial center serving the residents of the area, acting as a neighborhood core. He stressed that development, such as the Campbell Commons project, was supported because of the proximity to central services, including a grocery store. He expressed his desire that the Council, in the upcoming review of the downtown area, consider a downtown market.

Commissioner Hamilton asked the applicant if there are area residents among the congregation and if the neighborhood has a conflict with the hours of operation. Mr. Houtsman replied that members of church did walk the neighborhood discussing the proposal with the neighbors. The neighbors mainly expressed concerns related to safety.

Commissioner Wahl questioned if there had been any discussion of coordinating service or activity times with the Trinity Church, located across the street, to avoid parking and traffic congestion. Mr. Houtsman stressed that the King of Kings church will own its own parking lot and does not anticipate problems. If congestion occurs due to size of congregation, the church will have to consider multiple services.

THE MOTION WAS APPROVED UNANIMOUSLY.

5. **Vesting Tentative Subdivision Map S-97-4 (Engelbert)** - A proposed subdivision of 6.8 acres for a residential project containing 38 single family lots on property located on the east side of Marigold Avenue, approximately 1600 feet north of East Avenue in an R-1 Single Family Residential zoning district. The property is identified as Assessor's Parcel No. 048-063-028 and designated Low Density Residential in the General Plan diagram. Based on the initial study for environmental review prepared for this project, the Planning Division is recommending that a mitigated negative declaration be adopted for this project pursuant to the California Environmental Quality Act (CEQA). A "negative declaration" is a determination that a project will not have a significant impact on the environment as mitigated. Project approval will include the adoption of findings overriding an Butte County Airport Land Use Commission (ALUC) determination that the project is inconsistent with the Chico Municipal Airport Environs Plan. This item was continued from the September 22, 1997 meeting.

Acting Planning Director Hayes reviewed the staff report. He also noted that an issue with this proposal is the Butte County Airport Land Use Commission (ALUC) finding of inconsistency with the Airport Environs Plan. The project is located within the airport area of influence, and thus was referred to ALUC for their comments. Planning Commission findings of overriding consideration must be adopted by a 2/3rds majority vote, acted on separately from the project itself. He added that the ALUC findings of inconsistency included three recommendations on the project, two of which were adopted, and verified that the third recommendation, requiring avigation easements, would be included.

At Commissioner Dietle's request, Acting Planning Director Hayes clarified that while the Council had adopted the density guidelines on how to interpret General Plan policy, these policies did exist prior to Council clarification. Staff has not applied the clarified guidelines to this project because it was previously vested. Commissioner Dietle indicated that the transition issue may not apply extensively with this project as there have been no comments toward that issue from neighbors.

Commissioner Studebaker asked for a status update on the draft Memorandum of Understanding (MOU) between the City, County and ALUC. Acting Planning Director Hayes stated that while ALUC has adopted the MOU, the County Board of Supervisors and the City Council have yet to do so. The item is set to be discussed by the Council on Tuesday, October 7. Assistant City Attorney Barker noted that the item will be discussed by the Board of Supervisors later this month.

The public hearing was opened at 7:50 p.m.

Brian Baldrige, president of North Valley Pilots Association, 11088 Midway, expressed opposition due to the determination made by ALUC and safety issues surrounding any residential development which lies in the area of airport influence.

Jim Stevens, NorthStar Engineering, representing the applicant, indicated his belief that there is existing connectivity and asked that the conditions requiring the possible extension of Street A to the east be deleted. He also asked for clarification on the establishment of a future neighborhood park in light of Proposition 218. Assistant City Attorney Barker explained that the City can establish a district, with boundaries and a set fee which is based on assumptions on the size of the park and the cost of maintaining it. The fee would not be collected until such time as there is a park.

Mr. Stevens stated that he did talk to several neighbors, some of whom indicated concerns relating to two-story construction. In lieu of lot size changes, he proposed limiting the lots along the north and east property lines to single-story construction. He addressed the airport related concerns and suggested that

the findings of overriding consideration of the ALUC determination are feasible without added restrictions on development.

Chair Monfort asked if there are any additional air quality measure which will be taken. Mr. Stevens reviewed the threshold of impact mitigations which are already incorporated into City developments. He offered to provide 220V. electrical outlets to garages and natural gas outlets to fireplaces and patios.

Jerry Olio, 2595 Cactus Avenue, expressed concern regarding noticing only those property owners within 300 feet as that does not reach many neighbors as it is a large lot area. He expressed concern that there be blending of neighborhoods, which would be accomplished through larger lot sizes.

Marge Fredenburg, 2878 Marigold Avenue, expressed concern regarding current development along Marigold Avenue not being compatible with the existing neighborhood, and being without street trees and landscaping.

Chair Monfort noted that this project and that of Cardiff Estates are developed to City standards, requiring street trees, median landscaping, curbs and gutters. Director of Public Works Ross noted that Marigold Estates, a larger development being built along Marigold, was approved and developed within the County, prior to City annexation, and was not required to install medians or pay for any median or landscaping. He noted that eventually the City will complete the median and landscaping through that area.

The public hearing was closed at 8:50 p.m.

Commissioner Belmonte expressed concern on approving this project without the MOU with the ALUC in place, suggesting that approval be delayed until the MOU adoption. Assistant City Attorney Barker explained that the findings of overriding ALUC included in this resolution are the same findings which would be prepared for Commission consideration once the MOU is signed, as these are the types of findings that ALUC is requesting the City take pursuant to the MOU. Chair Monfort noted that the City is not allowed to override findings of ALUC on basis of economics or politics, but can only on basis of fact. All matters of fact concerned are these findings as ALUC requested be made. Commissioner Belmonte noted that the Commission recently approved a project which was similar, with the findings overriding ALUC included in the resolution; litigation is now taking place on that project.

COMMISSIONER BELMONTE MOVED TO CONTINUE VESTING TENTATIVE SUBDIVISION MAP S-97-4 (ENGELBERT) UNTIL A MEMORANDUM OF UNDERSTANDING HAS BEEN ADOPTED. COMMISSIONER STUDEBAKER SECONDED THE MOTION, WHICH FAILED 2-5 (COMMISSIONERS DIETLE, HAMILTON, MONFORT, WAHL AND WRIGHT DISSENTING).

COMMISSIONER HAMILTON MOVED TO ADOPT THE FINDINGS OF OVERRIDING CONSIDERATION OVER THE AIRPORT LAND USE COMMISSION DETERMINATION OF INCONSISTENCY WITH THE CHICO MUNICIPAL AIRPORT LAND USE PLAN AS ESTABLISHED IN THE RESOLUTION ADOPTING VESTING TENTATIVE SUBDIVISION MAP S-97-4 (ENGELBERT). COMMISSIONER WAHL SECONDED THE MOTION WHICH WAS ADOPTED 5-2 (COMMISSIONER BELMONTE AND STUDEBAKER OPPOSED).

COMMISSIONER DIETLE MOVED APPROVAL OF VESTING TENTATIVE SUBDIVISION MAP S-97-4 (ENGELBERT) BASED ON THE FINDINGS AND CONDITIONS OF APPROVAL AS LISTED IN THE STAFF REPORT AND IN THE RESOLUTION, WITH THE FOLLOWING CHANGES: (1) INSTALL NATURAL GAS OUTLETS IN FIREPLACES; (2) 220 V. ELECTRICAL OUTLETS IN GARAGES; (3) REQUIRE NO 2-STORY CONSTRUCTION ON THE NORTHERN AND EASTERN BOUNDARIES OF THE SUBDIVISION; (4) FROM THE SUBDIVISION REPORT, PAGE 11, MODIFY PARAGRAPH F.1.(a.) TO DEDICATE A 60-FOOT RIGHT-OF-WAY FOR STREET A TO THE INTERSECTION OF STREET B, AND; (5) REMOVE FROM PAGE 2 OF THE SUBDIVISION REPORT, PARAGRAPHS B AND G, RELATING TO THE EXTENSION OF STREET A TO THE EASTERN PROPERTY LINE.

Commission discussion ensued relating to a bikepath being installed between Lots 16 and 17, along the storm drainage easement. It was determined that a bicycle easement would remain at that location.

COMMISSIONER DIETLE AMENDED THE MOTION TO NOTE THE BICYCLE EASEMENT AT THE SITE OF THE STORM DRAINAGE EASEMENT BETWEEN LOTS 11 AND 12. COMMISSIONER WRIGHT SECONDED THE MOTION. THE MOTION WAS APPROVED 5-2 (COMMISSIONERS BELMONTE AND STUDEBAKER OPPOSED).

### **BUSINESS FROM THE FLOOR**

Commissioner Studebaker questioned why a paragraph explaining the Consent Calendar was missing from the agenda. Its location on the agenda was pointed out to him.

Chair Monfort asked that a summary sheet listing all the conditions placed on a subdivision be provided, including those in the Subdivision Report and mitigations contained in the environmental documents.

Acting Planning Director Hayes scheduled a meeting with the Neighborhood Planning Subcommittee for Wednesday, October 15<sup>th</sup> at 10:00 a.m.

Assistant City Attorney Barker reminded the Commission that when making disclosures of ex parte communications, they must disclose who they spoke with and what the general topic of those conversations was. Also, when abstaining on an item because of a conflict of interest, the Commissioner must disclose the nature of that conflict.

### **ADJOURNMENT**

The meeting was adjourned at 9:06 p.m. to the Adjourned Regular Meeting of October 20, 1997 at 7:30 p.m.

October 20, 1997  
Date Approved

/s/  
Kim Seidler  
Planning Director

**PLANNING COMMISSION**  
MEETING OF OCTOBER 20, 1997

**ROLL CALL**

The meeting was called to order by Chair Kirk Monfort at 7:30 P.M. in the Council Chambers of the Chico Municipal Center. Commissioners present were Barry Belmonte, Jolene Dietle, William Hamilton, Kirk Monfort, Jonathan Studebaker, Larry Wahl and Michael Wright. Staff present were Assistant City Attorney Lori Barker, Director of Public Works E.C. Ross, Community Development Director Tony Baptiste, Planning Director Kim Seidler, Senior Planner Tom Hayes, Senior Planner Ed Palmeri and Administrative Secretary Karen Kracht.

**DISCUSSION OF EX PARTE COMMUNICATION**

Commissioner Wahl stated that, regarding Item No. 3, he had spoken with Phillip Smith, Greg Steele and Jim Stevens.

Commissioner Studebaker stated that he had a conversation with Jeff Carter regarding Item No. 3. Mr. Carter expressed opposition to the proposal and felt there should be an environmental impact report. He added that he also met with Tom DiGiovani, Heritage Partners, in reviewing the 8th Street Scenic Street Plan, which Mr. DiGiovani stressed that the scenic street study was not tied to a specific project.

Chair Monfort stated that he had a telephone call from Jim Stevens, representing the applicant for Item No. 3, who indicated that they would be asking for a continuance.

Sr. Planner Hayes introduced Kim Seidler, Planning Director for the City of Chico.

**CONSENT AGENDA**

**1. Minutes of Regular Meeting of October 6, 1997.**

**Requested Action:** Approve with any corrections/revisions required.

Commissioner Studebaker removed this item from the Consent Agenda.

- 2. Use Permit UP-97-33 (Lewis/ARCO) - 2538 Esplanade** - A request to allow the replacement of an existing gas station and food-mart with a new facility to operate on a 24 hour basis within 300 feet of a residential district on property located at 2538 Esplanade (Assessor's Parcel Nos. 006-060-053 and 048). The property is designated Community Commercial in the General Plan and located in a C-1 Restricted Commercial and C-2 General Commercial zoning district. This project has been determined to be exempt from environmental review, pursuant to the California Environmental Quality Act (CEQA), Section 15302, Replacement or Reconstruction.

**Requested Action:** Approve the Use Permit subject to the findings and conditions of approval as contained in the staff report.

Commissioner Dietle stated that she would be abstaining from Item 2. due to a conflict of interest, having a business association with one of the property owners.

COMMISSIONER STUDEBAKER MOVED APPROVAL OF THE CONSENT AGENDA.  
COMMISSIONER HAMILTON SECONDED THE MOTION.

Gary Lewis, the applicant, stated that he was present to answer any questions the Commission may have.

THE MOTION WAS APPROVED 6-0-1 (COMMISSIONER DIETLE ABSTAINED).

### **ITEMS REMOVED FROM CONSENT**

1. Minutes of October 6, 1997.

Commissioner Studebaker stated that a correction to Page 1, under Ex Parte Communication, should read that he met with Jim Stevens, as it was not a telephone call.

COMMISSIONER STUDEBAKER MOVED TO APPROVE THE MINUTES OF OCTOBER 6, 1997 AS AMENDED. COMMISSIONER WAHL SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

### **REGULAR AGENDA**

3. **Vesting Tentative Subdivision Map 95-4 Benedict Ranch Subdivision (Leen Bros. Enterprises)**- The project consists of a request to subdivide 32.6+ acres into 106 single family residential lots on property rezoned R-1, Low Density Residential, located on the south side of East Eighth Street and on the west side of Bruce Road (Assessor's Parcel No. 002-160-060). The site is designated in the City of Chico General Plan Diagram as Low Density Residential (2.1 to 7.0 dwelling units per gross acre). The single family lots will range in size of approximately 12,000 square feet to 6,500 square feet with an average lot size of 9,000 square feet. In addition to subdivision of the land the applicant is also requesting annexation of the property into the City of Chico. The proposed subdivision is twenty-three (23) single family residential lots less than a previous submittal by the applicant. Based on the initial study for environmental review prepared for this project, the Planning Division is recommending that a mitigated negative declaration be adopted for this project pursuant to the California Environmental Quality Act (CEQA). A "negative declaration" is a determination that a project will not have a significant impact on the environment as mitigated.

Commissioner Dietle stated that she would be abstaining from this item due to a conflict of interest, a business association with one of the property owners.

Chair Monfort read a fax received by the Commission at this meeting from Jim Stevens, NorthStar Engineering, representing the applicant, which requested a continuance of this item.

Sr. Planner Hayes reviewed the Commission's options, which included (1) having the staff presentation and opening the public hearing, or (2) to continue this item and schedule a special meeting. Possible dates for a special meeting were discussed.

Commissioner Wahl suggested that the Commission devote the next regularly scheduled meeting to this item. Sr. Planner Hayes explained that there are a number of items which have already been scheduled and noticed for that date.

Commissioner Studebaker stated that a continuance would allow time for further public notice, noting a letter received by the Commission indicating that some interested parties were not notified of the hearing.

COMMISSIONER STUDEBAKER MOVED TO CONTINUE S-95-4 (BENEDICT RANCH) TO 7:00 P.M. ON DECEMBER 4, 1997. COMMISSIONER WRIGHT SECONDED THE MOTION.

Commissioner Hamilton indicated his appreciation for the large amount of public representation on this item, and his desire that the public return for the special meeting and provide input at that time. Chair Monfort noted that the Commission has already received much written comment on the project, and would continue to do so.

THE MOTION WAS APPROVED 5-1-1 (COMMISSIONER WAHL OPPOSED AND COMMISSIONER DIETLE ABSTAINED).

Sr. Planner Hayes reviewed the City's noticing and packet distribution policies.

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The Commission was in recess from 7:50 p.m. through 8:00 p.m.  
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4. **Use Permit 97-36 (Gateway Pacific Properties) - 1140 Forest Avenue** - Use permit to allow the construction of a gas station and convenience store to operate 24 hours per day within 300 feet of a residential district on property located at 1140 Forest Avenue, Assessor's Parcel No. 002-050-091 in a C-1 Restricted Commercial Land Use District. The General Plan designation on the parcel is Community Commercial. Based on the initial study for environmental review prepared for this project, the Planning Division is recommending that a mitigated negative declaration be adopted for this project pursuant to the California Environmental Quality Act (CEQA). A "negative declaration" is a determination that a project will not have a significant impact on the environment as mitigated.

Sr. Planner Hayes reviewed the staff report for the project at northeast corner of Forest Avenue and Humboldt Road for a 24-hour convenience store and gas station.

Chair Monfort verified that this proposal differs from a previous approval for the site in that the size of the project is a portion of the parcel instead of the full parcel, that the gas tanks are in a different location and that there is no access to State Highway Route (SHR) 32. He discussed the ultimate build-out of the SHR 32/Forest Avenue intersection with Director of Public Works Ross. Sr. Planner Hayes reviewed the previously approved use permit, which had expired.

Commissioner Dietle verified that the parcel is to be split, as it is now under one ownership. She expressed concern with the amount of road improvements recommended to be completed by this project, and suggested that the limited amount may cause safety problems. Director of Public Works Ross reviewed the ultimate roadway improvements along Forest Avenue.

In response to Commissioner Wright's concerns, staff noted that the property owner/applicant will be required to form a maintenance district.

The public hearing was opened at 8:20 p.m.

The following people spoke against the proposal, expressing concerns with the safety of a 24-hour operation, the need for a 24-hour business, traffic, noise, flooding and the maintenance of Dead Horse Slough: Joan Maxwell, 21 Stansbury Court; Ray Testman, 1099 El Monte; Debra Hoffman, 3 Mindy Court.

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The Commission was in recess from 8:45 p.m. through 8:55 p.m.  
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The Commission continued taking public testimony, with the following speakers in opposition: Carolyn Payne, 1420 Sherman Avenue; Richard McLees, 7 Merle Court; Kim Tichenin, 1133 Spruce; Michael Kenny, 23 Stansbury Court; Lori Miller, 23 Stansbury Court. These speakers expressed concerns regarding flooding, traffic, noise, pollution, crime, lighting, neighborhood compatibility, the protection of local business, safety of the on-ramp for SHR 99 from SHR 32, the City's notification and the public input process.

Chair Monfort reviewed the traffic pattern and improvements to be made to Forest Avenue and also to the intersection of SHR 32 and Forest Avenue.

The Commission reviewed the project with the applicant, Kent Hallen, Gateway Pacific Properties. Commissioner Hamilton reviewed the ingress and egress on Forest Avenue with Mr. Hallen. Commissioner Studebaker asked about plans for security at night and what measures would be used to prevent loitering. Mr. Hallen stated that there are to be two employees working during night and if there are any problems, they will immediately contact the Police Department.

Chair Monfort suggested the possibility of closing the store area at 11:00 p.m., leaving credit card access on the gasoline pumps after hours. Mr. Hallen explained that although they will accept credit cards, the tenant does require 24-hour operation.

Commissioner Hamilton inquired as to what time deliveries would be made and if a condition limiting the time of deliveries would be acceptable. Mr. Hallen agreed to a condition that deliveries not occur from the hours of 11:00 p.m. to 6:00 a.m.

Commissioner Dietle reviewed the plans for a minor land division, questioned what would occur with the southern section of the property, and suggested that improvements could be made for the entire length of the parcel. Mr. Hallen explained that the conceptual plan is for the southerly portion would be retail with access on Humboldt, which, when build-out, the full street improvements would be made. Mr. Hallen stressed his belief that there is a market for this service, and although he appreciates the concerns of the neighbors, the tenant has a need for 24-hour operation.

Commissioner Wright asked if a traffic study was completed. Mr. Hallen explained that a traffic count was conducted, and the improvements required of this project will improve the intersection at SHR 32/Forest Avenue.

Commissioner Dietle verified that the traffic improvements required of this project also considered the traffic changes that will take place in the area once the junior high school is built. Director of Public Works Ross added that in addition to these improvements there are also those being made by the school district to El Monte and SHR 32/El Monte.

Commissioner Dietle expressed concern for pedestrian and bicycle traffic to this project from Humboldt Road.

The following people spoke in support of the project: Lux Taylor and Jeff Farrar, current property owners. They reviewed the zoning and project history for the site, the flooding concerns of Dead Horse Slough and its history, and their vision for a neighborhood center on the full site, which they anticipate to build out in one to two years.

Chair Monfort questioned if the previous proposal for the site, which used the whole parcel, would have provided better access along the entire parcel. He suggested that a proposal for the entire site be presented now, rather than in two proposals.

Through discussions between the Commission and the property owners, the owners agreed to install all the improvements along Forest Avenue with this project, leaving improvements along Humboldt Road to be made at buildout of the other section of the parcel.

Commissioner Studebaker verified that comments on the project were solicited from the Police Department. Sr. Planner Hayes stated that no comment was received in response to staff's request.

The following members of the public further expressed their opposition to the project and verified that the Commission received a petition opposing this project which was submitted for consideration: Lori Miller, 23 Stansbury Court, Mr. Kenny and Ms. Hoffman, previous speakers. The concerns expressed were: questioned need for 24-hour convenience store with the proximity of Waremart, traffic noise including large diesel trucks on SHR 32, traffic levels during nighttime hours, commercial impact on the adjacent residential neighborhood and accusations that the Commission was not applying full weight to public concerns and the City's notification procedures. They asked for a continuance to allow for further public notification.

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The Commission was in recess from 10:10 p.m. through 10:20 p.m.  
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The public hearing continued with Moaty Fayet, 19 Stansbury Court and Harriet Skounborg, 1061 Forest Avenue, both in opposition, discussed the submitted petition with the Commission, as well as expressed concerns regarding traffic and 24-hour operation at the site.

The public hearing was closed at 10:30 p.m.

Commissioner Belmonte suggested that the item be continued to allow for the applicant to conduct a meeting with the neighborhood. He expressed concern that the amount of public testimony has been far more than the size of the project would normally warrant. He reviewed that the concerns including safety of children, vehicle traffic and alcohol in the neighborhood.

COMMISSIONER BELMONTE MOVED TO CONTINUE USE PERMIT 97-36 (GATEWAY PACIFIC PROPERTIES) TO ALLOW FOR A NEIGHBORHOOD MEETING. COMMISSIONER WAHL SECONDED THE MOTION.

Commissioner Wright suggested that the one issue of major concern, 24-hour operation, has the applicant and the neighborhood split and may not be resolved through a neighborhood meeting.

Commissioner Belmonte suggested that as the proponent had previously indicated a willingness to continue this project to a later date, more could be gained by discussions with the neighborhood. Commissioner Dietle stated that the original consideration to postpone the hearing was done in response to the scheduled agenda items, and the extent of the public hearing which was expected on the previous item. She indicated her belief that the disagreement on allowing 24-hour operation will not be resolved in a neighborhood meeting. Commissioner Belmonte reviewed Commission history regarding 24-hour operations and suggested that while such a meeting may not change positions but could provide more justification.

Commissioner Wahl suggested that staff publish the agenda in the Enterprise Record two days prior to the meeting, which may provide a better notification mechanism.

THE MOTION TO CONTINUE USE PERMIT 97-36 (GATEWAY PACIFIC PROPERTIES) FAILED 2-5 (COMMISSIONERS DIETLE, HAMILTON, MONFORT, STUDEBAKER AND WRIGHT IN OPPOSITION).

COMMISSIONER HAMILTON MOVED APPROVAL OF USE PERMIT 97-36 (GATEWAY PACIFIC PROPERTIES) MAKING THE FINDINGS AND WITH THE CONDITIONS OF APPROVAL AS CONTAINED IN THE STAFF REPORT WITH THE ADDED CONDITIONS THAT (1) THE CONDITION REQUIRING STREET IMPROVEMENTS BE AMENDED TO PROVIDE FULL IMPROVEMENTS, INCLUDING CURB, GUTTER AND SIDEWALK, ALONG THE ENTIRE EAST SIDE OF FOREST AVENUE FROM HUMBOLDT ROAD TO STATE HIGHWAY ROUTE 32, LEAVING HUMBOLDT ROAD UNIMPROVED UNTIL FURTHER DEVELOPMENT OF THE SITE; AND, (2) THERE BE NO DELIVERIES BETWEEN 11:00 P.M. AND 6:00 A.M. COMMISSIONER DIETLE SECONDED THE MOTION.

Chair Monfort suggested that a condition be placed so that the convenience store be closed from 11:00 p.m. to 5:00 a.m. The condition was not accepted.

Commission discussion regarding the motion ensued. Commissioner Studebaker stressed that he does not ever have a preconceived notion as to how he will vote. He stated his belief that this project is consistent with the General Plan as it is on a major arterial, and that the conditions applied to this permit will meet his concerns. Commissioner Hamilton agreed that the Commission does not come to a meeting with preconceived ideas on approval, but rather, does research, ask questions and listen to public input in order to make the best decision based on the information provided. He stated that his feeling is that the largest concern is the traffic flow which is adequately addressed through added street improvements. Commissioner Wahl agreed with Commissioner Hamilton's comments and stressed that the Commission is here to listen to input.

Commissioner Belmonte again suggested that a more productive development could occur if there were more neighborhood input.

Chair Monfort stated that he generally favors such facilities as a means to reduce traffic trips, but stressed that there are other facilities which do close stores at 11:00 p.m.

THE MOTION WAS APPROVED 5-2 (COMMISSIONERS BELMONTE AND MONFORT OPPOSED).

**CORRESPONDENCE**

5. **Jesus Provides Our Daily Bread**, update report from Katy Thoma, Executive Director.

**BUSINESS FROM THE FLOOR**

None.

**ADJOURNMENT**

The Commission adjourned at 10:50 p.m. to the City Council General Plan work session regarding Community Design issues, scheduled for October 27th at 7:00 p.m. in the Council Chambers, and to the joint Habitat and Resource Conservation Plan (HRCP) work session with the City Council and the HRCP Committee on October 28th at 7:00 p.m. in the Council Chambers, and the Planning Commission Regular Meeting of November 3, 1997 at 7:30 p.m.

November 3, 1997  
Date Approved

/s/  
Kim Seidler  
Planning Director

**PLANNING COMMISSION  
MEETING OF NOVEMBER 3, 1997**

**ROLL CALL**

The meeting was called to order by Chair Kirk Monfort at 7:30 P.M. in the Council Chambers of the Chico Municipal Center. Commissioners present were Barry Belmonte, Jolene Dietle, William Hamilton, Kirk Monfort, Jonathan Studebaker, Larry Wahl and Michael Wright. Staff present were Assistant City Attorney Lori Barker, Director of Public Works E.C. Ross, Planning Director Kim Seidler, Senior Planner Tom Hayes, Senior Planner Ed Palmeri and Administrative Secretary Karen Kracht.

**DISCUSSION OF EX PARTE COMMUNICATION**

Commissioner Wahl stated that he had a conversation with Jeff Farrar concerning Item No. 4 on this agenda.

**CONSENT AGENDA**

**1. Minutes of Adjourned Regular Meeting of October 20, 1997.**

**Requested Action:** Approve with any corrections/revisions required.

- 2. Use Permit No. 97-39 (Maximum Comfort Inc.) - 1240 Park Avenue:** A request to allow the long-term storage of recreational vehicles, motor homes and water craft inside existing buildings on property identified as Assessor's Parcel No. 005-135-013, in a C-1 Restricted Commercial zoning district with a TC Transit Corridor overlay. The property is designated Community Commercial in the General Plan diagram. This project has been determined to be Categorically Exempt from environmental review pursuant to Section 15301, Existing Facilities, of the California Environmental Quality Act (CEQA).

**Requested Action:** Approve pursuant to the findings and conditions of approval as contained in the staff report.

Commissioner Studebaker moved approval of the Consent Agenda. Commissioner Dietle seconded the motion which was unanimously approved.

## **REGULAR AGENDA**

3. **Vesting Tentative Subdivision Map 97-2 Parkway Manor Subdivision / Planned Development Use Permit 97-14 (Aspire Homes)** - The project consists of preliminary review of a proposed subdivision and planned unit development of 5.0 acres for a residential project containing 36 single family lots on property located east of Bar Triangle Street from the north side of Robailey Drive to Carson Street, identified as Assessor's Parcel No. 002-190-026, 002-470-032 and 071 in an R-2 Medium Density Zoning District. The site is designated as Medium Density Residential in the General Plan Diagram (7.1 to 14 dwelling units per gross acre). Based on the initial study for environmental review prepared for this project, the Planning Division is recommending that a mitigated negative declaration be adopted for this project pursuant to the California Environmental Quality Act (CEQA). A "negative declaration" is a determination that a project will not have a significant impact on the environment as mitigated.

Sr. Planner Palmeri reviewed the staff report for a preliminary review of a planned development and tentative map for a parcel which has been recently down-zoned through a General Plan amendment. He distributed copies of plats provided by the applicant showing the elevations proposed for the project. He explained that environmental review was completed for all phases of the project through adoption of a negative declaration for the entire project, including that full school mitigation fees are to be paid. He noted that the Army Corps of Engineers have determined that there are no wetlands on the site.

Commissioner Studebaker verified that as the Council did rezone the parcel, it could result in increased school fees. Assistant City Attorney Barker noted that the entire project did consist of a General Plan amendment and rezone, which does trigger application of full school fees.

Chair Monfort asked for clarification on the request for a Planned Development. Sr. Planner Palmeri explained that the Planned Development permit would allow some smaller than average lots to be developed with the intent of providing affordable housing.

The public hearing was opened at 7:45 p.m.

Tony Symmes, asked for further clarification on the amount of school fees to be charged. Assistant City Attorney Barker explained that the law says that full school mitigations fees should apply. The school district responded to City staff with their standard letter that school fees to the extent allowed by law be imposed, which with the legislative act of rezoning, can raise the full fee to \$4.84. There may have been some confusion on the School Districts part as this request is for the Planned Development, not on the legislative act which was part of the project already approved.

Chair Monfort asked if the elevations distributed are exactly the same as those used in other areas of the adjacent subdivision. Mr. Symmes explained that while the elevations are basically the same, there is one new plan, and two plans which have been slightly modified. He noted that half of the plans have recessed garages as the market is tending toward recessed garage with a front porch.

Chair Monfort asked about the requested reduced setbacks for some lots and suggested zero lot lines. Mr. Symmes explained that the packet had several proposed site plans representing as worse case scenarios to show that the small lots could be developed, but overall the project will not need reduced setbacks. The majority of the small lots are to be along the rear-road, abutting the apartments. He noted that in prior

phases of the subdivision, administrative use permits were needed for every small lot in order to reduce the setbacks. He stressed that first time home buyers desire the least amount of restrictions, including homeowners associations and cross-easements, which limit the use of zero lot lines. Sr. Planner Palmeri added that if the units are shown on the final map to have the 3.5 feet reduced setback, further use permit application will not be necessary.

Chair Monfort noted that an earlier version of the proposal, that included in the Initial Study, had two traffic circles which are not included in the current map. Director of Public Works Ross explained that one of the locations has such a geometric configuration, complicated by traffic patterns and a bicycle/pedestrian path, that staff did not feel it would be good location. He added that the circulation for the full subdivision would not be provided by the narrow roadway in this phase. Chair Monfort suggested that other measures be used to control traffic speed and address traffic-related safety concerns.

Director of Public Works Ross noted that the street width is already to the minimum standard, 20 feet curb to curb, with no on-street parking. Mr. Symmes added that on-street parking would be provided along the back road.

John Gillander, 4328 Kathy, expressed concern regarding the amount of school mitigation fees, noting that on a previous subdivision which was a result of a legislative act, the developer was not charged the higher school fee as the final approved density is less than the prior expected density. Assistant City Attorney Barker explained that if an area is zoned down, the School District has indicated that they are not interested in assessing the full school fees. A legislative act could trigger full school fees, but the District policy is not to charge the full fee in a down-zone situation. That policy has not changed at this point to the City's knowledge.

The public hearing was closed at 8:05 p.m.

Chair Monfort asked what action was required of the Commission at this time. Sr. Planner Palmeri explained that if the Commission had suggestions or modifications desired, it should move on those suggestions.

Commissioner Studebaker asked for clarification from the School District regarding the amount of school fees to be levied.

Chair Monfort expressed concern regarding the size of the proposed lots in the effort to achieve affordable housing.

COMMISSIONER WAHL MOVED TO PROCEED WITH THE PROPOSAL AS SUBMITTED. COMMISSIONER HAMILTON SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED 6-1 (CHAIR MONFORT OPPOSED).

Sr. Planner Palmeri noted that staff anticipates this request to be before the Commission for final approval at the November 17, 1997 meeting.

4. **General Plan Amendment/Rezone No. 97-03 (Farrar)** - Proposal applicable to the southerly 2.5 acres (approximate) of two parcels located at the northwest corner of East Avenue and Ceanothus Avenue, Assessor's Parcel Nos. 048-060-038 and 042, which would amend the existing Offices General Plan land use designation to Community Commercial and would change the zoning from R-P Residential-Professional/Business Office to PD/N-C Planned Development Neighborhood Commercial to facilitate a commercial development at that location. Based on the initial study for environmental review prepared for this project, the Planning Division is recommending that a mitigated negative declaration be adopted for this project pursuant to the California Environmental Quality Act (CEQA). A "negative declaration" is a determination that a project will not have a significant impact on the environment as mitigated.

Commissioner Dietle stated that she would be abstaining on this item because her business has a proposal pending for the financing of the project should the final project be approved. She noted that she has not discussed the current request with the applicant.

Sr. Planner Hayes presented the staff report for a request for a General Plan Amendment and rezone for 2.13 acres to allow for development of a gas station, car wash, delicatessen, convenience store and general retail on the corner of Ceanothus and East Avenues. The development of an additional one-half acre for commercial use could occur in the event that a drug store commits to the site. He reviewed staff's concerns, including traffic, and the history of zoning and development along East Avenue. The staff recommendation is for denial of the request based on prior land use actions, traffic safety and congestion particularly during peak hours, the maintenance of the existing viability of existing and proposed area neighborhood centers, and the timing of the request given approximate 2.5 vacant acres of additional commercial land in the area.

Chair Monfort verified that every service proposed for this project could be placed on existing NC Neighborhood Commercial vacant pads in the Safeway Marketplace center and what plans, if any, for development of the northwest corner of Marigold and East Avenue had been pursued. Sr. Planner Hayes noted that the pad sizes and configurations may not lend itself to the uses, as proposed. He reviewed the history for the zoning of the parcel at the northwest corner of Marigold and East Avenues, which was changed by Council about two and one-half years ago. At that time the use proposed for that property was a local restaurant which would have met some of the demand by Pleasant Valley High School students for additional food service.

Chair Monfort asked if it were feasible to rezone the northwest corner of Marigold and East Avenue back to RP Residential Professional concurrently with this request, or if it were possible to base approval of this request on the Marigold and East property being rezoned also. Sr. Planner Hayes explained that such a request would have to be noticed and initiated separately, and that this request would be heard by Council before a Commission initiated rezone of Marigold and East Avenue could be considered.

Chair Monfort reviewed a letter received by the Commission at this meeting from Mike Weissenborn, Facilities Planning Manager for the Chico Unified School District (CUSD). Sr. Planner Hayes added that an additional letter was received by the Commission, from a Michael Marks, expressing opposition based primarily on traffic concerns.

Commissioner Dietle left the meeting at 8:25 p.m.

Commissioner Wahl stated that the proposal would provide the only gas station within miles and be subsidiary to the supermarket. He indicated that the pad sites at the Safeway Marketplace are not suitable for a gas station. Sr. Planner Hayes noted that staff is not concerned with the proposed use at this time, but is concerned that additional commercial uses in the area may have negative impacts, although there are merits in consolidating the commercial uses to that large block.

Planning Director Seidler stressed that there is not a use permit proposed at this time; if adopted, the rezone would permit a number of uses with no guarantee on what the final development would be.

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The Commission was in recess from 8:30 p.m. through 8:45 p.m.

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Jeff Farrar, 395 Brookside Drive, the applicant, stated that they had completed a traffic study and an Initial Study. He reviewed the request to zone two parcels NC Neighborhood Commercial, with one parcel to have the ability to expand north. He stressed that the proposal is not a speculative effort as there is a local business, owned by Orval Hughes, which does intend on locating on the site with a market, deli and gas station. Mr. Hughes, owner/operator of PDQ gas station on Eaton Road, is under contract to purchase the corner and put in a gas station. The business would serve existing traffic on East Avenue and the existing neighborhood. He presented a rendering of the possible project, noting his desire for architectural control on the buildings in order to complement the architecture of the Safeway center.

Sr. Planner Hayes stressed that the proposal is not coming forward for a PD Planned Development use permit, in which the Commission could look at the site planning and ensure appropriate uses. It is not possible to conditionally zone a parcel without a development agreement.

Mr. Farrar addressed concerns listed in the staff report. He suggested that there is a need for gas station services with the lack of similar services in proximity to the site. As the parcels are contiguous to the East Avenue Marketplace, together the properties would all provide and maintain the atmosphere of a neighborhood center. The traffic study conducted for the proposed rezone demonstrated that there would not be a significant increase in traffic, and that a gas station at this location may reduce trip lengths. He noted that while there are currently are two pads available at the Marketplace center, the pads are smaller than one acre, with the ability to accommodate only businesses that do not have very high parking ratios, and do not have the ability to handle ingress and egress that a gas station requires. He presented another graphic showing the proposed gas station and circulation.

Chair Monfort inquired why there are no gas stations at more predominate corners in the area, such as East and Cohasset Avenues. Mr. Farrar replied that the costs for key intersections have increased due to the amount of improvements required. He added that the trend is to place gas stations where customers are coming from, not at high impact corners.

Orval Hughes, 156 Eaton Road, reviewed the proposed ingress and egress for the proposed project. He indicated that he had spoken at length with the principal at Pleasant Valley High School in order to consider the movements of the high school students. He noted that there would be bicycle parking provided. He stressed the importance to have a coexistence of students and traffic.

Sr. Planner Hayes stressed that there is a General Plan Amendment and Rezone before Commission at this time. Development will be reviewed if the site is rezoned and an application for a use permit received. The elevations and site plans have not been reviewed by staff. Chair Monfort verified that the action before the Commission would allow the proposed development to occur, not make it occur the way it is presented.

Susan Christensen, 2237 Danbury Way, expressed her opposition to the rezone due to compatibility with current surrounding uses, traffic congestion and proximity to similar food-type businesses and schools. She added that Neighborhood Commercial zoning does not allow drive-throughs; she suggested that car washes are drive-through operations. She verified that the letter received from CUSD is not from the area schools, but from the district itself. She questioned why the developer is advertising the parcels as commercial and presented a photograph of the for-sale sign.

Mr. Farrar stated that the sign on the property states that the property is available, not the uses allowed.

The public hearing was closed at 9:10 p.m.

Commission discussion ensued, during which it was suggested that the Commission consider the consolidation of the commercially zoned properties, with the rezoning from the Marigold site back to RP Residential Professional, but that they not support any more commercial for that area. Concerns were expressed regarding student safety and traffic congestion at the schools. Staff pointed out that the possible rezone of the northwest corner of Marigold/East Avenue is not before the Commission at this time.

COMMISSIONER WAHL MOVED TO RECOMMEND COUNCIL APPROVAL OF GENERAL PLAN AMENDMENT/REZONE 97-03 AS DRAFTED. COMMISSIONER HAMILTON SECONDED THE MOTION WHICH FAILED BY A VOTE OF 2-4-1 (COMMISSIONERS BELMONTE, MONFORT, STUDEBAKER AND WRIGHT OPPOSED, COMMISSIONER DIETLE WAS ABSTAINED).

A suggestion was made to continue this item, with the applicant's agreement, to allow for the property owners of the site on Marigold and East Avenue to be notified. Discussion regarding Neighborhood Commercial inventory in the area ensued. It was stressed that the Commission must review each project and parcel on its individual merits.

Chair Monfort asked if the applicant would be willing to accept a continuance. Mr. Farrar asked that the Commission provide concurrence on the project in order to determine the need for a continuance. Commissioner Belmonte explained that the project had not been approved by the Commission, although the Commission would like the opportunity to find a successful conclusion. Mr. Farrar agreed to a continuance.

At Commissioner Wahl's request, Sr. Planner Hayes reviewed the zoning history for the northwest corner of Marigold and East Avenues. He noted that at the time of General Plan adoption several landowners asked that the zoning on their properties be reconsidered. The property owner requested that the subject site be zoned NC Neighborhood Commercial to allow for a specific use, a local restaurant to serve students from the high school. The Council approved the rezone, over the recommendations for denial from staff and the Planning Commission, on the basis of a recommendation for approval from the school district.

COMMISSIONER WAHL MOVED THAT GENERAL PLAN AMENDMENT/REZONE NO. 97-03 BE FORWARDED TO COUNCIL WITH NO RECOMMENDATION. THE MOTION DIED FOR LACK OF A SECOND.

COMMISSIONER HAMILTON MOVED TO CONTINUE THE ITEM TO ALLOW STAFF THE OPPORTUNITY TO MOVE FORWARD WITH A REZONE ON BOTH THIS REQUEST AND FOR THE NORTHWEST CORNER OF MARIGOLD AND EAST AVENUES. COMMISSIONER BELMONTE SECONDED THE MOTION.

Sr. Planner Hayes clarified that the motion is directing staff to initiate a General Plan Amendment for the northwest corner of East and Marigold Avenue.

Commissioner Wright expressed concern with the possible trade-off of property rights as a City initiated procedure. He suggested the applicant discuss the situation with the other property owner.

THE MOTION WAS VOTED DOWN BY A VOTE OF 2-4-1 (COMMISSIONERS MONFORT, STUDEBAKER, WAHL, AND WRIGHT OPPOSED. COMMISSIONER DIETLE WAS ABSTAINED).

Chair Monfort verified that the item would be referred to Council as a recommendation for denial.

COMMISSIONER STUDEBAKER MOVED TO DENY GENERAL PLAN AMENDMENT/REZONE 97-03. COMMISSIONER WRIGHT SECONDED THE MOTION WHICH FAILED 3-3-1 (COMMISSIONERS BELMONTE, MONFORT AND WAHL OPPOSED, COMMISSIONER DIETLE WAS ABSTAINED).

**BUSINESS FROM THE FLOOR**

None.

**ADJOURNMENT**

The Commission adjourned at 9:35 p.m. to the Adjourned Regular Meeting of November 17, 1997.

November 17, 1997  
Date Approved

/s/  
Kim Seidler  
Planning Director

**PLANNING COMMISSION  
MEETING OF NOVEMBER 17, 1997**

**ROLL CALL**

The meeting was called to order by Chair Kirk Monfort at 7:30 P.M. in the Council Chambers of the Chico Municipal Center. Commissioners present were Barry Belmonte, Jolene Dietle, William Hamilton, Kirk Monfort, Jonathan Studebaker, Larry Wahl and Michael Wright. Staff present were Assistant City Attorney Lori Barker, Planning Director Kim Seidler, Senior Planner Ed Palmeri and Administrative Secretary Karen Kracht.

**PLANNING COMMISSION ORIENTATION** - Staff will be reviewing the role and policies governing the Commission and its activities. The presentation will be given by Planning Director Kim Seidler and Assistant City Attorney Lori Barker. Planning Director Seidler will provide background information and discuss the General Plan and the management of Commission meetings. Assistant City Attorney Barker will review ex parte contacts, conflicts of interest and Brown Act regulations. Questions and discussion with both the Commission and members of the public will occur.

Planning Director Seidler reviewed the purpose of the Planning Commission and its responsibilities, including review of information, both general and item specific. He stressed the importance of the General Plan as the constitution of development for the City. He suggested means by which to run a public hearing in order to conclude business in a timely manner which included such measures as focusing issues and reducing repetition. He also stressed the importance of public input in the process. He noted his intention to provide for more Commission training on future agendas and with distribution of additional materials at future meetings.

Assistant City Attorney Barker addressed legal issues of concern to the Commission, including ex parte communication, Brown Act regulations and conflicts of interest. She noted that ex parte communication is any written or verbal communication on an item before the Commission which takes place outside of the normal meeting. The purpose of the Brown Act is to require meetings to be open to the public so the public can monitor and participate in the process. The Brown Act regulates the conduct of the Commission at a meeting and public participation at the meeting. She reviewed conflict of interest rules under the Political Reform Act and encouraged Commissioners to refer any questions on potential conflicts to the City Attorney's office prior to the meeting. She noted that Proposition 208 added a section to the Government Code prohibiting Commissioner's donation or contribution to campaigns or organizations involving the person/body that made the appointment, in this case, City Council members.

In response to a request for clarification by Commissioner Studebaker, Planning Director Seidler explained that he anticipates that in 1998, Planning Commission information packets will be distributed to the Commission approximately 10 days prior to the meeting.

Commissioner Studebaker verified that ex parte communication does include conversations with any person regarding a project before the Commission. Planning Director Seidler explained that all contacts regarding an item should be known to all in order to provide equal information when making a decision. He noted that some Commissioners may refuse to discuss an issue with anyone, and other Commissioners may choose to have many ex parte communications and disclose the discussions at the meetings.

Commissioner Studebaker asked for clarification on individual Commissioner's attendance at regularly scheduled City Council meetings. Assistant City Attorney Barker explained that without adjourning to the

meeting, the Commissioners cannot discuss Commission business at City Council meetings, although staff does post agendas when a majority is expected due to the material being discussed, in order to permit Commission discussion. She recommended that the Commission adjourn to a Council meeting if a majority of the Commission is expected to attend.

Commissioner Studebaker asked for further clarification on campaign contributions. Assistant City Attorney Barker explained that Commissioners are not permitted to make contribution to any committee controlled by the entity or person who placed them in office. That would mean that if one or more Council members, who were on the Council when a Commissioner was appointed, have a significant influence over expenditures made by a committee, the Planning Commissioner cannot contribute to the committee.

In response to a question from Chair Monfort, Assistant City Attorney Barker explained that there is not yet any case law regarding the burden of proof on the intent of such contributions. She stated that she would forward any pertinent information as it becomes available.

Commissioners Studebaker and Belmonte requested clarification regarding Council meetings which are either joint meetings with the Commission or ones which the Commission is expected to attend. Assistant City Attorney Barker stated that while joint meetings are to provide an active dialog, the Council has the discretion to set the procedures for those meetings. She added that when the Council does ask the Commission to attend a meeting, the Commission should adjourn to the meeting regardless of participation expectations. She suggested that issues regarding the amount of Commission participation in these meetings be discussed with the Council, either by speaking directly with Council members, or by directing staff to prepare a memorandum to Council indicating the Commission's interest.

Chair Monfort inquired on Brown Act regulations on situations where the Commission does hold a public hearing, then agendaize the item to another meeting for Commission deliberation following the close of the public hearing. Assistant City Attorney Barker agreed that in such a case, the Commission would not be required to reopen the public hearing, although doing such may result in some amount of public resistance.

#### **DISCUSSION OF EX PARTE COMMUNICATION**

None.

#### **CONSENT AGENDA**

**1. Minutes of Regular Meeting of November 3, 1997.**

**Requested Action:** Approve with any corrections/revisions required.

Chair Monfort removed this item from the Consent Agenda.

**2. Use Permit No. 97-40 (Turner) - 1462 Arcadian Avenue - A request to allow a bed and breakfast with four bedrooms and baths, at 1462 Arcadian Avenue, at the southeast corner of Arcadian and West 5th Avenues, identified as Assessor's Parcel No. 003-031-001, in an RD-1 Low Density Residential Zoning District. The site is designated Low Density Residential in the General Plan Diagram. This request represents an expansion of Use Permit No. 2101 which authorized a bed and breakfast with two guest rooms. The project is Categorically Exempt from environmental review pursuant to Section 15301, Existing Facilities, of the California Environmental Quality Act (CEQA).**

**Requested Action:** Approve this use permit subject to the findings and conditions of approval as listed in the staff report.

3. **Modification to Lindo View Manor Subdivision Map (Gair/Capshaw)** - A request to allow one lot size be reduced below the minimum lot square footage established by the City Council for the subdivision, to effectively accommodate a pending boundary line modification request on property located at 6 and 7 Deborah Court, identified as Assessor's Parcel Nos. 045-411-022 and 023, in an R-1 Single Family Residential Zoning District. The property is designated Low Density Residential (2.1 to 7.0 dwelling units per gross acre) in the General Plan Diagram. This project has been determined to be exempt from environmental review, pursuant to the California Environmental Quality Act (CEQA), Section 15305 (a). Minor Alterations in Land Use Limitations.

**Requested Action:** Approve this modification subject to the findings and conditions of approval as listed in the staff report.

4. **Vesting Tentative Subdivision Map S-97-9 (M & T Partners)** - A request to subdivide 9.8 acres for a residential project containing 45 single family lots on property located on Eaton Road Extension, west of the Esplanade, in an R-1 Single Family Residential zoning district, designated Low Density Residential on the General Plan diagram. The property is identified as Assessor's Parcel No. 006-026-161. An initial study for environmental review has been prepared for the above project. Based upon the information contained within the initial study, a Mitigated Negative Declaration of Environmental Impact is proposed for this project pursuant to the California Environmental Quality Act (CEQA).

**Requested Action:** Continue this item indefinitely.

Sr. Planner Palmeri stated that staff will be prepared to move forward on Item No. 4 at the December 15, Adjourned Regular Meeting and asked that the Commission continue this item until that time.

COMMISSIONER STUDEBAKER MOVED APPROVAL OF AGENDA ITEM NOS. 2, 3 AND 4.  
COMMISSIONER WAHL SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

#### **ITEMS REMOVED FROM CONSENT**

##### **1. Minutes of Regular Meeting of November 3, 1997.**

Chair Monfort questioned the vote on Item No. 3, Page 3. Staff stated that they would confirm the vote on video tape prior to finalizing the minutes.

CHAIR MONFORT MOVED TO APPROVE THE MINUTES AS AMENDED. COMMISSIONER HAMILTON SECONDED THE MOTION WHICH WAS APPROVED 7-0.

### **REGULAR AGENDA**

5. **Vesting Tentative Subdivision Map 97-2 Parkway Manor Subdivision / Planned Development Use Permit 97-14 (Aspire Homes)** - The project consists of final review of a proposed subdivision and planned unit development of 5.0 acres for a residential project containing 36 single family lots on property located east of Bar Triangle Street from the north side of Robailey Drive to Carson Street, identified as Assessor's Parcel No. 002-190-026, 002-470-032 and 071 in an R-2 Medium Density Zoning District. The site is designated as Medium Density Residential (7.1 to 14 dwelling units per gross acre) in the General Plan Diagram. A mitigated negative declaration has been adopted for the project pursuant to the California Environmental Quality Act (CEQA). A "mitigated negative declaration" is a determination that a project will not have a significant impact on the environment as mitigated.

Sr. Planner Palmeri reviewed the staff report and summarized the discussions from the previous public hearing on the item. He explained that in response to questions raised at the preliminary hearing regarding school district fees, staff contacted Mike Weissenborn, facilities planner for the Chico Unified School District, who indicated that the School District policy to charge the lower school fee amount was applied to project as the property had been down-zoned. He reviewed that staff had two conversations with members of the public, Sherrie Graham and Thomas H. Mejia, expressing concerns regarding street patterns and traffic between Notre Dame Blvd and Forest Avenue. He explained that Parkway Village Drive does not connect to Carson; thus, eliminating through traffic from Forest Avenue to Notre Dame Blvd.

Chair Monfort noted that he had discussed the street patterns with Director of Public Works Ross, who had indicated that the traffic circles had been removed from a previous version of the proposal. He inquired if the Department of Public Works has deemed that the narrowness of the connection would act as a traffic control device. Sr. Planner Palmeri stated that given the alternative routes, with the number of units to be built along Marilyn, it would not be necessary to have the roundabouts installed on that route. The number of turns and narrowness of the street would prohibit its use as a thoroughfare.

The public hearing was opened at 8:50 p.m. to which there was no comment.

COMMISSIONER DIETLE MOVED APPROVAL OF VESTING TENTATIVE SUBDIVISION MAP 97-2 PARKWAY MANOR SUBDIVISION / PLANNED DEVELOPMENT USE PERMIT 97-14 (ASPIRE HOMES) MAKING THE FINDINGS AND CONDITIONS OF APPROVAL AS OUTLINED IN THE STAFF REPORT. COMMISSIONER WRIGHT SECONDED THE MOTION WHICH WAS APPROVED 4-3 (COMMISSIONERS BELMONTE, MONFORT AND STUDEBAKER OPPOSED).

### **CORRESPONDENCE**

6. **Memorandum regarding the 1997 General Plan Annual Review**, from Senior Planner Tom Hayes, dated November 12, 1997.
7. **Memorandum regarding the Indirect Source Review**, from Senior Planner Stacey Jolliffe, dated November 7, 1997.

Chair Monfort asked if the Indirect Source Review (ISR) would be discussed by the Commission at some point. Planning Director Seidler explained that the item was not scheduled for discussion as it only includes guidelines that will be used by staff when making recommendations to the Commission, although Commissioners could individually discuss these guidelines with staff.

Chair Monfort suggested that the language in the ISR may affect the standards applied to different thresholds when determining mitigations, although it may be practical to use the mitigations on projects at different threshold levels. He added that cumulatively, smaller projects may have the same effect as a single large project. Sr. Planner Palmeri noted that staff would be using the ISR as guidelines, which does not prohibit recommending further mitigation on an item which may not normally be included at that level.

**8. Jesus Provides Our Daily Bread**, update report from Katy Thoma, Executive Director.

**BUSINESS FROM THE FLOOR**

None.

**ADJOURNMENT**

The Commission adjourned at 9:00 p.m. to the Joint Meeting with City Council on Tuesday, November 25, 1997 at 7:00 p.m. and to the Regular Meeting of December 1, 1997 at 7:30 p.m.

December 1, 1997  
Date Approved

/s/  
Kim Seidler  
Planning Director

**PLANNING COMMISSION  
MEETING OF DECEMBER 1, 1997**

**ROLL CALL**

The meeting was called to order by Chair Kirk Monfort at 7:30 P.M. in the Council Chambers of the Chico Municipal Center. Commissioners present were Barry Belmonte, Jolene Dietle, William Hamilton, Kirk Monfort, Jonathan Studebaker, Larry Wahl and Michael Wright. Staff present were Assistant City Attorney Lori Barker, Planning Director Kim Seidler, Senior Planner Ed Palmeri and Administrative Secretary Karen Kracht.

**DISCUSSION OF EX PARTE COMMUNICATION**

Commissioner Studebaker stated that he rents property at 628 Orient, in the vicinity of the site to be discussed in Item No. 3. He stressed that it will not present a conflict.

**CONSENT AGENDA**

1. **Minutes** of Adjourned Regular Meeting of November 17, 1997.

**Requested Action:** Approve with any corrections/revisions required.

2. **Use Permit No. 97-44 (Sufuentes/Harp) - 2601 The Esplanade** - A request to allow the serving of alcohol, specifically beer and wine, in conjunction with a restaurant located within 300 feet of the boundary of a residential district on property located at 2601 The Esplanade and identified as Assessor's Parcel Nos. 006-530-010 and 006-530-011, in a C-1 Restricted Commercial zoning district. The site is designated as Community Commercial in the General Plan Diagram. This project has been determined to be Categorical Exempt from environmental review pursuant to the California Environmental Quality Act (CEQA), Section 15301, Existing Facilities.

**Requested Action:** Approve this use permit subject to the findings and conditions of approval as listed in the staff report.

Sr. Planner Palmeri clarified that the permit requested under Item No. 2 is a use permit to serve alcohol including liquor, wine and beer within 300 feet of residential development.

COMMISSIONER DIETLE MOVED APPROVAL OF THE CONSENT CALENDAR. COMMISSIONER STUDEBAKER SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

**REGULAR AGENDA**

Planning Director Seidler noted that Item No. 4 has been withdrawn by the applicant.

3. **Use Permit UP-97-43 (Narc. Anon/Kutz) - 717 Wall Street** - A request to allow an existing building (Bus Depot) to be used for meetings, occasional social events and day care for Narcotics Anonymous 7 days a week from 7:00 a.m. to 11:00 p.m. weekdays and 7:00 a.m. to 1:00 a.m. weekends on property located at 717 Wall Street, identified as Assessor's Parcel No. 004-385-010, in a C-1 Restricted Commercial zoning district. The property has been designated Community Commercial in the General Plan Diagram. This project has been determined to be Categorically Exempt from environmental review, pursuant to the California Environmental Quality Act (CEQA), Section 15301, Existing Facilities.

Sr. Planner Palmeri presented the staff report for a request to operate a Narcotics Anonymous from 7:00 a.m. to 11:00 p.m. on weekdays, and until 1:00 p.m. on weekends. He reviewed the conditions recommended by staff, including those distributed in a memorandum to Commission dated 12/1/97 prior to the meeting, which replaces Condition No. 6 and added two other conditions.

Chair Monfort noted that the Commission received three letters in favor of the permit prior to this meeting. He asked staff to explain why a use permit was necessary. Sr. Planner Palmeri explained that the use is not addressed in the C-1 Commercial zoning district. The Municipal Code allows the Commission to make findings for a use permit. If the activity were held at a church, it would have been considered a normal function.

Chair Monfort verified that materials such as blinds or curtains would be considered in meeting the recommended condition.

Commissioner Studebaker noted that a calendar listing neighborhood complaints was included in the Commission's materials, and inquired if any complaints were received by the Police Department. Sr. Planner Palmeri verified that staff did request comments from Police Department, and no reports were forwarded to staff.

Discussions ensued regarding the definition and number of social events which are proposed to be allowed as part of the use permit. Sr. Planner Palmeri suggested that the applicant address the type of social events held by the organization.

Commissioner Wright expressed concern on the amount of required parking to be provided. Sr. Planner Palmeri explained that the amount is based on the size of the structure. The typical attendance at the meetings is 25 to 40, which does not include the accompanying children. The room occupancy is 57 people. Assistant City Attorney Barker added that the Municipal Code requires that parking for assembly uses may be based on one space for every 100 gross feet of assembly floor area.

Chair Monfort opened the public hearing 7:50 p.m.

Bill Kutz, 1103 W. 11th Avenue, the applicant, explained that this was the first permanent facility found to meet the needs of the organization, which previously held meetings at churches. He addressed questions from the Commission regarding the organization and the necessary facilities. He explained that the meetings are held daily at different times throughout the day, with childcare provided by parents during the meetings. The meetings last 1 to 1.5 hours, with the last meeting ending by 9:30 p.m. He verified that he agrees with the proposed conditions. He described the social functions as beginning with speakers for 1 to 1.5 hours, and concluding with a disk jockey providing music which ends prior to 1:00 a.m. These events are generally held on Saturdays, with the exception of holidays.

The following speakers spoke in opposition to the proposal citing concerns regarding noise, traffic, parking, air pollution, legality of operating without a permit, supervision of children, aesthetics, loitering, loss of privacy and neighborhood compatibility: Jim Knaver, 268 E. 4th Street; Larry Murphy, 282 E. 8th Street, #10; Toni Hastings, 267 E. 8th Street; James Murphy, 282 E. 8th Street.

The following people spoke in support of the proposal citing ethical need, organizational needs and services, the need to bring children to help the parents and provide role models for the children, acknowledged parking problems and conflict with members of the neighborhood and expressed hope in resolving that conflict: Alfred Moser, 1357 Filbert Avenue, Bill Meier, 1550 Springfield, #16; Meg Schuman, 729 Nord Avenue, #302; Christy Bixler, 2700 Cactus Avenue; Dana Vigil, 670 E. 5th Avenue, #2; Jill Bond, 1217-B Chestnut; Eileen Robinson, 1342 Manzanita Avenue.

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The Commission was in recess from 8:30 to 8:45 p.m.  
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The following speakers spoke in support of the requested permit expressing concerns regarding noise containment, the current lack of finances to make aesthetical changes such as fencing, presented a schedule of meetings to the Commission, and the teachings of the organization: Kati Meier, 1550 Springfield Drive, #76; Ms. Schuman, a previous speaker; Mr. Kutz, a previous speaker, and Andrea Miller, 2313 Porter Way.

The following speakers spoke in opposition to the request citing privacy concerns and neighborhood compatibility and privacy. Both speakers stressed that they are not opposed to the organization itself, rather its location: Dan DeWayne, 254 E. 8th Street; Tony Hastings, a previous speaker.

The public hearing was closed at 9:05 p.m.

Commissioner Studebaker proposed granting a one-year use permit, subject to conditions as suggested by staff with the addition of a condition requiring that the applicant submit monthly reports to the Planning Commission detailing neighborhood concerns and complaints. Chair Monfort asked staff to compare a one-year permit versus the permit revocation process. Planning Director Seidler explained that the revocation process is difficult and suggested that the proposed condition limiting terms of the permit is more practical as it puts the applicants on notice to accomplish the terms during that time frame, and allows for concerns to be further addressed at a later date should they still exist. Assistant City Attorney Barker added that while the Commission does have the authority to issue a use permit for a specific period of time, at the end of that time the Commission must then justify why a use is not acceptable for long term if acceptable for a short period of time. She suggested that a one-year permit would result in a public hearing similar to a revocation hearing.

Commissioner Hamilton expressed concern regarding parking needs being met for both daily activities and social events. Sr. Planner Palmeri stated that it was recognized that the social functions would provide more demand on the site than on normal occasions. Chair Monfort noted the amount of public parking available in the area during evening hours.

Commissioner Wahl suggested that the applicant work with the neighbors toward alleviating their concerns and building fencing to help with privacy. He stated that he would not agree to a one year approval as it

would provide a more difficult process. He questioned the absence of a representative from the Police Department.

COMMISSIONER WAHL MOVED APPROVAL OF USE PERMIT NO. 97-43 (NARC. ANON/KUTZ) AS RECOMMENDED BY STAFF WITH THE REVISED CONDITIONS AS PROVIDED BY STAFF. COMMISSIONER BELMONTE SECONDED THE MOTION.

Commissioner Studebaker proposed an amendment for a condition to provide monthly reports for one year. Commissioner Wahl did not accept the amendment.

Commissioner Hamilton suggested an amendments to modify the hours of operation from 7:00 a.m. to 10:00 p.m. with no social events. Commissioner Wahl rejected the amendment, stating that other organizations are allowed to have social events, and concerns can be worked out with neighbors with proper notification and volume controls.

Commissioner Dietle suggested the hours of operations be amended to limit use to 10:00 p.m. on weeknights. She noted that reduction of noise and traffic by 10:00 p.m. would lessen the impact on neighbors in the area with school children. Commissioner Wahl accepted the amendment.

Commissioner Belmonte addressed concerns of the applicant by explaining that janitorial time is not considered part of the hours of operations.

Commissioner Wright stated that he would vote against the motion to approve, not due to the organization or its purpose, but rather, neighborhood compatibility concerns.

Chair Monfort stated that he would vote for the motion and recommended the applicant work with the neighbors.

Commissioner Hamilton stated that he agreed with Commissioner Wright's concerns. He noted that there may be individuals attending the organizations functions which may impact the neighborhood. He stressed that social functions without mitigation of sound or noise will impact the neighborhood. He added that he would not be opposed to weekly meetings, but could not support the motion as the social gatherings are not compatible with the surrounding residential neighborhood.

Chair Monfort reviewed accepted amendment to limit hours of operations to 7:00 a.m. through 10:00 p.m. weekdays, 7:00 a.m. through 1:00 a.m. on weekends.

THE MOTION WAS APPROVED 5-2 (COMMISSIONERS HAMILTON AND WRIGHT OPPOSED).

Sr. Planner Palmeri reviewed that there is a 15-day appeal period during which application can be made to the City Clerk for an appeal.

4. **Use Permit No. 97-45 (Salvation Army) - 2297 Elm Street** - A request to allow operation of a winter homeless shelter (December, 1997 through March 15, 1998) for men, women and children, to include dormitories, kitchen and serving area, family segregation rooms, shower area and offices in three existing buildings at the Fun World amusement facility site, 2297 Elm Street, identified as Assessor's Parcel No. 005-490-035, in a M-1 Limited Manufacturing Zoning District. The property has been designated Manufacturing and Warehousing in the General Plan Diagram. Based on the initial study for environmental review prepared for this project, the Planning Division is recommending that a mitigated negative declaration be adopted for this project pursuant to the California Environmental Quality Act (CEQA). A "negative declaration" is a determination that a project will not have a significant impact on the environment as mitigated.

The request on this item has been withdrawn by the applicant.

#### **CORRESPONDENCE**

5. **Memorandum to City Council**, regarding Proposed Amendments to the General Plan, from Senior Planner Tom Hayes, dated November 19, 1997.
6. **Memorandum regarding the 1998 Calendar of Planning Commission Meetings** from Administrative Secretary Karen Kracht, dated November 24, 1997.

#### **BUSINESS FROM THE FLOOR**

Rolland Berger, 9 Lindo Park Drive, reviewed documents he had distributed to the Commission and staff regarding the "Diamond Match" site. He reviewed General Plan policies regarding the site, stressing that preparation of a specific plan should be done with community participation, which he felt had not been done. He indicated that it would be advantageous to the community to have industrial facilities at the location and that there were disadvantages of high density residential on the site. He stated that he had prepared a 20-page document regarding the property that he would like to present.

Chair Monfort suggested that the Commission meet in January, 1998 to provide guidance regarding what type of specific plan would be desired for the property. Discussions ensued on the appropriateness of agendizing such a discussion without the property owner's knowledge, as the property is up for auction, and without a development proposal before the Commission. Commissioner Studebaker noted that the economic and fiscal impacts, as indicated by Mr. Berger, are not part of the Commission's purview of discussion.

Commissioner Wright stated his opinion that a third party, private group, City or Commission should not tell a private landowner how to use the property without a specific proposal before the Commission. Chair Monfort expressed concern that when an applicant does submit a specific plan, the Commission would then react to that proposal rather than providing direction prior to its conception.

Commissioner Hamilton indicated that he would like a tour of the property.

Commissioner Belmonte reviewed that the Commission has recently participated in a series of meetings regarding the Teichert Pond area with the Council without a specific proposal, and suggested that similar meetings could be held. Commissioner Dietle pointed out that the Teichert Pond issue was initiated by the property owner. Commissioner Belmonte asked staff to investigate the feasibility of a workshop by inquiring about the current property owner's interest.

Mr. Berger reviewed the Municipal Code section regarding the functions of the Commission, which does allow the Commission to prepare a specific plan. He read sections of the notice of sale on the property which noted that the sale of the property is contingent on adoption of a specific plan.

Chair Monfort again suggested the Commission hold a workshop in January, inviting both the property owner and Mr. Berger, as well as hearing public comment on the idea. He noted that the Commission has previously initiated specific plans for the East Avenue area east of Cohasset Road and for southeast Chico, which resulted in preparation of the revised General Plan. Concerns were expressed regarding the need for Council input and direction regarding the topic be received from the Council during upcoming General Plan annual discussions. It was also suggested that a workshop be held after the property owner was contacted by staff to discuss advertising of the property and determine feasibility and interest for such a discussion.

Commissioner Wahl suggested agendizing this for Council to discuss what is to become of the property at which time the Council can either initiate General Plan amendments or a specific plan.

COMMISSIONER WAHL MOVED TO REQUEST THAT COUNCIL AGENDIZE A ~~JOINT MEETING WITH THE COMMISSION~~ TO DISCUSS FUTURE USE OF THE DIAMOND MATCH SITE AND TO PROVIDE THE COMMISSION DIRECTION FOR THE DEVELOPMENT OF A SPECIFIC PLAN.

Commissioner Wright inquired if such a discussion could occur at an upcoming joint General Plan review meeting. Commissioner Wahl suggested that the Council could set a meeting date to agendize discussion on the Diamond Match site at that time.

COMMISSIONER BELMONTE SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

Commissioner Wahl inquired if the Commission would be reviewing the fraternity/sorority overlay district as amended by Council. Sr. Planner Palmeri stated that Council can proceed with the change of the district. The Commission may be involved with discussions regarding special events inclusion. Council took into consideration the boundaries proposed by the Commission, and expanded those boundaries.

#### **ADJOURNMENT**

The Commission adjourned at 10:00 p.m. to the Special Meeting of December 4, 1997 at 7:00 p.m. and the Adjourned Regular Meeting of December 15, 1997 at 7:30 p.m.

December 15, 1997  
Date Approved

/s/  
Kim Seidler  
Planning Director

**PLANNING COMMISSION  
MEETING OF DECEMBER 15, 1997**

**ROLL CALL**

The meeting was called to order by Chair Kirk Monfort at 7:30 P.M. in the Council Chambers of the Chico Municipal Center. Commissioners present were Barry Belmonte, Jolene Dietle, William Hamilton, Kirk Monfort, Jonathan Studebaker, Larry Wahl and Michael Wright. Staff present were Assistant City Attorney Lori Barker, Planning Director Kim Seidler, Senior Planner Tom Hayes and Administrative Secretary Karen Kracht.

**DISCUSSION OF EX PARTE COMMUNICATION**

Commissioner Belmonte stated that Miles Pustejovsky, NorthStar Engineering, visited him regarding Item No. 3 (M & T Partners). He instructed Mr. Pustejovsky to address any comments at the public hearing. Commissioner Hamilton stated that he had received a telephone call from Mr. Pustejovsky who had inquired if he had any questions regarding the proposal. No questions or comments were given. Chair Monfort, Commissioners Wright, Studebaker and Wahl all had similar conversations.

**CONSENT AGENDA**

**1. Minutes of Regular Meeting of December 1, 1997.**

**Requested Action:** Approve with any corrections/revisions required.

Commissioner Wahl removed this item from the Consent Agenda.

- 2. Tentative Subdivision No. 97-6 (Pillai)** - A request to subdivide 10 acres into 41 single family lots, with all nine existing residences on the site to remain and be incorporated into the development. Currently located in the County of Butte, the property will be required to be annexed to the City of Chico prior to recordation of the final map. The U. S. Army Corps of Engineers has verified a biotic assessment prepared for the project which concluded that 0.09 acre of wetlands exist on the project site which do not provide habitat for special status species. The property is located on the east side of Floral Avenue, approximately 2,000 feet north of its intersection with East Avenue, and identified as Assessor's Parcel Nos. 048-034-052, 053, 095, 096, 098, 099, 100, and 101 in a (P)R-1 Single Family Residential City prezone district and SR Suburban Residential County zoning district. The property is designated Low Density Residential (2.1 to 7 dwelling units per gross acre) in both the City of Chico and County of Butte General Plans. An initial study for environmental review has been prepared for this project. Based upon the information contained within the initial study, a Mitigated Negative Declaration of Environmental Impact is proposed for the project pursuant to the California Environmental Quality Act (CEQA).

**Requested Action:** Continue this item indefinitely.

COMMISSIONER STUDEBAKER MOVED APPROVAL OF ITEM NO. 2.  
COMMISSIONER DIETLE SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

## **ITEMS REMOVED FROM CONSENT**

### **1. Minutes of Regular Meeting of December 1, 1997.**

Commissioner Wahl stated that the motion he made regarding the item discussed in the Business from the Floor was not for a joint Council/Commission meeting, rather should be for Council to agendaize the issue for direction.

COMMISSIONER BELMONTE MOVED APPROVAL OF THE MINUTES FOR DECEMBER 1, 1997 AS AMENDED. COMMISSIONER STUDEBAKER SECONDED THE MOTION WHICH WAS UNANIMOUSLY APPROVED.

## **REGULAR AGENDA**

- 3. Vesting Tentative Subdivision Map S-97-9 (M & T Partners)** - A request to subdivide 9.8 acres for a residential project containing 45 single family lots on property located on Eaton Road Extension, west of the Esplanade, in an R-1 Single Family Residential zoning district, designated Low Density Residential on the General Plan diagram. The property is identified as Assessor's Parcel No. 006-002-161. An initial study for environmental review has been prepared for this project. Based upon the information contained within the initial study, a Mitigated Negative Declaration of Environmental Impact is proposed for the project pursuant to the California Environmental Quality Act (CEQA).

Sr. Planner Hayes presented the staff report and discussed issues related to this project including access to Eaton Road and the Esplanade and storm drainage. He reviewed the recommended conditions to be placed on the project. He discussed a memorandum distributed prior to the meeting dealing with recommended conditions regarding density transition and park fees.

Planning Director Seidler stated that Assistant City Attorney Barker has expressed concern regarding the proposed language for the Parks condition provided in the memorandum, which may be a conflict with Proposition 218. He suggested other language be considered: "Prior to filing the final subdivision map, the property shall be annexed to the Lighting and Landscaping Act maintenance district that presently exists to fund the maintenance of the local, proposed neighborhood park."

Commissioner Hamilton verified that the lots that would be affected by the density transition would be Lots 3 through 9.

Chair Monfort asked staff to review the location of the detention pond. Sr. Planner Hayes noted that staff had considered other locations for the pond as an option to larger lot transitioning but that the grading of property goes toward northwest corner, making it the better location.

There was extensive discussion regarding the recently adopted Council policy on transition of densities - whether it was meant to be fence line to fence line density, the face to face lot density or the average density of the adjoining development. Staff stressed that there be an equal application of the transition policy with all projects.

Sr. Planner Hayes noted that staff has not received any concerns from the public on this project other than interest from the Cussick Area Neighborhood Council as indicated in the staff report.

The public hearing was opened at 8:00 p.m.

Miles Pustejovsky, NorthStar Engineering, representing the applicant, stated that the applicant would like to phase the projects - Phase 1 being Lots 1 through 20 and Phase 2 with Lots 21 through 46. He offered to restrict residences to single story for Lots 3 through 9 in order to satisfy transition concerns. He asked for a reimbursable agreement with the development of the extension of Eaton Road. He requested that the Swainson's Hawk concerns be addressed with an ornithologist study or determination rather than through a mitigation fee.

Sr. Planner Hayes explained that the Swainson's Hawk protocol is to apply the mitigation if the property is considered foraging habitat for the hawk; this property does fit that description. Staff is not opposed to modifying the condition requiring the applicant to obtain a written determination from the State Department of Fish and Game regarding whether the project site is subject to mitigation. The standard mitigation is for funds to be placed into an account to purchase replacement foraging habitat.

Chair Monfort inquired on the possibility of using the detention pond for a passive recreation area. Mr. Pustejovsky stated that the developer was not interested in that idea as access would be difficult. He explained that the sound wall will go through the area which will also be fenced on three sides with back yard fencing.

At the direction of Commissioner Studebaker, Director of Public Works Ross reviewed the status of the Eaton Road extension. A plan line study is being prepared to establish the precise alignment for the proposed Eaton Road from State Highway Route (SHR) 32 to SHR 99. The study is expected to be completed within approximately two months. Staff has recommended that the final map for this project not be recorded until that alignment has been determined.

Commissioner Belmonte noted that the Commission has had previous discussions on other projects regarding access to Eaton Road. Director of Public Works Ross stated that it was determined that no additional access points to Eaton Road be allowed, which this subdivision does comply with.

Commissioner Studebaker inquired as to why there is no agricultural mitigation applied to this project. Sr. Planner Hayes explained that the environmental review for the General Plan defined viable agricultural land for calculating the impact of the loss as Class 1 and 2 soils on parcels 5 acres or larger and not surrounded on more than one side by development. This parcel did not fit into that definition. He noted that the December 16, 1997 Council agenda contains a recommendation from the Agricultural Land Review Committee to initiate the process to repeal that policy. Once initiated, removal of the policy would come before the Commission.

Ned Kirkham, 58 Northwood Commons, representing the Cussick Area Neighborhood Council, expressed concern regarding traffic, access to the Esplanade and storm water drainage into the SUDAD canal and public noticing procedures. He requested that this proposal be continued until access directly to the Esplanade could be provided.

Sr. Planner Hayes noted that the storm water from this project would ultimately go into the SUDAD canal, although it would be held in the detention pond as to not affect peak flows.

There being no further comment, the public hearing was closed at 8:30 p.m.

Commissioner Belmonte expressed concern that this project has but a single access point. Director of Public Works Ross explained that as the area around the project has been built out, there are limited options. He stressed that there is a 20-foot wide emergency access easement provided between Lots 33 and 34, which has been found acceptable by both the Police and Fire Departments.

Commissioner Belmonte suggested that the Commission adopt a motion-of-intent to approve the project pending additional review regarding safety and access issues and the alignment of Eaton Road. Commissioner Studebaker noted that there is a condition regarding finalizing the map pending the alignment of Eaton Road. Chair Monfort suggested that revising the proposal itself would not change the surrounding developed areas which limit the access.

COMMISSIONER DIETLE MOVED APPROVAL OF RESOLUTION 97-20 CONDITIONALLY APPROVING THE VESTING TENTATIVE SUBDIVISION MAP S-97-9 (M & T PARTNERS) AND THE ADOPTION OF THE MITIGATED NEGATIVE DECLARATION WITH THE FOLLOWING AMENDMENTS: (1) MODIFY THE CONDITION REGARDING SWAINSON'S HAWK MITIGATION TO PROVIDE VERIFICATION OF PROTOCOL WITH RESPONSIBLE STATE AND FEDERAL AGENCIES PRIOR TO IMPOSING OFF-SITE MITIGATION FOR THE FORAGING HABITAT OF THE SWAINSON'S HAWK. (2) ADD CONDITION THAT THE PROJECT BE PHASED WITH LOTS 1 THROUGH 20 IN PHASE 1 AND LOTS 21 THROUGH 46 IN PHASE 2. (3) LOTS 3 THROUGH 9 BE DEVELOPED WITH SINGLE STORY RESIDENTIAL. COMMISSIONER WAHL SECONDED THE MOTION.

Chair Monfort suggested an amendment for condition that the applicant be reimbursed for any oversizing of improvements to Eaton Road.

Commissioner Dietle indicated that the requirements regarding transition were omitted on the basis that the average lot size within the adjacent Greenfield subdivision is similar when compared to the average lot sizes in this proposal.

Commissioner Dietle amended the motion to include park amendment to read "Prior to filing the final subdivision map, the property shall be annexed to the Lighting and Landscaping Act maintenance district that presently exists to fund the maintenance of the local, proposed neighborhood park." Commissioner Wahl agreed to amendments.

Chair Monfort indicated that the Commission should make a finding regarding density transition which may provide future direction for staff. It was determined that the finding could be made that the lots immediately adjoining the subdivision are not representative of the average lot sizes in the adjoining subdivision.

Chair Monfort suggested an amendment that the detention pond become a passive recreation area within the sound wall and access be provided to it. Commissioner Dietle reviewed the recommendation from the Mosquito Abatement District regarding the detention pond design which may not be conducive to recreation. After conferring with the applicant on the difficulty of opening the detention pond area for access, Commissioner Dietle suggested that the size of this project did not warrant such a need.

THE MOTION WAS UNANIMOUSLY APPROVED.

**CORRESPONDENCE**

**4. Jesus Provides Our Daily Bread**, update report from Katy Thoma, Executive Director.

**BUSINESS FROM THE FLOOR**

None.

**ADJOURNMENT**

The Commission adjourned at 8:55 p.m. to the Regular Meeting of January 5, 1998 at 7:30 p.m.

February 2, 1998  
Date Approved

/s/  
Kim Seidler  
Planning Director

*The Regular Meeting of January 5, 1998 was canceled and the Commission adjourned to the Regular Meeting of February 2, 1998.*