



**CITY OF CORNING
PLANNING COMMISSION AGENDA
TUESDAY, FEBRUARY 17, 2009
CITY COUNCIL CHAMBERS
794 THIRD STREET**

A. CALL TO ORDER: at 6:30 p.m.

B. ROLL CALL:

Commissioners: Robertson
Reilly
Lopez
Hatley
Armstrong

D. BUSINESS FROM THE FLOOR: If there is anyone in the audience wishing to speak on items not already set on the Agenda, please come to the podium, give your name and address, and briefly identify the matter you wish to have placed on the Agenda. The Commission will then determine if such matter will be placed on the Agenda for this meeting, scheduled for a subsequent meeting, or recommend other appropriate action. If the matter is placed on tonight's Agenda, you will have the opportunity later in the meeting to return to the podium to discuss the issue. The law prohibits the Commission from taking formal action on the issue, however, unless it is placed on the Agenda for a later meeting so that interested members of the public will have a chance to appear and speak on the subject.

E. PUBLIC HEARINGS AND MEETINGS: Any person may speak on items scheduled for hearing at the time the Chairman declares the Hearing open. **ALL LEGAL NOTICES PUBLISHED IN ACCORDANCE WITH LAW.**

F. REGULAR AGENDA: All items listed below are in the order which we believe are of most interest to the public at this meeting. However, if anyone in the audience wishes to have the order of the Agenda changed, please come to the podium, state your name and address, and explain the reason you are asking for the order of the Agenda to be changed.

1. Study Matter No. 2009-1: Discussion of a possible Ordinance amending the Zoning Regulations to include a Chapter regulating the cultivation of Medical Marijuana and prohibiting the establishment of a Medical Marijuana Dispensary in the City of Corning.

2. Study Matter No. 2009-2: Discussion of amending Section 16.18.010(C) of the Corning Municipal Code as mandated by Senate Bill No. 1185 approved by the Governor on July 15, 2008.

G. ITEMS PLACED ON THE AGENDA FROM THE FLOOR:

H. ADJOURNMENT:

POSTED: FRIDAY, FEBRUARY 13, 2009

ITEM NO. F-1

**STUDY MATTER NO. 2009-1;
DISCUSS WITH STAFF AN ORDINANCE
THAT WOULD AMEND THE ZONING
REGULATIONS TO INCLUDE A CHAPTER
THAT REGULATES THE CULTIVATION OF
MEDICAL MARIJUANA AND PROHIBITS
THE ESTABLISHMENT OF A MEDICAL
MARIJUANA DISPENSARY IN THE CITY OF
CORNING.**

February 17, 2009

TO: PLANNING COMMISSION OF THE CITY OF CORNING

FROM: JOHN STOUFER; PLANNING DIRECTOR

SUMMARY: Staff would like to discuss, and ask for direction from the Commission, regarding the establishment of zoning regulations that would regulate the cultivation of medical marijuana including regulations that would prohibit the establishment of a medical marijuana dispensary in any zoning district within the city limits.

Staff feels that with the recent death of a man in Los Molinos, previous complaints of strong odors produced by the plants, and inquiries about the possibility of establishing a medical marijuana dispensary in the city, regulations should be established to prevent possible violent situations and odor related complaints associated with the cultivation of medical marijuana. Additionally, the establishment of a medical marijuana dispensary could lead to the distribution of marijuana for non-medical use.

Attached as Exhibit "A" is Chapter 17.66, and Exhibit "B" Chapter 17.65 from the City of Gridley's Zoning Code that established regulations relating to the cultivation of marijuana and the establishment of a marijuana dispensary. These regulations have been distributed to the City's staff for review and comment on how applicable and enforceable they are.

ACTION: Direct staff to prepare draft regulations relating to the cultivation of medical marijuana and prohibiting the establishment of a medical marijuana dispensary within any Zoning District in the City of Corning.

Or;

Take no action at this time.

EXHIBIT "A"

ORDINANCE No. 779-2008

AN ORDINANCE OF THE CITY COUNCIL OF GRIDLEY AMENDING
ZONING REGULATIONS TO INCLUDE CHAPTER 17.66
"SPECIAL SITUATIONS" REGULATING
THE CULTIVATION OF MEDICINAL
MARIJUANA

WHEREAS, the State of California approved Proposition 215 "The Compassionate Use Act of 1996" (Health and Safety Code Section 11362.5), which was to enable persons who are in need of marijuana for medical purposes; and

WHEREAS, the State also enacted SB 420 in 2004 (Health and Safety Code Section 11362.7 et seq.) to clarify the scope of The Compassionate Use Act to allow local governing bodies to adopt and enforce rules and regulations consistent with SB 420; and

WHEREAS, under the Controlled Substances Act, the use, possession and cultivation of medicinal marijuana are unlawful and subject to federal prosecution without regard to a claimed medical need; and

WHEREAS, marijuana plants, as they begin to flower and for a period of two months or more during the growing season (August through October for outdoor cultivation), produce an extremely strong odor, offensive to many people, and detectable far beyond property boundaries; and

WHEREAS, the City has received numerous complaints of odor related to the growing of medicinal marijuana in residential neighborhoods; and

WHEREAS, in the case of multiple qualified patients who are in control of the same legal parcel of property, or in the case of a caregiver growing for numerous patients, a very large number of plants could be grown on the same legal parcel in Gridley; and

WHEREAS, the strong smell of marijuana creates an attractive nuisance, alerting persons to the location of the valuable plants, and creating a risk of burglary, robbery and armed robbery; and

WHEREAS, it is the purpose and intent of this ordinance to implement state law by providing a means for regulation the cultivation of medicinal marijuana in a manner that is consistent with state law and balances the needs of medical patients and their caregivers and promotes the health, safety, morals and general welfare of the residents and businesses within the

City of Gridley. Nothing in this ordinance shall be constructed to allow the use of marijuana (cannabis) for non-medical purposes, or allow any activity relating to the cultivation, distribution, or consumption of marijuana that is otherwise illegal: and

WHEREAS, the potential adverse secondary effects of allowing the cultivation of medicinal marijuana present a clear and present danger to the immediate preservation of the public peace, health, and safety of the community because currently the City has no rules or regulations governing the cultivation of medical marijuana; and

WHEREAS, Zoning Amendment No. 1-08 both complies with applicable state law, as well as imposes reasonable rules and regulations protecting the public health, safety and welfare of Gridley residents and businesses; and

WHEREAS, Zoning Amendment No. 1-08 has been found to be categorically exempt from environmental review pursuant to CEQA guidelines Section 15305 – Minor alterations in land use; and

WHEREAS, the Planning Commission and City Council considered the adoption of Zoning Amendment No. 1-08 at a publicly noticed hearing on May 19, 2008 and received no negative input from the community.

* * * * *

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF GRIDLEY to recommend that Gridley City Council should amend zoning regulations to add Chapter 17.66 to read as follows:

CHAPTER 17.66 SPECIAL SITUATIONS (NEW CHAPTER)

- 17.66.010 Definitions**
- 17.66.020 Cultivation of Marijuana**
- 17.66.030 Enforcement**

17.66.010 Definitions. Definitions: As used herein the following definitions shall apply:

A. **CULTIVATION:** The planting, growing, harvesting, drying, or processing of marijuana plants or any part thereof.

B. **FULLY ENCLOSED AND SECURE STRUCTURE:** A space within a building that complies with the California building code, as adopted in the city of Gridley, or, if exempt from permit requirements, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, a foundation, slab or equivalent base to which the floor is secured by bolts or

similar attachments, is secure against unauthorized entry, and is accessible only through one or more lockable doors. Walls and roofs must be constructed of solid materials that cannot be easily broken through, such as two inch by four inch (2" x 4") or thicker studs overlaid with three-eighths inch (3/8") or thicker plywood or the equivalent. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement. If indoor grow lights or air filtration systems are used, they must comply with the California building, electrical, and fire codes as adopted in the city of Gridley.

C. IMMATURE MARIJUANA PLANT: A marijuana plant, whether male or female, that has not yet flowered and which does not yet have buds that are readily observed by unaided visual examination.

D. INDOORS: Within a fully enclosed and secure structure.

E. MATURE MARIJUANA PLANT: A marijuana plant, whether male or female, that has flowered and which has buds that are readily observed by unaided visual examination.

F. OUTDOOR: Any location within the city of Gridley that is not within a fully enclosed and secure structure.

G. PARCEL: Property assigned a separate parcel number by the Butte County assessor.

H. PRIMARY CAREGIVER: A "primary caregiver" as defined in Health and Safety Code section 11362.7(d).

I. QUALIFIED PATIENT: A "qualified patient" as defined in Health and Safety Code section 11362.7(f).

17.66.020. Cultivation of Marijuana:

A. Outdoor Cultivation: It is hereby declared to be unlawful and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any parcel within any zoning district in the city of Gridley to cause or allow such premises to be used for the outdoor cultivation of marijuana plants.

B. Indoor Cultivation In Residential Zoning Districts: It is hereby declared to be unlawful and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any parcel within any residential zoning district (R-1, R-2, R-3, R-S and MUCZ districts) in the city of Gridley to cause or allow such parcel to be used for the cultivation of more than twelve (12) mature and twenty four (24) immature marijuana plants within a fully enclosed and secure structure on the parcel.

C. Indoor Cultivation Of Marijuana Restricted To Qualified Patients And Primary Caregivers: It is hereby declared to be unlawful and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any parcel within the city of Gridley to cause or allow such parcel to be used for the cultivation of marijuana, unless the person is a qualified patient or primary caregiver, growing the amount of marijuana per qualified patient authorized by Health and Safety Code section 11362.77(a) - (b) and (d) - (f), not to exceed the per parcel limit in subsection B of this section.

D. Public Nuisance Prohibited: It is hereby declared to be unlawful and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any parcel within the city of Gridley to create a public nuisance in the course of cultivating marijuana plants or any part thereof in any location, indoor or outdoor. A public nuisance may be deemed to exist, if such activity produces: a) odors which are disturbing to people of normal sensitivity residing or present on adjacent or nearby property or areas open to the public, b) repeated responses to the parcel from law

enforcement officers, c) a repeated disruption to the free passage of persons or vehicles in the neighborhood, d) excessive noise which is disturbing to people of normal sensitivity on adjacent or nearby property or areas open to the public, or e) any other impacts on the neighborhood which are disruptive of normal activity in the area.

17.66.030 Enforcement:

A. Public Nuisance: The violation of this section is hereby declared to be a public nuisance.

B. Abatement: A violation of this section may be abated by the city attorney by the prosecution of a civil action for injunctive relief and by the summary abatement procedure set forth in subsection C of this section.

C. Summary Abatement Procedure:

a. The code enforcement officer and the community development director, or his or her designee (hereafter, the "enforcement official"), are hereby authorized to order the abatement of any violation of this section by issuing a notice to abate. The notice shall:

(1) Describe the location of and the specific conditions which represent a violation of this section and the actions required to abate the violation.

(2) Describe the evidence relied upon to determine that a violation exists, provided that the enforcement official may withhold the identity of a witness to protect the witness from injury or harassment, if such action is reasonable under the circumstances.

(3) State the date and time by which the required abatement actions must be completed.

(4) State that to avoid the civil penalty provided in subsection C.a.(8) of this section and further enforcement action, the enforcement official must receive consent to inspect the premises where the violation exists to verify that the violation has been abated by the established deadline.

(5) State that the owner or occupant of the property where the violation is located has a right to appeal the notice by filing a written notice of appeal with the city clerk by no later than three (3) business days from the service of the notice. The notice of appeal must include an address, telephone number, fax number, if available, and e-mail address, if available. The city may rely on any of these for service or notice purposes. If an adequate written appeal is timely filed, the owner or occupant will be entitled to a hearing as provided in subsection E. of this section.

(6) State that the order to abate the violation becomes final if a timely appeal is not filed or upon the issuance of a written decision after the appeal hearing is conducted in accordance with subsection E. of this section.

(7) State that a final order of abatement may be enforced by application to the superior court for an inspection and/or abatement warrant or other court order.

(8) State that a final order to abate the nuisance will subject the property owner and the occupant to a civil penalty of five hundred dollars (\$500.00) for each day that the violation continues after the date specified in the notice under subsection C.a.(3) of this section, when the violation must be abated. The penalty may be recovered through an ordinary civil action, or in connection with an application for an inspection or nuisance abatement warrant.

(9) State that in any administrative or court proceeding to enforce the abatement order the prevailing party is entitled to recover reasonable attorney fees from the other party or parties to the action, if the city elects, at the initiation of an individual action or proceeding, to seek recovery of its own attorney fees. In no action, administrative proceeding, or special proceeding shall an award of attorney fees to a prevailing party exceed the amount of reasonable attorney fees incurred by the city in the action or proceeding.

D. The notice described in subsection C.a. of this section shall be served in the same manner as summons in a civil action in accordance with article 3 (commencing with section 415.10) of chapter 4 of title 5 of part 2 of the Code of Civil Procedure, or by certified mail, return receipt requested, at the option of the city. If the owner of record, after diligent search cannot be found, the notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of ten (10) days and publication thereof in a newspaper of general circulation pursuant to Government Code section 6062.

E. Not sooner than five (5) business days after a notice of appeal is filed with the city clerk, a hearing shall be held before the city administrator or a hearing officer designated by the city administrator to hear such appeals. The appellant shall be given notice of the date, time and place of the hearing not less than five (5) days in advance. The notice may be given by telephone, fax, e-mail, personal service or posting on the property. At the hearing, the enforcement official shall present evidence of the violation, which may include, but is not limited to, incident and police reports, witness statements, photographs, and the testimony of witnesses. The property owner and the occupant of the property where the violation is alleged to exist shall have the right to present evidence and argument in their behalf and to examine and cross examine witnesses. The property owner and property occupant are entitled at their own expense to representation of their choice. At the conclusion of the hearing, the city administrator or hearing officer shall render a written decision which may be served by regular first class mail on the appellants.

F. A final order to abate the nuisance will subject the property owner or owners and any occupant or occupants of the property who are cultivating marijuana in violation of this section to a civil penalty of five hundred dollars (\$500.00) for each day that the violation continues after the date specified in the notice under subsection C.a.(3) of this section, when the violation must be abated. The enforcement official or the city administrator or hearing officer hearing an appeal pursuant to subsection C.a.(5) of this section may reduce the daily rate of the civil penalty for good cause. The party subject to the civil penalty shall have the burden of establishing good cause, which may include, but is not limited to, a consideration of the nature and severity of the violation, whether it is a repeat offense, the public nuisance impacts caused by the violation, and the violator's ability to pay. The daily penalty shall continue until the violation is abated. The penalty may be recovered through an ordinary civil action, or in connection with an application for an inspection or nuisance abatement warrant.

G. Violation: Cultivation of marijuana on parcels within the city that does not comply with this section constitutes a violation of the zoning ordinance and is subject to the penalties and enforcement as provided in subsections C.a.(8) and F. of this chapter.

H. Penalties Not Exclusive: The remedies and penalties provided herein are cumulative, alternative and nonexclusive. The use of one does not prevent the use of any others and none of these penalties and remedies prevent the city from using any other remedy at law or in equity which may be available to enforce this section or to abate a public nuisance.

I HEREBY CERTIFY that the foregoing Ordinance was introduced for first reading at a regular meeting of the City Council on May 19, 2008, and was thereafter passed and adopted at a regular meeting of the City Council of the City of Gridley held on the 2nd of June, 2008, by the following vote, to wit:

AYES:	COUNCIL MEMBERS	<u>Mota, Sparks, Johnson, Hall, Fichter</u>
NOES:	COUNCIL MEMBERS	<u>None</u>
ABSENT:	COUNCIL MEMBERS	<u>None</u>
ABSTAIN:	COUNCIL MEMBERS	<u>None</u>
ATTEST:		APPROVE:

ACTING CITY CLERK,

MAYOR, Jerry Ann Fichter

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Gridley, CA Code of Ordinances

TITLE 17 ZONING

Chapter 17.65 PROHIBITING MEDICAL MARIJUANA DISPENSARY

Chapter 17.65 PROHIBITING MEDICAL MARIJUANA DISPENSARY

- [17.65.010](#) Definition of a medical marijuana dispensary
- [17.65.020](#) Not an allowable use
- [17.65.030](#) Use is not a home occupation
- [17.65.040](#) Applicability

17.65.010 Definition of a medical marijuana dispensary.

"Medical Marijuana Dispensary" or "Dispensary" means any facility or location where medical marijuana is made available to and/or distributed by or to three or more of the following; a primary caregiver, a qualified patient, or a person with an identification card, in strict accordance with California Health and Safety Code Section 11362.5 et seq. A "medical marijuana dispensary" shall not include the following uses, as long as the location of such uses area otherwise regulated by this code or applicable law; a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code, a health care facility license pursuant to Chapter 2 of Division 2 of the Health and Safety Code, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of the Division 2 of the Health and Safety Code, a residential care facility for the elderly licensed pursuant to Chapter 3.2 of the Division 2 of the Health and Safety Code, a residential hospice, or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code, as long as any such use complies strictly with applicable law including, but not limited to, Health and Safety Code § 11362.5 et seq.

(Ord. 737, 2004)

17.65.020 Not an allowable use.

A medical marijuana dispensary is not an allowable use within any district of the City of Gridley.

(Ord. 737, 2004)

17.65.030 Use is not a home occupation.

A medical marijuana dispensary is not permitted as a home occupation in any district within the City of Gridley.

(Ord. 737, 2004)

17.65.040 Applicability.

This chapter becomes applicable when medical marijuana dispensaries become legal under federal and state law.

(Ord. 737, 2004)

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ITEM NO. F-2

**STUDY MATTER NO. 2009-2;
DISCUSS WITH STAFF AMENDING
SECTION 16.18.010 (C) OF THE CORNING
MUNICIPAL CODE AS MANDATED BY
SENATE BILL No. 1185, APPROVED BY
THE GOVERNOR ON JULY 15, 2008.**

February 17, 2009

TO: PLANNING COMMISSION OF THE CITY OF CORNING

FROM: JOHN STOUFER; PLANNING DIRECTOR

SUMMARY:

On July 15, 2008 the Governor signed into legislation Senate Bill No. 1185, an act to amend Sections 66452.6 and 66463.5 of, to add Section 66452.21 to, and to amend and renumber Sections 66452.11 and 66452.12 of, the Government Code, relating to land use, and declaring the urgency thereof, to take effect immediately.

The Subdivision Map Act provides that when a tentative map is required, an approved or conditionally approved tentative map must expire 24 months after its approval or conditional approval, or after any additional time period as prescribed by local ordinance, not to exceed an additional 12 months. Section 16.18.010 (A) of the Corning Municipal Code (CMC) states that, "*an approved or conditionally approved tentative map shall expire twenty-four months after its approval or conditional approval.*" The CMC does not provide for an additional 12 months as an option.

Section 66452.21 (a) added by SB 1185 reads as follows, "*The expiration date of any tentative or vesting tentative subdivision map or parcel map for which a tentative or vesting tentative map, as the case may be, has been approved that has not expired on the date that the act that added this section became effective and that will expire before January 1, 2011, shall be extended by 12 months.*" This section automatically extended the life of 8 different tentative subdivision maps within the city.

Section 16.18.010 (C) of the CMC allows a subdivider, prior to the expiration of a tentative map, to file for an extension of the tentative map for a period or periods not exceeding two years. SB 1185 allows the subdivider to file an application to extend the time at which the map will expire for a period or periods not to exceed a total of 6 years. By adding to the procedures officials in counties and cities must follow the bill imposed a state-mandated local program.

To comply with the state mandated requirements established by SB 1185 staff feels that it would be appropriate to amend Section 16.18.010 (C) of the CMC allowing the extension of tentative maps for two year periods not to exceed six years total.

ACTION

Discuss amending Section 16.18.010 (C) of the CMC and direct staff to bring an ordinance back to the Commission that reflects amendments deemed appropriate by the Commission.

ATTACHMENTS

- | | |
|--------------------|-------------------------------------|
| EXHIBIT "A" | SECTION 16.18.010 OF THE CMC |
| EXHIBIT "B" | SENATE BILL No. 1185 |
| EXHIBIT "C" | RESIDENTIAL PROJECT LIST |
| EXHIBIT "D" | LETTER FROM TOM KAYE |

EXHIBIT "A" 16.18.010--16.18.030

Sections: (Continued)

- 16.18.170 Preparation of maps--Certificate regarding tax lien.
- 16.18.180 Preparation of maps--Other documents.
- 16.18.190 Action on final map by city engineer.
- 16.18.200 Approval by city council.
- 16.18.210 Public improvement agreement.
- 16.18.220 Disapproval by city council.
- 16.18.230 Recordation.
- 16.18.240 Amending maps after recordation.

16.18.010 Filing final map. A. An approved or conditionally approved tentative map shall expire twenty-four months after its approval or conditioned approval.

B. The expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no final map or parcel map of all or any portion of the real property included within the tentative map shall be filed without first processing a new tentative map.

C. Upon application of the subdivider filed prior to the expiration of the approved or conditionally approved tentative map, the time at which the map expires may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or periods not exceeding a total of two years. If the advisory agency denies a subdivider's application for extension, the subdivider may appeal to the legislative body within fifteen days after the advisory agency has denied the extension. (Ord. 550 (part), 1994).

16.18.020 Fees. At the time of filing of the final or parcel map, the subdivider shall pay a filing fee to the planning department. Said fee shall be prescribed by resolution of the city council. (Ord. 550 (part), 1994).

16.18.030 Data to accompany final map. Prior to or at the time of submitting the final or parcel map to the planning department, the subdivider shall submit therewith the following documents:

A. Traverse Sheets. Calculation and traverse sheets in a form approved by the city engineer giving bearings and distance and coordinates of the boundary of the subdivision and blocks and lots therein shown on the final or parcel map;

B. Public Improvement Plans. The original tracings of detailed plans, cross-sections and profiles of public street improvements and of all other improvements proposed to be installed as required by the provisions of this title and of all other improvements proposed to be installed by the subdivider in, on, over or under any street, right-of-way, easement or parcel of land dedicated by the map or

EXHIBIT "B"

Senate Bill No. 1185

CHAPTER 124

An act to amend Sections 66452.6 and 66463.5 of, to add Section 66452.21 to, and to amend and renumber Sections 66452.11 and 66452.12 of, the Government Code, relating to land use, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 15, 2008. Filed with
Secretary of State July 15, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1185, Lowenthal. Land use: subdivision maps.

(1) The Subdivision Map Act establishes a statewide regulatory framework for controlling the subdividing of land. It generally requires a subdivider to submit, and have approved by, the city, county, or city and county in which the land is situated a tentative or vesting tentative map, which confers a vested right to proceed with development in substantial compliance with specified ordinances, policies, and standards. The act provides for the expiration of tentative or vesting tentative maps, after specified periods of time, and specifically extends by 12 months the expiration date of any tentative or vesting tentative map or parcel map for which a tentative or vesting tentative map has been approved that had not expired on May 15, 1996. This extension is in addition to any other extension of the expiration date provided for in specified provisions of the act. Any legislative, administrative, or other approval by any local agency, state agency, or other political subdivision of the state that pertains to a development project included in a map that is extended is to be extended by 12 months under specified conditions.

This bill would extend the applicable expiration date to 12 months, as specified, for any vesting tentative map, in addition to a tentative map, generally, that has not expired as of the date adding these provisions and that will expire, as specified, before January 1, 2011. By adding to the procedures officials in counties, cities, and cities and counties must follow, this bill would impose a state-mandated local program.

(2) The Subdivision Map Act provides that when a tentative map is required, an approved or conditionally approved tentative map must expire 24 months after its approval or conditional approval, or after any additional time period as prescribed by local ordinance, not to exceed an additional 12 months. A subdivider may file with the appropriate legislative body, prior to the expiration of the approved or conditionally approved tentative map, an application to extend the time at which the map will expire for a period or periods not to exceed a total of 5 years.

This bill instead would allow the subdivider to file an application to extend the time at which the map will expire for a period or periods not to exceed a total of 6 years. By adding to the procedures officials in counties, cities, and cities and counties must follow, this bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 66452.6 of the Government Code is amended to read:

66452.6. (a) (1) An approved or conditionally approved tentative map shall expire 24 months after its approval or conditional approval, or after any additional period of time as may be prescribed by local ordinance, not to exceed an additional 12 months. However, if the subdivider is required to expend one hundred seventy-eight thousand dollars (\$178,000) or more to construct, improve, or finance the construction or improvement of public improvements outside the property boundaries of the tentative map, excluding improvements of public rights-of-way which abut the boundary of the property to be subdivided and which are reasonably related to the development of that property, each filing of a final map authorized by Section 66456.1 shall extend the expiration of the approved or conditionally approved tentative map by 36 months from the date of its expiration, as provided in this section, or the date of the previously filed final map, whichever is later. The extensions shall not extend the tentative map more than 10 years from its approval or conditional approval. However, a tentative map on property subject to a development agreement authorized by Article 2.5 (commencing with Section 65864) of Chapter 4 of Division 1 may be extended for the period of time provided for in the agreement, but not beyond the duration of the agreement. The number of phased final maps that may be filed shall be determined by the advisory agency at the time of the approval or conditional approval of the tentative map.

(2) Commencing January 1, 2005, and each calendar year thereafter, the amount of one hundred seventy-eight thousand dollars (\$178,000) shall be annually increased by operation of law according to the adjustment for inflation set forth in the statewide cost index for class B construction, as determined by the State Allocation Board at its January meeting. The effective date of each annual adjustment shall be March 1. The adjusted amount shall apply to tentative and vesting tentative maps whose applications were received after the effective date of the adjustment.

(3) "Public improvements," as used in this subdivision, include traffic controls, streets, roads, highways, freeways, bridges, overcrossings, street interchanges, flood control or storm drain facilities, sewer facilities, water facilities, and lighting facilities.

(b) (1) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include any period of time during which a development moratorium, imposed after approval of the tentative map, is in existence. However, the length of the moratorium shall not exceed five years.

(2) The length of time specified in paragraph (1) shall be extended for up to three years, but in no event beyond January 1, 1992, during the pendency of any lawsuit in which the subdivider asserts, and the local agency which approved or conditionally approved the tentative map denies, the existence or application of a development moratorium to the tentative map.

(3) Once a development moratorium is terminated, the map shall be valid for the same period of time as was left to run on the map at the time that the moratorium was imposed. However, if the remaining time is less than 120 days, the map shall be valid for 120 days following the termination of the moratorium.

(c) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include the period of time during which a lawsuit involving the approval or conditional approval of the tentative map is or was pending in a court of competent jurisdiction, if the stay of the time period is approved by the local agency pursuant to this section. After service of the initial petition or complaint in the lawsuit upon the local agency, the subdivider may apply to the local agency for a stay pursuant to the local agency's adopted procedures. Within 40 days after receiving the application, the local agency shall either stay the time period for up to five years or deny the requested stay. The local agency may, by ordinance, establish procedures for reviewing the requests, including, but not limited to, notice and hearing requirements, appeal procedures, and other administrative requirements.

(d) The expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no final map or parcel map of all or any portion of the real property included within the tentative map shall be filed with the legislative body without first processing a new tentative map. Once a timely filing is made, subsequent actions of the local agency, including, but not limited to, processing, approving, and recording, may lawfully occur after the date of expiration of the tentative map. Delivery to the county surveyor or city engineer shall be deemed a timely filing for purposes of this section.

(e) Upon application of the subdivider filed prior to the expiration of the approved or conditionally approved tentative map, the time at which the map expires pursuant to subdivision (a) may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or periods not exceeding a total of six years. The period of extension specified in this subdivision shall be in

addition to the period of time provided by subdivision (a). Prior to the expiration of an approved or conditionally approved tentative map, upon an application by the subdivider to extend that map, the map shall automatically be extended for 60 days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first. If the advisory agency denies a subdivider's application for an extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.

(f) For purposes of this section, a development moratorium includes a water or sewer moratorium, or a water and sewer moratorium, as well as other actions of public agencies which regulate land use, development, or the provision of services to the land, including the public agency with the authority to approve or conditionally approve the tentative map, which thereafter prevents, prohibits, or delays the approval of a final or parcel map. A development moratorium shall also be deemed to exist for purposes of this section for any period of time during which a condition imposed by the city or county could not be satisfied because of either of the following:

(1) The condition was one that, by its nature, necessitated action by the city or county, and the city or county either did not take the necessary action or by its own action or inaction was prevented or delayed in taking the necessary action prior to expiration of the tentative map.

(2) The condition necessitates acquisition of real property or any interest in real property from a public agency, other than the city or county that approved or conditionally approved the tentative map, and that other public agency fails or refuses to convey the property interest necessary to satisfy the condition. However, nothing in this subdivision shall be construed to require any public agency to convey any interest in real property owned by it. A development moratorium specified in this paragraph shall be deemed to have been imposed either on the date of approval or conditional approval of the tentative map, if evidence was included in the public record that the public agency which owns or controls the real property or any interest therein may refuse to convey that property or interest, or on the date that the public agency which owns or controls the real property or any interest therein receives an offer by the subdivider to purchase that property or interest for fair market value, whichever is later. A development moratorium specified in this paragraph shall extend the tentative map up to the maximum period as set forth in subdivision (b), but not later than January 1, 1992, so long as the public agency which owns or controls the real property or any interest therein fails or refuses to convey the necessary property interest, regardless of the reason for the failure or refusal, except that the development moratorium shall be deemed to terminate 60 days after the public agency has officially made, and communicated to the subdivider, a written offer or commitment binding on the agency to convey the necessary property interest for a fair market value, paid in a reasonable time and manner.

SEC. 2. Section 66452.11 of the Government Code, as added by Section 6 of Chapter 612 of the Statutes of 2007, is amended and renumbered to read:

66452.14 (a) Pursuant to the provisions of subparagraph (E) of paragraph (2) of subdivision (a) of Section 66427.1, the subdivider shall give written notice of the intent to convert 180 days prior to the termination of tenancy in the form outlined in subdivision (b), to each tenant of the subject property.

(b) The notice shall be as follows:

“To the occupant(s) of

_____ :
(address)

The owner(s) of this building, at (address), plans to convert this building to a (condominium, community apartment, or stock cooperative project). This is a notice of the owner’s intention to convert the building to a (condominium, community apartment, or stock cooperative project).

A tentative map to convert the building to a (condominium, community apartment, or stock cooperative project) was approved by the City on _____. If the City approves a final map, you may be required to vacate the premises, but that cannot happen for at least 180 days from the date this notice was served upon you.

Any future notice given to you to terminate your tenancy because of the conversion cannot be effective for at least 180 days from the date this notice was served upon you. This present notice is not a notice to terminate your tenancy; it is not a notice that you must now vacate the premises.

(signature of owner or owner’s agent)

(date)”

The written notices to tenants required by this section shall be deemed satisfied if such notices comply with the legal requirements for service by mail.

SEC. 3. Section 66452.12 of the Government Code, as added by Section 7 of Chapter 612 of the Statutes of 2007, is amended and renumbered to read:

66452.15 (a) Pursuant to subparagraph (F) of paragraph (2) of subdivision (a) of Section 66427.1, the subdivider shall give written notice within five days after receipt of the subdivision public report to each tenant of his or her exclusive right for at least 90 days after issuance of the subdivision public report to contract for the purchase of his or her respective unit in the form outlined in subdivision (b).

(b) The notice shall be as follows:

“To the occupant(s) of

_____ :
(address)

The owner(s) of this building, at (address), have received the final subdivision report on the proposed conversion of this building to a (condominium, community apartment, or stock cooperative project). Commencing on the date of issuance of the subdivision public report, you have the exclusive right for 90 days to contract for the purchase of your rental unit upon the same or more favorable terms and conditions than the unit will initially be offered to the general public.

(signature of owner or owner's agent)

(date)"

The written notices to tenants required by this section shall be deemed satisfied if the notices comply with the legal requirements for service by mail.

SEC. 4. Section 66452.21 is added to the Government Code, to read:

66452.21. (a) The expiration date of any tentative or vesting tentative subdivision map or parcel map for which a tentative or vesting tentative map, as the case may be, has been approved that has not expired on the date that the act that added this section became effective and that will expire before January 1, 2011, shall be extended by 12 months.

(b) The extension provided by subdivision (a) shall be in addition to any extension of the expiration date provided for in Section 66452.6, 66452.11, 66452.13, or 66463.5.

(c) Any legislative, administrative, or other approval by any state agency that pertains to a development project included in a map that is extended pursuant to subdivision (a) shall be extended by 12 months if this approval has not expired on the date that the act that added this section became effective. This extension shall be in addition to any extension provided for in Section 66452.13.

(d) For purposes of this section, the determination of whether a tentative subdivision map or parcel map expires before January 1, 2011, shall count only those extensions of time pursuant to subdivision (e) of Section 66452.6 or subdivision (e) of Section 66463.5 approved on or before the date that the act that added this section became effective and any additional time in connection with the filing of a final map pursuant to subdivision (a) of Section 66452.6 for a map that was recorded on or before the date that the act that added this section became effective. The determination shall not include any development moratorium or litigation stay allowed or permitted by Section 66452.6 or 66463.5.

SEC. 5. Section 66463.5 of the Government Code is amended to read:

66463.5. (a) When a tentative map is required, an approved or conditionally approved tentative map shall expire 24 months after its approval or conditional approval, or after any additional period of time as may be prescribed by local ordinance, not to exceed an additional 12 months.

(b) The expiration of the approved or conditionally approved tentative map shall terminate all proceedings, and no parcel map of all or any portion of the real property included within the tentative map shall be filed without first processing a new tentative map. Once a timely filing is made, subsequent actions of the local agency, including, but not limited to, processing, approving, and recording, may lawfully occur after the date of expiration of the tentative map. Delivery to the county surveyor or city engineer shall be deemed a timely filing for purposes of this section.

(c) Upon application of the subdivider filed prior to the expiration of the approved or conditionally approved tentative map, the time at which the map expires may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or periods not exceeding a total of six years. Prior to the expiration of an approved or conditionally approved tentative map, upon the application by the subdivider to extend that map, the map shall automatically be extended for 60 days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first. If the advisory agency denies a subdivider's application for an extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.

(d) (1) The period of time specified in subdivision (a) shall not include any period of time during which a development moratorium, imposed after approval of the tentative map, is in existence. However, the length of the moratorium shall not exceed five years.

(2) Once a moratorium is terminated, the map shall be valid for the same period of time as was left to run on the map at the time that the moratorium was imposed. However, if the remaining time is less than 120 days, the map shall be valid for 120 days following the termination of the moratorium.

(e) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (c), shall not include the period of time during which a lawsuit involving the approval or conditional approval of the tentative map is, or was, pending in a court of competent jurisdiction, if the stay of the time period is approved by the local agency pursuant to this section. After service of the initial petition or complaint in the lawsuit upon the local agency, the subdivider may apply to the local agency for a stay pursuant to the local agency's adopted procedures. Within 40 days after receiving the application, the local agency shall either stay the time period for up to five years or deny the requested stay. The local agency may, by ordinance, establish procedures for reviewing the requests, including, but not limited to, notice and hearing requirements, appeal procedures, and other administrative requirements.

(f) For purposes of this section, a development moratorium shall include a water or sewer moratorium or a water and sewer moratorium, as well as other actions of public agencies that regulate land use, development, or the provision of services to the land, including the public agency with the authority to approve or conditionally approve the tentative map, which thereafter prevents, prohibits, or delays the approval of a parcel map.

(g) Notwithstanding subdivisions (a), (b), and (c), for the purposes of Chapter 4.5 (commencing with Section 66498.1), subdivisions (b), (c), and (d) of Section 66498.5 shall apply to vesting tentative maps prepared in connection with a parcel map except that, for purposes of this section, the time periods specified in subdivisions (b), (c), and (d) of Section 66498.5 shall be determined from the recordation of the parcel map instead of the final map.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

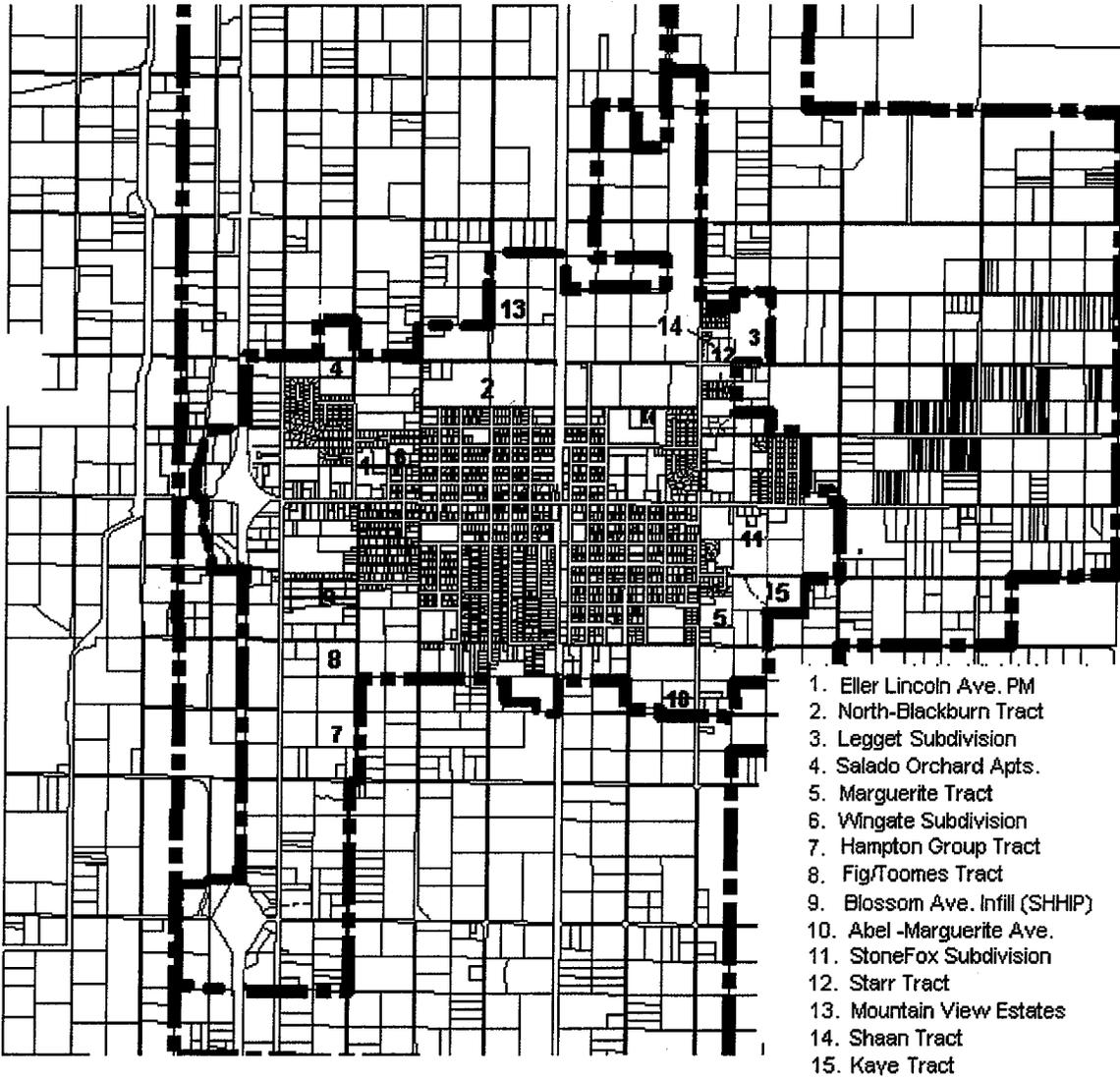
SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to permit cities, counties, and a city and county to preserve development applications that are set to expire and that cannot be processed presently due to prevailing adverse economic conditions in the construction industry, it is necessary that this act take immediate effect.

CITY OF CORNING
CURRENT RESIDENTIAL PROJECT LIST
MARCH 1, 2008



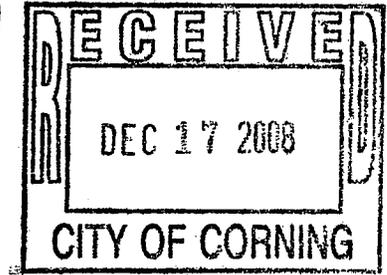
EXHIBIT "C"



1. Eller Lincoln Ave. PM
2. North-Blackburn Tract
3. Legget Subdivision
4. Salado Orchard Apts.
5. Marguerite Tract
6. Wingate Subdivision
7. Hampton Group Tract
8. Fig/Toomes Tract
9. Blossom Ave. Infill (SHHIP)
10. Abel -Marguerite Ave.
11. StoneFox Subdivision
12. Starr Tract
13. Mountain View Estates
14. Shaan Tract
15. Kaye Tract

EXHIBIT "D"

TOM KAYE
4181 Buoy Ln
Chico, CA 95928



Date: December 17, 2008

CITY OF CORNING
Attn: John Stoufer

RE: Tentative Map on Carona

John,

Please accept this letter as my request to have my tentative map w/35 lots on Carona Ave., extended from the current 2 year term to a 6 year time frame, due to the recent economy. I have enclosed a copy of my assessors parcel map for your reference.

Please feel free to contact me with any questions.

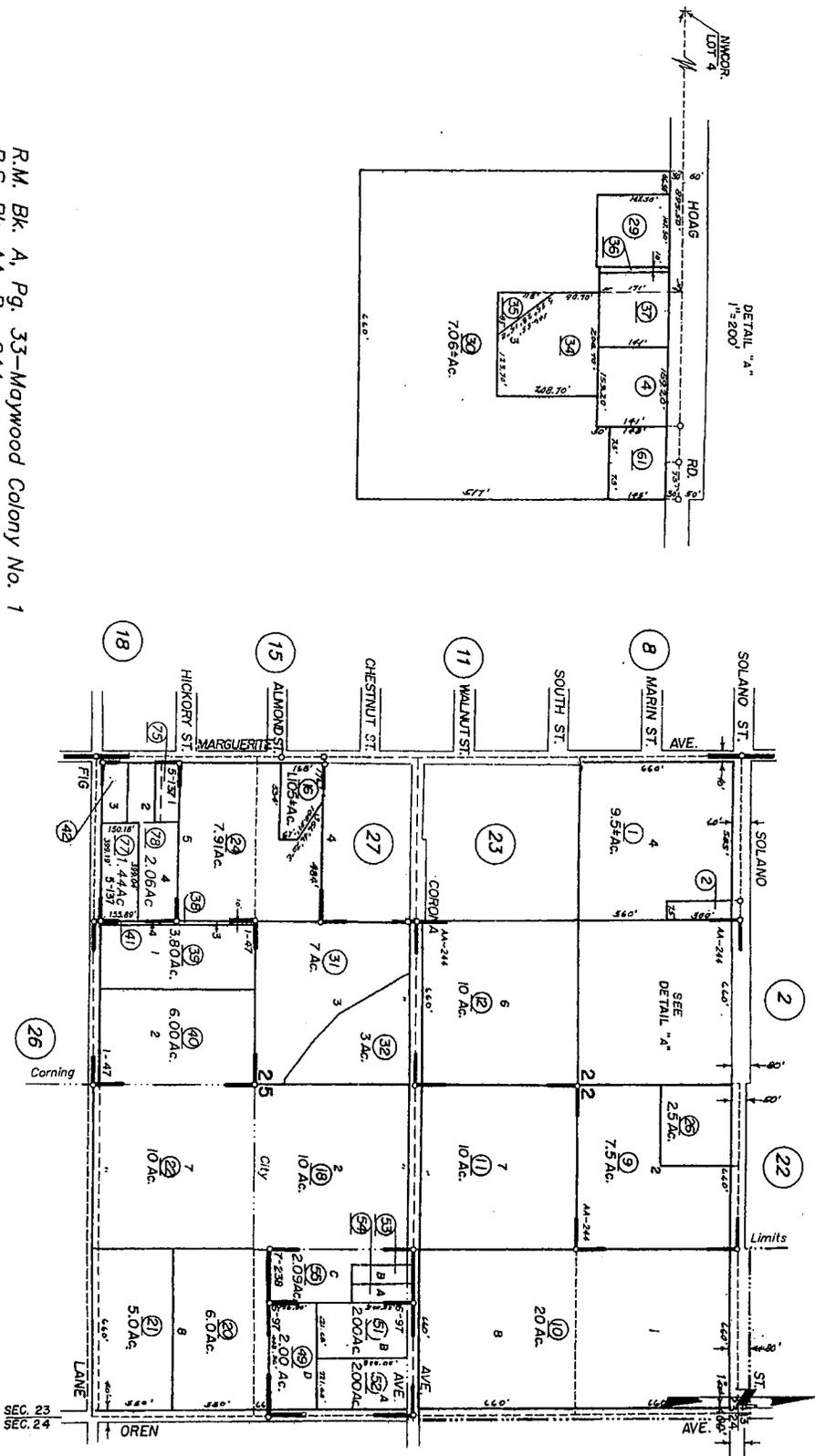
Sincerely,

A handwritten signature in black ink, appearing to read "Tom Kaye". The signature is written in a cursive, slightly slanted style.

Tom Kaye
Owner

SUBDIVIDED LAND IN NE1/4 SEC. 23, T.24N., R.3W., M.D.B.&M.

73-12



- R.M. Bk. A, Pg. 33-Maywood Colony No. 1
- R.S. Bk. AA, Pg. 244
- P.M. Bk. 1, Pg. 47-P.M. No. 212
- P.M. Bk. 5, Pg. 137-P.M. No. 77-255
- P.M. Bk. 6, Pg. 97-P.M. No. 79-23
- P.M. Bk. 7, Pg. 238-P.M. No. 83-76

NOTE-Assessor's Block Numbers Shown in Ellipses
Assessor's Parcel Numbers Shown in Circles

Assessor's Map Bk. 73 -Pg. 12
County of Tehama, Calif.
MAR 24 2008