

**BUTTE COUNTY PLANNING COMMISSION  
AGENDA REPORT – August 11, 2005**

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<b>Applicant:</b>	Robert and Lisa Wubbolding	<b>Supervisor District:</b>	1
<b>File #:</b>	UP 04N-26		
<b>Request:</b>	This is a Use Permit request to change from an appliance store, pest control business, computer business, and vehicle storage, to a Real Estate office and a Limousine Service business in the HC zone.	<b>Location:</b>	At the southwest corner of Olive Highway (State Route 162) and Arbol Avenue, at 3690 Olive Highway.
<b>G.P.:</b>	Low Density Residential	<b>Attachments:</b>	
<b>Zoning:</b>	HC (Highway Commercial) Zoning Date of November 7, 1967	<b>A:</b>	General Plan/Zoning Map
<b>APN:</b>	068-210-094	<b>B:</b>	Aerial Photograph
<b>Parcel Size:</b>	1.00 acre	<b>C:</b>	Site Plan
<b>Planner:</b>	Carl Durling Associate Planner		

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**EXECUTIVE SUMMARY**

This is a Use Permit request to change from an appliance store, pest control business, computer business, and vehicle storage, to a Real Estate office and a Limousine Service business. The property is designated Low Density Residential in the Butte County Land Use General Plan, and is zoned HC (Highway Commercial). The proposed uses are permitted in the HC zone by Use Permit. The property is located at the southwest corner of Olive Highway (State Route 162) and Arbol Avenue, at 3690 Olive Highway. The existing building has not been modified except for interior remodeling. Use Permits have been issued in 1976 and 1984 for various commercial uses. The staff recommends that Planning Commission approve the Use Permit for Robert and Lisa Wubbolding, subject to the findings and conditions contained herein.

**PROJECT DESCRIPTION/SITE CHARACTERISTICS:**

- The property is an approximate one acre, southwest corner lot, at the intersection of Olive Highway (State Route 162) and Arbol Avenue. There are no street improvements, curb, gutter or sidewalk, on either side of Arbol Avenue and Olive Highway.
- Ingress is provided off of Olive Highway and Arbol Avenue, but egress is only allowed onto Arbol Avenue. One of the two ingress/egress points on Arbol Avenue is required to be eliminated (Public Works Condition #3) because it is too close to Olive Highway.

- The property slopes up from Olive Highway. The Arbol Avenue frontage is at grade.
- The property is paved from the Olive Highway entry way to Arbol Avenue and all sides of the building. The westerly seventy-five feet is light gravel and dirt, and is a buffer for the adjoining residential property.
- An existing well and septic system serve the uses on the property.
- The building is approximately 2,400 square feet in size.
- Surrounding properties are developed with large lot residential uses to the north across Olive Highway, adjacent on the west and south, and residential uses across Arbol Avenue to the east. The existing building and use is on a large corner lot. Primary activities of the proposed uses face Olive Highway which mitigates impacts on residential uses.
- The site is level and has no significant topographic features or water courses on it.
- Vegetation consists of a few ornamental trees and bushes.

## ANALYSIS

### Land Use and Zoning

- The 1971 General Land Use Map designated the area as Medium Density Residential.
- The 1979 General Plan Land Use Element designates the area as Low Density Residential.
- The HC (Highway Commercial) zone was established on November 7, 1967, by Ordinance 912, prior to the adoption of the 1971 General Plan. Residential uses, and Commercial uses allowed in the C-1 zone, were permitted with the approval of a Use Permit under this ordinance.
- The current HC zone was readopted by Ordinance 3176 on January 24, 1995. Single Family residential dwellings, and their accessory uses, are now the only permitted uses in this zone. Most C-1 type commercial uses, including the proposed uses, are permitted with the approval of a Use Permit, or Minor Use Permit, under the current ordinance.
- A Use Permit (UP 76-72) was approved on June 10, 1976, to allow a bait and tackle shop and a retail market in an existing building, and boat storage on the property.
- A second Use Permit (UP 84-38) was approved on April 5, 1984, for a grocery store.
- The previous owners were cited for the storage of “junk” on the property. The current owner/applicant has removed all junk, and the property is in a well-maintained state.
- The Building Division of Development Services, and the Public Works Department, has submitted their conditions of approval. These conditions are listed below. The Building Department notes that the existing building is nonconforming and must be brought up to code.
- The proposed uses, a 9 desk Real Estate office and a 6 vehicle Limousine Service business, are substantially less intense than the uses permitted by the previous Use Permits (a bait and tackle shop and a retail market), and therefore represent a reduction in site and area impacts.

- The proposed uses are consistent with uses allowed in the HC zone by Use Permit such as retail stores, professional and business offices.

### **CEQA ISSUES /ENVIRONMENTAL DOCUMENTATION:**

This application for a Use Permit to allow the change of use in the HC (Highway Commercial) zone is determined to be Categorically Exempt from environmental review under Section 15303(c), which states that the California Environmental Quality Act exempts the conversion of existing small structures from one use to another for a store of less than 2,500 square feet.

### **ACTION FOR CONSIDERATION:**

Staff recommends that the Planning Commission take the following actions:

- I. Find that this project is exempt from the provisions of the California Environmental Quality Act under Section 15303(c), which states that the California Environmental Quality Act exempts the conversion of existing small structures from one use to another for a store of less than 2,500 square feet. The payment of fees pursuant to Fish and Game Code Section 711.4 and 14 CCR 753.5 is not required.
- II. Approve Use Permit UP 04N-26 for Robert and Lisa Wubbolding for a Real Estate and Limousine Service business in the HC zone, on APN 068-210-094, based on the following findings and the conditions found in Exhibit "A":
  - A. The proposed location, size, design, and operating characteristics of the proposed use is in accordance with the purpose of the zone in which the site is located, the Butte County General Plan, and the development policies and standards of the county in that the Highway Commercial zone permits the use by Use Permit, and the HC zone was established in 1967 prior to the Medium Density Residential General Plan designation established in 1971 which previously permitted commercial uses.
  - B. The location, size, design, and operating characteristics of the proposed uses will not conflict with, and will not adversely affect, or be materially detrimental to adjacent permitted and conditionally permitted uses, residents, buildings, structures, or natural resources in that the proposed uses are less intrusive to the nearby residential uses than the prior appliance store, pest control business, computer business, and vehicle storage uses.
  - C. The proposed location, size, and design of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity in that proposed uses are less intrusive to the nearby residential uses than the previous commercial uses, i.e. an appliance store, a pest control business, a computer business, and vehicle storage.

## **EXHIBIT A**

### **USE PERMIT**

**BUTTE COUNTY PLANNING COMMISSION**

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**DATE: (Certified Mail Rec.)**

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**UP 04N-26**

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**PERMIT NO.**

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**068-210-094**

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**ASSESSOR'S PARCEL NO.**

Pursuant to the provisions of the Zoning Ordinance of the County of Butte and the special conditions set forth below: Robert and Lisa Wubbolding are hereby granted a Use Permit for a Real Estate and Limousine Service business in the Highway Commercial zone on APN 068-210-094, at 3690 Olive Highway (State Route 162).

1. Failure to comply with the conditions specified herein as the basis for approval of application and issuance of Permit constitutes cause for the revocation of said permit in accordance with the procedures set forth in the Butte County Zoning Ordinance, including Butte County Code Sec. 24-45.65.
2. Unless otherwise provided for in a special condition to this Use Permit, all conditions must be completed prior to or concurrently with the establishment of the granted use. The use granted by this permit must be established within two years of the date of approval.
3. Minor changes may be approved administratively by the Directors of Development Services, Environmental Health, or Public Works upon receipt of a substantiated written request by the applicant, or their respective designee. Prior to such approval, verification shall be made by each Department or Division that the modification is consistent with the application, fees paid and environmental determination as conditionally approved. Changes deemed to be major or significant in nature shall require a formal application for amendment.
4. If any use for which a Use Permit has been granted is not established within two years of the receipt of the Permit by the Permittee, the Permit shall become null and void and reapplication pursuant to Section 24-45 (of the Zoning Code) shall be required to establish the use previously granted under the expired Permit unless, 30 days prior to the expiration date, a request for a one year extension is submitted to the Planning Commission together with sufficient evidence that the time limits for processing development permits under federal or state regulations require time limits which exceed one year. Upon application, and for good cause by the Permittee, at a public hearing pursuant to Section 24-45.25 above, the Planning Commission may extend any time limitation previously made a part of any condition to a Use Permit.

5. The terms and conditions of this Permit shall run with the land and shall be binding upon and be to the benefit of the heirs, legal representatives, successors, and assigns of the Permittee.
6. Neither the applicant, nor any agent nor representative of the applicant shall intentionally omit or misrepresent any material fact in connection with the application. Any alleged material misrepresentation shall constitute grounds for the Director of Development Services to commence a revocation hearing, and, if proven to exist, shall constitute sufficient grounds to revoke a Permit.

### **Conditions of Approval:**

#### Planning Division:

1. Applicant must comply with all other applicable State and local statutes, ordinances, and regulations.
2. All outstanding application processing fees shall be paid prior to issuance of the Use Permit.

#### Public Works

3. Obtain an encroach permit for all new or existing driveway approaches and construct them to County standards, as specified in the County Improvement Standards. Establish entrance only (no exit) on Olive Highway. Close ingress/egress near intersection of Arbol Avenue and Olive Highway for Safety.
4. Deed to Butte County, in fee simple, 30 feet of right-of-way from the centerline of Arbol Avenue along the entire parcel frontage. The right-of-way shall be sufficient for the installation of standard No. S-5 at all street intersections.
5. Submit road and drainage improvement plans for the installation and construction of the street frontage improvements on Arbol Avenue to RS-2A standard, including but not limited to P.C.C. curb, gutter and sidewalk and the required street section for parcels with gross acreage of one acre or less. Construct or install the required improvements. Obtain encroachment permit from Caltrans and construct Olive Highway to minimum RS-2A standard. Submit plans to DPW and Caltrans for review and approval prior to construction.
6. Dedicate a one foot “no access strip” or relinquish abutters rights to Butte County, along the Arbol Avenue frontage of parcel, except at approved access points.

#### Building Division

7. Prior to building permit issuance for a new commercial or industrial development, or addition to an existing development, the applicant shall pay all applicable development fees at the rate in effect at the time of acceptance of the application. Such fees shall include, but not be limited to: School Fee, Drainage Fee, Permit and Plan Checking Fees, Water and Sewer Service Fees, and Fire Protection Fees.
8. Comply with the Uniform Building Code for property line clearances considering use, area and fire-resistiveness of existing buildings.

9. Existing building(s) shall be made to comply with current Building and zoning regulations for the intended new use of the building(s) or the existing building(s) shall be demolished.

County Counsel

10. If this entire matter or any finding, action or condition of this matter is appealed to the Board of Supervisors, the applicant or any other developer/operator other than the applicant agrees to defend, indemnify and hold the County of Butte harmless from liability or loss related to the approval of this project and agrees to sign an indemnification agreement in a form approved by County Counsel before the Board's appeal hearing. If the application is not appealed, this condition is deemed satisfied.

I hereby declare under penalty of perjury that I have read the foregoing conditions that they are in fact the conditions which were imposed upon the granting of this use permit, and that I agree to abide fully by said conditions.

Date: \_\_\_\_\_  
Applicant

NOTE: Issuance of this Use Permit does not waive requirement of obtaining Building and Health Department permits before starting construction, nor does it waive any other requirements.

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Butte County Planning Commission Chairman

cc: Building Division  
Environmental Health Division  
Public Works - Land Development Division  
Fire Department/CDF  
Butte County Assessor's Office



