

Meeting called to order by Mayor Roundy. Meeting opened with the Pledge of Allegiance.

ROLL CALL

Councilmembers present: Jim Paschall, Reggie Olney, Wade Elliott, Vice Mayor Paul Barr and Mayor Bruce Roundy

Councilmembers absent: None

Staff present: Bob Pasero, Ken Skillman, Nancy Sailsbery, Jody Meza, Daryl Brock, Angie Crook, Tom Andrews and Paul H. Poczobut Jr.

ORAL AND WRITTEN COMMUNICATIONS – Planning

Citizen Business:

Judy Noffsinger, 4261 County Road MM, thanked Community Services Director Sailsbery and city staff for the removal of the Heavy Industrial rezoning in the General Plan Update. Mrs. Noffsinger stated that 78 petitioners had requested the proposed area to remain Residential Estates.

John Noffsinger, 4261 County Road MM, also thanked staff for the making the requested change. Mr. Noffsinger advised Council of reasons why the City of Orland should not have a water bottling plant.

PUBLIC HEARING – Planning

- 1. Continued Public Hearing for Conditional Use Permit #2005-14, Amendment, WestHaven Orland Development.** The City of Orland was required to re-open the Public Hearing for this project at the regularly scheduled September 8, 2009, City Council meeting, in order to receive comments from additional adjacent landowners who inadvertently did not receive notice by mail of the July 20, 2009, Public Hearing due to a technical oversight in the noticing process. The Public Hearing for this Item was continued by City Council on September 8, 2009.

Councilmember Elliott recused himself from the dais at 7:06 p.m. as he is employed by the applicant. Councilmember Olney recused himself from the dais at 7:06 p.m. due to his employer being contracted to do work for WestHaven.

Community Services Director Sailsbery advised the public hearing had been continued from the last regularly scheduled Council meeting on September 8, 2009. Property owners (Martin's) north of the facility stressed noise concerns from the air conditioning units and lack of privacy. After staff met with the property owners regarding their concerns, WestHaven advised as a courtesy they would offer to acoustically screen the air conditioning units and construct a 6 foot cedar fence between the two properties. The property owners were not satisfied with the agreement as they feel a masonry wall would resolve their concerns of noise and privacy. Community Service Director Sailsbery advised the Zoning Ordinance does not require a masonry wall in a residentially-zoned area. The Public Hearing opened for comments at 7:10 p.m. Matthew Lonestar, WestHaven's Director of Environmental Services, advised they met with the landowners and stated he does not have the authority or authorization from the board to construct a masonry wall. Mr. Lonestar advised WestHaven, as a courtesy to the landowners, will replant oleanders and

include additional climbers and large shrubs to reduce the noise around the air conditioning units, as well as irrigating them. WestHaven is willing to construct the 6 foot cedar fence; however, the landowners still want a masonry wall. Mr. Lonestar stated their efforts to be good neighbors with the landowners would not end. Mr. Lonestar request Council to take the recommendations from city staff that was made on the merits and adherence to code. The Public Hearing closed at 7:12 p.m. Vice Mayor Barr requested assurances from Mr. Lonestar on the additional landscaping and shrubs that were discussed. Mr. Lonestar advised the wooden fence would only happen with the Martin's agreement. Vice Mayor Barr confirmed for the record the noticing procedure to property owners was rectified.

Vice Mayor Barr moved, seconded by Councilmember Paschall to adopt the following Findings and approve Conditional Use Permit #2005-14 Amendment, subject to the Conditions of Approval as listed below:

Findings for approval of the Use Permit:

1. The approval of this Use Permit is necessary to protect a substantial property right of the applicant (OMC 17.80.040).
2. The approval permits a use that will be compatible with other uses in the area, and that will not be detrimental to other uses, rights or properties in the area (OMC 17.80.040).

The project is a residential land use allowed by Conditional Use Permit, which is compatible with the predominantly residential land uses in the vicinity and which is compatible with the existing use on the site.

3. The project is consistent with the General Plan Land use designation for the site and is compatible with the goals and policies of the General Plan.

The General Plan designation for the project site is Medium Density Residential. It is reasonable to assess this facility as each four (4) beds being roughly equal to one equivalent dwelling unit (EDU) (16 beds/4 EDU = 4 dwelling units) according to Sections 13.04.160 B. 14 and 13.04.170 B. 14. (Water and Sewer connections) of the Orland Municipal Code (OMC). Using this calculation conversion, four (4) dwelling unit equivalents / 0.64 acres would result in a density of approximately six (6) dwelling units per acre. As the Medium Density Residential Land Use Designation allows a maximum density of 10 dwelling units per acre, this use is consistent with the General Plan designation for this site.

4. The project will not be harmful to the public health and safety or the general welfare of the persons residing or working in the area.

The proposed use would have less vehicle trip impacts than the permitted two-family detached housing use for which this site is currently zoned. The trip generation average for residential use is 10 trips per day per residence. The trip generation for attached elderly housing use is 3.84 trips per day per unit. The expansion is proposed to house residents who will not drive due to physical and/or cognitive deficits.

5. The project will not result in substantial environmental damage.

The subject parcel is currently developed as an assisted living facility for the elderly and expansion of the existing facility would not result in substantial environmental damage. As a developed urban use, the site has no value as habitat for endangered, rare, or threatened species.

6. The project will have a *de minimis* effect on fish and wildlife (Fish and Game Code Section 711.4).

The project is currently an assisted living facility for the elderly and would not have any effect on any fish or wildlife habitat.

General Conditions of Approval:

1. The applicant shall file a Declaration of Acceptance of the following conditions by submitting a signed copy of the conditions to the Planning Division within ten (10) days of City Council approval.
2. Applicant shall comply with the originally approved Conditions of Approval for CUP #2003-16, CUP #2005-14, and the Conditions of Approval required for this Amendment.
3. Failure to comply with the conditions specified herein as the basis for approval of application and issuance of permit constitutes cause for the revocation of said permit. Unless otherwise provided for in a special condition to this Use Permit, all conditions must be completed prior to or concurrently with the establishment of the granted use.
4. The use granted by this permit shall be established within one year of the date of approval or the permit shall become null and void.
5. Neither the applicant, or any agent nor representative of the applicant shall intentionally omit or misrepresent any material fact in connection with the application. Any alleged material misrepresentation shall constitute grounds for the City of Orland to commence a revocation hearing and constitute grounds to revoke the permit.
6. Minor changes may be approved by the City Planner upon receipt of a substantiated written request by the applicant, or their respected designee. Prior to such approval, verification shall be made by each Department that the modification is consistent with the application, fees paid, and environmental determination as conditionally approved. Changes deemed to be major or significant in nature shall require a formal application for amendment by public hearing before the City Council.
7. All outdoor lighting on the project site shall be directed away from the adjacent uses and shall be shielded so that, at a minimum, no light is emitted above a horizontal plane (parallel

to the ground) from the base of any fixtures. All exterior lighting shall be configured to prevent glare and light trespass onto neighboring properties.

8. The final Site Plan, to be approved by the City Engineer and City Planner shall designate a reserved, all-weather, enclosed location for a trash dumpster(s) to serve this site.
9. The facility shall comply with any applicable California State Title 24 requirements.
10. Project shall obtain permits from the City and pay all appropriate fees for any required utilities modification, construction, and connections. Project shall also obtain all required permits from the City Building Department, and pay all appropriate fees for any construction work to be undertaken as part of the project.
11. The Use Permit is only for the development and use as indicated on the final approved Site Plan. This use shall not be expanded or modified beyond the approvals detailed in this report. Any expansion or modification beyond the approvals detailed in this report will require an Amendment to the Conditional Use Permit with all applicable fees paid by the applicant.
12. All signs shall comply with the City of Orland Sign Ordinance (Chapter 17.78 of the Orland Municipal Code).
13. Maximum height in the "R-2" (Residential Two-family) Zoning District is 35 feet (Section 17.24.080 of the OMC) unless an approved Conditional Use Permit has been granted by the Orland City Council.
14. No changes shall be made to any approved plan(s), which would alter the character of the building(s) or the use of the property, without prior approval of the City Planner and City Engineer.
15. If changes are requested to the Site Plan, use of the building, or the Conditions of Approval, a Conditional Use Permit Amendment, shall be required, with all applicable fees, and approved by the Orland City Council, prior to implementing the changes.
16. No exterior storage of any materials, equipment, or vehicles is permitted as such would constitute a nuisance. Any such storage shall be grounds for revocation of this Use Permit.
17. Clearance from the Fire Marshall shall be obtained in writing with a copy submitted to the City Building Department prior to the issuance of a Certificate of Occupancy.
18. The applicant shall be required to submit a copy of the recorded Reciprocal Parking Agreement to the City of Orland prior to the issuance of a Building Permit.
19. Applicant shall pay Cost Recovery for Staff time spent processing this Amendment if Staff time exceeds the initial application fee (Resolution #2008-26, adopted November 16, 2008, by the Orland City Council), prior to the issuance of a Final Building Permit.

20. The following Setbacks for this project shall apply (Section 17.24.070 A. of the OMC):

Front: Forbes Drive: 20 feet
Side: 5 feet/20 feet on Fairview Street side
Rear: 20 feet

- No HVAC units are allowed to be located in any required setback area.

21. Applicant shall submit a Landscaping Plan that complies with the Landscaping Standards as outlined in Sections 17.24.060 G. and 17.76.110 of the Orland Municipal Code (OMC). The Landscaping Plan shall be approved by the City Planner prior to the issuance of a Building Permit.

City Engineer Conditions of Approval:

22. All improvements within the City's rights-of-way shall be constructed in accordance with the City of Orland Land Division Standards and Improvement Standards.

23. All conflicting existing utilities shall be relocated at the developer's expense.

24. Developer shall pay all City of Orland Impact Fees with the issuance of building permits.

25. This facility shall comply with the latest Accessibility requirements, including any necessary retrofitting of the existing parking lot to accommodate Accessible parking space(s) adjacent to the main entrance.

26. Developer's engineer shall provide hydrology and hydraulic calculations to demonstrate that the proposed stormwater leach line can handle the incremental increased runoff generated by the development of this site; otherwise this project will be required to pay their fair share toward the existing Fairview Village Maintenance Assessment District.

27. Developer shall pay all actual City Attorney and City Engineer fees incurred in the review of this project.

28. In the event that an elevation difference exceeding 12 inches arises between contiguous and/or perimeter lots during design of the comprehensive grading plan, a masonry or concrete retaining wall shall be utilized.

29. The project shall be required to connect to municipal water and sewer.

Motion carried 3-0-2. Councilmembers Elliott and Olney abstained.

Councilmembers Elliott and Olney returned to the dais at 7:17 p.m.

ORAL AND WRITTEN COMMUNICATIONS – City Council

Citizen Business:

None

Presentation:

Mayor Roundy presented Assistant Librarian, Cassy LaVigne with a plaque recognizing her years of dedicated service to the library. Ms. LaVigne thanked the staff and the community.

CONSENT CALENDAR

- A. Waive reading except by title, of any ordinances under consideration at this meeting for either introduction or passage per Government Code §36934.
- B. Approve City Council minutes for September 8, 2009.
- C. Approve Warrant List.
- D. Approve Special City Council meeting minutes for September 14, 2009.
- E. Approve Economic Development Commission minutes for August 3, 2009.

Vice Mayor Barr moved, seconded by Councilmember Olney to approve the Consent Calendar as presented. Motion carried with no abstentions.

PUBLIC HEARING

None

ADMINISTRATIVE COMMUNICATIONS

Finance Director:

Finance Director Brock presented to Council for discussion and possible discussion the Final General Fund Budget for 2009-2010. Finance Director Brock advised the anticipated \$139,000 in Proposition 1A Securitization funds will help provide a balanced budget as well as the \$125,000 borrowed from reserves. Finance Director Brock noted sales taxes have continued to lag this year. Council thanked the employees for the concessions (approximately \$220,000) they have made this year. A small surplus of \$1,143 will be left in the budget. Finance Director Brock stated the final budget can be amended if needed during the year. Councilmember Elliott request more time to further examine the Final General Fund budget 2009- 2010 since he did not have the opportunity to do so, as he was out of town. Mayor Roundy recommended to table a decision on the matter until the next regularly scheduled meeting on October 5, 2009. Council was in consensus with that recommendation.

City Attorney:

City Attorney Andrews brought forward response of the Orland City Council to the Grand Jury Final Report 2008-2009. City Attorney advised the following areas of concern were addressed in the Grand Jury report: (1) staffing levels at Orland Police Department, (2) mandated garbage service, and (3) reactivation of the Orland Planning Commission. City Attorney Andrews stated the report does not reflect that any interviews were ever done of the City Manager or Chief of Police, or a review of the true records. City Attorney Andrews stated in his response to the Grand Jury report there were inaccuracies and it was incomplete. Council thanked City Attorney Andrews for addressing these concerns. Councilmember Paschall moved, seconded by Vice Mayor Barr to

authorize the Mayor to sign the letter of City Council response to the Grand Jury Final Report 2008-2009. Motion carried with no abstentions.

City Attorney:

City Engineer Skillman request Council discussion and possible acceptance of the Master Storm Drainage Plan. City Engineer Skillman stated a number of deficiencies and needed upgrades were identified. Beginning first with the installation and/or replacement of storm drain pipelines capable of accommodating 50 year storm events, followed by installation of missing curb and gutter sections and connection of the Lely Pond basin to an existing pit/basin located at the airport. Vice Mayor Barr moved, seconded by Councilmember Elliott to approve the City of Orland Storm Drainage Master Plan. Motion carried with no abstentions.

City Engineer Skillman request Council discussion and possible action on Bid results for the Sixth Street Resurfacing Project. City Engineer Skillman request to award bid to lowest bidder Granite Construction Company for \$324,550.00. Vice Mayor Barr moved, seconded by Councilmember Olney to award bid for the Sixth Street Resurfacing Project to Granite Construction Company and authorize the City Manager to sign the contract for the project. Motion carried with no abstentions.

City Manager:

City Manager Poczobut request Council to adopt Resolution No. 2009-23 approving the agreements to receive federal funding for the Sixth Street Resurfacing Project in the amount of \$661,000.00. City Manager Poczobut stated with possible funding dollars left over after construction of the project it may be possible to provide slurry seal to maximize the benefit of the project. Councilmember Elliott moved, seconded by Councilmember Olney to adopt Resolution No. 2009-23 approving the agreements to receive federal funding for Sixth Street Resurfacing Project. Motion carried with no abstentions.

City Manager Poczobut request ratification of Memorandum of Understanding contract for the Orland Police Officers Association represented by Operating Engineers Local 3. Council thanked employees for their sacrifices. Vice Mayor Barr moved, seconded by Councilmember Paschall to approve the Memorandum of Understanding contract between the Orland Police Officers Association and the City of Orland. Motion carried with no abstentions.

CITY COUNCIL COMMUNICATIONS AND REPORTS

Vice Mayor Barr thanked all the union groups for supporting their city. Vice Mayor Barr urged citizens to shop locally to help our sales tax.

Councilmember Olney thanked the employees of Orland too. Councilmember Olney reported from the Golden State Risk Management Authority meeting that the City of Orland keeps improving in the number of safety tests being taken by employees.

Mayor Roundy advised the library will be shortening their hours during the month of October due to staff shortages. Resource Conservation District (RCD) has applied for an \$80,000 grant to establish a Farmers Market in Orland and Willows. Mayor Roundy gave a brief report on the classed he attended at the League of California Cities conference in San Jose.

ADJOURN

Meeting adjourned at 8:26 p.m.

_____Clerk

_____Mayor