

CITY OF WINTERS PLANNING COMMISSION AGENDA

Monday, April 5, 2010 @ 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 Minutes from the March 23, 2010 regular meeting of the Planning Commission.

V. STAFF/COMMISSION REPORTS

VI DISCUSSION ITEMS:

A. *Public Hearing and Consideration of a Conditional Use Permit Application Submitted by Cole Ogando 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 Spaces Located at 3 and 5 Russell Street (APN 003-203-012) (Continued from the March 23, 2010 Planning Commission Meeting)*

A Public Hearing to consider a Conditional Use Permit application 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 spaces at 3 and 5 Russell Street. This project is exempt from CEQA review under the provisions of Section 15301 "Existing Facilities."

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 30, 2010.



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".

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.

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 BY THE CHAIR 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.

COPIES OF AGENDA, AGENDA REPORTS AND OTHER MATERIALS: PRIOR TO EACH MEETING, COPIES OF THE AGENDA ARE AVAILABLE, AT NO CHARGE, AT CITY HALL DURING NORMAL WORKING HOURS. IN ADDITION, A LIMITED SUPPLY WILL BE AVAILABLE ON A FIRST COME, FIRST SERVED BASIS, AT THE PLANNING COMMISSION MEETINGS. 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.

THE COUNCIL CHAMBER IS WHEELCHAIR ACCESSIBLE

**MINUTES OF THE WINTERS PLANNING COMMISSION MEETING HELD ON
TUESDAY, MARCH 23, 2010**

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

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

ABSENT: None

STAFF: Community Development Director Nellie Dyer, Contract City Attorney Laura Hollander, Administrative Assistant Jenna Moser

Commissioner Tramontana led the Pledge of Allegiance.

CITIZEN INPUT: None

COMMUNICATIONS:

Staff Reports:

Community Development Director Dyer requested to continue Item B (Ogando – 200/202 Railroad, 3 Russell) to a special Planning Commission meeting to be held on April 5th, 2010, to continue D (CUP- Briggs & Co.) off calendar, and Item E (Medical Cannabis Ordinance) to the regular April meeting. Commissioners concurred.

Commission Reports: None

CONSENT ITEM

Approve minutes of the February 23, 2010 regular meeting of the Planning Commission.

Motion by Commissioner Guelden, Second by Commissioner Tramontana to approve the minutes for the February 23, 2010 meeting of the Planning Commission. Motion carried with the following roll call vote:

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 A CONDITIONAL USE PERMIT APPLICATION SUBMITTED BY SUE KRISTENSEN TO OPERATE A LIGHT GENERAL MANUFACTURING USE IN AN EXISTING BUILDING LOCATED IN A LIGHT INDUSTRIAL (M-1) ZONE AT 27990 COUNTY ROAD 90 (APN 038-050-073)

Commissioner DeVries recused himself due to a possible conflict of interest at 6:35PM. Ms. Dyer provided an overview of the staff report and presented photo

**MINUTES OF THE WINTERS PLANNING COMMISSION MEETING HELD ON
TUESDAY, MARCH 23, 2010**

exhibits of the existing building and site. Ken Kristensen, applicant, stated that the first thing he intends to do with the site is to clean it up, relocate the palm trees to the perimeter of the property, and possibly construct a fenced area in the rear of the property to store materials. Mr. Kristensen stated that he has approximately 7 employees, and the Pearce operation has about the same number of employees.

Chairman Neu opened the Public Hearing at 6:41PM.

Joe Castro, 104 Third Street, stated that he is in support of the project.

Chairman Neu closed the Public Hearing at 6:42PM.

Commissioner Tramontana stated he hopes they will be in business there for a long time to come.

Commissioner Guelden asked if there would be any possibility of a retail component to their operation. Mr. Kristensen responded that they may sell doors and drywall in the future.

Commissioner Cowan added that he is in support of the project and likes to see this new business in town.

Motion by Commissioner Cowan, Second by Commissioner Martinez to approve the Conditional Use Permit Application. Motion carried with the following roll call vote:

AYES: Commissioners Cowan, Guelden, Martinez, Meisch, Tramontana, and Chairman Neu
NOES: None
ABSTAIN: DeVries
ABSENT: None

C. PUBLIC HEARING AND CONSIDERATION OF A VARIANCE AND SIGN PERMIT APPLICATION SUBMITTED BY DAVID LORENZO TO MODIFY A NONCONFORMING SIGN LOCATED AT 111 MAIN STREET (APN 003-201-015)

At this time, Commissioners Martinez and Neu recused themselves due to proximity issues. Ms. Dyer provided an overview of the staff report noting that she requested the applicant remove the decorative scrollwork on the sign as it does not meet the character of the rest of the building.

David Lorenzo, the applicant, stated that the lighting would be a soft glow, nothing too bright.

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Commissioner Tramontana asked if the lights would be on 24 hours. Mr. Lorenzo responded that the top globes and the clock would be on 24 hours, but the tenant signs would be left up to his leaseholders to determine a shut-off time, but stated that he thinks that the tenants would turn off the lights at night because they would not want to pay to keep them on 24 hours.

Commissioner Guelden stated that he supported removing the decorative scrollwork.

Commissioner Cowan asked about the number of individual tenant signs. Mr. Lorenzo stated that there can be up to 9 tenants, but the sign holds 6, so it would be first come first served.

Commissioner Cowan opened the Public Hearing at 6:58PM.

Shaunie Briggs, 822 Railroad Ave, stated that she would like to hold off on this sign until the whole sign plan for downtown was developed. Ms. Dyer responded that the Form Based Code provides some guidelines for signs, and this sign is a great improvement to what is currently there.

Commissioner Tramontana asked if there were any other signs in town that could possibly qualify for this kind of variance. Ms. Dyer responded that similar situations exist and each would have their own circumstances.

Javier Gutierrez, 1003 Hemenway, asked for clarification on what lights would be on at what times. Ms. Dyer stated that the top globes and the clock would be on 24 hours, and confirmed with the applicant that the tenant signs would be left up to his leaseholders to determine a shut-off time. Ms. Dyer stated that the city does not have a "night sky" ordinance, but there is a goal in the General Plan to minimize degradation of night sky clarity.

Commissioner Cowan closed the Public Hearing at 7:06PM.

Commissioner Guelden stated that this sign is a big improvement.

Motion by Commissioner Meisch, Second by Commissioner Guelden to approve the Variance and Sign Permit application. Motion carried with the following roll call vote:

AYES: Commissioners Cowan, Guelden, Meisch, Tramontana
NOES: None
ABSTAIN: DeVries, Martinez, Neu
ABSENT: None

**MINUTES OF THE WINTERS PLANNING COMMISSION MEETING HELD ON
TUESDAY, MARCH 23, 2010**

COMMISSION/STAFF COMMENTS:

None

The meeting was adjourned at 7:15 p.m.

ATTEST:

Jenna Moser, CDD Admin

Pierre Neu, Chairman



**PLANNING COMMISSION
STAFF REPORT**

TO: Chairman and Planning Commissioners
DATE: April 5, 2010
FROM: Nelia C. Dyer, Community Development Director
SUBJECT: Public Hearing and Consideration of a Conditional Use Permit Application Submitted by Cole Ogando 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 Spaces Located at 3 and 5 Russell Street (APN 003-203-012)

RECOMMENDATION: Staff recommends that the Planning Commission take the following actions; 1) Receive the staff report; 2) Conduct the Public Hearing to solicit public comment; and 3) Approve the Conditional Use Permit submitted by Cole Ogando to modify the existing Conditional Use Permit for 200 and 202 Railroad Avenue to include the spaces formerly addressed at 3 and 5 Russell Street.

GENERAL PLAN DESIGNATION, EXISTING ZONING, AND LAND USE: The proposed expansion is located in the regulating plan area for the Form-Based Code for Downtown (Winters Municipal Code, Chapter 17.58). The specific location of the expansion is designated Central Business District (CBD) by the General Plan and is zoned Railroad Avenue DA. The General Plan designation, zoning, and land use of the surrounding properties are as follows:

	GENERAL PLAN	ZONING	LAND USE
NORTH	CENTRAL BUSINESS DISTRICT (CBD)	RAILROAD AVE DA	BAKERY
EAST	PQP (PUBLIC/QUASI-PUBLIC)	PQP	COMMUNITY CENTER
SOUTH	CBD	SECONDARY ST DA	AUTO REPAIR
WEST	CBD	SECONDARY ST DA	RESIDENTIAL

STATEMENT OF ISSUES: The project applicant is seeking approval of a use permit to modify the existing Conditional Use Permit for 200 and 202 Railroad Avenue to include the spaces formerly addressed 3 and 5 Russell Street. The subject space will house an alcohol beverage establishment. According to Winters Municipal Code, Section 17.96.010, a use permit must be obtained from the

City for all on-sale liquor establishments. Conditional use permits run with the land, not the applicant (*Cohn v. County Board of Supervisors* (1955) 135 Cal.App.2d 180). Since the applicant is adding square footage to a space with an existing conditional use permit, the applicant must seek approval of a use permit. While Winters Municipal Code, Section 17.20.070 provides regulations on minor modifications to use permits, the code is silent on modifications of use permit that do not meet the findings of a minor modification.

BACKGROUND: The Irish Pub was initially approved under a "Use Agreement" with the City Council on February 1, 1994. The Agreement was entered into to speak to concerns relative to hours of operation, on-street parking, and noise controls. Under the terms of the Agreement, the Zoning Administrator was to seek neighborhood input after the operation commenced to identify any concerns about the use, following by a report to the Planning Commission and City Council.

In 1997, the owners of the Irish Pub applied for a Conditional Use Permit to expand the business into the adjoining space to the north (202 Railroad Avenue). At the time, the lease space was occupied by the Cloth Carousel, and the Cloth Carousel was leaving the space to occupy their current location at 9 Main Street. The expansion of the lease space totaled approximately 1,000 square feet in size, of which 800 square feet would be devoted to customer seating and space for live music and 200 square feet used for storage/office. Related to the expansion, the applicants proposed to alter their hours of operation, allow greater flexibility in having live music, and to lift parking restrictions along the adjoining north side of Russell Street. On August 26, 1997, the Planning Commission approved the conditional use permit to expand the Irish Pub into the adjoining lease space formerly occupied by the Cloth Carousel with added conditions, including but not limited to those related to noise restrictions and the creation of resident-only parking along Russell Street prior to commencement of the business operation. In December 1997 and January 1998, the Winters City Council held two public hearings to consider restricted parking for residents on Russell Street. The Council elected not to create preferential parking for residents on Russell Street at that time.

PROJECT DESCRIPTION: The applicant is requesting the approval of a conditional use permit to modify the existing Conditional Use Permit for 200 and 202 Railroad Avenue to include the spaces formerly addressed 3 and 5 Russell Street. According to the applicant, the entire 3,600 square feet of space will house *Preserve, Inc.*, an on-sale liquor establishment that will provide:

- alcoholic beverages
- house-made charcuterie/preserves/local artisan cheeses and olive oils
- wine storage and meeting room

The added spaces will be dedicated to the storage and maturing of cheese with a packaging room for The Winters Cheese Company, office, tasting room, storage of wine, and handicap accessible bathrooms.

The proposed hours of operation for the business location are from 10 am to 12 am, Monday through Thursday; 10 am to 2 am, Friday and Saturday; and 9 am to 12 pm, Sunday. There will be approximately 1 to 3 employees for *Preserve, Inc.* per shift and 1 to 2 employees for The Winters Cheese Company.

ANALYSIS: According to Chapter 17.20 (Use Permits) of the Winters Municipal Code, when reviewing applications for use permits, the Planning Commission shall find all of the following

conditions to be fulfilled. Staff's analysis of each condition is provided under each condition:

1. *The requested use will be in conformity with the General Plan.*
Bars are allowed in the Central Business District (CBD) land use designation in the Winters General Plan. According to the General Plan, the CBD designation provides for restaurants, retail, service, professional and administrative offices, hotels, multi-family residential units, public and quasi-public uses, and similar and compatible uses.
2. *The requested use is listed as a conditional use in the zone regulations or elsewhere in this section, or, where an interpretation was necessary, a determination was made by the community development director or planning commission that the proposed use would require a use permit.*
Bar, pub and cocktail lounge are listed as conditional uses in the Railroad Avenue DA zone in the Form-Based Code for Downtown Winters.
3. *The requested use is consistent with the intent and purposes of the zone in which it is located, and will not detrimentally impact the character of the neighborhood.*
The use is located in the Railroad Downtown-A (D-A) Zone. According to the Winters Municipal Code Section 17.58.040 (Form-Based Code), Railroad Avenue was traditionally lined with packing sheds for the local fruit and nut industry and rail-transported goods. Currently, this area is in transition and is expected to eventually shift to mixed-use commercial, live/work, and residential infill development. Moreover, the Form Based Code specifies permitted and conditional uses for Railroad Avenue D-A, including but not limited to neighborhood and retail commercial, hotel or motel, and sit-down restaurants. Staff has determined that a bar is consistent with the intent and purposes of the zone in which it is located and will not detrimentally impact the character of the neighborhood.
4. *The requested use will not be detrimental to the public health, safety, or general welfare;*
When reviewing a conditional use permit application, the Planning Commission must consider potential impacts to public health, safety, or general welfare. The Police Department has reviewed the applicant's business plan and supports the venture and a use permit from the Planning Commission, subject to the proposed conditions of approval for the use permit.

According to Winters Municipal Code Section 17.96.030, the use is outright prohibited when located within 200 feet of sensitive uses, including schools, churches, health care facilities, recreational uses, or another on-sale liquor establishment located in the Central Business District. The separation requirement is not applicable to Rotary Park, and Rotary Park is expressly excluded from the definition of a sensitive use. Chuy's Taqueria sells alcohol; however, more than fifty (50) percent of its sales are food-related. Therefore, it is considered a restaurant, and it does not fall within the definition of an on-sale liquor establishment.

In addition to distance requirements, the proposed business must comply with a list of standard conditions from Winters Municipal Code Chapter 17.96 (Alcoholic Beverages Establishments). These conditions are included in the Recommended Conditions of Approval for the proposed business.

5. *Adequate facilities, access roads, drainage, sanitation and/or other necessary facilities or services will be provided.*

Since the use will be housed in an existing building, the following utilities will be provided:

- Water
- Sewer
- Storm Drainage
- Solid Waste
- Power and Natural Gas

There is no on-site parking available. The Winters Municipal Code (newly adopted Form Based Code - Chapter 17.58) requires 1 on-site space per 400 square feet for commercial uses in the Railroad DA area. In staff's review of the site plan, this is would require 9 on-site parking spaces.

With no physical space available on-site, parking demand is handled either by on-street parking along Railroad Avenue or in the Community Center parking lot across the street. This is the situation faced by most other businesses in the Downtown area, where on-site parking options typically do not exist because of building coverage. The demand has historically been met by on-street parking or parking on City-owned sites.

Railroad Avenue is posted for 30 minute parking in front of 200 Railroad and for 2-hour parking closer to the Main Street intersection. Approximately 75 spaces are available in the Community Center Parking lot, which is open to the public. There do not appear to be any significant issues or conflicts associated with continued on-street parking along Railroad Avenue or in the Community Center Parking Lot for the businesses that front Railroad Avenue in between Main and Russell Streets.

Staff does not recommend that parking restrictions be put into place prior to the commencement of the proposed business. On-street parking on Russell Street and other secondary streets in Downtown Winters is generated by many businesses and events, not just one. At recent City Council meetings, several residents of Russell Street have requested staff's assistance in the development of solutions for residential parking along Russell Street. Staff has committed effort and time to this issue. In fact, the City Manager met with several residents on Russell Street on Monday, March 22, 2010 to discuss methods to alleviate parking by patrons of the downtown businesses.

To alleviate potential nuisance or enforcement problems within the neighborhood that are related to parking resulting from this business, staff recommends that the business encourage their patrons to parking on Railroad Avenue or across the street in the Community Center parking lot.

6. *The requested use will not create a nuisance or enforcement problem within the neighborhood.*
As mentioned above, there is no on-site parking available for this use. To alleviate potential nuisance or enforcement problems within the neighborhood that are related to parking resulting from this business, staff recommends that the business encourage their patrons to parking on Railroad Avenue or across the street in the Community Center parking lot.

Noise from the former business at the subject location has been an issue in the past. Specifically, residents on Russell have expressed concerns in the past about the noise from amplified live music carrying down Russell Street. The applicant has stated that non-amplified bands (2 or fewer members) may play on occasion, but there are no plans for karaoke, amplified bands, or non-amplified bands of 3 or more members. In addition, the applicant has stated that noise reductions measures will be incorporated in the improvement of the space through spray-in insulation.

7. *The requested use will not result in a negative fiscal impact upon the City.*
The requested use will not result in a negative fiscal impact upon the City.

METHODOLOGY: Two actions are required to process the requested uses:

- 1) Confirmation of CEQA exemption finding – Section 15301 (Existing Facilities)
- 2) Approval of a Conditional Use Permit and the attached conditions

APPLICABLE REGULATIONS: The planning application is subject to several regulations:

- The California Environmental Quality Act (CEQA)
- State Planning and Zoning Law
- City of Winters General Plan
- City of Winters Zoning Ordinance

PROJECT NOTIFICATION: Public notice advertising for the public hearing on this planning application was prepared by the Community Development Department's Administrative Assistant in accordance with notification procedures set forth in the City of Winters' Municipal Code and State Planning Law. Two methods of public notice were used: a legal notice was published in the Davis Enterprise on Thursday, March 25, 2010 and notices were mailed to all property owners who own real property within three hundred feet of the project boundaries at least ten days prior to tonight's hearing. Copies of the staff report and all attachments for the proposed project have been on file, available for public review at City Hall since Friday, April 2, 2010.

ENVIRONMENTAL ASSESSMENT: The proposed use is exempt from environmental review pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15301 (Existing Facilities).

RECOMMENDED FINDINGS FOR 200 AND 202 RAILROAD AVENUE (CONDITIONAL USE PERMIT)

CEQA Findings:

- 1) The planning application is exempt from CEQA review under Section 15301 (Existing Facilities).
- 2) The CEQA Guidelines Section 15301 (Existing Facilities) exempts projects that involve minor alterations to existing facilities where negligible or no expansion occurs to the current use. The applicant is proposing to expand the current use into 597 square feet of an existing building. Staff has determined that the expansion of the use is negligible.

General Plan and Zoning Consistency Findings:

- 1) The use is consistent with the goals and policies of the General Plan. The General Plan designates the project site as Central Business District and uses for this designation include restaurants, retail and similar uses.
- 2) The uses are consistent with the provisions of the Zoning Ordinance. Conditionally permitted uses of the Railroad Avenue D-A Zone include bars, pubs, and cocktail lounges.
- 3) The uses are consistent with the intent and purposes of the zone in which it is located, and will not detrimentally impact the character of the neighborhood.
- 4) The uses will not be detrimental to the public health, safety, or general welfare.
- 5) Adequate utilities, access roads, drainage, sanitation, and/or other necessary facilities or services are provided.
- 6) The uses will not create a nuisance or enforcement problem within the neighborhood.
- 7) The requested uses will not result in a negative fiscal impact upon the City.

RECOMMENDATION: Staff recommends approval of the project by making an affirmative motion as follows:

I MOVE THAT THE CITY OF WINTERS PLANNING COMMISSION APPROVE THE CONDITIONAL USE PERMIT TO MODIFY THE EXISTING CONDITIONAL USE PERMIT FOR 200 AND 202 RAILROAD AVENUE TO INCLUDE THE SPACES FORMERLY ADDRESSED 3 AND 5 RUSSELL STREET.

- Confirmation of exemption from the provisions of CEQA
- Confirmation of consistency findings with the General Plan and Zoning Ordinance
- Approval of the Conditional Use Permit and subject to the conditions of approval attached hereto.

ALTERNATIVES: The Planning Commission can elect to modify any aspect of the approval or to deny the application. If the Planning Commission chooses to deny the application, the Commission would need to submit findings for the official record that would illustrate the reasoning behind the decision to deny the project.

CONDITIONS OF APPROVAL FOR THE CONDITIONAL USE PERMIT FOR THE USE AT 200 AND 202 RAILROAD AVENUE LOCATED ON ASSESSOR PARCEL NUMBER 003-203-012, WINTERS, CA 95694.

1. This Conditional Use Permit is based upon and limited to compliance with the project description, Attachment 1, and conditions of approval set forth below. Any deviations from the project descriptions, attachments or conditions must be reviewed and approved by the Planning Commission for conformity with this approval. Deviations may require modification to the permit and/or environmental review. Deviations without the above-described approval will constitute a violation of permit approval.
2. In the event any claim, action or proceeding is commenced naming the City or its agents, officers, and employees as defendant, respondent or cross defendant arising or alleged to arise from the City's approval of this project, the project applicant shall defend, indemnify, and hold harmless the City or its agents, officers, and employees, from liability, damages, penalties, costs, or expenses in any such claim, action, or proceeding to attach, set aside, void, or annul

an approval of the City of Winters, the Winters Planning Commission, any advisory agency to the City and local district, or the Winters City Council. Project applicant shall defend such action at applicant's sole cost and expense, which include court costs and attorney fees. The City shall promptly notify the applicant of any such claim, action, or proceeding and shall cooperate fully in the defense. Nothing in this condition shall be construed to prohibit the City of Winters from participating in the defense of any claim, action, or proceeding, if City bears its own attorney fees and cost, and defends the action in good faith. Applicant shall not be required to pay or perform any settlement unless the applicant in good faith approves the settlement, and the settlement imposes not direct or indirect cost on the City of Winters, or its agents, officers, and employees, the Winters Planning Commission, any advisory agency to the City, local district, and the City Council.

3. Any use authorized by this conditional use permit shall immediately cease upon expiration or revocation of this permit under Winters Municipal Code Section 17.20.050. Expiration of time for use permits must be requested prior to the expiration of the use permit.
4. The applicant's acceptance of this permit and/or operations under this permit shall be deemed to be acceptance by the permittee of all conditions of this permit.
5. The uses shall commence within one year after April 15, 2010 (April 5, 2010 plus the ten-day appeal period). On April 15, 2011, the permit shall be deemed to be null and void without further action.
6. Upon six (6) months after ceasing the uses granted by the permit, the permit shall be deemed to be null and void, and a new conditional use permit shall be required.
7. Failure to comply with the above conditions may result in the immediate revocation of the conditional use permit under Winters Municipal Code Section 17.20.050.
8. The applicant shall obtain a City of Winters Business License prior to the use of the existing building for Preserve, Inc. The business license shall not be issued until the Fire Department and Community Development Department have completed their inspections of the building to address such issues as fire alarms, smoke detectors, adequate fire exits, and other necessary fire safety improvements.
9. Hours of operation shall be limited to 10 am to 12 am, Monday through Thursday; 10 am to 2 am, Friday and Saturday; and 9 am to 12 pm, Sunday.
10. Musical performances shall be located inside the 200 and 202 Railroad Avenue. Non-amplified bands of 2 or fewer people are permitted. Karaoke and amplified bands are not permitted
11. The applicant shall obtain approval from the State of California, Department of Alcoholic Beverage Control (ABC) before commencing use.
12. Noise reduction measures shall be incorporated into the space at 200 and 202 Railroad

Avenue.

13. Parking for the operation shall be allowed to continue utilizing on-street parking spaces as well as spaces within the Community Center parking lot across Railroad Avenue. Any proposed changes to on-street parking will require City Council Action.
14. No exterior alterations shall be allowed to Preserve, Inc. without first receiving necessary approvals from the City of Winters.
15. This on-sale liquor establishment shall be required to have a public telephone listing
16. Special security measures such as security guards, robbery and burglar alarm systems may be required.
17. The noise generated by the operation of such establishment shall not exceed 50 d.b.a. during daytime and 45 d.b.a. during nighttime, on adjoining properties zoned for residential purposes.
18. It shall be the responsibility of the applicant/licensee to provide all staff with the training necessary to gain the knowledge and skills that will enable them to comply with their responsibilities under the law. The knowledge and skills deemed necessary for responsible alcoholic beverage service shall include, but not be limited to, the following topics and skills development:
 - a) State laws relating to alcoholic beverages, particularly ABC and penal provisions concerning sales to minors and intoxicated persons, driving under the influence, hours of legal operation, and penalties for violations of these laws.
 - b) The potential legal liabilities of owners and employees of businesses dispensing alcoholic beverages to patrons who may subsequently injure, kill or harm themselves or innocent victims as a result of the excessive consumption of alcoholic beverages.
 - c) The effects of alcohol on the body, and behavior, including how the effects of alcohol affect the ability to operate a motor vehicle.
 - d) Methods for dealing with intoxicated customers and recognizing under-aged customers. Methods for preventing customers from becoming intoxicated.
19. As per Winters Municipal Code Chapter 17.80, the applicant shall apply for a sign permit prior to the installation of a sign for the business.
20. As per Winters Municipal Code Chapter 17.116, the applicant shall apply for a Sidewalk Café Permit prior to the installation of a sidewalk café.

ATTACHMENT: Site Plan



PDF
Engineering, Inc.

Paul D. ...

4321 Sunset Valley Blvd
...
707 444-1000 or 800 451-1000
www.PDF-Engineering.com

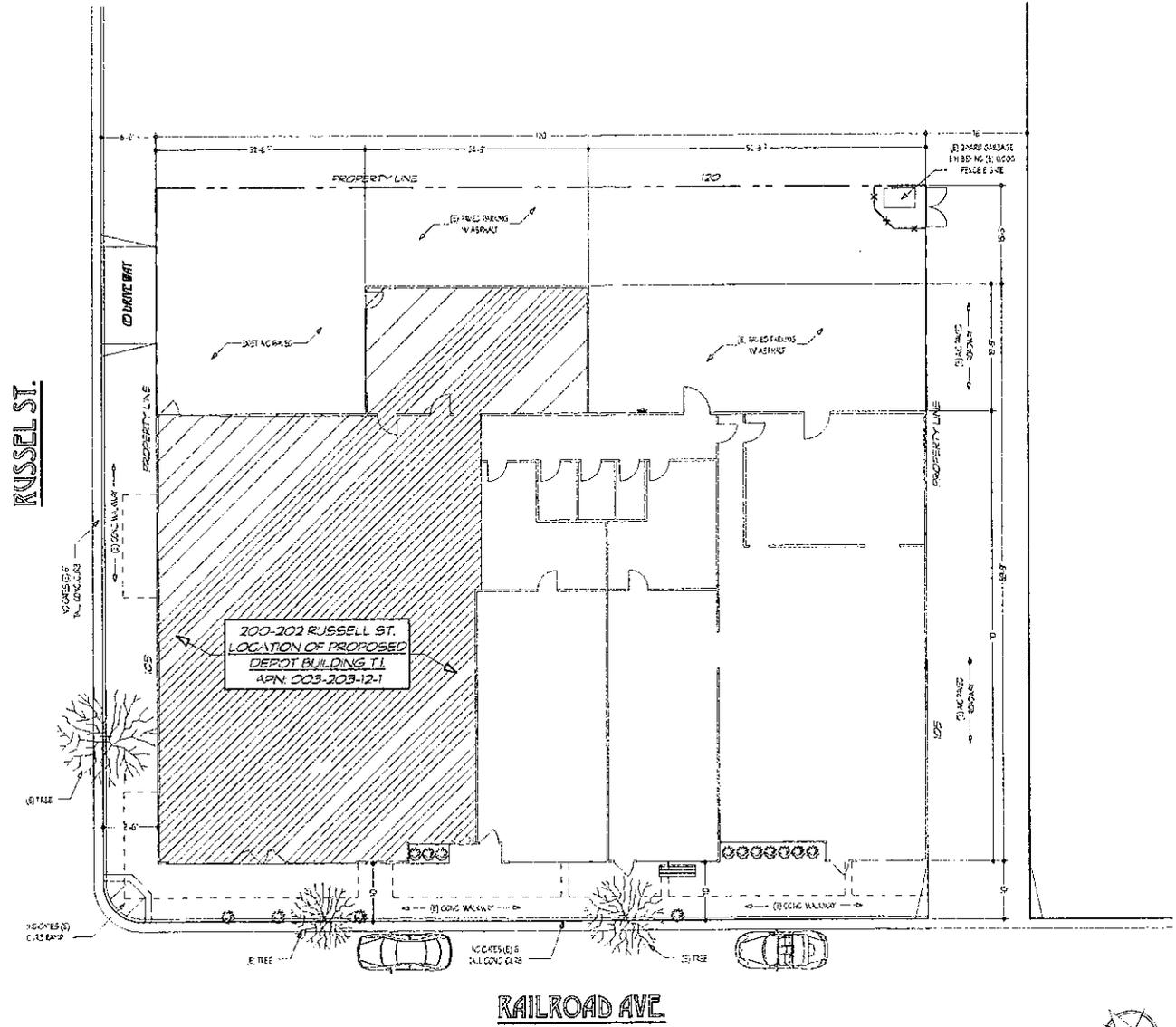
Revisions	

Exterior Renovation
Otel Ogando
202-208 Russell St, Winters, CA 95694



Site Plan
Scale As Noted
February 2010

Sheet Number
AS.1.1
4 of 10



Site Plan
Scale: 1" = 10'