



DATE: March 14, 2016

Files: DA 15-01,
AR15-17, RZ 15-06

TO: PLANNING COMMISSION

FROM: Jake Morley, Associate Planner (879-6810; jake.morley@chicoca.gov)

RE: 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

SUMMARY

On February 18, 2016, the Planning Commission held a public hearing and voted 3-2 (Commissioner Bennett absent, Commissioner Evans recused), to direct that planning staff draft a resolution recommending that the City Council deny the Chico Scrap Metal (CSM) project. Such a resolution has been prepared and is provided with this report as **Attachment A**.

Recommendation:

Planning staff recommends that the Planning Commission adopt Resolution No. 15-11 (**Attachment A**), recommending that the City Council not approve Architectural Review 15-17, Rezone 15-06, and Development Agreement 15-01, based upon the findings herein.

Proposed Motion:

I move 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.

BACKGROUND

At the February 18, 2016 Planning Commission hearing, a project, submitted by CSM was presented. The project included site improvements involving fencing along E. 16th and E. 20th Streets, landscaping, parking lot improvements, and façade enhancement to existing structures. The project also included text amendments to the Chapman/Mulberry Neighborhood Plan and Title 19 of the Chico Municipal Code removing an amortization requirement that requires CSM to cease operations. Finally, the project included a Development Agreement, which would govern operational characteristics of CSM and provided a timing mechanism for site improvements.

Following input from staff, and public testimony, the Planning Commission deliberated and voted 3-2 to recommend against the proposal. The Commission's principal concern was that approval would reverse significant historical efforts by the County, the City and the Chapman-Mulberry community to improve the neighborhood as represented, in part, by the amortization requirements.

A resolution citing these concerns have been prepared for the Commission's adoption.

The action before the Commission at this time is not a rehearing of the application. While the public does have 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 Commission's direction at its February 18, 2016 meeting.

ENVIRONMENTAL REVIEW

Pursuant to Section 15270 of the California Environmental Quality Act (CEQA) Guidelines, CEQA does not apply to projects which a public agency rejects or disapproves.

PUBLIC CONTACT

As a response from the February 18, 2016 Planning Commission meeting, Chico Scrap Metal provided staff with a letter addressed to the Commission (See Letter Dated March 21, 2016, **Attachment B**).

DISTRIBUTION:

PC Distribution

AP Morley

Files: DA 15-01, RZ 15-06, AR 15-17

External

Kim Scott, Chico Scrap Metal, 878 E. 20th Street, Chico, CA 95928

Shane Scott, Chico Scrap Metal, 878 E. 20th Street, Chico, CA 95928

Scott Gibson, P.O. Box 2306, Paradise, CA 95967

Therese Y. Cannata, 100 Pine Street, Suite 350, San Francisco, CA 94111

Jon Luvaas, 1980 Wild Oak Lane, Chico, CA 95928

ATTACHMENTS:

- A. Planning Commission Resolution 15-11
- B. Chico Scrap Metal Letter to Planning Commission Dated March 21, 2016

1 surroundings.

2 5. The proposed landscaping improvements do not ensure visual relief and do not compliment
3 the Project, nor provide an attractive environment.

4 B. With regard to the proposed Municipal Code and Neighborhood Plan Amendments, the
5 Planning Commission finds that:

6 1. The proposed amendments to the Chico Municipal Code and the Chapman/Mulberry
7 Neighborhood Plan are not internally consistent in that the existing amortization requirements
8 of both the Chico Municipal Code and the Chapman/Mulberry Neighborhood Plan would
9 substantially advance General Plan Goal LU-3 and that Goal's related policies regarding
10 complete neighborhoods and neighborhood serving commercial development. The removal
11 of the amortization requirements would directly conflict with these land use planning
12 principles, as well as the considerable planning efforts historically made by the County, the
13 City, and the Chapman/Mulberry community to improve the neighborhood.

14 2. The proposed amendment to the Chapman/Mulberry Neighborhood plan is not consistent
15 with the General Plan for reasons cited above.

16 3. The site is not physically suitable for the Project and not compatible with adjoining land
17 uses.

18 C. With regard to the Development Agreement, the Planning Commission finds that:

19 1. Entering into a Development Agreement is not in the best interest of the City in that the
20 project is not consistent with the Chapman/Mulberry Neighborhood Plan.

21 2. The Development Agreement would not promote the public interest and welfare of the City
22 in that the Project is not consistent with the Chapman/Mulberry Neighborhood Plan.

23 D. Based upon the foregoing, the Planning Commission recommends that the City Council:

24 1. Not approve Architectural Review 15-17, Rezone 15-06 and Development Agreement 15-
25 01.

26 2. Seek a resolution in finding an appropriate location for Chico Scrap Metal to operate.

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1 THE FOREGOING RESOLUTION WAS ADOPTED at a meeting of the Planning
2 Commission of the City of Chico held on April 7, 2016, by the following vote:

3 AYES:

4 NOES:

5 ABSENT:

6 ABSTAIN:

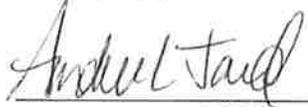
7 DISQUALIFIED:

8 ATTEST:

9

10 _____
11 MARK WOLFE
12 Planning Commission Secretary

APPROVED AS TO FORM:



ANDREW L. JARED
Assistant City Attorney



TO: Planning Commission
FROM: Kim Scott, Chico Scrap Metal
DATE: March 21, 2016

I respectfully request that the Planning Commission reconsider their vote from the February 18th meeting and with the following information consider a vote of support for the Development Agreement between the City of Chico and Chico Scrap Metal.

There is a significant chain of events/historical background up to 2004 worth providing in consideration of supporting the Development Agreement proposal. It is this information, in context that I believe makes a difference and has prompted the City Council to recognize that something wrong happened and are willing to correct it.

In January of 2015, the City Council instructed City staff to find a solution whereby Chico Scrap Metal (CSM) could continue to operate at its current location. It was apparent at the meeting that many on the Council viewed the actions of the amortization as essentially a “taking” and were looking for a direction that would not cause harm to CSM. During the following months, CSM engaged in numerous meetings with the City staff and attorney to discuss a mechanism for this to occur. At the conclusion of these discussions, City staff instructed CSM that they would need to enter into a Development Agreement with the City of Chico.

The development agreement is a very costly direction for CSM and not a direction we would pursue if we didn't feel that the City was sincere about its intent. The initial cost will be at least \$50,000 to cover the City's expenses, attorneys, and CSM's professional consultants. CSM has complied with everything the City requested. To facilitate all of the City and community concerns, volumes of information were given to the City as well as access to numerous other resources. In addition to this, CSM has held a neighborhood meeting, walked the neighborhood to solicit feedback, meet with leaders in the organized opposition, and has initiated several operational changes in good faith. City staff have also visited the site on several occasions. Some of the many actions CSM has taken to meet the City's concerns are as follows:

1. Commissioned site improvements designed by a local landscape architect that include dramatic changes to the 20th street frontage and other areas, building improvements, and public art. All to be completed within 18-months of the approval of the development agreement.
2. Conducted operational changes to insure everything reasonably possible was being done to minimize the impact of CSM operations in the surrounding neighborhood.
3. Provided information on all current oversight organizations and all historical and current environmental and oversight documents

Chico Scrap Metal, Inc.	878 E. 20th Street, Chico, CA 95928	P: (530) 343-7166	F: (530) 343-9524
Chico Scrap Metal - Durham	766 Chico Oro Hwy., Durham, CA 95938	P: (530) 345-6241	F: (530) 345-6025
NorCal Recyclers	1855 Kusel Road, Oroville, CA 95965	P: (530) 532-0262	F: (530) 532-0623

ATTACHMENT B

The total cost to CSM, once all of the improvements and mitigations have been met, will be in excess of \$150,000. CSM has fully complied with every request made by the City for this agreement and relevant applications.

The process of the amortization of the land use on the property is not a usual process from the City. I don't know if there is in fact any other instance when it has been used for this purpose within the City of Chico. The normal process is quite the opposite. More typical after a rezone would be to allow a business operation to continue as non-conforming use (as allowed under a "grandfather clause"), which many businesses do to date. Not to do so is essentially shutting a business down. The amortization is essentially a taking of property use with no remedy for us to continue operating our business other than to completely start over at a different location. This action essentially spot-zoned the CSM property while allowing adjacent properties to continue to operate in a manner deemed industrial. In fact it appears that the auto collision center, adjacent to CSM property and directly next to the school (in fact shares more property line than CSM), could actually be used for recycling under the current zoning that exist there!

While it's true that during the development of the Chapman-Mulberry Plan, neighborhood meetings were held and drawings were made up showing a revitalized area that include the CSM property as a brand new strip mall complete with coffee shops and a laundry mat. What folly! Who in their right mind would attempt such a venture, especially in the current economic climate? Notably, no one has made an offer to us in the last two decades to purchase the property and begin the revitalization.

The Chapman-Mulberry plan made unrealistic assumptions about the use and value of the property, unless the City intended to buy the property. At the end of this process the property was rezoned and the use was amortized (city staff in 2004 advised a no amortization clause). This amortization resulted in a great deal of harm to our family business. How does one fully invest in their property and their business under the threat of it being yanked out from under them? How does one sell a property for the best and highest uses when you can't sell it as such? The leverage is purely to the buyer who will simply wait until the amortization is complete and hope to buy it at a fire sale.

In addition to the development agreement, CSM has had to frequently handle the errant tactics of an organized opposition intent on moving CSM at any cost. In good faith, CSM has given an invitation/opportunity for the opposition leaders to come to the site and see for themselves. It's unfortunate that none have, but chose instead to organize and picket the business on 20th St. At that time they made certain the media was there and dropped more emotional rhetoric to illicit support for their base.

Those that have made the arguments against this project have focused on four primary points; 1) that the property and operation exposes the public to deadly toxins, poisoning all that come in contact with the property directly, or the dust, etc, 2) complaints about how the facility looked, 3) argues the process was already held to re-plan this area that needs to be followed through on, and 4) that by not moving, CSM disenfranchises those that did move (another wrong doesn't make their move more right). They do seem to agree that CSM should be compensated if forced to move. In fact it turns out that some others in the neighborhood were in fact compensated for doing just that.

Initially all of the resistance to CSM staying were based on environmental concerns. These concerns came in the form of attacks and were not based in science. In fact, most of the attacks were absolutely reckless. Reckless as they were, when opponents used words like “cancer” and “children” in the same sentence, emotions ruled over reason. We are certain this was the intent of those who used these tactics. To be absolutely transparent, CSM has turned every environmental document over to the City so it can examine the science. The City is completely aware of the numerous oversight agencies that already oversee CSM’s operation. Reams of information were turned over to the City. As well, CSM provided expert toxicologist, geologist, contacts within DTSC, and legal experts to provide the truth, rather than the exaggerated, uneducated, and dangerous commentary broadcast by the opponents of CSM. Additionally, anecdotal information supports the science; I and other family members have worked many years in our business, from the time of being young children, to adolescence, through our pregnancies, into adulthood and have suffered no health issues – over 40 yrs.

Complaints about what CSM physically looks like are absolutely valid. We agreed, it could look much better. CSM desires that it look better too! We would like that it become an example of what an urban recycling center can be. Why haven’t we? The answer is simple - the looming amortization renders any potential investment into the property as money and effort down the drain. Why would we (CSM) invest in improving our property for a scrap metal business while at the same time the City intends to shut us down? Regardless, as part of the development agreement with the City, CSM has invested in a local landscape architect and has produced improvement plans for the property.

Additional arguments are that people simply believe that CSM has had enough time. This was the new tactic of the organized opposition at the Planning Commission Meeting. It was apparent that they changed from the environmental tactics because they didn’t get traction against the available science. So even though this question had previously been vetted by CSM, the argument was raised yet again. CSM responds yet again by stating that that it has tried to find a new location and move the business. However, it is economically an impossibility to do so without the assistance from the City. The financial cost is multifaceted as it requires over a million dollars to purchase a new property, build a new infrastructure and shoulder the cost of ceasing operations during the move. In addition, where will CSM find such a property that will serve our operational needs, and more importantly maintains our current customer base? There is a precedent for this. Others asked to move in the neighborhood for similar reasons, were in fact financially assisted to do so. As well when the City took the property from CSM on Humboldt, we were compensated for this. That compensation is what provided the capital for CSM to acquire the new site.

CSM’s opponents have also argued that CSM is to blame for the anger felt by others who were either forced to move out or chose stay pursuant to the Chapman-Mulberry Plan. The idea that CSM is at fault however is ridiculous. CSM was encouraged to and assisted in moving to this location to begin with and were grandfathered into this location. In fact, CSM used City money to pay for and move our operation. The City money came from both the sale of the previous location via eminent domain and funds that George Scott received to assist in the cost to move the operations. Everyone also seems to agree that all involved (CSM, City, and County) felt that the new location would work into perpetuity. The idea presented by Mark Stamen that those businesses that left the same neighborhood because the City forced them to “do the right thing”

is ludicrous. We feel awful for them. They should not have had their business use pulled out from under them. Doing the same to CSM doesn't make the bad decision more right, it simply continues and exasperates the wrong.

As a reminder, CSM has operated at its current location at 878 E. 20th Street since 1983. CSM moved to this location after the City took possession of the previous location via eminent domain. The prior site was located at 1197 Humboldt Ave. CSM has been a local family business since the late 60s. Three generations of family are currently actively involved in the business.

My father's story is worth telling here: George W. Scott, Sr, fondly known as "Scotty" transitioned into recycling (from auto wrecking/dismantling) in the early seventies. With his two sons George W Scott, Jr. and Shane Scott, Sr., they established Chico Scrap Metal, Inc. in July of 1983. George stopped attending school at the eighth grade and from there on was solely focused on working (selling newspapers, doing odd jobs) and eventually getting old enough to join the armed forces. He did exactly that, at age 17 he joined the Navy. In 1955/56' George Sr. returned from the Korean War to Chico, his home town. Initially he worked and operated an auto wrecking/dismantling yard in Orland, CA. As well, in an effort to earn extra money, as he had five children to raise, he purchased an old pickup truck for \$10, bought a metal torch on credit and began traveling from home to home asking people if they had old cars that could be cut up and sold as scrap metal. The young entrepreneur charged around five dollars to dismantle each vehicle, thus enabling his customers to sell their iron pieces to a local scrap metal company.

After a couple years he had the opportunity to own an auto wrecking/dismantling yard in Chico, and thus he opened at 2512 Fair Street as Scotty's Auto Wreckers. He operated Scotty's Auto Wreckers into the late 1960's / early 1970's. About this time as business practices began to change in the auto wrecking industry he started to venture into the scrap metal recycling business.

In the 1970's Scotty opened Discount Auto Wreckers and began branching into scrap metal at 1197 Humboldt Ave. Eventually the city of Chico took the property at 1197 Humboldt Ave. under eminent domain and facilitated the relocation of his business to its current site at 878 E. 20th Street, where he opened up for business in 1983. The site had formally been an auto wrecking/dismantling yard and was interested in selling the site. CSM used the money the City paid for the property on Humboldt to purchase and move operations to the current site. The City of Chico assisted CSM in locating a site, encouraged the relocation to the current site, and provided financial assistance.

On behalf of our family business, we provide an invaluable service to this community – not only for the purpose of recycling, but literally as a means of financial survival for families to fill in the gaps when money runs short during the month – we hear the appreciation every week from the local and surrounding community – they can make it a few more days because they have money for gas, or extra few dollars to help their children with school costs or meals – we make a positive impact in their lives.

Thank you for your consideration.