

CITY OF WINTERS PLANNING COMMISSION AGENDA

Tuesday, March 22, 2011 @ 6:30 PM

City of Winters Council Chambers
318 First Street
Winters, CA 95694-1923
Community Development Department
Contact Phone Number (530) 795-4910 #113
Email: jenna.moser@cityofwinters.org

Chairman: Pierre Neu
Vice Chairman: Glenn DeVries
Commissioners: Wade Cowan, Bruce Guelden, Corinne
Martinez, Phillip Meisch, Joe Tramontana
Administrative Assistant: Jenna Moser
Community Development Director: Nelia Dyer

I CALL TO ORDER 6:30 PM

II ROLL CALL & PLEDGE OF ALLEGIANCE

III CITIZEN INPUT: Individuals or groups may address the Planning Commission on items which are not on the Agenda and which are within the jurisdiction of the Planning Commission. **NOTICE TO SPEAKERS:** Speaker cards are located on the first table by the main entrance; please complete a speaker's card and give it to the Planning Secretary at the beginning of the meeting. The Commission may impose time limits.

IV CONSENT ITEM
Approval of Meeting Minutes from the January 25, 2011 regular meeting of the Planning Commission.

V. STAFF/COMMISSION REPORTS

VI DISCUSSION ITEMS:
A. Information Item – Medical Marijuana Dispensaries

The purpose of this Information Item is to bring the Planning Commission up to date on the status of staff's review of Medical Marijuana dispensaries, provide background information, and gain preliminary feedback on the issue.

B. Information Item – Ralph M. Brown Act

Assistant City Attorney, Kit Faubion, will provide an overview of the Brown Act.

VII COMMISSION/STAFF COMMENTS

VIII ADJOURNMENT

POSTING OF AGENDA: PURSUANT TO GOVERNMENT CODE § 54954.2, THE COMMUNITY DEVELOPMENT ADMINISTRATIVE ASSISTANT OF THE COMMUNITY DEVELOPMENT DEPARTMENT POSTED THE AGENDA FOR THIS MEETING ON MARCH 17, 2011.



JENNA MOSER - ADMINISTRATIVE ASSISTANT

APPEALS: ANY PERSON DISSATISFIED WITH THE DECISION OF THE PLANNING COMMISSION MAY APPEAL THIS DECISION BY FILING A WRITTEN NOTICE OF APPEAL WITH THE CITY CLERK, NO LATER THAN TEN (10) CALENDAR DAYS AFTER THE DAY ON WHICH THE DECISION IS MADE.

PURSUANT TO SECTION 65009 (B) (2), OF THE STATE GOVERNMENT CODE "IF YOU CHALLENGE ANY OF THE ABOVE PROJECTS IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING(S) DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY PLANNING COMMISSION AT, OR PRIOR TO, THIS PUBLIC HEARING".

MINUTES: THE CITY DOES NOT TRANSCRIBE ITS PROCEEDINGS. ANYONE WHO DESIRES A VERBATIM RECORD OF THIS MEETING SHOULD ARRANGE FOR ATTENDANCE BY A COURT REPORTER OR FOR OTHER ACCEPTABLE MEANS OF RECORDATION. SUCH ARRANGEMENTS WILL BE AT THE SOLE EXPENSE OF THE INDIVIDUAL REQUESTING THE RECORDATION.

PUBLIC REVIEW OF AGENDA, AGENDA REPORTS, AND MATERIALS: PRIOR TO THE PLANNING COMMISSION MEETINGS, COPIES OF THE AGENDA, AGENDA REPORTS, AND OTHER MATERIAL ARE AVAILABLE DURING NORMAL WORKING HOURS FOR PUBLIC REVIEW AT THE COMMUNITY DEVELOPMENT DEPARTMENT. IN ADDITION, A LIMITED SUPPLY OF COPIES OF THE AGENDA WILL BE AVAILABLE FOR THE PUBLIC AT THE MEETING. COPIES OF AGENDA, REPORTS AND OTHER MATERIAL WILL BE PROVIDED UPON REQUEST SUBMITTED TO THE COMMUNITY DEVELOPMENT DEPARTMENT. A COPY FEE OF 25 CENTS PER PAGE WILL BE CHARGED.

ANY MEMBER OF THE PUBLIC MAY SUBMIT A WRITTEN REQUEST FOR A COPY OF PLANNING COMMISSION AGENDAS TO BE MAILED TO THEM. REQUESTS MUST BE ACCOMPANIED BY A CHECK IN THE AMOUNT OF \$25.00 FOR A SINGLE PACKET AND \$250.00 FOR A YEARLY SUBSCRIPTION.

OPPORTUNITY TO SPEAK, AGENDA ITEMS: THE PLANNING COMMISSION WILL PROVIDE AN OPPORTUNITY FOR MEMBERS OF THE PUBLIC TO ADDRESS THE COMMISSION ON ITEMS OF BUSINESS ON THE AGENDA; HOWEVER, TIME LIMITS MAY BE IMPOSED AS PROVIDED FOR UNDER THE ADOPTED RULES OF CONDUCT OF PLANNING COMMISSION MEETINGS.

REVIEW OF TAPE RECORDING OF MEETING: PLANNING COMMISSION MEETINGS ARE AUDIO TAPE RECORDED. TAPE RECORDINGS ARE AVAILABLE FOR PUBLIC REVIEW AT THE COMMUNITY DEVELOPMENT DEPARTMENT FOR 30 DAYS AFTER THE MEETING.

THE COUNCIL CHAMBER IS WHEELCHAIR ACCESSIBLE

MINUTES OF THE WINTERS PLANNING COMMISSION MEETING HELD JANUARY 25, 2011

DISCLAIMER: These minutes represent the interpretation of statements made and questions raised by participants in the meeting. They are not presented as verbatim transcriptions of the statements and questions, but as summaries of the point of the statement or question as understood by the note taker.

Chairman Neu called the meeting to order at 6:30PM.

PRESENT: Commissioners Cowan, DeVries, Guelden, Martinez, Meisch, Tramontana, and Chairman Neu

ABSENT: None

STAFF: Community Development Director Nelia Dyer, Contract City Attorney Laura Hollender, Management Analyst Dawn Van Dyke, Building Official Gene Ashdown, City Engineer Nick Ponticello, and Administrative Assistant Jenna Moser

Commissioner Guelden led the Pledge of Allegiance.

CITIZEN INPUT: None

COMMUNICATIONS: None

STAFF REPORTS: Community Development Director Dyer provided the latest Current Projects List, noting that on page 6, item #29 "Preserve Inc" is complete as of today. She added that the Winters Self Storage has submitted an application to expand the current use and that the item may be forthcoming.

COMMISSION REPORTS: None

CONSENT ITEM: Approve minutes of the October 26, 2010 Meeting of the Planning Commission.

Motion by Commissioner Guelden, Second by Commissioner Martinez to approve minutes of the October 26, 2010 Meeting of the Planning Commission.

AYES: Commissioners Cowan, DeVries, Guelden, Martinez, Meisch, Tramontana, and Chairman Neu

NOES: None

ABSTAIN: None

ABSENT: None

DISCUSSION ITEM:

- A. **Public Hearing and Consideration of Recommendation to the City Council the Adoption of the Grant Avenue/State Route 128/Russell Boulevard Complete Streets Concept Plan.**

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Community Development Director Dyer provided an overview of the staff report, exhibits and recommendation. Lou Hexter, Senior Project Manager, M.I.G, presented the plan to the Commission.

Commissioner Cowan asked if there had been any changes since the joint Planning Commission/City Council meeting. Mr. Hexter responded no.

Commissioner Guelden asked if it was standard to have bike lanes and pedestrian lanes on both sides of the roadway. Mr. Hexter responded that the right-of-way is available for those purposes and to serve the neighborhoods exist on both the north and south side of the roadway.

Commissioner Martinez asked about the rationale behind having a mix roundabouts and signals and a mix of two lanes and four lanes. Nick Ponticello, City Engineer, responded that staff was exploring ways to reduce the number of lanes where possible; roundabouts allow the reduction of lanes while maintaining level of service.

Commissioner Martinez asked why there are four lanes near Interstate 505 in the plan. Mr. Ponticello responded that there are four lanes between East Main Street and I-505 to accommodate amount of traffic that will gradually decrease at the intersection of Grant and East Main Street once the Main Street "loop" is extended/completed.

Community Development Director Dyer stated that it seems that some community members may have the impression that once this plan is approved, bulldozers would be out there starting the work; that is not the case. Further planning, preparation of construction drawings, and actual construction depend on availability of funding. Ms. Dyer encouraged the Commissioners to review both the short term and long term considerations are included in the plan.

Commissioner Tramontana if any changes can be made to it in the future once this plan is approved. Ms. Dyer responded that this plan will become part of a Caltrans study done on all of Highway 128, and that the plan as presented is important to Caltrans.

Commissioner Gulden asked if this plan was a "wish list" or if any consideration was given to the cost of the improvements. Mr. Ponticello responded that he does not have a cost at hand.

Chairman Neu opened the Public Hearing at 7:09PM.

Sally Brown, 24 E. Main Street, thanked CalTrans for this wonderful vision and process.

Kate Laddish, 400 Morgan Street, thanked CalTrans, staff and all involved in putting together this vision. Ms. Laddish stated the plan really reflects the community input, and likes the emphasis on roundabouts. Ms. Laddish asked if the signals shown on the diagrams are planned or if they are an illustration. Ms. Dyer responded that they are part of the plan, but they need to be further analyzed/explored.

Debra DeAngelo asked staff to state the total cost of the improvements and identify funding sources. Mr. Ponticello responded that he did not have a total cost at hand, but reducing the lanes greatly reduces costs. As to the types of funding, most money is identified in the AB1600 and major projects

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financing plan. Ms Dyer added that she and Dawn Van Dyke had attended a meeting with SACOG staff to discuss phasing and funding of the improvements listed in the plan.

Chairman Neu closed the Public Hearing at 7:20 PM.

Commissioner Tramontana asked whether improvements depicted and listed in the plan will require CEQA review. Ms. Dyer responded that CEQA would be required, and she anticipates no problems.

Commissioner Guelden stated that he is not a fan of roundabouts, especially the number and frequency of them along Grant Avenue shown in the plan. He also questioned the need for one at Dutton Street. Commissioner DeVries also stated that he thinks there are an excessive number of roundabouts. Commissioner Guelden stated concerns that residents may end up using other side streets to avoid the roundabouts. Mr. Ponticello stated that is not the purpose of the roundabouts; the purpose is to move traffic calmly and with continuity. He added that all roundabouts will not go in at once; one will go in and it will be tested. Commissioner Guelden asked where the first roundabout would be constructed. Mr. Ponticello responded the first roundabout would be constructed at Walnut Avenue. Commissioner Guelden asked if Walnut Avenue would continue through the property the City owns there. Mr. Ponticello responded that there is an entrance proposed at that location into the property.

Commissioner Tramontana voiced his support for the roundabouts. Mr. Ponticello added that the goal of plan is to not only move traffic, but to provide a safe pedestrian route; pedestrian safety is increased with roundabouts more than with signals.

Chairman Neu stated that he supports roundabouts, and that they are aesthetically superior to signals.

Alyssa Begley, Planning Chief – Caltrans District 3, stated she was very pleased with the community involvement, and believes that this plan will work very well.

Commissioner Martinez asked if roundabouts work with four lanes of traffic. Mr. Ponticello responded that a four-lane roundabout would work at East Main Street, but the City would need to acquire more right of way in that area. Commissioner Martinez then asked if the drive to put a signal at East Main Street is driven by costs. Mr. Ponticello responded yes.

Motion by Commissioner Cowan, Second by Commissioner Meisch to recommend to the City Council the Adoption of the Grant Avenue/State Route 128/Russell Boulevard Complete Streets Concept Plan .

AYES: Commissioners Cowan, DeVries, Guelden, Martinez, Meisch, Tramontana, and Chairman Neu

NOES: None

ABSTAIN: None

ABSENT: None

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B. Information Item – 2010 California Building Codes

Building Official Gene Ashdown provided an overview of his presentation.

Commissioner Guelden asked about the need to have 24/7 ventilation in new buildings. Mr. Ashdown responded that yes, it is now required due to how tightly buildings are constructed in California. The chemicals in furnishings, for example, are hazardous to health, and ventilation is needed to bring in fresh air.

Commissioner Martinez asked for clarification on the terms “submitted and accepted” as it relates to building permit application. Mr. Ashdown stated that an application must be submitted and complete in order to be considered “accepted”.

Commissioner Cowan added that the most powerful book is the smallest, the Green Building Code. Mr. Ashdown agreed. Mr. Ashdown provided an overview of how the Green Building Code works. Ms. Dyer added that in response to AB32, the Green Building Code is designed to encourage less energy use.

COMMISSIONER/STAFF COMMENTS

Ms. Dyer congratulated Joe Tramontana for the Theodore Winters Award.

Ms. Dyer noted that a solar farm has been proposed in the unincorporated area west of Winters and that Yolo County Development Review Committee is hearing the item that week. Ms. Dyer stated that properties within 300 feet of the project were notified of this informational meeting, and would be notified of future meetings.

As for the sign in front of the vet/Subway on Grant Avenue, Ms. Dyer stated that the job was initially red-tagged, but the business owner worked with staff to understand the planning/building permit process and a permit was issued; however, the sign has not received final inspection.

Ms. Dyer stated that she and Mr. Ashdown met with Chamber of Commerce Director Al Aldrete on working on bringing business to town.

Ms. Dyer mentioned that the mosaic project for Rotary Park is coming along, and that Shannon and Rebecca of the Clayground asked the Commissioners to stop in to view the progress of the work in mid-February.

The meeting was adjourned at 8:10PM.

ATTEST:

Jenna Moser, CDD Admin

Pierre Neu, Chairman

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* *New information in italics*

PROJECT	DESCRIPTION & PROCESS	LAST ACTION	NEXT ACTION
(1) Winters Highlands, Meyer Crest, Bert Meyer (530) 242-2010	Application filed to develop 413 single-family and 30 multi-family residential units in northwestern part of city.	City Council approved the Second Amendment to the Development Agreement on January 6, 2009.	Applicant submittal of Final Map and Improvement Plans.
(2) Winters Village, Bob Thompson (West project) (707) 372-9355	Proposal to develop 10 attached single-family residences on the southwest corner of East Main and East Baker Streets.	Applicant in October 2007 decided to defer construction of the project.	Project not active.
(3) Callahan Estates, Winters Investors LLC, John Peterson (925) 682-4830	Proposal to develop 120 single-family residential lots in northwest part of city.	City Council approved the First Amendment to the Development Agreement on January 20, 2009	Applicant submittal of Final Map and Improvement Plans.
(4) Creekside Estates, Jim Wirth (916) 617-4248	Proposal to develop 40 single-family residential lots at southwest part of city.	City Council approved Tentative Subdivision Map on April 19, 2005.	Project not active.
(5) Hudson-Ogando, Winters Investors LLC, John Peterson (925) 682-4830	Proposal to develop 72 single-family residential lots in northwest part of city.	City Council approved the First Amendment to the Development Agreement on January 20, 2009	Applicant submittal of Final Map and Improvement Plans.
(6) Cottages at Carter Ranch Phase 2, Sacramento Pacific Development, Mark Wiese (916) 853-9800	Proposal to develop 6 single-family residential affordable lots (moderate-income households) north of Rancho Arroyo Detention Facility.	-Planning Commission approved Tentative Subdivision Map on November 23, 2004. -City Council approved the applicant's request for infrastructure funding on November 3, 2009.	Applicant submittal of Final Map and Improvement Plans.
(7) Casitas at Winters, Napa Canyon LLC, Mark Power (707) 253-1339	Proposal for 5-unit tentative subdivision map at a site on West Grant Avenue east of Tomat's restaurant. Tentative Subdivision Map, Planned Development Overlay, and PD Permit.	City Council at its January 15, 2008 meeting took final action by approving the Rezone Ordinance.	Applicant submittal of Final Map and Improvement Plans.

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<p>(8) Mary Rose Gardens, DAS Homes, Inc., Dave Snow (530) 666-0506</p>	<p>Proposal to develop 26 single-family homes and one duplex unit on the north side of West Grant Avenue west of Cemetery Lane. Tentative Subdivision Map, Planned Development Overlay, PD Permit, Rezone, Inclusionary Housing Agreement, and Development Agreement.</p>	<p>Applicant declined option to purchase project property.</p>	<p>Project not active.</p>
<p>(9) Anderson Place, Eva Brzeski (415) 887-9300</p>	<p>Proposal to develop up to 28 mostly attached single-family residences and 9 commercial spaces at 723 Railroad Avenue. Interim use of C2 portion of the site for boat and RV storage, sales and repair.</p>	<p>First Amendment to Development Agreement adopted by City Council on June 3, 2008 CUP for boat & RV storage, sale & repair approved by Planning Commission on May 27, 2008.</p>	<p>Applicant to demo building and establish interim boat & RV storage, sales and repair. Applicant submittal of Final Map and Improvement Plans.</p>
<p>(10) Pearse Parcel Map, Thomas Pearse (530) 795-5901</p>	<p>Proposal for 4-unit parcel map at the south end of Third Street.</p>	<p>Planning Commission on October 9, 2007 approved project.</p>	<p>Applicant submittal of Final Map and Improvement Plans.</p>
<p>(11) Winters Commercial, Granite Bay Holdings, LLC, Tyler Wade (916) 580-1855</p>	<p>Proposal to develop 4.52 acres on south side of Grant Avenue directly west of Round Table Pizza complex for 49,500 square feet of commercial and office uses. Site Plan. Application submitted on August 17, 2007 and deemed complete on October 22, 2007.</p>	<p>-Per COW Municipal Code, Chapters 17.20 (Use Permits) and 17.36 (Design Review), Community Development Director approved an extension for both permits on December 5, 2008. -Community Development Agency purchased the subject site in Summer 2009. CDA issued RFP for development of site in October 2009.</p>	<p>Community Development Agency (CDA) approved an extension of an Exclusive Negotiating Rights Agreement By and Between the CDA and Yackzan Group, Inc, for the Development of the Grant Avenue Commercial Property.</p>
<p>(12) Winters Estates Annexation, Winters Estates LLC, Helmut Sommer 707-678-9000</p>	<p>Proposal to annex 80 acres (APNs 030-210-05 & 08) adjacent to County Road 88 and within the City's General Plan Area.</p>	<p>City issuance of incomplete application letter on February 1, 2008.</p>	<p>Project Inactive/Closed out</p>
<p>(13) Orchard Village, CVCAH/Pacific West Communities, Sheilan Miller (208) 461-0022 Ext. 3033</p>	<p>Proposal to construct 74 multifamily (workforce housing) units on 10.6 acres between Railroad Ave, and Dutton Street extension, north of East Grant Ave. To include 1-, 2-, 3-, and 4-bedroom units + a community center.</p>	<p>Planning Commission approved Site Plan (Design Review) and adopted MND and MMP on January 27, 2009. Appeal of PC's decision was filed on</p>	<p>Under Construction</p>

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		February 4, 2009 by Catherine Jimenez. City Council denied the appeal at the March 3, 2009 City Council Meeting. Applicant submitted improvement and building plans in October 2009.	
(14) St. Anthony's Catholic Church Parish & Rectory, Roman Catholic Church of Sacramento/McCandless & Associates (530) 662-9146	Proposal to construct a new Catholic Church and associated site work at the corner of Main & Grant Streets.	-On April 21, 2009, the City Council approved the ordinance to rezone the property, adding a PD overlay. -Applicant submitted improvement and building plans in December 2009.	Issuance of Building Permit(s)
(15) 115 E. Grant Avenue Fueling Canopy, David Lorenzo (530) 795-3214	Proposal to construct a fueling canopy and install 4 new fueling dispensers at 115 E. Grant Avenue.	Planning Commission approved the Design Review (Site Plan) on February 24, 2009.	Complete
(16) Turkovich Family Wines, 304 Railroad Avenue, (530) 795-2767	Application for a Conditional Use Permit to operate a wine tasting room at 304 Railroad Avenue	Application was filed on January 29, 2009. Planning Commission approved the Conditional Use Permit for the project on March 24, 2009.	Complete
(17) The Tree House Children's Center, 418 Haven Street, (530) 304-8248	Application for a Conditional Use Permit to operate a children's center at 418 Haven Street	Application was filed on March 19, 2009. Planning Commission approved the Conditional Use Permit for the project on April 28, 2009.	Complete
(18) Winters Community Church, 113 Main Street, (530) 795-5530	Application for a Conditional Use Permit to operate a religious institution at 113 Main Street	Application was filed on April 6, 2009. Planning Commission approved the Conditional Use Permit on May 26, 2009.	Complete
(19) Turkovich Family Winery, 22-A Main Street, (530) 795-2767	Application for a Conditional Use Permit to operate a winery at 22-A Main Street	Application was filed on June 6, 2009. Planning Commission approved the Conditional Use Permit on July 14, 2009.	Complete
(20) Winters Healthcare Foundation Administrative	Application for a Conditional Use Permit to conduct an office use in a residential zone	Application was filed on July 8, 2009. Planning Commission	Complete

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Offices, 310 Main Street, (530) 795-5200		approved the Conditional Use Permit on August 25, 2009	Complete
(21) AT&T Cell Tower Co-location at Rd 88 & Rd 32A, (916)601-1123	Application for a Conditional Use Permit to co-locate additional antennas on an existing tower at Rd 88 & 32A. The existing cell tower is located on City property	Application was filed on July 17, 2009. Planning Commission approved the Conditional Use Permit on August 25, 2009.	
(22) City Parking Lot at Abbey and First Streets, (530) 795-4910	Design Review Application for the temporary renovation of the City's parking lot at First and Abbey Streets	Planning Commission approved the Site Plan on October 27, 2009	Submittal of improvement plans.
(23) 111-115 Main Street Façade Improvement Project (530) 795-3506	Design Review application for the façade improvement of 111-115 Main Street.	Application was filed on October 10, 2009. Planning Commission approved the Design review Application on October 27, 2009.	Applicant submittal of improvement and building plans.
(24) Main Street Cellars Wine Café, 9 East Main Street, Suite J (209) 304-7953	Application for a Conditional Use Permit to operate a wine bar at 9 East Main Street, Suite J	-Application was filed on October 30, 2009. Public hearing scheduled for November 24, 2009 -Planning Commission approved Conditional Use Permit on November 24, 2009	Building Permit Issued/ under construction
(25) Burger King/Union 76 at East Grant Avenue and County Road 90 (530) 755-4700	Application for a Design Review/Site Plan and Sign Permit to construct a co-brand fuel station, convenience store and fast food restaurant at East Grant Avenue and CR 90. A sign permit is required for the proposed freeway sign.	-Application was filed on December 7, 2009. The application was deemed "incomplete" by staff on January 4, 2010. - Public Hearing and Informational Item scheduled for January 26, 2010. -A public hearing was scheduled for a special Planning Commission meeting on August 10, 2010. The Planning Commission approved the application. On August 20,	Applicant submittal of improvement and building plans

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		<p>2010, the City received a notice of appeal of the Planning Commission's Action.</p> <ul style="list-style-type: none"> -Appeal Hearing was scheduled for a special City Council meeting on Wednesday, September 29, 2010. - City Council denied the appeal and upheld the Planning Commission's decision at the special City Council meeting held on September 29, 2010.
<p>(26) Tentative Parcel Map for Jordan Family (530)662-1755</p>	<p>Application for Tentative Parcel Map for property located southwest of I-505/SR 128 to realign the proposed Gateway Drive street alignment and reconfigure the lots to match the new alignment.</p>	<ul style="list-style-type: none"> -Application was filed on December 16, 2009. The application was deemed "incomplete" by staff on January 12, 2010. -The application was deemed complete on March 10, 2010. A public hearing was scheduled for the May 25, 2010 Planning Commission Meeting. The Planning Commission recommended approval of the Tentative Parcel Map to the City Council. - The City Council held a public hearing and approved the tentative parcel map on June 5, 2010.
<p>(27) Kristensen Drywall and Pearce Heating & Air Conditioning, 27990 CR 90, (530) 795-8800</p>	<p>Application for a Conditional Use Permit (CUP) to operate light general manufacturing uses in a Light Industrial (M-1) zone at 27990 CR 90.</p>	<p>Application was filed on February 18, 2010. A public hearing for the application was scheduled for the March 23, 2010 Planning Commission Meeting. The Commission</p> <p align="right">Active Business</p>

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		approved the CUP at the March 23, 2010 meeting.	
(28) Briggs & Co., 820 Railroad Avenue, (530) 795-9505	Application for a Conditional Use Permit (CUP) for extension of a non-conforming use at 820 Railroad Avenue.	Application was filed on March 1, 2010. A public hearing for the application was scheduled for the March 23, 2010 Planning Commission meeting. The public hearing was continued off calendar. Another public hearing was scheduled for the August 24, 2010 Planning Commission meeting. The public hearing was continued off calendar by staff.	
(29) Preserve, Inc., 200 and 202 Railroad Avenue, (530) 795-3816	Application for a Conditional Use Permit (CUP) to amend an existing conditional use permit for on-site sale and consumption of alcoholic beverages at 200 and 202 Railroad Avenue to include the space at 3 Russell Street	Application was filed on March 4, 2010. A public hearing for the application was scheduled for the March 23, 2010 Planning Commission (PC) Meeting. The public hearing was continued to a special PC meeting on April 5, 2010. PC approved the CUP at the meeting on April 5, 2010.	Complete/Active Business
(30) Main Street Plaza, 111 Main Street, (530) 795-3214	Application for a Sign Permit and Variance to modify a nonconforming sign location at 111 Main Street	Application was filed on March 4, 2010. A public hearing for the application was scheduled for the March 23, 2010 Planning Commission (PC) Meeting. PC approved the variance at the meeting on March 23, 2010.	Complete
(31) New Single Family Home, 415 First Street, (916) 600-5401	Application for a Site Plan (Design Review) application for the construction of a new single-family, single-story house at 415 First Street	Application was filed on April 2, 2010. A public hearing for the application was scheduled for the April 27, 2010 Planning	Complete

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		<p>Commission (PC) Meeting. PC approved the Design Review application at the meeting on April 27, 2010.</p>	
<p>(32) Addition to Existing Single-Family Residence, 455 Russell Street, (530) 867-6444</p>	<p>Application for a Site Plan (Design Review) application for the construction of a 1,500 square-foot addition to an existing single family residence at 455 Russell Street</p>	<p>Application was filed on April 9, 2010. A public hearing for the application was scheduled for the April 27, 2010 Planning Commission (PC) Meeting. PC approved the Design Review application at the meeting on April 27, 2010.</p>	<p>Complete</p>
<p>(33) Parcel Map for 101 East Grant Avenue, (530) 668-5883</p>	<p>Application for the dedication of right-of-way for the Walnut Lane Re-Alignment Project and splitting one lot into two new lots at 101 East Grant Avenue (APN 003-350-06)</p>	<p>Application was filed on June 1, 2010. A public hearing for the application was scheduled for the June 22, 2010 Planning Commission Meeting. It has been continued to a special meeting in July due to the need for additional time to process the preliminary map with Yolo County. A public hearing was scheduled for the August 24, 2010 Planning Commission. Parcel map was approved at the Planning Commission meeting on August 24, 2010.</p>	
<p>(34) 22 Main Street, (530) 795-2060</p>	<p>Application for a Conditional Use Permit (CUP) to operate a wine tasting room at a proposed boutique/gift shop to be located at 22 Main Street</p>	<p>Application was filed on June 10, 2010. Staff could not process the project until ordinance relevant to the project was amended. A public hearing for the project was held on October 26, 2010. The Planning Commission approved the issuance of the CUP.</p>	<p>Active Business</p>

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(35) 113 Main Street, CUP for Anytime Fitness (650) 483-2201	Application for a Conditional Use Permit (CUP) to operate a 24-hour gym at 113 and 115 Main Street	Application was filed on September 14, 2010. A public hearing for the project was held on October 12, 2010. The Planning Commission approved the issuance of the CUP.	Construction completed/Active Business
Code Enforcement Ordinance	Preparation of Ordinance to adopt Title 19 (Code Enforcement) to the Winters Municipal Code.	-Presentation to Planning Commission on November 24, 2009. -Presentation to City Council on December 1, 2009. -Adopted by City Council in January 2010.	
General Plan Horizon Year Extension	Extend the General Plan Horizon Year Extension from 2010 to 2018.	CC approved the extension on September 1, 2009. Staff prepared and presented the Work Plan resulting from the extension to the PC on October 27, 2009	
Affordable Housing Ordinance	Preparation of an Ordinance to add Chapter 17.200 to the Winters Municipal Code (Zoning) pertaining to Affordable Housing Requirements	-Reviewed favorably by Affordable Housing Steering Committee on November 3, 2009. -PC recommended approval to City Council on November 24, 2009. -City Council adopted the Affordable Housing Ordinance on January 5, 2010	
Housing Element	Preparation and Adoption of Housing Element Update for the 2008-2013 Planning Period	City Council adopted the Housing Element Update on September 1, 2009.	Development of a work/implementation plan for the Housing Element
Abbey Street Partial Abandonment	Partial abandonment of East Abbey St to allow for Monticello development	PC accepted GP consistency report and recommended to Council 4/22/08. CDA at its September 2, 2008 meeting	Applicant submittal of improvement and building plans for the Monticello Project

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		approved the DDA for the project.	
Monticello Mixed-Use Project	Application for Site Plan Review and Design Review, and CUP for the construction of a mixed-use project (commercial/retail, office and residential) on 0.42 acre on the east side of Railroad Ave. between Abbey St. and Main St, in downtown Winters CBD.	CDA at its September 2, 2008 meeting approved the DDA for the project	Not active/DDA expired
Public Safety Facility	Application for Site Plan Review and Design Review, CUP and Variance for the construction of the City's public safety facility on 2.78 acres of the Ogando-Hudson Subdivision (Grant Ave @West Main Street)	PC hearing on 7/22/08 – PC approved project subject to COAs presented in staff report.	Under Construction

Affordable Housing Units

- Project #1:** 26 units for very low-income, 25 units for low-income, and 15 units for moderate-income households
- Project #2:** 2 units for low-income households
- Project #3:** 7 units for very low-income, 7 units for low-income, and 4 units for moderate-income households
- Project #4:** 1 unit for very low-income, 2 units for low-income, and 1 unit for moderate-income households
- Project #5:** 11 units for very low-income households
- Project #6:** 6 units for moderate-income households
- Project #7:** Not known whether residential units will be constructed
- Project #8:** 2 units for very low-income, 1 unit for low-income, and 1 unit for moderate-income households
- Project #9:** 2 units for very low-income, 1 unit for low-income, and 1 unit for moderate-income households
- Project #10:** Not applicable
- Project #11:** Not applicable
- Project #12:** Not known at this time
- Project #13:** 74 units for very low-income and low income households
- Project #14:** Not applicable
- Project #15:** Not applicable
- Project #16:** Not applicable
- Project #17:** Not applicable
- Project #18:** Not applicable



PLANNING COMMISSION
STAFF REPORT

TO: Chairman and Planning Commissioners
DATE: March 22, 2011
FROM: Nelia C. Dyer, Community Development Director *ND*
SUBJECT: Information Item - Medical Marijuana Distribution Facilities

RECOMMENDATION: None. The purpose of this information item is to bring Planning Commission up to date on the status of staff's review of medical marijuana distribution facilities, provide background information, and gain preliminary feedback on the issue.

BACKGROUND: The purpose of this study is to provide information necessary for the Planning Commission and, ultimately, the City Council to decide whether to allow medical marijuana distribution facilities (MMDs) in the City of Winters. The study does not include the recreational use of marijuana. In addition, the study does not include Proposition 215 and subsequent legislation and guidelines that have determined that the use of marijuana for medical purposes is acceptable. Therefore, this study does not discuss the value or effectiveness of marijuana for medical purposes.

This section of the report is organized into questions commonly asked regarding MMDs.

How do Federal laws affect this issue?

- The Controlled Substance Act (CSA) makes it unlawful to manufacture, dispense, or possess any controlled substance.
- Marijuana is considered a controlled substance and is subject to the CSA.
- The official stance of the Federal Government is that marijuana is considered a drug with "no currently accepted medical use." As a result, it remains a federal offense to dispense or possess marijuana, whether for recreational or medical purposes.
- In 2009, the federal government stated it would no longer enforce the Federal laws prohibiting distribution or possession of marijuana for medicinal purposes, but that states would have the final say in the matter.

How do State laws affect this issue?

- The Compassionate Use Act (California Proposition 215) was passed in 1996.
- The purpose of the Compassionate Use Act (CUA) was to give individuals the right to obtain and use medical marijuana as deemed appropriate and as recommended by a physician. The CUA ensures patients and primary caregivers will not be subject to criminal prosecution for the possession or cultivation of marijuana for medical purposes.
- In 2003, SB 420, the Medical Marijuana Program Act (MMP), was passed. The bill codified the regulations under which the possession, distribution, and use of marijuana for medical purposes would be subject.
- State Attorney General issued guidelines in 2008 to provide greater direction to ensure marijuana used for medical purposes is secure and does not find its way to non-patients or illicit markets, to help law enforcement agencies to perform their duties, and to give patients and primary caregivers an understanding how marijuana may be cultivated, transported, possessed, and used under California law.

Have issues related to MMDs been reviewed by the courts?

- There are several court cases that have tested the CUA and MMP, and generally hold that apart from possession and cultivation, the CUA did not alter any state prohibitions concerning possession and sale. The recent *Anaheim* case rejected that city's claim that cities are justified to prohibit dispensaries because marijuana is illegal under federal law.

How do City of Winters' laws affect this issue?

- A moratorium that was passed by the City Council prohibits any medical marijuana distribution facility to be located anywhere in the City during the City's study and analysis of the issue.

What are medical marijuana distribution facilities (MMDs)?

- The Attorney General Guidelines refer to places that distribute medical marijuana as collectives, cooperatives, and dispensaries.
- The goal of State law is to ensure marijuana is used for medical purposes under a physician's care, not by non-patients.
- Collectives, cooperatives, and dispensaries (distribution facilities) are intended to be non-profit entities with membership requirements to be used solely for providing marijuana for those truly in need.

Why is marijuana not dispensed by pharmacies or doctors?

- The Federal law prohibits the use of marijuana for any legal purpose, classifying it as a Schedule I drug, which means it cannot be legally described as medicine by a physician.
- Since no prescriptions are possible, no drug store or pharmacy can dispense it.

- Under California law, doctors can provide patients with recommendation for marijuana for medical purposes, which are required to obtain medical marijuana cards from the county health departments or from the dispensaries.

What is the study considering?

- The City of Winters considers the issue of MMDs as land use and public safety issues.
- First decision the City Council would need to make:
 - o **SHOULD ANY SUCH FACILITY BE ALLOWED IN THE CITY?**
- If so, where and with what operational standards?

What have other cities in Yolo County done to address this issue?

- City of Davis established an ordinance prohibiting MMDs in all zones within the city in August 2005.
- City of West Sacramento established an ordinance prohibiting MMDs in all zones within the city in January 2011.
- City of Woodland amended the City's Municipal Code to prohibit businesses and land uses in the city that violate state or Federal law.
- MMDs are not allowed in unincorporated Yolo County per the County's Zoning Code.
- Solano County has a moratorium on the establishment of MMDs until September 2011.

What are the City's public safety concerns?

- Costs for code enforcement, fire and police due to increase in calls for these services.
- Potential increase in crime in and around distribution locations
- Unreported crime
- Impact on surrounding businesses
- Concerns about where the marijuana is grown and transported, specifically influence of organized crime in the production of marijuana
- Size and number of dispensaries
- Federal law has not changed; it is still considered an illegal drug.

DISCUSSION/OPTIONS FOR ACTION

First Decision:

- Should the City of Winters amend the Zoning code to allow Medical Marijuana distribution facilities (MMDs) in the city?

If the decision is to not allow in the City:

- Staff will prepare an ordinance specifically banning the facilities in any zone in the City.
- That decision would be comparable to that taken by other cities in Yolo County (see above).

If MMDs are allowed in the City:

- Staff will present possible location and operational criteria taking into account overarching

goals, such as:

- How to ensure any guidelines would assist in providing compassionate care for those in need of assistance through the use of medical marijuana;
- How to limit profit-seeking businesses;
- Limit the impact to the community by the facilities;
- Minimize the increase in crime or public safety responses; and
- Find compatible size and design criteria that would ensure the MMDs fit with surrounding area.

Listed below are options that could be incorporated into a final ordinance should the Council make that decision:

Approval Process

- Limit number of facilities in City
- Require competitive bidding for number of facilities in City (such as Request for Proposal) so the best operation possible is chosen
- Issue one year Use Permits, requiring re-approval to ensure facilities operate safely and without problems
- Specify that renewal of permits would not be approved should Federal law or enforcement practices change
- Apply a permit fee to allow cost recovery for enforcement activity
- Public review by Planning Commission and/or City Council

Location Requirements

- Require separation of MMDs from residential areas, schools, parks, day care centers
- Require a minimum distance between MMD facilities (e.g. 200-500 feet)
- Limit MMDs to specific zoning district (i.e. only allowed in Commercial and/or Industrial zones)
- Require MMDs to be near major arterials, at front of building with easy visual access to street, windows in facility, well lit parking lot, etc.

Operational Requirements

- Limit other services offered and items for sale
- Require holistic services be available as part of membership in facility
- Must grow all marijuana on-site or at Winters members homes, with approval of necessary permits for those grow areas
- Limit hours of operation
- Require independent audits to ensure facility maintains non-profit status
- Require independent testing of safety of product
- Winters Police Department requirements for background checks for owners and employees
- Require cultivation by members

- Maintain cultivation records
- Must be maintained as a non-profit operation
- Provide community relations contact for City and the public
- Install odor control mechanisms to limit impact to surrounding areas
- Right of inspection by the Winters Police Department

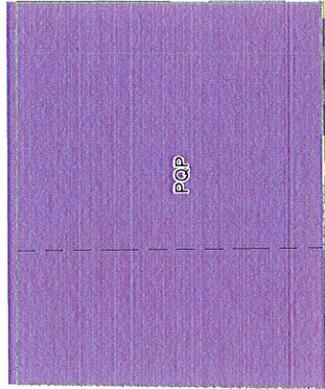
Business Limitations

- Have age restrictions to require persons under 18 to be accompanied by a parent or guardian
- Limit size using square footage and/or maximum number of customers allowed
- Restrict signs that include “marijuana” in the title
- No ancillary uses: happy hours, barbecues on site, etc.
- Mechanism to ensure the facility is not used as a profit-making business
- Do not allow doctor referrals to be made at the MMD location
- No delivery from facility to members
- Limit retail sales – no drug paraphernalia
- Limit maximum number of members
- Require County medical card or other entity approved by Winters Police Department

ATTACHMENTS:

Map showing properties outside 1,000 foot distance from schools

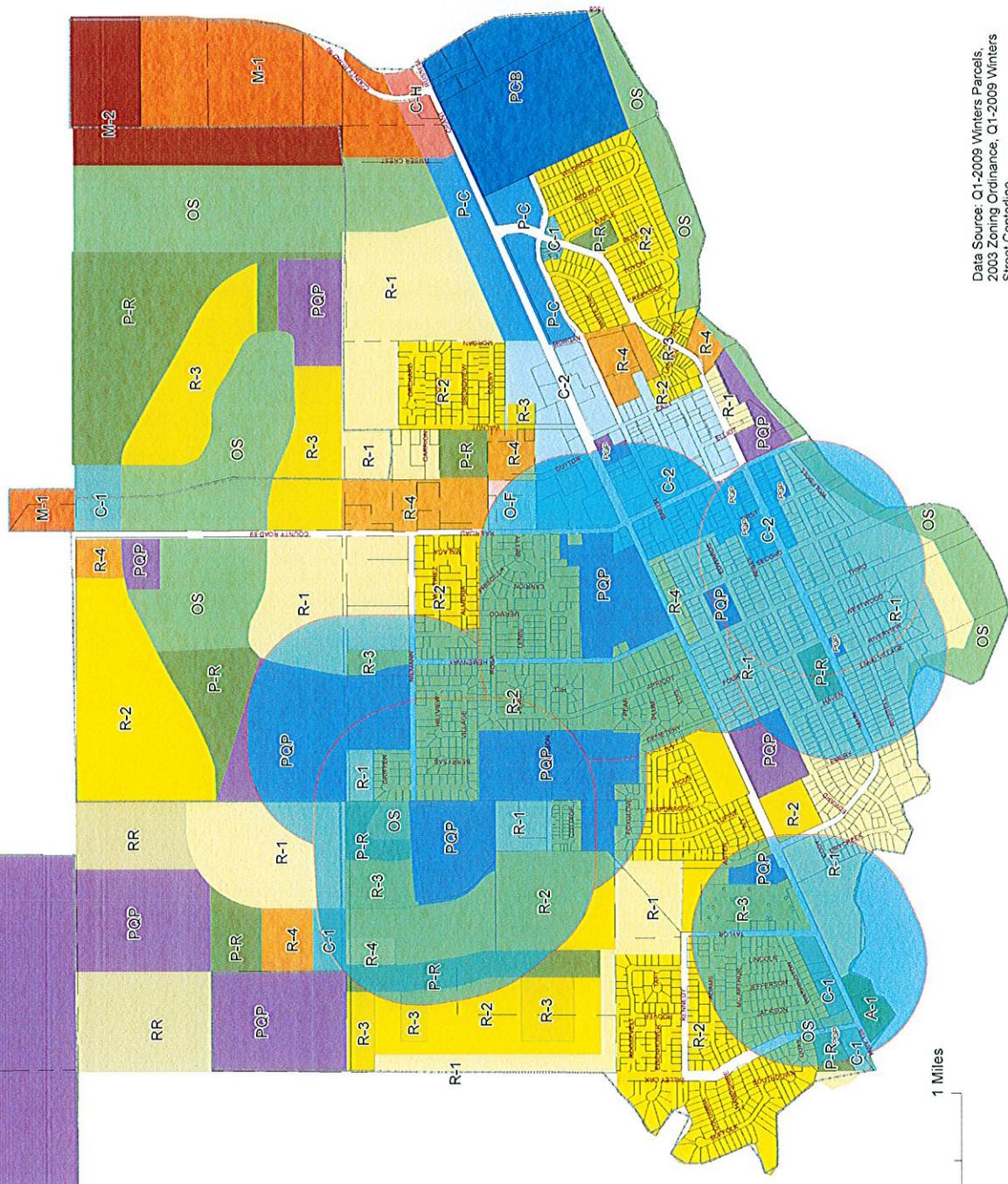
1,000ft - Winters Schools with Zoning



1,000ft - Schools
Zoning Districts

- A-1 General Agriculture
- C-1 Neighborhood Commercial
- C-2 Central Business District
- C-H Highway Service Commercial
- M-1 Light Industrial
- M-2 Heavy Industrial
- O-F Office
- O-S Open Space
- P-C Planned Commercial
- P-R Parks & Recreation
- PCB Planned Commercial Business Park
- PQP Public Quasi Public
- R-1 Single Family Residential (7,000)
- R-2 Single Family Residential (6,000)
- R-3 Multi-Family Residential
- R-4 High Density Multi-Family Residential
- R-R Rural Residential

City Limit

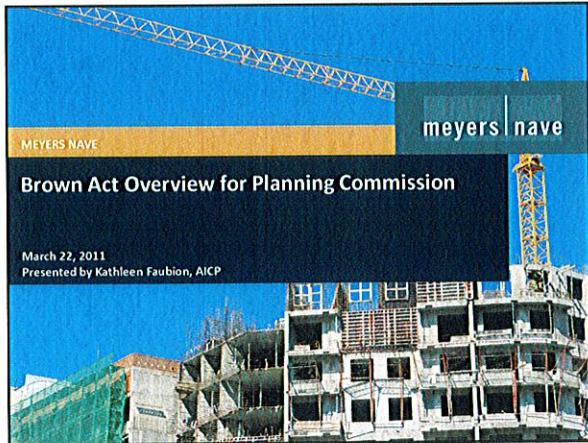




PLANNING COMMISSION
STAFF REPORT

TO: Chairman and Planning Commissioners
DATE: March 22, 2011
FROM: Nelia C. Dyer, Community Development Director *NCD*
Kit Faubion, Assistant City Attorney, Meyers Nave
SUBJECT: Information Item - Brown Act

RECOMMENDATION: None. The purpose of this information item is to provide an overview of the Brown Act. Kit Faubion of Meyers Nave will present the item to the Planning Commission. The slide presentation is attached.



Brown Act Overview

- California’s open meeting law
- Adopted in 1954

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Policy behind the Brown Act

“In enacting this chapter, the Legislature finds and declares that the public commissions, boards, councils and other public agencies in this State exist to aid in the conduct of the people’s business. It is the intent of the law that **their actions be taken openly and that their deliberations be conducted openly.**” The people insist on remaining informed so that they may retain control over the instruments they have created.” (Govt. Code Section 54950)

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Purpose and Intent

All meetings of the legislative body of the local agency shall be open and public and all persons shall be permitted to attend any meeting except as otherwise provided. (Section 54953)

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Legislative Bodies

- ❖ **A local governing body**
 - ❖ Includes newly elected members
- ❖ **A commission or committee** if created by charter, ordinance or formal action of the legislative body.
 - ❖ May be permanent or temporary
 - ❖ Decision making or advisory

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Meeting Defined

“Any congregation of a majority of the members of a legislative body at the **same time and place** to **hear, discuss, or deliberate** on any item that is within the **subject matter jurisdiction** of the legislative body or the local agency to which it pertains.”

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Not Meetings

1. Individual contacts between the members and the public
2. Attendance of a majority of members at a conference
3. Attendance of a majority of members at an open and publicized community meeting, e.g., an election debate
4. Attending an open and noticed meeting of another body
5. Attending a social function (e.g., a holiday party)
6. Observing the meeting of one of the body's standing committees

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Serial Meetings

- ❖ “Use of direct communication, personal intermediaries or technological devices that is employed by a majority of the members of a legislative body to **develop a collective concurrence** as to an action to be taken.”

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Serial Meetings

- ❖ Daisy Chain - direct communication by members
- ❖ The Trouble with Email
- ❖ Hub and Spoke - communication through personal intermediaries
- ❖ Documents as Meetings

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What is the Planning Commission's Business?

- Carry out the purposes of state planning and zoning law (Government Code § 65100 et seq.)
- Powers and duties per Municipal Code § 2.16 (Planning Commission)
- Authority per Municipal Code § 17.12.010 and .020 (Zoning ordinance, planning agency)
- Review, recommend on the general plan and zoning ordinance amendments
- Review, recommend on zoning ordinance permits, appeals

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Location Of Meeting

- ❖ Meetings must be held in an accessible facility for disabled persons and
- ❖ Legislative Bodies must meet inside agency's boundaries, unless one of the following exceptions applies

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Exceptions

1. No Facility within agency's boundaries
2. To comply with state or federal law or a court order
3. To inspect real or personal property located outside the agency's jurisdiction
4. Multi-agency meetings held within the boundaries of one of the member agencies
5. In an agency facility if the agenda is limited to items related to the facility

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Exceptions (cont'd)

6. Meet with state or federal officials solely to discuss legislative or regulatory issues affecting the local agency
7. For a closed session with an agency attorney on pending litigation
8. By video or teleconferencing if:
 - ❖ Open to public and posted at all locations
 - ❖ Quorum remains within agency boundaries

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Notice, Agenda & Other Requirements

- ❖ Regular Meetings
- ❖ Special Meetings – rare for Planning Commissions
- ❖ Emergency Meetings – generally not applicable to Planning Commissions

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Agendas for Regular Meetings

- ❖ 72 hour advance posting
- ❖ Time and location of meeting
- ❖ Description of each item of business
- ❖ Available in alternate formats to the disabled
- ❖ Recent law regarding the availability of “writings” relating to matters on agenda given to the majority of the legislative body

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Regular Meetings

No discussion of Non Agendized Items, except:

- ❖ Brief response to public comment
- ❖ Brief report of own activities
- ❖ Routine comment
- ❖ Refer items to staff
- ❖ Holdover items less than 5 days old

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Regular Meetings

Additional exceptions:

- ❖ Legislative body determines by majority vote that an emergency situation exists
- ❖ Legislative body determines by 2/3 vote (or a unanimous vote in the event that less than 2/3 of members are present) that a need exists to take immediate action on the matter and the matter came to the attention of the local agency after the agenda was posted (i.e., only if public health or safety may be threatened (work stoppage, disaster))

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Public Comment Period at Regular Meetings

- ❖ A public comment period must be on the agenda – for any matter in agency jurisdiction
- ❖ The public may also comment on items on the agenda prior to or during legislative consideration
- ❖ Duration of comments may be limited by regulation

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Penalties

- ❖ Criminal Penalties
- ❖ Civil Penalties
- ❖ Proposition 59

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Criminal Penalties

A Criminal Violation Requires:

- ❖ A meeting where action is taken
- ❖ A violation of Brown Act
- ❖ An intent to deprive the public of information

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Civil Penalties

- ❖ Invalidating action brought by an interested person
 - ❖ "Cure and correct" demand within 30 days
 - ❖ Action usually voided
- ❖ Injunctive relief
- ❖ Attorneys' fees

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Prop. 59

Amended State constitution, Art I, Sec 3

- The people have the right ... to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.
- A statute, court rule, or other authority... shall be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access.
- Thus far, its impact has been limited

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Other Recent Changes

- ❖ SB 343 inserted new section (b) into Government Code 54957.5 regarding availability of writings distributed to members of legislative bodies. Effective July 1, 2008.
- ❖ SB 1732 explicitly overturned a 2006 court decision, *Wolfe v. City of Fremont*, which ruled that communications among members of a legislative body do not run afoul of the bar on "serial meetings" unless the members actually reach a decision on how to vote on a matter before the body. The new law provides:

"A majority of the members of a legislative body shall not, outside a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body."

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QUESTIONS?

Please feel free to contact us at

510.808.2000

Kathleen Faubion

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