

CITY OF WINTERS PLANNING COMMISSION AGENDA

Tuesday, October 28th, 2008 @ 7:30 PM  
City of Winters Council Chambers  
318 First Street  
Winters, CA 95694-1923  
Community Development Department  
Contact Phone Number (530) 795-4910 #112  
Email: [jen.michaelis@cityofwinters.org](mailto:jen.michaelis@cityofwinters.org)

Chairman: Albert Vallecillo  
Vice Chairman: Pierre Neu  
Commissioners: Joe Tramontana, Wade Cowan,  
Bruce Guelden, Corinne Martinez, Glenn DeVries  
Administrative Assistant: Jen Michaelis  
Community Development Director: Nelia Dyer

**I CALL TO ORDER 7:30 PM**

**II ROLL CALL & PLEDGE OF ALLEGIANCE**

**III COMMUNICATIONS:**

1. Staff Reports  
Current Projects List
2. Commission Reports

**IV CITIZEN COMMUNICATON:** The Planning Commission welcomes and encourages participation in City Planning Commission meetings, and will allow up to five minutes for expression on a non-agenda item. Matters under the jurisdiction of the Commission, and not on the posted agenda, may be addressed by the general public; however, California law prohibits the Commission from taking action on any matter which is not on the posted agenda unless it is determined to be an emergency by the 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.

**V CONSENT ITEM:**

Approve minutes of the July 22nd, 2008 regular meeting of the Planning Commission.

**VI ACTION ITEM:**

Public Hearing and Consideration of a Sidewalk Café Ordinance

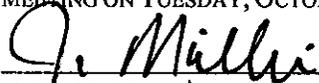
**VII DISCUSSION ITEMS:**

1. Presentation and Requested Feedback regarding non-conforming uses fronting Railroad Avenue between Grant Avenue and Niemann Street
2. Presentation and Requested Feedback regarding the preparation of formal policies and procedures for processing General Plan amendment proposals

**VIII COMMISSION/STAFF COMMENTS**

**IX ADJOURNMENT**

**POSTING OF AGENDA:** PURSUANT TO GOVERNMENT CODE § 54954.2, THE COMMUNITY DEVELOPMENT ADMINISTRATIVE ASSISTANT OF THE COMMUNITY DEVELOPMENT DEPARTMENT POSTED THE AGENDA FOR THIS MEETING ON TUESDAY, OCTOBER 21ST, 2008.

  
\_\_\_\_\_  
JEN MICHAELIS - ADMINISTRATIVE ASSISTANT

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

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

**PUBLIC REVIEW OF AGENDA, AGENDA REPORTS, AND MATERIALS:** PRIOR TO THE PLANNING COMMISSION MEETINGS, COPIES OF THE AGENDA, AGENDA REPORTS, AND OTHER MATERIAL ARE AVAILABLE DURING NORMAL WORKING HOURS FOR PUBLIC REVIEW AT THE COMMUNITY DEVELOPMENT DEPARTMENT. IN ADDITION, A LIMITED SUPPLY OF COPIES OF THE AGENDA WILL BE AVAILABLE FOR THE PUBLIC AT THE MEETING.

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

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

**COPIES OF AGENDA, AGENDA REPORTS AND OTHER MATERIALS:** PRIOR TO EACH MEETING, COPIES OF THE AGENDA ARE AVAILABLE, AT NO CHARGE, AT CITY HALL DURING NORMAL WORKING HOURS. IN ADDITION, A LIMITED SUPPLY WILL BE AVAILABLE ON A FIRST COME, FIRST SERVED BASIS, AT THE PLANNING COMMISSION MEETINGS. COPIES OF AGENDA, REPORTS AND OTHER MATERIAL WILL BE PROVIDED UPON REQUEST SUBMITTED TO THE COMMUNITY DEVELOPMENT DEPARTMENT. A COPY FEE OF 25 CENTS PER PAGE WILL BE CHARGED.

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

**THE COUNCIL CHAMBER IS WHEELCHAIR ACCESSIBLE**

**MINUTES OF THE WINTERS PLANNING COMMISSION MEETING HELD ON  
TUESDAY, JULY 22, 2008**

Vice-Chairman Neu called the meeting to order at 7:30 p.m.

**PRESENT:** Tramontana, DeVries, Neu, Guelden, Cowan  
**ABSENT:** Vallecillo, Martinez  
**STAFF:** City Manager John Donlevy, Administrative Assistant Jen Michaelis, City Engineer Nick Ponticello, Contract Planner Heidi Tschudin, Contract Planner Kate Kelly, Contract Planner Eileen Shaw.

Commissioner Cowan led the Pledge of Allegiance.

**COMMUNICATIONS:**

**Staff Report:** City Manager Donlevy noted the Current Projects List, and provided a reminder about the Form Based Code meeting next week.

**Commission Report:** None

**CONSENT ITEM**

Approve minutes of the June 24th, 2008 regular meeting of the Planning Commission.

Commissioner Neu made a motion to approve the minutes for the June 24th, 2008 meeting of the Planning Commission. Seconded by Commissioner Guelden.

**AYES:** DeVries, Neu, Guelden, Martinez, Cowan, Chairman Vallecillo  
**NOES:** None  
**ABSTAIN:** None  
**ABSENT:** Tramontana

Motion carried unanimously with Tramontana absent.

**DISCUSSION ITEM**

1. Public Hearing and Consideration of the proposed Storm Drainage Master Plan Update

Contract Planner Tschudin gave an overview of the staff report.

Vallecillo opened the public hearing at 7:47PM. Hearing no comments, Vallecillo closed the public hearing at 7:47PM.

City Engineer Nick Ponticello spoke about the Master Plan.

Commissioner Martinez moved to approve the Storm Drainage Master Plan Update.

Seconded by Commissioner Neu.

**AYES:** DeVries, Neu, Guelden, Martinez, Cowan, Chairman Vallecillo  
**NOES:** None  
**ABSTAIN:** None

**MINUTES OF THE WINTERS PLANNING COMMISSION MEETING HELD ON  
TUESDAY, JULY 22, 2008**

**ABSENT:** Tramontana

Motion carried unanimously with Tramontana absent.

2. Public Hearing and Consideration of Valadez General Plan Amendment/Rezone at the location between the northern and southern termini of Apricot Avenue, along the eastern boundary of the Winters Cemetery.

City Manager Donlevy provided background on the item, and that it is a continued item.

Contract Planner Eileen Shaw provided responses to questions, permitted uses, and history of the application.

Neu thanked staff for their work and response to the questions.

Vallecillo opened the Public Hearing at 7:53PM. Hearing no comments, Vallecillo closed the public hearing at 7:53PM.

Neu moved to approve Valadez General Plan Amendment/Rezone at the location between the northern and southern termini of Apricot Avenue, along the eastern boundary of the Winters Cemetery.

Seconded by Martinez.

**AYES:** DeVries, Neu, Guelden, Martinez, Cowan, Chairman Vallecillo

**NOES:** None

**ABSTAIN:** None

**ABSENT:** Tramontana

Motion carried unanimously with Tramontana absent.

3. Public Hearing and Consideration of the Winters Public Safety Facility Site Plan Review, Design Review, Conditional Use Permit, and Variance at 537 West Grant Avenue.

Contract Planner Shaw gave an overview of her staff report. City Manager Donlevy gave an overview of the project and history.

Vallecillo opened the Public Hearing at 8:25PM. Hearing no comments, Vallecillo closed the public hearing at 8:25PM.

Cowan moved to approve Winters Public Safety Facility Site Plan Review, Design Review, Conditional Use Permit, and Variance at 537 West Grant Avenue.

Seconded by Martinez.

**AYES:** DeVries, Neu, Guelden, Martinez, Cowan, Chairman Vallecillo

**NOES:** None

**ABSTAIN:** None

**ABSENT:** Tramontana

Motion carried unanimously with Tramontana absent.

**MINUTES OF THE WINTERS PLANNING COMMISSION MEETING HELD ON  
TUESDAY, JULY 22, 2008**

4. Public Hearing and Consideration of the Monticello Mixed Use Project, Site Plan Review, Design Review, and Conditional Use Permit at Railroad Avenue between Main Street and Abbey Street.

Contract Planner Shaw gave an overview of the staff report.

Vallecillo opened the public hearing at 8:44PM. Hearing no comments, Vallecillo closed the Public Hearing at 8:44PM.

Cowan moved to approve Monticello Mixed Use Project, Site Plan Review, Design Review, and Conditional Use Permit at Railroad Avenue between Main Street and Abbey Street.

Seconded by DeVries.

**AYES:** DeVries, Neu, Guelden, Martinez, Cowan, Chairman Vallecillo

**NOES:** None

**ABSTAIN:** None

**ABSENT:** Tramontana

Motion carried unanimously with Tramontana absent.

**COMMISSION/STAFF COMMENTS:**

None

The meeting was adjourned at 8:50 p.m.

**ATTEST:**

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Jen Michaelis, CDD Admin

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Albert Vallecillo, Chairman



**CITY OF WINTERS COMMUNITY DEVELOPMENT DEPARTMENT**  
**Current Projects List as of October 21, 2008**  
**(530) 795-4910, extension 112, [www.cityofwinters.org](http://www.cityofwinters.org)**

<b>PROJECT</b>	<b>DESCRIPTION &amp; PROCESS</b>	<b>LAST ACTION</b>	<b>NEXT ACTION</b>
(1) Winters Highlands, Granite Bay Holdings, LLC, Larry John (916) 960-1656	Application filed to develop 413 single-family and 30 multi-family residential units in northwestern part of city.	Planning Commission approved Design Review for Phase I residences on June 26, 2007.	Amend Development Agreement, applicant submittal of Final Map and Improvement Plans.
(2) Winters Village, Bob Thompson (West project) (707) 372-9355	Proposal to develop 10 attached single-family residences on the southwest corner of East Main and East Baker Streets.	Applicant in October 2007 decided to defer construction of the project.	Project not active.
(3) Callahan Estates, Winters Investors LLC, John Peterson (925) 682-4830	Proposal to develop 120 single-family residential lots in northwest part of city.	Planning Commission approved Site Plan (landscaping) on December 21, 2005.	Amend Development Agreement, applicant submittal of Final Map and Improvement Plans
(4) Creekside Estates, Lynda Fletcher (530) 902-4288	Proposal to develop 40 single-family residential lots at southwest part of city.	City Council approved Tentative Subdivision Map on April 19, 2005.	Amend Development Agreement, applicant submittal of Final Map and Improvement Plans
(5) Hudson-Ogando, Winters Investors LLC, John Peterson (925) 682-4830	Proposal to develop 72 single-family residential lots in northwest part of city.	Planning Commission approved Site Plan (landscaping) on December 21, 2005.	Amend Development Agreement, applicant submittal of Final Map and Improvement Plans
(6) Cottages at Carter Ranch Phase 2, Sacramento Pacific Development, Mark Wiese (916) 853-9800	Proposal to develop 6 single-family residential affordable lots (moderate-income households) north of Rancho Arroyo Detention Facility.	Planning Commission approved Tentative Subdivision Map on November 23, 2004.	Applicant submittal of Final Map and Improvement Plans.
(7) Casas at Winters, Napa Canyon LLC, Mark Power (707) 253-1339	Proposal for 5-unit tentative subdivision map at a site on West Grant Avenue east of Tomat's restaurant. Tentative Subdivision Map, Planned Development Overlay, and PD Permit.	City Council at its January 15, 2008 meeting took final action by approving the Rezone Ordinance.	Applicant submittal of Final Map and Improvement Plans.

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<p>(8) Winters II, Community Housing Opportunities Corporation, Ben Rosen (530) 757-4444</p>	<p>Proposal to develop 34-unit apartment complex for low- and very low-income households at 110 East Baker Street.</p>	<p>City issued certificate of occupancy for units and community center on December 18, 2007.</p>	<p>Project complete for City.</p>
<p>(9) Mary Rose Gardens, DAS Homes, Inc., Dave Snow (530) 666-0506</p>	<p>Proposal to develop 26 single-family homes and one duplex unit on the north side of West Grant Avenue west of Cemetery Lane. Tentative Subdivision Map, Planned Development Overlay, PD Permit, Rezone, Inclusionary Housing Agreement, and Development Agreement.</p>	<p>Applicant declined option to purchase project property.</p>	<p>Project not active.</p>
<p>(10) Anderson Place, Eva Bizzeski (415) 887-9300</p>	<p>Proposal to develop up to 28 mostly attached single-family residences and 9 commercial spaces at 723 Railroad Avenue. Interim use of C2 portion of the site for boat and RV storage, sales and repair.</p>	<p>First Amendment to Development Agreement adopted by City Council on June 19, 2007 CUP for boat &amp; RV storage, sale &amp; repair approved by Planning Commission on 5/27/08</p>	<p>Applicant to demo building and establish interim boat &amp; RV storage, sales and repair. Applicant submittal of Final Map and Improvement Plans.</p>
<p>(11) Pearse Parcel Map, Thomas Pearse (530) 795-5901</p>	<p>Proposal for 4-unit parcel map at the south end of Third Street.</p>	<p>Planning Commission on October 9, 2007 approved project.</p>	<p>Applicant submittal of Final Map and Improvement Plans.</p>
<p>(12) Winters Commercial, Granite Bay Holdings, LLC, Tyler Wade (916) 580-</p>	<p>Proposal to develop 4.52 acres on south side of Grant Avenue directly west of Round Table Pizza complex for 49,500 square feet of commercial and office uses. Site Plan. Application submitted on August 17, 2007</p>	<p>Design review, tentative map, CUP for Bank Drive –thru, and Mitigated Negative Declaration approved by Planning</p>	<p>Applicant submittal of Final Map, Improvement Plans, and building plans.</p>

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1855	and deemed complete on October 22, 2007.	Commission on 12/11/07. City Council approved East Street closure at Grant Avenue and Encroachment Permit for diagonal parking and landscaping on East Baker Street on 12/18/07.	
(13) Valadez, Frank Valadez, Trustee, 530-674-5102	Proposal to change General Plan and Zoning designations for the 1.421-acre parcel (APN 003-391-05) located east of the Winters Cemetery from Parks and Recreation to residential (R-2) use.	City Council at its October 7, 2008 meeting took final action by approving the GPA and the rezone	
(14) Winters Estates Annexation, Winters Estates LLC, Helmut Sommer 707-678-9000	Proposal to annex 80 acres (APNs 030-210-05 & 08) adjacent to County Road 88 and within the City's General Plan Area.	City issuance of incomplete application letter on February 1, 2008.	Applicant response to City's February 1, 2008 incomplete application letter.
(15) Orchard Village, CV/CAH/Pacific West Communities, Shellan Miller (208) 461-0022 Ext. 3033	Proposal to construct 74 multifamily (workforce housing) units on 10.6 acres between Railroad Ave, and Dutton Street extension, north of East Grant Ave. To include 1-, 2-, 3-, and 4-bedroom units + a community center.	Application was filed on 6-10-08 and deemed complete on 7/10/08.	City to prepare CEQA document for public/agency review and comment.
Safe Routes to School	Installation of sidewalks at Winters HS and Waggoner Elementary School	Notice of Exemption filed 5/7/08	City Staff awaiting authorization to proceed with pre-construction nesting survey prior to tree removal.
Abbey Street Partial Abandonment	Partial abandonment of East Abbey St to allow for Monticello development	PC accepted GP consistency report and recommended to	Council hearing tbd once Development Agreement is

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		Council 4/22/08. Actual vacation decision to take place following approval of DDA	approved.
Monticello Mixed-Use Project	Application for Site Plan Review and Design Review, and Conditional Use Permit for the construction of a mixed-use project (commercial/retail, office and residential) on 0.42 acre on the east side of Railroad Ave. between Abbey St. and Main St, in downtown Winters CBD.	CDA at its September 2, 2008 meeting approved the DDA for the project	
Public Safety Facility	Application for Site Plan Review and Design Review, Conditional Use Permit and Variance for the construction of the City's public safety facility on 2.78 acres of the Ogando-Hudson Subdivision (Grant Ave @West Main Street)	Planning Commission hearing on 7/22/08 – PC approved project subject to Conditions of Approval presented in staff report.	City to prepare Lot Line Merger. Applicant submittal of improvement and building plans

**AFFORDABLE HOUSING UNITS**

- Project #1:** 26 units for very low-income, 25 units for low-income, and 15 units for moderate-income households.
- Project #2:** 2 units for low-income households.
- Project #3:** 7 units for very low-income, 7 units for low-income, and 4 units for moderate-income households.
- Project #4:** 1 unit for very low-income, 2 units for low-income, and 1 unit for moderate-income households.
- Project #5:** 11 units for very low-income households.
- Project #6:** 6 units for moderate-income households.
- Project #7:** Not known whether residential units will be constructed.
- Project #8:** 34 units for very low-income and low-income households.
- Project #9:** 2 units for very low-income, 1 unit for low-income, and 1 unit for moderate-income households.
- Project #10:** 2 units for very low-income, 1 unit for low-income, and 1 unit for moderate-income households.
- Project #11:** Not applicable.

**CITY OF WINTERS COMMUNITY DEVELOPMENT DEPARTMENT**

**Current Projects List as of October 21, 2008**

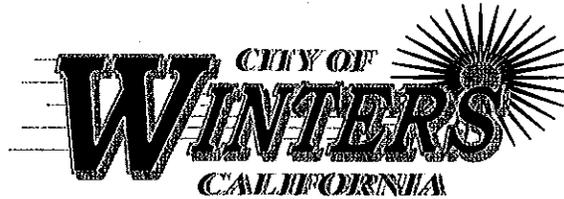
**(530) 795-4910, extension 112, [www.cityofwinters.org](http://www.cityofwinters.org)**

**Project #12: Not applicable.**

**Project #13: Not known at this time.**

**Project #14: Not known at this time.**





**PLANNING COMMISSION STAFF REPORT**  
**October 28, 2008**

**TO:** Chairman and Planning Commissioners

**BY:** Nelia Dyer – Community Development Director

**SUBJECT:** **Public Hearing and consideration of an ordinance of the City of Winters adding Chapter 17.116 to the Winters Municipal Code pertaining to Sidewalk Cafes.**

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**RECOMMENDATION**

Staff recommends that the Planning Commission take the following actions:

- 1) Receive the staff report;
- 2) Conduct the public hearing; and
- 3) Recommend Approval to the City Council of the Adoption of Chapter 17.116 to the Winters Municipal Code pertaining to Sidewalk Cafes.

**SUMMARY OF THE ORDINANCE**

The Sidewalk Café Ordinance was prepared to encourage the establishment of sidewalk cafes in the City of Winters and to provide for the creation of a more urban pedestrian environment. The ordinance requires the approval of a permit by the Community Development Director prior to the placement and/or maintenance of a sidewalk cafe. The issuance of a permit to establish a sidewalk café is subject to a number of factors, which include, but are not limited to, the dimensions of the sidewalk in relation to the size and width of the proposed sidewalk café; applicable state and federal law accessibility requirements, and the convenience and safety of pedestrians, property owners, occupants, customers, residents, or tenants in the vicinity of the proposed sidewalk café (See Sections 17.116.060 and 17.116.090). Should the applicant desire to serve alcoholic beverages at a proposed or existing sidewalk café, the ordinance requires that the applicant be licensed to serve alcohol by the California State Department of Alcoholic Beverage Control; and the applicant is in compliance with all conditions and restrictions of his or her state liquor license. The ordinance also includes special conditions related to the service of alcoholic beverages at a sidewalk café (See Section 17.116.100). Each permanent food service establishment operating a sidewalk café shall pay an annual sidewalk café permit fee, which will be established by resolution of the City Council at a later date.

**APPLICABLE REGULATIONS:**

This project is subject to several regulations:

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

**PROJECT NOTIFICATION:** Public notice advertising for the public hearing on this project was prepared by the Community Development Department's Administrative Assistant in accordance with notification procedures set forth in the City of Winters' Municipal Code and State Planning Law. A legal notice was published in the Winters Express on Thursday, October 16, 2008. Copies of the staff report and all attachments for the proposed project have been on file, available for public review at City Hall since Tuesday, October 21, 2008.

**ENVIRONMENTAL ASSESSMENT:** The Ordinance is exempt from environmental review pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15061 (b)(3).

**RECOMMENDED FINDINGS FOR CHAPTER 17.116 TO THE WINTERS MUNICIPAL CODE PERTAINING TO SIDEWALK CAFES**

**General Findings:**

1. Notice of Hearing has been given at the time and in the manner required by state law and city code.
2. The ordinance is consistent with the general plan and the zoning code of the city.

**CEQA Findings:**

1. The ordinance qualifies for an exemption from environmental review pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15061 (b)(3).
2. The Planning Commission has considered comments received on the ordinance during the public review process.
3. The exemption finding reflects the independent judgment and analysis of the City of Winters.

**RECOMMENDATION**

Staff recommends that the Planning Commission recommend approval of the Sidewalk Café Ordinance to the City Council by making an affirmative motion as follows:

**I MOVE THAT THE WINTERS PLANNING COMMISSION RECOMMEND APPROVAL TO THE CITY COUNCIL OF AN ORDINANCE OF THE CITY OF WINTERS ADDING CHAPTER 17.116 TO THE WINTERS MUNICIPAL CODE PERTAINING TO SIDEWALK CAFES**

**ALTERNATIVES:**

The Commission can recommend modifications to the ordinance or recommend denial of the ordinance to the City Council. If the Commission chooses to recommend denial of the ordinance, the Commission would need to submit findings for the official record that would illustrate the reasoning behind the decision to recommend denial of the ordinance.

**ATTACHMENTS:**

1. An Ordinance of the City of Winters Adding Chapter 17.116 to the Winters Municipal Code Pertaining to Sidewalk Cafes
2. Public Hearing Notice (published copy)

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF WINTERS  
ADDING CHAPTER 17.116 TO THE WINTERS MUNICIPAL CODE  
PERTAINING TO SIDEWALK CAFES**

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

**SECTION 1.**

- A. The City Council desires to enhance the pedestrian-friendly character of the City of Winters, and encourage entertainment activity, especially along Main Street and \_\_\_\_\_.
- B. The establishment of sidewalk cafes will foster a more urban pedestrian environment, promote economic activity and growth, and generally make the community more attractive in which to live, work and play.
- C. The City of Winters Planning Commission conducted a noticed public hearing regarding this Ordinance and has recommended approval of the amendment adding Chapter 17.116 to regulate the establishment of sidewalk cafes to the Winters Municipal Code.
- D. The City Council of the City of Winters has given the required notice of its intention to adopt this amendment to add Chapter 17.116 to the Winters Municipal Code, and conducted a public hearing thereon on \_\_\_\_\_.
- E. This Ordinance is exempt from environmental review pursuant to CEQA Guidelines Section 15061(b)(3).

**SECTION 2.** Chapter 17.116, "Sidewalk Café" is hereby added to the Winters Municipal Code to read as follows:

**17.116.010 Purpose.**

The sidewalk café regulations as established in this chapter are intended to encourage the establishment of sidewalk cafés in the City of Winters, to provide for the creation of a more urban pedestrian environment, and to promote and protect the public health, safety, and general welfare. These goals include among others the following specific purposes:

1. To encourage and promote sidewalk cafes as visual amenities which in turn intensify pedestrian activity and make street life more attractive;
2. To enhance the character of the City of Winters; and
3. To ensure adequate space for pedestrians on the sidewalk adjacent to sidewalk cafes.

### **17.116.020 Definitions.**

The definitions set forth in this chapter shall govern the application and interpretation of this chapter.

“Premises” shall mean the restaurant, as defined in Section 17.08.030(R) of this Title, and any sidewalk café as authorized by this chapter.

“Sidewalk” shall mean that part of the public right-of-way dedicated to pedestrian circulation.

“Sidewalk Café” shall mean a dining area located partially or wholly on a public sidewalk or parkway.

“Permanent Food Service Establishment” shall mean an establishment licensed by the Yolo County Environmental Health Department for which the principal use is the service of prepared food and beverages in a permanently constructed structure. Examples include restaurants, cafeterias, markets, delis, and bakeries.

### **17.116.030 Permit Required**

No owner or operator of a permanent food service establishment shall erect, place or maintain in or upon any sidewalk or parking contiguous or adjacent to said permanent food service establishment, umbrellas, tables, benches, chairs and other portable appurtenances for the purpose of serving to customers thereon, food and/or beverages for consumption at such sidewalk tables, benches, or chairs, unless such owner or operator has obtained a sidewalk café permit approved by the community development director.

### **17.116.040 Application.**

The application for a permit to establish a sidewalk café shall contain the following information and any additional information as required by the community development director:

1. The name, date of birth, driver’s license number, and mailing address of the applicant;
2. The name and address of the restaurant seeking a sidewalk café permit;
3. The hours that the area is to be occupied as a sidewalk café;
4. A detailed drawing to scale of the proposed site indicating the following: the existing façade; the points of ingress and egress; and the proposed location, the number, and the arrangement of umbrellas, tables, chairs, serving equipment, planters, awnings, lighting, delimiting ropes or chains and other facility to be included in the café operation. The detailed scale drawing must indicate the location of the existing public improvements including the following: fire hydrants, streetlights, street signs, trees, tree grates, planting boxes, and/or

planting areas, and any other public or private obstruction. A plat survey may be required.

5. A menu of the proposed food and beverages to be served at the sidewalk café.
6. A copy of a valid business license and, if applicable, a copy of a valid state liquor license for the permanent food serviced establishment.
7. An acknowledgement that the applicant has received, reviewed, and understood the regulations pertaining to sidewalk cafes.
8. An sidewalk café permit application fee as established by resolution of the City Council.
9. A copy of a permit to operate a food service establishment from the Yolo County Environmental Health Department.

#### **17.116.050 Review of Application.**

The community development director shall consider the following factors in the review of the permit application:

1. The convenience and safety of pedestrians, property owners, occupants, customers, residents, or tenants of offices, stores, shops or dwellings in the vicinity;
2. Dimensions of the sidewalk, especially in relation to the size and width of the proposed sidewalk cafe;
3. Location of nearby fire hydrants, utility poles, sign poles, and trees;
5. Applicable state and federal law accessibility requirements; and
5. Other unique or special factors that may be relevant to the particular location.

#### **17.116.060 Findings.**

The community development director may issue a permit for establishment of a sidewalk café after holding a noticed public hearing and only upon making the following findings:

1. Establishment of a sidewalk café at the proposed location will not create a nuisance by causing excessive noise or light, interfering with the use and enjoyment of adjacent properties; unduly restricting pedestrian use of the sidewalk; or, in other ways that are adverse to the public health safety or general welfare.
2. Establishment of a sidewalk café at the proposed location will enhance the character of the surrounding area; and
3. The sidewalk café, as proposed, adequately protects the convenience and safety of pedestrians, property owners, occupants, customers, resident or tenants of offices, stores, shops or dwellings in the vicinity.
4. The sidewalk café will not cause a negative cumulative effect when considered in conjunction with the cumulative effect of other sidewalk cafes in the immediate neighborhood.

**17.116.070 Amendment of Existing Permits for Service of Alcohol.**

Existing sidewalk café permits may be amended to authorize service of alcoholic beverages by submitting a new permit application in accordance with the provisions of this chapter. The findings previously made pursuant section 17.116.060 of this chapter may be reconsidered.

**17.116.080 Special Findings—Service of Alcohol.**

The service of alcoholic beverages at a sidewalk café shall be authorized by the community development director only if the following are made:

1. The applicant is licensed to serve alcohol by the California State Department of Alcoholic Beverage Control; and
2. The applicant is in compliance with all conditions and restrictions of his or her state liquor license.

**17.116.090 Conditions and Restrictions**

The issuance of a permit to establish a sidewalk café shall be subject to the following minimum conditions and restrictions, together with such other conditions as may be deemed necessary in order to fulfill the general purposes of this chapter. The community development director may, in issuing a permit, impose more stringent conditions or supplement these conditions and restrictions as necessary.

1. At all times, the operator of a permanent food service establishment that has been issued a sidewalk café permit must:
  - a. Maintain a clear distance of a minimum of five (5) unobstructed feet in width, measured from the sidewalk curb and from any public improvements within the right of way, including, but not limited to, signs, and planters or the ropes or chains delimiting the sidewalk café area as indicated on the approved permit;
  - b. Not interfere with the passage of pedestrians, vehicle flow, or access to buildings;
  - c. Not place sidewalk tables, benches, or chairs in a location that interferes with the operation of fire hydrants, pedestrian crosswalks, intersections, or in a location that is harmful to trees or other plantings;
  - d. Not utilize any of the required or non-required parking space area for sidewalk tables, benches, chairs, or other furniture and materials associated with the sidewalk café.
  - e. Comply with applicable state and federal laws regarding accessibility.
2. Equipment for the service of customers, including but not limited to trays or carts, eating or drinking utensils, linens, and cooking appliances shall not be placed or

maintained on any portion of the sidewalk, unless the sidewalk café is adequately separated from pedestrian traffic;

3. All umbrellas, tables, chairs and other portably appurtenances shall be removed from the sidewalk cafe at the end of each business day at the hour specified in the permit;
4. At least one (1) covered outdoor trash container shall be provided in the sidewalk café area during the hours of operation and shall be maintained in a clean and sanitary condition;
5. The permittee shall maintain the sidewalk cafe in a clean and sanitary condition at all times;
6. At no time shall any music or other sound originating from any part of the premises create a nuisance;
7. The permittee must at all times comply with all federal, state, and local laws, including those laws regarding the operation of the premises, and the sale, service and consumption of alcohol;
8. The applicant shall submit to the City Manager a signed agreement, in a form approved by the City Attorney, to defend, indemnify, save, and hold harmless the city and all of its officers, agents, or employees from any liability for damages resulting from any and all operations under a permit granted pursuant to this chapter;
9. Each permittee shall, at his or her own cost and expense, obtain and maintain in full force and effect necessary insurance coverage for the full term of the permit or any renewal thereof. The insurance coverage shall include a certificate of insurance covering the period of the outdoor operations, including coverage of comprehensive general liability insurance and other appropriate coverage as determined by the city. The level of coverage shall be in the amount to be determined by the City Manager, in consultation with the City Attorney. The city is to be named as an additional insured on the face of the certificate. Any changes or cancellations shall require that the city be notified in writing at least thirty (30) days prior to the effective date of the change or cancellation.
10. No permit issued under this chapter may be transferred or assigned, except upon prior written approval of the community development director;
11. No public sidewalk shall be painted, landscaped or altered in any way without prior written approval of the community development director and City Engineer;

12. The permit does not constitute a deed or grant of an easement by the city and is revocable or may be suspended by the community development director at any time, with or without cause.
13. A sidewalk café shall not be open for business when the interior part of the permanent food services establishment is not open for business.

**17.116.100 Special Conditions—Service of Alcohol**

1. The applicant must remain in full compliance with all provisions of this chapter;
2. No person shall serve alcoholic beverages at a sidewalk café unless and until the permittee has obtained a state liquor license and a permit from the community development director specifically authorizing the service of alcohol at the sidewalk café;
3. Alcoholic beverages shall be consumed only on the permittee's premises. The permittee shall not allow patrons to leave the confines of the premises with any alcoholic beverage and shall not allow patrons to give or sell alcoholic beverages to any person outside the premises; and
4. The sidewalk café shall maintain full food service and shall operate as a restaurant at all times that it is in operation. No sidewalk café may function as a bar.

**17.116.110 Sidewalk Café Permit Fee**

Each permanent food service establishment operating a sidewalk café shall pay an annual sidewalk café permit fee as established by resolution of the City Council.

**SECTION 3. 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 \_\_\_\_\_ 2008, and was passed and adopted at a regular meeting of the City Council held on \_\_\_\_\_, 2008 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Mayor

ATTEST:

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City Clerk

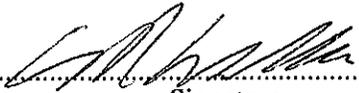
1122007.3

**PROOF OF PUBLICATION**  
**(2015.5 C.C.P.)**

STATE OF CALIFORNIA  
COUNTY OF YOLO

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of THE WINTERS EXPRESS, a newspaper of general circulation, printed and published in the City of Winters, County of Yolo, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Yolo, State of California, under the date of December 24, 1951, Case Number 12461; that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit: October 16, 2008.  
I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Dated at Winters, California, this 16th day of October 2008.



Signature

Proof of Publication

Notice of Public Hearing

**Notice of Public Hearing**

**NOTICE OF PUBLIC HEARING OF THE PLANNING COMMISSION OF THE CITY OF WINTERS ON PROPOSED ADDITION TO THE ZONING CODE ADDING CHAPTER 17.116 TO THE WINTERS MUNICIPAL CODE PERTAINING TO SIDEWALK CAFES**

NOTICE IS HEREBY GIVEN that the Planning Commission of the City of Winters ("Planning Commission") will hold a public hearing on Tuesday, October 28, 2008, at 7:30 p.m. in the City Council Chambers located at the City Hall, 318 First Street, Winters, California, to consider and act upon the addition of Chapter 17.116 to the Winters Municipal Code Pertaining to Sidewalk Cafes ("Sidewalk Café Regulations").

The Sidewalk Café Regulations are intended to encourage the establishment of sidewalk cafes in the City of Winters, to provide for the creation of a more urban pedestrian environment, and to promote and protect the public health, safety, and general welfare.

Interested persons may inspect and, upon the payment of the costs of reproduction, obtain copies of the proposed Sidewalk Café Regulations, and any other information pertaining thereto at the Redevelopment office at the City of Winters, City Hall, 318 First Street, Winters, California, or at the office of the City Clerk, City Hall, 318 First Street, Winters, California, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, exclusive of holidays. Copies of the Staff Report will be available on the City's website at [www.cityofwinters.org](http://www.cityofwinters.org).

Interested persons may submit written comments addressed to Cas Ellena, City of Winters, 318 First Street, Winters, California, 95694 prior to the hour of 5:00 p.m. on October 28, 2008.

In compliance with the American with Disabilities Act, if you are a disabled person and you need a disability-related modification or accommodation to participate in these hearings, please contact Cas Ellena at (530) 795-4010 ext 105. Please make your request as early as possible and at least one full business day before the start of the hearing.

The City does not transcribe its hearings. If you wish to obtain a verbatim record of the proceedings, you must arrange for attendance by a court reporter or for some other means of recordation. Such arrangements will be at your sole expense.

If you wish to challenge the action taken on this matter in court, the challenge may be limited to raising only those issues raised at the public hearing described in





**PLANNING COMMISSION STAFF REPORT**  
**October 28, 2008**

**TO:** Chairman and Planning Commissioners

**BY:** Nelia Dyer – Community Development Director

**SUBJECT:** **Presentation and Requested Feedback regarding non-conforming uses fronting Railroad Avenue between Grant Avenue and Niemann Street**

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**RECOMMENDATION:**

Staff recommends that the Planning Commission take the following actions: 1) Receive the staff report; and 2) provide staff with direction on how to address non-conforming uses fronting Railroad Avenue between Grant Avenue and Niemann Street and adjacent neighborhoods.

**BACKGROUND:**

Presently, properties on the west side of Railroad Avenue between Grant Avenue and Niemann Street are zoned Central Business District (C-2), Public/Quasi-Public (PQP), and (mostly) Single Family Residential (R-2). Properties on the east side of and within the same (previously noted) segment of Railroad Avenue are zoned Central Business District (C-2), Office (O-F), and High Density Multi-family Residential (R-4). After conducting a windshield survey of this segment of Railroad Avenue, staff has determined that several of these properties along this segment are comprised of uses that do not conform to the current zoning.

According to Zoning Code Section 17.104.010, a legal nonconforming use may be continued on a property so long as the use is not intensified or the buildings housing the use are not enlarged or expanded. According to the planning files, some of these nonconforming uses have expanded their operations. As a result of the increasing intensity of some of these uses, staff has received complaints from residents who live within the vicinity of these properties regarding the operation of uses not permitted in a residential zone.

**DISCUSSION:**

For discussion purposes, staff has researched a couple of possible solutions to the current situation along Railroad Avenue Grant Avenue and Niemann Street. One

solution includes the preparation of a Mixed Use Overlay District. The purpose of the Mixed Use Overlay District would be to provide for the intermixture of residential and commercial activities in a particular area. In addition, an overlay district would also provide a mechanism to accommodate development reuse in specified locations. Similar to the Planned Development Overlay, a mixed-use overlay district may overlay several base districts. However, staff has found that most mixed use overlay district ordinances state that the uses permitted in each underlying district are limited to the boundaries of that district, and the regulations of the underlying district govern. In keeping with the desire for flexibility in this overlay district, certain uses could be permitted as conditional uses following a careful review of their location, design, configuration, and special impact to determine the desirability of permitting their establishment on any given site.

Another option is the creation of a Mixed Use District. The purpose of the Mixed Use District is the same as that of the Mixed Use Overlay District. However, Mixed Use District would replace the current zoning as opposed to overlaying the current and numerous zoning districts. Hence, the uses permitted in the previous zoning district may not apply, and the regulations of the Mixed Use District would govern, which, therefore, would provide some flexibility in the determination of permitted and conditional uses allowed in the Mixed Use District. Since none of the general plan land use designations do not correspond with a Mixed Use Zoning District, staff has determined that a new general plan land use designation may need to be prepared in concurrently with the preparation of the Mixed Use District.



**PLANNING COMMISSION STAFF REPORT**  
**October 28, 2008**

**TO:** Chairman and Planning Commissioners

**BY:** Nelia Dyer – Community Development Director

**SUBJECT:** **Presentation and Requested Feedback regarding the establishment of formal procedures and policies for processing General Plan Amendment Proposals**

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**RECOMMENDATION:**

Staff recommends that the Planning Commission take the following actions: 1) Receive the staff report; and 2) provide staff with direction on whether staff should establish a formal procedure for processing general plan amendment proposals.

**BACKGROUND:**

According to Government Code Section 65358 (b), a mandatory element of the general plan may be amended only four times during any calendar year. However, more than one change can be made at a time and will be considered a single amendment to the general plan.

Staff is proposing to establish formal procedures for processing General Plan amendments. The intent is to consider general plan amendments on a quarterly basis. While state law allows local municipalities to "batch" amendments into a single amendment to the general plan, the purpose of reviewing general plan amendments on a quarterly basis is to allow the City to evaluate the cumulative impacts of proposed general plan changes. By limiting amendments to four times a year, staff and, ultimately, planning commissioners and council members can review groups of amendments at one time, thus providing an opportunity for a more comprehensive assessment of the proposed revisions.

**DISCUSSION:**

Should the Planning Commission direct staff to establish a formal procedure, it is recommended that the procedure be established by resolution. This approach would provide a basis for the City's review process, while providing for flexibility in its implementation. Staff has prepared a draft resolution for discussion purposes only. The attached resolution prepared by staff establishes the following general policies and

procedures:

- Hearing dates for general plan amendments shall be limited to the second Planning Commission meeting in January, April, July, and October.
  
- The following types of amendments shall not be limited to quarterly review and shall be accepted for any Planning Commission deadline:
  - New General Plan Elements and Specific Plans;
  - Specific Plan Amendments;
  - General Plan Amendments related to the annexation of property into the City

**ATTACHMENTS:**

DRAFT Resolution Setting Forth Procedures for the Adoption of Policies and Procedures for Amending the City's General Plan

Planning Commission/GP Amendment Procedures

**RESOLUTION NO. 2009-0X**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS  
SETTING FORTH PROCEDURES FOR THE ADOPTION OF POLICIES AND  
PROCEDURES FOR AMENDING THE CITY'S GENERAL PLAN**

WHEREAS, the City of Winters has amended the adopted General Plan four times during any calendar year as set forth in Government Code Section 65358(b); and

WHEREAS, it has been determined that processing more than one General Plan amendment on a quarterly basis would not unduly delay those seeking amendment, but would assist the City in evaluating any cumulative impacts and making a comprehensive assessment of the proposed amendments to the General Plan; and

WHEREAS, the City Planning Commission has recommended that this procedure, be considered for approval, and be adopted by the City Council; and

WHEREAS, the City Council has duly considered the staff report prepared for this proposed policy relating to amendments to the General Plan, and the oral and written information submitted during the public hearing process;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Winters, California, that policies and procedures be formalized by this resolution for processing amendments to the adopted General Plan as follows:

Section 1. Applications for amendments to the City's General Plan may be accepted at any time, and hearing dates for said revisions to the General Plan shall be limited to the second Planning Commission meeting in January, April, July, and October following a determination by the Community Development Director, or his or her designee that the application is complete.

Section 2. The following types of requested amendments to the General Plan are not limited to the quarterly schedule set forth in Section 1 above and shall be accepted for consideration by the Planning Commission in accordance with the established processing schedule for regular meetings of the Planning Commission:

- a. New General Plan Elements and Specific Plans;
- b. Specific Plan amendments; and
- c. General Plan amendments related to the annexation of property into the City.

I HEREBY CERTIFY THAT the foregoing resolution was duly and regularly adopted by the City Council of the City of Winters, County of Yolo, State of California, on the XX day of XXXX, 2009 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Michael Martin, Mayor

ATTEST:

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Nanci G. Mills, City Clerk