

CITY OF WINTERS REGULAR PLANNING COMMISSION AGENDA

Tuesday, May 22, 2018 @ 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 February 27, 2018 regular meeting of the Planning Commission.
- V STAFF/COMMISSION REPORTS
- VI DISCUSSION ITEMS:
  - A. Public Hearing and Consideration of an application by Winters Unified School District located at 909 West Grant Avenue for Site Plan/Design Review to install carports with photo-voltaic roofing panels in the parking lot.
  - B. Consideration and approval of the City of Winters Waste Water Treatment Facility Master Plan Update.
  - C. Public Hearing and Consideration of an amendment to the Amended and Restated Development Agreement for development of the property, commonly known as the Callahan Estates, between the City of Winters and Crowne Communities Winters, California LLC, a California Corporation. The property is located off Main Street, north of Grant Avenue/SR 128 and north of the Winters Ranch subdivision.
  - D. Public Hearing and Consideration of an application by Silverio Arteaga to park a Buckhorn food truck on the property located at 3 Grant Avenue (The Winters Store).
  - E. Public Hearing and consideration of various amendments to Title 17 (Zoning Ordinance) of Winters Municipal Code which includes the following entitlements.
    - a. Finding the project Categorical Exempt from CEQA Sections 15301 (Existing Facilities).
    - b. Recommending the City Council adopt an ordinance amending Chapter 17.104 (Nonconforming Uses, Structures and Lots) to allow the expansion of a

nonconforming use that does not increase the discrepancy between the existing conditions and the standards of the district.

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 MAY 17, 2018

  
\_\_\_\_\_  
DAVID DOWSWELL, COMMUNITY DEVELOPMENT DEPARTMENT CONTRACT  
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  
FEBRUARY 27, 2018**

***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, Vice Chair Baker, Chair Myer

**ABSENT:** Commissioners 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:**

- A. Minutes of the January 23, 2018 meeting of the Planning Commission.

Commissioner Baker moved to approve, Commissioner Altamirano seconded.

**AYES:** Commissioners Altamirano, Baker, Riley, Schrupp

**NOES:** None

**ABSTAIN:** Commissioners Adams, Myer

**ABSENT:** Contreras

**STAFF/COMMISSION REPORTS:**

Planning Commissioners attended the Downtown Parking meeting held on February 21, 2018.

**DISCUSSION ITEM:**

- A. Public Hearing and Consideration of an application by Saint Anthony's Church located at 511 Main Street for Site Plan/Design Review to remove 2 required parking lot shading trees and install 1 row of carports with photo-voltaic roofing panels in the south parking lot directly behind the church.

Contract Planner Dave Dowswell gave a brief description of the proposed project. Two trees, not three as stated in the report, will be removed in order to install the photo voltaic panels. The removed trees and will be relocated elsewhere on the property.

**PUBLIC COMMENTS:**

None.

**COMMISSIONER/STAFF COMMENTS:**

Vice Chair Baker asked if the applicant knows where the trees will be relocated on the property.

**MINUTES OF THE CITY OF WINTERS PLANNING COMMISSION MEETING HELD  
FEBRUARY 27, 2018**

Mary Kessler of Saint Anthony's Church responded not yet. She added in addition to relocating a few trees, 13 additional trees will be planted on the property.

Commissioner Baker moved to approve with corrections to Conditions of Approval regarding the number of trees being removed, Riley seconded.

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

**NOES:** None

**ABSTAIN:** None

**ABSENT:** Commissioner Contreras

**DISCUSSION ITEM:**

- B. Public Hearing and Consideration of an application by Premier Sign Company on behalf of Valley Star Partners, LLC for a Conditional Use Permit and Site Plan/Design Review to install a 12 foot 6 inch wide 6 foot 6 inch high double-faced monument sign at the southeast corner of Matsumoto Lane and East Grant Avenue. The sign will advertise Starbucks and Chevron. Included with the Chevron portion of sign will be an electronic pricing sign

**COMMISSIONER/STAFF COMMENTS:**

Contract Planner Dave Dowswell gave a description of the proposed sign. Chevron and Starbucks will share the monument sign. Chevron will have to remove their old sign. The Marriott Fairfield Inn & Suites has no plans on being on this monument sign.

City Manager John Donlevy shared with the Commission the Grant Avenue Design Guidelines in regards to signage.

Lori Gilliam, representing Premier Sign Company, commented that the location of the proposed monument sign meets their needs in regards to visibility from Grant Avenue.

**PUBLIC COMMENTS:**

Tina Lowden, asked if a permanent "Drive-thru" and "Café" sign will be replacing the temporary sign at Starbucks.

Dowswell stated that directional signs are permitted and expects Starbucks to submit an application to have a permanent directional signage once the monument sign is installed.

**COMMISSIONER/STAFF COMMENTS:**

Discussion ensued,

Commissioner Riley moved to approve, Adams seconded.

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

**NOES:** None

**MINUTES OF THE CITY OF WINTERS PLANNING COMMISSION MEETING HELD  
FEBRUARY 27, 2018**

**ABSTAIN:** Vice Chair Baker

**ABSENT:** Commissioner Contreras

**COMMISSIONER/STAFF COMMENTS:**

Chairman Myer stated that in a situation where all Commissioners are sent a group email, to not "Reply All", because essentially that can be constituted as an "unnoticed" meeting between Planning Commission.

Commissioners were recommended to read the Planning Commission packets before meetings. If Commissioners have questions or need clarification, please address to staff before the meeting.

City Manager John Donlevy gave an overview on the status of the construction of Callahan Estates and Stones Throw subdivisions.

Discussion ensued.

**ADJOURNMENT:** Chairperson Myer adjourned the meeting at 7:19pm.

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

Dagoberto Fierros, Management Analyst

\_\_\_\_\_

Paul Myer, Chairperson



**PLANNING COMMISSION  
STAFF REPORT**

**TO:** Chairperson and Planning Commissioners  
**DATE:** May 22, 2018  
**FROM:** David Dowswell, Contract Planner   
**SUBJECT:** Public Hearing and Consideration of an application by Winters Unified School District located at 909 West Grant Avenue for Design Review (DR 2018-02) approval to install carports with photo-voltaic roofing panels on a portion of the parking lot.

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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 (DR 2018-02) for installing carports with photo-voltaic panels on a portion of the parking lot.

**BACKGROUND:** In 1999 Winters Unified School District (WUSD) purchased the property at 909 West Grant Avenue which was previously used as a grocery store. Shortly after purchasing the property the building was remodeled into administrative offices. In 2008 the modular building was moved to the site. School districts typically are exempt from local control (building codes and ordinances); they are under the supervision of the Office of the State Architect.

**PROJECT DESCRIPTION:** WUSD is proposing to construct 38 feet by 56 feet, 2,128 square feet, of a double-row of carports with photo-voltaic (PV) panels which will cover the center portion of the existing parking lot (Attachment A). According to WUSD the installation of carports is subject to local control.

**ANALYSIS:**

The Zoning Ordinances states in Section 17.36.020, "Design Review shall be required before the planning commission for the following projects: A. Construction of nonresidential buildings or structures of five hundred (500) square feet or more, or additions of five

hundred (500) square feet or more to such existing buildings." The roof area of the carports is 2,128 square feet, requiring design review. Staff recommends, to help the carports blend in with the school offices, the columns be painted the same off-white color as the building color and the fascia be painted the same as the green trim.

The Zoning Ordinance states in Section 17.76.020 (Chapter 17.76, Landscaping and Irrigation), "These standards shall apply to all new development and improvement of existing uses in the city, including any construction, expansion or improvement on private property which requires the issuance of a building permit or other entitlements by the city." The Zoning Ordinance further states in this same chapter (Section 17.76.040C), "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." Lastly, Section 17.04.090F of the Zoning Ordinance states, "Where uncertainty exists regarding the interpretation of a provision of these (any) 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." As was the case with the PG&E and Saint Anthony's Church application, staff/director chose to refer this item to the Planning Commission for conformation.

The previous use of a grocery store did not have to comply with Section 17.76.040C because the store existed prior to the current landscaping regulations. When the store was converted to administrative offices it was not subject to having to comply with City's Zoning Ordinance/Section 17.76.040C due to State exemption for schools.

There are some trees along the edge of the parking lot, but there are none within the parking lot. Installing the carports will result in fifty (50) percent of the total parking lot being in the shade. Installing them will also help to reduce the heat island effect caused by the paving essentially in compliance with the intent of Section 17.76.040C.

On October 17, 2017 the Planning Commission approved a very similar application to install carports with photo-voltaic panels for the new PG&E facility. On February 27, 2018 the Planning Commission approved a very similar application for Saint Anthony's Church.

**ENVIRONMENTAL ASSESSMENT:** Staff has determined that the proposed carports are Categorically Exempt from California Environmental Quality Act (CEQA), Class 3 Section 15303(e) (New Construction or Conversion of Small Structures, accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences).

**PROJECT NOTIFICATION: 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 5/10/18, and notices sent to all of the property owners within 300 feet of the project site at least ten days prior to public hearing. Copies of the staff report and attachments for the proposed project have been on file, available for public review at City Hall since 5/17/18.

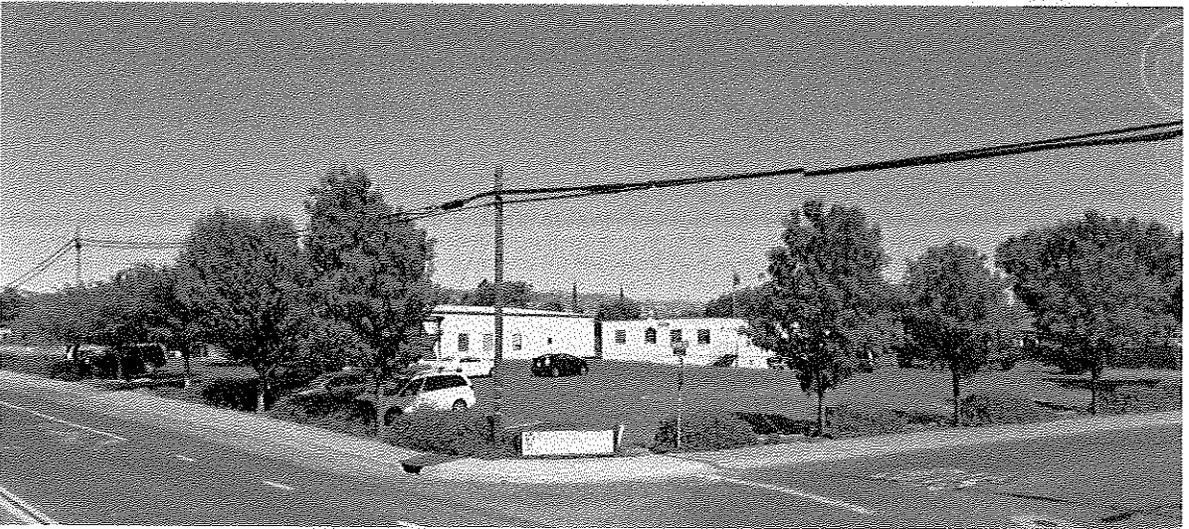
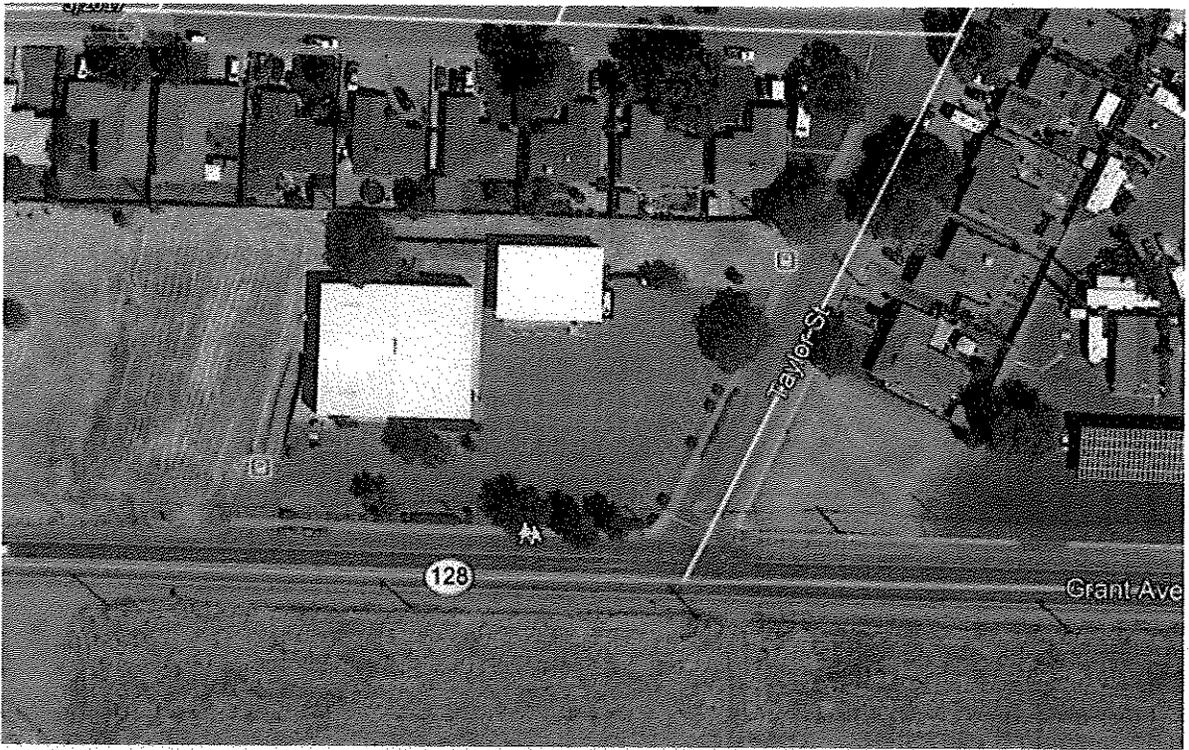
**CONDITIONS OF APPROVAL FOR WINTERS UNIFIED SCHOOL DISTRICT CARPORTS WITH PHOTO-VOTAIC ROOF PANELS LOCATED ON PROPERTY AT 909 WEST GRANT AVENUE, WINTERS, CA 95694.**

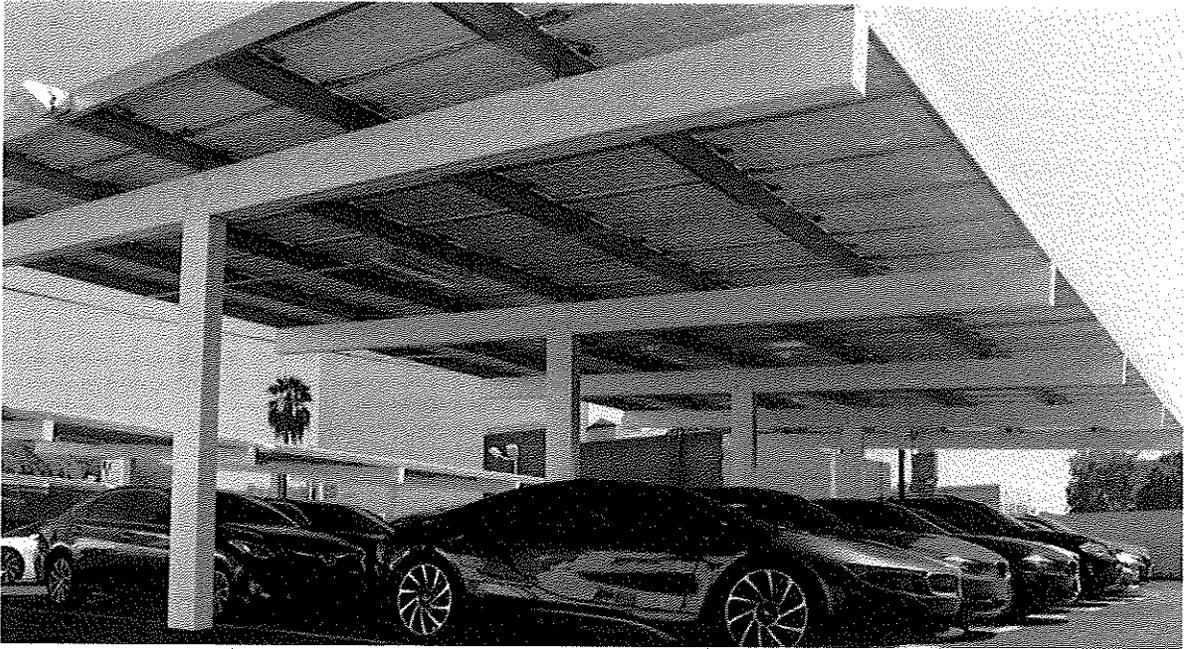
1. This Design/Site Plan Review Permit (DR 2018-02) is based upon and limited to compliance with the project description, site plans, elevations and conditions of approval set forth below. Any deviations from the project description or conditions of approval must be reviewed and approved by the community 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 2018-02). 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. Request for an extension must be received in writing prior to June 1, 2019.
5. Plans submitted for building permits shall note that the support columns for the photo-voltaic panels shall be painted the same off-white color as the building color and the fascia be painted the same green trim color as the building.
6. Prior to installing the carports and photo-voltaic panels all necessary permits shall be obtained from the Building Division.
7. Failure to comply with the above conditions may result in the immediate revocation of the design review permit.

**ATTACHMENTS:**

- A. Site Plan and Elevations













PLANNING COMMISSION  
STAFF REPORT

**TO:** Honorable Chair and Commissioners  
**DATE:** May 22, 2018  
**THROUGH:** John W. Donlevy, Jr., City Manager  
**FROM:** Carol Scianna, Environmental Services Manager *CS*  
**SUBJECT:** Draft Wastewater Treatment Facility Master Plan and Recommended Option

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**RECOMMENDATION:** Staff recommends Commission receive presentation of the Draft Wastewater Treatment Facility (WWTF) Master Plan Update presented by Larry Walker and Associates and discuss options available for recommendation to City Council.

**BACKGROUND:**

In 2006 a similar Wastewater Treatment Facility (WWTF) Masterplan was presented to Council and Commission discussing several options for expansion of Wastewater Treatment Facility that would allow the City to provide services for anticipated growth. However, the housing market stalled and discussions were terminated since expansion was not needed at the time. With the recent recovery of housing market the City has been tasked to re-evaluate the WWTF and determine what improvements would be necessary to provide services for a City population of 12,243 by the year 2036. A previous version of the update came before the Commission in April 2016 with population numbers at 8,800. It was determined the increased population would be more beneficial for longer range planning purposes. New regulatory requirements were also considered with this update. Five options are being presented and discussed to determine which one would be the best choice for the City.

**RECOMMENDATION:** Staff recommends that the Planning Commission take the following action:

- 1) Receive the staff report and WWTF Masterplan presentation;
- 2) Discuss options any recommendations to be brought forward to City Council

**ATTACHMENTS:**

- A. Draft Wastewater Treatment Facility Master Plan Update dated 4/2017

**WASTEWATER TREATMENT FACILITY MASTER PLAN UPDATE  
(WTFMPU)**

**EXECUTIVE SUMMARY**

The entire WTFMPU can be found on the City's website [www.cityofwinters.org](http://www.cityofwinters.org) under the Department of Public Works page.

APRIL 2017

**DRAFT**

CITY OF WINTERS

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# Wastewater Treatment Facility Master Plan Update

*Prepared by*

LARRY WALKER ASSOCIATES



## Executive Summary

The Wastewater Treatment Facility Master Plan Update was prepared to re-evaluate the wastewater treatment facilities necessary to serve the estimated City of Winters (City) population of 12,243 by 2036 and comply with probable regulatory requirements and to identify the apparent best alternative for phased implementation of the facilities.

### TREATMENT, RECYCLE, AND DISPOSAL ALTERNATIVES

The City has an ultimate goal of fully recycling its final effluent by providing it to local farmers for crop irrigation. The Wastewater Treatment Facility Master Plan Update identified and evaluated five alternatives that feature different levels of storage pond lining and treatment levels that will allow the City to reach that goal while minimizing, if not eliminating, the use of the existing spray fields for final effluent disposal. Principal features and present worth costs of each alternative considered in this Master Plan Update are summarized in Table ES-1.

**Table ES-1. Comparison of Facility Requirements for Treatment and Recycle/Discharge Alternatives**

Component	Alternative				
	1A	1B	2A	2B	3A
Treatment Process	Aerated ponds	Aerated ponds	Aerated ponds	Aerated ponds	Tertiary MBR
Storage Pond Lining	New only	All ponds	New only	All ponds	All ponds
Effluent Recycle/Disposal	Year-round storage/recycle				
Storage Volume (acre-feet)					
Existing	288 <sup>(1)</sup>	288 <sup>(1)</sup>	380	380	380
Phase 1 – New	115	264	0	132	0
Phase 2 – New	115	132	103	132	127
Total	518	684	483	643	507
Spray Field Usage (acres) <sup>(2)</sup>					
Existing	170	170	170	170	170
Phase 1	-18	-40	0	-20	0
Phase 2	-152	-130	-170	-150	-170
Total	0	0	0	0	0
Water Recycling Volume (acre-feet)	780	980	810	1,020	1,050
Present Worth Cost <sup>(3)</sup>	\$16,057,000	\$23,670,000	\$10,710,000	\$19,999,000	\$40,688,000
Phase 1	\$5,683,000	\$14,266,000	\$640,000	\$8,603,000	\$23,827,000
Phase 2	\$4,019,000	\$3,049,000	\$3,715,000	\$5,041,000	\$4,042,000
O&M	\$6,354,000	\$6,354,000	\$6,354,000	\$6,354,000	\$12,819,000

## *Wastewater Treatment Facility Master Plan Update-DRAFT*

- (1) For this alternative, it is assumed that Pond 1 is full and provide zero storage capacity at the beginning of the wet season.
- (2) Before the City moves towards full recycling, the spray fields will continue to be necessary to dispose of final effluent in excess of recycled water demand. Once the City fully recycles all its final effluent, it may be possible to identify alternative uses for the spray fields.
- (3) Present worth costs do not include the costs associated with installing recycled water conveyance facilities. The City needs to identify recycled water users prior to sizing and designing this system.

### **ANALYSIS OF ALTERNATIVES**

The various alternatives are compared by means of the ranking matrix presented in Table ES-2 in which numeric scores are assigned to each alternative for various monetary and non-monetary factors. Scoring is based on a combination of field experience, published information, regulatory knowledge, and best professional judgment. The highest score indicates the apparent best alternative.

**Table ES-2. Summary Comparison of Alternatives Ranking**

Factor	Alternative					
	Maximum	1A	1B	2A	2B	3A
Present worth cost	40	30	25	40	30	10
Recycled water production	5	2	4	3	5	5
Spray field land disposition	5	3	2	5	3	5
Ease/reliability of operation	5	5	5	5	5	3
Health, safety, odor risk	5	3	3	3	3	5
Regulatory considerations	20	15	15	15	15	18
Environmental considerations	20	10	14	14	16	18
Total	100	68	68	85	77	64

### **APPARENT BEST ALTERNATIVE**

The apparent best alternative will depend on the need to line existing storage ponds to achieve Best Practicable Treatment and Control (BPTC). If the Central Valley Regional Water Quality Control Board determines through a BPTC Evaluation that lining of existing storage ponds is not required, then Alternative 2A is the preferred alternative based on its low cost and highest overall ranking. However, if lining of the existing storage ponds is required to achieve BPTC, then Alternative 2B becomes the preferred alternative.





**PLANNING COMMISSION  
STAFF REPORT**

**TO:** Chair and Planning Commissioners  
**DATE:** May 22, 2018  
**FROM:** David Dowswell, Community Development Director   
**SUBJECT:** Callahan Estates Subdivision – Public Hearing and Consideration by the Winters Planning Commission of the proposed amendment to the Tentative Map and the First Amendment to the Amended and Restated Development Agreement

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**RECOMMENDATION:** Staff recommends the Planning Commission:

- 1) Receive a staff report on a proposed amendments to the Callahan Estates Subdivision; and
- 2) Conduct a public hearing to consider comments on the amended Tentative Map and the First Amendment to the Amended and Restated Development Agreement; and
- 3) Consider the previously certified and approved CEQA clearance for the Callahan Estates Development Agreement in the form of a Mitigated Negative Declaration and Mitigation Monitoring Program (Resolution No. 2005-06) adopted on March 15, 2005. Per Section 15060c2 of the CEQA Guidelines, the proposed DA Amendment is not subject to CEQA due to the lack of direct or reasonably foreseeable indirect physical change to the environment which would result from the adoption of the proposed Amendment to that Development Agreement; and
- 4) Adopt a Planning Commission Resolution No. 2018-01 recommending the Winters City Council adopt an ordinance approving the First Amendment to the Amended and Restated Development Agreement between the City of Winters and Crowne Communities Winters California, LLC, pursuant to Government Code sections 65864 through 65869.5, for the property commonly known as the Callahan Estates.

**BACKGROUND:** In April 2005, the City approved the Callahan Estates Subdivision and Development Agreement (DA). In February 2009 a First Amendment was approved regarding the deferral of development impact fees from building permit to certificate of occupancy, conveying a portion of the land needed for the new public safety facility and revising the maximum number of non-market rate units that can be built per year. In August 2013 a Second Amendment was approved transferring the ownership from Winters Investors, LLC to Turning Point Acquisitions V, LLC, regarding the expiration date of the DA, combining the affordable housing obligation with the Hudson-Ogando subdivision (Winters Ranch) further clarifying the various impact fees and requiring an annuity in-lieu of establishing a Mello-Roos District to pay for the municipal services cost related to this subdivision.

On April 26, 2016 the Planning Commission reviewed and recommended the City Council approve the Amended and Restated Development Agreement. On June 7, 2016 the City Council approved the Amended and Restated Development Agreement.

On June 30, 2017 Crowne Communities Winters, California, LLC bought the property from Turning Point Acquisitions V, LLC.

**PROJECT DESCRIPTION:** The applicant, Crowne Communities, is requesting approval to amend the Tentative Map and Development Agreement for the Callahan Estates Subdivision. The request is being made based on negotiations with City staff regarding the proposed mini park to be located on Parcel E, now shown as Lot 101 on the amended Tentative Map (Attachment B). The Development Agreement also needs to be amended due the proposed change in use to Parcel E.

**ANALYSIS:**

**Tentative Map** As mentioned above, the developer is requesting an amendment to the Tentative Map to increase in the number of buildable lots from 109 to 110 by eliminating the mini park planned for Parcel E (Attachment A) and allowing the sale of this parcel to the developer as a buildable lot. The amended Tentative Map shows Parcel E as new Lot 101 (Attachment B).

**Development Agreement** The proposed First Amendment to the Amended and Restated DA (Attachment C) includes the following amendments:

1. **Parcel E:** Eliminates the requirement to construct a mini park on Parcel E and allows the lot to be purchased for development with a single family home. Proceeds of the sale to be used to fund other park improvements.
2. **Increase in the Number of Lots:** Increases the number of lots from 109 to 110 due to a sale of Parcel E to the developer as a buildable lot.

The mini park is being eliminated due to the proximity of the much larger linear park less than one block away, off the Taylor Street extension, which will be part of the Stone's Throw Subdivision (Winters Highlands). The pedestrian links (Parcels F and G), due east of the mini park, will remain. Proceeds from the sale of the mini park parcel will be used to fund other park improvements.

**PROJECT NOTIFICATION:** A notice advertising for the public hearing on this 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 and was published in the Winters Express on 5/10/18 and notices were sent to property owners within 300 feet of the project site 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 5/17/18.

**ENVIRONMENTAL ASSESSMENT:** Consider the previously certified and approved CEQA clearance for the Callahan Estates Development Agreement in the form of a Mitigated Negative Declaration and Mitigation Monitoring Program (Resolution No. 2005-06) adopted on March 15, 2005. Per Section 15060c2 of the CEQA Guidelines, the proposed DA Amendment is not subject to CEQA due to the lack of direct or reasonably foreseeable indirect physical change to the environment which would result from the adoption of the proposed First Amendment to the Amended and Restated Development Agreement

**PLANNING COMMISSION ACTION:** Staff recommends the Planning Commission adopt the attached resolution (Attachment D) recommending the City Council take the following actions:

1. Adopt a resolution approving the amended Tentative Map (Attachment A); and
2. Adopt an ordinance approving the First Amendment (Attachment B) to the Amended and Restated Development Agreement between the City of Winters and Crowne Communities Winters, California, LLC, pursuant to Government Code sections 65864 through 65869.5, subject to the CEQA findings, for development of the property commonly known as the Callahan Estates Subdivision.

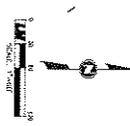
**CEQA findings:**

1. The Planning Commission finds that based on their review of the amended Tentative Map and First Amendment to the Amended and Restated Development Agreement ("the project") the changes are not considered significant enough to require preparation of a subsequent environmental document.
2. The Planning Commission has considered comments received on the project during the public review process.

3. The decision not to prepare a subsequent environmental document reflects the independent judgment and analysis of the City of Winters.

**ATTACHMENTS:**

- A. Existing Tentative Map
- B. Revised Tentative Map
- C. Redlined Amended and Restated Stated Development Agreement showing proposed amendments
- D. Planning Commission Resolution 2018-01 recommending the City Council approve the amended Tentative Map



**NOTICE:**

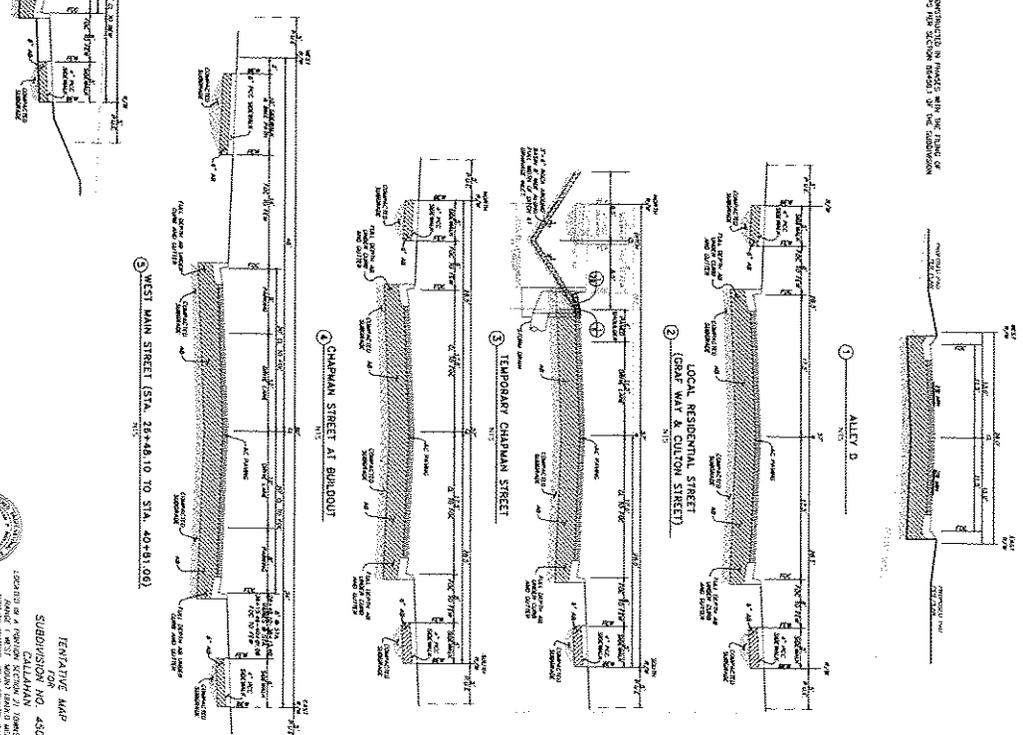
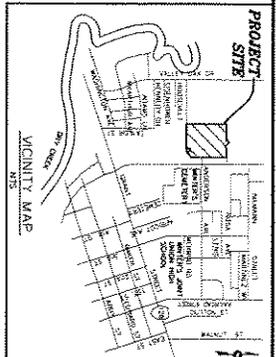
THOMAS JOHN LAUGENOUR & L.L.C.  
 2112 DROWN CANYON RD. CELL SITE 173  
 HENRIET, SOUTH CAROLINA 29422

**IDENTIFY/COMPARISON**

EXISTING ZONING: R-10  
 PROPOSED USE: RESIDENTIAL

**EXISTING ZONING:** R-10  
**PROPOSED ZONING:** R-10  
**REMARKS:** THE PROPOSED ZONING IS THE SAME AS THE EXISTING ZONING.  
**STORY PLAN:** SEE ATTACHED SET.  
**DATE & TIME:** 08/27/2024  
**BY:** T. LAUGENOUR

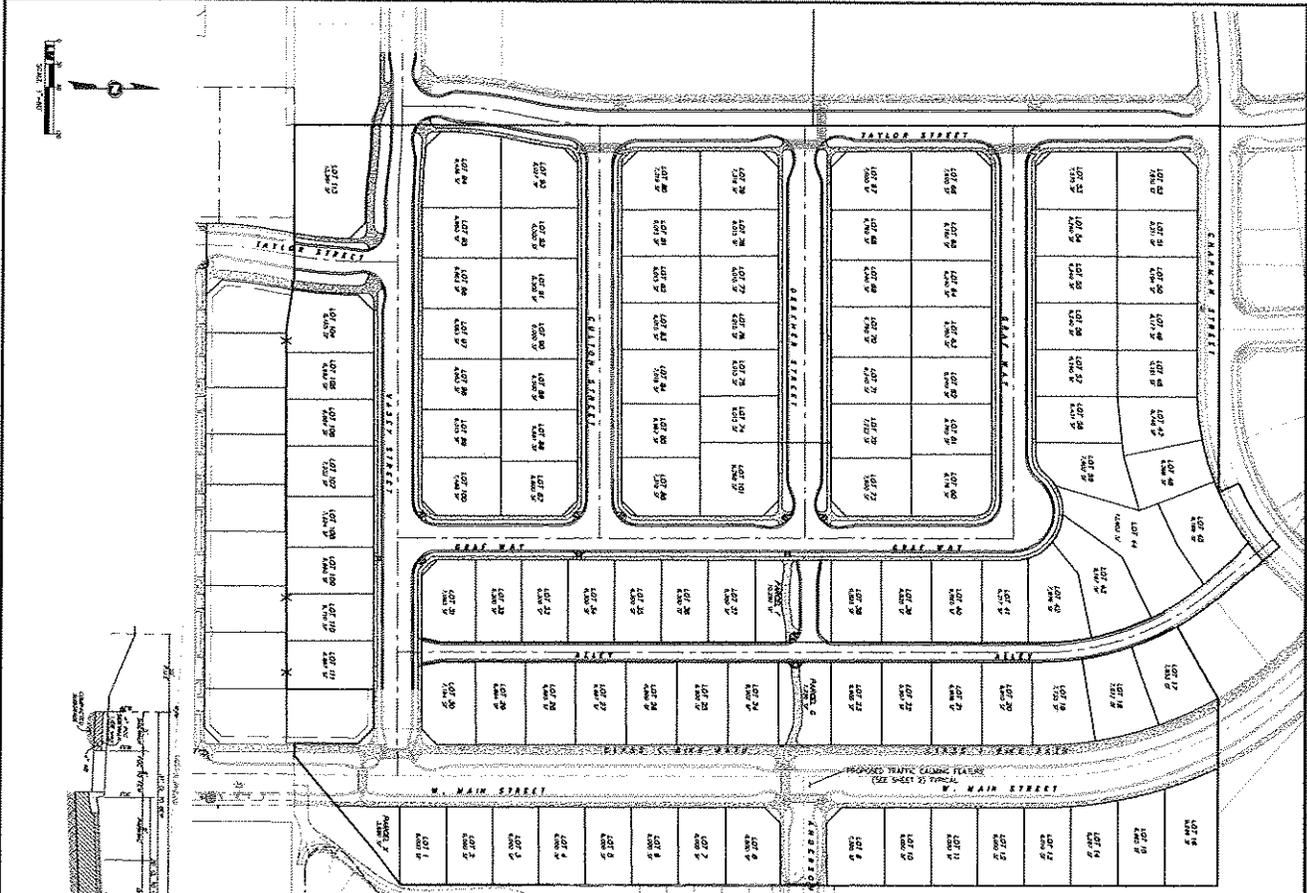
**PROJECT:** WEST MAIN STREET (STA. 28+48.10 TO STA. 40+81.06)  
**PROJECT:** LOCAL RESIDENTIAL STREET (GRANWAY & CULLEN STREET)  
**PROJECT:** TEMPORARY CHAPMAN STREET  
**PROJECT:** CHAPMAN STREET AT BIRLOTTI  
**PROJECT:** ALLEY D



# ATTACHMENT A

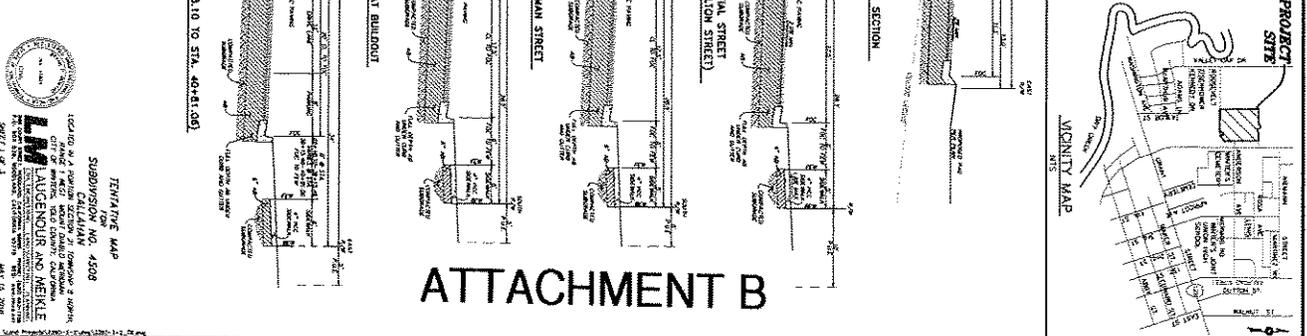
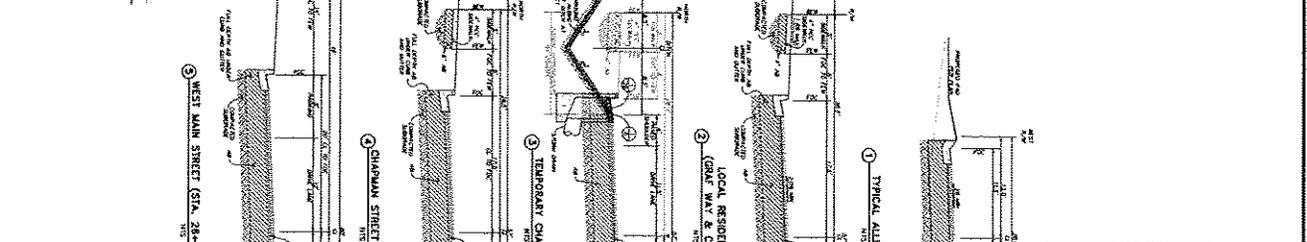
FOR SUBMISSION NO. 4308  
 SUBMISSION MAP  
 FOR WEST MAIN STREET (STA. 28+48.10 TO STA. 40+81.06)  
 LOCAL RESIDENTIAL STREET (GRANWAY & CULLEN STREET)  
 TEMPORARY CHAPMAN STREET  
 CHAPMAN STREET AT BIRLOTTI  
 ALLEY D

**LM LAUGENOUR AND MERKLE**  
 ENGINEERS AND ARCHITECTS  
 1000 W. 10TH STREET, SUITE 100  
 HENRIET, SOUTH CAROLINA 29422  
 PHONE: 803.326.1111  
 FAX: 803.326.1112  
 WWW.LMENGINEERS.COM



OWNER/PLANNING	PROJECT/PERMIT	PROPOSED USE	PROPOSED ZONING	EXISTING ZONING	STREETS	STREET DRAIN	WATER	GRID & DISTANCE	UTILITY	FLOOD ZONE	OTHER NOTES	ANN.	PRELIM
...	...	...	...	...	...	...	...	...	...	...	...	...	...

THE CITY OF MANITOWISH COUNTY, WISCONSIN  
 PLANNING & ZONING DEPARTMENT  
 1000 W. WASHINGTON STREET, SUITE 100  
 MANITOWISH, WISCONSIN 53150  
 PHONE: (920) 347-2000  
 FAX: (920) 347-2001  
 WWW: WWW.CITYOFMANITOWISH.COM  
 PROJECT NO. 2023-001  
 DATE: 08/15/2023



**ATTACHMENT B**  
 PREPARED BY: [Firm Name]  
 DATE: [Date]

Any assignment or attempted Assignment that is inconsistent with Article 2 shall be unenforceable and void and shall not release Developer from any rights or obligations hereunder.

Section 2.14 Notice of Default to Mortgage, Deed of Trust or Other Security Interest Holders; Right to Cure.

The Developer's breach of any of the covenants or restrictions contained in this Agreement shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value as to the Property, or any part thereof or interest therein, whether or not said mortgage or deed of trust is subordinated to this Agreement, but, the terms, conditions, covenants, restrictions and reservations of this Agreement shall be binding and effective against the holder of any such mortgage or deed of trust or any owner of the Property, or any part thereof, whose title thereto is acquired by foreclosure, trustee's sale or otherwise. Provided, however, notwithstanding anything to the contrary above, the holder of a mortgage or deed of trust, or the successors or assigns of such holder or owner through foreclosure, shall not be obligated to pay any fees or construct or complete the construction of any improvements, unless the holder or owner desires to continue development of the Property consistent with this Agreement and the Land Use Entitlements, in which case the holder shall assume the obligations of Developer hereunder in a form acceptable to the City.

**ARTICLE 3**

**DEVELOPMENT OF THE PROPERTY**

Section 3.1 Land Use Entitlements.

a. The Property shall be developed in accordance with the Conditions of Approval and the following ordinances, policies and Land Use Entitlements, all of which have been adopted or approved by the City Council:

1. This Amended and Restated Development Agreement (Ordinance No. 2016-\_\_ adopted \_\_\_\_\_, 20\_\_ and effective on \_\_\_\_\_, (the "Enacting Ordinance")).

2. An exclusion for the Property from the West Central Master Plan.

3. A rezoning to add a Planned Development (PD) overlay zone to allow for a subdivision in which the average lot size does not meet the minimum requirement of the zone (7,000 square feet) and to allow for one lot (Lot 1) which does not meet the width requirement (60 feet).

4. The approval of a Planned Development Permit for an unlimited term pursuant to the requirements of Section 17.48.050.A.1 and .2 of the Zoning Ordinance and Conditions of Approval.

5. An amendment to the Circulation Master Plan (May 19, 1992) and Standard Cross-Sections (adopted October 2, 2011) to remove the requirement for on-street Class II bike lanes on West Main Street and replace with off-street Class I bike path.

6. An amendment to the Bikeway System Master Plan (January 2013) text and Figure 3 to identify a Class I bike path along West Main Street and Class II bike lanes along Anderson Avenue.

7. Approval of Callahan Estates Tentative Subdivision Map, together with the Conditions of Approval, dividing 26.4 acres into ~~109~~10 single-family lots; Parcels ~~E~~,~~F~~, and G (Open Space Lots); and Parcel X (detention pond/sewer force main). The ~~109~~10 single-family lots will be market rate units, of which 10 must be made available to local builders as defined by the City's land use regulations.

8. A lot line adjustment on the south property line to exchange Parcel A for Parcel B from the adjoining Ogando/Hudson property.

9. Subsequent discretionary approvals (such as design review) pursuant to the City's generally applicable land use regulations.

b. The Developer may apply for an receive one final subdivision map for Callahan Estates, or the Developer may choose to file separate final maps for various phases of Callahan Estates. If the Developer chooses to file final maps by phase, the number of phases and the size of each shall be at the discretion of the Developer, subject to the requirement for adequate infrastructure as provided in Section 3.8.

c. Under the provisions of Government Code section 66452.6(a), the term of the Callahan Estates Subdivision Tentative Map is hereby extended to be co-terminus with the term of this Agreement.

Section 3.2 Consistency with General Plan.

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

Section 3.15 Deferral of Impact Fees.

In order to encourage the Developer to proceed with construction of new market rate housing within the City of Winters, except as provided for herein, the City hereby agrees to defer all development impact fees imposed by the City on building permits issued until the earlier of (1) issuance of a Certificate of Occupancy; or (2) six (6) months after the issuance of a building permit. The Rancho Arroyo Drainage District Fees shall be paid in accordance with City of Winters Ordinance 96-02 and any applicable Conditions of Approval. This provision is not intended to restrict, limit, or waive any rights which Developer may acquire pursuant to subsequently enacted state legislation.

**ARTICLE 4**  
**DEVELOPMENT OBLIGATIONS**

Section 4.1 Schools.

The Developer acknowledges and agrees that the mitigation of the impact of Callahan Estates on schools within the Winters Joint Unified School District is of paramount importance to the City and its residents. As a consequence, the Developer states that it has entered into an Agreement (Restated Mutual Benefit Agreement for the Mitigation of Development Impacts Upon the School Facilities of the Winters Joint Unified School District) to mitigate the impact on schools recorded October 24, 2013 as Instrument No. 2013-0034136 of Official Records County of Yolo.

Section 4.2 Park Land and Fees.

The Developer shall satisfy its 2.7 acre park obligation as follows:  
Developer shall pay a park fee, in the aggregate totaling Eight Hundred Fifty

Thousand Two Hundred Eighty-six Dollars (\$850,286.00) as follows: Developer shall pay the sum of \$6,024 in equal installments at the time of issuance of a certificate of occupancy for each residential structure. Developer shall fund and construct the parks on Parcels ~~E~~, F, and G (equal to ~~0.6149~~0.61494021 acres). Developer shall be further credited against park improvement fees for the provision of infrastructure improvements, planning, developing, and equipping the park on Parcels ~~E~~, F, and G, not to exceed One Hundred Ninety-three Thousand Six Hundred Forty-four Dollars (\$193,644.00). This credit shall be applied on a pro rata basis against the anticipated development of ~~10910~~ lots. The amount of the Parcels ~~E~~, F, and G park credit is based on the pro rata cost per acre obligation established for the 2.73 acre park. The cost per acre is  $\$850,286 / 2.73 \text{ acres} = \$314,921$ . Parcels ~~E~~, F, and G are equal to 0.6149 acres. Therefore, Parcels ~~E~~, F, and G park credit is  ~~$\$314,921 \times 0.6149 = \$193,644$~~ .

Comment [DD1]: This amount may need to be updated.

Section 4.3 Public Safety Facility.

The Developer shall pay the City's Public Safety Facility fee.

Section 4.4 Intentionally Omitted.

Section 4.5 Installation of Conduit.

Developer shall provide design and construction for conduit and boxes suitable for broadband internet service to each residential unit, within the joint trench for the Winters Highlands Subdivision. The conduit shall be coordinated with all other utilities and shown on the joint trench composite plans. The conduit and boxes are to be constructed with the joint trench and completed before certificate of occupancy is issued. The utility company providing broadband internet service will install the wire necessary to provide the service; the timing of

**RESOLUTION NO. 2018-01**

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WINTERS  
RECOMMENDING TO THE CITY COUNCIL APPROVAL OF AMENDED TENTATIVE  
MAP AND THE FIRST AMENDMENT TO THE AMENDED AND RESTATED  
DEVELOPMENT AGREEMENT FOR THE CALLAHAN ESTATES SUBDIVISION**

**WHEREAS**, the Winters Planning Commission held a duly noticed public hearing on May 22, 2018 to review and consider recommending to the City Council approval of the proposed Amended and Restated Development Agreement and amended Tentative Map Subdivision Map for the Callahan Estates Subdivision; and

**WHEREAS**, the Planning Commission reviewed and considered a proposal to amend various provisions of the existing Development Agreement, which includes the First Amendment to the Amended and Restated Development Agreement, for the Callahan Estates Subdivision, including eliminating the mini park site (Parcel E) and allowing an additional lot (Parcel E) to be developed, being compensated for selling Parcel E to the developer, and increasing the number of lots from 109 to 110; and

**WHEREAS**, the Planning Commission further reviewed and considered a proposal to amend the existing Tentative Subdivision Map for Callahan Estates by increasing the number of lots from 109 to 110; and

**WHEREAS**, the Planning Commission found the First Amendment to the Amended and Restated Development Agreement and to the amendment to the Tentative Subdivision Map were not significant to require any additional environmental review; and

**WHEREAS**, proper notice of this public hearing was given in all respects required by law; and

**WHEREAS**, the Planning Commission has reviewed all written evidence and all oral testimony presented to date.

**NOW, THEREFORE, BE IT RESOLVED**, the Planning Commission of the City of Winters, based on substantial evidence in the administrative record of proceedings and pursuant to its independent review and consideration, recommends that the City Council approve the First Amendment to the Amended and Restated Development Agreement for the Callahan Estates Subdivision, attached hereto as Exhibit 1.

**BE IT FURTHER RESOLVED**, the Planning Commission of the City of Winters, based on substantial evidence in the administrative record of proceedings and pursuant to its independent review and consideration, recommends that the City Council approve

the amended Tentative Map for the Callahan Estates Subdivision, attached hereto as Exhibit 2.

**BE IT FURTHER RESOLVED**, the Planning Commission recommends that the City Council find that based on substantial evidence in the administrative record of the proceedings the First Amendment to the Amended and Restated Development Agreement and amended Tentative Map do not require any additional environmental review.

**PASSED and ADOPTED**, by the Planning Commission of the City of Winters at a regular meeting on the 22nd day of May 2018, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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Chairperson

ATTEST:

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Planning Commission Secretary





**PLANNING COMMISSION  
STAFF REPORT**

**TO:** Chairman and Planning Commissioners  
**DATE:** May 22, 2018  
**FROM:** David Dowswell – Contract Planner   
**SUBJECT:** Public Hearing and Consideration of a Conditional Use Permit (CUP 2017-02) to allow a food truck to be located on the property at 3 Grant Avenue.

---

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

- 1) Receive the staff report; and
- 2) Conduct the Public Hearing to solicit public comment; and
- 3) Give staff direction regarding preparing findings for the proposed application by Silverio Arteaga to locate a food truck on the property at 3 Grant Avenue (APN 003-282-025).

**GENERAL PLAN DESIGNATION AND ZONING:** The General Plan designation is DA (Downtown). The project site is zoned D-A (Downtown).

**SURROUNDING LAND USES, ZONING AND SETTING:** The surrounding land uses and zoning are as follows:

North: Apartment building and Library – Zoned D-A (Downtown) and PQP (Public Quasi Public)  
East: M&M Trucking – Zoned D-B (Downtown)  
South: Pisani's Service Station – Zoned D-A (Downtown)  
West: Kountry Kitchen - Zoned D-A (Downtown)

The site is developed with a small market.

**BACKGROUND:** In 2010 an application was received to allow placing a hot dog stand on the sidewalk on the west side of Railroad Avenue between Grant Avenue and Baker Street. The use did not happen.

On March 15, 2011 the City Council adopted an urgency ordinance placing a 45-day moratorium on all street vendor applications to allow staff time to study possible amendments to Section 5.36 of the Municipal Code which regulates street vendors. On April 19, 2008 the urgency ordinance was extended another 10 months and 15 days to allow for further study. At the end of the year nothing was done to amend the ordinance.

On January 13, 2014 there was a notice of a Zoning Administrator action approving allowing a food truck as an accessory use to the Winters General Store. The owner of the store made the application. It appears the use never happened.

**PROJECT DESCRIPTION:** The applicant, Silverio Arteaga, is requesting a conditional or special use permit to allow him to park a food truck (Buckhorn) and sell food on the property located at 3 Grant Avenue (Winters General Store). The food truck would be located on the property near the corner of Railroad and Grant Avenue, adjacent to the old gas pumps, or in one of the parking spaces on the east side of the building (Attachment A). Food would be sold from the truck 3 to 5 days a week from 11 am to 5 pm. There would be two (2) employees. Employees would have access to the restroom inside the Winters General Store. The food truck would be very similar to the El Verduzco food truck that parks in front of Mariani's on the south side of East Grant Avenue, east of Railroad Avenue.

**ANALYSIS:** According to Chapter 5.36 (Street Vendors) (Attachment B) of the Winters Municipal Code, it defines "stand" as "any newsstand, table, bench, booth, rack, handcart, pushcart or any other fixture or device which is not required to be licensed and registered with the Department of Motor Vehicles, used for display, storage or transportation of articles offered for sale by a vendor"; "vendor" means any person, including an agent or employee of another, who sells or offers to sell food, beverages, goods or merchandise on any public street or sidewalk from a stand, motor vehicle or from his or her person."

Section 5.36.060 of the Municipal Code describes the regulations that must be followed by any person using a vehicle for street vending. Subsection A2 requires if a vendor wants to locate within 500 feet of any school or publicly owned property the must get a special use permit from the community development department. Due to there not being a community development director or zoning administrator the decision on this application is being referred to the planning commission. Section 5.36.060D has a number of additional regulations regarding motor vehicles. Regulation D9 prohibits a motor vehicle from standing or stopping at any place for a period of time exceeding ten minutes. The assumption in this regulation is the motor vehicle is parking on a public street.

According to Section 5.36.080B11 of the Municipal Code stationary vendors are allowed only at the four corners of Grant and Railroad Avenues. Only two such vendors are allowed at the northwest corner where Winters General Store is located.

The applicant is requesting a use permit to park a food truck on private property. The ordinance is silent on this specific type of request; it addresses stationary stands and mobile food trucks. Staff believes the planning commission can make an interpretation that would allow this type of use as being a hybrid between a "stand" and a "vendor"

When the hot dog stand was considered in 2010 concern was expressed about the effects this type of use could have on downtown businesses and that the existing regulations needed to be updated due to the Form Based Code. The hot dog stand ultimately was not allowed because they were not given access to a restroom for the operator to use, as required by State law and Yolo County Health Department.

When the application for the food truck was considered in 2014 there was opposition from Kountry Kitchen, Lester Farms and Pisanis. Much of the opposition centered around whether the use was allowed under the ordinance and the interpretation by the community development director that the food truck was an accessory use to the Winters General Store. Questions were raised as to why the Code had not been updated as discussed in 2011. It is not clear why the food truck never located on the site.

It should be noted the Verduzco's food truck, located in front of the Mariani property, is a pre-existing use that existed prior to adoption of the current regulations.

Staff discussed with the applicant a number of concerns allowing this type of use:

1. The existing regulations in Chapter 5.36 do not specifically address this type of use.
2. They will compete directly with fixed restaurant locations, especially in the downtown.
3. They generate garbage which ends up on the street requiring cleanup by the city.
4. Allowing the use could lead to additional applications.

If the Commission approves the use the applicant should be required to give specific dates when they would be parking the truck on the site and selling food. Should tables and chairs be allowed? Staff would also suggest, if the permit is approved, it be reviewed in one year to see how it has worked and any changes that might be necessary.

**PROJECT NOTIFICATION:** Two methods of public notice were used in compliance with State law and the Winters Municipal Code: a legal notice was published in the Winters Express on Thursday, May 10, 2018 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 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 Thursday, May 17, 2018.

**ENVIRONMENTAL ASSESSMENT:** The proposed use is exempt from environmental review pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15301(e) (Existing Facilities, Addition to existing structure that the addition will not result in an increase of more than 50% or 2,500 square feet).

**RECOMMENDATION:** After taking public comment the Commission needs to decide if they want to approve with conditions or deny the application and give staff direction to prepare the necessary findings and conditions, if approved for the next meeting on June 19<sup>th</sup>.

**ATTACHMENTS:**

1. Aerial view of site and photos of truck and proposed locations
2. Chapter 5.36 Street Vendors of the Winters Municipal Code



ATTACHMENT A









## Chapter 5.36 STREET VENDORS

### Sections:

- 5.36.010 Findings.
- 5.36.020 Definitions.
- 5.36.030 Permit.
- 5.36.040 Application for permit.
- 5.36.050 Revocation of permit.
- 5.36.060 Regulations—Motor vehicles.
- 5.36.070 Regulations—Stands.
- 5.36.080 Stationary vendors.
- 5.36.090 Violation—Nuisance.
- 5.36.100 Insurance.
- 5.36.110 Fees.
- 5.36.120 Renewals.
- 5.36.130 Enforcement.
- 5.36.140 No preemption.
- 5.36.150 Violation—Penalty.
- 5.36.160 Nuisance—Injunction.

#### **5.36.010 Findings.**

The city recognizes the right of its citizenry to be relatively free from noise and obstruction when traversing the city streets. The city also recognizes the right of its citizenry to purchase reliable products from responsible vendors without a fixed place of businesses. The city by this regulatory chapter seeks to balance those competing interests. The city finds that the cost of this regulation should be borne by those individuals, companies and groups which seek to benefit financially from street vending, since it should be their burden to insure to the Winters citizens that their sales of goods shall be done in a manner least obstructive to their right to travel. (Ord. 91-10 § 2 (part): prior code § 10-5.501)

#### **5.36.020 Definitions.**

As used in this chapter, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

“City” means city of Winters.

“Public street or sidewalk” includes all areas legally open to public use as public streets, sidewalks, roadways, highways, parkways, alleys, and any other public way.

“Stand” means any newsstand, table, bench, booth, rack, handcart, pushcart or any other fixture or device which is not required to be licensed and registered with the Department of Motor Vehicles, used for the display, storage or transportation of articles offered for sale by a vendor.

“Vendor” means any person, including an agent or employee of another, who sells or offers to sell food, beverages, goods or merchandise on any public street or sidewalk

## ATTACHMENT B

from a stand, motor vehicle, or from his or her person. (Ord. 91-10 § 2 (part): prior code § 10-5.502)

**5.36.030 Permit.**

It is unlawful for any person to sell or attempt to sell any commodity by means of vending such commodity upon any street in the city without first securing a permit and paying the fee therefor. (Ord. 91-10 § 2 (part): prior code § 10-5.503)

**5.36.040 Application for permit.**

Application for a permit shall be made upon a form provided by the city. The applicant shall truthfully state in full the information requested on the application:

- A. Name and address of present place of residence and length of residence at such address; also business address if other than present address;
- B. Address of place of residence during the past three years if other than present address;
- C. Age of applicant;
- D. Physical description of applicant;
- E. Name and address of the person, firm or corporation or association whom the applicant is employed by or represents, and the length of time of such employment or representation;
- F. Name and address of employer during the past three years if other than the present employer;
- G. Description sufficient for identification of the type of commodity to be vended;
- H. Period of time for which the permit is applied;
- I. The date, or approximate date, of the last previous application for permit under this chapter, if any;
- J. If a permit is issued to the applicant under this chapter has ever been revoked;
- K. If the applicant has ever been convicted of a violation of a felony under the laws of the state of California or any other state or federal law of the United States;
- L. Names of commodities;
- M. Names of the three most recent communities where the applicant has engaged in street vending;
- N. Proposed method of operation;
- O. Signature of applicant;
- P. Social Security Number of applicant.

All statements made by the applicant upon the application or in connection therewith shall be under oath.

The applicant shall submit to fingerprinting by the police department of the city in connection with the application for the permit.

The city clerk shall cause to be kept in his or her office an accurate record of every application received and acted upon together with all other information and data pertaining thereto and all permits issued under the provisions of this chapter, and of the denial of applications. Applications for permits shall be numbered in consecutive order as filed, and every permit issued, and any renewal thereof, shall be identified with the duplicate number of the application upon which it was issued.

No permit shall be issued to any person who has been convicted of the commission of a felony under the laws of the state or any other state or federal law of the United States, within five years of the date of the application; nor to any person who has been convicted of a violation of any of the provisions of this chapter; nor to any person whose permit issued hereunder has previously been revoked as herein provided. (Ord. 91-10 § 2 (part): prior code § 10-5.504)

#### **5.36.050 Revocation of permit.**

Any permit issued hereunder shall be revoked by the chief of police if the holder of the permit is convicted of a violation of any of the provisions of this chapter, or has made a false material statement in the application, or otherwise becomes disqualified for the issuance of a permit under the terms of this chapter. Immediately upon such revocation, written notice thereof shall be given by the chief of police to the holder of the permit in person or by certified United States Mail addressed to his or her residence address set forth in the application.

Immediately upon the giving of such notice the permit shall become null and void.

The permit shall state the expiration date thereof. (Ord. 91-10 § 2 (part): prior code § 10-5.505)

#### **5.36.060 Regulations—Motor vehicles.**

The following rules and regulations shall be complied with by each person using a vehicle for street vending:

- A. It shall be unlawful for any street vendor to sell or attempt to sell any commodity:
  1. By means of any outcry, sound, speaker or amplifier, or any instrument, or device which can be heard for a distance greater than three hundred (300) feet, or when passing a hospital, or a church or other place of worship during the hours when services are being held;
  2. Within five hundred (500) feet of any school or publicly owned property at any time unless a special use permit is approved by the community development department. A special use permit shall not be required for fundraising activities/special sales which are sponsored by the school district.

- B. It is unlawful for any such vendor to use, play or employ the use of, any sound, outcry, amplifier, loud speaker, radio, phonograph with a loud speaker or amplifier or any other instrument or device when the vehicle such vendor is using is stopped for the purpose of making a sale.
- C. The use by any such vendor of any outcry, sound, amplifier, loud speaker, radio, phonograph with a loud speaker or amplifier or any instrument or device which emits a loud sound shall be prohibited prior to nine a.m. or after seven p.m.
- D. It is unlawful for any vendor to:
1. Exceed a speed of twelve miles an hour when cruising neighborhoods seeking sales or when attempting to make a sale;
  2. Make more than two stops in any one block to make any sale;
  3. Stop anywhere within twenty-five (25) feet of an intersection when making a sale or attempting to make a sale;
  4. Double park, or park in any manner contrary to any ordinance relating to parking when attempting a sale or when making a sale;
  5. Make a U-turn on any block;
  6. Drive a vehicle backwards to make or attempt any sale;
  7. Sell to any person who is standing in the street;
  8. Permit any person to hang on the vehicle or permit any person to ride in or on the vehicle except a bona fide assistant or assistants;
  9. Remain standing or stopped at any place for a period of time exceeding ten (10) minutes;
  10. Conduct business within twenty (20) feet of any handicapped parking space or access ramp;
  11. Sell or attempt to sell along any particular route more than two times during a twenty-four (24) hour period. (Ord. 2003-04 § 9; Ord. 91-10 § 2 (part): prior code § 10-5.506)

**5.36.070 Regulations—Stands.**

Vendors with stands must comply with the following regulations:

- A. Hours of Operation. Vendors shall be allowed to engage in the business of vending only between the hours of nine a.m. and seven p.m., Monday through Saturday. No vending from stands shall be permitted on Sundays and observed holidays, except by appointment and approval from the city of Winters police department.

- B. All vending stands must be removed from public property during non-vending hours.
- C. Vendor stands shall not:
1. Exceed eight feet in length, eight feet in width, or eight feet in height;
  2. Impede access to the entrance of any adjacent building or driveway;
  3. Occupy more than half of the available sidewalk width or five feet of such sidewalk, whichever is less;
  4. Locate within twenty (20) feet of a fire hydrant, fire escape, bus stop, loading zone, handicapped parking space, access ramp, fire station driveway, or police department driveway.
- D. All trash and debris accumulating within fifty feet of a stand shall be collected by the vendor and deposited in a trash container. (Ord. 91-10 § 2 (part): prior code § 10-5.507)

**5.36.080 Stationary vendors.**

A. Purpose.

This section is intended to address the community's concerns regarding the permitted location of stationary vendors in order to minimize adverse impacts on the community.

B. Regulations.

The following provisions shall regulate stationary vending stands and carts or other operations deemed similar by the zoning administrator, which operate on privately owned land not within enclosed buildings on permanent foundations or in a public right-of-way:

1. Hours of operation may be limited as determined by the zoning administrator.
2. All vending stands, carts, signs, refuse containers and other material set up or provided by the vendor must be removed from the vending site during non-vending hours.
3. Vendor stands shall not exceed eight feet in length, eight feet in width, or eight feet in height not including a sign which could project four feet beyond; nor shall stands impede access to the entrance of any adjacent building or driveway.
4. Stands shall not be located within twenty (20) feet of a fire hydrant, fire escape, bus stop, loading zone, handicapped parking space, access ramp, fire station driveway, or police department driveway.
5. If an existing trash container does not exist within twenty-five (25) feet of the stand, the vendor shall supply a trash container.

6. Vending stands shall be designed such they add to the aesthetic value of the vicinity. Design elements should include the use of umbrellas or other attractive shading devices, temporary landscaping, and attractively designed carts.
7. Signs for vending carts and stands shall be limited to one freestanding, non-illuminated sign not to exceed four feet in any dimension, to be placed within ten (10) feet of the cart, and one sign attached to the cart which is not more than three feet in any one dimension.
8. Vendor shall obtain a certificate of compliance from the county health department, as appropriate.
9. Vendor shall obtain a letter of agreement to use the site from the property owner if the property is not owned by the vendor.
10. Stationary vendors are permitted in the vicinity of Grant Avenue and Railroad Avenue along three corridors from the intersection. Grant Avenue east to Dutton Street on the north side of the street and to East Street on the south side of Grant; both sides of Railroad Avenue south to Baker Street; west on Grant Avenue three-hundred feet. No stationary vendors will be permitted north on Railroad Avenue, nor any permitted within fifty (50) feet of the high school campus.
11. In order to prevent the concentration of vending carts in a given area, that is not specifically designed for multiple stationary vendors. The number and location of stationary vendors shall be limited pursuant to Exhibit A set out at the end of this section.
12. Tables for customer use shall be prohibited unless vending carts are located in a given area that is specifically designed for such purpose such as a plaza, park or other public open space area with adequate restroom facilities.
13. The use of noise, moving signs for forms of advertisement other than signs shall be prohibited.
14. Stationary vendor permits may be revoked upon just cause.
15. The stationary vendor permit shall expire in one year and may be extended upon zoning administrator approval.
16. No stationary vendors or signs shall be located in the Caltrans right-of-way.
17. Stationary vendor permits shall automatically terminate if the use or operation ceases to exist or continue for two months without prior notice to the zoning administrator.
18. Stationary vendors shall only be permitted to sell seasonal produce, prepared foods, flowers and other similar disposable and perishable goods. No

alcoholic beverages may be sold. Temporary sales by nonprofit organizations shall be exempt from the provisions of this section.

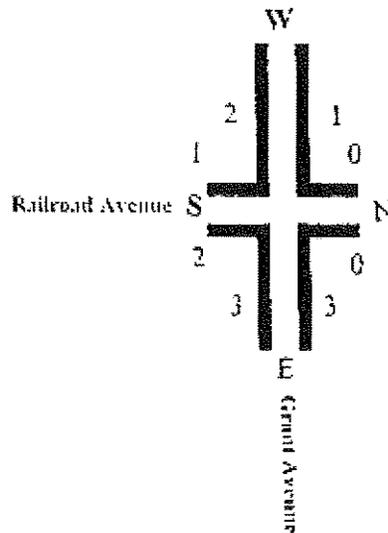
C. Process.

1. A use permit shall be obtained from the zoning administrator to allow a stationary vending operation. The permit shall be processed in accordance with and subject to the standard use permit requirements contained in Chapter 17.20.

2. In addition to the use permit findings in Chapter 17.20, the planning commission must also make the following finding prior to taking action to approve a use permit for a stationary vendor:

- a. That the proposed use shall be consistent with all applicable regulations contained in subsection B.

**Exhibit A**



(Ord. 97-03 § 2 (part): prior code § 8-1.6014)

**5.36.090 Violation—Nuisance.**

It is declared to be unlawful and shall constitute a nuisance for any person to violate the terms of this chapter. (Ord. 91-10 § 2 (part): prior code § 10-5.508)

**5.36.100 Insurance.**

No permit shall be issued to an applicant unless the applicant furnishes proof to the city of a public liability bond or insurance policy in an amount not less than three hundred thousand dollars (\$300,000.00) for property damage and bodily injury

liability, including injury resulting in death, caused by the applicant. (Ord. 91-10 § 2 (part): prior code § 10-5.509)

**5.36.110 Fees.**

The city shall by resolution establish fees for the issuance of permits sufficient to offset the city's cost of regulation of street vendors. These fees shall be supplemental to any business license fees charged to street vendors. Both fees shall be payable upon application. The fees charged under this chapter shall be nonrefundable.

Permits shall be valid for one year from the date of issuance, unless sooner revoked as provided herein. (Ord. 91-10 § 2 (part): prior code § 10-5.510)

**5.36.120 Renewals.**

Renewals shall be done on an annual basis. Application for renewals of permits shall be received no later than thirty (30) days prior to the expiration of the applicant's permit, or shall be processed as new applications. The city may review applications for renewal to determine that:

- A. The applicant is in full compliance with the provisions of this chapter;
- B. The applicant has a currently effective insurance policy in the minimum amount provided in this chapter, or as amended by subsequent resolution of the Winters city council.

If the city finds that the applicant meets the above requirements, the city shall issue a new permit. (Ord. 91-10 § 2 (part): prior code § 10-5.511)

**5.36.130 Enforcement.**

Enforcement shall be implemented by the city manager or through a city staff person designated by him or her. In addition, any Winters police officer is authorized to enforce the provisions of this chapter. Such person shall have authority to issue citations based upon reasonable cause in a manner most suitable to the particular incident. (Ord. 91-10 § 2 (part): prior code § 10-5.513)

**5.36.140 No preemption.**

This chapter shall not be interpreted to permit soliciting, or the procedures thereof or redress therefrom, where restricted by state law. (Ord. 91-10 § 2 (part): prior code § 10-5.513)

**5.36.150 Violation—Penalty.**

Any person, firm, corporation, or organization which violates any provision of this chapter shall, upon conviction thereof be subject to the maximum allowable fine pursuant to the requirements set forth in state law.

Upon conviction thereof, punishment shall be a fine subject to the maximum allowable pursuant to the requirements set forth in state law, or imprisonment for a term not exceeding six months, or by both a fine and imprisonment. (Ord. 2003-04 § 10: Ord. 91-10 § 2 (part): prior code § 10-5.515)

**5.36.160 Nuisance—Injunction.**

Any violation of this chapter is declared to be a nuisance. In addition to any other relief provided by this chapter, the city attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this chapter. Such application for relief may include seeking a temporary restraining order, temporary injunction and permanent injunction. (Ord. 91-10 § 2 (part): prior code § 10-5.516)



**PLANNING COMMISSION  
STAFF REPORT**

**TO:** Chair and Planning Commissioners  
**DATE:** May 22, 2018  
**FROM:** David Dowswell, Contract Planner   
**SUBJECT:** Public Hearing and Consideration of proposed amendments to Chapter 17.104 (Nonconforming Uses, Structures and Lots) of the Winters Municipal Code (Zoning Ordinance).

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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) Recommend the City Council find the proposed amendments Categorically Exempt from CEQA, Class 1 Section 15301 (Existing Facilities).
- 4) Recommend the City Council adopts the proposed amendments to Chapter 17.104 (Nonconforming Uses, Structures and Lots of the Winters Municipal Code (Zoning Ordinance).

**BACKGROUND:** On April 25, 2017, at a study session staff discussed with the Commission the City's policies and zoning regulations regarding creek setbacks along Putah and Dry Creeks. At the hearing the property owners of 508 Abbey spoke in support of amending the policies/zoning regulations to allow them to build an addition within seven (7) feet of the top of the bank along Dry Creek. At the April 25, 2017 study session staff indicated we would review other cities creek setback and nonconforming structure regulations and return with to the Commission with updated information.

On July 25, 2017 a second session was held to discuss the City's creek setback requirements. At the hearing staff was asked to research how other cities, including the ones mentioned in the staff report, treat the addition of an accessory structure (shed, pool, gazebo, etc.) within a creek setback. At the hearing the Commission also directed

staff to prepare draft language to amend Section 17.56.020D which would allow a nonconforming structure to be expanded so long as the expansion does not increase the discrepancy between existing conditions and the standards of the district.

On November 14, 2017, at a third study session, staff again discussed with the Commission the issues involving potentially allowing additions and/or accessory structures to encroach into the 50 and 100 foot creek setbacks along Dry Creek and Putah Creek. At the study session there was consensus amongst the Commission to support allowing additions to any nonconforming structure that did not increase the discrepancy between the existing conditions and standards for the district. The Commission directed staff to also continue researching possible alternatives for allowing accessory structures within the required creek setback.

**ANALYSIS:** Since the November meeting staff continues to research and consider how the City might handle requests to place accessory structures with the creek setback. Staff hopes to bring something forward to the Commission to address this issue soon. In the meantime staff has been contacted by Nick Girimonte at 508 Abbey Street, the homeowner that originally approached the City about adding an addition to his house that would encroach into the Dry Creek setback, about adding a second story addition which would not encroach into the creek setback more than the existing house. He no longer wants to add onto the back of his house as shown in Attachment A.

Staff is bringing forward the proposed amendment to the Zoning Ordinance to amend the nonconforming regulations due to the consensus of the Commission in support of the proposed change. If the amendment is approved by the City Council, Mr. Girimonte's proposed addition would comply with the amendment avoiding the need for him to apply for a Variance.

### **Nonconforming Structures**

Staff obtained regulations for nonconforming structures from the following cities:

San Rafael - "Alterations and additions may be made to a nonconforming structure provided that there shall be no increase in the discrepancy between existing conditions and standards for the district."

Fairfax - "No non-conforming structure shall be moved, altered, enlarged, or reconstructed so as to increase the discrepancy between existing conditions and the standards of coverage, front yard, side yards, rear yards or height of structures prescribed in the regulations for the district in which the structure is located without a variance issued under Chapter 17.16."

San Anselmo - "Any nonconforming building or improvement may be permitted to be enlarged, extended, or reconstructed with different dimensions in cases where an

application for a variance is first approved as provided in Article 14 of this chapter of the San Anselmo Municipal Code.”

Albany - “Nonconforming Structures: Additions and Enlargements. A nonconforming structure, or a structure located on a nonconforming lot, if such structure is used for residential purposes may be enlarged or extended, and the number of dwelling units may be increased to the maximum density allowed in the district, provided that no greater degree of nonconformity results with respect to the requirements of the district within which it is located and of this section, and that there is compliance with all applicable City building and housing codes. The preexisting portion of the facility need not be brought into conformance with this Chapter, except as herein provided.”

Novato – “A nonconforming structure may undergo additions or alterations, normal maintenance and repairs, including painting, interior and exterior wall surface repair, window and roof repair, and fixture replacement, provided the additions and alterations, and/or repairs comply with all applicable provisions of this Zoning Ordinance.”

Davis – “Except as provided in subsection (b) (1) and (2) of this section, enlargements or alterations may be made to nonconforming structure only if the enlargements or alterations are consistent with the zoning standards for the district.

- (1) Nonconforming single-family and duplex structures may be expanded with the first story setbacks less than those required by the zoning standards for the district only if the following apply:
  - A. The structure was legally built prior to the effective date the zoning ordinance amendment rendered the structure nonconforming;
  - B. The structure has side yards consistent with the zoning standards at the time of construction;
  - C. The expansion does not reduce the first-story side yard setbacks below those currently existing for the structure, even if those setbacks are less than would otherwise be allowed in the zoning district; and
  - D. Any second-story expansion is consistent with the setback requirements of this chapter.”

The homeowners' of 508 Abbey Street home and all of the other homes shown on Assessor's page 3-40, which back up to Dry Creek, are nonconforming because they violate Section 17.56.070 of the Zoning Ordinance (homes are within the 50 foot creek be setback from the top of bank) (Attachment A). According to Section 17.104.020B of the Zoning Ordinance, “Any expansion of a nonconforming structure (not just ones that encroach into the creek setbacks) must conform with current zoning and building codes.” Most of the homes along Dry Creek have only a small portion located outside the required 50 foot setback. Based on the language in Section 17.104.020B of the Zoning Ordinance none of these homes could legally be added onto, either vertically or

horizontally, nor could the homeowners build any structures in their backyards without a variance. Making variance findings is very difficult.

In five of the six cities mentioned above the property owner can add a first or second story addition to a nonconforming structure/home that does not comply with the zoning setbacks, including the setback from a creek, so long as the addition does not increase the discrepancy between the existing conditions and the required setback.

Attached for the Commission's review (Attachment B) is language amending Sections 17.104.020B and E of the Zoning Ordinance to allow nonconforming structures to be expanded so long as the addition does not increase the discrepancy between the existing conditions and the required setback.

**ENVIRONMENTAL ASSESSMENT:** The proposed project is categorically exempt from environmental review pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15301 (Existing Facilities).

**RECOMMENDED FINDINGS FOR PROPOSED AMENDMENTS TO TITLE 17 (ZONING ORDINANCE) OF THE CITY OF WINTERS MUNICIPAL CODE.**

CEQA Findings:

- 1) The proposed project is categorically exempt from review under the California Environmental Quality Act (CEQA) Guidelines, Sections 15301 (Existing Facilities).

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 amendments to the Municipal Code by making an affirmative motion as follows:

**I MOVE THAT THE CITY OF WINTERS PLANNING COMMISSION RECOMMEND THE CITY COUNCIL APPROVE THE PROPOSED AMENDMENTS TO THE MUNICIPAL CODE, TITLE 17, 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 amendments to the various chapters in Title 17, as shown in Attachment A.

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

**ATTACHMENTS:**

- A. Portion of assessor's parcel map page 3-40 showing location of homes
- B. Draft Red Line Ordinance

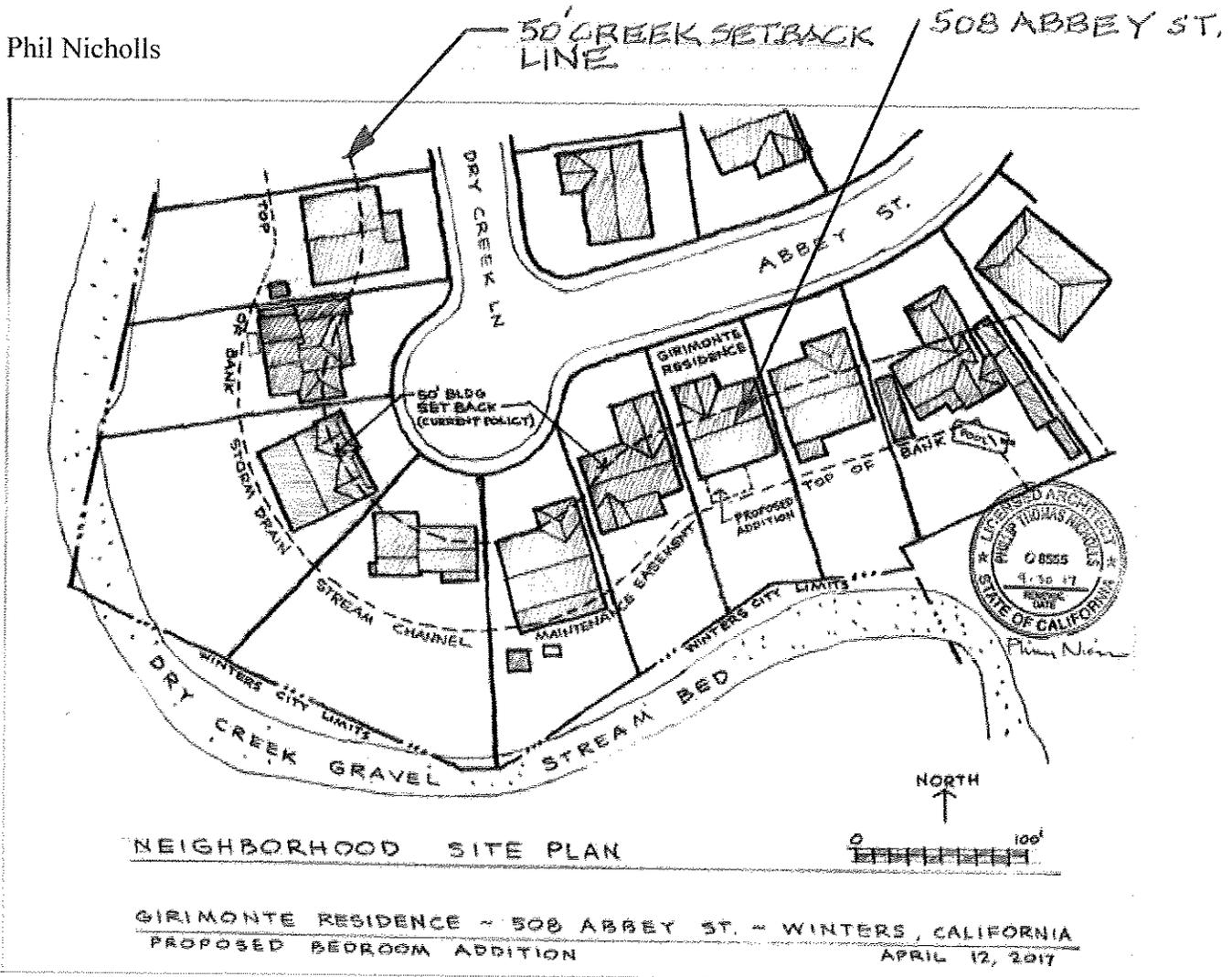
**Dave Dowswell**

**From:** Phillip Nicholls <nicholls.phil.lynn@gmail.com>  
**Sent:** Wednesday, April 12, 2017 2:02 PM  
**To:** Dave Dowswell  
**Subject:** Girimonte Addition

Dave,

Here is the revised drawing as we discussed.

Phil Nicholls



**ATTACHMENT A**

ORDINANCE NO. 2018 – 03

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WINTERS  
AMENDING CHAPTER 17.104 (NONCONFORMING USES, STRUCTURES AND LOTS), OF  
THE WINTERS MUNICIPAL CODE

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

1. Purpose. The purpose of this ordinance is to amend various sections of the text in the Winters Municipal Code (the "Municipal Code") necessary to regulate Nonconforming Structures.

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

3. Amendments to Title 17. The City hereby makes the following amendments to Title 17 of the Municipal Code:

a. Subdivision (B) of Section 17.104.140 of the Municipal Code is hereby amended to read as follows:

B. Nonconforming Structures—Improvement.

Any expansion of a nonconforming structure must be in conformance with current zoning and building codes, except alterations and additions may be made to a nonconforming structure provided there shall be no increase in the discrepancy between existing conditions and standards for the district. Where the health, safety or general welfare are found to be at issue, the city building official may require that modifications be made to existing nonconforming structures as part of the expansion.

b. Subdivision (E) of Section 17.104.140 of the Municipal Code is hereby amended to read as follows:

E. Expansion of Legal Nonconforming Buildings.

Regardless of any other provision of this title, a building which retains its nonconforming status shall be allowed to expand, enlarge or intensify, if the following findings can be affirmatively made by the zoning administrator:

1. The use will not impair other uses in the vicinity, which uses are consistent with the zone;
2. The curtailment of full privileges for the residential use may contribute to the premature conversion of land and unnecessarily loss of housing inventory;

ATTACHMENT B

3. If the expansion does not encroach any further into required yard setbacks than already exists for the nonconforming structure and is consistent with other applicable development standards of this title.

4. Findings. In adopting this Ordinance, the City Council makes the following findings:

a. The proposed zone amendment is consistent with the City of Winters General Plan and all specific plans; and

b. The public health, safety and general welfare warrant the change of zoning text; and

c. The Planning Commission recommends approval of the requested amendments; and

d. The proposed amendments are Categorically Exempt from California Environmental Quality Act (CEQA), Class 1 Section 15301 (Existing Facilities).

5. Severability. If any provision or clause of this ordinance or any application of it to any person, firm, organization, partnership or corporation is held invalid, such invalidity shall not affect other provisions of this ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are declared to be severable.

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

**INTRODUCED** at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 2018 and **PASSED AND ADOPTED** at a regular meeting of the Winters City Council, County of Yolo, State of California, on the \_\_\_\_\_ day of \_\_\_\_\_, 2018 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

\_\_\_\_\_  
Nanci G. Mills, City Clerk

\_\_\_\_\_  
Wade Cowan, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Ethan Walsh, City Attorney