

CITY OF WINTERS SPECIAL PLANNING COMMISSION AGENDA

Tuesday, January 24, 2017 @ 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: dave.dowswell@cityofwinters.org

Chairperson: Kate Frazier
Vice Chairman: Paul Myer
Commissioners: Dave Adams, Lisa Baker,
Frank Neal, Patrick Riley, Gregory
Contreras
City Manager: John W. Donlevy, Jr.
Management Analyst, Dago Fierros

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

A. Minutes of the December 13, 2016 meeting of the Planning Commission.

V STAFF/COMMISSION REPORTS

VI DISCUSSION ITEMS:

A. Public Hearing and consideration of amending Title 17 (Zoning Ordinance) of Winters Municipal Code, which includes the following entitlements.

- 1) Finding the project Statutorily Exempt from CEQA Section 15268 (Ministerial Projects).
- 2) Recommending the City Council adopt an ordinance amending Section 17.200.080 of the Winters Municipal Code by providing that silent second promissory notes executed pursuant to the City's inclusionary housing ordinance shall accrue simple interest at a rate of three (3) percent.

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 NOVEMBER 3, 2016

DAVID DOWSWELL, COMMUNITY DEVELOPMENT DEPARTMENT PLANNER

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 CITY OF WINTERS PLANNING COMMISSION MEETING HELD
DECEMBER 13, 2016**

***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 Frazier called the meeting to order at 6:30 p.m.

PRESENT: Commissioners Contreras, Myer, Neal, Riley, Frazier

ABSENT: Commissioners Adams, Baker

STAFF: City Manager John Donlevy, Chief Building Official Gene Ashdown, Contract Planner Dave Dowswell, Management Analyst Dagoberto Fierros

City Manager John Donlevy led the pledge of allegiance.

CITIZEN INPUT: None at this meeting.

CONSENT ITEM: Minutes of the September 27, and November 8, 2016 meetings of the Planning Commission.

Commissioner Contreras wanted to make two corrections to the November 8 meeting minutes. The first correction was for a comment made by Don Jordan. Don Jordan was not asking for a variance because he felt there was a very low probability that he would be granted one. (Remove “because it would not be cost effective” from November 8 meeting minutes). The second correction was that Contreras suggested looking for other options to update the ordinance regarding accessory structures and not so much to be “clearer”.

Commissioner Riley moved.

Commissioner Neal seconded.

AYES: Commissioners Contreras, Myer, Neal, Riley, and Chair Frazier

NOES: None

ABSTAIN: None

ABSENT: Commissioners Adams, Baker

Motion carried unanimously.

STAFF/COMMISSION REPORTS:

No staff comments.

Commissioner Myer went to go look at 437 Russell Street. It is a vacant lot.

Commissioner Riley attended the City Council meeting held on December 6 where Cecilia Aguiar-Curry was given a farewell and Wade Cowan was appointed.

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Commissioner Myer attended the City Council meeting held on December 6. He also attended the Citizen of The Year Committee and was happy to vote for John Donlevy and his wife Kathy as the Citizens of The Year.

Chairperson Frazier attended the Winters Tractor Parade. She also participated in the Downtown Parking Study.

DISCUSSION ITEM:

- A. Public Hearing and Consideration of the following for 437 Russell Street
 - 1) Design/Site Plan Review for a new 2,040 square foot, two-story single family home on a vacant lot.
 - 2) Variance to reduce the side yard setback on the garage (West) side from 10 to 5 feet.

COMMISSIONER/STAFF COMMENTS:

Contract Planner Dave Dowswell shared some brief history of the proposed project site, 437 Russell Street and the proposed project. Dowswell continued describing the reasons why a variance is being requested by the applicant. According to Dowswell the design of the single family residence fits in with the rest of the neighborhood. Dowswell noticed that the fence on the 439 Russell Street is in poor shape and staff requests that Don Jordan meet with the owner of 439 Russell Street to fix or replace the fence if the project is granted a variance to commence construction. Dowswell stated that several homes on Russell Street are also on 50 foot wide lots and have 5 foot side yard setbacks. These homes were built with the 1950's ordinance. It was not until 1997 that the City of Winters modified its zoning code to require 60 foot wide lots as standard. Dowswell also suggested the code could be amended (depending on the outcome) so applicants in similar situations wouldn't have to apply for a variance in the future. Dowswell met with Don Jordan before the Variance application was submitted and indicated the findings that could possibly be made to grant the exception.

Commissioner Riley noted that the proposed project is a two story dwelling that looks like a single story home. Riley does not see this project as "problematic" due to the edge of the home being at the height of a single story home.

Dowswell stated that the proposed project would have its garage adjacent to the garage at 439 Russell Street (garage against a garage). Adjacent garages would be beneficial in this case. He added that the reduced setback requirement wouldn't have an adverse effect on 439 Russell Street.

PUBLIC COMMENTS:

None

COMMISSIONER/STAFF COMMENTS:

Commissioner Myer asked if 439 Russell Street does not feel like fixing the fence does the project applicant, Don Jordan, have to fix the fence?

Dowswell asserted that yes, Don Jordan would have to replace or repair the fence.

Don Jordan stated that the fence does not need to be replaced; it only needs to be repaired.

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Commissioner Riley commented that the fence must be repaired to the satisfaction of the building official.

Commissioner Myer asked if Don Jordan intends to sell the house once it is built.

Don Jordan stated, yes. Jordan continued by explaining the design of the house. It was designed to look like a one story dwelling. Jordan's idea was to construct a home that fits in with the rest of the neighborhood.

Commissioner Baker stated that older lots are going to be their own unique cases and was wondering if they should be addressed on a one by one basis.

Dowswell brought up the fact that the homes in the neighborhoods around Russell Street are predominately on 50 foot wide lots. Dowswell also stated that the Planning Commissioner could also suggest staff to have a possible code amendment so applicants in the future wouldn't have to pay the \$1,500 variance application fee.

Chairperson Frazier noted that Don Jordan was once the Chairman of the Planning Commission and he should have known the regulations prior to asking for a variance.

Don Jordan stated that prior to purchasing the lot he had talked to Jenna Moser (Associate Planner at the time). He asked Jenna Moser about the challenges he could possibly face if he asked for a variance. Don Jordan said that Jenna Moser told him there was a possibility of being granted a variance considering the fact that some homes in the area had 5 foot side yard setbacks and some even had 3 foot side yard setbacks.

City Manager John Donlevy asked if staff could have a five minute recess.

John Donlevy asked for a 15 minute recess extension.

Chairperson Frazier brought the commission back into session at 7:08 pm.

City Manager John Donlevy spoke to Jenna Moser during the staff recess. Jenna stated that she recalls talking to Don Jordan. Per John Donlevy, Jenna told Don Jordan that he *may* apply for a variance.

Chairperson Frazier stated that she did not want the staff or the Planning Commission to get into a "he said, she said" ordeal with the applicant Don Jordan.

Don Jordan commented he did not say that Jenna Moser told him he could get a variance because he personally knows it's not that easy to obtain one. Don Jordan simply explained what Jenna Moser told him. Don Jordan did not put the weight on Jenna Moser for the variance application because she did not tell him he could get one. Don Jordan continued by saying that Jenna Moser mentioned the possibility of being granted a variance.

Commissioner Riley commented that Don Jordan did not make it seem like Jenna Moser was saying it was easy to be granted a variance.

Chairperson Frazier asked if the Planning Commission should look towards having staff amend the code.

Commissioner Riley thought the Planning Commission should look into amending the code.

Commissioner Neal followed by stating that the Planning Commission look towards amending the code so the Planning Commission doesn't have to deal with similar issues every time.

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Chairperson Frazier asked if the code amendment should support the 7.5 foot and 5 foot setbacks based on the 16.7 percent reduction from a 6,000 square foot lot to a 5,000 square foot lot.

Neal stated that he supports the 7.5 foot and 5 foot setback.

Dowswell recommended that the Planning Commission should decide on a code amendment after they come to a decision on granting the variance or not.

Commissioner Riley noted that the Plan Check Set has the wrong date, it should be 2016 instead of 2106.

Commissioner Myer made a motion that the Planning Commission approves the proposed design and site plan for 437 Russell Street with the previous conditions with one minor change:

- 1) Change #13 on the Conditions of Approval to 'repair' the current fence and not 'replace'

Commissioner Neal seconded.

AYES: Commissioners Contreras, Myer, Neal, Riley, and Chair Frazier

NOES: None

ABSTAIN: None

ABSENT: Commissioners Adams, Baker

Motion carried unanimously.

Commissioner Myer made a motion that the Planning Commission approve a variance that would reduce the setback requirements to seven and a half feet on one side and 5 feet on the other side for the proposed project on 437 Russell Street. The home will also have to be two and a half feet narrower.

Commissioner Myer added that there should be a code modification that has a different standard when it comes to 50 foot lots.

Commissioner Contreras commented that the distance from the home to the fence should be taken into consideration. Commissioner Contreras didn't think the project should use the 16.7 percent square footage reduction that Dowswell proposed but needed clarification on what is considered "special privilege."

Commissioner Frazier stated that this case could possibly be seen as a "special privilege" because there are homes on the same street that were built to the current standards.

Dowswell replied that "special privilege" is not always "black and white." To put it into perspective there are homes in the same neighborhood that were constructed on fifty foot lots and had lower setback requirements. The proposed project on 437 Russell would not be considered "special" because there are other homes with fifty foot lots in the neighborhood who have benefited from lower setback requirements.

Commissioner Myer asked if the variance is approved would there be the possibility of others with similar circumstances claiming special privilege if their variance wasn't approved?

Dowswell agreed that approving a variance would put the Planning Commission at risk unless the ordinance is changed. If the code is changed Don Jordan's proposed project would not be subject to being considered

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special privilege, but only if he submitted his plans after the code is changed. If the code is changed the future applicants for a similar project would not have to apply for a variance.

Dowswell continued by stating that it takes three to four months to get a code amended but Don Jordan would like his plans approved by the end of the year and would not like to wait until the code is amended.

Don Jordan stated that there is building code revision that will come into effect January 1, 2017. He claimed if his plans are submitted prior to January 1, 2017 he will be able to move along with his project but if they are not he will have to start over again due to the building code revision.

Commissioner Myer asked if the side setbacks were 12.5 feet total and not 10 feet would Don Jordan be able to get his plans in before the end of the year?

Don Jordan answered no. If he makes any changes there will take about 60 days to finalized and there would be an added \$4,000 to get his current plans revised.

Commissioner Riley commented that he personally likes to save money too and if he could get plans in ahead of schedule he would.

Chairperson Frazier stated that costs are not supposed to be used towards an outcome of certain decisions. She added that Commissioner Myers motion did not get a second so Frazier requested a different motion.

Commissioner Contreras asked if staff has any problems with the proposed plans.

Dowswell answered no. In addition, there are some pluses about this project; the proposed garage on 437 Russell Street is placed adjacent to the garage on 439 Russell Street. The steep pitched roof also allows for minimal visual impact when compared to a "traditional" two story home. There are many reasons why this project site and design plan could possibly be accepted.

Commissioner Contreras asked if the proposed plans should be used as the standard moving forward.

Dowswell answered that it does not make sense to apply a new standard to an older part of town. Ideally there should be a different standard that applies to the majority of the homes in the old town. Dowswell also stated that he could move forward with a come amendment proposal if the Planning Commission would like him to do so.

Commissioner Contreras made a moved that the Planning Commissioner approve the proposed project design and site plan on 437 Russell Street.

Commissioner Riley seconded.

AYES: Commissioners Contreras, Myer, Neal, Riley, and Chair Frazier

NOES: None

ABSTAIN: None

ABSENT: Commissioners Adams, Baker

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City Manager Donlevy said this will be discussed in the future with the Planning Commissioner because most of the downtown will be rezoned due to the approval of the variance.

Dowswell mentioned that there have been only a few setback variances in the readily available history of the city. It is not a common occurrence. There is the possibility that individuals with similar circumstances could come forward asking for a variance. Dowswell continued by mentioning that just because a variance was granted this time, this does not guarantee a variance will be granted to the next person.

B. Public Hearing and consideration of various amendments to Title 17 (Zoning Ordinance) of Winters Municipal Code which includes the following entitlements:

- 1) Finding the project Statutorily and Categorically Exempt from CEQA Sections 15268 (Ministerial Projects) and 15282h (Second Units).
- 2) Recommending the City Council adopt an ordinance amending Chapters 17.04 (Definitions), 17.16 (Applications and Public Hearings), 17.52 (Land Use Regulations: Zoning Matrix), and 17.58 (Second Residential Units).

COMMISSIONER/STAFF COMMENTS:

Dave Dowswell briefly described the reasoning behind the proposed amendments to the code. The changes are proposed for secondary residential units. Two state bills recently passed and indicated if the city did not update their code to comply then our code will technically be non-existent and the city would have to follow the new regulations. Current codes require that the owner of the property where the secondary unit resides must be living in one of the units. The city would like to preserve this part of the code that the State of California doesn't mandate. There is also another change, if the existing garage is five feet from the property and the owner wants to put a secondary unit above the garage, the height of the unit can be up to thirty (30) feet.

Chairperson Frazier asked if the garage that was recently approved with a five foot setback, could they technically go as high as 30 feet?

Dowswell answered yes, but it is not an automatic.

Commissioner Myer asked if there are garages in the city taller than 15 feet?

Dowswell answered yes.

Dowswell stated another change to state law. If you have a two car garage and a two car driveway that is all you need to have for a secondary living unit. (Two covered parking spaces are required for the primary living unit, and one open parking space in the driveway is required for the secondary unit). There is also a change of wording for a secondary residential unit to an accessory dwelling unit.

Commissioner Riley asked if this applies only to detached garages?

Dowswell answered yes.

Commissioner Myer asked if there is a maximum size for an accessory dwelling unit.

Dowswell answered that it is 1,200 square feet, which is in our code and state law.

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Chairperson Frazier asked if 1,200 is the maximum for a lot that is 20,000 square feet.

Dowswell answered yes, and if the lot is 6,000 square feet then the limit is 750 for the secondary unit about the garage unless asked for a variance. Dowswell continued by saying if the city's current code is not amended then the city will be required to follow the state code by law.

PUBLIC COMMENTS:

None.

Commissioner Riley moved to recommend the City Council to approve the code amendments.

Commissioner Myer seconded.

AYES: Commissioners Contreras, Myer, Neal, Riley, and Chair Frazier

NOES: None

ABSTAIN: None

ABSENT: Commissioners Adams, Baker

ADJOURNMENT: Chairperson Frazier adjourned the meeting at 7:51 pm.

ATTEST: _____

Dagoberto Fierros, Management Analyst

Kate Frazier, Chairperson



**PLANNING COMMISSION
STAFF REPORT**

TO: Chairman and Planning Commissioners
DATE: January 24, 2017
FROM: Dan Maguire, Economic Development and Housing Manager *DM*
David Dowswell, Contract Planner *DD*
SUBJECT: Public Hearing and Consideration of amendment to Section 17.200.080(B)(2)(b) (Occupancy Requirements for For-Sale Units) of the Winters Municipal Code (Zoning Ordinance).

RECOMMENDATION:

Staff recommends the Planning Commission take the following actions:

- 1) Receive the staff report; and
- 2) Conduct the Public Hearing to solicit public comment; and
- 3) Recommend the City Council find the proposed amendment is statutorily and categorically Exempt from CEQA.
- 4) Recommend the City Council adopt the proposed amendment to Section 17.200.080(B)(2)(b) Chapters 17.04 (Occupancy Requirements for For-Sale Units) of the Winters Municipal Code (Zoning Ordinance).

GENERAL PLAN DESIGNATION, EXISTING ZONING AND LAND USE:

The proposed ordinance amendments affect the entire city. The properties affected by these amendments are designated Low Density Residential (LDR), Medium Density Residential (MDR), Medium Density High Residential (MDHR) and High Density Residential (HDR). Their Zoning classifications are Rural Residential (R-R), Single Family (R-1 and R-2), Multi-Family Residential (R-3), and High Density Multi-Family Residential (R-4).

BACKGROUND:

In 1992, the City of Winters completed and adopted a comprehensive update of its General Plan. As part of this effort, the City also adopted the seven elements required for a General Plan. Subsequently, Legal Services of Northern California (LSNC) challenged the

adequacy of the City's Housing Element, one of the required seven elements, and brought suit against the City in Yolo County Superior Court. The City incurred significant expenses during its defense and eventually, a stipulated judgment was agreed to by all parties in 1994 and entered in Superior Court. The key provisions of the judgment included the City's adoption of an inclusionary housing ordinance in 1994 (Ordinance 94-10), which required that 15 percent of all new housing be affordable to very low-, low-, and moderate income households.

In early 2016, staff met with the sales staff and the preferred lender for the Winters Ranch subdivision and provided copies of the City's Affordability Covenant for moderate income household home ownership. Per the approved Affordable Housing Plan for Winters Ranch and Callahan Estates, Winters Ranch is to produce 7 moderate income units during the construction of Winters Ranch. It was subsequently brought to staff's attention that recent changes in Fannie Mae and Freddie Mac guidelines precluded jurisdictions from using affordability covenants that utilized a shared equity model unless the jurisdiction was providing financial support to the transaction, and only to the degree that participation represented on a percentage basis. This recent change to guidelines was confirmed by the City's affordable homeownership consultant, NeighborWorks Sacramento. The City of Winters has historically not provided financial support towards the moderate income home ownership as a part of the implementation of the Inclusionary Housing Ordinance (IHO). Down payment assistance through Federal programs such as HOME and CDBG are restricted to low and very low income households and do not provide funding for assistance to moderate income households. These changes in Fannie/Freddie guidelines effectively rendered the existing Equity Share Covenant non-usable, as first mortgage loans originated with the equity share covenant could not be resold on the secondary market.

DISCUSSION:

Staff worked with our City Attorney to replace the covenant based on equity share with a covenant as prescribed by our existing municipal code. This resulted in a covenant with a significantly longer affordability period than was the case under the equity share agreement, which expired after ten-year duration. The new covenant requires affordability period with duration of 45 years at a minimum, and which tied directly to the requirements of Redevelopment Law.

The Affordable Housing Steering Committee ("AHSC"), with participation from Legal Services of Northern California, met on Wednesday, April 13, 2016 to discuss the changes brought about by the elimination of the equity share covenant with emphasis on discussing the change in the duration of the covenant. The unanimous consensus from that meeting was to recommend the Planning Commission and the City Council considers revising that requirement to allow for a covenant with a ten year affordability restriction. The AHSC participants felt this length of term was consistent with the affordability covenant it is replacing. Additionally, the recommendation took into account the desire to enhance the homeowners ability to build equity from homeownership while promoting the community's interest in preserving the affordable assets of the community, in part by the introduction of the use of a promissory note that capture the "windfall equity" that is created at first sale.

This “windfall equity” is typically defined as the difference between the sales price of an affordable unit and the sales price of a similar unit sold at market rate.

The Planning Commission, at its meeting on May 24, 2016, conducted a Publicly Noticed Public Hearing and discussed Ordinance 2016-06 and the Planning Commission recommended on a vote of 6-0 that the City Council adopt Ordinance 2016-06 amending Section 17.200-080 of the City of Winters Municipal Code to amend the Term of Resale Restriction of Moderate Income Inclusionary Units from Forty-Five Years to Ten Years. The City Council adopted Ordinance 2016-06 at the July 5, 2016 City Council meeting.

As staff worked with the City Attorney to revise the affordability covenant and the promissory note, it was discovered that the existing ordinance language tied the interest rate on the City “silent second” (Promissory Note rate) to the Local Agency Investment Fund (“LAIF” rate) rather than at Simple Interest. It should be noted that the most recent homeownership project, the Cottages at Carter Ranch (early 2000s), used simple interest in the City notes executed relative to affordable home sales in that project.

Staff subsequently contacted Legal Services of Northern California and Yolo County Housing to discuss staff’s recommended change from using the LAIF rate to using simple interest instead and both were supportive of the recommended change.

ANALYSIS:

The change from the promissory note being tied to the LAIF rate to the note being tied to Simple Interest is beneficial to potential homeowners as well as to staff. The LAIF rate is not easily understood by most consumers; whereas simple interest is easy to understand.

Additionally, it is not uncommon for homeowners with silent seconds from the City to make payments on that silent second. There have also been a few instances where homeowners (Cottages at Carter Ranch) have paid off the City Note on their property. It is much less complicated for staff to apply a payment to a loan based on simple interest in comparison to one based on a LAIF rate. Similarly, it is easier and more transparent to the homeowner that said payment is being applied correctly when using simple interest, and for a homeowner/consumer to understand the staff computation of the demand payoff (paying off the note in full) when that computation is based on simple interest.

METHODOLOGY:

Two actions are required to process the requested project:

1. Confirmation of CEQA exemption finding – the text amendment is Categorically Exempt from CEQA.
2. Recommendation that the City Council adopt the ordinance amendment;

PROJECT NOTIFICATION:

An eighth (1/8) of a page notice advertising for the public hearing on this planning application was prepared by the Community Development Department in accordance with notification procedures set forth in the City of Winters’ Municipal Code and State Planning

Law. A legal notice (Attachment C) was published in the Winters Express on 1/12/17 ten days prior to tonight's hearing. Copies of the staff report and all attachments for the proposed project have been on file, available for public review at City Hall since 1/19/17.

ENVIRONMENTAL ASSESSMENT:

This Ordinance is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act ("CEQA") Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly, as it is simply a clarification of existing restrictions as currently set forth in the City of Winters Municipal Code. The City Council further finds, under Title 14 of the California Code of Regulations, Section 15061(b)(3), that this Ordinance is nonetheless exempt from the requirements of CEQA in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Yolo in accordance with CEQA Guidelines.

RECOMMENDED FINDINGS FOR PROPOSED AMENDMENT TO CHAPTERS 17.200 (ZONING ORDINANCE) OF THE CITY OF WINTERS MUNICIPAL CODE.

CEQA Findings:

- 1) The proposed project is statutorily and categorically exempt from review under the California Environmental Quality Act (CEQA) Guidelines, Section 15061 (b)(3) Review for Exemption.

General Plan and Zoning Consistency Findings:

- 1) The project is consistent with the goals and policies of the General Plan.
- 2) The project will not result in a negative fiscal impact upon the City.

RECOMMENDATION:

Staff recommends the Planning Commission recommend the City Council approve the proposed amendment to the Municipal Code (Zoning Ordinance) by making an affirmative motion as follows:

I MOVE THAT THE CITY OF WINTERS PLANNING COMMISSION RECOMMEND THE CITY COUNCIL APPROVE THE PROPOSED AMENDMENT TO THE MUNICIPAL CODE BASED ON THE IDENTIFIED FINDINGS OF FACT AND BY TAKING THE FOLLOWING ACTIONS:

- Confirmation of exemption from the provisions of CEQA
- Confirmation of consistency findings with the General Plan and Zoning Ordinance
- Recommend City Council approval of the amendment to Chapter 17.200.080(B)(2)(b), as shown in Attachment A.

ALTERNATIVES: The Planning Commission can elect not to recommend approval of the amendments, modify the amendments or refer the amendments back to staff for additional review.

ATTACHMENTS:

- A. Draft For-Sale Accessory Dwelling Units Ordinance
- B. Notice of Public Hearing published 12/1/16

ORDINANCE NO. 2017-02

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WINTERS AMENDING SECTION 17.200.080 OF THE CITY OF WINTERS MUNICIPAL CODE TO PROVIDE THAT SILENT SECOND PROMISSORY NOTES EXECUTED PURSUANT TO THE CITY'S INCLUSIONARY HOUSING ORDINANCE SHALL ACCRUE SIMPLE INTEREST AT AN ANNUAL RATE OF THREE PERCENT

WHEREAS, the City of Winters has adopted affordable housing requirements that are set forth in Chapter 17.200 of the City of Winters Municipal Code (the "Inclusionary Housing Ordinance") and require new residential development in the City of Winters jurisdictional boundaries to construct a designated percentage of the housing units to be sold or rented to very-low, low and moderate income units (the "Inclusionary Units"); and

WHEREAS, the Affordable Housing Ordinance requires that all for-sale Inclusionary Units be owned and occupied by a household that qualifies as a very-low, low or moderate income household at the time of acquisition of the Inclusionary Unit; and

WHEREAS, in order to secure the City's interest in ensuring that the Inclusionary Units remain affordable to very-low, low or moderate income households, the Inclusionary Ordinance further requires that the 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 paid by the purchaser (a "Silent Second Note"); and

WHEREAS, the Inclusionary Housing Ordinance further requires that the Silent Second Note accrue interest at a rate that is equivalent to the Local Agency Investment Fund ("LAIF") interest rate; and

WHEREAS, the LAIF rate is not typically used as an interest rate in affordable housing programs at the local, state or federal level; and

WHEREAS, the City desires to amend the Inclusionary Housing Ordinance to provide that Silent Second Notes executed in favor of the City by very low, low or moderate income purchasers pursuant to the City's Inclusionary Housing Ordinance shall accrue simple interest at an annual rate of three percent;

NOW, THEREFORE, the City Council of the City of Winters does hereby ordain as follows:

Section 1. Recitals. The above recitals are hereby found to be true and accurate and are incorporated into this Ordinance by this reference.

Section 2. Amendments to Section 17.200.080(B)(2)(b). Subparagraph (B)(2)(b) of Section 17.200.080 of Chapter 17.200 of Title 17 of the City of Winters Municipal Code is hereby amended as follows:

b. 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 simple interest at the ~~local agency investment fund (“LAIF”)~~ rate of three percent (3%) annually, 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.

Section 3. CEQA. This Ordinance is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act (“CEQA”) Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly, as it is simply a clarification of existing restrictions as currently set forth in the City of Winters Municipal Code. The City Council further finds, under Title 14 of the California Code of Regulations, Section 15061(b)(3), that this Ordinance is nonetheless exempt from the requirements of CEQA in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Yolo in accordance with CEQA Guidelines.

Section 4. Custodian of Records. The documents and materials that constitute the record of proceedings on which this Ordinance is based are located at the City Clerk’s office located at 318 First Street, Winters, CA 95694. The custodian of these records is the City Clerk.

Section 5. Severability. If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The City Council of the City of Winters hereby declare that they would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 6. Effective Date. This Ordinance shall become effective thirty (30) days following its adoption.

[Continued on following page]

Section 7. Publication. The City Clerk shall certify to the adoption of this Ordinance. Not later than fifteen (15) days following the passage of this Ordinance, the Ordinance, or a summary thereof, along with the names of the City Council members voting for and against the Ordinance, shall be published in a newspaper of general circulation in the City of Winters.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Winters, California, at a regular meeting of the City Council held on the ____ day of _____, 2017.

City of Winters

By: Wade Cowan, Mayor

ATTEST:

Nanci Mills, City Clerk

APPROVED AS TO FORM:

Ethan Walsh, City Attorney

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the City of Winters will conduct a Public Hearing by the Planning Commission on Tuesday, January 24, 2017 at 6:30 p.m. at the City Council Chambers located on the first floor of City Hall at 318 First Street, Winters, California to consider the following project.

Amending Title 17 (Zoning Ordinance) of Winters Municipal Code, which includes the following entitlements:

1. Finding the project Statutorily Exempt from CEQA Section 15268, Ministerial Projects.
2. Recommending the City Council adopt an ordinance amending Chapter 17.200 (Affordable Housing Requirements), Section 17.200.080B.2b (Restrictions on Inclusionary For-Sale Units) regarding how interest rate is accrued on a promissory note/silent second.

The purpose of the public hearing will be to provide citizens an opportunity to make their comments on the proposed project. If you are unable to attend the public hearing, you may direct written comments to the City of Winters, Community Development Department, 318 First Street, Winters, CA 95694 to dave.dowswell@cityofwinters.org. In addition, the staff report will be available on the City's website on January 19, 2017.

In compliance with the Americans 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 City Clerk Nanci Mills at (530) 795-4910, ext. 101. 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 this notice, or in written correspondence delivered to the Planning Commission prior to the public hearing.

ATTACHMENT B

Availability of Documents: Copies of the Staff Report will be available on the City's website www.cityofwinters.org

For more information regarding this project, please contact David Dowswell, Contract Planner at (530) 794-6714.