



REGULAR MEETING OF THE MADERA PLANNING COMMISSION

205 W. 4th Street, Madera, California 93637

NOTICE AND AGENDA

Tuesday, December 13, 2022
6:00 p.m.

Council Chambers
City Hall

The Council Chambers will be open to the public. This meeting will also be available for public viewing and participation through Zoom. Members of the public may comment on agenda items at the meeting or remotely through an electronic meeting via phone by dialing (669) 900-6833 enter ID: 87304947617# followed by *9 on your phone when prompted to signal you would like to speak, or by computer at <https://www.zoom.us/j/87304947617>. Comments will also be accepted via email at planningcommissionpubliccomment@madera.gov or by regular mail at 205 W. 4th Street, Madera, CA 93637.

CALL TO ORDER:

ROLL CALL:

Chairperson Robert Gran Jr.
Vice Chair Ramon Lopez-Maciel
Commissioner Rohi Zacharia
Commissioner Khubaib Sheikh
Commissioner Balwinder Singh
Commissioner Saim Mohammad
Commissioner Jose Eduardo Chavez

INTRODUCTION OF STAFF:

PLEDGE OF ALLEGIANCE:

APPROVAL OF MINUTES: None

PUBLIC COMMENT:

The first 15 minutes of the meeting are reserved for members of the public to address the Commission on items which are within the subject matter jurisdiction of the Commission. Speakers shall be limited to three minutes. Comments on items listed as a Public Hearing on the Agenda should be held until the hearing is opened.

PUBLIC HEARINGS:

1. DOU 2022-03 – Food Bank, Food Pantry of Similar Use

Subject: Consideration of a Determination of Use to affirm by Resolution the allowance for food banks, food pantries, or similar uses to operate in C-1 (Light Commercial) zones as permitted uses.

Recommendation:

- a. Continue the public hearing and make the necessary findings.
- b. Adopt a Resolution adopting a Categorical Exemption pursuant to CEQA Guidelines Section 15061(b)(3) (General Rule) and approving a Determination of Use affirming the allowance for Food Banks, Food Pantries or Similar Uses to operate in the C1 zones as permitted uses.

2. SPR 2009-21 EXT 10 & CUP's 2013-04, 05, 06 & 07 EXT 10 – Foxglove Shopping Center

Subject: Consideration for a request for a one-year extension on SPR 2009-21 and multiple CUPs previously approved for the development of a retail shopping center located on the southeast corner of N. Schnoor Ave. and Foxglove Way in the C2 (Heavy Commercial) zone district with a C (Commercial) General Plan land use designation.

Recommendation:

The applicant has requested this item be continued to the January 10, 2023, Planning Commission meeting.

ADMINISTRATIVE REPORTS:

1. Draft 2023 Planning Commission Calendar
2. League of California Cities - 2023 Planning Commissioners Academy in Garden Grove, March 29-31

COMMISSIONER REPORTS:

ADJOURNMENT:

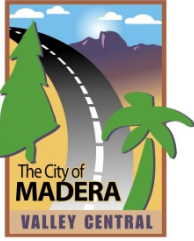
In compliance with the Americans with Disabilities Act, the meeting room is accessible to the physically disabled and the services of a translator can be made available. Requests for additional accommodations for the disabled, signers, assistive listening devices or translators needed to assist participation in the public meeting should be made at least seventy-two (72) hours before the meeting. If you need special assistance to participate in a City meeting or other services offered by this City, please contact the Planning Department office at (559) 661-5430. Those who are hearing impaired, may call 711 or 1-800-735-2929 for TTY Relay Services. Any and all persons interested in this matter may provide comments.

Any writing related to an agenda item for the open session of this meeting distributed to the Planning Commission less than 72 hours before this meeting is available for inspection at the City of Madera – Planning Department, 205 W. 4th Street, Madera, CA 93637 during normal business hours.

Pursuant to Section 65009 of the Government Code of the State of California, notice is hereby given that if any of the foregoing projects or matters is challenged in Court, such challenge may be limited to only those issues raised at the public hearing, or in written correspondence delivered to the Planning Commission at or prior to the public hearing.

All Planning Commission actions may be appealed to the City Council. The time in which an applicant may appeal a Planning Commission action varies from 10 to 30 days depending on the type of project. The appeal period begins the day after the Planning Commission public hearing. There is NO EXTENSION for an appeal period.

If you have any questions or comments regarding this hearing notice, you may call the Planning Department at (559) 661-5430. Si usted tiene preguntas, comentarios o necesita ayuda con interpretación, favor de llamar el Departamento de Planeamiento por lo menos 72 horas antes de esta junta (559) 661-5430.



REPORT TO THE PLANNING COMMISSION

Prepared by:

Will Tackett, Community Development Director

Meeting of: December 13, 2022

Agenda Item: 1

SUBJECT:

Determination of Use (DOU) 2022-03 to affirm by resolution the allowance for food banks, food pantries and similar uses to operate in the C-1 (Light Commercial) zone district as uses permitted “by-right” in accordance with Section 10-3.802(A) of the City Municipal Code.

RECOMMENDATION:

Conduct a public hearing and:

1. Adopt a resolution adopting a Categorical Exemption Pursuant to CEQA Guidelines Section 15061(b)(3) (General Rule) and Approving Determination of Use (DOU 2022-03) (Food Banks, Food Pantries and Similar Uses).

PROPOSAL:

Staff is requesting the Commission make a determination of use (DOU) to allow for food banks, food pantries and similar uses to operate in C-1 (Light Commercial) zone districts as uses permitted “by-right” in accordance with Section 10-3.802(A) of the City Municipal Code.

Table 1: Project Overview	
<i>Project Number:</i>	DOU 2022-03
<i>Applicant:</i>	City of Madera
<i>Property Owner:</i>	N/A
<i>Location:</i>	Citywide
<i>Project Area:</i>	Citywide
<i>Plan Land Use:</i>	C – Commercial
<i>Zoning District:</i>	C-1 (Light Commercial)
<i>Site Characteristics</i>	Citywide

SUMMARY:

The Health and Safety Goals of the City of Madera General Plan, specifically Health and Safety Goal HS-2, defines an objective to provide for a healthy and fit population with access to healthful food. Supporting Policy HS-3 of the General Plan provides the City should promote access to healthy, nutritious foods, particularly for segments of the community identified as having little access to such foods.

Food banks and food pantries are different uses. However, both these uses share the same charitable commitment to provide food to those in need. A Food Bank is an organization that collects product from

the food industry and food drives, inventories and stores the food, and then distributes the food to agencies, such as food pantries, soup kitchens, Kids Cafes and shelters, that provide food directly to individuals in need. Food banks may also offer programs that help families manage the relationship between food and wellness, identify food-related ways to keep children health, and ways to help families and households create and follow a food budget or find government programs. A Food Pantry is an individual site that distributes bags or boxes of food directly to those in need and who reside in a specific area. A Food Pantry is a member agency of, and obtains food from, a food bank. Both types of uses and facilities work together in a collective program network to make it easier for agencies to obtain nutritious food at low cost in the quantities need to provide food assistance to individuals and households experiencing food insecurity or in need of assistance.

Given the goals, objectives and policies of the General Plan, which aim to ensure access to healthy, nutritious foods for all residents of the City of Madera and particularly for segments of the community identified as having little access to such foods or who may be experiencing food insecurity due to locational, economic and/or social factors, commercial land uses and zone districts which are located and distributed throughout the city with planned proximity to serve local residential neighborhood needs and conveniences afford prime opportunities for the siting of food banks, food pantries and similar uses, which together comprise a joint network of uses that share a common mission and goal to collect, store and distribute food to those experiencing food insecurity or are in need of food assistance.

Staff requests the Commission make a determination of use to allow for these types of businesses to operate in C-1 (Light Commercial) zone districts as uses permitted “by-right.” It should be noted, pursuant to Section 10-3.902(A)(1) of the City Municipal Code, any use permitted in the C-1 zone district shall be permitted in the C-2 (Heavy Commercial) zone district. Staff is requesting the Commission to approve the DOU by resolution.

BACKGROUND:

The U.S. Department of Agriculture (USDA) defines food insecurity as a lack of consistent access to enough food for an active, healthy life; and reports that more than 10 percent of U.S. households experience food insecurity.

The Urban Institute, a nonprofit research organization that provides data and evidence to help advance upward mobility and equity, has published findings from the December 2020 Well-Being and Basic Needs Survey (WBNS) in March 2021. The WBNS was a nationally representative survey of more than 7,500 adults ages 18-64 which compared data between December 2019 and December 2020 to examine the change in charitable food use over the course of the year. These findings revealed the following:

- Adults who reported household use of charitable food grew almost 50 percent over the year to nearly one in five adults.
- Use of charitable food over the course of the year increased across all racial and ethnic groups examined. Rates of increase were similar for white adults (28.9 percent) and Black adults (29.4 percent), but there were large disparities in charitable food use between white and Black adults before the Covid-19 pandemic. The increase was particularly pronounced for Hispanic/Latinx adults (89.2 percent) and for non- Hispanic/Latinx adults who are not Black or white (87.4 percent; this includes adults who identify with other racial or ethnic categories, such as Asian, Native Hawaiian or Pacific Islander, American Indian/Alaska Native, and any other race or more than one racial or ethnic category).

- Adults who identify as Black or Hispanic/Latinx were almost three times more likely than white adults to report accessing charitable food, likely reflecting both higher rates of need before the pandemic and the recession’s significant impact on households of color.
- Almost one in four adults living with children accessed charitable food compared with about one in six adults in households without children.
- Adults with a disability or who live with a household member with a disability were more likely to seek charitable food assistance than adults with no disability in the household.
- Adults who are noncitizens or who live with any noncitizen relatives were more likely to seek charitable food assistance than adults living in households where all family members are citizens.

While the results of the survey reflect economic disruption and material hardship experienced across the U.S. during the Covid-19 pandemic recession, the concerning trend of increases in a basic need such as use of charitable food across all racial and ethnic groups continues.

Feeding America, a U.S.-based non-profit organization that is a nationwide network of more than 200 food banks that feed more than 46 million people through food pantries, soup kitchens, shelters and other community-based agencies, has also submitted a July 2022 letter to the first White House Conference on Hunger, Nutrition and Health. Feeding America also commissioned a survey of 1,317 adults who have experienced food insecurity in the last two years for their feedback on challenges and potential solutions. Initial survey data included in Feeding America’s policy recommendations for the White House Conference represented the U.S. is moving from a pandemic crisis to a hunger crisis. Last year, one in six people in the U.S. (approximately 53 million people) sought help from the charitable food sector; and, in May of 2022 around 45 percent of food banks reported serving more people in April 2022 compared to March 2022. Furthermore, Feeding America suggests that decades of underinvestment in disadvantaged neighborhoods, institutional barriers and discriminatory policies have led to staggering rates of food insecurity and low economic mobility for millions of Americans, especially for Black, Latino and Native American Communities. It is important to note that gender disparities also exist in hunger (e.g., single-parent female-headed households are significantly more likely to be food-insecure than single-parent, male-headed households; and, LGBTQ individuals often experience food insecurity or other food-related challenges at higher rates than the overall population). Some of the leading causes of hunger were cited by respondents as including inflation/rising food costs, high rents/mortgages, job loss and low-wage jobs. Other sources were attributed to chronic illness or disability, lack of access to affordable health care and living in food deserts. Feeding America estimates 40 percent of the food grown, processed and transported in the U.S. annually goes to waste, meanwhile millions of people experience food insecurity.

Affording land use and zoning opportunities and reducing barriers for the development and/or operation of new food bank, food pantry and similar uses within commercial districts, helps the City of Madera fulfill its goals, objectives and policies which are intended to ensure access to healthy, nutritious foods for all residents of the City of Madera and particularly for segments of the community identified as having little access to such foods or who may be experiencing food insecurity due to locational, economic and/or social factors.

ANALYSIS:

Additional Uses Permitted

MMC § 10-3.403 Additional Permitted Uses

Uses other than those specifically mentioned in the City Municipal Code (CMC) as uses permitted in each of the zones may also be allowed therein, provided such additional uses are similar to those mentioned

and are, in the opinion of the Commission as evidenced by resolution of record, not more obnoxious or detrimental to the welfare of the community than the permitted uses specifically mentioned in the respective zones.

Determination of Use (DOU)

A DOU is intended to recognize the fact that zoning regulations relating to land use do not address every conceivable use that may be permitted, conditionally permitted, or prohibited within a given zoning district. The use determination procedure allows consideration of land use proposals not specifically permitted, conditionally permitted, or prohibited in a zone district, but which may be appropriate uses given their similarity to other permitted or conditionally permitted uses. However, a use determination is not intended to be used and shall not be used in lieu of a zone change.

An example of a use explicitly identified as a permitted use in a C-1 (Light Commercial) zone district would be “banks” and “offices, business or professional”. An example of a use that is allowed because of similarity to permitted uses would be a “payday loan store”, since both “banks” and “offices, business or professional” are permitted uses.

Staff Request

Food banks, food pantries and similar uses are considered similar in character and operations to food stores (groceries, fruits and vegetables) as well as other retail stores or outlets such as department stores, drug stores, dry goods or notions stores, hardware stores, apparel stores and/or automobile parts and supply stores; all of which sell, store and distribute perishable and non-perishable merchandise and are commonly developed at a scale and operate at an intensity which is either comparable or exceed that of typical food banks, food pantries and similar uses.

The floor area of buildings which are/can be devoted to these uses in commercial districts are comparable in size. Operational facilities such as offices for employees are normally present. The devotion of large indoor or warehouse areas for dry or cold storage of merchandise purposes is common. Vehicle trip generation volumes as well as volumes and frequency of heavy truck trips for purposes of deliveries or distribution for the similar uses presently permitted “by-right” in the commercial districts typically exceed the vehicle trip generation characteristics and heavy truck traffic demands of food banks, food pantries and similar uses which are generally less-frequent and/or which rely, to a greater degree, on lighter vehicle fleets. The same development, interface and/or performance standards codified within the City Municipal Code, including but not limited to those pertaining to non-residential uses adjacent to residential uses, will apply.

Staff, therefore, requests the Planning Commission make a determination of use (DOU) which finds: the current ordinance allows for other uses that are, in the opinion of the Commission similar in nature and character to food banks, food pantries and similar uses; that food banks, food pantries and similar uses are not more detrimental to the welfare of the neighborhoods in which similar uses may be located; and, that food banks, food pantries and similar uses shall be considered uses permitted “by-right” in accordance with Section 10-3.802(A) of the City Municipal Code.

ENVIRONMENTAL REVIEW:

Staff performed a preliminary environmental assessment and has determined that the project is categorically exempt under Section 15061(b)(3) (General Rule) of the California Environmental Quality Act (CEQA) Guidelines because the activity is covered by the common-sense exemption 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.

COMMISSION ACTION:

The Commission will be acting on the DOU 2022-03 and the CEQA Categorical Exemption. Staff recommends that the Commission:

1. Adopt a resolution adopting a Categorical Exemption Pursuant to CEQA Guidelines Section 15061(b)(3) (General Rule) and Approving Determination of Use (DOU 2022-03) (Food Banks, Food Pantries and Similar Uses).

ALTERNATIVES:

As an alternative, the Commission may elect to:

1. Move to refer the item back to staff or continue the public hearing to a future Planning Commission hearing at a date and time certain with direction to staff to return with an updated staff report, resolution and/or appropriate findings modifying the project and/or conditions of approval for the following reasons: (Specify – Planning Commission should articulate reasons for modifications).
2. Move to refer the item back to staff or continue the public hearing to a future Planning Commission hearing at a date and time certain with direction to staff to return with an updated resolution with appropriate findings for denial for the following reasons: (Specify – Planning Commission should articulate reasons for denial).

ATTACHMENTS:

1. Resolution

ATTACHMENT 1

RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF MADERA ADOPTING A CATEGORICAL
EXEMPTION PURSUANT TO CEQA GUIDELINES SECTION
15061(b)(3) (GENERAL RULE) AND APPROVING
DETERMINATION OF USE (DOU 2022-03) (FOOD BANKS,
FOOD PANTRIES, AND SIMILAR USES)

RESOLUTION NO. 1938

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MADERA
ADOPTING A CATEGORICAL EXEMPTION PURSUANT TO CEQA GUIDELINES
SECTION 15061(b)(3) (GENERAL RULE) AND APPROVING DETERMINATION OF
USE (DOU 2022-03) (FOOD BANKS, FOOD PANTRIES, AND SIMILAR USES)**

WHEREAS, the Planning Department is requesting the Planning Commission to make a determination of use (“DOU”) in order to classify food banks, food pantries, and similar uses as uses permitted (“by-right”) in the C-1 (Light Commercial) zone district in accordance with Section 10-3.802(A) of the City Municipal Code; and

WHEREAS, a use determination is intended to recognize the fact that zoning regulations relating to land use do not address every conceivable use that may be permitted, conditionally permitted, or prohibited within a given zoning district; and

WHEREAS, the use determination procedure allows consideration of land use proposals not specifically permitted or prohibited in a zone district, but which may be appropriate uses given their similarity to other permitted or conditionally permitted uses; and

WHEREAS, a use determination is not intended to be used and shall not be used in lieu of a zone change; and

WHEREAS, the U.S. Department of Agriculture (USDA) defines food insecurity as a lack of consistent access to enough food for an active, healthy life; and

WHEREAS, the USDA reports that more than 10 percent of U.S. households experience food insecurity; and

WHEREAS, locational, economic and social factors, continue to contribute to segments of the community lacking resources to meet their basic needs, increasing risk of further food insecurity; and

WHEREAS, an increase in demand for charitable food assistance results from food insecurity; and

WHEREAS, the objective of Health and Safety Goal HS-2 of the City of Madera General Plan is to provide for a healthy and fit population with access to healthful food; and

WHEREAS, Policy HS-3 of the City of Madera General Plan provides the City should promote access to healthy, nutritious foods, particularly for segments of the community identified as having little access to such foods; and

WHEREAS, food banks, food pantries, and similar uses comprise a joint network of elements which share a common charitable mission and goal to collect, store and distribute food to those experiencing food insecurity or in need of food assistance; and

WHEREAS, commercial land use designations are located and distributed throughout the city with planned proximity to serve local residential neighborhood needs and conveniences; and

WHEREAS, the C-1 (Light Commercial) zone district, in accordance with Section 10-3.802(A) of the City Municipal Code, permits food stores (groceries, fruits and vegetables) and other retail stores or outlets which sell, store and distribute perishable and non-perishable merchandise; and

WHEREAS, other retail commercial enterprises and activities listed as uses permitted pursuant to Section 10-3.802(A) of the City Municipal Code, which render neighborhood commercial services or are similar in character, occur at a comparable scale and intensity which generally exceeds food banks, food pantries and similar uses; and

WHEREAS, food banks, food pantries and similar uses are not more detrimental to the welfare of neighborhoods than those other retail commercial enterprises and activities listed as uses permitted “by-right” pursuant to Section 10-3.802(A) of the City Municipal Code, which are similar in character; and

WHEREAS, under the City’s Municipal Code, the Commission is authorized to review and approve requests for use determinations on uses not explicitly mentioned as permitted, conditionally permitted, or prohibited uses; and

WHEREAS, the City provided notice of the Commission hearing as required by law; and

WHEREAS, the Commission received and reviewed DOU 2022-03 at a duly noticed meeting on December 13, 2022; and

WHEREAS, the public was provided an opportunity to comment, and evidence, both written and oral, was considered by the Planning Commission; and

WHEREAS, the Planning Commission now desires to approve DOU 2022-03.

NOW THEREFORE, be it resolved by the Planning Commission of the City of Madera as follows:

1. Recitals: The above recitals are true and correct and are incorporated herein.
2. CEQA Recommendation: A preliminary environmental assessment was prepared for this activity in accordance with the requirements of the California Environmental Quality Act (CEQA). The Planning Commission finds and determines that the request for a use determination is exempt under CEQA Guidelines Section 15061(b)(3) (General Rule) of the State CEQA Guidelines because the activity is covered by the common-sense exemption that the 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 the CEQA. Here, similar use types are already permitted in the C-1 (Light Commercial) zone district, “by-right,” confirming uses classified as food banks, food pantries and similar uses will not result in any significant impact above the current baseline, and certainly not an adverse environmental impact. The general classification of use has no potential to result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. Future projects for uses classified as food banks, food pantries and similar uses will be evaluated in accordance with the CEQA. As such a finding under CEQA Guidelines Section 15061(b)(3) is appropriate.
3. Findings to Approve DOU 2022-03: The Planning Commission finds and determines that there is substantial evidence in the administrative record to support the approval of DOU 2022-03. The Planning Commission further approves, accepts as its own, incorporates as if set forth in full herein, and makes each and every one of the findings, based on the evidence in the record, as follows:
 - a. Food banks, food pantries and similar uses, by classification, are considered similar to uses in C-1 (Light Commercial) zone districts such as food stores (groceries, fruits and

vegetables) and other retail stores or outlets which sell, store and distribute perishable and non-perishable merchandise and which are considered uses permitted “by-right,” pursuant to Section 10-3.802(A) of the City Municipal Code.

- b. Food banks, food pantries and similar uses possess operational characteristics which are similar to the operational characteristics, scale and intensity of uses which are considered uses permitted “by-right” in C-1 (Light Commercial) zone districts pursuant to Section 10-3.80(A) of the City Municipal Code; and therefore, are not more detrimental to the public welfare of the neighborhoods in which they may be located.
 - c. The allowance for food banks, food pantries, and similar uses in the C-1 (Light Commercial) zoned districts, “by-right,” in accordance with Section 10-3.802(A) of the City Municipal Code, is consistent with the City of Madera General Plan principles, goals, and policies.
 - d. The allowance for food banks, food pantries, and similar uses in the C-1 (Light Commercial) zoned districts, “by-right,” in accordance with Section 10-3.802(A) of the City Municipal Code, provides consistency with the Zoning Ordinance.
4. Approval of DOU 2022-03: Given that all findings can be made, the Planning Commission hereby approves DOU 2022-03 and determines that food banks, food pantries and similar uses shall be permitted in the C-1 (Light Commercial) zoned districts, “by-right,” in accordance with Section 10-3.802(A) of the City Municipal Code.
5. Effective Date: This resolution is effective immediately.

* * * * *

Passed and adopted by the Planning Commission of the City of Madera this 13th day of December 2022, by the following vote:

- AYES:
- NOES:
- ABSTENTIONS:
- ABSENT:

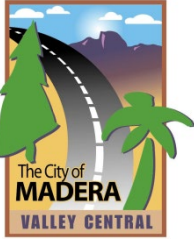
Robert Gran Jr.
Planning Commission Chairperson

Attest:

Gary Conte, AICP
Planning Manager

**SPR 2009-21 EXT 10 & CUPS 2013-04, 05, 06 & 07 EXT 10
Foxglove Shopping Center**

The applicant has requested this item be continued to the
January 10, 2023, Planning Commission meeting.



REPORT TO THE PLANNING COMMISSION

Prepared by:

Gary Conte, Planning Manager

Meeting of: December 13, 2022

Administrative Report Item: 1

SUBJECT:

2023 Regularly Scheduled Planning Commission Meeting Calendar

RECOMMENDATION:

Approve by Minute Order Approving 2023 Regularly Scheduled Planning Commission Meeting Calendar

DISCUSSION:

The Planning Commission (Commission) meets once a month on the second Tuesday evenings. Attachment 1 identifies the Commission meeting dates for 2023.

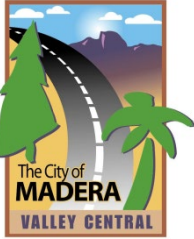
2023 Meeting Dates

- January 10th
- February 14th
- March 14th
- April 11th
- May 9th
- June 13th
- July 11th
- August 8th
- September 12th
- October 10th
- November 14th
- December 12th

Potential Scheduling Conflicts

There is only one potential schedule conflict with an unofficial holiday event which is listed below. A possible option is provided for consideration:

- February 14, 2023, Valentine's Day:
 - Cancel the meeting, thus there would be no scheduled meeting in February
 - Conduct a special meeting on Tuesday, February 21, 2023.



REPORT TO THE PLANNING COMMISSION

Prepared by:

Gary Conte, Planning Manager

Meeting of: December 13, 2022

Administrative Report Item: 2

SUBJECT:

League of California Cities – 2023 Planning Commissioners Academy

DISCUSSION:

The League of California Cities will be holding their annual Planning Commissioners Academy in Garden Grove March 29-31, 2023.

Registration

Anyone wishing to attend the conference will need to be registered by March 22. Please let us know as soon as possible. We would like to register early since rooms fill up fast.