CITY OF WINTERS CALIFORNIA

Winters City Council Meeting
City Council Chambers
318 First Street
Tuesday, April 3, 2007
6:00 p.m.
AGENDA

Members of the City Council

Woody Fridae, Mayor
Mike Martin, Mayor Pro Tempore
Harold Anderson
Cecilia Curry
Tom Stone

John W. Donlevy, Jr., City Manager
John Wallace, City Attorney
Nanci Mills, City Clerk

PLEASE NOTE – The numerical order of items on this agenda is for convenience of reference. Items may be taken out of order upon request of the Mayor or Councilmembers. Public comments time may be limited and speakers will be asked to state their name.

Roll Call

Pledge of Allegiance

Approval of Agenda

PUBLIC COMMENTS
At this time, any member of the public may address the City Council on matters, which are not listed on this agenda. Citizens should reserve their comments for matter listed on this agenda at the time the item is considered by the Council. An exception is made for members of the public for whom it would create a hardship to stay until their item is heard. Those individuals may address the item after the public has spoken on issues that are not listed on the agenda. Presentations may be limited to accommodate all speakers within the time available. Public comments may also be continued to later in the meeting should the time allotted for public comment expire.

CONSENT CALENDAR
All matters listed under the consent calendar are considered routine and non-controversial, require no discussion and are expected to have unanimous Council support and may be enacted by the City Council in one motion in the form listed below. There will be no separate discussion of these items. However, before the City Council votes on the motion to adopt, members of the

City Council, staff, or the public may request that specific items be removed from the Consent Calendar for separate discussion and action. Items(s) removed will be discussed later in the meeting as time permits.

A. Minutes of the Regular Meeting of the City Council of the City of Winters Held March 20, 2007 (pp 1-5)
B. Proclamation Recognizing National Public Safety Telecommunications Week, April 8-14, 2007 (pp 6)
C. Purchase of 2007 Hybrid Toyota Prius Vehicle as City Pool Car (pp 7-12)
D. Contract for Legal Services, Special City Attorney Steve Rudolph (pp 13-17)

COMMUNITY DEVELOPMENT AGENCY

1. Winters Community Development Agency Finance Workshop (Under Separate Cover)
2. Confirmation of Expiration of Option Agreement for Exclusive Purchase Negotiations regarding 8 East Abbey Street, Winters, CA (pp 18-20)

DISCUSSION ITEMS

1. Development Agreement Review (pp 21-32)
2. Adopt Resolution 2007-06, Declaring Public Nuisance on Specified Parcels (pp 33-46)
3. Update on Winters Highlands project by Granite Bay Holdings, LLC (no backup).
4. Request from Venita O'Brien to accept application for annexation of Assessor Parcel Numbers 030-190-26 and 29 (pp 47-54)
5. Continued public hearing and consideration of the Mary Rose Gardens Subdivision. The project is a proposed subdivision of 5.69 acres to create 28 single-family lots including two half-plex lots (Lots 12A and B) and Parcel X for an 18,433 square foot subdivision feature/green space area at 415 Grant Avenue (northwest corner of Grant Avenue and Cemetery Lane). APN: 003-524-19 (5.69 acres). Applicant: Dave Snow. Entitlements include Tentative Subdivision Map; Development Agreement; Rezoning to add the Planned Development Overlay over the 5.69-acre site; Planned Development Permit for PD Overlay; Site Plan for residential units and landscaping of Parcel X; and Demolition Permit (pp 55-120)
6. Continued public hearing and consideration of Anderson Place Subdivision. The project is a proposed subdivision of 2.13 acres to create 24 residential lots with a total of 28 residential units and 9 office suites, an internal roadway/parking area ("Lot A"), a pedestrian pathway ("Lot B"), subdivision feature/green space area ("Lot C"), and second internal roadway/parking area ("Lot D") at 723 Railroad Avenue. APN: 003-220-22 (2.13 acres). Applicant: Eva Brzeski. Entitlements include Tentative Subdivision Map; Development Agreement; Rezone to add the Planned Development Overlay over the 2.13-acres site; Planned Development Permit for PD Overlay; Modifications to adopted Street Cross Sections; Site Plan for residential units/office suites and landscaping; and Demolition Permit (pp 121-186)
7. Adopt Ordinance No. 2007-01, Amendment to the Winters Municipal Code (Title 15, Buildings and Construction) to require the installation of smoke alarms whenever the City issues a building permit for a Group R Occupancy (residential) and amend the current addressing standard (pp 187-189)
8. Update on Strategic Planning (pp 190-191)

CITY MANAGER REPORT

COUNCIL/STAFF COMMENTS

INFORMATION ONLY

1. Current Development Projects List (pp 192-194)

EXECUTIVE SESSION

ADJOURNMENT

I declare under penalty of perjury that the foregoing agenda for the April 3, 2007, regular meeting of the Winters City Council was personally delivered to each Councilmember's mail boxes in City Hall and posted on the outside public bulletin board at City Hall, 318 First Street on March 28, 2007, and made available to the public during normal business hours.

Nanci G. Mills, City Clerk

Questions about this agenda – Please call the City Clerk's Office (530) 795-4910 ext. 101. Agendas and staff reports are available on the city web page www.cityofwinters.org/administrative/admin_council.htm

General Notes: Meeting facilities are accessible to persons with disabilities. To arrange aid or services to modify or accommodate persons with disability to participate in a public meeting, contact the City Clerk.

Staff recommendations are guidelines to the City Council. On any item, the Council may take action, which varies from that recommended by staff.

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.

How to obtain City Council Agendas:
View on the internet: *www.cityofwinters.org/administrative/admin_council.htm* Any attachments to the agenda that are not available online may be viewed at the City Clerk's Office or locations where the hard copy packet is available.

Email Subscription: You may contact the City Clerk's Office to be placed on the list. An agenda summary is printed in the Winters Express newspaper.

City Council agenda packets are available for review or copying at the following locations:
Winters Library – 201 First Street
City Clerk's Office – City Hall – 318 First Street
During Council meetings – Right side as you enter the Council Chambers

City Council meetings are televised live on City of Winters Government Channel 20 (available to those who subscribe to cable television) and replayed following the meeting.

Wednesday at 10:00 a.m.

Videotapes of City Council meetings are available for review at the Winters Branch of the Yolo County Library.

Minutes of the Regular Meeting of the Winters City Council Held on Tuesday, March 20, 2006 @ 7:30 p.m.

Mayor Fridae called the meeting to order at 7:30 p.m..

Present were Council Members Anderson, Curry, Martin, Stone and Mayor Fridae. Also present were City Manager John Donlevy, City Attorney John Wallace, Building Official Gene Ashdown, Community Development Director Dan Sokolow, City Engineer Nick Ponticello and City Clerk Nanci Mills. Also present and representing the Winters Police Department were Chief Bruce Muramoto, Sergeant Sergio Gutierrez, Community Services Officer Gail Jimenez, and Officers Scott Leach, Jeremy Warren and Greg Lang.

CONSENT CALENDAR

A. Minutes of the Regular Meeting of the City Council of the City of Winters Held March 6, 2007
B. Yolo County Animal Services Contract
C. Review the Minutes of the Hispanic Advisory Committee meetings of January 23, 2007 and February 13, 2007
D. Approve Consultant Services Agreement with RMC Water, for preparation of a Recycled Water Planning Grant Application
E. Street Closure Request – April 3, May 1, June 5, July 3, August 7, September 4, 2007 - Car Show sponsored by the Buckhorn
F. Proclamation Recognizing National Agriculture Week

City Manager John Donlevy gave an overview. Regarding the street closure request submitted by The Buckhorn, Council Member Anderson requested that handicapped parking spaces be made available during the street closures. Council Member Curry requested that the six dates for the Cruise Night Car Show be forwarded to the Yolo County Visitors Bureau to be placed on their calendar. Council Member Curry made a motion to approve the consent calendar. Seconded by Council Member Anderson. Motion carried unanimously.

APPROVAL OF AGENDA

Discussion Item #2, Continued Public Hearing and Consideration of Anderson Place Subdivision, will be continued to the April 3, 2007 City Council Meeting.

PRESENTATIONS

Police Chief Bruce Muramoto introduced the 2006 Police Officer of the Year, Creighton Urquhart. Also introduced was Officer Scott Leach, who will be leaving the Winters Police Force on March 25, 2007. A Plaque of Appreciation was read aloud and presented to Officer Leach by Mayor Fridae.

Paul Robins of the Yolo County Resource Conservation District (RCD) gave a power point presentation. Council Member Martin asked if the RCD were currently working on any buffer projects, which they are not. Council Member Martin added that it is a good idea to establish these buffers between agricultural and residential areas.

DISCUSSION ITEMS

1. **Ordinance No. 2007-01, Public Hearing and consideration of amendment to the Winters Municipal Code (Title 15, Buildings and Construction) to require the installation of smoke alarms whenever the City issues a building permit for a Group R Occupancy (residential) and establish a minimum addressing standard**

Chief Building Inspector Gene Ashdown gave an overview. Council Member Anderson inquired about the residences on alleyways. It was confirmed by Community Development Director Dan Sokolow that for Group R Occupancy permits, the address numbering is to appear on the front of the structure and at the rear of the property. Chief Building Inspector Ashdown also confirmed that the general public as well as the contactors holding business licenses will be notified of these requirements. Mayor Fridae opened the public hearing at 8:24 p.m. Mayor Fridae closed the public hearing at 8:24 p.m. Council Member Curry made a motion to waive the first reading of Ordinance No. 2007-01 and amend the Winters Municipal Code (Title 15, Buildings and Construction) to require the installation of smoke alarms whenever the City of Winters issues a Group R Occupancy (residential) building permit and establish a minimum address standard. Seconded by Council Member Martin. Motion carried unanimously. The second reading and adoption of Ordinance No. 2007-01 will be included on the April 3, 2007 City Council agenda.

2. **Continued Public hearing and consideration of Anderson Place Subdivision.**

Staff has recommended that this item be brought back to the April 3, 2007 City Council meeting. Applicant Eva Brzeski said she would be happy to do so. Council Member Anderson made a motion to continue the public hearing and consideration of Anderson Place Subdivision to the April 3, 2007 City Council meeting. Seconded by Council Member Stone. Motion carried unanimously.

3. **Continued public hearing and consideration of the Mary Rose Gardens Subdivision.**

Community Development Director Dan Sokolow gave an overview, describing the various aspects of the prospective project. A Mitigated Negative Declaration was circulated, resulting in the receipt of two letters. The USDA Natural Resources Conservation Service provided maps of the wildlife habitat in the area, and the Yolo County Transportation District's request for a potential future bus stop adjacent to the project. The recommended conditions of approval were revised to reflect this. Council Member Martin inquired if the project foresaw a sound wall between the subdivision and Grant Avenue, who is not in favor of any additional sound walls in Winters. Mayor Fridae asked about the fence height adjacent to the subdivision; Dan Sokolow stated the existing sound wall is at least 6 feet, but the exact height is not known at this time. Mayor Fridae shared Council Member Martin's concerns about a prospective sound wall, which is not an appealing feature, stating a walk-able community is desired. Council Member Anderson inquired whether a house can be built without a sound wall and mitigate the effects of the noise. This would depend on the setback distance and the presence of burming and an exterior noise standard must be met, as per Dan Sokolow. Council Member Stone asked if a sound wall was planned for Creekside? Dan Sokolow responded that due to the noise study results, a barrier was not required. Council Member Stone would like to see a more creative or aesthetic approach. Council Member Anderson inquired about the sidewalks planned on the north side of Grant. Dan Sokolow indicated that most of the trees will be removed and a landscaping plan will be provided. Council Member Anderson asked Dan to keep in mind the general plan policy regarding native species of trees. City Manager John Donlevy confirmed that Cal Trans has

removed all but one of the trees. Council Member Stone inquired about the one to one mitigation regarding trees. Council Member Anderson inquired whether the cost of maintaining the planned mini Park was included in the fees. City Manager Donlevy replied that in the evaluation of the overall municipal services, this service cost is included in the general plan expectation of parks and is considered part of our anticipated park maintenance. No supplemental assessments will be required. Mayor Fridae verified that this is part of the fiscal neutrality equation.

City Engineer Nick Ponticello indicated that the more complex component of this project is the improvements to Grant Avenue. There is a reservation for four lanes in the General Plan, but Cal Trans has agreed to accommodate the two-lane requirement with a landscape corridor with the reservation of four lanes. Applicant is required to widen Grant Avenue along the frontage to this project, as well as the demolition & widening of landscape in front of Dry Creek Meadows a.k.a. Carter Ranch as well as the south side of Grant Avenue along Waggoner Elementary School. Council Member Martin asked if there will be a wide asphalt area like West Main Street, and Nick responded that the landscaping for the standard arterial roadway is approximately 20 feet, which includes an 8 foot bike path. This project will have over 35 feet of landscaping on each side and will include pedestrian-friendly enhancements. Council Member Anderson inquired about roundabouts along Grant Avenue at Taylor Street and/or Valley Oak Drive. Nick Ponticello indicated the Grant Avenue Corridor study identified these intersections as potential roundabout locations. There are five properties involved with Grant Avenue improvements and potential funding. Funds are being requested from these developers that have obligations on Grant Avenue and the City will collect and manage these funds. Cal Trans wants this done as one project, with one of the developers stepping forward to take this project on.

Dave Snow, President of DAS Homes, presented numerous renderings, which included lot sizes, elevations and exterior details of each rendering. He indicated the water well has to be up and running before he can proceed. DAS Homes will be required to pre-pay their share of the Grant Avenue improvements and advance funding for the water well, and if costs go up based on early estimates, the only funds that can possibly be reimbursed are the impact fees. Dave Snow requested a reimbursement agreement. He feels the project is important to the community and agreed that Grant Avenue needs to be improved. He outlined the cost of fees and asked Council to consider allowing him to do all affordables at moderate-income rate. Mayor Fridae commended the Mary Rose Garden project and liked the variety of the dwellings.

Mayor Fridae opened the Public Hearing at 9:55 p.m. Tyler Wade, Granite Bay Holdings Development Manager for Winters Highlands, listed all the obligations contained in the Winters Highlands COA & DA and those contained in the Mary Rose Gardens COA. He feels that all developers should be held to the same standards.

Council Member Stone indicated that this complaint has come up before and asked if there is a method in place of verifying that obligations are proportionate. He would like to avoid having to address this issue with any new developments as well as any developments that are already in process.

City Manager Donlevy reviewed the Development Agreement process and how the costs are arrived at for each individual developer. Tyler Wade indicated that correspondence was forwarded to the Community Development Department, as well as each City Council member in January, 2007, outlining the lack of equality with respect to community contributions from each project. (This correspondence was sent to the Community Development Department only.) Mayor Fridae stated that when the Winters Highlands project was approved, a very high standard was set. All subsequent development agreements are going to be held to the same standard. Mr. Donlevy is still working on the DA for the Mary Rose Gardens project, as well as the Anderson Place project, and the analysis will be brought back on April 3, 2007 for Council review. Mayor Fridae closed the public hearing at 10:20 p.m. Council Member Curry requested a cost comparison. Community Development Director Dan Sokolow explained the complexity of comparing two different projects. City Manager Donlevy agreed to provide this information to

Council. Council Member Martin asked if this might be a reoccurring issue with each future development. Mayor Fridae stated that he feels staff members are the experts and have the expertise to analyze projects like this and trusts their judgment. Council Member Stone made a motion to continue this item to the April 3, 2007 City Council meeting. Seconded by Council Member Curry. Motion carried unanimously.

4. **Smoking Ordinance**

This item has been tabled to the April 3, 2007 City Council meeting.

COMMUNITY DEVELOPMENT AGENCY

Agency Director Martin called the meeting to order at 10:35 a.m. Agency Members Anderson and Fridae recused themselves due to a possible conflict of interest.

1. **Request for Proposals- Downtown Streetscape Design and Engineering Services**

City Manager John Donlevy gave an overview. Roadways and right-of-ways are the only aspects being addressed at this point. Agency Member Curry made a motion to accept proposals for the Downtown Streetscape Design and Engineering Services. Seconded by Agency Member Stone. Motion carried unanimously.

2. **Main Street Mini Park Improvements**

City Manager Donlevy introduced Chris Kelsch, Executive Director of Winters Healthcare Foundation, regarding the potential expansion of the property at 23 Main Street. He provided the Council with an overview of the process for undertaking the expansion of the current mini-park, along with a rough timeline and an initial estimate of cost to the city. The intention is to fund as much of the park as possible through community contributions of materials and labor and request the remaining funds from the City. Agency Member Curry requested that the current benches be incorporated into the plans. Agency Member Stone requested the consideration of a handicapped parking space near the mini-park. Agency Member Curry made a motion to authorize moving forward with the plans as presented. Seconded by Agency Member Stone. Motion carried unanimously.

The Community Development Agency meeting was adjourned to Closed Session at 10:55 p.m.

CITY MANAGER REPORT: None

COUNCIL/STAFF COMMENTS: Council Member Curry reminded everyone of the JPA Board Meeting @ Galleria in Sacramento on Thursday @ 7 pm. The Hispanic Committee Open Forum Night is also scheduled for Thursday at St. Anthony's Parish Hall at 7 pm.

INFORMATION ONLY: None

EXECUTIVE SESSION:

1. **Executive Session to discuss litigation matters regarding an Administrative Civil Liability Complaint filed by the Central Valley Regional Water Quality Control Board Per Government Code Section 54956.9 (a)**

The City Council returned to open session at 11:48 p.m. and on a motion by Council Member Curry, with a second from Council Member Stone, authorized the City Manager to submit a letter to executive Officer Pamela Creedon of the Regional Water Quality Board requesting an extension on the deadline to pay the penalty set forth in the ACLC and waiving the requirement for the Board to hold a hearing on the matter within a ninety (90) day period. The City Council also directed staff to explore settlement opportunities for funds to be directed toward a supplemental Environmental Project to benefit Putah Creek.

2. **Executive Session regarding real estate negotiations- 247 East Baker St. APN # Per Government Code Section 54956.8**

No reportable action taken.

ADJOURNMENT: The meeting was adjourned at 11:55 p.m.

Woody Fridae, MAYOR

ATTEST:

Nanci G. Mills, City Clerk

CITY OF WINTERS CALIFORNIA

A PROCLAMATION OF THE CITY COUNCIL OF THE CITY OF WINTERS RECOGNIZING NATIONAL PUBLIC SAFETY TELECOMMUNICATIONS WEEK APRIL 8-14, 2007

WHEREAS, emergencies can occur at anytime that require police, fire or emergency medical services; and

WHEREAS, when an emergency occurs the prompt response of police officers, firefighters and paramedics is critical to the protection of life and preservation of property; and

WHEREAS, the safety of our police officers and firefighters is dependent upon the quality and accuracy of information obtained from citizens who telephone the Yolo County Communications Emergency Services Agency; and

WHEREAS, Public Safety Dispatchers are the first and most critical contact our citizens have with emergency services; and

WHEREAS, Public Safety Dispatchers are the single vital link for our police officers and firefighters by monitoring their activities by radio, providing them information and insuring their safety; and

WHEREAS, Public safety Dispatchers for the Winters Police and Fire Departments have contributed substantially to the apprehension of criminals, suppression of fires and treatment of patients; and

WHEREAS, each dispatcher has exhibited compassion, understanding and professionalism during the performance of their job in the past year;

THEREFORE BE IT RESOLVED, that the City Council of Winters declares the week of April 8-14, 2007 to be National Telecommunications Week in Woodland, California, in honor of the men and women whose diligence and professionalism keep our community and citizens safe.

Signed this 3rd day of April, 2007

Councilmember Harold Anderson

Councilmember Cecilia Curry

Councilmember Michael Martin

Councilmember Tom Stone

Mayor Woody Fridae

City Manager John W. Donlevy, Jr.

ATTEST: City Clerk Nanci G. Mills

CITY OF WINTERS CALIFORNIA

CITY COUNCIL
STAFF REPORT

TO: Honorable Mayor and Council Members

DATE: April 3, 2007

THROUGH: John W. Donlevy, Jr., City Manager

FROM: Carol Scianna, Management Analyst

SUBJECT: Purchase of New City Pool Vehicle a 2007 Hybrid Toyota Prius in the amount of $21,734 plus fees from Lithia Toyota of Vacaville

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RECOMMENDATION:
Staff recommends approval of the purchase of a 2007 Toyota Hybrid Prius, 4 cylinder, automatic, 4 door- sedan. Funds for a new City pool vehicle have been in the budget for the past two years. Staff has received three quotes including one from the State Contract. The quote from Lithia Toyota is the best price quote received and we will have the convenience local service available.

BACKGROUND:
Our current pool vehicle is a 1995 Chevy Caprice with over 72,000 miles, is not in ideal condition and considered unreliable by many staff members. The Toyota Prius has a very good reliability record and purchasing a hybrid will help to send a message to our residents that we are concerned about our environment.

FISCAL IMPACT: The cost of the vehicle is $21,734 excluded taxes and other fees.

Carol Scianna

From: ism@vacavilletoyota.lithiainternet.com
Sent: Saturday, March 10, 2007 10:28 AM
To: Carol Scianna
Subject: New Car Quote

Dear Carol Scianna,

Thank you once again for your vehicle request. After carefully checking our inventory, I have found the vehicle you have requested. Here is the information:

The Vehicle Year: 2007
Make: Toyota
Model: Prius
Trim Level: HG Package #2
Color: Driftwood Pearl
Engine: 4cylinder
Transmission: Automatic
Other: Floor mats, rear bumper applique

Manufacturer Suggested Retail Price: **$24,234.00**

Your Special Lithia Internet Price : **$21,734.00+fees**

This vehicle is on its way to the dealership, it will be here any day now. Thank you for your time and I look forward in handling your new vehicle purchase.

Sincerely,

Jeff Pledger
Internet & Fleet Manager
Lithia Toyota & Scion of Vacaville
(707)455-4117 Direct Line
(707)287-2186 Cell

ism@vacavilletoyota.lithiainternet.com
www.vacavilletoyota.com
www.vacavillescion.com

[insert customers full name]

Carol Scianna

3/12/2007

pd.dgs.ca.gov

STATE OF CALIFORNIA

DEPARTMENT OF GENERAL SERVICES - PROCUREMENT DIVISION

Contract (Mandatory): 1-07-23-11	
HYBRID VEHICLES (2007 MODEL YEAR)	
EFFECTIVE DATES:	1/ 4/2007 Through 9/30/2007
SUPERSEDES CONTRACT NO. :	NONE
AREA:	STATEWIDE
DISTRIBUTION:	STATE & LOCAL AGENCIES
BUYER NAME:	JEFF JONES
BUYER PHONE:	916-375-4434, CALNET 480-4434

VENDOR ID:	148277
NAME:	SENATOR FORD
ADDRESS:	3801 FLORIN RD SACRAMENTO, CA 95823
CONTACT:	TIM CREEDON, EXT 855 916-391-3000
FAX:	916-391-7026
TERMS OF PAYMENT:	$500/EA-20 DAYS
FOB:	Destination
MINIMUM ORDER:	1 VEHICLE

VENDOR ID:	186026
NAME:	HOBLIT MOTORS
ADDRESS:	46 5TH ST COLUSA, CA 95932
CONTACT:	DWANE GALATTI 530-666-7931
FAX:	530-666-7992
TERMS OF PAYMENT:	$500/EA-20 DAYS
FOB:	Destination
MINIMUM ORDER:	1 VEHICLE

VENDOR ID:	725708
NAME:	UNICARS HONDA
ADDRESS:	78-970 VARNER RD INDIO, CA 92203-9710
CONTACT:	ANDREAS MOZORAS 760-345-7555

Should the State desire financing of the assets provided hereunder, the contractor agrees to assign to a State-designated lender its right to receive payment from the State for the assets in exchange for payment by the lender of the cash purchase price for the assets. Upon notice to do so from the State-designated lender at any time prior to payment by the State for the assets, the contractor will execute and deliver to the State-designated lender an assignment agreement and any additional documents necessary for the State-selected financing plan. The State may designate the lender of the contractor's choice provided it is in the State's best interest. Do not submit a rate quote or payment schedule until instructed to do so.

Questions regarding the Buyer Financing Provisions may be directed to Patrick Mullen with Procurement Financing at 916/375-4617.

CALIFORNIA TIRE FEE:

There is a $1.75 Tire Fee per tire.

ITEM NO.	COMMODITY NO. / VENDOR PART NO.	VENDOR NO.	UNIT	DESCRIPTION	UNIT PRICE
				Notice Regarding Honda Availability: Honda has established an allotment program on Honda Hybrid vehicles. The allotment program is based on dealer's sale of Hybrid vehicles for the previous month. Unicars Honda has obtained approximately 15 Honda Civics and 15 Honda Accords for the first month of this contract. Unicars Honda anticipates the availability of approximately 15 of each of the models over the life of the contract. This is roughly 15 vehicles per month over 10 months. Please contact Unicars Honda prior to placing orders to confirm availability. The Honda Hybrid vehicles will be available on a first come, first serve basis.	
1	2310-000-0020-4	725708	EA	AUTOMOBILE COMPACT (AS DESCRIBED) Hybrid-Electric, Compact Sedan, 4 Door, Passenger FOB Point: Sacramento Brand: HONDA Model: CIVIC HYBRID FA3627EW	23,695.0000
2	2310-000-0020-4	725708	EA	AUTOMOBILE COMPACT (AS DESCRIBED) Hybrid-Electric, Compact Sedan, 4 Door, Passenger FOB Point: Oakland Brand: HONDA Model: CIVIC HYBRID FA3627EW	23,695.0000
3	2310-000-0020-4	725708	EA	AUTOMOBILE COMPACT (AS DESCRIBED) Hybrid-Electric, Compact Sedan, 4 Door, Passenger FOB Point: Fresno Brand: HONDA Model: CIVIC HYBRID FA3627EW	23,695.0000
4	2310-000-0020-4	725708	EA	AUTOMOBILE COMPACT (AS DESCRIBED) Hybrid-Electric, Compact Sedan, 4 Door, Passenger FOB Point: Los Angeles Brand: HONDA Model: CIVIC HYBRID FA3627EW	23,695.0000
5	2310-000-0050-2	725708	EA	AUTOMOBILE SEDAN (AS DESCRIBED) Hybrid-Electric, Mid-Size Sedan, 4 Door, Passenger FOB Point: Sacramento Brand: HONDA Model: ACCORD HYBRID CN3647JNW	32,185.0000
6	2310-000-0050-2	725708	EA	AUTOMOBILE SEDAN (AS DESCRIBED) Hybrid-Electric, Mid-Size Sedan, 4 Door, Passenger FOB Point: Oakland	32,185.0000

Hanley Toyota
Davis

18186 VEHICLE INQUIRY REPORT DATE: 03/07/07
DCV920 TIME: 11:56
Model Number: 1224C SERIAL # :77087546 Check Code: 8

Model Description: 4-DR GAS/ELEC
Year .....: 2007
Interior Color ..: FE11 FE11
Exterior Color ..: 0040 WHITE
Body .....: HYBRID GAS/ELEC SEDN
Number of Cyl ...: 4
Allocation Number: 031
Engine Number ...: U164733
Vessel Number ...: 425
Vessel Name .....: PYXS LDRV020

Category .....: A
Current Dealer ....: 120-04364
Wholesale Dealer ..:
Previous Dealer ...: 00120
Invoice Date .....:
Ship Date .....:
Retail Date .....:
Date of First Use .:
TRAC .....: NO
Damage .....: NO DAMAGE
PDI .....: NO
Fleet .....: NON-FLEET
Port PDS Complete .: NO

VIN .....:
Ignition Key.....: N/A

Factory Installed Accessories: FE
Port Installed Accessories ..: CF

	Retail	Dealer
Vehicle Base Model	$ 22175.00	$19755.00
Total Accessories	$ 199.00	$ 126.00

MECHANICAL & PERFORMANCE
Hybrid Synergy Drive System
1.5L 4Cyl DOHC 16 Valve w/VVT-i Engine
Elctrnic Cntinusly Variable Trans (ECVT)
Electronic Power Steering System
MacPherson Strut Front Suspension
Torsion Beam Rear Suspension
15" Alloy Wheels w/P185/65R15 Tires
Front Disc and Rear Drum Brakes
SAFETY
Dr & Fr Pass Advanced Front Airbag (SRS)
Dr & Fr Pass Side & Curtain Airbags
Traction Control (TRAC)
ABS w/Elec Brake Force Dist & Brk Assist
3 Point Seatbelts w/ALR/ELR Pass Belts
Side-Impact Door Beams
Rr-Seat Child Restraint Sys (CRS) Lower
Anchors and Top Tether Brackets (LATCH)
Direct Tire Pressure Monitoring System
EXTERIOR
Multi-Reflectr Halogn Auto-Off Headlamps
Dual Clr-Keyd Pwr Heated Outside Mirrors
Chrome-Type Finish on Front Grille
Rear Spoiler
COMFORT AND CONVENIENCE
Auto Climate Control w/Air Filtration
AM/FM CD with 6 Speakers
Push Button Start
Remote Keyless Entry, Engine Immobilizer
Cruise Control
Liquid-Crystal Multi-Info Display Panel
w/Energy Monitor, Fuel Consumption,
Climate Control, O/S Temp & Audio Status
Tilt Steer Wheel w/Climate & Audio Cntrl
60/40 Split Fold-Flat Rear Seat
Variable Frnt & Intermittent Rr Wipers

CAROL
(530) 795-4910
EXT 115
(530) 795-4935

Heavy-Duty Rr Window Defogger w/Timer
Pwr Door Locks & Wndws w/Dr Auto Up/Down
Cntr Console & Dual-Compartmnt Glove Box
2 Auxiliary 12V Power Outlets
Cargo Tonneau Cover & Undr-Floor Storage
Overhead Console with Map Lights
Fabric Cloth Seats

	Retail	Dealer	Total
Vehicle Base Model	$ 22175.00	$19755.00	$ 22175.00
50 State Emissions			
Carpet Floor Mats & Cargo Mat	199.00	126.00	
Total Accessories	$ 199.00	$ 126.00	$ 199.00
Destination Charge	$ 620.00	$ 620.00	
TDA		$ 395.00	
Gasoline		$ 10.00	
Dealer Holdback		$ 443.00	
Whsl. Financial Reserve		$ 221.00	
Total		$ 21570.00	$ 22994.00

Residual Value ...:

	24	36	48	60
STD	13,970	12,196	9,757	6,874
LOW		12,640	10,201	7,318

21,770
+ FEES

MAYOR:
Woody Fridae
MAYOR PRO TEM:
Michael Martin
COUNCIL:
Cecilia Aguiar-Curry
Harold Anderson
Tom Stone

CITY OF WINTERS CALIFORNIA

MAYOR EMERITUS:
J. Robert Chapman
TREASURER:
Michael Sebastian
CITY CLERK:
Nanci Mills
CITY MANAGER:
John W. Donlevy, Jr.

March 28, 2007

To: Winters City Council

From: John C. Wallace

Re: Contract For Special Legal Services
Steve Rudolph, McDonough, Holland & Allen

Dear Council members:

Enclosed for your review and approval is a proposed contract for legal services with Steve Rudolph McDonough, Holland & Allen (MH&A). MH&A has over 50 attorneys specializing in different areas of municipal law. We have used the firm for years in dealing with specialized issues involving Winters which were beyond my expertise. In the past few years I have been increasing my City legal burden, and have participated in various seminars and conferences to increase my own expertise. While processing the currently approved subdivision approvals, the City has acquired a number of legal templates available for future planning and processing. This was at a substantial cost in terms of the participation of MH&A in the processing. I discussed with Steve Rudolph my increasing role as City Attorney, and the economics involved. He is currently the City Attorney of Colusa, and the special City Attorney for Winters. He has proposed that he be designated special counsel, with the view of handling most of the specialized work for the City of Winters. In exchange, the City will be able to pay MH&A at a lower rate. It is good for Steve Rudolph, since he has to concentrate only on two cities. It is good for Winters, since the rate is lower than the City has been paying. Since this merely adjusts our contractual relationship with MH&A, it is being submitted on your consent calendar. Please feel free to contact me before the meeting if you have questions or comments.

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AGREEMENT FOR LEGAL SERVICES (ASSISTANT CITY ATTORNEY)

THIS AGREEMENT, dated March ___, 2007, is entered into between the City of Winters, a municipal corporation (hereinafter "City"), and McDonough Holland & Allen PC, a professional corporation (hereinafter "MHA").

Recitals

Whereas, City desires to retain MHA to provide certain legal services required by City in the orderly administration and operation of City government, the precise nature and extent of which are more particularly hereinafter set forth; and

Whereas, City is empowered by statute to contract with and employ persons for the furnishing of services and advice in legal matters, all pursuant to California Government Code sections 37103 and 53060; and

Whereas, MHA is willing to render such legal services to City on the terms and conditions hereinafter set forth.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants hereinafter contained, City and MHA hereby agree as follows:

Agreement

Section 1. Scope of Services.

Legal services shall include, upon the request of the City Council, City Manager or City Attorney, the following items: preparation and/or review of ordinances, resolutions, agreements, contracts, staff reports and other documents; legal research and provision of legal advice to the City Council, City Manager, City Attorney and other designated City Staff; attendance at City Council meetings and attendance at other meetings, including staff meetings, as requested; rendering of legal opinions to the City; providing routine municipal legal advice to the City Council, City Manager or other authorized officials; coordination of the work of outside legal counsel, as needed and as directed by the City Council, City Manager or City Attorney; prosecuting or defending litigation on behalf of the City, as authorized by the City Council, including the representation of City officers or employees, as appropriate or necessary; representing the City in administrative matters before regulatory agencies, as required; representing the City on redevelopment matters, assisting in personnel matters or labor relations, as requested; preparing a report of pending legal actions as part of the annual audit; assisting with the acquisition or disposal of real property, including eminent domain proceedings; assisting with assessment district proceedings, the issuance of general obligation and revenue bonds, and other financial matters; and providing such other legal services as may be directed by the City Council, City Manager or City Attorney.

MHA shall provide legal services only upon the request or authorization of the City Council, City Manager or City Attorney.

Legal services will not include matters in which MHA has a conflict of interest that precludes MHA from representing the City, members of the City Council, or City officers or employees.

Section 2. Term of Agreement.

This Agreement shall commence on March ___, 2007, and continue thereafter until terminated pursuant to Section 6 hereof.

Section 3. Staffing Assignments.

Steven P. Rudolph shall be assigned as Assistant City Attorney and shall be primarily responsible for the provision of legal services by MHA to the City.

Associate attorneys and legal assistants at MHA shall be utilized where appropriate to assist in conducting legal research; preparing ordinances, resolutions and agreements; rendering of legal advice; and other assignments appropriate for their level of experience. Other attorneys within the firm shall assist in providing specialized legal advice within their areas of expertise where necessary.

Section 4. Hourly Fees for Legal Services; Annual Review.

MHA shall charge the City for legal services on an hourly basis. The City shall be charged $190 per hour for assistant city attorney services provided by attorneys pursuant to this Agreement. Assistant city attorney services shall include the provision of routine municipal legal advice and guidance, including but not limited to, attendance at City Council meetings; attendance at Planning Commission meetings, as requested; attendance at staff meetings, as requested; preparation of a report of pending legal actions as part of the annual audit; provisions of advice regarding routine personnel matters and labor relations; provision of advice regarding the acquisition or disposal of real property; provision of opinion letters in connection with assessment district proceedings and the issuance of general obligation and revenue bonds; preparation and/or review of agendas, ordinances, staff reports, resolutions, agreements, notices, declarations, certificates, deeds, ordinary leases and other legal documents as required by the City; consultation with City staff; and the provision of legal advice and opinions that affect the City, including new legislation and court decisions.

Additional services outside the scope of assistant city attorney services shall be billed to City at MHA's then-current hourly rate for public agency clients, as established from time-to-time by MHA's Board of Directors. Such additional services include those rendered in connection with preparation, prosecution and defense of litigation, including the representation of City officials and employees, as appropriate and necessary;

representation at administrative and regulatory hearings; public property acquisition and disposal (including eminent domain proceedings); advice regarding specialized employment issues, personnel disciplinary matters; land use and development matters, redevelopment matters, affordable housing matters, construction disputes; non-routine and/or specialized matters such as annexations or municipal financing matters; and other specialized legal services rendered by attorneys in other sections of MHA. Notwithstanding the foregoing, if Steven Rudolph requires assistance from other attorneys within the firm who specialize in a particular field, such as Real Estate, Tax, Health or Construction, MHA will charge the normal billing rates for those attorneys, whether or not such services are within the scope of city attorney services.

For those legal services for which the City can be reimbursed by third parties, either pursuant to a City policy or by statutory authority or agreement, MHA shall charge the City its standard hourly rates for private clients.

Section 5. Monthly Billings; Expense Reimbursements.

MHA shall bill the City on a monthly basis. Each bill shall indicate the date of the work done, the work that was accomplished, the attorney or paralegal who performed the work and the fee for the work. To each bill MHA shall add an administrative charge of four percent (4%) of legal fees in lieu of separately itemizing general overhead costs which are generally chargeable to a client, including long distance telephone service, facsimile charges, regular postage, and routine copying of documents. MHA shall regularly monitor its actual administrative expenses to ensure that the administrative charge is a fair and reasonable approximation of actual expenses.

The following out-of pocket expenses will be separately itemized and included in bills to the City: (1) Extraordinary operating expenses, including items such as messenger services, overnight mail charges, extraordinary copying and computer-assisted research; (2) Necessary travel expenses, including items such as air fare, parking fees, meals and car rental; and (3) Court costs, including filing fees, witness fees, and deposition and discovery costs not paid directly by the City.

The City shall review and approve MHA's monthly statements and pay MHA for services rendered and expenses incurred at the rates and in the amounts provided in this Agreement, on a monthly basis in accordance with the approved monthly statements.

Section 6. Termination.

This Agreement may be terminated by the City at any time upon written notice to MHA and by MHA upon sixty (60) days written notice to the City. In the event of termination, the City shall be responsible only for fees and costs incurred as of the effective date of the termination.

Section 7. Insurance.

During the term of this Agreement, MHA shall at all times maintain general liability insurance coverage in an amount of not less than $1,000,000 per occurrence with $1,000,000 in the aggregate; automobile coverage in an amount of not less than $1,000,000 with $1,000,000 in the aggregate; professional liability insurance coverage in an amount of not less than $1,000,000 per occurrence, with $1,000,000 in the aggregate; and workers compensation insurance. The above policies of insurance shall not be cancelled without advance notice to the City by MHA.

Section 8. Notices.

All notices under this Agreement shall be directed to the City in care of City Manager, City of Winters, at 318 First Street, Winters, CA, CA 95694; and to MHA in care of Managing Shareholder at 555 Capitol Mall, 9th Floor, Sacramento, CA 95814.

CITY OF WINTERS, a municipal corporation

By: _____

Mayor

"CITY"

McDONOUGH HOLLAND & ALLEN PC,
a professional corporation

By: _____

Jeffry R. Jones,
Managing Shareholder

"MHA"

MAYOR:
Woody Fridae
MAYOR PRO TEM:
Michael Martin
COUNCIL:
Cecilia Aguiar-Curry
Harold Anderson
Tom Stone

CITY OF WINTERS CALIFORNIA

MAYOR EMERITUS:
J. Robert Chapman
TREASURER:
Michael Sebastian
CITY CLERK:
Nanci Mills
CITY MANAGER:
John W. Donlevy, Jr.

March 28, 2007

To: Winters Community Development Agency

From: John C. Wallace

Re: 8 Abbey Street Negotiations

Dear Agency members:

Enclosed for your review and approval is a proposed option agreement previously negotiated by the City Manager with the owners of 8 Abbey Street, Albert Vallecillo and Elliott Landes. You previously authorized the City Manager to negotiate for the acquisition of this property, as part of the development of the entire block. The City Manager proposed, and the owners agreed, to grant the City the exclusive right to negotiate the purchase for a period of 90 days. Consideration for the exclusive negotiation period was $5,000. The property was appraised and an offer was made. The 90 day period expired without success, ~~those~~ though the parties are still discussing the crucial issue of parking on the block. With the expiration of the 90 day period, the owners are entitled to receive the $5,000 and request for your approval of the option agreement is now before you. The motion should include an authorization for the chair to sign the agreement and for the city to make payment. Please feel free to contact me before the meeting if you have questions or comments.

OPTION TO NEGOTIATE PURCHASE

The Winters Community Development Agency (Hereinafter CDA or Optionee) and Elliot Landes and Albert Vallecillo, individuals (Hereinafter "Optionors), agree as follows:

Optionors have orally granted to the CDA on July 25, 2006, an exclusive right to negotiate, for ninety (90) days, purchase of the property commonly known as 8 East Abbey Street, Winters, Yolo County, California. Terms of the Option include the payment of $5,000 during the ninety days, and the right of ingress to perform Phase I testing and inspection of the subject property. CDA on its part has had the property appraised, and the appraisal has been send to Optionees. CDA has desired to acquire the property for redevelopment, upon the following TERMS and CONDITIONS:

Encumbrances: In addition to any encumbrances referred to above, Optionee shall take title to the property subject to: 1) Real Estate Taxes not yet due and 2) Covenants, conditions, restrictions, reservations, rights, rights of way and easements of record, if any, which do not materially affect the value or intended use of the property. The amount of any bond or assessment which is a lien shall be paid by Optionors.

EXAMINATION OF TITLE: Fifteen (15) days from date of any agreement on purchase, are allowed the Optionee to examine the title to the property and to report in writing any valid objections thereto. Any exceptions to the title, which would be disclosed by examination of the records, shall be deemed to have been accepted unless reported in writing **within said fifteen (15) days.** If Optionee objects to any exceptions to the title, Optionors shall use all due diligence to remove such exceptions at his own expense **within 60 days thereafter.** But if such exceptions cannot be removed **within the 60 days allowed,** all rights and obligations hereunder may, at the election of the Optionee, terminate and end.

EVIDENCE OF TITLE shall be in the form of a policy of title insurance to be paid for by CDA.

CLOSE OF ESCROW: Within 45 days from agreement as to purchase price, or upon removal of any exceptions to the title by the Optionors, as provided above, **whichever is later,** both parties shall deposit with an authorized escrow holder, to be selected by the Optionee, all funds and instruments necessary to complete the sale in accordance with the terms and conditions hereof.

POSSESSION: Possession shall be delivered to Optionee **Upon recordation of deed.**

PRORATIONS: Rents, taxes, premiums on insurance acceptable to Optionee, interest and other expenses of the property to be prorated **as of recordation of deed.**

MAINTENANCE: Until possession is delivered Optionors agree to maintain heating, sewer, plumbing and electrical systems and any built-in appliances and equipment in normal working order, to keep the roof watertight and to maintain the grounds.

NOTICES: By acceptance hereof, Optionors warrantsthat they have no notice of violations relating to the property from City, County, or State agencies.

TIME: Time is of the essence of this agreement.

EXPIRATION OF OPTION: If no agreement is reached as to purchase price, this option shall expire 90 days after first agreement by the parties, and Optionors shall be released from all obligations hereunder and all of Optionee's rights hereunder, legal or equitable, shall cease and the consideration hereinabove receipted for by Optionors shall be paid to Optionors.

THIRTY DAY NOTICE OF TERMINATION. CDA has received from Optionors notice that they wish to terminate the 90 day option to negotiate, and to be paid $5,000 for the period in which the City appraised the property and proposed purchasing the same.

Optionors by their signatures below certify that, during the aforementioned ninety (90) day period, they have negotiated exclusively with CDA, and have fully complied with the option agreement.

Dated: _____

_____ Optionor
Elliot Landes

_____ Optionor
Albert Vallecillo

Community Development Agency,
City of Winters

By_____ Optionee

CITY COUNCIL
STAFF REPORT

TO: Honorable Mayor and Council Members

DATE: April 3, 2007

FROM: John W. Donlevy, Jr., City Manager

SUBJECT: Development Agreement Review

RECOMMENDATION:

That the City Council receive and file this report.

BACKGROUND:

At the March 20, 2007, a representative of Granite Bay Holdings, the developer of the Winters Highlands Subdivision addressed the City Council on perceived inequities in the provisions of proposed development agreements with the Mary Rose Gardens and Anderson Place subdivisions. Staff was requested to provide a report comparing the agreements.

DISCUSSION:

Since 2002, the City of Winters has placed a high importance on ensuring that residential development occurring in the City provides a positive impact on the community. To assure that approved subdivisions implement the many requirements of their projects, the City has required updated subdivision agreements and implemented the use of "development agreements" to outline requirements which contractually bind the projects to entitlements which are approved.

Since 2005, four (4) development agreements have been negotiated and entered into by the City, including:

- Winters Highlands Subdivision (443 units)
- Callahan Estates (120 units)
- Creekside Estates (41 units)
- Ogando Hudson (72 units)

Two additional subdivision projects are currently under consideration, including

Anderson Place (24 units) and Mary Rose Gardens (28 units).

Development Agreements:

Development Agreements are negotiated between the City and prospective developers and are voluntary. Typically, the developers have requested changes in land uses, densities or wish to secure entitlements contractually. They are adopted by an "ordinance" of the City Council.

Staff has recommended development agreements as a device to reconcile the changes desired by developers into a contractual form which then carries forward with the entitlements on the land. Each of the developers which the City has worked with over the past few years has expressed a preference to enter into such agreements because they provide a heightened level of security for their projects.

Themes of Development Agreements:

In the negotiations of these agreements, the City has maintained a number of key "themes" which are evident in those which have been approved. These include:

- **General Plan Implementation:** Items included will advance the goals and policies of the City's General Plan.
- **Schools and Infrastructure:** The agreements put funding for schools and park/recreation facilities at the forefront of all provisions.
- **Funding/Construction of Infrastructure:** Each agreement includes participation of the project in either the construction of needed infrastructure or direct funding. This typically comes in the form of advancement of permit fees or the advancement of funding by the developer with a provision that a "reimbursement agreement" will pay the developer back over a period of time.
- **Net Gain Funding:** Following policies or goals of the General Plan, some development agreements result in a "net gain" of items beyond the Quimby nexus requirements attributable to a project. These net gain items typically go toward immediate needs or projects. In some cases, the DA can help expedite funding for community needs such as new facilities (schools or libraries) or to make up funding shortfalls.
- **Fair Share Contributions:** When practical, the City has used the development agreements to spread costs on a "*pro rata*" basis to protect the developers and ensure fair reimbursements where common infrastructure is constructed.
- **Location:** The development agreements include both infrastructure and benefits which take into account the location of the project. As an example, the Winters Highlands Project includes a provision for grading the sports park because of the proximity to the project.

In addition to the "themes" in the negotiation, some more obvious factors considered in the negotiations include:

- Size and scope of the project.
- Real infrastructure demands.
- Proposals from the developer which benefit their project.
- Cost.

In each of our negotiations, the City has always worked to ensure that the resulting agreement provides a "win-win" for each party.

Summary of Development Agreements:

Attachments to this report are table summary's of the development agreement provisions for each of the approved and proposed projects.

Table A summarizes each development agreement by provision.

Table B provides a cross comparison of all projects combined and the associated development agreement provisions. Page three of this exhibit shows the comparative unit burden of the development agreements based on "net gain" items.

Difficulty in Cross Comparison of Burden:

An assessment of the development agreements (DA) for two or more development projects involves more than compiling the DA items for each project and assigning dollar values. This method fails to take into account other factors that potentially affect a developer's capacity and willingness to absorb the expense of DA items and a city's ability to facilitate a DA. These factors may include but are not limited to the number of residential units, land cost, community attitudes, and discretionary entitlements.

Simply put, larger projects have a greater financial capacity **and** incentive to finance certain improvements versus smaller subdivisions. Other key factors include:

Number of residential units: In theory, a project with a large number of units is better able to spread the costs of DA items and development costs in general.

Land cost: The cost of land can affect a developer's ability or willingness to fund DA items and at specific levels. For example, project land acquired at a below market price may increase a developer's ability and willingness to pay for DA items.

Development Needs: In some cases, the specific project may have a need for infrastructure expansion which, if not done, would prohibit the project from being approved. In some cases,

this may involve the installation of a major water or wastewater facility, expansion of the WWTF or major roadway improvements.

Community attitudes: Community sentiment varies from one project to another. Some projects are relatively uncontroversial while others may generate significant levels or controversy or conflict within a community. Common areas of conflict include the potential biological and traffic impacts of a project. While a DA typically does not address the community controversy or conflict over a project, the DA may serve as an olive branch to community members concerned about specific aspects of a project.

Discretionary entitlements: Discretionary entitlements such as general plan amendments and rezones seek changes in a community's policies and plans. In some instances, these changes may be significant. A city is more likely to seek a DA when a developer has requested discretionary entitlements for a project and the depth of DA negotiations may be affected by the significance of the discretionary entitlements.

Summary:

Development Agreements are voluntary documents which provide mutual benefits. Because no developments are exactly the same, it is unrealistic to assume that the burdens of each development agreement would be the same.

In Winters, the City has worked to provide consistency in implementing consistent "themes" in the preparation of the individual agreements. As seen in Table B of this report, the provisions for each are very similar and in many cases, jointly finance mutually beneficial infrastructure and community goals.

FISCAL IMPACT:

None by this action.

City of Winters
Development Agreement
Summary of Provisions

Project	*Article No.*	*Topic*	*Description*	*Reimbursable Cost Item*	*Comment*
Winters Highlands- 443 Units on 102 acres of land. Greenfield development	4.1	School Impact Fees	Payment of Level III impact fees to WJUSD. Additional $3.20 per sf.	No	Public Gain Item
	4.2	On site Park Development	Defined construction parameters for the construction of an 11 acre park	No	
	4.3	Off Site Park Improvement	Grading of landfill sports park up to $250,000	No	Public Gain Item
	4.4	Public Safety Facility	Advancement of Fees for Construction of PS Facility	No	Advancement of Permit Fees with a credit at permit.
	4.5	Fiscal Neutrality Fee	Payment of fiscal neutrality fee in lieu of Mello Roos.	No	$5,643 per unit
	4.6	Library and Pool Contributions	Payment of $150,000 to Library and $1.25m to Pool construction	No	Public Gain Item
	4.7	WWTF Expansion	$8m advancement for expansion of WWTF.	Yes	Required for project approval.
	4.8	WW Pump Station	Required construction of sewer lift station which benefits 3 projects	Yes	Required for project approval
	4.9	Urban Water Mgmt Plan	Pro rata contribution toward plan development.	Yes	Participation in plan with 3 other projects.
	4.10	Water Well Construction	Development of a new water well to serve new development.	Yes	Construction of water well to serve new development. Pro rata share with reimbursement.
	4.11	Pedestrian circulation Improvements	Grant/ Morgan Improvements based on circulation needs.	Yes	Pro-rated share of improvements based on traffic impacts.
	4.12	Grant/Walnut Improvements	Grant/Walnut Improvements based on circulation needs.	Yes	Pro-rated share of improvements based on traffic impacts.

Table A

Project	*Article No.*	*Topic*	*Description*	*Reimbursable Cost Item*	*Comment*
	4.13	Energy Efficiency	Energy Star and Photovoltaic Installation.	No	Public Gain Item
	4.14	Flood Overlay Payment	Payment of required fees based on land located in flood overlay area.	No	Required for project approval.
	4.15	Misc Contributions	1. Environmental Education- $100k 2. Putah Creek- $100k 3. WHS Cafeteria- $50k 4. Growth Impact Analysis- $200	Yes	Voluntary contributions by developer. Items 1,3 and 4 not negotiated by Staff.
Callahan Estates- 120 Units on 40 acres. Greenfield development.	4.1	School Impact Fees	Payment of Level III impact fees to WJUSD. Additional $3.20 per sf.	No	Public Gain Item
	4.2	PS Facility Land Contribution	Dedication of 1.39 acres of 2.15 for construction of a new public safety facility.	No	Public Gain Item- estimated value at $200k per acre is $280,000.
	4.3	Park In lieu Payment	Provision of payment of fees in lieu of on-site construction of park facilities	No	
	4.4	Public Safety Facility	Advancement of Fees for Construction of PS Facility	No	Advancement of Permit Fees with a credit at permit.
	4.5	Fiscal Neutrality Fee	Payment of fiscal neutrality fee in lieu of Mello Roos.	No	$8,680 per unit.
	4.6	Library Contribution	Payment of $67,459 for Library construction	No	Public Gain Item
	4.7	WW Pump Station	Required construction of sewer lift station which benefits 3 projects	Yes	Required for project approval
	4.8	Urban Water Mgmt Plan	Pro rata contribution toward plan development.	Yes	Participation in plan with 3 other projects.
	4.9	Water Well Construction	Development of a new water well to serve new development.	Yes	Construction of water well to serve new development. Pro rata share with reimbursement.

Table A

Project	*Article No.*	*Topic*	*Description*	*Reimbursable Cost Item*	*Comment*
	4.10	Pedestrian circulation Improvements	Grant/ Morgan Improvements based on circulation needs.	Yes	Pro-rated share of improvements based on traffic impacts.
Ogando Hudson- 72 unit subdivision on X acres.	4.1	School Impact Fees	Payment of Level III impact fees to WJUSD. Additional $3.20 per sf.	No	Public Gain Item
	4.2	PS Facility Land Contribution	Dedication of .75 acres of 2.15 for construction of a new public safety facility.	No	Public Gain Item- estimated value at $200k per acre is $150,000.
	4.3	Park In lieu Payment	Provision of payment of fees in lieu of on-site construction of park facilities	No	
	4.4	Public Safety Facility	Advancement of Fees for Construction of PS Facility	No	Advancement of Permit Fees with a credit at permit.
	4.5	Fiscal Neutrality Fee	Payment of fiscal neutrality fee in lieu of Mello Roos.	No	$2,402 per unit.
	4.6	Library and Pool Contributions	Payment of $36,541 to Library and $250,000 to Pool construction	No	Public Gain Item
	4.7	WWTF Expansion	$Provisoin for advancement of fees for expansion of WWTF.	Yes	Required for project approval.
	4.8	WW Pump Station	Required construction of sewer lift station which benefits 3 projects	Yes	Required for project approval
	4.9	Urban Water Mgmt Plan	Pro rata contribution toward plan development.	Yes	Participation in plan with 3 other projects.
	4.10	Water Well Construction	Development of a new water well to serve new development.	Yes	Construction of water well to serve new development. Pro rata share with reimbursement.
	4.11	Pedestrian circulation Improvements	Grant/ Morgan Improvements based on circulation needs.	Yes	Pro-rated share of improvements based on traffic impacts.

Table A

Project	*Article No.*	*Topic*	*Description*	*Reimbursable Cost Item*	*Comment*
	4.12	Grant/Walnut Improvements	Grant/Walnut Improvements based on circulation needs.	Yes	Pro-rated share of improvements based on traffic impacts.
	4.13	Energy Efficiency	Energy Star and Photovoltaic Installation.	No	Public Gain Item
	4.14-15	Mitigation Improvements	Project specific improvements for neighboring properties.	No	Required for project.
Creekside Estates 41 Units on 10 acres.	4.1	School Impact Fees	Payment of Level III impact fees to WJUSD. Additional $3.20 per sf.	No	Public Gain Item
	4.2	Park In lieu Payment	Provision of payment of fees in lieu of on-site construction of park facilities	No	Required for project.
	4.3	Public Safety Facility	Advancement of Fees for Construction of PS Facility	No	Advancement of Permit Fees with a credit at permit.
	4.4	Fiscal Neutrality Fee	Payment of fiscal neutrality fee in lieu of Mello Roos.	No	$6,500 per unit.
	4.4	Library Contribution	Payment of $25,000 for Library construction	No	Public Gain Item
	4.5	Affordable Housing	Contribution of $200k to the Winters Apartments II Project in lieu of 2 onsite units	No	Required for project approval
	4.7	Urban Water Mgmt Plan	Pro rata contribution toward plan development.	Yes	Participation in plan with 3 other projects.
	4.8	Water Well Construction	Development of a new water well to serve new development.	Yes	Construction of water well to serve new development. Pro rata share with reimbursement.
	COA	Energy Efficiency	Solar and Energy Star efficiency- 30% photovoltaic requirement	No	Public Gain Item
Anderson Place 24 Units on 2.5 acres.	4.1	School Impact Fees	Payment of Level III impact fees to WJUSD. Additional $3.20 per sf.	No	Public Gain Item

Table A

Project	*Article No.*	*Topic*	*Description*	*Reimbursable Cost Item*	*Comment*
Infill Project					
	4.2	Park In lieu Payment	Provision of payment of fees in lieu of on-site construction of park facilities	No	
	4.3	Water Well Fees	Advancement of Fees for Construction of water well	No	Advancement of Permit Fees with a credit at permit.
	4.4	Fiscal Neutrality Fee	Payment of fiscal neutrality fee in lieu of Mello Roos.	No	$7,350 per unit.
	4.5	Library and PS Contribution	Payment of $20,000 for Library and $25,000 for PS Facility construction	No	Public Gain Item
	4.6	Energy Efficiency	50% PV and 100% Energy Star	No	Public Gain Item
Mary Rose Gardens- 28 Units on 5.5 acres. Infill Project	4.1	School Impact Fees	Payment of Level III impact fees to WJUSD. Additional $3.20 per sf.	No	Public Gain Item
	4.2	Park In lieu Payment	Provision of payment of fees in lieu of on-site construction of park facilities	No	
	4.3	Water Well Fees	Advancement of Fees for Construction of water well	No	Advancement of Permit Fees with a credit at permit.
	4.4	Fiscal Neutrality Fee	Payment of fiscal neutrality fee in lieu of Mello Roos.	No	$7,350 per unit.
	4.5	Advancement of Street Impact Fees	Advancement of Impact Fees for improvements along Grant Ave.	Yes	
	4.6	Library and PS Contribution	Payment of $25,000 for Library and $49,200 for PS Facility construction	No	Public Gain Item
	4.7	Pedestrian Improvements-Waggoner School	Installation of public improvements along Grant Ave. in front of Waggoner School.	Yes	
	4.7	Energy Efficiency	50% PV and 100% Energy Star	No	Public Gain Item

Table A

	Winters Highlands	Callahan	Ogando/Hudson	Creekside	Mary Rose	Anderson Place
School Funding						
Level II School Impact Fee	Yes	Yes	Yes	Yes	Yes	Yes
Level III School Impact Fee	Yes	Yes	Yes	Yes	Yes	Yes
Unit Cost	$6.2 SF	$6.2 SF	$6.2 SF	$6.2 SF	$6.2 SF	$6.2 SF
Sewer Improvements						
WWTF Expansion	Yes	Yes	Yes	Fee Only	Fee Only	Fee Only
Sewer Lift Station	Yes	Yes	Yes	NA	NA	NA
Reimbursement of Costs	Yes	Yes	Yes	NA	NA	NA
Water						
Well Installation Prior to Build	Yes	Yes	Yes	Yes	Yes	Yes
Flood Control						
Flood Overlay Area Fee	Yes	NA	NA	NA	NA	NA
Rancho Arroyo Det Pond	Yes	Yes	Yes	Yes	Yes	NA
Streets						
Traffic Signal-Grant/Main	Yes	Yes	Yes	Yes	Yes	NA
Walnut Street Improvement	Yes	Yes	Yes	No	No	No
Morgan Street Improvement	No	Yes	No	No	No	No
Anderson Street Improvement	No	No	No	No	NA	Yes
I505 Traffic Signal	Yes	Yes	Yes	Yes	NA	NA
Grant Ave	Yes	Yes	Yes	Yes	Yes	NA
Reimbursement of Costs	Yes	Yes	Yes	Yes	Yes	No
Environmental						
Wetlands Education	Yes	No	No	No	No	No
Putah Creek Improvements	Yes	No	No	No	No	No
Fiscal Neutrality						
Unit Contributions	5,643.00	8,680.00	2,402.00	6,500.00	7,350.00	7,350.00
Park Improvements						
Acres per 1,000 Pop	7	7	7	7	7	7
Onsite	Construction	No/Offsite	No/Offsite	No/Offsite	Yes	No

	Winters Highlands	Callahan	Ogando/Hudson	Creekside	Mary Rose	Anderson Place
Onsite Park Size	11 Acres	1.67 Acres	N/A	N/A	.503 Acres	N/A
Sports Park Grading	250000	N/A	N/A	N/A	N/A	N/A
Rotary Park	No	No	No	No	No	Yes
Swimming Pool	Yes	No	Yes	No	No	No
Pool Contribution	$ 1,250,000.00		$ 250,000.00			
Unit Cost	2822		3333			
Facility Contributions						
Library Contribution	Yes	Yes	Yes	Yes	Yes	Yes
Contribution	$ 15,000.00	$ 67,459.00	$ 36,541.00	$ 25,000.00	$ 25,000.00	$ 20,000.00
Unit Cost	$ 338.00	$ 562.00	$ 507.00	$ 609.00	$ 892.00	$ 833.00
HS Cafeteria	$ 50,000.00	No	No	No	No	No
Public Safety Contribution	$ -	$ -	$ -	$ -	$ 49,200.00	$ 25,000.00
Advancement of Fees	Yes	Yes	Yes	Yes	No	No
PS Land Contribution	No	1.39 Acre	.75 Acre	No	No	No
Energy						
Photovoltaic	Yes	Yes	Yes	Yes	Yes	Yes
Energy Star Standard	Yes	Yes	Yes	Yes	Yes	Yes
Local Builder	Yes	Yes	Yes	Yes	Yes	Yes
General Planning Contribution	Yes	No	No	No	No	No
Urban Water Management Plan	Yes	Yes	Yes	Yes	No	No
Reimbursement of Costs	Yes	Yes	Yes	Yes	No	No
Misc Other Contributions						
Putah Creek	$ 100,000.00	N/A	N/A	N/A	N/A	N/A
Environmental Education	$ 100,000.00	N/A	N/A	N/A	N/A	N/A
Planning Analysis	$ 200,000.00	N/A	N/A	N/A	N/A	N/A

	Winters Highlands	Callahan	Ogando/Hudson	Creekside	Mary Rose	Anderson Place
Contributions Summary						
Pool	$ 1,250,000.00		$ 250,000.00			
Library	$ 150,000.00	$ 67,459.00	$ 36,541.00	$ 25,000.00	$ 25,000.00	$ 20,000.00
Public Safety Facility- Other	$ -	$ -	$ -	$ -	$ 49,200.00	$ 25,000.00
HS Cafeteria	$ 50,000.00					
Putah Creek	$ 100,000.00					
Sports Park Grading	$ 250,000.00					
Misc Other	$ 300,000.00					
Land Value- PS Facility		$ 280,000.00	$ 150,000.00			
Net Contributions	$ 2,100,000.00	$ 347,459.00	$ 436,541.00	$ 25,000.00	$ 74,200.00	$ 45,000.00
Units	443	120	72	41	28	24
Unit Contribution Cost	$ 4,740.41	$ 2,895.49	$ 6,063.07	$ 609.76	$ 2,650.00	$ 1,875.00
Fiscal Neutrality	$ 5,463.00	$ 8,680.00	$ 2,402.00	$ 6,500.00	$ 7,350.00	$ 7,350.00
DA Unit Burder	$ 10,203.41	$ 11,575.49	$ 8,465.07	$ 7,109.76	$ 10,000.00	$ 9,225.00

CITY OF WINTERS CALIFORNIA

CITY COUNCIL
STAFF REPORT

TO: Honorable Mayor and Council Members

DATE : April 3, 2007

THROUGH: John W. Donlevy, Jr., City Manager

FROM: Nanci G. Mills, Director of Administrative Services, City Clerk

SUBJECT: Weed Abatement

RECOMMENDATION:
Approve Resolution 2007-06, a Resolution Declaring Weeds and Rubbish on Certain Lots and Parcel within the City of Winters to be a Public Nuisance and Ordering the Institution of Proceedings to Abate said Public Nuisances.

BACKGROUND:
Each year at this time the Winters Fire Department surveys parcels for which weeds or rubbish, or both have been observed.

A public hearing will need to be held by the Council on April 17, 2007 at 7:30 p.m. for the purpose of hearing and considering all objections to the proposed removal of the weeds, rubbish and refuse from the parcels describe in Exhibit A.

FISCAL IMPACT:
None by this action.

Resolution No. 2007-06

RESOLUTION DECLARING WEEDS AND RUBBISH ON CERTAIN LOTS AND PARCELS WITHIN THE CITY OF WINTERS TO BE A PUBLIC NUISANCE AND ORDERING THE INSTITUTION OF PROCEEDINGS TO ABATE SAID PUBLIC NUISANCES

WHEREAS, Title 4, Division 3, Part 2, Chapter 13, Article 2 of the Government Code, commencing with section 39560 (herein "Weed Abatement Law"). Provides the City Council with an alternative procedure which it may use for the abatement of weed and rubbish on lots and parcels within the City as public nuisances, and

WHEREAS, The City Council desires to utilize the procedures provided in the weed abatement law as a means of abating certain public nuisance conditions located throughout the City consisting of weeds and rubbish on lots and parcels within the City, and

WHEREAS, The Winters Fire District has presented the City Council with a list describing by street name and assessor's parcel number the lots and parcels within the City upon which weeds or rubbish, or both have been observed; and

WHEREAS, The City Council desires to abate weeds growing on said lots as seasonal and recurrent nuisances as provided in Section 39562.1 of the Weed Abatement Law;

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WINTERS AS FOLLOWS:

1. That all weeds growing upon the streets, sidewalks and private property and all rubbish and refuse upon parkways, sidewalks and private property within the City are hereby declared to be, a public nuisances subject to abatement as provided in the weed abatement Law and this resolution.
2. That all weeds growing upon streets, sidewalks and private property within the City are also declared to be a seasonal and recurrent nuisance subject to abatement as provided in Section 39562.1 of the weed Abatement Law.
3. That the location of each such lot and parcel upon which a public nuisance has been observed to presently exist, listed by street upon which it fronts and Yolo County Assessor's parcel number, is set forth in Exhibit "A" attached hereto and incorporated herein by reference.
4. That the Fire Chief or his Representative of the Winters Fire District is hereby designated to be the "superintendent" as defined in

Section 39560 of the Weed Abatement Law. For purposes of performing the duties imposed by said law within the City. Except that, the City Manager will be responsible for filing all liens and signature approval of the abatement contractor.

5. That a public hearing is hereby set before the City Council to be held at 7:30 P.M. on April 17, 2007 at the City Council Chambers. City Hall 318 First Street, Winters Ca. For the purposes of hearing and considering all objections to the proposed removal of the weeds, rubbish and refuse from the parcels described in Exhibit "A".
6. That the Winters Fire District is hereby directed to give mailed notice of said hearing to all persons owning property described in Exhibit "A" as provided in Section 39567.1 of the Weed Abatement Law. Said mailed notice to be in the form provided for in the Weed Abatement Law for such notice. Said notice shall state that weeds are seasonal and recurrent nuisances as provided in Section 39562.1 of the Weed Abatement Law.
7. The Fire Chief or his representative is hereby authorized and directed to seek informal competitive bids for the performance of said abatement work on lots and parcels through the city and to present to the City Manager for consideration following the conclusion of the public hearing described above. The City Council finds and determines that said work of removing weeds and rubbish as provided in the Weed Abatement Law constitutes on professional services to the City.

PASSED AND ADOPTED THIS 3rd DAY OF April 2007 BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

_____
Woody Fridae, **MAYOR**

ATTEST:

_____
Nanci G. Mills, **CITY CLERK**

Date: April 16, 2007

To: _____

From: Winters Fire Department

Subject: Request for Proposal – City of Winters Weed Abatement 2007.

The City of Winters invites you to submit a proposal for weed abatement.

This letter comprises the formal Request for Proposal (RFP) for the project. Responses to the RFP should be submitted in accordance with the instructions stated herein.

Point of Contact

All proposals relating to this RFP shall be submitted to:

Winters Fire Department by April 30, 2007 16:00hr

10 Abbey Street

Winters Calif. 95694

ATT: Fire Prevention

(530) 795-4131

Criteria for Contractor

The work included in this contract shall consist of furnishing all labor, equipment, and records for abating weeds, noxious vegetation and removing debris from private property within the City of Winters. The

abatement of weeds and noxious vegetation shall be accomplished by disking, mowing or other means as specified in the Winters Fire Departments polices regarding the "Abatement of Weeds" or by other methods approved by the Winters Fire Department. The Contractor shall be knowledgeable of the polices regarding Weed abatement as set forth in the Winters Fire Department policies regarding the Abatement of Weeds. Abatement of lots will not start until the Chief or his representative and the contractor has reviewed the parcel for work to be conducted. The contractor shall contact the Chief or his representative at the conclusion of work on the parcel to review the finished parcel. The Contractor shall work under the direct supervision of the Chief or his representative. Any discrepancies related to weed abatement shall be decided by the Chief or his representative and shall be final up to and including termination of this contract for improper work or inadequate equipment to complete the contracts requirements. If the contract is terminated than the next closest bidder will be awarded the contract. The contractor shall have a form of communication so that the contractor can contact the fire department immediately should an unforeseen event occur on a job site. The contractor will provide proof of liability insurance and workman's com. Insurance (where applicable) in amounts approved by the city manager and the Fire Chief. The contractor will not mow on any day when high winds or low humidity is present. This condition will be decided by the Chief or his / her representative on a day-by-day basis. The contractor will not drive or place any heavy load on any City sidewalk. It will be the responsibility of the contractor to acquire a City of Winters Business license prior to starting work.

SCOPE OF WORK

The listing of lots or parcels that may require to be abated within the City of Winters will be available from the Fire Department as set by the 2007 weed abatement time line. The contractor shall begin the abatement of parcels not meeting the standard within five (5) days of notification by the Winters Fire Department. The contractor shall complete weed abatement by dates prescribed by the "Weed Abatement Time line." or as arranged by the Fire Department. This date could be as late as ten days after the dead line. A one-time extension that is not to exceed ten days may be granted by the Chief. Persons requesting an extension shall make a written request for the extension stating the reason for such extension. There will be a spring and fall abatement dead line as set by the weed abatement time line for the contractor to abate designated parcels.

Contractors Schedule for weed abatement 2007

1. Contractor to begin first weed abatement May 21, 2007
2. Contractor to finish first weed abatement June 10, 2007
3. Contractor to submit first billing for weed abatement by June 14, 2007
4. Contractor to begin second weed abatement July 16, 2007
5. Contractor to finish second abatement July 23, 2007
6. Contractor to submit second billing for weed abatement by August 6, 2007

Records

Accurate records shall be maintained that shows date, time, address, parcel number, work performed, and cost. Photographs shall be taken on the day of abatement, before and after, showing lot with address or parcel number. Film shall be provided by the contractor and should be included on the proposal sheet. Payment for work will be based on abatement forms and processed photos. All records will be turned into the Fire Prevention Officer, Winters Fire Department.

Debris

"Debris" – defined as foreign material on a lot such as woodpiles, concrete, wires, metal, trash, etc. shall be identified by the department and removed on a case by case basis.

Debris shall be removed if:

1. It endangers adjacent fences, structures, or public safety due to its location. Or if the debris is creating a health or fire hazard.

2. It prevents the contractor from performing the required weed abatement due to the quantity or location.

Where minor amounts of debris are present and can be worked around without sacrificing the above basic intent, it shall be left in place.

Time required to accomplish debris removal shall be recorded.

Clean-up & Damages

The contractor shall not allow the sidewalk or street fronting or adjacent to the property to become littered with waste materials, but shall maintain the same in a neat and orderly condition. Clean-up work shall be completed prior to leaving each job site.

Any property damage incurred by the contractor shall be repaired at the contractors expense.

All waste material is to be disposed of at an approved landfill. Landfill cost falls under debris removal.

STANDARD SPECIFICATIONS FOR ABATEMENT OF WEEDS

To be considered for weed abatement, vegetation shall be taller than six inches or identified for abatement by the Chief or his representative.

Disking / Rotortilling

- Any parcels that are disked must be disked so that no combustible vegetation or debris is left on the top surface or to the Chiefs approval.
- Shall not be used when lots have been leveled or planed for building construction.
- All bordering fences and property lines shall be cut and cleared of any vegetation including sidewalks and mow strips fronting the parcel.

Mowing/Flail Mowing

- Weeds shall be cut to two approximately 2 inches or shorter or to the Chiefs approval.
- If large amount of debris is left over from mowing, it must be removed from the premises.
- All bordering fences and property lines shall be cut and cleared of any vegetation including sidewalks and mow strips fronting the parcel.
- Mowing shall not be conducted after 12:00 noon unless approved by the Department

Clearing Fence lines, Sidewalks, Dirt Mounds

- All weeds are to be removed from fence lines, sides of structures, ditch banks, dirt mounds, and along sidewalks or streets or as directed by the Chief or his representative.
- All bordering fences and property lines shall be cut and cleared of any vegetation including sidewalks and mow strips fronting the parcel or as directed by the Chief or his representative.

Fuel Breaks (Fire Breaks)

- Fuel Breaks shall be constructed no less then thirty (30) feet in width and plowed so that fire will not spread across the break
- **Placement and location of fuel breaks shall be approved by the department**

INSURANCE

City requires that the contractor shall obtain and maintain at the contractor's own expense the following types of insurance for the duration of the Contract:

- Worker's Compensation Insurance: As required by the Law of the State of California.
- Personal Injury, Bodily Injury, and Property Damage Liability: Not less than $500,000 for injury to any one person and $1,000,000 for any one occurrence for Personal and Bodily Injury Insurance. Property Damage injury coverage of not less that $100,000 for any one occurrence.
- Automobile bodily injury and property damage liability insurance covering owned, non-owned, rented, and hired cars. The combined single limit for bodily injury and property damage shall be not less than $500,000.

These policies will contain provisions to include the City, its Council, Winters Fire District, it's board and personal, officers, representatives, agents and employees as additional insured. Also, the policies will specify that such insurance is primary and no City insurance will be called-on to contribute to a loss.

Proof of insurance to be submitted prior to beginning of work.

PROPOSALS

Submitted proposals should be based on flat rate for work per square foot. As outlined in the Standard Specification paragraph for lot clearing and lot size. Proposals should include "Tractor Work", Handwork and a minimal contractor activation charge

All proposals should be labeled "Weed Abatement" and returned as a sealed bid for contract, received no later than 12:00 p.m. on **April 30**, 2007, 16:00 hr at:

Winters Fire Department

10 Abbey Street

Winters Calif. 95694

The sealed bids will be opened by the City Clerk and reviewed by the City Manager and the Fire Department on the day following the final filing date.

City of Winters reserves the right to accept or reject all proposals submitted in response to this request for proposals. To request additional information from the proposer and to award the contract for the work to other than the lowest responsible bidder if it deems that such an award would be advantageous to the City.

City of Winters also reserves the right to choose more than one contractor for weed abatement and to select different contractors for: (a) weed abatement on vacant lots; or (b) hand work; or (c) fire breaks, or (d) debris removal. Alternatively, the City may award the bid based upon what it believes is the best overall price bid by any single bidder for each of said items of work.

The estimated costs of the work covered by this request for proposals is undetermined. However, it is expected to not exceed $2,000. The contract for such will be awarded by the City Manager as a contract for nonprofessional services.

CITY OF WINTERS

WEED ABATEMENT CONTRACTOR

PROPOSAL SHEET

All bids will be based on cost to abate lot per square foot as outlined in the Winters Fire Department policies standard specification for lot clearing.

Contractors bid must provide a cost estimated for debris removal and 30 foot fire breaks per linear foot.

Parcels with normal growth (6 inches to 4 feet)

Price per. Square foot _____

Parcels with heavy growth (4 feet or higher)

Price per. Square foot _____

MISCELLANEOUS

Fire Breaks Linear Foot. $_____

Debris Removal Hourly Rate $_____

Hand work Price per. square foot normal growth $_____

Price per. square foot heavy growth $_____

Minimal contractor activation charge (Tractor work) $_____

(Hand work) $_____

Company: _____

Address: _____

Contact person: _____

Pager #_____Cell/Work Phone: _____

Signature: _____ Date_____

2007 Weed abatement
Timeline for the City of Winters

March 1, 2007	Identify parcels for potential abatement.
April 3, 2007	Adopt resolution declaring public nuisance on specified parcels.
April 6, 2007	C-D-D secretary to mail notices based on approved list.
April 17, 2007	Public hearing to consider objections from property owners
May 20, 2007	Deadline for voluntary abatement by property owners.
May 21, 2007	City abatement contractor to begin abatement on parcels not in compliance.
June 10, 2007	Contractor to finish first abatement.
June 14, 2007	Contractor to submit first billing for weed abatement
June 24, 2007	Notify all property owners of possible re- growth of weeds.
July 15, 2007	Deadline for voluntary removal of any secondary re-growth of weeds
July 16, 2007	City abatement contractor to begin removal of second growth of weeds on parcels not in compliance.
July 23, 2007	Contractor to finish second abatement
August 6, 2007	Contractor to submit second abatement billing

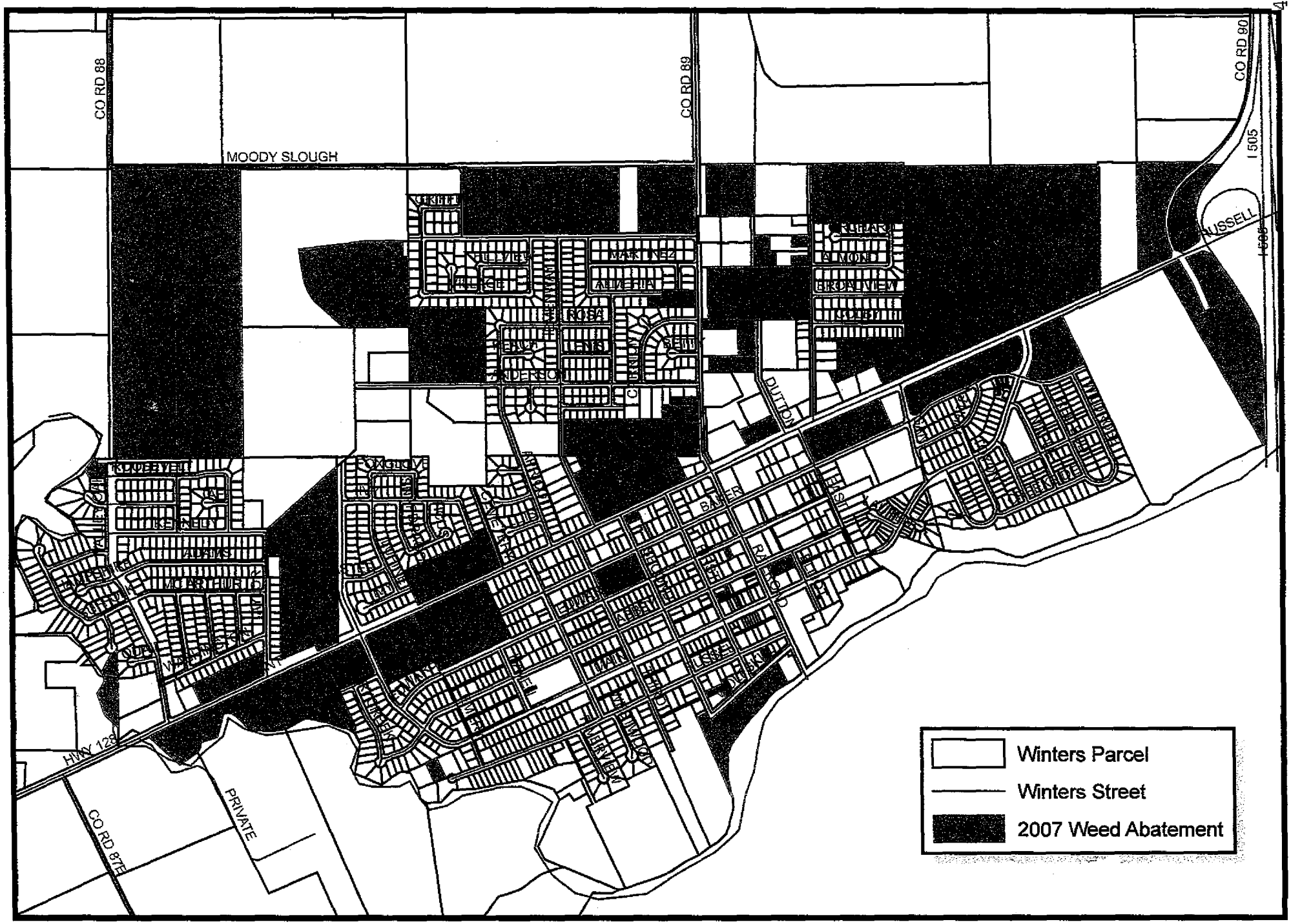
The Chief may adjust the deadline for voluntary abatement based on the relative fire hazards presented by the dry vegetation.

APN	SITUS	OWNER_NAME
00318349	RUSSELL ST	AGUIAR JANET M TR
03805060	I-505 & RUSSELL BLVD	ALI ASHRAF & YASMIN
03805057	999 E GRANT AVE	ALI ASHRAF & YASMIN A
03036132	1206 VALLEY OAK DR	ALSBURY MERWYN G & LINDA LEA
03022009	105 NIEMANN RD	ALSBURY PETER J & LIZA R TR
03020046	HWY 128	BREZNOCK EUGENE M & ANN L
00342426	822 RAILROAD AVE	BRIGGS MICHAEL & SHAUNIE
00336019	840 WALNUT LN	CARRION CATHERINE A TR
00336022	126 CARRION CT (PRIVATE)	CARRION CHARLES R & SANDY
00352419	415 GRANT AVE	CARTER PHILLIP & CARMEN
00324113	WOLFSKILL ST	CASTRO GEORGE J TR
00345018	W GRANT AVE	CASTRO GEORGE J TR
03819035	E MAIN ST	CHRISTIE ROBERT J/KATHERINE L
00324213	117 2ND ST	COMAN ELIZABETH ETAL
00333017	CR 89	CONWAY LOUIS W TR ETAL
00333018	DUTTON ST	CONWAY LOUIS W TR ETAL
03805019	WALNUT LN	CORBETT FAMILY TRUST
00343010	GRANT AVE	COUNTRY INVESTORS
00343011	GRANT AVE	COUNTRY INVESTORS
03805021	T8N R1W POR SEC 22	DAVIS GARY & LYNN
03022017	CR 33	GBH-WINTERS HIGHLANDS LLC
03022019	T8N R1W S21	GBH-WINTERS HIGHLANDS LLC
00349103	103 ORCHARD LN	GUTIERREZ RALPH & SHIRLEY
03037220	910 SOUTHDOWN CT	HACKLEY NANCY A
00324302	10 RUSSELL ST	HEMENWAY DEBORAH SCHOLAR TR
00324112	100 WOLFSKILL ST	JAUREQUI CASIMIRO & GUADALUPE
00337028	E GRANT AVE	JOHN LARRY J TR ETAL
00337029	E GRANT AVE	JOHN LARRY J TR ETAL
00337030	E GRANT AVE	JOHN LARRY J TR ETAL
03807028	T8N R1W	JORDAN FAM PARTNERSHIP II
03807029	PCL 2 GATEWAY DR	JORDAN FAMILY PARTNERSHIP II
03807030	PCL 4 GATEWAY DR	JORDAN FAMILY PARTNERSHIP II
03807031	PCL 3 GATEWAY DR	JORDAN FAMILY PARTNERSHIP II
03807032	PCL 1 GATEWAY DR	JORDAN FAMILY PARTNERSHIP II
00322402	8 E ABBEY ST	LANDES ELLIOT
00324121	200 WOLFSKILL ST	LARSEN ERIC ETAL
00312004	GRANT AVE	LILLY H OGDEN TR
00343012	GRANT AVE	LILLY H OGDEN TR
00335007	121 E GRANT AVE	LORENZO ALADDIN C & LYNDA TR
03805023	T8N R1W POR SEC 22	MACMILLAN WALLACE T/ETHEL TR
00333013	CR 89	MONTOSA DONNA M TR
00336021	125 CARRION CT (PRIVATE)	MORGAN DOUG & ELAINE
00345015	W GRANT AVE	NORTHERN CALIFORNIA ASSOC LLC
00345016	W GRANT AVE	NORTHERN CALIFORNIA ASSOC LLC
00345017	W GRANT AVE	NORTHERN CALIFORNIA ASSOC LLC
00324122	102 WOLFSKILL ST	OGANDO JOSEPH E & KAREN M
03022010	T8N R1W POR SEC 21	PINKSTON VOYDELL & LOIS
00315515	4 EDWARDS ST	PLATT JOHN & YOLANDA
00320402	311 1ST ST	PORTELLO WILLIAM L JR/MARY TR
03807035	RUSSELL/BAKER/MAIN	RABADA JOHN S TR
00315201	GRANT AVE	RAMOS DOLORES D TR

EXHIBIT A

00312003	511 MAIN ST	ROMAN CATHOLIC BISHOP OF SAC
00346701	803 W GRANT AVE	SHERWOOD JOSEPH J ETAL
03805018	29500 RUSSELL BLVD	SOUTH MARKET COURT PTN LP
03022027	R1W POR SEC 21	STATEWIDE PROPERTIES WINTERS
00336012	836 WALNUT LN	STILLWILL CYNTHIA I/JUNIES C
00336005	WALNUT LN	VILLAGE ON THE PARK
00343013	537 GRANT AVE	WINTERS INVESTORS LLC
00301140	425 ANDERSON AVE	WINTERS JT UNIFIED SCH DIST
00313001	W EDWARDS ST	WINTERS JT UNIFIED SCH DIST
00314501	200 BAKER ST	WINTERS JT UNIFIED SCH DIST
00328207	RAILROAD AVE	WINTERS JT UNIFIED SCH DIST
00328208	718 RAILROAD AVE	WINTERS JT UNIFIED SCH DIST
00328209	RAILROAD AVE	WINTERS JT UNIFIED SCH DIST
00328210	RAILROAD AVE	WINTERS JT UNIFIED SCH DIST
00328215	GRANT AVE	WINTERS JT UNIFIED SCH DIST
00332204	101 W GRANT AVE	WINTERS JT UNIFIED SCH DIST
00345019	900 W GRANT AVE	WINTERS JT UNIFIED SCH DIST
03022013		WINTERS JT UNIFIED SCH DIST
03022014		WINTERS JT UNIFIED SCH DIST
03022032	502 NIEMANN ST	WINTERS JT UNIFIED SCH DIST
03805063	I-505 7& CR 32	WINTERS LLC
00316016	28 E EDWARDS ST	HERRINGTON JOHN S/LOIS H TR
003022035	ANDERSON AVE	CORP OF THE PRES-CH OF LDS
003022034	ANDERSON AVE	CORP OF THE PRES-CH OF LDS

City of Winters
Weed Abatement 2007



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Prepared by Jen Michaelis, Winters Community Development Department

CITY OF WINTERS CALIFORNIA

CITY COUNCIL STAFF REPORT

April 3, 2007

TO:	Honorable Mayor and Councilmembers
THROUGH:	John W. Donlevy, Jr. – City Manager
FROM:	Dan Sokolow – Community Development Director
SUBJECT:	Authorization to Accept Annexation Proposal from Venita D. O'Brien for Assessor Parcel Numbers 030-190-26 and 29.

RECOMMENDATION: Staff recommends that the City Council take the following actions: (1) receive the staff report, (2) review the annexation request from Venita D. O'Brien, and (3) determine whether an application for annexation can be accepted for processing.

BACKGROUND: Ms. O'Brien has expressed an interest in having her property annexed (Assessor Parcel Numbers 030-190-26 and 29) to the City; please find attached a letter, dated February 7, 2007, from her and a map that depicts her property which totals 59.96 acres in size and is located northwest of the City near the intersection of Moody Slough Road (County Road 33) and County Road 88. Under City Council Resolution No. 2001-05, the City Council must approve the acceptance of all applications for projects outside of the City's general plan area before staff can accept an application for processing.

According to Ms. O'Brien, the current uses of her property include a rural residence and cattle grazing for fire prevention. If the property is annexed, her goal is to maintain her residence on her 31.59-acre parcel (APN 030-190-29) and seek residential development of the 28.37-acre parcel (APN 030-190-26). Ms. O'Brien made a similar annexation request in 2004. The City Council considered the request at its October 5, 2004 meeting and declined to accept the application.

DISCUSSION: Generally, the following planning process would occur before an annexation could be approved and finalized.

1. Preparation of environmental review (California Environmental Quality Act or CEQA).
2. Preparation of infrastructure studies (water, wastewater, storm drain, etc.).
3. Planning Commission recommendation to approve CEQA determination, pre-zoning, and general plan amendment including conditions.
4. City Council adoption/certification of CEQA and approval of pre-zoning and general plan amendment including conditions.
5. City Council and Yolo County Board of Supervisors approval of property tax sharing agreement for property proposed for annexation.
6. Yolo County Local Agency Formation Commission (LAFCO) approval of annexation.

The City Council may establish specific conditions for accepting an annexation application. A City Council decision to accept an application for processing does not bind the Council to approve the annexation request.

ALTERNATIVES: The City Council may direct staff to accept an annexation application for processing or decline to accept an application. In the event that the Council elects to accept an application, the Council may establish conditions for acceptance of the application for processing.

FISCAL IMPACT: Should the City Council direct staff to accept an annexation application for processing, the applicant would be required to enter into an advance of funds agreement with the City in order to cover the City expenses incurred during the processing of the application.

Attachments:
Letter dated February 7, 2007 from Venita D. O'Brien
Map depicting proposed annexation site
October 5, 2004 City Council Minutes

Misc/O'Brien Annexation CC Stf Rpt 3Apr07

VENITA D. O'BRIEN
28110 CASTLE VIEW LANE
WINTERS, CA 95694
530.795-3104

RECEIVED

FEB 07 2007

CITY OF WINTERS

FEBRUARY 7, 2007

WINTERS CITY COUNCIL
WOODY FRIDAE, MAYOR
MIKE MARTIN, MAYOR PRO-TEMPORE
HAROLD ANDERSON
TOM STONE
CECILIA CURRY
✓ DAN SOKOLOW, COMMUNITY DEVELOPMENT DIRECTOR
JOHN W. DONLEVY, JR., CITY MANAGER
NANCI MILLS, DIRECTOR OF ADMINISTRATIVE SERVICES/CITY CLERK

CORRECTED COPY

CITY OF WINTERS
318 FIRST STREET
WINTERS, CA 95694

GENTLEMEN AND LADIES,
I AM APPEARING BEFORE YOU TO REQUEST THAT MY PROPERTY BE ANNEXED INTO THE CITY OF WINTERS, AS MY PROPERTY IS THE LAST PIECE OF LAND EAST OF DRY CREEK THAT CAN BE INCLUDED WITHIN THE CITY (AND WEST OF PROPOSED EXTENDED VALLEY OAK DRIVE).
IN 1974 WE PURCHASED OUR RANCH. EVEN THOUGH I LIVE JUST OUTSIDE THE CITY LIMITS OF WINTERS THIS HASN'T STOPPED ME FROM SERVING ON MANY COMMUNITY SERVICE COMMITTIES:

- WINTERS LITTLE LEAGUE,
  BOARD OF DIRECTOR AND TREASURER, 3 YRS
- YOLO COUNTY ACADEMIC DECATHLON, SEVERAL POSITIONS OVER THE YEARS SINCE 1982 REPRESENTATING SOROPTIMIST INT'L OF WINTERS PROVIDING THE STUDENTS WITH FREE SNACKS WITH PAT RISSER
- TOURISM COMMITTEE WITH JACK GRAF
- CITY COUNCIL SERVICE COMMITTEE WITH TOM STONE WHEN HE WAS MAYOR
- BEAUTIFICATION COMMITTEE WITH WOODY FRIDAE

WHEN PRESIDENT OF SOROPTIMIST OF INT'L OF WINTERS:
I PRESENTED ALL THE GRADE SCHOOLS WITH A SET OF "WHERE THERE'S A WILL THERE'S AN A".

PRESENTED TO WINTERS HIGH SCHOOL LIBRARY A BEAUTIFUL SET OF BOOKS, THE COMPLETE WORKS OF "THE TRADITION OF CRAFTS OF JAPAN" WITH A PAIR OF WHITE GLOVES TO PROTECT THESE BEAUTIFUL BOOKS.
SERVED ON CHAMBER WITH GLORIA MARION, ET EL; WHEN SHE WAS PRESIDENT.
WAS AWARDED SOROPTIMIST "WOMEN HELPING WOMEN" AWARD 5/90
HELPED RAISE THOUSANDS OF DOLLARS WHICH WE GAVE BACK TO THE WINTERS COMMUNITY FROM OUR SOROPTIMIST OF WINTERS INT'L QUILT SHOW. AWARDED SCHOLARSHIPS TO OUR GRAUDATING SENIORS.
SPONSORED GIRLS STATE. FFA. SWIM TEAMS.
EVEN HELPED FUTURE SURGEON, DR. MARY ANN PURTELL DURING HER SENIOR YEAR OF MEDICAL SCHOOL AT UCLA WITH A FINANCIAL LOAN, WHICH ENABLED HER TO FINISH MEDICAL SCHOOL AND GRADUATE.
ASKED PRINCIPAL JEREMY "JERRY" SMITH TO HONOR THE MEMBERS OF ACADEMIC DECATHLON WITH A SCHOOL "W" LETTER EACH YEAR AT THE AWARDS NIGHT BANQUET, BECAUSE HE AGREED WITH ME THAT THEY SHOULD BE RECOGNIZED SAME AS OUR SPORTS "JOCKS".
VOLUNTEERED FOR THREE YEARS AT SUTTER DAVIS HOSPITAL.

THANK YOU FOR YOUR TIME AND CONSIDERATION OF ANNEXATION.

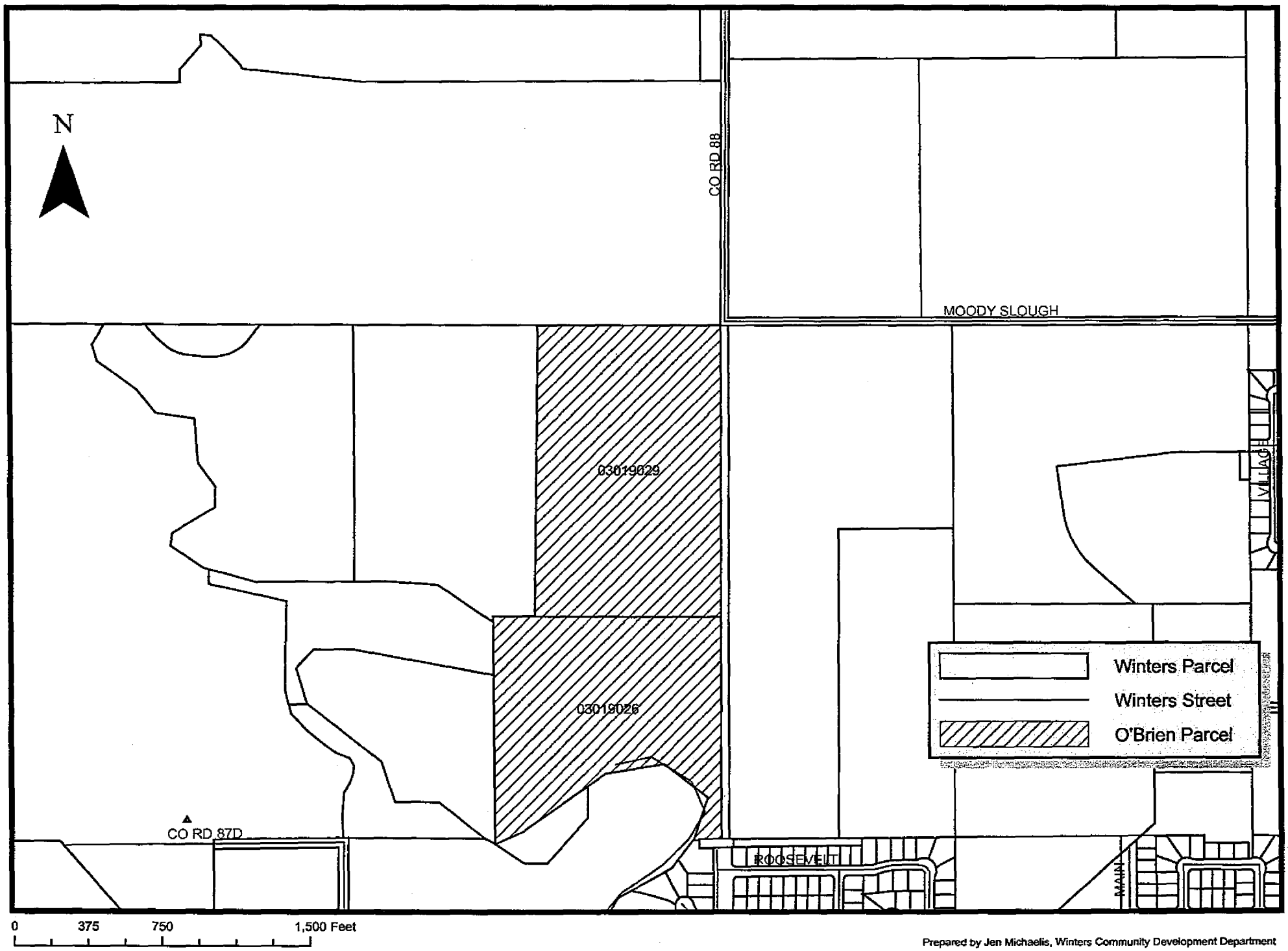
SINCERELY,

Venita D. O'Brien

VENITA D. O'BRIEN

Enc. 1:map

O'Brein Parcels - April 3, 2007



Prepared by Jen Michaelis, Winters Community Development Department

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF WINTERS HELD ON TUESDAY, OCTOBER 5TH, 2004 AT 7:30 P.M.

Mayor Martinez called the meeting to order at 7:30 p.m.

Pledge Of Allegiance

Present were Council Members Anderson, Fridae, Stone, Mayor Martinez. Council Member Chapman was absent. Also present were City Manager Donlevy, City Clerk Mills, City Attorney Wallace, Community Development Director Sokolow, Recycling Coordinator/Administrative Assistant Scianna, City Engineer Nick Ponticello, and Redevelopment Manager Cas Ellena.

RECOGNIZE AUDIENCE/CORRESPONDENCE: (None)

MODIFICATION OF AGENDA:
City Manager Donlevy pulled Discussion Item #2 from the agenda to be brought back to the October 19th meeting.
Council Member Anderson asked to have Discussion Item #5 tabled until the October 19th meeting because of the volume of documents and the timing of delivery of them with the agenda.
City Manager Donlevy assured Council that Discussion Item #5 will be a presentation only, with no decision to be made at this time.
Council concurred.

PRESENTATION:
BUREAU OF RECLAMATION, VISITOR SERVICES PLANNING EFFORT OF LAKE BERRYESSA PRESENTATION. TIM WAKEFIELD, INTERDISCIPLINARY PROGRAM COORDINATOR, LAKE BERRYESSA FIELD OFFICE
Tim Wakefield presented a PowerPoint slide show and received questions from Council.
After the conclusion of Mr. Wakefield's presentation, comments in opposition to the effort were heard from the audience.

CONSENT ITEMS:

A. **APPROVE THE MINUTES OF A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF WINTERS HELD, TUESDAY, SEPTEMBER 7, 2004 AND TUESDAY, SEPTEMBER 21, 2004.**
B. **WARRANTS ENDING 10/05/2004**
C. **ONE YEAR EXTENSION OF JOINT USE AGREEMENT BETWEEN YOLO COUNTY OFFICE OF EDUCATION (HEAD START), WINTERS PARENT NURSERY SCHOOL AND THE CITY OF WINTERS**
D. **RESOLUTION APPROVING 2004/05 ANNUAL DBE PROGRAM AND 10% GOAL**
E. **REJECTION OF BIDS, RAILROAD AND GRANT SIGNAL IMPROVEMENTS, PROJECT NO. 00-02**

City Manager Donlevy gave an overview of the consent items.
Council Member Fridae motioned to accept Consent Items A through E.
Seconded by Council Member Stone.

AYES: Anderson, Fridae, Stone, Mayor Martinez
NOES: None
ABSTAIN: None
ABSENT: Chapman

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF WINTERS HELD ON TUESDAY, OCTOBER 5TH, 2004 AT 7:30 P.M.

DISCUSSION ITEMS:

1. WASTE MANAGEMENT SINGLE STREAM RECYCLING UPDATE

Marissa Juhler of Waste Management gave a presentation on the results of the city-wide survey conducted regarding the single stream recycling pilot program.

2. CONTINUED PUBLIC HEARING AND APPROVE CHANGES TO CDBG AND HOME PROGRAM INCOME RE-USE GUIDELINES AND REVOLVING LOAN FUNDS PROGRAM GUIDELINES; CDBG PROGRAM INCOME REVOLVING LOAN FUND TRANSFER; AND FUNDING FOR FIRST TIME HOMEBUYER PROGRAM.

Community Development Director Dan Sokolow gave a brief presentation and requested this item be continued to the October 19, 2004 meeting of the City Council.
Council Member Stone moved to continue the item.
Seconded by Council Member Anderson.

AYES: Anderson, Fridae, Stone, Mayor Martinez
NOES: None
ABSENT: Chapman
ABSTAIN: None

3. REQUEST FROM VENITA D. O'BRIEN TO ACCEPT APPLICATION FOR ANNEXATION.

Mayor Martinez excused himself due to a possible conflict of interest.
Ms. O'Brien gave a brief presentation regarding her request for annexation.
Community Development Director Dan Sokolow presented his staff report.
Council Member Anderson moved to not accept the request for acceptance of application for annexation.
Seconded by Council Member Stone.

AYES: Anderson, Stone, Mayor Pro-Tempore Fridae
NOES: None
ABSENT: Chapman
ABSTAIN: Martinez

Mayor Martinez returned to the dais.

4. PRESENTATION ON DRAINAGE IMPACT FEES REPORT ON ALLOCATING COSTS OF THE PROPOSED STORM DRAINAGE MASTER PLAN FACILITIES FOR THE MOODY SLOUGH AND PUTAH CREEK/DRY CREEK SUB-BASINS.

City Engineer Nick Ponticello presented his PowerPoint slide show.
Discussion followed.
City Manager Donlevy requested dates that Council would be available for a workshop to discuss this matter further.

5. Economic Sustainability Workshop Review

City Manager Donlevy presented his PowerPoint slide show.
Discussion followed.

6. PLANNING COMMISSION APPOINTMENT

Council Member Stone moved to appoint Cecilia Curry to the remainder of Ed Champoux's Planning Commission term.
Seconded by Fridae.

AYES: Anderson, Fridae, Stone, Mayor Martinez
NOES: None
ABSENT: Chapman
ABSTAIN: None

7. PLANNING COMMISSION MEETING FREQUENCY

City Manager Donlevy requested feedback from the Council regarding the Planning Commission to meet more frequently during this busy time.
Discussion followed.
City Manager Donlevy stated that he would talk to the Planning Commission and bring this back at a later time for a decision.

**********COMMUNITY DEVELOPMENT AGENCY**********
****

CITY MANAGER REPORT

City Manager Donlevy reported on the WPNS banner that the children have made showing appreciation to Council for funding their new floors project.

COUNCIL/STAFF COMMENTS

Council adjourned to executive session at 11:45PM.

EXECUTIVE SESSION:

1. Meeting with City Manager to Discuss Personnel Matters – Pursuant to Government Code Section 54957.6
   - Hiring of Police Chief
   - Negotiations – WEA
   - City Manager Performance Evaluation

Council adjourned to open session at 11:55PM. No decisions were made.

Dan Martinez, MAYOR

ATTEST:

Nancy G. Mills, CITY CLERK

CITY COUNCIL STAFF REPORT
April 3, 2007

TO: Honorable Mayor and Council Members

THROUGH: John W. Donlevy, Jr. – City Manager

FROM: Dan Sokolow – Community Development Director

SUBJECT: MARY ROSE GARDENS SUBDIVISION (Continued Public Hearing)

SUMMARY OF PROJECT: The project site is generally located in the northwest area of the City of Winters. The project site totals approximately 5.69 acres comprised of APN 003-524-19 located at the northwest corner of Grant Avenue (State Route 128) and Cemetery Lane. The project site is north of the Waggoner Elementary School, south and east of the Carter Ranch Phase I and II Subdivisions, and west of Cemetery Lane and the Kaiser-Aetna Subdivision. Situs address: 415 West Grant Avenue, Winters, CA 95694. The project is a proposed rezoning and subdivision of 5.69 acres to create 28 singe-family lots including two duplex lots (Lots 12A and B) and Parcel X for a 0.503-acre park.

PLANNING COMMISSION RECOMMENDATION: At a hearing held November 28, 2006, the Planning Commission voted 7-0 to support the staff recommendation of approval of the project (Attachments 3 and 4 to this report). Two speakers provided testimony on the project. One of the speakers expressed support for the project. The other speaker suggested that the existing flood overland release in the Carter Ranch Subdivision be relocated to the project and advocated for a different location of the green space/park area proposed for the project. In its approval motion, the Planning Commission recommended Option B for the layout of the green space/park area and said the motion permits the applicant to enlarge the green space/park area to one-half acre if necessary. Since the Planning Commission's approval of the project, the applicant has increased the size of Parcel X from 18,433 to 21,892 square feet. Under the City's General Plan, the minimum size for a park is one-half acre (21,780 square feet). The applicant has also added another house plan (Attachment 9 to this report).

DEVELOPMENT AGREEMENT: The proposed DA "public benefit" features are detailed below. It should be noted that there are many other requirements of the project that the City will achieve through the mitigation measures and conditions of approval. The items below are the items that would be gained to the community's "net benefit", in addition to the requirements of the mitigation measures and conditions of approval.

- School Funding – Payment of Level Three School Impact Fees (low- and very low- income units exempt).

- Streets – Construct pedestrian and landscape improvements on the south side of Grant Avenue along the frontage of the Waggoner Elementary School.
- Fiscal Neutrality – Pay an annuity per an Economic and Planning Systems report to offset any cost increase to the City general fund.
- Parks – Fund new parks at seven acres per thousand through in-lieu fees. (Note: The applicant will satisfy most of the park obligation through the construction of an on-site park. The remaining obligation will be satisfied through the payment of in-lieu fees.)
- Fire Department – Contribute $49,400 towards the purchase of a Type I fire engine.
- Library Fund – Contribute $25,000 towards the Library Fund.
- Energy – All of the units to be constructed as EPA Energy Star units. Photovoltaic solar energy systems capable of producing 2.4 peak rated direct current (DC) kilowatts to be installed on half of the 24 market rate units while the remaining market rate units to be pre-wired to accommodate such a system.
- Water and Streets Impact Fees Advance Payment – Pay the City impact fees for Water and Streets at Final Map.

It should be noted that the Fiscal Neutrality and Parks items are General Plan requirements and therefore are not true "net benefit" items, but they have been detailed here for clarity purposes.

RECOMMENDED ACTIONS

The City Council should discuss the three options for the park (Parcel X) and select one of the options; the Planning Commission recommended Option B at its November 28, 2006 meeting. The Council may modify the option it selects. Option A includes a gazebo at the center of the parcel, a children's play structure with adjacent multiple benches and a trash receptacle, lawn areas, a large clock in a brick planter, and landscaping with various shrubs and trees. Option B includes a gazebo with adjacent benches and a trash receptacle at the southwest corner of the parcel, a children's play structure with adjacent benches, a clock located in a brick planter, and landscaping with various shrubs and trees. Option C includes a gazebo with adjacent park benches at the southwest corner of the parcel, a children's play structure with adjacent park benches and a trash receptacle, a bicycle loops bicycle parking area, lawn areas, and landscaping with various shrubs and trees. All options include pedestrian and bicycle paths.

If the Council supports the Planning Commission and staff recommendation then the following actions should be taken:

A) The staff recommends the City Council have the applicant indicate for the record, their acceptance of the Development Agreement and conditions of approval.

B) Assuming the applicant indicates their acceptance of the final terms of the DA and conditions of approval, the staff recommends that the City Council take the following actions subject to the identified findings of fact and conditions of approval:

1) Adopt Resolution No. 2007-xx (Attachment 3 to this report) approving CEQA findings of fact, adopting a mitigation monitoring plan, and certifying the final mitigated negative declaration for the Mary Rose Gardens Project.

2) Adopt Resolution No. 2007-xx (Attachment 4 to this report) approving the project by enacting the following:

   a) Approval of the Tentative Subdivision Map No. 4851 on 5.69 acres creating 28 single family lots (including 2 "duplex" lots) on 5.69 acres and a 0.503-acre park (Attachment 1 to this report).

   b) Approval of Site Plan for residential units and conceptual landscape plan for the 0.503-acre park ("Parcel X").

   c) Approval of a demolition permit to remove approximately seven existing on-site structures.

   b) Approval of Findings of Fact and Conditions of Approval (Attachment 2 to this report).

3) Introduce and waive the first reading of Ordinance No. 2007-0x (Attachment 5 to this report) approving the rezoning described below. (Note: The ordinance must return for second reading and adoption.):

   a) Change the Zoning Map for the project site (5.69 acres) from Single Family Residential, 6,000 Square Foot Average Minimum (R-2) to Single Family Residential, 6,000 Square Foot Average Minimum/Planned Development (R-2/PD).

   b) Adoption of Planned Development (PD) Permit No. 2007-01 allowing for Lots 12A and 12B to utilize a zero lot line, Lot 12B to fall below the minimum lot size for the R-2 Zone, Lots 12A and 12B to utilize tandem parking, and the noise barrier on Grant Avenue to exceed the maximum fence/wall height for residential zones.

4) Introduce and waive the first reading of Ordinance No. 2007-xx (Attachment 6 to this report) approving and authorizing execution of the Mary Rose Gardens Development Agreement. (Note: The ordinance must return for second reading and adoption. It must be signed by the applicant prior to the second reading and adoption.)

ATTACHMENTS

1) Tentative Subdivision Map
2) Conditions of Approval
3) Resolution adopting the Negative Declaration and MMP
4) Resolution approving the Project
5) Rezoning Ordinance
6) Development Agreement and Ordinance

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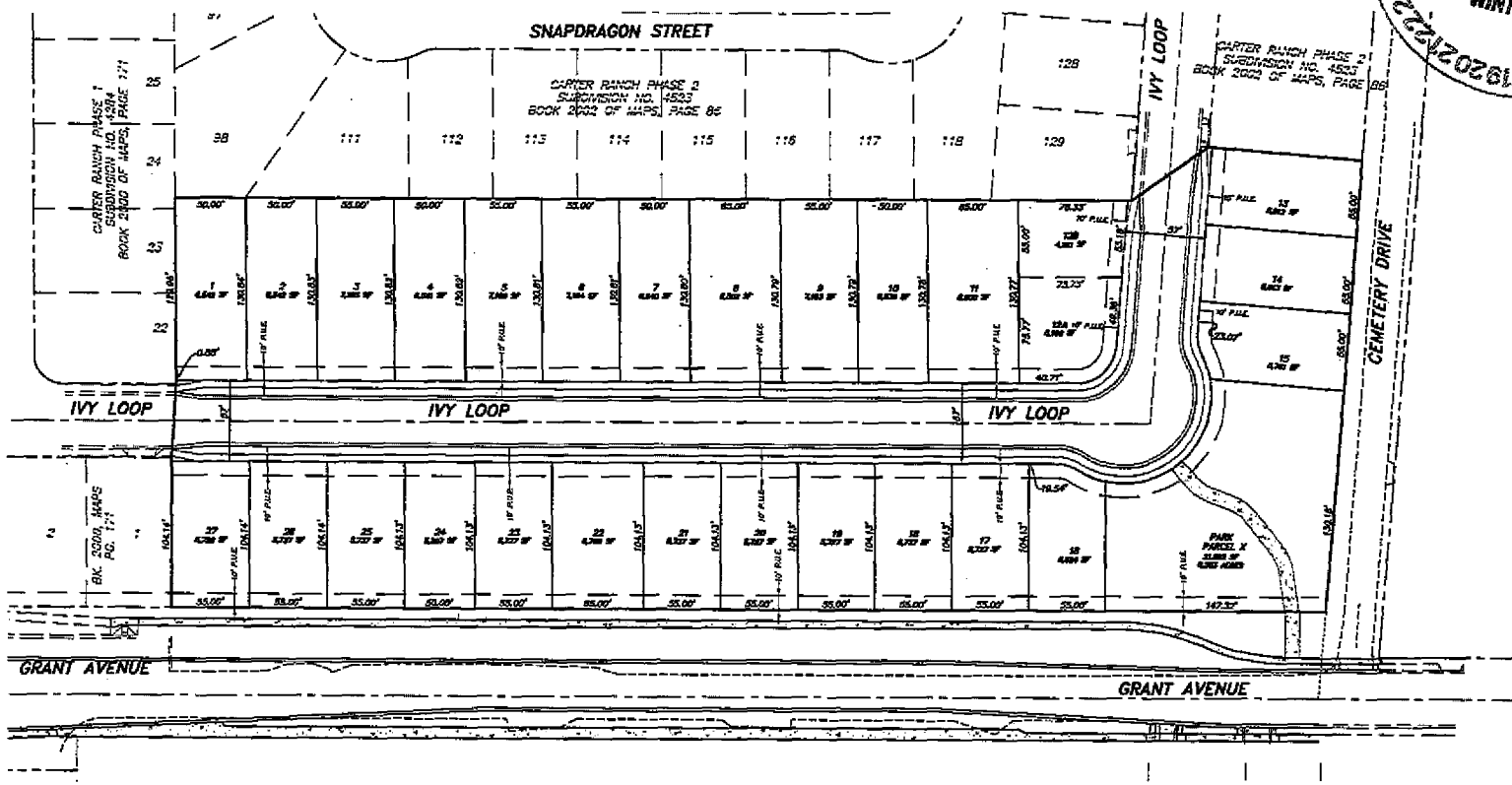
CITY OF WINTERS



North Block						
Lot	House	House Width	Setbacks Front	Setbacks Rear	Lot Sq. Ft.	Lot Width
1	1140 A	35	25	49.84	6,542	50.00
2	2100 A	34	20	45.84	6,542	50.00
3	2400 B	40	25	51.83	7,195	55.00
4	2100 B	34	20	45.82	6,541	50.00
5	2304 A	40	16	68.81	7,195	55.00
6	2400 C	40	20	56.81	7,194	55.00
7	2100 A	34	15	50.80	6,540	50.00
8	2030 C	50	25	61.09	8,502	65.00
9	2400 A	40	20	56.79	7,193	55.00
10	2100 B	34	16	47.78	6,539	50.00
11	2030 A	50	25	62.27	8,500	65.00
12A	DUET				5,198	76.77
12B					4,181	55.00
East Block						
13	1893	40	20	42.50	5,912	55.00
14	1893	40	20	42.50	5,913	55.00
15	1893	40	20	33.10	5,751	55.00

South Block						
Lot	House	House Width	Setbacks Front	Setbacks Rear	Lot Sq. Ft.	Lot Width
16	1893	40	20	34.10	5,524	55.00
17	2400 B	40	16	30.13	5,727	55.00
18	1830 B	40	20	20.13	5,727	55.00
19	2304 A	40	15	43.13	5,727	55.00
20	1830 A	40	20	20.13	5,727	55.00
21	2030 B	50	20	40.63	6,769	65.00
22	2304 B	40	20	36.13	5,727	55.00
23	1140 A	35	23	25.14	5,207	50.00
24	2304 A	40	15	43.14	5,727	55.00
25	1830 B	40	20	20.14	5,727	55.00
26	2400 A	40	18	34.12	6,728	55.00
PARCEL X	PARK				21,892	

NOTES: 1. LOTS 1, 12A, 12B, AND 24 ARE PROPOSED AFFORDABLE UNITS
2. DUPLEX (LOTS 12A & 12B) COUNTED AS SINGLE LOT

TOTAL RESIDENTIAL LOTS =	27
AVERAGE LOT SIZE (SQ FT) =	6,462
MEDIAN LOT SIZE (SQ FT) =	5,913
TOTAL AREA =	5.7 Ac.
RESIDENTIAL DENSITY =	4.7 Units/Ac.

CITY OF WINTERS RESIDENTIAL ZONING/DENSITIES		
GENERAL PLAN DESIGNATION	ZONING DISTRICT	RESIDENTIAL DENSITY RANGE
LOW DENSITY RESIDENTIAL	R-1	1.1 to 7.3 units/acre
MEDIUM DENSITY RESIDENTIAL	R-2	5.4 to 8.8 units/acre
MEDIUM HIGH DENSITY	R-3	6.1 to 16.0 units/acre
HIGH DENSITY RESIDENTIAL	R-4	10.1 to 20.0 units/acre

SCALE: 1" = 40'

TENTATIVE MAP
FOR
SUBDIVISION NO. 4851
MARY ROSE GARDENS
TENTATIVE MAP
LOT A OF PARCEL MAP NO. 4242, BOOK 11, P.M., PAGE 95,
ALSO BEING A PORTION OF SECTION 21
TOWNSHIP 8 NORTH, RANGE 1 WEST,
MOUNT DIABLO MERIDIAN,
CITY OF WINTERS, YOLO COUNTY, CALIFORNIA

LM
CIVIL ENGINEERING
LAND SURVEYING
PLANNING
LAUGENOUR AND MEIKLE
WOODLAND, CALIFORNIA

SHEET 2 OF 8 FEBRUARY 13, 2006

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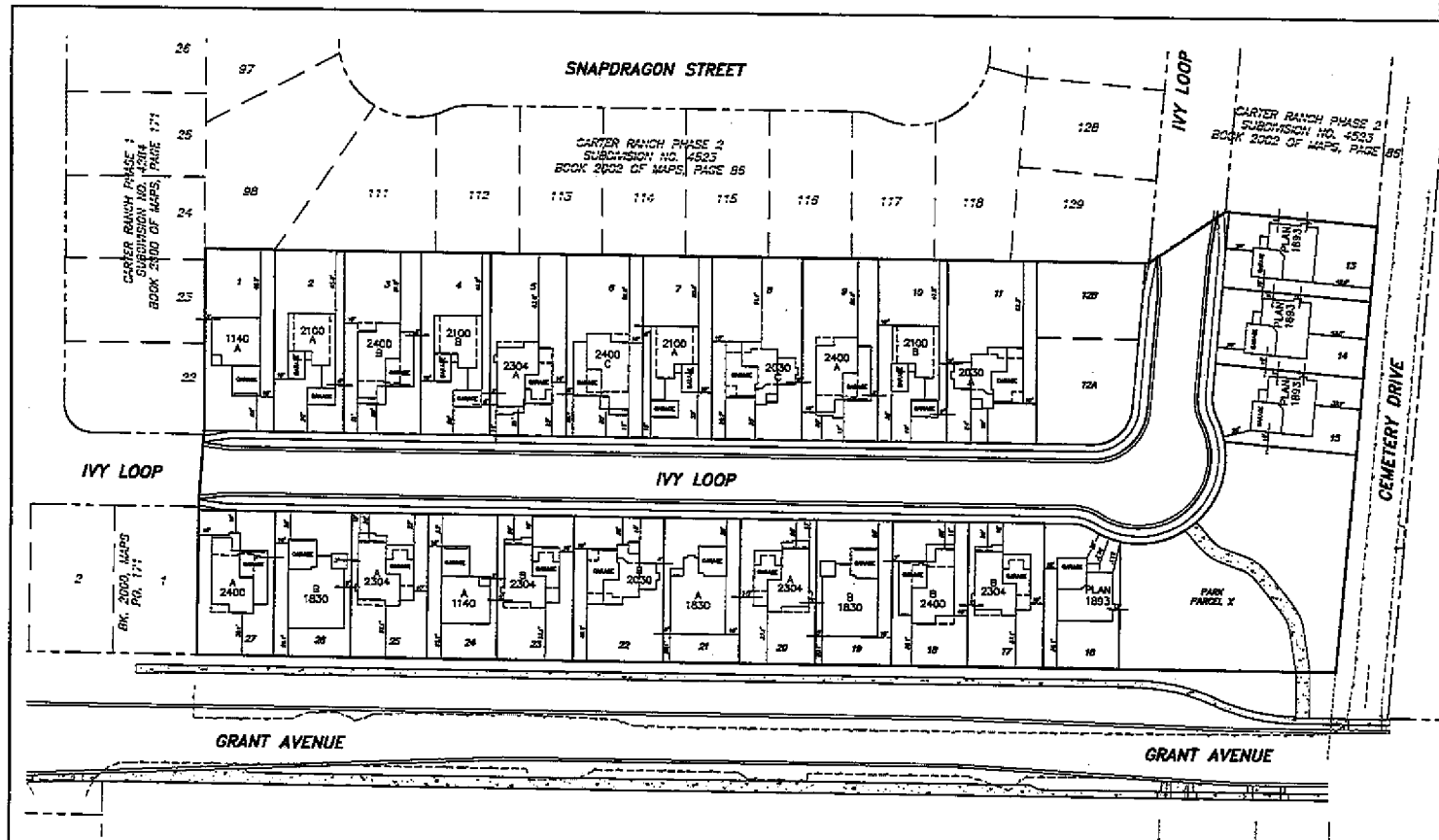
CITY OF WINTERS



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6	2400 C	40	20	56.81	7,184	55.00
7	2100 A	34	15	50.80	6,540	50.00
8	2030 C	50	25	61.09	8,502	65.00
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TOTAL AREA =	5.7 Ac.
RESIDENTIAL DENSITY =	4.7 Units/Ac.

CITY OF WINTERS RESIDENTIAL ZONING/DENSITIES		
GENERAL PLAN DESIGNATION	ZONING DISTRICT	RESIDENTIAL DENSITY RANGE
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MEDIUM DENSITY RESIDENTIAL	R-2	5.4 to 8.8 units/acre
MEDIUM HIGH DENSITY	R-3	6.1 to 10.0 units/acre
HIGH DENSITY RESIDENTIAL	R-4	10.1 to 20.0 units/acre

40 0 20 40
SCALE: 1" = 40'

TENTATIVE MAP
FOR
SUBDIVISION NO. 4851
MARY ROSE GARDENS
SITE PLAN
LOT A OF PARCEL MAP NO. 4242, BOOK 11, P.M., PAGE 95,
ALSO BEING A PORTION OF SECTION 23
TOWNSHIP 8 NORTH, RANGE 1 WEST,
MOUNT DIABLO MERIDIAN.
CITY OF WINTERS, YOLO COUNTY, CALIFORNIA

LM
CIVIL ENGINEERING
LAND SURVEYING
PLANNING
LAUDENOUR AND MEIGLE
WOODLAND, CALIFORNIA

SHEET 3 OF 6 FEBRUARY 13, 2006

FINDINGS OF FACT AND CONDITIONS OF APPROVAL FOR THE MARY ROSE GARDENS PROJECT

FINDINGS OF FACT

Findings for Adoption of Mitigated Negative Declaration

1. The City Council has considered the proposed Mitigated Negative Declaration before making a decision on the project.

2. The City Council has considered comments received on the Mitigated Negative Declaration during the public review process.

3. The City Council finds that the environmental checklist/initial study identified potentially significant effects, but: a) mitigation measures agreed to by the Applicant before the mitigated negative declaration and initial study were released for public review would avoid the effects or mitigate the effects to a point where clearly no significant impact would occur; and b) there is no substantial evidence, in light of the whole record before the City, that the project as revised to include the mitigation measures may have a significant effect on the environment.

4. The Mitigated Negative Declaration reflects the independent judgment and analysis of the City of Winters.

5. The Mitigated Negative Declaration has been prepared in compliance with CEQA and the State CEQA Guidelines, and as amended/revised is determined to be complete and final.

6. The custodian of the documents, and other materials, which constitute the record of proceedings is the Community Development Director. The location of these items is the office of the Community Development Department at City Hall, 318 First Street, Winters, California 95694.

7. The Revised Mitigation Monitoring Plan is hereby adopted to ensure implementation of mitigation measures identified in the Mitigated Negative Declaration. The City Council finds that these mitigation measures are fully enforceable as conditions of approval of the project, and shall be binding on the Applicant, future property owners, and affected parties.

8. The City Council hereby adopts The Mary Rose Gardens Subdivision Mitigated Negative Declaration.

Findings for PD Overlay and PD Permit

1. The project, as modified and conditioned, is consistent with the General Plan and the purposes of Section 17.48.010 (Planned Development Overlay Zone – Purpose) of the Winters Municipal Code.

2. Deviations from specified provisions of the basic zoning district on the property have been justified as necessary to achieve an improvement design for the development and/or the environment. The development complies with the remaining applicable provisions of the basic zoning district on the property.

3. The proposed development, as modified and conditioned, is desirable to the public comfort and convenience.

4. The requested plan, as modified and conditioned, will not impair the integrity or character of the neighborhood nor be detrimental to the public health, safety, or general welfare.

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

6. The development, as modified and conditioned (including execution of the Development Agreement) will not create an adverse fiscal impact for the City in providing necessary services.

Findings for Tentative Subdivision Map (G.C. 66474)

1. The proposed map is consistent with the General Plan.

2. The design and improvement of the proposed map is consistent with the General Plan.

3. The site is physically suitable for the type of development.

4. The site is physically suitable for the proposed density of development.

5. The design of the subdivision and the proposed improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

6. The design of the subdivision and type of improvements will not cause serious public health problems.

7. The design of the subdivision and the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision,

Findings for Development Agreement

1. The DA is consistent with the objectives, policies, general land uses and programs specified in the General Plan.

2. The DA is compatible with the uses authorized in, and the regulations prescribed for, the zoning district in which the real property is or will be located.

3. The DA is in conformity with and will promote public convenience, general welfare and good land use practice.

4. The DA will not be detrimental to the health, safety and general welfare.

5. The DA will not adversely affect the orderly development of property or the preservation of property values.

6. The DA will meet the intent of Section 15.72.100(a) (Public Benefits) of the Winters Municipal Code.

7. The DA is consistent with Chapter 15.72 (Development Agreements) of the Winters Municipal Code.

CONDITIONS OF APPROVAL

The following conditions of approval are required to be satisfied by the Applicant/Developer prior to Final Map, unless otherwise stated.

General

1. 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 expense 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 includes 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 subdivider 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.

2. All conditions identified herein shall be fully satisfied prior to acceptance of the first Final Map unless otherwise stated.

3. The project is as described in the October 30, 2006 Planning Commission staff report. The project shall be constructed as depicted on the maps and exhibits included in the October 30, 2006 Planning Commission staff report, except as modified by these conditions of approval. Substantive modifications require a public hearing and Council action.

General Plan Requirements

4. Pursuant to General Plan Policy II.A.18, a minimum of ten percent of the single-family lots (3 lots) shall be offered for sale to local builders or owner-builders. These lots shall not be the same lots as those identified to meet the City's affordable housing requirement.

5. Pursuant to General Plan Policy II.C.1 and VI.F.2, energy efficient design shall be used. Pursuant to Policy II.C.2 of the Housing Element, energy conservation and weatherization features shall be incorporated into the home design. At a minimum this shall include: a) maximization of energy efficient techniques as identified in the July 27, 2004 Planning Commission staff report on "Proposed Energy Resolution", b) attainment of EPA Energy Star Standards in all units. c) low emission furnaces in all units, d) avoidance of dark colored roofing on all units, and e) a minimum of 50 percent of the market-rate units shall have a photovoltaic solar energy system capable of producing a minimum of 2.4kW (peak-rated DC watts) photovoltaic. The remainder of the market-rate units shall be pre-wired for an equivalent system.

6. Pursuant to General Plan Policy II.D.4 and IV.A.1 necessary public facilities and services shall be available prior to the first occupancy of the project.

7. Pursuant to General Plan Policy IV.A.4 (second sentence), the Developer shall pay in-lieu fees for the parkland not provided on site, or at the City's discretion may construct needed improvements according to City specification in lieu of paying the fees.

8. Pursuant to General Plan Policy VI.C.7, drought-tolerant and native plants, especially valley oaks, shall be used for landscaping roadsides, parks, schools, and private properties. Pursuant to General Plan Policy VI.C.8, drainage-detention areas shall incorporate areas of native vegetation and wildlife habitat.

9. Pursuant to General Plan Policy IV.B.14, there shall be a water meter on each new hook-up.

10. Pursuant to General Plan Policy IV.C.2, adequate sewer service shall be provided prior to the issuance of any individual building permit.

11. Pursuant to General Plan Policy IV.J.2, all new electrical and communication lines shall be installed underground.

12. Pursuant to General Plan Policy VI.A.6, grading shall be carried out during dry months, when possible. Areas not graded shall be disturbed as little as possible. Construction and grading areas, as well as soil stockpiles, should be covered or temporarily revegetated when left for long periods. Revegetation of slopes shall be carried out immediately upon completion of grading. Temporary drainage structures and sedimentation basins must be installed to prevent sediment from entering and thereby degrading the quality of downstream surface waters, particularly Putah Creek. The full cost of any necessary mitigation measures shall be borne by the project creating the potential impacts. Pursuant to General Plan Policy VII.B.3, should the City allow any grading to occur during the rainy season, conditions shall be implemented to ensure that silt is not conveyed to the storm drainage system.

13. Pursuant to General Plan Policy VI.E.6, construction-related dust shall be minimized. Dust control measures shall be specified and included as requirements of the contractor(s) during all phases of construction of this project and shall be included as a part of the required construction mitigation plan for the project.

14. Pursuant to General Plan Policy VII.A.1, VII.A.2, and VII.C.4 all site work and construction activities shall be in accordance with the requirements of the City, and other applicable local, regional, state, and federal regulations.

15. Pursuant to General Plan Policy VII.C.1, necessary water service, fire hydrants, and access roads shall be provided to the satisfaction of the Fire Chief and Fire Protection District standards.

16. Pursuant to General Plan Policy VII.C.2, a minimum fire-flow rate of 1,500 gallons per minute is required for all residential uses.

17. Pursuant to General Plan Policy VIII.D.2, street trees shall be planted along all streets, in accordance with the City's Street Tree Plan and Standards. There shall be a minimum of one street tree in the front of each single-family lot, and on both frontages for corner lots. All trees shall be of a type on the approved street tree list and shall be a minimum of fifteen gallons in size with a mature tree canopy of at least a thirty-foot diameter within fifteen years. The intent is that majestic street tree species that create large canopies at maturity will be required in all medians and streetside landscape strips. The goal is create maximum shade canopy over streets and sidewalks. The conceptual landscape plan for the park (Parcel X) shall be submitted to the Public Works and Community Development Directors for review and final approval. Landscaping of the project including Parcel X, front yards of the residential units, and the north side of Grant Avenue shall be completed prior to occupancy of the residential units.

18. Pursuant to General Plan Policy VIII.D.4, a permanent mechanism for the ongoing maintenance of street trees is required, to the satisfaction of the City Manager and City Finance Director.

19. Pursuant to General Plan Policy VIII.D.7, all lighting including street lighting, shall be designed, installed, and maintained to minimize excess light spillage, unnecessary brightness and glare, and degradation of night sky clarity.

Negative Declaration Mitigation Measures

20. **Mitigation Measure #1:** All aspects of the project shall be subject to design review to ensure compatibility with the surrounding area and satisfaction of the Community Design Guidelines and other applicable principles of good neighborhood design. Prior to issuance of a building permit for each phase of construction of the project, the Applicant shall submit full architectural renderings, including building elevations and floor plans, for design review and approval.

21. **Mitigation Measure #2:** Outdoor light fixtures shall be low-intensity, shielded and/or directed away from adjacent areas and the night sky. All light fixtures shall be installed and shielded in such a manner that no light rays are emitted from the fixture at angles above the horizontal plane. High-intensity discharge lamps, such as mercury, metal halide and high-pressure sodium lamps shall be prohibited. Lighting plans shall be provided as part of facility improvement plans to the City with

certification that adjacent areas will not be adversely affected and that offsite illumination will not exceed 2-foot candles.

22. **Mitigation Measure #3:**

    a. Construction equipment exhaust emissions shall not exceed Yolo-Solano Air Quality Management District ("District") Rule 2-11 Visible Emission limitations.

    b. Construction equipment shall minimize idling time to 10 minutes or less.

    c. The prime contractor shall submit to the District a comprehensive inventory (i.e. make, model, year, emission rating) of all the heavy-duty off-road equipment (50 horsepower or greater) that will be used an aggregate of 40 or more hours for the construction project. District personnel, with assistance from the California Air Resources Board, will conduct initial Visible Emission Evaluations of all heavy-duty equipment on the inventory list.

    An enforcement plan shall be established to weekly evaluate project-related on-and-off-road heavy-duty vehicle engine emissions opacities, using standards as defined in the California Code of Regulations, Title 13, Sections 2180 – 2194. An Environmental Coordinator, CARB-certified to perform Visible Emissions Evaluations (VEE), shall routinely evaluate project related off-road and heavy duty on-road equipment emissions for compliance with this requirement. Operators of vehicles and equipment found to be exceed opacity limits will be notified and the equipment must be repaired within 72 hours.

    Construction contracts shall stipulate that at least 20% of the heavy-duty off-road equipment included in the inventory be powered by CARB certified off-road engines as follows:

175 hp – 750 hp	1996 and newer engines
100 hp – 174 hp	1997 and newer engines
50 hp – 99 hp	1998 and newer engines

    In lieu of or addition to this requirement, the applicant may use other measures to reduce particulate matter and nitrogen oxide emissions from project construction through the use of emulsified fuel and or particulate matter traps. These alternative measures, if proposed, shall be developed in consultation with District staff.

23. **Mitigation Measure #4:**

    a. Nontoxic soil stabilizers according to manufacturer's specifications shall be applied to all inactive construction areas (previously graded areas inactive for ten days or more).

    b. Ground cover shall be reestablished in disturbed areas quickly.

    c. Active construction sites shall be watered at least three times daily to avoid visible dust plumes.

    d. Paving, applying water three times daily, or applying (non-toxic) soil stabilizers shall occur on all unpaved access roads, parking areas and staging areas at construction sites.

    e. Enclosing, covering, watering daily, or applying non-toxic soil binders to exposed stockpiles (dirt, sand, etc.) shall occur.

    f. A speed limit of 15 MPH for equipment and vehicles operated on unpaved areas shall be enforced.

    g. All vehicles hauling dirt, sand, soil, or other loose materials shall be covered or shall be maintained at least two feet of freeboard.

h. Streets shall be swept at the end of the day if visible soil material is carried onto adjacent public paved roads.

24. **Mitigation Measure #5:** Wood burning appliances installed in the homes constructed as part of the project shall only use either pellet-fueled heaters, U.S. EPA Phase II certified wood burning heaters, or a gas fireplace. Installation of open hearth wood burning fireplaces is prohibited.

25. **Mitigation Measure #6:** The project proponent shall mitigate for potential project-related impacts to burrowing owl by conducting a pre-construction survey no more than 30 days prior to the initiation of construction activity. The pre-construction survey shall be conducted by a qualified biologist familiar with the identification of burrowing owls and the signs of burrowing owl activity. If active burrows are found on the project site, the California Department of Fish and Game (CDFG) shall be consulted regarding appropriate mitigation measures for project-related impacts to burrowing owl. Pursuant to the CDFG document entitled "Staff Report on Burrowing Owl Mitigation" (September 25, 1995), it is likely that replacement habitat will be required by CDFG. The guidelines include specific mitigation to protect nesting and wintering owls and to compensate for loss of breeding sites. In general, if the project would remove habitat of an occupied breeding site (e.g., if an active nest and surrounding habitat are removed), the project proponent will be required to compensate by preserving equivalent suitable habitat for each active nest site. In addition, the project proponent must install artificial burrows to offset the direct loss of the breeding site. Implementation of this mitigation measure shall be confirmed by the City of Winters prior to the initiation of construction activity.

26. **Mitigation Measure #7:** The project proponent shall mitigate for potential project-related impacts to Swainson's hawk and nesting raptors by conducting a pre-construction survey of all trees suitable for use by nesting raptors on the subject property or within 500 feet of the project boundary as allowable. The preconstruction survey shall be performed no more than 30 days prior to the implementation of construction activities. The preconstruction survey shall be conducted by a qualified biologist familiar with the identification of Swainson's hawks and raptors known to occur in the vicinity of the City of Winters. If active special-status raptor nests are found during the preconstruction survey, a 0.25-mile (1,320-feet) buffer zone shall be established around the nest and no construction activity shall be conducted within this zone during the Swainson's hawk and raptor nesting season (typically March-August) or until such time that the biologist determines that the nest is no longer active. The buffer zone shall be marked with flagging, construction lathe, or other means to mark the boundary of the buffer zone. All construction personnel shall be notified as to the existence of the buffer zone and to avoid entering the buffer zone during the nesting season. Implementation of this mitigation measure shall be confirmed by the City of Winters prior to the initiation of construction activity.

27. **Mitigation Measure #8:** Focused surveys for Valley Longhorn Elderberry Beetles (VELB) shall be conducted by a qualified biologist to determine presence of the species. The surveys shall be conducted, data collected, and mitigation required according to the USFWS' guidance document Conservation Guidelines for the Valley Elderberry Longhorn Beetle (USFWS 1999). If no plants are found then no further mitigation is required. If plants are found they shall be avoided and a 20-foot buffer from the dripline is required. If the plants can not be avoided then consultation with the USFWS is required and a mitigation plan should be prepared for approval by the Service. At a minimum the mitigation plan should include acquisition of credits at an approved mitigation bank or implementation of onsite mitigation and monitoring plan that includes transplantation of plants and planting elderberry seedlings. If the potential for take is identified following surveys, the project proponent will implement the referenced guidelines through coordination with the USFWS under Section 10 of the federal Endangered Species Act.

28. **Mitigation Measure #9:** If cultural resources (historic, archeological, paleontological, and/or human remains) are encountered during construction, workers shall not alter the materials or their context until an appropriately trained cultural resource consultant has evaluated the situation. Project personnel shall not collect cultural resources. Prehistoric resources include chert or obsidian flakes, projectile points, mortars, pestles, dark friable soil containing shell and bone dietary debris, heat-affected rock, or human burials. Historic resources include stone or adobe foundations or walls, structures and remains with square nails, and refuse deposits often in old wells and privies.

29. **Mitigation Measure #10:** Special preparation of subgrades and reinforcement of foundations and floor slabs shall be conducted in full and as described in the Soils Investigation Report Mary Rose Gardens (June 2, 2006, Raney Geotechnical, Inc.) for the proposed project.

30. **Mitigation Measure #11:** The surficial soil located near the south end of the former above ground storage tank area shall be scraped and stockpiled. The stockpile shall be evaluated by a geotechnical and environmental engineering firm to determine whether the soil requires regulated disposal. If regulated disposal is required, the soil shall be disposed of properly and documentation of the soil evaluation and disposal shall be provided to the City of Winters. If soil with odor or discoloration is encountered during site grading, a geotechnical and environmental engineer firm shall be retained to monitor segregation of the soil and collection of samples for analysis to assist in proper disposal. If disposal is required, documentation of the soil evaluation and disposal shall be provided to the City of Winters.

31. **Mitigation Measure #12:** A solid barrier more than 7-feet in height and no taller than 8-feet in height shall be constructed along Grant Avenue to meet the City of Winters 60 dB CNEL exterior noise level requirement. The barrier shall be constructed of concrete or masonry block, precast concrete, earthen berm, or any combination of these. Other prefabricated barriers may be used. However, barriers constructed with wood shall not be used. The barrier design shall be reviewed by a qualified acoustical professional to ensure that it will achieve the required reduction in exterior noise levels.

    For the two-story homes on lots adjacent to Grant Avenue, standard energy conserving double pane windows shall be used be used on the second floor parallel and perpendicular facades in order to meet the City of Winters 45 dB Ldn interior noise level requirement. Air conditioning or other suitable mechanical ventilation shall be provided for all residential units to allow residents to close windows for the desired acoustical isolation. The building plans for these residences shall be reviewed by a qualified acoustical professional to identify the acoustical treatments necessary to meet the City's interior noise level requirement.

32. **Mitigation Measure #13:** The applicant shall fund the preparation of a fiscal impact analysis to examine project impacts on the City's general fund. The applicant shall enter into a Development Agreement with the City that includes provisions acceptable to the City Council for mitigating any projected fiscal deficit. This may include an on-going Mello-Roos Community Facilities District (CFD) to fund eligible services, a Lighting and Landscaping District which could fund eligible park and landscaping expenses, establishment of an annuity the interest proceeds of which would cover the projected deficit, or other acceptable mechanisms.

33. **Mitigation Measure #14:** The applicant shall pay park mitigation fees to satisfy the obligation for 0.117-acres of developed parkland. Fees shall include both the value of the land and improvements that would otherwise be constructed if the parkland was provided on-site.

34. **Mitigation Measure #15:**

    a. Install a traffic signal at the intersection of Grant Avenue/I-505 Northbound Ramps. The traffic signal would need to be installed after construction and occupancy of 40 single family dwelling unit "equivalents" citywide (i.e., multi-family housing units are 0.6 single family dwelling units "equivalents"); and

    b. Install a traffic signal at the intersection of Grant Avenue/West Main Street. The traffic signal would need to be installed after construction and occupancy of 50 single family dwelling unit "equivalents" from this project and/or Winters Highlands, Hudson/Ogando, Callahan Estates, or Creekside (i.e., multi-family housing units are 0.6 single family dwelling unit "equivalents").

35. **Mitigation Measure #16:** The proposed systems for conveying project sewage, water, and drainage shall be finalized and approved by the City Engineer prior to final map. The project is required to fund and construct off-site improvements necessary to support the development. Such improvements

could include, but not be limited to a water well, water lines, sewer lines and storm drainage lines. Should property acquisition or additional CEQA clearance be required for off-site improvements, this will be the responsibility of the developer.

36. **Mitigation Measure #17:** The City shall issue building permits only after the new water well is in service.

Community Development

37. Construction activities shall be limited to 7:00 am to 7:00 pm, Monday through Friday only (holidays excluded) in compliance with the City's Noise Ordinance and Standard Specifications. The Applicant shall submit a Construction Noise Control Plan for review and approval by the City prior to acceptance of Final Map. This plan shall address job site noise control and establish protocols for addressing noise complaints. Job site signage with 24-hour contact information for noise complaints shall be included.

38. Foundations shall be poured in place, onsite. No pre-cast foundations will be permitted. This shall be stipulated in all construction contracts.

39. All address numbering shall be clearly visible from the street fronting the property. All buildings shall be identified by either four (4) inch illuminated numbers or six (6) inch non-illuminated numbers on contrasting background. Naming of streets shall be completed by the Street Naming Committee and the addressing shall be completed by a committee comprised of the Community Development Department, the Fire District, the Police Department, and the Postal Service.

40. The Applicant shall pay all development impact fees, fees required by other entities, and permit fees.

41. The Applicant shall be responsible for any additional costs associated with the processing of this project including but not limited to: plan check, inspections, materials testing, construction monitoring, and other staff review and/or oversight including staff time necessary to ensure completion/satisfaction of all conditions of approval and mitigation measures. The Applicant shall, on a monthly basis, reimburse the City for all such costs. Project Applicant shall pay all development impact fees adopted by the City Council and shall pay fees required by other entities.

42. The Developer shall obtain the following approvals from the Central Valley Regional Water Quality Control Board, as appropriate: 1) coverage under the NPDES General Permit for Storm Water Discharges Associated with Construction Activities; 2) compliance with post construction storm water Best Management Practices pursuant to the NPDES General Permit for Small Municipal Separate Storm Sewers Systems; 3) 401 Water Quality Certification for wetlands impacts; 4) Dewatering Permit under Waste Discharge Requirements General Order for Dewatering and Other Low Threat Discharges to Surface Waters Permit.

43. The main electrical panel for each residence shall be located at the exterior of the residence and capable of total electrical disconnect by a single throw.

44. A minimum one-hour occupancy separation shall be required for common walls separating residential units. Wall construction shall be approved by the Fire and Community Development Departments.

45. All wall assemblies separating dwelling units shall comply with Sound Transmission Control per 2001 California Building Code Section 1208.

46. The Developer shall preserve the Valley Oak trees identified at locations #56 and #58 in the March 8, 2006 Tree Protection Report.

47. The Developer shall repair the fencing on the existing emergency vehicle access/overland flood release located adjacent to the project site in the Carter Ranch project. The Developer shall also install fencing to close off the opening of the emergency vehicle access/overland flood release at its

entrance to Cemetery Lane. The extent of the fencing work and type of materials shall be shown on the subdivision improvement plans and shall be approved by the City Engineer.

Design Review

48. Prior to recordation of the Final Map, a deed restriction shall be recorded against each property that precludes conversion of garage area to livable areas. A separate deed restriction shall be recorded against Lots 13, 14, and 15 to prevent the installation of gates in the rear yard fences.

49. The residential units constructed for Lots 12A and 12B shall utilize different frontages.

50. Each residential driveway shall have a minimum depth of 20-feet.

51. Units on opposing sides of a street shall be compatible in terms of design and color.

52. Lights along local streets shall not exceed 20-feet in height and shall be spaced to meet illumination/safety requirements. Lights along collector and arterial streets shall be as low as feasible in order to maintain pedestrian scale. Historic-style street lamps shall be used along all streets including the private internal streets.

53. Exterior colors on residential units shall not be restricted.

54. Landscaping and signage shall be consistent with the applicable requirements of Chapters 17.76 (Landscaping and Design) and 17.80 (Signs) of the Winters Municipal Code.

55. The developer shall offer universal design features in residential units pursuant to State Law and shall provide prospective buyers with a copy of the State's most current "New Home Universal Design Option Checklist". A copy of the checklist shall be provided to the Winters Community Development Department prior to its use.

56. Details for the sound barrier and landscaping along West Grant Avenue shall be provided for City review and approval during a subsequent Site Plan (Design Review) for the project.

Affordable Housing

57. Prior to recordation of the Final Map, an inclusionary housing agreement shall be prepared and executed for the identified income-restricted units/properties. Deed restrictions shall be recorded against the four affordable units, Lots 1, 12A, 12B, and 24. Of the four affordable units, two shall be restricted to very low-income households, one shall be restricted to a low-income household, and one shall be restricted to a moderate-income household.

58. The construction of the affordable units shall keep pace or exceed the construction of the market rate units.

59. Pursuant to Policy II.A.13 of the Housing Element, the affordable units shall be visually indistinguishable from the market-rate units.

Street Improvements

60. All proposed public roads or their improvements for the subdivision shall comply with the City's Public Works Improvement Standards and Construction Specifications, dated September 2003 and as amended, unless otherwise approved by the City Engineer.

61. Grant Avenue:

a) The Developer shall construct improvements on Grant Avenue from Cemetery Road to West Main Street to support the project; the improvements shall be constructed per the Laugenour & Meikle Grant Avenue Interim Phase I Plan Line drawings dated March 28, 2006 with modifications yet to be approved by the City and Caltrans. Final limits of construction and street roadway cross sections will be determined and approved with the Final Map and Improvement Plans. Developer shall construct final improvement should the improvements not be constructed with the West Main Street at Avenue Traffic Signal Project. The West Main Street at Grant Avenue Traffic Signal Project is currently under design with the Callahan Estates Development and is anticipated to be constructed with the development.

b) The Developer shall construct pedestrian and landscape improvements on the south side of Grant Avenue along the frontage of the Waggoner Elementary School. Final frontage improvement shall be determined with the approval of the Final map and Improvement Plans for the Project.

c) A bus turnout shall be constructed on the north side of Grant Avenue along the frontage of the development. Limits of location yet to be determined.

d) No parking shall be allowed on Grant Avenue.

62. Local Streets: Local streets shall provide for ADA compliant sidewalk turnouts where sidewalk widths do not meet ADA requirements. All sidewalks at driveway locations shall be 6-inch thick Portland Cement Concrete (PCC).

63. The Grant Avenue Street Cross Sections on the Tentative Map dated February 13, 2006 do not apply. Conditions and Changes shall be made as follows: Street Cross Sections shall comply with final Laugenour and Meikle Grant Avenue Interim Phase I Plan Line drawings dated March 28, 2006 with modifications as approved by the City and Caltrans. Final limits of construction and street roadway cross sections will be determined and approved with the Final Map and Improvement Plans.

a) Street Cross section details as modified by these conditions of approval, including all intersection geometric design, complying with the conditions of approval, shall be revised on tentative map, submitted to the City, and approved by the City Engineer prior to submitting a final map and improvement plans.

b) A signing and striping, and stop plan is required and shall be approved by the City Engineer. All signing and stripping shall be in accordance with the City of Winters Public Improvements Standards and Construction Standards.

c) Street light types shall be those historic types as approved by the City.

Storm Drainage and Site Grading

64. A comprehensive storm drainage plan shall be prepared by a registered civil engineer for project watershed(s), including the plan area. The plan shall identify specific storm drainage design features to control increased runoff from the project site. The drainage plan shall demonstrate the effectiveness of the proposed storm drainage system to prevent negative impacts to existing upstream and downstream facilities and to prevent additional flooding at off-site downstream locations. All necessary calculations and assumptions and design details shall be submitted to the City Engineer for review and approval. The design features proposed by the Applicant shall be consistent with the most recent version of the City's Storm Drainage Master Plan criteria and City Public Works Improvement Standards. The plan shall incorporate secondary flood routing analysis and shall include final sizing and location of on-site and off-site storm conduit channels, structures. The Storm Drainage Plan shall be submitted for approval prior to submittal of the final map and/or construction drawings for checking. The Applicant shall pay the cost associated with all improvements required by the plan.

65. A topographic survey of the entire site and a comprehensive grading and drainage plan prepared by a registered civil engineer, shall be required for the development. The plan shall include topographic information on adjacent parcels. In addition to grading information, the grading plan shall indicate all existing trees, and trees to be removed as a result of the proposed development, if any. A statement shall appear on the site grading and drainage plan, which shall be signed by a registered civil engineer or land surveyor and shall read, "I hereby state that all improvements have been substantially constructed as presented on these plans". Reference the City of Winters Public Improvements Standards and Construction Standards for additional requirements.

66. The Tentative map Grading and Drainage plan showing grading and drainage information including topographic information, drainage routing, pipe slopes and sizing and locations and excluding topographic information, and overland drainage routing are preliminary only and do not constitute approval in any way. Final approval for the grading and Drainage Plan shall occur with the final improvements based on the requirements set forth in these conditions of approval.

67. Construction materials for storm drainpipes within the water table shall be pre-cast rubber-gasket reinforced concrete pipe (RGRCP).

68. The differential in elevation between rear and side abutting lot lines shall not exceed twelve inches (12") without construction of concrete or masonry block retaining walls. Deviation from this condition may be allowed subject to approval by the City Engineer.

69. Drainage fees shall be paid prior to issuance of a building permit.

70. All perimeter parcels and lots shall be protected against surface runoff from adjacent properties in a manner acceptable to the City Engineer.

71. If disposal and sharing of the excavated soil from the construction of the Development occurs, prior to approval of the first Final Map, Applicant shall prepare a written agreement with the other participating property owners and submit to the City.

72. All projects shall include implementation of post-construction best management practices (BMP). Post construction BMP's shall be identified on improvement plans and approved by the City Engineer.

73. Construction of projects disturbing more than one acre of soil shall require a National Pollution Discharge Elimination System (NPDES) construction permit.

74. Applications/projects disturbing less than one acre of soil shall implement BMP's to prevent and minimize erosion. The improvement plans for construction of less that one acre shall include a BMP to be approved by the City Engineer.

75. An erosion and sedimentation control plan shall be included as part of the improvement plan package. The plan shall be prepared by the Applicant's civil engineer and approved by the City Engineer. The plan shall include but not be limited to interim protection measures such as benching, sedimentation basins, storm water retention basins, energy dissipation structures, and check dams. The erosion control plan shall also include all necessary permanent erosion control measures, and shall include scheduling of work to coordinate closely with grading operations. Replanting of graded areas and cut and fill slopes is required and shall be indicated accordingly on plans, for approval by City Engineer.

76. Where possible landscaped slopes along streets shall not exceed 5:1; exceptions shall require approval of the City Engineer. All other slopes shall comply with the City of Winters Public Works Improvements Standards. Level areas having a minimum width of two (2) feet shall be required at the toe and top of said slopes.

77. All inactive portions of the construction site, which have been graded will be seeded and watered until vegetation is grown.

78. Grading shall not occur when wind speeds exceeds 20 MPH over a one hour period.

79. Construction vehicle speed on unpaved roads shall not exceed 15 MPH.

80. Construction equipment and engines shall be properly maintained.

81. If air quality standards are exceeded in May through October, the construction schedule will be arranged to minimize the number of vehicles and equipment operating at the same time.

82. Construction practices will minimize vehicle idling.

83. Potentially windblown materials will be watered or covered.

84. Construction areas and streets will be wet swept.

Wastewater and Sewer Collection System

85. The Applicant shall obtain a no-cost Wastewater Discharge Permit from the Public Works Department prior to the issuance of a Building Permit.

86. The property shall be connected to the City of Winters sewer system, with a separate sewer lateral and cleanout required for each parcel, in accordance with City of Winters Public Improvement Standards and Construction Standards.

87. A Tentative Map Sewer Collection System Plan shall be submitted for approval by the City Engineer prior to submittal of the final map and/or construction drawings for checking. A registered civil engineer for project shall prepare the sewer collection system plan. The plan shall include final sizing and location of on-site conveyance facilities, structures, and engineering calculations.

88. The Tentative Map Sewer Plan showing sewer routing, pipe slopes and sizing and locations, are preliminary only and do not constitute approval in any way. Final approval for the Sewer Plan shall occur with the final improvements based on the requirements set forth in these conditions of approval.

89. Construction of sewer mains deeper than 16-feet at the bottom of the pipe shall be connected to laterals by parallel mains and connections at manholes.

Water Infrastructure

90. Based on City water modeling, a new well is needed to serve the development. Per Mitigation Measure #17, no building permits shall be issued until the new well is in service.

91. The Tentative Map Water Plan showing water routing, sizing and locations, are preliminary only and do not constitute approval in any way. Final approval for the Water Plan shall occur with the final improvements based on the requirements set forth in these conditions of approval. Applicant shall comply with making changes to water system distribution pipe sizes and alignments based on the results of the specific water modeling performed for the development. If required, Applicant shall pay for all required water modeling for identifying water infrastructure needs to serve its development and shall construct offsite water improvements to connect to the City water distribution system.

92. At the time the Final Map is approved, the Applicant will be required to pay the appropriate City connection fees. All domestic water services will be metered. Water meters shall be installed on all water services to the satisfaction of the City Engineer.

93. Per City of Winters Cross Connection Control Program, all types of commercial buildings and landscape irrigation services are required to maintain an approved backflow prevention assembly, at the Applicant's expense. Service size and flow-rate for the backflow prevention assembly must be submitted. Location of the backflow prevention assembly shall be per the City of Winters Public Improvements Standards and

Construction Standards. Prior to the installation of any backflow prevention assembly between the public water system and the owner's facility, the owner or contractor shall make application and receive approval from the City Engineer or his designated agent.

94. Per the City of Winters Cross Connection Control Program, fire protection systems are required to maintain approved backflow prevention, at the Applicant's expense. Required location, service size and flow-rate for the fire protection system must be submitted. Actual location is subject to the review and approval of the Public Works Department, Fire Department, and Community Development Department.

95. The City of Winters Plan Review Fee applies and is due upon submittal of the maps and plans for review.

96. FINAL PLANS, PERIODIC TESTS FOR FIRE HYDRANTS: All final plans for fire hydrant systems and private water mains supplying a fire hydrant system shall be submitted to the City of Winters Fire Department for approval prior to construction of the system. The Applicant shall install one or more fire hydrants on the project's West Grant Avenue frontage and one or more fire hydrants along the project's internal roadway. The number and location of the fire hydrants shall be determined by the Fire Chief. All fire protection systems and appurtenances thereto shall be subject to such periodic tests as required by the City of Winters Fire Department.

97. WATER PRESSURE: All water lines and fire hydrant systems must be approved by the Fire Chief and operating prior to any construction taking place on the site. Prior to issuance of building permits, water flow must be measured and certified for adequacy by the Winters Fire District. The minimum residual pressure shall be 20 PSI.

98. REFLECTORS FOR FIRE HYDRANTS: Any fire hydrant installed will require, in addition to the blue reflector noted in Standard Drawings, an additional blue reflector and glue kit that is to be supplied to the City of Winters Fire Department for replacement purposes.

99. All construction, new or remodeling, shall conform to the most current Uniform Fire Codes, the Winters Fire Prevention Code, and section of the National Fire Codes that the Winters Fire Chief or his/her agent may find necessary to apply.

100. Forty-eight hours notice shall be given to the Winters Fire District prior to any site inspections.

101. A hydrant use permit shall be obtained from the Public Works Department, for water used in the course of construction.

102. When the fire protection facilities are in the City of Winters, the Developer shall contact the Winters Fire District Chief or his/or agent prior to construction for a pre-construction meeting.

103. All required fire accesses that are to be locked shall be locked with a system that is approved by the Fire Chief or his/her agent.

104. Submit four sets of plans for each fire suppression sprinkler system to the Fire Department for review and approval prior to the issuance of each building permit.

105. All residences shall have fire suppression sprinkler systems meeting or exceeding NFPA 13-D. Water laterals shall be appropriately sized to accommodate sufficient water flows for fire suppression sprinkler systems. Each residence shall have its own horn and strobe unit.

General Public Works and Engineering Conditions

106. The conditions as set forth in this document are not all inclusive. Applicant shall thoroughly review all City, state, and federal planning documents associated with this tentative map and comply with all regulations, mitigations and conditions set forth.

107. Closure calculations shall be provided at the time of initial map check submittal. All calculated points within the map shall be based upon one common set of coordinates. All information shown on the map shall be directly verifiable by information shown on the closure calculation print out. The point(s) of beginning shall be clearly defined and all lot acreage shall be shown and verifiable from information shown on the closure calculation print out. Additionally, the square footage of each lot shall be shown on the subdivision map. Reference the City of Winters Public Improvements Standards and Construction Standards for additional requirements.

108. A subdivision map shall be processed and shall be recorded prior to issuance of a building permit. The Developer shall provide, to the City Engineer, one recorded Mylar copy and four print copies of the Final Map from the County, prior to issuance of the first building permit.

109. U.S. Post Office mailbox locations shall be shown on the improvement plans subject to approval by the City Engineer and Postmaster.

110. A registered landscape architect shall design public landscape and privacy wall improvements and improvements shall be per City Standards, as applicable.

111. Applicant shall make every attempt to submit joint trench/utility/composite plans for review, prior to approval of the Final Map and improvement plans. Construction will not be allowed to proceed prior to submittal of the joint trench/utility/composite plans for City review.

112. All existing and proposed utilities (electric, phone/data, and cable) shall be installed underground per the subdivision ordinance and shall meet the policies, ordinances, and programs of the City of Winters and the utility providers.

113. Street lighting location plan shall be submitted and approved by the City Engineer, prior to approval of improvement plans and final recordation of Map.

114. Roads must be constructed and paved prior to issuance of any building permit. Under specific circumstances, temporary roads may be allowed, but must be approved by the City Engineer and Fire Department.

115. Occupancy of residential units shall not occur until on-site and off-site improvements have been accepted by the City Council and the City has approved as-built drawings, unless otherwise approved by the City Engineer and Community Development Director. Applicants, and/or owners shall be responsible to so inform prospective buyers, lessees, or renters of this condition.

116. If relocation of existing facilities is deemed necessary, the Applicant shall perform the relocation, at the Applicant's expense unless otherwise provided for through a reimbursement agreement. All public utility standards for public easements shall apply.

117. A Subdivision Improvement Agreement shall be entered into and recorded prior construction of improvements, issuance of any building permits, or recordation of a Final Map.

118. At the time of making the survey for the Final Map, the engineer or surveyor shall set sufficient durable monuments to conform to the standards described in Section 8771 of the Business and Professions Code. All monuments necessary to establish the exterior boundaries of the subdivision shall be set or referenced prior to recordation of the Final Map.

Easements and Right of Way

119. Appropriate easements shall be required for City maintained facilities located outside of City owned property or the public right-of-way.

120. The Applicant shall facilitate, with City cooperation, the abandonment of all City easements and dedications currently held but no longer necessary as determined by the City.

121. A ten (10) foot public utility easement back of sidewalk, adjacent to all public streets within the development shall be dedicated to the City. Additional easements shall be dedicated as requested by the utility companies and approved by the City.

Reimbursements for Applicant Installed Improvements

122. Applicant shall pay appropriate reimbursements for benefiting improvements installed by others, in the amount and at the time specified by existing reimbursement agreements.

123. Project proponents shall enter into the City wide Landscape and Lighting Maintenance District, in order to maintain and provide for the future needs of parks, open space, street lighting, landscaping, sound walls, and other related aspects of development. The project proponent is responsible for all costs associated with this condition. The project proponent shall fulfill this condition prior to the sale of any buildable lots or parcels within the project area.

124. Prepare, and submit for approval, a utility site plan prior to preparation of full improvement plans.

125. Prepare improvement plans for any work within the public right-of-way and submit them to the Public Works Department for review and approval. The improvement plan sheets shall include the title block as outlined in the City of Winters Public Improvements Standards and Construction Standards. This submittal is separate from the building permit submittal. The Developer shall provide, to the City Engineer, one Mylar original and four sets of the improvement plans and electronic media (AutoCAD .DWG or DXF on Zip Disk or Compact Disk), for approval of plans by the City Engineer.

126. Conform to County Health regulations and requirements for the abandonment of a septic tanks and water wells.

127. Existing public and private facilities damaged during the course of construction shall be repaired by the subdivider, at his sole expense, to the satisfaction of the City Engineer.

128. The area of each lot, in square feet, shall be calculated and shown on the Final Map.

129. Encroachment permits if necessary shall be acquired from Yolo County, Caltrans, and PG&E.

130. All utility poles that are to be relocated in conjunction with this project shall be identified on the improvement plans, with existing and proposed locations indicated.

131. All public landscape areas shall include water laterals with meters and PG&E power service points for automatic controllers.

132. If improvements are constructed and/or installed by a party or parties other than the Applicant, which improvements benefit Applicant's property, prior to issuance of a building permit (approval of the final map) on Applicant's property, Applicant shall pay a proportionate share of the costs of said improvements, including interest, prior to the issuance of building permit(s) (approval of the Final Map) to Applicant.

MRG/TM COAs CC 3Apr07

RESOLUTION NO. 2007-xx

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS FINALIZING AND APPROVING THE MITIGATED NEGATIVE DECLARATION FOR THE MARY ROSE GARDENS SUBDIVISION

WHEREAS, the Mary Rose Gardens Subdivision site (APN 003-524-19) consists of approximately 5.69 acres located north of Grant Avenue (State Route 128), south of the Carter Ranch Phase II Subdivision, east of the of the Carter Ranch Phase I Subdivision, and west of Cemetery Lane and the Kaiser-Aetna Subdivision at 415 West Grant Avenue, Winters, California 95694;

WHEREAS, on May 19, 1992 the city adopted the General Plan and certified the General Plan EIR. The General Plan identifies that future residential growth will occur on this parcel and others in the area;

WHEREAS, on February 14, 2006 the applicant submitted an application for the Mary Rose Gardens Project which was subsequently found to be complete;

WHEREAS, on September 28, 2006 a draft Mitigated Negative Declaration was released for public review for a 22-day period during which time two timely comment letters were received;

WHEREAS, pursuant to Section 15070(b)(2) of the CEQA Guidelines, the applicant has agreed to the mitigation measures identified in the Final Mitigation Monitoring Plan.

WHEREAS, all comments received on the Mitigated Negative Declaration have been fully addressed;

WHEREAS, two neighborhood workshops were held on the project on January 25, 2006 and January 28, 2006 and a public workshop was held on the project on March 28, 2006;

WHEREAS, two legally noticed public hearings on the project have been held before the Planning Commission (October 30, 2007 and November 28, 2006) in order to receive input and testimony;

WHEREAS, four legally noticed public hearings on the project have been held before the City Council (February 6, 2007, and February 20, 2007, March 6, 2007, March 20, 2007, and April 3, 2007) in order to receive input and testimony;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Winters that:

1. The City Council has considered the proposed Mitigated Negative Declaration (original and revised before making a decision on the project.

2. The City Council has considered comments received on the Mitigated Negative Declaration during the public review process;

3. The City Council finds that the environmental checklist/initial study identified potentially significant effects, but: a) mitigation measures agreed to by the applicant before the mitigated negative declaration and initial study were released for public review would avoid the effects or mitigate the effects to a point where clearly no significant impact would occur; and b) there is no substantial evidence, in light of the whole record before the City, that the project as revised to include the mitigation measures may have a significant effect on the environment.

4. The Mitigated Negative Declaration reflects the independent judgment and analysis of the City of Winters.

5. The Mitigated Negative Declaration has been prepared in compliance with CEQA and the State CEQA Guidelines, and is determined to be complete and final.

6. The custodian of the documents, and other materials, which constitute the record of proceedings is the Community Development Director. The location of these items is the office of the Community Development Department at City Hall, 318 First Street, Winters, California 95694.

7. The Mitigation Monitoring Plan in Exhibit A, attached hereto and incorporated herein by this reference is hereby adopted to ensure implementation of mitigation measures identified in the Mitigated Negative Declaration. The City Council finds that these mitigation measures are fully enforceable as conditions of approval of the project, and shall be binding on the applicant, future property owners, and affected parties.

8. The City Council has determined that no special findings related to proximity to public use airports, pursuant to Section 15074(e) of the CEQA Guidelines, are required.

9. The City Council hereby adopts the Mary Rose Gardens Subdivision Mitigated Negative Declaration in Exhibit B, attached hereto and incorporated herein by this reference.

10. The City Council hereby confirms that the modified mitigation measures have been made conditions of approval and are incorporated fully into the project approval.

11. A Notice of Determination (NOD) shall be filed with the County Clerk immediately following approval of the project. Appropriate Department of Fish and Game fees shall be filed.

I HEREBY CERTIFY THAT the foregoing resolution was duly and regularly adopted by the City Council of the City of Winters, County of Yolo, State of California, on the 3rd day of April, 2007 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Woody Fridae, Mayor

ATTEST:

_____
Nanci G. Mills, City Clerk

Exhibits:
A – Final Mitigation Monitoring Plan
B – Mitigated Negative Declaration

MRG/TM ND CC Res 3Apr07

RESOLUTION NO. 2007-xx

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS APPROVING THE MARY ROSE GARDENS SUBDIVISION

WHEREAS, the Mary Rose Gardens Subdivision site (APN 003-524-19) consists of approximately 5.69 acres located at 415 West Grant Avenue and north of Grant Avenue (State Route 128), south of the Carter Ranch Phase II Subdivision, east of the Carter Ranch Phase I Subdivision, west of Cemetery Lane in the City of Winters in Yolo County, California;

WHEREAS, on May 19, 1992 the city adopted the General Plan and certified the General Plan EIR. The General Plan identifies that future residential growth will occur on this parcel and others in the area;

WHEREAS, on February 14, 2006 the applicant submitted an application for the Mary Rose Gardens Project which was subsequently found to be complete;

WHEREAS, a public workshop on the project was held March 28, 2006 before the Planning Commission;

WHEREAS, a legally noticed public hearing on the project was held November 28, 2006 before the Planning Commission at which time the Commission voted unanimously to recommend approval of the project;

WHEREAS, a legally noticed public hearing on the project was held April 3, 2007 before the City Council to take final action on the project;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Winters that:

1) Tentative Subdivision Map No. 4851 is hereby approved (Exhibit x).

2) Site Plan for the design of residential units and conceptual landscape plan for the 0.503-acre park ("Parcel X") is hereby approved.

3) The demolition permit to remove approximately seven existing on-site structures is hereby approved.

4) All actions herein are subject to the Findings of Fact and Conditions of Approval in Exhibit x, attached hereto and incorporated herein by this reference.

I HEREBY CERTIFY THAT the foregoing resolution was duly and regularly adopted by the City Council of the City of Winters, County of Yolo, State of California, on the 3rd day of April, 2007 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Woody Fridae, Mayor

ATTEST:

_____

Nanci G. Mills, City Clerk

Exhibits:
A – Findings of Fact and Conditions of Approval
B – Tentative Map No. 4851

MRG/TM CC Approval Res 2007-xx 3Apr07

CITY COUNCIL
ORDINANCE NO. 2007-xx

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WINTERS REZONING THE MARY ROSE GARDENS PROPERTY AND ADOPTING PLANNED DEVELOPMENT PERMIT 2007-01 (APN 003-524-19)

The City Council of the City of Winters, State of California, does hereby ordain as follows:

1. Purpose. The purpose of this ordinance is to rezone the Mary Rose Gardens property as specified below and to adopt Planned Development Permit 2007-01.

2. Authority. The City of Winters has authority to adopt this ordinance pursuant to the general police power granted to cities by Article 11, Section 7 of the California Constitution.

3. Rezoning. The subject property is hereby rezoned as shown on Exhibit B, attached hereto and incorporated herein by this reference.

4. Planned Development Permit. Planned Development Permit No. 2007-01 is hereby adopted as a part of the rezoning to allow for Lots 12A and 12B to utilize a zero lot line, Lot 12B to fall below the minimum lot size for the R-2 Zone, Lots 12A and 12B to utilize tandem parking, and the sound barrier for Grant Avenue to exceed the maximum fence/wall height for residential zones.

5. Effective Date and Notice. This ordinance shall take effect thirty (30) days after its adoption and, within fifteen (15) days after its passage, shall be published at least once in a newspaper of general circulation published and circulated within the City of Winters.

INTRODUCED at a regular meeting on April 3, 2007 and **PASSED AND ADOPTED** at a regular meeting of the Winters City Council, County of Yolo, State of California, on the 17th day of April 2007, by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

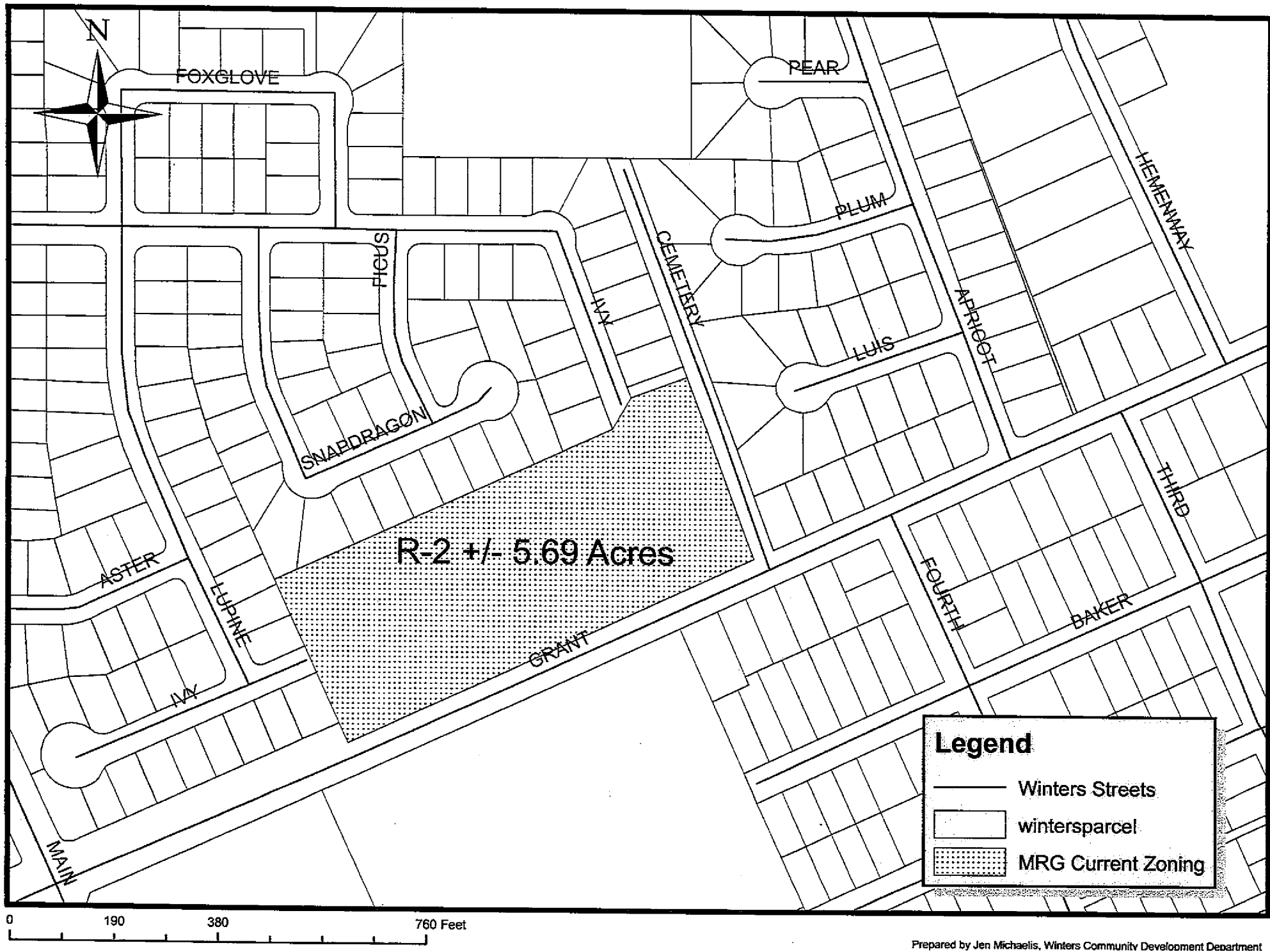
_____
Woody Fridae, MAYOR

ATTEST:

_____
Nanci G. Mills, CITY CLERK

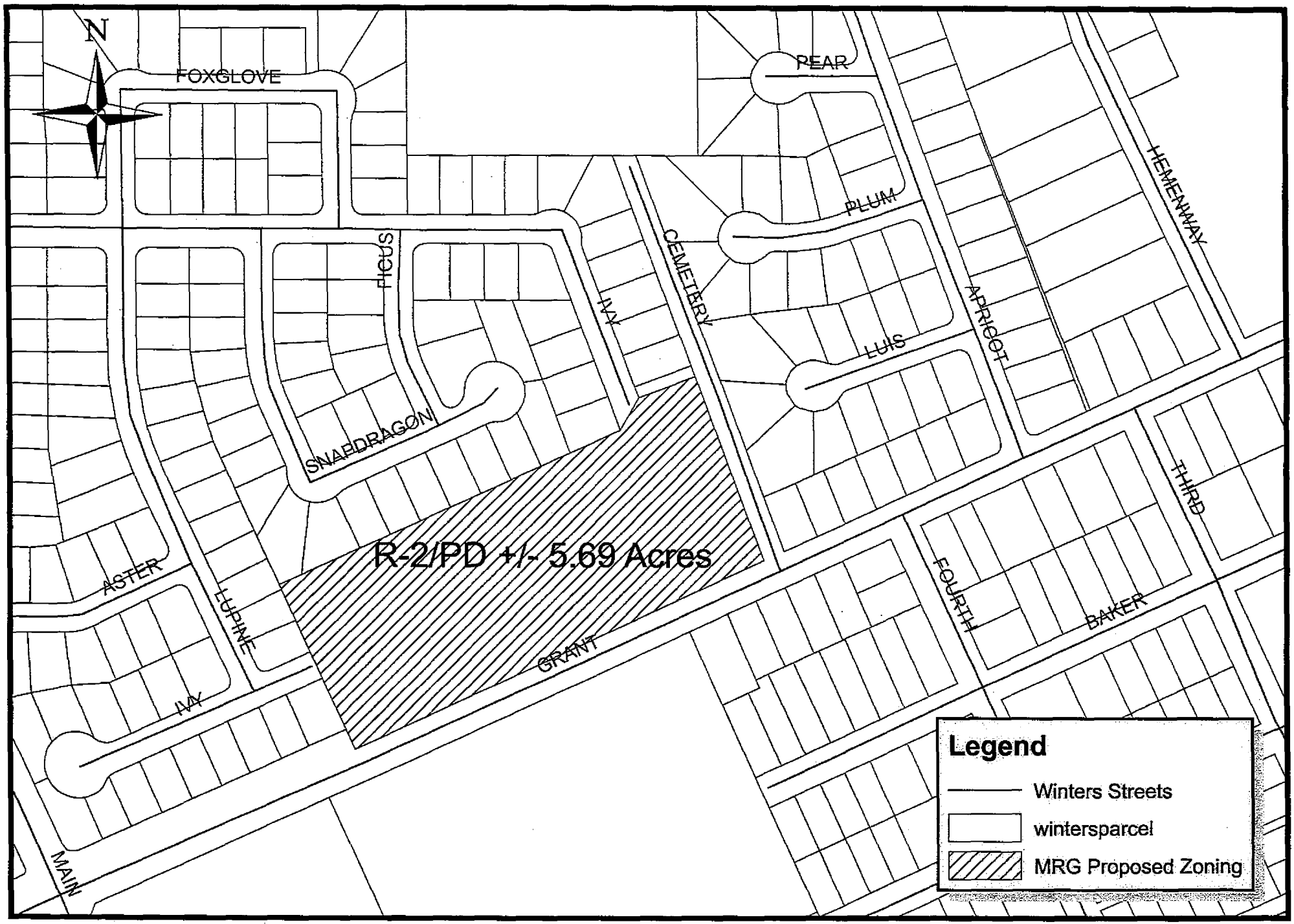
Exhibits
Rezoning Exhibits (2)
Planned Development Permit No. 2007-01

Mary Rose Gardens: Exhibit "A", Current Zoning Plan Exhibit



Prepared by Jen Michaelis, Winters Community Development Department

Mary Rose Gardens: Exhibit "B", Proposed Zoning Plan Exhibit



Prepared by Jen Michaelis, Winters Community Development Department

PLANNED DEVELOPMENT (PD) PERMIT No. 2007-01
MARY ROSE GARDENS SUBDIVISION
APN 003-524-19
Approved April 17, 2007

TERM: Unlimited term pursuant to the requirements of Section 17.48.050 of the Winters Municipal Code (Title 17, Zoning) and subject to compliance with the conditions of approval.

SETBACKS: Lots 12A and 12B will utilize a zero long line, which does not meet the required rear yard setback (20 feet) for Lot 12A and side yard setback (either 5 or 10 feet) for Lot 12B.

LOT SIZE: Lot 12B at 4,181 square feet, which does not meet the minimum lot size (5,000 square feet).

OFF-STREET PARKING: Lots 12A and 12B to utilize tandem parking, which does not meet the minimum off-street parking requirement (two spaces each residence with two or more bedrooms).

SOUND BARRIERS: In excess of the maximum height for fences/walls located in non-residential zones as detailed in the Mitigation Monitoring Plan for the project.

ORDINANCE NO. 2007-xx

**AN ORDINANCE OF THE
CITY COUNCIL OF THE
CITY OF WINTERS
ADOPTING A DEVELOPMENT AGREEMENT
(MARY ROSE GARDENS PROPERTY)**

THE CITY COUNCIL OF THE CITY OF WINTERS HEREBY ORDAINS AS FOLLOWS:

Pursuant to the provisions of Government Code §65864 et seq. and Chapter 2 of Title 11 of the Winters City Code, the City Council of the City of Winters hereby:

1. Adopts and approves that certain document entitled **"AN AGREEMENT BETWEEN THE CITY OF WINTERS AND DAS HOMES, INCORPORATED RELATING TO THE DEVELOPMENT OF THE PROPERTY COMMONLY KNOWN AS THE MARY ROSE GARDENS PROPERTY."**

2. Authorizes and directs the Mayor to sign the document on behalf of the City after the second reading of this ordinance and after it has first been signed by a duly authorized representative of DAS Homes, Inc.

3. Authorizes and directs the City Clerk to record the document, after it is signed by both parties, in the Office of the Recorder of Yolo County.

PASSED AND ADOPTED THIS 17th day of April, 2007 on the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Woody Fridae, MAYOR

Attest:

Nanci G. Mills, CITY CLERK

A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF WINTERS AND DAS HOMES, INCORPORATED RELATING TO THE DEVELOPMENT OF THE PROPERTY COMMONLY KNOWN AS THE MARY ROSE GARDENS PROPERTY

THIS DEVELOPMENT AGREEMENT ("Agreement") is entered into between the CITY OF WINTERS, a municipal corporation (the "City"), and DAS Homes, Inc., a California corporation (the "Developer"), under the authority of § 65864 *et seq.* of the Government Code of the State of California and Chapter 2 of Title 11 of the Winters Municipal Code. This Agreement is effective on the date it is recorded in the Office of the County Recorder of Yolo County. The City and the Developer are sometimes referred to herein as the Parties.

FACTS AND CIRCUMSTANCES

This Agreement is entered into based on the following facts and circumstances, among others:

1. The City of Winters is a small city in Yolo County which, among other things, prides itself in being a clean, safe, and family-friendly place to live.

2. The Developer is in the business of developing residential projects in Northern California, including the development of property in a manner which promotes the goals envisioned by the City for its residents.

3. In order to meet the needs of the City and the Developer, the Parties agree that the best method of planning the residential development of the Property owned by the Developer, commonly known as the Mary Rose Gardens Property and further described in Exhibits A and B to this Agreement, is through the use of a

Development Agreement as authorized by the Planning and Zoning Law, Division 1, Chapter 4, Article 2.5(commencing with California Government Code § 65864) [entitled "Development Agreements"] and Title 11, Chapter 2 of the Winters Municipal Code [entitled "Development Agreements"].

4. It is the intent of the Parties in entering into this Agreement to provide a mechanism by which the City's General Plan may be implemented in a manner which provides the Developer certain vested rights to develop the Mary Rose Gardens Property in exchange for planning and financial commitments by the Developer which will mitigate the impact of new development on the City's infrastructure and its ability to provide municipal services, while providing the City with sufficient discretionary control and police power authority to protect the health, safety, and general welfare.

THE PARTIES AGREE AS FOLLOWS:

TABLE OF CONTENTS

This Agreement is divided into articles, sections, and subsections as set forth below. The title of an article, section, or sub-section is for the convenience of the Parties only and a title is not intended to alter the content or meaning of any article, section or subsection.

Article 1. Definitions

Article 2. General Provisions

Article 3. Development of the Property

Article 4. Special Development Obligations

Article 5. Default, Remedies, and Dispute Resolution

Article 6. Hold Harmless and Indemnification

ARTICLE 1
DEFINITIONS

The following words and phrases used in this Agreement shall have the meanings set forth in this Article. All words not specifically defined shall be deemed to have their common meaning and/or the meaning generally given to such words in the parlance of the planning and development of real property in the State of California.

Section 1.1 "Agreement" means this Development Agreement.

Section 1.2 "Application fees" means the amount paid by the Developer for the processing of any land use entitlement or for an amendment to this Agreement.

Section 1.3 "Building Permit" means the ministerial permit issued for the construction of a residential housing unit upon the payment of all applicable fees.

Section 1.4 "Mary Rose Gardens Property" or "The Property" means the real property which is the subject of this Agreement. It is legally identified as Yolo County Assessor's Parcel No. 003-524-19, and is more specifically shown and described in Exhibits A and B.

Section 1.5 "Mary Rose Gardens Tentative Subdivision Map" means the tentative map, and the Conditions of Approval, approved for the Property in accordance with the Subdivision Map Act and the City's Subdivision Ordinance. A copy of the Mary Rose Gardens Tentative Subdivision Map #4851 is attached as

Exhibit C.

Section 1.6 "Mary Rose Gardens Subdivision" means the single-family residential development created by the Mary Rose Gardens Tentative Subdivision Map.

Section 1.7 "City" means the legal entity known as the City of Winters, a municipal corporation of the State of California. It includes the officers, agents, employees, bodies, and agencies of the City as the context may indicate. It also includes each person duly appointed to carry out a specific function as required in this Agreement. (E.g., the term "City Engineer" includes the person holding that title or any other person designated by the City to perform the functions set forth in the Agreement to be performed by the City Engineer.)

Section 1.8 "City of Winters" means the physical boundaries of the City of Winters.

Section 1.9 "Condition of approval" means a requirement placed on a land use entitlement which must be satisfied in order for the entitlement to be effective. Example: a condition that a road be built at the expense of the Developer and dedicated to the City as a public thoroughfare.

Section 1.10 "Conditions of Approval" means the conditions placed on the approval of the Mary Rose Gardens Tentative Subdivision Map. A copy of the Conditions of Approval is attached as Exhibit D.

Section 1.11 "Developer" means DAS Homes, Inc., a California corporation and/or its successor(s) in interest.

Section 1.12 "Discretionary Approval" means an action which requires the exercise of judgment, deliberation, or discretion on the part of the City in approving or disapproving a particular activity.

Section 1.13 "Final subdivision map" or "final map" means the map submitted to the City which, once approved under the City's Subdivision Ordinance and the Subdivision Map Act, is recorded in the Official Records of Yolo County and legally creates the residential lots, streets, and other land use features shown on it.

Section 1.14 "Impact Fee" means the amount paid by the Developer to mitigate the impacts of development of the Property for such things as traffic circulation, sewer and water conveyance facilities, and similar matters.

Section 1.15 "Land Use Entitlement" means either a Discretionary Approval or Ministerial Approval.

Section 1.16 "Ministerial Approval" means an action by the City given where there has been compliance with applicable regulations and which does not require the exercise of discretion.

Section 1.17 "Mitigation Measures" means the requirements placed on the development of the Property to cure or lessen the environmental impact of a particular physical activity as identified as part of the analysis done for the Property under the California Environmental Quality Act (CEQA). The Mitigation Measures are a part of Exhibit D, Conditions of Approval.

Section 1.18 "Off-site improvement" means a public improvement constructed outside the physical boundaries of the Property.

Section 1.19 "On-site improvement" means a public improvement constructed

within the physical boundaries of the Property.

Section 1.20 "Party" means either the City or the Developer, or their successors, as the context may indicate. "Parties" means both the City and the Developer, or their successors.

Section 1.21 "Public Improvements" or "Infrastructure" means facilities constructed for use in accommodating residential use on the Property.

Section 1.22 "Vesting law" means any state or federal law which gives the owner of real property the right to develop such property in a specified manner, which right cannot be limited or abrogated by the City.

Section 1.23 "Affiliated Entity" means any entity where members of the Developer are officers, shareholders or employees of such entity.

ARTICLE 2
GENERAL PROVISIONS

Section 2.1 All Exhibits Deemed Incorporated By Reference.

Unless specifically stated to the contrary, the reference to an exhibit by a designated letter or number shall mean that the exhibit is made a part of this Agreement.

Section 2.2 Property to be Developed.

The Property to be developed under this Agreement is the property commonly known in the City of Winters as the Mary Rose Gardens Property, Yolo County Assessor's Parcel No. 003-524-19 (consisting of approximately 5.69 acres). A map showing the location and boundaries of the Property is attached as Exhibit

A and a legal description describing the Property is attached as Exhibit B. In this Agreement the Mary Rose Gardens Property will, in most instances, be referred to simply as "the Property."

Section 2.3 Agreement to be Recorded; Effective Date; Term.

a. When fully executed, this Agreement will be recorded in the Official Records of Yolo County, pursuant to Government Code section 65868.5.

b. The term of this Agreement is five (5) years, commencing on the date it is recorded. The term may be extended by mutual consent of the Parties. It may be terminated as provided in Article 5.

Section 2.4 Equitable Servitudes and Covenants Running With the Land.

Any successors in interest to the City and the Developer shall be subject to the provisions set forth in Government Code sections 65865.4 and 65868.5. All provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land. Each covenant to do, or refrain from doing, some act with regard to the development of the Property: (a) is for the benefit of and is a burden upon the Property; (b) runs with the Property and each portion thereof; and (c) is binding upon each Party and each successor in interest during ownership of the Property or any portion thereof. Nothing herein shall waive or limit the provisions of Section 2.5, and no successor owner of the Property, any portion of it, or any interest in it shall have any rights except those assigned to the successor by the Developer in writing pursuant to Section 2.5. In no event shall an owner or tenant of an individually completed residential unit within the Mary Rose Gardens Subdivision have any rights under this Agreement.

Section 2.5 Right to Assign; Non-severable obligations.

a. Except as otherwise provided, the Developer shall have the right to sell, encumber, convey, assign or otherwise transfer (collectively "assign"), in whole or in part, its rights, interests and obligations under this Agreement to a third party during the term of this Agreement.

b. No assignment shall be effective until the City, by action of its City Council, approves the assignment. Approval shall not be unreasonably withheld provided:

1. The assignee has the financial ability to meet the obligations proposed to be assigned and to undertake and complete the obligations of this Agreement affected by the assignment; and

2. The proposed assignee has adequate experience with residential developments of comparable scope and complexity to that being undertaken on the Property and has successfully completed such developments.

c. The provisions of subsection b. do not apply to the sale of three (3) or fewer finished residential lots to individual buyers or builders.

d. The special development conditions set forth in Article 4 are not severable, and any sale of the Property, in whole or in part, or assignment of this Agreement, in whole or in part, which attempts to sever such conditions shall constitute a default under this Agreement and shall entitle the City to terminate this Agreement in its entirety.

Section 2.6 Amendment of the Agreement.

This Agreement may be amended from time to time with the mutual written consent of both Parties as provided by Government Code section 65868 and Title 11, Chapter 2, Article 6 (Amendment or Cancellation by Mutual Consent) of the Winters Municipal Code. The cost by the City in processing a proposed amendment shall be paid by the Developer. The Developer shall pay normal application fees.

Section 2.7 Whole Agreement; Conflict with Municipal Code.

a. This Agreement, together with any subsequent addenda, amendments, or modifications, shall constitute the entire agreement of the Parties as to the development of the Property. All prior agreements of the Parties, whether written or oral, are of no further force or effect.

b. The provisions of Title 11, Chapter 2 of the Winters Municipal Code entitled "Development Agreements" are incorporated by this reference into this Agreement. However, if there is a conflict between a specific provision of the Winters Municipal Code and a specific provision of this Agreement, this Agreement shall prevail.

Section 2.8 Choice of Law; Venue; Attorneys' Fees; Alternative Dispute Resolution.

a. This Agreement shall be interpreted according to the laws of the State of California. Any litigation concerning its meaning shall be venued in the

Superior Court of Yolo County. The prevailing Party in such litigation, as determined by the court, shall be awarded reasonable attorneys' fees in addition to statutory costs.

b. Nothing herein shall preclude the Parties from entering into a separate agreement to resolve any matter concerning this Agreement by a method other than litigation in court, including binding arbitration.

Section 2.9 Notices.

a. Formal written notices, demands, correspondence, and communications between the City and the Developer shall be given if sent to the City and the Developer by any one of the following methods:

1. Via certified U.S. Mail, return receipt requested.

2. Via an overnight mail service of the type normally used by the business community, such as Federal Express, UPS Overnight, and California Overnight.

3. By facsimile, provided a "hard" copy is sent at the same time by regular U.S. Mail.

b. The written notices, demands, correspondence, and communications may be directed in the same manner to such other persons and addresses as either Party may from time to time designate. Notices to the City shall be given as follows:

City of Winters
318 First Street
Winters, CA 95694

Attn: City Manager
Telephone (530) 795-4910 x 110
FAX (530) 795-4935

c. Notices to the Developer shall be given as follows:

DAS Homes, Inc.
1310 West Street
Woodland, CA 95695
Attn: Dave Snow
Telephone (530) 666-0506
FAX

ARTICLE 3

DEVELOPMENT OF THE PROPERTY

Section 3.1 Land Use Entitlements.

a. The Property shall be developed under the following land use entitlements, all of which have been adopted or approved by the City Council:

1. Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (Resolution No. 2007-xx adopted on March 6, 2007).

2. This Development Agreement (Ordinance No. 2007-x adopted April 17, 2007 and effective on May 18, 2007, (the "Enacting Ordinance")).

3. Zoning Ordinance amendment to rezone 5.69 acres from R-2 to R-2 PD Overlay (Ordinance No. 2007-xx adopted April 3, 2007 and effective on May 18, 2007).

4. Mary Rose Gardens Tentative Subdivision Map, with Findings of Fact and Conditions of Approval, dividing The Property into 28 single-family residential lots and "Parcel X", a 0.503-acre park (Resolution No. 2007-xx adopted on April 3, 2007).

5. A Planned Development Permit (Ordinance No. 2007-xx adopted April 17, 2007 and effective on May 18, 2007).

b. Under the provisions of Government Code § 66452.6(a), the term of the Mary Rose Gardens Subdivision Tentative Subdivision Map is co-terminus with the term of this Agreement.

Section 3.2 Consistency with General Plan.

The City finds that the provisions of this Agreement and the development of the Property are consistent with and conform to the General Plan of the City of Winters, as amended.

Section 3.3 Vested Rights of Developer.

a. Unless otherwise provided in this Agreement, the Developer shall have the vested right to develop the Property in accordance with the land use entitlements described in Section 3.1 above, and in conformity with the City rules, regulations, policies and ordinances in effect on the date of adoption of the Enacting Ordinance, regardless of subsequent amendments to the General Plan, the Zoning Ordinance, the Subdivision Ordinance, or any other ordinance, rule, or regulation adopted by the City. This vested right shall include:

1. The right to the number of single-family residential lots, dwelling units, and the density of development (dwelling units per acre) of those units, as shown on the Mary Rose Gardens Tentative Subdivision Map.

2. Exclusion from:

a) Subsequently enacted building moratoria.

3. The right to connect each dwelling unit to sewer and water services, provided all improvements regarding such services are made and all applicable fees are paid.

4. The cross-section of streets (including sidewalks, trails, and other thoroughfares) as established in the Conditions of Approval for the Mary Rose Gardens Tentative Subdivision Map.

5. The Mitigation Measures.

b. The vested rights set forth in Subdivision a. do not apply to changes effecting development of the Property as mandated by state and/or federal laws effective after the date this Agreement is recorded. In the event of such changes, the City will permit the development of the Property as originally permitted by this Agreement to the greatest extent reasonably feasible taking into consideration the changes in the law.

Section 3.4 Rights Retained by the City.

a. Except as specifically provided in section 3.2, all regulations of the City as expressly provided by state law, federal law, and/or local ordinance,

resolution, or rule shall pertain to the development of the Property. Such regulations include, but are not limited to:

1. Discretionary approvals. (The only discretionary approval contemplated at this time is site plan review (design review) pursuant to the Zoning Code.)

2. Subdivision standards in effect when a final subdivision map is approved.

3. The California Building Code, National Fire Protection Act, and local building code standards in effect at the time a building permit for a specific dwelling unit is issued.

4. Fees (including, but not limited to, fees commonly referred to as "impact fees") and charges, including, but not limited to, fees and charges for building permits, traffic signalization, sewer infrastructure, water infrastructure, traffic and pedestrian circulation, library services, and police and fire buildings and equipment, which are in effect and collected at the time of the approval of a final subdivision map or the issuance of a building permit, as provided in this Agreement or as generally applicable throughout the City of Winters.

b. The City may make and enforce ordinances, resolutions, and other rules and regulations pertaining to the Property under its general police power, provided they are of general applicability to all developments of a similar nature in the City of Winters.

Section 3.5 Other Vesting Laws Inapplicable.

a. It is the intent of the Parties that the provisions of this Agreement shall supersede any provision of state or federal law pertaining to the vested rights of the Developer to develop the Property, whether those laws are currently in force or become effective after this Agreement is recorded. The laws in effect as referenced in the preceding sentence include, but are not limited to, provisions of the Government Code pertaining to Development Agreements (§ 65864 *et seq.*) and Development Rights [vesting tentative maps] (§ 66498 *et seq.*).

b. Notwithstanding subsection a., however, to the extent that a state and/or federal law becomes effective after this Agreement is recorded shall be made specifically applicable to the vested rights of landowners generally in the development of their properties, such state and/or federal law shall prevail.

c. The Developer shall not make any application to develop the Property, in whole or in part, under any vesting law, unless the right to do so is specifically granted by state and/or federal law which becomes effective after the date of the recording of this Agreement.

Section 3.6 Commencement of Development.

a. Unless excused by the City for circumstances beyond the control of the Developer, the Developer shall, within 150 days after this Agreement is recorded, submit for review/approval by the City the final map for the Mary Rose Gardens Subdivision and accompanying subdivision improvement plans. For purposes of this subsection a., "circumstances beyond the control of the Developer" shall include, but are not limited to, inclement weather, acts of God,

natural disasters, acts of the state and/or federal government, a referendum of the ordinance adopting this Agreement, or third party litigation challenging the validity of this Agreement. However, "circumstances beyond the control of the Developer" do not include a change in economic conditions which affect either the Developer individually or the land development/building industry generally.

b. Any time limit prescribed for any action required by this Agreement shall be extended by the number of days during which circumstances beyond the control of the Developer preclude the action from being taken.

Section 3.7 Installation of Public Improvements.

Public improvements (infrastructure) in the nature of roads, sidewalks, trails, sewers, water service, third party utilities, and similar items will be constructed both on-site and off-site during the development of the Mary Rose Gardens Subdivision. When the final map for the Mary Rose Gardens Subdivision is approved, the Developer shall enter into a separate written agreement with the City by which it contracts to build and dedicate the public improvements required. Security for the construction of the improvements shall be provided as required by law.

Section 3.8 Property for Public Improvements; Offsite Improvements.

a. The Developer shall, in a timely manner as determined by the City, and consistent with the requirements of the Mary Rose Gardens Tentative Subdivision Map, acquire the real property rights necessary to construct or otherwise provide the public improvements contemplated by this Agreement.

b. In any instance where the Developer is required to construct any public improvement on land in which neither the Developer nor City has sufficient title or interest, the Developer shall, at its sole cost and expense, obtain the real property interests necessary for the construction of such public improvements. The Developer shall exercise all reasonable efforts, as determined by the City, to acquire the real property interests necessary for the construction of such public improvements by the time the final subdivision map for the Mary Rose Gardens Subdivision is filed with the City.

c. In the event the Developer is unable to acquire the necessary property interest or interests, the City shall either a) negotiate the purchase of the necessary property interests to allow Developer to construct the public improvements as required by this Agreement, or b) if necessary, in accordance with the procedures established by law, use its power of eminent domain to acquire the Property interests. Prior to commencing negotiations, the City may require the Developer to enter into a separate agreement to provide the funding necessary to acquire the Property interests and/or to pay for the cost of any eminent domain action. Such costs include, but are not limited to, the price of the Property acquired, and for purposes of eminent domain, the City's attorneys' fees, expert witness fees, jury fees, and related matters, and litigation expenses awarded by the court to the Property owner against the City.

Section 3.9 Reimbursement for Oversizing of Public Improvements; Advanced Funding of Certain Improvements; Credit for Improvements Installed.

a. In some instances, the Developer, through the process commonly referred to as "oversizing," will be required to install public improvements to a size

and/or capacity greater than that which is required to serve only the residents of the Mary Rose Gardens Subdivision. These improvements will benefit other properties. In such an instance, the Developer shall be entitled to reimbursement for such oversizing from fees paid by other properties.

b. There are two sources from which the Developer may be reimbursed for oversizing:

1. By way of a separate agreement between the City and the Developer which will provide that when a particular property benefiting from the oversizing is developed, the City will require the benefiting property to reimburse the Developer its *pro rata* share of the cost of the oversizing. A written agreement under this subsection b. shall have a term of no longer than fifteen (15) years.

2. By way of the payment to the Developer from impact fees for a particular type of infrastructure (e.g., sewers) collected by the City from other properties developed in the City.

c. In any instance in which oversizing is required, the City Engineer shall identify the method of reimbursement the Developer will receive.

1. Where reimbursement involves a benefiting property to reimburse the Developer for oversizing, the City Engineer will determine the total cost of the improvement installed by the Developer, deduct the prorata share to be borne by The Property, and determine what share of the remainder is to be reimbursed by the benefiting property.

2. When the Developer will receive reimbursement from mitigation fees paid by developing properties, the City Engineer shall provide to

the Developer a statement of the amount the Developer will receive and the approximate time when that amount will be paid.

d. The Developer understands and agrees that reimbursement for a particular oversized improvement will come only from other developing properties or from mitigation fees as described in subsection b.1. When reimbursement is from mitigation fees, such fees shall come only from the fund into which fees for that type of improvement are made. (Example: If an oversized sewer main is reimbursed through mitigation fees, only those fees collected for sewer improvements, and not fees from any other fund, including, but not limited to, the City's General Fund, will be used.)

1. If mitigation fees paid by others are insufficient to repay the Developer for the full cost of oversizing a particular improvement, the Developer shall have no recourse against the City.

2. If a benefiting property fails to reimburse the Developer for oversizing, the Developer shall have no recourse against the City. However, the Developer retains all rights against the benefiting property and its owners.

e. In some instances, the Developer will have agreed, under the provisions of Article 4, to pay, in advance of the time otherwise payable, certain fees which would normally be collected by the City at the time a building permit is issued. When the Developer pays such fees in advance, the Developer will be given credit against such advance each time a building permit is issued. The amount of credit will be the amount which was paid in advance and which would have otherwise been payable at the time of issuance of the building permit.

f. In the event the Developer installs an improvement for which a fee is normally collected at the time of the issuance of a building permit, the Developer shall be deemed to have paid that fee for the number of building permits which is equal to the cost of the installed improvement as determined by the City Engineer. (Example: If a fee of $1,000 is normally collected at the time a building permit is issued for improvement X, and the Developer installs improvement X at a cost of $20,000, then the Developer will be credited with having paid that fee for 20 building permits.)

1. The City Engineer shall have the exclusive right to interpret this section in case of any disagreements concerning its applicability.

Section 3.10 Subsequent Discretionary Approvals.

a. To the extent any discretionary approvals are required to develop The Property after this Agreement is recorded, the Developer shall apply for those approvals in the same manner as any other person applying for land use entitlements from the City. All application fees then applicable for the type of land use entitlement(s) sought shall apply. The City will review these applications in good faith within a reasonable time to insure that the Developer may proceed to develop The Property in the manner contemplated by this Agreement.

b. The only remaining discretionary approval which is contemplated at this time is site plan review (design review) under the Zoning Ordinance.

Section 3.11 Review of Agreement.

Reviews by the City of compliance by the Developer of the terms of this Agreement shall be done as provided in Title 11, Chapter 2, Article 7 (Review) of the Winters Municipal Code.

Section 3.12 Compliance with Government Code § 66006.

As required by Government Code section 65865(e) for development agreements adopted after January 1, 2004, the City will comply with the requirements of Government Code section 66006 pertaining to the payment of fees for the development of The Property.

ARTICLE 4
SPECIFIC DEVELOPMENT OBLIGATIONS

Section 4.1 Schools.

a. The Developer acknowledges and agrees that the mitigation of the impact of The Mary Rose Gardens at Winters Subdivision on schools within the Winters Joint Unified School District is of paramount importance to the City and its residents. As a consequence, the Developer states that its intention entering into this Agreement is to mitigate the impact on schools to the greatest reasonable extent, in accordance with the terms of an agreement negotiated between the Developer and the Winters Joint Unified School District. A copy of the agreement is attached as Exhibit E.

b. The Developer shall enter into an agreement with the Winters Joint Unified School District ("School District"), substantially in the form of Exhibit E

that provides, among other matters, that the Developer will pay to the School District:

1. for each of the 28 residential units in the Mary Rose Gardens Subdivision, Level 2 fees, payable at the time of issuance of a building permit; and

2. for all units in the Mary Rose Gardens Subdivision (including the units referenced in subparagraph 1 above), except the very low income and low income affordable units, the difference between Level 3 and Level 2 fees, payable at the close of escrow.

The Developer has represented to the City that it intends to fully and faithfully perform this agreement with the School District, and the City has relied upon this representation in entering into this Development Agreement. A failure to perform the agreement, or amendments thereto, with the School District by the Developer shall be deemed to be a default of this Development Agreement and subject to the provisions of Article 5.

Section 4.2 <u>0.62 +/- Acre Park.</u>

a. Developer shall provide a 0.62 +/- acre neighborhood park ("the Park Obligation"). The Park Obligation consists of three components:

1. Providing land.

2. Providing infrastructure.

3. Planning, developing, and equipping the park.

b. The applicant intends to construct a 0.503-acre on-site park and the the Parties acknowledge that it is in the best interests of the community that the City accept a sum of money which represents the monetary value of the Park Obligation after factoring in the on-site park rather than have the Developer include a fully operational 0.62 +/- acre park within the Mary Rose Gardens Subdivision. The payment of the Park Obligation by the Developer is in lieu of the payment of any park impact fees as provided by City ordinance.

c. Developer agrees to satisfy the Park Obligation as follows.

1. At the time of filing the final map for the Mary Rose Gardens Subdivision a payment of one hundred percent (100%) of the amount calculated by the City Engineer as set forth in e., below.

2. An additional fifty percent (50%) of the amount calculated under 1., above, payable as follows:

a) The additional fifty percent (50%) shall be divided by the number of market rate units in the Mary Rose Gardens Subdivision (24 units). The resulting amount shall be paid each time a building permit is issued for one of the 24 market rate units.

b) If at the end of thirty (30) months from the recording of the final map for the Mary Rose Gardens Subdivision, the full amount under this subsection 2. has not been fully paid, then the Developer shall pay the remaining amount owing within ten (10) business days of being notified by the City to do so. (Example: If at the end of thirty (30) months, the Developer has obtained twenty (20) building permits for market rate units and has paid fees under this subsection,

then the Developer, upon notice from the City, shall pay the fees owed under this subsection for the remaining four (4) market rate units.)

d. Once all amounts owed under c. above have been paid, the Developer will have satisfied the Park Obligation.

e. The Park Obligation shall be computed by the City Engineer as follows:

1. The land value will be determined by an appraisal made at the Developer's expense. The Developer shall provide to the City the names of three (3) qualified appraisers acceptable to the City who are both licensed by the State of California and members of the Appraisal Institute (MAI) and knowledgeable in appraising property similar in nature to The Property. The City shall select the appraiser to be used from the list and notify the Developer of its decision. The appraisal shall be presented to the City within ninety (90) days thereafter, unless the Parties agree to a different date. The appraisal shall determine the fair market value of 0.117 +/- acres of The Property with the development entitlements specified in this Agreement. The date of value shall be the date of the recording of this Agreement.

2. The estimated cost of the infrastructure improvements will be calculated by the City Engineer using the per acre cost of Sixty Thousand Dollars ($60,000).

3. The estimated cost of the development of a park (including planning, developing, and equipping the same) will be calculated by the City

Engineer using the per acre cost of Two Hundred Twenty-Nine Thousand Five Hundred Dollars ($229,500).

4. To the total determined by adding the costs determined under 1., 2., and 3., above, shall be added five percent (5%) for administration, including, but not limited to, the use of eminent domain by the City as necessary to acquire park land.

Section 4.3 Advance Funding of Fees For Construction of New Water Well.

a. The Parties acknowledge that the City intends to construct a new water well near the northwest corner of the intersection of West Grant Avenue and West Main Street. In order to provide sufficient funds for the City to commence construction of this facility, the Developer shall, concurrently with the filing of the final subdivision map for the Mary Rose Gardens Subdivision pay to the City the following development fee.

1. A water facilities fee at its then current rate for all 28 residential units in the Mary Rose Gardens Subdivision.

b. Each time the Developer applies for and receives a building permit thereafter, the Developer shall be credited with the amount paid under subsection a. for each permit.

c. If, at the time of the actual issuance of a building permit, the fees payable at that time have increased since the payment made under subsection a., the Developer shall pay the difference between the two amounts.

Section 4.4 Advance Funding of Street and Highway Impact Fees.

a. The Parties acknowledge that the City intends to construct new traffic signals at the intersections of Grant Avenue/West Main Street and Grant Avenue/Interstate 505 Northbound Ramps. In order to provide sufficient funds for the City to commence construction of these facilities, the Developer shall, concurrently with the filing of the final subdivision map for the Mary Rose Gardens Subdivision pay to the City the following development fee.

1. A street and highway impact fee at its then current rate for all 28 residential units in the Mary Rose Gardens Subdivision.

b. Each time the Developer applies for and receives a building permit thereafter, the Developer shall be credited with the amount paid under subsection a. for each permit.

c. If, at the time of the actual issuance of a building permit, the fees payable at that time have increased since the payment made under subsection a., the Developer shall pay the difference between the two amounts.

Section 4.5 Annuity in Lieu of Mello-Roos District.

a. The Developer agrees that the City will establish, and the Developer will fund, an annuity to offset the projected fiscal deficit to the General Fund of the City created by the development of The Mary Rose Gardens Subdivision per the Economic & Planning Systems reports titled "City of Winters – Mary Rose Gardens Fiscal Impact Analysis", dated January 23, 2007. Such an annuity is in lieu of the creation of a Mello-Roos Community Facilities District or other similar financing device.

b. The funding of the annuity will be created and funded as follows:

1. From the escrow for the sale of each residential unit to a third party the Developer will pay to the City the sum of Seven Thousand Three Hundred Fifty Dollars ($7,350.00).

2. The City will invest the amounts received under this section in an annuity, or other similar investment, which will create a stream of income to be paid into the City's General Fund to pay for the increase in the cost of municipal services resulting from the development of the Mary Rose Gardens Subdivision

Section 4.6 Payments to Library Fund and Fire Department.

a. Prior to recording of the final map for the Mary Rose Gardens Subdivision the Developer shall pay to the City the sum of Twenty-Five Thousand Dollars ($25,000.00). This amount shall be kept in a specific designated account and used solely for constructing, maintaining, and/or improving a public library facility in the City of Winters.

b. Prior to recording of the final map for the Mary Rose Gardens Subdivision the Developer shall pay to the City the sum of Forty-Nine Thousand Two Hundred Dollars ($49,200.00). This amount shall be kept in a specific designated account and used solely for the purchase of a Type 1 fire engine or other Fire Department vehicle.

Section 4.7 Pedestrian Improvements.

a. The Developer shall construct pedestrian and landscape improvements on the south side of Grant Avenue along the frontage of the Waggoner Elementary School.

Section 4.8 Energy Efficiency.

In order to obtain energy efficiency in each unit with the Mary Rose Gardens Subdivision, to the maximum extent possible the techniques identified in the July 27, 2004 Planning Commission staff report on the "Proposed Energy Resolution" shall be utilized; provided, however, that the following techniques are mandatory:

a. Fifty percent (50%) of the 24 market rate units shall be built with: a photovoltaic solar energy system capable of producing 2.4 peak rated direct current (DC) kilowatts. The remaining market rate units shall be pre-wired to accommodate such a system.

b. All units shall be constructed to the Energy Star Standards as defined by the U. S. Environmental Protection Agency.

c. All units shall be built with low emission furnaces.

d. No unit shall be built with any dark colored roofing material.

ARTICLE 5

DEFAULT, REMEDIES, AND DISPUTE RESOLUTION

Section 5.1 Application of Article. The Parties agree that the following provisions shall govern the availability of remedies should either Party breach its obligations under this Agreement.

Section 5.2 City's Remedies.

a. The City's remedies under this Agreement are as follows:

1. Termination of the Agreement after giving the Developer the opportunity to cure a default, as provided in subsection b.

2. An action for injunctive relief to preserve the physical or legal status quo of the development of The Mary Rose Gardens Subdivision pending a judicial determination of the rights of the Parties in the event of a dispute between the Parties as to their rights and obligations under this Agreement.

3. Specific performance as provided in subsection c.

4. An action for declaratory relief to determine the rights and obligations of the Parties under this Agreement.

5. An action for damages as provided in subsection d.

b. Default by the Developer.

1. Notice of Default. With respect to a default by the Developer under this Agreement, the City shall first submit to the Developer a

written notice of default identifying with specificity those obligations of the Developer which have not been performed. Upon receipt of the notice of default, the Developer shall promptly commence to cure the identified default(s) at the earliest reasonable time after receipt of the notice of default. The Developer shall complete the cure of the default(s) not later than thirty (30) days after receipt of the notice of default, or such longer period as is reasonably necessary to remedy the default(s), provided Developer has continuously and diligently pursued such remedy at all times until such default(s) is cured.

2. Procedure After Failure to Cure Default. If, after the cure period has elapsed, the City finds and determines that the Developer remains in default and the City wishes to terminate or modify this Agreement, the City Manager shall make a report to that effect to the City Council and set a public hearing before the City Council in accordance with the notice and hearing requirements of Government Code section 65868 and Section 11-2.802 of the Winters Municipal Code.

3. Modification or Termination of Agreement. If, after the public hearing, the City Council determines Developer has failed to timely cure a material breach of the obligations under this Agreement, City shall have the right to modify or terminate this Agreement.

c. Specific Performance. The City may seek specific performance to compel the Developer to do any, or all, of the following:

1. To complete or demolish any uncompleted improvements which are located on public property or property which has been offered for dedication to the public, with the choice of whether to demolish or complete such

improvements and the method of such demolition or completion of such improvements to be selected by the City in its sole discretion.

2. To dedicate and properly complete any public improvements which are required by this Agreement.

3. To complete, demolish or make safe and secure any uncompleted private improvements located on The Property with the choice of whether to demolish, complete or secure such private improvements and the method of such demolition, completion and securing such private improvements to be selected by the Developer in its sole discretion.

d. The City may institute an action for damages for the amount of any money owed to it under Article 4, or the cost of performing any act required of the Developer under Article 4, or the cost to complete any public improvements required to be installed under the final map (or any phase, if applicable) for The Mary Rose Gardens Subdivision.

Section 5.3 Developer's Remedies.

a. The Developer's remedies under this agreement are as follows:

1. An action for specific performance of an obligation of the City after giving the City the opportunity to cure a default, as provided in subsection b.

2. An action for injunctive relief to preserve the physical or legal status quo of the development of The Mary Rose Gardens Subdivision

pending a judicial determination of the rights of the Parties in the event of a dispute between the Parties as to their rights and obligations under this Agreement.

3. An action for declaratory relief to determine the rights and obligations of the Parties under this Agreement.

b. Default and Notice of Default. With respect to a default by the City under this Agreement, the Developer shall first submit to the City a written notice of default identifying with specificity those obligations of the City which have not been performed. Upon receipt of the notice of default, the City shall promptly commence to cure the identified default(s) at the earliest reasonable time after receipt of the notice of default and shall complete the cure of such default(s) not later than thirty (30) days after receipt of the notice of default, or such longer period as is reasonably necessary to remedy such default(s), provided that the City has continuously and diligently pursued such remedy at all times until such default(s) is cured.

c. Waiver of Damage Remedy. The Developer understands and agrees that the City would not be willing to enter into this Agreement if it created any monetary exposure for damages (whether actual, compensatory, consequential, punitive or otherwise) in the event of a breach by City. For the above reasons, the Parties agree that the remedies listed in subsection a. are the only remedies available to the Developer in the event of the City's failure to carry out its obligations hereunder. The Developer specifically acknowledges that it may not seek monetary damages of any kind in the event of a default by the City under this Agreement, and the Developer hereby waives, relinquishes and surrenders any right to any monetary remedy. The Developer covenants not to sue for, or claim

any monetary remedy for, the breach by the City of any provision of this Agreement, except for attorneys' fees for actions under a., above, and hereby agrees to indemnify, defend and hold the City harmless from any cost, loss, liability, expense or claim (including attorneys' fees) arising from or related to any claim brought by the Developer inconsistent with the foregoing waiver.

ARTICLE 6
HOLD HARMLESS AND INDEMNIFICATION

Section 6.1 Limitation of Legal Relationship.

a. The Parties represent and declare that this Agreement creates no partnership, joint venture, or other legal entity between them.

b. In entering into this Agreement, the City is acting under the statutory and/or police powers which it holds as a municipal corporation of the State of California and which authorize it to regulate the development of land within its boundaries and to provide for the general health, safety and welfare.

c. In entering into this Agreement, the Developer is acting in a purely private capacity as an owner of real property within the City of Winters, which property is subject to the jurisdiction of the City acting in the capacity set forth in subsection b.

Section 6.2 No Liability for Acts of the Developer.

a. It is expressly understood that the development of The Mary Rose Gardens Subdivision is an undertaking that may create for the Developer liability

to third parties, including, but not limited to, assignees of all or part of this Agreement, buyers and lessees of residential units, building contractors and sub-contractors, and suppliers. The Developer understands and agrees that the City would not execute this Agreement if, in so doing, it created for the City any liability to any third party.

b. Consequently, the Developer, its successors, heirs, and assigns agrees to defend, indemnify, and hold harmless the City, and all its officers, agents, and employees from any claim of injury to person or property arising out of the operations of the Developer in the development of The Mary Rose Gardens Subdivision under the terms of this Agreement or otherwise.

c. Notwithstanding anything in Article 5 to the contrary, the City shall have any remedy available to it at law and/or equity to enforce the provisions of this section or to collect damages for any breach of it.

Section 6.3 Duty to Defend Challenges to this Agreement.

a. The Parties recognize that there may be third party challenges to this Agreement, relative to the procedure used to adopt it or the contents of it.

b. The Parties agree to cooperate jointly to defend any action or proceeding brought to challenge this Agreement or the ordinance adopting it.

c. In the event of any such challenge, each Party shall bear its own attorneys' fees and other litigation expenses.

d. Should the court, in any action challenging this Agreement or the ordinance adopting it, award attorneys' fees, costs and any other litigation expenses

against the City, the Developer shall be responsible for the payment of those fees, costs, and expenses, and shall hold the City harmless from any claim thereto.

e. Notwithstanding subsection b., the City may, at its sole discretion, tender the defense of any action or proceeding brought to challenge this Agreement or the ordinance adopting it to the Developer, in which event the Developer shall have the sole responsibility to defend, on behalf of itself and the City, the matter. However, nothing herein obligates the Developer, should the City tender its defense to the Developer, to defend the action if it determines that it is in its best interests not to do so.

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SIGNATURE PAGE TO FOLLOW

DEVELOPER
DAS HOMES, INCORPORATED

By:_____

Its:_____

Dated:_____

CITY OF WINTERS

By:_____
Mayor

Dated:_____

Attest:_____
City Clerk

Approved as to form:

_____
John Wallace, City Attorney

_____
XXX XXX
XXX,
Attorney for Developer

. . . . . .

LIST OF EXHIBITS

EXHIBIT A	Map of Mary Rose Gardens Property
EXHIBIT B	Legal Description of Mary Rose Gardens Property
EXHIBIT C	Mary Rose Gardens Tentative Subdivision Map
EXHIBIT D	Conditions of Approval, including Mitigation Measures
EXHIBIT E	School Agreement

. . . . . .

This Agreement was adopted by Ordinance No. 2007-xx of the City Council of the City of Winters. Ordinance No. 2007-xx was adopted on April 17, 2007 and is effective on the date it is recorded with the Yolo County Recorder.

CITY COUNCIL STAFF REPORT
April 3, 2007

TO: Honorable Mayor and Council Members

THROUGH: John W. Donlevy, Jr. – City Manager

FROM: Dan Sokolow – Community Development Director

SUBJECT: ANDERSON PLACE SUBDIVISION (Continued Public Hearing)

SUMMARY OF MARCH 7, 2007 CITY COUNCIL MEETING: A number of changes have been made to the recommended conditions of approval, development agreement, and other documents for the project in response to questions and concerns from City Councilmembers. Staff will describe these changes at tonight's meeting. In addition, the applicant will address the option of on-street parking on the project's Railroad Avenue frontage.

SUMMARY OF PROJECT: The project site is located in the north central area of the City of Winters at 723 Railroad Avenue. The project site, which is on the east side of Railroad, totals 2.13 acres comprised of APN 003-220-22 and is north of Grant Avenue (State Route 128), south of Betty Court, east of the existing section of Anderson Avenue, and west of Dutton Street. The project is a proposed rezoning and subdivision of 2.13 acres to create 24 residential lots with a total of 28 residential units and 9 office suites, an internal roadway/parking area ("Lot A"), a pedestrian pathway area ("Lot B"), subdivision feature/green space area ("Lot C"), and second internal roadway/parking area ("Lot D").

PLANNING COMMISSION RECOMMENDATION: At a hearing held December 19, 2006, the Planning Commission voted 6-1 (Guelden opposed) to support the staff recommendation of approval of the project (Attachments 3 and 4 to this report).

DEVELOPMENT AGREEMENT: The proposed DA "public benefit" features are detailed below. It should be noted that there are many other requirements of the project that the City will achieve through the mitigation measures and conditions of approval. The items below are the items that would be gained to the community's "net benefit", in addition to the requirements of the mitigation measures and conditions of approval.

- School Funding – Payment of Level Three School Impact Fees (low- and very low- income units exempt).
- Fiscal Neutrality – Pay an annuity per an Economic and Planning Systems report to offset any cost increase to the City general fund.

- Parks – Fund new parks at seven acres per thousand through in-lieu fees.
- Energy – All of the units to be constructed as EPA Energy Star units. Photovoltaic solar energy systems capable of producing 2.4 peak rated direct current (DC) kilowatts to be installed on seven of the proposed buildings. (Note: Because of the small roof sizes and non-standard roof designs, a number of the buildings proposed for the project cannot accommodate photovoltaic solar energy systems capable of producing 2.4 peak rated direct current). The market rate units without photovoltaic solar energy systems will be pre-wired for such systems and these systems will be offered as an option to prospective buyers of the pre-wired market rate units. Tankless water heaters will be installed in all residential units.
- Public Safety Facility – Contribute $25,000 towards construction of the facility.
- Library Fund – Contribute $20,000 to the Library Fund.
- Water Impact Fees Advance Payment – Pay the City impact fees for Water at Final Map.

It should be noted that the Fiscal Neutrality and Parks items are General Plan requirements and therefore are not true "net benefit" items, but they have been detailed here for clarity purposes.

RECOMMENDED ACTIONS:

If the Council supports the Planning Commission and staff recommendation then the following actions should be taken:

A) The staff recommends the City Council have the applicant indicate for the record, their acceptance of the Development Agreement and conditions of approval.

B) Assuming the applicant indicates their acceptance of the final terms of the DA and conditions of approval, the staff recommends that the City Council take the following actions subject to the identified findings of fact and conditions of approval:

1) Adopt Resolution No. 2007-xx (Attachment 3 to this report) approving CEQA findings of fact, adopting a mitigation monitoring plan, and certifying the final mitigated negative declaration for the Anderson Place Project.

2) Adopt Resolution No. 2007-xx (Attachment 4 to this report) approving the project by enacting the following:

   a) Approval of the Tentative Subdivision Map No. 4859 on 2.13 acres creating 24 residential lots with a total of 28 residential units and 9 office suites, an internal roadway/parking area ("Lot A"), a pedestrian pathway area ("Lot B"), subdivision feature/green space area ("Lot C"), and second internal roadway/parking area ("Lot D").

   b) Amendment of the Circulation Master Plan (May 19, 1992) and Standard Street Cross Sections (adopted October 2, 2001; City Council Resolution 2001-61) to allow Anderson Avenue to be constructed to Collector Street improvement standards with a 50-foot right of way, 40-feet face of curb to face of curb roadway section, and 5-foot sidewalks each side to the existing Railroad Avenue roadway and to allow interim Railroad Avenue improvements to include interim landscaping within the future roadway on east side of

Railroad Avenue, with a 10-foot concrete pedestrian/bike path from the northern terminus of the development to the southern terminus of the development.

c) Approval of a Conditional Use Permit to allow the construction of multi-family housing in the O-F and C-2 Zones.

d) Approval of Site Plan for the design of the residences and office suites and the conceptual landscaping for the subdivision feature/green space area ("Lot B"), the Railroad Avenue frontage, and internal areas.

e) Approval of a demolition permit to remove one existing structure on the Property.

f) Approval of Findings of Fact and Conditions of Approval.

3) Introduce and waive the first reading of Ordinance No. 2007-xx (Attachment 5 to this report) approving the rezoning as described below. (Note: The ordinance must return for second reading and adoption):

a) Change the Zoning Map for the project site (2.13 acres) as follows: 1) 0.71 acres designated Office (O-F) to Office/Planned Development (O-F/PD) and 2) 1.42 acres designated Central Business District (C-2) to Central Business District/Planned Development (C-2/PD).

b) Adoption of Planned Development (PD) Permit No. 2007-02 allowing for the following modifications as detailed on the tentative map and site plan for the project.

(1) Lot sizes less than the minimums for the C-2 and O-F Zones.
(2) Lot widths/depths less than the minimums for the C-2 and O-F Zones.
(3) Floor area ratios less the minimums for the C-2 and O-F Zones.
(4) Setbacks less the minimums for the C-2 and O-F Zones.
(5) Off-street parking spaces less than the minimums for multi-family housing and office uses.
(6) Sound barriers on the south and east sides of the project in excess of the Winters Municipal Code (Title 17, Zoning) maximum height for fences/walls as detailed in the Mitigation Monitoring Plan for the project.

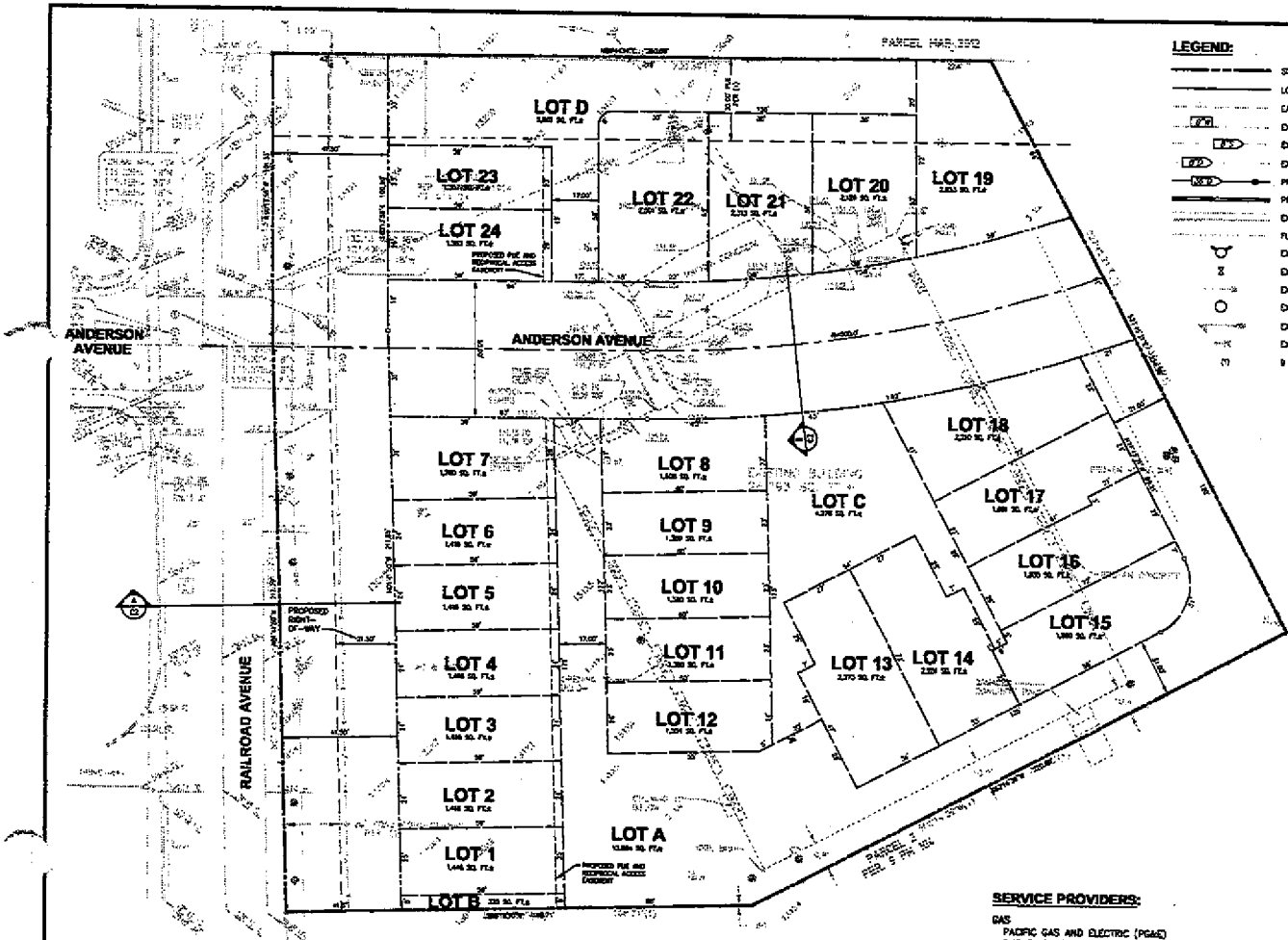
4) Introduce and waive the first reading of Ordinance No. 2007-xx (Attachment 6 to this report) approving and authorizing execution of the Anderson Place Development Agreement. (Note: The ordinance must return for second reading and adoption. It must be signed by the applicant prior to the second reading and adoption.)

ATTACHMENTS

1) Tentative Subdivision Map
2) Conditions of Approval
3) Resolution Certifying the Mitigated Negative Declaration
4) Resolution Approving the Project
5) Rezoning Ordinance

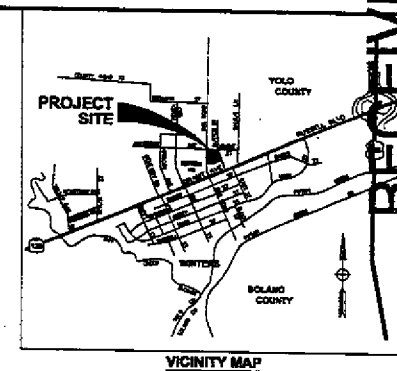
6) Final Development Agreement and Ordinance

Anderson Place/TM CC Stf Rpt 3Apr07



LEGEND:

- SUBDIVISION BOUNDARY
- LOT LINE
- EASEMENT LINE
- EXISTING WATER LINE
- EXISTING SEWER LINE
- EXISTING STORM DRAIN LINE
- PROPOSED STORM DRAIN LINE W/MH
- PROPOSED RETAINING WALL
- EXISTING CURB, GUTTER & SIDEWALK
- FLOW LINE
- EXISTING FIRE HYDRANT
- EXISTING WATER VALVE
- EXISTING WATER SERVICE
- EXISTING SEWER MANHOLE
- EXISTING SEWER SERVICE
- EXISTING STREET LIGHT
- 9 PM 104



VICINITY MAP
N.T.S

SHEET INDEX:

C1 TITLE SHEET
C2 WATER & SEWER AND GRADING PLAN

APPLICANT/OWNER:

EVA L. BRZESKI AND
G STREET SAN BERNADINO, LLC
P.O. BOX 798
WINTERS, CA 95694
(530) 802-9785

CIVIL ENGINEER:

CUNNINGHAM ENGINEERING
2840 SPAFFORD STREET, SUITE 200
DAVIS, CA 95616
(530) 758-2026

ASSESSOR'S PARCEL NUMBER:

003-322-20-31

FLOOD ZONE:

ZONE "X", COMMUNITY PANEL NO. 060425-0001C
DATED NOVEMBER 20, 1998.

ZONING:

EXISTING: C-2 CENTRAL BUSINESS
PROPOSED: NO CHANGE REQUESTED

LAND USE:

EXISTING: WAREHOUSE/VACANT
PROPOSED: MIXED USE/RESIDENTIAL

TOTAL ACREAGE:

2.13 ACRES GROSS

SERVICE PROVIDERS:

GAS
PACIFIC GAS AND ELECTRIC (PG&E)
PHONE: (916) 386-5009
ELECTRICITY
PACIFIC GAS AND ELECTRIC (PG&E)
PHONE: (916) 386-5009
CABLE TELEVISION
CHARTER COMMUNICATIONS
(888) 997-8642
WATER
CITY OF WINTERS
(530) 795-4910
SEWAGE
CITY OF WINTERS
(530) 795-4910
STORM DRAINAGE
CITY OF WINTERS
(530) 795-4910
TELEPHONE
PACIFIC BELL
(916) 453-7112
FIRE DEPARTMENT
CITY OF WINTERS
(530) 765-4910
U.S.A
(800) 227-2600

ABBREVIATIONS:

BW	BACK OF WALK
E	EAST
ESMT	EASEMENT
EX	EXISTING
FL	FLOW LINE
GB	GRADE BREAK
HP	HIGH POINT
MH	PIPE OR MANHOLE INVERT
L	LENGTH OF CURVE
N	NORTH
PUE	PUBLIC UTILITY EASEMENT
R	CURVE RADIUS
R/W	RIGHT OF WAY
SS	SANITARY SEWER
SD	STORM DRAIN LINE
SHT	SHEET
S	SOUTH
STD	STANDARD
W	WATER LINE, WEST

BENCHMARK:

ELEVATIONS ARE BASED ON CITY OF WINTERS BENCHMARK: CUT SQUARE IN TOP OF CURB 10.00' EAST OF END OF IMPROVEMENTS ON THE EASTERLY SIDE OF ANDERSON AVE. AT LOS CHURCH ELEVATION = 147.20 FEET.

BASIS OF BEARINGS:

IDENTICAL TO THAT CERTAIN PARCEL MAP FILED IN BOOK 9, PAGES 104, YOLO COUNTY RECORDS, AND WAS ESTABLISHED FROM FOUND MONUMENTS ALONG RAILROAD AVE. AND SHOWN HEREON AND TAKEN AS NORTH 1°41'50" WEST.

LEGAL DESCRIPTION:

ALL THAT CERTAIN REAL PROPERTY SITUATED, LYING, AND BEING IN THE CITY OF WINTERS, COUNTY OF YOLO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

PARCEL 1 AS SHOWN AND DELINEATED IN PARCEL MAP NO. 3592, RECORDED OCTOBER 19, 1990 IN BOOK 9 OF PARCEL MAPS, PAGE 104, YOLO COUNTY RECORDS.

0 10 20 40 60
SCALE IN FEET

APPROVED BY:

CITY OF WINTERS
COMMUNITY DEVELOPMENT DEPARTMENT

DATE

RECEIVED
JUN 06 2006
CITY OF WINTERS

DATE	BY	APPD	REVISED BY:	DATE	DRAWN BY:	DATE

1"=20'

CUNNINGHAM ENGINEERING
CIVIL ENGINEERS/PROJECT MANAGERS
2840 SPAFFORD STREET
DAVIS, SUITE 200
Phone: (530) 758-2026
Fax: (530) 758-2088
cecdesign@cecdesign.com

ANDERSON PLACE
TENTATIVE SUBDIVISION MAP NO. 4859
TITLE AND LOT DIMENSIONS SHEET
WINTERS CALIFORNIA

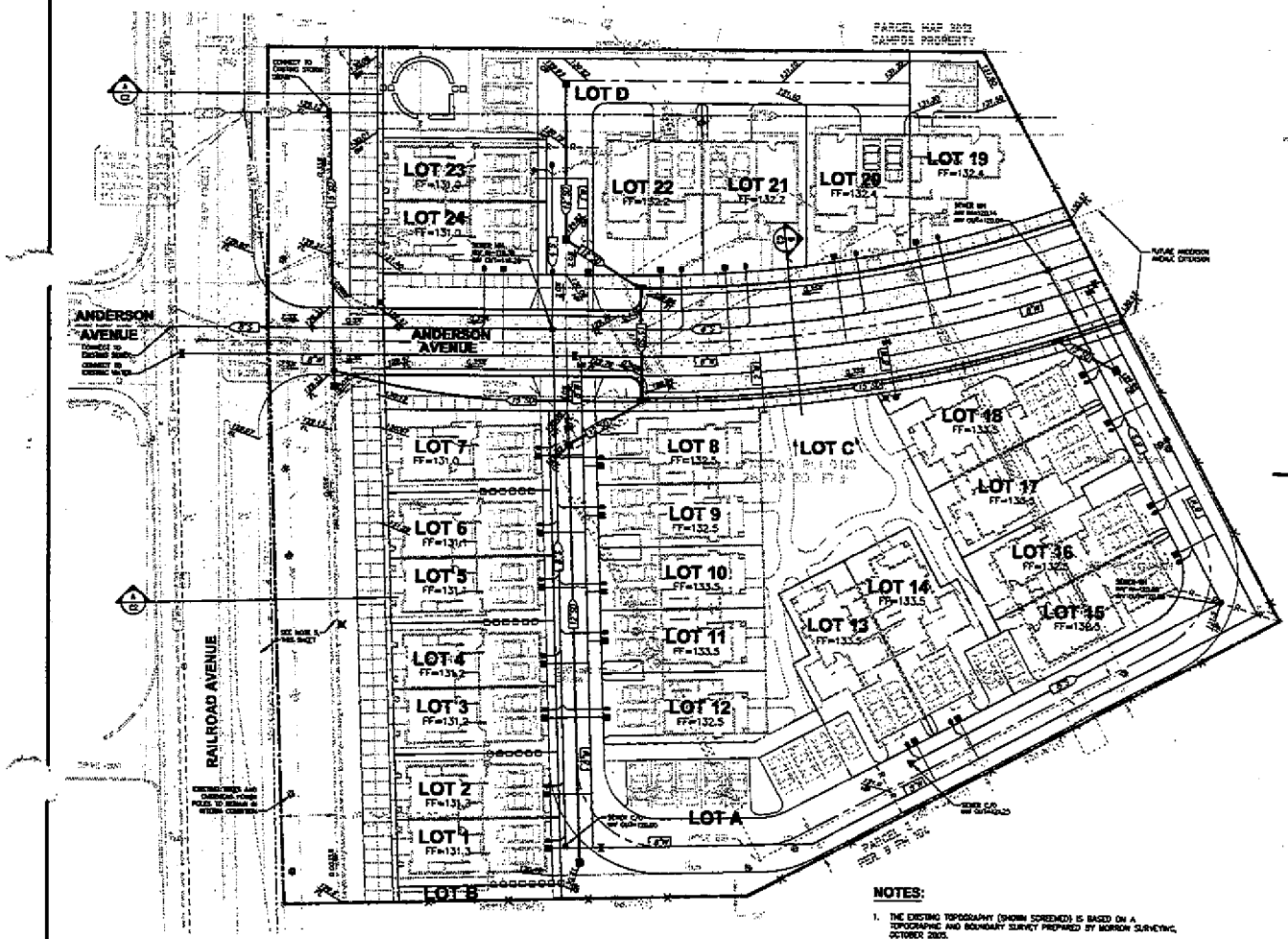
DATE: 05/02/06

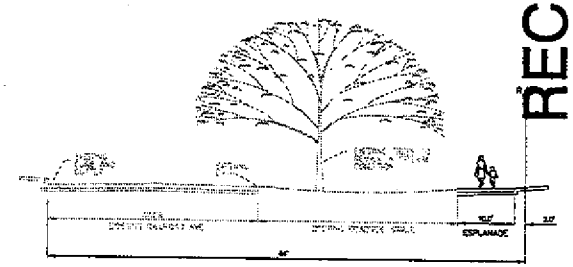
SHEET C1 OF 2

863.02

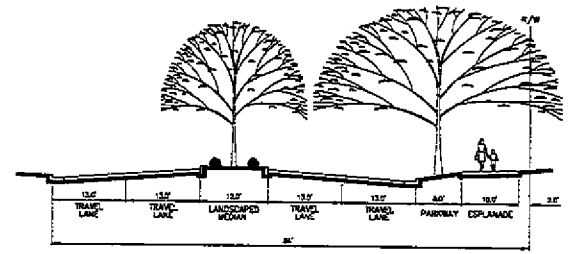
RECEIVED
JUN 6 2006
CITY OF WINTERS

126

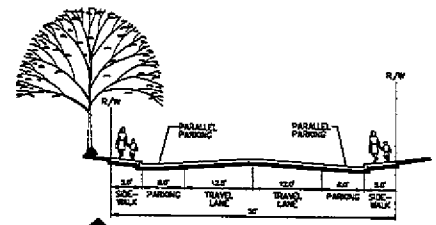




A C2 INTERIM RAILROAD AVE SECTION
N.T.S.



A C2 ULTIMATE RAILROAD AVE SECTION
N.T.S.



B C2 ANDERSON AVENUE SECTION
N.T.S.

NOTES:

1. THE EXISTING TOPOGRAPHY (SHOWN SCREENED) IS BASED ON A TOPOGRAPHIC AND BOUNDARY SURVEY PREPARED BY MORRON SURVEYING, OCTOBER 2005.
2. ALL INFORMATION ON THIS MAP IS DEEMED TO BE OF A PRELIMINARY NATURE, AND IS NOT TO BE RELIED ON FOR SURVEY OR PROPERTY LINE INFORMATION.
3. THIS TENTATIVE MAP WAS PREPARED UNDER THE DIRECTION OF CHARLES M. CUNNINGHAM, R.C.E. NUMBER C033339.
4. LETTERED LOTS ARE TO BE OWNED AND MAINTAINED BY PROJECT HOMEOWNER'S ASSOCIATION.
5. FUTURE ULTIMATE RAILROAD AVENUE WIDENING IMPROVEMENTS ARE SHOWN DASHED HEREON.
6. A PUBLIC UTILITY EASEMENT IS PROPOSED OVER LOT A. ALL WATER AND SANITARY SEWER ON LOT A WILL BE OWNED AND MAINTAINED BY THE CITY.
7. NO SIGNIFICANT EROSION IS ANTICIPATED. APPROPRIATE EROSION CONTROL MEASURES ARE TO BE EMPLOYED DURING CONSTRUCTION.
8. THE EXISTING BUILDING AND RELATED SITE IMPROVEMENTS ARE TO BE REMOVED.
9. PUBLIC UTILITY EASEMENTS, APPROPRIATE TO THE PROJECT ARE TO BE CREATED WITH EXACT LOCATIONS TO BE DETERMINED DURING DRY UTILITY DESIGN.

0 10 20 40 60
SCALE IN FEET

APPROVED BY:

CITY OF WINTERS
COMMUNITY DEVELOPMENT DEPARTMENT

DATE

No.	Date	By	Appr.	Revision

DRAWN BY: DKF
DESIGNED BY: DKF
CHECKED BY: MJC
SCALE

CUNNINGHAM ENGINEERING
CIVIL ENGINEERS/PROJECT MANAGERS
2840 SPAFFORD STREET,
DAVIS, CA 95616
SUITE 200
Phone: (530) 756-5370
Fax: (530) 756-8160
E-mail: cunningham@cunningham-eng.com

ANDERSON PLACE
TENTATIVE SUBDIVISION MAP NO. 4859
WATER, SEWER, GRADING AND DRAINAGE PLAN
WINTERS CALIFORNIA

DATE: 06/23/06

SHEET C2
2 OF
063.02

FINDINGS OF FACT AND CONDITIONS OF APPROVAL FOR THE ANDERSON PLACE PROJECT

FINDINGS OF FACT

Findings for Adoption of Mitigated Negative Declaration

1. The City Council has considered the proposed Mitigated Negative Declaration before making a decision on the project.

2. The City Council has considered comments received on the Mitigated Negative Declaration during the public review process.

3. The City Council finds that the environmental checklist/initial study identified potentially significant effects, but: a) mitigation measures agreed to by the Applicant before the mitigated negative declaration and initial study were released for public review would avoid the effects or mitigate the effects to a point where clearly no significant impact would occur; and b) there is no substantial evidence, in light of the whole record before the City, that the project as revised to include the mitigation measures may have a significant effect on the environment.

4. The Mitigated Negative Declaration reflects the independent judgment and analysis of the City of Winters.

5. The Mitigated Negative Declaration has been prepared in compliance with CEQA and the State CEQA Guidelines, and as amended/revised is determined to be complete and final.

6. The custodian of the documents, and other materials, which constitute the record of proceedings is the Community Development Director. The location of these items is the office of the Community Development Department at City Hall, 318 First Street, Winters, California 95694.

7. The Mitigation Monitoring Plan is hereby adopted to ensure implementation of mitigation measures identified in the Mitigated Negative Declaration. The City Council finds that these mitigation measures are fully enforceable as conditions of approval of the project, and shall be binding on the Applicant, future property owners, and affected parties.

8. The City Council hereby adopts The Anderson Place Subdivision Mitigated Negative Declaration.

Findings for PD Overlay and PD Permit

1. The project, as modified and conditioned, is consistent with the General Plan and the purposes of Section 17.48.010 (Planned Development Overlay Zone – Purpose) of the Winters Municipal Code.

2. Deviations from specified provisions of the basic zoning district on the property have been justified as necessary to achieve an improvement design for the development and/or the environment. The development complies with the remaining applicable provisions of the basic zoning district on the property.

3. The proposed development, as modified and conditioned, is desirable to the public comfort and convenience.

4. The requested plan, as modified and conditioned, will not impair the integrity or character of the neighborhood nor be detrimental to the public health, safety, or general welfare.

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

6. The development, as modified and conditioned (including execution of the Development Agreement) will not create an adverse fiscal impact for the City in providing necessary services.

Findings for Tentative Subdivision Map (G.C. 66474)

1. The proposed map is consistent with the General Plan.

2. The design and improvement of the proposed map is consistent with the General Plan.

3. The site is physically suitable for the type of development.

4. The site is physically suitable for the proposed density of development.

5. The design of the subdivision and the proposed improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

6. The design of the subdivision and type of improvements will not cause serious public health problems.

7. The design of the subdivision and the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision,

Findings for Development Agreement

1. The DA is consistent with the objectives, policies, general land uses and programs specified in the General Plan.

2. The DA is compatible with the uses authorized in, and the regulations prescribed for, the zoning district in which the real property is or will be located.

3. The DA is in conformity with and will promote public convenience, general welfare and good land use practice.

4. The DA will not be detrimental to the health, safety and general welfare.

5. The DA will not adversely affect the orderly development of property or the preservation of property values.

6. The DA will meet the intent of Section 15.72.100(a) (Public Benefits) of the Winters Municipal Code.

7. The DA is consistent with Chapter 15.72 (Development Agreements) of the Winters Municipal Code.

CONDITIONS OF APPROVAL

The following conditions of approval are required to be satisfied by the Applicant/developer prior to Final Map, unless otherwise stated.

General

1. 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 expense 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 includes 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 subdivider 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.

2. All conditions identified herein shall be fully satisfied prior to acceptance of the first Final Map unless otherwise stated.

3. The project is as described in the October 30, 2006 Planning Commission staff report. The project shall be constructed as depicted on the maps and exhibits included in the October 30, 2006 Planning Commission staff report, except as modified by these conditions of approval. Substantive modifications require a public hearing and Council action.

General Plan Requirements

4. Pursuant to General Plan Policy II.C.1 and VI.F.2, energy efficient design shall be used. Pursuant to Policy II.C.2 of the Housing Element, energy conservation and weatherization features shall be incorporated into the home design. At a minimum this shall include: a) maximization of energy efficient techniques as identified in the July 27, 2004 Planning Commission staff report on "Proposed Energy Resolution", b) attainment of EPA Energy Star Standards in all units, c) low emission furnaces in all units, d) avoidance of dark colored roofing on all units, and e)a minimum of 50 percent of the market-rate units shall have a photovoltaic solar energy system capable of producing a minimum of 2.4kW (peak-rated DC watts) photovoltaic. The remainder of the market-rate units shall be pre-wired for an equivalent system.

5. Pursuant to General Plan Policy II.D.4 and IV.A.1 necessary public facilities and services shall be available prior to the first occupancy of the project.

6. Pursuant to General Plan Policy IV.A.4 (second sentence), the developer shall pay in-lieu fees for the parkland not provided on site, or at the City's discretion may construct needed improvements according to City specification in lieu of paying the fees.

7. Pursuant to General Plan Policy VI.C.7, drought-tolerant and native plants, especially valley oaks, shall be used for landscaping roadsides, parks, schools, and private properties. Pursuant to General Plan Policy VI.C.8, drainage-detention areas shall incorporate areas of native vegetation and wildlife habitat.

8. Pursuant to General Plan Policy IV.B.14, there shall be a water meter on each new hook-up.

9. Pursuant to General Plan Policy IV.C.2, adequate sewer service shall be provided prior to the issuance of any individual building permit.

10. Pursuant to General Plan Policy IV.J.2, all new electrical and communication lines shall be installed underground.

11. Pursuant to General Plan Policy VI.A.6, grading shall be carried out during dry months, when possible. Areas not graded shall be disturbed as little as possible. Construction and grading areas, as well as soil stockpiles, should be covered or temporarily revegetated when left for long periods. Revegetation of slopes shall be carried out immediately upon completion of grading. Temporary

drainage structures and sedimentation basins must be installed to prevent sediment from entering and thereby degrading the quality of downstream surface waters, particularly Putah Creek. The full cost of any necessary mitigation measures shall be borne by the project creating the potential impacts. Pursuant to General Plan Policy VII.B.3, should the City allow any grading to occur during the rainy season, conditions shall be implemented to ensure that silt is not conveyed to the storm drainage system.

12. Pursuant to General Plan Policy VI.E.6, construction-related dust shall be minimized. Dust control measures shall be specified and included as requirements of the contractor(s) during all phases of construction of this project and shall be included as a part of the required construction mitigation plan for the project.

13. Pursuant to General Plan Policy VII.A.1, VII.A.2, and VII.C.4 all site work and construction activities shall be in accordance with the requirements of the City, and other applicable local, regional, state, and federal regulations.

14. Pursuant to General Plan Policy VII.C.1, necessary water service, fire hydrants, and access roads shall be provided to the satisfaction of the Fire Chief and Fire Protection District standards.

15. Pursuant to General Plan Policy VII.C.2, a minimum fire-flow rate of 1,500 gallons per minute is required for all residential uses.

16. Pursuant to General Plan Policy VIII.D.2, street trees shall be planted along all streets, in accordance with the City's Street Tree Plan and Standards. All trees shall be of a type on the approved street tree list and shall be a minimum of fifteen gallons in size with a mature tree canopy of at least a thirty-foot diameter within fifteen years. The intent is that majestic street tree species that create large canopies at maturity will be required in all medians and streetside landscape strips. The goal is create maximum shade canopy over streets and sidewalks. The conceptual landscape plan for the subdivision feature/green space area (Lot C), Railroad Avenue frontage, residential units, and other areas shall be submitted to the Public Works and Community Development Departments for review and final approval. Landscaping of the project shall be completed prior to occupancy of the residential units and office suites.

17. Pursuant to General Plan Policy VIII.D.4, a permanent mechanism for the ongoing maintenance of street trees is required, to the satisfaction of the City Manager and City Finance Director.

18. Pursuant to General Plan Policy VIII.D.7, all lighting including street lighting, shall be designed, installed, and maintained to minimize excess light spillage, unnecessary brightness and glare, and degradation of night sky clarity.

Negative Declaration Mitigation Measures

19. **Mitigation Measure #1:** Outdoor light fixtures shall be low-intensity, shielded and/or directed away from adjacent areas and the night sky. All light fixtures shall be installed and shielded in such a manner that no light rays are emitted from the fixture at angles above the horizontal plane. High-intensity discharge lamps, such as mercury, metal halide and high-pressure sodium lamps shall be prohibited. Lighting plans shall be provided as part of facility improvement plans to the City with certification that adjacent areas will not be adversely affected and that offsite illumination will not exceed 2-foot candles.

    Prior to issuance of a building permit, the Applicant shall submit a photometric and proposed lighting plan for the project to the satisfaction of the Community Development Department to ensure no spillover light and glare onto adjoining properties.

20. **Mitigation Measure #2:**

a. Construction equipment exhaust emissions shall not exceed Yolo-Solano Air Quality Management District ("District") Rule 2-11 Visible Emission limitations.

b. Construction equipment shall minimize idling time to 10 minutes or less.

c. The prime contractor shall submit to the District a comprehensive inventory (i.e. make, model, year, emission rating) of all the heavy-duty off-road equipment (50 horsepower or greater) that will be used an aggregate of 40 or more hours for the construction project. District personnel, with assistance from the California Air Resources Board, will conduct initial Visible Emission Evaluations of all heavy-duty equipment on the inventory list.

An enforcement plan shall be established to weekly evaluate project-related on-and-off-road heavy-duty vehicle engine emissions opacities, using standards as defined in the California Code of Regulations, Title 13, Sections 2180 – 2194. An Environmental Coordinator, CARB-certified to perform Visible Emissions Evaluations (VEE), shall routinely evaluate project related off-road and heavy duty on-road equipment emissions for compliance with this requirement. Operators of vehicles and equipment found to be exceed opacity limits will be notified and the equipment must be repaired within 72 hours.

Construction contracts shall stipulate that at least 20% of the heavy-duty off-road equipment included in the inventory be powered by CARB certified off-road engines as follows:

175 hp – 750 hp	1996 and newer engines
100 hp – 174 hp	1997 and newer engines
50 hp – 99 hp	1998 and newer engines

In lieu of or addition to this requirement, the applicant may use other measures to reduce particulate matter and nitrogen oxide emissions from project construction through the use of emulsified fuel and or particulate matter traps. These alternative measures, if proposed, shall be developed in consultation with District staff.

21. **Mitigation Measure #3:**

a. Nontoxic soil stabilizers according to manufacturer's specifications shall be applied to all inactive construction areas (previously graded areas inactive for ten days or more).

b. Ground cover shall be reestablished in disturbed areas quickly.

c. Active construction sites shall be watered at least three times daily to avoid visible dust plumes.

d. Paving, applying water three times daily, or applying (non-toxic) soil stabilizers shall occur on all unpaved access roads, parking areas and staging areas at construction sites.

e. Enclosing, covering, watering daily, or applying non-toxic soil binders to exposed stockpiles (dirt, sand, etc.) shall occur.

f. A speed limit of 15 MPH for equipment and vehicles operated on unpaved areas shall be enforced.

g. All vehicles hauling dirt, sand, soil, or other loose materials shall be covered or shall be maintained at least two feet of freeboard.

h. Streets shall be swept at the end of the day if visible soil material is carried onto adjacent public paved roads.

22. **Mitigation Measure #4:** Wood burning appliances installed in the homes constructed as part of the project shall only use either pellet-fueled heaters, U.S. EPA Phase II certified wood burning heaters, or a gas fireplace. Installation of open hearth wood burning fireplaces is prohibited.

23. **Mitigation Measure #5:** If cultural resources (historic, archeological, paleontological, and/or human remains) are encountered during construction, workers shall not alter the materials or their context until an appropriately trained cultural resource consultant has evaluated the situation. Project personnel shall not collect cultural resources. Prehistoric resources include chert or obsidian flakes, projectile points, mortars, pestles, dark friable soil containing shell and bone dietary debris, heat-affected rock, or human burials. Historic resources include stone or adobe foundations or walls, structures and remains with square nails, and refuse deposits often in old wells and privies.

24. **Mitigation Measure #6:** Special preparation of subgrades and reinforcement of foundations and floor slabs shall be conducted in full and as described in the Geotechnical Engineering Report 723 Railroad Avenue Residential (June 7, 2006) for the proposed project.

25. **Mitigation Measure #7:** Prior to demolition activities, the 27,000 square foot warehouse shall be sampled for the presence of lead-based paint and asbestos-containing materials. If the building surfaces are determined to contain concentrations of lead at or above regulatory limits, then removal in accordance regulations shall be required prior to demolition activities. If building materials are found to contain asbestos, then removal of the asbestos-containing materials in accordance with applicable regulations shall be required prior to demolition activities.

26. **Mitigation Measure #8:** All aspects of the project shall be subject to design review to ensure compatibility with the surrounding area and satisfaction of the Community Design Guidelines and other applicable principles of good neighborhood design. Prior to issuance of a building permit for each phase of construction of the project, the builder shall submit full architectural renderings, including building elevations and floor plans, for design review and approval.

27. **Mitigation Measure #9:** A solid noise barrier 13-feet in height shall be constructed on the southerly property line and a solid noise barrier 10-feet in height shall be constructed on the easterly property line prior to occupancy of the residential units and combined with a 10 dB noise level reduction (correction) in order to comply with the City's exterior noise standards. The barriers should be constructed of concrete masonry (CMU) units, solid concrete panels, earth berms, or any combination of these. Proposed designs/materials for the barriers shall be reviewed and approved by a qualified acoustical consultant prior to construction to ensure that they achieve the required reduction in exterior noise levels.

28. **Mitigation Measure #10:** In order to achieve compliance with the City's interior noise level standards for the residential units along the southerly property line of the project site, STC 40 rated window assemblies shall be required for all second and third floor windows with a view of the Double M Trucking facility. In order to achieve compliance with the City's interior noise level standards for the residential units along the easterly property line of the project site, STC 35 rated window assemblies shall be required for all second floor windows with a view of the Double M Trucking facility. Air conditioning or other suitable mechanical ventilation shall be provided for all residential and office units to allow residents and office users to close windows for the desired acoustical isolation. The building plans for these residences shall be reviewed and approved by a qualified acoustical professional to identify the acoustical treatments necessary to meet the City's interior noise level standards.

29. **Mitigation Measure #11:** A disclosure statement shall be provided to all prospective homebuyers disclosing that the Double M Trucking facility is located adjacent to and the Mariani Nut Company facilities near the Anderson Place Subdivision project and noise from both the Double M and Mariani facilities will be experienced at the Anderson Place project.

30. **Mitigation Measure #12:** The applicant shall fund the preparation of a fiscal impact analysis to examine project impacts on the City's general fund. The applicant shall enter into a Development

Agreement with the City that includes provisions acceptable to the City Council for mitigating any projected fiscal deficit. This may include an on-going Mello-Roos Community Facilities District (CFD) to fund eligible services, a Lighting and Landscaping District which could fund eligible park and landscaping expenses, establishment of an annuity the interest proceeds of which would cover the projected deficit, or other acceptable mechanisms.

31. **Mitigation Measure #13:** The applicant shall pay park mitigation fees to satisfy the obligation for 0.62-acre of developed parkland. Fees shall include both the value of the land and improvements that would otherwise be constructed if the parkland was provided on-site.

32. **Mitigation Measure #14:** The proposed systems for conveying project sewage, water, and drainage shall be finalized and approved by the City Engineer prior to final map. The project is required to fund and construct off-site improvements necessary to support the development. Such improvements could include, but not be limited to a water well, water lines, sewer lines and storm drainage lines. Should property acquisition or additional CEQA clearance be required for off-site improvements, this will be the responsibility of the developer.

33. **Mitigation Measure #15:** The City shall issue building permits only after the new water well is in service.

Community Development

34. Construction activities shall be limited to 7:00 am to 7:00 pm, Monday through Friday only (holidays excluded) in compliance with the City's Noise Ordinance and Standard Specifications. The Applicant shall submit a Construction Noise Control Plan for review and approval by the City prior to acceptance of Final Map. This plan shall address job site noise control and establish protocols for addressing noise complaints. Job site signage with 24-hour contact information for noise complaints shall be included.

35. Foundations shall be poured in place, onsite. No pre-cast foundations will be permitted. This shall be stipulated in all construction contracts.

36. All address numbering shall be clearly visible from the street fronting the property. All buildings shall be identified by either four (4) inch illuminated numbers or six (6) inch non-illuminated numbers on contrasting background. Because the project contains residential units that will be individually owned and will utilize zero lot lines, additional addressing requirements may be necessary as determined by the Fire Department. Naming of streets shall be completed by the Street Naming Committee and the addressing shall be approved by a committee comprised of the Community Development Department, the Fire Department, the Police Department, and the Postal Service.

37. The Applicant shall pay all development impact fees, fees required by other entities, and permit fees.

38. The Applicant shall be responsible for any additional costs associated with the processing of this project including but not limited to: plan check, inspections, materials testing, construction monitoring, and other staff review and/or oversight including staff time necessary to ensure completion/satisfaction of all conditions of approval and mitigation measures. The Applicant shall, on a monthly basis, reimburse the City for all such costs. Project Applicant shall pay all development impact fees adopted by the City Council and shall pay fees required by other entities.

39. The Developer shall obtain the following approvals from the Central Valley Regional Water Quality Control Board, as appropriate: 1) coverage under the NPDES General Permit for Storm Water Discharges Associated with Construction Activities; 2) compliance with post construction storm water Best Management Practices pursuant to the NPDES General Permit for Small Municipal Separate Storm Sewers Systems; 3) 401 Water Quality Certification for wetlands impacts; 4) Dewatering Permit under Waste Discharge Requirements General Order for Dewatering and Other Low Threat Discharges to Surface Waters Permit.

40. The main electrical panel for each residence and shall be located at the exterior of the residence and capable of total electrical disconnect by a single throw. This same requirement shall apply to each office suite unless waived by the Fire and Community Development Departments.

41. A minimum one-hour occupancy separation shall be required for common walls separating residential units. A minimum one-hour occupancy separation shall be required also for common walls separating commercial and residential units. Wall construction shall be approved by the Fire and Community Development Departments.

42. All wall assemblies separating dwelling units shall comply with Sound Transmission Control per 2001 California Building Code Section 1208.

43. A deed restriction shall be recorded against the nine lots containing office suites to preclude their use as and conversion to residential rental space. The deed restriction shall also preclude the installation of a gas or electric cooking appliance and a bathtub or shower in the office suites. The deed restriction shall be recorded concurrently with the Final Map.

44. The applicant shall form a homeowners association for the project. A draft of the conditions, covenants, and restrictions (CC&Rs) necessary for the association shall be provided to City staff for review and approval. The CC&Rs shall be recorded concurrently with the Final Map.

Design Review

45. Prior to recordation of the Final Map, a deed restriction shall be recorded against each property that precludes conversion of garage area to livable areas.

46. Units on opposing sides of a street shall be compatible in terms of design and color.

47. Lights along local streets shall not exceed 20-feet in height and shall be spaced to meet illumination/safety requirements. Lights along collector and arterial streets shall be as low as feasible in order to maintain pedestrian scale. Historic-style street lamps shall be used along all streets including the private internal streets.

48. Exterior colors on residential units shall not be restricted.

49. Landscaping and signage shall be consistent with the applicable requirements of Chapters 17.76 (Landscaping and Design) and 17.80 (Signs) of the Winters Municipal Code.

50. The developer shall offer universal design features in residential units pursuant to State Law and shall provide prospective buyers with a copy of the State's most current "New Home Universal Design Option Checklist". A copy of the checklist shall be provided to the Winters Community Development Department prior to its use.

51. Details for the sound barrier and landscaping along the west and south sides of the project shall be provided for City review and approval during a subsequent Site Plan (Design Review) for the project.

Affordable Housing

52. Prior to recordation of the Final Map, an inclusionary housing agreement shall be prepared and executed for the identified income-restricted units/properties. Deed restrictions shall be recorded against four lots or four residential units to ensure permanent affordability. All agreements necessary for the affordable housing units shall be reviewed and approved by City staff. Of the four affordable units, two shall be restricted to very low-income households, one shall be restricted to a low-income household, and one shall be restricted to a moderate-income household.

53. The construction of the affordable units shall keep pace or exceed the construction of the market rate units.

54. Pursuant to Policy II.A.13 of the Housing Element, the affordable units shall be visually indistinguishable from the market-rate units.

Street Improvements

55. All proposed roads within the subdivision shall comply with the City's Public Works Improvement Standards and Construction Specifications, dated September 2003 and as amended, unless otherwise approved by the City. Other than Anderson Avenue and Railroad Avenue, all other streets shall be privately owned streets.

56. Anderson Avenue shall be constructed to Collector Street improvement standards with a 50-foot right of way, 40-feet face of curb to face of curb and 5-foot sidewalks each side to the existing Railroad Avenue roadway.

57. Anderson Avenue at the intersection of Railroad Avenue – Developer shall construct roadway and curb, gutter, and sidewalk improvements to the existing Railroad Avenue roadway to the satisfaction of the City Engineer.

58. Railroad Avenue:

    a) Interim Railroad Avenue improvements to include interim landscaping within the future roadway on east side of Railroad Avenue, with a 10-foot concrete pedestrian/bike path from the northern terminus of this development to the southern terminus of the development.

    b) Developer shall design and construct permanent and temporary pedestrian and bicycle improvements on Railroad Avenue from the project site to Grant Avenue (SR 128). On the east side of Railroad Avenue, improvements shall consist of constructing a temporary off-street Class I pedestrian/bicycle asphalt concrete (AC) path from the project site south boundary to Grant Avenue. The path shall be a minimum of 8 feet wide within the existing right of way.

    c) No parking shall be allowed on Railroad Avenue.

    d) Developer shall install roadway striping and markings as required by the City Engineer.

59. Local Streets: Local streets shall provide for ADA compliant sidewalk turnouts where sidewalk widths do not meet ADA requirements. All sidewalks at driveway locations shall be 6-inch thick Portland Cement Concrete (PCC).

60. Tentative Map Anderson Avenue Street Cross Section, dated June 5, 2006. Conditions and Changes shall be made as follows: ***Anderson Avenue shall be extended to existing Railroad Avenue with full collector roadway improvements with 40-foot curb to curb roadway width and 5-foot sidewalks on each side.***

    a) Street Cross section details as modified by these conditions of approval, including all intersection geometric design, complying with the conditions of approval, shall be revised on tentative map, submitted to the City, and approved by the City Engineer prior to submitting a final map and improvement plans.

    b) A signing and striping, and stop plan is required and shall be approved by the City Engineer. All signing and stripping shall be in accordance with the City of Winters Public Improvements Standards and Construction Standards.

    c) Street light types shall be those historic types as approved by the City.

61. The internal roadway in the C-2/southerly portion of the project shall be one-way, have a minimum roadway width of 20-feet and minimum vertical clearance of 14-feet, and be signed and striped for no parking. The internal roadway for in the O-F/northerly portion of the project shall have a minimum roadway width

approved by the Winters Fire Department, have a minimum vertical clearance of 14-feet, and be signed and striped for no parking.

Storm Drainage and Site Grading

62. A comprehensive storm drainage plan shall be prepared by a registered civil engineer for project watershed(s), including the plan area. The plan shall identify specific storm drainage design features to control increased runoff from the project site. The drainage plan shall demonstrate the effectiveness of the proposed storm drainage system to prevent negative impacts to existing upstream and downstream facilities and to prevent additional flooding at off-site downstream locations. All necessary calculations and assumptions and design details shall be submitted to the City Engineer for review and approval. The design features proposed by the applicant shall be consistent with the most recent version of the City's Storm Drainage Master Plan criteria and City Public Works Improvement Standards. The plan shall incorporate secondary flood routing analysis and shall include final sizing and location of on-site and off-site storm conduit channels, structures. The Storm Drainage Plan shall be submitted for approval prior to submittal of the final map and/or construction drawings for checking. The applicant shall pay the cost associated with all improvements required by the plan.

63. A topographic survey of the entire site and a comprehensive grading and drainage plan prepared by a registered civil engineer, shall be required for the development. The plan shall include topographic information on adjacent parcels. In addition to grading information, the grading plan shall indicate all existing trees, and trees to be removed as a result of the proposed development, if any. A statement shall appear on the site grading and drainage plan, which shall be signed by a registered civil engineer or land surveyor and shall read, "I hereby state that all improvements have been substantially constructed as presented on these plans". Reference the City of Winters Public Improvements Standards and Construction Standards for additional requirements.

64. The Tentative map Grading and Drainage plan showing grading and drainage information including topographic information, drainage routing, pipe slopes and sizing and locations and excluding topographic information, and overland drainage routing are preliminary only and do not constitute approval in any way. Final approval for the grading and Drainage Plan shall occur with the final improvements based on the requirements set forth in these conditions of approval.

65. On-site Drainage utilities within the private streets shall be privately owned.

66. Construction materials for storm drainpipes within the water table shall be pre-cast rubber-gasket reinforced concrete pipe (RGRCP).

67. The differential in elevation between rear and side abutting lot lines shall not exceed twelve inches (12") without construction of concrete or masonry block retaining walls. Deviation from this condition may be allowed subject to approval by the City Engineer.

68. Drainage fees shall be paid prior to issuance of a building permit.

69. All perimeter parcels and lots shall be protected against surface runoff from adjacent properties in a manner acceptable to the City Engineer.

70. If disposal and sharing of the excavated soil from the construction of the Development occurs, prior to approval of the first Final Map, Applicant shall prepare a written agreement with the other participating property owners and submit to the City.

71. All projects shall include implementation of post-construction best management practices (BMP). Post construction BMP's shall be identified on improvement plans and approved by the City Engineer.

72. Construction of projects disturbing more than one acre of soil shall require a National Pollution Discharge Elimination System (NPDES) construction permit.

73. Applications/projects disturbing less than one acre of soil shall implement BMP's to prevent and minimize erosion. The improvement plans for construction of less that one acre shall include a BMP to be approved by the City Engineer.

74. An erosion and sedimentation control plan shall be included as part of the improvement plan package. The plan shall be prepared by the applicant's civil engineer and approved by the City Engineer. The plan shall include but not be limited to interim protection measures such as benching, sedimentation basins, storm water retention basins, energy dissipation structures, and check dams. The erosion control plan shall also include all necessary permanent erosion control measures, and shall include scheduling of work to coordinate closely with grading operations. Replanting of graded areas and cut and fill slopes is required and shall be indicated accordingly on plans, for approval by City Engineer.

75. Where possible landscaped slopes along streets shall not exceed 5:1; exceptions shall require approval of the City Engineer. All other slopes shall comply with the City of Winters Public Works Improvements Standards. Level areas having a minimum width of two (2) feet shall be required at the toe and top of said slopes.

76. All inactive portions of the construction site, which have been graded will be seeded and watered until vegetation is grown.

77. Grading shall not occur when wind speeds exceeds 20 MPH over a one hour period.

78. Construction vehicle speed on unpaved roads shall not exceed 15 MPH.

79. Construction equipment and engines shall be properly maintained.

80. If air quality standards are exceeded in May through October, the construction schedule will be arranged to minimize the number of vehicles and equipment operating at the same time.

81. Construction practices will minimize vehicle idling.

82. Potentially windblown materials will be watered or covered.

83. Construction areas and streets will be wet swept.

Wastewater and Sewer Collection System

84. The Applicant shall obtain a no-cost Wastewater Discharge Permit from the Public Works Department prior to the issuance of a Building Permit.

85. The property shall be connected to the City of Winters sewer system, with a separate sewer lateral and cleanout required for each parcel, in accordance with City of Winters Public Improvement Standards and Construction Standards.

86. On site sewer utilities within the private streets shall be privately owned.

87. A Tentative Map Sewer Collection System Plan shall be submitted for approval by the City Engineer prior to submittal of the final map and/or construction drawings for checking. A registered civil engineer for project shall prepare the sewer collection system plan. The plan shall include final sizing and location of on-site conveyance facilities, structures, and engineering calculations.

88. The Tentative Map Sewer Plan showing sewer routing, pipe slopes and sizing and locations, are preliminary only and do not constitute approval in any way. Final approval for the Sewer Plan shall occur with the final improvements based on the requirements set forth in these conditions of approval.

89. Construction of sewer mains deeper than 16-feet at the bottom of the pipe shall be connected to laterals by parallel mains and connections at manholes.

Water Infrastructure

90. Based on City water modeling, a new well is needed to serve the development. Per Mitigation Measure #15, no building permits shall be issued until the new well is in service.

91. The Tentative Map Water Plan showing water routing, sizing and locations, are preliminary only and do not constitute approval in any way. Final approval for the Water Plan shall occur with the final improvements based on the requirements set forth in these conditions of approval. Applicant shall comply with making changes to water system distribution pipe sizes and alignments based on the results of the specific water modeling performed for the development. If required, Applicant shall pay for all required water modeling for identifying water infrastructure needs to serve its development and shall construct offsite water improvements to connect to the City water distribution system.

92. The property shall be connected to the City of Winters water system, with a separate water lateral and meter required for each parcel, in accordance with City of Winters Public Improvement Standards and Construction Standards.

93. On site water utilities within private streets shall be privately owned.

94. At the time the Final Map is approved, the applicant will be required to pay the appropriate City connection fees. All domestic water services will be metered. Water meters shall be installed on all water services to the satisfaction of the City Engineer.

95. Per City of Winters Cross Connection Control Program, all types of commercial buildings and landscape irrigation services are required to maintain an approved backflow prevention assembly, at the applicant's expense. Service size and flow-rate for the backflow prevention assembly must be submitted. Location of the backflow prevention assembly shall be per the City of Winters Public Improvements Standards and Construction Standards. Prior to the installation of any backflow prevention assembly between the public water system and the owner's facility, the owner or contractor shall make application and receive approval from the City Engineer or his designated agent.

96. Per the City of Winters Cross Connection Control Program, fire protection systems are required to maintain approved backflow prevention, at the applicant's expense. Required location, service size and flow-rate for the fire protection system must be submitted. Actual location is subject to the review and approval of the Public Works Department, Fire Department, and Community Development Department.

97. The City of Winters Plan Review Fee applies and is due upon submittal of the maps and plans for review.

98. FINAL PLANS, PERIODIC TESTS FOR FIRE HYDRANTS: All final plans for fire hydrant systems and private water mains supplying a fire hydrant system shall be submitted to the City of Winters Fire Department for approval prior to construction of the system. The applicant shall install fire hydrants on the project's Railroad Avenue frontage, Anderson Avenue frontages, along the internal roadways, and potentially in other locations. The number and locations of the fire hydrants shall be determined by the Fire Chief. All fire protection systems and appurtenances thereto shall be subject to such periodic tests as required by the City of Winters Fire Department.

99. WATER PRESSURE: All water lines and fire hydrant systems must be approved by the Fire Chief and operating prior to any construction taking place on the site. Prior to issuance of building permits, water flow must be measured and certified for adequacy by the Winters Fire District. The minimum residual pressure shall be 20 PSI.

100. REFLECTORS FOR FIRE HYDRANTS: Any fire hydrant installed will require, in addition to the blue reflector noted in Standard Drawings, an additional blue reflector and glue kit that is to be supplied to the City of Winters Fire Department for replacement purposes.

101. All construction, new or remodeling, shall conform to the most current Uniform Fire Codes, the Winters Fire Prevention Code, and section of the National Fire Codes that the Winters Fire Chief or his/her agent may find necessary to apply.

102. Forty-eight hours notice shall be given to the Winters Fire District prior to any site inspections.

103. A hydrant use permit shall be obtained from the Public Works Department, for water used in the course of construction.

104. When the fire protection facilities are in the City of Winters, the developer shall contact the Winters Fire District Chief or his/or agent prior to construction for a pre-construction meeting.

105. All required fire accesses that are to be locked shall be locked with a system that is approved by the Fire Chief or his/her agent.

106. Submit four sets of plans for each fire suppression sprinkler system to the Fire Department for review and approval prior to the issuance of each building permit.

107. All buildings shall have fire suppression sprinkler systems meeting or exceeding NFPA 13 and local Fire Department standards. Water laterals shall be appropriately sized to accommodate sufficient water flows for fire suppression sprinkler systems. All occupants of each of the project's buildings shall be notified of a water flow in that building's fire suppression system; the Winters Fire Department shall approve the type, locations, and audible decibel level of the internal water flow alarms. Each of the project's buildings shall have an external horn and strobe unit that is approved by the Winters Fire Department. Individual fire department connections shall be installed for each of the project's buildings.

Backflow devices for each Fire Department connection shall be approved by the City Engineer and the Winters Fire Department. Each device shall be fitted with OS&Y valves at each end. Each system shall be supervised so the general water flow can be detected and water flow to each office or residential unit can be detected. Supervised systems shall be monitored on a 24-hour basis, 7 days per week by an approved monitoring station that can then report the water flow situation to the Fire Department's dispatch center.

General Public Works and Engineering Conditions

108. The conditions as set forth in this document are not all inclusive. Applicant shall thoroughly review all City, state, and federal planning documents associated with this tentative map and comply with all regulations, mitigations and conditions set forth.

109. Closure calculations shall be provided at the time of initial map check submittal. All calculated points within the map shall be based upon one common set of coordinates. All information shown on the map shall be directly verifiable by information shown on the closure calculation print out. The point(s) of beginning shall be clearly defined and all lot acreage shall be shown and verifiable from information shown on the closure calculation print out. Additionally, the square footage of each lot shall be shown on the subdivision map. Reference the City of Winters Public Improvements Standards and Construction Standards for additional requirements.

110. A subdivision map shall be processed and shall be recorded prior to issuance of a building permit. The Developer shall provide, to the City Engineer, one recorded Mylar copy and four print copies of the Final Map from the County, prior to issuance of the first building permit.

111. U.S. Post Office mailbox locations shall be shown on the improvement plans subject to approval by the City Engineer and Postmaster.

112. A registered landscape architect shall design public landscape and privacy wall improvements and improvements shall be per City Standards, as applicable.

113. Applicant shall make every attempt to submit joint trench/utility/composite plans for review, prior to approval of the Final Map and improvement plans. Construction will not be allowed to proceed prior to submittal of the joint trench/utility/composite plans for City review.

114. All existing and proposed utilities (electric, phone/data, and cable) shall be installed underground per the subdivision ordinance and shall meet the policies, ordinances, and programs of the City of Winters and the utility providers.

115. Street lighting location plan shall be submitted and approved by the City Engineer, prior to approval of improvement plans and final recordation of Map.

116. Roads must be constructed and paved prior to issuance of any building permit. Under specific circumstances, temporary roads may be allowed, but must be approved by the City Engineer and Fire Department.

117. Occupancy of residential units shall not occur until on-site and off-site improvements have been accepted by the City Council and the City has approved as-built drawings, unless otherwise approved by the City Engineer and Community Development Director. Applicants, and/or owners shall be responsible to so inform prospective buyers, lessees, or renters of this condition.

118. If relocation of existing facilities is deemed necessary, the applicant shall perform the relocation, at the Applicant's expense unless otherwise provided for through a reimbursement agreement. All public utility standards for public easements shall apply.

119. A Subdivision Improvement Agreement shall be entered into and recorded prior construction of improvements, issuance of any building permits, or recordation of a Final Map.

120. At the time of making the survey for the Final Map, the engineer or surveyor shall set sufficient durable monuments to conform to the standards described in Section 8771 of the Business and Professions Code. All monuments necessary to establish the exterior boundaries of the subdivision shall be set or referenced prior to recordation of the Final Map.

Easements and Right of Way

121. Appropriate easements shall be required for City maintained facilities located outside of City owned property or the public right-of-way.

122. The Applicant shall facilitate, with City cooperation, the abandonment of all City easements and dedications currently held but no longer necessary as determined by the City.

123. A ten (10) foot public utility easement back of sidewalk, adjacent to all public streets within the development shall be dedicated to the City. Additional easements shall be dedicated as requested by the utility companies and approved by the City.

Reimbursements for Applicant Installed Improvements

124. Applicant shall pay appropriate reimbursements for benefiting improvements installed by others, in the amount and at the time specified by existing reimbursement agreements.

125. Project proponents shall enter into the City wide Landscape and Lighting Maintenance District, in order to maintain and provide for the future needs of parks, open space, street lighting, landscaping, sound walls, and other related aspects of development. The project proponent is responsible for all costs associated with this condition. The project proponent shall fulfill this condition prior to the sale of any buildable lots or parcels within the project area.

126. Prepare, and submit for approval, a utility site plan prior to preparation of full improvement plans.

127. Prepare improvement plans for any work within the public right-of-way and submit them to the Public Works Department for review and approval. The improvement plan sheets shall include the title block as outlined in the City of Winters Public Improvements Standards and Construction Standards. This submittal is separate from the building permit submittal. The Developer shall provide, to the City Engineer, one Mylar original and four sets of the improvement plans and electronic media (AutoCAD .DWG or DXF on Zip Disk or Compact Disk), for approval of plans by the City Engineer.

128. Conform to County Health regulations and requirements for the abandonment of a septic tanks and water wells.

129. Existing public and private facilities damaged during the course of construction shall be repaired by the subdivider, at his sole expense, to the satisfaction of the City Engineer.

130. The area of each lot, in square feet, shall be calculated and shown on the Final Map.

131. Encroachment permits if necessary shall be acquired from Yolo County, Caltrans, and PG&E.

132. All utility poles that are to be relocated in conjunction with this project shall be identified on the improvement plans, with existing and proposed locations indicated.

133. All public landscape areas shall include water laterals with meters and PG&E power service points for automatic controllers.

134. If improvements are constructed and/or installed by a party or parties other than the Applicant, which improvements benefit Applicant's property, prior to issuance of a building permit (approval of the final map) on Applicant's property, Applicant shall pay a proportionate share of the costs of said improvements, including interest, prior to the issuance of building permit(s) (approval of the Final Map) to Applicant.

ANDERSON PLACE/TM COAs CC 3Apr07

RESOLUTION NO. 2007-xx

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS FINALIZING AND APPROVING THE MITIGATED NEGATIVE DECLARATION FOR THE ANDERSON PLACE SUBDIVISION

WHEREAS, the Anderson Place Subdivision site (APN 003-220-22) consists of approximately 2.13 acres located north of Grant Avenue (State Route 128), south of Betty Court, east of the existing section of Anderson Avenue, and west of Dutton Street at 723 Railroad Avenue, Winters, California 95694;

WHEREAS, on May 19, 1992 the city adopted the General Plan and certified the General Plan EIR. The General Plan identifies that future commercial and residential growth will occur on this parcel and others in the area;

WHEREAS, on April 21, 2006 the applicant submitted an application for the Anderson Place Project which was found to be complete on September 15, 2006;

WHEREAS, on September 28, 2006 a draft Mitigated Negative Declaration was released for public review for a 22-day period during which time two timely comment letters were received;

WHEREAS, pursuant to Section 15070(b)(2) of the CEQA Guidelines, the applicant has agreed to the mitigation measures identified in the Final Mitigation Monitoring Plan.

WHEREAS, all comments received on the Mitigated Negative Declaration have been fully addressed;

WHEREAS, two neighborhood workshops were held on the project on February 21, 2006 and February 26, 2006 and a public workshop was held on the project on March 28, 2006;

WHEREAS, a three legally noticed public hearing on the project have been held before the Planning Commission (October 30, 2006, November 28, 2006, and December 19, 2006) in order to receive input and testimony;

WHEREAS, four legally noticed public hearings on the project have been held before the City Council (February 20, 2007, March 6, 2007, March 20, 2007, and April 3, 2007) in order to receive input and testimony;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Winters that:

1. The City Council has considered the proposed Mitigated Negative Declaration (original and revised) before making a decision on the project.

2. The City Council has considered comments received on the Mitigated Negative Declaration during the public review process;

3. The City Council finds that the environmental checklist/initial study identified potentially significant effects, but: a) mitigation measures agreed to by the applicant before the mitigated negative declaration and initial study were released for public review would avoid the effects or mitigate the effects to a point where clearly no significant impact would occur; and b) there is no substantial evidence, in light of the whole record before the City, that the project as revised to include the mitigation measures may have a significant effect on the environment.

4. The Mitigated Negative Declaration reflects the independent judgment and analysis of the City of Winters.

5. The Mitigated Negative Declaration has been prepared in compliance with CEQA and the State CEQA Guidelines, and is determined to be complete and final.

6. The custodian of the documents, and other materials, which constitute the record of proceedings is the Community Development Director. The location of these items is the office of the Community Development Department at City Hall, 318 First Street, Winters, California 95694.

7. The Mitigation Monitoring Plan in Exhibit A, attached hereto and incorporated herein by this reference is hereby adopted to ensure implementation of mitigation measures identified in the Mitigated Negative Declaration. The City Council finds that these mitigation measures are fully enforceable as conditions of approval of the project, and shall be binding on the applicant, future property owners, and affected parties.

8. The City Council has determined that no special findings related to proximity to public use airports, pursuant to Section 15074(e) of the CEQA Guidelines, are required.

9. The City Council hereby adopts the Anderson Place Subdivision Mitigated Negative Declaration in Exhibit B, attached hereto and incorporated herein by this reference.

10. The City Council hereby confirms that the modified mitigation measures have been made conditions of approval and are incorporated fully into the project approval.

11. A Notice of Determination (NOD) shall be filed with the County Clerk immediately following approval of the project. Appropriate Department of Fish and Game fees shall be filed.

I HEREBY CERTIFY THAT the foregoing resolution was duly and regularly adopted by the City Council of the City of Winters, County of Yolo, State of California, on the 3rd day of April, 2007 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Woody Fridae, Mayor

ATTEST:

_____
Nanci G. Mills, City Clerk

Exhibits:
A – Final Mitigation Monitoring Plan
B – Mitigated Negative Declaration

ANDERSON PLACE/TM ND CC Res 3Apr07

RESOLUTION NO. 2007-xx

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS APPROVING THE ANDERSON PLACE SUBDIVISION

WHEREAS, the Anderson Place Subdivision site (APN 003-220-22) consists of approximately 2.13 acres located at 723 Railroad Avenue and north of Grant Avenue (State Route 128), south of Betty Court, east of the existing section of Anderson Avenue, and west of Dutton Street at 723 Railroad Avenue in the City of Winters in Yolo County, California;

WHEREAS, on May 19, 1992 the city adopted the General Plan and certified the General Plan EIR. The General Plan identifies that future residential growth will occur on this parcel and others in the area;

WHEREAS, on April 21, 2006 the applicant submitted an application for the Anderson Place Project which was found to be complete on September 15, 2006;

WHEREAS, a public workshop on the project was held March 28, 2006 before the Planning Commission;

WHEREAS, a legally noticed public hearing on the project was held December 19, 2006 before the Planning Commission at which time the Commission voted 6-1 to recommend approval of the project;

WHEREAS, a legally noticed public hearing on the project was held March 6, 2006 before the City Council to take final action on the project;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Winters that:

1) Tentative Subdivision Map No. 4859 is hereby approved (Exhibit x).

2) The City's Circulation Master Plan (May 19, 1992) and Standard Street Cross Sections (adopted October 2, 2001; City Council Resolution 2001-61) are hereby amended to: a) allow Anderson Avenue to be constructed to Collector Street improvement standards with a 50-foot right of way, 40-feet face of curb to face of curb roadway section, and 5-foot sidewalks each side to the existing Railroad Avenue roadway and b) allow interim Railroad Avenue improvements to include interim landscaping within the future roadway on east side of Railroad Avenue, with a 10-foot concrete pedestrian/bike path from the northern terminus of the development to the southern terminus of the development.

3) A Conditional Use Permit to allow the construction of multi-family housing in the O-F and C-2 Zones is hereby approved.

4) Site Plan for the design of the residences and office suites and the conceptual landscaping for the subdivision feature/green space area ("Lot B"), the Railroad Avenue frontage, and internal areas is hereby approved.

5) Demolition permit to remove one existing structure on the property is hereby approved.

6) All actions herein are subject to the Findings of Fact and Conditions of Approval in Exhibit x, attached hereto and incorporated herein by this reference.

I HEREBY CERTIFY THAT the foregoing resolution was duly and regularly adopted by the City

Council of the City of Winters, County of Yolo, State of California, on the 3rd day of April, 2007 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____

Woody Fridae, Mayor

ATTEST:

_____

Nanci G. Mills, City Clerk

Exhibits:
A – Findings of Fact and Conditions of Approval
B – Tentative Map No. 4859

ANDERSON PLACE/TM CC Approval Res 2007-xx 3Apr07

CITY COUNCIL
ORDINANCE NO. 2007-xx

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WINTERS REZONING THE ANDERSON PLACE PROPERTY AND ADOPTING PLANNED DEVELOPMENT PERMIT 2007-02 (APN 003-220-22)

The City Council of the City of Winters, State of California, does hereby ordain as follows:

1. Purpose. The purpose of this ordinance is to rezone the Anderson Place property as specified below and to adopt Planned Development Permit 2007-02.

2. Authority. The City of Winters has authority to adopt this ordinance pursuant to the general police power granted to cities by Article 11, Section 7 of the California Constitution.

3. Rezoning. The subject property is hereby rezoned as shown on Exhibit B, attached hereto and incorporated herein by this reference.

4. Planned Development Permit. Planned Development Permit No. 2007-02 is hereby adopted as a part of the rezoning to allow a) lot sizes less than the minimums for the C-2 and O-F Zones, b) lot widths/depths less than the minimums for the C-2 and O-F Zones, c) floor area ratios less than the minimums for the C-2 and O-F Zones, d) setbacks less the minimums for the C-2 and O-F Zones, e) off-street parking spaces less than the minimums for multi-family housing and office uses, and f) the sound barriers for the south and east sides of the project to exceed the maximum fence/wall height of the Winters Municipal Code (Title 17, Zoning).

5. Effective Date and Notice. This ordinance shall take effect thirty (30) days after its adoption and, within fifteen (15) days after its passage, shall be published at least once in a newspaper of general circulation published and circulated within the City of Winters.

INTRODUCED at a regular meeting on April 3, 2007 and **PASSED AND ADOPTED** at a regular meeting of the Winters City Council, County of Yolo, State of California, on the 17th day of April 2007, by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

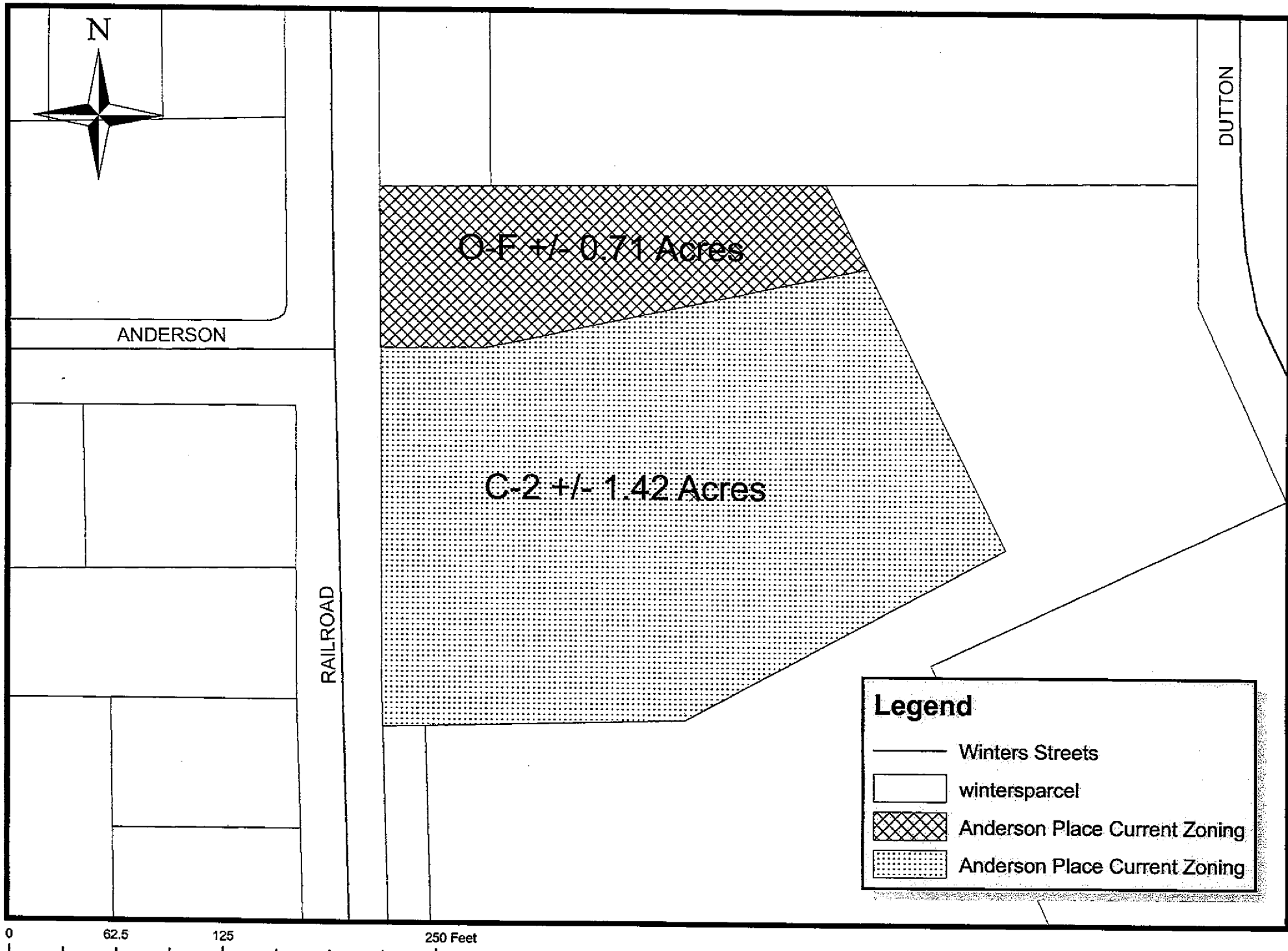
_____
Woody Fridae, MAYOR

ATTEST:

_____
Nanci G. Mills, CITY CLERK

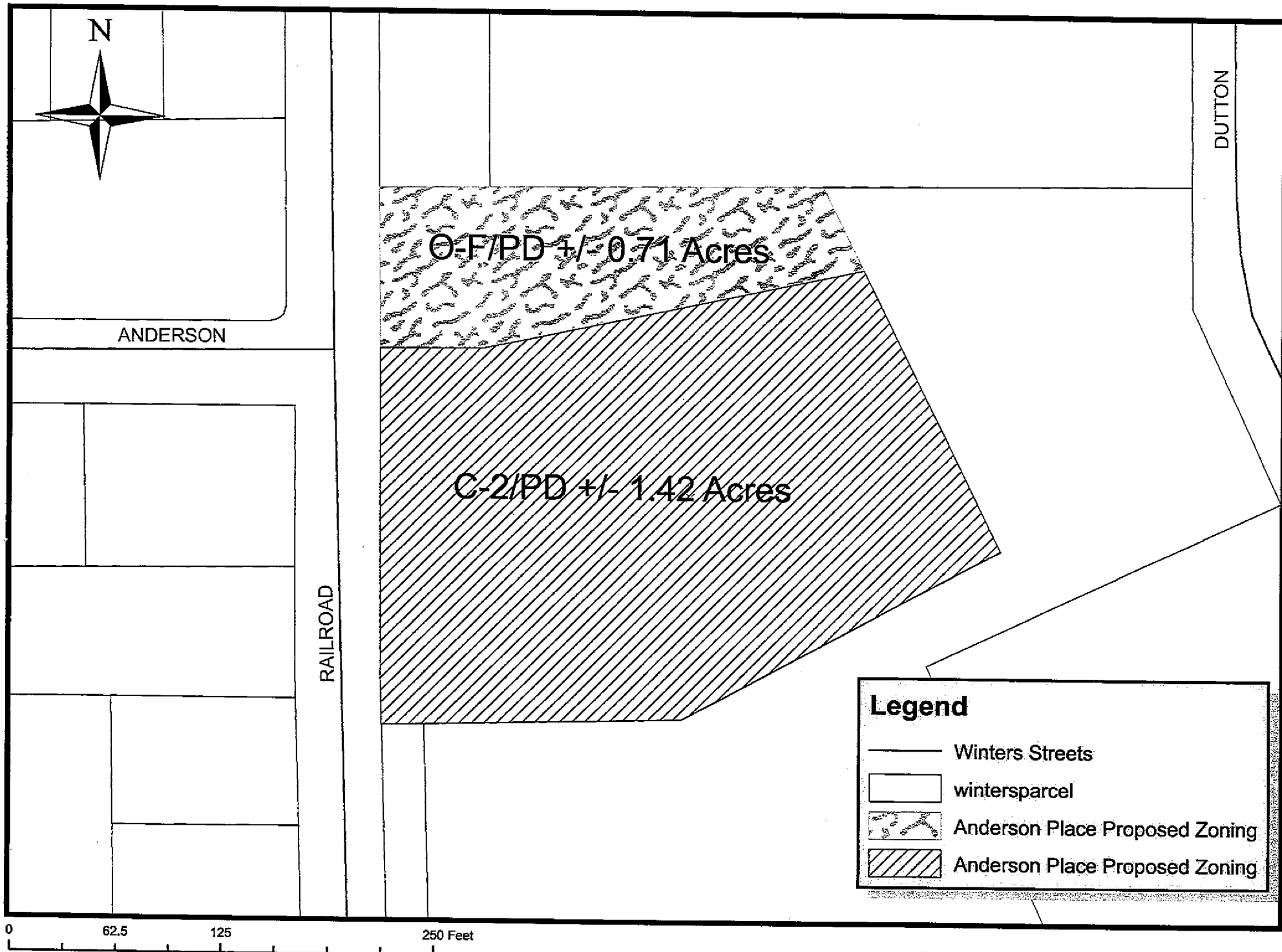
Exhibits
Rezoning Exhibits (2)
Planned Development Permit 2007-02

Anderson Place: Exhibit "A" Current Zoning Plan Exhibit



Prepared by Jen Michaelis, Winters Community Development Department

Anderson Place: Exhibit "B" Proposed Zoning Plan Exhibit



Prepared by Jen Michaelis, Winters Community Development Department

PLANNED DEVELOPMENT (PD) PERMIT No. 2007-02
ANDERSON PLACE SUBDIVISION
APN 003-220-22
Approved April 17, 2007

TERM: Unlimited term pursuant to the requirements of Section 17.48.050 of the Winters Municipal Code (Title 17, Zoning) and subject to compliance with the conditions of approval.

LOT SIZES: Less than the minimums for the C-2 and O-F Zones as detailed on the tentative map and site plan for the project.

LOTS WIDTHS/DEPTHS: Less than the minimums for the C-2 and O-F Zones as detailed on the tentative map and site plan for the project.

FLOOR AREA RATIOS: Less than the minimums for the C-2 and O-F Zones as detailed on the tentative map and site plan for the project.

SETBACKS: Less than the minimums for the C-2 and O-F Zones as detailed on the tentative map and site plan for the project.

OFF-STREET PARKING: Less than the minimums for multi-family housing and office uses as detailed on the tentative map and site plan for the project.

SOUND BARRIERS: Sound barriers on the south and east sides of the project in excess of the Winters Municipal Code (Title 17, Zoning) maximum height for fences/walls as detailed in the Mitigation Monitoring Plan for the project.

ORDINANCE NO. 2007-xx

**AN ORDINANCE OF THE
CITY COUNCIL OF THE
CITY OF WINTERS
ADOPTING A DEVELOPMENT AGREEMENT
(ANDERSON PLACE PROPERTY)**

THE CITY COUNCIL OF THE CITY OF WINTERS HEREBY ORDAINS AS FOLLOWS:

Pursuant to the provisions of Government Code §65864 et seq. and Chapter 2 of Title 11 of the Winters City Code, the City Council of the City of Winters hereby:

1. Adopts and approves that certain document entitled "**AN AGREEMENT BETWEEN THE CITY OF WINTERS AND G STREET SAN BERNADINO, LLC RELATING TO THE DEVELOPMENT OF THE PROPERTY COMMONLY KNOWN AS THE ANDERSON PLACE PROPERTY.**"

2. Authorizes and directs the Mayor to sign the document on behalf of the City after the second reading of this ordinance and after it has first been signed by a duly authorized representative of G Street San Bernadino, LLC.

3. Authorizes and directs the City Clerk to record the document, after it is signed by both parties, in the Office of the Recorder of Yolo County.

PASSED AND ADOPTED THIS 17th day of April, 2007 on the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Woody Fridae, MAYOR

Attest:

Nanci G. Mills, CITY CLERK

A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF WINTERS AND SAN BERNADINO, LLC RELATING TO THE DEVELOPMENT OF THE PROPERTY COMMONLY KNOWN AS THE ANDERSON PLACE PROPERTY

THIS DEVELOPMENT AGREEMENT ("Agreement") is entered into between the CITY OF WINTERS, a municipal corporation (the "City"), and San Bernadino, LLC, a California limited liability company (the "Developer"), under the authority of § 65864 *et seq.* of the Government Code of the State of California and Chapter 2 of Title 11 of the Winters Municipal Code. This Agreement is effective on the date it is recorded in the Office of the County Recorder of Yolo County. The City and the Developer are sometimes referred to herein as the Parties.

FACTS AND CIRCUMSTANCES

This Agreement is entered into based on the following facts and circumstances, among others:

1. The City of Winters is a small city in Yolo County which, among other things, prides itself in being a clean, safe, and family-friendly place to live.

2. In order to meet the needs of the City and the Developer, the Parties agree that the best method of planning the residential development of the Property owned by the Developer, commonly known as the Anderson Place Property and further described in Exhibits A and B to this Agreement, is through the use of a Development Agreement as authorized by the Planning and Zoning Law, Division 1, Chapter 4, Article 2.5(commencing with California Government Code § 65864)

[entitled "Development Agreements"] and Title 11, Chapter 2 of the Winters Municipal Code [entitled "Development Agreements"].

3. It is the intent of the Parties in entering into this Agreement to provide a mechanism by which the City's General Plan may be implemented in a manner which provides the Developer certain vested rights to develop the Anderson Place Property in exchange for planning and financial commitments by the Developer which will mitigate the impact of new development on the City's infrastructure and its ability to provide municipal services, while providing the City with sufficient discretionary control and police power authority to protect the health, safety, and general welfare.

THE PARTIES AGREE AS FOLLOWS:

TABLE OF CONTENTS

This Agreement is divided into articles, sections, and subsections as set forth below. The title of an article, section, or sub-section is for the convenience of the Parties only and a title is not intended to alter the content or meaning of any article, section or subsection.

Article 1. Definitions

Article 2. General Provisions

Article 3. Development of the Property

Article 4. Special Development Obligations

Article 5. Default, Remedies, and Dispute Resolution

Article 6. Hold Harmless and Indemnification

ARTICLE 1
DEFINITIONS

The following words and phrases used in this Agreement shall have the meanings set forth in this Article. All words not specifically defined shall be deemed to have their common meaning and/or the meaning generally given to such words in the parlance of the planning and development of real property in the State of California.

Section 1.1 "Agreement" means this Development Agreement.

Section 1.2 "Application fees" means the amount paid by the Developer for the processing of any land use entitlement or for an amendment to this Agreement.

Section 1.3 "Building Permit" means the ministerial permit issued for the construction of a residential housing unit upon the payment of all applicable fees.

Section 1.4 "Anderson Place Property" or "The Property" means the real property which is the subject of this Agreement. It is legally identified as Yolo County Assessor's Parcel No. 003-220-22, and is more specifically shown and described in Exhibits A and B.

Section 1.5 "Anderson Place Tentative Subdivision Map" means the tentative map, and the Conditions of Approval, approved for The Property in accordance with the Subdivision Map Act and the City's Subdivision Ordinance. A copy of the Anderson Place Tentative Subdivision Map #4859 is attached as Exhibit C.

Section 1.6 "Anderson Place Subdivision" means the multi-family residential

development created by the Anderson Place Tentative Subdivision Map.

Section 1.7 "City" means the legal entity known as the City of Winters, a municipal corporation of the State of California. It includes the officers, agents, employees, bodies, and agencies of the City as the context may indicate. It also includes each person duly appointed to carry out a specific function as required in this Agreement. (E.g., the term "City Engineer" includes the person holding that title or any other person designated by the City to perform the functions set forth in the Agreement to be performed by the City Engineer.)

Section 1.8 "City of Winters" means the physical boundaries of the City of Winters.

Section 1.9 "Condition of approval" means a requirement placed on a land use entitlement which must be satisfied in order for the entitlement to be effective. Example: a condition that a road be built at the expense of the Developer and dedicated to the City as a public thoroughfare.

Section 1.10 "Conditions of Approval" means the conditions placed on the approval of the Anderson Place Tentative Subdivision Map. A copy of the Conditions of Approval is attached as Exhibit D.

Section 1.11 "Developer" means San Bernadino, LLC, a California limited liability company and/or its successor(s) in interest.

Section 1.12 "Discretionary Approval" means an action which requires the exercise of judgment, deliberation, or discretion on the part of the City in approving or disapproving a particular activity.

Section 1.13 "Final subdivision map" or "final map" means the map submitted to the City which, once approved under the City's Subdivision Ordinance and the Subdivision Map Act, is recorded in the Official Records of Yolo County and legally creates the residential lots, streets, and other land use features shown on it.

Section 1.14 "Impact Fee" means the amount paid by the Developer to mitigate the impacts of development of The Property for such things as traffic circulation, sewer and water conveyance facilities, and similar matters.

Section 1.15 "Land Use Entitlement" means either a Discretionary Approval or Ministerial Approval.

Section 1.16 "Ministerial Approval" means an action by the City given where there has been compliance with applicable regulations and which does not require the exercise of discretion.

Section 1.17 "Mitigation Measures" means the requirements placed on the development of The Property to cure or lessen the environmental impact of a particular physical activity as identified as part of the analysis done for The Property under the California Environmental Quality Act (CEQA). The Mitigation Measures are a part of Exhibit D, Conditions of Approval.

Section 1.18 "Off-site improvement" means a public improvement constructed outside the physical boundaries of The Property.

Section 1.19 "On-site improvement" means a public improvement constructed within the physical boundaries of The Property.

Section 1.20 "Party" means either the City or the Developer, or their successors, as the context may indicate. "Parties" means both the City and the Developer, or

their successors.

Section 1.21 "Public Improvements" or "Infrastructure" means facilities constructed for use in accommodating residential use on The Property.

Section 1.22 "Vesting law" means any state or federal law which gives the owner of real property the right to develop such property in a specified manner, which right cannot be limited or abrogated by the City.

Section 1.23 "Affiliated Entity" means any entity where members of the Developer are officers, shareholders or employees of such entity.

ARTICLE 2
GENERAL PROVISIONS

Section 2.1 All Exhibits Deemed Incorporated By Reference.

Unless specifically stated to the contrary, the reference to an exhibit by a designated letter or number shall mean that the exhibit is made a part of this Agreement.

Section 2.2 Property to be Developed.

The Property to be developed under this Agreement is the property commonly known in the City of Winters as the Anderson Place Property, Yolo County Assessor's Parcel No. 003-220-22 (consisting of approximately 2.13 acres). A map showing the location and boundaries of The Property is attached as Exhibit A and a legal description describing The Property is attached as Exhibit B. In this Agreement the Anderson Place Property will, in most instances, be referred to simply as "the Property."

Section 2.3 Agreement to be Recorded; Effective Date; Term.

a. When fully executed, this Agreement will be recorded in the Official Records of Yolo County, pursuant to Government Code section 65868.5.

b. The term of this Agreement is five (5) years, commencing on the date it is recorded. The term may be extended by mutual consent of the Parties. It may be terminated as provided in Article 5.

Section 2.4 Equitable Servitudes and Covenants Running With the Land.

Any successors in interest to the City and the Developer shall be subject to the provisions set forth in Government Code sections 65865.4 and 65868.5. All provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land. Each covenant to do, or refrain from doing, some act with regard to the development of The Property: (a) is for the benefit of and is a burden upon The Property; (b) runs with The Property and each portion thereof; and (c) is binding upon each Party and each successor in interest during ownership of The Property or any portion thereof. Nothing herein shall waive or limit the provisions of Section 2.5, and no successor owner of the Property, any portion of it, or any interest in it shall have any rights except those assigned to the successor by the Developer in writing pursuant to Section 2.5. In no event shall an owner or tenant of an individually completed residential unit within the Anderson Place Subdivision have any rights under this Agreement.

Section 2.5 Right to Assign; Non-severable obligations.

a. Except as otherwise provided, the Developer shall have the right to sell, encumber, convey, assign or otherwise transfer (collectively "assign"), in

whole or in part, its rights, interests and obligations under this Agreement to a third party during the term of this Agreement.

b. No assignment shall be effective until the City, by action of its City Council, approves the assignment. Approval shall not be unreasonably withheld provided:

1. The assignee has the financial ability to meet the obligations proposed to be assigned and to undertake and complete the obligations of this Agreement affected by the assignment; and

2. The proposed assignee has adequate experience with residential developments of comparable scope and complexity to that being undertaken on The Property and has successfully completed such developments.

c. The special development conditions set forth in Article 4 are not severable, and any sale of The Property, in whole or in part, or assignment of this Agreement, in whole or in part, which attempts to sever such conditions shall constitute a default under this Agreement and shall entitle the City to terminate this Agreement in its entirety.

Section 2.6 Amendment of the Agreement.

This Agreement may be amended from time to time with the mutual written consent of both Parties as provided by Government Code section 65868 and Title 11, Chapter 2, Article 6 (Amendment or Cancellation by Mutual Consent) of the Winters Municipal Code. The cost by the City in processing a proposed amendment shall be paid by the Developer. The Developer shall pay normal application fees.

Section 2.7 Whole Agreement; Conflict with Municipal Code.

a. This Agreement, together with any subsequent addenda, amendments, or modifications, shall constitute the entire agreement of the Parties as to the development of The Property. All prior agreements of the Parties, whether written or oral, are of no further force or effect.

b. The provisions of Title 11, Chapter 2 of the Winters Municipal Code entitled "Development Agreements" are incorporated by this reference into this Agreement. However, if there is a conflict between a specific provision of the Winters Municipal Code and a specific provision of this Agreement, this Agreement shall prevail.

Section 2.8 Choice of Law; Venue; Attorneys' Fees; Alternative Dispute Resolution.

a. This Agreement shall be interpreted according to the laws of the State of California. Any litigation concerning its meaning shall be venued in the Superior Court of Yolo County. The prevailing Party in such litigation, as determined by the court, shall be awarded reasonable attorneys' fees in addition to statutory costs.

b. Nothing herein shall preclude the Parties from entering into a separate agreement to resolve any matter concerning this Agreement by a method other than litigation in court, including binding arbitration.

Section 2.9 Notices.

a. Formal written notices, demands, correspondence, and communications between the City and the Developer shall be given if sent to the City and the Developer by any one of the following methods:

1. Via certified U.S. Mail, return receipt requested.

2. Via an overnight mail service of the type normally used by the business community, such as Federal Express, UPS Overnight, and California Overnight.

3. By facsimile, provided a "hard" copy is sent at the same time by regular U.S. Mail.

b. The written notices, demands, correspondence, and communications may be directed in the same manner to such other persons and addresses as either Party may from time to time designate. Notices to the City shall be given as follows:

City of Winters
318 First Street
Winters, CA 95694
Attn: City Manager
Telephone (530) 795-4910 x 110
FAX (530) 795-4935

c. Notices to the Developer shall be given as follows:

San Bernadino, LLC
206 A Bulkley Avenue
Sausalito, CA 94965
Attn: Eva Brzeski
Telephone (415) 887-9300
FAX

ARTICLE 3

DEVELOPMENT OF THE PROPERTY

Section 3.1 Land Use Entitlements.

a. The Property shall be developed under the following land use entitlements, all of which have been adopted or approved by the City Council:

1. Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (Resolution No. 2007-xx adopted on April 3, 2007).

2. This Development Agreement (Ordinance No. 2007-xx adopted April 17, 2007 and effective on May 18, 2007, (the "Enacting Ordinance")).

3. Zoning Ordinance amendment to rezone 0.71 acres from O-F to O-F PD Overlay and 1.42 acres C-2 to C-2 PD Overlay (Ordinance No. 2007-xx adopted April 17, 2007 and effective on May 18, 2007).

4. Anderson Place Tentative Subdivision Map, with Findings of Fact and Conditions of Approval, dividing The Property into 24 residential lots to create 28 residential units and 9 office suites, an internal roadway/parking areas ("Lot A"), a pedestrian pathway area ("Lot B"), subdivision feature/green space area ("Lot C"), and second internal roadway/parking area ("Lot D"). (Resolution No. 2007-xx adopted on April 3, 2007).

5. A Planned Development Permit (Ordinance No. 2007-xx adopted April 17, 2007 and effective on May 18, 2007).

6. Amendment of the Circulation Master Plan (May 19, 1992) and Standard Street Cross Sections (adopted October 2, 2001; City Council Resolution 2001-61) to allow Anderson Avenue to be constructed to Collector Street improvement standards with a 50-foot right of way, 40-feet face of curb to face of curb roadway section, and 5-foot sidewalks each side to the existing Railroad Avenue roadway and to allow interim Railroad Avenue improvements to include interim landscaping within the future roadway on east side of Railroad Avenue, with a 10-foot concrete pedestrian/bike path from the northern terminus of the development to the southern terminus of the development (Resolution No. 2007-xx adopted on April 3, 2007).

7. Conditional Use Permit to allow the construction of multi-family housing in the O-F and C-2 Zones (Resolution No. 2007-xx adopted on April 3, 2007).

8. A Demolition Permit to remove one existing structure on The Property (Resolution No. 2007-xx adopted on April 3, 2007).

9. Site Plan for the design of the residences and office suites and the conceptual landscaping for the subdivision feature/green space area ("Lot B"), the Railroad Avenue frontage, and internal areas (Resolution No. 2007-xx adopted on April 3, 2007).

b. Under the provisions of Government Code § 66452.6(a), the term of the Anderson Place Subdivision Tentative Subdivision Map is co-terminus with the term of this Agreement.

Section 3.2 Consistency with General Plan.

The City finds that the provisions of this Agreement and the development of the Property are consistent with and conform to the General Plan of the City of Winters, as amended.

Section 3.3 Vested Rights of Developer.

a. Unless otherwise provided in this Agreement, the Developer shall have the vested right to develop the Property in accordance with the land use entitlements described in Section 3.1 above, and in conformity with the City rules, regulations, policies and ordinances in effect on the date of adoption of the Enacting Ordinance, regardless of subsequent amendments to the General Plan, the Zoning Ordinance, the Subdivision Ordinance, or any other ordinance, rule, or regulation adopted by the City. This vested right shall include:

1. The right to the number of residential lots, dwelling units, and the density of development (dwelling units per acre) of those units, as shown on the Anderson Place Tentative Subdivision Map.

2. Exclusion from:

a) Subsequently enacted building moratoria.

3. The right to connect each dwelling unit to sewer and water services, provided all improvements regarding such services are made and all applicable fees are paid.

4. The cross-section of streets (including sidewalks, trails, and other thoroughfares) as established in the Conditions of Approval for the Anderson Place Tentative Subdivision Map.

5. The Mitigation Measures.

b. The vested rights set forth in Subdivision a. do not apply to changes effecting development of the Property as mandated by state and/or federal laws effective after the date this Agreement is recorded. In the event of such changes, the City will permit the development of the Property as originally permitted by this Agreement to the greatest extent reasonably feasible taking into consideration the changes in the law.

Section 3.4 Rights Retained by the City.

a. Except as specifically provided in section 3.2, all regulations of the City as expressly provided by state law, federal law, and/or local ordinance, resolution, or rule shall pertain to the development of the Property. Such regulations include, but are not limited to:

1. Discretionary approvals. (The only discretionary approval contemplated at this time is site plan review (design review) pursuant to the Zoning Code.)

2. Subdivision standards in effect when a final subdivision map is approved.

3. The California Building Code, National Fire Protection Act, and local building code standards in effect at the time a building permit for a specific dwelling unit is issued.

4. Fees (including, but not limited to, fees commonly referred to as "impact fees") and charges, including, but not limited to, fees and charges for

building permits, traffic signalization, sewer infrastructure, water infrastructure, traffic and pedestrian circulation, library services, and police and fire buildings and equipment, which are in effect and collected at the time of the approval of a final subdivision map or the issuance of a building permit, as provided in this Agreement or as generally applicable throughout the City of Winters.

b. The City may make and enforce ordinances, resolutions, and other rules and regulations pertaining to the Property under its general police power, provided they are of general applicability to all developments of a similar nature in the City of Winters.

Section 3.5 Other Vesting Laws Inapplicable.

a. It is the intent of the Parties that the provisions of this Agreement shall supersede any provision of state or federal law pertaining to the vested rights of the Developer to develop the Property, whether those laws are currently in force or become effective after this Agreement is recorded. The laws in effect as referenced in the preceding sentence include, but are not limited to, provisions of the Government Code pertaining to Development Agreements (§ 65864 *et seq.*) and Development Rights [vesting tentative maps] (§ 66498 *et seq.*).

b. Notwithstanding subsection a., however, to the extent that a state and/or federal law becomes effective after this Agreement is recorded shall be made specifically applicable to the vested rights of landowners generally in the development of their properties, such state and/or federal law shall prevail.

c. The Developer shall not make any application to develop the Property, in whole or in part, under any vesting law, unless the right to do so is

specifically granted by state and/or federal law which becomes effective after the date of the recording of this Agreement.

Section 3.6 Commencement of Development.

a. Unless excused by the City for circumstances beyond the control of the Developer, the Developer shall, within 150 days after this Agreement is recorded, submit for review/approval by the City the final map for the Anderson Place Subdivision and accompanying subdivision improvement plans. For purposes of this subsection a., "circumstances beyond the control of the Developer" shall include, but are not limited to, inclement weather, acts of God, natural disasters, acts of the state and/or federal government, a referendum of the ordinance adopting this Agreement, or third party litigation challenging the validity of this Agreement. However, "circumstances beyond the control of the Developer" do not include a change in economic conditions which affect either the Developer individually or the land development/building industry generally.

b. Any time limit prescribed for any action required by this Agreement shall be extended by the number of days during which circumstances beyond the control of the Developer preclude the action from being taken.

Section 3.7 Installation of Public Improvements.

Public improvements (infrastructure) in the nature of roads, sidewalks, trails, sewers, water service, third party utilities, and similar items will be constructed both on-site and off-site during the development of the Anderson Place Subdivision. When the final map for the Anderson Place Subdivision is approved, the Developer shall enter into a separate written agreement with the City by which

it contracts to build and dedicate the public improvements required. Security for the construction of the improvements shall be provided as required by law.

Section 3.8 Property for Public Improvements; Offsite Improvements.

a. The Developer shall, in a timely manner as determined by the City, and consistent with the requirements of the Anderson Place Tentative Subdivision Map, acquire the real property rights necessary to construct or otherwise provide the public improvements contemplated by this Agreement.

b. In any instance where the Developer is required to construct any public improvement on land in which neither the Developer nor City has sufficient title or interest, the Developer shall, at its sole cost and expense, obtain the real property interests necessary for the construction of such public improvements. The Developer shall exercise all reasonable efforts, as determined by the City, to acquire the real property interests necessary for the construction of such public improvements by the time the final subdivision map for the Anderson Place Subdivision is filed with the City.

c. In the event the Developer is unable to acquire the necessary property interest or interests, the City shall either a) negotiate the purchase of the necessary property interests to allow Developer to construct the public improvements as required by this Agreement, or b) if necessary, in accordance with the procedures established by law, use its power of eminent domain to acquire the Property interests. Prior to commencing negotiations, the City may require the Developer to enter into a separate agreement to provide the funding necessary to acquire the Property interests and/or to pay for the cost of any eminent domain action. Such costs include, but are not limited to, the price of the Property

acquired, and for purposes of eminent domain, the City's attorneys' fees, expert witness fees, jury fees, and related matters, and litigation expenses awarded by the court to the Property owner against the City.

Section 3.9 Reimbursement for Oversizing of Public Improvements; Advanced Funding of Certain Improvements; Credit for Improvements Installed.

a. In some instances, the Developer, through the process commonly referred to as "oversizing," will be required to install public improvements to a size and/or capacity greater than that which is required to serve only the residents of the Anderson Place Subdivision. These improvements will benefit other properties. In such an instance, the Developer shall be entitled to reimbursement for such oversizing from fees paid by other properties.

b. There are two sources from which the Developer may be reimbursed for oversizing:

1. By way of a separate agreement between the City and the Developer which will provide that when a particular property benefiting from the oversizing is developed, the City will require the benefiting property to reimburse the Developer its *pro rata* share of the cost of the oversizing. A written agreement under this subsection b. shall have a term of no longer than fifteen (15) years.

2. By way of the payment to the Developer from impact fees for a particular type of infrastructure (e.g., sewers) collected by the City from other properties developed in the City.

c. In any instance in which oversizing is required, the City Engineer shall identify the method of reimbursement the Developer will receive.

1. Where reimbursement involves a benefiting property to reimburse the Developer for oversizing, the City Engineer will determine the total cost of the improvement installed by the Developer, deduct the prorata share to be borne by the Property, and determine what share of the remainder is to be reimbursed by the benefiting property.

2. When the Developer will receive reimbursement from mitigation fees paid by developing properties, the City Engineer shall provide to the Developer a statement of the amount the Developer will receive and the approximate time when that amount will be paid.

d. The Developer understands and agrees that reimbursement for a particular oversized improvement will come only from other developing properties or from mitigation fees as described in subsection b.1. When reimbursement is from mitigation fees, such fees shall come only from the fund into which fees for that type of improvement are made. (Example: If an oversized sewer main is reimbursed through mitigation fees, only those fees collected for sewer improvements, and not fees from any other fund, including, but not limited to, the City's General Fund, will be used.)

1. If mitigation fees paid by others are insufficient to repay the Developer for the full cost of oversizing a particular improvement, the Developer shall have no recourse against the City.

2. If a benefiting property fails to reimburse the Developer for oversizing, the Developer shall have no recourse against the City. However, the Developer retains all rights against the benefiting property and its owners.

e. In some instances, the Developer will have agreed, under the provisions of Article 4, to pay, in advance of the time otherwise payable, certain fees which would normally be collected by the City at the time a building permit is issued. When the Developer pays such fees in advance, the Developer will be given credit against such advance each time a building permit is issued. The amount of credit will be the amount which was paid in advance and which would have otherwise been payable at the time of issuance of the building permit.

f. In the event the Developer installs an improvement for which a fee is normally collected at the time of the issuance of a building permit, the Developer shall be deemed to have paid that fee for the number of building permits which is equal to the cost of the installed improvement as determined by the City Engineer. (Example: If a fee of $1,000 is normally collected at the time a building permit is issued for improvement X, and the Developer installs improvement X at a cost of $20,000, then the Developer will be credited with having paid that fee for 20 building permits.)

1. The City Engineer shall have the exclusive right to interpret this section in case of any disagreements concerning its applicability.

Section 3.10 Subsequent Discretionary Approvals.

a. To the extent any discretionary approvals are required to develop the Property after this Agreement is recorded, the Developer shall apply for those approvals in the same manner as any other person applying for land use entitlements from the City. All application fees then applicable for the type of land use entitlement(s) sought shall apply. The City will review these applications in

good faith within a reasonable time to insure that the Developer may proceed to develop The Property in the manner contemplated by this Agreement.

b. The only remaining discretionary approval which is contemplated at this time is site plan review (design review) under the Zoning Ordinance.

Section 3.11 Review of Agreement.

Reviews by the City of compliance by the Developer of the terms of this Agreement shall be done as provided in Title 11, Chapter 2, Article 7 (Review) of the Winters Municipal Code.

Section 3.12 Compliance with Government Code § 66006.

As required by Government Code section 65865(e) for development agreements adopted after January 1, 2004, the City will comply with the requirements of Government Code section 66006 pertaining to the payment of fees for the development of The Property.

ARTICLE 4
SPECIFIC DEVELOPMENT OBLIGATIONS

Section 4.1 Schools.

a. The Developer acknowledges and agrees that the mitigation of the impact of The Anderson Place at Winters Subdivision on schools within the Winters Joint Unified School District is of paramount importance to the City and its residents. As a consequence, the Developer states that its intention entering into this Agreement is to mitigate the impact on schools to the greatest reasonable extent, in accordance with the terms of an agreement negotiated between the

Developer and the Winters Joint Unified School District. A copy of the agreement is attached as Exhibit E.

b. The Developer shall enter into an agreement with the Winters Joint Unified School District ("School District"), substantially in the form of Exhibit E that provides, among other matters, that the Developer will pay to the School District:

1. For each of the 28 residential units in the Anderson Place Subdivision, Level 2 fees, payable at the time of issuance of a building permit; and

2. For all units in the Anderson Place Subdivision (including the units referenced in subparagraph 1 above), except the very low income and low income affordable units, the difference between Level 3 and Level 2 fees, payable at the close of escrow.

The Developer has represented to the City that it intends to fully and faithfully perform this agreement with the School District, and the City has relied upon this representation in entering into this Development Agreement. A failure to perform the agreement, or amendments thereto, with the School District by the Developer shall be deemed to be a default of this Development Agreement and subject to the provisions of Article 5.

Section 4.2 <u>0.62 +/- Acre Park.</u>

a. Developer shall provide a 0.62 +/- acre neighborhood park ("the Park Obligation"). The Park Obligation consists of three components:

1. Providing land.

2. Providing infrastructure.

3. Planning, developing, and equipping the park.

b. The Parties acknowledge that it is in the best interests of the community that the City accept a sum of money which represents the monetary value of the Park Obligation rather than have the Developer include a fully operational 0.62 +/- acre park within the Anderson Place Subdivision. The payment of the Park Obligation by the Developer is in lieu of the payment of any park impact fees as provided by City ordinance.

c. Developer agrees to satisfy the Park Obligation as follows.

1. At the time of filing the final map for the Anderson Place Subdivision a payment of one hundred percent (100%) of the amount calculated by the City Engineer as set forth in e., below.

2. An additional fifty percent (50%) of the amount calculated under 1., above, payable as follows:

a) The additional fifty percent (50%) shall be divided by the number of market rate units in the Anderson Place Subdivision (24 units). The resulting amount shall be paid each time a building permit is issued for one of the 24 market rate units.

b) If at the end of thirty (30) months from the recording of the final map for the Anderson Place Subdivision, the full amount under this subsection 2. has not been fully paid, then the Developer shall pay the remaining amount owing within ten (10) business days of being notified by the City to do so.

(Example: If at the end of thirty (30) months, the Developer has obtained twenty (20) building permits for market rate units and has paid fees under this subsection, then the Developer, upon notice from the City, shall pay the fees owed under this subsection for the remaining four (4) market rate units.)

d. Once all amounts owed under c. above have been paid, the Developer will have satisfied the Park Obligation.

e. The Park Obligation shall be computed by the City Engineer as follows:

1. The land value will be determined by an appraisal made at the Developer's expense. The Developer shall provide to the City the names of three (3) qualified appraisers acceptable to the City who are both licensed by the State of California and members of the Appraisal Institute (MAI) and knowledgeable in appraising property similar in nature to The Property. The City shall select the appraiser to be used from the list and notify the Developer of its decision. The appraisal shall be presented to the City within ninety (90) days thereafter, unless the Parties agree to a different date. The appraisal shall determine the fair market value of 0.62 +/- acres of The Property with the development entitlements specified in this Agreement. The date of value shall be the date of the recording of this Agreement.

2. The estimated cost of the infrastructure improvements will be calculated by the City Engineer using the per acre cost of Sixty Thousand Dollars ($60,000).

3. The estimated cost of the development of a park (including planning, developing, and equipping the same) will be calculated by the City Engineer using the per acre cost of Two Hundred Twenty-Nine Thousand Five Hundred Dollars ($229,500).

4. To the total determined by adding the costs determined under 1., 2., and 3., above, shall be added five percent (5%) for administration, including, but not limited to, the use of eminent domain by the City as necessary to acquire park land.

Section 4.3 Advance Funding of Fees For Construction of New Water Well.

a. The Parties acknowledge that the City intends to construct a new water well near the northwest corner of the intersection of West Grant Avenue and West Main Street. In order to provide sufficient funds for the City to commence construction of this facility, the Developer shall, concurrently with the filing of the final subdivision map for the Anderson Place Subdivision pay to the City the following development fee.

1. A water facilities fee at its then current rate for all 28 residential units in the Anderson Place Subdivision.

b. Each time the Developer applies for and receives a building permit thereafter, the Developer shall be credited with the amount paid under subsection a. for each permit.

c. If, at the time of the actual issuance of a building permit, the fees payable at that time have increased since the payment made under subsection a., the Developer shall pay the difference between the two amounts.

Section 4.4 Annuity in Lieu of Mello-Roos District.

a. The Developer agrees that the City will establish, and the Developer will fund, an annuity to offset the projected fiscal deficit to the General Fund of the City created by the development of The Anderson Place Subdivision per the Economic & Planning Systems reports titled "City of Winters – Anderson Place Revised Fiscal Impact Analysis", dated January 22, 2007. Such an annuity is in lieu of the creation of a Mello-Roos Community Facilities District or other similar financing device.

b. The funding of the annuity will be created and funded as follows:

1. From the escrow for the sale of each residential unit to a third party the Developer will pay to the City the sum of Seven Thousand Three Hundred Fifty Dollars ($7,350.00).

2. The City will invest the amounts received under this section in an annuity, or other similar investment, which will create a stream of income to be paid into the City's General Fund to pay for the increase in the cost of municipal services resulting from the development of the Anderson Place Subdivision

Section 4.5 Payments to Public Safety Facility and Library Fund.

a. Prior to recording of the final map for the Anderson Place Subdivision the Developer shall pay to the City the sum of Twenty-Five Thousand Dollars ($25,000.00). This amount shall be kept in a specific designated account and used solely for constructing the new Public Safety Facility in the City of Winters.

b. Prior to recording of the final map for the Anderson Place Subdivision the Developer shall pay to the City the sum of Twenty Thousand Dollars ($20,000.00). This amount shall be kept in a specific designated account and used solely for constructing, maintaining, and/or improving a public library facility in the City of Winters.

Section 4.6 Energy Efficiency.

In order to obtain energy efficiency in each unit with the Anderson Place Subdivision, to the maximum extent possible the techniques identified in the July 27, 2004 Planning Commission staff report on the "Proposed Energy Resolution" shall be utilized; provided, however, that the following techniques are mandatory:

a. Photovoltaic solar energy systems capable of producing 2.4 peak rated direct current (DC) kilowatts shall be installed on seven of the proposed buildings for The Project. The market rate units without photovoltaic solar energy systems shall be pre-wired for such systems. A photovoltaic solar energy system shall be offered as an option to prospective buyers of the market rate units pre-wired for photovoltaic solar energy systems.

b. All units shall be constructed to the Energy Star Standards as defined by the U. S. Environmental Protection Agency and tankless water heaters shall be installed in all residential units.

c. All units shall be built with low emission furnaces.

d. No unit shall be built with any dark colored roofing material.

ARTICLE 5

DEFAULT, REMEDIES, AND DISPUTE RESOLUTION

Section 5.1 Application of Article. The Parties agree that the following provisions shall govern the availability of remedies should either Party breach its obligations under this Agreement.

Section 5.2 City's Remedies.

a. The City's remedies under this Agreement are as follows:

1. Termination of the Agreement after giving the Developer the opportunity to cure a default, as provided in subsection b.

2. An action for injunctive relief to preserve the physical or legal status quo of the development of The Anderson Place Subdivision pending a judicial determination of the rights of the Parties in the event of a dispute between the Parties as to their rights and obligations under this Agreement.

3. Specific performance as provided in subsection c.

4. An action for declaratory relief to determine the rights and obligations of the Parties under this Agreement.

5. An action for damages as provided in subsection d.

b. Default by the Developer.

1. Notice of Default. With respect to a default by the Developer under this Agreement, the City shall first submit to the Developer a

written notice of default identifying with specificity those obligations of the Developer which have not been performed. Upon receipt of the notice of default, the Developer shall promptly commence to cure the identified default(s) at the earliest reasonable time after receipt of the notice of default. The Developer shall complete the cure of the default(s) not later than thirty (30) days after receipt of the notice of default, or such longer period as is reasonably necessary to remedy the default(s), provided Developer has continuously and diligently pursued such remedy at all times until such default(s) is cured.

2. Procedure After Failure to Cure Default. If, after the cure period has elapsed, the City finds and determines that the Developer remains in default and the City wishes to terminate or modify this Agreement, the City Manager shall make a report to that effect to the City Council and set a public hearing before the City Council in accordance with the notice and hearing requirements of Government Code section 65868 and Section 11-2.802 of the Winters Municipal Code.

3. Modification or Termination of Agreement. If, after the public hearing, the City Council determines Developer has failed to timely cure a material breach of the obligations under this Agreement, City shall have the right to modify or terminate this Agreement.

c. Specific Performance. The City may seek specific performance to compel the Developer to do any, or all, of the following:

1. To complete or demolish any uncompleted improvements which are located on public property or property which has been offered for dedication to the public, with the choice of whether to demolish or complete such

improvements and the method of such demolition or completion of such improvements to be selected by the City in its sole discretion.

2. To dedicate and properly complete any public improvements which are required by this Agreement.

3. To complete, demolish or make safe and secure any uncompleted private improvements located on The Property with the choice of whether to demolish, complete or secure such private improvements and the method of such demolition, completion and securing such private improvements to be selected by the Developer in its sole discretion.

d. The City may institute an action for damages for the amount of any money owed to it under Article 4, or the cost of performing any act required of the Developer under Article 4, or the cost to complete any public improvements required to be installed under the final map (or any phase, if applicable) for The Anderson Place Subdivision.

Section 5.3 Developer's Remedies.

a. The Developer's remedies under this agreement are as follows:

1. An action for specific performance of an obligation of the City after giving the City the opportunity to cure a default, as provided in subsection b.

2. An action for injunctive relief to preserve the physical or legal status quo of the development of The Anderson Place Subdivision pending a

judicial determination of the rights of the Parties in the event of a dispute between the Parties as to their rights and obligations under this Agreement.

3. An action for declaratory relief to determine the rights and obligations of the Parties under this Agreement.

b. Default and Notice of Default. With respect to a default by the City under this Agreement, the Developer shall first submit to the City a written notice of default identifying with specificity those obligations of the City which have not been performed. Upon receipt of the notice of default, the City shall promptly commence to cure the identified default(s) at the earliest reasonable time after receipt of the notice of default and shall complete the cure of such default(s) not later than thirty (30) days after receipt of the notice of default, or such longer period as is reasonably necessary to remedy such default(s), provided that the City has continuously and diligently pursued such remedy at all times until such default(s) is cured.

c. Waiver of Damage Remedy. The Developer understands and agrees that the City would not be willing to enter into this Agreement if it created any monetary exposure for damages (whether actual, compensatory, consequential, punitive or otherwise) in the event of a breach by City. For the above reasons, the Parties agree that the remedies listed in subsection a. are the only remedies available to the Developer in the event of the City's failure to carry out its obligations hereunder. The Developer specifically acknowledges that it may not seek monetary damages of any kind in the event of a default by the City under this Agreement, and the Developer hereby waives, relinquishes and surrenders any right to any monetary remedy. The Developer covenants not to sue for, or claim

any monetary remedy for, the breach by the City of any provision of this Agreement, except for attorneys' fees for actions under a., above, and hereby agrees to indemnify, defend and hold the City harmless from any cost, loss, liability, expense or claim (including attorneys' fees) arising from or related to any claim brought by the Developer inconsistent with the foregoing waiver.

ARTICLE 6
HOLD HARMLESS AND INDEMNIFICATION

Section 6.1 Limitation of Legal Relationship.

a. The Parties represent and declare that this Agreement creates no partnership, joint venture, or other legal entity between them.

b. In entering into this Agreement, the City is acting under the statutory and/or police powers which it holds as a municipal corporation of the State of California and which authorize it to regulate the development of land within its boundaries and to provide for the general health, safety and welfare.

c. In entering into this Agreement, the Developer is acting in a purely private capacity as an owner of real property within the City of Winters, which property is subject to the jurisdiction of the City acting in the capacity set forth in subsection b.

Section 6.2 No Liability for Acts of the Developer.

a. It is expressly understood that the development of The Anderson Place Subdivision is an undertaking that may create for the Developer liability to

third parties, including, but not limited to, assignees of all or part of this Agreement, buyers and lessees of residential units, building contractors and sub-contractors, and suppliers. The Developer understands and agrees that the City would not execute this Agreement if, in so doing, it created for the City any liability to any third party.

b. Consequently, the Developer, its successors, heirs, and assigns agrees to defend, indemnify, and hold harmless the City, and all its officers, agents, and employees from any claim of injury to person or property arising out of the operations of the Developer in the development of The Anderson Place Subdivision under the terms of this Agreement or otherwise.

c. Notwithstanding anything in Article 5 to the contrary, the City shall have any remedy available to it at law and/or equity to enforce the provisions of this section or to collect damages for any breach of it.

Section 6.3 Duty to Defend Challenges to this Agreement.

a. The Parties recognize that there may be third party challenges to this Agreement, relative to the procedure used to adopt it or the contents of it.

b. The Parties agree to cooperate jointly to defend any action or proceeding brought to challenge this Agreement or the ordinance adopting it.

c. In the event of any such challenge, each Party shall bear its own attorneys' fees and other litigation expenses.

d. Should the court, in any action challenging this Agreement or the ordinance adopting it, award attorneys' fees, costs and any other litigation expenses

against the City, the Developer shall be responsible for the payment of those fees, costs, and expenses, and shall hold the City harmless from any claim thereto.

e. Notwithstanding subsection b., the City may, at its sole discretion, tender the defense of any action or proceeding brought to challenge this Agreement or the ordinance adopting it to the Developer, in which event the Developer shall have the sole responsibility to defend, on behalf of itself and the City, the matter. However, nothing herein obligates the Developer, should the City tender its defense to the Developer, to defend the action if it determines that it is in its best interests not to do so.

REMAINDER OF THE PAGE INTENTIONALLY LEFT BLANK

SIGNATURE PAGE TO FOLLOW

DEVELOPER
SAN BERNADINO, LLC

By:_____

Its:_____

Dated:_____

CITY OF WINTERS

By:_____
Mayor

Dated:_____

Attest:_____
City Clerk

Approved as to form:

_____
John Wallace, City Attorney

_____
XXX XXX
XXX,
Attorney for Developer

. . . . . .

LIST OF EXHIBITS

EXHIBIT A	Map of Anderson Place Property
EXHIBIT B	Legal Description of Anderson Place Property
EXHIBIT C	Anderson Place Tentative Subdivision Map
EXHIBIT D	Conditions of Approval, including Mitigation Measures
EXHIBIT E	School Agreement

. . . . . .

This Agreement was adopted by Ordinance No. 2007-xx of the City Council of the City of Winters. Ordinance No. 2007-xx was adopted on April 17, 2007 and is effective on the date it is recorded with the Yolo County Recorder.

CITY OF WINTERS CALIFORNIA

CITY COUNCIL STAFF REPORT

April 3, 2007

TO: Honorable Mayor and Councilmembers

THROUGH: John W. Donlevy, Jr. – City Manager

FROM: Dan Sokolow – Community Development Director

SUBJECT: Ordinance No. 2007-01, Amendment to the Winters Municipal Code (Title 15, Buildings and Construction) to require the installation of smoke alarms whenever the City issues a building permit for a Group R Occupancy (residential) and amend the current addressing standard.

RECOMMENDATION: Staff recommends that the City Council (1) receive the staff report, (2) conduct the second reading of Ordinance No. 2007-01, and (3) adopt the ordinance.

BACKGROUND: The City Council voted 5-0 at its March 20, 2007 meeting to waive the first reading of Ordinance No. 2007-01 and schedule the second reading and adoption for the April 3, 2007 City Council meeting. The proposed ordinance would require the installation of smoke alarms whenever the City issues a building permit for a Group R Occupancy (residential). The ordinance would also amend the existing addressing standard for all occupancies.

DISCUSSION: The Winters Fire Department has reviewed the proposed ordinance and supports its adoption.

FISCAL IMPACT: The City will incur expenses to advertise the new requirements to install smoke alarms whenever a building permit is issued for a Group R Occupancy and satisfy the minimum addressing standard whenever a building permit is issued for any occupancy. Building inspections will be lengthened in order to confirm the presence of smoke alarms and ensure that the addressing satisfies the minimum standard.

ATTACHMENT

Ordinance No. 2007-01

Z+B+E/Smoke Alarms CC Stf Rpt 3Apr07

CITY COUNCIL
ORDINANCE NO. 2007-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WINTERS AMENDING THE WINTERS MUNICIPAL CODE, TITLE 15 (BUILDINGS AND CONSTRUCTION) TO REQUIRE THE INSTALLATION OF SMOKE ALARMS WHENEVER THE CITY ISSUES A BUILDING PERMIT FOR A GROUP R OCCUPANCY (RESIDENTIAL) AND AMENDING THE ADDRESSING STANDARD FOR ALL OCCUPANCIES

The City Council of the City of Winters, State of California, does hereby ordain as follows:

1. Purpose. The purpose of this ordinance is to require the installation of smoke alarms whenever the City issues a building permit for a Group R Occupancy (residential). The smoke alarms shall be installed in accordance with the California Code of Regulations Title 24, Part 2, Volume 1, Sections 310.9.1.3, 310.9.1.4, and 310.9.1.5. The ordinance would also amend the addressing standard for all occupancies.

a. All address numbering shall be clearly visible from the street fronting the property.
b. All buildings shall be identified by either (4) inch high illuminated numbers or six (6) inch high non-illuminated numbers on contrasting background.
c. For residences on alleyways, the address numbering shall appear on the front of the structure and at the rear of the property.
d. An existing occupancy shall satisfy the minimum addressing standard contained in items "a" through "c" whenever a building permit is issued.

2. Authority. The City of Winters has authority to adopt this ordinance pursuant to the general police power granted to cities by Article 11, Section 7 of the California Constitution.

3. Findings. Many of the City's residences were constructed before the California Code of Regulations (California Building Code) required the installation of smoke alarms and the Winters Fire Department's fire station is not staffed on a 24-hour basis. A number of the City's residences do not have adequate addressing. As a result, this creates a potential and ongoing problem for first responders to locate specific properties, particularly at night.

4. Effective Date. This ordinance shall take effect thirty (30) days after its adoption.

INTRODUCED at a regular meeting on March 20, 2007 and **PASSED AND ADOPTED** at a regular meeting of the Winters City Council, County of Yolo, State of California, on the 3rd day of April 2007, by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Keith W. Fridae, MAYOR

ATTEST:

_____
Nanci G. Mills, CITY CLERK

Z+B+E/Smoke Alarms CC Ord 3Apr07

CITY OF WINTERS CALIFORNIA

CITY COUNCIL
STAFF REPORT

TO: Honorable Mayor and Council Members

DATE: April 3, 2007

FROM: John W. Donlevy, Jr., City Manager

SUBJECT: Update on Strategic Plan

RECOMMENDATION:

That the City Council review the Strategic Plan Outline and provide input on additional recommendations which they deem necessary.

BACKGROUND:

On March 2 and 3, 2007, the City Council and Staff held a Strategic Planning Workshop to discuss the key issues and priorities which all felt were the most critical issues for the City to begin focusing on.

The following is a listing of those issues and topics. These are listed as prioritized at the workshop.

1. **Economic Development:** 30 priority points
   - Need for increased revenues to support City services
   - Focus on Grant Corridor
   - Infrastructure to Freeway
   - Build a tax base
   - Highway Commercial
   - Establish Design Guidelines
   - Compliment the downtown- not compete
   - Job creation with sustainable wages

2. **Public Facilities:** 20 priority points
   - Extend Utilities along Grant Ave.
   - Grant Ave. Access/Circulation
   - Sports Park Development
   - Community Center Renovation
   - Community Theatre

3. **Fire Services:** 17 priority points
- Increase Service Levels
- Retention of Staff
- 4/10 Shift Schedule

4. **Police Services:** 17 priority points
- Staffing to 2 officers per shift.
- Recruitment/Retention

5. **Annexation/Sphere of Influence Issues:** 12 priority points
- Explore Expansion of sphere in all directions (protection, control, defense)
- Annex across 505 for commercial/industrial development.

6. **Community Development/Planning:** 12 priority points.

A. General Plan Update
    - Extend Horizon to 2020 with an action plan for General Plan implementation
    - Maintain the 12,500 population cap by analyze from the perspective of supporting a vibrant business district with locally owned businesses.

B. Flood Overlay
    - Focus on Industrial development areas
    - Multi-use flood solution for flood and open space.

Staff will begin the preparation of "Action Plans" for each of these items. These will detail the overall strategy for achieving the listed objectives. This draft will return to the City Council for consideration at the May 1, 2007 meeting.

FISCAL IMPACT:

None by this action.

CITY OF WINTERS COMMUNITY DEVELOPMENT DEPARTMENT
Current Projects List as of April 3, 2007
(530) 795-4910, extension 112, www.cityofwinters.org

PROJECT	DESCRIPTION & PROCESS	LAST ACTION	NEXT ACTION
(1) Winters Highlands, Granite Bay Holdings, LLC, Larry John (916) 960-1656	Proposal to develop 413 single-family and 30 multi-family residential units in northwestern part of city. Application is being processed TSM, focused EIR (specific biological aspects), GPA, Zoning Amendment, PD Overlay, PD Permit, Inclusionary Housing agreement.	City Council approved Tentative Subdivision Map on April 4, 2006.	City Council approval of Final Map.
(2) Winters Village, Bob Thompson (West project) (707) 372-9355 and John Siracusa (East project) (530) 795-0213	Proposal to develop 15 attached single-family residences on the southwest and southeast corners of East Main and East Baker Streets.	Building permit submitted for West project (10 units) in April 2006. East project (5 units) nearing completion.	Issuance of building permit for West project.
(3) Callahan Estates, Winters Investors LLC, John Peterson (925) 682-4830	Proposal to develop 120 single-family residential lots in northwest part of city.	Planning Commission approved Site Plan (landscaping) on December 21, 2005.	City Council approval of Final Map.
(4) Creekside Estates, Tim Ruff (530) 758-7008	Proposal to develop 40 single-family residential lots at southwest part of city.	City Council approved Tentative Subdivision Map on April 19, 2005.	City Council approval of Final Map.
(5) Hudson-Ogando, Winters Investors LLC, John Peterson (925) 682-4830	Proposal to develop 72 single-family residential lots in northwest part of city.	Planning Commission approved Site Plan (landscaping) on December 21, 2005.	City Council approval of Final Map.
(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 approval of Final Map.
(7) Casitas at Winters, Napa Canyon LLC, Mark Power (707) 253-1339	Proposal to develop 16 attached single-family residences at a site on West Grant Avenue east of Tomat's restaurant. Tentative Subdivision Map, Conditional Use Permit, Planned Development Overlay, Site Plan, and Development Agreement.	City Council on November 21, 2006 in response to a request from the applicant directed that the project be sent back to the Planning Commission in order to allow the applicant to redesign the project.	Applicant submittal of redesigned project.

CITY OF WINTERS COMMUNITY DEVELOPMENT DEPARTMENT
Current Projects List as of April 3, 2007
(530) 795-4910, extension 112, www.cityofwinters.org

(8) Dunmore Commercial, Dunmore Communities, Rad Bartlam (916) 676-1115	Proposal to construct hotel, two retail outlets, three fast food restaurants, and gas station on the south side of East Grant Avenue adjacent to the Interstate 505 southbound on-ramp. General Plan Amendment, Rezone, Conditional Use Permit, Amendment/Update to Gateway Master Plan, and Site Plan.	Application submitted on April 12, 2005.	City staff determination of application completeness.
(9) Winters II, Community Housing Opportunities Corporation, Ben Rosen (530) 757-4444	Proposal to develop 34-unit apartment complex for low- and very low-income households at 110 East Baker Street.	Building permit issued and construction began in October 2006.	Completion of construction.
(10) Village on the Park, Village Partners, LLC, Mark Walther (310) 798-5656	Proposal to develop 75 attached single-family residences on Railroad Avenue south of NC Foliage (1029 Railroad). Tentative Subdivision Map, Conditional Use Permit, Planned Development Overlay, and Development Agreement.	City Council on January 16, 2007 discussed policy issues and directed staff to continue to process project based on staff's recommendations on policy issues.	City staff determination of application completeness.
(11) Mary Rose Gardens, DAS Homes, Inc., Dave Snow (530) 666-0506	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, Inclusionary Housing Agreement, and Development Agreement.	City Council at its March 20, 2007 meeting continued the public hearing to the April 3, 2007 Council meeting.	City Council continued public hearing tentatively scheduled for April 3, 2007.
(12) Anderson Place, Eva Brzeski (415) 887-9300	Proposal to develop up to 30 mostly attached single-family residences and 9 commercial spaces at 723 Railroad Avenue. Tentative Subdivision Map, Planned Development Overlay, PD Permit, Rezone, Conditional Use Permit, Inclusionary Housing Agreement, and Development Agreement.	City Council at its March 20, 2007 meeting continued the public hearing to the April 3, 2007 Council meeting.	City Council public hearing tentatively scheduled for April 3, 2007.
(13) Pearse Subdivision, Thomas Pearse (530) 795-5901	Proposal to develop 5 single-family residential lots at the south end of Third Street.	December 15, 2006 completeness letter sent, additional information needed.	City staff determination of application completeness.

CITY OF WINTERS COMMUNITY DEVELOPMENT DEPARTMENT
Current Projects List as of April 3, 2007
(530) 795-4910, extension 112, www.cityofwinters.org

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: 3 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 at this time.
Project #9: 34 units for very low-income and low-income households.
Project #10: 4 units for very low-income and 7 units for low-income and moderate-income households.
Project #11: 2 units for very low-income, 1 unit for low-income, and 1 unit for moderate-income households.
Project #12: 2 units for very low-income, 1 unit for low-income, and 1 unit for moderate-income households.
Project #13: 1 unit for very low-income household.