

**CITY OF WINTERS PLANNING COMMISSION AGENDA
REGULAR MEETING**

Tuesday, March 25, 2014 @ 6:30 PM
City of Winters Council Chambers
318 First Street
Winters, CA 95694-1923
Community Development Department
Contact Phone Number (530) 794-6713
Email: jenna.moser@cityofwinters.org

Chairman: Bill Biasi
Vice Chairman: Pierre Neu
Commissioners: Dave Adams, Lisa
Baker, Kate Frazier, Luis Reyes,
Patrick Riley
City Manager: John W. Donlevy, Jr.
Mgmt. Analyst: Jenna Moser

I CALL TO ORDER

II ROLL CALL & PLEDGE OF ALLEGIANCE

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

IV CONSENT ITEM

Approval of Minutes from the January 28, 2014 meeting of the Winters Planning Commission

V STAFF/COMMISSION REPORTS

VI DISCUSSION ITEMS:

- A. City Current Project List
- B. Winters Highlands Affordable Housing Plan Update
- C. PG&E Winters Gas Operations & Technical Training Center Project Update
- D. Rosenberg's Rules of Order (Presentation)

VII COMMISSION/STAFF COMMENTS

VIII ADJOURNMENT

POSTING OF AGENDA: PURSUANT TO GOVERNMENT CODE § 54954.2, THE COMMUNITY DEVELOPMENT MANAGEMENT ANALYST POSTED THE AGENDA FOR THIS MEETING ON MARCH 19, 2014.



JENNA MOSER, MANAGEMENT ANALYST

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

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

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

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

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

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

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

THE COUNCIL CHAMBER IS WHEELCHAIR ACCESSIBLE

MINUTES OF THE WINTERS PLANNING COMMISSION MEETING HELD JANUARY 28, 2014

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

Chair Bill Biasi called the meeting to order at 6:30 p.m.

PRESENT: Commissioners Adams, Baker, Frazier, Neu, Reyes, Riley and Chair Biasi

ABSENT: None

STAFF: City Manager John W. Donlevy, Jr. and Management Analyst Mary Jo Rodolfa

Gene Ashdown led the Pledge of Allegiance.

CITIZEN INPUT: None at this meeting.

CONSENT ITEM:

1. Approval of Meeting Minutes of the December 10, 2013 Regular meeting of the Planning Commission.

Commissioner Baker moved to approve the Meeting Minutes of the December 10, 2013 Planning Commission Meeting. Seconded by Commissioner Neu.

AYES: Commissioners Adams, Baker, Frazier, Neu, Reyes, Riley and Chairman Biasi.

NOES: None

ABSTAIN: None

ABSENT: None

COMMISSION REPORTS: Management Analyst Rodolfa reminded the Commissioners to let her know if they were interested in attending the Planning Commissioner Conference. Informational material was provided to the Planners regarding the conference.

STAFF REPORTS: None

DISCUSSION ITEM:

- A. **Consideration of approval of proposed Pilot Program Parklet Proposal for Turkovich Family Wines and Putah Creek Café, and recommendation to City Council for the approval of an encroachment permit for the construction of the parklet plan**

City Manager Donlevy introduced the item and explained that the parklets are part of the overall vision for the downtown master plan which included activating public areas – i.e. bulb-outs, pedestrian friendly intersections and al fresco dining. He then introduced Chris Turkovich, owner of Turkovich Family Wines to further explain the project. Turkovich explained that the private businesses would build

MINUTES OF THE WINTERS PLANNING COMMISSION MEETING HELD JANUARY 28, 2014

and maintain the parklet but that it would be a public space open to all. Seating for the businesses would be located next to the buildings rather than along the street. The City engineers have been consulted on the design in order to address drainage concerns. The initial plan is for the first parklet to be constructed on Railroad Avenue from ARC Guitar to the kitchen door of Putah Creek Café. Later plans call for another parklet on Railroad Avenue from the Buckhorn to Preserve. Commission discussion took place regarding parking concerns, cleaning of gutters, fencing and barricades along the street, the side walk café ordinance and whether or not the tables and chairs would be brought in and traffic concerns. This will be a pilot program and a report will come back to the Planning Commission in one year.

Commissioner Frazier moved to approve the pilot parklet and recommend approval of the encroachment permit to the City Council. The motion was seconded by Commissioner Neu. Commissioner Baker asked to amend the motion to include the installation of planters on both ends of the parklet. The amendment was agreed to by Commissioners Frazier and Neu.

AYES: Commissioners Adams, Baker, Frazier, Neu, Reyes, Riley and Chairman Biasi.

NOES: None

ABSTAIN: None

ABSENT: None

B. Consideration of approval of the Lighting Plan for the proposed Dollar General project located at 176 East Grant Avenue

Management Analyst Rodolfa introduced the item and explained that originally the applicant submitted plans that included shoebox style lighting for the parking lot and the applicant was asked to go back and bring forward a plan in alignment with the Grant Avenue Design Guidelines. She also explained that she had received feedback from a few commissioners asking about lighting being added to the south and west sides of the building. Rodolfa reported that she checked with Police Chief Gutierrez who agreed that security lighting should be placed on the south and west sides of the building. Commissioner Biasi asked that the conditions of approval be amended to include that the additional security lighting be to the satisfaction of the Community Development Department in order to make sure it meets the design guidelines. City Manager Donlevy pointed out that duplicate condition #8 regarding City permits needed to be deleted.

Commissioner Baker moved approval of the Lighting Plan and the amended Lighting Conditions of Approval for the Dollar General project. The motion was seconded by Commissioner Riley.

AYES: Commissioners Adams, Baker, Frazier, Neu, Reyes, Riley and Chairman Biasi.

NOES: None

ABSTAIN: None

MINUTES OF THE WINTERS PLANNING COMMISSION MEETING HELD JANUARY 28, 2014

ABSENT: None

C. Consideration of approval of the Taco Bell monument sign and addition of Taco Bell signage to the I-505 freeway pylon sign

Management Analyst Rodolfa introduced the agenda item and explained that a lot split to create to separate lots for the Burger King/Arco and Taco Bell properties was complete and this now allowed for a monument sign to be placed on the Taco Bell property. The applicant is also seeking approval to add a Taco Bell sign to the large pylon sign visible from I-505. Applicant Sunny Ghai was introduced to present his request. Discussion was held regarding concern over the exception for the square footage on the pylon sign and issues with the current sign ordinance.

Commissioner Riley moved the approval of the Taco Bell monument sign and the addition of Taco Bell signage to the I-505 freeway pylon sign and the Conditions of Approval with the added condition that no additional future signage is allowed on the pylon sign. Seconded by Commissioner Baker.

AYES: Commissioners Adams, Baker, Frazier, Neu, Reyes, Riley and Chairman Biasi.

NOES: None

ABSTAIN: None

ABSENT: None

D. Discussion of Amendment of Conditions of Approval for Taco Bell to pay an in-lieu fee for the required public art

City Manager Donlevy introduced the item stating that the Conditions of Approval for the Taco Bell project included an art piece. The applicant and City would instead like to look at considering an in lieu fee and in the future locate a piece of public art elsewhere, perhaps in the gateway area, that would be noticed and of value. Photos of the current site were displayed and discussion was held regarding the cluttered look of the site and regarding being respectful of what had been approved. It was also discussed that the Economic Development Committee had expressed interest in a gateway art piece. The Commissioners agreed to having this item further researched and return as an action item with an in lieu fee proposal.

COMMISSIONER/STAFF COMMENTS: City Manager Donlevy provided an update on the Dollar General project reporting that the purchase and sale agreement had to go to the Department of Finance for approval. The last piece is the utility easements and the public improvement agreements – those are in the works. The construction drawings are going through plan check. Donlevy reported that we also have a purchase and sale agreement for Yolo Federal Credit Union on the east portion of the Grant Avenue property and others have shown interest in the remaining portion.

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Donlevy reported that there is also interest in a hotel being located on the property to the east of the PG&E project. Developers are also looking at a hotel near the freeway interchange and downtown. An RFP for the downtown hotel just went out.

PG&E is scheduled to bring in their planning application soon. A full EIR will be completed for the project.

Walnut Park Phase II will come to the Planning Commission in the future for an update. Currently phase II is a bare bones park. We are hoping to receive some Housing Related Park Program funds to use in adding amenities.

The old Putah Creek car bridge is being demolished.

ADJOURNMENT: Chairman Biasi adjourned the meeting at 8:27 p.m.

ATTEST:

Mary Jo Rodolfa, Management Analyst

Bill Biasi, Chairman



**PLANNING COMMISSION
STAFF REPORT**

TO: Chairman and Commission
DATE: March 25, 2014
FROM: John W. Donlevy, Jr., City Manager 
SUBJECT: Projects Update

RECOMMENDATION:

That the Planning Commission receive an update on City Projects and key initiatives which are forecast for the next two fiscal years.

BACKGROUND:

The City will be entering a very busy two years of key projects within the City. These include a variety of infrastructure, economic development, housing and regulatory projects and issues. Attachment A of this report is a table detailing the projects which will be discussed at the meeting.

FISCAL IMPACT:

None by this action.

City Projects and Assignments 2014-16

No.	Project	Description	Project Lead	Project Team	Project Team	Project Team	Project Team	Project Team
1	PG&E Training Center	49 acre gas training facility	Heidi Tschudin Project Manager Environmental	Ponticello Enterprises- Engineering	John Donlevy Design Review	Carol Scianna Creek	Shelly Gunby- Financial	
2	Bridge Project	Putah Creek Car Bridge replacement project.	Solano County	Ponticello	Carol Scianna			
3	Downtown Hotel	Construction of a 80-100 room hotel project on Railroad Ave and Abbey Street in the Downtown Core.	Dan Maguire-	John Donlevy Design Review	Shelly Gunby Fiscal	Frasier Associates- Financial Review		
4	Freeway Hotel	Construction of a 70-80 room hotel.	Dan Maguire	John Donlevy	Shelly Gunby	Heidi Tschudin		
5	Creek Project	Project 4 of the creek realignment and flood plain development project.	Rich Marovich	Carol Scianna	Eric Lucero			
6	Walnut Park II	Completion of the five acre park project between Dutton and Walnut Lane.	Dan Maguire	Mellon Architects	Eric Lucero	BSK	Jen Moser and Mary Jo Rodolfa- Grant Tracking	
7	Dollar General	Construction and Agreement completion.	Gene Ashdown	Dan Maguire	Ponticello			
8	Grant Ave- Roundabout	Construction of the Roundabout Project on Grant Ave at Walnut Lane.	Ponticello	Lagenour Eng	Carol Scianna			
9	Hudson Ogando	70 unit subdivision construction.	John Donlevy- Dev Agreement	Planning and Entitlements	Ponticello- Civil and	Jen Moser- DA Tracking		
10	City Hall Expansion	Renovation OR new construction of annex building at City Hall for Financial	Shelly Gunby	Nanci Mills	Gene Ashdown			

No.	Project	Description	Project Lead	Project Team	Project Team	Project Team	Project Team
		Management Administrative Services and other departments					
11	Creekside Estates	Advancement of development proposal for the construction of a 41 unit subdivision.	John Donlevy	Dan Maguire	Jen Moser		
12	W Main/Grant Signal	Design and financing plan for installation of a signal at Main and Grant Ave.	Ponticello	Shelly Gunby			
13	Bellevue North Annexation	Initiation of annexation process for 200 acres within the City's sphere of influence area in the north area of the City.	Heidi Tschudin	Christine Crawford-LAFCO			
14	City Park Rehab	Completion and construction of plan to rehab the play structure areas.	Eric Lucero				
15	Food Hub	Advancement of plan and zoning for agricultural zoning designation.	John Donlevy				
16	Railroad Ave Dry Slough Bridge	Replacement of Moody Slough Overcrossing	Ponticello	Carol Scianna			
17	Railroad Ave Paving	Road paving project.	Eric Lucero				
	Non-Capital Projects						
18	2014-16 Budget	Development of two fiscal year budget.	Shelly Gunby	Entire City Staff			

No.	Project	Description	Project Lead	Project Team	Project Team	Project Team	Project Team
19	Pension Issues	Development of a paydown plan for unfunded liabilities for pension plans and side fund payment.	Shelly Gunby	Nanci Mills			
20	Wastewater WDR's	Application and negotiation for updated waste discharge permit for the WWTF.	Carol Scianna	Smith Assoc	Ponticello	BBK	Jim Keating
21	Chrom 6	Consideration of new requirements for water filtration and quality. Plan development for improvements.	Carol Scianna	Eric Lucero	Ponticello	Shelly Gunby-Financial	Larry Walker Associates
22	Water/Sewer Rates	Implementation of water and sewer rate revisions.	Shelly Gunby	Elliot Landes			
23	Fire Services Contract	Update of the Winters-Dixon fire management services agreement.	John Donlevy	Aaron McAlister			
24	HCP	Monitor and implementation of the Yolo HCP/NCCP Process and Plan.	Woody Fridae	John Donlevy			
25	Transient Occupancy Tax	Election to increase the City's Transient Occupancy Tax.	John Wallace	City Council			
26	City Attorney Transition	Transition to new City Attorney.	John Wallace	BBK			
27	Wastewater Services	Consideration of new contract or in house services for wastewater services.	John Donlevy	Carol Scianna	Eric Lucero	Shelly Gunby	
28	Winters Highlands DDA	Revision and re-negotiation of the development agreement.	John Donlevy	Ponticello	BBK		
29	Redevelopment	ROPS, Oversight Board and	Shelly Gunby	Dan Maguire	Mary Jo		



**PLANNING COMMISSION
STAFF REPORT**

TO: Board Chair and Members of the Planning Commission
DATE: March 25, 2014
THROUGH: John W. Donlevy, Jr., City Manager *JWD*
FROM: Dan Maguire, Economic Development and Housing Manager *DM*
SUBJECT: Winters Highlands – Proposed Affordable Housing Plan

RECOMMENDATION:

That the Planning Commission:

1. Receive a Staff Report on a proposed Affordable Housing Plan for the Winters Highland Subdivision;
2. Make recommendation, along with any suggested modifications, to the Winters City Council in support of the proposed Affordable Housing Plan to the previously approved Development Agreement for development of the property commonly known as the Winters Highland Property between the City of Winters and Homes by Towne, in order to amend the fulfillment of the affordable housing requirements.

BACKGROUND:

Since 2006, the City has entered into five (5) development agreements with various developers for the subdivision and development of residential projects. In 2007, the real estate market essentially “crashed” and none of the proposed projects proceeded. Because of this, amendments have been initiated and adopted over the past six years to keep the agreements current and viable for when the real estate market returns.

In August, 2013, the City Council approved amendments to the Hudson Ogando & Creekside Estates Subdivision Development Agreements. These amendments included a revision to the affordable housing obligation, essentially “modernizing” the agreements to acknowledge the new fiscal realities of residential development. The modification included the payment of in lieu fees, in lieu of constructing the very low- and low income housing required of the project under the existing Development Agreement. The Hudson Ogando & Callahan projects are obligated to pay \$360,000 in in-lieu fees, with the City taking on the production responsibility for 12 very low-income units, and 10 low income units.

Subsequent to this action, Staff has been working with the developers for the Winters Highlands subdivision for similar modifications to encourage construction of their entitled project.

DISCUSSION:

In the Winters Highlands Affordable Housing Plan proposal discussions, Staff focused on a number of key elements, which included the following:

1. Acknowledgement of the development of affordable housing consistent with the obligations of the project, pursuant to the existing Inclusionary Housing Ordinance.
2. Allowed for flexibility in proposed project layout and in lieu fee payments.
3. Maintained consistency with the City's adopted Housing Element Update (2013-2021) and Inclusionary Housing Ordinance (Ord. 2010-18).

The modernization of the agreement was based on a very pragmatic approach to creating a balance between a project which will bring a quality project to the City and one which is financially viable to build for the developer.

In the discussions with Winters Highlands, the focus has included each of the items above, but also has included an open discussion on the provision of affordable housing issues, which was brought before the affordable housing steering committee on March 24, 2014, for possible amendments to the current Affordable Housing Plan.

DISCUSSION:

Project Description and Amendment:

The development on the 102.6 acre property consists of approximately 413 single family lots on 49.45 acres and 30 multi-family units on 2.01 acres, with Yolo County Assessor's Parcel Numbers 030-220-17, 030-220-19, 030-220-49, and 030-220-50, and located at the northwest side of the City of Winters. The proposed Affordable Housing Plan would amend the affordable housing requirement to accept in-lieu fees and land dedication for the very low and low income unit obligation of the project, changing the requirement for the construction of affordable housing.

DEVELOPMENT AGREEMENT MODIFICATIONS:

The modifications to the Winters Highlands Subdivision Affordable Housing Obligation per the proposed Affordable Housing Plan ("AHP") generally include the following:

- Requested changes in existing tentative map, converting the 36 duplex units to 18 SFR lots, resulting in the project having 395 SFR lots (was 413)
- Meeting the revised affordable housing through a combination of in lieu fees and land dedication, partnering with a developer for construction of affordable multi-family on the 2.01 acre portion of the property zoned R-4 (High Density Multi-Family Residential)
- In Lieu Fee of \$3,500 per market rate unit will generate \$1,382,500 in affordable housing trust funding. Specifics to be determined but will be utilized by the City to facilitate affordable housing projects by providing a significant source of local funds to assist affordable housing project(s)

ATTACHMENTS:

1. Sacramento Bee Affordable Housing article reprint
2. Legal Description and Project Map
3. Affordable Housing Plan
4. Ordinance 2009-18 (Inclusionary Housing Ordinance)
5. Second Amendment to Development Agreement

OUR REGION

Sunday, March 2, 2014 | The Sacramento Bee | sacbee.com/ourregion

CITIES revising housing rules

LOW-INCOME TENANT GROUPS SLAM CHANGES

By CATHY LOCKE
clocke@sacbee.com

Jockeying for a share of housing construction as the market rebounds, cities and counties in the Sacramento region are revising their affordable housing requirements to reduce the burden on builders.

The changes are backed by the building industry but have drawn protests from advocates for low-income tenants.

"It's a race to the bottom," said Darryl Rutherford, executive director of the Sacramento Housing Alliance.

Mixed-income, or inclusionary housing policies, require that new housing developments include a certain percentage of units — usually rental apartments — that are affordable to low-income residents. Many jurisdictions around the region adopted such policies in the past 20 years, but developers have chafed under them, saying they increase the cost of building.

In 2011, the city of Folsom sought to eliminate its inclusionary requirement, arguing that it stymied development and consequently failed to provide housing for any income level. To settle a lawsuit brought by the Sacramento Housing Alliance, the Folsom City Council subsequently agreed to retain the inclusionary provision but reduced the required allocation of units for low and very low-income categories to 10 percent from 15 percent.

In January, the Sacramento County Board of Supervisors followed suit, reducing its requirement for affordable units in new developments to 10 percent from the previous 15 percent.

Sacramento County's inclusionary requirement was "a huge roadblock" to develop-

Housing: Tenant groups slam cities' new affordable housing

FROM PAGE B1

ment, said John Costa, spokesman for the North State Building Industry Association. Costa said the association has lobbied against inclusionary housing because current programs aren't effectively addressing the affordable housing issue. In unincorporated Sacramento County, for instance, 263 affordable units have been built under the county's inclusionary policy since 2004, compared with more than 1,500 units in Elk Grove, where developers pay fees instead, he said.

Developers look at the total cost of doing business, Costa said, and the ability to do business affects where they are able to build. The cost of providing affordable units within market-rate developments is passed on to buyers of the market-rate homes, he said.

Rob Wiener, executive director of the California Coalition for Rural Housing, agreed that inclusionary housing is contingent on development.

"The recession resulted in fewer new units, and it only works if you have new production," he said. But he and fellow affordable housing advocates say the alternative policies cities and counties are now pursuing hold even less promise.

The city of Sacramento is working to revise its affordable housing policies. One possibility: allowing developers to pay a fee instead of setting aside 15 percent of units for low-income residents.

In a report to the City Council in September, city staff called the current ordinance "inflexible" and said the rules have led developers to construct massive affordable housing projects next to single-family homes - a trend seen frequently in North Natomas.

City officials said the fees would also give the city an important financing tool for affordable housing projects following the state's elimination of redevelopment subsidies.

But affordable housing advocates say they fear that the fee won't be high enough to actually pay for construction of the affordable units.

"We think a mixed-income housing ordinance is a way to develop safe, sustainable, healthy, inclusive communities," Rutherford said, a way to ensure that people of all income levels have access to good schools, grocery stores, parks and open space.

Wiener lamented that even the city of Davis, long lauded for its affordable housing efforts, is now offering developers alternatives to inclusionary housing. "Davis was the poster child, one of the best in the United States," he said, "but not anymore."

Sacramento and Davis officials defend their efforts to provide more flexible affordable housing policies.

Sacramento city planners Greg Sandlund and Tom Pace said the city does not propose to do away with the inclusionary requirement, but instead expand it beyond new growth areas - North Natomas, the south area near Elk Grove, and the former downtown and Curtis Park rail yards - to apply citywide.

They say the proposed fee would be available only to developers of smaller, infill projects. "For larger developments, over 50 acres, there would be some degree of build requirement, land dedication or 10 percent affordable requirement," Sandlund said.

Developers of smaller projects who opt for in-lieu fees would be required to build

smaller homes on smaller lots, with the idea being that they would likely be affordable to people in the upper low-income or lower moderate-income ranges, the city planners said.

Other strategies, such as fee deferrals, allowing developers to pay development fees when they obtain certificates of occupancy rather than when they pull the building permits, could help reduce financing costs for projects. Builders could then pass that savings along to homebuyers.

Sandlund and Pace said the validity of inclusionary requirements for apartment projects has been called into question by a 2009 court ruling in a Los Angeles case that found that city's inclusionary requirement for a rental development effectively set the rent for the units and ran afoul of a state law that prohibits rent control.

Danielle Foster, Davis' housing and human services superintendent, said inclusionary housing has been part of the city's affordable housing policies since 1987 and still is, but the policy has been modified over the years. Changes approved last summer acknowledge the costs and constraints associated with higher-density developments as well as the loss of redevelopment funds, a major source of money to build affordable housing. Davis used

to receive \$2 million a year in redevelopment revenue for affordable housing, Foster said. With the loss of those funds, the city decided to expand the allowance of in-lieu fees.

"Higher-density developments have more difficulty incorporating affordable units, and in-lieu fees provide another revenue source," Foster said.

An additional option is to build an accessory unit, or secondary dwelling on a single-family lot, either attached or detached from the primary residence. Such dwellings would fulfill half the per-unit inclusionary requirement, and they would have to have features, such as an entrance separate from the primary residence, to discourage use as just an extra bedroom or storage space.

Foster said concerns have been expressed about the affordability of secondary units because they would not be deed-restricted, and the city would not monitor the amount of the rent or who

rented them.

Elk Grove has never had inclusionary housing policies, choosing instead to collect fees from developers of market-rate housing projects. The city then makes that money available to developers of affordable housing projects, primarily multifamily rental complexes, said Taro Echibaru, city planning director.

"That is where the development dollars do the most good," he said.

Sarah Bontrager, Elk Grove's housing program manager, said the city had some voluntary inclusionary housing, with a couple of developers choosing to incorporate affordable units in their projects. But she said in-lieu fees allow the city to leverage other dollars.

Elk Grove also offers down-payment assistance program to foster homeownership.

One thing city officials and affordable housing advocates agree on is the need for more funding for affordable housing. They voiced support for

Senate Bill 391, known as the California Homes and Jobs Act, which would impose fees on real estate transaction documents to provide an ongoing source of funds for local income housing. The bill was passed by the Senate but remains under review in the assembly.

Call The Bee's Cathy Locke, (916) 321-5287.

LEGAL DESCRIPTION

EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED PARTIALLY IN THE UNINCORPORATED AREA AND PARTIALLY IN THE CITY OF WINTERS, COUNTY OF YOLO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL A:

LOTS 1 THROUGH 21, INCLUSIVE, MOSBACHER TRACT NO. 1, FILED November 5, 1919, IN BOOK 3 OF MAPS, PAGE 34, YOLO COUNTY RECORDS.

EXCEPTING THEREFROM, THAT PORTION THEREOF DESCRIBED IN THE DEEDS TO THE CITY OF WINTERS, RECORDED January 25, 1990, IN BOOK 2091 OF OFFICIAL RECORDS, PAGE 446 AND 450.

ALSO EXCEPTING THEREFROM, THAT PORTION THEREOF DESCRIBED IN THE DEED TO WINTERS JOINT UNIFIED SCHOOL DISTRICT, RECORDED AUGUST 13, 1999, INSTRUMENT NO. 25340, OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM, THE FOLLOWING:

A) 50% OF ALL OIL, GAS, MINERALS RIGHTS LYING BELOW A DEPTH OF 500 FEET FROM THE SURFACE OF SAID LAND, BUT WITHOUT HOWEVER, THE RIGHT TO USE THE SURFACE OF SAID LAND FOR EXPLORING, EXTRACTING OR ANY OTHER PURPOSE, AS RESERVED IN THE DEED EXECUTED BY CECIL MOSBACHER, ET AL., RECORDED AUGUST 25, 1976, IN BOOK 1207 OF OFFICIAL RECORDS, PAGE 140.

B) AN UNDIVIDED 12.5% INTEREST IN AND TO ALL OIL, GAS, MINERALS AND MINERAL RIGHTS LYING BELOW A DEPTH 500 FEET FROM THE SURFACE OF THE HEREIN ABOVE DESCRIBED LAND, BUT WITHOUT HOWEVER, THE RIGHT TO USE THE SURFACE OF THE HEREIN ABOVE DESCRIBED LAND FOR EXPLORING, EXTRACTING OR ANY OTHER PURPOSE, AS GRANTED TO DANIEL K. DOWLING IN THE DEED RECORDED November 8, 1977, IN BOOK 1276 OF OFFICIAL RECORDS, PAGE 611.

C) AN UNDIVIDED 12.5% INTEREST IN AND TO ALL OIL, GAS, MINERALS AND MINERAL RIGHTS LYING BELOW A DEPTH OF 500 FEET FROM THE SURFACE OF THE HEREIN ABOVE DESCRIBED LAND, BUT WITHOUT HOWEVER, THE RIGHT TO USE THE SURFACE OF THE HEREIN ABOVE DESCRIBED LAND FOR EXPLORING, EXTRACTING OR ANY OTHER PURPOSE, AS GRANTED TO PETER F. ANDERS IN THE DEED RECORDED November 8, 1977, IN BOOK 1276 OF OFFICIAL RECORDS, PAGE 612.

D) AN UNDIVIDED 25% INTEREST IN AND TO ALL OIL, GAS, CASINGHEAD GAS, ASPHALTUM, AND OTHER HYDROCARBONS, AND ALL CHEMICAL GAS, NOW OR HEREAFTER FOUND SITUATED OR LOCATED IN ALL OR ANY PART OR PORTION OF THE LANDS HEREIN DESCRIBED LYING MORE THAN FIVE HUNDRED FEET (500) BELOW THE SURFACE THEREOF, TOGETHER WITH THE RIGHT TO SLANT DRILL FOR AND REMOVE ALL OR ANY OF SAID OIL, GAS CASINGHEAD GAS, ASPHALTUM AND OTHER HYDROCARBONS AND CHEMICAL GAS LYING BELOW A DEPTH OF MORE THAN AVE HUNDRED FEET (500) VERTICAL DISTANCE BELOW THE SURFACE THEREOF, AS RESERVED IN THE DEEDS EXECUTED BY MELVIN M. NORMAN CONSTRUCTION, INC., ET AL., RECORDED MARCH 26, 1990, IN BOOK 2106 OF OFFICIAL RECORDS, PAGES 251, 253, AND 267.

APN: 030-220-17-1; 030-220-19-1; & 030-220-33-1

PARCEL B:

A PORTION OF LOT 4, CARPENTER BRO'S. SUBDIVISION OF A PORTION OF SECTION 20, TOWNSHIP 3 NORTH, RANGE 1 WEST, M.D.B. & M., ACCORDING TO THE OFFICIAL PLAT THEREOF, FILED January 2, 1894, IN BOOK 1 OF MAPS, PAGE 22, YOLO COUNTY RECORDS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 4, WHICH POINT IS ALSO THE QUARTER SECTION CORNER OF THE EAST LINE OF SAID SECTION 20; RUNNING THENCE WEST, ALONG THE NORTH LINE OF SAID LOT, A DISTANCE OF 42 FEET; THENCE EAST AT RIGHT ANGLES A DISTANCE OF 160 FEET TO THE EAST LINE OF SAID LOT 4; THENCE NORTH ALONG SAID LINE A DISTANCE OF 42 FEET TO THE POINT OF BEGINNING.

APN: 030-361-01-1

APN: 030-220-17-1, 030-220-19-1, 030-220-33-1, 030-361-01-1

59

Agreement

Section 1. Amendment to Sections 1.1.23, 1.1.25, and 2.2 "Property"

Sections 1.1.23, 1.1.25 and 2.2 of the Development Agreement are amended by replacing the old Yolo County Assessor's Parcel Numbers 030-220-17, 030-220-19 and 030-220-33 with the new Yolo County Assessor's Parcel Numbers 030-220-17, 030-220-19, 030-220-49 and 030-220-50 to reflect updated Yolo County Assessor's Parcel Numbers. The project acreage remains the same.

Section 2. Amendment to Section 2.3, Agreement to be Recorded; Effective Date; Term.

Section 2.3, paragraph b., of the Development Agreement is replaced in its entirety and shall read as follows:

- b. The term of this Agreement shall expire on December 31, 2016, unless extended by mutual consent of the Parties. It may be terminated as provided in Article 5 of the Development Agreement.

Section 3. Amendment to Section 2.7, Whole Agreement; Conflict with Municipal Code.

Section 2.7, paragraph b., of the Development Agreement is replaced in its entirety and shall read as follows:

- b. The provisions of Title 15, Chapter 15.72 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.

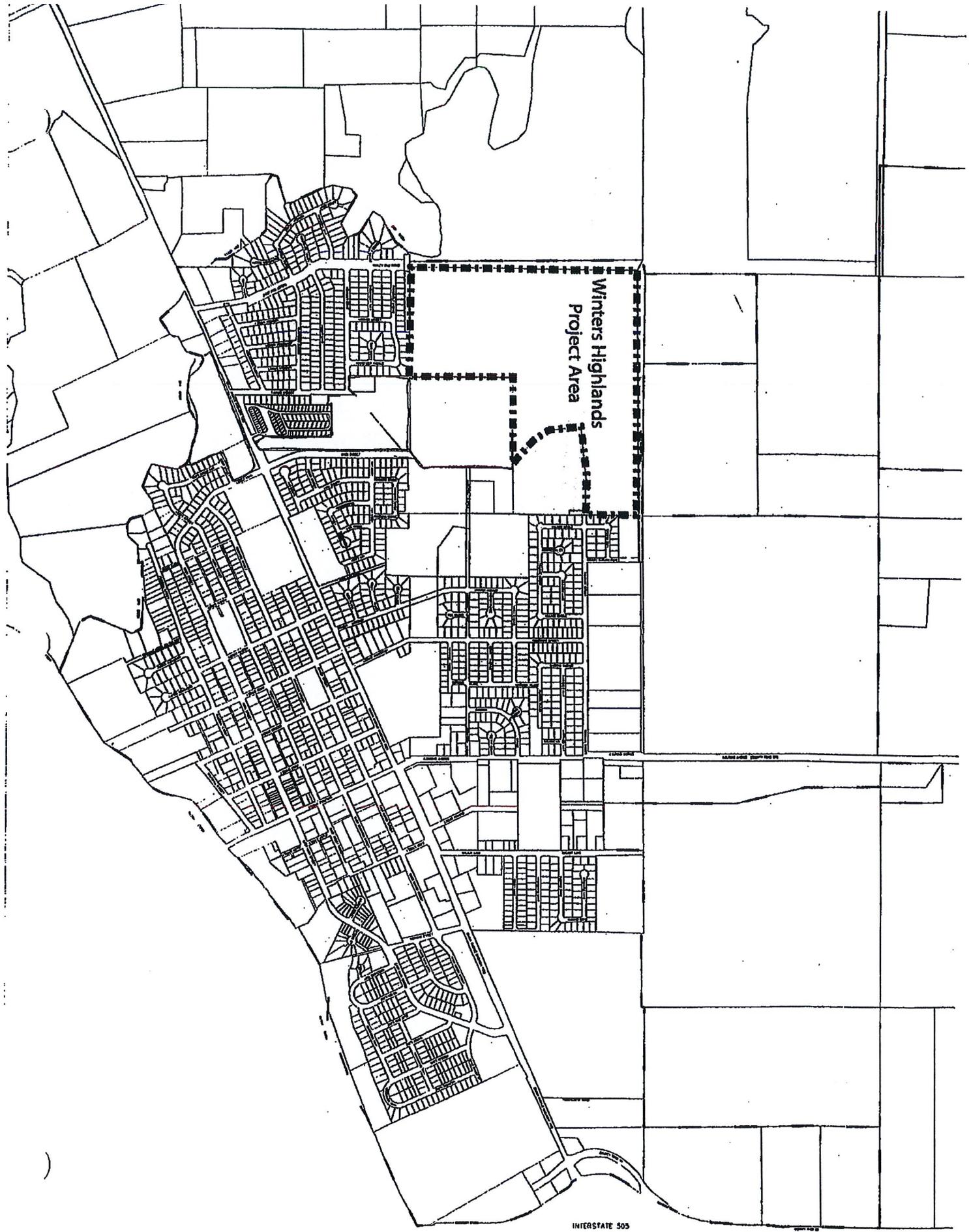
Section 4. Amendment to Section 3.6, Commencement of Development.

Section 3.6, paragraphs a. and b., of the Development Agreement are replaced in their entirety and shall read as follows:

- a. The Developer shall have sole discretion to determine when the final map for Phase I of the Winters Highlands Subdivision, and accompanying subdivision improvement plans, are submitted for City review and approval.
- b. Deleted.

Section 3.6, paragraphs c. and d., of the Development Agreement shall remain unchanged.

Section 5. Amendment to Section 3.7, Maximum Number of Building Permits Per Year; Non-Market Rate Units.



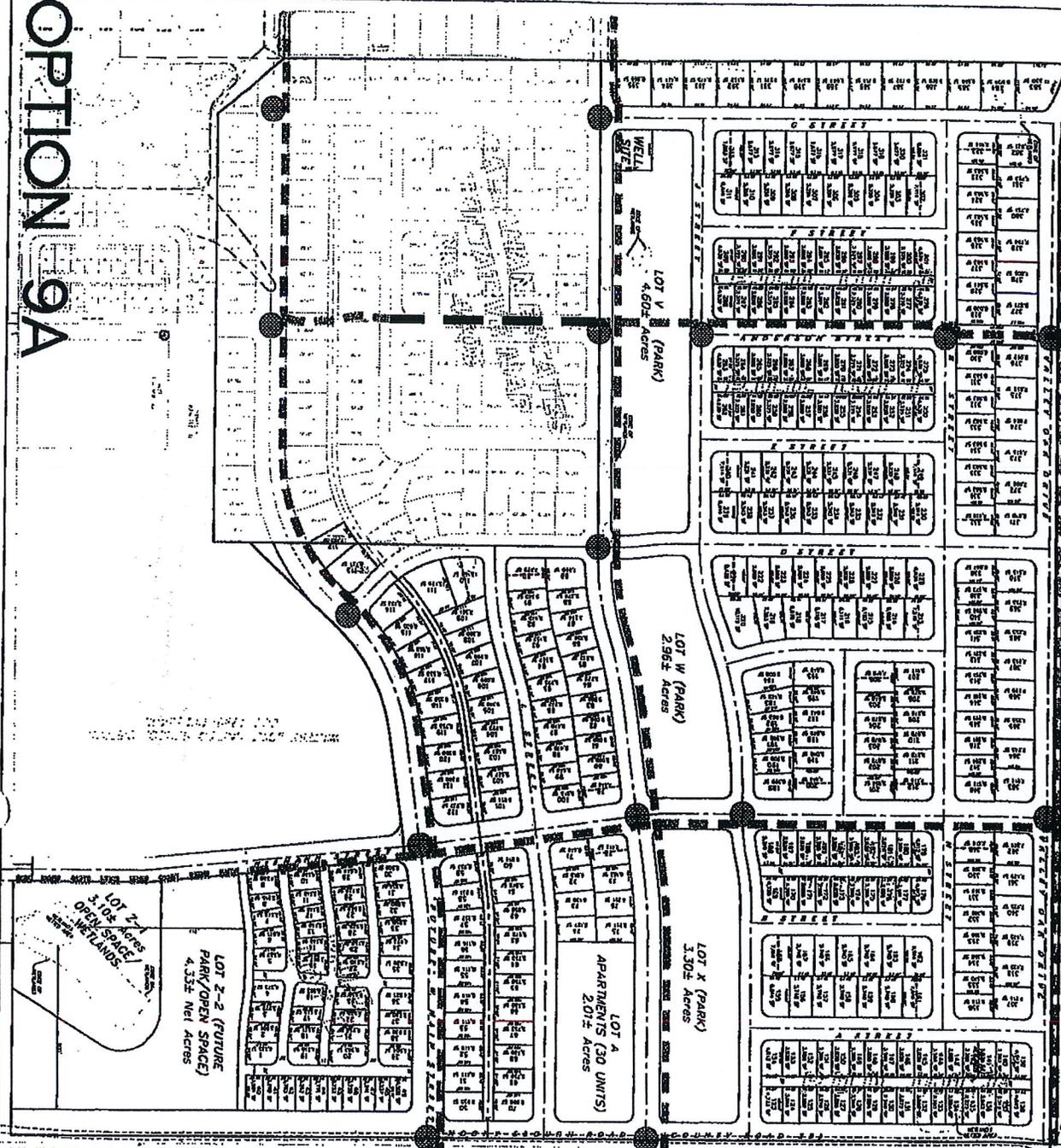
Winters Highlands
Project Area

INTERSTATE 505

60/

OPTION 9A

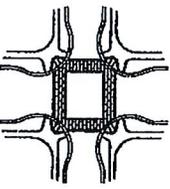
WINTER S HIGHLANDS



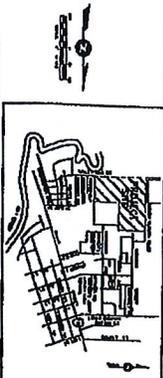
FUTURE SPORTS PARK

- CLASS I BIKE PATH
- CLASS II BIKE PATH
- TRAFFIC CALMING FEATURE
SEE DETAIL 1, THIS SHEET

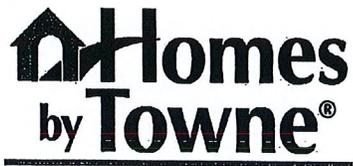
1 TRAFFIC CALMING FEATURE



OWNER: WINTER S HIGHLANDS, LLC
ARCHITECT: WINTER S HIGHLANDS, LLC
ENGINEER/PLANNING: WINTER S HIGHLANDS, LLC
DATE: 10/1/2011
PROJECT: WINTER S HIGHLANDS, LLC
SCALE: AS SHOWN
NOTES: 1. THIS PLAN IS A PRELIMINARY PLAN AND IS SUBJECT TO CHANGE WITHOUT NOTICE.
 2. THE OWNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS.
 3. THE ENGINEER'S RESPONSIBILITY IS LIMITED TO THE DESIGN AND CONSTRUCTION OF THE TRAFFIC CALMING FEATURE.
 4. THE ENGINEER SHALL NOT BE RESPONSIBLE FOR THE DESIGN OR CONSTRUCTION OF ANY OTHER PART OF THE PROJECT.
 5. THE ENGINEER SHALL NOT BE RESPONSIBLE FOR THE DESIGN OR CONSTRUCTION OF ANY OTHER PART OF THE PROJECT.
 6. THE ENGINEER SHALL NOT BE RESPONSIBLE FOR THE DESIGN OR CONSTRUCTION OF ANY OTHER PART OF THE PROJECT.
 7. THE ENGINEER SHALL NOT BE RESPONSIBLE FOR THE DESIGN OR CONSTRUCTION OF ANY OTHER PART OF THE PROJECT.
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 9. THE ENGINEER SHALL NOT BE RESPONSIBLE FOR THE DESIGN OR CONSTRUCTION OF ANY OTHER PART OF THE PROJECT.
 10. THE ENGINEER SHALL NOT BE RESPONSIBLE FOR THE DESIGN OR CONSTRUCTION OF ANY OTHER PART OF THE PROJECT.



LM
 LICENSED PROFESSIONAL ENGINEER
 CIVIL ENGINEERING
 STATE OF MISSISSIPPI
 LICENSE NO. 10000
 EXPIRES 12/31/2012



Date: December 10, 2013

To: John Donlevy, Winters City Manager

From: Jeremy Goulart, Towne Development of Sacramento, Inc.

Re: Proposed Affordable Housing Plan – Winters Highlands

As you are aware, Towne Development of Sacramento, Inc. ("TDS") is in escrow to purchase the Winters Highlands project (the "Project"). Per our conversations and correspondence with you, TDS has prepared the following Affordable Housing Plan ("AHP") pursuant to Chapter 17.200 of the City of Winters' Municipal Code.

Background

The Project was approved in 2006 with an AHP, as proposed by the previous developer, Granite Bay Holdings. The current AHP includes dedication of a 2.01 acre apartment site for 30 Very Low Income ("VLI") units, as well as an additional 36 duplex units for Low or Moderate income homebuyers, for a total of 66 inclusionary units. The Project's Conditions of Approval place additional parameters on these affordable housing units as follows: 26 VLI, 25 Low Income and 15 Moderate Income units are to be constructed, and 50 percent of both for sale and for rent units must be 3 bedroom 2 bath, while the remaining 50 percent shall be 4 bedroom 2 bath. The Second Amendment of the Development Agreement clarifies the timing of afford housing construction limiting the issuance of market-rate building permits in subsequent phases until all affordable housing units in previous phases are constructed.

Since the Project was approved, real estate market conditions have deteriorated and several jurisdictions within the Sacramento region have acknowledged that inclusionary affordable housing programs are no longer feasible. For example, Nevada County and the City of Elk Grove have acquiesced to a fee-based affordable housing program, and the City and County of Sacramento are evaluating similar fee-based programs.

It is clear that the Project's current AHP is infeasible in today's economic climate. Underwriting criteria and investment, typically called A, D and C lending has changed dramatically in the past several years. Overburdening a development project with fees and costly inclusionary housing requirements will result in a serious impediment to investment.

With that in mind, TDS has prepared the following AHP that meets the requirements of the City's Affordable Housing Requirements (Chapter 17.200), without rendering the Project infeasible.

Proposed Affordable Housing Plan

Inclusionary Housing Requirement – Chapter 17.200.030 of the City's Municipal Code requires that 15 percent of a project's total number of residential units must be dedicated to affordable housing, with 6 percent meeting the VLI requirement and 9 percent meeting the Low Income or Moderate Income Requirement. These units can be rental, for-sale, or a combination of the two.

TDS will be requesting that the City approve changes to the existing tentative map and convert the 36 duplex units to 18 SFR lots. This change would result in a total of 395 SFR lots. Pursuant to the Code, the Project would be required to include 60 inclusionary units, and we therefore request that the Project's affordable housing requirement be revised accordingly.

Meeting the VLI Obligation – As mentioned above, 6 percent of the total units must be dedicated to those that qualify as VLI. In this case, the proposed revisions to the Project would result in a VLI income requirement of 24 units. It is our understanding that the City will require the approved apartments, shown as Lot A on the approved map, to remain a part of the Project. Based on the City's Zoning Ordinance, the R-4 high-density land use designation can accommodate 10 – 15 units per acre. We believe that Lot A can yield 36 apartment units; 24 of which would satisfy the Project's VLI requirement.

Meeting the Low/Moderate Income Requirement – TDS proposes that the remaining 12 rental units to be built on Lot A will be limited to Low Income renters, thereby satisfying 12 of the 36 Low/Moderate units required by the City Code.

Dedication of the Affordable Apartment Site (Lot A) – TDS will agree to record the necessary documents and deed restrictions on title for Lot A upon recordation of the first final map within the Project. Following recordation, TDS will prepare a Request for Qualifications (RFQ) to be sent to firms that specialize in for-rent affordable housing development. The responses generated from the RFQ will be reviewed by both the City and TDS, and final selection of an affordable housing developer will occur shortly thereafter. TDS will deed Lot A to the selected for-rent affordable housing developer at no cost to the developer or the City. TDS requests that the VLI, and the portion of the Low Income requirement as noted above, be satisfied via this transfer.

Satisfying the Remaining Affordable Housing Requirement – Chapter 17.200.050 of the City's Municipal Code identifies multiple ways in which a developer may satisfy its affordable housing obligation. Included in these alternatives is land dedication, which is consistent with our proposal above, as well as the payment of an in-lieu fee. TDS proposes to pay an in-lieu fee of \$3,500 per market rate unit to satisfy our remaining Low/Moderate Income obligation. This fee, to be paid prior to issuance of a Certificate of Occupancy on a given market rate lot, would generate \$1,382,500 to be used by the City to provide down payment assistance to income qualified first-time homebuyers, and seed/leverage funding for affordable housing builders who are expert in affordable housing construction. The benefits of this program are as follows:

- \$1,000 of the \$2,500 fee would be applied to an income qualified first time homebuyer program, with the total Project contribution equaling \$395,000. Typically, these buyers acquiring financing through FHA and VA programs, which often require a 3.5 percent down payment. Assuming a purchase price of \$250,000 with a down payment of \$8,750, the proposed Project contribution will provide assistance to 45 income qualified families; nearly

double the remaining 24 Low/Moderate Income units that would be required in an inclusionary plan.

- The remaining \$2,500 per market rate unit, or \$987,500 could be used to assist the selected affordable housing developer in developing and constructing the apartment site (Lot A). The City could also choose to create a retrofit program for affordable homebuyers whereby income-qualified buyers would utilize the down payment assistance program and be provided a forgivable loan for the energy efficient retrofit of the City's existing housing stock.

Our goal in presenting this AHP was to provide the City with a flexible way to meet its housing needs, while complying with the provisions of its existing affordable housing ordinance. There is no doubt that State and Federal funding for affordable housing has been, and will continued to be, limited, if not non-existent. Our Plan provides options for income-qualified buyers to purchase anywhere within the City of Winters, including Winters Highlands.

Thank you in advance for your consideration. We look forward to further discussing our AHP with you and your staff.

ORDINANCE NO. 2009-18

AN ORDINANCE OF THE CITY OF WINTERS REPEALING SECTION 17.60.030(B) OF THE ZONING CODE AND ADDING CHAPTER 17.200 TO THE ZONING CODE PERTAINING TO AFFORDABLE HOUSING REQUIREMENTS

The City Council of the City of Winters hereby ordains as follows:

SECTION 1. Recitals.

- A. The City of Winters undertook a comprehensive study and analysis of its affordable housing program, which prompted certain revisions to the affordable housing program for the City.
- B. The affordable housing requirements contained in this Ordinance are the culmination of the City's efforts to develop an affordable housing program that promotes a balance between encouraging the development of market-rate housing and mixed use development in the City, while at the same time, providing for the creation of affordable housing necessary to meet the needs of individuals of very low, low and moderate income within the City.
- C. The City of Winters Planning Commission conducted a noticed public hearing regarding this Ordinance, which amends the Zoning Code to repeal Section 17.60.030(B) and add Chapter 17.200 pertaining to affordable housing requirements within the City, and has recommended approval of the Ordinance.
- D. The City Council of the City of Winters has provided public notice of its intention to amend the Zoning Code to adopt Chapter 17.200, and conducted a public hearing thereon on December 15, 2009.
- E. The proposed amendment of the Zoning Code to add Chapter 17.200 is consistent with the goals, policies, and objectives of the City of Winters General Plan, and in particular, the Housing Element, as adopted on September 1, 2009.
- F. The proposed amendment of the Zoning Code to add Chapter 17.200 has been reviewed in accordance with the California Environmental Quality Act ("CEQA") and is exempt pursuant to CEQA Guidelines Section 15061(b)(3).

SECTION 2. Chapter 17.200 "Affordable Housing Requirements" is hereby added to the Winters Municipal Code to read as follows:

Section 17.200.010 Purpose and Intent

The public welfare requires the City to take action to ensure that affordable housing is constructed and maintained within the City. This Chapter is intended to provide that new development projects in the City contain or assist in the production of a defined percentage of housing affordable to low income and very low income households, to provide for a program of incentives, and to implement the affordable housing policies contained in the Housing Element of the City's General Plan.

Section 17.200.020 Definitions

"Affordable Housing Steering Committee" means an advisory committee appointed by the City Council for the purpose of advising the City Council, Planning Commission, Community Development Agency and City staff on affordable housing policies and programs, use of redevelopment housing funds, proposed affordable housing projects, and other housing matters, at the request of the City Council.

"Community Development Director" means the director of the Community Development Department of the City, or his or her designee.

"Developer" means any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities which seeks the City's approval of discretionary land use entitlements for all or part of a development project. "Developer" includes "owner"

"Development project" means any development project that contains residential units, including single family and multifamily units.

"Inclusionary housing agreement" means an agreement between the developer and the City setting forth the manner in which the inclusionary housing requirements will be met in the development project.

"Inclusionary housing plan" means the plan setting forth the manner in which the developer proposes to satisfy the inclusionary housing requirements of this Chapter within the development project.

"Inclusionary housing requirement" means the inclusionary housing requirements as specified in this Chapter.

"Inclusionary housing unit or inclusionary unit" means an ownership or rental unit developed or provided in satisfaction of the inclusionary housing requirements of a development project, as provided for in this Chapter, and which is affordable to very low, low income or moderate income households.

"Low income household" means a household whose income does not exceed eighty percent (80%) of median income applicable to Yolo County, adjusted for family size as published and annually updated by the United States Department of Housing and Urban Development.

“Moderate income household” means a household whose income does not exceed one hundred twenty percent (120%) of median income applicable to Yolo County, adjusted for family size as published and annually updated by the United States Department of Housing and Urban Development.

“Very low income household” means a household whose income does not exceed fifty percent (50%) of the median income, adjusted for household size, applicable to Yolo County, as published and periodically updated by the United States Department of Housing and Urban Development.

Section 17.200.030 Inclusionary Housing Requirements

(A) Number and Affordability of Units. Except as otherwise provided for in this Chapter, all development projects consisting of five (5) or more residential units within the City of Winters shall include inclusionary housing units equal to fifteen percent (15%) of the total number of residential units in the development project, excluding density bonus units. The fifteen percent (15%) inclusionary housing requirement shall consist of six percent (6%) very low income units and nine percent (9%) low income or moderate income units in proportion to the unmet needs for each identified in the current housing element.

(B) Exception. The following development projects are exempt from the provisions of this Chapter:

1. Redevelopment Project Area. The fifteen percent (15%) inclusionary housing requirement provided in Subsection A above shall not apply to development projects within the Winters Community Development Agency Redevelopment Project Area that contain fifteen (15) or fewer residential units. This exception shall expire on December 31, 2013, unless extended by the City Council. Any development project that has not acquired a vested right to develop in accordance with existing laws and regulations by such expiration date shall be required to comply with the provisions of this chapter.
2. Project with prior approval. A development project that has obtained discretionary approval (e.g., a Development Permit, Use Permit, Design Review, Planned Development Permit, or Variance approval) before the effective date of this Chapter; or a building permit before the effective date of this Chapter; or a Certificate of Occupancy before the effective date of this Chapter.
3. Exempt by State law. A development project that is exempt from this Chapter by State law.
4. Project with vested rights. A development project for which the City has entered into a development agreement before the effective date of this Chapter, or which otherwise demonstrates a vested right to proceed without complying with this Chapter.

(C) Implementation. The developer shall propose an inclusionary housing plan to community development director as provided for in this Chapter. A condition requiring compliance with all of the terms of the inclusionary housing plan, as approved by the Planning Commission, shall be imposed on the development project. Further, the developer and the City shall enter into an inclusionary housing agreement that requires compliance with the inclusionary housing plan, and that will be recorded upon the property as provided in this Chapter.

(D) Density Ranges. Development projects which are proposed in areas of the City zoned for medium high and high density residential use, shall only be approved if density of the development project is in the upper one-half of the density ranges specified in the Zoning Code for developments in such zones, unless site constraints effectively prohibit such intensity of development.

(E) Unit Size. The inclusionary housing requirement shall accommodate diverse family sizes by including a mix of studio, one, two and/or three bedroom units where feasible.

(F) Exterior Appearance. The inclusionary units shall be visually compatible with and shall have similar external building materials and finishes as the market rate units in the immediate neighborhood.

(G) Access to Common Amenities. Tenants and residents of inclusionary units shall be provided the same rights and access to common amenities within the development project as tenants and residents occupying market rate units.

(H) Small Parts of Larger Projects. The City shall not approve development projects which reasonably appear to be smaller parts of a greater project and have the effect of circumventing the requirements of this Chapter.

Section 17.200.040 Inclusionary Housing Plan

(A) Submittal Requirements. At the time of and as part of the application for a discretionary land use entitlement for a development project, the inclusionary housing plan shall be submitted to the Community Development Director by the project developer, and shall include:

1. A detailed description of the method by which the developer will comply with the requirements of this Chapter.
2. The location of the inclusionary units within the development project, if applicable, the size of the inclusionary units, and any incentives requested by the developer in accordance with Section 17.200.060 of this Chapter.
3. Where an alternative to constructing inclusionary units on-site is intended, the developer shall provide detailed information regarding the alternative selected for meeting the inclusionary housing requirement, including a written statement that the proposed parcel(s), site, or existing market rate units, if applicable,

are available and capable of being dedicated to the City by the developer and that the affordable units shall be restricted as affordable housing, by way of contractual restrictions, recorded covenants or other legal mechanisms to assure that the units remain affordable housing units, as determined by City.

4. A phasing plan that provides a schedule for the timely development of the inclusionary units as the development project is built out.
5. Any other information deemed necessary by the Community Development Director.

(B) Affordable Housing Steering Committee Meeting. Prior to the submittal of the inclusionary housing plan, the Affordable Housing Steering Committee shall meet with and provide recommendations to the project developer regarding compliance with this Chapter.

(C) Community Development Director Preliminary Review. Upon receipt of the proposed inclusionary housing plan, the Community Development Director shall review the plan, and thereafter shall meet with the project developer to discuss the proposed plan.

(D) Plan Approval. After the preliminary review by the Community Development Director, the inclusionary housing plan shall be subject to the same review and approval as the discretionary land use entitlements.

Section 17.200.050 Alternative Methods to Meeting Inclusionary Housing Requirements

The City strongly prefers and shall encourage on-site construction of inclusionary units, however alternatives to the on-site construction of the inclusionary housing units may be proposed by the developer, consistent with the requirements set forth below in this section. The alternative methods are subject to review and approval of the City, as part of the inclusionary housing plan review process. The developer shall have the burden of demonstrating that the alternative selected is equivalent to the on-site construction of inclusionary housing units. Alternatives may include:

(A) Land Dedication. A developer may propose to dedicate land within the City sufficient to construct at least the same number of units and infrastructure to support the number of units as the developer would have been required to construct on-site subject to the inclusionary housing requirement. Land may be dedicated pursuant to this alternative provided the site will support the same number of units the developer is required to construct, has zoning of a minimum density necessary to accommodate the inclusionary housing requirement, that the site is physically and legally acceptable to the City, and that the site is restricted to affordable housing. The developer shall dedicate the land to the City at no cost the City.

(B) On-Site or Off-Site Construction. A developer may propose to develop housing to satisfy the inclusionary housing requirement at an on-site or off-site location within the City.

(C) Acquisition, Rehabilitation, and Conversion of Market Rate Units. A developer may propose to acquire and rehabilitate existing market rate units in the City which are at or above existing affordable rents, which require repair, rehabilitation, modernization or other work and convert those units to affordable housing units.

(D) Conversion of Market Rate Units. A developer may propose to convert existing market rate units in the City which do not require rehabilitation and are at or above existing affordable rents to affordable housing units by way of contractual restrictions, recorded covenants or other legal mechanisms to assure that the units remain affordable housing units, as determined by City.

(E) Accessory Units. A developer may propose to construct accessory dwelling units (e.g. granny flats) on site of the development project to meet the inclusionary housing requirement. The lots upon which the accessory dwelling units are constructed shall be restricted to provide that the units remain affordable housing units by way of contract, recorded covenants or other legal mechanisms.

(F) Inclusionary Housing Credits. A developer may propose to use inclusionary housing credits, as defined in this Chapter, to meet the inclusionary housing requirement.

(G) Payment of In-Lieu Fees. A developer may propose to pay an in-lieu fee to the City instead of constructing affordable units to meet the inclusionary housing requirement.

(H) Cooperative Ventures. A developer may propose a cooperative venture with a non-profit housing corporation, mutual housing association, limited equity housing cooperative, or other entity.

(I) Sweat Equity Project. A developer may propose a self-help or "sweat equity" project with a non-profit corporation or other entity.

(J) Combination. A developer may propose to utilize a combination of the above alternatives to meet the inclusionary housing requirement.

(K) Other Alternatives. A developer may propose, and the City may accept, other alternatives that meet the requirements and intent of this Chapter.

Section 17.200.060 Incentives and Assistance

(A) Request for Incentives and Assistance. The developer of a development project subject to the inclusionary housing requirements of this Chapter, may request, and the City, in its discretion, may grant or deny the request for incentives as set forth in this section.

(B) Fee Waivers or Deferrals. The City may grant to a developer a program of waivers, reduction or deferrals of development fees or administrative fees for the inclusionary units.

(C) Inclusionary Housing Credits. A developer may submit as part of the inclusionary housing plan a proposal to provide affordable housing units or a donation of land in connection with a development project beyond the requirements of this Chapter. The developer may credit the additional affordable units or land against future development projects proposed by the developer within the City, subject to the provisions of this chapter. Inclusionary housing credits may also be transferred or sold to any other person or entity subject to the following conditions:

(1) Inclusionary housing credits must be applied to another development project within five (5) years of issuance of a certificate of occupancy for the inclusionary units(s) or implementation of an alternative method of meeting the inclusionary method of meeting the inclusionary housing requirement which gives rise to the credits, such as land dedication. A developer who has not used, transferred or sold credits within the time specified in this section may apply to the City for a one (1) year extension on the life of the credits. A request for extension of the inclusionary housing credit shall be reviewed by City Council who shall grant or deny the request for extension. The City Council shall consider progress and efforts the developer has made to utilize the credits during the previous five (5) years, the impact on affordable housing in the City if the extension is granted, any proposals for use of the credits should the extension be granted and other relevant factors.

(2) Inclusionary units receiving monetary subsidies through the City shall not receive credits unless the City has been reimbursed for its financial assistance.

(D) Local Public Funding. A developer may apply to the community development agency for local public funding to assist in the financing and development of affordable housing to meet the inclusionary housing requirement.

(E) Modification of Development Standards. To the extent feasible in light of the uses, design and infrastructure needs of the development project, modifications to existing City planning standards may be made for the development project. Such modifications shall be requested through a development permit, or other such permit that allows the modification of planning standards, and shall be considered in conjunction with the other discretionary land use entitlements for the development project.

(F) Mixed Use Projects. Mixed use projects containing affordable units may be proposed and approved in areas of the City where the Zoning Code and the General Plan allow such development to help off-set the cost of developing affordable units pursuant to the requirements of this chapter.

Section 17.200.070 Density Bonus

Inclusionary units required by this Chapter or otherwise proposed to be constructed as part of a development project shall not be counted towards the number of units necessary to qualify for a density bonus under applicable state or local laws.

Section 17.200.080 Restrictions on Inclusionary Units

Each inclusionary unit created as a result of this Chapter shall have limitations governing its rental, sale, and/or resale and its occupancy, unless such limitations would be in conflict with federal or state law. The purpose of these limitations is to preserve the long-term affordability and to ensure its continued availability for income eligible households.

(A) Duration of Affordability for Rental and Resale of Inclusionary Units. All rental and for-sale inclusionary housing units developed within the City shall remain affordable for a period of not less than that required by Section 33334.3(f)(1) of the California Health and Safety Code (fifty-five years for rental units, forty-five years for owner-occupied units and fifteen years for mutual self-help housing units), and shall be regulated by regulatory agreement, recorded covenants or other legal mechanisms to assure that the units remain affordable housing units, as determined by City.

(B) Occupancy Requirements.

(1) Rental Units. Any person(s) who occupies a rental inclusionary unit shall occupy that unit as his or her principal residence and shall annually certify that he or she qualifies for the applicable affordable rent level. The Community Development Director shall annually initiate this certification process. If and when any person(s) who rents an inclusionary unit no longer qualifies at the applicable affordable rent and income levels, the person(s) shall be required to vacate the unit or pay the market rate for the unit provided another rental unit is made available at the income level of the inclusionary unit.

(2) For-Sale Units. (i) Except as provided in this section, an initial owner who purchases a for-sale inclusionary unit shall occupy that unit as his or her principal residence. The inclusionary housing agreement shall provide that a for-sale inclusionary unit may only be rented or leased with the written permission of the City, and then, only to an income eligible person and the inclusionary unit shall be rented at no greater a rental rate than the affordable rent level as defined in Health and Safety Code Section 50053. The inclusionary unit shall be rented or leased at the same income level of the original for-sale affordable housing price. For example, if the initial owner bought the unit at the very low income housing price the unit shall be rented at the very low income rent level currently in effect. Any person intending to offer a for-sale inclusionary unit for rent or lease shall first notify the City housing coordinator in writing, prior to the renting of the unit. (ii) An initial owner shall be required to execute a promissory note, secured by a deed of trust, payable to the City, for the difference between the fair market value of the unit and the actual purchase price ("Silent Second Note"). The Silent Second

Note shall accrue interest at the Local Agency Investment Fund (“LAIF”) rate, and shall be due and payable upon the sale, transfer or refinancing of the unit, unless the sale is to another low income eligible buyer, as determined by the City. The proceeds of any Silent Second Notes shall be deposited in an account designated for uses related to the provision of affordable housing in the City.

(C) Resale of For-Sale Units. The initial owner or any subsequent owner may sell a for-sale unit pursuant to the following requirements. Inclusionary for-sale units shall remain affordable to subsequent income eligible buyers pursuant to the resale restricted term provided for in subsection (A) above, and in accordance with the affordable housing costs set forth in Health and Safety Code Section 50052.5. The inclusionary for-sale unit shall be sold at the same affordable housing price income level as it was originally sold, and the new income eligible buyer shall be required to execute a new inclusionary housing agreement and Silent Second Note, secured by a deed of trust.

(1) Option to Sell to City. If the owner is unable to sell the inclusionary unit within one hundred and eighty (180) days of offering and advertising the unit for sale, the owner may offer to sell the unit to the City at the affordable housing price at the time offer. The Community Development Director may reduce the one hundred and eighty (180) day requirement specified above if the owner demonstrates, to the satisfaction of the Director, that such limit would create a hardship for the owner. If the City or its assignee does not complete the purchase of the unit within ninety (90) days of the owner’s offer of sale to the City, the resale obligation of this section shall terminate; however, the provisions of this section relating to recapture upon sale shall continue to apply and remain in full force and effect.

(2) Recapture Upon Sale. If the inclusionary unit does not sell within one hundred and eighty (180) days of offering and advertising the unit for sale, or such lessor time as established by the Community Development Director upon a finding that a hardship exists, and if the City does not acquire the inclusionary unit as specified in this section, the inclusionary unit may be sold at the current market price. Upon the sale of a unit at market price, the seller shall pay to the City housing trust fund the full amount of the Silent Second Note, described above in this section. The owner shall be entitled to any appreciation in the fair market value of the unit from the time of initial sale to the present sale.

Section 17.200.090 Administration of Inclusionary Housing Requirements

(A) Inclusionary Housing Agreement. Upon approval of the inclusionary housing plan pursuant to Section 17.200.030, the Community Development Director shall prepare an inclusionary housing agreement for the development project that is consistent with inclusionary housing plan, and shall indicate ownership information, type of inclusionary unit (for-sale or rental), the number and size of the inclusionary units, the developer of the inclusionary units, the phasing and construction scheduling of the inclusionary units, commitments for inclusionary incentives and any other information required by the City

relative to the inclusionary housing requirement. In the case of alternatives to the inclusionary housing requirement, the agreement shall also contain the information required in this chapter pertaining to the alternative. Upon completion, the inclusionary housing agreement shall be recommended for approval by the City Council at the next regular City Council meeting. The inclusionary housing agreement shall provide a direct financial contribution by the City in the amount of not less than one hundred dollars (\$100) per inclusionary unit.

No final map shall be approved and no grading permit or building permit shall be issued by the City prior to the full execution and recordation of the inclusionary housing agreement against the property.

(B) Action on Inclusionary Housing Agreement. The City Council shall approve the inclusionary housing agreement upon a finding that the agreement meets all the requirements of this chapter and shall direct that the agreement be recorded upon the subject property.

(C) Affordable Rental and Affordable Housing Agreements. Prior to obtaining a certificate of occupancy for a development project which includes inclusionary units, the developer shall cause an affordable rental agreement to be executed between the owner of the property and the City which shall be recorded with the county recorder's office against the parcels identified in the inclusionary housing agreement as being inclusionary units, in a form reviewed and approved by the City Attorney. Where the inclusionary unit is a for-sale unit within a development project, prior to obtaining a certificate of occupancy for that unit the developer shall cause an affordable sale agreement to be executed between the initial owner of the inclusionary unit and the City, which shall be recorded with the county recorder's office against the parcel, in a form reviewed and approved by the City Attorney.

(D) Administrative of Affordability for Rental Inclusionary Housing. The owner of rental inclusionary units or for-sale inclusionary units offered for rent shall be responsible for certifying the income of the tenant or owner to the City at the time of initial rental and annually thereafter. The owner of a for-sale inclusionary unit shall certify to the City the income of the initial purchaser.

(E) Accessory Dwellings. Prior to obtaining a certificate of occupancy for an accessory dwelling which is designated as an inclusionary units pursuant to an inclusionary housing agreement, the developer shall cause an affordable sale agreement to be executed between the initial owner of the accessory dwelling unit and the City, which shall be recorded with the county recorder's office against the accessory dwelling unit, in a form reviewed and approved by the City Attorney.

(F) Guidelines. The Community Development Director may develop additional guidelines as necessary for implementation of this chapter.

(G) Appeal. Where the provisions of this Chapter vest the Planning Commission with final decision making authority, any applicant aggrieved by the decision of the Planning Commission may appeal the decision to the City Council, within ten (10) days of the final decision of the Planning Commission. Any appeal of a decision of the Planning Commission must be filed with the City Clerk. The City Clerk shall set the appeal before the City Council within forty (40) days of receipt of the appeal.

Section 17.200.100 Monitoring of Inclusionary Housing

(A) Developers. Developers that have entered into an inclusionary housing agreement requiring the provision of inclusionary housing units will be monitored by the City annually to assure compliance with the inclusionary housing agreement.

(B) Inclusionary Units. Inclusionary housing units developed within the City will be monitored by the City annually to verify that the units remain affordable in accordance with Section 17.200.080(B) of this chapter.

(C) Reporting. An annual reporting mechanism shall be created by the City to identify the number of inclusionary housing units that have been required for development within the City by inclusionary housing agreements during the annual reporting period and shall include the number of inclusionary housing units that have actually been developed during the annual reporting period. The report shall also include the results of the monitoring of developers and inclusionary units already in existence.

Section 17.200.110 Administrative and In-Lieu Fees

The City Council may, by resolution, establish an in-lieu fee and reasonable fees and deposits to defray costs of processing applications, proposals pursuant to this Chapter.

Section 17.200.120 Enforcement and Penalties

It is unlawful to offer for sale or to rent or lease any inclusionary unit without compliance with this Chapter. Any person who violates any provision of this Chapter shall be guilty of a misdemeanor. Any person who violates any provision of this Chapter shall be guilty of a separate offense for each and every day which any person commits, continues, permits, or causes a violation thereof and, shall be punished accordingly.

SECTION 3.

Section 17.60.030(B) of Chapter 17.60 of the Winters Zoning Code pertaining to affordable housing requirements for individualized projects is hereby repealed in its entirety.

SECTION 4. Effective Date.

This Ordinance shall be in full force and effective 30 days after its adoption and shall be published and posted as required by law. The City Clerk of the City of Winters shall

cause this Ordinance to be published and posted in accordance with 36933 of the Government Code of the State of California.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Winters, California, held on December 15, 2009, and was passed and adopted at a regular meeting of the City Council held on January 5, 2010 by the following vote:

AYES: Council Members Aguiar-Curry, Fridae, Stone and Mayor Martin

NOES: None

ABSENT: Council Member Anderson

ABSTAIN: None

Michael Martin, MAYOR

ATTEST:

Nanci G. Mills, City Clerk

1160228.15

Recording Requested by

CITY OF WINTERS
(NANCI MILLS, CITY CLERK)

When Recorded Return to:

City of Winters
318 First Street
Winters, CA 95694



YOLO Recorder's Office
Freddie Oakley, County Recorder
DOC- 2009-0007219-00

Acct 118-Winters - NC

Monday, MAR 16, 2009 09:34:00

Ttl Pd \$0.00

Nbr-0000809401

FRT/R6/1-15

(15)

**SECOND AMENDMENT
TO
DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF WINTERS
AND
GBH-WINTERS HIGHLANDS, LLC
[WINTERS HIGHLANDS SUBDIVISION]**

THIS SECOND AMENDMENT TO DEVELOPMENT AGREEMENT (hereinafter referred to as the "**Second Amendment**") is entered into as of February 19th, 2009 ("**Effective Date**"), by and between the CITY OF WINTERS, a municipal corporation, (the "**City**"), and GBH-WINTERS HIGHLANDS, LL C, a California limited liability company (the "**Developer**").

Recitals

- A. The City and the Developer have heretofore entered into a Development Agreement * executed as of May 25, 2006 (the "**Development Agreement**"), and a First Amendment to Development Agreement executed as of December 21, 2006 (the "**First Amendment**"), providing for the residential development of certain real property commonly referred to as the Winters Highlands property (the "**Project**") located within the boundaries of the City of Winters. Capitalized terms used but not defined in this Second Amendment shall have the meanings given in the Development Agreement. * Recorded Document No. 2006-0020954
- B. The severe and adverse change in economic conditions that has occurred subsequent to the execution of the Development Agreement by the City and Developer has threatened the economic viability of the Project.
- C. In an effort to restore the economic viability of the Project, encourage Developer to invest in the City of Winters, and provide new housing, the City and the Developer desire to enter into this First Amendment to make certain modifications to the Development Agreement as set forth herein.
- D. City has given the required notice of its intention to adopt this Second Amendment and has conducted public hearings thereon pursuant to Government Code Section 65867. As required by Government Code Section 65867.5, the City has found that the provisions of this Second Amendment and its purposes are consistent with the goals, policies, standards and land use designations specified in the City's General Plan.
- E. On November 25, 2008, the City of Winters Planning Commission (the "**Planning Commission**"), the initial hearing body for purposes of Development Agreement review, recommended approval of this Second Amendment. On January 6, 2009, the City of Winters City Council adopted its Ordinance No. 2008-15 approving this Second Amendment and authorizing its execution, and that Ordinance ("**Enacting Ordinance**") became effective on February 5, 2009.

Agreement

Section 1. Amendment to Sections 1.1.23, 1.1.25, and 2.2 "Property"

Sections 1.1.23, 1.1.25 and 2.2 of the Development Agreement are amended by replacing the old Yolo County Assessor's Parcel Numbers 030-220-17, 030-220-19 and 030-220-33 with the new Yolo County Assessor's Parcel Numbers 030-220-17, 030-220-19, 030-220-49 and 030-220-50 to reflect updated Yolo County Assessor's Parcel Numbers. The project acreage remains the same.

Section 2. Amendment to Section 2.3, Agreement to be Recorded; Effective Date; Term.

Section 2.3, paragraph b., of the Development Agreement is replaced in its entirety and shall read as follows:

- b. The term of this Agreement shall expire on December 31, 2016, unless extended by mutual consent of the Parties. It may be terminated as provided in Article 5 of the Development Agreement.

Section 3. Amendment to Section 2.7, Whole Agreement; Conflict with Municipal Code.

Section 2.7, paragraph b., of the Development Agreement is replaced in its entirety and shall read as follows:

- b. The provisions of Title 15, Chapter 15.72 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 4. Amendment to Section 3.6, Commencement of Development.

Section 3.6, paragraphs a. and b., of the Development Agreement are replaced in their entirety and shall read as follows:

- a. The Developer shall have sole discretion to determine when the final map for Phase I of the Winters Highlands Subdivision, and accompanying subdivision improvement plans, are submitted for City review and approval.
- b. Deleted.

Section 3.6, paragraphs c. and d., of the Development Agreement shall remain unchanged.

Section 5. Amendment to Section 3.7, Maximum Number of Building Permits Per Year; Non-Market Rate Units.

Section 3.7. of the Development Agreement, as previously amended in the First Amendment, is replaced in its entirety and shall read as follows:

a. To provide for orderly growth within the City of Winters, the Developer shall be entitled to apply for and receive no more than the following number of single family residential building permits per year for the 413 market rate residential units (including the forty-one (41) lots to be offered for sale to local builders) in the Winters Highlands Subdivision. For purposes of this section, the first year commences upon the date that the first final map is recorded.

1. Year 1: 118
2. Year 2: 132
3. Year 3: 83
4. Year 4: 44
5. Year 5: 25
6. Years 6 through 10: 25 per year

The total of the above number of units is not reflective of the total number of residential units within the Winters Highlands Subdivision.

b. No building permit shall be issued for any residential lot for which the Developer has not made application at the time of the expiration of this Agreement, unless and until the City and Developer enter into a subsequent Development Agreement. This provision shall survive the termination of this Agreement.

c. Sixty-six (66) deed restricted affordable housing units shall be constructed in the Winters Highlands Subdivision pursuant to the City's land use regulations. Such affordable housing units are comprised of twenty-six (26) units for very low income households, twenty-five (25) units for low income households, and fifteen (15) units for moderate income households. The Developer may apply for and receive building permits for these units at any time during the term of the Agreement, provided however; the Developer must complete the construction of the affordable units within each Phase of the subdivision prior to the issuance of building permits for market rate units within any subsequent Phases. The permits for the affordable housing units are in addition to, and not part of, the number of units per year set forth in Section 3.7, paragraph a., above.

d. The purpose of limiting the number of building permits issued in any year is to allow the City to meter growth in such a manner that the total number of new units built per year, within the Winters Highlands Subdivision and within other properties, does not exceed the number which can reasonably be served with municipal and educational services without unduly impacting those existing units which receive such services.

e. In order to allow the Developer the flexibility to adjust to changing economic conditions, or other circumstances, and notwithstanding the provisions of Section 3.8b, the Developer may advance or defer up to fifty percent (50%) of its allocation of building permits in any one (1) year. For example, if Developer selects Year 3, then, up to 41 units can be advance to Year 2 or deferred to Year 4.

Section 6. Addition of Section 3.15, Deferral of Impact Fees.

Section 3.15 of the Development Agreement is added to read as follows:

In order to assist the Developer during these critical economic times, and to encourage the Developer to proceed with construction of new affordable and market rate housing within the City of Winters, except as otherwise provided for herein, the City hereby agrees to defer all development impact fees imposed by the City on building permits issued by the City on or before June 30, 2010, such that fifty percent (50%) of the impact fees shall be due at time of issuance of the building permit, and fifty percent (50%) shall be due at time of issuance of a certificate of occupancy. The Rancho Arroyo Drainage District Fees shall be paid in accordance with City of Winters Ordinance 96-02 and any applicable Conditions of Approval.

Section 7. Amendment to Section 4.2, On-Site Park Improvements.

Section 4.2, paragraphs b. and c., of the Development Agreement are replaced in their entirety and shall read as follows:

b. The City, through a public process, has or will create a conceptual design for the linear park, including improvements to the well site, and will provide the Developer with the conceptual design within twelve months from the recordation of the Second Amendment.

c. The Developer shall improve and construct the linear park concurrently with the construction of each Phase of the Subdivision, such that Lot X shall be developed concurrently with Phase I; Lot W shall be developed concurrently with Phase II; and Lot V shall be developed concurrently with Phase III. The park shall be constructed in accordance with the design provided and approved by the City, and in accordance with the City Public Works Improvement Standards and Construction Specifications. Any changes to the design or timing of construction shall be approved in writing by the City. If actual costs will exceed the estimated cost set forth in paragraph d. below, the parties will either (i) cooperate on a re-design of the improvements such that the actual cost does not exceed the estimated cost, or (ii) the City may elect, in its sole and absolute discretion, to fund the difference between the actual cost and estimated cost, for construction of the improvements as initially designed.

Section 4.2, paragraphs a. and d., of the Development Agreement shall remain unchanged.

Section 8. Amendment to Section 4.3, Off-Site Park Improvements.

Section 4.3, paragraph b., of the Development Agreement is amended by replacing the old phrase "prior to the recordation of the Final Map for Phase II of" with the new phrase, "no later than the issuance of the 118th building permit for."

Section 9. Amendment to Section 4.4, Funding For Police/Fire/Municipal Facilities.

Section 4.4 of the Development Agreement is replaced in its entirety and shall read as follows:

- a. The Parties acknowledge that the City intends to construct a joint use facility for police and fire services, and for a corporation yard, on the 3.45+/- acre parcel, a portion of which is shown on Exhibit F of the Development Agreement. In order to provide sufficient funds for the City to construct this facility, the Developer agrees to pay to the City the police facilities fee, the fire facilities fee, and the general municipal facilities fee for the Winters-Highlands Subdivision in either of the following manners, at the option of the Developer: (1) concurrently with the issuance of the first building permit, pay the above development impact fees at the then current rates for all 443 residential units, or (2) concurrently with the issuance of a building permit, pay the above development impact fees at the then current rates for only that unit.
- b. If the Developer elects to pay the development impact fees for all 443 residential units concurrently with the issuance of the first building permit, then 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. If at the time of the issuance of a subsequent 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 10. Amendment to Section 4.6, Payment to Library Fund and Community Pool Fund.

Section 4.6, paragraph a., of the Development Agreement is replaced in its entirety and shall read as follows:

- a. Concurrently with the issuance of the first building permit for Phase I, the Developer shall pay to the City the sum of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000) and concurrently with the issuance of the first building permit for Phase II, the Developer shall pay to the City the sum of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000), for an aggregate payment of ONE HUNDRED AND FIFTY THOUSAND DOLLARS (\$150,000). This amount shall be kept in a separate account designated for library improvement funds by the City and used solely for constructing, maintaining, and/or improving a public library facility in the City of Winters.

Section 4.6, paragraph b., of the Development Agreement, as amended in the First Amendment, shall remain as set forth in the First Amendment.

Section 11. Amendment to Section 4.7, Wastewater Treatment Plant Expansion.

Section 4.7 of the Development Agreement, and as previously amended in the First Amendment, is replaced in its entirety to read as follows:

a. An expanded and upgraded Wastewater Treatment Plant ("WWTP") is needed in order to treat the wastewater from the Winters Highlands Subdivision, and other developing properties within the City. The Developer shall be required to fund the cost of the expansion and upgrade project (referred to as "WWTP Phase II"), which would expand the capacity of the WWTP to approximately 1.2 million gallons per day, in accordance with the terms of this Section 4.7.

b. The Developer shall be required to provide funding for WWTP Phase II in excess of the Developer's fair share obligation, and shall receive credit and/or reimbursement for such excess funding, pursuant to the terms of a credit and/or reimbursement agreement, which agreement shall be negotiated and executed by the Parties prior to the approval of the Final Map for Phase I for the Winters Highlands Subdivision.

c. Notwithstanding any provision to the contrary, Developer's funding obligation pursuant to this Section 4.7 shall not be greater than EIGHT MILLION DOLLARS (\$8,000,000). Developer agrees to work with City to create a financing plan and mechanism for WWTP Phase II. The Developer shall provide funding as follows:

1. On or before June 1, 2011, the Developer shall provide funding to the City in the amount estimated as necessary by the City Engineer to fully pay for the cost of designing the WWTP Phase II. Sixty (60) days prior to June 1, 2011, the City shall provide written notification to the Developer of the estimated amount needed for design costs.

2. On or before June 1, 2012, the Developer shall provide funding to the City in the amount estimated as necessary to fully pay for the acquisition of land necessary for the construction of the WWTP Phase II. This amount shall include the estimated cost of the land (based upon an appraisal) and administrative, legal and environmental review costs directly related to the land acquisition. Sixty (60) days prior to June 1, 2012, the City shall provide written notification to the Developer of the estimated amount needed for land acquisition costs.

3. On or before June 1, 2013, the Developer shall provide funding to the City in the amount estimated by the City Engineer as necessary to pay for the cost of constructing the WWTP Phase II, up to the funding limit specified above. One hundred and twenty (120) days prior to June 1, 2013, the City shall provide written notification to the Developer of the estimated amount needed for construction of the WWTP Phase II.

d. In consideration of Developer's commitment to provide funding as set forth in this Section 4.7, City agrees to provide sewer connections for each residential unit within Phases I, II and III of the Winters Highlands Subdivision prior to completion of WWTP Phase II, subject to the following conditions, which must be satisfied prior to the issuance of a Building Permit for each residential unit:

1. Developer is in compliance with the terms of this Agreement, including this Section 4.7;

2. The Building Permit for the applicable residential unit has been issued prior to June 1, 2014; and

3. No circumstances beyond the control of the City have occurred. For the purposes of this subsection d.3., "circumstances beyond the control of the City" shall

include, but are not limited to, acts of God, natural disasters, and acts of the State and/or federal government.

e. The Developer acknowledges and agrees that the City shall not be required to approve or record a Final Map for Phase IV and Phase V of the Winters Highlands Subdivision until and unless the City Engineer determines, in his/her sole and absolute discretion, that the WWTP has adequate capacity to serve all residential units and other buildings to be constructed within that Phase of the Winters Highlands Subdivision, provided, however, if the WWTP Phase II is then completed and operational, City shall reserve from the capacity represented by such expansion the amount needed to serve the remaining residential units within the Winters Highlands Subdivision. This reservation of capacity shall expire upon the termination of the Development Agreement.

Section 12. Amendment to Section 4.9, Urban Water Management Plan.

Section 4.9 of the Development Agreement is amended by replacing the old phrase "Prior to the recordation of the Final Map for Phase I" with the new phrase, "No later than the issuance of the 118th building permit."

Section 13. Amendment to Section 4.10; Water Well.

Section 4.10 of the Development Agreement is replaced in its entirety and shall read as follows:

- a. A water well is required in order to provide water service to the Winters Highlands Subdivision and other developing properties. A second water well may be required, depending upon the productivity of the first water well.
- b. Conditions of Approval No. 37.- (Mitigation Measure 15) and No. 140, in part, require the Developer to advance the costs for the design and construction of a water well if not already constructed by others, and alternatively, to pay its fair share obligation if the first water well is constructed by others. In addition, the Conditions of Approval require the Developer to advance the costs for the design and construction of a second water well, if the City Engineer determined that a second well is necessary in order to serve the Winters Highlands Subdivision.
- c. The City Engineer has determined that the water well, referred to as "Well No. 7", shall be located at the southern portion of the Hudson-Ogando Subdivision. Another developer has completed the first phase of construction of Well No. 7, which includes the actual development of the well. Acceptance of these improvements by the City is contingent upon (1) conveyance of the property by such developer to City in accordance with Section 4.2, and (2) assignment by such developer to City of all design plans for the construction of the second phase of Well No. 7.
- d. City intends to fund, but is not obligated to fund, the construction of the second phase of Well No. 7, which includes the pump station and site improvements, subject to the availability of funds. Should the City fund the construction of Well No. 7 from sources other than water development impact fees, the City shall be reimbursed from

water development impact fee funds, when available, and prior to the reimbursement of any costs incurred by Developer. Funding of the second phase of Well No. 7 by the City is contingent upon (1) available funding, (2) conveyance of the property by another developer to City, and (3) assignment by such other developer to City of all design plans for the construction of the second phase of Well No. 7.

e. Developer acknowledges and agrees that it will be required to pay the full amount of water development impact fees at the time of issuance of each building permit for the development, which shall be used, in part, to reimburse City for the costs of constructing Well No. 7.

f. The amount and timing of reimbursement for funds advanced by Developer and related to the construction of Well No. 7 shall be set forth in a separate reimbursement agreement in accordance with the provisions of section 3.10 of the Agreement.

g. The Developer understands and acknowledges that Building Permits shall not be issued for any residential unit within the Winters Highlands Subdivision until the construction of Well No. 7 is completed, accepted and placed in service by City. In the event that the City does not fund the construction of the second phase of Well No. 7, Developer will be required to fund and construct the second phase of Well No. 7 prior to the issuance of Building Permits, if it desires to proceed with the development of the Winters Highlands Subdivision.

h. The Developer agrees to dedicate a second well site acceptable to the City and at no cost to the City. Developer also agrees to construct a second water well or pay its *pro rata* share of the cost of such facility, upon demand by the City Engineer. If Developer fails to dedicate the site, construct or pay for such facility upon demand and as determined by the City Engineer, then the City may withhold the issuance of Building Permits for the Winters Highlands Subdivision, in addition to other remedies available to the City.

Section 14. Amendment to Section 4.15; Miscellaneous Contributions.

Section 4.15, paragraphs a., b., c., and d., of the Development Agreement are amended by replacing the old phrase "Prior to the recordation of the Final Map for Phase I" with the new phrase, "No later than the issuance of the 118th building permit."

Section 4.15, paragraph d. of the Development Agreement is amended to add the following new sentence to the end of the paragraph: "Any payments by Developer to City for economic development projects shall be a credit against the above amount."

Section 15. Amendment to Exhibit F, Phasing Schedule.

Exhibit F to the Development Agreement is replaced in its entirety with new Exhibit F, attached to this Second Amendment.

Section 16. Force and Effect

The effective date of this Second Amendment shall be the date that this Second Amendment is signed by the City as written above. Except as modified and amended by this Second Amendment, all other provisions of the Development Agreement and the First Amendment shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have entered into this Second Amendment as of the date first above written.

CITY:	DEVELOPER:
CITY OF WINTERS <u>Michael Martin</u> Mayor	GBH-WINTERS HIGHLANDS, LLC a California limited liability company By: <u>[Signature]</u> Its: <u>Manager</u>
APPROVED AS TO FORM: <u>[Signature]</u> JOHN C. WALLACE CITY ATTORNEY	
ATTEST: <u>[Signature]</u> NANCI MILLS CITY CLERK	

EXHIBIT F

2260-3
November 22, 2005

EXHIBIT A-1

LEGAL DESCRIPTION
for
PARCEL "A"
DEDICATION TO THE CITY OF WINTERS
for
HOFFMAN LAND DEVELOPMENT COMPANY

That real property situate in the City of Winters, Yolo County, State of California, lying in the South half of Section 21, Township 8 North, Range 1 West, Mount Diablo Meridian, being a portion of that Parcel described in Doc-2004-0007937-00, Yolo County Records, also being a portion of Lot 3, Bank of Yolo Subdivision, Book 3 of Maps and Surveys, at Page 23, more particularly described as follows:

BEGINNING at a point on the Eastern line of said Parcel described in Doc-2004-0007937-00, said point bears North 00°00'23" East 159.85 feet from the Southwest corner of Lot A, as said Lot appears on Subdivision Map No. 4284 "CARTER RANCH PHASE 1", filed for record in the Yolo County Recorder's Office, in Book 2000 of Maps, at Page 170; thence, from said POINT OF BEGINNING, leaving said Eastern line, North 89°59'37" West 161.78 feet to the Westerly line of said Parcel; thence North 00°03'41" East 374.65 feet; thence South 89°59'37" East 162.22 feet to a point on the Eastern line of said Parcel, said point also being the Western line of Main Street, as shown on said Subdivision Map No. 4284; thence, along said line and the Western line of said Lot A, South 00°00'23" West 374.65 feet, more or less, to the POINT OF BEGINNING.

The parcel of land described above contains 1.39 acres, more or less.

End of description.



EXHIBIT A-2
LEGAL DESCRIPTION
for
PARCEL "B"
DEDICATION TO THE CITY OF WINTERS
for
HOFFMAN LAND DEVELOPMENT COMPANY

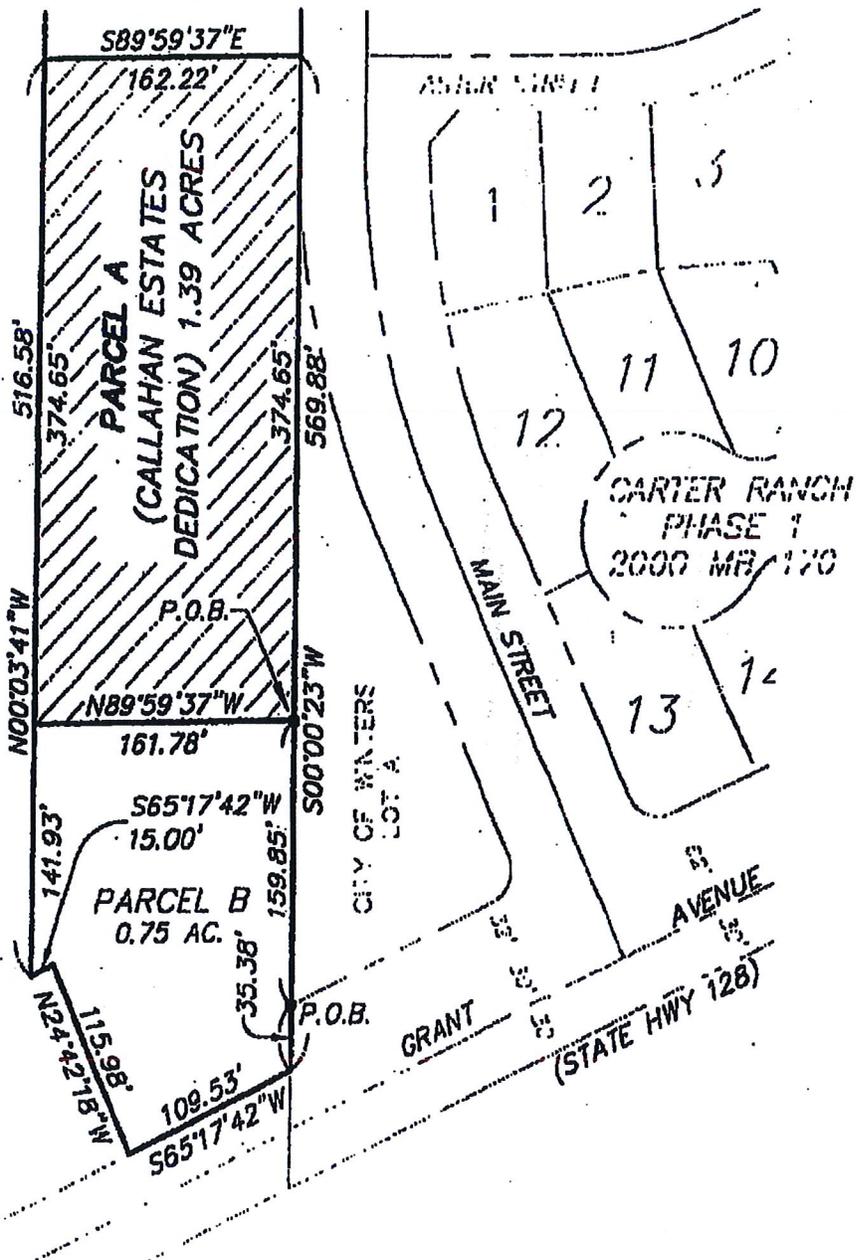
That real property situate in the City of Winters, Yolo County, State of California, lying in the South half of Section 21, Township 8 North, Range 1 West, Mount Diablo Meridian, being a portion of that Parcel described in Doc-2004-0007937-00, Yolo County Records, also being a portion of Lot 3, Bank of Yolo Subdivision, Book 3 of Maps and Surveys, at Page 23, more particularly described as follows:

BEGINNING at a point on the Eastern line of said Parcel described in Doc-204-0007937-00, said point also being the Southwest corner of Lot A, as said Lot appears on Subdivision Map No. 4284 "CARTER RANCH PHASE 1", filed for record in the Yolo County Recorder's Office, in Book 2000 of Maps, at Page 170; thence, along said Eastern line, South 00°00'23" West 35.38 feet to the Southeast corner of said Parcel; thence, along the boundary line of said Parcel, South 65°17'42" West 109.53 feet; thence North 24°42'18" West 115.98 feet; thence South 65°17'42" West 15.00 feet; thence North 00°03'41" West 141.93 feet; thence, leaving said boundary line, South 89°59'37" East 161.78 feet to the Easterly boundary line of said parcel; thence, along said line, South 00°00'23" West 159.85 feet, more or less, to the POINT OF BEGINNING.

The parcel of land described above contains 0.75 acres, more or less.

End of description.





SCALE: 1" = 100'



LM
 CIVIL ENGINEERING
 LAND SURVEYING
 PLANNING
LAUGENOUR AND MEIKLE
 608 COURT STREET, WOODLAND, CA 95695
 PHONE (530) 867-1725
 FAX (530) 607-4607

EXHIBIT A-3
DEDICATION TO THE CITY OF WINTERS

A PORTION OF LOT 3, BANK OF YOLO
 SUBDIVISION, BOOK 3, MAPS & SURVEYS,
 PAGE 23 BEING A PORTION OF SECTION 21,
 TOWNSHIP 8 NORTH, RANGE 1 WEST, M.D.M.
 YOLO COUNTY, CALIFORNIA

SHEET 1 OF 1

NOVEMBER 22, 2005

DEDICATION EXHIBIT



**PLANNING COMMISSION
STAFF REPORT**

TO: Chairman and Commission
DATE: March 25, 2014
FROM: John W. Donlevy, Jr., City Manager 
SUBJECT: PG&E Project Update

RECOMMENDATION:

That the Planning Commission receive an update on the timeline and key benchmarks in the processing of the PG&E Winters Gas Training Facility.

BACKGROUND:

The City is currently processing an application from PG&E for the development of the Winters Gas Training Facility. Staff along with the applicant has been working on the development of a processing timeline and key review points which will occur during the process.

Attachment A is a DRAFT of the key elements of the project review. This is only a DRAFT and will change as we move forward in the process.

Staff will provide an overview of the project and a status of where the project is going.

FISCAL IMPACT:

None by this action.

Date	Category	Task	City Assignment
27-Jan	Environmental	Applicant will submit NOP project description and complete application for filing	Heidi Tschudin
10-Feb	Environmental	City will issue NOP	Heidi Tschudin
18-Feb	Environmental	Applicant will submit detailed project description	Heidi Tschudin
20-Feb	Environmental	All technical reports will be complete and submitted to City by this date	Heidi Tschudin
21-Feb	Environmental	City commences preparation of EIR (6 wks min from receipt of PD and tech studies)	Heidi Tschudin
Mar-14	Building	Inspections Services RFP Release	Gene Ashdown
TBA	Creek	Meet with Callendar regarding detention ponds and creek path improvements.	Carol Scianna
TBA	Public Safety	FD and PD meeting with Architect	Greg Lewis
TBA	Public Safety	FD and PD Tour San Ramon and Livermore sites. Conduct background research with local jurisdictions to identify public safety concerns.	Greg Lewis
TBA	Public Works	Meet with Callendar to discuss maintenance, plantings, gates, path, diversion channel, detention and fencing	Eric Lucero/Carol Scianna
Apr-14	Building	Award Inspection Services Contract	Gene Ashdown
Apr-14	Creek	Recommendations and finalize public improvements	Carol Scianna
Apr-14	Public Safety	FD and PD to report out on findings and make recommendations.	Greg Lewis
Apr-14	Public Works	Recommendations and finalize public improvements	Eric Lucero/Carol Scianna
3-Apr	Design/Site Plan	Design Review Committee	TBA
4-Apr	Design/Site Plan	Comments Out From DRG	TBA
7-Apr	Environmental	Heidi completes ADEIR and submits for internal review	Heidi Tschudin
7-Apr	Environmental	City and PG&E review of ADEIR; all edits via WORD text editor	Heidi Tschudin
21-Apr	Environmental	ADEIR comments due	Heidi Tschudin
29-Apr	Design/Site Plan	Joint City Council/Planning Commission Workshop on design and path issues	TBA
2-May	Environmental	Screencheck DEIR due	Heidi Tschudin
7-May	Environmental	DEIR release; 45-day comment period starts	Heidi Tschudin
13-May	Engineering	Joint City Council/Planning Commission Workshop on engineering	Alan Mitchell
May-14	Building	Building Plan Check Availability begins	Gene Ashdown

Date	Category	Task	City Assignment
10-Jun	Environmental	Joint City Council/Planning Commission on Entitlements and environmental review	Heidi Tschudin
21-Jun	Environmental	45-day comment period for DEIR closes (note this is a Saturday)	Heidi Tschudin
23-Jun	Environmental	Meeting to review comments and determine approach for responses	Heidi Tschudin
3-Jul	Environmental	Heidi completes AFEIR (responses to comments)	Heidi Tschudin
3-Jul	Environmental	City and PG&E review of AFEIR; all edits via WORD text editor	Heidi Tschudin
9-Jul	Environmental	AFEIR comments due	Heidi Tschudin
16-Jul	Environmental	Screencheck FEIR due	Heidi Tschudin
18-Jul	Environmental	FEIR release; 10-days review-only period for state letters	Heidi Tschudin
22-Jul	Environmental	Planning Commission hearing (PHN for CC that day at noon)	Heidi Tschudin
5-Aug	Environmental	City Council hearing	Heidi Tschudin
19-Aug	Environmental	City Council second reading	Heidi Tschudin
20-Aug	Environmental	File NOD	Heidi Tschudin

Engineering Milestone Schedule

Studies

PG&E provides City with Infrastructure and Circulation Engineering Analyses
 City staff and Consultants complete first review
 PG&E addresses comments and re-submits
 City staff and Consultants complete second review
 Studies are approved as basis of design

Alan Mitchell
 Alan Mitchell
 Alan Mitchell
 Alan Mitchell
 Alan Mitchell

Parcel Map

PG&E submits Parcel Map package
 City staff and Consultants complete first review
 PG&E addresses comments and re-submits
 City staff and Consultants complete second review
 Map is signed by Owner, City, and Consultants
 Notice and Public Hearing at Planning Commission for approval
 Map is recorded

Alan Mitchell
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**NOTICE OF PREPARATION (NOP)
AND NOTICE OF SCOPING MEETING FOR THE
DRAFT ENVIRONMENTAL IMPACT REPORT (EIR)
FOR THE PG&E WINTERS GAS OPERATIONS
TECHNICAL TRAINING CENTER**

DATE: February 28, 2014

TO: Responsible and Trustee Agencies, Interested Parties, and Organizations

SUBJECT: Notice of Preparation of an Environmental Impact Report for the Pacific Gas and Electric Company Winters Gas Operations Technical Training Center and Scheduling of a CEQA Scoping Meeting on Wednesday March 19, 2014

PROJECT: PG&E Gas Operations Technical Training Center

LOCATION: Southwest corner of Interstate 505 and State Route 128 (Grant Avenue). Assessor Parcel Numbers 038-070-028 (portion), -031 (portion), -037, -038, and -039 totaling approximately 50.4 acres. See Figure 1, Vicinity Map.

PROJECT OVERVIEW: The City of Winters is processing an application from Pacific Gas and Electric Company (PG&E) to construct and operate a vocational training facility on approximately 50.4 acres at the southwest quadrant of the intersection of I-505 and SR-128. The City has determined that a comprehensive Environmental Impact Report (EIR) will be necessary. The EIR will examine impacts in all environmental issue areas recommended in Appendix G of the CEQA Guidelines.

The City of Winters requests your input regarding the scope and content of environmental analysis that, with respect to governmental agencies, is relevant to your agency's statutory/regulatory responsibilities, in order to ascertain potential impacts of the proposed project. More detailed project information including additional information on the proposed actions, project maps, and preliminary identification of environmental effects may be attached or is available from the City of Winters.

As allowed under Section 15060 of the CEQA Guidelines, the City has not prepared an Initial Study. This Notice of Preparation (NOP) has been prepared pursuant to Section 15082 and 15083 of the CEQA Guidelines.

COMMENT PERIOD: Written comments on the NOP can be sent anytime during the NOP review period which begins **March 3, 2014 and ends April 1, 2014 at 5:00 pm**. Your views and comments on how the

project may affect the environment, and what potential environmental impacts the EIR should consider, are welcomed. Please send your written or electronic responses, with the name of your agency contact person, to the following address:

Jenna Moser
City of Winters
318 First Street
Winters, CA 95694
(530) 794-6713
jenna.moser@cityofwinters.org

SCOPING MEETING: Oral responses on the NOP may be provided at the Scoping Meeting to be held **Wednesday March 19, 2014 at 6:30 pm** in the Winters City Council Chambers located at **318 First Street in Winters**. If you have questions regarding this NOP or the Scoping Meeting, please contact Jenna Moser at (530) 794-6713.



Jenna Moser, Management Analyst
City of Winters

2/28/2014
Date

318 First Street
Winters, CA 95694
Phone. 530.795.4910
Fax. 530.795.4935

COUNCIL MEMBERS

Harold Anderson
Wade Cowan
Bruce Guelden

MAYOR

Cecilia Aguiar-Curry

MAYOR PRO TEM

Woody Fridae

CITY CLERK

Nanci Mills

TREASURER

Michael Sebastian

CITY MANAGER

John W. Donlevy, Jr.

PG&E WINTERS GAS OPERATIONS AND TECHNICAL TRAINING CENTER DETAILED PROJECT INFORMATION

1. **PROJECT TITLE:**
PG&E Winters Gas Operations Technical Training Center

2. **PROJECT APPLICANT:**
Pacific Gas and Electric Company
245 Market Street
San Francisco, CA 94177
c/o Ken Buck, Director, CRE Program Mgmt
(415) 317-3617
K2BW@pge.com

3. **LEAD AGENCY:**
City of Winters
318 First Street
Winters, CA 95694
c/o Jenna Moser
(530) 794-6713
jenna.moser@cityofwinters.org

4. **PROJECT LOCATION:**
Southwest corner of Interstate 505 and State Route 128 (East Grant Avenue).
Assessor Parcel Numbers 038-070-028 (portion), -031 (portion), -037, -038, and -039
totaling 50.4± acres. See Figure 1, Vicinity Map and Figure 2, Parcel Map.

5. **DESCRIPTION OF PROJECT:**
Setting
The project site consists of approximately 50 acres of primarily open agricultural land, with a small farmstead comprised of two rural residences and several outbuildings. The site is bounded to the north by East Grant Avenue (SR 128) and an approximately 4.8 acre outparcel (APNs 038-070-029, -030, and -032) at the corner of I-505 and East Grant Avenue. On the north side of East Grant Avenue commercial development, rural residences, and open agricultural land are located. The site is bounded on the west by medium density residential development. The site is bordered to the east by Interstate 505 (which forms the City's easterly boundary) and orchards within unincorporated Yolo County. To the south is Putah Creek (which forms the City's southerly boundary) comprised of natural vegetation (mature riparian woodland), open space, and passive recreational trails. South of Putah Creek there are orchards and a farmstead in unincorporated Solano County.

The topography on the project site is primarily flat with no discernable topographical features. Elevation ranges from approximately 126 to 131 feet above mean sea level (NAVD) with a gradual and indiscernible declining slope eastward. On the southerly boundary of the project area along Putah Creek there are slopes in excess of ten percent. Elevations within the creek bank range from 100 to 130 feet above mean sea level. This area is not proposed for development.

There are no hydrological features including natural drainages, permanent irrigation canals, or wetland features within the boundary of the project site. Putah Creek, a perennial stream, is located to the south, a roadside drainage ditch runs along the north border off-site within State Highway 128 (East Grant Avenue) right-of-way, and a permanent drainage feature occurs off-site along the eastern border within the Interstate 505 right-of-way.

The project site consists of two distinct agricultural fields which bisect the site generally from north to south. These fields are currently under separate ownership. Abutting I-505 is the smaller field (approximately 11.8± acres), which is unimproved and consists of annual grasses and ruderal vegetation. This field is known as the Jordan property. To the west is the larger field (approximately 43.5 acres) which is bedded and prepared for spring planting. This field is known as the McClish property. At the northwest corner of the McClish property, separated from the active agricultural field by a dirt road, there is a small farmstead totaling about two acres. The farmstead is accessed along McClish Lane which extends south from East Grant Avenue and forms the westerly boundary of the project site. Underground water and sewer mains cross the northern portion of the project site in a 60-foot wide public utility easement (PUE). A public roadway right-of-way, approximately 2.2 acres in area and owned in fee by the City of Winters, splits the existing McClish property into three distinct areas and separate assessor parcels (APNs 038-070-037, -038, and -039). A 10-foot public storm drain easement runs through the southerly Jordan parcel (APN 038-070-028) along its westerly boundary.

Proposed Project

Pacific Gas and Electric Company (PG&E) proposes to construct, operate and maintain a vocational training facility on the project site. (See Figure 3, Site Plan). At the facility, individuals will be trained to construct, operate, and maintain natural gas pipelines, measure and control the natural gas network, detect leaks, locate and mark underground infrastructure, and maintain natural gas storage facilities. Additionally, individuals will be trained in the following activities: excavation techniques; crane operation; welding techniques; installation and operation of meters, regulators and other gas system controls; corrosion control technology; and other similar natural gas transmission and distribution related functions.

At full build-out, there would be approximately 287 individuals on the training campus each day. The facility is proposed to operate seven days a week, between the hours of 7:00 am and 5:00 pm, with evening use (inside buildings only) between the hours of 5:00 pm and 10:00 pm.

The following structures and facilities are proposed (see Figure 3, Site Plan):

Learning Center – Approximately 95,800 square foot two-story building (approximately 90,000 square feet enclosed and approximately 5,800 square feet covered unenclosed) on approximately 8.5 acres of project site containing primary technical training area with classrooms, labs, offices, service yard, and 244 vehicle parking spaces.

Transmission and Distribution Construction Area – Approximately 10,500 square foot one-story building (approximately 3,500 square feet enclosed and 7,000 square feet covered unenclosed) on one acre of site containing a lab, equipment storage, outdoor training field, and pipe-fitting training area.

Crane Certification Area – Approximately one-half acre gravel surface pad containing three to five truck-based 70-foot boom cranes for training.

Gas Transmission Training Area – Approximately 0.8 acre paved outdoor area with simulated (compressed air) gas storage wellhead, simulated gas pipe and meter vaults, and gas pipeline pits for training.

Utility Village – Approximately 1.6 acres containing 15 training homes of approximately 600 square feet each, totaling approximately 9,000 square feet that provide a small-scale replica of a residential street used to train field service representatives.

Cathodic Protection Area – Approximately 0.4-acre open training field for training in use of pipeline protection apparatus.

Equipment Parking Areas – Two equipment storage areas (approximately 0.8 acres and 0.4 acres respectively) on the east and south sides of the site.

Weld Lab – Approximately 25,000 square foot one-story building (approximately 18,000 square feet enclosed and 7,000 square feet covered unenclosed) containing classrooms and indoor welding lab on 0.8 acre area.

Equipment and Excavation Training Area – Approximately 150,000 square feet of covered unenclosed area on approximately 8.5 acres used for excavation and soil management training including operation of backhoes, excavators, drill rigs, and similar equipment.

Commercial Driver Training Area – Approximately 4.3 paved acres at south end of site used for commercial driver's licensing training.

Equipment Fueling Area – Approximately 1,000 gallon above-ground fuel tank and ancillary equipment on 0.1 acre for refueling equipment.

Methods and Procedures Building Expansion Area – Approximately 20,000 square foot one-story building containing workshops, offices, and storage on an approximately 4.2-acre expansion area.

Classroom Expansion Building Area – Approximately 6,000 square foot one-story building containing additional classrooms on 4.2-acre expansion area (see below).

Future Expansion Area – Approximately 4.2-acre area at southwest corner of site for unspecified future expansion.

Proposed Infrastructure

The following infrastructure improvements are proposed to be completed by the applicant as a part of the project:

Stormwater Diversion Channel – PG&E proposes to dedicate to the City of Winters in fee an area 100 feet in width along the westerly boundary of the McClish property which will facilitate the construction and future maintenance of the proposed Stormwater Diversion Channel¹ for the purposes of channeling storm water and providing public

¹ Note: This improvement is referred to as the Putah Creek Diversion Channel in the City's Storm Drainage Master Plan (2008)

access. PG&E proposes to construct the channel, including a linear drainage channel 60-feet wide and up to 6.5-feet deep (including the meandering low-flow channel), a 10-foot wide paved path/maintenance road on the west side of the channel, and a 12-foot wide gravel road on the east side of the channel. The channel would be hydroseeded with native grasses for erosion control purposes and landscaped. The 10-foot paved path/road would be open for public access, which will connect the Class I path along East Grant Avenue with the Putah Creek Trail. PG&E proposes to construct the proposed channel to its ultimate width, per the City of Winters Storm Drainage Master Plan (2008), but not to its ultimately-planned depth. Excavation and construction for later required depths would be undertaken by the City or other developers in connection with future development of the area north of Winters.

Water Quality Detention Ponds #3 and #4 – PG&E proposes to dedicate to the City of Winters in fee an area of varying width adjacent to Putah Creek which will facilitate construction by PG&E of the proposed Water Quality Detention Ponds #3 and #4 required in the City of Winters Storm Drainage Master Plan (2008), a 10-foot paved path/maintenance road on the south side of the ponds, and a public storm drainage pipe to convey the drainage from the southern terminus of the Stormwater Diversion Channel to a discharge point at the southeastern corner of the project. The dedicated area would be coincident with the Open Space buffer area, with the northern limits a minimum of 100 feet from the top of the north bank of Putah Creek.

Putah Creek Parkway Enhancements – PG&E proposes to dedicate to the City of Winters in fee an open space area of varying width adjacent to Putah Creek. PG&E would construct a 10-foot paved path/maintenance road through the open space area between the Water Quality Detention Ponds #3 and #4 and the north bank of Putah Creek, consistent with the trail improvements completed to the west. The dedicated area would be coincident with the storm drainage area, with the northern limits a minimum of 100 feet from the top of the north bank of Putah Creek.

Public Roadway Improvements – PG&E proposes to construct various improvements to the following streets:

- Timber Crest Road, south of East Grant Avenue – 66-foot right-of-way; 50 feet curb-to-curb width; 8-foot sidewalks
- “A” Street – 60-foot right-of-way; 50 feet curb-to-curb width; 5-foot sidewalks
- East Grant Avenue/Timber Crest Road Intersection – Southwestern and southeastern curb returns, sidewalks, and curb ramps; other traffic control mitigations as may be identified in the project traffic study
- East Grant Avenue property frontage – 10-foot meandering Class I path consistent with the East Grant Avenue/SR128/Russell Blvd Complete Streets Concept Plan (Dec 2010)
- Baker Street – Vehicular gate and paving to provide City maintenance access from the end of Baker Street to the Stormwater Diversion Channel 10-foot wide paved path/maintenance road

Public Utility Improvements – PG&E proposes to install the following public utility improvements:

- Potable water main in "A" Street and public utility easement
- Gravity sewer main in "A" Street and public utility easement
- Sewer force main in "A" Street and public utility easement
- Storm drain system serving Timber Crest Road, south of East Grant Avenue and "A" Street

Other Utilities Services - A standard natural gas line will be connected to the project site. Electric, phone, and data lines will also be connected to the facility.

Required City Approvals

EIR Certification – Certification of a project EIR

General Plan Amendment – Citywide text amendment to create a new General Plan land use designation entitled Vocational Training (VT).

General Plan Amendment – Citywide Circulation Plan Diagram (Figure I-1) amendment to move the identified conceptual location of Baker Street. The extension of Baker Street would be removed. Timber Crest Road would extend south of East Grant Avenue. The Timber Crest Road extension would be connected to Gateway Drive at the east with an as yet unnamed roadway (currently referred to as "A" Street).

General Plan Amendment – Parcel-specific Land Use Diagram amendment to change 6.92± acres (Jordan; 038-070-028 (portion of) and -031 (portion of)) from Highway Service Commercial (HSC) to Vocational Training (VT).

General Plan Amendment – Parcel-specific Land Use Diagram amendment to change 43.5± acres (McClish; 038-070-037, -038, and -039) from Business Industrial Park (BIP) to Vocational Training (VT).

General Plan Amendment – Citywide text amendments to the Health and Safety Element of the General Plan to: a) add a new policy addressing noise limitations where different land uses adjoin; b) modify Policy VII.E.4 to eliminate the reference to Table II-6; c) eliminate Table II-6; d) add a policy to address continuous source noise; e) clarify the applicable metrics in Table II-4; and f) modify the footnotes in Table II-4.

General Plan Policy Interpretation – Interpret the proposed construction of Water Quality Detention Pond #3 and #4 as consistent with General Plan Policy VI.D.1 related to the City's requirement for a 100-foot open space buffer along Putah Creek.

Amendment to 2008 Winters Storm Drainage Master Plan – Amend the Storm Drainage Master Plan Map to move the identified conceptual location of Water Quality Detention Pond #3 from a site on the McClish property south and adjacent to East Grant Avenue, south into the Open Space buffer along Putah Creek.

Amendment to 2008 Winters Storm Drainage Master Plan – Amend the Storm Drainage Master Plan Map to move the identified conceptual location of Water Quality Detention Pond #4 from a site near the middle of the Jordan property, south into the Open Space buffer along Putah Creek.

Amendment to Putah Creek Master Plan – Amend sheet 3 of 3 in the Putah Creek Master Plan to show Water Quality Detention Ponds #3 and #4 on the McClish property and within 100 feet of the top of bank in the Open Space buffer along Putah Creek.

Development Agreement – Approval to execute a Development Agreement with specified terms and public benefits.

Zoning Text Amendment -- Citywide text amendment to create a new zone category entitled Vocational Training (VT).

Zoning Map Amendment – Parcel-specific rezoning to change 6.92± acres (Jordan; 038-070-028 (portion of) and -031 (portion of)) from Highway Service Commercial Planned Development Overlay (C-H/PPD) to Vocational Training (VT).

Zoning Map Amendment – Parcel-specific rezoning to change 43.5± acres (McClish; 038-070-037, -038, and -039) from Industrial/Business Park Planned Development Overlay (BIP/PPD) to Vocational Training (VT).

Noise Ordinance Amendment – Amend the Noise Ordinance to clarify that the exterior noise limits are hourly average levels ($L_{eq}1h$) standards.

Winters Performance Standards Amendment – Conform references to noise limitations to amendments to Noise Ordinance.

Site Plan/Design Review – Approval of the proposed site plan and design review pursuant to Section 17.36.020 of the City Zoning Ordinance.

Parcel Map – A parcel map to vacate existing roadway rights-of-way, public utility easements, and public storm drainage easements; dedicate new roadway rights-of-way in fee (Timber Crest Road, south of East Grant Avenue; "A" Street, for a total of approximately 1.2 acres), public utility easements, and public storm drainage easements; and adjust lot lines. No subdivision of land is proposed.

Demolition Permits – Approval to demolish one 1,300 square foot single-family residence, one 700 square foot single-family residence, one garage, two storage sheds, and four barns, all located on the McClish parcels.

Well Abandonment -- Existing wells will be evaluated for continued use and abandoned as necessary. Well abandonments will be completed per County standards/permits.

Other Required Approvals

To be determined based on input from reviewing, responsible, and trustee agencies.

6. **POTENTIAL ENVIRONMENTAL IMPACTS TO BE CONSIDERED:**

The City has determined that an EIR is required for this project. Therefore, as allowed under Section 15060 of the CEQA Guidelines (Title 14 Cal. Code Regs.), the City has not prepared an Initial Study and will instead begin work directly on the EIR process described in Article 9, commencing with Section 15080. As required, the EIR will focus on the significant effects of the project and will document the reasons for concluding

that other effects will be less-than-significant or potentially significant. The EIR will recommend measures to mitigate any significant environmental impacts.

The EIR will analyze a broad range of potential environmental impacts associated with construction and operation of the project. Where potentially significant environmental impacts are identified, the EIR will also discuss mitigation measures that may make it possible to avoid or reduce significant impacts, as appropriate. The EIR will analyze the following impact areas:

- Aesthetics
- Agriculture
- Air Quality
- Biological Resources
- Cultural Resources
- Geology, Soils, Hazards, Mineral Resources
- Greenhouse Gas Emissions
- Land Use, Planning, Population, Housing
- Noise
- Public Services, Recreation
- Transportation, Traffic
- Utilities, Hydrology, Water quality
- Other CEQA Considerations

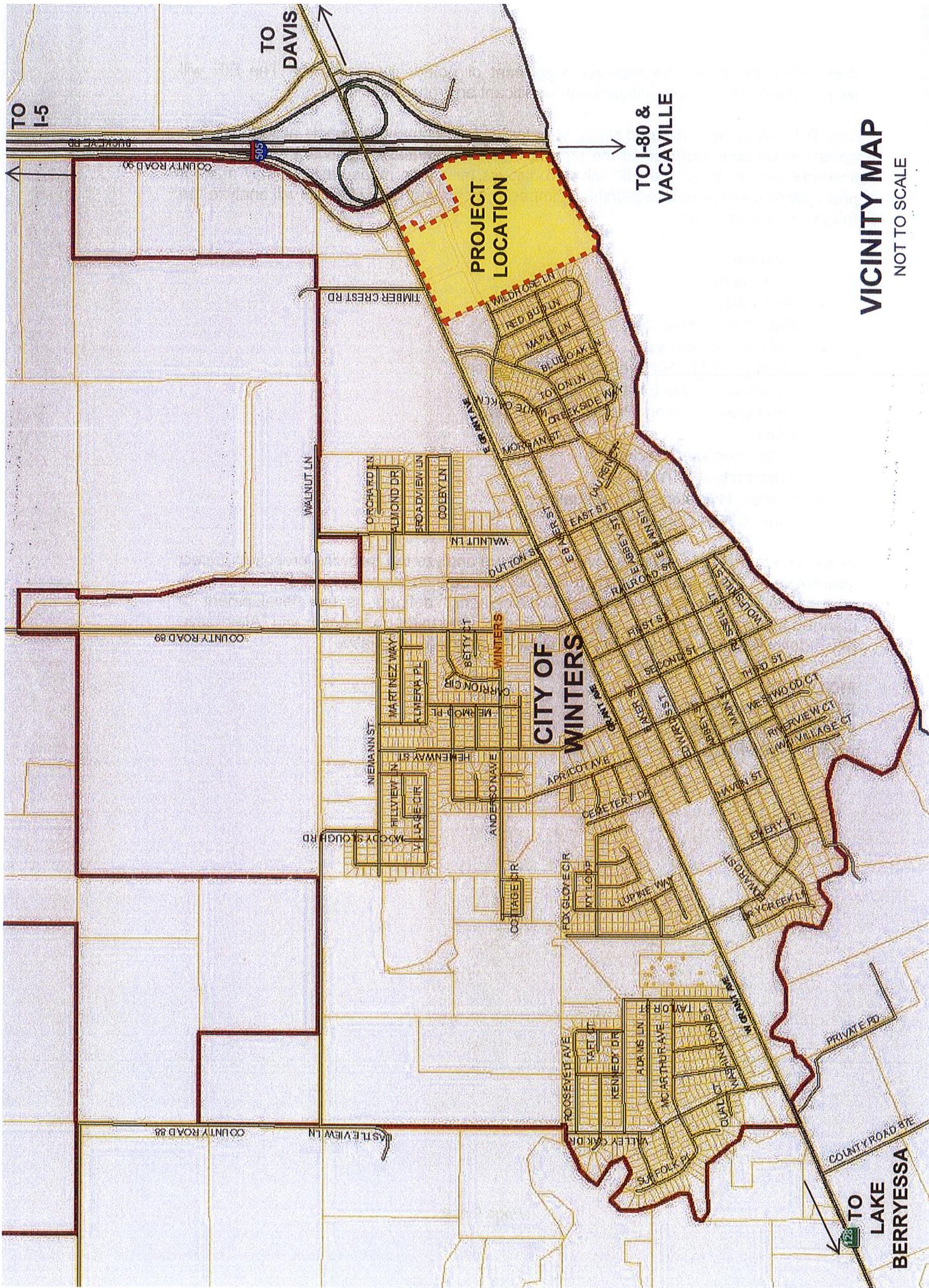
In addition to the topics listed above, the EIR will analyze the following proposed project alternatives: "No Project – Existing Conditions," defined as continued agricultural use of the site, "No Project – Planned Development," defined as the development of planned highway commercial and business park land uses on the site, and "Alternative Site," defined as development of the project on an offsite alternative. .

7. FIGURES:

Figure 1, Vicinity Map

Figure 2, Parcel Map

Figure 3, Site Plan



**PROJECT
LOCATION**

**CITY OF
WINTERS**

VICINITY MAP
NOT TO SCALE

**TO LAKE
BERRYESSA**

TO I-5

TO DAVIS

TO I-80 & VACAVILLE

COUNTY ROAD 90

COUNTY ROAD 89

COUNTY ROAD 88

PRIVATE RD

COUNTY ROAD 87

TIMBER CREST RD

WALNUT LN

MOODY SLOUGH RD

CASTLEVIEW LN

ORCHARD LN

ALMOND DR

BOARDVIEW LN

COLEBY LN

WALNUT LN

MARTINEZ WAY

CLAMERA PL

HILLYVIEW LN

WILLAGER DR

MEYER DR

ANDERSON AVE

ROOSEVELT AVE

GRANT AVE

WEDROSE LN

RED BUD LN

MAPLE LN

BLUE OAK LN

TOTON LN

WIDE OAK LN

BROOKSIDE WAY

WILSON ST

WALNUT LN

DURTON ST

EBANER ST

GRANT AVE

EAST ST

STANLEY ST

RAILROAD ST

FIRST ST

SECON ST

EDWARDS ST

EMERY ST

APPRICOT AVE

CEMETERY DR

FOX GLOVE CIR

RYLOPP

GRANT AVE

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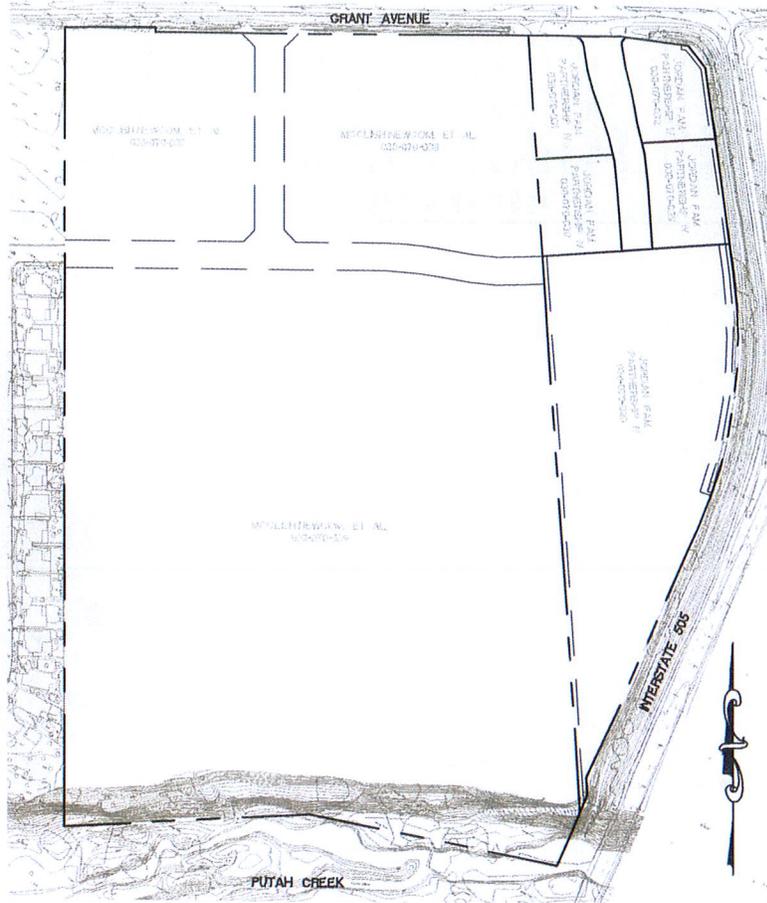
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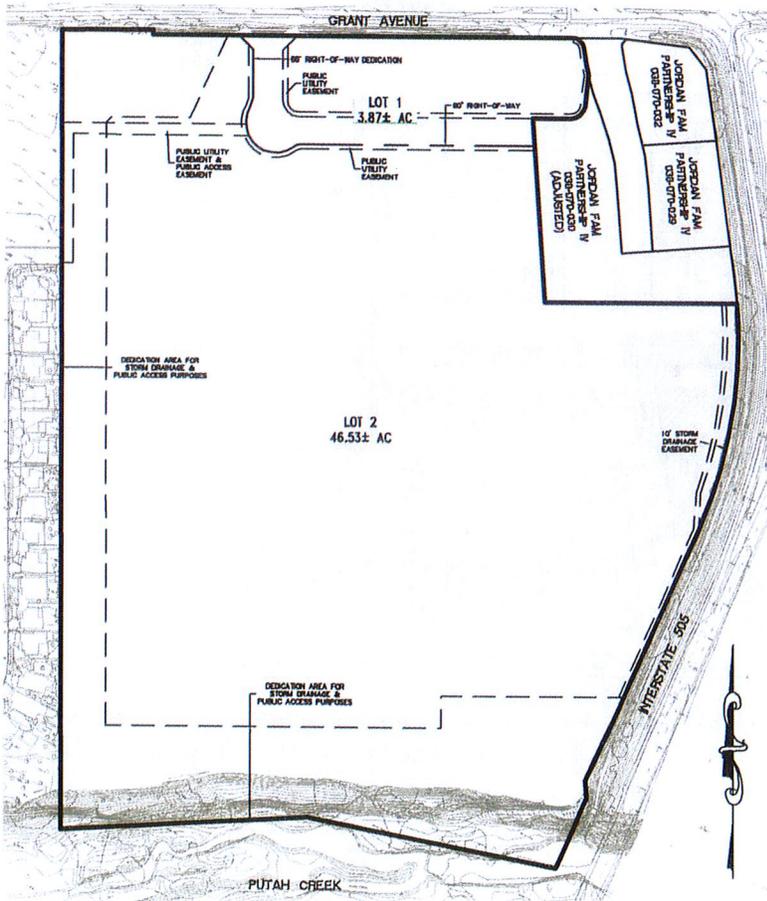
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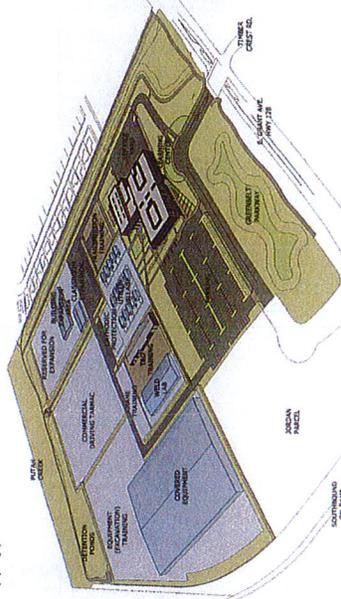
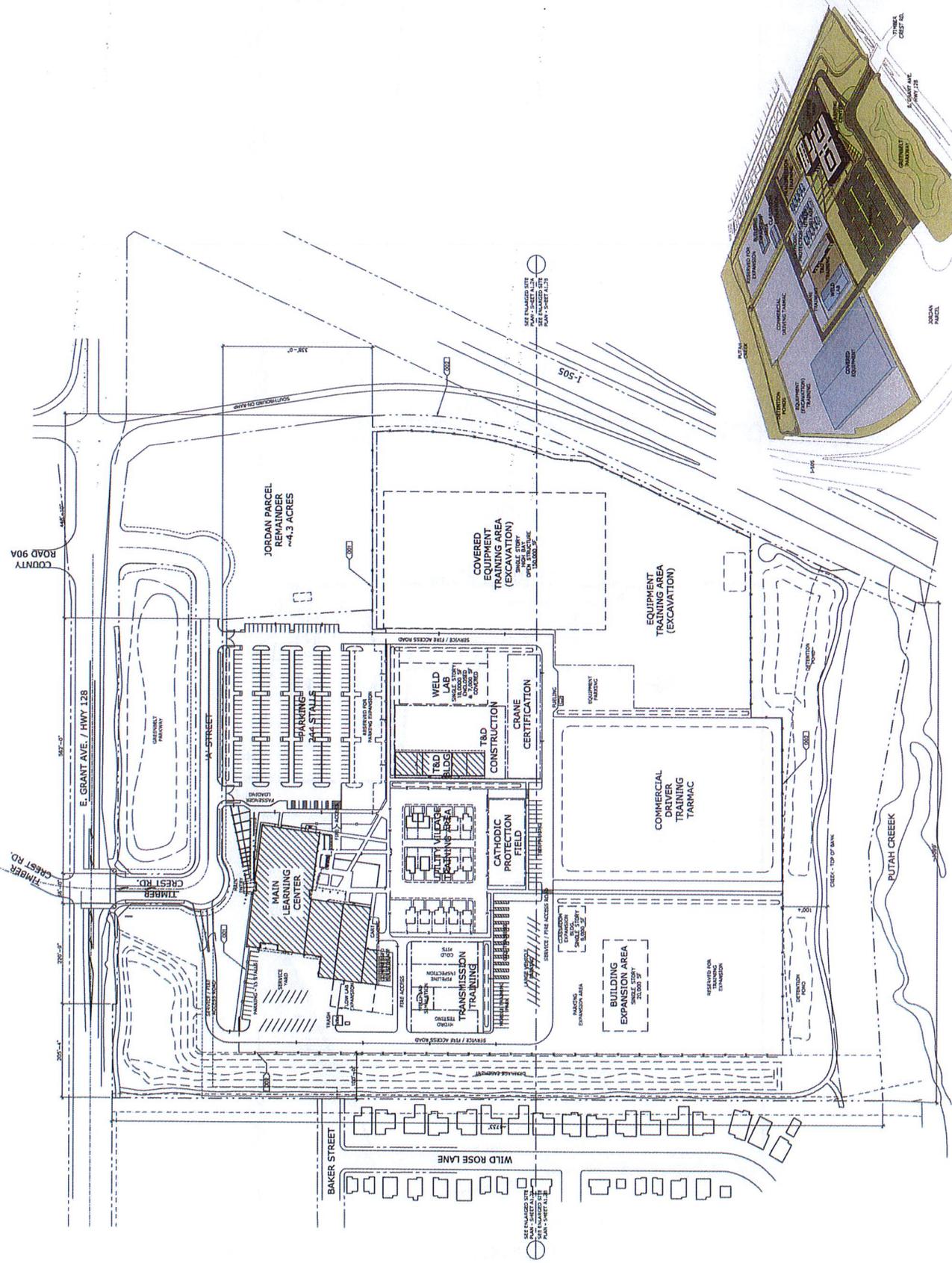
GENERAL NOTES
 1. REFER TO EXHIBIT PLANS FOR DETAIL.
 2. FOR PARKING SUMMARY, SEE SHEET A1.2A.

- KEYNOTES**
- KEYNOTES 1. HIGH STRENGTH METAL FENCE
 - KEYNOTES 2. SECURITY FENCE & CHAINLINK FABRIC W/ 3" STAINLESS STEEL POSTS
 - KEYNOTES 3. LOW BARRIER GATE, MANUAL OPERATION
 - KEYNOTES 4. TRAFFIC BARRIER GATE, ACCESS CONTROLLED
 - KEYNOTES 5. ACCESS CONTROL, PRECEDENTIAL
 - KEYNOTES 6. ACCESS CONTROL, METAL VEHICLE GATE
 - KEYNOTES 7. POSTERIOR GATE, ACCESS CONTROLLED
 - KEYNOTES 8. MONUMENT SIGN, SPACE TO BE SUBMITTED SEPARATELY FOR APPROVAL
 - KEYNOTES 9. 6" HIGH MASONRY TYPICAL ENCLOSURE WITH 1/2" REINFORCING BARS
 - KEYNOTES 10. LOCK TRAINING RESOURCES
 - KEYNOTES 11. SCENARIOS
 - KEYNOTES 12. PAVED PEDESTRIAN PATHWAYS
 - KEYNOTES 13. ELECTRICAL TRANSFORMER
 - KEYNOTES 14. LIGHT POLE, TYP.
 - KEYNOTES 15. ABOVE GROUND FUEL STORAGE TANK
 - KEYNOTES 16. COVERED BICYCLE PARKING
 - KEYNOTES 17. VISITOR BICYCLE PARKING

SCHEMATIC REVIEW SET
 REVISION BY DATE
 1
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PIGEON
PIPE GAS OPERATIONS
TECHNICAL TRAINING CENTER
OVERALL SITE PLAN

10/21/20
 17-007
 21 FEBRUARY 2014
A.I.I.
 NORTH



2 SITE PLAN - BIRD'S EYE VIEW FROM NORTHEAST

1 OVERALL SITE PLAN

1" = 40'-0"

1" = 80'-0"

1" = 80'-0"

“Rosenberg’s Rules of Order, Revised”

(Simple Rules of Parliamentary Procedure for the 21st Century)

By Judge Dave Rosenberg

(First Revision dated July 2011)

Introduction

The rules of procedure at meetings should be simple enough for most people to understand. Unfortunately, that has not always been the case. Virtually all clubs, associations, boards, councils and bodies follow a set of rules – “Robert’s Rules of Order” – which are embodied in a small, but complex, book. Virtually no one I know has actually read this book cover to cover. Worse yet, the book was written for another time, and for another purpose. If one is chairing or running a Parliament, then “Robert’s Rules of Order” is a dandy and quite useful handbook for procedure in that complex setting. On the other hand, if one is running a meeting of, say, a 5-member body with a few members of the public in attendance, a simplified version of the rules of parliamentary procedure is in order.

Hence, the birth of “Rosenberg’s Rules of Order.”

What follows is my version of the rules of parliamentary procedure, based on my 20 years of experience chairing meetings in state and local government. These rules have been simplified for the smaller bodies we chair or in which we participate, slimmed down for the 21st Century, yet retaining the basic tenets of order to which we have grown accustomed. Interestingly enough, Rosenberg’s Rules has found a welcoming audience. Hundreds of cities, counties, special districts, committees, boards, commissions, neighborhood associations and private corporations and companies have adopted Rosenberg’s Rules in lieu of Robert’s Rules because they have found them practical, logical, simple, easy to learn, and user friendly.

This treatise on modern parliamentary procedure is built on a foundation supported by the following four pillars: (1) Rules should establish order. The first purpose of rules of parliamentary procedure is to establish a framework for the orderly conduct of meetings. (2) Rules should be clear. Simple rules lead to wider understanding and participation. Complex rules create two classes: those who understand and participate; and those who do not fully understand and do not fully participate. (3) Rules should be user friendly. That is, the rules must be simple enough that the public is invited into the body and feels that it has participated in the process. (4) Rules should enforce the will of the majority while protecting the rights of the minority. The ultimate purpose of rules of procedure is to encourage discussion and to facilitate decision-making by the body. In a democracy, majority rules. The rules must enable the majority to express itself and fashion a result, while permitting the minority to also express itself, but not dominate, and fully participate in the process.

Establishing a Quorum

The starting point for a meeting is the establishment of a quorum. A quorum is defined as the minimum number of members of the body who must be present at a meeting for business to be legally transacted. The default rule is that a quorum is one more than half the body. So, for example, in a five-member body a quorum is three. When the body has three members present, it can legally transact business. If the body has less than a quorum of members present, it cannot legally transact business. And even if the body has a quorum to begin the meeting, the body can lose the quorum during the meeting when a member departs (or even when a member leaves the dais), and when that occurs the body loses its ability to transact business until and unless a quorum is reestablished.

The default rule, identified above, however, gives way to a specific rule of the body which establishes a quorum. So, for example, the rules of a particular five-member body may indicate that a quorum is four members for that particular body. The body must follow the rules it has established for its quorum. In the absence of such a specific rule, the quorum is one more than half the members of the body.

The Role of the Chair

While all members of the body should know and understand the rules of parliamentary procedure, it is the Chair of the body who is charged with applying the rules in the conduct of the meeting. The Chair should be well versed in those rules. The Chair, for all intents and purposes, makes the final ruling on the rules every time the Chair states an action. In fact, all decisions by the Chair are final unless overruled by the body itself.

Since the Chair runs the conduct of the meeting, it is usual courtesy for the Chair to play a less active role in the debate and discussion than other members of the body. This does not mean that the Chair should not participate in the debate or discussion. To the contrary, the Chair as a member of the body has the full right to participate in the debate, discussion and decision-making of the body. What the Chair should do, however, is strive to be the last to speak at the discussion and debate stage, and the Chair should not make or second a motion unless the Chair is convinced that no other member of the body will do so at that point in time.

The Basic Format for an Agenda Item Discussion

Formal meetings normally have a written, often published agenda. Informal meetings may have only an oral or understood agenda. In either case, the meeting is governed by the agenda and the agenda constitutes the body's agreed-upon roadmap for the meeting. And each agenda item can be handled by the Chair in the following basic format:

First, the Chair should clearly announce the agenda item number and should clearly state what the agenda item subject is. The Chair should then announce the format (which follows) that will be followed in considering the agenda item.

Second, following that agenda format, the Chair should invite the appropriate person or persons to report on the item, including any recommendation that they might have. The appropriate person or persons may be the Chair, a member of the body, a staff person, or a committee chair charged with providing input on the agenda item.

Third, the Chair should ask members of the body if they have any technical questions of clarification. At this point, members of the body may ask clarifying questions to the person or persons who reported on the item, and that person or persons should be given time to respond.

Fourth, the Chair should invite public comments, or if appropriate at a formal meeting, should open the public meeting for public input. If numerous members of the public indicate a desire to speak to the subject, the Chair may limit the time of public speakers. At the conclusion of the public comments, the Chair should announce that public input has concluded (or the public hearing as the case may be is closed).

Fifth, the Chair should invite a motion. The Chair should announce the name of the member of the body who makes the motion.

Sixth, the Chair should determine if any member of the body wishes to second the motion. The Chair should announce the name of the member of the body who seconds the motion. (It is normally good practice for a motion to require a second before proceeding with it, to ensure that it is not just one member of the body who is interested in a particular approach. However, a second is not an absolute requirement, and the Chair can proceed with consideration and vote on a motion even when there is no second. This is a matter left to the discretion of the Chair.)

Seventh, if the motion is made and seconded, the Chair should make sure everyone understands the motion. This is done in one of three ways: (1) The Chair can ask the maker of the motion to repeat it. (2) The Chair can repeat the motion. (3) The Chair can ask the secretary or the clerk of the body to repeat the motion.

Eighth, the Chair should now invite discussion of the motion by the body. If there is no desired discussion, or after the discussion has ended, the Chair should announce that the body will vote on the motion. If there has been no discussion or very brief discussion, then the vote on the motion should proceed immediately and there is no need to repeat the motion. If there has been substantial discussion, then it is normally best to make sure everyone understands the motion by repeating it.

Ninth, the Chair takes a vote. Simply asking for the “ayes”, and then asking for the “nays” normally does this. If members of the body do not vote, then they “abstain”. Unless the rules of the body provide otherwise (or unless a super-majority is required as delineated later in these rules) then a simple majority (as defined in law or the rules of the body as delineated later in these rules) determines whether the motion passes or is defeated.

Tenth, the Chair should announce the result of the vote and should announce what action (if any) the body has taken. In announcing the result, the Chair should indicate the names of the members of the body, if any, who voted in the minority on the motion. This announcement might take the

following form: “The motion passes by a vote of 3-2, with Smith and Jones dissenting. We have passed the motion requiring 10 days notice for all future meetings of this body.”

Motions in General

Motions are the vehicles for decision-making by a body. It is usually best to have a motion before the body prior to commencing discussion of an agenda item. This helps the body focus.

Motions are made in a simple two-step process. First, the Chair should recognize the member of the body. Second, the member of the body makes a motion by preceding the member’s desired approach with the words: “I move” So, a typical motion might be: “I move that we give 10-day’s notice in the future for all our meetings.”

The Chair usually initiates the motion by either (1) Inviting the members of the body to make a motion. “A motion at this time would be in order.” (2) Suggesting a motion to the members of the body. “A motion would be in order that we give 10-day’s notice in the future for all our meetings.” (3) Making the motion. As noted, the Chair has every right as a member of the body to make a motion, but should normally do so only if the Chair wishes to make a motion on an item but is convinced that no other member of the body is willing to step forward to do so at a particular time.

The Three Basic Motions

There are three motions that are the most common and recur often at meetings:

The basic motion. The basic motion is the one that puts forward a decision for the body’s consideration. A basic motion might be: “I move that we create a 5-member committee to plan and put on our annual fundraiser.”

The motion to amend. If a member wants to change a basic motion that is before the body, they would move to amend it. A motion to amend might be: “I move that we amend the motion to have a 10-member committee.” A motion to amend takes the basic motion which is before the body and seeks to change it in some way.

The substitute motion. If a member wants to completely do away with the basic motion that is before the body, and put a new motion before the body, they would move a substitute motion. A substitute motion might be: “I move a substitute motion that we cancel the annual fundraiser this year.”

“Motions to amend” and “substitute motions” are often confused. But they are quite different, and their effect (if passed) is quite different. A motion to amend seeks to retain the basic motion on the floor, but modify it in some way. A substitute motion seeks to throw out the basic motion on the floor, and substitute a new and different motion for it. The decision as to whether a motion is really a “motion to amend” or a “substitute motion” is left to the chair. So that if a member makes what that member calls a “motion to amend”, but the Chair determines that it is really a “substitute motion”, then the Chair’s designation governs.

Multiple Motions Before the Body

There can be up to three motions on the floor at the same time. The Chair can reject a fourth motion until the Chair has dealt with the three that are on the floor and has resolved them. As a practical matter, more than three motions on the floor at one time tends to be too confusing and unwieldy for most everyone – so keep the maximum at three at three for the sake of clarity.

When there are two or three motions on the floor (after motions and seconds) at the same time, the vote should proceed first on the last motion that is made. So, for example, assume the first motion is a basic “motion to have a 5-member committee to plan and put on our annual fundraiser.” During the discussion of this motion, a member might make a second motion to “amend the main motion to have a 10-member committee, not a 5-member committee to plan and put on our annual fundraiser.” And perhaps, during that discussion, a member makes yet a third motion as a “substitute motion that we not have an annual fundraiser this year.” The proper procedure would be as follows:

First, the Chair would deal with the third (the last) motion on the floor, the substitute motion. After discussion and debate, a vote would be taken first on the third motion. If the substitute motion passed, it would be a substitute for the basic motion and would eliminate it. The first motion would be moot, as would the second motion (which sought to amend the first motion), and the action on the agenda item would be completed on the passage by the body of the third motion (the substitute motion). No vote would be taken on the first or second motions.

Second, if the substitute motion failed, the Chair would now deal with the second (now, the last) motion on the floor, the motion to amend. The discussion and debate would focus strictly on the amendment (should the committee be 5 members or 10 members). If the motion to amend passed the Chair would now move to consider the main motion (the first motion) as amended. If the motion to amend failed the Chair would now move to consider the main motion (the first motion) in its original format, not amended.

Third, the Chair would now deal with the first motion that was placed on the floor. The original motion would either be in its original format (5-member committee), or, if amended, would be in its amended format (10-member committee). And the question on the floor for discussion and decision would be whether a committee should plan and put on the annual fundraiser.

To Debate or Not to Debate

The basic rule of motions is that they are subject to discussion and debate. Accordingly, basic motions, motions to amend, and substitute motions are all eligible, each in their turn, for full discussion before and by the body. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the Chair that it is time to move on and take action.

There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. The following motions are not debatable (that is, when the following motions are made and seconded, the Chair must immediately call for a vote of the body without debate on the motion):

A motion to adjourn. This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. It requires a simple majority vote.

A motion to recess. This motion, if passed, requires the body to immediately take a recess. Normally, the Chair determines the length of the recess which may be a few minutes or an hour. It requires a simple majority vote.

A motion to fix the time to adjourn. This motion, if passed, requires the body to adjourn the meeting at the specific time set in the motion. For example, the motion might be: "I move we adjourn this meeting at midnight." It requires a simple majority vote.

A motion to table. This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to be placed on "hold". The motion can contain a specific time in which the item can come back to the body: "I move we table this item until our regular meeting in October." Or the motion can contain no specific time for the return of the item, in which case a motion to take the item off the table and bring it back to the body will have to be taken at a future meeting. A motion to table an item (or to bring it back to the body) requires a simple majority vote.

A motion to limit debate. The most common form of this motion is to say: "I move the previous question" or "I move the question" or "I call the question" or simply "question." (As a practical matter, when a member calls for the "question" the chair can expedite things by simply asking the body if anyone wishes to continue discussing the underlying matter. If no one wishes to discuss it further, the chair can proceed to a vote on the underlying matter – without having to vote on the "question". On the other hand, if even one member of the body wishes further discussion and debate on the underlying matter, then the chair has to treat the call for the "question" as a motion and proceed accordingly.) When a member of the body makes such a motion for the "question", the member is really saying: "I've had enough debate. Let's get on with the vote". When such a motion is made, the Chair should ask for a second, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a 2/3 vote of the body. Note: that a motion to limit debate could include a time limit. For example: "I move we limit debate on this agenda item to 15 minutes." Even in this format, the motion to limit debate requires a 2/3 vote of the body. A similar motion is a motion to object to consideration of an item. This motion is not debatable, and if passed, precludes the body from even considering an item on the agenda. It also requires a 2/3 vote.

Majority and Super-Majority Votes

In a democracy, a simple majority vote determines a question. A tie vote means the motion fails. So in a 7-member body, a vote of 4-3 passes the motion. A vote of 3-3 with one abstention means the motion fails. If one member is absent and the vote is 3-3, the motion still fails.

All motions require a simple majority, but there are a few exceptions. The exceptions come up when the body is taking an action which, effectively, cuts off the ability of a minority of the body to take an action or discuss and item. These extraordinary motions require a 2/3 majority (a super-majority) to pass:

Motion to limit debate. Whether a member says “I move the previous question” or “I move the question” or “I call the question” or “I move to limit debate”, it all amounts to an attempt to cut off the ability of the minority to discuss an item, and it requires a 2/3 vote to pass.

Motion to close nominations. When choosing officers of the body (like the Chair) nominations are in order either from a nominating committee or from the floor of the body. A motion to close nominations effectively cuts off the right of the minority to nominate officers, and it requires a 2/3 vote to pass.

Motion to object to the consideration of a question. Normally, such a motion is unnecessary since the objectionable item can be tabled, or defeated straight up. However, when members of a body do not even want an item on the agenda to be considered, then such a motion is in order. It is not debatable, and it requires a 2/3 vote to pass.

Motion to suspend the rules. This motion is debatable, but requires a 2/3 vote to pass. If the body has its own rules of order, conduct or procedure, this motion allows the body to suspend the rules for a particular purpose. For example, the body (a private club) might have a rule prohibiting the attendance at meetings by non-club members. A motion to suspend the rules would be in order to allow a non-club member to attend a meeting of the club on a particular date or on a particular agenda item.

Counting Votes

The matter of counting votes starts simple, but can become complicated.

Usually, it's pretty easy to determine whether a particular motion passed or whether it was defeated. If a simple majority vote is needed to pass a motion, then one vote more than 50% of the body is required. So, for example, in a five-member body, if the vote is 3 in favor and 2 opposed, the motion passes. If it is 2 in favor and 3 opposed, the motion is defeated.

If a two-thirds majority vote is needed to pass a motion, then how many affirmative votes are required? The simple rule of thumb is to count the “no” votes and double that count to determine how many “yes” votes are needed to pass a particular motion. So, for example, in a seven-member body, if 2 members vote “no” then the “yes” vote of at least 4 members is required to achieve a two-thirds majority vote to pass the motion.

What about tie votes? In the event of a tie vote, the motion always fails since an affirmative vote is required to pass any motion. So, for example, in a five member body, if the vote 2 in favor and 2 opposed, with 1 member absent, the motion is defeated.

Vote counting starts to become complicated when members vote “abstain” or in the case of a written ballot, cast a blank (or unreadable) ballot. Do these votes count, and if so, how does one count them? The starting point is always to check the statutes.

In California, for example, for an action of a board of supervisors to be valid and binding, the action must be approved by a majority of the board. California Government Code Section 25005.

Typically, this means 3 of the 5 members of the board must vote affirmatively in favor of the action. A vote of 2 to 1 would not be sufficient. A vote of 3 to 0 with two abstentions would, be sufficient. In general law cities in California, as another example, resolutions or orders for the payment of money and all ordinances require a recorded vote of the total members of the city council. California Government Code Section 36936. Cities with charters may prescribe their own vote requirements. Local elected officials are always well-advised to consult with their local agency counsel on how state law may affect the vote count.

After consulting state statutes, step number two is to check the rules of the body. If the rules of the body say that you count votes of “those present” then you treat abstentions one way. However, if the rules of the body say that you count the votes of those “present and voting” then you treat abstentions a different way. And if the rules of the body are silent on the subject, then the general rule of thumb (and default rule) is that you count all votes that are “present and voting”. Accordingly, under the “present and voting” system you would NOT count abstain votes on the motion. Members who abstain are counted for purposes of determining quorum (they are “present”), but you treat the abstention votes on the motion as if they did not exist (they are not “voting”). On the other hand, if the rules of the body specifically say that you count votes of those “present” then you DO count abstain votes both in establishing the quorum and on the motion. In this event, the abstention votes act just like “no” votes.

How does this work in practice? Let’s look at a few examples.

Let’s assume that we have a five-member city council voting on a motion that requires a simple majority vote to pass, and let’s assume further that the body has no specific rule on counting votes. Accordingly, the default rule kicks in and we count all votes of members that are “present and voting”. If the vote on the motion is 3-2, the motion passes. If the motion is 2-2 with 1 abstention, the motion fails.

Let’s assume we have a five-member city council voting on a motion that requires a two-thirds majority vote to pass, and let’s further assume that the body has no specific rule on counting votes. Again, the default rule applies. If the vote is 3-2, the motion fails for lack of a two-thirds majority. If the vote is 4-1, the motion passes with a clear two-thirds majority. A vote of 3 “yes”, 1 “no” and 1 “abstain” also results in passage of the motion. Once again, the abstention is counted only for the purpose of determining quorum, but on the actual vote on the motion, it is as if the abstention vote never existed – so an effective 3-1 vote is clearly a two-thirds majority vote.

Now, let’s change the scenario slightly. Let’s assume the same five-members city council voting on a motion that requires a two-thirds majority vote to pass, but let’s now assume that the body DOES have a specific rule requiring a two-thirds vote of members “present”. Under this specific rule, we must count the members present not only for quorum but also for the motion. In this scenario, any abstention has the same force and effect as if it were a “no” vote. Accordingly, if the vote were 3 “yes”, 1 “no” and 1 “abstain”, then the motion fails. The abstention in this case is treated like a “no” vote and effective vote of 3-2 is not enough to pass two-thirds majority muster.

And, how, exactly, does a member cast an “abstention” vote? Any time a member votes “abstain” or says “I abstain”, that is an abstention. However, if a member votes “present” that is also treated as an abstention (the member is, essentially, saying, “count me for purposes of a quorum, but my vote on the issue is abstain”). In fact, any manifestation of intention to vote neither “yes” nor “no” on the pending motion may be treated by the chair as an abstention. And if written ballots are cast, a blank or unreadable ballot is counted as an abstention as well.

Can a member vote “absent” or “count me as absent”? Interesting question. The ruling on this is up to the chair. The better approach is for the chair to count this as if the member had left his/her chair and is actually “absent”. That, of course, affects the quorum. However, the chair may also treat this as a vote to abstain, particularly if the person does not actually leave the dais.

The Motion to Reconsider

There is a special and unique motion that requires a bit of explanation all by itself; the motion to reconsider. A tenet of parliamentary procedure is finality. After vigorous discussion, debate and a vote, there must be some closure to the issue. And so, after a vote is taken, the matter is deemed closed, subject only to reopening if a proper motion to consider is made and passed.

A motion to reconsider requires a majority vote to pass like other garden-variety motions, but there are two special rules that apply only to the motion to reconsider.

First, is the matter of timing. A motion to reconsider must be made at the meeting where the item was first voted upon. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to suspend the rules and, by a two-thirds majority, allow a motion to reconsider to be made at another time.)

Second, a motion to reconsider may be made only by certain members of the body. Accordingly, a motion to reconsider may be made only by a member who voted in the majority on the original motion. If such a member has a change of heart, he or she may make the motion to reconsider (any other member of the body – including a member who voted in the minority on the original motion - may second the motion). If a member who voted in the minority seeks to make the motion to reconsider, it must be ruled out of order. The purpose of this rule is finality. If a member of minority could make a motion to reconsider, then the item could be brought back to the body again and again, which would defeat the purpose of finality.

If the motion to reconsider passes, then the original matter is back before the body, and a new original motion is in order. The matter may be discussed and debated as if it were on the floor for the first time.

Courtesy and Decorum

The rules of order are meant to create an atmosphere where the members of the body and the members of the public can attend to business efficiently, fairly and with full participation. At the same time, it is up to the Chair and the members of the body to maintain common courtesy and decorum. Unless the setting is very informal, it is always best for only one person at a time to

have the floor, and it is always best for every speaker to be first recognized by the Chair before proceeding to speak.

The Chair should always ensure that debate and discussion of an agenda item focuses on the item and the policy in question, not the personalities of the members of the body. Debate on policy is healthy, debate on personalities is not. The Chair has the right to cut off discussion that is too personal, is too loud, or is too crude.

Debate and discussion should be focused, but free and open. In the interest of time, the Chair may, however, limit the time allotted to speakers, including members of the body.

Can a member of the body interrupt the speaker? The general rule is “no.” There are, however, exceptions. A speaker may be interrupted for the following reasons:

Privilege. The proper interruption would be: “point of privilege.” The Chair would then ask the interrupter to “state your point.” Appropriate points of privilege relate to anything that would interfere with the normal comfort of the meeting. For example, the room may be too hot or too cold, or a blowing fan might interfere with a person’s ability to hear.

Order. The proper interruption would be: “point of order.” Again, the Chair would ask the interrupter to “state your point.” Appropriate points of order relate to anything that would not be considered appropriate conduct of the meeting. For example, if the Chair moved on to a vote on a motion that permits debate without allowing that discussion or debate.

Appeal. If the Chair makes a ruling that a member of the body disagrees with, that member may appeal the ruling of the chair. If the motion is seconded, and after debate, if it passes by a simple majority vote, then the ruling of the Chair is deemed reversed.

Call for orders of the day. This is simply another way of saying, “Let’s return to the agenda.” If a member believes that the body has drifted from the agreed-upon agenda, such a call may be made. It does not require a vote, and when the Chair discovers that the agenda has not been followed, the Chair simply reminds the body to return to the agenda item properly before them. If the Chair fails to do so, the Chair’s determination may be appealed.

Withdraw a motion. During debate and discussion of a motion, the maker of the motion on the floor, at any time, may interrupt a speaker to withdraw his or her motion from the floor. The motion is immediately deemed withdrawn, although the Chair may ask the person who seconded the motion if he or she wishes to make the motion, and any other member may make the motion if properly recognized.

Special Notes About Public Input

The rules outlined above will help make meetings very public-friendly. But in addition, and particularly for the Chair, it is wise to remember three special rules that apply to each agenda item:

Rule One: Tell the public what the body will be doing.

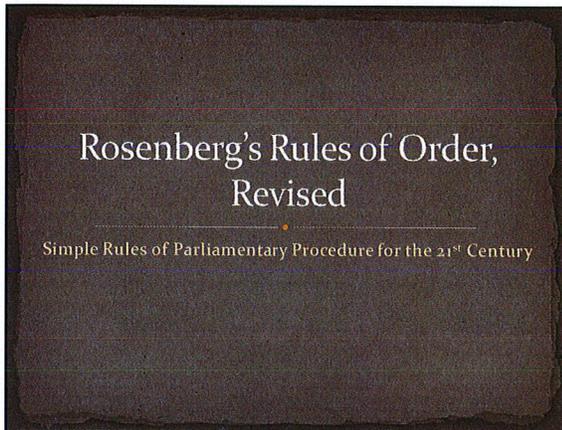
Rule Two: Keep the public informed while the body is doing it.

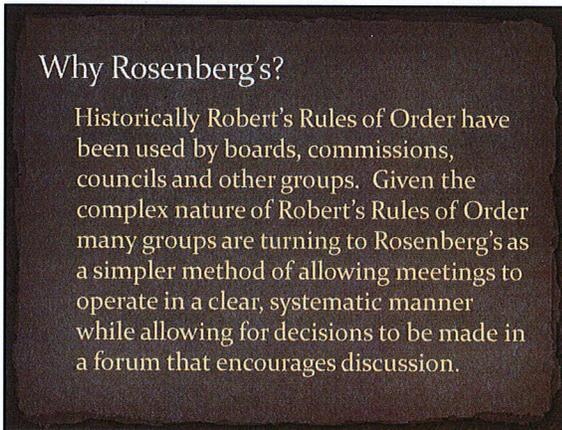
Rule Three: When the body has acted, tell the public what the body did.

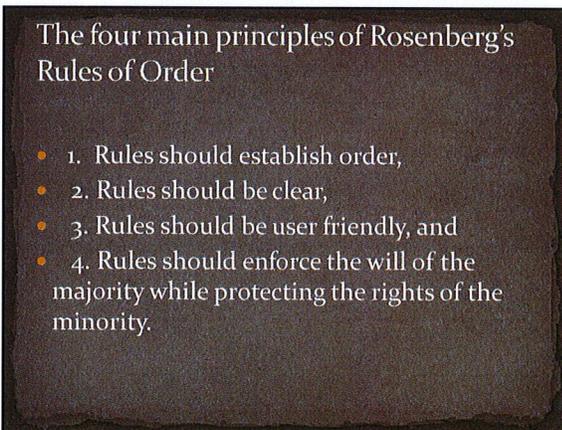
About the Author

Dave Rosenberg is a Superior Court Judge He has served as Presiding Judge of his Superior Court for two terms, as well as Presiding Judge of the Superior Court Appellate Division. He has also served as Chairman of the Trial Court Presiding Judges Advisory Committee (composed of all 58 California Superior Court Presiding Judges) and as an advisory member of the California Judicial Council. Judge Rosenberg was first appointed to the bench by the Governor of California in 2003, and has been subsequently elected to office. Prior to his appointment to the Bench, Rosenberg served as an elected County Supervisor representing the 4th district in Yolo County, and also served as Director of Community and Intergovernmental Relations, Director of Operations, and Senior Advisor to the Governor of California. He has served as a member and chair of numerous state, regional, and local boards, both appointed and elected. He has served as a member of the Davis City Council member for 12 years, including two terms as Mayor of Davis. He served two terms as Chairman of the Board of Supervisors. He also chaired the California State Lottery Commission, the California Victim Compensation and Government Claims Board, the Yolo County Economic Development Commission, and the Yolo County Criminal Justice Cabinet. He has served as Chairman of the California Law Revision Commission and as Chairman of the District Securities Advisory Commission, the Yolo-Solano Air Quality Management District, and as a member of the California Council on Criminal Justice Planning and the California Commission on State Mandates. For many years, he has taught classes on parliamentary procedure and has served as parliamentarian for large and small bodies.

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Establishing a Quorum

- Must have a quorum to conduct business.
- The default rule is that a quorum is one more than half the body - for the Winters Planning Commission a quorum is 4 members of the 7 member commission.
- A quorum can be lost if during a meeting members of the commission leave. Business must be stopped until a quorum can be reestablished.

Role of the Chair

- The Chair of the commission is charged with applying the rules in the conduct of the meeting.
- It is usual courtesy for the Chair to play a less active role in the debate and discussion than other members of the body.
- This does not mean the Chair should not or cannot participate, the chair has the full right to do so.
- The Chair should strive to be the last to speak at the discussion and debate stage.
- The Chair should not make or second a motion unless convinced no one else will do so.

Basic Format for an Agenda Item Discussion

- The Chair announces the agenda item number and states the subject of the item.
- The appropriate person reports on the item and may make a recommendation for action to be taken by the Commission.
- The Chair asks Commissioners if they have any clarifying questions of the person giving the report.
- If a Public Hearing is required the Chair will open the Public Hearing for comments and close the public hearing after all members of the public have had the opportunity to speak.
- If a Public Hearing is not required the Chair will ask if anyone in the audience would like to make a public comment.

Basic Format for an Agenda Item Discussion - Continued

- If numerous members of the public indicate a desire to speak to the subject, the Chair may limit the time of public speakers.
- Speakers are asked to complete "Request to Speak" forms. They are not required to state their name or address. It is optional and they may decline, they still have a right to speak.
- BE CAREFUL - Although time limits are often used, it is often prudent to allow a speaker some time to "finish up."
- The Chair should ensure that the speaker is addressing the agenda item and has a right to cut-off discussion that is too personal, too loud or too crude.
- Following public comment the Chair should invite a motion and announce the name of the Commissioner making the motion.
- The Chair will wait to determine if there is a second and announce the name of the Commissioner seconding the motion.
- The Chair now invites discussion of the motion by the body.

Basic Format for an Agenda Item Discussion - Continued

- If there has been no discussion or very brief discussion, then the vote on the motion should proceed immediately and there is no need to repeat the motion. If there has been substantial discussion, then it is normally best to make sure everyone understands the motion by repeating it.
- The Chair asks for the vote. If the vote is not unanimous the Chair asks for a roll call vote.

Remember This:

- The rules of order are meant to create an atmosphere where the members of the body and the members of the public can attend to business efficiently, fairly and with full participation. At the same time, it is up to the Chair and the members of the body to maintain common courtesy and decorum.
- Tell the public what the body will be doing.
- Keep the public informed while the body is doing it.
- When the body has acted, tell the public what the body did.
