CITY OF CHICO PLANNING COMMISSION

MINUTES OF THE REGULAR ADJOURNED MEETING OF
April 7, 2016

Municipal Center
421 Main Street
Council Chambers

Commissioners Present:	Toni Scott, Chair Dale Bennett Bob Evans Ken Rensink Margaret Worley
Commissioners Absent:	Cynthia Arregui John Howlett, Vice Chair
Staff Members Present:	Brendan Vieg, Principal Planner Jake Morley, Associate Planner Mike Sawley, Associate Planner Matt Johnson, Senior Development Engineer Noel Tapia, Assistant City Attorney Stina Cooley, Administrative Assistant

1. <u>ROLL CALL</u>

Chair Scott called the meeting to order at 6:30 PM. Commission members and staff were present as noted.

2. <u>EX PARTE COMMUNICATION</u>

Commissioner Worley stated she had visited the sites. Commissioner Bennett stated he had spoken with staff for clarification on the information provided in the staff report for item 5.1. Commissioner Rensink disclosed he had spoken with Associate Planner Sawley, Mark Stamen, and Dave Kelley regarding item 5.1.

3. <u>CONSENT AGENDA</u>

February 18, 2016 Minutes

Commissioner Worley moved to Approve the minutes, Commissioner Rensink seconded the motion which passed (5-0-2, Arregui & Howlett Absent)

4. <u>PUBLIC HEARING ITEMS</u>

4.1 Reconsideration of Use Permit 13-04 and Conditional Noise Permit (California Water Service Co.) 515 Olive Street; APN 004-186-001 – A proposed new domestic water well and associated structures at an existing Cal Water site located at the southeasterly corner of East 5th Street and Olive Street. The proposal includes a request for a conditional noise permit to authorize overnight construction operations for one night. The site is designated Low Density Residential on the General Plan diagram and is located in an R1 (Low Density Residential) zoning district.

Associate Planner Mike Sawley provided a project overview.

Staff responded to questions from Commissioners regarding the increase in sound decibels, the material used to produce the proposed sound wall and additional measures to reduce construction noise and operational noise levels. Associate Planner Sawley also stated that the Redwood tree on the project site was still proposed to be preserved.

Chair Scott opened the public hearing at 6:40 PM

Luis Zamdio from California Water Service Company addressed the Commission regarding the application. He stated that the noise created by the drilling equipment is unique to drilling. The drill utilizes gravity, weight and a circular motion to drill. There won't be pounding mechanisms or jack hammers used to drill the well.

No other members of the public addressed the Commission regarding this issue.

Chair Scott closed the public hearing at 6:42 PM.

Discussion continued with the Commissioners.

Commissioner Evans moved that the Planning Commission adopt Resolution No. 16-05, adopting the revised mitigated negative declaration and approving Use Permit 13-04 and a conditional noise permit for the project, based on the findings and subject to the conditions of approval contained therein. Commissioner Worley seconded the motion, which passed (5-0-2) (Arregui & Howlett absent).

5. REGULAR AGENDA

5.1 Chico Scrap Metal (Development Agreement 15-01, Architectural Review 15-17, Rezone 15-06) - 878 East 20th Street; APNs 005-450-014, 005-450-030, 005-422-009, 005-422-013 and 005-422-017-On February 18, 2016, the Planning Commission

held a public hearing and voted 3-2 (Commissioner Bennett absent, Commissioner Evans recused), to direct planning staff to draft a resolution recommending that the City Council deny the Chico Scrap Metal (CSM) project. Such a resolution has been prepared is ready for adoption.

Associate Planner Morley provided a summary of the resolution prepared by staff.

Commissioner Bennett stated that he wanted the record to reflect that although he had been absent, he had reviewed the recording from the previous meeting, reviewed all the reports and public comments from the previous meeting, and had spoken with staff regarding item 5.1.

Commissioner Evans stated that in the previous meeting he had mistakenly recused himself from the discussion and vote due to a perceived conflict of interest. Upon further investigation it was discovered that it was not a conflict and he was eligible to participate and vote. He also stated that he had reviewed the recording from the previous meeting, and reviewed all the staff reports and public comments

The City Attorney stated that he had reviewed both circumstances and that he agreed that both Commissioners were eligible to participate and vote on Item 5.1.

Chair Scott opened the item for public comment at 6:46 PM.

Kim Scott, the applicant, stated they appreciate the comments from all the community members even though they disagree with many of them who seem to want to shut down their family business for no rational reason. She stated they are safe and have proven it. Ms. Scott went on to say that their business provides a valuable service in an area that is currently designated a "recycling zone" and that Chico Scrap Metal was instrumental in helping the City of Chico meet their recycling percentage goal of 75% recycling of waste materials. Ms. Scott stated Chico Scrap Metal provides jobs and if permitted to stay under the Development Agreement they will have a new look for a modern Chico community. Ms. Scott said that her father and family business are part of the history of this Chico community, but also a part of the future. Her father is 83 now and has been in this business for 40 years, they are in their 4th generation. She stated they really are part of this community. She addressed her final comment to those that believe there is a legal mandate to close down Chico Scrap Metal. She stated that the current zoning anticipated that the city would help Chico scrap Metal move. She went on to say the economy has changed and we have all felt those economic pressures. Ms. Scott pointed out that Chico Scrap Metal and the Planning staff worked together to come up with a way to solve the problem in a way that was fair to everyone. She believes the Development Agreement is good of

for the city and good for Chico Scrap Metal. Ms. Scott urged the Commission to reconsider their resolution.

Commissioner Rensink asked Ms. Scott if she was aware of any payments made to Chico Scrap Metal by the City for financial assistance in the previous move.

Ms. Scott stated that she has found record of two payments made to Chico Scrap Metal from the City of Chico during that time frame. She said the first payment was for the property taken by eminent domain. The second payment she cannot find documentation as to the reason for the payment.

Ron Angle, a long-time resident of Chapman neighborhood, spoke in opposition to Chico Scrap Metal remaining at their current location. He stated the Work Training Recycling center could take many of the items recycled at the Chico Scrap Metal and it would benefit a good cause. Mr. Angle stated that it is his belief that much of the scrap metal recycled is the result of thefts from neighborhood yards.

Jeff Lerche, a long-time resident of Chapman neighbor, stated that he was an original member of the Chapman Mulberry group. Mr. Lerche stated that Chico Scrap Metal is a very important resource, many of the other recycling centers have shut down. Mr. Lerche stated he had worked at the Work Training Center and they are overwhelmed by the number of customers, especially on the weekends. He stated there are only two places in Chico to recycle scrap metal and it doesn't make any sense to force one to move. Mr. Lerche asked the Commission to consider all that Chico Scrap Metal has contributed to the city and done for the community.

Dr. Mark Stemen thanked the Commissioner for their vote to uphold the Neighborhood Plan in February. Dr. Stemen stated that he specifically appreciates that the Neighborhood Plan represents hundreds of hours put in by hundreds of people during years of agonizing meetings. He went on to state that the plan, with its requirement to amortize Chico Scrap Metal was upheld by two different City Councils. Dr. Stemen believes to change the plan now after 10 years, for one business would be undemocratic and a slap in the face to all the people who put forth the effort. Dr. Stemen thanked the Commission for supporting good planning and the planning process.

Mike Trolinder a Chapman Town resident, was part of the original team that worked on the Chapman Mulberry Neighborhood Plan. He stated that something is not quite right with what is going on now. He stated that at the time the plan was being developed, it was understood that the City would help finance the move of Chico Scrap Metal and no one wanted the business shut down. Mr. Trolinder believes that if anyone involved in the process at the time knew that Chico Scrap Metal would be forced to shut down they would

not have supported the plan. Mr. Trolinder stated that everyone keeps talking about how important the Neighborhood Plan is, he believes if the plan is the focus then perhaps we need to re-evaluate the Neighborhood Plan because it was not the intention of the neighborhood plan to close down Chico Scrap Metal. Mr. Trolinder stated that he is not sure how to fix it. He stated there are a lot of opinions and valid concerns but somehow we need to fix this. Mr. Trolinder stated that he is a retail business location specialist. It is his opinion that if Chico Scrap Metal is required to move off the common path of travel they will lose at least 40% of their business. Mr. Trolinder stated there is no Return on Investment for purchasing a piece of property and preparing it for a scrap metal yard and relocating. He stated that in his opinion a vote to support the amortization would put Chico Scrap Metal out of business. Mr. Trolinder stated that Chico Scrap Metal is not a pet project, it is a business. He stated that if the City can't follow through with the full proposal the City needs to do what is right. If the City is unable to help pay for the move then the city needs to work out a way for them to stay.

Grace Marvin, a Chico resident, stated that she was grateful for the resolution before the Commission and happy that the Commission voted to uphold the General Plan. Ms. Marvin stated that she didn't want Chico Scrap Metal to close, just to move.

Robyn DiFalco, a Chico resident, thanked the Commission for their vote in February to reject the proposal. She urged the Commission to support the resolution. Ms. DiFalco believes the resolution represents the General Plan and Neighborhood Plan.

Dan Everhart, a resident, asked the Commission how many of them would choose to have a scrap yard in their neighborhood. Mr. Everhart stated that he believes Chico Scrap serves a valuable function in the community. He believes it would be of value to for them to move. Mr. Everhart stated he believes the city owns enough property, they could just give Chico Scrap Metal a piece of land and help them move.

No other members of the public wished to address the Commission regarding this topic.

Chair Scott closed the public comment period at 7:02 PM

Commissioner Worley moved that the Planning Commission adopt Resolution No. 15-11, recommending that the City Council deny the project and not approve Architectural Review 15-1, Rezone 15-06, and Development Agreement 15-01 based upon the findings herein. Commissioner Rensink seconded the motion.

Discussion continued with the Commissioners.

Commissioner Evans stated that he believed there were many valid points on both sides of the issue. He agreed that the General Plan and Neighborhood Plan are both valid arguments. Commissioner Evans went on to say that the thought of the City forcing a business to move after they have agreed that it should be located where it is, and then deciding without any compensation that they need to move again, is very regrettable. He stated that Chico Scrap Metal has been at this location and providing services for many years and through no fault of their own they are being asked to move, because of a city decision. Commissioner Evans stated he believes if the city makes the decision to move a good business, through no fault of their own, the city should help compensate that move.

Commissioner Rensink stated that this is a tough decision, Chico Scrap Metal is a fine and worthy business to have in the community and recycling is a good thing. He stated that in the time that Kim Scott has been operating the business they have worked with staff to try and remain at this location. He stated that the genesis of this conflict started prior to when Kim Scott took over the operations of Chico Scrap Metal. Commissioner Rensink provided an in-depth overview of the timeline from the first relocation to the present day situation. Commissioner Rensink stated that while Chico Scrap Metal did remove contaminated soil from the property not long after their move, he believes that Chico Scrap Metal was not the source of the contamination but rather a previous owner. He stated he doesn't believe Chico Scrap Metal presents any significant health risk and the owners should not be maligned. Commissioner Rensink stated that in 2004 the City Council adopted the Chapman Mulberry Plan which included the amortization of Chico Scrap Metal and several other non-conforming uses in the neighborhood. He stated that part of that plan is in the Chico Municipal Code today stating that all non-conforming uses need to cease operations or move by December 31, 2011. Commissioner Rensink continued with his overview stating that in 2008 the City Council began moving forward with the revitalization and the Neighborhood Plan by supporting and allowing Habitat for Humanity to build homes in the area. Commissioner Rensink stated that in 2011 the Planning Commission and the City Council passed the 2030 General Plan, which included a long term vision for the land that was not consistent with the operations of Chico Scrap Metal. Commissioner Rensink stated that in 2011 Chico Scrap Metal requested and were granted an extension until December 31, 2014. Commissioner Rensink stated that when the city first took over Chico Scrap Metal's site in 1983, they should have used better foresight when considering the growth of Chico and suggested that Chico Scrap Metal move to a location further from the center of town. Commissioner Rensink stated that it had been many years since the Chapman Mulberry Neighborhood Plan was adopted. Commissioner Rensink stated that in the training the he and several other Commissioners recently attended, he learned that consistency with the General Plan must be considered when evaluating projects. He believes the focus when evaluating any project needs to be 1) if the project supports the General Plan and long term view is kept in mind, 2) If the project meets current zoning and is permitted under existing conditions, 3; developer of the project has paid all the fees and followed all the procedures, and 4) the project presents no land use conflicts or adverse impacts either environmental or land use

compatibility and if there are can they be mitigated. Commissioner Rensink stated that he believes in this case the Commission needs to support the completion of the amortization process rather than altering the Chapman Mulberry Neighborhood Plan and General Plan especially given the building of homes in the area by Habitat for Humanity. Commissioner Rensink stated that regardless of how we got to this point, Chico Scrap Metal is not the only entity that has based their decisions and made financial commitments based on policies and zoning ordinances that have been in affect for the last decade. Commissioner Rensink stated that he believes the lesser of two evils is for Chico Scrap Metal to move. He also stated that given the nature of how this has all happened he would be in favor of the City providing assistance financially in the relocation.

Commissioner Bennett read directly from the staff report attachment K an excerpt from the Chico City Municipal Code Section 19.52.070 (special Design Considerations Overlay Zones-SD-6 Chapman/Mulberry Plan), "Relocation of Chico Scrap Metal Yard- the City and County shall cooperatively take the necessary steps to relocate the Chico Scrap Metal Yard to a more appropriate location-Time Frame-Ongoing."

Chair Scott stated that she will not support the motion for approval of the resolution. She also stated that if the resolution is passed she has some amendments she would like to see. Chair Scott thanked Commissioner Rensink for his overview of the history of the project. She stated that as Planning Commissioners they have a lot of tools that can be utilized to achieve a desired result. Chair Scott stated that she believes that amortization is one of the harshest tools that could be used especially in a situation such as Chico Scrap Metal. She stated that she did not want to disrespect the democratic process that has been followed to get to this point. Normally when amortization is utilized it is due to a severe health and safety risk, or there is something so compelling that the use needs to be out of that area immediately. Chair Scott stated she does not believe that amortization was used properly in this situation. Chair Scott stated that it is hard for her because she respects the community, the process and the people who were involved in the process. She stated that she believes it is important for the community to be involved and to voice their opinions and respects the effort the community has put forth. Chair Scott stated that even though she has found Chico Scrap Metal to be annoying and disrespectful during this process, that doesn't mean we can shut them down. She believes to use a tool such as amortization in a situation such as this is scary for all businesses in Chico.

Chair Scott called for the vote on the motion to approve resolution 15-11.

Commissioner Worley requested clarification regarding the action before the Commission. She verified that the Commission was supposed to limit their action to the resolution and the findings from the previous meeting. She stated that their instructions were that this is not a re-hearing of the application, and while the public has the right to comment on all items on the agenda, the action before the commission is limited to whether the findings in the resolution recommending

that the City Council not approve the project reflect the direction from the Commission at the February 18, 2016 meeting. Commissioner Worley stated that she believes the resolution does reflection the direction to staff. She stated that the Commission voted to deny the project and were told that it needed to come back in the form of another resolution. She stated she is concerned that the commission is re-arguing the case when the action should be whether the resolution reflects the direction to staff.

Principal Planner Vieg verified that the action before the Commission is the resolution and the findings, however, each Commissioner is allowed to vote how they see fit.

Chair Scott stated that she does not agree with the findings in the resolution. She stated that there are projects that come before the Commission that are not consistent with the General Plan, and that is part of being on the Planning Commission. She stated that in the past the Commission has stated these are the areas that go against the General Plan and here are the things that we have conditioned to mitigate those things. Chair Scott stated that she does not believe the findings are strong enough to deny the project and she doesn't agree with many of the findings. She does not believe there should be any language in the resolution that states the City will be involved in the relocation.

Assistant City Attorney Tapia stated that Commissioner Worley was correct, the action before the Commission was strictly limited to the resolution and whether the findings reflect the actions of the Commission at their meeting on February 18, 2016. He went on to state there are 4 possible avenues the Commission can take: 1) Pass the resolution, 2) Continue the item to the next Planning Commission meeting and provide direction to staff to modify the findings to be more consistent with findings from February 18, 2016 meeting, 3) Take no action, in which case the item would move forward to the City Council without any recommendation from the Planning Commission; 4) Deny the resolution and provide direction to staff. He stated that it is not an opportunity to re-evaluate the application.

Commissioner Worley asked Assistant City Attorney Tapia if the Commission could choose to amend the resolution during the meeting. Commissioner Worley stated she felt the process has gone on a long time and she would like to see it come to a conclusion and not postpone it any longer.

Chair Scott called for a vote on the motion to approve resolution 15-11. Motion failed (2-3-2-Rensink & Worley in favor; Bennett, Evans and Scott opposed; Arregui & Howlett absent).

Principal Planner Vieg clarified that since one of the possible actions has been eliminated, the Commission should now proceed with one of the remaining options; edit the resolution, continue the resolution and give direction to staff, or take no action and allow the application to proceed to

the City Council without a recommendation from the Planning Commission. He also stated that all that has transpired in the previous meeting and the current meeting would be included in the staff report.

Commissioner Worley expressed her concern that the item move forward without any more delays.

Chair Scott stated that she felt it was unfortunate for the public policy process when all of the Commission members are not present. She stated she understood that there were circumstances that prevented all Commissioners from being present but she stated that it doesn't feel like they are serving the Public good very well when they are not making the decisions as a complete Commission.

Commissioner Rensink also stated that two members were absent or recused from the vote in the first meeting and this meeting, those two are now present and two different Commissioners are now absent. He stated that makes it hard to be consistent.

Commissioner Rensink then asked if any of the Commissioners would suggest revisions to make the resolution acceptable.

Chair Scott reviewed the amendments that were propose and stated that she believed it would change the nature of the resolution and not provide strong enough findings to support the resolution.

Commissioner Rensink suggested the Planning Commission continue the item to the next meeting with the hope there would be a full Commission attendance.

Commissioner Worley stated that full attendance was not guaranteed and she believes the application needs to move forward.

Commissioner Bennett clarified that the resolution is only a recommendation from the Planning Commission and the City Council decision could be totally different than the recommendation.

Commissioner Bennett stated that the Planning Commission was at an impasse and he believes the only option is to send the application to the City Council without a recommendation from the Planning Commission.

The Commissioners expressed dissatisfaction with the situation, however, all agreed that was the best option to move the application forward.

5.2 **Pre-acquisition Review and General Plan Consistency Finding Pursuant to Public Resources Code Section 21151.2 for the Shasta Elementary School Expansion Project (Proposed Property Purchase of 193 Leora Court; APN 006-220-008)** - The Chico Unified School District is requesting pre-acquisition review and a general plan consistency finding prior to acquiring land for the expansion of the Shasta Elementary School pursuant to Public Resources Code Section 21151.2. The review for consistency with the General Plan and appropriateness of the site for use by the District is statutorily exempt from CEQA pursuant to Section 15262.

Principal Planner Brendan Vieg provided an overview of the item.

Commissioner Evans asked for clarification regarding CEQA and Zoning.

Principal Planner Vieg stated that the CEQA would be performed prior to building. He also stated that once the property is purchased by the School District it would become State Jurisdiction and no longer under the jurisdiction of the City.

Chair Scott opened up the item for Public Comment at 7:54 PM.

Julie Kistle representing the Chico Unified School District addressed the Commission with an overview of the planned use for the property. She stated that they have started the Environmental review process.

There were no other speakers for this item.

Chair Scott Closed the Public Comment period at 7:56 PM

Commissioner Evans Moved that the Planning Commission approve the letter drafted by staff and direct staff to send the letter to the Chico Unified School District stating that the proposed school site acquisition at 193 Leora Court by the Chico Unified School District is appropriate and consistent with community planning documents, including the Chico General Plan and the Northwest Chico Specific Plan. Motion was seconded by Commissioner Rensink and passed (5-0-2, Arregui & Howlett absent).

6. BUSINESS FROM THE FLOOR

None.

7. REPORTS & COMMUNICATIONS

7.1 Planning Update

None.

8. ADJOURNMENT

There being no further business from the Commission, the meeting adjourned at 7:58 PM to the **Regular Adjourned Meeting of Thursday, April 21, 2016**.

May 5, 2016
Date Approved

Mark Wolfe, AICP
Community Development Director /
Planning Commission Secretary