

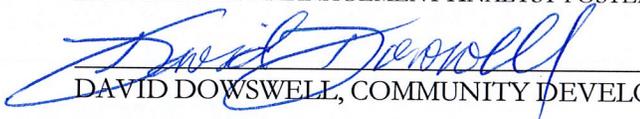
CITY OF WINTERS SPECIAL PLANNING COMMISSION AGENDA

Tuesday, October 10, 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](mailto:dave.dowswell@cityofwinters.org)

Chairperson: Paul Myer  
Vice Chair: Lisa Baker  
Commissioners: Dave Adams, Patrick Riley,  
Gregory Contreras, Daniel Schrupp, Ramon  
Altamirano  
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 August 22, 2017 meeting of the Planning Commission.
- V STAFF/COMMISSION REPORTS
- VI DISCUSSION ITEMS:
  - A. Public Hearing and Consideration of an application by PG&E for Site Plan/Design Review 2017-04 to remove 26 required parking lot shading trees and install 6 rows of carports with photo-voltaic roofing panels within the center portion of the student parking lot located west of the training center. The property is located at One PG&E Way. APN 038-070-049
  - B. Public Hearing and Consideration of an application by GBH-Winters Highlands, LLC (Stone's Throw) to modify the Planned Development (PD) Overlay Permit 2007-04 Amendment to allow a reduction in the side and rear yard setbacks for the Plan 1, Plan 4, Plan 6 and Plan 7 models in Phase I of the approved subdivision. Phase I of the subdivision is located in the northwestern part of the City off the future extension of East Main Street.
  - C. Public Hearing and Consideration of Zoning Code Amendments to Prohibit Outdoor Cultivation of Marijuana and Commercial Marijuana Uses
  - D. Request to appoint a planning commission as a liaison to the Winters Putah Creek Committee.
- 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 JUNE 8, 2017



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  
AUGUST 22, 2017**

***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.*

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

**PRESENT:** Commissioners Adams, Altamirano, Baker, Riley, Schrupp, Chairman Myer

**ABSENT:** Contreras

**STAFF:** City Manager John Donlevy, Contract Planner Dave Dowswell, Management Analyst Dagoberto Fierros

Commissioner Adams led the pledge of allegiance.

**CITIZEN INPUT:** None at this meeting.

**CONSENT ITEM:** Minutes of the July 25, 2017 meeting of the Planning Commission.

Commissioner Baker moved.

Commissioner Adams seconded.

**AYES:** Commissioners Adams, Altamirano, Baker, Riley, Schrupp, Chairman Myer

**NOES:** None

**ABSTAIN:** None

**ABSENT:** Contreras

Motion carried unanimously.

**STAFF/COMMISSION REPORTS:**

Chairperson Myer attended Howard Hupe's celebration of life.

**DISCUSSION ITEM:**

- A. Public Hearing and Consideration of an application by Matthew and Laura Mariani to add a Planned Development Overlay (PD) Zone to the existing Single Family Residential (R-1) zoning and approve a Parcel Map subdividing an existing 8,000 square foot lot into two parcels (4,670 square feet and 3,330 square feet). The property (duplex) is located at 301 Main Street APN 003-191-006.

**COMMISSIONER/STAFF COMMENTS:**

Contract Planner Dave Dowswell gave background information on the duplex constructed at 302 Main Street by converting the Old Roman Catholic Church. Dowswell stated the PD overlay requested would allow the applicant to have a substandard lot size with different setback and lot coverage requirements that are currently not permitted by the zoning code.

**MINUTES OF THE CITY OF WINTERS PLANNING COMMISSION MEETING HELD  
AUGUST 22, 2017**

**PUBLIC COMMENTS:**

None.

**COMMISSIONER/STAFF COMMENTS:**

Commissioner Baker asked if the affordability is related to the exemption of small development within the downtown. Baker asked if language in the general plan will be updated to minimize conflicts within the language. Dowswell stated that staff is updating the city's zoning matrix to minimize discrepancies.

Commissioner Baker moved to approve the staff recommendation.

Commissioner Baker seconded.

**AYES:** Commissioners Adams, Altamirano, Baker, Riley, Schrupp, Chairperson Myer

**NOES:** None

**ABSTAIN:** None

**ABSENT:** Contreras

**DISCUSSION ITEM:**

- B. Public Hearing and Consideration of an application by Matthew and Laura Mariani to add a Planned Development Overlay (PD) Zone to the existing Single Family Residential (R-1) zoning and approve a Parcel Map subdividing an existing 8,990 square foot lot into two parcels (4,495 square feet and 4,495 square feet). The property (vacant) is located at 302 Abbey Street APN 003-191-005

**COMMISSIONER/STAFF COMMENTS:**

Contract Planner Dave Dowswell stated that the City Council will ultimately vote whether to approve or not approve the PD overlay request. Planning Commission is only giving a recommendation and approving the parcel map.

**PUBLIC COMMENTS:**

Sandy Vickrey asked if a lot can be less than 4,500 square feet?

Dave Dowswell responded that only on a corner lot that has a PD overlay. An interior lot would need a variance.

**COMMISSIONER/STAFF COMMENTS:**

Commissioner Baker asked what the plan is for the subdivided lot.

Project designer stated that the plans are to complement the church conversion. The plan is to either have two separate units or another duplex.

**MINUTES OF THE CITY OF WINTERS PLANNING COMMISSION MEETING HELD  
AUGUST 22, 2017**

Chair Myer questioned if two separate units would be considered a duplex.

Contract Planner Dave Dowsell stated that the language in our code states that a duplex on a corner lot can be attached or detached.

Commissioner Riley moved to approve the recommendation.

Commissioner Adams seconded.

**AYES:** Commissioners Adams, Altamirano, Baker, Riley, Schrupp, Chairperson Myer

**NOES:** None

**ABSTAIN:** None

**ABSENT:** Contreras

**COMMISSIONER/STAFF COMMENTS:**

Commissioner Riley asked about an update on the Dry Creek setback study.

Discussion gave a brief update.

City Manager John Donlevy gave an update on the following projects: Roundabout at Grant Avenue and Walnut Lane, Traffic signal at Main Street and Grant Avenue, and Stone's Throw/Callahan Estates housing developments.

**ADJOURNMENT:** Chairperson Myer adjourned the meeting at 7:02pm.

**ATTEST:** \_\_\_\_\_

Dagoberto Fierros, Management Analyst

\_\_\_\_\_

Paul Myer, Chairperson





**PLANNING COMMISSION  
STAFF REPORT**

**TO:** Chairperson and Planning Commissioners  
**DATE:** October 10, 2017  
**FROM:** David Dowswell, Contract Planner   
**SUBJECT:** Public Hearing and consideration for Site Plan/Design Review (DR 2017-04) for a proposal to remove 26 required parking lot shading trees and install 6 rows of carports with photo-voltaic roofing panels within the center portion of the student parking lot, west of the Gas Operations Technical Training Center (GOTTC) at 1 PG&E Way.

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**RECOMMENDATION:** Staff recommends the Planning Commission take the following actions:

- 1) Receive staff report; and
- 2) Conduct the Public Hearing to solicit public comment; and
- 3) Approve the Site Plan/Design Review for the installing carports with photo-voltaic within a portion of the parking lot for the PG&E GOTTC.

**BACKGROUND:** On June 11, 2015 the Planning Commission reviewed the PG&E Gas Operations Technical Training Center (GOTTC) Facility application and Draft Environmental Impact Report (EIR) and recommended the City Council approve the application and certified the Final EIR. On September 22, 2015 the City Council approved the PG&E GOTTC and certified the Final EIR.

On May 24, 2016 the Planning Commission approved adding a new 19,410 square foot welding lab just to the south of the Transmission and Distribution (T&D) Technical Training Center.

On May 23, 2017 the Planning Commission approved Site Plan/Design Review (DR 2017-02) to add a new 8,240 square foot weld (fabrication) building to the south of the new welding lab.

**PROJECT DESCRIPTION:** The applicant, PG&E, is proposing to remove 26 parking lot shading trees and install 6 rows of carports with photo-voltaic roofing panels within the

center portion of the student parking lot, west of the GOTTC (Attachment A). The site plan shows photo-voltaic panels being located on the rooftop. This work is being reviewed at a staff level.

### **ANALYSIS:**

Section 17.76.040C of the Zoning Ordinance states, "Landscaping of parking lots shall provide for fifty (50) percent tree canopy coverage or shading of the entire lot within fifteen (15) years of tree installation." Section 17.04.090F of the Zoning Ordinance states, "Where uncertainty exists regarding the interpretation of a provision of these zoning regulations or their application to a specific site, the community development director shall determine the intent of the provision. The director may also defer such action to the planning commission as deemed appropriate." Staff/director chose to refer this item to the Planning Commission for conformation.

Section 17.76.040C does not address if permanent shade structures can be installed in-lieu of shade trees. Staff believes, however, that allowing the construction of the carports with photo-voltaic (PV) roofing panels meets the intent of this section, which purpose is to reduce the heat island effect caused by paving. Section 17.04.090F allows for the director to make this determination.

The design of the carports with the PV panels is very simple. Staff recommends, to help tie the carports in with the design of the GOTTC, the columns and support members be painted the lighter beige PG&E color (Ligonier Tan) and the fascia be painted PG&E blue (Moody Blue), both colors are located on the GOTTC building.

**ENVIRONMENTAL ASSESSMENT:** The City Council certified the Final EIR for the PG&E Training Facility on September 22, 2015. The proposed carports with PV panels are consistent with the analysis studied in the EIR. No additional environmental review is necessary.

**PROJECT NOTIFICATION:** Public notice for the public hearing on this planning application was prepared in accordance with the procedures in the City of Winters' Municipal Code and State Planning Law. The notice was published in the Winters Express on 9/21/17, ten days prior to public 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 10/5/17.

### **CONDITIONS OF APPROVAL FOR PG&E CARPORTS WITH PHOTO-VOTAIC ROOF PANELS LOCATED ON PROPERTY AT 1 PG&E WAY, WINTERS, CA 95694.**

1. This Design/Site Plan Review Permit (DR 2017-04) is based upon and limited to compliance with the project description, site plans, elevations and conditions of approval set forth below. Any deviations from the project description or conditions of approval must be reviewed and approved by the community development director for conformity with this approval. Deviations may require modification to the permit and/or environmental review. Deviations without the above described approval will constitute a violation of permit approval.

2. The permittee shall defend (with attorneys approved by the City), indemnify and hold harmless the City of Winters, its agents, officers, and employees from any claims, damages, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void, or annul an approval of the City, its advisory agencies, appeals boards, or legislative body concerning this approval Design Review Permit (DR 2017-04). This City will promptly notify the permittee of any such claim, action or proceeding against the City and will cooperate fully in the defense.
3. The applicants' acceptance of this permit and/or commencement of construction and/or operations under this permit shall be deemed to be acceptance by the permittee of all conditions of this permit.
4. Within 12 months after the effective date of this permit, the use shall commence. If the use has not commenced the community development director may approve a one-time extension of time for no more than one year.
5. Plans submitted for building permits shall note that the support columns and beams for the photo-voltaic panels shall be painted the lighter PG&E color (Ligonier Tan) and the fascia be painted PG&E blue color (Moody Blue), both located on the GOTTC building.
6. No other landscaping shall be removed from the existing planters except for the trees.
7. All of the applicable conditions placed on the overall approval for the GOTTC shall be complied with.
8. Failure to comply with the above conditions may result in the immediate revocation of the conditional use permit.

**ATTACHMENTS:**

- A. Description, Site Plan and Elevations

## ATTACHMENT A

### PG&E Gas Safety Academy Photovoltaic System Project Description

PG&E is requesting City of Winters Planning approval to add a solar photovoltaic (PV) carport and rooftop system at the Gas Safety Academy located at 1 PG&E Way in Winters, CA.

The PV carports will be located in the main parking lot off of East Grant Avenue and will replace the currently planted trees to provide parking lot shading required by Zoning Ordinance 17.76.040C. The trees will be placed elsewhere on the site. The proposed PV system would exceed required shading and will enhance the aesthetic appeal of the parking areas. All other features of the current parking lot will remain as-is with the exception of additional lighting for the parking areas beneath the structures. The structures will be painted in concert with colors used for the Learning Center.

The roof mounted portion of the system will be located on the Learning Center and will be placed so it is not visible from public view. The rooftop array will utilize a 10-degree tilt racking system creating a low-profile that will be hidden by the existing parapet.

The combined 604 KW system will produce approximately 980,000 KWh of energy annually offsetting nearly 50% of anticipated facility energy usage. This solar application exceeds the high standard set by the Green Building Action Plan to reduce grid based energy purchased by 20% and helps California work towards its goal of 12,000 MW of renewable distributed generation in California by 2020. The additional of solar power to the Gas Safety Academy should provide adequate additional points to take it current LEED standard from Silver to Gold. PG&E's approach to powering the Gas Safety Academy will also support efforts by the City of Winters in achieving statewide sustainability goals for carbon offsets and renewable energy.

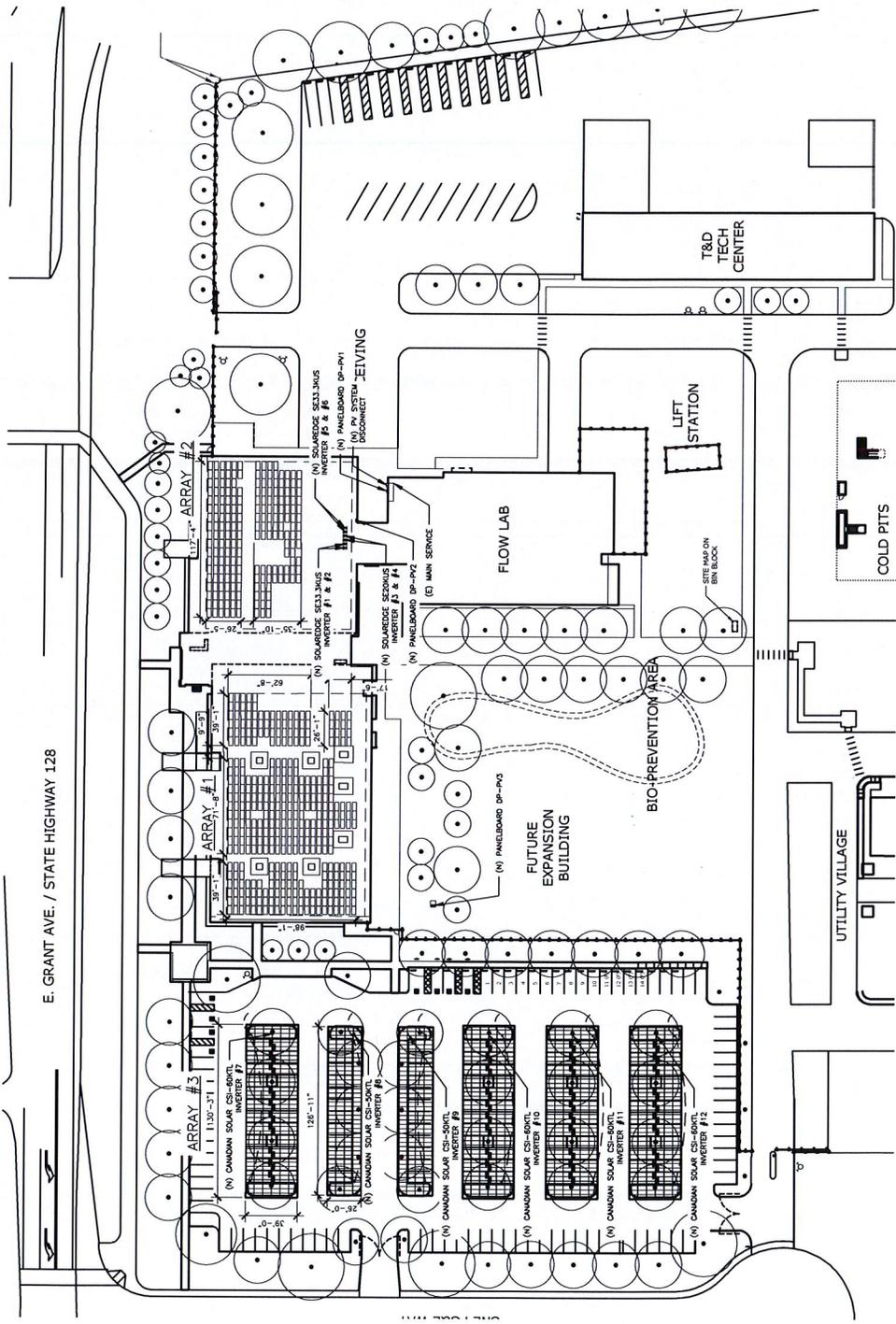
PG&E is providing the following information for review and approval by City of Winters Planning Commission:

1. PlanningApplication041113 - PG&E Winters PV
2. Overall PV Site Plan
3. PG&E Winters Facility Solar Structure Dwgs\_90P
4. Sample Carport Images
5. Rooftop Racking Cut Sheet
6. Sample Rooftop PV Image

PG&E believes that the proposed solar power system at the PG&E Gas Safety Academy will benefit both PG&E and the City of Winters. The proposed system will produce energy to help reduce our carbon footprint, provide improved parking shading, and promote renewable energy and a greener future for California.

LEGEND  
 EXISTING ROOF  
 EXISTING WALL/SLAB  
 4" FINE GRC SETBACK  
 TREES

E. GRANT AVE. / STATE HIGHWAY 128



01 SITE PLAN

MODULE COUNTS AND RATINGS PER ARRAY

ARRAY	TYPE	MODULE TYPE	MODULE DIMENSIONS	MODULE BIDDING	AZIMUTH	TILT	MODULES PER CIRCUIT	SPARE MODULES	TOTAL MODULES	kWDC	
ARRAY 1	ROOF MOUNT	CANADIAN SOLAR CSU-330P	77.2' X 39.1' X 1.57'	330W	157°	5°	382	12	392	126.1kWDC	
ARRAY 2	ROOF MOUNT	CANADIAN SOLAR CSU-330P	77.2' X 39.1' X 1.57'	330W	157°	5°	209	0	209	69.6kWDC	
ARRAY 3	CARPET	CANADIAN SOLAR CSU-330P	77.2' X 39.1' X 1.57'	330W	157°	5°	1240	68	1240	409.2kWDC	
							TOTALS	1831	86	1831	604.2kWDC

- GENERAL NOTES
- (1) CANADIAN SOLAR CSU-330P 175W MODULES
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E-101



PG&E WINTERS

REV	DATE	DESCRIPTION
0	9/20/17	PRELIMINARY DESIGN

SITE PLAN  
 WINTERS, CA 95694  
 E. GRANT AVE.

RESPECTIVE INNOVATION GROUP  
 1310 S. WINCHESTER BLVD.  
 SAN JOSE, CA 95128  
 (408) 730-2322

REV	DATE	DESCRIPTION
0	9/20/17	PRELIMINARY DESIGN

McAlmont Engineering  
 1624 DELL AVENUE  
 CAMPBELL, CA 95008  
 (408) 871-9600  
 info@mc.com  
 www.mc.com









**PLANNING COMMISSION  
STAFF REPORT**

**TO:** Chair and Planning Commissioners  
**DATE:** October 10, 2017  
**FROM:** Dave Dowsell, Contract Planner   
**SUBJECT:** Public Hearing and Consideration of Planned Development Overlay Permit Modification (PD 2007-04 Amendment) for Phase 1 (73 lots) of Winters Highlands (Stones Throw) Subdivision.

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**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) Approve the Planned Development Overlay Permit Modification Phase 1 lots.

**GENERAL PLAN & ZONING DESIGNATION:** The entire project site is 102.6 acres; it is General Planned Low Density Residential (LR), Medium Density Residential (MR), Medium/High Density Residential and High Density Residential (HR) is zoned Single-Family Residential (R-1), Single-Family Residential (R-2), Multi-Family Residential (R-3) and High Density Residential (R-4). The site is located in the northwestern portion of Winters, north of the Winters Ranch and Callahan Estates, off the future extension of Main Street.

**BACKGROUND:** In April 2006 the City Council entered into a Development Agreement (DA) involving the Winters Highlands Subdivision. A First Amendment to the DA was approved in November 2006 and a Second Amendment in January 2009. Included with these entitlements was approval to add Planned Development Overlay zoning to the existing zoning and allow for modifications to some of the R-3 Zoning residential development standards.

On June 26, 2007 the Planning Commission approved a number of additional modifications to the R-2 Zoning residential standards (Attachment A)

Early in 2014 staff met with representatives of Homes by Towne dba as GBH-Winters Highlands, LLC regarding their possible acquisition of the Winters Highlands Subdivision and to discuss further amendments to the 2006 DA.

On January 5, 2015 the Planning Commission recommended the City Council approve an Amended and Restated Development Agreement between the City of Winters and GBH-Winters Highlands, LLC. On January 20, 2015 the City Council approved the Amended and Restated Development Agreement. Included with the approval the Council also amended a number of the Conditions of Approval relating to design. In April 2015, GBH-Winters Highlands, LLC (applicant), purchased the property.

On July 6, 2017 the applicant submitted an application for design/site plan review approval for the model homes for Phase 1 of the Stone's Throw (Winters Highlands) Subdivision. On July 13, 2017 the Design Review Committee (DRC) met and reviewed the design of the model homes for Phase 1 and on July 25, 2017 the Planning Commission approved the designs.

**PROJECT DESCRIPTION:** The applicant submitted an application to amend the existing Planned Development Modification Permit to allow additional modifications to the R-2 residential zoning standards for Phase 1 (Attachment B) of the Stone's Throw Subdivision. They are requesting for up to 12 lots with a Plan 1 (front-loaded) a reduction in the front and rear yard setbacks from 20 to 15 feet (Attachment C). They are also requesting for up to 20 lots with a Plan 4 (alley-loaded) a reduction in the front yard setback from 20 to 15 feet and a reduction in the rear yard setback from 20 to 5 feet (Attachment D). Lastly, they are requesting for the one duet lot with Plans 6 and 7 a reduction in the side yard setbacks where each of the units are attached from 5 feet to 0 feet, a reduction in the rear setbacks from 20 to 10 feet and a reduction in the front yard setbacks from 20 to 15 feet (Attachment E).

**ANALYSIS:** Under the Planned Development Overlay process (Chapter 17.48) in the Zoning Ordinance an applicant can request multiple modifications to the City's Development Standards (Chapter 17.56). The Zoning Ordinance states the purpose of the PD overlay zone is, "to promote the development of a cohesive and aesthetically pleasing urban structure for Winters."

In 2007 when the Planning Commission approved the Planned Development Overlay Modification for Winters Highlands/Stone's Throw Phase 1 they approved modifications for just the models and not for any other houses. The reduced setbacks the applicant is requesting are equal to or less than those approved in 2007. In 2007 the Planning Commission also approved allowing an increase in the allowable lot coverage. The applicant is not requesting an increase in the allowable coverage. The reductions in the various setbacks are for only the single-story floor plans (Plans 1 and 4). Per the conditions of approval, the one and two story house plans must be mixed. In no case will there be more than two houses of the same plan side by side with reduced setbacks. Having staggered setbacks will add interest to the street view of the new

homes. The reduced rear yard setback for the alley-loaded lots is consistent with what was approved for alley-loaded lots at Winters Ranch.

**PROJECT NOTIFICATION:** Public notice for this application was prepared by the Community Development Department as set forth in the City of Winters' Municipal Code and State Planning Law. Two methods of public notice were used: a legal notice was published in the Winters Express on 9/21/17 and notices were mailed to all property owners who own real property within three hundred feet of the project boundaries at least ten days prior to the 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 10/5/17.

**ENVIRONMENTAL ASSESSMENT:** An Environmental Impact Report was prepared for this project and certified by the City Council on April 4, 2006 (Resolution 2006-08).

**ALTERNATIVES:** The Planning Commission can elect to modify any aspect of the approval or recommend denial of the application. If the Planning Commission denies the application findings would be needed for the official record that would illustrate the reasoning behind the decision to deny the project.

### **RECOMMENDED FINDINGS FOR STONE'S THROW – PLANNED DEVELOPMENT OVERLAY MODIFICATION 2007-04 AMENDMENT**

#### CEQA Findings:

- 1) The proposed project (PD Overlay Zone Modification) is exempt from review under the California Environmental Quality Act (CEQA) Guidelines, Section 15061.

#### Planned Development Findings:

- 1) The proposed development is consistent with the general plan and the purposes of this section.
- 2) The proposed development complies with the applicable provisions of the Single Family Residential R-2 Zoning and the deviations from those provisions have been justified as necessary to achieve an improved design of the subdivision.
- 3) The proposed development is desirable to the public comfort and convenience.
- 4) The requested modification to the approved plan will not impair the character of the neighborhood nor be detrimental to the public health, safety or welfare.
- 5) The proposed development will have adequate utilities, access roads, sanitation and other necessary facilities and services.
- 6) The proposed project provides effective use of landscaping, which provides effective softening of the development.

- 7) The proposed development will not create an adverse fiscal impact for the city in providing the necessary services.

**RECOMMENDATION:** Staff recommends approval of the Planned Development Modification by making an affirmative motion as follows:

**I MOVE THAT THE CITY OF WINTERS PLANNING COMMISSION APPROVE PLANNED DEVELOPMENT OVERLAY MODIFICATION 2007-04 AMENDMENT FOR THE WINTERS HIGHLANDS (STONE'S THROW) SUBDIVISION BASED ON THE IDENTIFIED FINDINGS OF FACT AND BY TAKING THE FOLLOWING ACTIONS:**

- Confirmation of exemption from the provisions of CEQA.
- Approve the modification to Planned Development Permit 2007-04 Amendment, subject to the following conditions of approval:

**CONDITIONS OF APPROVAL:**

1. The Planned Development Modification (PD 2007-04 Amendment) only applies to the Plan 1, Plan 4 and Plan 6 and Plan 7 models in Phase 1.
2. A maximum of twelve (12) Plan 1 and twenty (20) Plan 4 are allowed in Phase 1.
3. No more than two Plan 1 or Plan 4 can be located side-by-side.

**ATTACHMENTS:**

- A. Planned Development Overlay Modifications – June 26, 2007
- B. Winters Highlands Proposed Phasing Plan
- C. Plan 1 typical site plan
- D. Plan 4 typical site plan
- E. Plans 6 and 7 site plan

**WINTERS HIGHLANDS PHASE I HOME MODELS (APN 030-220-33).  
June 26, 2007 Planning Commission Meeting  
Planned Development Overlay Modification**

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

**SETBACKS:** Less than the minimums for the R-2 Zone as detailed below.

**Street-Loaded Models**

1520 – Rear yard setback of 10-feet and interior side yard setback of 0-feet (zero lot line duet or duplex).

2524 – Side yard setbacks of 5-feet/5-feet.

2887 – Rear yard setback of 5-feet on tandem garage space.

**Alley-Loaded Models**

1931 – Alleyway setbacks of 5-feet for garage and 10-feet for house (livable space).

2314 – Alleyway setback of 5-feet for garage.

2897 – Front yard setback of 15-feet for livable space, front yard porch setback of 10-feet, and alleyway setback of 5-feet for garage.

**FLOOR AREA RATIOS:** Less than the minimums for the R-2 Zone as detailed below.

**Street-Loaded Models**

1520 – 55 percent.

2046 – 60 percent.

2191 – 60 percent.

2524 – 55 percent.

2887 – 60 percent.

**Alley-Loaded Models**

1931 – 60 percent.

2314 – 55 percent.

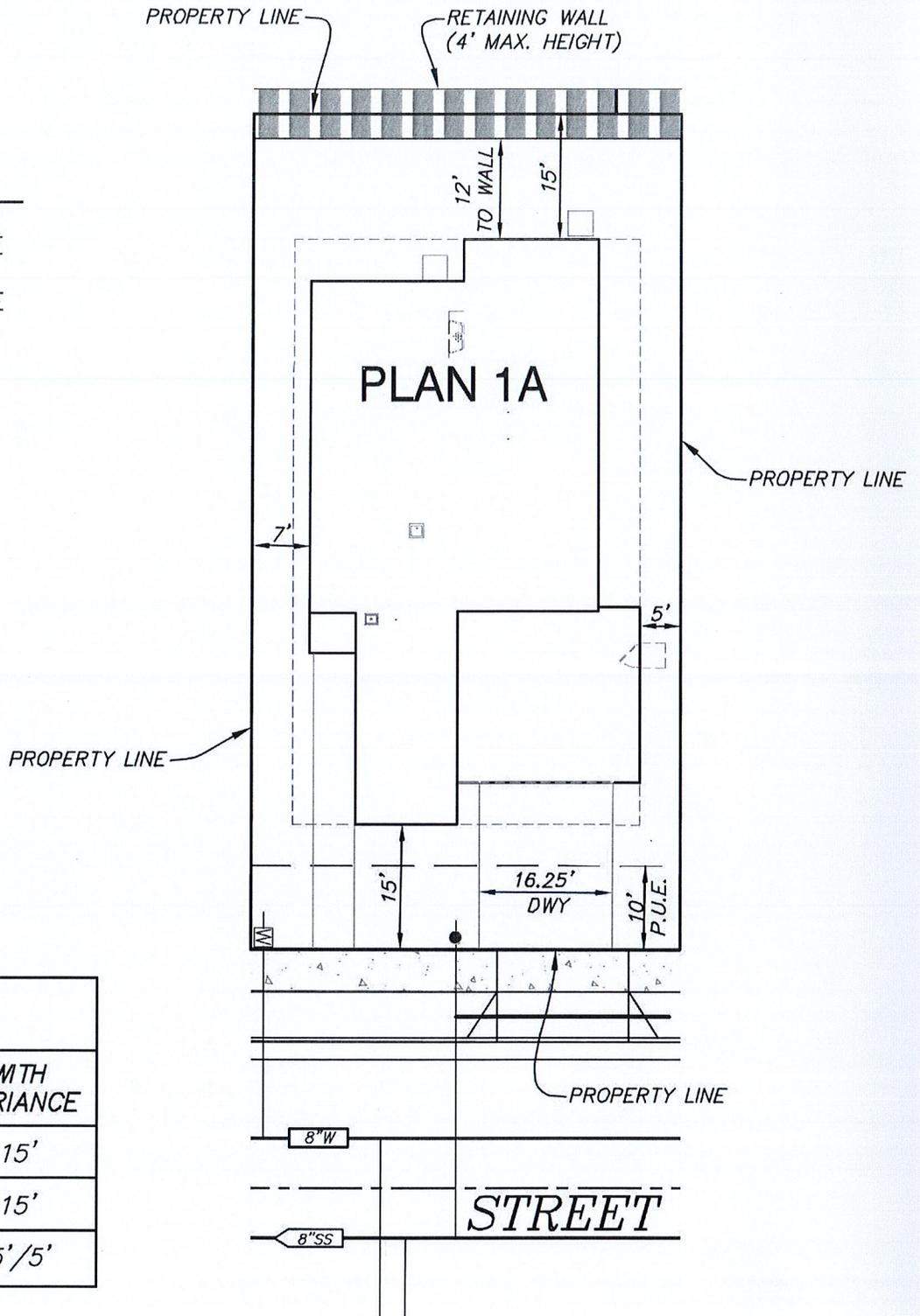
2897 – 55 percent.



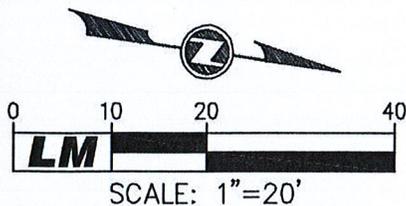


**LEGEND:**

- SEWER SERVICE
- ☐ WATER SERVICE

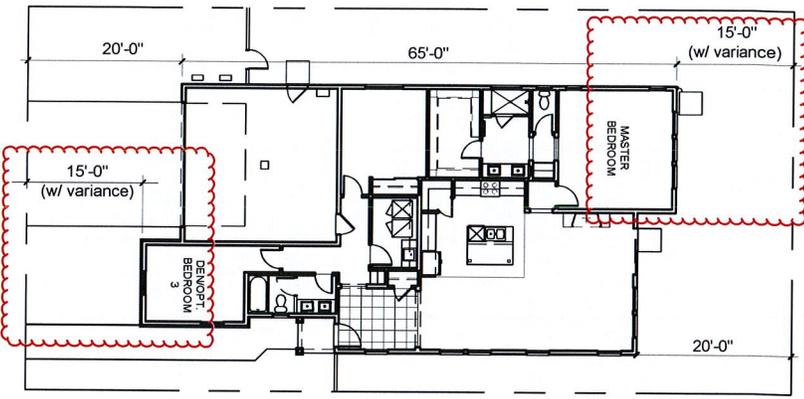


SETBACKS		
YARD	STANDARD	WITH VARIANCE
FRONT	20'	15'
REAR	20'	15'
SIDE	5'/10'	5'/5'



**SETBACK VARIANCE EXHIBIT**  
 FOR  
**STONE'S THROW**  
**PLAN 1**

Fits Lots: 50' w - 54' w  
50'x100'  
PLAN 1  
1733 SF



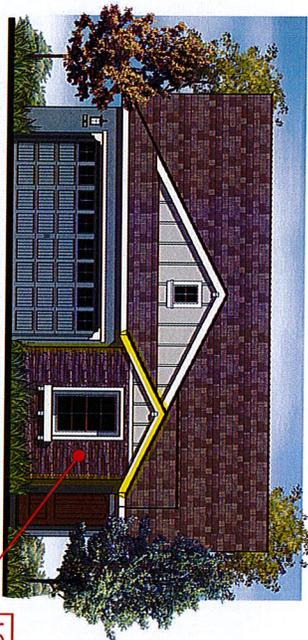
LOT COVERAGE					
PLAN TYPE	LOT SIZE (SQ FT)	MAX. COVERAGE (%)	TOTAL % ALLOWED	1ST FLOOR FTRPRINT (SQ FT)	TOTAL % PROVIDED
1	5000	0.50	2500	2176	0.44



ELEVATION '1A' - CRAFTSMAN



ELEVATION '1B' - CALIFORNIA COTTAGE



ELEVATION '1D' - COUNTRY RANCH



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Homes By Towne  
11090 White Rock Rd. Ste. 150  
Rancho Cordova, CA 95970

STONES THROW  
WINTERS, CA

#2016-0292

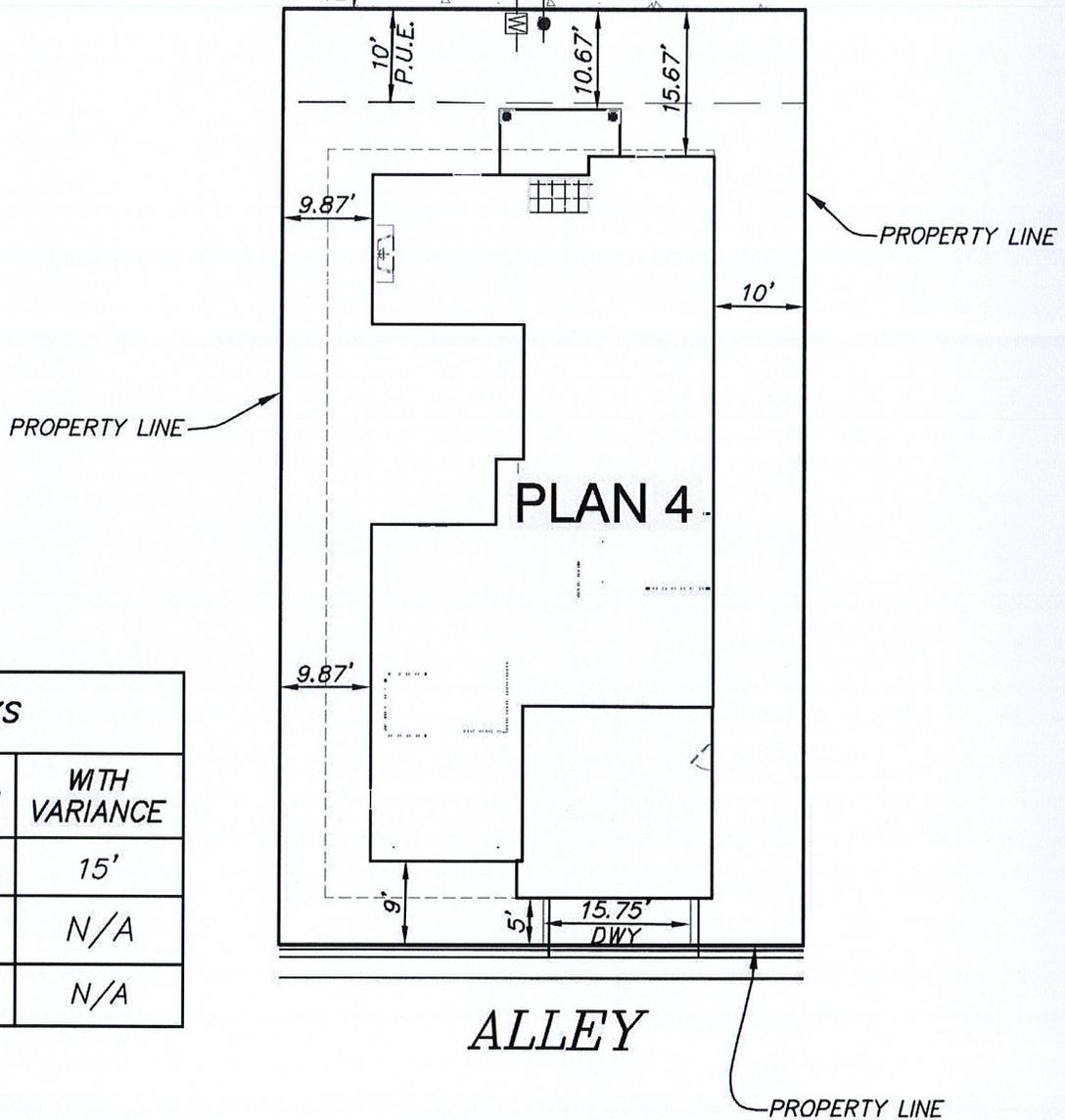
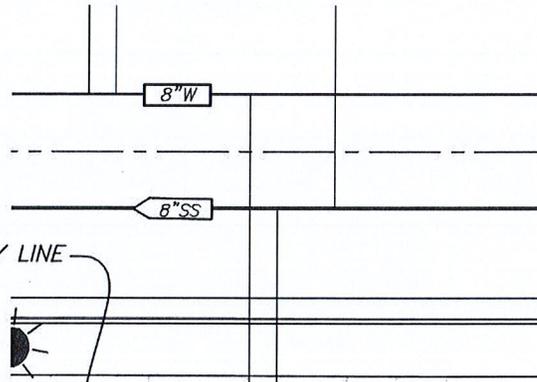
SCHEMATIC DESIGN



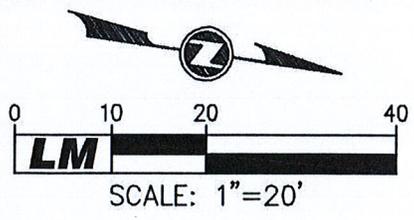
PLAN 1

**LEGEND:**

- SEWER SERVICE
- ◻ WATER SERVICE



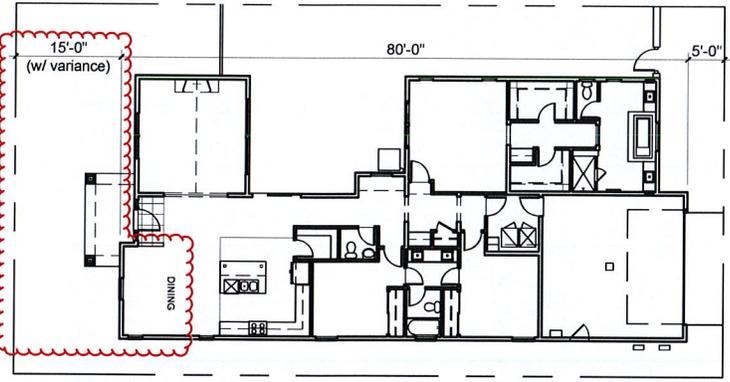
SETBACKS		
YARD	STANDARD	WITH VARIANCE
FRONT	20'	15'
ALLEY	5'	N/A
SIDE	5'/10'	N/A



**SETBACK VARIANCE EXHIBIT**  
FOR  
**STONE'S THROW**  
**PLAN 4**

Fils Lots: 52'w - 62'w  
52'x100'

PLAN 4  
2085 SF

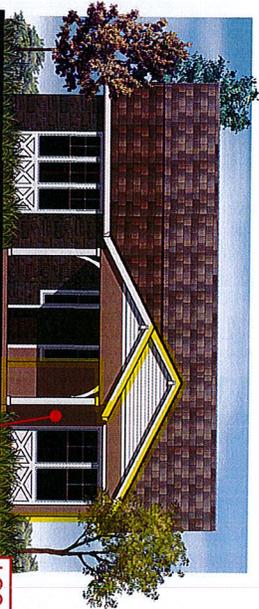


LOT COVERAGE					
PLAN TYPE	LOT SIZE (SF)	MAX. COVERAGE (%)	TOTAL % ALLOWED	1ST FLOOR PROVIDED	TOTAL % PROVIDED
4	5200	0.50	2600	2591	0.50



ELEVATION '4A' - CRAFTSMAN

LOCATION OF POP-OUT



ELEVATION '4B' - CALIFORNIA COTTAGE

LOCATION OF POP-OUT



ELEVATION '4C' - TRADITIONAL

LOCATION OF POP-OUT



ELEVATION '4D' - COUNTRY RANCH

LOCATION OF POP-OUT



Architecture + Planning  
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Homes By Towne  
11060 White Rock Rd. Ste. 150  
Rancho Cordova, Ca. 95670

STONES THROW  
WINTERS, CA

#2016-0262

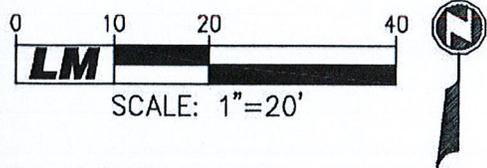
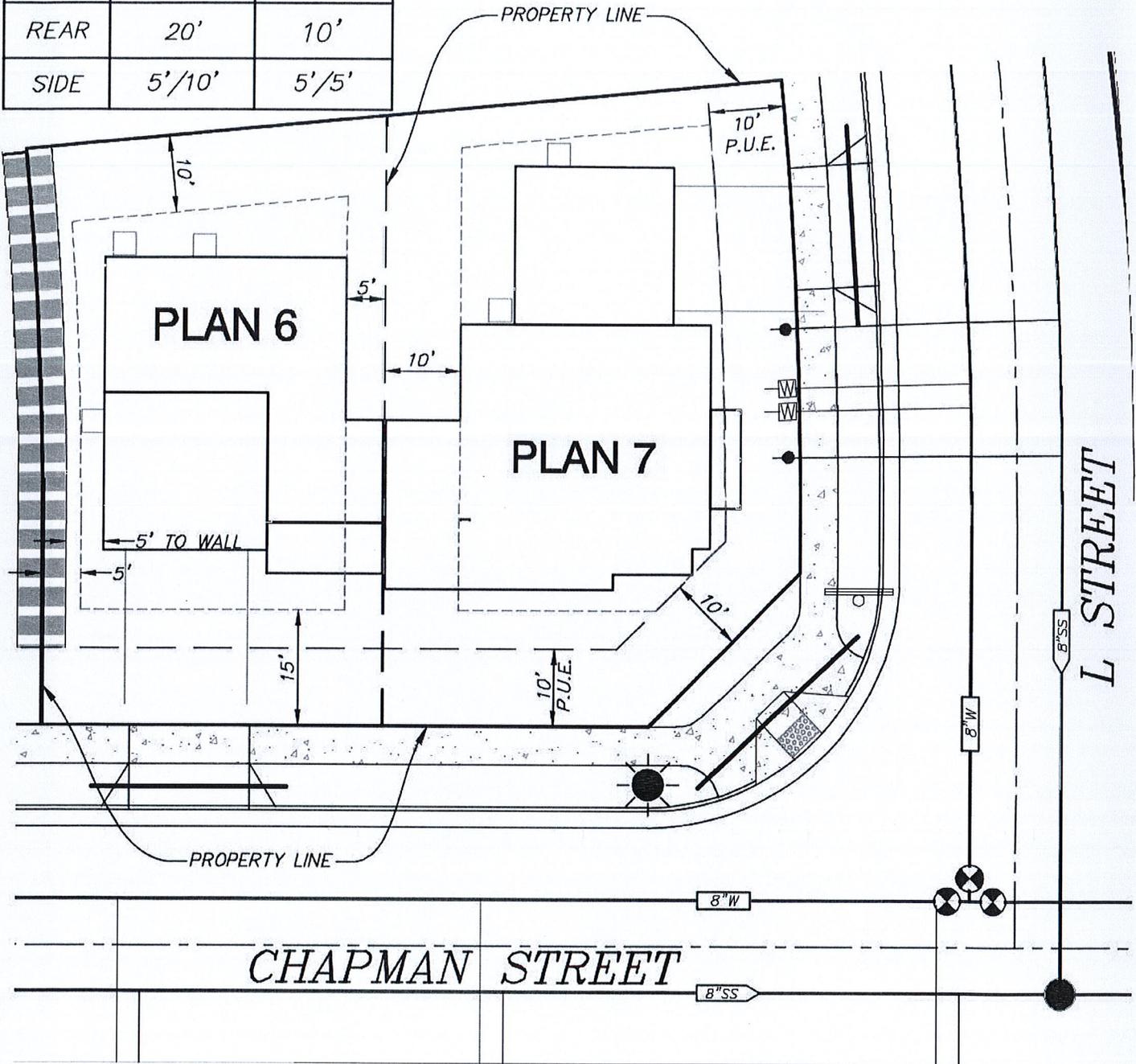
SCHEMATIC DESIGN



PLAN 4

SETBACKS		
YARD	STANDARD	WITH VARIANCE
FRONT	20'/15'	15'/10'
REAR	20'	10'
SIDE	5'/10'	5'/5'

LEGEND:  
 ● SEWER SERVICE  
 ◻ WATER SERVICE



**SETBACK VARIANCE EXHIBIT**  
 FOR  
**STONE'S THROW**  
**PLAN 6/7**

**LM LAUGENOUR AND MEIKLE**  
 CIVIL ENGINEERING • LAND SURVEYING  
 608 COURT STREET, WOODLAND, CALIFORNIA 95695 • PHO 925-862-1111  
 P.O. BOX 828, WOODLAND, CALIFORNIA 95776 • FAX 925-862-1112

**ATTACHMENT E**

CITY OF WINTERS, YOLO COUNTY,  
 CALIFORNIA  
 SHEET 1 OF 1      AUGUST 1, 2017

X:\Land Projects\2159-5\dwg\2159-5\_Exhibit\_Setback\_Variance



PLANNING COMMISSION  
STAFF REPORT

**TO:** Chairperson and Planning Commissioners  
**DATE:** October 10, 2017  
**FROM:** Ethan Walsh, City Attorney   
John Donlevy, City Manager  
**SUBJECT:** Public Hearing and Consideration of Zoning Code Amendments to Prohibit Outdoor Cultivation of Marijuana and Commercial Marijuana Uses

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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 to solicit public comment; and
- 3) Recommend to City Council adoption of an ordinance to amend the Zoning Code and prohibit outdoor cultivation of marijuana and commercial marijuana uses in accordance with State law

**BACKGROUND:**

The Federal Controlled Substances Act (21 USC §§ 801 et seq.) classifies marijuana as a Schedule I drug, which is defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United States, and that has not been accepted as safe for use under medical supervision. The Federal Controlled Substances Act makes it unlawful under federal law for any person to cultivate, manufacture, distribute, dispense, transport, or possess marijuana for medical purposes.

In 1996, California voters approved Proposition 215 (codified as Health and Safety Code §§ 11362.5 et seq. and entitled "The Compassionate Use Act of 1996"). Proposition 215 was intended to allow persons in need of marijuana for medical purposes to be able to obtain and use it without fear of criminal

prosecution under limited, specified circumstances. The State Legislature enacted subsequent legislation (SB 420) to clarify the scope of the Compassionate Use Act of 1996 and to allow cities and other governing bodies to adopt and enforce rules and regulations consistent with SB 420.

In 2015, the Governor signed a series of bills, collectively referred to as the Medical Cannabis Regulation and Safety Act (MCRSA). [\*Note, there has been a recent state trend toward using the word “cannabis” instead of marijuana in state legislation, but the meanings are the same.] The MCRSA provided a comprehensive licensing scheme for state licensing of commercial, medical cannabis businesses. The MCRSA governed exclusively medical cannabis, with state licensing to begin on January 1, 2018.

California voters in November 2016 adopted Proposition 64 concerning use and cultivation of cannabis for non-medical “adult-use.” Proposition 64 permits individuals to grow up to six cannabis plants inside of residential structures and does not allow the City to completely prohibit such indoor cultivation for personal use. The City may, however, impose reasonable regulations concerning the indoor cultivation in order to provide for the health, safety, and welfare of City residents. Proposition 64 also enacted a separate licensing scheme for state licensing of non-medical, adult-use cannabis businesses, also due to begin on January 1, 2018.

On June 27, 2017, the Governor signed SB 94, a budget trailer bill that repealed MCRSA and amended Proposition 64 to incorporate many of MCRSA’s provisions. As a bill tied to the state budget, the bill became effective immediately. The purpose of SB 94 was to, among other things, consolidate the state licensing of commercial cannabis businesses into one comprehensive state licensing scheme. The distinction between medical and adult-use cannabis remains in the state law (designated by an “M” or an “A” prefix on the license type), but the overall licensing requirements and process is now consolidated to be the same for both medical and adult-use cannabis businesses. Accordingly, there are 20 different state license types for commercial cannabis businesses, most of them involving different types and sizes of commercial cultivation but also including licenses for manufacturing, testing laboratories, retailers, distributors, and microbusinesses. SB 94 did not alter or amend the personal cultivation provisions of Proposition 64.

The City’s existing zoning code defines narrow categories of medical marijuana uses, including commercial marijuana cultivation, medical marijuana, and medical marijuana cooperatives formed pursuant to the Compassionate Use Act and the California Attorney General’s Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued in August 2008. By definition, commercial marijuana cultivation is prohibited in the City. Additionally, the City’s nuisance abatement code specifically defines and prohibits medical marijuana dispensaries and declares maintenance of a medical marijuana

dispensary on any premises or property in the city a public nuisance. Medical marijuana cooperatives, which may not engage in the sale of cannabis or other exchange for payment of money, are exempted from the prohibition of medical marijuana dispensaries.

The City's code does not currently define, regulate or prohibit non-medical marijuana uses or commercial cannabis uses other than commercial cultivation, such as manufacturing, distribution, and wholesale and retail sales of cannabis.

**ANALYSIS:**

In light of rapidly changing state law regarding both medical and non-medical marijuana for personal and commercial purposes, staff recommends updating the Winters Municipal Code to clarify and further the scope of existing prohibitions and restrictions. The proposed changes include the following:

- Adding definitions to the Zoning Code for “cannabis” and “commercial cannabis activity.” These terms mirror the definitions used in state law, and cover both medical and non-medical “adult-use” cannabis. Commercial cannabis activity broadly includes those uses authorized by state law and subject to state licensing, including cultivation, possession, manufacturing, distribution, processing, storing, testing, delivery or sale of cannabis.
- Amending existing definitions of “commercial marijuana cultivation” and “medical marijuana” to conform to state law changes, including use of the word “cannabis” instead of “marijuana.”
- Deleting the definition of “medical marijuana cooperative.” This is recommended to simplify and clarify existing regulations. The existing code does not zone or regulate cooperatives, instead only defining them to distinguish cooperatives from prohibited dispensaries that engage in sales of cannabis. Due to changes in state law, dispensaries and retailers are now a type of commercial use requiring a state license, and therefore prohibiting commercial cannabis activity adequately addresses dispensaries and retailers. Additionally, the collective and cooperative model set forth in the Health and Safety Code is due to phase out one year after the State has commenced issuing licenses.
- Amending Section 19.04.030 of the nuisance abatement code to expand the existing prohibition on medical marijuana dispensaries to include all commercial cannabis activity. Because there may be lawful medical marijuana cooperatives in the City, the proposed amendment retains the existing exemption for medical marijuana cooperatives operating consistent with the Compassionate Use Act, so long as they do not sell or distribute marijuana in a manner inconsistent with the prohibition on commercial cannabis activity. [Staff understands that amendments to the

nuisance abatement code are outside the purview of the Planning Commission, but the proposed amendments are related to other proposed zoning code amendments and therefore are included within the same Ordinance for consistency.]

- Adding a new Chapter 17.205 to the Zoning Code to specifically address cannabis uses. Staff proposes expressly prohibiting commercial cannabis activity (including commercial cultivation) in the City, as well as all outdoor cultivation (including outdoor personal cultivation conducted for personal use). These prohibitions are discussed in more detail below.

Prohibiting and regulating cannabis uses within a single consolidated chapter of the Zoning Code is recommended to simplify and clarify existing prohibitions while providing flexibility for future amendments. If the City desires to permit or regulate certain types of commercial cannabis uses at a future date, those uses can easily be added into the new cannabis chapter.

At this time, staff recommends prohibiting all outdoor cultivation of cannabis in the City, including cultivation conducted for personal use. The current, unregulated personal cultivation of medical cannabis in the City has resulted in reports to the police department regarding offensive odors which cannot be easily mitigated or eliminated. Additionally, other California cities have reported offensive odors, trespassing, and theft related to outdoor marijuana cultivation. Proposition 64 now allows personal cultivation of up to six cannabis plants at private residences, regardless of medical need, and therefore the prevalence of cannabis cultivation may substantially increase. An increase in the amount of outdoor cultivation of cannabis in people's backyards is likely to lead to an even greater increase in complaints of offensive odors and possible criminal activity, and without adequate regulation there is no easy or efficient remedy or enforcement. However, Proposition 64 still permits individuals to cultivate cannabis indoors, and the City may not and does not propose to limit or restrict indoor personal cultivation. Accordingly, staff recommends prohibiting outdoor cultivation of cannabis in the City as an appropriate regulation that furthers the public health and welfare of the City's residents while balancing the interest of medical cannabis patients to cultivate.

**PROJECT NOTIFICATION:**

Notice of the public hearing to consider the proposed zoning ordinance was given at least 10 days prior to the public hearing pursuant to Government Code section 65090.

**ENVIRONMENTAL ASSESSMENT:**

The proposed zoning ordinance is not a project within the meaning of Title 14 of the California Code of Regulations, Section 15061(b)(3), 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 clarifies

and furthers existing prohibitions and restrictions regarding cannabis uses in the City of Winters, and does not permit or authorize new or increased intensity of uses.

**ALTERNATIVES:**

The Planning Commission may recommend modifications to the proposed ordinance, or may recommend that the City Council not adopt the proposed ordinance.

**ATTACHMENTS:**

Ordinance No. 2017-\_\_\_\_\_

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

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WINTERS ADDING CHAPTER 17.205 AND AMENDING SECTIONS 17.04.140 AND 19.04.030 OF THE CITY OF WINTERS MUNICIPAL CODE REGARDING PROHIBITED CANNABIS USES AND RELATED DEFINITIONS CONSISTENT WITH STATE LAW**

**WHEREAS**, in 1996 the voters of the State of California approved Proposition 215, which was codified as Health and Safety Code Section 11362.5 et seq. and entitled the Compassionate Use Act of 1996, decriminalizing the use of marijuana for medical purposes; and

**WHEREAS**, in 2003 the California Legislature adopted SB 420, the Medical Marijuana Program, codified as Health and Safety Code Section 11362.7 et seq., which permits qualified patients and their primary caregivers to associate collectively or cooperatively to cultivate marijuana for medical purposes without being subjected to criminal prosecution; and

**WHEREAS**, in 2015 the California Legislature adopted a series of bills to enact the “Medical Marijuana Regulation and Safety Act,” subsequently amended and retitled the “Medical Cannabis Regulation and Safety Act” (“MCRSA”), which established a statewide licensing scheme for commercial medical marijuana uses, including commercial-scale cultivation, manufacturing, distribution, delivery, and sale of medical marijuana; and

**WHEREAS**, the City Council adopted Ordinance No. [REDACTED] in order to clarify the intent and scope of the City’s marijuana regulations in light of MCRSA, including to expressly define and prohibit the commercial cultivation of medical marijuana within the City, excepting certain personal cultivation by qualified patients and primary caregivers pursuant to state law; and

**WHEREAS**, at the November 8, 2016 election, California voters adopted Proposition 64, also known as the “Adult Use of Marijuana Act” (“AUMA”), which took effect the day after the election and, among other things, established a statewide licensing scheme for commercial non-medical marijuana uses; and

**WHEREAS**, AUMA also authorized adults 21 years of age or older to cultivate up to six living marijuana plants for non-medical purposes, and to possess, process, transport, purchase, smoke and ingest recreational (non-medical) marijuana; and

**WHEREAS**, Senate Bill 94 (“SB 94”), a bill tied to the State budget and signed by the Governor on June 27, 2017 to take effect immediately, repealed MCRSA and amended AUMA, retitled the “Medicinal and Adult-Use Cannabis Regulation and Safety Act,” to consolidate and streamline the state licensing scheme applicable to both medical and non-medical commercial marijuana activity, and to use the word “cannabis” instead of “marijuana”; and

**WHEREAS**, state regulations are currently being developed to address and mitigate a variety of identified environmental impacts and secondary effects related to commercial cannabis activity, including water diversion, electricity usage, agricultural discharges, use of solvents or other materials in production, and adequate security measures to protect against diversion, theft, loss or other criminal activity related to commercial storage and distribution of cannabis; and

**WHEREAS**, the Winters Municipal Code only expressly addresses and prohibits commercial cultivation of medical marijuana and medical marijuana dispensaries, and does not expressly define, prohibit or regulate other cannabis uses, including non-medical cannabis uses; and

**WHEREAS**, the City Council therefore desires to amend the Winters Municipal Code to consistently use the word “cannabis” instead of marijuana, and to clarify the intent of existing zoning restrictions to include both medical and non-medical commercial cannabis uses, including manufacturing, processing, testing and distribution, in light of the known and potential unknown health and safety risks associated with commercial marijuana uses currently subject to the ongoing development of state regulations, standards, and mitigation measures; and

**WHEREAS**, the current, unregulated allowance of personal cultivation of cannabis in the City has resulted in reports of offensive odors associated with some outdoor cultivation occurring in the City, which may increase in light of AUMA’s allowance of up to six cannabis plants at private residences for personal cultivation purposes, and other California cities have further reported offensive odors, trespassing, and theft related to outdoor marijuana cultivation; and

**WHEREAS**, the City Council therefore further desires to amend the Winters Municipal Code to expressly define and prohibit all outdoor cultivation of cannabis, including cultivation of cannabis for personal use; and

**WHEREAS**, the City Council finds that the restrictions and prohibitions contained in this Ordinance clarify the scope and intent of the City’s existing cannabis regulations and ensures that the City’s regulations remain consistent with state law, and further prevents an unintended and unregulated increase of cannabis uses in the City unless and until such time as appropriate regulations have been developed, considered and adopted by the City.

**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 as findings of the City Council by this reference.

**Section 2. Findings.** The City Council hereby makes the following findings:

A. Pursuant to Winters Municipal Code section 17.28.010, the City Council hereby finds that the text amendments to the zoning code contained in this Ordinance are required for the public necessity, convenience and general welfare by preserving and clarifying the intent and scope of the City’s existing restrictions and regulations regarding cannabis uses, including commercial cannabis uses, consistent with state law.

B. Pursuant to Winters Municipal Code sections 17.28.040 and 17.28.050, the City Council further finds, based upon Planning Commission recommendation, that this Ordinance conforms to the City’s general plan.

**Section 3. Amendments to Section 17.04.140.** Section 17.04.140 of Chapter 17.04 of Title 17 of the City of Winters Municipal Code is hereby amended as follows:

A. The following paragraph is hereby inserted in Subsection B of Section 17.04.140 in between the paragraph entitled “Building, nonconforming” and the paragraph entitled “Carport”:

“Cannabis” means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. “Cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the Health and Safety Code. Unless specified otherwise, “cannabis” shall mean and include both cannabis for medical purposes and non-medical adult-use cannabis.

B. The following paragraph is hereby inserted in Subsection B of Section 17.04.140 in between the paragraph entitled “Carport” and the paragraph entitled “Commercial marijuana cultivation”:

“Commercial cannabis activity” means and includes any and all commercial cannabis uses authorized by the state of California and subject to state licensing, including but not limited to cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products as provided for in state law, including wholesale and retail sales of cannabis for medical or non-medical adult use, and including any business, person or entity that conducts or engages in these commercial cannabis activities, regardless of whether a state license has issued.

C. The paragraph entitled “Commercial marijuana cultivation” set forth in Subsection B of Section 17.04.140 is hereby amended to read as follows:

“Commercial ~~marijuana~~-cannabis cultivation” means any cultivation of ~~medical marijuana-cannabis~~ licensed by the state of California in accordance with state law, including but not limited to the Medicinal and Adult-Use~~Marijuana-Cannabis~~ Regulation and Safety Act, California Business and Professions Code Section ~~19300-26000~~ et seq., as may be amended. ~~and contemplated by the definition of “commercial cannabis activity” set forth in California Business and Professions Code Section 19300.5(k), as amended. Commercial marijuana cultivation is prohibited in the city. Pursuant to Section 11362.777 of the California Health and Safety Code, effective January 1, 2016, this definition is intended to regulate the cultivation of medical marijuana by prohibiting commercial marijuana cultivation within the city, and thereby expressly reserving any future local licensing authority granted to the city by that section.~~ This definition shall not be interpreted to restrict personal cultivation of marijuana exempt from state licensing requirements, including cultivation of medical marijuana by a “primary caregiver” or “qualified patient,” as those terms are defined by Health and Safety Code Section 11362.7, as may be

~~amended, so long as such cultivation is otherwise conducted in accordance with applicable State law and this Code. or by a “medical marijuana cooperative,” as defined herein subject to the restrictions set forth in this section.~~

D. The paragraph entitled “Medical marijuana” set forth in Subsection B of Section 17.04.140 is hereby amended to read as follows:

~~“Medical marijuanacannabis” means a product containing cannabis, including, but not limited to, concentrates and extractions,cannabis, as defined herein, that is intended for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code. Cannabis as used in this definition shall have the meaning as set forth in subsection (f) of Section 19300.5 of the Business and Professions Code.~~

E. The paragraph entitled “Medical marijuana cooperative” set forth in Subsection B of Section 17.04.140 is hereby repealed.

~~“Medical marijuana cooperative” involves two or more persons collectively or cooperatively cultivating, using, transporting, possessing, administering, delivering, or giving away medical marijuana. It does not involve sale or gifts involving payment of money. Notwithstanding the prohibition in this code as to medical dispensaries, medical cannabis collectives and cooperatives formed in a manner consistent with California law and the California Attorney General’s Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued in August 2008 shall be permitted to operate, provided they do not sell, exchange, trade, distribute or cultivate medical cannabis in a manner prohibited herein.~~

**Section 4. Amendments to Section 19.04.030.** Section 19.04.030, subsection AA, of the Winters Municipal Code is hereby amended as follows:

AA. It is unlawful, and it shall be a public nuisance, for any person owning, leasing, occupying or having charge or possession of any premises or property in the city to permit, maintain or engage in commercial cannabis activity, expressly including commercial cannabis cultivation or any sale of cannabis and cannabis products which would otherwise require a business license, home occupation permit, or any other use permit or license to lawfully conduct similar type activities. a medical cannabis dispensary upon such premises or property. Notwithstanding the prohibition on commercial cannabis activity, medical cannabis collectives and cooperatives operating in a manner consistent with the Compassionate Use Act and the California Attorney General’s Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued in August 2008 shall be permitted to operate provided they do not sell, exchange, trade, distribute or cultivate medical marijuana in a manner inconsistent with this code and the prohibition on commercial cannabis activity.

~~1. A medical cannabis dispensary is defined as any place, location, building or establishment where medical cannabis is traded, exchanged, sold, distributed or cultivated which would otherwise require a business license, home occupation permit, or any other use permit to conduct similar type activities.~~

~~2. Notwithstanding the prohibition in subsection (AA)(1) of this section, medical cannabis collectives and cooperatives formed in a manner consistent with California law and the California Attorney General's Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued in August 2008 shall be permitted to operate provided they do not sell, exchange, trade, distribute or cultivate medical marijuana in a manner prohibited by subsection (AA)(1) of this section, and that they do not exchange payment or gift in the form of money for such medical marijuana.~~

**Section 5. Addition of Chapter 17.205.** Chapter 17.205 is hereby added to Title 17 of the Winters Municipal Code, to read in full as follows:

## **Chapter 17.205**

### **CANNABIS USES**

Sections:

- 17.205.010 Purpose and Intent
- 17.205.020 Cannabis Cultivation
- 17.205.030 Commercial Cannabis Activity

#### **17.205.010 Purpose and Intent.**

The purpose and intent of this chapter is to regulate cannabis uses in a manner that protects the health, safety and welfare of the community. This chapter is not intended to interfere with a patient's right to medical cannabis in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code, nor does it criminalize cannabis possession or cultivation by specifically defined classifications of persons, pursuant to state law. This article is not intended to give any person independent legal authority to grow or use cannabis; it is intended simply to impose zoning restrictions on certain cannabis uses when those uses are authorized by California state law.

#### **17.205.020 Cannabis Cultivation.**

A. Personal cultivation of cannabis for personal use within a single private residence, or inside an accessory structure to a private residence, shall be permitted only to the extent such use is authorized by state law and exempt from state licensing requirements.

B. Commercial cannabis cultivation is prohibited in the City.

C. All outdoor cannabis cultivation is prohibited in the City, including the outdoor cultivation of cannabis for non-commercial, personal use.

#### **17.205.030 Commercial Cannabis Activity.**

Commercial cannabis activity is prohibited in the City. The City expressly reserves the right to amend this restriction and to regulate such commercial cannabis activity in the future, including through zoning restrictions and business license requirements.

**Section 4. CEQA.** This Ordinance is not a project within the meaning of Title 14 of the California Code of Regulations, Section 15061(b)(3), 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 clarifies and furthers existing prohibitions and restrictions regarding cannabis uses in the City of Winters, and does not permit or authorize new or increased intensity of uses. 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 5. 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 6. 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 7. Effective Date.** This Ordinance shall become effective thirty (30) days following its adoption.

**Section 8. 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