CITY OF CORNING
PLANNING COMMISSION AGENDA
THURSDAY, SEPTEMBER 17, 2009
CITY COUNCIL CHAMBERS
794 THIRD STREET

A. **CALL TO ORDER: at 6:30 p.m.**

B. **ROLL CALL:**

Commissioners:	Robertson
	Reilly
	Hatley
	Vacant
Chairman:	Lopez

C. **MINUTES:**

1. **Waive the Reading and Approve the Minutes of the August 18, 2009 Meeting and the August 25, 2009 City Council and Planning Commission Special Study Session with any necessary corrections.**

D. **BUSINESS FROM THE FLOOR:** If there is anyone in the audience wishing to speak on items not already set on the Agenda, please come to the podium, and briefly identify the matter you wish to have placed on the Agenda. The Commission will then determine if such matter will be placed on the Agenda for this meeting, scheduled for a subsequent meeting, or recommend other appropriate action. If the matter is placed on tonight's Agenda, you will have the opportunity later in the meeting to return to the podium to discuss the issue. The law prohibits the Commission from taking formal action on the issue, however, unless it is placed on the Agenda for a later meeting so that interested members of the public will have a chance to appear and speak on the subject.

E. **PUBLIC HEARINGS AND MEETINGS:** Any person may speak on items scheduled for hearing at the time the Chairman declares the Hearing open. **ALL LEGAL NOTICES PUBLISHED IN ACCORDANCE WITH LAW.**

2. **Variance 2009-1, Frank & Kathleen Barron: A Variance request to demolish an existing 20' x 24' shed and replace on the same site a 22' x 32' garage that will be approximately 19' 2" in height. This Variance would allow the garage to be built within 1 foot of the west (or back) property line. Located at 510 4th Street, APN No. 71-113-04.**

3. **Amend Use Permit No. 103; Corning West Apartments: Request to amend Use Permit No. 103 by adding a Condition that would allow the Apartments to be occupied by non-senior citizens, limited to 3 people, no more than 2 adults and 1 child. Located at 1960 Butte Street, APN No. 71-080-45.**

F. **REGULAR AGENDA:** All items listed below are in the order which we believe are of most interest to the public at this meeting. However, if anyone in the audience wishes to have the order of the Agenda changed, please come to the podium, and explain the reason you are asking for the order of the Agenda to be changed.

4. **Use Permit 2008-255 Review, Lucero Olive Oil: Pursuant to Condition #5, the Use Permit will be scheduled for review by the City of Corning Planning Commission to determine if additional Conditions of Approval are warranted.**

5. **Use Permit 2009-256 Review, Busy Bee DayCare: Pursuant to Condition #9, the Use Permit will be reviewed to determine if left turn lanes along Solano Street are warranted.**

G. ITEMS PLACED ON THE AGENDA FROM THE FLOOR:

H. ADJOURNMENT:

POSTED: FRIDAY, SEPTEMBER 11, 2009

CITY OF CORNING
MINUTES

SPECIAL STUDY SESSION
CITY COUNCIL AND PLANNING COMMISSION
TUESDAY, AUGUST 25, 2009
CITY COUNCIL CHAMBERS
794 THIRD STREET

A. CALL TO ORDER: 6:00 p.m.

B. ROLL CALL:

Council:	**Becky Hill**	**Planning Commissioners:**	**Diana Robertson**
	Ross Turner		**Ryan Reilly**
	Toni Parkins		**Doug Hatley**
	John Leach		**Vacant**
Mayor:	**Gary Strack**	**Chairman:**	**Jesse Lopez**

All members of the City Council were present except Councilor Parkins.
All members of the Planning Commission were present.

PUBLIC COMMENTS:

Mayor Strack announced that this was not a public hearing; it was a Study Session between the Planning Commissioners, City Council Members and City Staff. He stated that since this is not a public hearing, all public comments would be taken at the beginning of the meeting only. At that time he opened the floor for comments.

Mr. Berg, Attorney for Tehama Herbal Collective, Inc. (THC) addressed the Council and Commission outlining some of the legal aspects relating to the issue of Medical Marijuana and regulations for the Cultivation and Distribution of Medical Marijuana.

An audience member started to speak on behalf of Tehama Herbal Collective (THC) and Mayor Strack intervened explaining that this meeting was limited in time due to the scheduled City Council Meeting that follows at 7:30 p.m. Mayor Strack announced that no decisions relating to THC will be made tonight and reiterated that this is not a public hearing, but rather a study session for the Council, Planning Commission and Staff to discuss the issue and obtain information from our Staff.

Some members of the audience stated their rights were being taken from them by not allowing them to speak. Councilor Turner respectfully requested that the Mayor announce that anyone wishing to submit something in writing on this issue may submit it to the City and it will be reviewed and considered by the City Council. Mayor Strack agreed and made this announcement. Two members of the Elementary School Board were present and stated that the City should have received a letter from the School Board regarding this issue and would like to read it. Mayor Strack stated again that no decision would be made tonight and that the City Council would review the letter upon receipt.

C. REGULAR AGENDA:

1. **Study Matter: Medical Marijuana, Discuss with Staff Potential Regulations for the Cultivation and Distribution of Medical Marijuana in the City of Corning.**

Mayor Strack introduced this item by title and then turned the floor over to Planning Director John Stoufer for his presentation of information to the Council/Commission.

Issues presented for discussion by Mr. Stoufer were:

Cultivation: Mr. Stoufer provided the Planning Commission and City Council with information gathered relating to Conditions/Regulations imposed in other Cities/Counties in regards to the cultivation of marijuana by Dispensories/Cooperatives/Collectives. He also outlined some possible concerns such as:

Indoor: Health Issues, Life Safety Issues. **Outdoor:** Nuisance smell to neighbors and security.

Regulations suggested and discussed by the City Council, Planning Commission and City Staff included:

Indoor Cultivation: A mandatory distance from School's of 1,000 ft. for cultivation sites, mandatory registration with Police Department, cultivation in a detached structure only, not allowing cultivation in multi-family structures, and a mandatory exterior building "Marijuana Cultivation" plaqard. The property owner must consent for growth, and residence must be occupied.

Outdoor Cultivation: Security camera's, no growing in front or side yards, increase backyard fence height to 8 – 10 feet, motion lights, mandatory registration with Police Department. Property owner must consent for growth. Resident must live on site. Primary Caregiver limits.

Distribution: Mr. Stoufer provided information gathered related to regulating the distribution of marijuana. He informed the Council, Commission and Staff that currently there are 24 Cities that allow this with zoning regulations applied to use; 39 Cities have adopted Ordinances to ban this within their City.

Distribution Options discussed were:

BAN (Many Cities/Counties have cases in legal litigation to establish, protect and/or define their regulatory power in regards to Medical Marijuana Collectives, Dispensaries and Cooperatives. They are also legally attempting to establish their legal right to impose regulations on the cultivation and distribution of Medical Marijuana).

Zoning (Numerous Cities only allow in certain zone): Not allow in residential zones, No In-home Occupation, and located in a C-2 zone only.

Mandatory distance limits: 500' from Schools, Parks, Churches, Child Care, and 300' from residential zone.

Dispensary Limit: A limit of one dispensary in Corning.

Security Measures: Security cameras, motion lights, mandatory registration with Police Department, identification cards, and listing of Co-op Members.

Councilor Hill stated that she had definite concerns with indoor growth specifically in relation to the safety of the City's Firefighters.

On the advice of the City Attorney, Councilor Turner moved to add an Emergency Closed session to the Agenda following the meeting to discuss possible litigation. Councilor Leach seconded the motion. **Ayes: Strack, Hill, Turner and Leach. Opposed: None. Absent: Parkins. Abstain: None. Motion was approved by a 4-0 vote with Parkins absent.**

D. <u>ADJOURN TO EMERGENCY CLOSED SESSION</u>: 7:15 p.m.

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Lisa M. Linnet, City Clerk

Item No.: C-1

CITY OF CORNING
PLANNING COMMISSION MINUTES

TUESDAY, AUGUST 18, 2009
CITY COUNCIL CHAMBERS
794 THIRD STREET

A. CALL TO ORDER: at 6:30 p.m.

B. ROLL CALL:

Commissioners:	Robertson
	Reilly
	Hatley
	Vacant
Chairman:	Lopez

All Commissioners were present with one vacant position on the Commission.

C. MINUTES:

1. Waive the Reading and Approve the Minutes of the June 16, 2009 Meeting with any necessary corrections.

Commissioner Robertson moved to approve the Minutes as written. Commissioner Hatley seconded the motion. **Ayes: Lopez, Robertson, Reilly and Hatley. Opposed: None. Absent/Abstain: None. Motion was approved by a 4-0 vote with one vacancy on the Commission.**

D. BUSINESS FROM THE FLOOR:

Planning Director John Stoufer addressed the Commission and presented them with packets relating to the Medical Marijuana Cooperative, Collective and Dispensary. He stated that the Council would like to have a Joint Meeting with the Council and Planning Commission next Tuesday at 6:00 p.m. He confirmed that the Commission members would be available. It was clarified that this would not be a public hearing, just a study matter. Commission members by consensus stated that was fine. Mr. Stoufer stated that no discussion on this issue would take place tonight, as it is not agendized.

E. PUBLIC HEARINGS AND MEETINGS: Any person may speak on items scheduled for hearing at the time the Chairman declares the Hearing open. **ALL LEGAL NOTICES PUBLISHED IN ACCORDANCE WITH LAW.**

2. Amend Use Permit No. 2008-250, AAA Truck Wash. Amend Use Permit No. 2008-250 to establish an approximately 112 square foot mobile food unit, known as the "Mud Creek Smoker" in the front parking lot of the existing truck wash.

Chairman Lopez introduced this item by title and outlined the proposal. He then opened the public hearing and Mr. Stoufer briefed the Commission on the proposed business. He stated that Staff has some concerns in regards to the zoning and zoning requirements. He also stated that under the current Conditions for this site, existing Condition number 8 would need to be amended.

Petitioner Linda Myers addressed the Commission stating her plans for this business. Chairman Lopez asked if the City had received any correspondence from neighboring property owners; Mr. Stoufer stated no. Chairman Lopez stated he would not like to see a carport type structure, as it is not esthetically pleasing. Commissioner Robertson asked if the building structure would be removed daily, or every few days; Ms. Myers stated she was not sure at this time. Commissioner Robertson stated her concerns related to theft. Planning Director Stoufer referred to the Conditions.

With no further public discussion, Commissioner Reilly moved to close the public hearing. Commissioner Robertson seconded the motion. **Ayes: Lopez, Robertson, Reilly and Hatley.**

Opposed: None. Absent/Abstain: None. Motion was approved by a 4-0 vote with one vacancy on the Commission.

Commissioner Reilly moved to adopt the 4 Subfindings and Findings as presented in the Staff Report for the Amendment to Use Permit 2008-250. Commissioner Robertson seconded the motion. **Ayes: Lopez, Robertson, Reilly and Hatley. Opposed: None. Absent/Abstain: None. Motion was approved by a 4-0 vote with one vacancy on the Commission.**

Commissioner Reilly moved to approve an Amendment to Use Permit 2008-250 subject to the all the original Conditions of Approval execept Condition No. 8 which is being removed, and adopt additional Conditions of Approval numbers 13 through 16 as suggested by City Staff. Commissioner Robertson seconded the motion. **Ayes: Lopez, Robertson, Reilly and Hatley. Opposed: None. Absent/Abstain: None. Motion was approved by a 4-0 vote with one vacancy on the Commission.**

3. **2009-2014 Housing Element Update: Review and make recommendations to the Corning City Council on the 2009-2014 Draft Housing Element of the Corning General Plan and the Mitigated Negative Declaration filed on the adoption of a Housing Element Update.**

Chairman Lopez introduced this item by title and opened the public hearing. Mr. Stoufer briefed the Commission stating that he and Staff are happy with the product produced by Diaz & Associates. Mr. Stoufer stated that the Environmental Document has been sent to the State Clearinghouse in Sacramento and will be there for a 45-day review. Commissioner Reilly asked the process once it goes to Sacramento; Mr. Stoufer explained the process. Mr. Diaz of Diaz and Associates was present to answer any questions.

Mr. Diaz explained that if significant comments are received from the State Agencies the Housing Element Update will be brought back to the Commission for discussion and possible action.

Commissioner Robertson moved to close the public hearing. Commissioner Hatley seconded the motion. **Ayes: Lopez, Robertson, Reilly and Hatley. Opposed: None. Absent/Abstain: None. Motion was approved by a 4-0 vote with one vacancy on the Commission.**

Commissioner Reilly moved to recommend that the Corning City Council adopt the Subfinding No. 1 and Finding No. 1 as presented and adopt General Plan Amendment 2009-1A, the 2009-2014 Housing Element, as presented in the draft document reviewed by the Planning Commission, with appropriate changes, if any, as recommended by the California Department of Housing & Community Development. Commissioner Robertson seconded the motion. **Ayes: Lopez, Robertson, Reilly and Hatley. Opposed: None. Absent/Abstain: None. Motion was approved by a 4-0 vote with one vacancy on the Commission.**

F. <u>REGULAR AGENDA</u>:

4. **Use Permit 2008-252, Salado Orchards Phase 2: Consider approving a one-year time extension for Use Permit 2008-252 subject to the original Conditions of Approval.**

Chairman Lopez introduced this item by title and then excused himself due to his proximity to the project (6:53 p.m.)

Commissioner Robertson further introduced this item briefing the Commission on the project and it's location. Planning Director Stoufer informed the Commission on the related City Codes. Commissioner Robertson asked if there is a limit on the number of extensions. Mr. Stoufer stated that there is no limit on extensions, however they would have to request it yearly.

Commissioner Reilly moved to recommend that the Corning City Council adopt the 3 Subfindings and Findings as presented in the Staff Report and approve a 1-year time extension for Use Permit 252, Salado Orchard Apartments Phase 2, Subject to the Conditions of Approval

imposed by Council on September 9, 2008. Commissioner Hatley seconded the motion. **Ayes: Robertson, Reilly and Hatley. Opposed: None. Absent: None. Abstain: Lopez. Motion was approved by a 3-0 vote with Lopez abstaining and one vacancy on the Commission.**

G. ITEMS PLACED ON THE AGENDA FROM THE FLOOR: None.

H. ADJOURNMENT: 6:58 p.m.

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Lisa M. Linnet, City Clerk

ITEM NO. E-2
VARIANCE NO. 2009-1; FRANK BARRON. TO REDUCE THE REQUIRED REAR YARD SETBACK FOR A DETACHED GARAGE FROM 10 FEET TO 1 FOOT IN AN R-1 ZONING DISTRICT.

SEPTEMBER 17, 2009

TO: PLANNING COMMISSION OF THE CITY OF CORNING

FROM: JOHN STOUFER; PLANNING DIRECTOR

SUMMARY:
This Planning Application seeks a Variance to the normal City standard of 10'-0" minimum REAR yard setback to a minimum 1'-0" backyard setback for the construction of a 22' x 32' garage that will be approximately 19' 2" in height that will replace an existing 20' x 24' shed built in the same location.
Address: 510 4th Street APN: 71-113-04

Section 17.50.040 of the Corning Municipal Code (CMC) reads as follows:
"A detached garage or accessory building not exceeding one story in height and without living quarters may occupy not more than fifty percent of the area of a required rear yard. In exception to the provisions of this section, a garage or similar outbuilding not exceeding fifteen feet in height at the ridge may be built to the side and/or rear line; provided, that the garage or similar outbuilding is not less than seventy-five feet from any street, and otherwise shall observe a six-foot clear distance for side yard and ten-foot rear yard. A garage or accessory building that is not attached to and made a part of the main building shall not be closer than eight feet clear distance to the main building."

The applicant has indicated that constructing the proposed garage at the required setback of 10 feet would require the removal of a large pecan tree that provides shade for the residence located on the parcel. Removal of the tree would be eliminate this shade source and be a hardship to the property.

The parcel is 80' wide x 124' in depth as depicted on the site map (Exhibit "A"). The existing and proposed garage site is more than 75 feet from the road, pursuant to Section 17.50.040 a garage not exceeding 15 feet in height may be constructed within 1 foot of the rear property line. The applicant is proposing to construct a garage that will exceed 15 feet in height, therefore, prior to the issuance of a building permit to construct the garage as proposed on the site plan, the Commission must approve a variance to allow the garage to be constructed with a rear yard setback of 1 foot.

DISCRETION:
The Planning Commission's authority regarding Variance applications stems from Chapter 17.58 of Title 17 (Zoning Code) of the Corning Municipal Code, and the State Planning and Zoning Law (Government Code Section 65906-Exhibit "E").

City Code Section 17.58.020 lists the "findings", or "statement of facts" that the Commission must make in order to approve a Variance. A copy of Chapter 17.58 is attached as Exhibit "F".

CEQA:
Section 15305, Minor Alterations in Land Use Limitations, Class 5 allows an exemption for minor alteration in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use density, including but not limited to: *Minor lot line adjustments, side yard, and setback variances not resulting in the creation of any new parcels.*

STAFF RECOMMENDATION:
Staff has visited the site, and notified neighbors within 300 feet of the project site of the application for the variance. In visiting the site it is obvious that the existing pecan tree adds aesthetic value to the property and provides a shade source to the existing residence. Neighbors within 300 feet of the site have not contacted staff with any concerns with the variance. Since the proposed garage is replacing an existing garage that is constructed with basically the same setback staff recommends that the Commission adopt the following subfindings and findings and take action to approve Variance 2009-1.

SUBFINDINGS &FINDINGS:

Subfinding #1
The parcel on which the existing residence is located on is in an area with a slope of less than 20% and zoned for single-family residential use. Approval of Variance 2009-1 will not result in a land use or density change of the parcel.

Finding #1
Variance 2009-1 will allow the minimum rear yard setback to be reduced from 10' to 1' and therefore is exempt from CEQA pursuant to Section 15305 (a).

Subfinding #2
There is an existing 21" DBH pecan tree planted in the backyard of the parcel that would have to be removed and roots ripped out before a detached garage could be constructed with a 10 foot rear yard setback.

Finding #2
The large pecan tree that is over 80 years old constitutes exceptional or extraordinary circumstances or conditions applying to the land, building, or use referred to in the application, which circumstances or conditions do not apply generally to other land, buildings, and/or uses in the district.

Subfinding #3
The large pecan tree provides aesthetic value and shades the existing house located on the parcel.

Finding #3
That the granting of the reduced rear yard setback from 10' 0" to 1'0" is necessary to keep the large pecan tree in place for the preservation and enjoyment of substantial property rights of the petitioner.

Subfinding #4
There is an existing metal sided 20'x24' garage/storage building built on the site with the same setback as the proposed garage. The new garage/storage building will be approximately 224 sq. ft. larger then the existing structure and built on the same footprint of the existing structure. The proposed structure will be more aesthetically pleasing to the surrounding parcels.

Finding #4
That the granting of the variance permitting the reduced (from 10'-0" to 1'-0") rear yard setbacks will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant, and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood.

ACTION

MAKE A MOTION TO ADOPT THE FOUR SUBFINDINGS AND FINDINGS AS PRESENTED IN THE STAFF REPORT AND APPROVE VARIANCE 2009-1 REDUCING THE REAR YARD SETBACK FROM 10 FEET TO 1 FOOT FOR A DETACHED GARAGE AT 510 4TH STREET. (PLEASE NOTE THAT THE COMMISSION HAS THE ABILITY TO ADD, DELETE OR MODIFY THE SUBFINDINGS OR FINDINGS IF SO DESIRED BY A MAJORITY OF THE COMMISSION).

VOTE

OR;

MAKE A MOTION THAT THE COMMISSION CANNOT MAKE THE REQUIRED FINDINGS AND MOVE TO DENY VARIANCE 2009-1

VOTE

LIST OF EXHIBITS

Exhibit "A".....Site Plan Map submitted with variance application

Exhibit "B".....Vicinity Map

Exhibit "C".....Assessor's Map

Exhibit "D".....CEQA Section 15305

Exhibit "E".....CA. Govt. Code Section 65906

Exhibit "F".... City Code Chapter 17.58-Variances

Exhibit "G".....Aerial View of 510 4th Street

Exhibit "H".....Variance application with photos submitted by applicant

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SITE PLAN FOR GARAGE REPLACEMENT PROJECT AT 510 FOURTH STREET

EXHIBIT "A"

REASON FOR VARIANCE:

1. Existing garage/shed has no setback from W property line of parcel. Proposed garage will have one (1) foot setback from property line. Proposed garage will be 4'2" higher than the current 15' height limit that allows for zero setback under current code(s).

2. Proposed garage will have two stories. According to code, a new two-story structure needs a 9' setback from the property line.

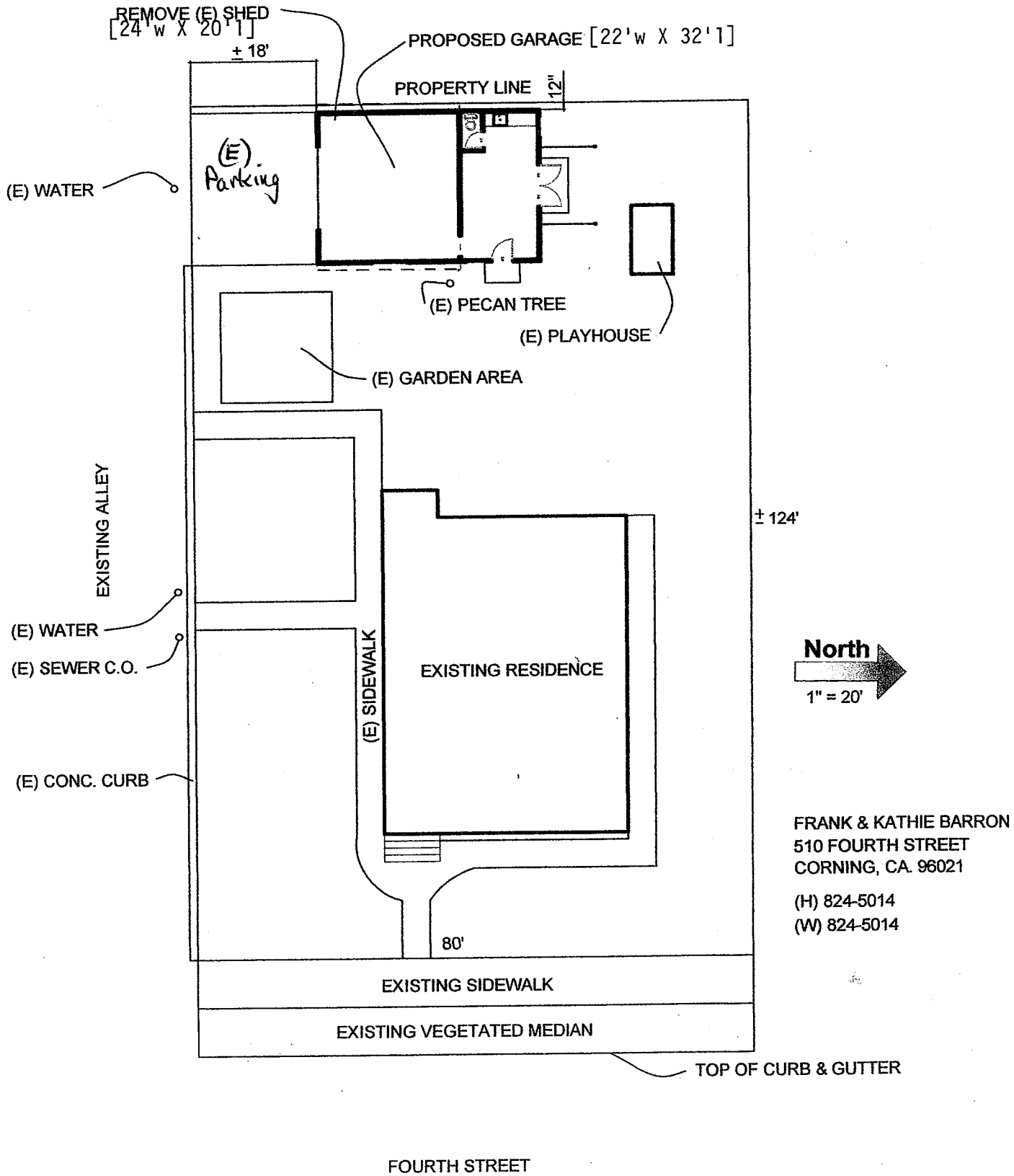
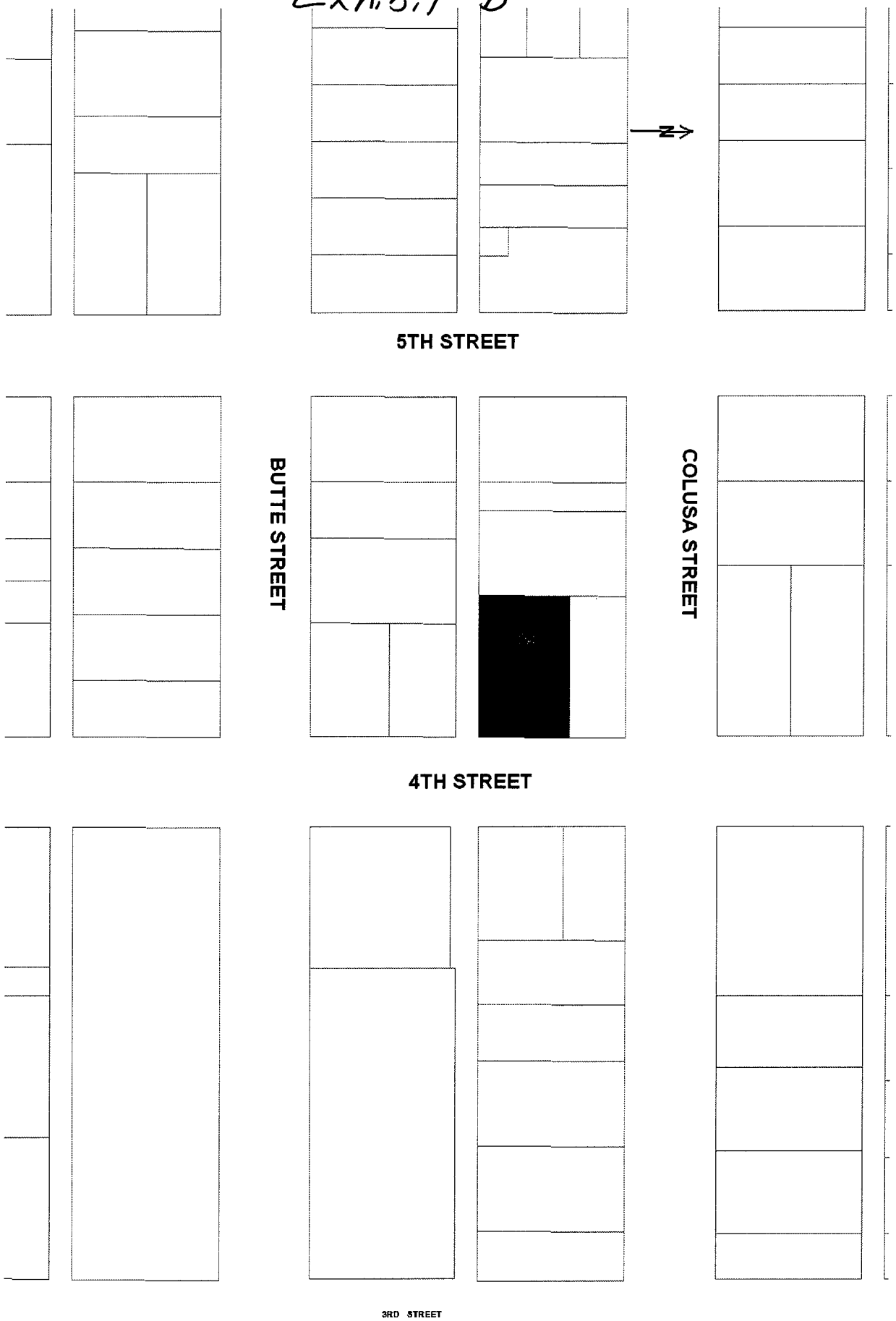


Exhibit "B"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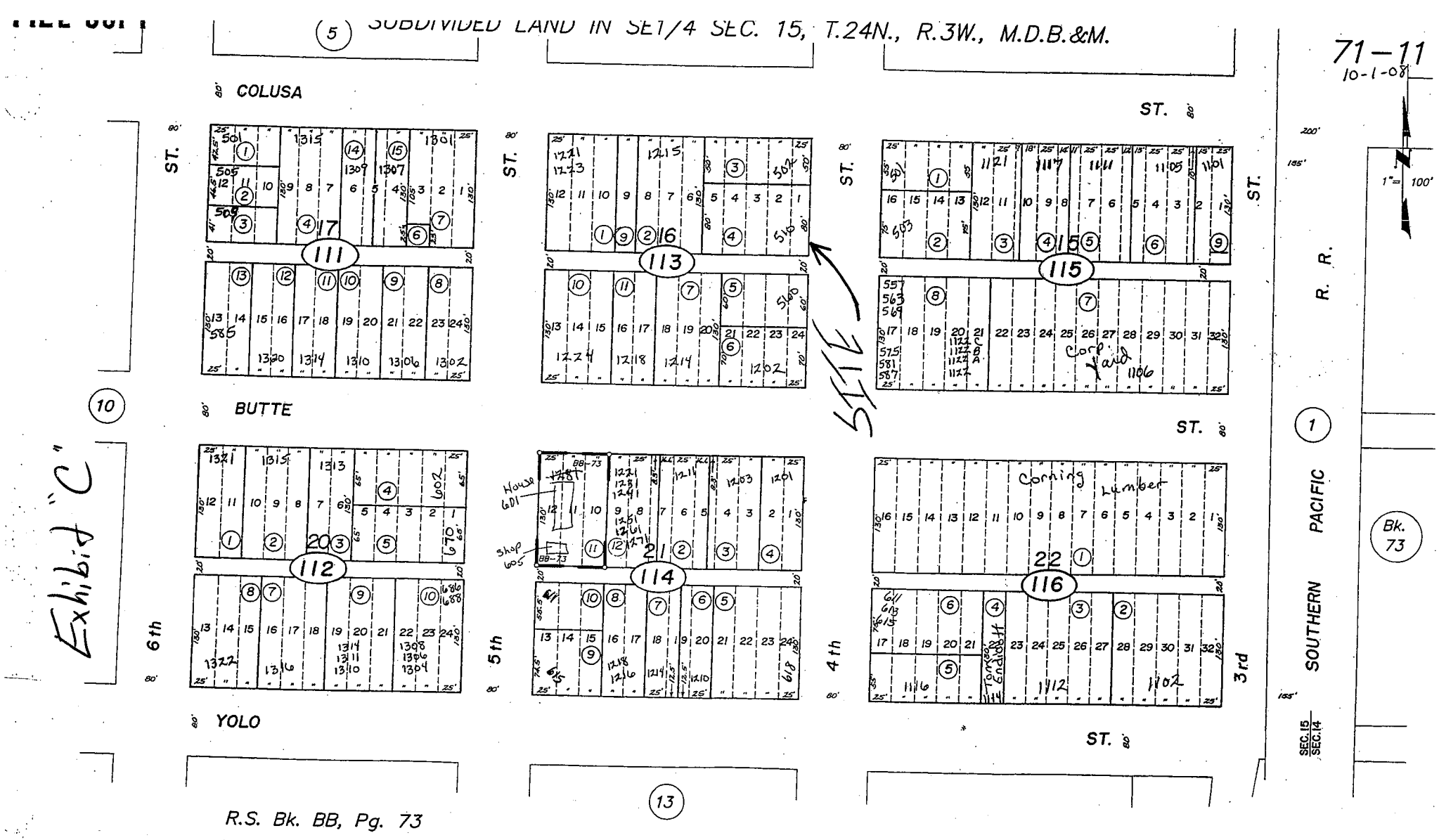
BUTTE STREET
COLUSA STREET
4TH STREET
3RD STREET



Assessor's Map Bk. 71 –Pg. 11
County of Tehama, Calif.

NOTE–Assessor's Block Numbers Shown in Ellipses
Assessor's Parcel Numbers Shown in Circles

and federal regulatory agencies;

(h) The creation of bicycle lanes on existing rights-of-way.

(i) Fuel management activities within 30 feet of structures to reduce the volume of flammable vegetation, provided that the activities will not result in the taking of endangered, rare, or threatened plant or animal species or significant erosion and sedimentation of surface waters. This exemption shall apply to fuel management activities within 100 feet of a structure if the public agency having fire protection responsibility for the area has determined that 100 feet of fuel clearance is required due to extra hazardous fire conditions.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15305. Minor Alterations in Land Use Limitations

Class 5 consists of minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density, including but not limited to:

(a) Minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel;

(b) Issuance of minor encroachment permits;

(c) Reversion to acreage in accordance with the Subdivision Map Act.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15306. Information Collection

Class 6 consists of basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. These may be strictly for information gathering purposes, or as part of a study leading to an action which a public agency has not yet approved, adopted, or funded.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

15307. Actions by Regulatory Agencies for Protection of Natural Resources

Class 7 consists of actions taken by regulatory agencies as authorized by state law or local ordinance to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment. Examples include but are not limited to wildlife preservation activities of the State Department of Fish and Game. Construction activities are not included in this exemption.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21084, Public Resources Code.

EXHIBIT "D"

65900. Variances

Variances from the terms of the zoning ordinances shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.

A variance shall not be granted for a parcel of property which authorizes a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

The provisions of this section shall not apply to conditional use permits.

(Amended by Stats. 1974, Ch. 607.)

EXHIBIT "E"

VARIANCES*

Sections:

17.58.010 Applicability.
17.58.020 Application--Fee.
17.58.030 Public hearing.
17.58.040 Action by planning commission.
17.58.050 Appeal.
17.58.060 Revocation.

17.58.010 Applicability. Where practical difficulties, unnecessary hardship, or results inconsistent with the purposes and intent of this title may result from the strict application of certain area, height, yard and space requirements thereof, variances in such requirements may be granted as provided in this section. (Ord. 153 §23.01, 1959).

17.58.020 Application--Fee. Application for a variance shall be made in writing on a form prescribed by the planning commission and shall be accompanied by a fee of twenty-five dollars plus costs, no part of which shall be returnable to the applicant, and by statements, plans and other evidence showing:

A. That there are exceptional or extraordinary circumstances or conditions applying to the land, building, or use referred to in the application, which circumstances or conditions do not apply generally to other land, buildings, and/or uses in the district;

B. That the granting of the application is necessary for the preservation and enjoyment of substantial property rights of the petitioner;

C. That the granting of such application will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant, and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood. (Ord. 340 §1(c), 1979; Ord. 153 §23.02, 1959).

17.58.030 Public hearing. A public hearing shall be held within sixty days after filing of application, notice

* For statutory provisions on variances, see Gov. Code §65906.

EXHIBIT "F"

of which shall be given by the publication in a newspaper of general circulation in the city and/or by posting notice on the property involved or adjacent thereto at lease ten days prior to such hearing. (Ord. 153 §23.03, 1959).

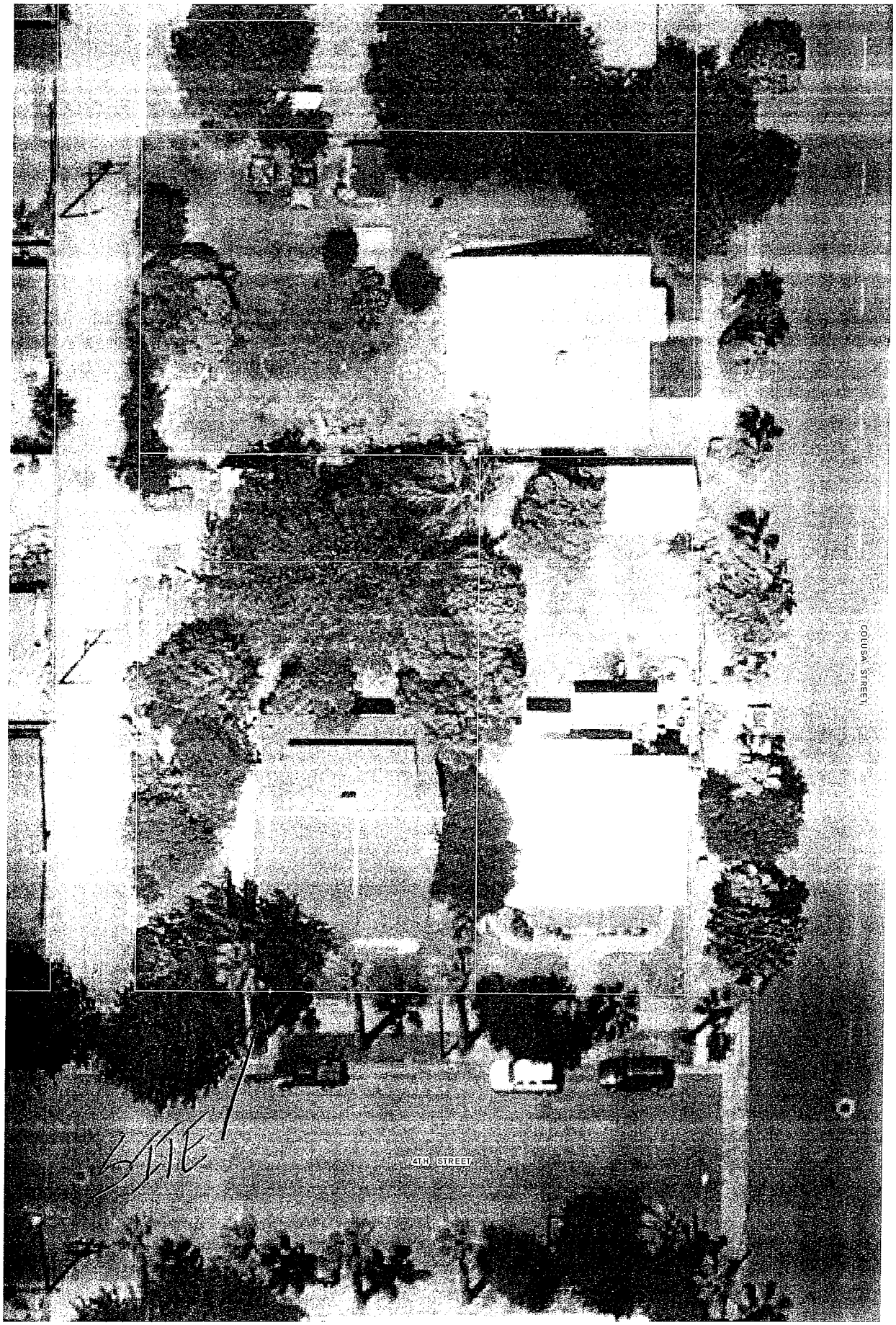
17.58.040 Action by planning commission. Following the public hearing, the planning commission shall make findings of fact showing whether the qualifications under Section 17.58.020 apply to the land for which a variance is sought, and whether such variances shall be in harmony with the general purposes of this title. If such findings are in the affirmative, then the planning commission shall by resolution approve such variance. The planning commission may designate conditions and guarantees in connection with the variance to secure the purpose of this title. (Ord. 478 §1, 1988: Ord. 153 §23.04, 1959).

17.58.050 Appeal. Appeal from the findings and decision of the planning commission may be made, in writing, to the city council within ten days from the date of the commission's action, and shall be accompanied by a fee of ten dollars. (Ord. 478 §2, 1988: Ord. 153 §23.05, 1959).

17.58.060 Revocation. A. In any case where the conditions of granting of a variance have not or are not complied with, the city council shall give notice to the permittee of intention to revoke such variance of at least ten days prior to hearing thereon. After conclusion of the hearing the council may revoke such variances.

B. In any case where a variance has not been used within one year after the date of granting thereof, then, without further action by the council, the variance granted shall be null and void. (Ord. 153 §23.06, 1959).

Exhibit "G"



CITY OF CORNING
PLANNING APPLICATION
TYPE OR PRINT CLEARLY

Exhibit "H"

Submit Completed Applications to:
City of Corning
Planning Dept.
794 Third Street
Corning, CA 96021

PROJECT INFORMATION

PROJECT ADDRESS	ASSESSOR'S PARCEL NUMBER	G.P. LAND USE DESIGNATION
510 Fourth Street	071-113-04-1	R (Residential)

ZONING DISTRICT	FLOOD HAZARD ZONE	SITE ACREAGE	AIRPORT SAFETY ZONE?
R1		0.016	

PROJECT DESCRIPTION: (attach additional sheets if necessary)
Demolish existing detached garage/shed and replace with new garage.

APPLICATION TYPE (Check All Applicable)

____ Annexation/Detachment	____ General Plan Amendment	____ Lot Line Adjustment
____ Merge Lots	____ Planned Dev. Use Permit	____ Parcel Map
____ Preliminary Plan Review	____ Rezone	____ Street Abandonment
____ Subdivision	____ Time Extension	X ~~Use Permit~~ Variance

APPLICANT INFORMATION

APPLICANT	ADDRESS	DAY PHONE
Frank M. Barron	510 Fourth St., Corning, CA	824-5014 (H) 824-5427 (W)
REPRESENTATIVE (IF ANY)	ADDRESS	DAY PHONE
PROPERTY OWNER	ADDRESS	DAY PHONE
Frank M. & Kathleen A. Barron	510 Fourth St., Corning, CA	824-5014 (H)

CORRESPONDENCE TO BE SENT TO X APPLICANT ____ REPRESENTATIVE X PROP. OWNER

APPLICANT/REPRESENTATIVE: I have reviewed this application and the attached material. The information provided is correct.
Signed: Frank M. Barron

PROPERTY OWNER: I have read this application and consent to its filing.
Signed: Frank M. Barron / Kathleen A. Barron

By signing this application, the applicant/property owner agrees to defend, indemnify, and hold the City of Corning harmless from any claim, action, or proceeding brought to attack, set aside, void or annul the City's approval of this application, and any Environmental Review associated with the proposed project.

SUBMITTAL INFO

FOR OFFICE USE ONLY

APPLICATION NO.	RECEIVED BY:	DATE RECEIVED	DATE APPL. DEEMED COMPLETE
2009-1	JS	Aug. 14, 2009	

FEES RECEIVED/RECEIPT NO.	CEQA DETERMINATION	DATE FILED
Application fee received - 8/24/09 Environmental Review fee - 8/25/09	(Exempt) ND MND EIR	

CITY OF CORNING

ENVIRONMENTAL INFORMATION FORM

(To be completed by Applicant)

DATE FILED _____

General Information

1. Project Title:
Garage Replacement

2. List and describe any other related permits and other public approvals required for this project, including those required by city, regional, state and federal agencies:

Demolition Permit, Building Permit--both from the City of Corning

Additional Project Information

3. For non-residential projects, indicate total proposed building floor area: 1056 sq. ft. in 2 floor(s).

4. Amount of off-street parking to be provided. 2 outside 1 inside garage parking stalls. (Attach plans)

5. Proposed scheduling/development.
Fall, 2009 to Spring 2010

6. Associated project(s).
None

7. If residential, include the number of units, schedule of unit sizes, range of sale prices or rents, and type of household size expected. (This information will help the City track compliance with the objectives of the Housing Element of the General Plan.)

Not applicable (NA)

8. If commercial, indicate the type, whether neighborhood, city or regionally oriented, square footage of sales area, and loading facilities.

NA

9. If industrial, indicate type, estimated employment per shift, and loading facilities.

NA

10. If institutional, indicate the primary function, estimated employment per shift, estimated occupancy, loading facilities, and community benefits to be derived from the project.

NA

11. If the project involves a variance, conditional use permit or rezoning application, state this and indicate clearly why the application is required.

Proposed garage exceeds 15' height limit for structures on a back property line by 4'2". Replacement structure will not conform to current setback requirements from the property line for new 2-story structures.

Are the following items applicable to the project or its effects? Discuss below all items checked yes (attach additional sheets as necessary).

	YES	NO
12. Change in existing topographic features, or substantial alteration of ground contours?	☐	X
13 Change in scenic views or vistas from existing residential areas or public lands or roads?	☐	X
14. Change in pattern, scale or character of general area of project?	☐	X
15. Significant amounts of solid waste or litter?	☐	X
16. Change in dust, ash, smoke, fumes or odors in vicinity?	☐	X
17. Change in lake, stream or ground water quality or quantity, or alteration of existing drainage patterns?	☐	X
18. Substantial change in existing noise or vibration levels in the vicinity?	☐	X
19. Is the site on filled land or on slopes of 10 percent or more?	☐	X
20. Use, storage, or disposal of potentially hazardous materials, such as toxic substances, flammables or explosives?	☐	X
21. Substantial change in demand for municipal services (police, fire, water, sewage, etc.)?	☐	X
22. Substantially increase energy usage (electricity, oil, natural gas, etc.)?	☐	X
23. Relationship to a larger project or series of projects?	☐	X

Environmental setting

24. Describe the project site as it exists before the project, including information on topography, soil type and stability, plants and animals, and any cultural, historical or scenic aspects. Describe any existing structures on the site, and the use of the structures. Attach photographs of the site, snapshots or Polaroid photos will be accepted.

A 24' wide by 20' deep corrugated sheet metal shed/garage exists on the site. The W west wall of the shed sits on the back (W) property line of AP#071-113-04-1 (the Barron property. The existing shed is bounded on the E (east) side by a 21"DBH pecan tree that shades the entire backyard. The tree was probably planted by Warren Woodson in the 1913-1930 period. The shed is used for storage currently. The project site is on level ground within the city limits. Mature trees and shrubs comprise the vegetation on the parcel.

25. Describe the surrounding properties, including information on plants and animals and any cultural, historical or scenic aspects. Indicate the type of land use (residential, commercial, etc.), intensity of land use (one-family, apartment houses, shops, department stores, etc.), and scale of development (height, frontage, set-back, rear yard, etc.). Attach photographs of the vicinity. Snapshots or Polaroid photos will be accepted.

The surrounding properties are all single-family dwellings on residential lots within the City of Corning. The project site is bounded on the S (south) side of the property by an alley. It is partially visible from neighboring backyards and the alley that runs E/W and parallel to Butte and Colusa Streets. Most of the neighboring properties have fences bordering the alley. There are several different types of detached structures in neighboring backyards. The existing shed and the proposed project site are most visible from Fifth Street as one looks E (east).

Certification

I hereby certify that the statements furnished above and in the attached exhibits present the data and information required for this initial evaluation to the best of my ability, and that the facts, statements, and information presented are true and correct to the best of my knowledge and belief.

Date _____ Signature _____

For: _____

Variance Request for Garage Replacement
at 510 Fourth Street (AP#071-113-0401)

Pictures of Project Site and Vicinity

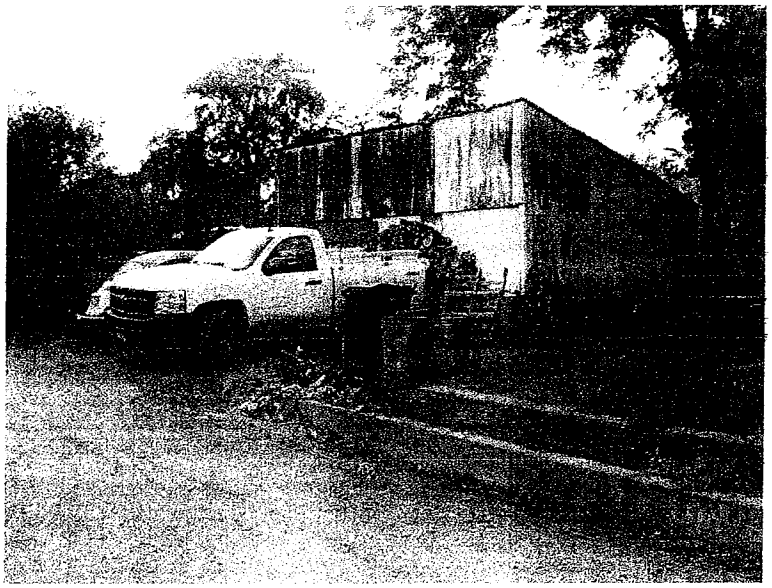
Picture #1

View from the E side of Fourth St., looking W towards 510 Fourth St. (AP#071-113-04-1). Note that trees and shrubs completely block the view of the existing garage/shed (the project site).

Picture #2

View from W side of Fourth St., looking W down the alley. The project site is not visible because of vegetation.

Picture #3



View of existing garage/shed from the alley, looking NW. The two existing parking "stalls" are occupied by owner's vehicles. There is one vehicle parked inside the garage (stall #3).

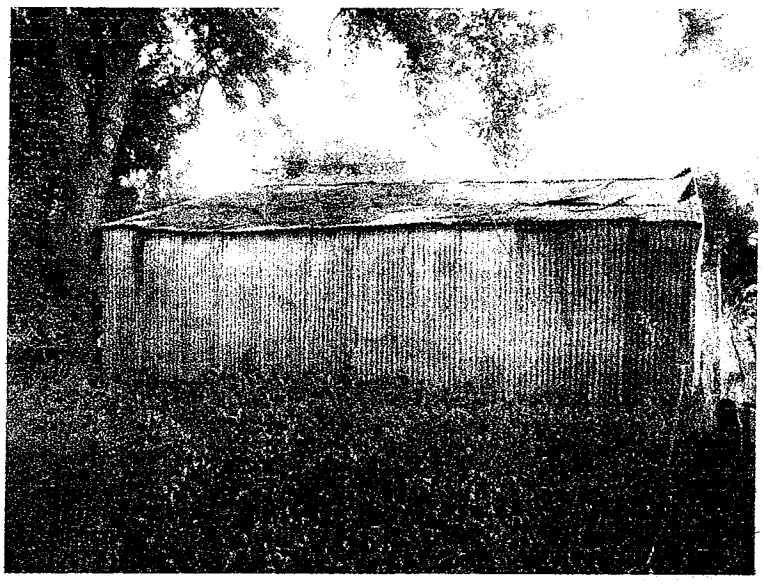
Picture #4

View of the existing garage/shed from the NW corner of the house, looking SW towards the alley. Patterson's carport is visible on the left side of the picture. Note the 20" DBH pecan tree adjacent to the NE corner of the garage. Proposed garage will extend 12' further to the N, which is just to the right of the vinca groundcover. The NW corner of the shed (far R in the picture) is against the back property line.

Picture #5

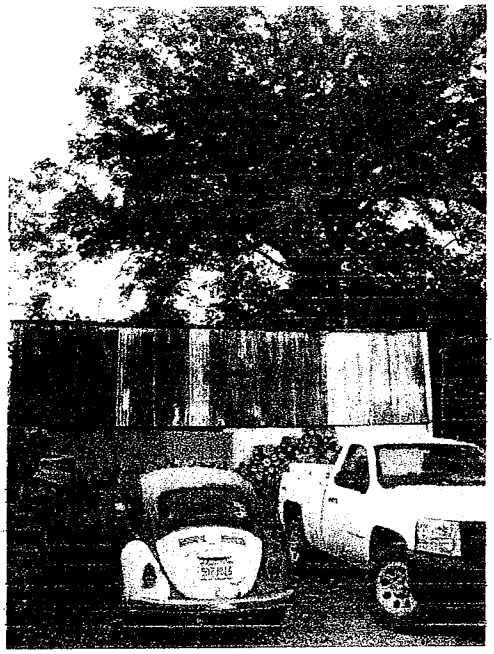
View looking W from the W side of the house, towards the neighboring properties and Fifth St. Note the existing playhouse on the R side of the picture.

Picture #6



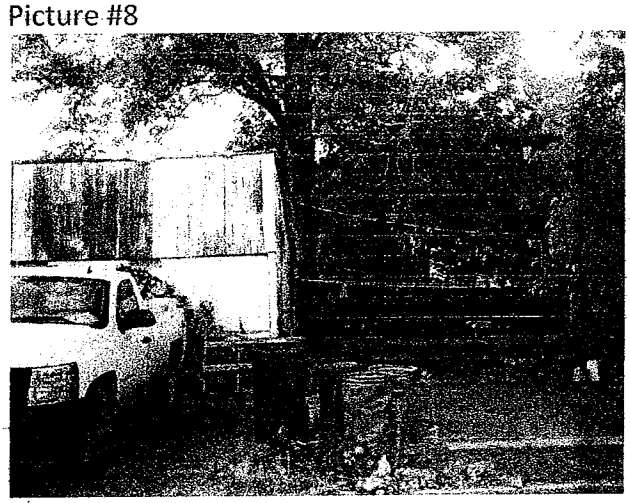
View looking S at the N wall of the existing garage/shed, taken from a point between the playhouse and the W property line. Note the proximity of the pecan tree to the existing structure. The W property line runs along the W wall of the garage.

Picture #7



View looking N from the alley at the S wall of the existing garage/shed. The vehicles are parked in the existing parking "stalls." The existing structure is approximately 12' in height at the S peak of the roof. The proposed garage is 19'2" in height and will fit under the lowest arching limb of the pecan tree with about 3' to spare. Existing shed is 24' wide. Proposed garage will be 22' wide, providing 1' setback from the W property line and 1' setback from the trunk of the pecan tree.

Picture #8



View looking N from the alley along the E wall of the existing garage. Note the current clearance between the garage wall and the pecan tree.

Picture #9

View looking E down the alley from the E side of Fifth Street. Note that the existing garage is barely noticeable from this angle. Also note the general character of the vegetation and structures in yards adjoining the alley.

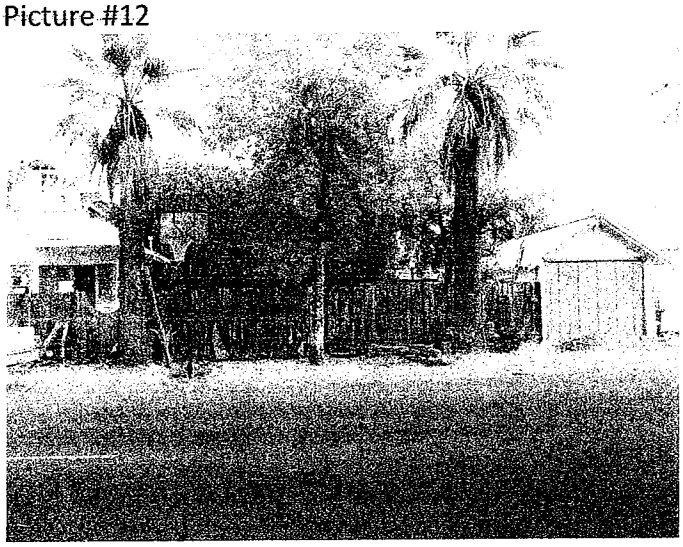
Picture #10

View looking E from the E side of Fifth St., from a point about midway between the alley and Colusa Street. This view is looking through the backyards of two neighboring parcels. Note that the W wall of the existing garage/shed is visible from this angle.

Picture #11

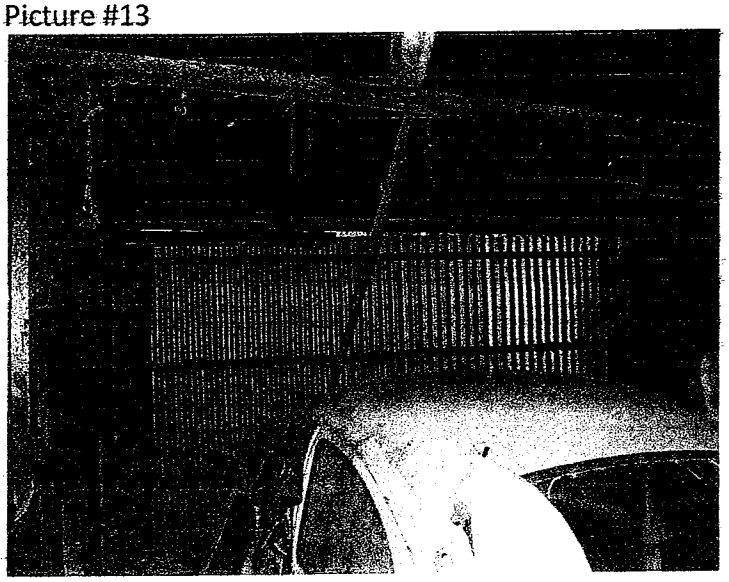
View looking SE from a point on the N side of Colusa Street just E of the intersection with Fifth Street. A portion of the W wall of the existing garage/shed is visible between the two houses.

Picture #12



View looking due S through 502 Fourth St. property, from a point on the N side of Colusa Street. Note that the trees along the property line between 502 and 510 Fourth Street effectively screen any view of the existing garage.

Picture #13



View inside the existing garage showing its use as storage and for parking a non-operational vehicle. The garage door is nailed shut. Note the burned studs from a fire that occurred in the garage sometime during the previous owner's tenure. Picture was taken looking S in the direction of the alley.

Picture #14

View inside the existing garage showing its use as storage. Picture was taken from the door, looking W.

ITEM NO: E-3
AMENDED USE PERMIT #103; CORNING WEST APARTMENTS. AMEND THE USE PERMIT ADDING A CONDITION THAT ALLOWS THE APARTMENTS TO BE OCCUPIED BY NON-SENIOR CITIZENS LIMITED TO 2 ADULTS AND 1 CHILD, 3 OCCUPANTS MAXIMUM.

SEPTEMBER 17, 2009

TO: PLANNING COMMISSIONERS OF THE CITY OF CORNING

FROM: JOHN STOUFER; PLANNING DIRECTOR

PROJECT DESCRIPTION:
Use Permit No. 103 was approved by the city in 1987 to construct 88 studio apartments for senior citizens. To date 44 units in phase 1 have been constructed. The current owner of the apartments has applied to amend the Use Permit by adding a condition that would allow the apartments to be occupied by non-senior citizens, limited to 3 people, no more then 2 adults and 1 child. The apartment complex is located at the northwest corner of the Butte St. / Toomes Ave. intersection.
Address: 1960 Butte St. APN: 71-080-45

GENERAL PLAN LAND USE DESIGNATION
MFR – Multi-Family Residential

ZONING
PD – Planned Development

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)
Section 21084 of the Public Resources Code requires a list of classes of projects which have been determined not to have a significant effect on the environment and which shall, therefore, be exempt from the provisions of CEQA. The Secretary of Resources has classified projects that do not have a significant effect on the environment and are declared to be categorically exempt from the requirement for the preparation of environmental documents.

CEQA, Section 15301, Existing Facilities, Class 1 (attached as Exhibit "A") provides exemptions for the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The key consideration is whether the project involves negligible or no expansion of an existing use.

This project is considered a minor alteration to the Use Permit by allowing the existing apartments to be occupied by non-senior residents with a limit of 3 people per unit which is considered a negligible expansion of an existing residential use and no structural modifications will be performed to the buildings, therefore, amending Use Permit #103 is exempt from CEQA pursuant to Section 15301, Class 1.

Discussion

City staff has been in contact with the owner of the Corning West Apartments, Mr. Kirk Silverman, to discuss issues relating to the occupancy of the apartments by non-senior citizens. After a meeting with City Attorney Mike Fitzpatrick, Planning Director John Stoufer and Mr. Silverman, a letter dated March 27, 2009 (attached as Exhibit "B") was sent to Mr. Silverman defining a "senior citizen housing development" pursuant to Section 17.06.470 of the Corning Municipal Code (CMC) and informing him that occupancy of the apartments by non-seniors was a violation of the Use Permit.

After several more conversations with staff, Mr. Silverman submitted the applicable fees and a request (attached as Exhibit "C") to amend the Use Permit allowing the apartments to be occupied by non-senior citizens limited to no more then 2 adults and 1 child for a maximum occupancy of three people per apartment. As explained in the letter requesting the amendment, the current and previous owners have had difficulty in maintaining occupancy of the apartments by senior citizens only.

The apartments are currently occupied by non-senior occupants which is a violation of the Use Permit. Staff has discussed proceeding with revocation of the Use Permit but feels that it would not be in the best interest of the community. The apartment complex is currently well maintained and the city has not received any complaints from surrounding property owners regarding the occupants of the apartments. Revocation of the Use Permit would probably cause the current owner to default on his loan and the complex would then go through foreclosure and become the responsibility of the lending institution. With the increased foreclosures on property the Corning Fire Department is having a very difficult time in getting lending institutions, i.e. banks and mortgage companies, to maintain the properties for fire safety.

Surrounding property owners within 300 feet of the site have been notified of the application to amend the Use Permit. The City has not received any written or oral comments from these property owners. Staff feels it is much more beneficial to the city and surrounding property owners to have the units occupied and well maintained then have them become vacant and not maintained, therefore staff recommends that the Commission adopt the following subfindings and findings and approve the amendment to Use Permit #103.

Subfinding #1
The 44 unit apartment complex currently known as Corning West Apartments was constructed in 1987 and been occupied since completion of construction. The amendment to the Use Permit will not involve any type of addition or physical alteration to the existing structures.

Finding #1
The granting of an amendment to Use Permit #103 allowing the apartments to be occupied by non-senior residents is a negligible expansion of an established residential use at this site and therefore exempt from CEQA pursuant to Section 15301, Class 1.

Subfinding #2
The Corning West Apartments have been constructed to City standards, are currently landscaped and meet the setback requirements of the Corning Municipal Code.

Finding #2
The parcel where the apartments have been constructed is adequate in size, shape and topography for multi-family use.

Subfinding #3
The parcel has frontage and direct access to Butte Street.

Finding #3
The site has sufficient access to Butte Street that is constructed with adequate width, pavement and capacity for the existing apartment complex.

Subfinding #4
The existing apartment complex was constructed in 1987 and is landscaped with mature trees, shrubs and grass throughout the complex. Amending the Use Permit to allow non-senior citizens as occupants will provide financial resources that will help in the maintenance and upkeep of the existing landscaping and apartment buildings.

Finding #4
Occupancy of the apartment complex by non-senior residents will not have an adverse effect upon the use, enjoyment or valuation of adjacent or neighboring properties or upon the public welfare.

ACTION

1. **MOVE TO ADOPT THE 4 SUBFINDINGS AND FINDINGS AS PRESENTED IN THE STAFF REPORT AND AMEND USE PERMIT #103 BY ADDING THE FOLLOWING CONDITION:**

   THE EXISTING APARTMENTS WITHIN THE COMPLEX CONSTRUCTED PURSUANT TO USE PERMIT #103 MAY BE OCCUPIED BY NO MORE THAN 2 ADULTS AND 1 CHILD FOR A MAXIMUM OCCUPANCY OF 3 PERSONS.

   (PLEASE NOTE : PRIOR TO ADOPTING THE RECOMMENDED SUBFINDINGS & FINDINGS THE COMMISSION HAS THE ABILITY TO MODIFY THE LANGUAUE IN ANY OF THE SUBFINDINGS AND FINDINGS IF DEEMED APPROPRIATE BY A MAJORITY OF THE COMMISSION IN ADDITION THE COMMISSION HAS THE ABILITY TO MODIFY THE RECOMMENDED CONDITION OF APPROVAL AS DEEMED APPROPRIATE.)

VOTE OF THE COMMISSION

OR:

Failing to make the required findings in support of the project, deny the amendment to Use Permit #103.

ATTACHMENTS

Exhibit "A"	CEQA Section 15301
Exhibit "B"	Letter dated March 27, 2009
Exhibit "C"	Application letter
Exhibit "D"	Vicinity Map
Exhibit "E"	Aerial Photo
Exhibit "F"	Copy of minutes from Planning Commission meeting Approving Use Permit #103

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14 CA ADC § 15301

Term

14 CCR § 15301

Exhibit "A"

Cal. Admin. Code tit. 14, § 15301

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
TITLE 14. NATURAL RESOURCES
DIVISION 6. RESOURCES AGENCY
CHAPTER 3. GUIDELINES FOR IMPLEMENTATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT
ARTICLE 19. CATEGORICAL EXEMPTIONS
This database is current through 2/27/09, Register 2009, No. 9

§ 15301. Existing Facilities.

Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The types of "existing facilities" itemized below are not intended to be all-inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of an existing use.

Examples include but are not limited to:

(a) Interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances;

(b) Existing facilities of both investor and publicly-owned utilities used to provide electric power, natural gas, sewerage, or other public utility services;

(c) Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities (this includes road grading for the purpose of public safety).

(d) Restoration or rehabilitation of deteriorated or damaged structures, facilities, or mechanical equipment to meet current standards of public health and safety, unless it is determined that the damage was substantial and resulted from an environmental hazard such as earthquake, landslide, or flood;

(e) Additions to existing structures provided that the addition will not result in an increase of more than:

(1) 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less; or

(2) 10,000 square feet if:

(A) The project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and

(B) The area in which the project is located is not environmentally sensitive.

(f) Addition of safety or health protection devices for use during construction of or in conjunction with existing structures, facilities, or mechanical equipment, or topographical features including navigational devices;

(g) New copy on existing on and off-premise signs;

(h) Maintenance of existing landscaping, native growth, and water supply reservoirs (excluding the use of pesticides, as defined in Section 12753, Division 7, Chapter 2, Food and Agricultural Code);

(i) Maintenance of fish screens, fish ladders, wildlife habitat areas, artificial wildlife waterway devices, streamflows, springs and waterholes, and stream channels (clearing of debris) to protect fish and wildlife resources;

(j) Fish stocking by the California Department of Fish and Game;

(k) Division of existing multiple family or single-family residences into common-interest ownership and subdivision of existing commercial or industrial buildings, where no physical changes occur which are not otherwise exempt;

(l) Demolition and removal of individual small structures listed in this subdivision;

(2) A duplex or similar multifamily residential structure. In urbanized areas, this exemption applies to duplexes and similar structures where not more than six dwelling units will be demolished.

(3) A store, motel, office, restaurant, and similar small commercial structure if designed for an occupant load of 30 persons or less. In urbanized areas, the exemption also applies to the demolition of up to three such commercial buildings on sites zoned for such use.

(4) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.

(m) Minor repairs and alterations to existing dams and appurtenant structures under the supervision of the Department of Water Resources.

(n) Conversion of a single family residence to office use.

(o) Installation, in an existing facility occupied by a medical waste generator, of a steam sterilization unit for the treatment of medical waste generated by that facility provided that the unit is installed and operated in accordance with the Medical Waste Management Act (Section 117600, et seq., of the Health and Safety Code) and accepts no offsite waste.

(p) Use of a single-family residence as a small family day care home, as defined in Section 1596.78 of the Health and Safety Code.

Note: Authority cited: Section 21083, Public Resources Code. Reference: Section 21084, Public Resources Code; Bloom v. McGurk (1994) 26 Cal.App.4th 1307.

HISTORY

City of Corning

794 Third St. Corning, CA 96021 (530) 824-7020 Fax (530) 824-2489

Exhibit "B"

March 27, 2009

Kirk Silverman
9780 Anderson Dr.
San Rafael, CA. 94901

RE: Corning West Apartments

Dear Mr. Silverman;

Thank you for meeting with City Attorney Mike Fitzpatrick and me to discuss the occupancy issue for the 44 unit apartment complex currently known as the Corning West Apartments located at 1960 Butte Street in the City of Corning. As you know the Corning Planning Commission approved Use Permit #103 as a senior citizen housing development.

Section 17.06.470 of the Corning Municipal Code (CMC) defines a "senior citizen housing development" as *"a development containing dwellings specifically designed for and occupied by persons sixty-two years of age or older and limited to such occupancy for the actual lifetime of the building, either by the requirements of state or federal programs for housing for the elderly, or in accordance with standards established by resolution of the planning commission and/or city council."*

At our meeting on February 20, 2009 you freely admitted that non-senior citizens are currently occupying some of the apartments. As discussed, and as you were aware of at the time you purchased this apartment complex, occupancy of any of the apartments by non-seniors is a violation of Use Permit #103.

Section 17.54.060, "Revocation of conditional use permits", of the CMC states; *"Upon recommendation by the city manager, the body which originally granted the conditional use permit, shall conduct a noticed public hearing to determine whether a conditional use permit, should be revoked. If the commission or council finds any one of the following facts to be present, it shall revoke the conditional use permit:*

A. That the permit was obtained by fraud; or
B. That the use for which such approval was granted has ceased to exist, or has been suspended, for a period of six months or more; or

C. That the permit granted is being, or has been, exercised contrary to the terms and conditions of such approval or in violation of any law; or

D. That the use for which approval was granted is being exercised so as to be detrimental to the public health or safety, or as to constitute a nuisance.

If the commission conducts the hearing, the action taken by the commission shall be subject to an appeal in the manner prescribed in Section 17.54.050 et seq. hereof. The action of the council shall be final and conclusive."

When we met you stated that you were in the process of refinancing the apartment complex so that it would be more feasible to operate the complex. Would you please advise the city on the status of your effort to refinance the apartment complex. Whether you are successful in refinancing or not, you must comply with the requirements of the use permit and allow occupancy of the apartments by senior citizens only, or, apply to amend the use permit for some other type of occupancy.

If, by June 1, 2009, the apartments are still occupied by non-senior residents and you have not applied to amend the use permit we will commence with revocation of the use permit pursuant to Section 17.54.060 of the CMC. Your immediate response to this letter is requested. If you have any questions or would like to discuss this issue further you may contact me at the address shown on the letterhead or reach me by phone at (530) 824-7036.

Sincerely;

John Stoufer
Planning Director

cc: Steve Kimbrough, Corning City Manager
Mike Fitzpatrick, Corning City Attorney

Exhibit "C"

June 30, 2009

RECEIVED
JUN 30 2009
CITY OF CORNING

City of Corning
Attn: John Stoufer, Planning Director
794 Third St.
Corning, CA. 96021

RE: Corning West Apartments, Use Permit #103

Dear Mr. Stoufer;

On February 17, 1987 the Corning Planning Commission approved Use Permit #103 for the construction of an 88 unit studio apartment complex to house elderly residents. The project was approved in two phases with phase I consisting of 44 units and phase II consisting of 44 units. As of this date only 44 units (phase I) has been constructed. At this time I do not anticipate constructing Unit II.

There have been several property owners that have tried to run the complex as elderly, or senior, housing only. All of these owners have had difficulty in operating and maintaining the apartment complex for elderly residents only. To maintain occupancy of the apartment complex and keep it a feasible operation I have had to rent apartments to non-seniors. I'm continuing to seek elderly residents and have even offered monthly incentives for them to occupy the apartments but still have not been able to fill the complex.

To operate and maintain the apartments in a desirable and affordable condition I'm requesting that Use Permit #103 be amended to allow non-seniors to occupy the apartments. I believe that limiting occupancy of the apartments to no more then 2 adults and 1 child, for those apartments not occupied by seniors even though I will continue to seek senior residents, will help keep the units occupied and allow me to maintain the apartments in a clean, aesthetically desirable condition. Therefore, I'm requesting that Use Permit #103 be amended to allow occupancy of the apartments to no more then 2 adults and 1 child for a total occupancy of three people per residence.

Please schedule a public hearing before The City of Corning Planning Commission to consider my request. If you have any questions please contact me by phone at (415) 747-2100.

Sincerely;

Kirk Silverman
Property owner.

Exhibit "D"

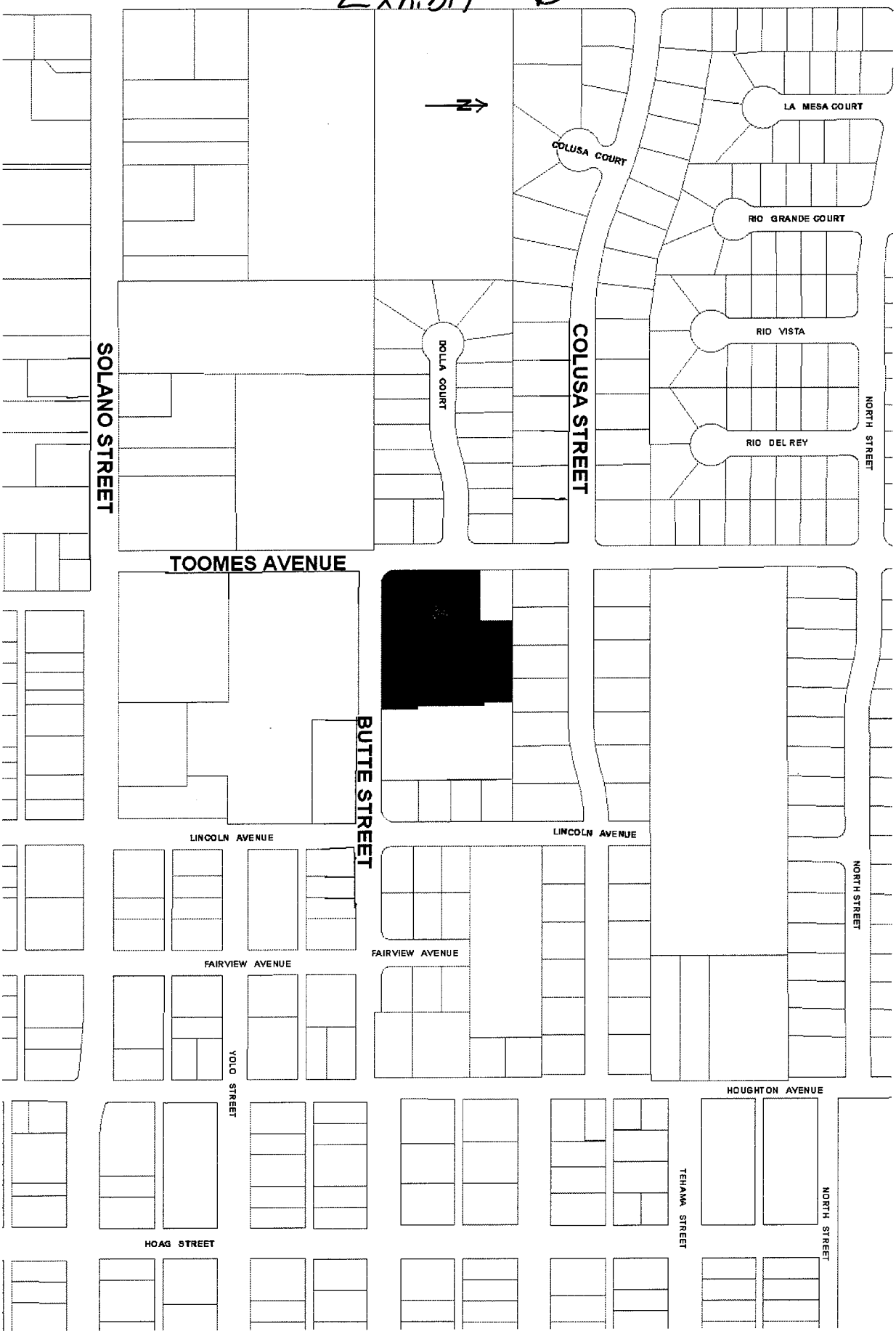
N
LA MESA COURT
COLUSA COURT
RIO GRANDE COURT
RIO VISTA
RIO DEL REY
DOLLA COURT
COLUSA STREET
SOLANO STREET
NORTH STREET
TOOMES AVENUE
BUTTE STREET
LINCOLN AVENUE
LINCOLN AVENUE
FAIRVIEW AVENUE
FAIRVIEW AVENUE
NORTH STREET
YOLO STREET
HOUGHTON AVENUE
TEHAMA STREET
NORTH STREET
HOAG STREET

Exhibit "E"

COLLA COURT
TOOMES AVENUE
SITE
BURNE STREET
LINCOLN AVENUE
LINCOLN AVENUE
N

Exhibit "F"

Chairman O'Dell declared the Public Hearing closed.

Moved by Commissioner Freeman that everything that is said here, I would want the fence in the motion and anything that has anything to do with sewer that is legal, I want in the motion. The duplex will not adversely affect the surrounding neighborhood or the community, it would be appropriate to approve the Use Permit, seconded by Commissioner Martini.

Ayes: O'Dell, Roush, Martini, Freeman and Howell.
Noes: None.
Absent or not voting: None.

USE PERMIT #103 (PALERMO) AMENDMENT TO GENERAL PLAN LAND USE DESIGNATION AND REZONE:

Chairman O'Dell explained, this is to construct an additional senior citizen housing project on the north side of Butte Street between Toomes and Lincoln. I believe it is 88 units in two phases. He declared the Public Hearing open. James Coatney told the Commission, I am for Mr. Palermo on this project. I assume this is pretty similar to Tehama Village. Are you going to put a fence behind it?

Sylvia Clark told the Commission, I object to this plan. I do not think it is compatible to the single family dwellings on Colusa Street. I can not think of a good reason to change it from R-1-2 to high density. Traffic is one of the problems. There is quite a traffic problem in that area. Also, there is a problem, you are putting in people next to family dwellings that have children and grandchildren and pools in the back yards. There tends to be noise at night. I have looked at the plan and units are small. I want it to stay an R-1-2 Zone.

Chairman O'Dell asked, do you understand that they can build duplexes there? They can be two story. I would rather see it like a development like this instead of apartments.

John Palermo explained that it will be like Tehama Village. They will have parking. On Phase I we have 39 parking spaces for 44 units. He explained the number of parking spaces Phase II will have.

Mrs. Clark asked, will there be a buffer sound barrier? Mr. Palermo answered, we would not put anymore than a 6' fence up.

Chairman O'Dell stated, in my mind, thinking what can be built in an R-1-2 Zone and what he is proposing here, I think this is better for the area than duplexes.

Mr. Coatney told the Commission, the last time that Mr. Palermo was going to have a plan out there it was for 19 houses. I would much rather see this go in than 19 houses. I do not see how there is going to be a traffic problem.

James Hebrew told the Commission, I am speaking on behalf of my mother. Her concern is the traffic problem in the area. She is in favor of the project, but there is a problem in the area. Patrons of Holiday Market go out to Toomes to Butte. The traffic on Butte Street is becoming more and more congestive. The existing street is curbed on both sides where this unit will go in. When it meets Houghton Avenue it is quite narrow there. Her question is, how is the traffic situation going to be evaluated in the area?

Chairman O'Dell explained that the developer is not planning on doing anything toward Houghton Avenue and I do not see the City doing anything that direction.

Mr. Hebrew stated, I can see a problem with this type of development, toward Houghton Avenue there is considerable foot traffic. My mother has watched some near misses on some older ladies that walk their dogs. She has explained to me that she does not want to see something happen before the City takes some action.

Mr. Lucero asked the Commission when the original phase was built, if I am not mistaken, wasn't there an 8' wall as a buffer zone for a complex with so many units? I know senior citizens are quiet. As a group, they are very powerful. We have 14 units compared to 88 right next to it. That is a high density and with that there should be a high wall for a buffer zone. I know there will be problems with the senior citizens along there because of noise. My dog would drive them nuts the first night.

Mr. Palermo explained, that wall came up with a project of town houses that we proposed about four years ago. That was to protect the neighbors from the town houses. I have never had to build a retainer wall to protect the neighbors in my buildings.

Commissioner Howell was wondering why unit 6,7, and 8 in Phase II do not have covered walks. Mr. Palermo pointed out where the access walks are on the plan.

Walter Dodd told the Commission, over all, I think the development is very good. A couple of questions I would like to raise, the City Council is working on a revised Ordinance that deals with curb, gutter and sidewalk. I would like this development to be controlled by this Ordinance. I have talked to the Palermo's about a fence. The City has raised some questions on the entrance way for emergency vehicles. I understand they are going to provide for a different entrance then originally proposed. I would like to see spelled out in any action that as many trees as possible will be retained. I would like to see that the project, when built, is specified for senior citizen housing so that later on other types of occupants will not be allowed.

Chairman O'Dell explained that it is a PD Zone so we can specify any restrictions.

Mr. Lucero told the Commission, this is supposedly the planning stage, it will not come back to you again. What I am concerned, because it is a PD, the input of the Public should be given to the builder to rebuttal at a later date. We have not presented that we are for or against the plan.

Chairman O'Dell explained that we are going to make recommendations on this plan. Street lights on Lincoln and Butte, curb, gutter, and sidewalk on Lincoln and I would like to see one half of the street put in.

Mr. Palermo stated, on Phase II we are planning to do one half of the street. The curb, gutter and sidewalk is already in on Butte Street.

Chairman O'Dell asked, is it in agreement that he wait until development of Phase II? He is asking for a PD Zone on the entire project. He is asking to develop Phase I which would not involve Lincoln Street at all. We have to act on Phase I and II because it will not come back to us.

Mr. Snow explained if he takes out one Building Permit to do Phase I, the off-site improvements are contingent with the Building Permit and will go with Phase I. When he takes out the Phase II Building Permit, it will be on that Building Permit.

Chairman O'Dell explained, even though he is only going to develop Phase I, we have to look at the whole development. What I would like in the project is curb, gutter, and sidewalk all the way around and development of one half of Lincoln Street. I want street lights on Lincoln as well as on Butte. I would want one on the corner of Butte and Lincoln and one in the middle of Lincoln.

Commissioner Freeman asked Mr. Snow, at this point where we are asking him to put a fence, is the fence legal right up to the telephone poles? Mr. Snow answered, there has to be a utility easement somewhere down there.

Mr. Hughes told the Commission, the property line is where the telephone poles are. There is a 10' easement for the P.G. and E. poles.

Commissioner Freeman stated, I have walked that whole area. I am seeing buildings that go clear up to those telephone poles. His fence would be right next to the telephone poles. I took my ruler and it did not match up. What is that 5' difference?

Chairman O'Dell explained, it is not our duty to establish the property line. All we can do is say if we want to make a stipulation that we want a 6' fence. Where it is placed is not up to us.

Commissioner Freeman asked why are we allowing a jog in there? Is that normally right to have a jog in the property line?

Mr. Palermo explained that Phase I and Phase II is two separate pieces, we will have to have it split.

Commissioner Freeman said if Phase II is not completed we will have a jog. Mr. Palermo explained that Phase II would take care of the jog. Whatever we end up doing will have to be to City standards.

Commissioner Freeman stated that one driveway is larger than the other one. Are we aware that on Phase II a street is going to be going in and that there is an old existing well in that same area? Is there any problem with that? Mr. Palermo answered no. It was explained that the well belongs to the property to the east.

Commissioner Freeman stated, I walked that property and the measurements do not seem right if you are going to take that road all the way through to Colusa Street. Mr. Palermo said we are only putting in one half of the street.

Commissioner Freeman stated, it has been reported there will be people there on duty for meals. I was under the assumption that these could be retirement homes for people with motor homes. There is no room for that. If he is going to put in this half of the street, he would have about a 15' lane that could be used for access.

Mr. Hughes told the Commission, there is a lot of kids that play in that orchard. I would be very glad to see that taken care of.

Commissioner Roush told the Commission, it seems to me like that in the past we have had better plans for this. I really thought that we were more or less rezoning tonight. I did not realize that we were approving plans at the same time. This is more like a site plan. I thought on a PD that when you do submit your plans it does come back to us for further approval. I thought tonight that all we were doing is doing a rezone with this concept in mind. I did not realize that we were going any further than that.

Mr. Palermo stated, in the past, we have not done anything but a site plan before, once it is approved, we have our plans drawn and build.

Commissioner Roush told the Commission, at one time the apartments were 400 some feet now we are talking about 500 some feet. There have been some changes made that I was not aware of.

Mr. Palermo explained, this is the idea we have. This is the basic design. We are adding 50 square feet per unit.

Chairman O'Dell explained, the parking area that he has, that is what we are making a decision on, whether we go curb, gutter, sidewalk, street lights, and fence. Further discussion was held.

Floyd Whitnack told the Commission, I have heard everybody talking about this parking space, I assume it is going to be blacktop, there will be run off. Does this create a drainage problem we can't handle?

Chairman O'Dell answered that he will take care of his own drainage. Mr. Palermo explained what they will have for the drainage. We will handle every bit of it that we can. We have three dry wells on the other property.

Mrs. Sherman explained that it was a requirement for the Mitigated Negative Declaration that the storm drainage be taken care of.

Mr. Lucero told the Commission, being a property owner next to it, we do have drainage problem. We are in a sump. I drain off into Colusa Street. There is one neighbor that does not. The water does set in the corner. The water does not get out. Can they guarantee me that water will not all settle back there?

Mr. Palermo explained, we met with the TAC Committee last month. What we have done is design a series of leach basins. It will over flow to the City system. Peter Palermo explained what they will do. We develop the land so it goes to our drains.

John Palermo stated, we will design the drains so it will handle it.

Discussion was held on the kitchens and micro wave ovens. Mr. Palermo explained the handicap facilities in the development. Discussion was also held on the parking spaces and if they are adequate.

Mr. Palermo explained in Phase I we have 39 parking spaces for 44 units. In Tehama Village we have one parking space for two units. Chairman O'Dell stated, I am in Tehama Village several times a week and I never have a problem with parking.

Mr. Palermo explained that we are mainly putting the swimming pool in for a social atmosphere. It is a State law that it be fenced and it will have to have handicap facilities too.

Chairman O'Dell declared the Public Hearing closed and entertained a motion on the Use Permit.

Mr. Sherman explained that we need a motion first on the General Plan Amendment. You would need to recommend a change to high density.

Moved by Commissioner Freeman, seconded by Commissioner Roush that we do use the permit for a PD with the change.

Ayes: O'Dell, Roush, Martini, Freeman, and Howell.
Noes: None.
Absent or not voting: None.

Moved by Commissioner Roush that we amend the General Plan, the Land Use Map, from a low to a high density residential area to allow the rezone to a PD to allow a senior citizen complex.

Commissioner Freeman told the Commission I would not vote for any of it until it is all in accordance. Commissioner Roush explained that we have to amend our General Plan before we can do it.

Commissioner Freeman rescinded his motion and that we go to number 2. The above motion was seconded by Commissioner Martini.

Mr. Lucero told the Commission, when you change the General Plan, if I am not mistaken, an E.I.R. statement has to be made. Mrs. Sherman explained this is a three part change; A Use Permit, a Rezone and a General Plan Amendment. Because it has to all occur at the same time, it is all done with one Environmental Report. There is one for the three permits.

Mr. Lucero told the Commission, we are changing from 19 units, low density to 88 units high density? With that high density, we have other things involved. We have traffic. I want to know why if it was for a senior citizen project originally there were 90 units that were going to be there. They have already been built on the other side, now we are going to put in 88 more. Discussion was held on it.

Mrs. Sherman explained, if somebody purchased this property, they could put in a maximum of 40 units if they put in duplexes if they could get a Use Permit for duplexes. This is a potential increase from a possible 40 to a known 88 units. That concept was looked at by the Environmental Review Committee. They found because it was for senior citizens that traffic would not be a significant problem.

Ayes: O'Dell, Roush, Martini, Freeman and Howell.
Noes: None.
Absent or not voting: None.

Moved by Commissioner Roush, seconded by Commissioner Martini that we rezone this property from an R-1-2 to PD to allow the construction of the 88 studio apartments for the senior citizens.

Ayes: O'Dell, Roush, Martini, Freeman and Howell.
Noes: None
Absent or not voting: None.

Discussion was held on what you can stipulate on the Use Permit. Mr. Palermo said they want to save every tree they can. Discussion was held on whether to set a square foot limit on the units.

Mrs. Sherman explained that the building coverage is less than 25% of the property.

Moved by Commissioner Martini that we recommend approval of the Use Permit subject to a fence going from Lincoln to Toomes on the back part of the property, curb, gutter, and sidewalk on Toomes and Lincoln a light pole on the corner of Butte and Lincoln and a light pole at the northeast corner of the property and Lincoln, seconded by Commissioner Roush.

Ayes: O'Dell, Roush, Martini, Freeman and Howell.
Noes: None.
Absent or not voting: None.

There being no further business, the meeting adjourned at 9:22 p.m.

Darlene Dickison
City Clerk

ITEM NO. F-4
USE PERMIT NO. 2008-255; LUCERO OLIVE OIL. REVIEW OF THE USE PERMIT TO DETERMINE IF ADDITIONAL CONDITIONS OF APPROVAL ARE WARRENTED.

SEPTEMBER 17, 2009

TO: PLANNING COMMISSION OF THE CITY OF CORNING

FROM: JOHN STOUFER; PLANNING DIRECTOR

SUMMARY:

Lucero Olive Oil obtained a Use Permit to establish an Olive Oil Processing and Storage Facility in an existing warehouse located along the north side of Loleta Ave. approximately 350 feet east of the Hwy. 99W / Loleta Ave. intersection. Address: 2120 Loleta Ave. APN: 71-300-26

The Planning Commission approved the Use Permit with condition #5 reading as follows: *The Use Permit will be scheduled for review by the City of Corning Planning Commission at the regular scheduled meeting in September 2009. The review will allow the Commission to add additional conditions of approval if warranted.*

The Olive Oil operation began processing olives for oil in October 2008. The operator has complied with all conditions of approval including paving of the encroachment and paying a $10,000 fee in lieu of signing a deferred improvement agreement for future improvements to Loleta Ave. Staff has not received any complaints regarding the operation and at this time does not think additional conditions of approval are warranted. Therefore, staff recommends that the Commission take the following action:

ACTION

1. **MOVE THAT LUCERO OLIVE OIL IS IN COMPLIANCE WITH THE ORIGINAL CONDITIONS OF APPROVAL FOR USE PERMIT 2008-255, AND THAT AT THIS TIME ADDITIONAL CONDITIONS OF APPROVAL ARE NOT WARRENTED.**

ITEM NO: F-5
USE PERMIT 2009-256; BUSY BEE DAYCARE, REVIEW OF USE PERMIT TO DETERMINE IF A LEFT TURN LANE ON SOLANO STREET .IS WARRENTED. LOCATED ALONG THE NORTH SIDE OF SOLANO ST., AT THE NORTHWEST CORNER OF THE SOLANO ST. / EAST AVE. INTERSECTION.

SEPTEMBER 17, 2009

TO: PLANNING COMMISSIONERS OF THE CITY OF CORNING

FROM: JOHN STOUFER; PLANNING DIRECTOR

PROJECT DESCRIPTION:
Busy Bee Daycare was granted a Use Permit to establish a Preschool/Daycare Center for a maximum number of 95 children in an existing building located along the north side of Solano St., at the northwest corner of the Solano St. / East St. intersection.
APN: 73-010-61 Address: 740 Solano St.

Due to concerns with traffic at the intersection of Solano St. and East St. the Planning Commission added Condition #9 to the conditions of approval which read as follows:
The Use Permit will reviewed at the September 15, 2009 Planning Commission Meeting to determine if left turn lanes along Solano St. are warranted.

Staff recently discussed this intersection and the Police Department has not responded to any traffic accidents, and Public Works has not received any complaints or noticed traffic stacking at the intersection, as a result of the establishment of the Daycare Center. Therefore, staff recommends that the Commission take the following action:

Action

Move that after six months in operation the Busy Bee Daycare Center has not significantly impacted the traffic at the intersection of Solano St. and East St. and at this time left turn lanes along Solano St. are not warranted.