

**2009-2010
Madera County Grand Jury
Final Report
Complaint against Madera City
Planning Commission**

Introduction:

The Madera County District Attorney's office forwarded to the Madera County Grand Jury (Grand Jury) a complaint filed by the Jay and Andrew Yount Family Preservation Society (Society), a 501 (c) (3) nonprofit Public Benefit Corporation. The Society's complaint alleged violations of California State and Federal law regarding the denial of a conditional use permit (CUP) by the Madera City Planning Commission (Commission) for the start up of a room and boarding house operation by the Society. The Grand Jury conducted interviews with a local business man, a planning commission member, a member of the planning department, and a party to the complaint.

Findings:

The Society's reason for filing for a CUP was to start a room and boarding house that would cater solely to the Madera City/County area homeless population or homeless working population, plus the handicapped that have no permanent address or place to live. The house in question is owned by Society members and they are currently living there. The Society applied to the Madera City Planning Department for a CUP to get permission to put their plans into action.

The Society's CUP hearing was on the agenda of the September 8, 2009 Commission's monthly meeting. Planning Department staff attended and described to the Commission what the Society had in mind. It should be noted that the Planning Department staff recommended that the CUP be issued for this project with the stipulation that all the conditions of approval be met. There were forty-five conditions of approval included in the staff report. A Society officer spoke on behalf of the Society and there were three individuals who spoke against this project. Due to the nature of the cliental to be housed, several of the Commission members questioned whether this project was a room and board house or actually a half-way house. After all public comment was heard, the item was brought back to the Commission and they unanimously voted to deny a CUP for the Society's project.

After the Commission denied the CUP, the Society filed their complaint with the Madera County District Attorney's office. The District Attorney referred this complaint to the Grand Jury.

The Society made a number of accusations against the Planning Commission and individual commissioners. They also made accusations against members of the public that spoke against their application for a CUP. The Society claims that there were violations of The Brown Act while the Planning Commission meeting was in progress.

The Society also claimed violations under United States Title 18, Code Section 241 (Conspiracy against rights), Section 242 (Deprivation of right under color of law), and Section 245 (Federally protected activities). They also claimed numerous violations of the Civil Rights Act of 1964.

The Grand Jury read all of the complaints and listened to a CD audio record of the Commission meeting held on September 8, 2009 at 6:30 PM in the Madera City Hall Council Chambers. On December 2, 2009 the Grand Jury interviewed, under oath, four individuals directly involved with this action. The result of the interview sessions convinced the Grand Jury that there were no violations of the Brown Act during the Commission meeting. A Society officer claimed that a member of the audience got up and went through a door behind the Commission dais. This in itself would not constitute a violation of the Brown Act. In listening to the CD audio record of the Commission meeting, the Grand Jury is convinced that the meeting was held with decorum and followed all rules governing meetings held by public officials.

As far as the alleged violations of Title 18 of the U.S. code are concerned, the Grand Jury found no evidence to uphold the validity of these claims and would not recommend further action by the District Attorney's office.

Conclusions:

- The Grand Jury finds that there were no Brown Act violations during the Madera City Planning Commission meeting of September 8, 2009.
- The Grand Jury also finds that the Madera City Planning Department presented a fair and professional staff report regarding the Society's application for a CUP.
- With regard to the denial of the CUP, the Commission acted according to the mandate assigned them by the Madera City Council.

Recommendations:

- No further action is warranted by the Madera County District Attorney.

Respondents: Written response required pursuant to PC933(c)

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