



City Of Riverbank
Planning Commission Meeting
City Hall North Council Chambers
6707 Third Street • Riverbank • CA 95367

Agenda
Tuesday, November 18, 2014 – 6:00 P.M.

CALL TO ORDER: Chair: Stewart

ROLL CALL: Chair: Stewart
Vice Chair: Hughes
Commissioner: Villapudua
Commissioner: Degele
Commissioner: McKinney

CONFLICT OF INTEREST

Any Planning Commission/Authority Member and Staff who has a direct Conflict of Interest on any scheduled agenda item to be considered are to declare their conflict.

1. PUBLIC COMMENTS (No action to be taken)

At this time members of the public may comment on any item not appearing on the agenda, and within the subject matter jurisdiction of the Planning Commission Board. Individual comments will be limited to a **maximum of 5 minutes** per person and each person may speak once during this time; time cannot be yielded to another person. Under State Law, matters presented during the public comment period cannot be discussed or acted upon. For record purposes, state your name and City of residence. Please address the entire Planning Commission Board.

2. CONSENT CALENDAR

All items listed on the Consent Calendar are to be acted upon by a single action of the Planning Commission unless otherwise requested by an individual Planning Commissioner Member for special consideration. Otherwise, the recommendation of staff will be accepted and acted upon by roll call vote.

Item 2.A: Posting of the Agenda. The Agenda for the November 18, 2014, Planning Commission Meeting was posted on the City Chamber bulletin board, City Hall North & South bulletin board, Post Office and sent to the Library on November 13, 2014.

Item 2.B: Approval of the Agenda. This provides an opportunity for the Planning Commission or Staff to recommend that an item be placed on the agenda for discussion or to adjust the proposed agenda to allow an item to be taken out of order.

Item 2.C: Approval of the Minutes. The Minutes of the October 21, 2014, Planning Commission Meeting having been read by the individual Commissioners and stands approved as submitted.

Recommendation: It is recommended that Planning Commission approve the Consent Calendar by roll call vote.

Any documents, not privileged or of a closed session, produced by the City and distributed to the majority of the Planning Commission regarding any item on this agenda will be made available at Developmental Services Department, 6617 3rd Street, Riverbank, CA.

3. PUBLIC HEARING

Item 3.1: (Continued Item from the 10/21/2014 Planning Commission Meeting) - Rules and Procedures for the City of Riverbank's Planning Commission. Resolution No. 2014-010.

Item 3.2: Zoning Ordinance Amendment – Establish the Reasonable Accommodation Ordinance; Resolution 2014-016: The proposed Ordinance will establish Section 153.255 through 153.262, titled "Reasonable Accommodation." Both Federal and State law require local agencies provide reasonable exceptions from their zoning standards (particularly setback and height requirements) to allow property owners to make modifications to provide accessibility for persons with disabilities. The proposed Ordinance establishes the procedure for the request for Reasonable Accommodation. The proposed ordinance will 1) establish criteria and procedures for the request for reasonable accommodation that will be used by an individual with a disability protected under fair housing laws, 2) establish submittal requirements that are applicable to reasonable accommodation, 3) appeal procedures for reasonable accommodation decisions, 3) factors for the alteration of the City's Zoning Code, and 4) establish certain findings that the Community Development Director must make to make a decision to grant or deny requested accommodations.

Item 3.3: Zoning Ordinance Amendment – Amendment to Section 153.185: Density Bonus Requirements; Resolution 2014-017: The proposed Ordinance Amendment will modify Section 153.185 to be consistent with State Density Bonus Law (Section 65915 of the Government Code) and Program 2.1d of the City's Certified 2009-2014 Housing Element. The proposed Ordinance will 1) establish procedures and criteria for use in the consideration of density bonus for lower income housing developments, 2) establish procedures and criteria for incentives and concessions, 3) provide a significant contribution to the economic feasibility of lower income housing in proposed housing developments by allowing flexible density bonuses depending on the percentage of affordable housing, and 4) establish criteria and procedures set forth by Government Code Section 65915 and is applied to requests for density bonus, and 5) sets forth application procedures that follow State law.

Recommendation: Approval by roll call vote

4. NEW BUSINESS (Information Only – No Action)

None

5. COMMISSION ITEMS (Information Only – No Action)

None

6. COUNTY REFERRAL/CORRESPONDENCE/INFORMATION (Information Only – No Action)

None

7. UP-COMING MEETING AGENDA ITEMS (Information Only – No Action)

Item 7.1: Draft Downtown Specific Plan (FEIR has been previously certified by the City Council in 2013).

ADJOURNMENT – The next regular Planning Commission meeting – December 16, 2014 @ 6:00 p.m.

Any documents, not privileged or of a closed session, produced by the City and distributed to the majority of the Planning Commission regarding any item on this agenda will be made available at Developmental Services Department, 6617 3rd Street, Riverbank, CA.

AFFIDAVIT OF POSTING

I hereby certify under penalty of perjury, under the laws of the State of California that the foregoing agenda was posted on the City Hall bulletin board 72 hours prior to the meeting.

*Dated this 13th day of November, 2014
Janet Smallen, Sr. CDS*

NOTICE REGARDING AMERICANS WITH DISABILITIES ACT: In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Development Services Department at (209) 863-7128. Notification 48-hours before the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting [28 CFR 35.102-35.104 ADA Title II].

NOTICE REGARDING NON-ENGLISH SPEAKERS: Pursuant to California Constitution Article III, Section IV, establishing English as the official language for the State of California, and in accordance with California Code of Civil Procedures Section 185, which requires proceedings before any State Court to be in English, notice is hereby given that all proceedings before the City of Riverbank City Planning Commission shall be in English and anyone wishing to address the Planning Commission is required to have a translator present who will take an oath to make an accurate translation from any language not English into the English language.

GENERAL INFORMATION: The Riverbank Planning Commission meets on the third Tuesday of each month at 6:00 p.m.

COMMISSION AGENDAS: The Planning Commission agenda is posted pursuant to the California Brown Act, which only requires these agenda title pages to be posted. Additional documents that are part of this agenda and provided to a majority of the Planning Commission by the City will be made available to the public. The agenda is posted for public review at the City's website www.riverbank.org, at the Development Services Department, and on the exterior of both City Hall North & South buildings bulletin boards, 6707 & 6617 Third Street, Riverbank, CA. Subscription to receive the agenda can be purchased for a nominal fee through the Development Services Department.

PUBLIC HEARINGS: In general, a public hearing is an open consideration within a regular meeting of the Planning Commission, for which special notice has been given and may be required. During a specified portion of the hearing, any resident or concerned individual is invited to present protests or offer support for the subject under consideration.

QUESTIONS: Contact the Developmental Services Department at (209) 863-7128.

Any documents, not privileged or of a closed session, produced by the City and distributed to the majority of the Planning Commission regarding any item on this agenda will be made available at Developmental Services Department, 6617 3rd Street, Riverbank, CA.

**CITY OF RIVERBANK
PLANNING COMMISSION
STAFF REPORT**

ITEM NO.	3.1	November 18, 2014
APPLICATION:	Continued Consideration of Rules and Procedures for the City of Riverbank's Planning Commissioners from PC Meeting of October 21, 2014.	
LOCATION:	N/A	
ENVIRONMENTAL DETERMINATION:	The proposed action to adopt Rules, Regulations and Procedures is not a project as defined by Section 15378 of the CEQA Guidelines	
PROJECT PLANNER:	John B. Anderson, Contract Community Development Director	
RECOMMENDATION:	Staff recommends that the planning commission (" <u>Commission</u> ") motion to adopt Resolution No. 2014-010, adopting rules, regulations and procedures for the City of Riverbank's (the " <u>City</u> ") planning commissioners (" <u>Commissioners</u> ").	
ACRONYMS:	CEQA – California Environmental Quality Act	
ATTACHMENTS:	1. Resolution No. 2014-010 2. Draft Redline Planning Commission Rules and Procedures 3. Resolution 94-05; Planning Commission Brown Act Rules and Regulations 4. Planning Commission Minutes of July 15, 2014 5. Planning Commission Minutes of August 19, 2014 6. Planning Commission Minutes of September 16, 2014 7. Draft Planning Commission Minutes of October 21, 2014	

I. SUMMARY:

Resolution No. 2014-010 (the "Resolution") adopts comprehensive rules and procedural guidelines for the Commission ("Rules") to provide clarity to noticing and conducting Commission meetings. These Rules comply with state open government laws and offer guidance for conducting an orderly meeting. A violation of these Rules in itself does not invalidate a meeting or an action taken at a meeting. These Rules merely offer the Commission an official procedure to follow and avoid confusion or inconsistency.

II. ENVIRONMENTAL DETERMINATION

The proposed action to adopt Rules, Regulations and Procedures is not a project as defined by Section 15378 of the CEQA Guidelines and therefore will not require any environmental determination.

III. BACKGROUND

The city council ("City Council") has the authority to create rules, procedures and standards for the Commission as long as they do not conflict with state or federal law.¹ Under the R.M.C. the City Council has tasked the Commission with the responsibility of adopting rules for the transaction of business.²

Staff has discovered existing rules and procedures for the Commission that were adopted in 1994. These rules and procedures are outdated. The rules and procedures from 1994 state a meeting time that is different from the Commission's current meeting time and, as far as staff can determine, these rules and procedures are not being used actively. While there are some state laws concerning meetings of public commissions, these laws are not comprehensive and it is important to have local guidelines in place to ensure that meetings are carried out in a fair and consistent way. As such, there are many gaps regarding how the Commission should conduct itself, leading to the potential for inconsistency.

IV. ANALYSIS

The Resolution formally adopts the Rules as the standard operating guidelines for the Commission. The Rules discuss the method and criteria for appointing a Chair and Vice-Chair to the Commission. The Rules establish the powers and the responsibilities of community development director, acting as the Commission secretary. The Rules also provide a mechanism for requesting the City Council to declare a Commissioner's seat vacant after three (3) unexcused absences.

¹ Cal. Govt. Code §65102.

² R.M.C. §32.39.

The Rules distinguish between different types of meetings including regular, special, emergency, and workshop meetings. Additionally, the Rules provide requirements for noticing different kinds of meetings and posting agendas for each meeting. The requirements for noticing, holding and acting at different meetings comply with state law requirements.

The Rules provide procedural guidelines for conducting meetings, including rules about voting and establishing a quorum. Under the Rules, if a quorum of Commissioners is not present, the meeting will be adjourned. The Rules provide guidelines for how a public hearing should be conducted. This allows the Commission to hold public hearings in a consistent manner, to ensure that each applicant or project is treated the same. The Rules also describe what motions are appropriate for different circumstances and how multiple motions should be dealt with.

State law provides a limited number of requirements for conducting public meetings and taking action as a public commission. As a supplement, many cities have adopted *Robert's Rules of Order* to provide structure for conducting meetings. *Robert's Rules of Order* provide parliamentary rules for conducting a public meeting. These rules provide formal procedures that echo traditional parliamentary procedures. While many of these procedures are useful, they can also be overly formal for conducting business in a fast-paced forum where the Commission reviews numerous projects and applications.

The proposed Rules are more closely tailored to California law and the purposes of a planning commission. By adopting these Rules, the Commission and City staff will have a reference guide when procedural questions arise regarding a Commission meeting.

V. PLANNING COMMISSION MEETINGS OF JULY 15, 2014, AUGUST 19, 2014, SEPTEMBER 16, 2014, OCTOBER 21, 2014 and NOVEMBER 18, 2014.

At the regularly scheduled Planning Commission meeting of July 15, 2014, the Commission reviewed the Draft Rules and Procedures presented by Staff and continued the item to the August 19th meeting with a few revisions per Staff and Commission comments. Additionally, at the regularly scheduled Planning Commission meeting of August 19, 2014, the Commission again reviewed the Draft Rules and Procedures and decided to continue the item to the next regularly scheduled meeting of September 16, 2014 due to the suggestion that the majority of Commissioners should be present before adopting the Resolution. Due to the majority of the Commissioners that were not present at the September 16, 2014 and October 21, 2014 this item was continued until the next regularly scheduled meeting for November 18, 2014.

Revisions by Planning Commission and Legal to the PC Rules and Procedures include:

4.1 Chair. The Chair shall preside at all meetings of the Commission. The Chair shall appoint all committees and perform all other duties necessary, customary, or incidental to this office, including but not limited to calling special meetings of the Commission and signing documents on behalf of the Commission. The Chair may move, second, and debate matters before the Commission, subject only to the limitations imposed on all Commissioners, and the Chair shall not be deprived of any rights and privileges of a Commissioner by reason of her acting as Chair. The Chair

shall preserve strict order and decorum at all Commission meetings. The Chair may announce special rules for a particular agenda item, including, but not limited to: (A) the length of time persons may speak; (B) asking a spokesperson to address the Commission on behalf of a group of individuals with the same views; and (C) in the event of a hearing, providing time for arguments and rebuttals from proponents and opponents.

5.1 Regular Meetings. Regular meetings shall be open to the public and shall be held on the third (3rd) Tuesday of each month at 6:00 p.m. in the City Hall Council Chambers at 6707 3rd Street, Riverbank, California, as may be amended from time to time by City Council resolution. Whenever the day fixed for any regular meeting of the Commission falls upon a day designated as a holiday, such meeting may be held at the same hours on the next succeeding business day, which is not a holiday.

5.2 Special Meetings. Special meetings of the Commission shall be open to the public and shall be held at such time as the Commission may determine. The Chair, ~~or~~ a majority of the Commission, and/or the Community Development Director may call a special meeting at any time by postingproviding a twenty-four (24) hours advanced notice, pursuant to the Riverbank Code of Ordinances Section 32.32.(B). ~~has been published~~ Such notice shall be delivered to each Commissioner at least twenty-four (24) hours before the special meeting, provided however, that a Commissioner may waive a failure to receive notice to a special meeting by filing a written waiver with the Commission before the meeting or by appearing at the special meeting. Additionally, such notice shall be delivered twenty-four (24) hours in advance to each radio station and local newspaper of general circulation which have requested such notice.

6.1 Notice of Meetings. The agenda for all Commission meetings shall be available to the general public and the Secretary shall cause a copy thereof to be posted at least seventy-two (72) hours before a regular or adjourned meeting in a place and/or places which~~that is~~are accessible to the public twenty-four (24) hours a day, seven (7) days a week.

6.2 Delivery of Agenda. For regular and adjourned meetings, the agenda shall be delivered to Commissioners, available to the general public only after the delivery to the Commissioners, and posted in a spot that is accessible to the public twenty-four (24) hours a day, seven (7) days a week, at least seventy-two (72) hours before the meeting. Additionally, individuals wishing to receive a copy of the agenda by mail may do so by paying the City an annual fee to offset the costs of mailing.

7.1 Public Comments. Members of the public will have the opportunity to directly address the Commission on any item of interest to the public, which is within the subject matter jurisdiction of the Commission. Members of the public will have the opportunity to comment on an item posted on the agenda when the item appears before the Commission. For items not listed on the agenda, which are of public interest and under the subject matter jurisdiction of the Commission, there shall be a public comment period. During public comment period for regular or adjourned meetings, any person may address the Commission on any subject pertaining to the Commission that does not

Riverbank Planning Commission

Staff Report 3.1

Meeting of November 18, 2014

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appear on the agenda. During public comments for special meetings, the public may be limited to addressing the Commission only on subjects appearing on the meeting's agenda. At the Chair's discretion, the Chair may impose a time limit for each person wishing to address the Commission during public comments of no less than two (2) minutes per person.

Any person desiring to address the Commission at a meeting shall first secure the permission of the Chair to do so, provided however, that any interested person shall have the right to address the Commission upon obtaining recognition by the Chair.

~~During public comments for regular or adjourned meetings any person may address the Commission on any subject pertaining to Commission, regardless of whether the matter is listed on the meeting agenda or not. During public comments for special meetings, the public may address the Commission on any subject appearing on the meeting's agenda. At the Chairpersons discretion, the Chair may impose a time limit for each person wishing to address the Commission during public comments of no less than five (5) minutes per person.~~

12.1 Length of Meetings. Unless a majority of the Commissioners present at a meeting find that exceptional circumstances require otherwise, the Commission will adjourn its meetings after three (3) hours on or before 11:00 p.m. with any unfinished business being continued to the next, regular, adjourned, or special meeting, unless the based on special circumstances the Commission votes to extend the time frame for the meeting. At approximately ~~480:00~~ p.m., the Chair will call review of any remaining agenda items to consider whether they will likely be completed by ~~449:00~~ p.m., or whether continuances should be considered. The Secretary, or designee, will post notice of any continued hearing or other unfinished business, as required by law.

VI. FINANCIAL IMPACT

There is no evidence fiscal impact from adopting the Rules.

VII. RECOMMENDATION:

Staff recommends that the planning commission ("Commission") motion to adopt Resolution No. 2014-010, adopting rules, regulations and procedures for the City of Riverbank's (the "City") planning commissioners ("Commissioners").

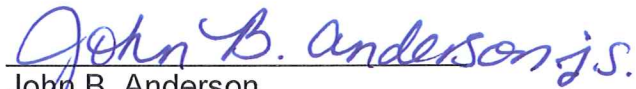
VIII. ALTERNATIVE ACTIONS

The Planning Commission's options regarding Resolution 2014-010 include:

1. Motion to adopt Resolution No. 2014-010, adopting the City of Riverbank, California Planning Commission Rules and Procedures;

2. Motion to adopt Resolution No. 2014-010, adopting the City of Riverbank, California Planning Commission Rules and Procedures with changes or revisions as provided by the Planning Commission;
3. Reject the Resolution No. 2014-010, adopting the City of Riverbank, California Planning Commission Rules and Procedures.

Respectfully Submitted By:



John B. Anderson
Contract Community Development Director

Attachment 1

**CITY OF RIVERBANK
PLANNING COMMISSION
RESOLUTION NO. 2014-010**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIVERBANK

WHEREAS, California Government Code section 65102 allows a city to adopt rules and procedures for its planning commission; and,

WHEREAS, Riverbank Municipal Code section 32.39 states that the planning commission must draft rules for conducting its business; and,

WHEREAS, the proper and consistent operation of the planning commission is vital to ensuring a well-planned city; and,

WHEREAS, the City of Riverbank planning commission currently have rules or procedures that were adopted in 1994 through Resolution No. 94-05 to guide the planning commission in noticing or conducting public meetings; and,

WHEREAS, the existing rules and procedures for the planning commission are outdated and should be updated to reflect changes which have occurred since 1994; and

WHEREAS, the planning commission finds that the City of Riverbank, California Planning Commission Rules and Procedures, which are attached hereto and incorporated by this reference, provide a clear and consistent basis for carrying out the planning commission's business in a way that is consistent with applicable state laws; and

WHEREAS, the planning commission finds that it is in the best interest of the city to adopt the City of Riverbank, California Planning Commission Rules and Procedures.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Riverbank hereby revokes and replaces Resolution No. 94-05 and adopts the City of Riverbank, California Planning Commission Rules and Procedures, which are attached hereto as Attachment 1.

PASSED AND ADOPTED by the Planning Commission of the City of Riverbank at a regular meeting held on 18th day of November, 2014; motioned by Commissioner _____, seconded by Commissioner _____, and upon roll call was carried by the following vote of ____:

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

John B. Anderson
Contract Community Development Director

Joan Stewart
Planning Commission Chair

Attachments: 1. Planning Commission Rules and Procedures

Attachment 1



**CITY OF RIVERBANK, CALIFORNIA PLANNING
COMMISSION RULES AND PROCEDURES**

Adopted _____, 2014 by Resolution No. 2014-010

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ORGANIZATION

Section 1. Purpose, Effect and Authority. The purpose and intent of adopting these Planning Commission Rules and Procedures (the "Rules") for the City of Riverbank Planning Commission (the "Commission") is to provide the Commission with guidance for conducting public business pursuant to Riverbank Code of Ordinances Section 32.39(A). Any noncompliance or violation of these Rules will not affect the validity of any action taken, unless otherwise specifically provided under state law. In the event that there is any inconsistency between these Rules and state law, state law shall prevail.

Section 2. Rotation of Presiding Officers.

2.1 The Commission shall have a chairperson ("Chair") and a vice-chairperson ("Vice-Chair").

2.2 The Chair and the Vice-Chair of the Commission shall each serve a term of one (1) year, pursuant to the Riverbank Code of Ordinances Section 32.36 (C).

2.3 The Chair shall be the most senior member of the Commission who has served as Vice-Chair previously but has not served as the Chair. If all planning commissioners ("Commissioner" or "Commissioners") have already served as Chair, the Chair shall be the Commissioner who has not served as Chair for the longest period of time.

2.4 The Vice-Chair shall be the most senior member of the Commission who has not served as the Vice-Chair. If all Commissioners have already served as Vice-Chair, the Vice-Chair shall be the Commissioner who has not served as Vice-Chair for the longest period of time.

2.5 For the purposes of determining the rotational order to Chair and Vice-Chair appointment, in the event that two or more Commissioners begin serving at the same time, their respective orders for appointment shall be determined by drawing straws, with the Commissioner drawing the shortest straw going first in the rotation and so on. Commissioners re-appointed to successive terms will remain in the rotation order established with their initial appointment.

2.6 No Commissioner shall have the obligation to serve as either Chair or Vice-Chair. A Commissioner shall not serve successive terms as Chair or Vice-Chair, unless all other Commissioners decline to serve.

2.7 The Vice-Chair shall succeed the Chair in the event the Chair vacates the office prior to the end of the term and shall serve the remainder of the unexpired term of the vacated office.

Section 3. Commission Secretary. The City's Community Development Director shall act as the secretary to the Commission ("Secretary"). If the City does not have a Community Development Director, the Commission may select an individual to serve as Secretary, pursuant to the Riverbank Code of Ordinances Section 32.36(D).

Section 4. Duties of Presiding Officers and Secretary.

4.1 Chair. The Chair shall preside at all meetings of the Commission. The Chair shall appoint all committees and perform all other duties necessary, customary, or incidental to this office, including but not limited to calling special meetings of the Commission and signing documents on behalf of the Commission. The Chair may move, second, and debate matters before the Commission, subject only to the limitations imposed on all Commissioners, and the Chair shall not be deprived of any rights and privileges of a Commissioner by reason of her acting as Chair. The Chair shall preserve strict order and decorum at all Commission meetings. The Chair may announce special rules for a particular agenda item, including, but not limited to: (A) the length of time persons may speak; (B) asking a spokesperson to address the Commission on behalf of a group of individuals with the same views; and (C) in the event of a hearing, providing time for arguments and rebuttals from proponents and opponents.

4.2 Vice-Chair. In the event of absence of the Chair or of her inability to act, the Vice-Chair shall take her place and perform her duties.

4.3 Secretary. The Secretary shall: (A) provide professional and technical advice to the Commission; (B) sign approved final subdivision maps; (C) assist the Commission in the discharge of its responsibilities; and (D) maintain minutes of meetings and records of hearings and official actions.

4.4 Absence of Chair and Vice-Chair. In the absence of the Chair and Vice-Chair, any other Commissioner shall call a Commission meeting to order and the Commission shall then elect a Chair pro tem to preside over meeting.

MEETINGS

Section 5. Types of Meetings.

5.1 Regular Meetings. Regular meetings shall be open to the public and shall be held on the third (3rd) Tuesday of each month at 6:00 p.m. in the City Hall Council Chambers at 6707 3rd Street, Riverbank, California, as may be amended from time to time by City Council resolution. Whenever the day fixed for any regular meeting of the Commission falls upon a day designated as a holiday, such meeting may be held at the same hours on the next succeeding business day, which is not a holiday.

5.2 Adjourned Meetings. Any meeting may be adjourned to a time, place and date certain, but not beyond the next regular meeting. Once adjourned, the meeting cannot be reconvened.

5.3 Special Meetings. Special meetings of the Commission shall be open to the public and shall be held at such time as the Commission may determine. The Chair, a majority of the Commission, and/or the Community Development Director may call a special meeting at any time by posting a twenty-four (24) hour advanced notice, pursuant to the Riverbank Code of Ordinances Section 32.32.(B). Such notice shall be delivered to each Commissioner at least twenty-four (24) hours before the special meeting, provided however, that a Commissioner may waive a failure to receive notice to a special meeting by filing a written waiver with the Commission before the meeting or by appearing at the special meeting. Additionally, such notice shall be delivered twenty-four (24) hours in advance to each radio station and local newspaper of general circulation which have requested such notice.

5.4 Emergency Meetings. When a majority of the Commission determines that an emergency situation, such as work stoppage or another activity which severely impairs public health or safety exists, it may call an emergency meeting. Absent a dire emergency, the Commission shall provide notice to media outlets that have requested such notice at least one (1) hour before the meeting. In dire emergencies, notice shall be provided to media outlets that have requested such notice around the same time that notice is provided to the Commissioners. If telephone services are not working and notice cannot be sent to media outlets prior to the meeting, a report must be provided to media outlets as soon as possible after the meeting. After an emergency meeting, the Commission shall post a notice for ten (10) days in a public place which states: (A) the minutes of the meeting; (B) a list of persons who the Commission notified; (C) a list of persons who the Commission attempted to notify of the meeting; (D) a copy of the roll call vote; and (E) any actions taken at the meeting.

5.5 Workshops/Study Sessions. The Commission may hold a workshop or study session as part of a regular, adjourned, or special meeting. For workshops and study sessions on specific matters for which a future public hearing is anticipated, the Secretary will cause public notice to be given of such workshop or study session in the

same manner as required for public hearings, and a record of the workshop or study session shall be entered into the minutes of any such future public hearings. A workshop or study session shall be for discussion only and the Commission will take no action on the items discussed. No quorum of the Commissioners will be required to hold a workshop or study session.

Section 6. Notice and Agenda.

6.1 Notice of Meetings. The agenda for all Commission meetings shall be available to the general public and the Secretary shall cause a copy thereof to be posted at least seventy-two (72) hours before a regular or adjourned meeting in a place and/or places which are accessible to the public twenty-four (24) hours a day, seven (7) days a week.

6.2 Delivery of Agenda. For regular and adjourned meetings, the agenda shall be delivered to Commissioners, available to the general public only after the delivery to the Commissioners, and posted in a spot that is accessible to the public twenty-four (24) hours a day, seven (7) days a week, at least seventy-two (72) hours before the meeting. Additionally, individuals wishing to receive a copy of the agenda by mail may do so by paying the City an annual fee to offset the costs of mailing.

Section 7. Order of Business. Generally the order of business at a Commission meeting shall be as follows:

7.1 Call to Order.

7.2 Roll Call. Before proceeding with the business of the Commission, the Secretary shall call the roll of the Commission and the names of those present shall be entered into the minutes.

7.3 Conflict of Interest.

7.4 Acceptance of the Agenda. A motion should be made to approve the agenda for the current meeting. At this time or during approval of the consent calendar, any Commissioner may request that any item appearing on the consent calendar be withdrawn from the consent calendar for separate consideration.

7.5 Public Comments. Members of the public will have the opportunity to directly address the Commission on any item of interest to the public, which is within the subject matter jurisdiction of the Commission. Members of the public will have the opportunity to comment on an item posted on the agenda when the item appears before the Commission. For items not listed on the agenda, which are of public interest and under the subject matter jurisdiction of the Commission, there shall be a public

comment period. During public comment period for regular or adjourned meetings, any person may address the Commission on any subject pertaining to the Commission that does not appear on the agenda. During public comments for special meetings, the public may be limited to addressing the Commission only on subjects appearing on the meeting's agenda. At the Chair's discretion, the Chair may impose a time limit for each person wishing to address the Commission during public comments of no less than two (2) minutes per person.

Any person desiring to address the Commission at a meeting shall first secure the permission of the Chair to do so, provided however, that any interested person shall have the right to address the Commission upon obtaining recognition by the Chair.

7.6 Consent Calendar. Items of a routine nature, which are non-controversial, may be placed on the consent calendar. All items appearing on the consent calendar may be approved with a single, blanket motion. The approval of items on the consent calendar can be severed and any Commissioner can make a motion to approve any number of the items appearing on the consent calendar.

7.7 Public Hearings. Public hearings shall be conducted in the following order:

A. Staff Report. After the Chair announces the item as it appears on the agenda, City staff will give a presentation to the Commission and the public on the staff report prepared for the matter.

B. Initial Questions to Staff by the Commissioners. Prior to opening up a public hearing on a matter, Commissioners may ask questions of staff or third party consultants regarding the staff report and the issue.

C. Chair opens the public hearing:

i. Applicant Presentation.

ii. Appellant (If different from Applicant).

iii. Public Testimony. Depending upon the extent of the agenda, and the number of persons desiring to speak on an issue, the Chair may, at the beginning of the hearing, place a time limit on public testimony, but in no event for less than one (1) minute per individual. Any person may be authorized to speak for longer than the allotted time limit, upon approval of the Commission, when circumstances make such time extension appropriate, such as when the person is speaking as a representative of a group or has a graphic or slide presentation that requires additional time.

- iv. **Applicant Rebuttal.**
- v. **Appellant Rebuttal.**
- vi. **Chair closes hearing.**

D. Questions and discussion from the Commissioners. The Commissioners should not express their opinions on an item prior to the close of the public hearing, as the Commissioners should not form or express an opinion until after all testimony has been received. Questions and comments from the Commission should not be argumentative and the Commission should not engage in debates with staff or those members of the public testifying an opinion until after all testimony has been received.

As a matter of preferred protocol and courtesy to fellow members of the Commission, normally each Commissioner should only speak once on any one subject until every other Commission wishing to speak thereon has spoken.

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7.8 New Business.

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7.11 County Referral/Correspondence/Information.

7.12 Upcoming Meeting Agenda Items.

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9.9 Motions include Staff Recommendations. A motion to adopt or approve staff recommendations or simply to approve the action under consideration shall, unless otherwise particularly specified, be deemed to include adoption of all proposed findings and execution of all actions recommended in both the written staff report on file on the matter and any oral staff report presented during the hearing.

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10.1 Points of Order. Immediately after an infraction of the Rules or improper decorum in speaking occurs at a Commission meeting, any Commissioner may call for a point of order. Once a point of order has been raised, the Chair will make a ruling as to whether the Rules have been violated. Any Commissioner may appeal the Chair's ruling to the entire Commission, which will vote on whether to sustain the Chair's determination.

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A. Every Commissioner desiring to speak shall address the Chair and, upon recognition by the Chair, shall confine herself to the question under debate.

B. Once recognized, a Commissioner should not be interrupted while speaking, unless called to order by the Chair, a point of order is raised by another Commissioner, or the speaker chooses to yield to questions from another Commissioner.

i. If a Commissioner is called to order by the Chair while she is speaking, she shall cease speaking immediately until the question of order is determined. If ruled to be in order, the Commissioner shall be permitted to proceed. If ruled to not be in order, the Commissioner shall remain silent or shall alter her remarks so as to comply with the rules of the Commission.

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10.5 Determination of Chair Final. In presiding over Commission meetings, the Chair shall decide all questions of interpretation of these rules or other questions of procedure requiring rulings. Any such decision or ruling shall be final unless overridden or suspended by a majority vote of the Commission present and voting shall be binding and legal.

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11.1 Processing of Motions. When a motion is made and seconded, it shall be stated by the Chair before debate. A motion so stated shall not be withdrawn by the Commissioner who initiated the motion, without the consent of the Commissioner who seconded the motion.

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11.3 Precedence of Motions. When a motion is before the Commission, no motion shall be entertained except the following, which shall have precedence in the following order:

A. Motion to adjourn the meeting. (not debatable) A motion to adjourn shall be in order at any time, except as follows:

- i. When repeated without intervening business or discussion.
- ii. When made as an interruption of a Commissioner who is speaking.
- iii. When the previous question has been ordered.
- iv. While a vote is being taken.

A motion to adjourn "to another time" shall be debatable only as to the time to which the meeting is adjourned.

B. Motion to fix hour of adjournment. Such motion shall be to set a definite time as which to adjourn and shall be undebatable and unamendable except to the time set. Notice of the adjournment and the date of the subsequent meeting shall be conspicuously posed on or near the door where the meeting was held within twenty-four (24) hours of the adjournment. If the subsequent meeting occurs within five (5) days of the original meeting, the Commission may consider matters placed on the original meeting agenda without posting a new agenda. If the subsequent meeting occurs more than five (5) days from the original meeting, a new agenda must be prepared and posted.

C. Motion to table. A motion to table shall be used to temporarily bypass the subject. A motion to table shall be undebatable and shall preclude all amendments or debate of the subject under consideration. The tabled item may be "taken from the table" at any time by a motion made prior to the end of the meeting. If the item is not taken from the table prior to the end of the meeting, it shall be placed on a future agenda as a new matter.

D. Motion to amend. A motion to amend can be made after a motion is introduced and seconded. A motion to amend shall be debatable only as to amendment. A motion to amend an amendment shall be in order but a motion to amend an amendment to an amendment shall not be in order. An amendment modifying the intention of a motion shall be in order, but an amendment relating a

different matter shall not be in order. A motion to amend shall be voted on first, followed by a vote on the original motion, as amended or as originally stated, depending upon whether the motion to amend carries.

E. Motion to substitute. A motion to substitute can be made after a motion is introduced and seconded. A substitute motion on the same subject shall be acceptable, and voted on before a vote on a motion to amend the main motion amendment.

F. Motion for Previous Question. A motion for previous question shall be used to close debate on the main motion and shall be undebatable. If the motion fails, debate shall be reopened; if the motion passes, a vote shall be taken on the main motion.

G. Motion to Continue. Motions to continue to a definite time shall be amendable and debatable as to the propriety of postponement and time set. If desired, the Commissioner who initiates the motion to continue may also move to reopen the hearing to receive further testimony.

11.4 Multiple Motions Before the Commission. There can be up to three (3) motions before the Commission at one time. The Chair may reject a fourth (4th) motion until the Commission has addressed the three (3) that have been proposed first. When there are multiple motions before the Commission at one time, the Commission shall address the motions beginning with the most recently made motion.

Section 12. Policies.

12.1 Attendance. Each Commissioner shall attend every regular or special meeting unless unavailable for a valid reason. A Commissioner may be excused if prior notice is given to the Secretary, and if the reason for the absence is stated. In the minutes and in the attendance record the Secretary shall indicate members present and excused. The Commission may recommend to the City Council that the office of any Commissioner who is absent from three (3) consecutive regular meetings, unless excused for cause by vote of the Commission, be declared vacant and that a successor be appointed.

12.2 Length of Meetings. Unless a majority of the Commissioners present at a meeting find that exceptional circumstances require otherwise, the Commission will adjourn its meetings after three (3) hours, with any unfinished business being continued to the next, regular, adjourned, or special meeting, unless based on special circumstances the Commission votes to extend the time frame for the meeting. At approximately 800 p.m., the Chair will call review of any remaining agenda items to consider whether they will likely be completed by 9:00 p.m., or whether continuances

should be considered. The Secretary, or designee, will post notice of any continued hearing or other unfinished business, as required by law.

12.3 Amendments. These Rules may be amended by the Commission at any regular meeting by a majority vote, or at any special meeting, provided that the proposed amendment is included in a written notice of such meeting.

Attachment 2



**CITY OF RIVERBANK, CALIFORNIA PLANNING
COMMISSION RULES AND PROCEDURES**

Adopted _____, 2014 by Resolution No. _____

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ORGANIZATION

Section 1. Purpose, Effect and Authority. The purpose and intent of adopting these Planning Commission Rules and Procedures (the "Rules") for the City of Riverbank Planning Commission (the "Commission") is to provide the Commission with guidance for conducting public business pursuant to Riverbank Code of Ordinances Section 32.39(A). Any noncompliance or violation of these Rules will not affect the validity of any action taken, unless otherwise specifically provided under state law. In the event that there is any inconsistency between these Rules and state law, state law shall prevail.

Section 2. Rotation of Presiding Officers.

2.1 The Commission shall have a chairperson ("Chair") and a vice-chairperson ("Vice-Chair").

2.2 The Chair and the Vice-Chair of the Commission shall each serve a term of one (1) year, pursuant to the Riverbank Code of Ordinances Section 32.36 (C).

2.3 The Chair shall be the most senior member of the Commission who has served as Vice-Chair previously but has not served as the Chair. If all planning commissioners ("Commissioner" or "Commissioners") have already served as Chair, the Chair shall be the Commissioner who has not served as Chair for the longest period of time.

2.4 The Vice-Chair shall be the most senior member of the Commission who has not served as the Vice-Chair. If all Commissioners have already served as Vice-Chair, the Vice-Chair shall be the Commissioner who has not served as Vice-Chair for the longest period of time.

2.5 For the purposes of determining the rotational order to Chair and Vice-Chair appointment, in the event that two or more Commissioners begin serving at the same time, their respective orders for appointment shall be determined by drawing straws, with the Commissioner drawing the shortest straw going first in the rotation and so on. Commissioners re-appointed to successive terms will remain in the rotation order established with their initial appointment.

2.6 No Commissioner shall have the obligation to serve as either Chair or Vice-Chair. A Commissioner shall not serve successive terms as Chair or Vice-Chair, unless all other Commissioners decline to serve.

2.7 The Vice-Chair shall succeed the Chair in the event the Chair vacates the office prior to the end of the term and shall serve the remainder of the unexpired term of the vacated office.

Section 3. Commission Secretary. The City's Community Development Director shall act as the secretary to the Commission ("Secretary"). If the City does not have a Community Development Director, the Commission may select an individual to serve as Secretary, pursuant to the Riverbank Code of Ordinances Section 32.36(D).

Section 4. Duties of Presiding Officers and Secretary.

4.1 Chair. The Chair shall preside at all meetings of the Commission. The Chair shall appoint all committees and perform all other duties necessary, customary, or incidental to this office, including but not limited to calling special meetings of the Commission and signing documents on behalf of the Commission. The Chair may move, second, and debate matters before the Commission, subject only to the limitations imposed on all Commissioners, and the Chair shall not be deprived of any rights and privileges of a Commissioner by reason of her acting as Chair. The Chair shall preserve strict order and decorum at all Commission meetings. The Chair may announce special rules for a particular agenda item, including, but not limited to: (A) the length of time persons may speak; (B) asking a spokesperson to address the Commission on behalf of a group of individuals with the same views; and (C) in the event of a hearing, providing time for arguments and rebuttals from proponents and opponents.

4.2 Vice-Chair. In the event of absence of the Chair or of her inability to act, the Vice-Chair shall take her place and perform her duties.

4.3 Secretary. The Secretary shall: (A) provide professional and technical advice to the Commission; (B) sign approved final subdivision maps; (C) assist the Commission in the discharge of its responsibilities; and (D) maintain minutes of meetings and records of hearings and official actions.

4.4 Absence of Chair and Vice-Chair. In the absence of the Chair and Vice-Chair, any other Commissioner shall call a Commission meeting to order and the Commission shall then elect a Chair pro tem to preside over meeting.

MEETINGS

Section 5. Types of Meetings.

5.1 Regular Meetings. Regular meetings shall be open to the public and shall be held on the third (3rd) Tuesday of each month at 6:00 p.m. in the City Hall Council Chambers at 6707 3rd Street, Riverbank, California, as may be amended from time to time by City Council resolution. Whenever the day fixed for any regular meeting of the Commission falls upon a day designated as a holiday, such meeting may be held at the same hours on the next succeeding business day, which is not a holiday.

5.2 Adjourned Meetings. Any meeting may be adjourned to a time, place and date certain, but not beyond the next regular meeting. Once adjourned, the meeting cannot be reconvened.

5.3 Special Meetings. Special meetings of the Commission shall be open to the public and shall be held at such time as the Commission may determine. The Chair, ~~or~~ a majority of the Commission, and/or the Community Development Director may call a special meeting at any time by posting providing a twenty-four (24) hours advanced notice, pursuant to the Riverbank Code of Ordinances Section 32.32.(B). ~~has been published~~ Such notice shall be delivered to each Commissioner at least twenty-four (24) hours before the special meeting, provided however, that a Commissioner may waive a failure to receive notice to a special meeting by filing a written waiver with the Commission before the meeting or by appearing at the special meeting. Additionally, such notice shall be delivered twenty-four (24) hours in advance to each radio station and local newspaper of general circulation which have requested such notice.

5.4 Emergency Meetings. When a majority of the Commission determines that an emergency situation, such as work stoppage or another activity which severely impairs public health or safety exists, it may call an emergency meeting. Absent a dire emergency, the Commission shall provide notice to media outlets that have requested such notice at least one (1) hour before the meeting. In dire emergencies, notice shall be provided to media outlets that have requested such notice around the same time that notice is provided to the Commissioners. If telephone services are not working and notice cannot be sent to media outlets prior to the meeting, a report must be provided to media outlets as soon as possible after the meeting. After an emergency meeting, the Commission shall post a notice for ten (10) days in a public place which states: (A) the minutes of the meeting; (B) a list of persons who the Commission notified; (C) a list of persons who the Commission attempted to notify of the meeting; (D) a copy of the roll call vote; and (E) any actions taken at the meeting.

5.5 Workshops/Study Sessions. The Commission may hold a workshop or study session as part of a regular, adjourned, or special meeting. For workshops and study sessions on specific matters for which a future public hearing is anticipated, the Secretary will cause public notice to be given of such workshop or study session in the

same manner as required for public hearings, and a record of the workshop or study session shall be entered into the minutes of any such future public hearings. A workshop or study session shall be for discussion only and the Commission will take no action on the items discussed. No quorum of the Commissioners will be required to hold a workshop or study session.

Section 6. Notice and Agenda.

6.1 Notice of Meetings. The agenda for all Commission meetings shall be available to the general public and the Secretary shall cause a copy thereof to be posted at least seventy-two (72) hours before a regular or adjourned meeting in a place and/or places which that is are accessible to the public twenty-four (24) hours a day, seven (7) days a week.

6.2 Delivery of Agenda. For regular and adjourned meetings, the agenda shall be delivered to Commissioners, available to the general public only after the delivery to the Commissioners, and posted in a spot that is accessible to the public twenty-four (24) hours a day, seven (7) days a week, at least seventy-two (72) hours before the meeting. Additionally, individuals wishing to receive a copy of the agenda by mail may do so by paying the City an annual fee to offset the costs of mailing.

Section 7. Order of Business. Generally the order of business at a Commission meeting shall be as follows:

7.1 Call to Order.

7.2 Roll Call. Before proceeding with the business of the Commission, the Secretary shall call the roll of the Commission and the names of those present shall be entered into the minutes.

7.3 Conflict of Interest.

7.4 Acceptance of the Agenda. A motion should be made to approve the agenda for the current meeting. At this time or during approval of the consent calendar, any Commissioner may request that any item appearing on the consent calendar be withdrawn from the consent calendar for separate consideration.

7.5 Public Comments. Members of the public will have the opportunity to directly address the Commission on any item of interest to the public, which is within the subject matter jurisdiction of the Commission. Members of the public will have the opportunity to comment on an item posted on the agenda when the item appears before the Commission. For items not listed on the agenda, which are of public interest and under the subject matter jurisdiction of the Commission, there shall be a public

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comment period. During public comment period for regular or adjourned meetings, any person may address the Commission on any subject pertaining to the Commission that does not appear on the agenda. During public comments for special meetings, the public may be limited to addressing the Commission only on subjects appearing on the meeting's agenda. At the Chair's discretion, the Chair may impose a time limit for each person wishing to address the Commission during public comments of no less than two (2) minutes per person.

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~~7.7~~**7.6 Consent Calendar.** Items of a routine nature, which are non-controversial, may be placed on the consent calendar. All items appearing on the consent calendar may be approved with a single, blanket motion. The approval of items on the consent calendar can be severed and any Commissioner can make a motion to approve any number of the items appearing on the consent calendar.

7.8**7.7 Public Hearings.** Public hearings shall be conducted in the following order:

A. Staff Report. After the Chair announces the item as it appears on the agenda, City staff will give a presentation to the Commission and the public on the staff report prepared for the matter.

B. Initial Questions to Staff by the Commissioners. Prior to opening up a public hearing on a matter, Commissioners may ask questions of staff or third party consultants regarding the staff report and the issue.

C. Chair opens the public hearing:

- i. **Applicant Presentation.**
- ii. **Appellant (If different from Applicant).**

iii. **Public Testimony.** Depending upon the extent of the agenda, and the number of persons desiring to speak on an issue, the Chair may, at the beginning of the hearing, place a time limit on public testimony, but in no event for less than one (1) minute per individual. Any person may be authorized to speak for longer than the allotted time limit, upon approval of the Commission, when circumstances make such time extension appropriate, such as when the person is speaking as a representative of a group or has a graphic or slide presentation that requires additional time.

iv. **Applicant Rebuttal.**

v. **Appellant Rebuttal.**

vi. **Chair closes hearing.**

D. **Questions and discussion from the Commissioners.** The Commissioners should not express their opinions on an item prior to the close of the public hearing, as the Commissioners should not form or express an opinion until after all testimony has been received. Questions and comments from the Commission should not be argumentative and the Commission should not engage in debates with staff or those members of the public testifying an opinion until after all testimony has been received.

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- iv. While a vote is being taken.

A motion to adjourn "to another time" shall be debatable only as to the time to which the meeting is adjourned.

B. Motion to fix hour of adjournment. Such motion shall be to set a definite time as which to adjourn and shall be undebatable and unamendable except to the time set. Notice of the adjournment and the date of the subsequent meeting shall be conspicuously posted on or near the door where the meeting was held within twenty-four (24) hours of the adjournment. If the subsequent meeting occurs within five (5) days of the original meeting, the Commission may consider matters placed on the original meeting agenda without posting a new agenda. If the subsequent meeting occurs more than five (5) days from the original meeting, a new agenda must be prepared and posted.

C. Motion to table. A motion to table shall be used to temporarily bypass the subject. A motion to table shall be undebatable and shall preclude all amendments or debate of the subject under consideration. The tabled item may be "taken from the table" at any time by a motion made prior to the end of the meeting. If

the item is not taken from the table prior to the end of the meeting, it shall be placed on a future agenda as a new matter.

D. Motion to amend. A motion to amend can be made after a motion is introduced and seconded. A motion to amend shall be debatable only as to amendment. A motion to amend an amendment shall be in order but a motion to amend an amendment to an amendment shall not be in order. An amendment modifying the intention of a motion shall be in order, but an amendment relating a different matter shall not be in order. A motion to amend shall be voted on first, followed by a vote on the original motion, as amended or as originally stated, depending upon whether the motion to amend carries.

E. Motion to substitute. A motion to substitute can be made after a motion is introduced and seconded. A substitute motion on the same subject shall be acceptable, and voted on before a vote on a motion to amend the main motion amendment.

F. Motion for Previous Question. A motion for previous question shall be used to close debate on the main motion and shall be undebatable. If the motion fails, debate shall be reopened; if the motion passes, a vote shall be taken on the main motion.

G. Motion to Continue. Motions to continue to a definite time shall be amendable and debatable as to the propriety of postponement and time set. If desired, the Commissioner who initiates the motion to continue may also move to reopen the hearing to receive further testimony.

11.4 Multiple Motions Before the Commission. There can be up to three (3) motions before the Commission at one time. The Chair may reject a fourth (4th) motion until the Commission has addressed the three (3) that have been proposed first. When there are multiple motions before the Commission at one time, the Commission shall address the motions beginning with the most recently made motion.

Section 12. Policies.

12.1 Attendance. Each Commissioner shall attend every regular or special meeting unless unavailable for a valid reason. A Commissioner may be excused if prior notice is given to the Secretary, and if the reason for the absence is stated. In the minutes and in the attendance record the Secretary shall indicate members present and excused. The Commission may recommend to the City Council that the office of any Commissioner who is absent from three (3) consecutive regular meetings, unless excused for cause by vote of the Commission, be declared vacant and that a successor be appointed.

12.2 Length of Meetings. Unless a majority of the Commissioners present at a meeting find that exceptional circumstances require otherwise, the Commission will adjourn its meetings after three (3) hours on or before 11:00 p.m. with any unfinished business being continued to the next, regular, adjourned, or special meeting, unless the based on special circumstances the Commission votes to extend the time frame for the meeting. At approximately 4:30:00 p.m., the Chair will call review of any remaining agenda items to consider whether they will likely be completed by 4:49:00 p.m., or whether continuances should be considered. The Secretary, or designee, will post notice of any continued hearing or other unfinished business, as required by law.

12.3 Amendments. These Rules may be amended by the Commission at any regular meeting by a majority vote, or at any special meeting, provided that the proposed amendment is included in a written notice of such meeting.

Attachment 3

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RESOLUTION NO. 94-05(PC)

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF
RIVERBANK AMENDING THE PLANNING COMMISSION BROWN ACT
RULES AND PROCEDURES

WHEREAS, the Planning Commission adopted rules and regulations
on May 23, 1994 to guide the Commission in the conduct of its
meetings and to formalize its procedures; and

WHEREAS, the Planning Commission finds it necessary to amend
these Rules and Regulations to keep them current.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of
the City of Riverbank that the "Planning Commission Brown Act Rules
and Procedures" is hereby amended as shown in Exhibit A.

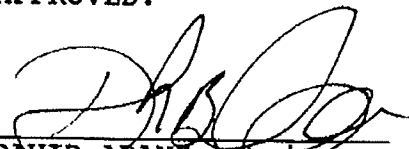
PASSED AND ADOPTED this 19th day of July, 1994 by the
following vote:

AYES: Commissioners Shewmake, McRitchie, Frace, Adams,
Hedlund

NOES: None

ABSENT: Commissioners Savage, Banuelos

APPROVED:


DAVID ADAMS, Chair

ATTEST:

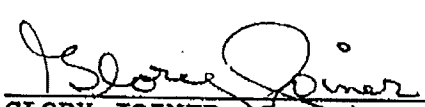

GLORY JOINER, Secretary

EXHIBIT "A"

**PLANNING COMMISSION BROWN ACT
RULES AND REGULATIONS**

1. REGULAR MEETINGS

(a) Time. Regular meetings of the Planning Commission shall be held on the third Tuesday of each month at the hour of 7:00 p.m. Whenever the day fixed for any regular meeting of the Commission falls upon a day designated as a holiday, such meeting may be held at the same hour on the next succeeding day not a holiday.

(b) Place. All regular meetings of the Planning Commission shall be held in the place designated by ordinance.

(c) Public. All meetings of the Commission shall be open to the public; provided, however, the Planning Commission may hold closed sessions as provided by the laws of the State of California.

2. SPECIAL MEETINGS

A special meeting may be ordered at any time by the Chair of the Planning Commission whenever the public business may require it or upon the written request of any three members of the Commission. Whenever a special meeting shall be called, written notice of such meeting shall be delivered personally or by mail by the Secretary to the Planning Commission to each member of the Commission and to each local newspaper of general circulation and radio station requesting notice in writing. Such notice must be delivered at least twenty-four hours before the time of such meeting as specified in the notice. The order shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings by the Commission. The written notice may be dispensed with as to any member of the Commission who, at or prior to the time the meeting convenes, files with the Secretary to the Commission a written waiver of notice.

3. AGENDA

In order to facilitate the orderly conduct of the business of the Commission, the Secretary to the Commission shall be notified no later than 5:00 p.m. of the Wednesday immediately preceding a regular meeting of all reports, communications, ordinances, resolutions, contract documents or other matters to be submitted to the Commission or discussed at such meeting. Immediately thereafter the Secretary to the Commission shall arrange an agenda

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3 of such matters according to the order of business and furnish each
4 member of the commission, the City Manager, the Planning Director,
5 and the City Attorney with a copy of the agenda prior to the
6 Commission meeting and as far in advance of the meeting as time for
7 preparation will permit. Persons who wish to receive copies of the
8 agenda by mail may receive them by payment of \$15 per year. The
9 agenda shall contain a brief general description of each item of
10 business to be transacted or discussed at the meeting.

11 The Secretary to the Planning Commission shall mark with the
12 "Consent Calendar" those items on the agenda regarding which it can
13 reasonably be expected that there will be no discussion by members
14 of the Planning Commission, the City staff or interested persons in
15 the audience. The Commission shall consider all of the items on
16 the agenda marked "consent" at one time by vote after a motion has
17 been duly made and seconded. If any member of the Commission or
18 City staff or any interested person in the audience requests that
19 a consent item be removed from the list of consent items, such item
20 shall be taken up for consideration and disposition after action on
21 the Consent Calendar. At least 72 hours before each regular
22 meeting the Secretary of the Planning Commission shall post the
23 agenda with a brief general description of each item therein at the
24 following place:

25 1. The entrance door to the City Council Chambers, 6707 Third
26 Street, Riverbank, California 95367.

The Secretary of the Planning Commission shall prepare a
report prior to each meeting on the posting of the agenda. This
report shall be reflected in the minutes of each meeting.

4. THE PRESIDING OFFICER

The Chair shall preside at all its meetings and perform such
other duties consistent with the office as may be imposed by the
Commission or City Council.

The Chair shall preserve strict order and decorum, at all
regular and special meetings of the Commission. The Chair may
announce special rules for the consideration of a particular item
on the agenda, such as, but not limited to; the length of time
persons may speak; require that, if desirable, a spokesman address
the Commission on behalf of a group of persons and, in the event of
a hearing, provide time for arguments and rebuttals from proponents
and opponents. The Chair shall state every question coming before
the Commission, call for the vote, announce the decision of the
Commission on all questions of order, subject, however, to an

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3 appeal to the Commission, in which event a majority vote of the
4 Commission shall govern and conclusively determine such question of
5 order. The Chair shall sign all resolutions adopted by the
6 Commission during the Chair's presence. In the event of the
7 absence of the Chair, the Vice-Chair shall sign resolutions as then
8 adopted.

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5. CALL TO ORDER

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8 The Chair, or in the Chair's absence, the Vice-Chair, shall
9 take the chair at the hour appointed for the meeting, and shall
10 immediately call the Commission to order. In the absence of the
11 Chair or Vice-Chair, the Secretary of the Commission shall call the
12 Commission to order whereupon a temporary chair shall be elected by
13 the members of the Commission present. Upon the arrival of the
14 Chair or Vice-Chair, the temporary Chair shall immediately
15 relinquish the chair upon the conclusion of the business
16 immediately before the Commission.

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6. ATTENDANCE

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14 Before proceeding with the business of the Commission, the
15 Secretary of the Commission shall enter into the minutes the names
16 of the members present or absent. No formal roll call need be
17 taken.

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7. QUORUM

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17 A majority of the members of the Commission shall constitute
18 a quorum for the transaction of business, but a lesser number than
19 a quorum may adjourn from time to time. The Commission may adjourn
20 any regular, adjourned regular, special or adjourned special
21 meeting to a time and place specified in the order of adjournment
22 as authorized by section 54954 of the Government Code. If all
23 members are absent from any regular or adjourned regular meeting,
24 the Secretary to the Commission may declare the meeting adjourned
25 to a stated time and place. The Secretary shall cause written
26 notice of the adjournment to be given in the same manner as
provided for special meetings. A copy of the order or notice of
adjournment shall be posted at the City Office and other places
designated by the Commission within twenty-four hours after the
time of adjournment. Whenever a regular or adjourned regular
meeting is adjourned as provided in this section, the resulting
adjourned regular meeting is a regular meeting for all purposes.
When an order of adjournment of any meeting fails to state the hour
at which the adjourned meeting shall be held, it shall be held at
the hour specified for regular meetings. A regular meeting shall

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3 stop at 11:00 p.m. unless the Commission votes to extend it in 30
4 minute increments.

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6 8. ORDER OF BUSINESS

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8 Promptly at the hour set on the date of each regular meeting,
9 the members of the Planning Commission and Planning Director shall
10 take their regular stations in the Council Chambers and the
11 business of the Commission shall be taken up for consideration and
12 disposition in the following order except that the unanimous
13 consent of the Commission, matters may be taken up out of order:

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1. Roll Call
2. Minutes
- 10 3. Declaration of Conflict of Interest
- 11 4. Consent Items
- 12 5. Public Hearings
- 13 6. Other Matters
- 14 7. Public Business from the Floor
8. Written Communications
- 13 9. Director's Report
- 14 10. Commissioner's Comments
11. Adjournment

15 9. READING OF MINUTES

16 Unless the reading of the minutes of a Commission meeting is
17 requested by a member of the Commission, such minutes may be
18 approved without reading if the Clerk has previously furnished each
member with a copy thereof.

19

20 10. ADDRESSING THE COMMISSION

21

22 Any person desiring to address the Commission at a meeting
23 shall first secure the permission of the Presiding Officer so to
24 do; provided, however, that under the following headings of
25 business, any qualified and interested person shall have the right
26 to address the Commission upon obtaining recognition by the
Presiding Officer:

- (a) Public Business from the Floor. Interested persons in
the audience or their authorized representatives may address the
Commission by oral communication on any matters over which the
Commission has subject matter jurisdiction, provided, however, that
preference shall be given to those persons who have notified the
Secretary to the Commission in advance of their desire to speak in
order that the same may appear on the agenda of the Commission.

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3 However, no action shall be taken on any item not appearing on the
4 agenda unless the action is otherwise authorized by paragraph 12 of
this Resolution or by Section 54954.2 of the Government Code.

5 (b) Written Communications. Interested persons or their
6 authorized representative may address the Commission by written
communication on any matters concerning the Commission's business.

7 Such written communication shall be delivered to the Secretary to
8 the Planning Commission no later than 5:00 p.m. of the Wednesday
immediately preceding the regular Commission meeting the agenda for
9 which such written communication is intended.

10 11. MANNER OF ADDRESSING COMMISSION

11 Each person shall stand at the podium, if one is available,
12 and give his or her name and address for the record. All remarks
13 shall be addressed to the Commission as a body and not to any
14 member thereof. No person, other than the Commission and person
15 having the floor, shall be permitted to enter into any discussion,
either directly or through a member of the commission, without the
16 permission of the Presiding Officer. No question shall be asked a
Commissioner or a member of the City Staff except through the
17 Presiding Officer. No person may address the Commission for more
18 than five minutes unless the Presiding Officer allows more time.

16 12. ACTION ON ITEMS NOT APPEARING ON THE POSTED AGENDA

17 No action shall be taken on any item not appearing on the
18 posted agenda unless:

19 (a) A majority of the Commissioners determine that an
emergency situation, as defined by Government Code Section 54956.5
20 exists.

21 (b) Commissioners determined by a two-thirds vote, or by a
unanimous vote if less than two-thirds of the Commissioners are
22 present, that there is a need for immediate action and the need for
immediate action come to the attention of the Commission after the
23 agenda was posted.

24 (c) The item was included in a properly posted agenda for a
prior meeting occurring not more than five days prior to the
25 meeting at which the action is taken and was continued to the
meeting at which the action is taken.

26 Any items not on the posted agenda requiring action by the

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3 Commission which are raised by Commissioners or by members of the
4 public shall be automatically referred to staff by the presiding
officer and placed on the agenda for the next regular meeting.

5 13. VOTING

6 (a) Members of the Commission shall vote by "voice vote" on
7 all ordinances, resolutions and other matters unless a roll call
8 vote is required by law or is requested by a Commission. Silence
shall be recorded as an affirmative vote. The Secretary of the
9 Commissions shall show on ordinances and resolutions the names of
Commissions voting "Aye" and "No."

10 (b) The vote on any matter being considered by the Commission
may be delayed by the Presiding Officer until all members of the
11 Commission present for a meeting, and not excused, are present at
the Commission table.

12 (c) A member of the Commission who has a conflict of interest
13 regarding any matter being considered by the Commission shall
declare the conflict and excuse himself or herself from
14 participating in the Commission's deliberation and decision
regarding that matter.

15 14. ORDER AND DECORUM

16 (a) By Commissioners. While the Commission is in session,
17 the members must preserve order and decorum, and a member shall
neither by conversation or otherwise, delay or interrupt the
18 proceedings or the peace of the Commission nor disturb any member
while speaking or refuse to obey the order of the Commission or its
19 Presiding Officer, except as otherwise herein provided.

20 (b) By Other Persons. Any person making personal,
impertinent, or slanderous remarks or who shall become boisterous
21 while addressing the Commission or who shall by conversation or
otherwise delay or interrupt the proceedings or the peace of the
22 Commission or disturb any member while speaking or refuse to obey
the orders of the Commission or its Presiding Officer shall be
forthwith barred by the Presiding Officer from further audience
23 before the Commission, unless permission to continue be granted by
a majority vote of the Commission. In the interest of an orderly
24 meeting, applause shall not be permitted.

25 (c) Enforcement of Order and Decorum. A law enforcement
officer may be designated as Sergeant-at-Arms of the Commission
26 when requested by the Presiding Officer. The officer shall carry

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3 out all orders and instructions given at the Commission meeting.
4 Upon instruction of the Presiding Officer, it shall be the duty of
5 the Sergeant-at-Arms, as to any person who violates the order and
6 decorum of the meeting, to remove and bar such person from the
7 Commission meeting.

8 (d) Smoking. Smoking shall not be permitted in the Council
9 Chambers during the meetings of the Commission.

10 15. SPECIAL COMMITTEES.

11 All special committees shall be appointed by the Presiding
12 Officer with the approval of the Commission.

13 16. PROTESTS

14 Any commissioner shall have the right to have the reasons for
15 his dissent from or protest against, any action of the Commission
16 entered on the minutes.

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Attachment 4



City Of Riverbank
Planning Commission Meeting
MINUTES
Tuesday, July 15, 2014

The following minutes reflect action minutes, with added clarification for the record. A copy of the verbatim recording may be obtained, for a fee, by contacting the Development Services Department at (209) 863-7128.

CALL TO ORDER/ROLL CALL:

Present: Chair Stewart, Commissioner Villapudua, Commissioner Degele and Commissioner McKinney

Absent: Vice Chair Hughes (Excused)

Invocation: Pastor Mario Jimenez, Community Praise Tabernacle

CONFLICT OF INTEREST: Any Planning Commissioner and Staff who would have a direct Conflict of Interest on any scheduled agenda item to be considered are to declare their conflict.

No one declared a conflict.

1. PUBLIC COMMENTS (No Action Can Be Taken): At this time, members of the public may comment on any item not appearing on the agenda, and within the subject matter jurisdiction of the Planning Commission. Individual comments will be limited to a **maximum of 5 minutes** per person and each person may speak once during this time; time cannot be yielded to another person. Under State Law, matters presented during the public comment period cannot be discussed or acted upon. For record purposes, state your name and City of residence. Please make your comments directly to the Planning Commission.

2. CONSENT CALENDAR: All items on the Consent Calendar are to be acted upon by a single action of the Planning Commission unless otherwise requested by an individual Planning Commissioner for special consideration. Otherwise, the recommendation of staff will be accepted and acted upon by roll call vote.

Item No. 2.A: Posting of the July 15, 2014, Planning Commission Meeting.

ACTION: *By motion moved/second (Degele / McKinney / passed 4-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Villapudua, Degele and McKinney

Nays: None

Absent: Hughes (Excused)

Abstained: None

Item No. 2.B: The Agenda for the July 15 2014, Planning Commission Meeting.

ACTION: By motion moved/second (Degele / McKinney / passed 4-0) was approved as submitted; motion carried by unanimous roll call vote.

Ayes: Planning Commissioners: Stewart, Villapudua, Degele, and McKinney

Nays: None

Absent: Hughes (Excused)

Abstained: None

Item No. 2.C: The Minutes of the April 15, 2014 and May 21, 2014, Planning Commission Meetings.

ACTION: By motion moved/second (Degele / McKinney / passed 4-0) was approved as submitted; motion carried by unanimous roll call vote.

Ayes: Planning Commissioners: Stewart, Villapudua, Degele, and McKinney

Nays: None

Absent: Hughes (Excused)

Abstained: None

3. PUBLIC WORKSHOP

Item 3.1: Draft Downtown Specific Plan (FEIR has been previously certified by the City Council on March 25, 2013).

- John B. Anderson, City of Riverbank Consulting Planning Director presented the PowerPoint presentation on the DTSP.
- As Mr. Anderson went through the PowerPoint presentation he asked the Planning Commission if they had any questions. Mr. Anderson answered all there questions as he went through the presentation.
- Chair Stewart opened the workshop so the public could give input on the DTSP and the presentation.
- Angie Timpony spoke on the DTSP and had suggested the city have more water recreational facilities for teenaged kids such as Pasco Washington were she had just visited.
- Evelyn Halbert spoke on the DTSP and questioned the published public noticing, the letters sent to the affected property owners and business owners and proposed zone districts.
- Robert Guardiola asked questions on the parking along Atchison / State Route 108 and the height of buildings.

- Planning Commission discussed the item further and asked Mr. Anderson additional questions.
- Evelyn Halbert asked questions on the parking for businesses & residential within the DTSP area.
- Robert Guadiola spoke again on the parking and suggested parking permits.
- Commissioner McKinney suggested we have another workshop.
- Chair Stewart requested she wanted some information on parking permits.
- Planning Commissioners' would like some financial information for future improvements of the DTSP.
- Planning Commissioners' suggested we have another workshop at our regular scheduled meeting date in August and at that the notices be in Spanish and English.
- Being there were no further comments the workshop ended at 7:34 p.m.

4. PUBLIC HEARINGS

Item 4.1: Rules and Procedures for the City of Riverbank's Planning Commission.

- John B. Anderson, City of Riverbank Consulting Planning Director presented the staff report.
- Planning Commissioners' discussed item and made some changes.
- Chair Stewart suggested a time change of (3) hours minimum for meetings and then added that could be changed at the discretion of the Planning Commission Chair.
- Chair Stewart opened the public hearing.
- Robert Guardiola stated that he did not agree to the time limit on meetings.
- Planning Commissioners' suggested to continue this item until the August 19, 2014 regularly scheduled Planning Commission meeting.
- Chair Stewart closed the public hearing.

ACTION: *By motion moved/second (Degele / Villapudua / passed 4-0) to approve by roll call vote the continuance of the Rules and Procedures for the City of Riverbank's Planning Commission to the August 19, 2014 Motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Villapudua, Degele, and McKinney

Nays: None

Absent: Hughes (Excused)

Abstained: None

5. NEW BUSINESS

None.

6. COMMISSION ITEMS

Item 6.1: Chair Stewart asked if cinder block walls were allowed. And had asked what can be done about neglected properties.

7. COUNTY REFERRAL/CORRESPONDENCE/INFORMATION

None.

8. UP-COMING MEETING AGENDA ITEMS

Item 8.1: Continued Public Workshop on the Downtown Specific Plan (FEIR has been previously certified by the CC on March 25, 2013).

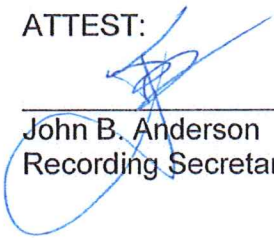
Item 8.2: Continued Public Hearing item from July 15, 2014, Planning Commission meeting to discuss the Planning Commission Rules and Procedures.

Item 8.3: Review of the 5-Year Capital Improvement Program (CIP) for Fiscal Years 2014-2019 for General Plan Conformance.

9. ADJOURNMENT

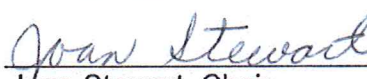
There being no further business, Chair Stewart adjourned the meeting at 7:53 p.m.

ATTEST:



John B. Anderson
Recording Secretary

APPROVED:



Joan Stewart, Chair
Planning Commissioner

Attachment 5



City Of Riverbank
Planning Commission Meeting
MINUTES
Tuesday, August 19, 2014

The following minutes reflect action minutes, with added clarification for the record. A copy of the verbatim recording may be obtained, for a fee, by contacting the Development Services Department at (209) 863-7128.

CALL TO ORDER/ROLL CALL:

Present: Chair Stewart, Commissioner Villapudua, and Commissioner McKinney

Absent: Vice Chair Hughes (Excused), Commissioner Degele (Excused)

CONFLICT OF INTEREST: Any Planning Commissioner and Staff who would have a direct Conflict of Interest on any scheduled agenda item to be considered are to declare their conflict.

No one declared a conflict.

1. PUBLIC COMMENTS (No Action Can Be Taken): At this time, members of the public may comment on any item not appearing on the agenda, and within the subject matter jurisdiction of the Planning Commission. Individual comments will be limited to a **maximum of 5 minutes** per person and each person may speak once during this time; time cannot be yielded to another person. Under State Law, matters presented during the public comment period cannot be discussed or acted upon. For record purposes, state your name and City of residence. Please make your comments directly to the Planning Commission.

2. CONSENT CALENDAR: All items on the Consent Calendar are to be acted upon by a single action of the Planning Commission unless otherwise requested by an individual Planning Commissioner for special consideration. Otherwise, the recommendation of staff will be accepted and acted upon by roll call vote.

Item No. 2.A: Posting of the August 19, 2014, Planning Commission Meeting.

ACTION: *By motion moved/second (Villapudua / McKinney / passed 3-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Villapudua and McKinney

Nays: None

Absent: Hughes (Excused) and Degele (Excused)

Abstained: None

Item No. 2.B: The Agenda for the August 19 2014, Planning Commission Meeting.

ACTION: *By motion moved/second (Villapudua / McKinney / passed 3-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Villapudua and McKinney

Nays: None

Absent: Hughes (Excused) and Degele (Excused)

Abstained: None

Item No. 2.C: The Minutes of the July 15, 2014, Planning Commission Meeting.

ACTION: *By motion moved/second (Villapudua / McKinney / passed 3-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Villapudua, and McKinney

Nays: None

Absent: Hughes (Excused) and Degele (Excused)

Abstained: None

3. PUBLIC WORKSHOP

Item 3.1: Continued Workshop from July 15, 2014 Planning Commission Meeting - Draft Downtown Specific Plan (FEIR has been previously certified by the City Council on March 25, 2013).

- John B. Anderson, City of Riverbank Consulting Planning Director presented the PowerPoint presentation on the DTSP Workshop.
- As John B. Anderson went through the PowerPoint presentation he asked and answered question by the Planning Commission.
- Chair Stewart opened the workshop so the public could give input on the DTSP and the presentation.
- Daryl Daniels spoke on behalf of the DTSP and asked question pertaining to zoning and how it affects property insurance.
- John Von Buren also spoke on the DTSP.
- Joe Cattedra also spoke on the DTSP.
- Norma Arauza also spoke on the DTSP.
- John Von Buren also asked about additional lighting in alley ways.
- Larry King had a question pertaining to the map.
- Evelyn Halbert spoke on behalf of the DTSP and that she is against it and just wants to be out of the plan and is concerned about parking issues.
- John B. Anderson addressed all questions and comments to those that had spoken.
- Chair Stewart asked John B. Anderson some additional questions.

- Teresa Cattedra asked about sidewalks and ADA ramps at corners. She also asked why the school does not have parking for their employees.
- John B. Anderson read Commissioner Degele's comments he had provided in writing in regards to the DTSP to the Commission since he was unable to attend the meeting.
- Planning Commission discussed the item further and asked Mr. Anderson additional questions.
- Chair Stewart suggested we continue the workshop until the September 16, 2014 Planning Commission meeting.
- Commissioner McKinney also agreed that we should continue the workshop.
- Workshop will be continued until September 16, 2014 Planning Commission with some information on historic homes within the DTSP area.
- Being there were no further comments the workshop ended at 7:15 p.m.

4. PUBLIC HEARINGS

Item 4.1: Rules and Procedures for the City of Riverbank's Planning Commission.

- Item was continued until September 16, 2014 Planning Commission Meeting.

ACTION: *By motion moved/second (Villapudua / McKinney passed 3-0) to approve by roll call vote the continuance of the Rules and Procedures for the City of Riverbank's Planning Commission to the September 16, 2014 Motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Villapudua, and McKinney

Nays: None

Absent: Hughes (Excused) and Degele (Excused)

Abstained: None

Item 4.2: General Plan Consistency of the 5-year Capital Improvement Program for Fiscal Year 2014-2019.

- John B. Anderson presented the item to the Planning Commission.
- Public Hearing was opened at 7:40 pm
- Public Hearing closed at 7:41 pm
- Commission Villapudua asked how the different items get on the list.
- John B. Anderson explained the process to the Planning Commission.
- **ACTION:** *By motion moved/second (McKinney / Villapudua / passed 3-0) was approved as submitted; motion carried by unanimous roll call vote.*

-
- *Ayes: Planning Commissioners: Stewart, Villapudua, and McKinney*
 - *Nays: None*
 - *Absent: Hughes (Excused) and Degele (Excused)*
 - *Abstained: None*

5. NEW BUSINESS

None.

6. COMMISSION ITEMS

None.

7. COUNTY REFERRAL/CORRESPONDENCE/INFORMATION

Item 7.1: Referral from Stanislaus County for 1731 & 1729 Patterson Road, requesting to construct a telecommunication facility for Verizon Wireless within a 1,600 sq. ft. lease area in the northwestern corner of a 14.31 acre parcel. The project includes construction of a 104 ft. tall monopole with three (3) antennas, a 202 sq. ft. equipment shelter with attached air conditioners, and a 78 sq. ft. concrete slab with a 30 kilowatt diesel generator and 132 gallon fuel tank. Visitation to the site by a service technician for routine maintenance typically occurs once a month. Access to the site is proposed via a 12 foot easement.

- John B. Anderson presented the item to the Planning Commission.
- Commissioners and John discussed the item and how they wanted to respond to the County in regards to the project. Commissioners were all in favor of a unique way of disguising the cellular tower such as it appearing to look like a windmill, so it would better fit in with the surrounding area, along with any equipment shelter's to look like a barn.
- John B. Anderson will forward the Planning Commissioners comments onto the County.

8. UP-COMING MEETING AGENDA ITEMS

Item 8.1: Continued Public Workshop on the Downtown Specific Plan from the August 19, 2014, Planning Commission meeting - (FEIR has been previously certified by the CC on March 25, 2013).

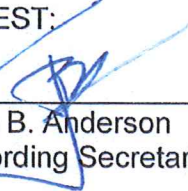
Item 8.2: Continued Public Hearing item from August 19, 2014, Planning Commission meeting to discuss the Planning Commission Rules and Procedures.

Item 8.3: September 30, 2014 Public Workshop on the Housing Element.

9. ADJOURNMENT

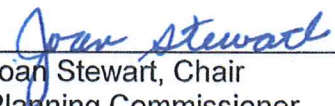
There being no further business, Chair Stewart adjourned the meeting at 7:55 p.m.

ATTEST:



John B. Anderson
Recording Secretary

APPROVED:



Joan Stewart, Chair
Planning Commissioner

Attachment 6



City Of Riverbank
Planning Commission Meeting
MINUTES
Tuesday, September 16, 2014

The following minutes reflect action minutes, with added clarification for the record. A copy of the verbatim recording may be obtained, for a fee, by contacting the Development Services Department at (209) 863-7128.

CALL TO ORDER/ROLL CALL:

Present: Chair Stewart, Vice Chair Hughes and Commissioner McKinney

Absent: Commissioner Degele (Excused) and Commissioner Villapudua (Excused)

CONFLICT OF INTEREST: Any Planning Commissioner and Staff who would have a direct Conflict of Interest on any scheduled agenda item to be considered are to declare their conflict.

No one declared a conflict.

1. PUBLIC COMMENTS (No Action Can Be Taken): At this time, members of the public may comment on any item not appearing on the agenda, and within the subject matter jurisdiction of the Planning Commission. Individual comments will be limited to a **maximum of 5 minutes** per person and each person may speak once during this time; time cannot be yielded to another person. Under State Law, matters presented during the public comment period cannot be discussed or acted upon. For record purposes, state your name and City of residence. Please make your comments directly to the Planning Commission.

2. CONSENT CALENDAR: All items on the Consent Calendar are to be acted upon by a single action of the Planning Commission unless otherwise requested by an individual Planning Commissioner for special consideration. Otherwise, the recommendation of staff will be accepted and acted upon by roll call vote.

Item No. 2.A: Posting of the September 16, 2014, Planning Commission Meeting.

ACTION: *By motion moved/second (Hughes / McKinney / passed 3-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Hughes and McKinney

Nays: None

Absent: Planning Commissioners: Degele (Excused) and Villapudua (Excused)

Abstained: None

Item No. 2.B: The Agenda for the September 16, 2014, Planning Commission Meeting.

ACTION: *By motion moved/second (Hughes / McKinney / passed 3-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Hughes and McKinney

Nays: None

Absent: Planning Commissioners: Degele (Excused) and Villapudua (Excused)

Abstained: None

Item No. 2.C: The Minutes of the August 19, 2014, Planning Commission Meeting.

ACTION: *By motion moved/second (Hughes / McKinney / passed 3-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Hughes and McKinney

Nays: None

Absent: Planning Commissioners: Degele (Excused) and Villapudua (Excused)

Abstained: None

3. PUBLIC WORKSHOP

Item 3.1: Continued Workshop from July 15, 2014 and August 19, 2014 Planning Commission Meetings - Draft Downtown Specific Plan (FEIR has been previously certified by the City Council on March 25, 2013).

- John B. Anderson, City of Riverbank Consulting Planning Director presented the PowerPoint presentation on the DTSP Workshop #3.
- As John B. Anderson went through the PowerPoint presentation he asked and answered question by the Planning Commission.
- Chair Stewart opened the workshop so the public could give input on the DTSP and the presentation.
- Dennis Zinner thought that a pedestrian over pass would attractive kids to skating boarding on it since the skate park is nearby.
- Planning Commission commented to Mr. Zinner's question.
- Evelyn Halbert spoke against the DTSP.
- John B. Anderson addressed all questions and comments to those that had spoken.
- Being there were no further comments the workshop ended at 6:40 p.m.

4. PUBLIC HEARINGS

Item 4.1: Rules and Procedures for the City of Riverbank's Planning Commission.

- Item was continued until October 21, 2014 Planning Commission Meeting due to the majority of the Commissioners that were not present at the September 16, 2014 Planning Commission meeting.

ACTION: *By motion moved/second (Hughes / McKinney passed 3-0) to approve by roll call vote the continuance of the Rules and Procedures for the City of Riverbank's Planning Commission to the October 21, 2014 Motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Hughes, and McKinney

Nays: None

Absent: Planning Commissioners: Degele (Excused) and Villapudua (Excused)

Abstained: None

Item 4.2: **Proposed Moratorium on Tattoo establishments to afford staff time to evaluate and make recommendations as to the appropriate zoning regulations associated with such businesses. The matter affects uses City-Wide.**

- John B. Anderson, City of Riverbank Consulting Planning Director presented the staff report to the Planning Commission.
- Planning Commission asked Mr. Anderson some questions on the item.
- Jamie Garrett, Attorney with Churchwell White LLP, also clarified the proposed Moratorium and guidelines to the Planning Commission.
- Public Hearing was opened at 6:50 pm
- Public Hearing closed at 6:51 pm

ACTION: *By motion moved/second (Hughes / McKinney / passed 3-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Hughes and McKinney

Nays: None

Absent: Planning Commissioners: Degele (Excused) and Villapudua (Excused)

Abstained: None

5. NEW BUSINESS

None.

6. COMMISSION ITEMS

None.

7. COUNTY REFERRAL/CORRESPONDENCE/INFORMATION

None.

8. UP-COMING MEETING AGENDA ITEMS

Item 8.1: Downtown Specific Plan will be brought to the Planning Commission for their approval and recommendation to the City Council either in October or November, 2014, Planning Commission meeting - (FEIR has been previously certified by the CC on March 25, 2013).

Item 8.2: Continued Public Hearing Item 4.1 Rules and Procedures for the City of Riverbank's Planning Commission. To be continued to the October 21, 2014, Planning Commission meeting.

Item 8.3: September 30, 2014 Public Workshop on the Housing Element.

9. ADJOURNMENT

There being no further business, Chair Stewart adjourned the meeting at 7:00 p.m.

ATTEST:



John B. Anderson
Recording Secretary

APPROVED:



Joan Stewart, Chair
Planning Commissioner

Attachment 7



City Of Riverbank
Planning Commission Meeting
MINUTES
Tuesday, October 21, 2014

The following minutes reflect action minutes, with added clarification for the record. A copy of the verbatim recording may be obtained, for a fee, by contacting the Development Services Department at (209) 863-7128.

CALL TO ORDER/ROLL CALL:

Present: Chair Stewart, Commissioner Villapudua and Commissioner McKinney

Absent: Vice Chair Hughes (Excused) and Commissioner Degele (Absent)

CONFLICT OF INTEREST: Any Planning Commissioner and Staff who would have a direct Conflict of Interest on any scheduled agenda item to be considered are to declare their conflict.

No one declared a conflict.

1. PUBLIC COMMENTS (No Action Can Be Taken): At this time, members of the public may comment on any item not appearing on the agenda, and within the subject matter jurisdiction of the Planning Commission. Individual comments will be limited to a **maximum of 5 minutes** per person and each person may speak once during this time; time cannot be yielded to another person. Under State Law, matters presented during the public comment period cannot be discussed or acted upon. For record purposes, state your name and City of residence. Please make your comments directly to the Planning Commission.

2. CONSENT CALENDAR: All items on the Consent Calendar are to be acted upon by a single action of the Planning Commission unless otherwise requested by an individual Planning Commissioner for special consideration. Otherwise, the recommendation of staff will be accepted and acted upon by roll call vote.

Item No. 2.A: Posting of the October 21, 2014, Planning Commission Meeting.

ACTION: *By motion moved/second (Villapudua / McKinney / passed 3-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Villapudua and McKinney

Nays: None

Absent: Planning Commissioners: Degele (Absent) and Hughes (Excused)

Abstained: None

Item No. 2.B: The Agenda for the October 21, 2014, Planning Commission Meeting.

ACTION: *By motion moved/second (Villapudua / McKinney / passed 3-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Villapudua and McKinney

Nays: None

Absent: Planning Commissioners: Degele (Absent) and Hughes (Excused)

Abstained: None

Item No. 2.C: The Minutes of the September 16, 2014, Planning Commission Meeting.

ACTION: *By motion moved/second (Villapudua / McKinney / passed 3-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Villapudua and McKinney

Nays: None

Absent: Planning Commissioners: Degele (Absent) and Hughes (Excused)

Abstained: None

3. PUBLIC HEARINGS

Item 3.1: Rules and Procedures for the City of Riverbank's Planning Commission.

- Item was continued until November 18, 2014 Planning Commission Meeting due to the majority of the Commissioners that were not present at the October 21, 2014 Planning Commission meeting.

ACTION: *By motion moved/second (McKinney / Villapudua / passed 3-0) to approve by roll call vote the continuance of the Rules and Procedures for the City of Riverbank's Planning Commission to the November 18, 2014, motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Villapudua, and McKinney

Nays: None

Absent: Planning Commissioners: Degele (Absent) and Hughes (Excused)

Abstained: None

Item 3.2: A Proposed Moratorium on the establishment of and operation of new hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers. Resolution No. 2014-014.

- John B. Anderson introduced item 3.2 and David Niskanen presented the staff report.
- Planning Commission discussed the item.
- John B. Anderson and Jamie Garret (Attorney) responded to the Planning Commissioners questions.

-
- Public Hearing was opened at 6:23 pm.
 - Daniel Freedman with Soul Patch Tattoo Shop spoke against the item.
 - Tami Walker spoke against the item.
 - Jeremy Fennell with Sin-Cal Tattoo Shop spoke against the item.
 - Robert West pending applicant for Liquid E Fusion spoke against the item.
 - Larry King asked how long it takes for a normal ordinance verses an emergency ordinance to get approved.
 - Jamie Garret responded to his question.
 - Chelsea Broussard spoke against the item.
 - Public Hearing was closed at 6:43 pm.
 - Planning Commissioners discussed item.
 - Chair Stewart and Commissioner Villapudua felt that e-cigarette retailers and e-cigarette lounges should be separate from the other items it was combined with.
 - Jamie Garret informed the Planning Commission that they could either approve the resolution or recommend to City Council approval subject to the amendments, or not to pass item 3.2.
 - Planning Commission had questions regarding the definition of vapor lounges and, e-cigarette lounges.
 - Public Hearing was reopened at 6:50 pm.
 - Robert West pending applicant for Liquid E Fusion explained to the Planning Commission what his interpretation was of vapor bars / lounge, e-cigarette lounges.
 - Public Hearing was reclosed at 6:53 pm.
 - Planning Commission discussed item.

ACTION: *By motion moved/second (Villapudua / Stewart / Failed 2-1) to approve item with the amendment to exclude e-cigarette retailers and e-cigarette lounges.*

Motion failed by roll call vote. Need a 3-0 vote to pass due to only three Commissioner's being present.

Ayes: Planning Commissioners: Stewart, Villapudua

Nays: Planning Commissioner: McKinney

Absent: Planning Commissioners: Degele (Absent) and Hughes (Excused)

Abstained: None

- Public Hearing was reopened at 7:15 pm.
- Robert West spoke on item.
- Tami Walker spoke on item.
- Jeremy Fennel spoke on item.
- Larry King spoke on item.
- Public Hearing was reclosed at 7:25 pm.

ACTION: *By motion to approve the moratorium as presented by staff moved (McKinney) lack of second motion failed. To approve as submitted;*

Ayes: Planning Commissioner: McKinney

Nays: Planning Commissioners: Stewart and Villapudua

Absent: Planning Commissioners: Degele (Absent) and Hughes (Excused)

Abstained: None

- Planning Commission continued to discuss item.

ACTION: *By motion moved/second (Villapudua / Stewart / passed 3-0) was*

Approved with amendment to exclude e-cigarette retailers; motion carried by unanimous roll call vote.

Ayes: Planning Commissioners: Stewart, Villapudua and McKinney

Nays: None

Absent: Planning Commissioners: Degele (Absent) and Hughes (Excused)

Abstained: None

Item 3.3: A Proposed Moratorium on the establishment and operation of new internet access businesses using simulated gambling devices. Resolution No. 2014-015.

- John B. Anderson introduced item 3.3 and David Niskanen presented the staff report.
- Planning Commission discussed item.

-
- Public Hearing was opened at 7:37 pm.
 - Public Hearing was closed at 7:38 pm.

ACTION: *By motion moved/second (Villapudua / McKinney / passed 3-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Villapudua and McKinney

Nays: None

Absent: Planning Commissioners: Degele (Absent) and Hughes (Excused)

Abstained: None

5. NEW BUSINESS

Item 5.1: Housing Element – John B. Anderson is working on Ordinance corrections required as part of the fourth cycle Housing Element. These are required before the fifth cycle Housing Element can be submitted to the State HCD for review.

6. COMMISSION ITEMS

None.

7. COUNTY REFERRAL/CORRESPONDENCE/INFORMATION

None.

8. UP-COMING MEETING AGENDA ITEMS

Item 8.1: Downtown Specific Plan will be brought to the Planning Commission for their approval and recommendation to the City Council either in December, 2014 or January, 2015, Planning Commission meeting - (FEIR has been previously certified by the CC on March 25, 2013).

9. ADJOURNMENT

There being no further business, Chair Stewart adjourned the meeting at 7:53 p.m.

ATTEST:

APPROVED:

John B. Anderson
Recording Secretary

Joan Stewart, Chair
Planning Commissioner

DRAFT

**CITY OF RIVERBANK
PLANNING COMMISSION
STAFF REPORT**

ITEM NO:	3.2	November 18, 2014
APPLICATION:	Zoning Ordinance, Reasonable Accommodation, Adding Sections 153.221 through 153.229 to Chapter 153, Zoning, of Title XV, Land Usage of the Riverbank Municipal Code	
LOCATION:	City-Wide	
ENVIRONMENTAL DETERMINATION:	The proposed Ordinance Amendment to establish Sections 153.221 through 153.229, Reasonable Accommodation is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3), the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.	
PROJECT PLANNER:	John B. Anderson, Contract Community Development Director	
RECOMMENDATION:	Staff recommends that the Planning Commission motion to adopt Resolution No. 2014-016, recommending the City Council of the City of Riverbank ("City") adopt Ordinance No. 2014-XXX, establishing the Reasonable Accommodation Ordinance, adding Sections 153.221 through 153.229 to Chapter 153, Zoning, of Title XV, Land Usage of the Riverbank Municipal Code.	
ACRONYMS:	CEQA – California Environmental Quality Act ADA – American Disabilities Act HCD – California Department Housing and Community Development	
ATTACHMENTS:	1. Planning Commission Resolution No. 2014-016 2. Adopted 2009-2014 Housing Element, Policy 5.3, Page IX-9	

I. EXECUTIVE SUMMARY:

Both Federal and State Fair Housing laws prohibit discrimination in housing against individuals with disabilities. These laws require that cities take affirmative action to eliminate regulations and practices that deny housing opportunities to disabled individuals. This includes requiring flexibility in the application of land use and zoning regulations.

Furthermore, California's Fair Employment and Housing Act, the State's Housing Element law, and HUD require that cities utilizing Community Development Block Grant (CDBG) funds prepare an "Analysis of Impediments to Fair Housing Choice." Taken together, these pieces of legislation require that Cities and Counties take affirmative action to eliminate regulations and practices that deny housing opportunities to individuals with disabilities, and more specifically, require that Cities and Counties provide individuals with disabilities, or developers of housing for people with disabilities, flexibility in the application of land use and zoning regulations, practices and procedures.

While fair housing laws intend that all people have equal access to housing, the law also recognizes that individuals with disabilities may need extra tools to achieve equality. Providing reasonable accommodation is one way for the City of Riverbank to provide relief from land use and zoning and building regulations and procedures that have the effect of discriminating against the development, siting and use of housing for individuals with disabilities. Furthermore, California Government Code Section 65583(c)(3) states:

Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.

The intent of the proposed Ordinance is to establish a formal procedure for persons with disabilities seeking equal access to housing to request reasonable accommodation in the application of the City's land use regulations and to establish criteria to be used when considering such requests. These regulations implement Program 5.3a in the Riverbank General Plan Housing Element, which calls for the development of written procedures for reasonable accommodation requests with respect to zoning, permit processing, and building laws as well as Federal and State Fair Housing Laws.

II. BACKGROUND

The City's 2009-2014 Housing Element was adopted August of 2009. The Housing Element contains goals, policies, and proposed plans of actions to implement the City's housing program. The goals and policies reflect the needs identified in the Housing Element and each proposed implementation

program contains a description of the intended action, an explanation of the agency responsible for administering the program, and the timeframe during which the program would take effect.

One of the Goals and Policies of the 2009-2014 Housing Element is for the City to adopt a Reasonable Accommodation Ordinance:

GOAL 5: PROMOTE HOUSING OPPORTUNITIES FOR ALL PERSONS REGARDLESS OF RACE, RELIGION, SEX, MARITAL STATUS, ANCESTRY, NATIONAL ORIGIN, COLOR, FAMILIAL STATUS, OR DISABILITY

Policy 5.3 Adopt Reasonable Accommodation Ordinance

Program 5.3a: The City will adopt written reasonable accommodation ordinance to provide exception in zoning and land-use for housing for persons with disabilities. This procedure will be a ministerial process, with minimal or no processing fee, subject to approval by the Community Development Director applying the following decision-making criteria:

- The request for reasonable accommodation will be used by an individual with a disability protected under fair housing laws.
- The requested accommodation is necessary to make housing available to an individual with a disability protected under fair housing law.
- The requested accommodation would not impose an undue financial or administrative burden on the City.
- The requested accommodation would not require a fundamental alteration in the nature of the City's land-use and zoning program.

Responsibility: Community Development Department

Timeframe: Adopt Zoning Ordinance Amendments by December 2012

As seen above, the timeframe for this program to be adopted by the City is December of 2012. Due to Staff and monetary constraints, the City has not implemented this program to date. The current planning cycle for the City's Housing Element is 2014-2023. One of the issues that the California Department of Housing and Community Development (HCD) will review as part of certifying the City's Housing Element is how well the City implemented the Goals, Policies and Programs of the previous Housing Element. With this program implemented, the City will be in a better position for certification when the City's 2014-2023 Housing Element is submitted for HCD review.

It is important for the City to have a certified Housing Element because it allows the City to take advantage of State and Federal funds, such as Community Development Block Grant (CDBG) and Home Investments Partnership (HOME) Program to name a couple. These funds help facilitate the development and rehabilitation of homes for all income groups.

Additionally, the Federal Fair Housing Amendments Act (the Act) of 1988 makes it illegal to discriminate in housing against individuals based on their race, color, religion, gender, national origin, familial status, or **disability**. The Act prohibits local governments from making house opportunities unavailable to people with disabilities through discriminatory land use and zoning rules, policies, practices and procedures. The legislative history of the Act recognizes that zoning code provision have discriminated against people with disabilities by limiting opportunities to live in the community congregate or group living arrangements. California's own fair housing statute, the Fair Employment and Housing Act (FEHA) prohibits discrimination on the same bases as federal law and also four additional bases: ancestry, sexual orientation, and source of income. The proposed Reasonable Accommodation Ordinance provides the City with procedures and criteria to provide persons with disabilities the relief in zoning, permit procedures, and building laws that may prohibit opportunities for housing.

An applicant requesting an accommodation must have a disability that is defined and protected under Federal and State Housing Law. According to the State's FEHA, there are two categories of disabilities: physical and mental. The applicant is not required to identify the nature or severity of the disability and it is unlawful for the City to make such an inquiry of a person with a disability or one associated with him or her (24 C.F.R. § 100.202; Cal. Gov't Code § 12955 (b)). In most instances, the establishment of a protected disability can be met by describing generally the use of the dwelling, such as licensed residential care facility, home for transitional age youth with disabilities, or sober living home for those in recovery.

Furthermore, the application and procedures are approved by the Community Development Director, reducing the timing of the review process, resulting in a more streamlined process. This is consistent with the intent of the Ordinance of reducing constraints and barriers to housing for persons with disabilities.

III. ANALYSIS

The proposed Ordinance Amendment establishes the Reasonable Accommodation Ordinance in the City's Zoning Code. The proposed City Council Ordinance is attached to this Staff Report as Attachment 2. In summary, the proposed ordinance implements the following:

- Establishes criteria and procedures for the request for Reasonable Accommodation that will be used by an individual with a disability protected under fair housing laws.
- Establishes submittal requirements that are applicable to reasonable accommodation, such as documentation of disability, specific exception or modification to the zoning code, other information that the CDD requires to make a determination.
- Appeal procedures for Reasonable Accommodation decisions.
- Factors for the alteration of the City's Zoning Code.
- Establishes certain findings that the Community Development Director must make to make a decision to grant or deny requested accommodations. These findings are consistent with Fair Housing Laws and the decision-making criteria listed in Program 5.3a above.

Examples of the types of requests that may be made are provided below:

- *Relief from Yard Setback Requirements:* Wheelchair ramps are required to comply with applicable setback requirements. Under the proposed regulations, an applicant may seek changes related to yard setback requirements to accommodate the installation of ramps to meet the needs of persons with disabilities who use wheelchairs.
- *Fence Height Restrictions:* A housing provider or developer seeks exception to fence height restrictions when greater privacy is necessary for a person with a disability to use and enjoy the outdoors at a residence.
- *Parking:* An applicant may seek special parking exceptions for the use of a vehicle where the height of the vehicle is prohibiting them from using the garage or space at the home.

IV. ENVIRONMENTAL DETERMINATION

The proposed Ordinance Amendment is not a project for CEQA purposes and is exempt under State CEQA Guidelines Section 15061(b)(3), General Rule, because it can be seen with certainty that there is not a possibility that the proposal would result in a significant effect on the environment. The proposal is implementing existing State law and is considered an administrative activity and would not, itself, allow any construction or propose any projects. CEQA will be applied on a project-by-project basis if and when such projects are proposed.

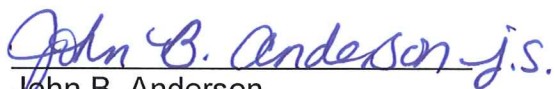
V. PUBLIC NOTICE:

The Planning Commission hearing notice with a summary of the proposed Reasonable Accommodation Ordinance was published in the Riverbank News on November 5, 2014 and posted at City Hall North and South on November 5, 2014. At the time of writing this Staff Report (November 12, 2014) the City has not received any public comment. Written comments received by the City shall be supplied to the Commission at the day of the meeting and read into the public record.

VI. RECOMMENDATION:

Staff recommends that the Planning Commission motion to adopt Resolution No. 2014-016, recommending the City Council of the City of Riverbank ("City") adopt Ordinance No. 2014-XXX, adding Sections 153.221 through 153.229, Reasonable Accommodation to Chapter 153, Zoning of Title XV, Land Usage of the Riverbank Municipal Code.

Respectfully Submitted By:

Handwritten signature of John B. Anderson in blue ink.

John B. Anderson
Contract Community Development Director

Attachment 1 – Planning Commission Resolution 2014-016

**CITY OF RIVERBANK
RESOLUTION NO. 2014-016**

**A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF RIVERBANK, CALIFORNIA,
RECOMMENDING TO CITY COUNCIL THE APPROVAL
OF ORDINANCE 2014-XXX ADDING SECTIONS 153.221
THROUGH 153.229 TO CHAPTER 153, ZONING OF TITLE
XV, LAND USAGE OF THE CITY OF RIVERBANK
MUNICIPAL CODE**

WHEREAS, on August 24, 2009, the City of Riverbank City Council adopted the 2009-2014 Housing Element; and

WHEREAS, the adopted and certified Housing Element, Policy 5.3 and Program 5.3a calls for the City to adopt written Reasonable Accommodation Ordinance to provide exception in zoning and land-use for housing for persons with disabilities; and

WHEREAS, the Federal Fair Housing Amendments Act of 1988 and the California Fair Employment and Housing Act prohibit discrimination in housing against individuals with disabilities and require that Cities take affirmative action to eliminate regulations and practices that deny housing opportunities to individuals with disabilities; and

WHEREAS, fair housing laws require that Cities provide individuals with disabilities (or their representatives, or developers of housing for people with disabilities) flexibility in the application of land use and zoning regulations; and

WHEREAS, Government Code Section 65583 requires that the Housing Element identify constraints to providing housing for individuals with disabilities, supportive housing and transitional housing and develop strategies as appropriate for removing those constraints, and to have a program(s) that removes constraints to, or provides reasonable accommodations for such housing; and

WHEREAS, the Attorney General of the State of California has recommended that cities and counties implement fair housing reasonable accommodation procedures for making land use and zoning determinations concerning individuals with disabilities to further the development of housing for individuals with disabilities; and

WHEREAS, the Government Code section 65855 requires that the City Council receive input and a recommendation from the Planning Commission on a Zoning Amendment that imposes any regulation listed in Section 65850; and

WHEREAS, notice of the public hearing on the Zoning Ordinance Amendment was published in the *Riverbank News*, a newspaper of general circulation, on November 5, 2014; and

WHEREAS, the Planning Commission has reviewed the Zoning Amendment and conducted a public hearing on November 18, 2014; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT THE PLANNING COMMISSION OF THE CITY OF RIVERBANK HEREBY RECOMMENDS CITY COUNCIL APPROVAL OF ORDINANCE 2014-XXX, ATTACHED HERETO AS EXHIBIT A AND INCORPORATED HERIN BY THIS REFERENCE, ADDING SECTIONS 153.221 THROUGH 229, REASONABLE ACCOMMODATION TO CHAPTER 153, ZONING OF TITLE XV, LAND USAGE OF THE RIVERBANK MUNICIPAL CODE BASED ON THE FOLLOWING FINDINGS:

1. Pursuant to California Government Code Section 65854, the recommendation to City Council shall include the relationship to the applicable general or specific plan.
 - a. The proposed Zoning Ordinance will establish a new section in the City's Municipal Code, Reasonable Accommodation and is consistent with Policy 5.3: Adopt Reasonable Accommodation Ordinance and Program 5.3a of the City's adopted and certified 2009-2014 Housing Element;
 - b. The Housing Element of the City of Riverbank must identify and develop a plan for removing governmental constraints to housing for individuals with disabilities including land use and zoning constraints or providing reasonable accommodation; and
 - c. The proposed Ordinance will facilitate Reasonable Accommodation procedures and criteria for the City to reasonably accommodate persons with disabilities and in accordance with state and federal laws.
2. Constitutionality, severability. If any section, subsection, sentence, clause, phrase, or word of this resolution is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the resolution. The Planning Commission of the City of Riverbank hereby declares that it would have passed this resolution and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.
3. The City finds and determines with certainty that the amendments described in Ordinance 2014-XXX are not considered a project and is exempt under the California Environmental Quality Act Section 15061(b)(3) as the ordinance is only implementing Federal and State laws and would not, itself, allow any construction, and each proposed project would be subject to individual CEQA review.

PASSED AND ADOPTED by the Planning Commission of the City of Riverbank at a regular meeting held on the 18th day of November, 2014; motioned by Commissioner _____, seconded by Chairperson _____, and upon roll call was carried by the following vote of _____:

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

John B. Anderson
Contract Community Development Director

Joan Stewart
Planning Commission Chair

Attachments:

Exhibit "A" – City Council Ordinance 2014-XXX

EXHIBIT "A"

EXHIBIT "A"

**CITY OF RIVERBANK
ORDINANCE NO. 2014-XXX**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF RIVERBANK, CALIFORNIA ADDING SECTIONS
153.221 THROUGH 153.229 TO TITLE XV: LAND
USAGE, CHAPTER 153: ZONING OF THE CITY'S
MUNICIPAL CODE**

WHEREAS, the City of Riverbank is authorized by Title 15 Chapter 153.230 to initiate a Zoning Ordinance Amendment whenever public necessity and convenience and the general welfare require such an amendment; and

WHEREAS, the City of Riverbank Planning Commission conducted a Public Hearing on Tuesday, November 18, 2014 to consider Ordinance 2014-___ to establish the Reasonable Accommodation Ordinance, adding Section 153.221 through 153.229 of Title XV: Land Usage, Chapter 153: Zoning of the City's Municipal Code; and

WHEREAS, the City Council for City of Riverbank has made the following findings for adoption.

1. Pursuant to California Government Code section 65358, the relationship between the proposed Zoning Code Amendment and the General Plan are as follows:
 - a. The proposed Zoning Ordinance will establish a new section in the City's Municipal Code, Reasonable Accommodation and is consistent with Policy 5.3: Adopt Reasonable Accommodation Ordinance and Program 5.3a of the City's adopted and certified 2009-2014 Housing Element;
 - b. The Housing Element of the City of Riverbank must identify and develop a plan for removing governmental constraints to housing for individuals with disabilities including land use and zoning constraints or providing reasonable accommodation; and
 - c. The proposed Ordinance will facilitate Reasonable Accommodation procedures and criteria for the City to reasonably accommodate persons with disabilities and in accordance with state and federal laws.
2. The Federal Fair Housing Amendments Act of 1988 and California's Fair Employment and Housing Act impose an affirmative duty on local governments

EXHIBIT "A"

to make reasonable accommodation in their land use and zoning regulations and practices when such accommodation may be necessary to afford individuals with disabilities an equal opportunity to housing;

3. The Attorney General of the State of California has recommended that Cities and Counties implement fair housing reasonable accommodation procedures for making land use and zoning determinations concerning individuals with disabilities to further the development of housing for individuals with disabilities;
4. A fair housing reasonable accommodation procedure for individuals with disabilities and developers of housing for individuals with disabilities to seek relief in the application of land use, zoning and building regulations, policies, practices and procedures will further the City's compliance with federal and state fair housing laws and provide greater opportunities for the development of critically needed housing for individuals with disabilities;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RIVERBANK DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. *Chapter 153, Zoning of Title XV: Land Usage of the Riverbank Municipal Code is amended to add Sections 153.221 through 153.229, Reasonable Accommodation, which shall read as follows:*

REASONABLE ACCOMMODATION

153.221 PURPOSE

It is the policy of the City of Riverbank, pursuant to the federal Fair Housing Amendments Act of 1988 and the California Fair Employment and Housing Act, to provide individuals with disabilities reasonable accommodation in rules, policies, practices and procedures to ensure equal access to housing and facilitate the development of housing for individuals with disabilities. This ordinance establishes a procedure for making requests for reasonable accommodation in land use, zoning and building regulations, policies, practices and procedures of the jurisdiction to comply fully with the intent and purpose of fair housing laws.

153.222 APPLICABILITY

Reasonable accommodation in the land use and zoning context means providing individuals with disabilities or developers of housing for people with disabilities, flexibility in the application of land use and zoning and building regulations, policies,

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practices and procedures, or even waiving certain requirements, when it is necessary to eliminate barriers to housing opportunities.

An individual with a disability is someone who has a physical or mental impairment that limits one or more major life activities; anyone who is regarded as having such impairment; or anyone with a record of such impairment.

A request for reasonable accommodation may be made by any individual with a disability, his or her representative, or a developer or provider of housing for individuals with disabilities, when the application of a land use, zoning or building regulation, policy, practice or procedure acts as a barrier to fair housing opportunities.

153.223 NOTICE TO THE PUBLIC OF AVAILABILITY OF ACCOMMODATION PROCESS

Notice of the availability of reasonable accommodation shall be prominently displayed at public information counter in the development services department, advising the public of the availability of the procedure for eligible individuals. Forms for requesting reasonable accommodation shall be available to the public in the development services department.

153.224 REQUESTING REASONABLE ACCOMMODATION

- A. In order to make housing available to an individual with a disability, any eligible person as defined in Section 153.256 may request a reasonable accommodation in land use, zoning and building regulations, policies, practices and procedures.
- B. Requests for reasonable accommodation shall be in writing and provide the following information:
 - 1. Name and address of the individual(s) requesting reasonable accommodation;
 - 2. Name and address of the property owner(s);
 - 3. Address of the property for which accommodation is requested;
 - 4. Description of the requested accommodation and regulation(s), policy or procedure for which accommodation is sought; and
 - 5. Reason that the requested accommodation may be necessary for the individual(s) with the disability to use and enjoy the dwelling.
- C. Any information identified by an applicant as confidential shall be retained in a manner so as to respect the privacy rights of the applicant and shall not be made available for public inspection.

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- D. A request for reasonable accommodation in regulations, policies, practices, and procedures may be filed at any time that the accommodation may be necessary to ensure equal access to housing. A reasonable accommodation does not affect an individual's obligations to comply with other applicable regulations not at issue in the requested accommodation.
- E. If an individual needs assistance in making the request for reasonable accommodation, the City of Riverbank will provide assistance to ensure that the process is accessible.

153.225 REVIEWING AUTHORITY

- A. Requests for reasonable accommodation shall be reviewed by the Community Development Director, using the criteria set for in Section 153.226.
- B. The Community Development Director shall issue a written decision on a request for reasonable accommodation within thirty (30) days of the date of the application and may either grant, grant with modifications, or deny a request for reasonable accommodation in accordance with the required findings set for in Section 153.226.
- C. If necessary to reach a determination on the request for reasonable accommodation, the Community Development Director may request further information from the applicant consistent with fair housing laws, specifying in detail the information that is required. In the event that a request for additional information is made, the thirty (30) day period to issue a decision is stayed until the applicant responds to the request.

153.226 REQUIRED FINDINGS

The written decision to grant, grant with modifications, or deny a request for reasonable accommodation shall be consistent with fair housing laws and based on the following factors:

1. Whether the housing, which is the subject of the request for reasonable accommodation, will be used by an individual with disabilities, as defined and protected under federal and state fair housing laws;
2. Whether the requested accommodation is necessary to make housing available to an individual with disabilities protected under the fair housing laws;

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3. Whether the requested accommodation would impose an undue financial or administrative burden on the City; and
4. Whether the requested accommodation would require a fundamental alteration in the nature of the City's land use and zoning or building program.

153.227 WRITTEN DECISION ON THE REQUEST FOR REASONABLE ACCOMMODATION

- A. The written decision on the request for reasonable accommodation shall explain in detail the basis of the decision, including the Community Development Director's findings on the criteria set forth in Section 153.226. All written decisions shall give notice of the applicant's right to appeal and to request reasonable accommodation in the appeals process as set forth below. The notice of decision shall be sent to the applicant by certified mail.
- B. The written decision of the Community Development Director shall be final unless an applicant appeals it to the Planning Commission.
- C. If the reviewing authority fails to render a written decision on the request for reasonable accommodation within the thirty (30) day time period allotted by Section 153.226 the request shall be deemed granted.
- D. While a request for reasonable accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain the full force and effect.

153.228 APPEALS

- A. Within thirty (30) days of the date of the Community Development Director's written decision, an individual may appeal an adverse decision. Appeals from the adverse decision shall be made in writing.
- B. If an individual needs assistance in filing an appeal on an adverse decision, the City will provide assistance to ensure that the appeals process is accessible.
- C. All appeals shall contain a statement of the grounds for the appeal. Any information identified by an applicant as confidential shall be retained in a manner so as to respect the privacy rights of the applicant and shall not be made available for public inspection.

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- D. Appeal procedures are set for by Riverbank Municipal Code Section 153.251: Appeal. Decisions by staff may be appealed to the Planning Commission and decisions of the Planning Commission may be appealed to the City Council.
- E. Nothing in this procedure shall preclude an aggrieved individual from seeking any other state or federal remedy available.
- 6. The Planning Commission has considered the Zoning Ordinance Amendment at a duly advertised public hearing and adopted its Resolution recommending that the City Council approve the application; and
- 7. Notice of the public hearing on the Zoning Ordinance Amendment was published in the *Riverbank News*, a newspaper of general circulation, on _____; and
- 8. A public hearing was held on _____ and all comments were heard and considered by City Council; and

153. 229. Severability. The provisions of these sections of the code are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, or portion of these sections, or the invalidity of the application thereof to any person or circumstances, shall not affect the validity of the remainder of this section, or the validity of its application to other persons or circumstances.

SECTION 2. This Ordinance shall become effective thirty (30) days from and after its final passage and adoption, provided it is published in a newspaper of general circulation at least fifteen (15) days prior to its effective date.

The foregoing was introduced at a regular meeting of the City Council of the City of Riverbank held on the _____ day of _____, 2014; motioned by Councilmember _____, seconded by Council Member _____, and upon roll call was carried by the following vote ____:

EXHIBIT "A"

AYES:
NAYS:
ABSENT:
ABSTAIN:

ATTEST:

APPROVED:

Annabelle Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

Attachment 2 – Adopted 2009-2014 Housing Element, Policy 5.3, Page IX-9

Timeframe: By June 2010, adopt updated definitions.

Policy 5.2 Adopt Universal Design Ordinance

Program 5.2a: The City will adopt a universal design ordinance governing construction or modification of homes using design principles that allow individuals to remain in those homes as their physical needs and capabilities change. The City will refer to the HCD website to develop guidelines and a model ordinance consistent with the principles of universal design.

Responsibility: Community Development Department

Timeframe: By June 2010, develop draft Universal Design Ordinance. By June 2011, adopt and implement Universal Design Ordinance.

Policy 5.3 Adopt Reasonable Accommodation Ordinance

Program 5.3a: The City will adopt written reasonable accommodation ordinance to provide exception in zoning and land-use for housing for persons with disabilities. This procedure will be a ministerial process, with minimal or no processing fee, subject to approval by the Community Development Director applying following decision-making criteria:

- The request for reasonable accommodation will be used by an individual with a disability protected under fair housing laws.
- The requested accommodation is necessary to make housing available to an individual with a disability protected under fair housing laws.
- The requested accommodation would not impose an undue financial or administrative burden on the City.
- The requested accommodation would not require a fundamental alteration in the nature of the City's land-use and zoning program.

Responsibility: Community Development Department

Timing: Adopt Zoning Ordinance Amendments by December 2012

GOAL 6: PROMOTE ENERGY CONSERVATION

Policy 6.1: Continue to implement state energy-efficient standards.

Program 6.1a: Continue to implement state energy-efficient standards, including the addition of energy-efficient conditions to planned development approvals.

Responsibility: Community Development Department

Timeframe: Ongoing

**CITY OF RIVERBANK
PLANNING COMMISSION
STAFF REPORT**

ITEM NO:	3.3	November 18, 2014
APPLICATION:	Zoning Code Amendment, amendment to Section 153.185: Density Bonus Requirements of the Riverbank Municipal Code	
LOCATION:	City-Wide	
ENVIRONMENTAL DETERMINATION:	The proposed Ordinance Amendment to amend Section 153.185, Density Bonus Requirements is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3), the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.	
PROJECT PLANNER:	John B. Anderson, Contract Community Development Director	
RECOMMENDATION:	Staff recommends that the Planning Commission motion to adopt Resolution No. 2014-017, recommending the City Council of the City of Riverbank ("City") adopt Ordinance No. 2014-XXX, amending Section 153.185: Density Bonus Requirements of the Riverbank Municipal Code.	
ACRONYMS:	CEQA – California Environmental Quality Act HE – Housing Element	
ATTACHMENTS:	1. Planning Commission Resolution No. 2014-017 2. Proposed City Council Ordinance 2014-XXX (Clean Version) 3. 2009-2014 Housing Element, Program 2.1e, Page IX-5 4. California Government Code Section 65915: Density Bonus and Other Incentives	

I. EXECUTIVE SUMMARY:

The proposed Ordinance modifies the current Density Bonus Ordinance in the City's Municipal Code. A clean version of the Ordinance is attached to this staff report as Attachment 2. In summary, the proposed ordinance implements the following:

- Establishes procedures and criteria for use in the consideration of density bonus for lower income housing developments
- Establishes procedures and criteria for incentives or concessions for the production of housing units and child care facilities
- Provides a significant contribution to the economic feasibility of lower income housing in proposed housing developments
- Criteria and procedures are set forth by Government Code Section 65915 and is applied to requests for density bonus for affordable housing units in Section 153.185 of the City's Zoning Code
- Application procedures are set forth in the Code and follow State law for Density Bonus.

The proposed Ordinance would adapt to any changes to State law and is consistent with surrounding jurisdictions.

II. BACKGROUND

The State Density Bonus Law (Government Code Section 65915 et seq.) was first adopted in 1979. The law allows developers who offer a certain percentage of affordable units in their development a density bonus above what the zoning ordinance would allow. Originally, developers received a density bonus of 25% if they met the density bonus requirements. In 2004, the State legislature passed Senate Bill 1818 ("SB 1818"), which significantly amended the State Density Bonus Law. The significant changes to the law, effective on January 1, 2005, include:

- A higher maximum market-rate unit density bonus of 35% for a lower percentage of affordable units provided;
- A sliding scale of market-rate density bonus percentages from 20%-35% depending on the percentage of affordable units provided;
- Provision for up to three (3) development concessions or incentives, depending on the percentage of affordable units provided;
- Granting the developer a density bonus if they donate land for very low income housing; and,
- Requiring jurisdictions to implement Density Bonus law through code.

The following table summarizes the density bonus provisions of SB 1818.

Restricted Affordable Units or Category	Minimum Percentage of Restricted Affordable Units	Percentage of Density Bonus Granted	Additional Bonus for Each 1% in Restricted Affordable Units	Percentage of Restricted Units Required for Maximum 35% Density Bonus
Very Low Income	5%	20%	2.50%	11%
Lower Income	10%	20%	1.50%	20%
Moderate Income	10%	5%	1%	40%
Senior Citizen Housing	100%	20%	--	--
Qualifying Mobile Park	100%	20%	--	--

In addition, SB 1818 increased the number of concessions and incentives that a developer could request for a lower percentage of affordable housing provided. As with the density bonus, the number of concessions and incentives is dependent on the affordability level of the units and the percentage of affordable units provided. Incentives include reductions in zoning standards, other development standards, design requirements, mixed use zoning, and any other incentive that would reduce costs for the developer.

Target Group	Restricted Affordable Units		
Very Low Income	5%	10%	15%
Lower Income	10%	20%	30%
Moderate Income (Common Interest Development)	10%	20%	30%
Maximum Incentive(s)/Concession(s)	1	2	3

Per State law, concessions must be granted to the developer unless the legislative body can make one of the following findings:

1. The concession, incentive, waiver and modification is not required to provide for Affordable Rents or Affordable Sales Prices; or
2. The concession, incentive, waiver or modification would have a specific, adverse impact upon the health or safety or the physical environment or on real property listed in the California Register of Historic Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to Low and Moderate Income Households.
3. The concession, incentive, waiver or modification is contrary to State or Federal law.¹

¹ Government Code §65915(d)(1)

The following table describes the components of the state mandated Density Bonus Program.

Components	Density Bonus Program (as amended by SB1818)
Affordability Requirement	5% very low income units, or 10% low income units, or 10% moderate income condominiums/planned developments, or Land donation of portion of site to accommodate very low units equal to 10% of project
Density Increase	Very Low Income Units: 20% density bonus, Low Income Units: 20% density bonus, Moderate Income Condos/PUDs: 5% density bonus, Land Donation: 15% density bonus Density bonus on sliding scale up to a guaranteed 35% for developers offering additional affordable units or donating land.
Incentives	Developers receive one to three additional incentives depending on the percent of affordable units provided. A developer can ask for essentially any kind of incentive and the jurisdiction is required to allow it unless the jurisdiction makes certain findings. Incentives include reductions in zoning standards, other development standards, design requirements, mixed use zoning, and any other incentive that would reduce the costs for the developer.
Waiver or Modifications to "Development Standards"	Developers may request the waiver of an unlimited number of "development standards" by showing the waivers are needed to make the project economically feasible. "Development Standards" includes site or construction conditions that apply to residential development pursuant to any ordinance, general plan amendment, specific plan, charter amendment or other local condition, law, policy resolution or regulation.
Affordability Terms	Very Low and Low Income Units: 30 years

In addition, the law permits a 20% density bonus for 100% senior developments. There are no income restrictions for the 20% bonus.

The City of Riverbank is required to comply with these regulations, even if it does not adopt a local density bonus ordinance.

III. ANALYSIS

The City of Riverbank currently has an adopted Density Bonus Ordinance, Section 153.185 of the City's Zoning Code. The current code was amended in 1988 and is summarized as follows:

- 25% density bonus for developments that are proposing to construct 25% low or moderate income or 10% lower income households or 50% of total dwelling units for qualifying residents, as defined by California Civil Code Section 51.3.
- Requests for density bonus must be received in writing
- No options for incentives or concessions.
- No sliding scale for density bonus.

The current Density Bonus Ordinance does not account for the multiple amendments to the State law, including SB1818 and is not as flexible as the State law in regards to the amount of Density permitted for housing developments.

The 2009-2014 Housing Element was adopted August of 2009. One of the Goals and Policies of the 2009-2014 planning period was for the City to adopt a Density Bonus Ordinance:

- **Program 2.1d:** Adopt a density bonus ordinance in compliance with statutory amendments (Chapter 1928, Statutes 2004) to State density bonus law (Government Code Section 65915).
- **Responsibility:** Community Development Department
- **Timeframe:** Adopt density bonus ordinance by December 2010.

As seen above, the timeframe for this program to be adopted by the City is December of 2010. Due to Staff and monetary constraints, however, the City has not implemented this program to date. A copy of the program from the City's Housing Element is attached to this Staff Report as Attachment 4. The current planning cycle for the City's Housing Element is 2014-2023. One of the areas that the California Department of Housing and Community Development (HCD) will review as part of certifying the City's Housing Element is how the City implemented the Goals, Policies and programs of the previous Housing Element. With this program implemented, the City will be in a better position for certification when the City's 2014-2023 Housing Element is submitted for HCD review.

It is important for the City to have a certified Housing Element because it allows the City to take advantage of State and Federal funds, such as Community Development Block Grant (CDBG) funds and Home Investments Partnership (HOME) Program to name a couple. These funds help facilitate the development and rehabilitation of homes for all income groups.

IV. ENVIRONMENTAL DETERMINATION

The proposed Ordinance Amendment is not a project for CEQA purposes and is exempt under State CEQA Guidelines Section 15061(b)(3), General Rule, because it can be seen with certainty that there is not a possibility that the proposal would result in a significant effect on the environment. The proposal is implementing existing State law and is considered an administrative activity and would not, itself, allow any construction or propose any projects. CEQA will be applied on a project-by-project basis if and when such projects are proposed.

V. PUBLIC NOTICE:

The Planning Commission hearing notice with a summary of the proposed Density Bonus Ordinance was published in the Riverbank News on November 5, 2014 and posted at City Hall North and South on November 5, 2014. At the time of writing this Staff Report (November 12, 2014), the City has not received any public comment. Written comments received by the City shall be supplied to the Commission at the day of the meeting and read into the public record.

VI. RECOMMENDATION:

Staff recommends that the Planning Commission motion to adopt Resolution No. 2014-017, recommending the City Council of the City of Riverbank ("City") adopt Ordinance No. 2014-XXX, amending Section 153.185: Density Bonus Requirements of the Riverbank Municipal Code.

Respectfully Submitted By:

A handwritten signature in blue ink that reads "John B. Anderson".

John B. Anderson
Contract Community Development Director

Attachment 1 – Planning Commission Resolution 2014-017

**CITY OF RIVERBANK
RESOLUTION NO. 2014-017**

**A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF RIVERBANK, CALIFORNIA,
RECOMMENDING TO CITY COUNCIL THE APPROVAL
OF ORDINANCE 2014-XXX TO AMEND SECTION
153.185: DENSITY BONUS REQUIREMENTS IN THE
CITY OF RIVERBANK MUNICIPAL CODE**

WHEREAS, the Riverbank General Plan adopted in 2009 calls for encouraging the production of affordable and senior housing is included within its goals, policies, and programs; and

WHEREAS, the Housing Element of the Riverbank General Plan was updated and approved by the City Council and certified by the California State Department of Housing and Community Development (HCD) in 2009; and

WHEREAS, California State Density Bonus Law (Government Code Section 65915) was first adopted in 1979 and allows developers who offer certain percentages of affordable units in their developments a density bonus above what the zoning ordinance would allow. Originally, developers received a density bonus of 25% if they met the density bonus requirements. In 2004, the State Legislature passed SB 1818, which significantly amended Section 65915 of the Government Code. The significant changes to the law, effective January 1, 2005, include:

- A higher maximum market-rate unit density bonus of 35% for lower percentage of affordable units provided;
- A sliding scale of market-rate density bonus percentages from 20%-35% depending on the percentage of affordable units provided;
- Provision of up to three (3) development concessions or incentives, depending on the percentage of affordable units provided;
- Requiring jurisdictions to implement Density Bonus Law through local code; and

WHEREAS, the City prepared Zoning Ordinance 2014-XXX to amend Section 153.185: Density Bonus Requirements; and

WHEREAS, notice of the public hearing on the Zoning Ordinance was published in the *Riverbank News*, a newspaper of general circulation, on November 5, 2014; and

WHEREAS, the Planning Commission has reviewed the Zoning Amendment and conducted a public hearing on November 18, 2014; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT THE PLANNING COMMISSION OF THE CITY OF RIVERBANK HEREBY RECOMMENDS CITY COUNCIL APPROVAL OF ORDINANCE 2014-____, ATTACHED HERETO AS EXHIBIT A AND INCORPORATED HEREIN BY THIS REFERENCE, AMENDING SECTION 153.185: DENSITY BONUS REQUIREMENTS IN THE CITY OF RIVERBANK MUNICIPAL CODE BASED ON THE FOLLOWING FINDINGS:

1. Pursuant to California Government Code Section 65855, the recommendation to City Council shall include the relationship to the applicable general or specific plan.
 - a. The Zoning Ordinance Amendment is compatible with the General Plan and each of its elements and all components therein because the General Plan includes a stated goal to "encourage and assist in the development of adequate housing to meet the needs of extremely low-, low- and very low-income households" and to "adopt a density bonus ordinance in compliance with statutory amendments to State density bonus law" (Goal 2 and Program 2.1e)
 - b. The amendment is compatible with the uses authorized in, and the regulations prescribed for, the land use districts for which it is proposed and with the regulations for each land use district; and
 - c. There is a community need to amend the local Density Bonus Ordinance which allows the City to take local concerns into account when granting approvals for density bonus projects and which complies with state law.
2. Constitutionality, severability. If any section, subsection, sentence, clause, phrase, or word of this resolution is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the resolution. The Planning Commission of the City of Riverbank hereby declares that it would have passed this resolution and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.
3. The City finds and determines with certainty that the amendments described in Ordinance 2014-XXX are not considered a project under the California Environmental Quality Act Section 15061(b)(3) because the ordinance is not a discretionary act since it is only implementing existing state law and would not,

itself, allow any construction, and each proposed project would be subject to individual CEQA review.

PASSED AND ADOPTED by the Planning Commission of the City of Riverbank at a regular meeting held on the 18th day of November, 2014; motioned by Commissioner _____, seconded by Commissioner _____, and upon roll call was carried by the following vote of ____:

AYES:

NAYS:

ABSENT:

ABSTAIN:

Attest:

Approved:

Secretary

Joan Stewart

Attachments:

Exhibit "A" – Proposed Draft City Council Ordinance 2014-XXX

Exhibit "A" – Proposed Draft City Council Ordinance 2014-XXX

EXHIBIT "A"

CITY OF RIVERBANK
ORDINANCE NO. 2014-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF RIVERBANK, CALIFORNIA AMENDING TITLE 153:
ZONING, SECTION 153.185: DENSITY BONUS
REQUIREMENTS IN THE CITY'S MUNICIPAL CODE

WHEREAS, The City of Riverbank is authorized by Title 15 Chapter 153.230 to initiate a Zoning Ordinance Amendment whenever public necessity and convenience and the general welfare require such an amendment; and

WHEREAS, The City of Riverbank Planning Commission conducted a Public Hearing of Tuesday, November 18, 2014 to consider Ordinance 2014-XXX to amend Section 153.185, Density Bonus Requirements; and

WHEREAS, The City Council for the City of Riverbank has made the following findings for adoption:

Pursuant to California Government Code Section 65358, the relationship between the proposed Zoning Code Amendment and the General Plan are as follows:

- a. The Zoning Ordinance Amendment is compatible with the General Plan and each of its elements and all components therein because the General Plan includes a stated goal to "encourage and assist in the development of adequate housing to meet the needs of extremely low-, low- and very low-income households" and to "adopt a density bonus ordinance in compliance with statutory amendments to State density bonus law" (Goal 2 and Program 2.1e)
- b. The amendment is compatible with the uses authorized in, and the regulations prescribed for, the land use districts for which it is proposed and with the regulations for each land use district; and
- c. There is a community need to amend the local Density Bonus Ordinance which allows the City to take local concerns into account when granting approvals for density bonus projects and which complies with state law.

WHEREAS, the Planning Commission has considered the Zoning Ordinance Amendment at a duly advertised public hearing and adopted its Resolution recommending that the City Council approve the application; and

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WHEREAS, notice of the public hearing on the Zoning Ordinance Amendment was published in the *Riverbank News*, a newspaper of general circulation, on _____; and

WHEREAS, a public hearing was held on _____ and all comments were heard and considered by City Council.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF RIVERBANK DOES ORDAIN AS FOLLOWS:

SECTION 1: *Section 153:185 of Chapter 153: Zoning, of Title XV, Land Usage of the Riverbank Municipal Code is amended to read as follows:*

§ 153.185 DENSITY BONUS REQUIREMENTS. AFFORDABLE HOUSING DENSITY BONUS

(A) **Purpose.** The purpose of the affordable housing density bonus is to:

- 1) Establish procedures and criteria for use in the consideration of density bonuses for lower income housing development as defined in Section 65915 of the California Government Code;
- 2) Establish procedures for requesting developer incentives or concessions for the production of housing units and child care facilities as prescribed in Section 65915 of the California Government Code; and
- 3) Provide a significant contribution to the economic feasibility of lower income housing in proposed housing developments.

~~When the developer of a housing project with five or more units agrees to construct at least 25% of the total units of a housing development of persons and families of low or moderate income, as defined in Cal. Health & Safety Code § 50093, or 10% of the total units of a housing development for lower income households, as defined in Cal. Health & Safety Code § 50079.5, or 50% of the total dwelling units of a housing development for qualifying residents, as defined in Cal. Civil Code § 51.3, the city will grant a density bonus of at least 25% more units than normally allowed by the existing zoning of the property.~~

(B) **General provisions.** The criteria and procedures set forth in Section 65915 of the California Government Code shall be applied to requests for density bonuses for affordable housing unless amended in this section.

~~Specifically, **DENSITY BONUS** means a density increase of at least 25% over the otherwise allowable residential density under the applicable zoning district.~~

(C) **Application procedures.** The application for a density bonus, incentive or concession shall be submitted with the first application for approval of a housing development and shall be processed concurrently with any other planning permit required for the housing development. The application shall be submitted on form and contain such information and support data as prescribed by the Community

EXHIBIT "A"

Development Director. The application shall contain sufficient information to make the required determinations and findings defined in Section 65915 of the California Government Code. ~~Requests for a density bonus must be in writing and must be accompanied by written information to support the applicant's determination that the units will be available within the income limits described in this section.~~

(D) Fees. The City Council shall set for the amount of the fees for the application required and authorized in this section.

(E) Severability. The provisions of this section of the code are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, or portion of this section, or the invalidity of the application thereof to any person or circumstances, shall not affect the validity of the remainder of this section, or the validity of its application to other persons or circumstances.

('67 Code, § 10-13-6) (Ord. 88-14, passed 11-28-88)

SECTION 2. This Ordinance shall become effective thirty (30) days from and after its final passage and adoption, provided it is published in a newspaper of general circulation at least fifteen (15) days prior to its effective date.

The foregoing was introduced at a regular meeting of the City Council of the City of Riverbank held on the _____ day of _____, 2014; motioned by Councilmember _____, seconded by Council Member _____, and upon roll call was carried by the following vote ____:

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Annabelle Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

Attachment 2 – Proposed City Council Ordinance 2014-XXX (Clean Version)

**CITY OF RIVERBANK
ORDINANCE NO. 2014-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF RIVERBANK, CALIFORNIA AMENDING TITLE 153:
ZONING, SECTION 153.185: DENSITY BONUS
REQUIREMENTS IN THE CITY'S MUNICIPAL CODE**

WHEREAS, The City of Riverbank is authorized by Title 15 Chapter 153.230 to initiate a Zoning Ordinance Amendment whenever public necessity and convenience and the general welfare require such an amendment; and

WHEREAS, The City of Riverbank Planning Commission conducted a Public Hearing of Tuesday, November 18, 2014 to consider Ordinance 2014-____ to amend Section 153.185, Density Bonus Requirements; and

WHEREAS, The City Council for the City of Riverbank has made the following findings for adoption:

Pursuant to California Government Code Section 65358, the relationship between the proposed Zoning Code Amendment and the General Plan are as follows:

- a. The Zoning Ordinance Amendment is compatible with the General Plan and each of its elements and all components therein because the General Plan includes a stated goal to "encourage and assist in the development of adequate housing to meet the needs of extremely low-, low- and very low-income households" and to "adopt a density bonus ordinance in compliance with statutory amendments to State density bonus law" (Goal 2 and Program 2.1e)
- b. The amendment is compatible with the uses authorized in, and the regulations prescribed for, the land use districts for which it is proposed and with the regulations for each land use district; and
- c. There is a community need to amend the local Density Bonus Ordinance which allows the City to take local concerns into account when granting approvals for density bonus projects and which complies with state law.

WHEREAS, the Planning Commission has considered the Zoning Ordinance Amendment at a duly advertised public hearing and adopted its Resolution recommending that the City Council approve the application; and

WHEREAS, notice of the public hearing on the Zoning Ordinance Amendment was published in the *Riverbank News*, a newspaper of general circulation, on _____; and

WHEREAS, a public hearing was held on _____ and all comments were heard and considered by City Council.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF RIVERBANK DOES ORDAIN AS FOLLOWS:

SECTION 1: *Section 153:185 of Chapter 153: Zoning, of Title XV, Land Usage of the Riverbank Municipal Code is amended to read as follows:*

§ 153.185 AFFORDABLE HOUSING DENSITY BONUS

(A) **Purpose.** The purpose of the affordable housing density bonus is to:

- 1) Establish procedures and criteria for use in the consideration of density bonuses for lower income housing development as defined in Section 65915 of the California Government Code;
- 2) Establish procedures for requesting developer incentives or concessions for the production of housing units and child care facilities as prescribed in Section 65915 of the California Government Code; and
- 3) Provide a significant contribution to the economic feasibility of lower income housing in proposed housing developments.

(B) **General provisions.** The criteria and procedures set forth in Section 65915 of the California Government Code shall be applied to requests for density bonuses for affordable housing unless amended in this section.

(C) **Application procedures.** The application for a density bonus, incentive or concession shall be submitted with the first application for approval of a housing development and shall be processed concurrently with any other planning permit required for the housing development. The application shall be submitted on form and contain such information and support data as prescribed by the Community Development Director. The application shall contain sufficient information to make the required determinations and findings defined in Section 65915 of the California Government Code.

(D) **Fees.** The City Council shall set for the amount of the fees for the application required and authorized in this section.

(E) **Severability.** The provisions of this section of the code are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, or portion of this section, or the invalidity of the application thereof to any person or circumstances, shall not affect the validity of the remainder of this section, or the validity of its application to other persons or circumstances.

SECTION 2. This Ordinance shall become effective thirty (30) days from and after its final passage and adoption, provided it is published in a newspaper of general circulation at least fifteen (15) days prior to its effective date.

The foregoing was introduced at a regular meeting of the City Council of the City of Riverbank held on the _____ day of _____, 2014; motioned by Councilmember _____, seconded by Council Member _____, and upon roll call was carried by the following vote ____:

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Annabelle Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

- Program 2.1d: Continue to distribute information on second units at the permit counter and post information on the City's website.
 Responsibility: Community Development Department
 Timeframe: Ongoing
- Program 2.1e: Adopt a density bonus ordinance in compliance with statutory amendments (Chapter 1928, Statutes 2004) to State density bonus law (Government Code Section 65915).
 Responsibility: Community Development Department
 Timeframe: Adopt density bonus ordinance by December 2010
- Program 2.1f: Assist in the development of housing for farmworkers. Actions will include assistance with site identification and support of applications for funding. The City will identify a partner and development opportunity by June 2010 and apply for grant funding through HCD.
 Responsibility: Economic Development and Housing Department
 Timeframe: By June 2010, development opportunity will be identified and grant applications will be submitted.
- Program 2.1g: The City will update the uses permitted in the R-3 zone (Section 153.061 (A)) to include emergency shelters. Emergency shelters will only be subject to those development and management standards that apply to other residential development within the same zone.
 Responsibility: Community Development Department
 Timeframe: By June 2010, adopt updated permitted uses.

Policy 2.2: Adopt an Inclusionary Zoning Ordinance

- Program 2.2a: An Inclusionary Zoning Ordinance will propose to have the City of Riverbank establish a regulatory and incentive framework which provides opportunities for the development of a supply and mix of new housing to meet the future housing needs of all residents. Through this framework it is expected that new residential development will provide housing opportunities to households of all incomes and achieve a diverse and balanced community with housing available for households of all income levels.
- Inclusionary unit regulations will apply to projects that propose (1) the creation of five or more dwelling units through new construction, or (2) the creation of ten or more dwelling units through adaptive reuse or conversion of a nonresidential use to

Attachment 4 – California Government Code Section 65915: Density Bonus and Other Incentives

GOVERNMENT CODE

SECTION 65915-65918

65915. (a) When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, that local government shall provide the applicant with incentives or concessions for the production of housing units and child care facilities as prescribed in this section. All cities, counties, or cities and counties shall adopt an ordinance that specifies how compliance with this section will be implemented. Failure to adopt an ordinance shall not relieve a city, county, or city and county from complying with this section.

(b) (1) A city, county, or city and county shall grant one density bonus, the amount of which shall be as specified in subdivision (f), and incentives or concessions, as described in subdivision (d), when an applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this section, that will contain at least any one of the following:

(A) Ten percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(B) Five percent of the total units of a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code.

(C) A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code, or mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.

(D) Ten percent of the total dwelling units in a common interest development as defined in Section 4100 of the Civil Code for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.

(2) For purposes of calculating the amount of the density bonus pursuant to subdivision (f), the applicant who requests a density bonus pursuant to this subdivision shall elect whether the bonus shall be awarded on the basis of subparagraph (A), (B), (C), or (D) of paragraph (1).

(3) For the purposes of this section, "total units" or "total dwelling units" does not include units added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus.

(c) (1) An applicant shall agree to, and the city, county, or city and county shall ensure, continued affordability of all low- and very low income units that qualified the applicant for the award of the density bonus for 30 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. Rents for the lower income density bonus units shall be set at an affordable rent as defined in Section 50053 of the Health and Safety Code. Owner-occupied units shall be available at an affordable housing cost

as defined in Section 50052.5 of the Health and Safety Code.

(2) An applicant shall agree to, and the city, county, or city and county shall ensure that, the initial occupant of the moderate-income units that are directly related to the receipt of the density bonus in the common interest development, as defined in Section 4100 of the Civil Code, are persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, and that the units are offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code. The local government shall enforce an equity sharing agreement, unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity sharing agreement:

(A) Upon resale, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller's proportionate share of appreciation. The local government shall recapture any initial subsidy, as defined in subparagraph (B), and its proportionate share of appreciation, as defined in subparagraph (C), which amount shall be used within five years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote home ownership.

(B) For purposes of this subdivision, the local government's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any downpayment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

(C) For purposes of this subdivision, the local government's proportionate share of appreciation shall be equal to the ratio of the local government's initial subsidy to the fair market value of the home at the time of initial sale.

(d) (1) An applicant for a density bonus pursuant to subdivision (b) may submit to a city, county, or city and county a proposal for the specific incentives or concessions that the applicant requests pursuant to this section, and may request a meeting with the city, county, or city and county. The city, county, or city and county shall grant the concession or incentive requested by the applicant unless the city, county, or city and county makes a written finding, based upon substantial evidence, of any of the following:

(A) The concession or incentive is not required in order to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(B) The concession or incentive would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households.

(C) The concession or incentive would be contrary to state or federal law.

(2) The applicant shall receive the following number of incentives or concessions:

(A) One incentive or concession for projects that include at least

10 percent of the total units for lower income households, at least 5 percent for very low income households, or at least 10 percent for persons and families of moderate income in a common interest development.

(B) Two incentives or concessions for projects that include at least 20 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a common interest development.

(C) Three incentives or concessions for projects that include at least 30 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a common interest development.

(3) The applicant may initiate judicial proceedings if the city, county, or city and county refuses to grant a requested density bonus, incentive, or concession. If a court finds that the refusal to grant a requested density bonus, incentive, or concession is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources. The city, county, or city and county shall establish procedures for carrying out this section, that shall include legislative body approval of the means of compliance with this section.

(e) (1) In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. An applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section, and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

(2) A proposal for the waiver or reduction of development standards pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(f) For the purposes of this chapter, "density bonus" means a density increase over the otherwise maximum allowable residential density as of the date of application by the applicant to the city, county, or city and county. The applicant may elect to accept a lesser percentage of density bonus. The amount of density bonus to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

(1) For housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Low-Income Units	Density Bonus	Percentage
10	20	
11	21.5	
12	23	
13	24.5	
14	26	
15	27.5	
17	30.5	
18	32	
19	33.5	
20	35	

(2) For housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

(3) For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of senior housing units.

(4) For housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Moderate-Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9

15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

(5) All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval.

(g) (1) When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to a city, county, or city and county in accordance with this subdivision, the applicant shall be entitled to a 15-percent increase above the otherwise maximum allowable residential density for the entire development, as follows:

Percentage Very Low Income	Percentage Density Bonus
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30

26	31
27	32
28	33
29	34
30	35

(2) This increase shall be in addition to any increase in density mandated by subdivision (b), up to a maximum combined mandated density increase of 35 percent if an applicant seeks an increase pursuant to both this subdivision and subdivision (b). All density calculations resulting in fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met:

(A) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.

(B) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than 10 percent of the number of residential units of the proposed development.

(C) The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned with appropriate development standards for development at the density described in paragraph (3) of subdivision (c) of Section 65583.2, and is or will be served by adequate public facilities and infrastructure.

(D) The transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, not later than the date of approval of the final subdivision map, parcel map, or residential development application, except that the local government may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 if the design is not reviewed by the local government prior to the time of transfer.

(E) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with paragraphs (1) and (2) of subdivision (c), which shall be recorded on the property at the time of the transfer.

(F) The land is transferred to the local agency or to a housing developer approved by the local agency. The local agency may require the applicant to identify and transfer the land to the developer.

(G) The transferred land shall be within the boundary of the proposed development or, if the local agency agrees, within one-quarter mile of the boundary of the proposed development.

(H) A proposed source of funding for the very low income units shall be identified not later than the date of approval of the final subdivision map, parcel map, or residential development application.

(h) (1) When an applicant proposes to construct a housing development that conforms to the requirements of subdivision (b) and includes a child care facility that will be located on the premises

of, as part of, or adjacent to, the project, the city, county, or city and county shall grant either of the following:

(A) An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child care facility.

(B) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the child care facility.

(2) The city, county, or city and county shall require, as a condition of approving the housing development, that the following occur:

(A) The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable pursuant to subdivision (c).

(B) Of the children who attend the child care facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income pursuant to subdivision (b).

(3) Notwithstanding any requirement of this subdivision, a city, county, or city and county shall not be required to provide a density bonus or concession for a child care facility if it finds, based upon substantial evidence, that the community has adequate child care facilities.

(4) "Child care facility," as used in this section, means a child day care facility other than a family day care home, including, but not limited to, infant centers, preschools, extended day care facilities, and schoolage child care centers.

(i) "Housing development," as used in this section, means a development project for five or more residential units. For the purposes of this section, "housing development" also includes a subdivision or common interest development, as defined in Section 4100 of the Civil Code, approved by a city, county, or city and county and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

(j) The granting of a concession or incentive shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval. This provision is declaratory of existing law.

(k) For the purposes of this chapter, concession or incentive means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California

Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable, financially sufficient, and actual cost reductions.

(2) Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

(3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable, financially sufficient, and actual cost reductions.

(l) Subdivision (k) does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county, or the waiver of fees or dedication requirements.

(m) This section shall not be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code).

(n) If permitted by local ordinance, nothing in this section shall be construed to prohibit a city, county, or city and county from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section.

(o) For purposes of this section, the following definitions shall apply:

(1) "Development standard" includes a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

(2) "Maximum allowable residential density" means the density allowed under the zoning ordinance and land use element of the general plan, or if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. Where the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.

(p) (1) Upon the request of the developer, no city, county, or city and county shall require a vehicular parking ratio, inclusive of handicapped and guest parking, of a development meeting the criteria of subdivision (b), that exceeds the following ratios:

(A) Zero to one bedroom: one onsite parking space.

(B) Two to three bedrooms: two onsite parking spaces.

(C) Four and more bedrooms: two and one-half parking spaces.

(2) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subdivision, a

development may provide "onsite parking" through tandem parking or uncovered parking, but not through onstreet parking.

(3) This subdivision shall apply to a development that meets the requirements of subdivision (b) but only at the request of the applicant. An applicant may request parking incentives or concessions beyond those provided in this subdivision pursuant to subdivision (d).

65915.5. (a) When an applicant for approval to convert apartments to a condominium project agrees to provide at least 33 percent of the total units of the proposed condominium project to persons and families of low or moderate income as defined in Section 50093 of the Health and Safety Code, or 15 percent of the total units of the proposed condominium project to lower income households as defined in Section 50079.5 of the Health and Safety Code, and agrees to pay for the reasonably necessary administrative costs incurred by a city, county, or city and county pursuant to this section, the city, county, or city and county shall either (1) grant a density bonus or (2) provide other incentives of equivalent financial value. A city, county, or city and county may place such reasonable conditions on the granting of a density bonus or other incentives of equivalent financial value as it finds appropriate, including, but not limited to, conditions which assure continued affordability of units to subsequent purchasers who are persons and families of low and moderate income or lower income households.

(b) For purposes of this section, "density bonus" means an increase in units of 25 percent over the number of apartments, to be provided within the existing structure or structures proposed for conversion.

(c) For purposes of this section, "other incentives of equivalent financial value" shall not be construed to require a city, county, or city and county to provide cash transfer payments or other monetary compensation but may include the reduction or waiver of requirements which the city, county, or city and county might otherwise apply as conditions of conversion approval.

(d) An applicant for approval to convert apartments to a condominium project may submit to a city, county, or city and county a preliminary proposal pursuant to this section prior to the submittal of any formal requests for subdivision map approvals. The city, county, or city and county shall, within 90 days of receipt of a written proposal, notify the applicant in writing of the manner in which it will comply with this section. The city, county, or city and county shall establish procedures for carrying out this section, which shall include legislative body approval of the means of compliance with this section.

(e) Nothing in this section shall be construed to require a city, county, or city and county to approve a proposal to convert apartments to condominiums.

(f) An applicant shall be ineligible for a density bonus or other incentives under this section if the apartments proposed for conversion constitute a housing development for which a density bonus or other incentives were provided under Section 65915.

65916. Where there is a direct financial contribution to a housing development pursuant to Section 65915 through participation in cost of infrastructure, write-down of land costs, or subsidizing the cost of construction, the city, county, or city and county shall assure continued availability for low- and moderate-income units for 30 years. When appropriate, the agreement provided for in Section 65915 shall specify the mechanisms and procedures necessary to carry out this section.

65917. In enacting this chapter it is the intent of the Legislature that the density bonus or other incentives offered by the city, county, or city and county pursuant to this chapter shall contribute significantly to the economic feasibility of lower income housing in proposed housing developments. In the absence of an agreement by a developer in accordance with Section 65915, a locality shall not offer a density bonus or any other incentive that would undermine the intent of this chapter.

65917.5. (a) As used in this section, the following terms shall have the following meanings:

(1) "Child care facility" means a facility installed, operated, and maintained under this section for the nonresidential care of children as defined under applicable state licensing requirements for the facility.

(2) "Density bonus" means a floor area ratio bonus over the otherwise maximum allowable density permitted under the applicable zoning ordinance and land use elements of the general plan of a city, including a charter city, city and county, or county of:

(A) A maximum of five square feet of floor area for each one square foot of floor area contained in the child care facility for existing structures.

(B) A maximum of 10 square feet of floor area for each one square foot of floor area contained in the child care facility for new structures.

For purposes of calculating the density bonus under this section, both indoor and outdoor square footage requirements for the child care facility as set forth in applicable state child care licensing requirements shall be included in the floor area of the child care facility.

(3) "Developer" means the owner or other person, including a lessee, having the right under the applicable zoning ordinance of a city council, including a charter city council, city and county board of supervisors, or county board of supervisors to make an application for development approvals for the development or redevelopment of a commercial or industrial project.

(4) "Floor area" means as to a commercial or industrial project, the floor area as calculated under the applicable zoning ordinance of a city council, including a charter city council, city and county board of supervisors, or county board of supervisors and as to a child care facility, the total area contained within the exterior walls of the facility and all outdoor areas devoted to the use of the facility in accordance with applicable state child care licensing

requirements.

(b) A city council, including a charter city council, city and county board of supervisors, or county board of supervisors may establish a procedure by ordinance to grant a developer of a commercial or industrial project, containing at least 50,000 square feet of floor area, a density bonus when that developer has set aside at least 2,000 square feet of floor area and 3,000 outdoor square feet to be used for a child care facility. The granting of a bonus shall not preclude a city council, including a charter city council, city and county board of supervisors, or county board of supervisors from imposing necessary conditions on the project or on the additional square footage. Projects constructed under this section shall conform to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other health, safety, and zoning requirements generally applicable to construction in the zone in which the property is located. A consortium with more than one developer may be permitted to achieve the threshold amount for the available density bonus with each developer's density bonus equal to the percentage participation of the developer. This facility may be located on the project site or may be located offsite as agreed upon by the developer and local agency. If the child care facility is not located on the site of the project, the local agency shall determine whether the location of the child care facility is appropriate and whether it conforms with the intent of this section. The child care facility shall be of a size to comply with all state licensing requirements in order to accommodate at least 40 children.

(c) The developer may operate the child care facility itself or may contract with a licensed child care provider to operate the facility. In all cases, the developer shall show ongoing coordination with a local child care resource and referral network or local governmental child care coordinator in order to qualify for the density bonus.

(d) If the developer uses space allocated for child care facility purposes, in accordance with subdivision (b), for purposes other than for a child care facility, an assessment based on the square footage of the project may be levied and collected by the city council, including a charter city council, city and county board of supervisors, or county board of supervisors. The assessment shall be consistent with the market value of the space. If the developer fails to have the space allocated for the child care facility within three years, from the date upon which the first temporary certificate of occupancy is granted, an assessment based on the square footage of the project may be levied and collected by the city council, including a charter city council, city and county board of supervisors, or county board of supervisors in accordance with procedures to be developed by the legislative body of the city council, including a charter city council, city and county board of supervisors, or county board of supervisors. The assessment shall be consistent with the market value of the space. A penalty levied against a consortium of developers shall be charged to each developer in an amount equal to the developer's percentage square feet participation. Funds collected pursuant to this subdivision shall be deposited by the city council, including a charter city council, city and county board of supervisors, or county board of supervisors into a special account to be used for child care services or child care facilities.

(e) Once the child care facility has been established, prior to

the closure, change in use, or reduction in the physical size of, the facility, the city, city council, including a charter city council, city and county board of supervisors, or county board of supervisors shall be required to make a finding that the need for child care is no longer present, or is not present to the same degree as it was at the time the facility was established.

(f) The requirements of Chapter 5 (commencing with Section 66000) and of the amendments made to Sections 53077, 54997, and 54998 by Chapter 1002 of the Statutes of 1987 shall not apply to actions taken in accordance with this section.

(g) This section shall not apply to a voter-approved ordinance adopted by referendum or initiative.

65918. The provisions of this chapter shall apply to charter cities.

Timeframe: By June 2010, adopt updated definitions.

Policy 5.2 Adopt Universal Design Ordinance

Program 5.2a: The City will adopt a universal design ordinance governing construction or modification of homes using design principles that allow individuals to remain in those homes as their physical needs and capabilities change. The City will refer to the HCD website to develop guidelines and a model ordinance consistent with the principles of universal design.

Responsibility: Community Development Department

Timeframe: By June 2010, develop draft Universal Design Ordinance. By June 2011, adopt and implement Universal Design Ordinance.

Policy 5.3 Adopt Reasonable Accommodation Ordinance

Program 5.3a: The City will adopt written reasonable accommodation ordinance to provide exception in zoning and land-use for housing for persons with disabilities. This procedure will be a ministerial process, with minimal or no processing fee, subject to approval by the Community Development Director applying following decision-making criteria:

- The request for reasonable accommodation will be used by an individual with a disability protected under fair housing laws.
- The requested accommodation is necessary to make housing available to an individual with a disability protected under fair housing laws.
- The requested accommodation would not impose an undue financial or administrative burden on the City.
- The requested accommodation would not require a fundamental alteration in the nature of the City's land-use and zoning program.

Responsibility: Community Development Department

Timing: Adopt Zoning Ordinance Amendments by December 2012

GOAL 6: PROMOTE ENERGY CONSERVATION

Policy 6.1: Continue to implement state energy-efficient standards.

Program 6.1a: Continue to implement state energy-efficient standards, including the addition of energy-efficient conditions to planned development approvals.

Responsibility: Community Development Department

Timeframe: Ongoing



City Of Riverbank
Planning Commission Meeting
MINUTES
Tuesday, October 21, 2014

The following minutes reflect action minutes, with added clarification for the record. A copy of the verbatim recording may be obtained, for a fee, by contacting the Development Services Department at (209) 863-7128.

CALL TO ORDER/ROLL CALL:

Present: Chair Stewart, Commissioner Villapudua and Commissioner McKinney

Absent: Vice Chair Hughes (Excused) and Commissioner Degele (Absent)

CONFLICT OF INTEREST: Any Planning Commissioner and Staff who would have a direct Conflict of Interest on any scheduled agenda item to be considered are to declare their conflict.

No one declared a conflict.

1. PUBLIC COMMENTS (No Action Can Be Taken): At this time, members of the public may comment on any item not appearing on the agenda, and within the subject matter jurisdiction of the Planning Commission. Individual comments will be limited to a **maximum of 5 minutes** per person and each person may speak once during this time; time cannot be yielded to another person. Under State Law, matters presented during the public comment period cannot be discussed or acted upon. For record purposes, state your name and City of residence. Please make your comments directly to the Planning Commission.

2. CONSENT CALENDAR: All items on the Consent Calendar are to be acted upon by a single action of the Planning Commission unless otherwise requested by an individual Planning Commissioner for special consideration. Otherwise, the recommendation of staff will be accepted and acted upon by roll call vote.

Item No. 2.A: Posting of the October 21, 2014, Planning Commission Meeting.

ACTION: *By motion moved/second (Villapudua / McKinney / passed 3-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Villapudua and McKinney

Nays: None

Absent: Planning Commissioners: Degele (Absent) and Hughes (Excused)

Abstained: None

Item No. 2.B: The Agenda for the October 21, 2014, Planning Commission Meeting.

ACTION: *By motion moved/second (Villapudua / McKinney / passed 3-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Villapudua and McKinney

Nays: None

Absent: Planning Commissioners: Degele (Absent) and Hughes (Excused)

Abstained: None

Item No. 2.C: The Minutes of the September 16, 2014, Planning Commission Meeting.

ACTION: *By motion moved/second (Villapudua / McKinney / passed 3-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Villapudua and McKinney

Nays: None

Absent: Planning Commissioners: Degele (Absent) and Hughes (Excused)

Abstained: None

3. PUBLIC HEARINGS

Item 3.1: Rules and Procedures for the City of Riverbank's Planning Commission.

- Item was continued until November 18, 2014 Planning Commission Meeting due to the majority of the Commissioners that were not present at the October 21, 2014 Planning Commission meeting.

ACTION: *By motion moved/second (McKinney / Villapudua / passed 3-0) to approve by roll call vote the continuance of the Rules and Procedures for the City of Riverbank's Planning Commission to the November 18, 2014, motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Villapudua, and McKinney

Nays: None

Absent: Planning Commissioners: Degele (Absent) and Hughes (Excused)

Abstained: None

Item 3.2: A Proposed Moratorium on the establishment of and operation of new hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers. Resolution No. 2014-014.

- John B. Anderson introduced item 3.2 and David Niskanen presented the staff report.
- Planning Commission discussed the item.
- John B. Anderson and Jamie Garret (Attorney) responded to the Planning Commissioners questions.

-
- Public Hearing was opened at 6:23 pm.
 - Daniel Freedman with Soul Patch Tattoo Shop spoke against the item.
 - Tami Walker spoke against the item.
 - Jeremy Fennell with Sin-Cal Tattoo Shop spoke against the item.
 - Robert West pending applicant for Liquid E Fusion spoke against the item.
 - Larry King asked how long it takes for a normal ordinance verses an emergency ordinance to get approved.
 - Jamie Garret responded to his question.
 - Chelsea Broussard spoke against the item.
 - Public Hearing was closed at 6:43 pm.
 - Planning Commissioners discussed item.
 - Chair Stewart and Commissioner Villapudua felt that e-cigarette retailers and e-cigarette lounges should be separate from the other items it was combined with.
 - Jamie Garret informed the Planning Commission that they could either approve the resolution or recommend to City Council approval subject to the amendments, or not to pass item 3.2.
 - Planning Commission had questions regarding the definition of vapor lounges and, e-cigarette lounges.
 - Public Hearing was reopened at 6:50 pm.
 - Robert West pending applicant for Liquid E Fusion explained to the Planning Commission what his interpretation was of vapor bars / lounge, e-cigarette lounges.
 - Public Hearing was reclosed at 6:53 pm.
 - Planning Commission discussed item.

ACTION: *By motion moved/second (Villapudua / Stewart / Failed 2-1) to approve item with the amendment to exclude e-cigarette retailers and e-cigarette lounges.*

Motion failed by roll call vote. Need a 3-0 vote to pass due to only three Commissioner's being present.

Ayes: Planning Commissioners: Stewart, Villapudua

Nays: Planning Commissioner: McKinney

Absent: Planning Commissioners: Degele (Absent) and Hughes (Excused)

Abstained: None

- Public Hearing was reopened at 7:15 pm.
- Robert West spoke on item.
- Tami Walker spoke on item.
- Jeremy Fennel spoke on item.
- Larry King spoke on item.
- Public Hearing was reclosed at 7:25 pm.

ACTION: *By motion to approve the moratorium as presented by staff moved (McKinney) lack of second motion failed. To approve as submitted;*

Ayes: Planning Commissioner: McKinney

Nays: Planning Commissioners: Stewart and Villapudua

Absent: Planning Commissioners: Degele (Absent) and Hughes (Excused)

Abstained: None

- Planning Commission continued to discuss item.

ACTION: *By motion moved/second (Villapudua / Stewart / passed 3-0) was*

Approved with amendment to exclude e-cigarette retailers; motion carried by unanimous roll call vote.

Ayes: Planning Commissioners: Stewart, Villapudua and McKinney

Nays: None

Absent: Planning Commissioners: Degele (Absent) and Hughes (Excused)

Abstained: None

Item 3.3: A Proposed Moratorium on the establishment and operation of new internet access businesses using simulated gambling devices. Resolution No. 2014-015.

- John B. Anderson introduced item 3.3 and David Niskanen presented the staff report.
- Planning Commission discussed item.

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- Public Hearing was opened at 7:37 pm.
 - Public Hearing was closed at 7:38 pm.

ACTION: *By motion moved/second (Villapudua / McKinney / passed 3-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Villapudua and McKinney

Nays: None

Absent: Planning Commissioners: Degele (Absent) and Hughes (Excused)

Abstained: None

5. NEW BUSINESS

Item 5.1: Housing Element – John B. Anderson is working on Ordinance corrections required as part of the fourth cycle Housing Element. These are required before the fifth cycle Housing Element can be submitted to the State HCD for review.

6. COMMISSION ITEMS

None.

7. COUNTY REFERRAL/CORRESPONDENCE/INFORMATION

None.

8. UP-COMING MEETING AGENDA ITEMS

Item 8.1: Downtown Specific Plan will be brought to the Planning Commission for their approval and recommendation to the City Council either in December, 2014 or January, 2015, Planning Commission meeting - (FEIR has been previously certified by the CC on March 25, 2013).

9. ADJOURNMENT

There being no further business, Chair Stewart adjourned the meeting at 7:53 p.m.

ATTEST:

John B. Anderson
Recording Secretary

APPROVED:

Joan Stewart, Chair
Planning Commissioner