



City of Oroville

COMMUNITY DEVELOPMENT DEPARTMENT

Donald Rust
DIRECTOR

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City of Oroville PLANNING COMMISSION

CHAIR: Damon Robison
VICE-CHAIR: Carl Durling
MEMBERS: Adonna Brand; Randy Chapman; Tua Vang; Wyatt Jenkins;
Michael Britton

PLANNING COMMISSION MEETING **AGENDA**

Monday, August 25, 2014 at 7:00 p.m.
MEETING AGENDA

OROVILLE CITY HALL
1735 MONTGOMERY STREET, OROVILLE, CA 95965
ALL MEETINGS ARE RECORDED

*This meeting may be broadcast remotely via audio and/or video conference at the following address:
Cota Cole, LLP, 2261 Lava Ridge Court, Roseville, California 95661.*

ADMINISTRATIVE AGENDA

1. **CALL TO ORDER**

2. **ROLL CALL**

Commissioners Adonna Brand, Michael Britton, Randy Chapman, Tua Vang, Wyatt Jenkins, Vice Chairperson Carl Durling, Chairperson Damon Robison

3. **PLEDGE OF ALLEGIANCE**

4. **INSTRUCTIONS TO INDIVIDUALS WHO WISH TO SPEAK ON AGENDA ITEMS**

This is the time the Chairperson will remind persons in the audience who wish to address the Commission on a matter that is on the agenda to fill out one of the cards located in the lobby and hand it to the clerk of the meeting. The

Chairperson will also remind persons in the audience that under Government Code Section 54954.3, the time allotted for each presentation may be limited.

5. **PUBLIC COMMENTS**

This is an opportunity for members of the public to address the Planning Commission on any subject relating to the Planning Commission, but not relative to items on the present agenda. The Planning Commission reserves the right to impose a reasonable limit on time afforded to any individual speaker.

6. **CORRESPONDENCE**

None

7. **APPROVAL OF MINUTES**

Approve the minutes of the July 28, 2014 Planning Commission Meeting.

REGULAR AGENDA

8. **PUBLIC HEARINGS**

- 8.1 **UP 08-02 Amendment: Child Day Care Center** - The City of Oroville Planning Commission will conduct a public hearing to consider amending Use Permit No. 08-02, for the purpose of amending the capacity of children allowed at an existing child day care center located at 1325 Pomona Avenue and separating the age groups per the requirements from the State of California, Department of Social Services, Community Care Licensing Division. The existing permit allows for a maximum of 15 children, and the applicant is requesting to increase the maximum permitted number of children allowed to 29.

Staff Report: Luis A. Topete, Associate Planner

Staff Recommendation:

Adopt Resolution No. P2014-13: A RESOLUTION OF THE OROVILLE CITY PLANNING COMMISSION AMENDING CONDITIONAL USE PERMIT NO. 08-02 APPROVING AN INCREASE IN THE MAXIMUM NUMBER OF CHILDREN PERMITTED AT THE DAY CARE FACILITY LOCATED AT 1325 POMONA AVENUE TO A MAXIMUM OF TWENTY NINE

- 8.2 **UP 14-05: Levee Radio Tower** - The City of Oroville Planning Commission will conduct a public hearing to consider Use Permit No.14-05 for the purpose of placing telecommunications equipment on the existing City owned radio tower located at the southeast corner of Arlin Rhine Memorial Drive and Lincoln Street at the northern end of Historic Downtown Oroville (APN: 012-031-001). In addition, the tower will be used for public safety as a secondary/backup radio repeating site and to provide future Wi-Fi signal throughout the downtown area.

Staff Report: Luis A. Topete, Associate Planner

Staff Recommendation:

Adopt Resolution No. P2014-15: A RESOLUTION OF THE OROVILLE CITY PLANNING COMMISSION APPROVING CONDITIONAL USE PERMIT NO. 14-05 FOR THE USE OF AN EXISTING TOWER AND EQUIPMENT SHELTER LOCATED AT THE SOUTHEAST CORNER OF ARLIN RHINE MEMORIAL DRIVE AND LINCOLN STREET (APN: 012-031-001) FOR TELECOMMUNICATION PURPOSES

- 8.3 UP 14-06: Elementary School Playground** - The Oroville Planning Commission will conduct a public hearing to consider a use permit for a proposed playground for STREAM Charter School. To supplement the school function, STREAM Charter School has approached the City with a request to install fencing/gates on the property where the school is located (APN: 035-030-050) which will extend onto the adjacent property to the south (APN: 035-030-056) where the playground will be located. The playground area to be fenced will be approximately 45,000 square feet in size (150' x 300'). Park or playgrounds are permitted uses on properties zoned Intensive Commercial (C-2) and Commercial/Light Manufacturing (CLM), subject to a use permit.

Staff Report: Luis A. Topete, Associate Planner

Staff Recommendation:

Adopt Resolution No. P2014-16: A RESOLUTION OF THE OROVILLE CITY PLANNING COMMISSION APPROVING CONDITIONAL USE PERMIT NO. 14-06 FOR THE INSTALLATION OF THE APPROPRIATE FENCING/GATES ON THE PROPERTY IDENTIFIED AS (APN: 035-030-050) WHICH WILL EXTEND ONTO THE ADJECT PROPERTY TO THE SOUTH IDENTIFIED AS (APN: 035-030-056) FOR THE PURPOSE OF PROVIDING A PLAYGROUND FOR THE STUDENTS OF STREAM CHARTER SCHOOL

9. DISCUSSION ITEMS

None

10. DIRECTOR'S REPORT

A verbal report may be given by the Community Development Director.

11. COMMISSION REPORTS

Reports by commission members on information they have received and meetings they have attended which would be of interest to the commission or the public.

12. ADJOURNMENT

Adjourn to Monday, September 22, 2014 at 7:00 P.M. at Oroville City Hall.

Respectfully submitted by,



Donald Rust, Director
Community Development Department

***** NOTICE *****

If requested, this agenda can be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 and the Federal Rules and Regulations adopted in implementation thereof. Persons seeking an alternative format should contact Donald Rust, Director for further information. In addition, a person with a disability who requires a modification or accommodation, including auxiliary aids or services, in order to participate in a public meeting should telephone or otherwise contact Donald Rust, Director as soon as possible and preferably at least 24 hours prior to the meeting. Donald Rust, Director may be reached at 530-538-2433, or at e-mail rustdl@cityoforoville.org, or at the following address: City of Oroville Planning and Development Services Department, 1735 Montgomery Street, Oroville, CA 95965.

***** NOTICE *****

Any person who is dissatisfied with the decisions of this Planning Commission may appeal to the City Council by filing with the Zoning Administrator within fifteen days from the date of the action. A written notice of appeal specifying the grounds and an appeal fee immediately payable to the City of Oroville must be submitted at the time of filing. The Oroville City Council may sustain, modify or overrule this decision.



**CITY OF OROVILLE PLANNING COMMISSION MEETING MINUTES
JULY 28, 2014 – 7:00 PM**

These minutes detail the action which was taken related to each particular agenda item and do not reflect any discussion that may have occurred. For information regarding what was discussed related to a particular item, if anything, you can obtain a copy of the audio recording for this meeting by sending an email to cityclerk@cityoforoville.org or by calling the Clerk's office at 530-538-2535.

The agenda for the July 28, 2014 special meeting of the Oroville Planning Commission was posted on the bulletin board at the front of City Hall on Friday, July 25, 2014, at 1:41 p.m.

1. CALL TO ORDER

The July 28, 2014 special meeting of the Oroville Planning Commission was called to order by Chairperson Robison at 7:00 p.m.

2. ROLL CALL

Present: Commissioners Brand, Britton, Chapman, Jenkins, Vang, Vice Chairperson Durling, Chairperson Robison
Absent: None

Staff Present:

Donald Rust, Director of Community Development
Dawn Nevers, Administrative Assistant
Allen Byers, Assistant Chief of Police
Dean Hill, Jr., Deputy Fire Chief/Fire Marshal

Luis Topete, Associate Planner
Gary Layman, Building Official
Scott Huber, City Attorney

3. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Chairperson Robison.

4. RECOGNITION OF INDIVIDUALS WISHING TO SPEAK ON AGENDA ITEMS - None

Preston L. Morgan, on behalf of The Friends of Oroville – Item No. 8.1
Claudia Knaus – Item No. 8.1
Marty Grant – Item No. 8.1
Ralph Clark – Item No. 8.1
Rosalee Beierle – Item No. 8.1
Donna Heller – Item No. 8.1
Dennis Rootenshore – Item No. 8.1
Dave Anderson – Item No. 8.1

5. **PUBLIC COMMENT** - None

6. **CORRESPONDENCE**

Emails and letters from community members – Item No. 8.1
Letter from Walmart Public Affairs and Government Relations and an informational packet – Item No. 8.1
Cover Letter from William D. Kopper with attachment of comments from Autumn Wind Associates – Item No. 8.1

7. **APPROVAL OF MINUTES**

A motion was made by Vice Chairperson Durling, seconded by Commissioner Britton, to:
Approve the minutes of the June 9, 2014 Special Planning Commission meeting.

The motion was passed by the following vote:

Ayes: Commissioners Brand, Chapman, Vang, Jenkins, Vice Chairperson
Durling, Chairperson Robison
Noes: None
Abstain: Commissioner Jenkins
Absent: None

8. **PUBLIC HEARINGS**

8.1 ZC 13-04 and Amendment to UP 10-05 (Digital Display Signs)

The City of Oroville Planning Commission will conducted a public hearing to consider adopting Resolution No. P2014-12 for the purpose of certifying the Final EIR, including the 2010 Draft Environmental Impacts Report, the 2010 Partially Recirculated Environmental Impact Report, the 2010 Final Environmental Impact Report, and the Second Partially Recirculated Final Environmental Impact Report for the Oroville Walmart Project. The Second Partially Recirculated Final Environmental Impact Report for the Oroville Walmart Project includes an update to the Executive Summary, Air Quality/Greenhouse Gas Emissions, and Transportation sections of the previously released 2010 Draft Environmental Impact Report. The Planning Commission also considered re-adopting CEQA Findings of Fact and a Statement of Overriding Considerations and adopt an updated Mitigation Monitoring and Reporting Program that includes an amended mitigation measure clarifying that the Oroville Walmart Project will be required to pay all transportation-related fees to the City in accordance with the latest adopted fee schedule prior to issuance of building permits. The Planning Commission also considered adopting Resolution No. P2014-14 for the purpose of approving the following entitlements for the Oroville Walmart Project: Use Permit No. 09-02; Use Permit No. 10-06; Use Permit No. 10-07; Use Permit No. 10-08; Development Review No. 09-07; Variance No. 10-01; and Sign Permit No.

10-01. (Staff Report: Luis A. Topete, Associate Planner)

Grant Gruber, of First Carbon Solutions, answered Commission questions and spoke in support of the Walmart project.

Chairperson Robison opened the Public Hearing. Community members and supporters of the new Walmart project, including: Claudia Knaus, Marty Grant, Ralph Clark, Rosalee Beierle, Donna Heller, Dennis rootenshore, and Dave Anderson. All spoke in support of the Walmart project.

Preston L. Morgan, on behalf of the Friends of Oroville, spoke in opposition of the Walmart project.

Hearing no further public comment, Chairperson Robison closed the Public Hearing.

The Commission convened to recess at 7:28 p.m.
The Commission reconvened from recess at 7:34 p.m.

Following discussion, a motion was made by Vice Chairperson Durling, seconded by Commissioner Chapman, to:

Adopt Resolution No. P2014-12: A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OROVILLE, CALIFORNIA, RESCINDING RESOLUTION NO. P2010-19 AND CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT, INCLUDING THE SECOND PARTIALLY RECIRCULATED FINAL ENVIRONMENTAL IMPACT REPORT, RE-ADOPTING CEQA FINDINGS OF FACT AND A STATEMENT OF OVERRIDING CONSIDERATIONS AND ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM FOR THE OROVILLE WALMART PROJECT

Adopt Resolution No. P2014-14: A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OROVILLE APPROVING USE PERMIT 09-02, USE PERMIT 10-06, USE PERMIT 10-07, USE PERMIT 10-08, DEVELOPMENT REVIEW 09-07, VARIANCE 10-01 AND SIGN PERMIT 10-01 FOR THE OROVILLE WALMART PROJECT

The motion was passed by the following vote:

Ayes:	Commissioners, Brand, Vang, Chapman, Britton, Jenkins, Vice Chairperson Durling, Chairperson Robison
Noes:	None
Abstain:	None
Absent:	None

9. REGULAR BUSINESS - None

10. DISCUSSION ITEMS - None

11. DIRECTOR'S REPORT - None

12. CHAIRPERSON/COMMISSIONERS REPORTS - None

13. ADJOURNMENT

The meeting was adjourned at 7:42 p.m. A regular meeting of the Oroville Planning Commission will be held on Monday, August 25, 2014, at 7:00 p.m.

Donald Rust, Secretary

Damon Robison, Chairperson



City of Oroville

Donald Rust
DIRECTOR

COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION STAFF REPORT

August 25, 2014

UP 08-02 Amendment: Child Day Care Center - The City of Oroville Planning Commission will conduct a public hearing to consider amending Use Permit No. 08-02, for the purpose of amending the capacity of children allowed at an existing child day care center located at 1325 Pomona Avenue and separating the age groups per the requirements from the State of California, Department of Social Services, Community Care Licensing Division. The existing permit allows for a maximum of 15 children, and the applicant is requesting to increase the maximum permitted number of children allowed to 29.

APPLICANT: Carla Small
1325 Pomona Avenue
Oroville, CA 95965

LOCATION: 1325 Pomona Avenue
(APN: 012-136-001) (**Attachment A**)

GENERAL PLAN: Medium Low Density Residential

ZONING: Medium Density Residential (R-2)

FLOOD ZONE: ZONE X: Areas determined to be outside the 0.2% annual chance floodplain (500-year floodplain).

ENVIRONMENTAL DETERMINATION:

Class 1 Categorical Exemption – Existing Facilities; CCR, Title 14, §15301

REPORT PREPARED BY:

Luis A. Topete, Associate Planner
Community Development Department

REVIEWED BY:

Donald Rust, Director
Community Development Department

RECOMMENDED ACTIONS:

City staff recommends that the Planning Commission take the following actions:

1. **HOLD** a public hearing and receive testimony on the proposed amendment to Use Permit No. 08-02 for the purpose of amending the capacity of children allowed at the facility and separating the age groups per the requirements from the State of California, Department of Social Services, Community Care Licensing Division; and

2. **ADOPT** the Class 1 Categorical Exemption – Existing Facilities; CCR, Title 14, §15301 (**Attachment B**), as the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA) and Guidelines; and
3. **ADOPT** Resolution No. P2014-13 (**Attachment C**); and
4. **APPROVE** the amended Conditions of Approval for Use Permit No. 18-02 (**Attachment D**).

SUMMARY

On March 10, 2008, the City of Oroville Planning Commission approved Resolution No. P-2008-01, making a finding of Categorical Exemption and conditionally approving Use Permit (UP) No. 08-02 to allow a child day care center for up to 15 children in an existing 1,194 square foot single family residence located at 1325 Pomona Avenue. (APN: 012-136-001). The applicant has requested an amendment to the existing use permit for the purpose of increasing the capacity of children allowed at the facility to 29 and separating the age groups per the requirements from the State of California, Department of Social Services, Community Care Licensing Division.

BACKGROUND

Per the City of Oroville Municipal Code (OMC) Section 26-04.020(C), a child day care center is defined as follows:

Child day care: Any facility that provides non-medical care and supervision of minor children for periods of less than 24 hours; that does not qualify as a small or large family day care home; and that meets the licensing requirements of the State. Any establishment may provide child day care as an accessory use that is not subject to additional permit requirements, provided that the establishment offers child day care only to its customers or employees, and only during the period when the customers or employees are visiting or working in the establishment.

Per the OMC Table 26-30.010-1: Allowable Uses in Residential Districts, a child day care center on a property zoned R-2 is permitted, subject to a use permit. On March 10, 2008, the City of Oroville Planning Commission approved Resolution No. P-2008-01, making a finding of Categorical Exemption and conditionally approving Use Permit (UP) No. 08-02 to allow a child day care center for up to 15 children in an existing 1,194 square foot single family residence located at 1325 Pomona Avenue. UP 08-02 was approved subject to the following conditions of approval:

Prior to Certificate of Occupancy:

1. Provide signed parking agreement with Oroville High School. (**Attachment E**)
2. The structure shall be compliant with current building safety standards before the building can be occupied.
3. Must comply with The State of California Department of Social Services Community Care Licensing Division Child Care, Chico Regional Office

4. The City Council must approve the proposed Development Code Update to the R-2 zone to allow a Child Day Care Center as a conditional use (approved by the City Council on June 15, 2004 under Ordinance No. 1700; became effective on August 15, 2004)

The Certificate of Occupancy was issued on May 20, 2008.

DISCUSSION

The applicant is proposing to amend the existing use permit (UP 08-02) to increase the maximum capacity of children allowed at the facility and to separate the age groups per the requirements from the State of California, Department of Social Services, Community Care Licensing Division. Currently, the applicant is permitted up to a maximum of 15 children. The applicant is requesting to have a maximum allowable capacity of 29 children, which would include up to 13 toddlers (18-30 months old) and 16 infants (0-18 months old). The employee ratio for toddlers is 1 teacher to every 6 toddlers. The employee ratio for the infants is 1 teacher to every 4 infants. Thus, the maximum number of employees the facility will ever require at any given time is 7.

Per the OMC Table 26-13.070-1: Minimum Vehicular Parking Requirements, all "Services" uses listed in Article III of this chapter not directly specified with a minimum vehicle parking requirement per this table shall provide a minimum of 1 vehicular off-street parking space for each 300 square feet of gross floor area. The existing single family home used for the day care center is approximately 1,194 square feet in size. Thus, a minimum of 4 off-street parking spaces are required. The property has 2 off-street vehicular parking spaces available. Additionally, the applicant has provided a written agreement entered into on October 31, 2006 between the Oroville Union High School District and Small World Child Care and Learning Center allowing the applicant to use the parking lot of Harrison Stadium (Pomona Avenue side) during the business hours of 6:00 a.m. to 6:00 p.m., Monday through Friday (**Attachment E**). The applicant's operating hours are between 5:45 a.m. to 5:30 p.m., Monday through Friday. In addition, the applicant has 2 available on-street vehicular parking spaces available directly in front of the property. The most significant change to the property as a result of this proposed amendment includes adding sod, wood chips, and additional gating to the play yard (**Attachment F**).

ISSUES

The project (UP 08-02) shall remain in substantial conformance with the Conditions of Approval, as adopted by the Oroville Planning Commission. Any subsequent minor changes in the project (as determined by the Zoning Administrator) may only occur subject to appropriate City review and approval. Any subsequent substantive changes in the project (as determined by the Zoning Administrator) may only occur subject to discretionary review by the City of Oroville Planning Commission. The Zoning Administrator has determined that the proposed changes in the project may be considered substantive changes to the original approval, and thus discretionary review by the Planning Commission is required.

ENVIRONMENTAL REVIEW

This action has been determined to be exempt from the California Environmental Quality Act (CEQA) review pursuant to Title 14, California Code of Regulations, Section 15301 "Existing Facilities." A Class 1 categorical exemption 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 key consideration is whether the project involves negligible or no expansion of an existing use. This project involves no physical expansion of the approved use, but a request to increase the maximum number of permitted children allowed at the facility and to separate the age groups per the requirements from the State of California, Department of Social Services, Community Care Licensing Division. The current use is a child day care center and the use will remain a child day care center.

FISCAL IMPACT

The total fees associated with the amendment to Use Permit No. 08-02 are as follows:

Item	Price	Tech Fee	Total	Paid
Use Permit Amendment	\$1,000.00	\$60.00	\$1,060.00	Yes
Filing of Notice of Exemption				
Butte County Clerks Filing Fee	\$50.00	-	\$50.00	No

Pursuant to Public Resources Code Section 21089, and as defined by the Fish and Wildlife Code Section 711.4, fees (\$50) are payable by the project applicant to file the Notice of Exemption with Butte County by the City of Oroville – Community Development Department within five working days of approval of this project.

PUBLIC NOTICE

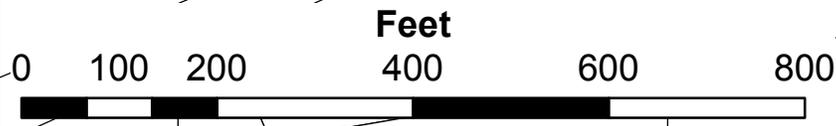
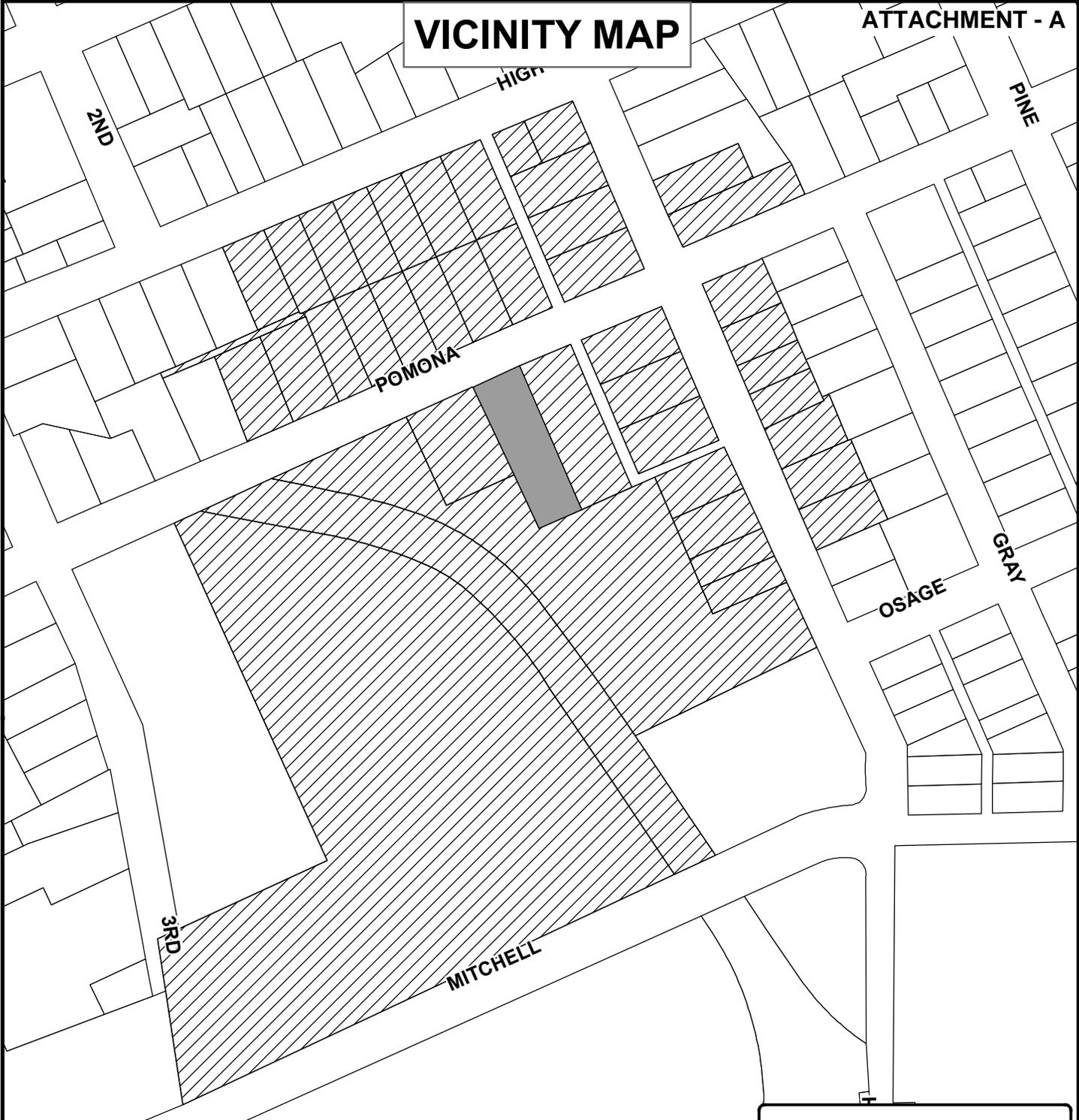
A request for comments was prepared and circulated to the local agencies and surrounding property owners within 300 feet of the project site (**Attachment H**). Additionally, the meeting date, time, and project description were published in the Oroville Mercury Register (**Attachment I**) and posted at City Hall.

ATTACHMENTS

- A – Vicinity Map
- B – Notice of Exemption
- C – Resolution No. P2014-13
- D – Conditions of Approval
- E – Parking Agreement
- F – Site Plan
- G – Floor Plan
- H – Property Owner Notice
- I – Newspaper Notice

VICINITY MAP

ATTACHMENT - A



	Project Site
	Properties Within 300ft

CITY OF OROVILLE PLANNING DIVISION

<i>Applicant:</i> Carla Small		<i>Project Title:</i> Small World Child Care and Learning Center		
<i>Project Location:</i> 1325 Pomona Avenue, Oroville, CA 95965				
<i>Hearing Date:</i> August 25, 2014	<i>Zoning Designation:</i> Medium Density Residential (R-2)	<i>General Plan Land Use Designation:</i> MLDR		
<i>TRAKiT #</i> Project#: PL1407-002	<i>Assessor's Parcel #:</i> 012-136-001		<i>File #:</i> UP 08-02 Amendment	



City of Oroville

COMMUNITY DEVELOPMENT DEPARTMENT

Donald Rust
DIRECTOR

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NOTICE OF EXEMPTION

TO: Butte County Clerk
25 County Center Drive
Oroville CA, 95965

FROM: City of Oroville
1735 Montgomery Street
Oroville, CA, 95965

Project Title: UP 08-02 Amendment: Child Day Care Center

Project Location – Specific: 1325 Pomona Avenue (APN: 012-136-001)

Project Location – City: City of Oroville

Project Location – County: Butte

Description of Nature, Purpose, and beneficiaries of project: On March 10, 2008, the City of Oroville Planning Commission approved Resolution No. P-2008-01, making a finding of Categorical Exemption and conditionally approving Use Permit (UP) No. 08-02 to allow a child day care center for up to 15 children in an existing 1,194 square foot single family residence located at 1325 Pomona Avenue. (APN: 012-136-001). The applicant has requested an amendment to the existing use permit for the purpose of increasing the capacity of children allowed at the facility to 29 and separating the age groups per the requirements from the State of California, Department of Social Services, Community Care Licensing Division.

Name of Public Agency Approving Project: City of Oroville – Community Development Department

Name of Person or Agency Carrying out Project: Carla Small

Exempt Status (Check One):

- Ministerial (Sec. 21080(b)(1); 15268)
- Declared Emergency (Sec. 21080(b)(3); 15269(a))
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c))
- Categorical Exemption: State type & section number: Existing Facilities; Title 14, CCR, §15301
- Statutory Exemption: State code number:

Reasons why project is exempt: This action has been determined to be exempt from the California Environmental Quality Act (CEQA) review pursuant to Title 14, California Code of Regulations, Section 15301 "Existing Facilities." A Class 1 categorical exemption 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 key consideration is whether the project involves negligible or no expansion of an existing use. This project involves no physical expansion of the approved use, but a request to increase the maximum number of permitted children allowed at the facility and to separate the age groups per the requirements from the State of California, Department of Social Services, Community Care Licensing Division. The current use is a child day care center and the use will remain a child day care center.

Lead Agency Contact Person: Luis A. Topete

Telephone: (530) 538-2408

Signature: _____

Date: _____

- Signed by Lead Agency
- Signed by Applicant

RESOLUTION NO. P2014-13

A RESOLUTION OF THE OROVILLE CITY PLANNING COMMISSION AMENDING CONDITIONAL USE PERMIT NO. 08-02 APPROVING AN INCREASE IN THE MAXIMUM NUMBER OF CHILDREN PERMITTED AT THE DAY CARE FACILITY LOCATED AT 1325 POMONA AVENUE TO A MAXIMUM OF TWENTY NINE

WHEREAS, on March 10, 2008, the City of Oroville Planning Commission approved Resolution No. P-2008-01, making a finding of Categorical Exemption and conditionally approving Use Permit (UP) No. 08-02 to allow a child day care center for up to 15 children in an existing 1,194 square foot single family residence located at 1325 Pomona Avenue. (APN: 012-136-001); and

WHEREAS, on July 16, 2014, the City received an application requesting an amendment to the existing use permit (UP 08-02) for the purpose of increasing the capacity of children allowed at the facility to 29 and separating the age groups per the requirements from the State of California, Department of Social Services, Community Care Licensing Division; and

WHEREAS, there is an existing written agreement entered into on October 31, 2006 between the Oroville Union High School District and Small World Child Care and Learning Center allowing the applicant to use the parking lot of Harrison Stadium (Pomona Avenue side) during the business hours of 6:00 a.m. to 6:00 p.m., Monday through Friday; and

WHEREAS, the Zoning Administrator has determined that the proposed amendments are considered substantive and thus require discretionary review by the Planning Commission; and

WHEREAS, at a noticed public hearing, the Planning Commission considered the comments and concerns of public agencies, property owners, and members of the public who are potentially affected by the approval of the requested amendments to Use Permit 08-02 described herein, and also considered City staff's report regarding the project.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION as follows:

1. This action has been determined to be exempt from the California Environmental Quality Act (CEQA) review pursuant to Title 14, California Code of Regulations, Section 15301 "Existing Facilities."
2. In order to promote, protect and preserve the general public health, safety and welfare, the Conditions of Approval are hereby amended as follows:

CONDITIONS OF APPROVAL

Approved project: The Planning Commission hereby conditionally approves an amendment to Use Permit No. 08-02, allowing a day care center to operate at 1325 Pomona Avenue (APN: 012-136-001) with a maximum capacity of 29 children, subject to the following conditions:

1. The applicant is permitted a maximum allowable capacity of 29 children, which includes up to 13 toddlers (18-30 months old) and 16 infants (0-18 months old).
2. Applicant shall have a minimum of one (1) employee to every six (6) toddlers and one (1) employee to every four (4) infants. At maximum capacity, applicant shall have seven (7) employees.
3. The applicant shall be required to submit a new zoning clearance/occupancy permit application prior to exceeding the previously approved maximum number (15) of children allowed at the facility.
4. The applicant shall have a current City of Oroville business license, any license required by the State of California Department of Social Services Community Care Licensing Division, and any other applicable permit/license that may be required as part of their operations.
5. The applicant shall ascertain and comply with the requirements of the State of California Department of Social Services Community Care Licensing Division, and all City, County, State, Federal, and other local agencies as applicable to the proposed project.
6. Pursuant to Public Resources Code Section 21089, and as defined by the Fish and Wildlife Code Section 711.4, fees (\$50) are payable by the project applicant to file the Notice of Exemption with Butte County by the City of Oroville – Community Development Department within five working days of approval of this project by the Planning Commission.
7. Pursuant to Section 26-50.010 (F), the Planning Commission, upon its own motion, may modify or revoke any use permit that has been granted pursuant to the provisions of this section upon finding any of the following, based on substantial evidence:
 - a. Any of the conditions of the permit have not been satisfied within 1 year after it was granted.
 - b. Any of the terms or conditions of the permit have been violated.
 - c. A law, including any requirement in the Municipal Code Chapter 26, has been violated in connection with the permit.
 - d. The permit was obtained by fraud.

8. The applicant shall hold harmless the City, its Council members, Planning Commissioners, officers, agents, employees, and representatives from liability for any award, damages, costs, and/or fees incurred by the City and/or awarded to any plaintiff in an action challenging the validity of this permit or any environmental or other documentation related to approval of this permit. Applicant further agrees to provide a defense for the City in any such action.
9. The project shall remain in substantial conformance with the Conditions of Approval, as adopted by the Oroville Planning Commission. Any subsequent minor changes in the project (as determined by the Zoning Administrator) may only occur subject to appropriate City review and approval. Any subsequent substantive changes in the project (as determined by the Zoning Administrator) may only occur subject to discretionary review by the Oroville Planning Commission.
10. Hours of operations shall be 5:45 a.m. – 5:30 p.m., Monday through Friday
11. The applicant is required to maintain the Parking Agreement with the Oroville Union High School District. If the agreement is terminated, the applicant will be required to enter into a new parking agreement within 30 days of the termination of the existing parking agreement.

--- End of Conditions ---

I HEREBY CERTIFY that the foregoing resolution was duly introduced and passed at a regular meeting of the Planning Commission of the City of Oroville held on the 25th of August 2014, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVE:

DONALD L. RUST, SECRETARY

DAMON ROBISON, CHAIRPERSON

CONDITIONS OF APPROVAL

Approved project: The Planning Commission hereby conditionally approves an amendment to Use Permit No. 08-02, allowing a day care center to operate at 1325 Pomona Avenue (APN: 012-136-001) with a maximum capacity of 29 children, subject to the following conditions:

1. The applicant is permitted a maximum allowable capacity of 29 children, which includes up to 13 toddlers (18-30 months old) and 16 infants (0-18 months old).
2. Applicant shall have a minimum of one (1) employee to every six (6) toddlers and one (1) employee to every four (4) infants. At maximum capacity, applicant shall have seven (7) employees.
3. The applicant shall be required to submit a new zoning clearance/occupancy permit application prior to exceeding the previously approved maximum number (15) of children allowed at the facility.
4. The applicant shall have a current City of Oroville business license, any license required by the State of California Department of Social Services Community Care Licensing Division, and any other applicable permit/license that may be required as part of their operations.
5. The applicant shall ascertain and comply with the requirements of the State of California Department of Social Services Community Care Licensing Division, and all City, County, State, Federal, and other local agencies as applicable to the proposed project.
6. Pursuant to Public Resources Code Section 21089, and as defined by the Fish and Wildlife Code Section 711.4, fees (\$50) are payable by the project applicant to file the Notice of Exemption with Butte County by the City of Oroville – Community Development Department within five working days of approval of this project by the Planning Commission.
7. Pursuant to Section 26-50.010 (F), the Planning Commission, upon its own motion, may modify or revoke any use permit that has been granted pursuant to the provisions of this section upon finding any of the following, based on substantial evidence:
 - a. Any of the conditions of the permit have not been satisfied within 1 year after it was granted.
 - b. Any of the terms or conditions of the permit have been violated.
 - c. A law, including any requirement in the Municipal Code Chapter 26, has been violated in connection with the permit.
 - d. The permit was obtained by fraud.

8. The applicant shall hold harmless the City, its Council members, Planning Commissioners, officers, agents, employees, and representatives from liability for any award, damages, costs, and/or fees incurred by the City and/or awarded to any plaintiff in an action challenging the validity of this permit or any environmental or other documentation related to approval of this permit. Applicant further agrees to provide a defense for the City in any such action.
9. The project shall remain in substantial conformance with the Conditions of Approval, as adopted by the Oroville Planning Commission. Any subsequent minor changes in the project (as determined by the Zoning Administrator) may only occur subject to appropriate City review and approval. Any subsequent substantive changes in the project (as determined by the Zoning Administrator) may only occur subject to discretionary review by the Oroville Planning Commission.
10. Hours of operations shall be 5:45 a.m. – 5:30 p.m., Monday through Friday
11. The applicant is required to maintain the Parking Agreement with the Oroville Union High School District. If the agreement is terminated, the applicant will be required to enter into a new parking agreement within 30 days of the termination of the existing parking agreement.

October 30, 2006

To: Bill Tronson
Oroville Union High School District
2211 Washington Avenue
Oroville, Ca 95966

From:
Carla (Nikki) Small
Small World Child Care and Learning Center
1295 Pomona Avenue
Oroville, Ca 95965

Mr. Tronson,

We are writing to ask permission from O.U.H.S.D. to allow the employees of Small World to park in the parking lot of Harrison Stadium during the hours of 6:00 a.m. to 6: p.m. Monday through Friday.

We understand that the parking lot is not paved and will not be paved for our use. We realize that we are parking at our own risk and do not hold O.U.H.S.D. responsible for any damage that may be incurred on our vehicles due to flying rocks or vandalism.

Thank you very much.

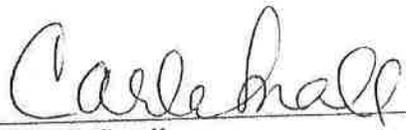


Carla Small
Director/Owner
Small World Child Care
and Learning Center

This agreement is made this 31st day of October 2006.

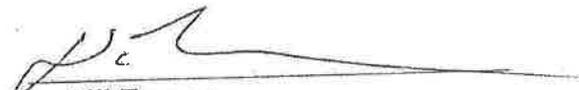
Oroville Union High School District hereby gives permission for the employees of Small World Child Care and Learning Center to use the parking lot of Harrison Stadium (Pomona Avenue side) during the business hours of 6:00 a.m. to 6:00 p.m. Monday through Friday.

Small World acknowledges that they are parking at their own risk and will not hold O.U.H.S.D. responsible if there is damage done to the vehicles due to flying rocks or vandalism. Small World employees also agree to do no damage to the parking area, surrounding trees or fence.



Carla Small

10/31/06
Date



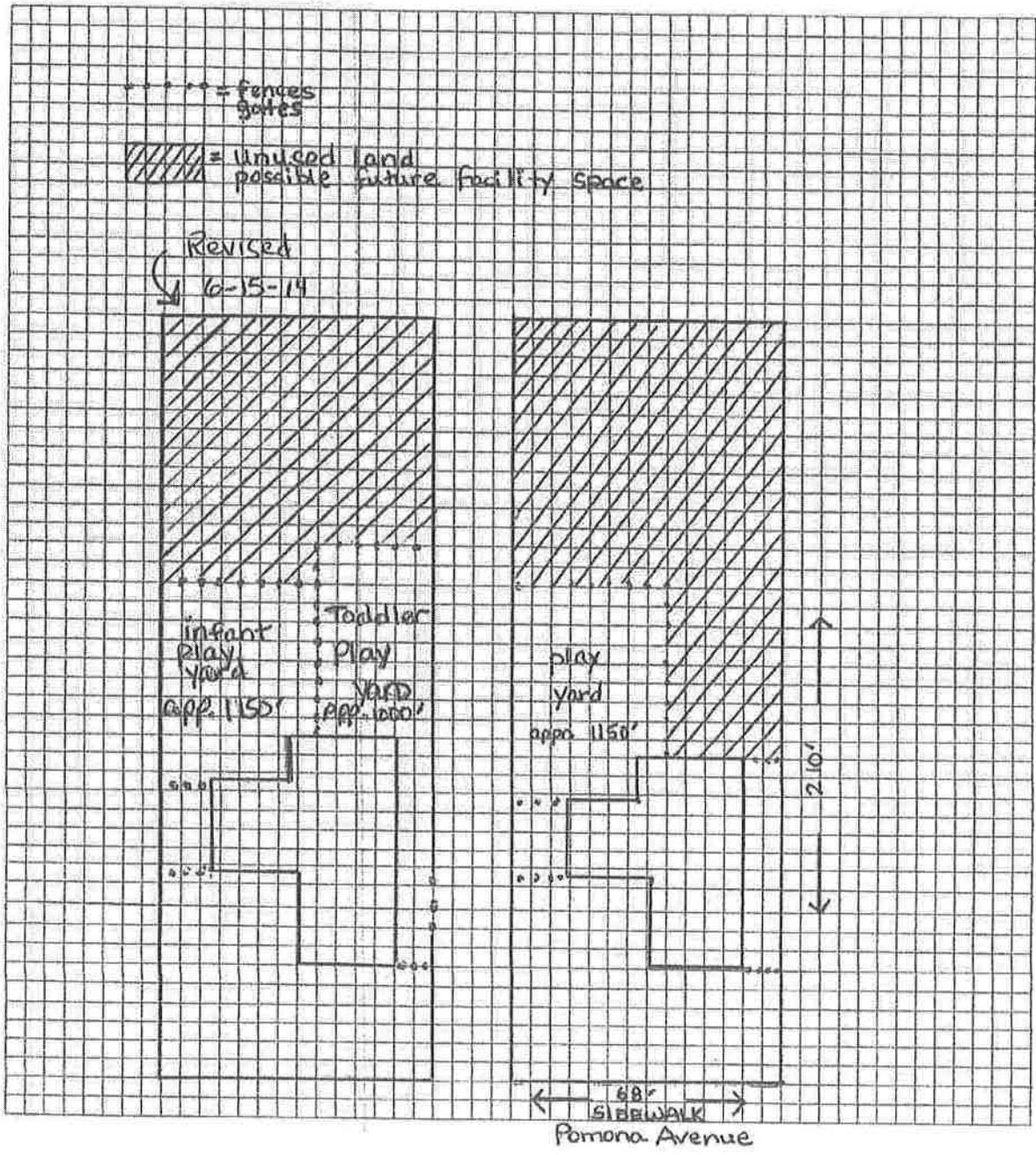
Bill Tronson

10-31-06
Date

FACILITY SKETCH (Yard)

The yard sketch should show all buildings in the yard including the home (with no detail), garage and storage building. Include walks, driveways, play area, fences, gates. Show any potential hazardous area such as pools, garbage storage, animal pens, etc. Show the overall yard size. Try to keep the sizes close to scale. Use the space below.

FACILITY NAME: Small World Infant Center ADDRESS: 1325 Pomona Ave. Orville
Increase Capacity 6-15-14



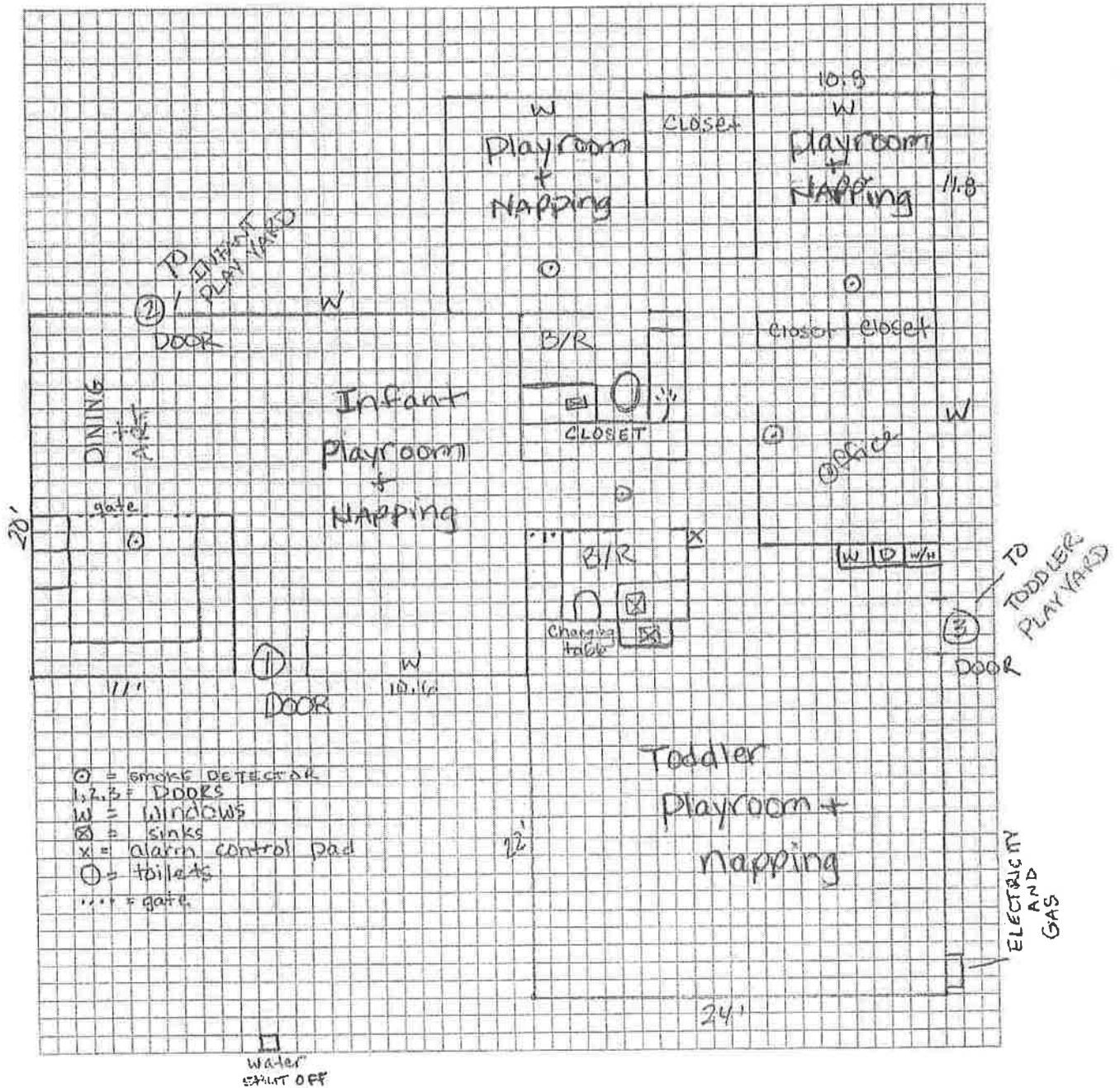
FACILITY SKETCH (Floor Plan)

0-15-14

Applicants are required to provide a sketch of the floor plan of the home or facility and outside yard. The floor sketch must label rooms such as the kitchen, bath, living room, etc. Circle the names of the rooms that will be used by staff/residents/clients/children. Door and window exits from the rooms must be shown in case of an emergency (see Emergency Disaster Plan). Show room sizes (e.g. 8.5 x 12). Keep close to scale. Use the space below. See back for yard sketch.

FACILITY NAME: Small World Infant Center ADDRESS: 1325 Pomona Avenue Oroville, Ca 95965
 045405193

Change of capacity





City of Oroville

COMMUNITY DEVELOPMENT DEPARTMENT

Donald Rust
DIRECTOR

1735 Montgomery Street
Oroville, CA 95965-4897
(530) 538-2430 FAX (530) 538-2426
www.cityoforoville.org

ATTENTION: PROPERTY OWNERS AND INTERESTED PARTIES

The project listed below has been filed with the Community Development Department. You are invited to comment because your property is located near the proposed project. Please comment in the space below. You may attach additional pages as necessary.

Please submit your comments to this department no later than **Monday, August 25, 2014** to be sure that they are included in the final project action. However, comments will be taken up to the time of the project decision. If you have no comment, a reply is not necessary.

**ASSESSOR
PARCEL
NUMBER:** 012-136-001

**FILE
NUMBER:** UP 08-02 (Amendment)

APPLICANT: Carla Small

ZONING: Medium Density Residential
(R-2)

LOCATION: 1325 Pomona Avenue

**CONTACT
PERSON:** Luis A. Topete,
Associate Planner
530 538-2408
530 538-2426 Fax
topetela@cityoforoville.org

VICINITY MAP



PROJECT DESCRIPTION:

UP 08-02 Amendment: Child Day Care Center - The City of Oroville Planning Commission will conduct a public hearing to consider amending Use Permit No. 18-02, for the purpose of amending the capacity of children allowed at the facility and separating the age groups per the requirements from the State of California, Department of Social Services, Community Care Licensing Division. The existing permit allows for a maximum of 15 children, and the applicant is requesting to increase the maximum permitted number of children allowed to 29.

NOTICE IS HEREBY GIVEN that the City of Oroville Planning Commission will hold a public hearing on the project described above. Said hearing will be held at **7:00 p.m. on Monday, August 25, 2014** in the City Council Chambers, 1735 Montgomery Street, Oroville, CA. All interested persons are invited to attend or submit comments in writing.



City of Oroville

Donald Rust
DIRECTOR

COMMUNITY DEVELOPMENT DEPARTMENT

1735 Montgomery Street
Oroville, CA 95965-4897
(530) 538-2430 FAX (530) 538-2426
www.cityoforoville.org

NOTICE OF PUBLIC HEARING BEFORE THE CITY OF OROVILLE PLANNING COMMISSION

NOTICE IS HEREBY GIVEN that the City of Oroville Planning Commission will hold a public hearing on the projects described below. Said hearing will be held at **7:00 p.m. on Monday, August 25, 2014** in the City Council Chambers, 1735 Montgomery Street, Oroville, CA. All interested persons are invited to attend or submit comments in writing.

1. **UP 08-02 Amendment: Child Day Care Center** – The City of Oroville Planning Commission will conduct a public hearing to consider amending Use Permit No. 18-02 for the purpose of amending the capacity of children allowed at an existing child day care center located at 1325 Pomona Avenue and separating the age groups per the requirements from the State of California, Department of Social Services, Community Care Licensing Division. The existing permit allows for a maximum of 15 children, and the applicant is requesting to increase the maximum permitted number of children allowed to 29.
2. **UP 14-05: Levee Radio Tower** – The City of Oroville Planning Commission will conduct a public hearing to consider Use Permit No. 14-05 for the purpose of placing telecommunications equipment on the existing City owned radio tower located at the southeast corner of Arlin Rhine Memorial Drive and Lincoln Street at the northern end of Historic Downtown Oroville (APN: 012-031-001). The tower will be used for public safety as a secondary/backup radio repeating site.
3. **UP 14-06: Elementary School Playground** – The City of Oroville Planning Commission will conduct a public hearing to consider Use Permit No. 14-06 for a proposed playground for STREAM Charter School. To supplement the school function, STREAM Charter School has approached the City with a request to install fencing/gates on the property where the school is located (APN: 035-030-050) which will extend onto the adjacent property to the south (APN: 035-030-056) where the playground will be located. The playground area to be fenced will be approximately 45,000 square feet in size (150' x 300'). Park or playgrounds are permitted uses on properties zoned Intensive Commercial (C-2) and Commercial/Light Manufacturing (CLM), subject to a use permit.

Additional information regarding the projects described in this notice can be obtained from the Oroville Community Development Department at 1735 Montgomery Street, Oroville, CA. Anyone desiring to submit information, opinions or objections is requested to submit them in writing to the Community Development Department prior to the hearing. In accordance with Government Code Section 65009, if you challenge an action on these projects in court, you may be limited to raising only those issues you or someone else raised at the public meeting described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public meetings.

Posted/Published: **Friday, August 15, 2014**



City of Oroville

Donald Rust
DIRECTOR

COMMUNITY DEVELOPMENT DEPARTMENT

1735 Montgomery Street
Oroville, CA 95965-4897
(530) 538-2430 FAX (530) 538-2426
www.cityoforoville.org

PLANNING COMMISSION STAFF REPORT

August 25, 2014

UP 14-05 (Levee Radio Tower). The City of Oroville Planning Commission will conduct a public hearing to consider Use Permit No.14-05 for the purpose of placing telecommunications equipment on the existing City owned radio tower located at the southeast corner of Arlin Rhine Memorial Drive and Lincoln Street at the northern end of Historic Downtown Oroville (APN: 012-031-001). In addition, the tower will be used for public safety as a secondary/backup radio repeating site and to provide future Wi-Fi signal throughout the downtown area.

APPLICANTS: City of Oroville
1735 Montgomery Street
Oroville, CA 95965

LOCATION: APN: 012-031-001
(Attachment A)

GENERAL PLAN: Park
ZONING: Open Space (OS)
FLOOD ZONE:
ZONE X: Areas determined to be outside the 0.2% annual chance floodplain.

ENVIRONMENTAL DETERMINATION: Class 1 Categorical Exemption – Existing Facilities; CCR, Title 14, §15301

REPORT PREPARED BY:

REVIEWED BY:

Luis A. Topete, Associate Planner
Community Development Department

Donald Rust, Director
Community Development Department

RECOMMENDED ACTIONS:

City staff recommends that the Planning Commission take the following actions:

1. **HOLD** a public hearing and receive testimony on the proposed use permit request associated with the use of the existing tower and equipment shelter located at the southeast corner of Arlin Rhine Memorial Drive and Lincoln Street (APN: 013-270-044) for telecommunication purposes; and

1. **ADOPT** the Class 1 Categorical Exemption – Existing Facilities; CCR, Title 14, §15301 (**Attachment B**), as the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA) and Guidelines; and
2. **ADOPT** the recommended Findings for UP 14-05 (**Attachment C**); and
3. **APPROVE** the Conditions of Approval for UP 14-05 (**Attachment D**); and
4. **ADOPT** Resolution No. P2014-15 (**Attachment E**); and

SUMMARY

The City is proposing to install telecommunications equipment on the existing radio tower located at the southeast corner of Arlin Rhine Memorial Drive and Lincoln Street at the northern end of Historic Downtown Oroville. Although the tower has historically been used as a radio tower, there is no existing use permit on record. The tower will be used for public safety as a secondary/backup radio repeating site and to provide future Wi-Fi signal throughout the downtown area. A radio repeater is a combination of a radio receiver and a radio transmitter that receives a weak or low-level signal and retransmits it at a higher level or power so that the signal can cover longer distances. There will be two (2) antennas on the tower and two (2) radio repeaters set inside the existing equipment shelter. There will be two (2) frequencies utilized on the tower, one for the Police Department and the other for the Fire Department. The future Wi-Fi equipment will be installed as a separate installation by the City or City consultant.

BACKGROUND

The radio tower was installed in 1947 by KDAN radio, with no existing use permit on file for the tower. Per the Oroville Municipal Code (OMC) Section 26-16.170, a use permit is required for any wireless communication facility that is subject to the requirements of this section and that does not qualify for an administrative permit. As a result, the existing land use is considered to be legally non-conforming, meaning that the use lawfully occupied the land at the time the use was established, but that no longer conforms with the use regulations of the district in which it is located. The current Zoning Code requires all wireless telecommunications facilities to obtain a use permit, unless they otherwise qualify for an administrative permit. To ensure compliance with City Code, this use permit request has been submitted.

DISCUSSION

On February 22, 2012, the Middle Class Tax Relief and Job Creation Act of 2012 (Tax Act) became law. Section 6409(a) of the Tax Act provides that a state or local government “may not deny, and shall approve” any request for a collocation, removal, or replacement of transmission equipment on an existing wireless tower or base station, provided this action does not substantially change the physical dimensions of the tower or base station. Under Section I.C of the *Nationwide Collocation Agreement*, a “substantial increase in the size of the tower” occurs if:

- 1) The mounting of the proposed antenna on the tower would increase the existing height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to avoid interference with existing antennas; or
- 2) The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; or
- 3) The mounting of the proposed antenna would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable; or
- 4) The mounting of the proposed antenna would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.

None of the criteria listed above applies. However, because the tower does not currently have an existing use permit, it does not qualify for an administrative permit under the OMC Section 26-16.170(F)(1)(e) which allows colocations of new wireless communications within a colocation facility, provided that the colocation facility was previously approved through a use permit or other discretionary permit.

ISSUES

Per the OMC Section 26-16.170(F)(2), in order for the Planning Commission to approve a proposed wireless communication facility under a use permit, the Commission shall make the findings required for a use permit, as well as the following additional findings:

- a. No alternative site or design is available that would allow for issuance of an administrative permit for the facility.
- b. The facility either does not require a Radiofrequency (RF) Environmental Evaluation Report or the RF Environmental Evaluation Report for the facility shows that the cumulative non-ionizing electromagnetic radiation (NIER) emitted by the facility and any nearby facilities will be consistent with FCC regulations. (Ord. 1769)
- c. The facility will not have significant visual impacts.

All required findings are specified in **Attachment C**.

ENVIRONMENTAL REVIEW

This action has been determined to be categorically exempt from the California Environmental Quality Act (CEQA) review pursuant to the California Code of Regulations, Title 14, Section 15301, "Existing Facilities." Class 1 categorical exemptions 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 key consideration is whether the project involves negligible or no expansion of an existing use. The project involves use of the existing structures (tower and equipment shelter) which will be utilized for their original and continued use of telecommunications. Therefore, this action is exempt from CEQA and no further environmental review is required.

FISCAL IMPACT

Pursuant to Public Resources Code Section 21089, and as defined by the Fish and Wildlife Code Section 711.4, fees (\$50) are payable by the project applicant (City of Oroville) to file the Notice of Exemption with Butte County by the City of Oroville – Community Development Department, within five working days of approval of this project.

PUBLIC NOTICE

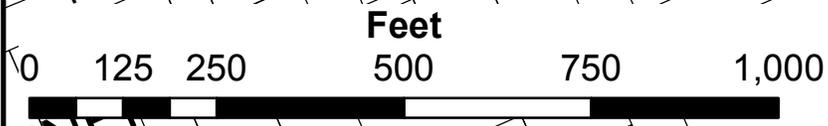
A request for comments was prepared and circulated to the local agencies and surrounding property owners within 300 feet of the project site (**Attachment F**). Additionally, the meeting date, time, and project description were published in the Oroville Mercury Register (**Attachment G**) and posted at City Hall.

ATTACHMENTS

- A – Vicinity Map
- B – Notice of Exemption
- C – Findings
- D – Conditions of Approval
- E – Resolution No. P2014-15
- F – Property Owner Notice
- G – Newspaper Notice

VICINITY MAP

ATTACHMENT - A



-  Project Site
-  Properties Within 300ft

CITY OF OROVILLE PLANNING DIVISION

<i>Applicant:</i> City of Oroville		<i>Project Title:</i> Levee Radio Tower	
<i>Project Location:</i> Arlin Rhine Memorial Drive between Lincoln & Huntoon Street			
<i>Hearing Date:</i> August 25, 2014	<i>Zoning Designation:</i> Open Space	<i>General Plan Land Use Designation:</i> Park	
<i>TRAKiT #</i> Project#: PL1407-009		<i>Assessor's Parcel #:</i> 012-031-001	



N

File #: UP 14-05



City of Oroville

COMMUNITY DEVELOPMENT DEPARTMENT

Donald Rust
DIRECTOR

1735 Montgomery Street
Oroville, CA 95965-4897
(530) 538-2430 FAX (530) 538-2426
www.cityoforoville.org

NOTICE OF EXEMPTION

TO: Butte County Clerk
25 County Center Drive
Oroville CA, 95965

FROM: City of Oroville
1735 Montgomery Street
Oroville, CA, 95965

Project Title: UP 14-05: Levee Radio Tower

Project Location – Specific: Southeast corner of Arlin Rhine Memorial Drive and Lincoln Street at the northern end of Historic Downtown Oroville (APN: 012-031-001)

Project Location – City: City of Oroville

Project Location – County: Butte

Description of Nature, Purpose, and beneficiaries of project: The City is proposing to install telecommunications equipment on the existing radio tower located at the southeast corner of Arlin Rhine Memorial Drive and Lincoln Street at the northern end of Historic Downtown Oroville. Although the tower has historically been used as a radio tower, there is no existing use permit on record. The tower will be used for public safety as a secondary/backup radio repeating site. There will be two (2) antennas on the tower and two (2) radio repeaters set inside the existing equipment shelter. There will be two (2) frequencies utilized on the tower, one for the Police Department and the other for the Fire Department. The future Wi-Fi equipment will be installed as a separate installation by the City or City consultant.

Public Agency Approving Project: City of Oroville – Community Development Department

Person or Agency Carrying Out Project: City of Oroville

Exempt Status (Check One):

- Ministerial (Sec. 21080(b)(1); 15268)
- Declared Emergency (Sec. 21080(b)(3); 15269(a))
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c))
- Categorical Exemption: State type & section number: Existing Facilities; CCR, Title 14, §15301.
- Statutory Exemption: State code number:

Reasons why project is exempt: This action has been determined to be categorically exempt from the California Environmental Quality Act (CEQA) review pursuant to the California Code of Regulations, Title 14, Section 15301, "Existing Facilities." Class 1 categorical exemptions 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 key consideration is whether the project involves negligible or no expansion of an existing use. The project involves use of the existing structures (tower and equipment shelter) which will be utilized for their original and continued use of telecommunications. Therefore, this action is exempt from CEQA and no further environmental review is required.

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a notice of exemption been filed by the public agency approving the project? Yes No

Lead Agency Contact Person: Luis A. Topete

Telephone: (530) 538-2408

Signature: _____

Date: _____

- Signed by Lead Agency
- Signed by Applicant

FINDINGS

Use Permit 14-05: Levee Radio Tower

A. INTRODUCTION

The City of Oroville is proposing to install telecommunications equipment on the existing radio tower located at the southeast corner of Arlin Rhine Memorial Drive and Lincoln Street at the northern end of Historic Downtown Oroville (APN: 013-270-044). Although the tower has historically been used as a radio tower, there is no existing use permit on record. The tower will be used for public safety (Police and Fire) as a secondary/backup radio repeating site.

B. CATEGORICAL EXEMPTION

This action has been determined to be categorically exempt from the California Environmental Quality Act (CEQA) review pursuant to the California Code of Regulations, Title 14, Section 15301, "Existing Facilities." Class 1 categorical exemptions 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 key consideration is whether the project involves negligible or no expansion of an existing use. The project involves use of the existing structures (tower and equipment shelter) which will be utilized for their original and continued use of telecommunications. Therefore, this action is exempt from CEQA and no further environmental review is required.

C. USE PERMIT FINDINGS

Per the Oroville Municipal Code (OMC) Section 26-50.010(E)(4), the Planning Commission may grant a use permit only upon making all of the following findings, based on substantial evidence:

- a. The granting of the permit will not be incompatible with or detrimental to the general health, safety or public welfare of the surrounding area or of the City as a whole.

This use permit is for the purpose of using the existing tower and equipment shelter for wireless telecommunication purposes. The site will be operated in full compliance with all Federal Communications Commission (FCC) requirements and other local, regional, state, and federal requirements as may be applicable. Therefore, the granting of the permit will not be incompatible with or detrimental to the general health, safety or public welfare of the surrounding area or of the City as a whole.

- b. The proposed use follows sound principles of land use by having a suitable location relative to the community as a whole, as well as to transportation facilities, public services and other land uses in the vicinity.

The project site has a zoning designation of Open Space (OS). The City of Oroville Zoning Code §26-16.170 was adopted for the purpose of setting standards to regulate the placement and design of wireless communication facilities. These standards are intended to protect and promote public health, safety, community welfare and the unique visual character of the City of Oroville by encouraging the orderly development of wireless communication infrastructure in suitable locations relative to the community as a whole. The project has been reviewed for consistency with the Zoning Code and will be required to comply with all local, state and federal laws that may apply. Additionally, the use permit will be for the use of an existing tower with an existing equipment shelter for telecommunication purposes, which was the initial and has remained the historical use of the site. Thus, the proposed use is in a suitable location as it is using existing infrastructure and avoiding the construction of new wireless telecommunication facilities and the potential impacts associated with new construction.

- c. Public utilities and facilities, including streets and highways, water and sanitation, are adequate to serve the proposed use or will be made adequate prior to the establishment of the proposed use.

The project involves the proposed use of an existing unoccupied wireless telecommunication facility. As a result of the unoccupied use, the project does not require domestic water or wastewater treatment/connection or use of solid waste facilities. The project will not result in any land disturbance or effect of storm water drainage, as no new construction is associated with this use permit request. Additionally, no sanitary sewer, potable water or trash disposal is required, and the facility is already being adequately served by an electric utility that will remain adequate to serve the proposed use. As this site is and will continue to be an unoccupied wireless communication facility, its proximity to transportation facilities is inconsequential. This project will have no impact on any utilities or service systems.

- d. The location, size, design and operating characteristics of the proposed use will be harmonious and compatible with the surrounding neighborhood and will not adversely affect abutting properties.

As previously mentioned, there will be no change in the existing tower or its associated equipment shelter other than the addition of telecommunication equipment onto the tower and within the equipment shelter. All dimensions, including height and floor area of the existing infrastructure will remain unchanged. Additionally, the project has been reviewed to ensure compliance with all development standards for a wireless communication facility as found in

section 26-16.170 of the City Code, and the proposed site will be an unoccupied facility, thus creating no additional traffic or parking.

Pursuant to section 26-50.010(F) of the zoning code the Planning Commission may take action to revoke a use permit if any of the following occur: any of the conditions of approval have not been satisfied within 1 year after it was granted; any of the terms or conditions of the permit have been violated; a law, including any requirement in the zoning code, has been violated in connection with the permit; and finally, if the permit was obtained by fraud.

- e. The subject site is physically suitable for the type and intensity of land use being proposed.

See items c) and d) above.

- f. The size, intensity, and location of the proposed use will provide services that are necessary or desirable for the neighborhood and community as a whole.

The proposed use of the existing wireless telecommunications facility will be for public safety purposes. The new equipment will utilize two frequencies, one for the Police Department and the other for the Fire Department. The site will be used as a secondary/backup radio repeating site for both departments. Public safety is an important service that directly affects the general health, safety and public welfare of a neighborhood or community. As a result, the proposed use of the site is necessary and desirable for the City and greater Oroville area as a whole.

- g. The permit complies with all applicable laws and regulations, including the requirements of the General Plan, Zoning Code, and of the City's Municipal Code.

This proposed use will be required to comply with all applicable laws and regulations in the City of Oroville and any other applicable federal, state, or local agency as applicable.

Per the OMC Section 26-16.170(F)(2), in order for the Planning Commission to approve a proposed wireless communication facility under a use permit, the Commission shall make the findings required for a use permit, as well as the following additional findings:

- h. No alternative site or design is available that would allow for issuance of an administrative permit for the facility.

Since the proposed use involves the use of existing infrastructure rather than the construction of a new wireless telecommunications facility, there is no need for an analysis of alternative sites or designs. Per City Code City Code section 26-16.170(F)(1)(e), colocation of new wireless communication facilities within a

colocation facility are required to obtain an administrative permit, provided that the colocation facility was previously approved through a use permit or other discretionary permit. Because this existing telecommunications facility does not have an existing use permit or other discretionary approval, it does not qualify for an administrative permit for colocation.

- i. The facility either does not require a Radiofrequency (RF) Environmental Evaluation Report or the RF Environmental Evaluation Report for the facility shows that the cumulative non-ionizing electromagnetic radiation (NIER) emitted by the facility and any nearby facilities will be consistent with FCC regulations.

Per the City's Zoning Code section 26-16.170(G), wireless communication facilities meeting any of the following criteria require an RF Environmental Evaluation Report before they may be permitted:

- a. *Facilities described in Table 1 of Paragraph 1.1307 of the FCC's Report and Order in ET Docket No. 93-62, or any subsequent FCC document that supersedes it.*
- b. *Facilities proposed to be installed within 50 feet of an existing wireless communication facility.*
- c. *Facilities with 1 or more antenna that will be installed less than 10 feet above any area that is accessible to untrained workers or the public.*
- d. *Facilities proposed in any residential zoning district.*

Because the project does not meet any of the above criteria, an RF Environmental Evaluation Report is not required.

- j. The facility will not have significant visual impacts.

The existing telecommunications facility, installed in 1947, is located on the levee at the southeast corner of Arlin Rhine Memorial Drive and Lincoln Street at the northern end of Historic Downtown Oroville. The tower has been in its location for approximately 67 years, and the proposed project will not change the design, height, or area dimensions of the existing facility. As the project involves the use of the existing infrastructure, the proposed project will not create any significant visual impacts as there is no new construction taking place that can create new visual impacts. Additionally, the placement of the equipment required for public safety purposes is minimal in comparison to the equipment that has historically been located on the existing tower structure.

CONDITIONS OF APPROVAL
USE PERMIT 14-05: Levee Radio Tower

Approved project: The City of Oroville Community Development Department has received a use permit request for the purpose of placing telecommunications equipment on the City owned radio tower located at the southeast corner of Arlin Rhine Memorial Drive and Lincoln Street at the northern end of Historic Downtown Oroville (APN: 012-031-001). There will be no increase in the height or area of the existing tower or equipment shelter.

The Planning Commission hereby approves UP 14-05, subject to the following:

1. The applicant shall ascertain and comply with the requirements of all Federal, State, County and Local agencies as applicable to the proposed use and the project site.
2. The project shall remain in substantial conformance with the Conditions of Approval, as adopted by the Oroville Planning Commission. Any subsequent minor changes in the project (as determined by the Zoning Administrator) may only occur subject to appropriate City review and approval. Any subsequent substantive changes in the project (as determined by the Zoning Administrator) may only occur subject to discretionary review by the Oroville Planning Commission.
3. Wireless communication facilities shall comply with all applicable local, State and federal requirements, including but not limited to the General Plan, any applicable specific plan, the requirements of the Zoning Code, and all applicable Federal Communications Commission (FCC) rules, regulations and standards. If the facility requires an FCC license, the applicant shall provide a copy of the FCC license issued for the operation of this facility.
4. No wireless communication facility shall be sited or operated in such a manner that it poses, either by itself or in combination with other such facilities, a potential threat to public health. To that end, no wireless communication facility or combination of facilities shall produce at any time power densities that exceed the current FCC adopted standards for human exposure to RF fields.
5. To the extent necessary to ensure compliance with adopted FCC regulations regarding human exposure to RF emissions, or upon the recommendation of the Zoning Administrator, the operator shall modify the placement of the facilities; install fencing, barriers or other appropriate structures or devices to restrict access to the facilities; install signage, including the RF radiation hazard warning symbol identified in American National Standards Institute (ANSI) C95.2-1982 and multilingual warnings if deemed necessary by the Zoning Administrator to notify persons that the facility could cause exposure to RF emissions.

6. A permit granted under these regulations shall become invalid if an operator of a wireless communication facility ceases to operate the facility under the terms of applicable regulations or under the specific Conditions of Approval for the facility or any lease agreement related to the tower approved by the City Council.
7. If the use of equipment associated with the wireless communication facility is discontinued, the applicant shall remove all unused equipment associated with the wireless communication facility.
8. Permits for wireless communication facilities issued under these regulations shall generally be valid for 10 years, unless this term is changed through the permitting process.
9. All permits for wireless telecommunication facilities, regardless of the method by which they were originally issued, may be extended administratively by the Zoning Administrator upon verification of the permit-holder's continued compliance with the findings and conditions of approval under which the application was originally approved.
10. As part of the permit renewal process, the Zoning Administrator may require submittal of a certification by an NIER professional that the facility is being operated in accordance with all applicable FCC standards for RF emissions.
11. Applicable construction plans, calculations, specifications, applications, forms, etc., shall be submitted to the Building Division for review if required. The applicant shall submit stamped engineered plans, if required, to the Building Division for approval prior to commencing work activities.
12. All wireless communication facilities shall be screened to the maximum extent practicable.
13. All cabling between equipment and antennas shall be routed through the interior of a building wherever possible. Cable routed on a building exterior shall be encased in a tray or other architectural feature that has similar color and ornamentation to the building exterior. Cable routed on the ground shall be buried. All cabling shall be installed in accordance with the Electrical Code.
14. All structures and grounds of the property shall be properly maintained, secured, kept in good repair and kept clean.
15. Pursuant to Public Resources Code Section 21089, and as defined by the Fish and Wildlife Code Section 711.4, fees (\$50) are payable by the project applicant to file the Notice of Exemption with Butte County by the City of Oroville – Community Development Department, within five working days of approval of this project.

16. All private facilities, improvements, infrastructure, systems, equipment, common areas, etc. shall be operated and maintained in such a manner, and with such frequency, to ensure the public health, safety, and general welfare. Any on-site signs shall be maintained in a clean readable condition at all times and all graffiti and vandalism shall be removed and repaired on a regular basis.
17. Pursuant to City Code Section 26-50.010 (F), the use permit may be evaluated for revocation if the use permit has not been used within one year of the granting of this permit or if any of the terms or conditions of the permit have been violated.

--- End of Conditions ---

RESOLUTION NO. P2014-15

A RESOLUTION OF THE OROVILLE CITY PLANNING COMMISSION APPROVING CONDITIONAL USE PERMIT NO. 14-05 FOR THE USE OF AN EXISTING TOWER AND EQUIPMENT SHELTER LOCATED AT THE SOUTHEAST CORNER OF ARLIN RHINE MEMORIAL DRIVE AND LINCOLN STREET (APN: 012-031-001) FOR TELECOMMUNICATION PURPOSES

WHEREAS, the City is proposing to install telecommunications equipment on the existing radio tower located at the southeast corner of Arlin Rhine Memorial Drive and Lincoln Street at the northern end of Historic Downtown Oroville (APN: 012-031-001) for use as a secondary/backup radio repeating site for Police and Fire; and

WHEREAS, although the tower has historically been used as a radio tower, there is no existing use permit on record; and

WHEREAS, per the Oroville Municipal Code (OMC) Section 26-16.170, a use permit is required for any wireless communication facility that is subject to the requirements of this section and that does not qualify for an administrative permit; and

WHEREAS, to ensure compliance with the OMC, this use permit request has been submitted; and

WHEREAS, per the OMC Section 26-50.010(E)(4), the Planning Commission may grant a use permit only upon making all of the following findings, based on substantial evidence:

- a. The granting of the permit will not be incompatible with or detrimental to the general health, safety or public welfare of the surrounding area or of the City as a whole.

This use permit is for the purpose of using the existing tower and equipment shelter for wireless telecommunication purposes. The site will be operated in full compliance with all Federal Communications Commission (FCC) requirements and other local, regional, state, and federal requirements as may be applicable. Therefore, the granting of the permit will not be incompatible with or detrimental to the general health, safety or public welfare of the surrounding area or of the City as a whole.

- b. The proposed use follows sound principles of land use by having a suitable location relative to the community as a whole, as well as to transportation facilities, public services and other land uses in the vicinity.

The project site has a zoning designation of Open Space (OS). The City of Oroville Zoning Code §26-16.170 was adopted for the purpose of setting standards to regulate the placement and design of wireless communication

facilities. These standards are intended to protect and promote public health, safety, community welfare and the unique visual character of the City of Oroville by encouraging the orderly development of wireless communication infrastructure in suitable locations relative to the community as a whole. The project has been reviewed for consistency with the Zoning Code and will be required to comply with all local, state and federal laws that may apply. Additionally, the use permit will be for the use of an existing tower with an existing equipment shelter for telecommunication purposes, which was the initial and has remained the historical use of the site. Thus, the proposed use is in a suitable location as it is using existing infrastructure and avoiding the construction of new wireless telecommunication facilities and the potential impacts associated with new construction.

- c. Public utilities and facilities, including streets and highways, water and sanitation, are adequate to serve the proposed use or will be made adequate prior to the establishment of the proposed use.

The project involves the proposed use of an existing unoccupied wireless telecommunication facility. As a result of the unoccupied use, the project does not require domestic water or wastewater treatment/connection or use of solid waste facilities. The project will not result in any land disturbance or effect of storm water drainage, as no new construction is associated with this use permit request. Additionally, no sanitary sewer, potable water or trash disposal is required, and the facility is already being adequately served by an electric utility that will remain adequate to serve the proposed use. As this site is and will continue to be an unoccupied wireless communication facility, its proximity to transportation facilities is inconsequential. This project will have no impact on any utilities or service systems.

- d. The location, size, design and operating characteristics of the proposed use will be harmonious and compatible with the surrounding neighborhood and will not adversely affect abutting properties.

As previously mentioned, there will be no change in the existing tower or its associated equipment shelter other than the addition of telecommunication equipment onto the tower and within the equipment shelter. All dimensions, including height and floor area of the existing infrastructure will remain unchanged. Additionally, the project has been reviewed to ensure compliance with all development standards for a wireless communication facility as found in section 26-16.170 of the City Code, and the proposed site will be an unoccupied facility, thus creating no additional traffic or parking.

Pursuant to section 26-50.010(F) of the zoning code the Planning Commission may take action to revoke a use permit if any of the following occur: any of the conditions of approval have not been satisfied within 1 year after it was granted; any of the terms or conditions of the permit have been violated; a law, including

any requirement in the zoning code, has been violated in connection with the permit; and finally, if the permit was obtained by fraud.

- e. The subject site is physically suitable for the type and intensity of land use being proposed.

See items c) and d) above.

- f. The size, intensity, and location of the proposed use will provide services that are necessary or desirable for the neighborhood and community as a whole.

The proposed use of the existing wireless telecommunications facility will be for public safety purposes. The new equipment will utilize two frequencies, one for the Police Department and the other for the Fire Department. The site will be used as a secondary/backup radio repeating site for both departments. Public safety is an important service that directly affects the general health, safety and public welfare of a neighborhood or community. As a result, the proposed use of the site is necessary and desirable for the City and greater Oroville area as a whole.

- g. The permit complies with all applicable laws and regulations, including the requirements of the General Plan, Zoning Code, and of the City's Municipal Code.

This proposed use will be required to comply with all applicable laws and regulations in the City of Oroville and any other applicable federal, state, or local agency as applicable.

WHEREAS, per the OMC Section 26-16.170(F)(2), in order for the Planning Commission to approve a proposed wireless communication facility under a use permit, the Commission shall make the findings required for a use permit, as well as the following additional findings:

- h. No alternative site or design is available that would allow for issuance of an administrative permit for the facility.

Since the proposed use involves the use of existing infrastructure rather than the construction of a new wireless telecommunications facility, there is no need for an analysis of alternative sites or designs. Per City Code City Code section 26-16.170(F)(1)(e), colocation of new wireless communication facilities within a colocation facility are required to obtain an administrative permit, provided that the colocation facility was previously approved through a use permit or other discretionary permit. Because this existing telecommunications facility does not have an existing use permit or other discretionary approval, it does not qualify for an administrative permit for colocation.

- i. The facility either does not require a Radiofrequency (RF) Environmental Evaluation Report or the RF Environmental Evaluation Report for the facility shows that the cumulative non-ionizing electromagnetic radiation (NIER) emitted by the facility and any nearby facilities will be consistent with FCC regulations.

Per the City's Zoning Code section 26-16.170(G), wireless communication facilities meeting any of the following criteria require an RF Environmental Evaluation Report before they may be permitted:

- a. *Facilities described in Table 1 of Paragraph 1.1307 of the FCC's Report and Order in ET Docket No. 93-62, or any subsequent FCC document that supersedes it.*
- b. *Facilities proposed to be installed within 50 feet of an existing wireless communication facility.*
- c. *Facilities with 1 or more antenna that will be installed less than 10 feet above any area that is accessible to untrained workers or the public.*
- d. *Facilities proposed in any residential zoning district.*

Because the project does not meet any of the above criteria, an RF Environmental Evaluation Report is not required.

- j. The facility will not have significant visual impacts.

The existing telecommunications facility, installed in 1947, is located on the levee at the southeast corner of Arlin Rhine Memorial Drive and Lincoln Street at the northern end of Historic Downtown Oroville. The tower has been in its location for approximately 67 years, and the proposed project will not change the design, height, or area dimensions of the existing facility. As the project involves the use of the existing infrastructure, the proposed project will not create any significant visual impacts as there is no new construction taking place that can create new visual impacts. Additionally, the placement of the equipment required for public safety purposes is minimal in comparison to the equipment that has historically been located on the existing tower structure; and

WHEREAS, at a noticed public hearing, the Planning Commission considered the comments and concerns of public agencies, property owners, and members of the public who are potentially affected by the approval of the use permit described herein, and also considered the City's staff report regarding the project.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION as follows:

1. The Planning Commission finds that this action has been determined to be categorically exempt from the California Environmental Quality Act (CEQA) review pursuant to the California Code of Regulations, Title 14, Section 15301,

“Existing Facilities.” Class 1 categorical exemptions 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 key consideration is whether the project involves negligible or no expansion of an existing use. The project involves use of the existing structures (tower and equipment shelter) which will be utilized for their original and continued use of telecommunications. Therefore, this action is exempt from CEQA and no further environmental review is required.

2. The Planning Commission adopts the findings required by section 26-50.010(E)(4) and section 26-16.170(F)(2) of the Oroville City Code, as those findings are described in this Resolution, based upon the following facts:
 - a. The granting of the permit will not be incompatible with or detrimental to the general health, safety or public welfare of the surrounding area or of the City as a whole.
 - b. The proposed use follows sound principles of land use by having a suitable location relative to the community as a whole, as well as to transportation facilities, public services and other land uses in the vicinity.
 - c. Public utilities and facilities, including streets and highways, water and sanitation, are adequate to serve the proposed use.
 - d. The location, size, design and operating characteristics of the proposed use will be harmonious and compatible with the surrounding neighborhood and will not adversely affect abutting properties.
 - e. The subject site is physically suitable for the type and intensity of land use being proposed.
 - f. The size, intensity, and location of the proposed use will provide services that are necessary or desirable for the neighborhood and community as a whole.
 - g. The permit complies with all applicable laws and regulations, including the requirements of the General Plan and City’s Municipal Code.
 - h. No alternative site or design is available that would allow for issuance of an administrative permit for the facility.
 - i. The facility does not require a Radiofrequency (RF) Environmental Evaluation Report.
 - j. The facility will not have significant visual impacts.

3. The following conditions of approval have been deemed necessary to achieve the purpose of the Zoning Code, promote the general health, safety and public welfare of the City.

CONDITIONS OF APPROVAL

Approved project: The City of Oroville Community Development Department has received a use permit request for the purpose of placing telecommunications equipment on the City owned radio tower located at the southeast corner of Arlin Rhine Memorial Drive and Lincoln Street at the northern end of Historic Downtown Oroville (APN: 012-031-001). There will be no increase in the height or area of the existing tower or equipment shelter.

The Planning Commission hereby approves UP 14-05, subject to the following:

1. The applicant shall ascertain and comply with the requirements of all Federal, State, County and Local agencies as applicable to the proposed use and the project site.
2. The project shall remain in substantial conformance with the Conditions of Approval, as adopted by the Oroville Planning Commission. Any subsequent minor changes in the project (as determined by the Zoning Administrator) may only occur subject to appropriate City review and approval. Any subsequent substantive changes in the project (as determined by the Zoning Administrator) may only occur subject to discretionary review by the Oroville Planning Commission.
3. Wireless communication facilities shall comply with all applicable local, State and federal requirements, including but not limited to the General Plan, any applicable specific plan, the requirements of the Zoning Code, and all applicable Federal Communications Commission (FCC) rules, regulations and standards. If the facility requires an FCC license, the applicant shall provide a copy of the FCC license issued for the operation of this facility.
4. No wireless communication facility shall be sited or operated in such a manner that it poses, either by itself or in combination with other such facilities, a potential threat to public health. To that end, no wireless communication facility or combination of facilities shall produce at any time power densities that exceed the current FCC adopted standards for human exposure to RF fields.
5. To the extent necessary to ensure compliance with adopted FCC regulations regarding human exposure to RF emissions, or upon the recommendation of the Zoning Administrator, the operator shall modify the placement of the facilities; install fencing, barriers or other appropriate structures or devices to restrict access to the facilities; install signage, including the RF radiation hazard warning symbol identified in American National Standards Institute (ANSI) C95.2-1982 and

multilingual warnings if deemed necessary by the Zoning Administrator to notify persons that the facility could cause exposure to RF emissions.

6. A permit granted under these regulations shall become invalid if an operator of a wireless communication facility ceases to operate the facility under the terms of applicable regulations or under the specific Conditions of Approval for the facility or any lease agreement related to the tower approved by the City Council.
7. If the use of equipment associated with the wireless communication facility is discontinued, the applicant shall remove all unused equipment associated with the wireless communication facility.
8. Permits for wireless communication facilities issued under these regulations shall generally be valid for 10 years, unless this term is changed through the permitting process.
9. All permits for wireless telecommunication facilities, regardless of the method by which they were originally issued, may be extended administratively by the Zoning Administrator upon verification of the permit-holder's continued compliance with the findings and conditions of approval under which the application was originally approved.
10. As part of the permit renewal process, the Zoning Administrator may require submittal of a certification by an NIER professional that the facility is being operated in accordance with all applicable FCC standards for RF emissions.
11. Applicable construction plans, calculations, specifications, applications, forms, etc., shall be submitted to the Building Division for review if required. The applicant shall submit stamped engineered plans, if required, to the Building Division for approval prior to commencing work activities.
12. All wireless communication facilities shall be screened to the maximum extent practicable.
13. All cabling between equipment and antennas shall be routed through the interior of a building wherever possible. Cable routed on a building exterior shall be encased in a tray or other architectural feature that has similar color and ornamentation to the building exterior. Cable routed on the ground shall be buried. All cabling shall be installed in accordance with the Electrical Code.
14. All structures and grounds of the property shall be properly maintained, secured, kept in good repair and kept clean.
15. Pursuant to Public Resources Code Section 21089, and as defined by the Fish and Wildlife Code Section 711.4, fees (\$50) are payable by the project applicant to file

the Notice of Exemption with Butte County by the City of Oroville – Community Development Department, within five working days of approval of this project.

16. All private facilities, improvements, infrastructure, systems, equipment, common areas, etc. shall be operated and maintained in such a manner, and with such frequency, to ensure the public health, safety, and general welfare. Any on-site signs shall be maintained in a clean readable condition at all times and all graffiti and vandalism shall be removed and repaired on a regular basis.
17. Pursuant to City Code Section 26-50.010 (F), the use permit may be evaluated for revocation if the use permit has not been used within one year of the granting of this permit or if any of the terms or conditions of the permit have been violated.

--- End of Conditions ---

I HEREBY CERTIFY that the foregoing resolution was duly introduced and passed at a regular meeting of the Planning Commission of the City of Oroville held on the 25th of August 2014, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVE:

DONALD L. RUST, SECRETARY

DAMON ROBISON, CHAIRPERSON



City of Oroville

COMMUNITY DEVELOPMENT DEPARTMENT

Donald Rust
DIRECTOR

1735 Montgomery Street
Oroville, CA 95965-4897
(530) 538-2430 FAX (530) 538-2426
www.cityoforoville.org

ATTENTION: PROPERTY OWNERS AND INTERESTED PARTIES

The project listed below has been filed with the Community Development Department. You are invited to comment because your property is located near the proposed project. Please comment in the space below. You may attach additional pages as necessary.

Please submit your comments to this department no later than **Monday, August 25, 2014** to be sure that they are included in the final project action. However, comments will be taken up to the time of the project decision. If you have no comment, a reply is not necessary.

ASSESSOR
PARCEL 012-031-001
NUMBER:

FILE UP 14-05
NUMBER:

APPLICANT: City of Oroville

ZONING: Open Space

LOCATION: Arlin Rhine Memorial Dr
between Lincoln & Huntoon St

CONTACT Luis A. Topete,
PERSON: Associate Planner
530 538-2408
530 538-2426 Fax
topetela@cityoforoville.org

VICINITY MAP



PROJECT DESCRIPTION:

UP 14-05: Levee Radio Tower - The City is proposing to install telecommunications equipment on the existing radio tower located near the levee on Arlin Rhine Memorial Drive, between Lincoln Street and Huntoon Street. Although the tower has historically been used as a radio tower, there is no existing use permit on record. The tower will be used for public safety as a secondary/backup radio repeating site. There will be two (2) antennas on the tower and two (2) radio repeaters set inside the existing equipment shelter. There will be two (2) frequencies utilized on the tower, one for the Police Department and the other for the Fire Department.

NOTICE IS HEREBY GIVEN that the City of Oroville Planning Commission will hold a public hearing on the project described above. Said hearing will be held at **7:00 p.m. on Monday, August 25, 2014** in the City Council Chambers, 1735 Montgomery Street, Oroville, CA. All interested persons are invited to attend or submit comments in writing.



City of Oroville

Donald Rust
DIRECTOR

COMMUNITY DEVELOPMENT DEPARTMENT

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NOTICE OF PUBLIC HEARING BEFORE THE CITY OF OROVILLE PLANNING COMMISSION

NOTICE IS HEREBY GIVEN that the City of Oroville Planning Commission will hold a public hearing on the projects described below. Said hearing will be held at **7:00 p.m. on Monday, August 25, 2014** in the City Council Chambers, 1735 Montgomery Street, Oroville, CA. All interested persons are invited to attend or submit comments in writing.

1. **UP 08-02 Amendment: Child Day Care Center** – The City of Oroville Planning Commission will conduct a public hearing to consider amending Use Permit No. 18-02 for the purpose of amending the capacity of children allowed at an existing child day care center located at 1325 Pomona Avenue and separating the age groups per the requirements from the State of California, Department of Social Services, Community Care Licensing Division. The existing permit allows for a maximum of 15 children, and the applicant is requesting to increase the maximum permitted number of children allowed to 29.
2. **UP 14-05: Levee Radio Tower** – The City of Oroville Planning Commission will conduct a public hearing to consider Use Permit No.14-05 for the purpose of placing telecommunications equipment on the existing City owned radio tower located at the southeast corner of Arlin Rhine Memorial Drive and Lincoln Street at the northern end of Historic Downtown Oroville (APN: 012-031-001). The tower will be used for public safety as a secondary/backup radio repeating site.
3. **UP 14-06: Elementary School Playground** – The City of Oroville Planning Commission will conduct a public hearing to consider Use Permit No. 14-06 for a proposed playground for STREAM Charter School. To supplement the school function, STREAM Charter School has approached the City with a request to install fencing/gates on the property where the school is located (APN: 035-030-050) which will extend onto the adjacent property to the south (APN: 035-030-056) where the playground will be located. The playground area to be fenced will be approximately 45,000 square feet in size (150' x 300'). Park or playgrounds are permitted uses on properties zoned Intensive Commercial (C-2) and Commercial/Light Manufacturing (CLM), subject to a use permit.

Additional information regarding the projects described in this notice can be obtained from the Oroville Community Development Department at 1735 Montgomery Street, Oroville, CA. Anyone desiring to submit information, opinions or objections is requested to submit them in writing to the Community Development Department prior to the hearing. In accordance with Government Code Section 65009, if you challenge an action on these projects in court, you may be limited to raising only those issues you or someone else raised at the public meeting described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public meetings.

Posted/Published: **Friday, August 15, 2014**



City of Oroville

Donald Rust
DIRECTOR

COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION STAFF REPORT

August 25, 2014

UP 14-06 (Elementary School Playground). The Oroville Planning Commission will conduct a public hearing to consider a use permit for a proposed playground for STREAM Charter School. To supplement the school function, STREAM Charter School has approached the City with a request to install fencing/gates on the property where the school is located (APN: 035-030-050) which will extend onto the adjacent property to the south (APN: 035-030-056) where the playground will be located. The playground area to be fenced will be approximately 45,000 square feet in size (150' x 300'). Park or playgrounds are permitted uses on properties zoned Intensive Commercial (C-2) and Commercial/Light Manufacturing (CLM), subject to a use permit.

APPLICANTS: STREAM Charter School
479 Oro Dam Boulevard, E
Oroville, CA 95965

LOCATION: (Attachment A)
479 Oro Dam Boulevard, E
Oroville, CA 95965
APNs: 035-030-050 & 056

GENERAL PLAN: Retail and Business Services

ZONING: Intensive Commercial (C-2) and Commercial / Light Manufacturing (CLM)

FLOOD ZONE:

ZONE X: Areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 1% annual chance flood.

ENVIRONMENTAL DETERMINATION: General Rule Exemption; Title 14, CCR, §15061(b)(3)

REPORT PREPARED BY:

Luis A. Topete, Associate Planner
Community Development Department

REVIEWED BY:

Donald Rust, Director
Community Development Department

RECOMMENDED ACTIONS:

City staff recommends that the Planning Commission take the following actions:

1. **HOLD** a public hearing and receive testimony on the proposed use permit request; and

2. **ADOPT** the General Rule Exemption (**Attachment D**) as the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA) and Guidelines; and
3. **ADOPT** the recommended Findings for UP 14-06 (**Attachment E**); and
4. **APPROVE** the Conditions of Approval for UP 14-06 (**Attachment F**); and
5. **ADOPT** Resolution No. P2014-16 (**Attachment G**).

SUMMARY

STREAM Charter School is operating out of the Feather River Village commercial complex located at 479 Oro Dam Boulevard (APN: 035-030-050). Both public and private schools are permitted uses in a C-2 zone, subject to a zoning clearance. To supplement the school function, the applicant has approached the City with a request to install fencing/gates on the property where the school is located (APN: 035-030-050) which will extend onto the adjacent property to the south (APN: 035-030-056) where the playground will be located. The playground area to be fenced will be 45,000 square feet in size (150' x 300'). Park or playgrounds are permitted uses on properties zoned C-2 and CLM, subject to a use permit. The lot where the playground will be located is currently vacant.

DISCUSSION

Per the OMC Table 26-33.010-1: Allowable Uses in Commercial and Mixed-Use Districts, a park or playground is a permitted use on properties with a zoning designation of C-2 and CLM, subject to a use permit (**Attachment C**). OMC Section 26-04.020(P) defines a park or playground as follows:

“Park or playground: A non-commercial public outdoor recreational facility that provides active or passive recreational opportunities.”

Per the OMC Section 26-50.010, use permits provide an opportunity to review the location, site development or conduct of certain land uses, activities and structural features that generally have a distinct impact on the area in which they are located or are capable of creating special problems for bordering properties unless given careful attention. Use permits are discretionary and may be granted or denied by the Planning Commission under the provisions of this section. The Planning Commission may grant a use permit only upon making all of the findings, based on substantial evidence, as required by this section. All required findings are specified in **Attachment E**.

ISSUES

Applicant needs to ensure that the Police/Fire Department have access as required for public safety, including maintaining clear fire lanes at least twenty (20) feet wide for Fire Department access and ensuring that ingress/egress points remain unblocked. To satisfy this condition, the applicant will be required to provide a Knox-Box Rapid Entry System for emergency access to the property and the applicant will also be required to place a sign on each rolling gate that indicates the School's office phone or other

appropriate on-site contact number to allow access between the gates for the other businesses within the commercial complex or City personnel.

ENVIRONMENTAL REVIEW

This action has been determined to be exempt from the California Environmental Quality Act (CEQA) review pursuant to Title 14, California Code of Regulations, Section 15061(b)(3), commonly known as the “general rule.” A project is Exempt from CEQA if the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. It has been determined that there is no possibility that the use permit request will have a significant effect on the environment. Thus, this action is exempt from CEQA.

FISCAL IMPACT

The typical fees associated with Use Permit No. 14-06 are as follows:

Item	Price	Tech Fee	Total	Paid
Use Permit Application (Deposit)	\$2,822.00	\$169.32	\$2,991.32	See Below
Filing of Notice of Exemption				
Butte County Clerks Filing Fee	\$50.00	-	\$50.00	No

On August 5, 2014, the City Council granted a partial fee waiver for the processing of this use permit setting the maximum amount of fees that can be collected at \$1,500, which will be paid by the applicant with installment payments of \$150 per month for 10 months.

PUBLIC NOTICE

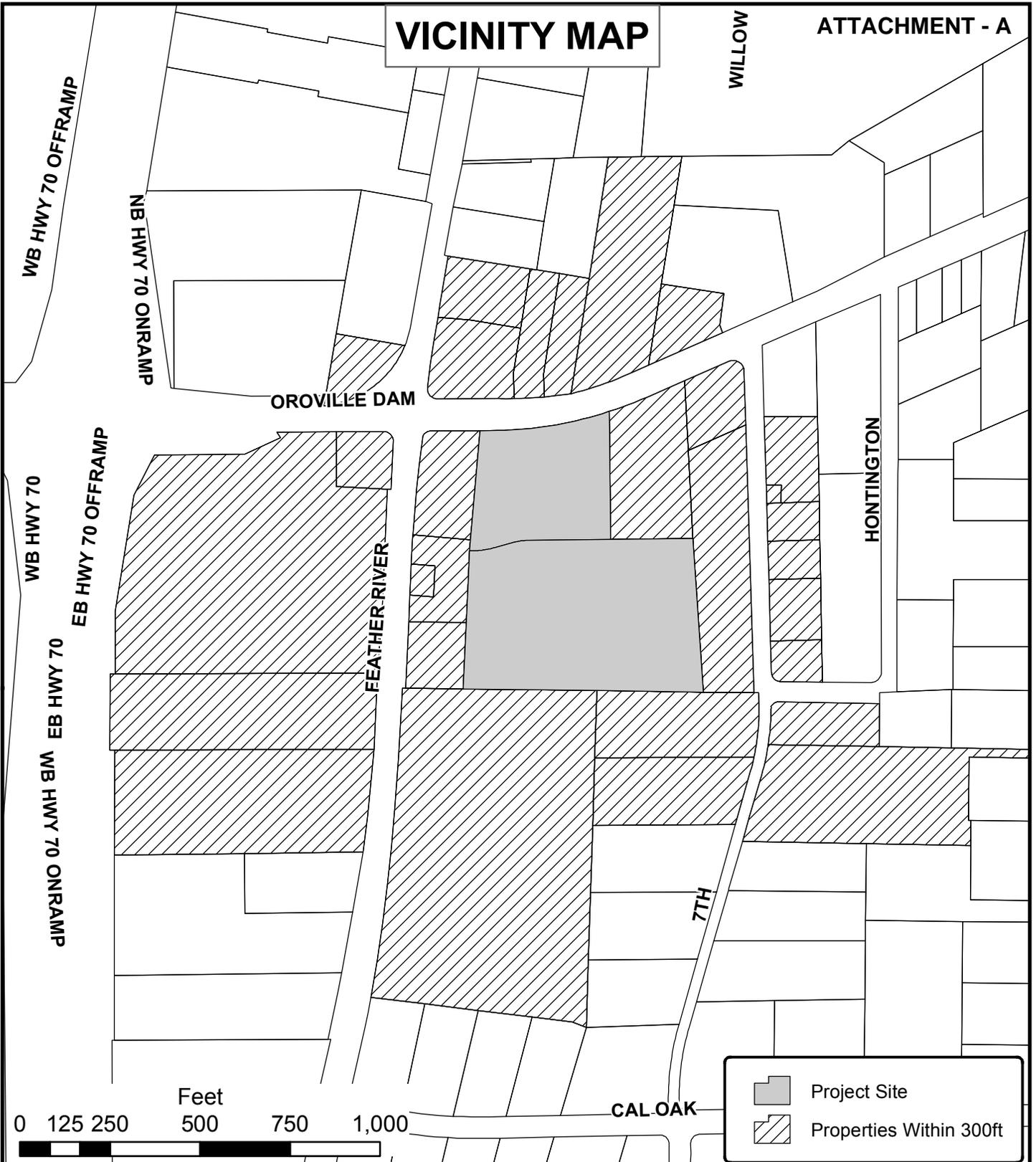
A request for comments was prepared and circulated to the local agencies and surrounding property owners within 300 feet of the project site (**Attachment H**). Additionally, the meeting date, time, and project description were published in the Oroville Mercury Register (**Attachment I**) and posted at City Hall.

ATTACHMENTS

- A – Vicinity Map
- B – Site Plan
- C – Table 26-33.010-1: Allowable Uses in Commercial and Mixed-Use Districts
- D – Notice of Exemption
- E – Findings
- F – Conditions of Approval
- G – Resolution No. P2014-16
- H – Property Owner Notice
- I – Newspaper Notice

VICINITY MAP

ATTACHMENT - A



CITY OF OROVILLE PLANNING DIVISION

Applicant: STREAM Charter School		Project Title: Elementary School Playground		
Project Location: 479 Oro Dam Boulevard, E				
Hearing Date: August 25, 2014	Zoning Designation: C-2 and CLM	General Plan Land Use Designation: Retail & Business Services		
TRAKiT # Project#: PL1408-001	Assessor's Parcel #: 035-030-050 and 035-030-056		File #: UP 14-06	



Orange = Fence
 Blue = Gates

SITE PLAN

sheet

SITE PLAN
A0.1

DESIGN	BY: CHASE
CHECKED	BY: GILLANDY
DATE	11/15/13
PROJECT	
DESCRIPTION	
REVISIONS	

FEATHER RIVER VILLAGE

CHRYSLER, ON 0000
 AIRBORNE PHOTO, HANSEN
 7-fig. project numbers 08-005 plan sheet status number: 00-000



Russ
 115 M
 Chase
 (530) 2
 www.r

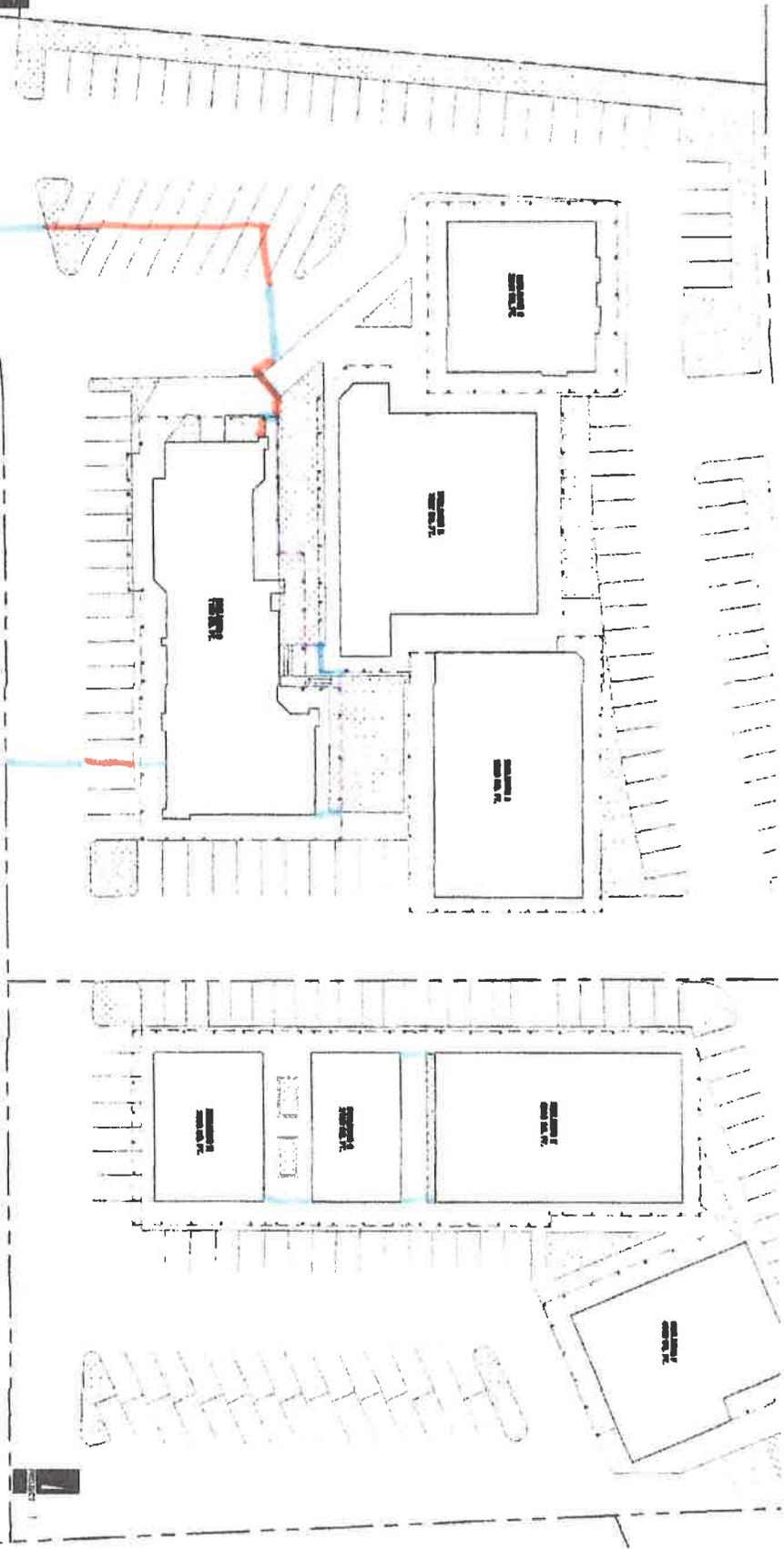


Table 26-33.010-1: Allowed Uses in Commercial and Mixed-Use Districts

Land Use	Zoning Districts									Use-Specific Regulations
	CN	C-1	C-2	CH	CLM	OF	MXD	MXN	MXC	
<p>Key P Permitted use, subject to zoning clearance AP Administrative permit required UP Use permit required S See use-specific regulations for permit requirement — Use not allowed</p>										
Public Assembly										
Carnival, circus or fair	AP	AP	AP	AP	AP	UP	UP	UP	UP	26-16.060
Commercial recreational facility—indoor, 10,000 square feet or less of gross floor area	UP	P	P	P	UP	—	UP	UP	P	—
Commercial recreational facility—indoor, more than 10,000 square feet of gross floor area	—	UP	P	UP	UP	—	UP	UP	UP	—
Commercial recreational facility—outdoor	—	UP	P	—	UP	—	—	—	UP	—
Concert or performance	AP	AP	AP	AP	AP	—	AP	AP	AP	26-16.060
Library or museum	—	UP	UP	UP	UP	UP	UP	UP	UP	—
Meeting facility—10,000 square feet or less of gross floor area	P	P	P	UP	UP	P	P	P	P	—
Meeting facility—more than 10,000 square feet of gross floor area	—	UP	P	—	UP	UP	UP	UP	P	—
Park or playground	UP	UP	UP	UP	UP	UP	UP	UP	UP	—
School, public	—	P	P	UP	UP	UP	UP	UP	UP	—
School, private	—	P	P	—	—	UP	UP	UP	UP	—
Training facility	—	UP	UP	—	—	UP	UP	UP	UP	—
Residential										
Caretaker residence	UP	UP	UP	UP	UP	—	UP	UP	—	—
Family day care, large	S	S	S	S	S	—	S	S	S	26-16.050
Family day care, small	P	P	P	P	P	—	P	P	P	26-16.050
Home occupation, low-impact	P	P	P	—	—	—	P	P	P	26-16.040
Home occupation, moderate-impact	AP	AP	AP	—	—	—	AP	AP	AP	26-16.040
Mixed-use development	—	—	—	—	—	—	P	P	P	26-16.030



City of Oroville

Donald Rust
DIRECTOR

COMMUNITY DEVELOPMENT DEPARTMENT

1735 Montgomery Street
Oroville, CA 95965-4897
(530) 538-2430 FAX (530) 538-2426
www.cityoforoville.org

NOTICE OF EXEMPTION

TO: Butte County Clerk
25 County Center Drive
Oroville CA, 95965

FROM: City of Oroville
1735 Montgomery Street
Oroville, CA, 95965

Project Title: UP 14-06: Elementary School Playground

Project Location – Specific: South side of Oro Dam Boulevard between Feather River Boulevard to the west and S 7th Avenue to the east (APN: 035-030-050 and 035-030-056).

Project Location – City: City of Oroville

Project Location – County: Butte

Description of Nature, Purpose, and beneficiaries of project: STREAM Charter School (applicant) is operating out of the Feather River Village commercial complex located at 479 Oro Dam Boulevard (APN: 035-030-050). To supplement the school function, the applicant has approached the City with a request to install fencing/gates on the property where the school is located (APN: 035-030-050) which will extend onto the adjacent property to the south (APN: 035-030-056) where the playground will be located. The playground area to be fenced will be 45,000 square feet in size (150' x 300'). Park or playgrounds are permitted uses on properties zoned C-2 and CLM, subject to a use permit. The lot where the playground will be located is currently vacant.

Public Agency Approving Project: City of Oroville – Community Development Department

Person or Agency Carrying Out Project: STREAM Charter School

Exempt Status (Check One):

- Ministerial (Sec. 21080(b)(1); 15268)
- Declared Emergency (Sec. 21080(b)(3); 15269(a))
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c))
- Categorical Exemption: State type & section number:
- Statutory Exemption: State code number:
- Other (Specify): General Rule Exemption; Title 14, CCR, §15061(b)(3)

Reasons why project is exempt: This action has been determined to be exempt from the California Environmental Quality Act (CEQA) review pursuant to Title 14, California Code of Regulations, Section 15061(b)(3), commonly known as the "general rule." A project is Exempt from CEQA if the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. It has been determined that there is no possibility that the use permit request will have a significant effect on the environment. Thus, this action is exempt from CEQA.

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a notice of exemption been filed by the public agency approving the project? Yes No

Lead Agency Contact Person: Luis A. Topete

Telephone: (530) 538-2408

Signature: _____

Date: _____

- Signed by Lead Agency
- Signed by Applicant

FINDINGS

USE PERMIT 14-06: Elementary School Playground

A. INTRODUCTION

The project applicant, STREAM Charter School, has applied for a use permit for a proposed playground. To supplement the school function, STREAM Charter School has approached the City with a request to install fencing/gates on the property where the school is located (APN: 035-030-050) which will extend onto the adjacent property to the south (APN: 035-030-056) where the playground will be located. The playground area to be fenced will be approximately 45,000 square feet in size (150' x 300'). Park or playgrounds are permitted uses on properties zoned Intensive Commercial (C-2) and Commercial/Light Manufacturing (CLM), subject to a use permit. The lot where the playground will be located is currently vacant.

B. GENERAL RULE EXEMPTION

This action has been determined to be exempt from the California Environmental Quality Act (CEQA) review pursuant to Title 14, California Code of Regulations, Section 15061(b)(3), commonly known as the "general rule." A project is Exempt from CEQA if the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. It has been determined that there is no possibility that the use permit request will have a significant effect on the environment. Thus, this action is exempt from CEQA.

C. USE PERMIT FINDINGS

Per the Oroville Municipal Code (OMC) Section 26-50.010(E)(4), the Planning Commission may grant a use permit only upon making all of the following findings, based on substantial evidence:

- a. The granting of the permit will not be incompatible with or detrimental to the general health, safety or public welfare of the surrounding area or of the City as a whole.

The vacant lot (APN: 035-030-056) where the playground will be located has in recent history been used by local homeless populations as a temporary habitation. The presence of a 45,000 square foot (150' X 300') playground will put a vacant, underutilized property into a beneficial use for the children that attend STREAM Charter School. Additionally, as required in the conditions of approval, all structures and grounds of the property shall be properly maintained, secured, kept in good repair and kept clean, which will help resolve the public nuisance issue of homeless habitation that has been taking place on that

property.

Applicant needs to ensure that the Police/Fire Department have access as required for public safety, including maintaining clear fire lanes at least twenty (20) feet wide for Fire Department access and ensuring that ingress/egress points remain unblocked. To satisfy this condition, the applicant will be required to provide a Knox-Box Rapid Entry System for emergency access to the property, as approved by the Police and Fire Department.

Additionally, as a condition of approval, all private facilities, improvements, infrastructure, equipment, common areas, etc. shall be operated and maintained in such a manner, and with such frequency, to ensure the public health, safety, and general welfare.

- b. The proposed use follows sound principles of land use by having a suitable location relative to the community as a whole, as well as to transportation facilities, public services and other land uses in the vicinity.

The project site (APN: 035-030-050 and 056) has a zoning designation of Intensive Commercial (C-2) and Commercial/Light Manufacturing (CLM). Per the OMC Table 26-33.010-1: Allowable Uses in Commercial and Mixed-Use Districts, a park or playground is a permitted use on properties with a zoning designation of C-2 and CLM, subject to a use permit. The project has been reviewed for consistency with the Zoning Code and will be required to comply with all local, state and federal laws that may apply. Additionally, the Planning Commission has attached conditions to the use permit that are deemed necessary to achieve the purpose of the Zoning Code, and that also promote the general health, safety and public welfare of the City.

The location of the school requires students and their parents/guardians to travel along Oro Dam Blvd, Oroville's main commercial corridor, and into a commercial complex in which the school is located at the rear of the Feather River Village. All these individuals are potential patrons for the businesses they will be passing. Although the school use is not a part of this use permit as it is permitted by right, subject to a zoning clearance, the approval of the proposed playground will be a strong supplement to the school that will assist in creating a positive educational experience for the students and helping ensure the future success of the school.

Thus, the proposed use follows sound principles of land use by having a suitable location relative to the community as a whole, as well as to transportation facilities, public services and other land uses in the vicinity.

- c. Public utilities and facilities, including streets and highways, water and sanitation, are adequate to serve the proposed use or will be made adequate prior to the establishment of the proposed use.

The project involves the installation of fencing/gates on the property where the school is located (APN: 035-030-050) which will extend onto the adjacent property to the south (APN: 035-030-056) where the playground will be located. As a result of the playground use, the project does not require domestic water or wastewater treatment/connection or use of solid waste facilities which are already provided at the school site. The school site is already being served by Recology for trash disposal, and the school site is already being adequately served by an electric utility that will remain adequate to serve the proposed school use. Access to the playground will be from the school site, and the playground area will be fenced off and available only for school related activities. The playground does not require public utilities and facilities, which are all adequately provided for at the school site. Thus, this project will have no impact on any utilities or service systems.

- d. The location, size, design and operating characteristics of the proposed use will be harmonious and compatible with the surrounding neighborhood and will not adversely affect abutting properties.

The property on which the playground will be located (APN: 035-030-056) is approximately 5.92 acres in size and vacant without any existing development. The property is adjacent to other vacant property to the east and southeast, a cemetery to the southwest, and commercial properties to the west and north. The vacant lot (APN: 035-030-056) where the playground will be located has in recent history been used by local homeless populations as a temporary habitation. The presence of a 45,000 square foot (150' X 300') playground will put a vacant, underutilized property into a beneficial use for the children that attend STREAM Charter School. Additionally, as required in the conditions of approval, all structures and grounds of the property shall be properly maintained, secured, kept in good repair and kept clean, which will help resolve the public nuisance issue of homeless habitation that has been taking place on that property.

The units within the Feather River Village commercial complex in which the school will be located were vacant prior to the school's occupation. As a result of the school's lease, empty units are now being utilized and rehabilitated for the benefit of the surrounding neighborhood and the City as a whole. Although the school use is not a part of this use permit as it is permitted by right, subject to a zoning clearance, the approval of the proposed playground will be a strong supplement to the school that will assist in creating a positive educational experience for the students and helping ensure the future success of the school.

All parking related to the school use is not being considered under this use permit. As previously mentioned, the school use is permitted by right, subject to a zoning clearance, which has been obtained. The school is currently operating and the use of the southern property (APN: 035-030-056) as a playground will not result in any net increase in traffic as the school will continue to operate, and the number of students they can accommodate, does not depend on whether this

use permit is approve or denied. For the aforementioned reasons, the proposed use will be harmonious and compatible with the surrounding neighborhood and will not adversely affect abutting properties

- e. The subject site is physically suitable for the type and intensity of land use being proposed.

See items c) and d) above.

- f. The size, intensity, and location of the proposed use will provide services that are necessary or desirable for the neighborhood and community as a whole.

Under the City's Open Space, Natural Resources and Conservation Element of the 2030 General Plan, the Recreational Open Space subsection specifies that "playing fields and playground facilities associated with schools within the Planning Area comprise an important recreational resource." Goal PUB-3: Policy P3.1, of the Public Facilities and Services Element specifies that a policy of the City is to "collaborate with all area school districts in their efforts to provide quality public education services to Oroville residents." As previously mentioned, although the school use is not a part of this use permit request, as it is permitted by right, the approval of the proposed playground will improve the quality of the educational experience that STREAM Charter School has to offer. Additionally, Goal PUB-3: Policy P3.12, of the Public Facilities and Services Element specifies that "wherever possible, school sites should be cooperatively developed with parks, recreation and opens space facilities to promote a diverse array of experiences," which further supports that the approval of this use permit is in conformance with the City's General Plan to supplement the quality of the educational experience that STREAM Charter School can provide. For the aforementioned reasons, the proposed land use will provide services that are desirable for the neighborhood and community as a whole.

- g. The permit complies with all applicable laws and regulations, including the requirements of the General Plan, Zoning Code, and of the City's Municipal Code.

As a condition of approval, the proposed use will be required to comply with all applicable laws and regulations in the City of Oroville and any other applicable federal, state, or local agency as applicable. Additionally, OMC Section 26-050.010(F) states that the Planning Commission may modify or revoke a use permit if it is found that a law, including any requirement of the Zoning Code, has been violated in connection with the permit.

CONDITIONS OF APPROVAL
USE PERMIT 14-06: Elementary School Playground

Approved project: The City of Oroville Planning Commission hereby conditionally approves Use Permit No. 14-06, permitting the land use of a playground on the properties identified as APNs: 035-030-050 and 035-030-056 to be operated by STREAM Charter School. The approval involves the installation of fencing/gates on the property where the school is located (APN: 035-030-050) which will extend onto the adjacent property to the south (APN: 035-030-056) where the playground will be located. The playground area to be fenced will be approximately 45,000 square feet in size (150' x 300').

The Planning Commission hereby approves UP 14-06, subject to the following:

1. The applicant shall hold harmless the City, its Council members, Planning Commissioners, officers, agents, employees, and representatives from liability for any award, damages, costs, and/or fees incurred by the City and/or awarded to any plaintiff in an action challenging the validity of this permit or any environmental or other documentation related to approval of this project. Applicant further agrees to provide a defense for the City in any such action.
2. The applicant shall ascertain and comply with the requirements of all Federal, State, County and Local agencies as applicable to the proposed use and the project site.
3. The project shall remain in substantial conformance with the Conditions of Approval, as adopted by the Oroville Planning Commission. Any subsequent minor changes in the project (as determined by the Zoning Administrator) may only occur subject to appropriate City review and approval. Any subsequent substantive changes in the project (as determined by the Zoning Administrator) may only occur subject to discretionary review by the Oroville Planning Commission.
4. Applicable construction plans, calculations, specifications, applications, forms, etc., shall be submitted to the Building Division for review if required. The applicant shall submit stamped engineered plans, if required, to the Building Division for approval prior to commencing work activities.
5. Applicable grading plan, calculations, specifications, applications, forms, etc., shall be submitted to the Public Works - Engineering Division for review if required. The applicant shall submit stamped engineered plans, if required, to the Engineering Division for approval prior to commencing work activities.
6. All structures and grounds of the property shall be properly maintained, secured, kept in good repair and kept clean.

7. All private facilities, improvements, infrastructure, equipment, common areas, etc. shall be operated and maintained in such a manner, and with such frequency, to ensure the public health, safety, and general welfare.
8. All graffiti and vandalism shall be removed and repaired on a regular basis.
9. The proposed use of the site shall conform to the development standards as found in the City Code Section 26-13.
10. The applicant shall provide a Knox-Box Rapid Entry System for emergency access to the property as approved by the Police and Fire Department.
11. The applicant will be required to place a sign on each rolling gate that indicates the School's office phone or other appropriate on-site contact number to allow access between the gates for the other businesses within the commercial complex or City personnel.
12. Pursuant to Section 26-50.010(F)(1), a use permit may be evaluated for revocation if the use permit has not been used within one year of its approval.
13. The applicant should provide a circulation plan that provides details of drop-off zones, directional signage, and safety features to help guide the general public, persons conducting business or accessing the commercial complex and the interaction of the students and staff members of the school.
14. Pursuant to City Code Section 26-50.010(F)(2), the Planning Commission, upon its own motion, may modify or revoke any use permit that has been granted pursuant to the provisions of this section upon finding any of the following, based on substantial evidence:
 - a. Any of the conditions of the permit have not been satisfied within 1 year after it was granted.
 - b. Any of the terms or conditions of the permit have been violated.
 - c. A law, including any requirement in this chapter, has been violated in connection with the permit.
 - d. The permit was obtained by fraud.

--- End of Conditions ---

RESOLUTION NO. P2014-16

A RESOLUTION OF THE OROVILLE CITY PLANNING COMMISSION APPROVING CONDITIONAL USE PERMIT NO. 14-06 FOR THE INSTALLATION OF THE APPROPRIATE FENCING/GATES ON THE PROPERTY IDENTIFIED AS (APN: 035-030-050) WHICH WILL EXTEND ONTO THE ADJECT PROPERTY TO THE SOUTH IDENTIFIED AS (APN: 035-030-056) FOR THE PURPOSE OF PROVIDING A PLAYGROUND FOR THE STUDENTS OF STREAM CHARTER SCHOOL

WHEREAS, STREAM Charter School is currently operating out of the Feather River Village commercial complex (APN: 035-030-050) which is a use permitted by right, subject to a zoning clearance; and

WHEREAS, to supplement the school function, STREAM Charter School has approached the City with a request to install fencing/gates on the property where the school is located (APN: 035-030-050) which will extend onto the adjacent property to the south (APN: 035-030-056) for the purpose of providing a 45,000 square foot (150' X 300') playground for their students; and

WHEREAS, the property identified as (APN: 035-030-050) has a zoning designation of Intensive Commercial (C-2) and the property identified as (APN: 035-030-056) has a zoning designation of Commercial/Light Manufacturing (CLM); and

WHEREAS, per the Oroville Municipal Code (OMC) Table 26-33.010-1: Allowable Uses in Commercial and Mixed-Use Districts, a park or playground is a permitted use on properties with a zoning designation of C-2 and CLM, subject to a use permit; and

WHEREAS, per the OMC Section 26-50.010(E)(4), the Planning Commission may grant a use permit only upon making all of the following findings, based on substantial evidence:

- a. The granting of the permit will not be incompatible with or detrimental to the general health, safety or public welfare of the surrounding area or of the City as a whole.

The vacant lot (APN: 035-030-056) where the playground will be located has in recent history been used by local homeless populations as a temporary habitation. The presence of a 45,000 square foot (150' X 300') playground will put a vacant, underutilized property into a beneficial use for the children that attend STREAM Charter School. Additionally, as required in the conditions of approval, all structures and grounds of the property shall be properly maintained, secured, kept in good repair and kept clean, which will help resolve the public nuisance issue of homeless habitation that has been taking place on that property.

Applicant needs to ensure that the Police/Fire Department have access as required for public safety, including maintaining clear fire lanes at least twenty (20) feet wide for Fire Department access and ensuring that ingress/egress points remain unblocked. To satisfy this condition, the applicant will be required to provide a Knox-Box Rapid Entry System for emergency access to the property, as approved by the Police and Fire Department.

Additionally, as a condition of approval, all private facilities, improvements, infrastructure, equipment, common areas, etc. shall be operated and maintained in such a manner, and with such frequency, to ensure the public health, safety, and general welfare.

- b. The proposed use follows sound principles of land use by having a suitable location relative to the community as a whole, as well as to transportation facilities, public services and other land uses in the vicinity.

The project site (APN: 035-030-050 and 056) has a zoning designation of Intensive Commercial (C-2) and Commercial/Light Manufacturing (CLM). Per the OMC Table 26-33.010-1: Allowable Uses in Commercial and Mixed-Use Districts, a park or playground is a permitted use on properties with a zoning designation of C-2 and CLM, subject to a use permit. The project has been reviewed for consistency with the Zoning Code and will be required to comply with all local, state and federal laws that may apply. Additionally, the Planning Commission has attached conditions to the use permit that are deemed necessary to achieve the purpose of the Zoning Code, and that also promote the general health, safety and public welfare of the City.

The location of the school requires students and their parents/guardians to travel along Oro Dam Blvd, Oroville's main commercial corridor, and into a commercial complex in which the school is located at the rear of the Feather River Village. All these individuals are potential patrons for the businesses they will be passing. Although the school use is not a part of this use permit as it is permitted by right, subject to a zoning clearance, the approval of the proposed playground will be a strong supplement to the school that will assist in creating a positive educational experience for the students and helping ensure the future success of the school.

Thus, the proposed use follows sound principles of land use by having a suitable location relative to the community as a whole, as well as to transportation facilities, public services and other land uses in the vicinity.

- c. Public utilities and facilities, including streets and highways, water and sanitation, are adequate to serve the proposed use or will be made adequate prior to the establishment of the proposed use.

The project involves the installation of fencing/gates on the property where the school is located (APN: 035-030-050) which will extend onto the adjacent

property to the south (APN: 035-030-056) where the playground will be located. As a result of the playground use, the project does not require domestic water or wastewater treatment/connection or use of solid waste facilities which are already provided at the school site. The school site is already being served by Recology for trash disposal, and the school site is already being adequately served by an electric utility that will remain adequate to serve the proposed school use. Access to the playground will be from the school site, and the playground area will be fenced off and available only for school related activities. The playground does not require public utilities and facilities, which are all adequately provided for at the school site. Thus, this project will have no impact on any utilities or service systems.

- d. The location, size, design and operating characteristics of the proposed use will be harmonious and compatible with the surrounding neighborhood and will not adversely affect abutting properties.

The property on which the playground will be located (APN: 035-030-056) is approximately 5.92 acres in size and vacant without any existing development. The property is adjacent to other vacant property to the east and southeast, a cemetery to the southwest, and commercial properties to the west and north. The vacant lot (APN: 035-030-056) where the playground will be located has in recent history been used by local homeless populations as a temporary habitation. The presence of a 45,000 square foot (150' X 300') playground will put a vacant, underutilized property into a beneficial use for the children that attend STREAM Charter School. Additionally, as required in the conditions of approval, all structures and grounds of the property shall be properly maintained, secured, kept in good repair and kept clean, which will help resolve the public nuisance issue of homeless habitation that has been taking place on that property.

The units within the Feather River Village commercial complex in which the school will be located were vacant prior to the school's occupation. As a result of the school's lease, empty units are now being utilized and rehabilitated for the benefit of the surrounding neighborhood and the City as a whole. Although the school use is not a part of this use permit as it is permitted by right, subject to a zoning clearance, the approval of the proposed playground will be a strong supplement to the school that will assist in creating a positive educational experience for the students and helping ensure the future success of the school.

All parking related to the school use is not being considered under this use permit. As previously mentioned, the school use is permitted by right, subject to a zoning clearance, which has been obtained. The school is currently operating and the use of the southern property (APN: 035-030-056) as a playground will not result in any net increase in traffic as the school will continue to operate, and the number of students they can accommodate, does not depend on whether this use permit is approve or denied. For the aforementioned reasons, the proposed

use will be harmonious and compatible with the surrounding neighborhood and will not adversely affect abutting properties

- e. The subject site is physically suitable for the type and intensity of land use being proposed.

See items c) and d) above.

- f. The size, intensity, and location of the proposed use will provide services that are necessary or desirable for the neighborhood and community as a whole.

Under the City's Open Space, Natural Resources and Conservation Element of the 2030 General Plan, the Recreational Open Space subsection specifies that "playing fields and playground facilities associated with schools within the Planning Area comprise an important recreational resource." Goal PUB-3: Policy P3.1, of the Public Facilities and Services Element specifies that a policy of the City is to "collaborate with all area school districts in their efforts to provide quality public education services to Oroville residents." As previously mentioned, although the school use is not a part of this use permit request, as it is permitted by right, the approval of the proposed playground will improve the quality of the educational experience that STREAM Charter School has to offer. Additionally, Goal PUB-3: Policy P3.12, of the Public Facilities and Services Element specifies that "wherever possible, school sites should be cooperatively developed with parks, recreation and opens space facilities to promote a diverse array of experiences," which further supports that the approval of this use permit is in conformance with the City's General Plan to supplement the quality of the educational experience that STREAM Charter School can provide. For the aforementioned reasons, the proposed land use will provide services that are desirable for the neighborhood and community as a whole.

- g. The permit complies with all applicable laws and regulations, including the requirements of the General Plan, Zoning Code, and of the City's Municipal Code.

As a condition of approval, the proposed use will be required to comply with all applicable laws and regulations in the City of Oroville and any other applicable federal, state, or local agency as applicable. Additionally, OMC Section 26-050.010(F) states that the Planning Commission may modify or revoke a use permit if it is found that a law, including any requirement of the Zoning Code, has been violated in connection with the permit; and

WHEREAS, at a noticed public hearing, the Planning Commission considered the comments and concerns of public agencies, property owners, and members of the public who are potentially affected by the approval of the use permit described herein, and also considered the City's staff report regarding the project.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION as follows:

1. The Planning Commission finds that this action has been determined to be exempt from the California Environmental Quality Act (CEQA) review pursuant to Title 14, California Code of Regulations, Section 15061(b)(3), commonly known as the "general rule." A project is Exempt from CEQA if the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. It has been determined that there is no possibility that the use permit request will have a significant effect on the environment. Thus, this action is exempt from CEQA.
2. The Planning Commission adopts the findings required by section 26-50.010(E)(4) of the Oroville City Code, as those findings are described in this Resolution, based upon the following facts:
 - a. The granting of the permit will not be incompatible with or detrimental to the general health, safety or public welfare of the surrounding area or of the City as a whole.
 - b. The proposed use follows sound principles of land use by having a suitable location relative to the community as a whole, as well as to transportation facilities, public services and other land uses in the vicinity.
 - c. Public utilities and facilities, including streets and highways, water and sanitation, are adequate to serve the proposed use.
 - d. The location, size, design and operating characteristics of the proposed use will be harmonious and compatible with the surrounding neighborhood and will not adversely affect abutting properties.
 - e. The subject site is physically suitable for the type and intensity of land use being proposed.
 - f. The size, intensity, and location of the proposed use will provide services that are necessary or desirable for the neighborhood and community as a whole.
 - g. The permit complies with all applicable laws and regulations, including the requirements of the General Plan and City's Municipal Code.
3. The following conditions of approval have been deemed necessary to achieve the purpose of the Zoning Code, promote the general health, safety and public welfare of the City.

CONDITIONS OF APPROVAL

Approved project: The City of Oroville Planning Commission hereby conditionally approves Use Permit No. 14-06, permitting the land use of a playground on the properties identified as APNs: 035-030-050 and 035-030-056 to be operated by STREAM Charter School. The approval involves the installation of fencing/gates on the property where the school is located (APN: 035-030-050) which will extend onto the adjacent property to the south (APN: 035-030-056) where the playground will be located. The playground area to be fenced will be approximately 45,000 square feet in size (150' x 300').

The Planning Commission hereby approves UP 14-06, subject to the following:

1. The applicant shall hold harmless the City, its Council members, Planning Commissioners, officers, agents, employees, and representatives from liability for any award, damages, costs, and/or fees incurred by the City and/or awarded to any plaintiff in an action challenging the validity of this permit or any environmental or other documentation related to approval of this project. Applicant further agrees to provide a defense for the City in any such action.
2. The applicant shall ascertain and comply with the requirements of all Federal, State, County and Local agencies as applicable to the proposed use and the project site.
3. The project shall remain in substantial conformance with the Conditions of Approval, as adopted by the Oroville Planning Commission. Any subsequent minor changes in the project (as determined by the Zoning Administrator) may only occur subject to appropriate City review and approval. Any subsequent substantive changes in the project (as determined by the Zoning Administrator) may only occur subject to discretionary review by the Oroville Planning Commission.
4. Applicable construction plans, calculations, specifications, applications, forms, etc., shall be submitted to the Building Division for review if required. The applicant shall submit stamped engineered plans, if required, to the Building Division for approval prior to commencing work activities.
5. Applicable grading plan, calculations, specifications, applications, forms, etc., shall be submitted to the Public Works - Engineering Division for review if required. The applicant shall submit stamped engineered plans, if required, to the Engineering Division for approval prior to commencing work activities.
6. All structures and grounds of the property shall be properly maintained, secured, kept in good repair and kept clean.

7. All private facilities, improvements, infrastructure, equipment, common areas, etc. shall be operated and maintained in such a manner, and with such frequency, to ensure the public health, safety, and general welfare.
8. All graffiti and vandalism shall be removed and repaired on a regular basis.
9. The proposed use of the site shall conform to the development standards as found in the City Code Section 26-13.
10. The applicant shall provide a Knox-Box Rapid Entry System for emergency access to the property as approved by the Police and Fire Department.
11. The applicant will be required to place a sign on each rolling gate that indicates the School's office phone or other appropriate on-site contact number to allow access between the gates for the other businesses within the commercial complex or City personnel.
12. Pursuant to Section 26-50.010(F)(1), a use permit may be evaluated for revocation if the use permit has not been used within one year of its approval.
13. The applicant should provide a circulation plan that provides details of drop-off zones, directional signage, and safety features to help guide the general public, persons conducting business or accessing the commercial complex and the interaction of the students and staff members of the school.
14. Pursuant to City Code Section 26-50.010(F)(2), the Planning Commission, upon its own motion, may modify or revoke any use permit that has been granted pursuant to the provisions of this section upon finding any of the following, based on substantial evidence:
 - a. Any of the conditions of the permit have not been satisfied within 1 year after it was granted.
 - b. Any of the terms or conditions of the permit have been violated.
 - c. A law, including any requirement in this chapter, has been violated in connection with the permit.
 - d. The permit was obtained by fraud.

--- End of Conditions ---

I HEREBY CERTIFY that the foregoing resolution was duly introduced and passed at a regular meeting of the Planning Commission of the City of Oroville held on the 25th of August 2014, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVE:

DONALD L. RUST, SECRETARY

DAMON ROBISON, CHAIRPERSON



City of Oroville

COMMUNITY DEVELOPMENT DEPARTMENT

1735 Montgomery Street
 Oroville, CA 95965-4897
 (530) 538-2430 FAX (530) 538-2426
www.cityoforoville.org

Donald Rust
 DIRECTOR

ATTENTION: PROPERTY OWNERS AND INTERESTED PARTIES

The project listed below has been filed with the Community Development Department. You are invited to comment because your property is located near the proposed project. Please comment in the space below. You may attach additional pages as necessary.

Please submit your comments to this department no later than **Monday, August 25, 2014** to be sure that they are included in the final project action. However, comments will be taken up to the time of the project decision. If you have no comment, a reply is not necessary.

ASSESSOR PARCEL NUMBER: 035-030-050 and 035-030-056

FILE NUMBER: UP 14-06

APPLICANT: STREAM Charter School

ZONING: Intensive Commercial (C-2) & Commercial/Light Manufacturing (CLM)

LOCATION: Oro Dam Boulevard E, between Feather River Boulevard and S 7th Avenue

CONTACT PERSON: Luis A. Topete,
 Associate Planner
 530 538-2408
 530 538-2426 Fax
topetela@cityoforoville.org

VICINITY MAP



PROJECT DESCRIPTION:

UP 14-06: Elementary School Playground - The City of Oroville Planning Commission will conduct a public hearing to consider a use permit for a proposed playground for STREAM Charter School. To supplement the school function, STREAM Charter School has approached the City with a request to install fencing/gates on the property where the school is located (APN: 035-030-050) which will extend onto the adjacent property to the south (APN: 035-030-056) where the playground will be located. The playground area to be fenced will be approximately 45,000 square feet in size (150' x 300'). Park or playgrounds are permitted uses on properties zoned Intensive Commercial (C-2) and Commercial/Light Manufacturing (CLM), subject to a use permit.

NOTICE IS HEREBY GIVEN that the City of Oroville Planning Commission will hold a public hearing on the project described above. Said hearing will be held at **7:00 p.m. on Monday, August 25, 2014** in the City Council Chambers, 1735 Montgomery Street, Oroville, CA. All interested persons are invited to attend or submit comments in writing.



City of Oroville

Donald Rust
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NOTICE OF PUBLIC HEARING BEFORE THE CITY OF OROVILLE PLANNING COMMISSION

NOTICE IS HEREBY GIVEN that the City of Oroville Planning Commission will hold a public hearing on the projects described below. Said hearing will be held at **7:00 p.m. on Monday, August 25, 2014** in the City Council Chambers, 1735 Montgomery Street, Oroville, CA. All interested persons are invited to attend or submit comments in writing.

1. **UP 08-02 Amendment: Child Day Care Center** – The City of Oroville Planning Commission will conduct a public hearing to consider amending Use Permit No. 18-02 for the purpose of amending the capacity of children allowed at an existing child day care center located at 1325 Pomona Avenue and separating the age groups per the requirements from the State of California, Department of Social Services, Community Care Licensing Division. The existing permit allows for a maximum of 15 children, and the applicant is requesting to increase the maximum permitted number of children allowed to 29.
2. **UP 14-05: Levee Radio Tower** – The City of Oroville Planning Commission will conduct a public hearing to consider Use Permit No.14-05 for the purpose of placing telecommunications equipment on the existing City owned radio tower located at the southeast corner of Arlin Rhine Memorial Drive and Lincoln Street at the northern end of Historic Downtown Oroville (APN: 012-031-001). The tower will be used for public safety as a secondary/backup radio repeating site.
3. **UP 14-06: Elementary School Playground** – The City of Oroville Planning Commission will conduct a public hearing to consider Use Permit No. 14-06 for a proposed playground for STREAM Charter School. To supplement the school function, STREAM Charter School has approached the City with a request to install fencing/gates on the property where the school is located (APN: 035-030-050) which will extend onto the adjacent property to the south (APN: 035-030-056) where the playground will be located. The playground area to be fenced will be approximately 45,000 square feet in size (150' x 300'). Park or playgrounds are permitted uses on properties zoned Intensive Commercial (C-2) and Commercial/Light Manufacturing (CLM), subject to a use permit.

Additional information regarding the projects described in this notice can be obtained from the Oroville Community Development Department at 1735 Montgomery Street, Oroville, CA. Anyone desiring to submit information, opinions or objections is requested to submit them in writing to the Community Development Department prior to the hearing. In accordance with Government Code Section 65009, if you challenge an action on these projects in court, you may be limited to raising only those issues you or someone else raised at the public meeting described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public meetings.