

CITY OF ATWATER

PLANNING COMMISSION

AGENDA

Council Chambers
750 Bellevue Road
Atwater, CA 95301

July 17, 2019

CALL TO ORDER



6:00 PM

PLEDGE OF ALLEGIANCE TO THE FLAG:

INVOCATION:

Invocation by Police Chaplain McClellan

ROLL CALL:

Borgwardt_____, **Mead**_____, **Warchol**_____, **Daugherty**_____, **Nelson**_____

SUBSEQUENT NEED ITEMS: (The Chair shall announce any requests for items requiring immediate action subsequent to the posting of the agenda. Subsequent need items require a two-thirds vote of the members of the Commission present at the meeting.)

APPROVAL OF AGENDA AS POSTED OR AS AMENDED: (This is the time for the Commission to remove items from the agenda or to change the order of the agenda.)

Staff's Recommendation: Motion to approve agenda as posted or as amended.

MINUTES:

1. June 25, 2019 (Adjourned Meeting)

Staff's Recommendation: Motion to approve minutes as listed

PUBLIC HEARINGS:

2. **Resolution making an environmental finding that the project is categorically exempt under CEQA; and to approving Conditional Use Permit and Site Plan for Top Management and Distribution, Inc.; property located at 231 Business Park Way (APN: 056-330-036).**

Applicant: Top Management and Distribution, Inc

Staff's Recommendation: Open the public hearing regarding Resolution No. PC 0104-19 and receive any testimony given; and

Motion making the finding that the project is categorically exempt under the California Environmental Quality Act (CEQA) guidelines section 15301 "Existing Facilities" exemptions; and

Motion to adopt Resolution No. PC 0104-19 approving Conditional Use Permit No. 568-19 and Site Plan No. 725-19

3. **Resolution making an environmental finding that the project is categorically exempt under CEQA; and approving the Zone Change for the City of Atwater; located north of Bell Lane and east of Truckee Drive (APN: 001-134-015)**

Applicant: City of Atwater

Staff's Recommendation: Open the public hearing regarding Resolution No. PC 0105-19 and receive any testimony given; and

Motion making the finding that the project is categorically exempt under the California Environmental Quality Act (CEQA) guidelines section 15305 "Minor Alterations to Land use limitations" exemptions; and

Motion to adopt Resolution No. PC 0105-19 approving Zone Change 19-2

4. **Resolution making an environmental finding that the project is categorically exempt under CEQA; and recommending to the City Council the adoption of an Ordinance approving a Zone Ordinance Text Amendment of the Atwater Municipal Code.**

Applicant: City of Atwater

Staff's Recommendation: Open the public hearing regarding Resolution No. PC 0106-19 and receive any testimony given; and

Motion making the finding that the project is categorically exempt under the California Environmental Quality Act (CEQA) guidelines section 15061 (b) (3) "Common Sense" exemptions; and

Motion to recommend that the City Council approve Resolution No. PC 0106-19 adopting Ordinance No. CS 1014 revising Title 17, Chapters 17.06, 17.16, 17.17, 17.19, 17.21, 17.22, 17.24, and 17.32.

REPORTS AND PRESENTATION FROM STAFF:

5. **The City is seeking public attendance and input for the Statewide Park Development and Community Revitalization Prop 68 Grant at Osborn Park.**
(Janelle Martin, Executive to the City Manager)

COMMENTS FROM THE PUBLIC:

NOTICE TO THE PUBLIC

At this time any person may comment on any item which is not on the agenda. You may state your name and address for the record; however, it is not required. Action will not be taken on an item that is not on the agenda. If it requires action, it will be referred to staff and/or placed on a future agenda. Please limit comments to a maximum of three (3) minutes.

COMMISSIONER MATTERS:

ADJOURNMENT:

CERTIFICATION:

I, Jacquy Lopez, Planning Commission Secretary, do hereby certify that a copy of the foregoing Agenda was posted at City Hall a minimum of 72 hours prior to the meeting.



Jacquy Lopez, Planning
Commission Secretary

SB 343 NOTICE

In accordance with California Government Code Section 54957.5, any writing or document that is a public record, relates to an open session agenda item and is distributed less than 72 hours prior to a regular meeting will be made available for public inspection in the General Services Department at City Hall during normal business hours at 750 Bellevue Road.

If, however, the document or writing is not distributed until the regular meeting to which it relates, then the document or writing will be made available to the public at the location of the meeting, as listed on this agenda at 750 Bellevue Road.



In compliance with the Federal Americans with Disabilities Act of 1990, upon request, the agenda can be provided in an alternative format to accommodate special needs. If you require special accommodations to participate in a Planning Commission meeting due to a disability, please contact the Planning Commission Secretary a minimum of five (5) business days in advance of the meeting at (209)357-6230. You may also send the request by email to jlopez@atwater.org



PLANNING COMMISSION AGENDA REPORT

COMMISSIONERS

Mike Nelson, Chair
Ron Daugherty
Fred Warchol
Sharyn Mead
Donald Borgwardt

MEETING DATE: July 17, 2019

TO: Planning Commission

FROM: Greg Thompson, Senior Planner, gthompson@atwater.org

PREPARED BY: Samuel J. Rashe, Planning Technician, srashe@atwater.org

SUBJECT: Resolution making an environmental finding that the project is categorically exempt under CEQA; and approving Conditional Use Permit and Site Plan for Top Management and Distribution, Inc located at 231 Business Park Way. (APN: 056-330-036).

RECOMMENDED COUNCIL ACTION:

1. Staff recommends the Commission open the public hearing and take any testimony from the public; and
2. Make a finding that Top Management and Distribution, Inc is categorically exempt under the California Quality Act ("CEQA") Guideline, 15301 "Existing Facilities"; and
3. Adoption of Resolution No. PC 0104-19 recommending that the Planning Commission approve Conditional Use Permit No. 568-19 and Site Plan No. 725-19.

I. BACKGROUND:

On November 13, 2018, the City Council of the City of Atwater adopted Ordinance No. CS 999 allowing business under Conditional Use Permit and under Provisions of Title 5 Chapter 5.60 to operate a Commercial Cannabis Business in the (M-1) Light Industrial and (M-2) Heavy Industrial Zones. The application has complied with the provisions of the Request for Proposal as defined in Chapter 5.60 of the Municipal Code, and the negotiations of the Development Agreement have been completed.

II. ANALYSIS:

Staff has reviewed the application for the Conditional Use Permit and Site Plan for Top Management Distribution Inc, located at 231 Business Park Way which is zoned (M-1) Light

Industrial and find it to be consistent with the City's General Plan and Zoning Ordinance and provisions of the Atwater Municipal Code. City Council adopted the Ordinance No. CS 1006 approving the Development Agreement between Top Management Distribution, Inc., and the City of Atwater allowing Top Management and Distribution Inc, to operate a manufacturing and distribution business.

III. FISCAL IMPACTS:

Staff foresees a positive financial impact.

IV. LEGAL REVIEW:

The City Attorney's office has reviewed the required Resolution PC No. 0104-19 (attachment 1).

V. EXISTING POLICY:

Top Management Distribution, Inc, conditional use permit is in accordance to chapter 17 section 17.40.030.

(M-1) 17.40.030 - Subject to conditional use permit:

- A. Public utility buildings and substations.
- B. Accessory uses to a permitted use such as cafeteria, restaurant, employees' auditorium, medical center, living quarters for night watchman or guard, when located on the same lot as the permitted use, and when located entirely within an enclosed building.
- C. Machine and welding shops, carpenters, manufacturers of furniture and similar items, and other uses which in the Community Development and Resources Commission opinion are not obnoxious, do not create noise, odors, smoke, bright lights or excessive vibrations, and are similar in character to those listed in this chapter.
- D. Contractors and lumber yards, but only when conducted within a building, or when enclosed by a solid fence of seven feet minimum height, provided that no material may be stacked higher than the height of the fence.
- E. Retail sales of products manufactured on the site and/or accessory to principal use; occasional auctions.
- F. Assembly, processing, and packaging plants, provided any resulting nuisance shall be effectively confined to the buildings.
- G. Communication facilities.

- H. A cannabis business, as defined and allowable in Title 5 of the Atwater Municipal Code.
- I. Other uses as determined by the Community Development and Resources

VI. INTERDEPARTMENTAL COORDINATION:

An interdepartmental routing sheet was sent to all required departments.

VII. PUBLIC PARTICIPATION:

The public hearing was adequately noticed and advertised for the regularly scheduled Planning Commission hearing.

VIII. ENVIRONMENTAL REVIEW:

Pursuant to the California Environmental Quality Act, the project is categorically exempt under Section 15301 of the California Environmental Quality Act (CEQA) Guidelines, (Existing Facilities);

15301 Existing Facilities: Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The key consideration is whether the project involves negligible or no expansion of an existing use.

IX. STEPS FOLLOWING APPROVAL:

Following adoption of Resolution No. PC 0104-19 recommending to the Planning Commission to approve Conditional Use Permit No. 568-19 and Site Plan No. 725-19.

Presented by: _____
Greg Thompson, Senior Planner

Prepared by: _____
Samuel J. Rashe, Planning Technician

Approved by: _____
Mike Nelson, Chairperson

Attachments:

- 1. Resolution
- 2. Site Plan



PLANNING COMMISSION OF THE CITY OF ATWATER

RESOLUTION NO. PC 0104-19

RESOLUTION MAKING AN ENVIRONMENTAL FINDING THAT THE PROJECT IS CATEGORICALLY EXEMPT UNDER CEQA; AND APPROVING CONDITIONAL USE PERMIT NO. 568-19 AND SITE PLAN NO. 725-19 FOR TOP MANAGEMENT AND DISTRIBUTION, INC.

WHEREAS, the Planning Commission of the City of Atwater reviewed Conditional Use Permit No. 568-19 and Site Plan No. 725-19 as submitted by Top Management and Distribution, Inc. requesting to operate a manufacturing and distribution commercial cannabis operation located at 231 Business Park Way (APN: 056-330-036).

WHEREAS, said application was reviewed by the Planning Commission of the City of Atwater on July 17, 2019; and,

WHEREAS, this project is subject to review under the provisions of the California Environmental Quality Act (CEQA); and is categorically exempt under section 15301 "existing facilities"; and,

WHEREAS, _____ person(s) spoke in favor of the CUP/SP and _____ person(s) spoke in opposition of the CUP/SP, and _____ written comment(s) have been submitted either in opposition or in favor of the project; and,

WHEREAS, the site can accommodate the proposed use and not have a detrimental effect on the health, safety, and welfare of the neighborhood nor have any adverse effect on the community; and,

WHEREAS, the Planning Commission finds that the following findings can be made for this Conditional Use Permit and site Plan:

1. That this application proposes to operate a Manufacturing and Distribution Business.

2. That the site is located in a Light Industrial (M-1) Zone District. A Manufacturing and Distribution Business is permitted in the Light Industrial Zone District with an approved Conditional Use Permit.
3. That this site is designated by the Atwater General Plan as Business Park (B-P).
4. That this use is consistent with the purpose and intent of the Light Industrial (M-1) Zone District.
5. That all the mandatory findings set forth in section 17.71.010 of the Atwater Zoning Ordinance can be made.
6. That the public hearing for this application has been adequately noticed and advertised.

NOW THEREFORE BE IT RESOLVED, that the Planning Commission of the City of Atwater does hereby approve Conditional Use Permit No. 568-19 and Site Plan No. 725-19 subject to the following conditions:

General Conditions:

1. At all times while the Conditional Use Permit is in effect, the Developer shall comply with the terms and conditions as set forth in the approved Development Agreement for this project site.
2. For all new requests for service the Developer shall comply will all requirements of the City of Atwater Public Works Department including if necessary the installation of a reduced pressure principle backflow device for potable water and an approved backflow device for irrigation water. Individual services are to be provided for potable water and landscaping purposes. The services shall be metered; a Sensus "Flex-Net" radio read meter shall be used. Service shall include a backflow prevention device enclosure, mounted on a concrete pad. The RPP device shall include unions on both riser pipes for easier maintenance. RPP devices shall be shown on the Site Improvement Plan including, brand names and types.
3. The Developer shall comply with requests from the City of Atwater Fire Department for a Certified Fire Prevention Plan including annual certification as may be necessary.
4. If required, fire hydrants shall be installed along property frontages and on-site in accordance with City of Atwater specifications. Fire hydrants shall be placed on-site in accordance with the City of Atwater Fire Department requirements; on-site

placement of fire hydrants shall be reviewed and approved by the Fire Chief. All fire hydrants shall have a minimum flow of 1,000 gallons per minute. Water lines and services shall be installed in accordance with City of Atwater City Standards and specifications. Fire protection lines shall be separate from domestic service lines and shall utilize detector check meter installations.

5. The Developer shall be compliant with all State and local requirements regarding refuse control and collection of cannabis waste materials including all chain of custody reporting responsibilities. Cannabis waste and refuse containment and enclosures shall be consistent with the Policies established by the Chief of Police for the City of Atwater including all Improvement Plans and Specifications and shall be segregated from normal commercial and industrial waste disposal.
6. Developer shall comply with the requirements of all public utility companies.
7. Lighting shall be provided within the development and installed and shielded in a manner so as not to impact vehicular traffic utilizing adjoining public streets or the adjacent properties. The Developer shall install street lighting in accordance with City standards.
8. This approval is dependent upon and limited to the proposals and plans contained, supporting documents submitted, presentations made to staff, Planning Commission and/or City Council as affirmed to by the Developer. Any variation from these plans, proposals, supporting documents or presentations is subject to review and PC and/or City Council approval prior to implementation, and may require amendments to the Development Agreement.
9. All conditions of approval for this project shall be written by the Developer on all building permit plan check sets, including tenant improvements, submitted for review and approval. These conditions of approval shall be on, at all times, all construction plans kept on the project site. It is the responsibility of the building Developer to ensure that the project contractor is aware of, and abides by, all conditions of approval. Prior approval from the City Planner or City Engineer, as applicable, must be received before any changes are constituted in site design, grading, building design, building colors or materials, etc.
10. Should the project be found, at any time, not to be in compliance with any of the Conditions of Approval, or should the Developer construct or operate this project in any way other than specified in the application or supporting documents or presentations to staff, PC or City Council, as modified by the Conditions of this Approval, then the terms of this approval shall be considered to be violated and the

Conditional Use Permit may be subject to revocation as set forth in Atwater Municipal Code chapter 17.71.

11. Approval of this Conditional Use Permit application does not constitute approval of any other entitlement or any other necessary permit, license, or approval.
12. This approval may be recalled to the PC for review at any time due to complaints regarding lack of compliance with conditions of approval, traffic congestion, noise generation, other adverse operating characteristics, or Developer's failure to comply with any of terms or requirements in the Development Agreement. At such time, the Commission may revoke the approval or add/modify conditions approval.
13. All improvements, public and private, shall be designed and constructed in accordance with the most recent edition of the City of Atwater Improvement Plans and Specifications, all applicable federal, state, and local ordinances, standards and requirements. Should a conflict arise, the governing specification shall be determined by the City General Services Manager or designated agent.
14. Developer shall comply with the Industrial and Commercial Design Guidelines. Minor changes to the architectural style or square footage shall be reviewed and approved by the City Planner.
15. All onsite graffiti shall be the responsibility of the property owner. All graffiti shall be abated in accordance with City Graffiti ordinances.
16. Developer shall submit a sign application prior to installation of all proposed signs to be installed on buildings or onsite shall be reviewed and approved by the City Planner.
17. All mechanical, irrigation, ground and/or roof-mounted equipment such as transformers and air conditioning units shall be screened from public view from all rights-of-way to issuance of a certificate of occupancy.
18. Construction plans including tenant improvement plans shall be generated by an Architect or Engineer licensed within the State of California.
19. Developer shall store all materials and parts related to the use indoors.
20. Developer shall, in association with an approved fire prevention plan as directed by the City Fire Department, equip the building with a fire extinguisher. Said fire extinguisher shall have current State Fire Marshall service tags.

21. Developer shall submit building plans and obtain all necessary permits prior to commencement of any construction to include tenant improvements.
22. Developer shall comply with all requirements of any State-required licensing authorities including but not limited to, Bureau of Cannabis Control; CalCannabis Cultivation Licensing, a division of the California Department of Food and Agriculture; and the Manufactured Cannabis Safety Branch, a division of the California Department of Public Health.
23. Developer shall pay all required fees prior to issuance of a Building Permit.
24. Developer shall comply with all requirements of the San Joaquin Valley Air Pollution Control District (SJVAPCD)
25. Developer shall comply with all of the conditions of approval prior to issuance of a Business license.

Planning Department:

26. If any construction is to occur associated with the business the applicant shall submit Tenet Improvement (T.I.) plans to address the changes to the interior of the building. Plans shall be generated by an Architect or Engineer licensed within the State of California.
27. That the applicant shall comply with all conditions of the Merced County Division of Environmental Health including the handling of all potentially hazardous material.
28. That the applicant shall comply with all requirements of any State-required licensing.
29. That the applicant shall store all materials and parts related to the use indoors.
30. That the applicant shall comply with all of the conditions of approval prior to issuance of a Business license.
31. That the Planning Commission shall retain the right to reconsider Conditional Use Permit No. 568-19 and Site Plan No. 725-19 at any time.
32. That any violation of the Atwater Municipal Code shall be grounds for revocation of the Conditional Use Permit.

33. Developer's failure to maintain this Conditional Use Permit in good standing, or if Developer fails to comply with any conditions set forth herein, shall be grounds for termination of the Development Agreement.
34. Approval of this application does not constitute approval of any other entitlement or any other necessary permit, license, or approval.
35. All on and off-site development and improvements shall be designed and constructed at the sole expense of the Developer.
36. That this Conditional Use Permit and Site Plan shall expire in six (6) months from the day of approval if the operation has not started.

Police Department:

37. Alarm system (perimeter, fire and panic).
38. Remote monitoring of alarm systems.
39. Perimeter lighting systems (motion sensor) for after-hours security.
40. Perimeter security and lighting as approved by the Police Chief and Community Development Director.
41. Use of drive gates with card key access or like to access the facility.
42. Entrance areas to be locked at all times areas, and under the control of a designated responsible party.
43. Use of access control systems to limit access to cannabis related areas.
44. Exterior and interior camera systems approved by the Police Chief. The camera systems shall meet the minimum requirements of the Act, include interior monitoring of all access points of the site from the interior, and be of a minimum resolution in order to read license plates and facial recognition from all exterior and interior locations.
45. All security systems at the site are attached to an uninterruptable power supply that provides twenty-four (24) hours of power.

46. Twenty-four-hour security patrols by a recognized security company licensed by the California Department of Consumer Affairs or otherwise acceptable to the Police Chief.
47. All current contact information regarding the security company shall be provided to the Police Chief.
48. Atwater Police Department or department designee shall have access to all security systems.
49. Subject to the provisions below regarding the use and handling of confidential information, IP access for remote monitoring of security cameras by the Atwater Police Department or Department designee.
50. Subject to the provisions below regarding the use and handling of confidential information, all video or audio tape recordings made for security or other purposes shall be marked with the date and time made and shall be kept, in an unaltered state, for a period of thirty (30) days and must be made available to the Atwater Police Department or Department designee for duplication upon demand. In addition, upon request by the Atwater Police Department the Responsible Party shall duplicate the records for the Atwater Police Department or Department designee.
51. Hardened bullet resistant windows, or an alternative method of protection such as safety and security window film, approved by the Police Chief, for exterior windows as part of any new or existing construction.
52. Building exterior protection to deter vehicle building penetration or saw cut attack.
53. Accounting software systems need to be in place to provide audit trails of both product and cash, where applicable.
54. Electronic track and trace systems for cannabis products as approved by the Police Chief.
55. Premises may be inspected, and records of the business owner audited by the City for compliance at any time.
56. State of the art network security protocols and equipment need to be in place to protect computer information.

57. The foregoing requirements shall be approved by the Police Chief prior to commencing operations. The Police Chief may supplement these security requirements once operations begin.

Fire Department:

Developer shall comply with the guidelines to fire code requirements for cannabis related business operations within the City of Atwater as established by the fire marshal and as set forth as follows:

PURPOSE

The purpose of this standard is to provide guidance for persons engaging in cannabis related business operations in Atwater City. Federal, State and local codes and regulations apply to facilities, buildings, and operations associated with Cannabis. These guidelines are an effort to highlight some of the specific regulations that may apply to Cannabis operations.

SCOPE

This document shall serve as guidance for the permitting, construction, and operation of cannabis related business operations. This shall include the cultivation, production, and distribution of cannabis related products.

TERMS AND DEFINITIONS

58. Authority Having Jurisdiction (AHJ): A federal, state, local department, or individual such as a fire chief, fire marshal, or fire prevention bureau having statutory authority.
59. California Fire Code (CFC): The regulations adopted by the State of California for the enforcement of fire regulations. Currently the 2016 Edition of Title 24 Part 9.
60. California Building Code (CBC): The regulations adopted by the State of California for the enforcement of building regulations. Currently the 2016 Edition of Title 24 Part 2.
61. California Electric Code (CEC): The regulations adopted by the State of California for the enforcement of electrical regulations. Currently the 2016 Edition of Title 24 Part 3.

62. Cannabis Manufacturing Facility: A location within which raw cannabis is transformed into cannabis concentrate, a tincture, edible product, drink, topical product, or any other similar products. This includes the production, preparation, propagation, or compounding of cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.
63. Closed Loop (Volatile or Non-volatile) Extraction: An extraction system that is designed to recover the solvents employed to extract cannabis extracts that is built to codes of recognized and generally accepted good engineering standards, such as those of: (i) American National Standards Institute (ANSI); (ii) Underwriters Laboratories (UL); or (iii) The American Society for Testing and Materials (ASTM).
64. CO2 Enrichment: Is a method used to increase plant growth response and yield.
65. F-1 Occupancy: Factory Industrial Group F occupancy includes among others, the use of a building or structure, or a portion thereof, for assembling, disassembling, fabricating, finishing, manufacturing, packaging, repair or processing operations that are not classified as a Group H Hazardous or Group S storage occupancy. Group F-1 Moderate hazards shall include but not be limited to among others, hemp products and tobacco.
66. National Fire Protection Association (NFPA): Nationally recognized fire prevention standards that are often referenced by the California Fire Code (CFC).
67. Nonvolatile extraction: The manufacture of cannabis products using nonvolatile solvents such as supercritical fluid extraction (e.g., carbon dioxide processed using a closed-loop system below 5,000 pounds per square inch), uncompressed liquid solvents (e.g., ethanol, methanol, acetone, 'naphtha'), or no solvents to produce kief, bubble hash, rosin, and the like (Adult Use of Marijuana Act, 26100(a) Manufacturers and Testing Laboratories).
68. Tenant Improvement (TI): The addition, modification, or demolition of a building or structure.
69. Volatile: A volatile substance is defined as a substance that changes readily from a solid or liquid to a vapor at normal temperatures and pressures.
70. Volatile Extraction: The use of volatile solvents such as compressed liquid hydrocarbons (e.g., butane or propane, or CO2 processed in a close loop system above 5,000 pounds per square inch) to manufacture cannabis products such as butane honey oil (BHO), shatter, and the like (Adult Use of Marijuana Act, 261

00(a) Manufacturers and Testing Laboratories). (Alternative definition): -means volatile organic compounds, including: (1) explosive gases, such as Butane, Propane, Xylene, Styrene, Gasoline, Kerosene, O₂ or H₂; and (2) dangerous poisons, toxins, or carcinogens, such as Methanol, Isopropyl Alcohol, Methylene Chloride, Acetone, Benzene, Toluene, and Tri-chloro-ethylene (Sec. 11362.3 California Health and Safety Code).

GENERAL REQUIREMENTS

This guideline is intended to provide the Developer with the necessary information for the successful submittal of plans and specifications for the construction, and operation of a cannabis related business. All plans and specifications must meet the minimum requirements found within the CFC and CBC. Typically, most jurisdictions require specialized systems (fire protection systems, CO₂ enrichment, etc.) to be submitted as a deferred submittal. A permit must be obtained prior to the start of any construction unless specific written permission is obtained from the AHJ. Cannabis operations are regulated under the "F -1" occupancy classification. It is understood that facility security and access control are paramount to the safety of your employees and the success of your business. However, the design, installation and operation of security measures must be in accordance with all applicable building and fire codes. We recommend contacting your security professional early during the design phase of the project to achieve the maximum level of security while still meeting the regulatory requirements. We further recommend contacting a fire protection professional (fire protection engineer or similar) versed in the various systems and processes to review your plans for completeness and determination with meeting the regulatory requirements set forth in the CDC, CFC, N FPA, CEC, and CMC. Safety Data Sheets (SDS) for all pesticide or other agricultural chemicals, in addition to all chemicals used or stored in the facility shall be maintained and readily available for emergency personnel. Safety Data Sheets (SDS) shall be maintained in an approved security box (KNOX ® Haz-Mat Document and key storage cabinet ~ Series 1300) affixed to the exterior of the facility. (CFC §'s 506.1, 315, 404, 407)

PERMITS

Construction permits are required for the construction, enlargement, alteration, repair, demolition, or change in occupancy of a building or structure and are typically issued by the building department. Likewise, any work performed on the electrical, mechanical, or plumbing system may also require a permit from the building department. The installation and /or modification of fire protection systems require a permit and are normally issued by the fire department. (CFC §105.1) Operational permits allow the Developer to conduct an operation or a business for which a permit is required and regulated by the CFC. The following are the most common annual operational permits that may be applicable to cannabis operations:

71. Annual Establishment or Business Permit - (commercial occupancies operating within a city)
72. Annual LPG Use and Storage Permit - required for 1 pound or more of propane or butane (i.e. extractions)
73. Annual CO2 Enrichment System Permit - Including natural gas generators and for any system containing more than 100 lbs. of CO2
74. Annual Compressed Gas Use and Storage Permit - required for 6,000 cu/ft or more of an inert. (1 pound of CO2= 8.74 cu/ft)
75. Annual Fumigation/ Thermal Insecticide Fogging Annual Extraction Process Permit
76. Annual Flammable and Combustible Liquids Use and Storage Permit Inspections normally take place during the construction phase and annually to ensure operations are in accordance with previously approved methods. (CFC § 105.1.2)

GENERAL FIRE SAFETY REQUIREMENTS

Fire safety requirements are maintained in Chapter 3 of the CFC and regulate the occupancy and maintenance of all structures and premises for precautions against fire and the spread of fire as well as general fire safety requirements. Specific requirements include:

77. Waste container size and location
78. Ignition sources, and use of open flames
79. Powered industrial trucks and equipment
80. Impact protection
81. Fueled equipment
82. Smoking
83. Hazards to firefighters It should be noted that security devices that emit any medium (smoke, fog, etc.) that could obscure a means of egress in any building or premise is strictly prohibited under CFC Section 316 Hazard to Fire Fighters. Disposal of chemicals, dangerous or hazardous waste must be conducted in a manner consistent with federal, state and local laws, regulations, rules or other

requirements. This may include, but is not limited to, the disposal of all pesticide or other chemicals used in the cultivation process, certain solvents or other chemicals used in the production of cannabis concentrates or any cannabis soaked in a flammable solvent for purposes of producing a concentrate. (CFC Chapter 3, CFC Chapter 50, CFC Chapter 53, CFC Chapter 57, CFC Chapter 58, CFC Chapter 61)

EMERGENCY ACCESS AND EGRESS FIRE DEPARTMENT ACCESS

Approved fire apparatus access roads shall be provided for every facility, building or portion of a building. The fire apparatus access road is developed to allow the passage of fire apparatus. Fire department access shall include roadways, driveways, and fire lanes. All Fire Apparatus Access Roads shall meet the requirements of CFC §503. (CFC §503)

ADDRESSING

Proper addressing of the facility is paramount to ensure that fire personnel can quickly locate your business. Typically, your address shall be placed on the building side that faces the street from which the business is addressed from. Address numbers shall be a minimum of six (6) inches in height or as otherwise required by the AHJ. Additional address requirements may also be required for secondary buildings or where addressing is not readily visible or apparent. (CFC §505.1)

EMERGENCY ACCESS KEY BOX: KNOX® Key boxes hold keys to the facility and are used to rapidly gain access to the building in the event of an after-hours emergency. These key boxes are UL listed and provide a high level of security and may also be monitored by your alarm system for tamper. Not all the departments use this system, please confirm with your fire department if they use the KNOX® Security System, or an alternate. (CFC §506)

ROADWAYS, DRIVEWAYS and ACCESS ROADS are all synonymous and all roadway s shall comply with CFC Section 503 of the adopted fire code of the AHJ. (CFC §202)

BUILDING UTILITIES

Utilities found within a building or facility are regulated in CFC Chapter 6 and apply to the installation, operation, and maintenance of fuel-fired systems, emergency and standby power systems, electrical equipment, and mechanical systems.

Emergency and standby power systems are required to meet the provisions of CFC and CBC as well as meeting NFPA and UL requirements.

The CFC prohibits the use of extension cords or power strips as permanent wiring to equipment, lighting, fans, etc. The electrical loads and wiring for grow lighting, fans, etc. will need to be reviewed and permitted for use. An electrical analysis will need to be submitted along with manufacturer specification sheets, calculations, and single line diagrams. Plans to install all electrical systems and appliances shall be submitted to the Building Department for review, approval and issuance of a permit to install. (CFC §605.1, CFC 605.5, CFC §605. 7)

The electrical design and installation shall meet the requirements of the CEC.

WATER SUPPLY

Fire flow requirements will be determined on each projects' individual merits. Fire-flow and flow duration shall not be less than that specified in Appendix B of the California Fire Code. If an adequate water supply is not available, the AHJ is authorized to use NFPA 1142 to determine the amount of water to be stored on site for fire protection. This option is only available for those areas not serviced by a recognized water surveyor.

Fire hydrants may be required for your project. Quantity will be based on the required fire flow and distribution as determined by Appendix C of the California Fire Code. (CFC §507).

FIRE PROTECTION SYSTEMS

Fire protection systems involve the design, installation, inspection, operation, testing and maintenance of all fire protection systems. This includes:

84. Automatic Sprinkler Systems
85. Alternative Automatic Fire-Extinguishing Systems
86. Standpipe Systems
87. Portable Fire Extinguishers
88. Fire Alarm and Detection Systems
89. Emergency Alarm Systems
90. Smoke Control Systems
91. Explosion Control

92. Fire Pumps

Typically, these systems are treated as a deferred submittal because of the specialized and technical nature of the system. California requires specialized licensing for contractors involved in fire protection systems.

A Building Code analysis should be submitted with any construction permit application or change of occupancy use application. Typically, a building code analysis is performed by the design professional preparing the initial submittal documents. This analysis will identify if the building will require any of the above listed fire protection systems, or alterations to an existing system. (CFC §901)

EXITING

Buildings and facilities are required to be provided with exiting meeting the provisions of Chapter 10 of the CBC. The provisions of this chapter regulate the design, construction, and arrangement of exiting systems. The following elements highlight the key provisions found within Chapter 10:

- 93. Minimum exit access shall be maintained at all times.
- 94. Minimum aisle widths shall be maintained at all times.
- 95. Enhanced building security shall not interfere with exiting measures and shall by no means impede egress for the facility's occupants or firefighters in the event of an emergency.
- 96. Electronic access control shall not interfere with the exiting components.
- 97. All locking hardware on doors (interior or exterior) shall meet the minimum requirements for exiting.
- 98. All doors and door hardware shall be identified on the specifications and plans.

HAZARD IDENTIFICATION

Unless otherwise exempted by the fire code official, visible hazard identification signs as specified in NFPA 704 for the specific material contained shall be placed on stationary containers and aboveground tanks and entrances to locations where hazardous materials are stored, dispensed, used or handled in quantities requiring a permit and at specific entrances and locations designated. Individual containers, cartons or packages shall be

conspicuously marked or labeled in an approved manner. Rooms or cabinets containing compressed gases shall be conspicuously labeled: "COMPRESSED GAS".

All signs and markings required shall not be obscured or removed and shall be in English as the primary language. (CFC §5003.5, CFC §5003.5 .1, CFC §503.6)

ENRICHMENT

CO₂ enrichment is a method used to enhance plant growth and leads to a faster plant growth and higher plant yield. CO₂ enrichment systems found in grow rooms intentionally flood the rooms with CO₂ whereby creating a potential asphyxiation hazards and are regulated by operational and system installation permits issued by the Fire Department. Additional alarm and monitoring requirements may be required.

CO₂ generators operating from a fuel-fired source that, as a part of the combustion process, off-gases CO₂ and carbon monoxide (CO) is regulated by the California Mechanical Code as a non-vented fuel-fired appliance and requires a CO detector interlocked to an exhaust fan that operates on high levels of CO. The use of portable propane tanks and cylinders to supply these generators is prohibited. If CO₂ are used, they are required to be supplied from the building natural gas system, or a commercial hard piped propane system.

The 2016 California Fire Code has new code language addressing these systems. However, CO₂ enrichment systems found in cannabis grow rooms are different in that they intentionally flood the grow rooms with CO₂. These systems present potential asphyxiation hazards and are regulated by operational and system installation permits issued by the local fire department. Typical CO₂ levels in rooms are kept at less than 1,500 parts per million (ppm). For context, the Occupational Safety and Health Administration (OSHA) eight-hour permissible exposure limit (PEL) is 5,000 ppm. These systems are required to have a local CO₂ detection system in each enriched room set to alarm at 5,000 ppm and a master control valve to shut off the flow of CO₂ at the source. Warning signs are also required. Typical CO₂ enrichment can be in the form of compressed/liquefied CO₂ systems or a CO₂ generator supplied by natural gas. Compressed/liquefied CO₂ systems can be as small as a few cylinders located inside each grow room or as large as a bulk tank located outdoors. CO₂ generators operate from a fuel-fired source that, as a part of the combustion process, off-gases CO₂ and carbon monoxide (CO). Because of the CO hazard, this appliance is regulated by the California Mechanical Code as a non-vented fuel-fired appliance and requires a CO detector interlocked to an exhaust fan that operates on high levels of CO. (CFC §908. 7, CFC §5307.5.2 and CFC §5308)

EXTRACTION

If plant oil extractions will be performed, provide complete details of the proposed extraction process, equipment, mechanical exhaust system, and room construction in a complete permit submittal package to the building and fire departments. All extractions must be performed in an enclosed room. All exhaust system installations and room construction require a permit. Unless listed extraction, equipment is used (i.e. UL or equivalent), CFC §104.7.2 requires an engineering report justifying that the equipment is adequately constructed to process a hazardous material.

The use of butane or other similar flammable gases in open systems (i.e. where the agent is directly released to the atmosphere) is prohibited by the CFC. Closed systems are approved by permit only. A review is required to confirm that the system complies with the CFC requirements.

A local hydrocarbon detector shall be used at all times the extraction equipment is in operation. Exhaust system shall be rated for the use. Where closed systems use refrigeration recovery machines, the unit must be rated for use with hydrocarbon refrigerants. Where butane is stored or used on site, an annual operational hazardous material permit is required.

Alcohol or other flammable/combustible liquid extractions where the liquid is boiled, distilled, or evaporated shall be in compliance with California Fire Code and NFPA 30. The solvent used in the process (typically alcohol) must be identified by the Developer. The operation must be conducted under a hazardous exhaust hood that is rated for exhausting flammable vapors.

REGULATORY CONSIDERATIONS

Local Safety Inspections. Licensee s may be subject to inspection by the local fire department, building inspector, or code enforcement officer to confirm that no health or safety concerns are present. An annual fire safety inspection may result in the required installation of fire suppression devices, or other means necessary for adequate fire safety. Any and all occupancies discovered operating cannabis establishments or businesses (including, but not limited to, infused product operations, cultivation, testing labs, and sales occupancies) not in compliance with all requirement s of state and local regulatory requirements may result in the issuance of a "Stop Work Order " and a summons being issued to all offending parities.

Building Department:

99. That the project shall comply with the most current California Code of Regulations Title 24, parts 1 through 12, the most current Health and Safety Codes and the most current Fire and Life Safety Codes, all along with the California State Amendments. All building permit applications received by the City of Atwater Building Division on or after January 1, 2015, shall comply with parts 1 through 10 and part 12 of the 2016 edition of the California Code of Regulations Title 24.
100. That there shall be in compliance with the most recent Americans with Disabilities Act (ADA) regulations.
101. Comply with all state and local building codes, fire code and AMC.
102. Comply with all requirements for cannabis operation per Building California Code, APD security, and fire department.
103. The applicant or applicant's successor in interest shall indemnify and defend and hold harmless the City of Atwater, its agents, officers and employees from any and all claims, actions, or proceedings against the City of Atwater, its agents, officer and employees to attack, set aside, void or annul any approval by the City of Atwater and its advisory agency appeal board or legislative body concerning this application, which action is brought within applicable statutes of limitation. The City of Atwater shall promptly notify the applicant or applicant's successor in interest of any claim or proceedings and shall cooperate fully in the defense. If the city fails to do so, the applicant or applicant's successor in interest shall not thereafter be responsible to defend, indemnify or hold the City harmless. This condition may be placed on any plans or other documents pertaining to this application.

The foregoing resolution is hereby adopted this ____ day of _____, 2019.

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

MIKE NELSON, CHAIRPERSON

ATTEST:

MARK PEREIDA, ACTING SECRETARY



PLANNING COMMISSION AGENDA REPORT

COMMISSIONERS

Mike Nelson, Chair
Ron Daugherty
Fred Warchol
Sharyn Mead
Donald Borgwardt

MEETING DATE: July 17, 2019

TO: Chair and Commissioners

FROM: Greg Thompson, Senior Planner, gthompson@atwater.org

PREPARED BY: Samuel J. Rashe, Planning Technician, strashe@atwater.org

SUBJECT: Resolution making an environmental finding that the project is categorically exempt under CEQA; and approving Zone Change for the City of Atwater located north of Bell Lane and east of Truckee Drive (APN: 001-134-015).

RECOMMENDED COUNCIL ACTION:

1. Staff recommends the Commission open the public hearing and take any testimony from the public; and
2. Make a finding that the Zone Change is categorically exempt under the California Quality Act ("CEQA") Guideline, 15305 "Minor Alterations to Land Use Limitations"; and
3. Adoption of Resolution No. PC 0105-19 approving Zone Change 19-2.

I. BACKGROUND:

A Zone Change Application has been submitted by the City of Atwater proposing to change APN 001-134-015 from Planned Development (PD) to Business Park (B-P). The property is currently under one property owner who is in favor of the proposed zone change. Under section 17.44.061 The Commission has the authority to initiate a zone change to its original zoning or another appropriate zone which is consistent with the General Plan land use.

II. ANALYSIS:

Site Location: The subject property is north of Bell-lane and east of Truckee Drive. The site is in a Planned Development (PD) Zone District and has a General Plan land use designation of Commercial.

Description of Surrounding Uses: The areas immediately to the north, south, and east of the property is zoned as Business Park (B-P), and to the west of the property, it is zoned as Planned Development (P-D). All the anticipated uses for the project are consistent with uses described within the Atwater Municipal Code and designated zoning.

III. LEGAL REVIEW:

As this action is contemplated by the Atwater Municipal Code and has been previously reviewed. No legal impacts are anticipated.

IV. EXISTING POLICY:

Chapter 17.44 Planned Development Districts Section 17.44.060 (D) (1)

Initiate a zone change to consider rezoning the property to its original zoning or other appropriate zone which is consistent with General Plan land use. The approval of the master plan shall be conditioned to this effect, and a Notice of Conditions of Approval shall be recorded to advise any prospective property owners of this entitlement limitation.

V. PUBLIC PARTICIPATION:

The Public Hearing notice was adequately noticed and advertised.

VI. ENVIRONMENTAL REVIEW:

Pursuant to the California Environmental Quality Act, the project is categorically exempt under Section 15305 of the California Environmental Quality Act (CEQA) Guidelines, "Minor Alterations to Land use limitations"

VII. STEPS FOLLOWING APPROVAL:

Following adoption of Resolution No. PC 0105-19 approving Zone Change No. 19-2 the Recording Secretary will forward the Zoning Change recommending the Resolution to the City Council for Consideration.

Presented by: _____
Greg Thompson, Senior Planner

Prepared by: _____
Samuel J. Rashe, Planning Technician

Approved by: _____
Mike Nelson, Chairperson

Attachments:

1. Resolution
2. Supporting Documents



PLANNING COMMISSION OF THE CITY OF ATWATER

RESOLUTION NO. PC 0105-19

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ATWATER MAKING ENVIRONMENTAL DETERMINATION THAT THE PROJECT IS CATEGORICALLY EXEMPT UNDER CEQA AND RECOMMENDING THAT THE CITY COUNCIL APPROVE ZONE CHANGE NO. 19-2

WHEREAS, the Planning Commission of the City of Atwater reviewed Zone Change 19-2 as submitted by The City of Atwater, requesting to change the land designation from (PD-26) Planned Development to Business Park. This site is located east of Truckee Avenue and north of Bell Drive.

WHEREAS, said application was reviewed by the Planning Commission of the City of Atwater on July 17, 2019; and,

WHEREAS, this project is found to be categorically exempt from the provisions of the California Environmental Quality Act (CEQA) 15305 "class 5"; and,

WHEREAS, _____ person(s) spoke in favor of the Zone Change and, _____ person(s) spoke in opposition of the Zone Change, and _____ no written comment(s) have been submitted either in opposition or in favor of the project; and,

WHEREAS, the site can accommodate the proposed use and not have a detrimental effect on the health, safety, and welfare of the neighborhood nor have any adverse effect on the community; and,

WHEREAS, the Planning Commission finds that the following findings can be made for this Zone Change request:

1. That this application proposes for a land designation zone change from Planned Development (PD-26) to Business Park (BP)
2. That this site is designated by the Atwater General Plan as Commercial.
3. That this use is consistent with the purpose and intent of the General Plan for this use.

4. That the public hearing for this application has been adequately noticed and advertised.
5. That this action is consistent with provisions of Section 17.44.060 (D)(1) of the Atwater Municipal Code.
6. That the development of this project will not adversely affect the surrounding properties.

NOW THEREFORE BE IT RESOLVED, At the time of application the Planning Commission has determined that all mandatory findings of Section 17.44.060 (D)(1) of the Atwater Municipal Code can be made and the Commission does hereby recommend to the City Council of the City of Atwater to amend the zoning map of the City and approve Zone Change No. 19--2 to reflect this project as BP Business Park subject to the development standards as adopted for this district and further pursuant to provisions of said code section referenced above do serve notice of the following conditions to any prospective property owner of the limitations of this entitlement as follows:

1. That the owner/developer of this property or any subdivision thereof shall comply with the most current California Code of Regulations Title 24, parts 1 through 12, the most current Health and Safety Codes and the most current Fire and Life Safety Codes, all along with the California State Amendments. All building permit applications received by the City of Atwater Building Division on or after January 1, 2015, shall comply with parts 1 through 10 and part 12 of the 2016 edition of the California Code of Regulations Title 24.
2. All plans generated shall be generated by an Architect or Engineer licensed within the State of California.
3. That the development of this property or any subdivision thereof shall be subject to Site Plan approval as delineated in the Business Park Zoning District.
4. That the developer/applicant shall control dust during the course of any construction.
5. That the applicant/developer shall cause to be planted street tree(s) approved by the Parks Division of the Public Works Department as part of the landscaping plan for each unit.
6. That the applicant/developer for the property or any subdivision thereof shall install, consistent with City ordinance, front, and exterior landscaping equipped with 7-day automatic irrigation systems prior to the issuance of certificate of occupancy.
7. That the applicant/developer shall apply to the Public Works Department for connection to City Water and Sewer and pay all costs associated with connection. All other utilities are the sole responsibility of the applicant/developer and the payment of all fees.

8. That the applicant/developer shall install a water meter for each connection meeting the standards established by the Public Works Department.
9. That any improvement within the public rights of way are subject to the contractor first obtaining an encroachment permit. Construction shall conform to all adopted City standards.
10. That the applicant/developer shall make visible from the street the site addresses.
11. That the applicant/developer shall comply and conform to the Commercial and Industrial Design Guidelines for the City of Atwater adopted April 11, 2011.
12. That no two story units shall be allowed on the subject property or any subdivision thereof on lots/parcels that abut State Highway 99 or immediately adjacent to the residential properties to the northwest.
13. That the applicant/developer shall be subject to a waste water treatment facility improvement fee as established under the previous zone or district.
14. That if the project is not served by a master discharge agreement with the Merced Irrigation District, that the applicant/developer shall execute any and all documents with the District to ensure proper discharge of storm water and the payment of all fees.
15. That the applicant/developer shall pay to the City the adopted impact fee for commercial and industrial properties for impacts to County services (per City/County Revenue Tax Sharing Agreement) in addition to the Public Safety Service District.
16. That the applicant/developer shall agree to pay fees associated with any and all maintenance and drainage districts established for the project.
17. That the applicant/developer shall agree to pay fees associated with any Community Facilities District formed in support of the project.
18. The applicant or applicant's successor in interest shall indemnify and defend and hold harmless the City of Atwater, its agents, officers and employees from any and all claims, actions, or proceedings against the City of Atwater, its agents, officer and employees to attack, set aside, void or annul any approval by the City of Atwater and its advisory agency appeal board or legislative body concerning this application, which action is brought within applicable statutes of limitation. The City of Atwater shall promptly notify the applicant or applicant's successor in interest of any claim or proceedings and shall cooperate fully in the defense. If the city fails to do so, the applicant or applicants' successor in interest shall not thereafter be

responsible to defend, indemnify or hold the City harmless. This condition may be placed on any plans or other documents pertaining to this application.

The foregoing resolution is hereby adopted this 17th day of July 2019.

**AYES:
NOES:
ABSENT:
ABSTAIN:**

APPROVED:

MIKE NELSON, CHAIRPERSON

ATTEST:

MARK PEREIDA, ACTING SECRETARY



PLANNING COMMISSION AGENDA REPORT

COMMISSIONERS

Mike Nelson, Chair
Ron Daugherty
Fred Warchol
Sharyn Mead
Donald Borgwardt

MEETING DATE: July 17, 2019

TO: Chair and Commissioners

FROM: Greg Thompson, Senior Planner

SUBJECT: Resolution making an environmental finding that the project is categorically exempt under the California Environmental Quality Act CEQA; and recommending to the City Council the adoption of Ordinance amending Title 17 of the Atwater Municipal Code.

PROJECT:

Zoning Ordinance Text Amendment No. 19-1 under CS 1014 proposes an amendment to Title 17 (Zoning) of the Atwater Municipal Code to define Supportive Housing and Transitional Housing and to recognize those uses within all applicably zoned residential districts within the City of Atwater.

RECOMMENDED COMMISSION ACTION:

1. Staff recommends Commission open the public hearing and take any testimony from the public; and
2. Make the determination that the project is categorically exempt under the California Environmental Quality ACT (CEQA) guideline section: 15061 (b) (3) "Common Sense" exemptions; and
3. Adopt Resolution No. PC 0106-19 recommending that Council approve Zoning Ordinance Text Amendment No. 19-1 under Ordinance No. CS 1014 revising Title 17 Chapters 17.06, 17.16, 17.17, 17.19, 17.21, 17.22, 17.24, and 17.32 based on the findings in this report.

I. BACKGROUND:

A. Legislative Definitions

The proposed Zoning Ordinance Text Amendment (ZOTA 19-1) is based on the provisions of Senate Bill 2 (SB2). SB2 was adopted in 2007 to establish new policies relating to housing needs within the State of California. State law now requires, among other provisions, that municipalities include in the defined uses within residential districts those of “Supportive Housing” and “Transitional Housing” and not discriminate against those uses.

To comply with SB2 and address the homeless needs in The City of Atwater, this Zoning Ordinance Text Amendment proposes to add definitions for Supportive Housing and Transitional Housing, and to identify those zones and/or districts that will allow such uses.

California Health and Safety Code (Section 50675.14 (b) (2) and (3) (a) defines Supportive Housing as “Supportive Housing” means housing with no limit on length of stay, that is occupied by the target population and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. Supportive housing units are residential uses allowed in any zone allowing residential uses, subject only to those requirements and restrictions that apply to other residential uses of the same type in the same zone. “Target Population” means persons, including persons with disabilities, and families who are “homeless,” as that term is defined by Section 11302 of Title 42 of the United States Code, or who are “homeless youth,” s that term is defined by paragraph (2) of subdivision (e) of Section 11139.3 of the Government Code.

California Health and Safety Code (Section 50675.2 (h) defines Transitional Housing as “Transitional Housing” means rental housing operated under program requirements that call for termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six (6) months from the beginning of assistance but no longer than one (1) year in duration. Transitional housing units are residential uses allowed in any zone allowing residential uses, subject only to those requirements and restrictions that apply to other residential uses of the same type in the same zone.

While SB2 requires jurisdictions to define and recognize these activities within all applicable residential zones or districts, it does not require these uses nor mandate the construction of said facilities or direct local governments to allocate their resources towards such projects.

II. ANALYSIS:

Need for Supportive and Transitional Housing

Currently, transitional housing comprises approximately 147 beds and permanent supportive housing accounts for approximately 71 beds in Merced County. SB2 requires that transitional housing and supportive housing be permitted as a residential use and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone.

B. General Plan Housing Element

The City of Atwater adopted its latest Housing Element on May 22nd, 2017. Since that time the City has received correspondence from The State of California office of Housing and Community Development regarding deficiencies in our last Housing Element Update including compliance with Senate Bill 2. Staff is currently in the process of correcting the Housing Element deficiencies, which includes amendments to the Zoning Title of the Municipal Code.

C. Zoning Code

The Zoning Ordinance Text Amendment proposes to amend the Zoning Code (Chapter 17.06, 17.16, 17.17, 17.19, 17.21, 17.22, 17.24, and 17.32 (Definitions and Residential Districts) to comply with such provisions of Senate Bill 2.

III. FISCAL IMPACTS:

Staff foresees no fiscal impact.

IV. PUBLIC PARTICIPATION:

The Public Hearing notice was adequately noticed and advertised for the regularly scheduled Planning Commission hearing.

V. STEPS FOLLOWING APPROVAL:

Following adoption of Resolution No. PC 0106-19 recommending to Council to adopt Zoning Ordinance Text Amendment No. 19-1 the Recording Secretary will forward the Resolution and Draft Ordinance to Council for their consideration.

Presented by: _____
Greg Thompson, Senior Planner

Prepared By: _____
Greg Thompson, Senior Planner

Approved by: _____
Mike Nelson, Chairperson

Attachments:

1. Resolution
2. Draft Ordinance



PLANNING COMMISSION OF THE CITY OF ATWATER

RESOLUTION NO. PC 0106-19

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ATWATER MAKING THE FINDING THAT THE PROJECT IS CATEGORICALLY EXEMPT UNDER CEQA AND RECOMMENDING THAT THE CITY COUCIL OF THE CITY OF ATWATER ADOPT ORDINANCE NO. CS 1014 AMENDING TITLE 17 OF THE ATWATER MUNICIPAL CODE IN COMPLIANCE WITH PROVISIONS OF STATE OF CALIFORNIA SENATE BILL 2.

WHEREAS, The City of Atwater adopted its latest Housing Element on May 22nd, 2017. Following adoption, the Zoning Code was not modified to recognize “Supportive Housing” and “Transitional Housing” as residential uses; and,

WHEREAS, The City now proposes to amend its zoning to become compliant with State law; and,

WHEREAS, the Planning Commission held a duly noticed public hearing as required by law to consider all of the information presented by staff, information from the project proponent (in this case the City of Atwater), and public testimony presented in writing and at the meeting; and,

WHEREAS, ___ person(s) spoke in favor of the project, ___ person(s) spoke in opposition of the project and ___ written comment(s) have been submitted either in opposition or in favor of the project; and,

WHEREAS, Staff has prepared a draft Ordinance No. 1014 to amend the current Zoning text suitable to comply with state law and that it shall not have a detrimental effect on the health, safety, and welfare of the neighborhood nor have an adverse effect on the community; and,

WHEREAS, this project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) Section 15061 (c)(3); and,

WHEREAS, subject to the conditions identified below, the use is in conformance with the codes and standards of the City of Atwater; and,

NOW, THEREFORE BE IT RESOLVED THAT, the Planning Commission hereby finds the following:

1. That the Zoning District(s) will support the intended use(s).
2. That the proposed ordinance will satisfy the provisions of Senate Bill 2.
3. That the conditions set forth by this resolution will not violate intent of the Residential Zone Sections 17.16, 17.17, 17.19, 17.21, 17.22, 17.24, and 17.32.
4. That this project is consistent with all elements of the Atwater General Plan and State Law.
5. That this project qualifies for a categorical exemption from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15061(c)(3).

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Planning Commission of the City of Atwater does hereby recommend that the City Council adopt Ordinance No. CS 1014:

The foregoing resolution is hereby adopted this _____th day of _____, 2019.

AYES:
NOES:
ABSENT:
ABSTAIN:

APPROVED:

Chairperson, Mike Nelson

ATTEST:

Acting Secretary, Mark Pereida



**CITY COUNCIL
OF THE
CITY OF ATWATER**

ORDINANCE NO. CS 1014

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ATWATER AMENDING TITLE 17 “ZONING”, CHAPTER 17.06 “DEFINITIONS”, AND RESIDENTIAL CHAPTERS 17.16, 17.17, 17.19, 17.21, 17.22, 17.24, AND 17.32 UNDER SECTIONS 17.16.020, 17.17.020, 17.19.020, 17.21.020, 17.22.020, 17.24.020, AND 17.32.020, “PERMITTED USES”, OF THE ATWATER MUNICIPAL CODE TO ALLOW SUPPORTIVE HOUSING AND TRANSITIONAL HOUSING WITHIN THE RESIDENTIAL ZONE(S) AND DISTRICTS.

WHEREAS, On October 13, 2007 the Governor of the State of California approved Senate Bill No2, Chapter 633, an act to amend Government Code sections 65582, 65583, and 65589.5 wherein along with other provisions requires that local governments identify and include “Supportive Housing” and Transitional Housing” within the defined uses of the residential zone(s) or districts under their jurisdiction as a permitted use; and

WHEREAS, the City of Atwater seeks to amend their municipal code to provide for compliance with the act and adopt new definitions and standards for those intended uses; and

WHEREAS, the City Council finds it is in the interest of public health, safety and welfare to include and define those uses in the municipal code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATWATER AS FOLLOWS:

SECTION I: Chapter 17.06 “DEFINITIONS”, is hereby amended to add the underlined text and to read in full as follows:

CHAPTER 17.06 - DEFINITIONS

17.06.010 - Abut.

17.06.015 - Accessory building.

17.06.016 - Accessory buildings, exempt.

17.06.020 - Accessory living quarters or guest house.

17.06.025 - Accessory use.

17.06.030 - Alcoholic beverages.

17.06.035 - Alley.

17.06.040 - Amusement arcade.

17.06.045 - Amusement or recreation, commercial places of.

17.06.047 - Antenna array.

17.06.050 - Apartment.

17.06.055 - Apartment, efficiency.

17.06.060 - Apartment, studio.

17.06.065 - Architectural control.

17.06.067 - Attached wireless communication facility. (Attached WCF).

17.06.070 - Auction.

17.06.075 - Automobile and trailer sales lot.

17.06.080 - Automobile service station.

17.06.085 - Automobile wrecking yard.

17.06.090 - Awning.

17.06.095 - Balcony.

17.06.100 - Basement.

17.06.105 - Block.

17.06.110 - Boarding or rooming house.

17.06.115 - Boat Trailer.

17.06.120 - Building.

17.06.125 - Building, area of.

17.06.130 - Building, height of.

17.06.135 - Building, main.

17.06.140 - Building setback line.

17.06.145 - Building site.

17.06.150 - Temporary.

17.06.155 - Bus.

17.06.160 - Business or commerce.

17.06.165 - Camper.
17.06.170 - Church.
17.06.172 - Collocation/site sharing.
17.06.174 - Community care facility.
17.06.175 - Condominium.
17.06.180 - Condominium conversions.
17.06.185 - Court.
17.06.187 - Crop cultivation.
17.06.190 - District.
17.06.195 - Dump.
17.06.200 - Duplex.
17.06.205 - Dwelling.
17.06.210 - Dwelling, group.
17.06.215 - Dwelling, multiple family.
17.06.220 - Dwelling, one-family.
17.06.225 - Dwelling, two-family.
17.06.230 - Dwelling unit.
17.06.235 - Employee.
17.06.237 - Equipment facility.
17.06.240 - Family.
17.06.245 - Fence.
17.06.250 - Fence, wall.
17.06.255 - Fence, solid.
17.06.258 - Fifth-wheel travel trailer.
17.06.260 - Floor area.
17.06.265 - Frontage.
17.06.270 - Garage, public.
17.06.275 - Garage sale.
17.06.280 - Grade.
17.06.285 - Guest.

17.06.290 - Guest room.
17.06.295 - Hedge.
17.06.297 - Height. Wireless communication facility (WCF).
17.06.300 - Home occupations.
17.06.305 - Industry, industrial operation.
17.06.310 - Junk.
17.06.315 - Junk yard.
17.06.320 - Kennel.
17.06.325 - Kitchen.
17.06.330 - Landscaping.
17.06.335 - Landscape plan.
17.06.340 - Loading.
17.06.345 - Loading space.
17.06.350 - Lot.
17.06.355 - Lot area.
17.06.360 - Lot corner.
17.06.365 - Lot coverage.
17.06.370 - Lot depth.
17.06.375 - Lot, key.
17.06.380 - Lot line.
17.06.385 - Lot line, front.
17.06.390 - Lot line, rear.
17.06.395 - Lot line, side.
17.06.400 - Lot, non-conforming.
17.06.405 - Lot, reversed corner.
17.06.410 - Lot, through.
17.06.415 - Lot width.
17.06.417 - Massage Therapy.
17.06.420 - Medical office.
17.06.425 - Mobile living unit.

17.06.430 - Motel.

17.06.433 - Motor truck.

17.06.435 - Non-conforming building.

17.06.440 - Non-conforming use.

17.06.445 - Nuisance.

17.06.450 - Nursery school.

17.06.455 - Parapet.

17.06.460 - Parking area, private.

17.06.475 - Patio.

17.06.476 - Patio cover.

17.06.480 - Patio house.

17.06.485 - Person.

17.06.490 - Porch.

17.06.495 - Professional office.

17.06.500 - Rentable floor area.

17.06.505 - Residence.

17.06.510 - Restaurant.

17.06.515 - Restaurant, fast food.

17.06.520 - Rest home or convalescent home.

17.06.525 - Room.

17.06.530 - School, elementary, junior high, and high.

17.06.535 - Seating facilities.

17.06.538 - Semi trailer.

17.06.540 - Senior citizen housing.

17.06.545 - Setback.

17.06.547 - Setback—Wireless communication facility (WCF).

17.06.550 - Sign.

17.06.555 - Site plan control.

17.06.560 - Spot zoning.

17.06.565 - Story.

17.06.570 - Street.

17.06.575 - Street, centerline.

17.06.580 - Street, collector.

17.06.585 - Street, major.

17.06.595 - Strip commercial.

17.06.600 - Structural alteration.

17.06.605 - Structure.

17.06.610 - Structure, temporary.

17.06.612 - Support structure.

17.06.613 – Supportive Housing. “Supportive Housing” means housing with no limit on length of stay, that is occupied by the target population and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. Supportive housing units are residential uses allowed in any zone allowing residential uses, subject only to those requirements and restrictions that apply to other residential uses of the same type in the same zone. “Target Population” means persons, including persons with disabilities, and families who are “homeless,” as that term is defined by Section 11302 of Title 42 of the United States Code, or who are “homeless youth,” s that term is defined by paragraph (2) of subdivision (e) of Section 11139.3 of the Government Code.

17.06.615 - Trailer.

17.06.620 - Trailer park, mobile home park or trailer court.

17.06.625 - Trailer, travel.

17.06.627- Transitional Housing. “Transitional Housing” means rental housing operated under program requirements that call for termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six (6) months from the beginning of assistance but no longer than one (1) year in duration. Transitional housing units are residential uses allowed in any zone allowing residential uses, subject only to those requirements and restrictions that apply to other residential uses of the same type in the same zone.

17.06.630 - Truck, pickup.

17.06.635 - Truck, tractor.

17.06.640 - Use.

17.06.645 - Vehicles.

17.06.647 - Wireless communication.

17.06.648 - Wireless communication facility (WCF).

17.06.650 - Yard.

17.06.655 - Yard, front.

17.06.660 - Yard, rear.

17.06.665 - Yard, side.

17.06.670 - Zero lot line.

SECTION II: Residential Chapters: 17.16, 17.17, 17.19, 17.21, 17.22, 17.24, and 17.32 Under Sections: 17.16.020, 17.17.020, 17.19.020, 17.21.020, 17.22.020, 17.24.020, 17.32.020, “PERMITTED USES”, is hereby amended to add the underlined text and to read in full as follows:

17.16.020 – Principal permitted uses.

A. One single-family dwelling per lot.

B. Supportive Housing as defined in Section 17.06.613

C. Transitional Housing as defined in Section 17.06.627

17.17.020 – Principal permitted uses.

A. One single-family dwelling per lot.

B. Supportive Housing as defined in Section 17.06.613

C. Transitional Housing as defined in Section 17.06.627

17.19.020 – Principal permitted uses.

A. Two single-family dwellings, or one duplex per lot.

B. Supportive Housing as defined in Section 17.06.613

C. Transitional Housing as defined in Section 17.06.627

17.21.020 – Principal permitted uses.

A. One single-family dwelling per lot.

B. One mobile home per lot, providing:

1. Placed on a foundation system pursuant to Section 18551 of the Health and Safety Code.

2. Certified under the National Mobile Home construction and Safety Standards Act of 1974 (42 USC Section 5401, et. seq.).

3. A building permit has been obtained according to the requirements of Section 18551 (a) of the Health and Safety Code.

C. Supportive Housing as defined in Section 17.06.613

D. Transitional Housing as defined in Section 17.06.627

17.22.020 – Principal permitted uses.

A. Single-family dwellings, duplex, and multi-family structures.

B. Supportive Housing as defined in Section 17.06.613

C. Transitional Housing as defined in Section 17.06.627

17.24.020 – Principal permitted uses.

A. Single-family dwellings, duplex, and multi-family structures.

B. Supportive Housing as defined in Section 17.06.613

C. Transitional Housing as defined in Section 17.06.627

17.32.020 – Principal permitted uses.

A. Dwellings subject to all restrictions and requirements of the R-3-2 district except as provided in this chapter. Up to 21 dwelling units per acre may be allowed (depending on environmental constraints.)

B. Accessory uses. Uses and structures which are customarily accessory and clearly incidental and subordinate to principal permitted uses and structures.

C. Supportive Housing as defined in Section 17.06.613

D. Transitional Housing as defined in Section 17.06.627

SECTION III: If any section, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION IV: 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 or a summary of the Ordinance is published in a newspaper of general circulation at least five (5) days prior to adoption and again at least fifteen (15) days prior to its effective date.

This ordinance was introduced at a special meeting of the City Council of the City of Atwater held on _____, 2019. At a regular meeting of the City Council held on _____, 2019, the foregoing Ordinance was passed and adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Lucy Armstrong, City Clerk

Paul Creighton, Mayor

APPROVED AS TO FORM:

Jose Sanchez, City Attorney