CALL TO ORDER
ROLL CALL

ORAL COMMUNICATIONS
This is the opportunity to address the Council on any matter scheduled for Closed Session.

CLOSED SESSION:
A. Closed Session Pursuant to:
   1 - Government Code § 54956.9(b) - Conference with Legal Counsel - Anticipated Litigation: One Case.

7:00 P.M. RECONVENE OPEN SESSION
REPORT ON ANY ACTION TAKEN IN CLOSED SESSION

PLEDGE OF ALLEGIANCE LED BY COUNCIL MEMBER RICHARD STADTHERR

INVOCATION

PRESENTATION
City Manager’s Feature Projects
WRAP Award

ORAL COMMUNICATIONS
This is the opportunity to address the Council on any matter of interest, whether on the agenda or not. Please address all items not scheduled for public hearing at this time.

CONSENT CALENDAR
All Consent Calendar Items are considered routine and will be enacted in one motion. There will be no separate discussion of these matters unless a request is made, in which event the item will be removed from the Consent Calendar.

1. Approval of City Council Minutes of February 1, 2005

2. Claim - Paul Simmons
   Re: Rejecting a claim for $4,425 pertaining to a fall allegedly caused by an improperly placed manhole cover at the 2500 block of White Chapel.

3. Claim - Michael Hurtado
   Re: Rejecting a claim within the jurisdiction of the Superior Court, Unlimited Division, for punitive damages, pain and suffering, public humiliation and shame, and loss of reputation and future employment, pertaining to alleged false arrest, imprisonment and detention.

4. Budget Adjustments for the 2004-05 Fiscal Year
   Re: Approval of budget adjustments to increase revenue estimate in the General Fund and the appropriation in the Parks budget by $62,000 to account for reimbursement from the State for the OHV Park.
5. **Award Contract: 75-Foot Quint Aerial Ladder Truck**  
   Re: Awarding the contract to Central States Fire Apparatus of Lyons, South Dakota, in the amount of $510,456.38, funding for which will come from the Equipment Replacement Fund, augmented by Indian Gaming Grant funds.

6. **Storm Water Management Plan (SWMP)**  
   Re: Approving staff to negotiate for a “not to exceed” $15,000 contract for consulting services for the development of a SWMP.

7. **Approval of Resolution for Right of Way Purchase - Shellhase - Memory Lane Widening**  
   Re: Accepting Grant Deeds for underground utilities for property located at 655 North Newcomb Street.

8. **Airport Hangar Purchase**  
   Re: Authorizing staff to submit a loan request in the amount of $118,000 for the purchase of hangars at the Porterville Municipal Airport.

9. **Authorize the Public Works Director to Approve Right of Way Takes of $1,000 or Less**  
   Re: Approving policy authorizing the Public Works Director to approve right of way takes of $1,000 or less.

10. **Island Annexation Program Update**  
    Re: Update on program following February 3, 2005 public meeting and review and selection of preference for holding future public hearings for island annexations.

11. **Approval for Community Civic Event - Porterville Chamber of Commerce Iris Festival, April 23, 2005**  
    Re: Approving this annual event, subject to application restrictions, to take place downtown from 9:00 a.m. to 5:00 p.m.

12. **Tulare County Indian Gaming Initiative/School Resource Officer**  
    Re: Funding position in Fiscal Year 2005-2006 and approving grant application for funding a “Gang Officer.”

12a. **Amendments to Employee Pay and Benefit Plan, Employee Benefit Trust Fund, and the Personnel System Rules and Regulations**  
    Re: Approving resolution to implement points of agreement contained in the M.O.U. recently executed between the City and the Police Supervisors Employee Group pertaining to wages, benefits, and working conditions.

12b. **Vacancies of the Parks & Leisure Services Commission**  
    Re: Continuing the item to March 15, 2005 due to lack of applications to fill current vacancies.

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**A Council Meeting Recess Will Occur at 8:30 p.m., or as Close to That Time as Possible**

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**PUBLIC HEARINGS**

13. **Skateboard Regulations**  
    Re: Approval of Ordinance which places additional restrictions on the use of skateboards within the City and provides additional enforcement remedies.

14. **Conditional Use Permit 1-2005 to Upgrade an Existing Type 20, Beer and Wine Off-Sale License to a Type 21, Beer, Wine and Distilled Spirits Off-Sale License and Letter of Public Convenience or Necessity for an Existing Mini-Mart Located at 809 East Putnam Avenue (Mounib Dakhil)**  
    Re: Adopting draft resolution conditionally approving C.U.P. and authorizing Mayor to sign Letter of Public Convenience or Necessity.
15. Ordinance Pertaining to Door-to-door Sales  
Re: Consideration of repealing Chapter 8 of the City’s regulations and replacing it with new provisions regulating peddlers, solicitors, and canvassers.

16. Conditional Use Permit 2-2005 (Nate Wobrock)  
Re: Approving C.U.P. to allow for the construction of a 7,688± sq. ft. building to be utilized for a preschool (Hoops Preschool) for the .63± acre vacant site located on the south side of Henderson Avenue, approximately 145± feet east of “G” Street.

17. Parking Commercial Vehicles in Residential Areas  
Re: Approving revisions to Traffic Ordinance T162, Section 17-11.7 to prohibit the parking of any commercial vehicle having a manufacturer’s gross weight rating of 10,000 lbs or greater on any roadway adjacent to any property zoned R-1, R-2, R-3, R-4, O-A, or P-O.

SCHEDULED MATTERS

18. AD Zone Site Review 1-2005  
Re: Approval of an Airport Development Zone Site Review, generally located on the northwest corner of South Newcomb Street and Hope Avenue (Porterville Airport), to allow for the construction of a 18,000 sq. ft. metal building, public parking, and enclosed parking for Forest Service vehicles.

19. Request to Schedule a Study Session to Discuss Various Pending General Plan Amendments  
Re: Setting a study session to discuss the processing of proposed amendments as previously discussed at the November 17, 2004 Council Meeting.

20. Request for Special Fireworks Permit  
Re: Approval of permit for the Exchange Club of Porterville for Calendar Year 2005.

21. Discussion on Intersection Design Standards  
Re: To be directed by Council.

22. Update and Modification on Bat House Project  
Re: Update on project including receipt of additional donations and pledges; additional offers to provide volunteer labor; additional offers for materials; and calendar of upcoming program events to take place at the Porterville Sheltered Workshop facilities near the Porterville Municipal Airport.

ORAL COMMUNICATIONS

OTHER MATTERS

CLOSED SESSION
Any Closed Session Items not completed prior to 7:00 p.m. will be considered at this time.

ADJOURNMENT - to the meeting of March 1, 2005 at 6:00 p.m.

In compliance with the Americans with Disabilities Act and the California Ralph M. Brown Act, if you need special assistance to participate in this meeting, or to be able to access this agenda and documents in the agenda packet, please contact the Deputy City Clerk at (559) 782-7442. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting and/or provision of an appropriate alternative format of the agenda and documents in the agenda packet.
CITY MANAGER’S FEATURED PROJECTS FOR FEBRUARY, 2005

1. School Resource Officer

2. City Code On-line
CITY COUNCIL MINUTES
PORTERVILLE, CALIFORNIA
FEBRUARY 1, 2005 6:00 P.M.

Call to Order at 6:00 p.m.
Roll Call: Council Member West, Mayor Pro Tem Irish, Council Member Hamilton, Council Member Stadtherr, Mayor Martinez

ORAL COMMUNICATIONS
None

CLOSED SESSION:
A. CLOSED SESSION PURSUANT TO:
1 - GOVERNMENT CODE SECTION 54957.6 - CONFERENCE WITH LABOR NEGOTIATOR. AGENCY NEGOTIATOR: DARREL PYLE. EMPLOYEE ORGANIZATIONS: PORTERVILLE CITY EMPLOYEES ASSOCIATION, PORTERVILLE FIREFIGHTERS ASSOCIATION, PORTERVILLE POLICE OFFICERS ASSOCIATION, POLICE SUPERVISOR SERIES AND EXECUTIVE PERSONNEL.
3 - GOVERNMENT CODE § 54956.9(B) - CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION: TWO CASES.

7:00 P.M. RECONVENE OPEN SESSION
REPORT ON ANY ACTION TAKEN IN CLOSED SESSION


City Attorney Julia Lew reported that the Council had authorized staff to make payment in the amount of $550.00 to Janet M. Dryburgh, owner of real property located at APN 248-100-001, accept the Grant Deed, and authorize Staff to record said Deed with the County Recorder.

Documentation: Resolution 12-2005
Disposition: Approved.

Pledge of Allegiance Led by Council Member Cameron Hamilton
Invocation by Mayor Martinez

PRESENTATIONS
  Employee of the Month - Tara Warren
  Presentation of June 30, 2004 CAFR by Steven Pressley, CPA
ORAL COMMUNICATIONS

- Pastor John Eby, First Baptist Church, came forward and thanked Council for its continuing partnership with the Porterville Area Ministerial Association ("PAMA"). He then informed Council, as a representative and Secretary of PAMA, that PAMA had adopted the following statement: "We affirm the right of Christian pastors, whenever they are permitted or invited to pray publicly, to pray in the name of Jesus."
- David Ole, 100 South Westwood Street, requested that Item 9 be removed from the Consent Calendar, and provided Council with a letter regarding Item 9.
- Dennis Townsend, 633 North Westwood Street, voiced support for sectarian prayer during invocations at Council Meetings, and requested that the Council reverse its previous decision to only allow non-sectarian prayers.
- Peter Schalembier, 1591 North Salisbury, spoke in favor of allowing sectarian prayer during invocations at Council Meetings.
- Dick Eckhoff, Downtown Porterville Association ("DPA"), 180 North Main Street, spoke regarding Item 12, informing Council that the DPA had no objections to the application before Council.
- Russell "Buck" Fletcher, 1662 West Morton Avenue, agreed generally with the those who spoke in favor of allowing sectarian prayer during invocations, but questioned who would fund a defense if the matter was litigated.
- Roland Davis, a Springville resident, came forward and voiced support for allowing sectarian prayer, commenting that the community would stand behind the City.
- CeCe Townsend, a Springville resident, spoke in favor of sectarian prayer during invocations at Council Meetings.
- Phil Akin, Pastor of Church of God, 940 W. Jubilee Lane, voiced support for allowing sectarian prayer, and suggested that pro bono assistance could be obtained from several organizations in the event the City was challenged.
- John Skinner, 950 Plano Street, spoke in favor of allowing sectarian prayer during the invocation at Council Meetings.
- Rich Hartenberg, 1731 W. Lloyd, came forward and stated that especially as a newly naturalized citizen, he voiced support for allowing sectarian prayer during invocations.
- Mark Hillman, 620 West Olive Avenue, voiced support for allowing sectarian prayer during invocations at Council Meetings.
- Laura Fay Johnson, 775 W. Lavida, came forward in support of allowing reference to Jesus during prayer.
- Russell "Buck" Fletcher, 1662 West Morton Avenue, voiced concern with assuming that references to God were always references to Jesus.
- Karen Fields, 10624 Road 224, came forward in support of sectarian prayer.
- Rod Boland, a Strathmore resident, voiced support for allowing sectarian prayer during invocations at Council Meetings.
- Paulette Blaylock, Pastor of Landmark Christian Center, voiced support for allowing sectarian prayer during invocations at Council Meetings.
- Maureen Cruz, 1076 North Beverly Drive, spoke in favor of sectarian prayer.
- Jim Dieterle, 200 North Lombardi, voiced support for sectarian prayer and commented that the Council should address problems such as crime and homeless.

CONSENT CALENDAR
1. CITY COUNCIL MINUTES OF JANUARY 18, 2005; AND, JANUARY 25, 2005
Recommendation: That the Council approve the City Council Minutes of January 18, 2005 and January 25, 2005.

Documentation: M.O. 01-020105
Disposition: Approved.

2. BUDGET ADJUSTMENTS FOR THE 2004/2005 FISCAL YEAR

Recommendation: That the Council approve the budget adjustments and authorize staff to modify revenue and expenditure estimates as described in the schedule attached to the staff report.

Documentation: M.O. 02-020105
Disposition: Approved.

3. APPROVAL OF SHELVING PURCHASE FOR HERITAGE LIBRARY

Recommendation: That the Council approve the purchase of shelving for the Heritage Library in the amount of $8,979.94 from Office Depot, and seek reimbursement from PUSD for their share of the shelving cost.

Documentation: M.O. 03-020105
Disposition: Approved.

4. ENVIRONMENTAL REVIEW OF THE CITY OF PORTERVILLE ANNEXATION OF PROPERTIES FOR WASTEWATER EFFLUENT REUSE ACTIVITIES AND EXPANSION OF AIRPORT CLEAR ZONE AND AWARD OF CONTRACT - SLUDGE BED EXPANSION PROJECT

Recommendation: That the Council:
1. Adopt the attached resolution approving a Negative Declaration for the City of Porterville Annexation of Properties for Wastewater Effluent Reuse Activities and Expansion of Airport Clear Zone;
2. Award the Sludge Bed Expansion Project to Kaweah Construction Company in the amount of $829,000;
3. Authorize progress payments up to 90% of the contract amount; and
4. Authorize a 10% contingency to cover unforeseen construction costs.

Documentation: Resolution 13-2005; M.O. 04-020105
Disposition: Approved.

5. ACCEPTANCE OF MILO STREET RECONSTRUCTION PROJECT

Recommendation: That the Council:
1. Accept the Milo Street Reconstruction Project as complete;
2. Authorize the filing of the Notice of Completion; and
3. Authorize the release of the 10% retention thirty-five (35) days after recordation, provided no stop notices have been filed.

Documentation: M.O. 05-020105
Disposition: Approved.

6. ACCEPTANCE OF THE TULE RIVER PARKWAY PHASE 2 PROJECT

Recommendation: That the City Council:
1. Accept the Tule River Parkway, Phase 2 as complete;
2. Authorize the filing of the Notice of Completion; and
3. Authorize the release of the 10% retention thirty-five (35) days after recordation provided no stop notices have been filed.

Documentation: M.O. 06-020105
Disposition: Approved.

7. REDEVELOPMENT AGENCY ANNUAL REPORT TO LEGISLATIVE BODY


Documentation: M.O. 07-020105
Disposition: Approved.

8. CDBG CITIZENS’ ADVISORY AND HOUSING OPPORTUNITY COMMITTEE AND CITIZEN PARTICIPATION PLAN

Recommendation: That the City Council:
1. Adopt the 2005 Citizen Participation Plan; and
2. Appoint Pat Contreras, Hector Villicana, Linda Olmedo, Grace Munoz-Rios, Rudy Roman, John Dennis, and Robert Fuentes to the Citizens’ Advisory and Housing Opportunity Committee for a one-year term.

Documentation: M.O. 08-020105
Disposition: Approved.

10. CITY OF PORTERVILLE RELOCATION PLAN, RESOLUTION OF ADOPTION

Recommendation: That the City Council adopt the resolution adopting the State Regulations Relocation Assistance and Real Property Acquisition Guidelines as the City of Porterville Relocation Plan.

Documentation: Resolution 14-2005
Disposition: Approved.
11. PROGRAM SUPPLEMENT TO THE LOCAL AGENCY-STATE MASTER AGREEMENT - HENDERSON AVENUE (JAYE STREET TO SAN JOAQUIN VALLEY RAILROAD CROSSING)

Recommendation: That the City Council:
1. Approve the subject Program Supplement by passing a resolution authorizing the Mayor to sign the subject Program Supplement; and
2. Direct staff to return the signed Program Supplement to CalTrans.

Documentation: Resolution 15-2005
Disposition: Approved.

13. PROVISION OF WATER - PROPOSED PORTERVILLE UNIFIED SCHOOL DISTRICT MIDDLE SCHOOL

Recommendation: That the City Council adopt the draft resolution authorizing the extra-territorial provision of water service to the Proposed PUSD Middle School to be located at the northwest corner of Prospect Street and Castle Avenue.

Documentation: Resolution 16-2005
Disposition: Approved.

14. STANDARD FORM FOR OFF HIGHWAY VEHICLE PARK USE AGREEMENT

Recommendation: That the City Council approve the Use Agreement form for the Off Highway Vehicle Park.

Documentation: M.O. 09-020105
Disposition: Approved.

15. RENEWAL OF BENCHCRAFT COMPANY AGREEMENT FOR THE MUNICIPAL GOLF COURSE

Recommendation: That the City Council accept the Benchcraft Agreement Amendment.

Documentation: M.O. 10-020105
Disposition: Approved.

16. APPROVAL OF HERITAGE LIBRARY SHARED USE MEMORANDUM OF UNDERSTANDING WITH PORTERVILLE UNIFIED SCHOOL DISTRICT

Recommendation: That the City Council:
1. Approve the Memorandum of Understanding with PUSD for shared use of the Porterville Heritage Center Library; and
2. Authorize and direct the City Manager to sign the MOU, as presented.

Documentation: M.O. 11-020105
Disposition: Approved.
17. ANNOUNCING VACANCIES ON THE PARKS & LEISURE SERVICES COMMISSION

Recommendation: That the City Council announce the vacancies on the Parks and Leisure Services Commission and set February 15, 2005 as the time for Council appointment to fill these positions.

Documentation: M.O. 12-020105
Disposition: Approved.

18. APPROVAL FOR COMMUNITY CIVIC EVENT-CITY OF PORTERVILLE’S PARKS & LEISURE SERVICES ANNUAL SWEETHEART’S RUN - FEBRUARY 12, 2005

Recommendation: That the Council approve the City of Porterville’s Parks & Leisure Services annual Sweetheart’s Day Run subject to the restrictions and requirements contained in the application, agreement and Exhibit “A” of the Community Civic Event application.

Documentation: M.O. 13-020105
Disposition: Approved.

COUNCIL ACTION: MOVED by Mayor Pro Tem Irish, SECONDED by Council Member Stadtherr that the Council approve Item Nos. 1 through 8, 10, 11, and 13 through 18. The motion carried unanimously.

9. HEDGE VIOLATION CASE UPDATE - REPORT ON OTHER POTENTIAL VIOLATIONS

Recommendation: That the City Council:
1. Direct staff and the City Attorney to continue enforcement of the violation at 791 North Villa Street; and
2. Direct staff to open new violation cases with regard to the locations at: the northeast corner of Indiana Street and Kanai Avenue; the southeast corner of Newcomb Street and Putnam Avenue; and the southeast corner of Westwood Street and Garden Avenue.

Council Member West recused himself from the discussion and left the Council Chambers.

After a discussion as to whether or not Council Member Stadtherr should also recuse himself due to residing within 500 feet from the property located at 791 North Villa Street, it was decided that Council Member Stadtherr would remain.

City Manager John Longley presented the item, and Community Development Director Brad Dunlap presented the staff report.

Mr. Longley clarified that unless otherwise directed by Council, in due course staff would proceed with the enforcement of violations. He then recommended, in order to assure no conflict of interest issue arose with respect to Council Member Stadtherr, that the Council take no action which would thereby allow staff to proceed in due course in the enforcement of violations on a complaint basis.
City Attorney Julia Lew confirmed that the Council need not take any action for staff to proceed with the enforcement of the violation at 791 North Villa Street, and to open new violation cases with regard to the northeast corner of Indiana Street and Kanai Avenue; the southeast corner of Newcomb Street and Putnam Avenue; and the southeast corner of Westwood Street and Garden Avenue.

Mayor Pro Tem Irish commented that if one violation was enforced, all should be enforced.

Mayor Martinez agreed that the City should equally enforce violations.

Council Member Hamilton commented that he believed Mr. Ole should have the opportunity to speak on the issue.

David Ole, 100 South Westwood Street, came forward and read excerpts from his letter, copies of which were provided to Council during Oral Communications. He voiced cautioned over select enforcement of the City’s Ordinance, and suggested an annual City-wide survey to identify violations. Mr. Ole then informed Council that he and his wife had sold the property, however requested that the Council not enforce the violation until such time as an equitable City-wide enforcement plan had been established.

Council Member Hamilton thanked Mr. Ole for his correspondence, and pointed out that the violation at 791 North Villa Street had not been brought forth by City staff, but rather by an individual. He stated that staff enforces violations on a complaint basis, as was the case with the additional violations brought to Council and staff’s attention by Mr. Ole. He commented that he believed that until the City hired a code enforcement officer, the best policy for addressing violations was on a complaint basis, which was the policy the City currently employed.

Disposition: No action taken.

12. APPROVAL OF AN ENCROACHMENT AGREEMENT AT 114 NORTH MAIN STREET (CANDICE MAYER)

Recommendation: That the City Council approve the encroachment agreement for the installation of an awning at 114 North Main Street and authorize the City Engineer to sign the document.

Mayor Pro Tem Irish indicated that a report was not necessary and then invited comments from Mr. Dick Eckhoff of the Downtown Porterville Association (“DPA”).

Dick Eckhoff came forward and stated that the DPA did not object to the proposed awning. He suggested that at some point an idea in terms of how the downtown area should look needed to be identified. He then voiced support for placing some type of restrictions – which were agreeable to a majority of the businesses – on the entire downtown.

COUNCIL ACTION: MOVED by Mayor Pro Tem Irish, SECONDED by Council Member West that the Council approve the encroachment agreement for the installation of an awning at 114 North Main Street and authorize the City Engineer to sign the document. The motion carried unanimously.

Disposition: Approved.
**PUBLIC HEARINGS**

19. ZONE CHANGE 6-2004 (STEVE VANG) (CONTINUED)

Recommendation: That the City Council:

1. Adopt the draft resolution approving a Negative Declaration for Zone Change 6-2004;
2. Adopt the draft ordinance approving Zone Change 6-2004; and
3. Adopt the draft resolution conditionally approving “D” Overlay Site Review 5-2004.

City Manager John Longley presented the item, and Community Development Director Brad Dunlap presented the staff report.

The Public Hearing opened at 8:31 p.m.

Mark Hillman, 620 West Olive Avenue, came forward as a representative of the applicants to voice support for approval. He pointed out that in order to be sensitive to the residents to the north of the site, the applicant had limited the commercial entrances and exits to the south end of the site.

The Public Hearing closed at 8:34 p.m. when no one else came forward.

A discussion ensued as to the accessibility of parking space No. 8. It was determined that although the space might pose a problem, any liability would lie with the applicant, not the City; therefore, it should be the applicant’s decision as to whether or not to eliminate that space.

**COUNCIL ACTION:** MOVED by Mayor Pro Tem Irish, SECONDED by Council Member Hamilton that the Council adopt the draft resolution approving the Negative Declaration for Zone Change 6-2004, give first reading to the draft ordinance approving the Zone Change 6-2004, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE APPROVING ZONE CHANGE 6-2004 BEING A CHANGE OF ZONING FROM R-1 (ONE FAMILY RESIDENTIAL) TO C-3 (HEAVY COMMERCIAL “D” OVERLAY SITE REVIEW) FOR 40 NORTH KESSING STREET AND FROM C-3 (HEAVY COMMERCIAL) TO C-3(D) (HEAVY COMMERCIAL “D” OVERLAY SITE REVIEW) FOR 356 WEST OLIVE AVENUE, and adopt the draft resolution conditionally approving “D” Overlay Site Review 5-2004. The motion carried unanimously.

City Manager John Longley read the Ordinance by title only.

**COUNCIL ACTION:** MOVED by Council Member West, SECONDED by Mayor Martinez that the Council waive further reading, and order the Ordinance to print. The motion carried unanimously.

M.O. 15-020105

**Disposition:** Approved.
SCHEDULED MATTERS

20. REJECT ALL BIDS ON TRAFFIC SIGNAL NO. 7 (PUTNAM AVENUE & VILLA STREET)

Recommendation: That the City Council, compliant with City policy and practice, reject all bids for Traffic Signal No. 7.

City Manager John Longley presented the item, and Public Works Director Baldo Rodriguez presented the staff report. Mr. Rodriguez explained that TCAG had informed staff that since the funds for this project had been allocated from a previous funding cycle, not awarding the contract would result in the loss of this money to both the City and Tulare County. As such, Mr. Rodriguez explained, TCAG had suggested that the City might consider eliminating one hybrid vehicle from its 2004/2005 CMAQ funding cycle, and transferring that $30,000 savings to the Traffic Signal No. 7 Project. He stated that if Council wished to pursue this course of action as an alternative to staff’s recommendation, the Council could direct staff to:

- Award the Traffic Signal Project No. 7 to AC Electric in the amount of $151,450 contingent upon approval of the fund transfer by TCAG Board;
- Authorize progress payments up to 90% of the contract amount;
- Authorize a 10% contingency to cover unforeseen construction costs; and
- Direct staff to apply for one hybrid vehicle during the 2006 FTIP process.

Council Member Hamilton clarified that if the City considered TCAG’s suggestion and proceeded with the alternate course of action, then the City’s share would be roughly $18,000, or 11.5% of the $160,000 (the original $130,000, plus the additional $30,000). He then commented that the City should not lose the TCAG money and pointed out that the intersection at Putnam Avenue and Villa Street needed to be addressed.

Council Member Hamilton moved for approval of staff’s recommendation. Council Member Stadtherr seconded the motion.

Mr. Rodriguez then clarified that if the Council rejected the bids at that point, the alternative course of action would be moot.

City Manager John Longley offered further clarification as to staff’s recommendation to reject the bids, explaining that the City policy was to reject any bids that came in over 10%.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Council Member Stadtherr that the Council, in compliance with City policy and practice, reject all bids for Traffic Signal No. 7.

AYES: Hamilton, Stadtherr
NOES: West, Irish, Martinez
ABSTAIN: None
ABSENT: None
COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Mayor Pro Tem Irish that the Council award the Traffic Signal Project No. 7 to AC Electric in the amount of $151,450 contingent upon approval of the fund transfer by TCAG Board, authorize progress payments up to 90% of the contract amount, authorize a 10% contingency to cover unforeseen construction costs, and direct staff to apply for one hybrid vehicle during the 2006 FTIP process.

AYES: West, Irish, Hamilton, Martinez
NOES: Stadtherr
ABSTAIN: None
ABSENT: None

Disposition: Award of Bid Approved.

21. CONSIDERATION OF THE NEED FOR THE FOUR-WHEEL DRIVE SAFETY TRAINING FACILITY

Recommendation: That the City Council direct staff to pursue the re-scoping of the State OHV grant for use in improvements to the existing OHV Motocross and BMX Park, and inform the granting agencies of the intent to allow the federal recreational trails grant to lapse, foregoing the Four-Wheel Drive Safety Training Facility at this time.

City Manager John Longley presented the item, and Parks and Leisure Services Director Jim Perrine presented the staff report.

Council Member Hamilton pointed out that the Safety Training Facility would likely not be utilized very much by four-wheel drive enthusiasts.

Mr. Perrine agreed with Council Member Hamilton’s comments, stating that this was also the feedback staff had received. He then clarified that the grant funds could be utilized at the OHV Motocross Park, elaborating that all elements of the OHV Park, including the Motocross and BMX Park, were viewed comprehensively by the State. He stated that the funds could be spent on a variety of things, including fencing at the Motocross facility, parking, lot improvements, shade structures, or water system improvements.

Council Member Hamilton clarified with staff that the shooting range was located south of the OHV Park, and that the City would be unable to utilize grant funds for expansion of the shooting range.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Mayor Pro Tem Irish that the Council direct staff to pursue the re-scoping of the State OHV grant for use in improvements to the existing OHV Motocross and BMX Park, and inform the granting agencies of the intent to allow the federal recreational trails grant to lapse, foregoing the Four-Wheel Drive Safety Training Facility at this time. The motion carried unanimously.

Disposition: Approved.

22. GENERAL PLAN UPDATE SELECTION COMMITTEE APPOINTMENTS
Recommendation: That the City Council appoint two (2) Council Members to serve on the General Plan Update Consultant Selection Committee, and appoint Greg Woodard, Kelly Morgan, Gilbert Yniques, and Peter Schalambier to serve with the Council appointments.

City Manager John Longley presented the item, and Community Development Director Brad Dunlap presented the staff report. Mr. Dunlap pointed out that one of the prospective appointees, namely Kelly Morgan, did not reside within Porterville, however, he clarified, residency was not a requirement for this committee. A discussion then ensued as to whether or not residency was or should be a requirement for appointment on certain committees or commissions. It was determined that currently there was no prohibition due to residency in the City Charter.

City Attorney Julia Lew clarified that only the Library Board, and perhaps Parks & Leisure Services Commission had a residency requirement. She stated that she believed the only residency requirement provision in the Charter pertained to elected Officials and the City Manager.

Mayor Pro Tem Irish stated that if some sort of residency requirement was considered in the future for boards and/or committees, perhaps the percentage of appointees from outside the City limits could be set. He cited the potential for having a committee solely comprised of County residents. Mayor Pro Tem Irish then commented that many Porterville business owners who resided outside of Porterville had taken issue over the years with having no representation in decisions affecting their businesses.

Council Member Stadtherr suggested that the “sphere of influence” might be considered as opposed to Porterville’s urban boundary.

Staff clarified that the committee would not meet on any set schedule, but instead the members would be provided documents to review, after which interviews would be scheduled with the 3 different consultants.

COUNCIL ACTION: MOVED by Mayor Martinez, SECONDED by Council Member Hamilton that the Council appoint Council Member West and Mayor Pro Tem Irish to serve on the General Plan Update Consultant Selection Committee. The motion carried unanimously.

M.O. 18-020105

M.O. 19-020105 MOVED by Mayor Martinez, SECONDED by Mayor Pro Tem Irish that the Council appoint Greg Woodard, Kelly Morgan, Gilbert Yniques, and Peter Schalambier to serve with the Council appointments on the General Plan Update Consultant Selection Committee. The motion carried unanimously.

Disposition: Approved.

23. APPOINTMENT OF MEMBERS TO THE REDEVELOPMENT ADVISORY COMMITTEE

Recommendation: That the Mayor, utilizing the criteria established in Resolution 148-89, appoint two new members to the Redevelopment Advisory Committee for an initial term to expire July 10, 2009, after which successive terms would be for three years.
City Manager John Longley presented the item, and Community Development Director Brad Dunlap presented the staff report.

Council Member Hamilton confirmed that the appointment of two new members would bring the total number of members to nine. It was then stated that Mrs. Marlene Marques had been ill and might not be back depending on her health. Council Member Hamilton then suggested that Renee Spragues might be a good choice for appointment.

Mayor Pro Tem Irish suggested, and the Council agreed, that an alternate also be selected in the event Mrs. Marques did not return.

Mayor Martinez suggested that the item be continued so as to allow the Council the opportunity to both consider individuals, as well as speak with those individuals to determine whether they had an interest in participating.

Council Member Hamilton agreed and suggested that the Council could provide a list of names to staff.

**Disposition:** Continued.

**24. BUDGET UPDATE FOR THE 2004-05 FISCAL YEAR INCLUDING PROPOSED POLICY REGARDING “HIRING FREEZE”**

**Recommendation:** That the City Council:

1. Accept the 2004-2005 budget update;
2. Authorize the City Manager to fill all current vacant positions;
3. Establish a policy regarding the implementation of a hiring freeze based on the budgetary status of the City. The 2005 memo recommended hiring up all positions at this time, but maintaining the freeze in effect to assure a conservative financial posture as we move into the second year of State reductions;
4. Approve a contingency policy for current fiscal year funding of equipment replacement; and
5. Direct the City Manager to work with the City Council and Department Directors to develop a sustainable structure for the delivery of City Services through the budget development process for the 2005-2006 Fiscal Year.

City Manager John Longley presented the item, and Deputy City Manager Darrel Pyle presented the staff report. Mr. Pyle explained that as to the hiring freeze portion of the proposal, approximately 18 vacant positions currently existed, 10 of which were in the General Fund. He stated that based on the current revenue picture and the current savings experienced because of the hiring freeze, staff recommended filling all of those vacancies to allow for a more efficient delivery of services. He stated that staff also proposed the utilization of the hiring freeze as a budget balancing tool in any period during which revenues did not exceed expenditures. He explained that the freeze would be reviewed as a part of the financial review that was brought before the Council on a quarterly basis, and would only be implemented with Council’s concurrence.

City Manager John Longley clarified that because targets had been met, staff proposed to restore all positions to return to full service, however, if positions became vacant after such restoration, those positions would be frozen. He stated that the freeze would then be reviewed on a quarterly basis, and when a balanced
budget could be projected, there would be no more freeze. He explained that the exception as to sworn public safety employees would remain, as well as the exception that could be implemented by the City Manager for either contractual items or issues of health and safety.

Council Member Hamilton clarified that approximately 18 vacant positions currently existed.

Mayor Pro Tem Irish questioned if the restoration would help eliminate some of the outsourcing that the City had to employ in the past.

Mr. Pyle responded that early on in the freeze, vacancies had occurred in the Parks & Leisure Services Department and that the City had outsourced in order to maintain the street medians. He indicated that the City had saved money, however a reduction in services had been noted. He pointed out that the City did not have the flexibility to utilize the outsourced positions in other needed areas, but rather the individuals were contracted to solely maintain the medians for a fixed price, which is what they did.

Jim Perrine, Parks & Leisure Services Director, added that the City staff that had previously maintained the median islands had spent only a portion of their time performing that task. He explained that the balance of staff’s time had been spent in other park facilities maintaining sprinkler systems for all of the park facilities, basically making them sprinkler specialists. He pointed out that currently, because of the outsourcing, those sprinkler specialists were no longer on staff. He stated that other personnel had been filling in to maintain those sprinklers.

In response to Council Member Hamilton’s question, Mr. Longley explained that the freeze had been previously lifted on all engineering positions, and therefore the restoration would have no effect in that area. He then confirmed that the current goal was to fill all 18 vacant positions, and that the vacancies existed in various departments.

Council Member Hamilton complimented staff on their efforts with respect to the savings accomplished by the freeze. He then voiced his support for staff’s recommendation, stating that he believed staff had previously made good decisions, and that he trusted staff to again make good decisions.

Council Member West commented that he thought the City’s goal was to outsource as many things as it could. He stated that it appeared because of a few sprinklers, staff was seeking to hire permanent staff instead of simply calling a plumber. He questioned which would cost the City more money.

Mr. Longley explained that while restoring those positions might cost the City more money, it would allow the City the opportunity to accomplish more tasks. He stated that the entire process was a balancing of being able to provide services with maximum economy. To achieve that, he explained, staff proposed to lose the freeze, which was a fairly broad brush approach. He then pointed out that one issue that should be considered was the stress and pressure in providing services with a significantly reduced staff. He stated that because the budget targets had been met, there was no longer a rationale to not restore those frozen positions, particularly when there appeared to be significant interest in improving service levels. Mr. Longley again emphasized that the entire process was a balance, with another very difficult year ahead.

Mayor Pro Tem Irish commented that he believed that the staff had been under such stress, that some of the pressure needed to be relieved. Having said that, he questioned whether all 18 positions needed to be filled, or whether there were key positions that would relieve the stress.
Mr. Longley responded that he did not think that the City had to rehire all 18 positions, but thought it to be an equitable policy. He stated that if the Council wished to investigate the restorations on a position by position basis, staff could provide that information.

Mayor Pro Tem Irish stated that since the recommendation was such a broad brush approach, he would like to rehire some individuals to relieve the pressure on current staff. However, he stated, restoration of all vacant positions might be too broad without sufficient detail.

Council Member West agreed with Mayor Pro Tem Irish’s comments.

Mr. Longley confirmed that staff could provide information to the Council.

Mayor Martinez commented that he would like to see the positions filled. He stated that he believed staff had done a great job.

Council Member Stadtherr commented that staff had done a wonderful job throughout the crisis, and that his inclination would be to accept staff’s recommendation and lift the freeze to reinstate all vacant positions, with instructions to critically review the positions. He stated that rather than bringing the item back at a later date, he believed a better approach would be to provide the City Manager and/or Deputy City Manager the discretion to restore those positions which they deem to be critically necessary, which very well might be all 18 positions.

Mayor Pro Tem Irish agreed with Council Member Stadtherr’s comments and stated that he would feel more comfortable with that approach. He stated that he would like staff to review each position and identify only those which were critical.

Council Member Hamilton proposed that the Council should not analyze the positions, but instead the determination should be left to the City Manager and his staff.

Council Member West pointed out that staff should be given the authority to hire only the positions that they believe are critical.

Mayor Pro Tem Irish commented that he did not wish to be a part of the process which determined which positions were needed and which were not, however, he wanted staff to be able to justify those positions which were deemed necessary.

Mayor Martinez suggested that staff could have the approval to hire up to 18 positions, but that they should look at each position critically.

Mr. Longley pointed out that one aspect would be phasing, and commented that some positions would likely be restored before others. He then clarified for Council’s benefit that he understood Council’s direction was to accept the 2004/2005 budget update; authorize the City Manager to fill all current vacant positions, up to 18, however those positions should be reviewed and only those positions determined to be vital, with justification, should be re-established. He stated that there was a policy regarding implementation of the hiring freeze, which would basically apply during periods in which there was a projected deficit in the General Fund, and that the projections would be reviewed quarterly. He stated that the contingency policy for current Fiscal Year funding of equipment replacement was that if there were monies received beyond what had been budgeted, those funds could be applied to the Equipment Maintenance Fund to partially or fully restore it; and
the City Manager would be directed to work with the City Council and the Department Directors to develop a sustainable structure for the delivery of City services in the upcoming budget.

In response to Council Member West’s question, staff indicated that none of the 18 vacant positions were supervisory positions.

COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Mayor Pro Tem Irish that the Council accept the 2004-2005 budget update; authorize the City Manager to review of all current vacant positions, and to fill up to 18 of those current vacant positions that are deemed to be vital and justified as being vital; to direct staff to establish a policy regarding the implementation of a hiring freeze based on the budgetary status of the City for Council’s review on a quarterly basis, which would generally apply during periods in which there was a projected deficit in the General Fund; approve a contingency policy for current fiscal year funding of equipment replacement; and direct the City Manager to work with the City Council and Department Directors to develop a sustainable structure for the delivery of City Services through the budget development process for the 2005-2006 Fiscal Year. The motion carried unanimously.

Disposition: Approved.

The Council adjourned at 9:27 p.m. to a Meeting of the Porterville Redevelopment Agency.

PORTERVILLE REDEVELOPMENT AGENCY AGENDA

Roll Call: Agency Member West, Vice-Chairperson Irish, Agency Member Hamilton, Agency Member Stadtherr, Chairperson Martinez

WRITTEN COMMUNICATIONS
None

ORAL COMMUNICATIONS
None

REDEVELOPMENT SCHEDULED MATTERS

PRA-1 AMENDMENT TO STREETSCAPE DESIGN GUIDELINES TO ALLOW CROSS-STREET BANNERS

Executive Secretary John Longley presented the item, and Community Development Director Brad Dunlap presented the staff report.

Agency Member Hamilton pointed out that this item had not been initiated by the Redevelopment Agency, but rather the item had been brought to the Agency. He then voiced concern with the recommendation, stating that it provided no information as to the regulation of the program, such as how long the banners would hang, who would be responsible for hanging them, and if the City would sponsor the program.
Mr. Dunlap responded that the recommendation was to first allow the concept, after which a policy would be developed to address specific issues such as those. He then confirmed that the draft policy would be brought before Council for approval. Mr. Dunlap explained that before staff time had been spent developing a policy, the Agency first sought Council’s approval on the concept.

Agency Member Hamilton voiced concern with approving the concept with no project.

**AGENCY ACTION:** MOVED by Vice-Chairperson Irish, SECONDED by Agency Member West that the Porterville Redevelopment Agency amend the Streetscape - Design Guidelines to allow cross-street banners on Main Street in the Redevelopment Project Area.

**AYES:** West, Irish, Stadtherr, Martinez  
**NOES:** Hamilton  
**ABSTAIN:** None  
**ABSENT:** None

Disposition: Approved.

The Redevelopment Agency adjourned at 9:34 p.m. to the meeting of the Porterville City Council.

**ORAL COMMUNICATIONS**  
None

**OTHER MATTERS**  
- Council Member Stadtherr suggested that the Council send the Tulare County Board of Supervisors a letter of appreciation for holding its meeting in Porterville’s Council Chambers.  
- Council Member Hamilton requested that a letter, signed by all Council Members, be sent to Congressman Devin Nunes congratulating him on his recent appointment to the Ways and Means Committee.

**ADJOURNMENT**  
The Council adjourned at 9:35 p.m. to the meeting of February 8, 2005.

Patrice Hildreth, Deputy City Clerk

SEAL

Pedro R. Martinez, Mayor
SUBJECT: CLAIM - PAUL SIMMONS

SOURCE: Administrative Services Department/City Clerk Division

COMMENT: Paul Simmons has filed a claim against the City for personal injury. He is claiming that he was injured in a fall caused by an improperly placed manhole cover at the west end of White Chapel in the 2500 Block. Mr. Simmons states that the fall caused severe injuries to the front of his left leg, the calf of his right leg, and inside his right forearm.

The amount being claimed as of the date of this claim is $4,425.00, based on Mr. Simmons expenses.

RECOMMENDATION: That the Council reject said claim, and refer the matter to the City's insurance adjustor, and direct the City Clerk to give the claimant proper notification.

Attachment: Claim Form
CITY OF PORTERVILLE
CLAIM FORM

(Please Type Or Print)

CLAIM AGAINST City of Porterville, Porterville, CA 93257

Claimant's name: Paul E Simmons

Claimant's DOB: ___________ Claimant's Telephone #: ___________

Claimant's Address: 2486 W. White Chapel, Porterville, CA 93257

Address where notices about claim are to be sent, if different from above: N/A

Date of incident/accident: July 30, 2004

Date injuries, damages, or losses were discovered: July 30, 2004

Location of incident/accident: West End of W. White Chapel, 2500 Block P.V.CA

What did entity or employee do to cause this loss, damage, or injury? Evidently the cover on a manhole was improperly placed over the manhole.

(Use back of this form or separate sheet if necessary to answer this question in detail)

What are the names of the entity's employees who caused this injury, damage, or loss (if known)? Unk

What specific injuries, damages, or losses did claimant receive? Severe injury to front of left leg, cart of right leg, and inside of right forearm and shoes and shorts had to be destroyed.

(Use back of this form or separate sheet if necessary to answer this question in detail)

What amount of money is claimant seeking or, if the amount is in excess of $10,000, which is the appropriate court of jurisdiction. Note: If Superior and Municipal Courts are consolidated, you must represent whether it is a "limited civil case" [see Government Code 910(0)] $4,250.00 as detailed on Enclosure

How was this amount calculated (please itemize)? Explained on Enclosure

(Use back of this form or separate sheet if necessary to answer this question in detail)

Date Signed: Dec 27, 2004 Signature: Paul E Simmons

If signed by representative:

Representative's Name ___________________________ Address ___________________________

Telephone # ___________________________ Relationship to Claimant ___________________________
TO WHOM IT MAY CONCERN

On the morning of July 30, 2004 at approximately 7:45 AM I was walking in a westerly direction on the sidewalk, on the south side of the street, in the 2500 block of West White Chapel Avenue in Porterville, California. I do this at least every Monday, Wednesday, and Friday, and frequently more often than that, so I have walked this same route literally hundreds of times with no problem. There is a manhole in the middle of the sidewalk right at the end of the street. Unbeknownst to me the manhole cover was not properly seated, nor fastened down, and as I stepped on the front edge of the cover it went down, and the back of the cover flipped up, and as my left foot came forward it hit the manhole cover which was then in a vertical position and I fell straight down into the manhole to approximately between my waist and my chest. See attached Illustration. As I fell the calf of my right leg was severely lacerated by the leading edge of the manhole. The far side of the manhole cover flipped up into a vertical position, and the top of it slammed into my left leg about halfway between my knee and my ankle, causing severe lacerations and bruises to the front of my left leg, to the calf of my right leg, and another severe laceration to the inside of my right forearm as I was falling. Also as I was falling the front of my walking shorts got caught in the little notch (that is supposed to be used to fasten the cover down) in the edge of the manhole cover and nearly tore them off of me. I called for help but to no avail as there was no one around, and it was the end of a dead-end street so there was no automobile traffic, and the nearest house was about 25 yards away. I struggled and fought off the pain and shock, and finally was able to pull myself out of the manhole. Both of my legs, and my right arm, were bleeding profusely. Fortunately I was only about one and one-half blocks away from my home and I was able to make my way home. My wife was able to get me into the car and take me to the emergency ward at Sierra View District Hospital in Porterville, California. I was in the Emergency Ward for over two hours getting my injuries cleaned and dressed and X-Rays taken. It was determined that I did not have any broken bones. I was pretty much house-bound for the next two weeks, suffering from intense pain, and I could hardly get around. For about the two weeks after that I was able to get out of the house some, but I could walk only for short distances and I was still suffering from a lot of pain. In addition to the Emergency Room care I had three office calls with Dr. Elif Tokcan in conjunction with these injuries. Additionally I got medical prescriptions for pain, and anti-biotics to preclude infection, during this period, from Sequoia Pharmacy, 590 W. Putnam, Porterville, California.

I do not know that this is exactly how it happened. All I really know is that I was walking and all of a sudden I was at the bottom of the manhole in intense pain and bleeding profusely.

I hereby submit this claim against the City of Porterville for the following expenses:

1 Pair of Docker Shorts that were ruined in my fall-----------------------------$ 30.00
1 Pair of Reebok Walking Shoes that were bloodsoaked and ruined-------------45.00
2 Weeks of Suffering Extreme Pain and Disability($200.00 per day for 14 days)---2,800.00
2 Weeks of Suffering Moderate Pain and Disability($100.00 per day for 14 days)---1,400.00
Dressings, Bandages, Topical Anti-Biotic Ointments, and Tylenol Pain Reliever 50.00
I pay my Green Fees at the Porterville Municipal Golf Course on an annual basis of $600
($50.00 per month) and was unable to use them in August and only for a few holes in
September that I was using as therapy to regain my strength. -------------------100.00
 TOTAL CLAIM

$ 4,425.00

Mr. Paul E. Simmons
2486 W. White Chapel Ave.
Porterville, Ca. 93257

Two Enclosures 1. Three Pictures of the injuries taken about two weeks after the incident and
2. A diagram of the site of the incident.
2500 Block of West White Chapel Ave

N

Manhole (Solid Line)

Manhole Cover (Dotted Line)

End

Curb

My Right Foot

Sidewalk

My Left Foot

End of Sidewalk

Sidewalk

S

W

I was walking on this general line
COUNCIL AGENDA - FEBRUARY 15, 2005

SUBJECT: CLAIM - MICHAEL HURTADO

SOURCE: Administrative Services Department/City Clerk Division

COMMENT: Michael Hurtado has filed a claim against the City for property damage. He is claiming that he was falsely arrested, imprisoned and detained, and suffered defamation of character and police harassment on June 5, 2004. Mr. Hurtado is claiming punitive damages, pain and suffering, public humiliation and shame, and loss of reputation and future employment.

The amount being claimed as of the date of this claim is within the jurisdiction of the Superior Court, with unlimited jurisdiction.

RECOMMENDATION: That the Council reject said claim, and refer the matter to the City's insurance adjustor, and direct the City Clerk to give the claimant proper notification.

Attachment: Claim Form

Item No. _3_

[Signatures]
CITY OF PORTERVILLE
CLAIM FORM
FORM B
(Please Type Or Print)

CLAIM AGAINST CITY OF PORTERVILLE
Claimant's name: Michael Jose Hurtado
SS#: ________
Claimant's Telephone No.: ________
DOB: ________
Claimant's address: 481 N. Division Apt 3 Porterville, Ca 93257
Address where notices about claim are to be sent, if different from above: Same

Date of incident/accident: June 5, 2004
Date injuries, damages, or losses were discovered: June 5, 2004
Location of incident/accident: Hackett St, Behind the Save Mart Grocery Store, Near east
 cross street Olive Ave.
(Use back of this form or attach Diagram if necessary to answer this question in detail.)
What did entity or employee do to cause this loss, damage, or injury? False Arrest/Imprisonment, wrongful
 detention, defamation of character, Police Harassment
(Use back of this form or separate sheet if necessary to answer this question in detail.)
What are the names of the entity's employees who caused this injury, damage, or loss (if known)? Porterville
 Officer Mike Benas (Badge #1136), Officer Castalov (Badge #5132) Police Dept
What specific injuries, damages, or losses did claimant receive? Punitive Damages, Pain & Suffering,
 Public Humiliation & Shame, Loss of Reputation, Future Employment
(Use back of this form or separate sheet if necessary to answer this question in detail.)

What amount of money is claimant seeking or, if the amount is in excess of $10,000, which is the
 appropriate court of jurisdiction. Note: If Superior and Municipal Courts are consolidated, you must
 represent whether it is a "limited civil case" [see Government Code 910(f)] Superior Court,
 Unlimited Jurisdiction

How was this amount calculated (please itemize)? Similar cases that have been settled
or Jury Awards
(Use back of this form or separate sheet if necessary to answer this question in detail.)

Date Signed: 01-13-2005 Signature: Michael Jose Hurtado

If signed by representative:
Representative's Name
Address
Telephone #
Relationship to Claimant
SUBJECT: BUDGET ADJUSTMENTS FOR THE 2004-05 FISCAL YEAR

SOURCE: Administrative Services

COMMENT: During the course of the fiscal year, additional budget information becomes available that more accurately identifies revenue projections and project costs. Once known, budget modifications are necessary to complete projects and record revenues. To address budget adjustments in an orderly fashion, all adjustments will be presented as one agenda item for Council’s consideration.

RECOMMENDATION: That the Council approve the attached budget adjustments and authorize staff to modify revenue and expenditure estimates as described on the attached schedule.

ATTACHMENT: Schedule of proposed budget adjustments
<table>
<thead>
<tr>
<th>FUND</th>
<th>NO.</th>
<th>DESCRIPTION</th>
<th>FUNDING SOURCE</th>
<th>DOLLAR AMOUNT</th>
<th>REVISED EOY FUND CASH BALANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>30</td>
<td>Increase the revenue estimate in the General Fund to account for the reimbursement from the State of California for the OHV park</td>
<td>State of CA</td>
<td>$62,000</td>
<td>$1,180,838</td>
</tr>
<tr>
<td>General Fund</td>
<td>31</td>
<td>Increase the appropriation in the Parks budget to allow for the reimbursement from the State of California for the OHV park</td>
<td>State of CA</td>
<td>$62,000</td>
<td>$1,118,838</td>
</tr>
</tbody>
</table>

Modification No:06-04/05
COUNCIL AGENDA: FEBRUARY 15, 2005

SUBJECT: AWARD CONTRACT: 75-FOOT QUINT AERIAL LADDER TRUCK

SOURCE: FINANCE DEPARTMENT/PURCHASING

COMMENT: Staff solicited bids for a new 75-foot Quint Aerial Ladder Truck for the City’s Fire Department. In response to solicitation, five (5) bids were received as follows:

<table>
<thead>
<tr>
<th>BIDDER</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central States Fire Apparatus</td>
<td>$510,456.38</td>
</tr>
<tr>
<td>Lyons, SD</td>
<td></td>
</tr>
<tr>
<td>Smeal</td>
<td>$515,856.57</td>
</tr>
<tr>
<td>Oakland, CA</td>
<td></td>
</tr>
<tr>
<td>HME</td>
<td>$536,061.24</td>
</tr>
<tr>
<td>McKinnville, OR</td>
<td></td>
</tr>
<tr>
<td>KME Fire Apparatus</td>
<td>$551,984.65</td>
</tr>
<tr>
<td>Ontario, CA</td>
<td></td>
</tr>
<tr>
<td>Ferrara Firefighting Equipment</td>
<td>$555,848.48</td>
</tr>
<tr>
<td>Rocklin, CA</td>
<td></td>
</tr>
</tbody>
</table>

Staff has thoroughly reviewed the bids and the detailed specifications and has determined that the bid submitted by Central States Fire Apparatus is the lowest responsive and responsible bid. Fire Department staff originally informally estimated the cost for this apparatus at between $400,000 and $450,000; however, this figure is based on a demonstrator model that was not sufficiently equipped to meet the City’s needs. Funds for the unit are provided in the Equipment Replacement Fund in the amount of $440,002.38, augmented by $70,454 of Indian Gaming Grant funds. The unit will take approximately one year to construct and will replace a 1983 VanPelt aerial ladder truck which will be sold when the new apparatus is delivered.

RECOMMENDATION: That Council award the contract for a 75-foot Quint Aerial Ladder Truck to Central States Fire Apparatus of Lyons, SD, in the amount of $510,456.38 and authorize progress payments as required, during satisfactory construction of the equipment.

D.D. [ ] Appropriated/Funded [ ] C.M. [ ] Item No. 5
SUBJECT: STORM WATER MANAGEMENT PLAN (SWMP)

SOURCE: Public Works Department - Field Services Division

COMMENT: The State Water Resources Control Board (SWRCB) adopted a statewide National Pollution Discharge Elimination System (NPDES) general permit regulating urbanized areas that own and operate a municipal separate storm sewer system (MS4).

Regulated Small MS4s are required to develop a Storm Water Management Plan (SWMP), and implement programs over the next five years that include the following minimum control measures: 1) Public Education; 2) Public Participation; 3) Illicit Discharge Detection and Elimination; 4) Construction Site Storm Water Runoff Control; 5) Post Construction Storm Water Management; and 6) Pollution Prevention for Municipal Operations.

For the SWMP to be considered complete, it must contain sufficient information such that Regional Board staff and interested parties can evaluate whether the proposed best management practices (BMPs) meet the minimum requirements contained in the General Permit for Storm Water Discharges from Small MS4s.

The preliminary SWMP submitted by the City to the Regional Water Quality Control Board was rejected due to informational deficiencies. No cities in Tulare County have been able to get a plan approved by the Board. Many cities in the valley have now contracted with consultants in order to submit plans with sufficient information to meet the requirements of the Board. It is staff’s recommendation that professional assistance is required in order to develop a SWMP.

Funding for consultant services will be paid by storm drain development fees. Staff anticipates and will negotiate for a “not to exceed” $15,000 contract.

RECOMMENDATION: That the City Council:

1. Approve staff to negotiate for consulting services for the development of a Storm Water Management Plan.

Item No. 10
SUBJECT: APPROVAL OF RESOLUTION FOR RIGHT OF WAY PURCHASE – SHELLHASE – MEMORY LANE WIDENING

SOURCE: PUBLIC WORKS DEPARTMENT

COMMENT: On June 17, 2003, Council authorized staff to begin the eminent domain process for property located at 655 N. Newcomb Street. This process has been completed and payment made to the property owner.

At this time, staff is requesting approval of the resolution for recordation purposes.

The right of way was needed for the Memory Lane Widening project.

RECOMMENDATION: That City Council approves the attached resolution.

ATTACHMENTS: 1. Resolution
2. Grant Deed
3. Easement Deed
RESOLUTION NO. __________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
ACCEPTING GRANT DEEDS IN FEE FOR PUBLIC STREET
AND UNDERGROUND UTILITIES PURPOSES
FROM SHAWN F. SCHELLHASE

BE IT RESOLVED by the City Council of the City of Porterville, that the City of
Porterville hereby accepts Grant Deeds in fee from Shawn F. Schellhase, for public street and
underground utility purposes, in the City of Porterville, County of Tulare, State of California, to-
wit:

See Exhibit “A” and Exhibit “B” attached hereto and made a part hereof.

BE IT FURTHER RESOLVED that the purchase price of $5,000.00 is hereby approved,
authorize Mayor to sign all necessary documents, and said deed to be recorded in the office of the
Tulare County Recorder. The foregoing has been accepted by the City Council for the City of
Porterville.

________________________
Pedro R. Martinez, Mayor

ATTEST:

John Longley, City Clerk

________________________
By: Georgia Hawley, Chief Deputy City Clerk
EXHIBIT "A"

That portion of the Northeast quarter of the Northeast quarter of Section 28, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the City of Porterville, County of Tulare, State of California, according the Official Plat thereof, described as follows:

Commencing at the Southeast corner of the North half of the South half of the Northeast quarter of said Northeast quarter;

Thence, North, along the east line of said Northeast quarter of the Northeast quarter, 26 feet to the Point of Beginning;

Thence, Southerly to a point being 15 feet West of the east line of said Northeast quarter of the Northeast quarter and 11 feet North of the south line of said North half of the South half of the Northeast quarter of the Northeast quarter;

Thence, West, parallel with the south line of said North half of the South half of the Northeast quarter of the Northeast quarter, 65 feet;

Thence, Northwesterly to a point being 100 feet West of east line of said Northeast quarter of the Northeast quarter and 19 feet North of the south line of said North half of the South half of the Northeast quarter of the Northeast quarter;

Thence, South, parallel with the east line of said Northeast quarter of the Northeast quarter, 9 feet;

Thence, East, parallel with the south line of said North half of the South half of the Northeast quarter of the Northeast quarter, 100 feet to a point in the east line of said Northeast quarter of the Northeast quarter;

Thence, North, along the east line of said Northeast quarter of the Northeast quarter, 16 feet to the Point of Beginning.

Containing 293 square feet, more or less.

End of Description

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors Act.

Signature: Michael K. Reed
Licensed Land Surveyor

Date: 5/17/04
EXHIBIT “A”

THE SOUTH 10 FEET of that portion of the Northeast quarter of the Northeast quarter of Section 28, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the City of Porterville, County of Tulare, State of California, according the Official Plat thereof, described as follows:

Beginning at the Southeast corner of the North half of the South half of said Northeast quarter of the Northeast quarter;

Thence, North, along the east line of said Northeast quarter, 70 feet;

Thence, West, parallel with the south line of said North half of the South half of the Northeast quarter of the Northeast quarter, 100 feet;

Thence, South, parallel with the East line of said Northeast quarter of the Northeast quarter, 70 feet to a point on the south line of said North half of the South half of the Northeast quarter of the Northeast quarter;

Thence, East, 100 feet to the Point of Beginning.

Containing 1000 square feet, more or less.

End of Description

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors Act.

Signature: Michael K. Reed
Licensed Land Surveyor

Date: 5/17/04
SHAWN F. SCHELLHASE, a Single Man GRANTS to the CITY OF PORTERVILLE, a Municipal Corporation, all that real property in the City of Porterville, County of Tulare, State of California, described as:

SEE EXHIBIT "A" AND EXHIBIT "B" ATTACHED HERETO AND MADE A PART THEREOF
The grantor further understands that the present intention of the grantee is to construct and maintain a public street and underground utilities on the lands hereby conveyed in fee and the grantor, for the grantor and the grantor's successors and assigns, hereby waives any claims for any and all damages to grantor's remaining property contiguous to the property hereby conveyed by reason of the location, construction, landscaping or maintenance of said street. (As used above, the term "grantor" shall include the plural as well as the singular number.)

Dated this 26th day of October, 2004

Shawn F. Schellhase

STATE OF CALIFORNIA } SS
County of Tulare

On this the 26th day of October, 2004, before me, Vickie Schulz, Notary Public

personally appeared Shawn F. Schellhase

Name(s) of Signer(s)

to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Vickie Schulz

(Notary Public's signature in and for said County and State)
EXHIBIT “A”

THE SOUTH 10 FEET of that portion of the Northeast quarter of the Northeast quarter of Section 28, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the City of Porterville, County of Tulare, State of California, according the Official Plat thereof, described as follows:

Beginning at the Southeast corner of the North half of the South half of said Northeast quarter of the Northeast quarter;

Thence, North, along the east line of said Northeast quarter, 70 feet;

Thence, West, parallel with the south line of said North half of the South half of the Northeast quarter of the Northeast quarter, 100 feet;

Thence, South, parallel with the East line of said Northeast quarter of the Northeast quarter, 70 feet to a point on the south line of said North half of the South half of the Northeast quarter of the Northeast quarter;

Thence, East, 100 feet to the Point of Beginning.

Containing 1000 square feet, more or less.

End of Description

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors Act.

Signature: Michael K. Reed
Licensed Land Surveyor
Date: 5/17/04
Exhibit "B"

LEGEND

- PROPOSED PROPERTY ACQUISITION
- PROPOSED STREET EASEMENT
- PROPOSED EASEMENT ACQUISITION PER DEED 3681/702

SCALE: 1" = 30'

APN 254-214-019
655 N. NEWCOMB
POR. PARCEL 3
PM 1941 20/42

NEWCOMB ST.

S 00' 22' 35" W
98.91'

40'

70'

20'

19'

1'

15'

26'

100'

CL

MEMORY LN.

BC MON
INT MEMORY & NEWCOMB
RM 26/67
RECORDING REQUESTED BY
AND WHEN RECORDED MAIL THIS
DEED AND TAX STATEMENTS TO:

City of Porterville
291 N. Main St.
Porterville, CA 93257

<table>
<thead>
<tr>
<th>Atlas Sheet</th>
<th>Section</th>
<th>Township</th>
<th>Range</th>
<th>Street/Avenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>E4</td>
<td>28</td>
<td>21</td>
<td>27</td>
<td>Memory Lane</td>
</tr>
</tbody>
</table>

EASEMENT DEED
(INDIVIDUAL)

SHAWN F. SCHELLHASE, a Single Man GRANT and CONVEY to the CITY OF PORTERVILLE, a Municipal Corporation, the right of way and incidents thereto for a public street and underground utilities upon, over, across and within that certain real property in the City of Porterville, County of Tulare, State of California, described as:

SEE EXHIBIT “A” AND EXHIBIT “B” ATTACHED HERETO AND MADE A PART THEREOF
Dated this 26th day of October, 2004

Shawn F. Schellhase

STATE OF CALIFORNIA
County of Tulare

On this the 26th day of October 2004, before me, Vickie Schulz, Notary Public, Name, Title of Officer-E.G., "Jane Doe, Notary Public"

personally appeared Shawn F. Schellhase, Name(s) of Signer(s)

☐ personally known to me
☒ proved to me on the basis of satisfactory evidence

to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

VICKIE SCHULZ
Commission # 1431940
Notary Public - California
Tulare County

(Notary Public's signature in and for said County and State)
EXHIBIT "A"

That portion of the Northeast quarter of the Northeast quarter of Section 28, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the City of Porterville, County of Tulare, State of California, according the Official Plat thereof, described as follows:

Commencing at the Southeast corner of the North half of the South half of the Northeast quarter of said Northeast quarter;

Thence, North, along the east line of said Northeast quarter of the Northeast quarter, 26 feet to the Point of Beginning;

Thence, Southwesterly to a point being 15 feet West of the east line of said Northeast quarter of the Northeast quarter and 11 feet North of the south line of said North half of the South half of the Northeast quarter of the Northeast quarter;

Thence, West, parallel with the south line of said North half of the South half of the Northeast quarter of the Northeast quarter, 65 feet;

Thence, Northwesterly to a point being 100 feet West of east line of said Northeast quarter of the Northeast quarter and 19 feet North of the south line of said North half of the South half of the Northeast quarter of the Northeast quarter;

Thence, South, parallel with the east line of said Northeast quarter of the Northeast quarter, 9 feet;

Thence, East, parallel with the south line of said North half of the South half of the Northeast quarter of the Northeast quarter, 100 feet to a point in the east line of said Northeast quarter of the Northeast quarter;

Thence, North, along the east line of said Northeast quarter of the Northeast quarter, 16 feet to the Point of Beginning.

Containing 293 square feet, more or less.

End of Description

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors Act.

Signature: Michael K. Reed
Licensed Land Surveyor

Date: 5/17/04
SUBJECT:  Airport Hangar Purchase

SOURCE:  Fire Department/Airport

COMMENT:  As authorized by Council, on November 2, 2004, staff sent a letter to Mr. Coulter offering to purchase his hangars at the Porterville Municipal Airport for $118,000 contingent upon funding from Caltrans Division of Aeronautics.

Caltrans Division of Aeronautics has funds available to loan Airports for the purpose of purchasing items which will make the airport more economically feasible. Fund balances fluctuate often as the program is self-funded, much like the City's weed abatement account. The interest amount is established at the rate of the most recent state bond sale, currently around 5.5%. The Airport Fund must show the ability to pay back the loan over an eight-year period.

Staff analysis shows the hangars will be self-sufficient and are in compliance with Caltrans regulations.

A formal appraisal was conducted by Hopper and Hopper Associates which supports staff recommendations.

REQUEST FOR COUNCIL ACTION:

1. Council authorize staff to submit a loan request for $118,000.
2. Council adopt the attached resolution.
3. Council authorize the Mayor to sign any and all forms necessary for the execution of the loan agreement.
4. Authorize staff to accept the loan, if the interest rate is such that the Caltrans program requirements can still be achieved.

ATTACHMENTS:

1. Resolution
2. Letter of acceptance from Mr. Coulter
3. Site Map
RESOLUTION NO. ____________

A RESOLUTION OF THE PORTERVILLE CITY COUNCIL AUTHORIZING THE SUBMITTAL OF AN APPLICATION, ACCEPTANCE OF FUNDS AND EXECUTION OF A LOAN AGREEMENT WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION, DIVISION OF AERONAUTICS, FOR A LOW-INTEREST LOAN FOR THE FOLLOWING REVENUE GENERATING, AIRPORT DEVELOPMENT PROJECT AT THE PORTERVILLE MUNICIPAL AIRPORT:

PURCHASE OF EXISTING HANGARS

WHEREAS, the Department of Transportation, Division of Aeronautics, provides financial assistance to public entities in the form of loans pursuant to Public Utilities Code Section 21602 and the California Airport Loan Regulations; and

WHEREAS, the Mayor of the City of Porterville has recommended that the City apply for a loan in the amount of $118,000 to accomplish the above Project:

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Porterville authorizes the filing of a loan application with the California Department of Transportation, Division of Aeronautics, for the above Project.

BE IT FURTHER RESOLVED THAT the Mayor of the City of Porterville is authorized to execute the loan application form, including its acceptance; and the City Clerk is directed to attest the signature of the Mayor and affix the seal of the City to the documentation, when appropriate.

I HEREBY CERTIFY that the foregoing resolution was introduced and read by the Porterville City Council on the 15th day of February, 2005, and the resolution was duly adopted at said meeting by the following votes:

AYES:
NOES:
ABSENT:
ABSTAIN:

Pedro R. Martinez, Mayor
Porterville City Council

ATTEST:

John Longley, City Clerk
City of Porterville
Frank Guyton  
Airport Manager  
City of Porterville  
40 W. Cleveland Avenue  
Porterville, CA  93257

November 12, 2004

RE: Hangar Complex - Lots 1 & 2

Dear Mr. Guyton:

I am in receipt of your letter dated November 4, 2004, indicating the City is willing to purchase the above hangars for $118,000. Bettie and I are willing to accept the offer on the hangar complex for the $118,000.

Please consider this letter authorization to proceed with the Purchase Agreement.

In the event you have any questions regarding the above, please do not hesitate to contact myself or my CPA, Vern R. Onstine, at 781-2351.

Sincerely,

Arthur W. Coulter
SUBJECT: AUTHORIZE THE PUBLIC WORKS DIRECTOR TO APPROVE RIGHT OF WAY TAKES OF $1,000.00 OR LESS

SOURCE: PUBLIC WORKS DEPARTMENT

COMMENT: During Closed Session at the February 1, 2005 meeting, staff presented the concept of giving the Public Works Director the authority to approve right of way takes of $1,000.00 or less. At that time, Council directed staff to bring back a policy for approving right of way takes of $1,000.00 or less. Attached for Council’s consideration is the policy staff would follow in regard to these right of way takes.

Staff’s reasoning for this request is that several of the City projects require a small amount of right of way and each individual take can cost the City approximately $1,000.00. On average, the cost to the City for the property is approximately $500.00. Currently, staff is required to have the parcel appraised at a cost of approximately $300.00. Then the City’s negotiator works with the property owner to agree upon an amount. The cost to the City for negotiations is approximately $150.00.

Staff recommends that City Council give the Public Works Director the authority to approve right of way takes of $1,000.00 or less. The Public Works Director will arrive at the appropriate cost per square foot for each individual take by comparing the property to the most recent cost paid by the City in that area.

Should at any time the property owner not agree to the amount offered, staff may start the formal process and obtain an appraisal.

RECOMMENDATION: That City Council:

1. Give the authority to the Public Works Director to approve right of way takes of $1,000.00 or less; and
2. Approve the Policy for Right of Way Takes of $1,000.00 or less.

ATTACHMENTS:
1. City Policy for Right of Way Takes of $1,000.00 or Less

DD Appropriated/Funded: [Signature]

ITEM NO. 9
CITY POLICY FOR RIGHT OF WAY TAKES OF $1,000.00 OR LESS

Following is the policy staff will follow when acquiring right of way for a total cost of $1,000.00 or less:

1. Obtain Preliminary Title Report in order to verify property owner.
2. Review the Property Acquisition Schedule to obtain the amount per square foot that should be offered to the property owner.
3. Staff to perform on site review of property to verify any improvement that may need to be included in the offer amount.
4. City will make offer to property owner.
5. If property owner agrees with the offer, City is to have all documents signed and recorded with County recorder.
6. After proof of recordation, City to issue check to property owner for agreed upon amount.
7. Should property owner make an unreasonable counter offer, but still $1,000.00 or less, at that time Staff may start the formal process and obtain an appraisal.
8. Should property owner make a counter offer to the City that is above $1,000.00. Staff will reject offer and begin formal process beginning with an appraisal.
SUBJECT: ISLAND ANNEXATION PROGRAM UPDATE

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: On November 2, 2004, the City Council authorized a contract amendment with Quad-Knopf for the preparation of a series of Island Annexations. Funding for the projects consists of $52,000 appropriated by the City Council for this purpose. In carrying out this project, Staff prepared a priority list using criteria discussed in the November 2, 2004 agenda item to determine which of the annexations to pursue first.

Coincidentally, as the priority list was being prepared, four separate property owners with land in or near unincorporated islands requested annexation. It was determined that the most efficient means to address their requests would be to collect application and engineering fees and to assign the projects to the consultant for processing. To date, $15,326 has been collected for this purpose, with $16,632 expected. An additional annexation project (Project 4a) was also identified in this manner. Project 4a does not meet the technical requirements for an island annexation, however, it is almost entirely surrounded by the City and the proposal is 100% privately funded.

Estimates of the cost of annexation range from $12,000 to $15,000 per project. The combined public and (anticipated) private contributions to the project total $83,958. This is sufficient to fund between five and seven projects (including the related Project 4a). Based on that information, Staff sent invitations to a public meeting on February 3, 2005 to all property owners and residents in Projects 1 through 6 (see attached map). The intent of the meeting was to explain the City’s purpose in proposing to annex the islands; solicit questions/comments from residents; give information to the public regarding the effects of annexation; and to describe more fully the annexation projects under consideration.

Public interest in the meeting significantly exceeded Staff’s expectations. The meeting was scheduled in the library community room, which accommodates approximately 300 people. Between 400 and 500 people attended, which meant that many people were turned away. A second meeting at a larger venue is currently being scheduled. Staff intends to continue to seek opportunities to inform the public regarding the island annexation process. It should be noted that the public informational process will be funded out of the island annexation program. This could conceivably reduce the number of projects which can be carried out, however, Staff is confident that the benefit of ensuring that the public is well informed on this topic outweighs the costs.

DD:

Acting

Appropriated/Funded

CM

Item No. 10
In order to take action on the island annexations, it will be necessary to schedule one or more public hearings at future City Council meetings. Based on the interest shown at the public information meeting, Council may want to consider making special arrangements for these meetings. While considering approaches to such hearings, it is worth noting that City Council is the only agency that exercises discretion in an island annexation. LAFCO review is limited to a determination that the proposed annexation does, in fact, meet the definition of an island as described in State Law. Also, for budgetary control purposes, it should be noted that approximately 2/3 of the cost of each annexation ($8,000 to $10,000) occurs prior to Council action. The remaining $4,000 to $5,000 is expended following Council action, during the LAFCO and State Board of Equalization processes. In order to accommodate public participation, Staff has outlined various options for holding public hearings.

Option No. 1 – Hold Individual Public Hearings for Each Project

This would be the most typical approach. As each project is completed, Staff would set a public hearing for consideration of that project. Notice would be sent to the property owners and residents of the affected island(s), as well as property owners within 300 feet of the boundary of the annexation area. City Council would consider adoption of an environmental document, prezoning, and adoption of a resolution of application for an annexation.

This method has the advantage of allowing the City Council to bring individualized attention to each proposed annexation area and also allows for the most conservative approach to expenditures for the island annexation project. However, several of the public information meeting attendees expressed a desire to be present during the consideration of any of the island annexation projects. Such an approach also has the potential to significantly impact a number of City Council agendas over a period of several months.

Option 2 – Hold a Single Public Hearing for Projects 1 Through 4a:

Each of the projects for which funding is clearly available could be presented to City Council at a single meeting. A venue would need to be found to ensure that there is adequate seating for the likely participants. This method would allow the Council to consider a large portion of the Island Annexation program at a single purpose meeting. Of course, substantial information would be presented for each individual project, as well as for the program as a whole. Comments from the audience could be solicited in terms of their support or opposition to the overall program as well as to any individual island.

Adequate funding is clearly available to bring each of these projects through to completion if they are authorized by City Council.
Option 3 – Hold a Single Public Hearing for Projects 1 Through 6:

As with Option 2, this allows the Council and the community to consider the island annexation program at both a City wide, and an individual neighborhood scale. Including Annexations 5 and 6 in a single public hearing would match Council action to the approach initiated by Staff for the public informational meetings. Unfortunately, funding availability for Annexations 5 and 6 is not guaranteed. If the lower estimate of $12,000 per project is accurate, no additional appropriation would be required. However, if the higher estimate of $15,000 per project is accurate, an additional $21,000 may be needed in order to bring the final two projects to LAFCO and to pay their State Board of Equalization filing fees.

RECOMMENDATION: That the City Council:

1. Review and select a preference for considering public hearings for island annexations from Options 1, 2, and 3, above.

ATTACHMENT: Island Annexations Project Key Map
SUBJECT: APPROVAL FOR COMMUNITY CIVIC EVENT
PORTERVILLE CHAMBER OF COMMERCE
IRIS FESTIVAL, APRIL 23, 2005

SOURCE: Administrative Services - Finance Division, Business Tax Section

COMMENT: The Porterville Chamber of Commerce is requesting approval to hold its 7th Annual Iris Festival on Saturday, April 23, 2005, from 3:30 a.m. to 7:30 p.m. (9:00 a.m. to 5:00 p.m. is actual event time). The following street/sidewalk/parking lot closures/uses are requested:

STREETS:
Main Street from Morton Avenue to Olive Avenue;
Garden Avenue from Main Street to the alley east of Main Street;
Oak Avenue from Division Street to the alley east of Main Street;
Mill Avenue from Division Street to the alley east of Main Street;
Putnam Avenue from Division Street to the alley east of Main Street.
Cleveland Avenue from Division Street to the alley east of Main Street.
Thurman Avenue from Division Street to alley east of Main Street and
Harrison Avenue from Division Street to alley east of Main Street.

SIDEWALKS:
Main Street from Olive Avenue to Morton Avenue;
Oak Avenue from Main Street to Second Street;
Mill Avenue from Hockett Street to Main Street; and
Putnam Avenue from Hockett Street to Main Street.

PARKING LOT:
Former J.C. Penney parking lot.

This request is being made under Community Civic Event Ordinance No. 1326, as amended. The application has been routed according to the ordinance regulations and reviewed by all departments involved. All requirements are listed on the attached application, agreement and exhibit "A." The application, agreement, exhibit "A," request for street closures, and a map showing the desired street closures are attached.

RECOMMENDATION: That the Council approve the Community Civic Event Application and Agreement from Porterville Chamber of Commerce, subject to the Restrictions and Requirements contained in application, agreement and exhibit "A" of the Community Civic Event forms.

ATTACHMENT: Community civic event application and agreement, vendor list, request for street, sidewalk and parking lot closure/usage, Exhibit A, map, outside amplifier permit.
CITY OF PORTERVILLE
APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A
COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

Application date: 1-5-05  Event date: 4-23-05

Name of Event: Iris Festival

Sponsoring organization: Porterville Chamber  PHONE # 784-7502
Address: 93 N. Main, Ste A

Authorized representative: Donnetae Silve Carter  PHONE # 784-7502
Address: 93 N. Main Street

Event chairperson: Deborah Sierra  PHONE # 781-0159

Location of event (location map must be attached): Main Street, Olive St

Type of event/method of operation: Festival with food, craft, and vendor booths, stage entertainment, kid's amusements and car exhibition

Nonprofit status determination: 501(c)

City services requested (any fees associated with these services will be billed separately):

Barricades (quantity): 40  Street sweeping  Yes  No  X
Police protection  Yes  No  X  Refuse pickup  Yes  X  No
Other: 4 Two dumpsters, locations TBD

Parks facility application required: Yes  No  X
Assembly permit required: Yes  No  X

STAFF COMMENTS (list special requirements or conditions for event):

Approve  Deny

Bus Lic Spvr
Pub Works Dir
Comm Dev Dir
Field Svcs Mgr
Fire Chief
Parks Dir
Police Chief
Risk Manager
CITY OF PORTERVILLE

APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

Authorization: This permit must be submitted 30 days PRIOR to the date of the event in order to obtain City Council approval.

City Code requirements:

At least 48" must remain clear on sidewalks for pedestrian traffic.
Do not block any entrance to or exit from buildings.
Area must be accessible to emergency and safety personnel and vehicles.
Electrical cords must be approved and installation checked by the Fire Department.

Liability insurance: The sponsoring organization/applicant agrees to provide and keep in force during the term of this permit a policy of liability and property damage insurance against liability for personal injury, including accidental death, as well as liability for property damage which may arise in any way during the term of this permit. The City of Porterville shall be named as additional insured. The amounts of such insurance and any additional requirements are listed in Exhibit "A."

Alcohol liability insurance: Organization/Applicant will obtain an alcohol permit if any alcoholic beverages are to be served. The insurance policy shall be endorsed to include full liquor liability in an amount not less than one million dollars ($1,000,000) per occurrence. The City of Porterville shall be named as additional insured against all claims arising out of or in connection with the issuance of this permit or the operation of the permittee, his/her agents or representatives pursuant the permit. Claims-made policies are not acceptable.

Health permit: Organization/Applicant will obtain or ensure that all participants obtain a health permit(s) from the County of Tulare Department of Health if any food is to be served in connection with this Community Civic Event.

First aid station: Organization/Applicant will establish a first aid station to provide basic emergency care, such as ice/hot packs, bandages, and compresses.

Agreement: The sponsoring organization/applicant agrees to comply with all provisions of the Community Civic Event Ordinance 1326, as amended, and the terms and conditions set forth by City Council and stated in Exhibit "A." The sponsoring organization/applicant agrees, during the term of this permit, to secure and hold the City free and harmless from all loss, liability, and claims for damages, costs and charges of any kind of character arising out of, relating to, or in any way connected with his/her performance of this permit. Said agreement to hold harmless shall include and extend to any injury to any person or persons, or property of the kind whatsoever and to whomever belonging, including, but not limited to, said organization/applicant, and shall not be liable to the City for any injury to persons or property which may result solely or primarily from the action or non-action of the City or its directors, officers, or employees.

Porterville Chamber of Commerce       [Signature]       11/5/05
(Name of organization) (Signature) (Date)
CITY OF PORTERVILLE

VENDOR/PARTICIPANT LIST IN CONNECTION WITH THE APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

Name of event: Porterville Iris Festival - 7th Annual

Sponsoring organization: Porterville Chamber of Commerce

Location: Downtown Porterville - Main St. Event date: Sat April 23, 2005

List all firms, individuals, organizations, etc., that will engage in selling at or participate in the above-named event. NO PERMIT WILL ISSUED WITHOUT THIS INFORMATION. This form should be completed at the time of application, but must be submitted one week prior to the event.

<table>
<thead>
<tr>
<th>Vendor (Sponsors)</th>
<th>Address</th>
<th>Telephone</th>
<th>Type of Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sutton's Iris Gardens</td>
<td></td>
<td></td>
<td>Event</td>
</tr>
<tr>
<td>Porterville Art Association</td>
<td></td>
<td></td>
<td>Partner/Sponsor</td>
</tr>
<tr>
<td>Rollin Relics Car Club</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Eagle Mountain Casino</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Galaxy Theater</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>K11P Radio</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Porterville Recorder</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Westcoast Broadcasting</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sequoia Beverage</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Vendors and additional sponsors to be provided at a later date.

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|                  |         |           |                  |
CITY OF PORTERVILLE

REQUEST FOR STREET CLOSURES AND PUBLIC PROPERTY USAGE IN CONNECTION WITH THE APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

Name of event: Porterville Fris Festival

Sponsoring organization: Porterville Chamber of Commerce

Event date: Saturday April 23 2022

Hours: 3:30 am - 7:30 pm

Event hrs 9 am - 5:00 pm

ATTACH MAP MARKING AREAS TO BE CLOSED OR USED

<table>
<thead>
<tr>
<th>Street Name</th>
<th>From</th>
<th>To</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Main Street</td>
<td>Olive</td>
<td>Morton</td>
<td>Banners, entertainment</td>
</tr>
<tr>
<td>Garden</td>
<td>Main</td>
<td>Alley east</td>
<td>Car exhibition</td>
</tr>
<tr>
<td>Oak</td>
<td>Division</td>
<td>Alley east</td>
<td>Kids area</td>
</tr>
<tr>
<td>Mill</td>
<td>Division</td>
<td>Alley east</td>
<td></td>
</tr>
<tr>
<td>Putnam</td>
<td>Division</td>
<td>Alley east</td>
<td></td>
</tr>
<tr>
<td>Cleveland</td>
<td>Division</td>
<td>Alley east</td>
<td></td>
</tr>
<tr>
<td>Thurman</td>
<td>Division</td>
<td>Alley east</td>
<td></td>
</tr>
<tr>
<td>Harrison</td>
<td>Division</td>
<td>Alley east</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Parking lots and spaces</th>
<th>Location</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parking lot</td>
<td>Former J.C. Penny lot</td>
<td>Shuttle Stop</td>
</tr>
</tbody>
</table>


4 of 4
REQUIREMENTS FOR COMMUNITY CIVIC EVENT
PORTERVILLE CHAMBER OF COMMERCE
IRIS FESTIVAL
APRIL 23, 2005

Business License Supervisor: K. Maxwell
   No comments.

Public Works Director: B. Rodriguez
   No comments.

Community Development Director: B. Dunlap
   Obtain authorization for use of public right of way and parking lots.

Field Services Manager: B. Styles
   Obtain and return barricades at 555 N. Prospect Street.

Fire Chief: F. Guyton
   Maintain emergency access.

Parks and Leisure Services Director: J. Perrine
   Please keep patrons and vendors out of planters as much as possible.

Police Chief: S. Rodriguez
   Ensure appropriate use of barricades to warn motorists of street closures, other safety considerations as in years past.

Risk Manager: D. Pyle
   See attached, exhibit A, page 2.
RISK MANAGEMENT: Conditions of Approval

That the Porterville Chamber of Commerce provide a Certificate of Commercial General Liability Insurance Coverage evidencing coverage of not less than $1,000,000 per occurrence, and having the appropriate Endorsement naming the City of Porterville, its Officers, Employees, Agents and Volunteers as "Additional Insured" against all claims arising from, or in connection with, the Permittee's operation and sponsorship of the aforementioned Community Civic Event.

A. Said Certificate of Insurance shall be an original (fax and xerographic copies not acceptable), the Certificate shall be signed by an agent authorized to bind insurance coverage with the carrier, and the deductible, if any, shall not be greater than $1,000.

B. Said insurance shall be primary to the insurance held by the City of Porterville, be with a company having an A.M. Best Rating of no less than A:VII, and the insurance company must be an "admitted" insurer in the State of California.
CITY OF PORTERVILLE

OUTSIDE AMPLIFIER PERMIT
(City Ordinances #18-14 & 18-9)

This application must be submitted 10 days prior to the date of the event. A copy of this permit must be at the operating premises of the amplifying equipment for which this registration is issued.

1. Name and home address of the applicant:
   Porterville Chamber of Commerce
   93 N. Main Street
   Phone # 784-7400

2. Address where amplification equipment is to be used:
   Entertainment Stage - Porterville Iris Festival
   Corner Mill & Main
   Phone #

3. Names and addresses of all persons who will use or operate the amplification equipment:
   Pete McCracken, Country Western Style
   Dance Center

4. Type of event for which amplification equipment will be used:
   Iris Festival

5. Dates and hours of operation of amplification equipment:
   Sat. April 23, 2004 8:30 am - 5:00 pm

6. A general description of the sound amplifying equipment to be used:
   300 watts
I hereby certify that all statements and answers on this registration form are true and correct.

[Signature]
Applicant

1-19-05
Date

Chief of Police

Date

Section 18-14 City Ordinance Outside Amplifiers; permit required.
It shall be unlawful for any person to maintain, operate, connect, or suffer or permit to be maintained, operated, or connected any loud-speaker or sound amplifier in such a manner as to cause any sound to be projected outside of any building or out of doors in any part of the city, without having first procured a permit from the Chief of Police.

Section 18-9 City Ordinance, Radios, record players, etc.
It shall be unlawful for any person within the city to use or operate or cause to be operated or to play any radio, phonograph, juke box, record player, loudspeaker musical instrument, mechanical device, machine, apparatus, or instrument for intensification or amplification of the human voice or any sound or noise in a manner so loud as to be calculated to disturb the peace and good order of the neighborhood or sleep of ordinary persons in nearby residences or so loud as to unreasonably disturb and interfere with the peace and comfort of the occupants of nearby residences.

California Penal Code Section 415
Any person who maliciously and willfully disturbs another person by loud and unreasonable noise, is guilty of a misdemeanor.

THIS OUTSIDE AMPLIFIER PERMIT HAS BEEN APPROVED. HOWEVER, WE URGE YOU TO REMAIN CONSIDERATE OF THE GENERAL PEACE AND ORDER OF THE NEIGHBORS IN THE AREA. FAILURE TO ABIDE BY THESE REGULATIONS CAN RESULT IN REVOCATION OF THE PERMIT.

cc: __________________________

____________________________

____________________________

3/27/01
SUBJECT: TULARE COUNTY INDIAN GAMING INITIATIVE/SCHOOL RESOURCE OFFICER

SOURCE: Police Department

COMMENT: In Fiscal Year 2004-2005, the City of Porterville received grant funding from the Indian Gaming Initiative to partially fund a new firefighting ladder truck and to add a School Resource Officer. The new police officer position was jointly funded by the two school districts and the $30,000 the City received from the Tulare County Indian Gaming Initiative. Staff believes the addition of the second School Resource Officer will prove highly beneficial to improving safety in our schools. To maintain this safe learning environment in our schools, it will be vital for this effort to be continued in upcoming years.

Over the past year, the rise in gang activity and violence has created significant challenges for the Police Department. Additionally, growth of the City’s geographic size and population has resulted in significant increases in demands for police services. While Department staff does excellent work to impact gang crime and activity, our resources are stretched thin and nearing capacity to deal with this and many other public safety issues.

As we seek means to increase police officer staffing levels, we realize that grant funding lessens the burden initially to our City government budget. The Department desires to add a “Gang Officer” position to our current allocation of sworn police officers. The Department proposes that the City of Porterville seek funding from the Tulare County Indian Gaming Local Community Benefit Committee to fund this position. This additional police officer would be dedicated to various duties related to the tracking, monitoring, enforcement and maintaining intelligence on gangs and gang members in the Porterville community. The officer could additionally provide patrols and enhanced public safety measures to the Eagle Mountain Casino offices and warehouse at the Industrial Park site west of the Porterville Airport. Staff believes this approach would go far in making an impact on this very serious issue and would be mutually beneficial to the Tule River Indian Tribe and the citizens of the City of Porterville.

RECOMMENDATION: 1) That City Council continue support for and fund the added School Resource Officer position in Fiscal Year 2005-2006; and
2) That City Council approve the grant application seeking funding for a “Gang Officer” from the Tulare County Indian Gaming Local Community Benefit Committee.
COUNCIL AGENDA - February 15, 2005

SUBJECT: AMENDMENTS TO EMPLOYEE PAY AND BENEFIT PLAN, EMPLOYEE BENEFIT TRUST FUND, AND THE PERSONNEL SYSTEM RULES AND REGULATIONS

SOURCE: Administrative Services/Human Resources

COMMENT: City representatives have recently concluded Meet and Confer Sessions on matters within the scope and purview of the Meyers-Milias-Brown Act with the Police Supervisors Employee Group (P.S.E.G.), representing the Police Supervisors’ Series Employees, and a written Memorandum of Understanding (M.O.U.) has been executed with representatives of the P.S.E.G. The protracted M.O.U. (Multi-year Agreement) covers matters pertaining to wages, benefits and working conditions.

City Council acceptance and approval of an executed M.O.U. is most commonly demonstrated by Council authorization to change or amend, when applicable, those documents as are necessarily known to implement the points of agreement contained in the M.O.U. The attached Resolution will achieve the aforementioned.

RECOMMENDATION: That the City Council adopt the attached resolution amending the Employee Pay and Benefit Plan for Fiscal Years 2004-05, the Employee Benefit Trust Fund, and the Personnel System Rules and Regulations, and authorize the Mayor to execute these and other documents necessary to implement the provisions thereof.

ATTACHMENT: Draft Resolution

DCM Appropriated/Funded CM Item No. 120
RESOLUTION NO. _____-2005


WHEREAS: The City Council has determined and reiterated that an Employee Pay and Benefit Plan, Classification Plan, Personnel System Rules and Regulations, Health Plan, and Retirement Plan are essential for the proper administration of the City’s affairs, including employee recruitment and retention, and for proper supervision of City Employees; and

WHEREAS: The City Council recognizes the necessity of amending and/or changing the contents of such plans and regulations from time to time, and of executing instruments to implement and to keep the provisions thereof current, and to maintain the relevancy of same; and,

WHEREAS: There has been concurrence on a Memorandum of Understanding with the Police Supervisors Employee Group for the period from July 1, 2004, until June 30, 2007, covering provisions to amend the Employee Pay and Benefit Plan, the Employee Health Plan Document, the Employee Retirement System, and the Personnel System Rules and Regulations, as they relate to employees holding positions represented by such recognized employee organization.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Porterville that the Employee Pay and Benefit Plan, the Employee Health Plan Document, the Employee Retirement System, and the Personnel System Rules and Regulations, for employees holding positions designated in the Police Supervisors Series is hereby amended as follows:

I. EMPLOYEE PAY AND BENEFIT PLAN.

A. WAGE INCREASE.

Effective 07-01-04, the Employee Pay and Benefit Plan, Section II, A., Position Pay Plan Schedule, shall be amended to increase the base pay for the positions of Police Sergeant and Police Lieutenant by 1%.
Effective 07-01-05, the Employee Pay and Benefit Plan, Section II, A., Position Pay Plan Schedule, shall be amended to increase the base pay for the positions of Police Sergeant and Police Lieutenant by 1%.

II.

EMPLOYEE PAY AND BENEFIT PLAN AND EMPLOYEE HEALTH PLAN.
(ALL ITEMS COVERED IN THIS SECTION WILL NOT GO INTO EFFECT UNTIL SUCH TIME AS THESE PROVISIONS HAVE BEEN IMPLEMENTED BY A SIGNED MOU BETWEEN THE PORTERVILLE POLICE OFFICERS’ ASSOCIATION AND THE CITY. IF NOT IMPLEMENTED BY JUNE 30, 2005, THIS SECTION BECOMES AN AUTOMATIC REOPENER.)

The City will continue to pay 100% of the employee only monthly contribution rate for medical, dental and vision coverage.

Effective 01-01-05 the City will pay 75% of the employee’s dependent monthly contribution rate for medical coverage, and the employee will pay 25% of said costs.

Police Supervisors Series Employees who retire on or after 01-01-05 will pay 70% of the monthly contribution rate for medical coverage for themselves and for their eligible spouse; and the City will contribute 30% of said costs, for so long as timely and continuous monthly premium payments are made by or on behalf of the eligible retiree and/or by their eligible spouse. Medical Plan benefit coverage for retirees and eligible spouses will be effective until they reach the age of 65. The monthly costs shall be 102% of the established insurance premium contribution rates, and such rates are subject to change.

Rates will be reviewed annually by the City beginning in April of each year, and adjusted on the first day of July each year, or as soon thereafter as possible, according to the actuarially established contribution rates, and consistent with the percentage rates outlined above.

Effective 01-01-05, the Employee Pay and Benefit Plan, Section III., A. Health and Life Insurance, shall be amended as follows:

5. Monthly Contribution Rates

<table>
<thead>
<tr>
<th></th>
<th>Medical</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>City Pays</td>
</tr>
<tr>
<td>Employee/Single coverage</td>
<td>$300.00</td>
</tr>
<tr>
<td>Employee + 1</td>
<td>$450.00</td>
</tr>
<tr>
<td>Employee + 2 or more</td>
<td>$675.00</td>
</tr>
</tbody>
</table>
III. **CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM (CalPERS). ALL ITEMS COVERED IN SECTION IV., B. WILL NOT GO INTO EFFECT UNTIL SUCH TIME AS THIS PROVISION HAS BEEN IMPLEMENTED BY A SIGNED MOU BETWEEN THE PORTERVILLE POLICE OFFICERS' ASSOCIATION AND THE CITY. IF NOT IMPLEMENTED BY JUNE 30, 2005, THE THIRD YEAR OF THIS MOU WILL BE REOPENED.**

a.) Effective 07-01-04 the City of Porterville will pay the same portion of the Police Supervisors Series Employee’s share of the monthly retirement contribution of CalPERS as it pays for Police Series Employees, computed as a percentage of salary, i.e., 9%.

b.) It is agreed that the City of Porterville will amend its contract with CalPERS, effective 07-01-06, or as soon thereafter as possible, to provide sworn Police Supervisors Series with the 3% @ 55 Full Formula for Local Safety Members Retirement Benefit.

The City will continue to pay the employee’s share of the monthly retirement contribution, computed as a percentage of salary, i.e. 9%.

IV. **EMPLOYER-EMPLOYEE RELATIONS RESOLUTION.**

Both parties agree that they have met and consulted on the proposed Employer-Employee Relations Resolution in compliance with the Meyers-Millas Brown Act.

BE IT FURTHER RESOLVED that the Mayor of the City of Porterville is hereby authorized to execute those documents as are necessary to implement the provisions hereof.

______________________________
Pedro R. Martinez, Mayor

Attest:

______________________________
Georgia Hawley, Chief Deputy City Clerk
SUBJECT: VACANCIES ON THE PARKS & LEISURE SERVICES COMMISSION

SOURCE: City Clerk

COMMENT: At the City Council meeting of February 1, 2005 the Council announced two vacancies on the Parks and Leisure Services Commission, and set February 15, 2005 as the time for Council appointment to fill these positions. At this time staff has not received applications to fill these vacancies, and requests the matter be continued to March 15 to allow additional time for the Council and staff to receive letters of application from interested parties.

RECOMMENDATION: That City Council continue this item to March 15, 2005.
PUBLIC HEARING

SUBJECT: SKATEBOARD REGULATIONS

SOURCE: CITY ATTORNEY

COMMENT: Pursuant to direction given at the January 18, 2005 City Council Meeting, attached is an Ordinance modifying the City's skateboard regulations. The City Attorney reviewed the City's Charter and determined that the Ordinance's effective date can be later (just not earlier) than thirty days. Therefore, the proposed ordinance has been modified to go into effect in 30 days, or upon the opening of the City's skateboard park, whichever date occurs later.

RECOMMENDATION: That the Council hold a public hearing, review and consider the proposed regulations and in particular the effective date, and consider giving first reading to the ordinance.

Attachment:

1) January 18, 2005 Agenda Report
2) Ordinance Deleting Section 20-1.1 and Adding Chapter 18, Article IV (Sections 18-60 through 18-70) Concerning the Use of Skateboards
SUBJECT: SKATEBOARD REGULATIONS

SOURCE: CITY ATTORNEY

COMMENT: At the April 6, 2004, City Council meeting, City staff received direction to draft regulations further restricting the use of skateboards in the City. Sample provisions were provided at the May 18, 2004, City Council meeting that would prohibit skateboards in posted areas; however, the Council tabled the matter at that time, and the matter is now being brought back before the Council. Since the May 18, 2004, meeting, requests have been made to develop regulations that prohibit, to the extent allowed, skateboarding on public property. Furthermore, it was requested that the City explore the possibility of confiscating, for a limited time period, the skateboards of the violators.

The California Vehicle Code permits cities to adopt restrictions on skateboards on public property under the City’s jurisdiction, so long as appropriate signs are posted that give notice of the restrictions. Additionally, local authorities may adopt rules and regulations prohibiting or restricting persons from riding or propelling skateboards on highways, sidewalks, or roadways. Motorized skateboards are, by State law, prohibited on any sidewalk, roadway, highway, bikeway, bicycle path or trail, equestrian trail, or hiking or recreational trail.

The City and the Police Department have been researching the extent of the City’s ability to prohibit skateboarding, and have reviewed numerous regulations adopted by Cities throughout California. Pursuant to the direction given, this office has prepared a sample ordinance that would add considerable restrictions to the use of skateboards within the City. The Ordinance retains the specific areas where skateboarding is prohibited, and adds a prohibition where posted (for public and private property). The Ordinance would also enable the City Council to adopt, by Resolution, restrictions on other areas in the City. Furthermore, a regulation was added prohibiting the use of skateboards in a manner creating a danger to others or nuisance.

With regard to enforcement and penalties, more flexibility was added concerning the effect of violations. Civil remedies were added which would enable the City to pursue preliminary or permanent injunctions. In response to requests, skateboard confiscation (for a limited period of time) was added as a possible additional administrative remedy. This potential enforcement

Item No. 17
mechanism raises several issues. Any seizure of property, even for a limited time period, raises constitutional issues and must be reasonable in terms of the violation. There are also due process considerations due to the deprivation of property. During the course of searches for stringent regulations, this office only found two cities that utilize confiscation. One city does not have the process codified and simply confiscates the skateboard as an instrumentality and/or evidence of the crime. The skateboard is returned after the “trial” or at the request of the parent. The other city, Fresno, adopted forfeiture provisions as part of the regulations of its Skate Park. Those that violate the Skate Park’s rules may have to permanently forfeit their skateboards as part of the administrative fine. However, an automatic appeal is provided in such cases. Furthermore, these regulations are distinguishable from the sample provisions attached, in that Fresno’s regulations pertain specifically to the city-owned skateboard facility.

Due to our findings, a sample provision was created that would allow the City to confiscate, for a limited time (not to exceed 180 days) the skateboards of repeat offenders (at the time of a citation for a second violation in a one year period), and provides for an automatic appeal hearing. Such a provision will require considerable additional police and staff time and resources in order to enforce.

RECOMMENDATION: The City Attorney and staff recommend that the Council review the sample ordinance and provide further direction. Upon additional direction and comments, a finalized ordinance can be brought back for consideration for first reading.

Attachment: 1) Ordinance Deleting Section 20-1.1 and Adding Chapter 18, Article IV (Sections 18-60 through 18-70) Concerning the Use of Skateboards
DRAFT

ORDINANCE NO. __________

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE DELETING SECTION 20-1.1 OF CHAPTER 20, OF ARTICLE 1, OF THE PORTERVILLE MUNICIPAL CODE, AND ADDING CHAPTER 18, ARTICLE IV, CONCERNING THE USE OF SKATEBOARDS

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PORTERVILLE, AS FOLLOWS, TO WIT:

SECTION 1. Section 20-1.1 of Chapter 20, Article 1 is hereby deleted in its entirety.

SECTION 2. Article 4 (Sections 18-60 through 18-70) is hereby added to Chapter 18 of the City Code and shall read as follows:

18-60. Purpose and Intent.

The City Council finds and declares that the purpose of this chapter is to promote the public peace, morals, safety, and general welfare of persons in the City by regulating the activity of skateboarding on certain public property and on certain private property which is accessible to the general public.

18-61. “Skateboard” Defined.

“Skateboard” means any vehicle, device, or contrivance with any number of wheels, with a riding surface of any design, upon which a person may place one or more feet, and which is designed to be, or can be propelled by human power, and which is not defined as a bicycle by the California Vehicle Code. The term skate board also includes motorized skateboards.

18-63. Skateboarding Prohibited -- Public Property.

(A) The use of skateboard is prohibited on any sidewalk, walkway, crosswalk or other area designed primarily for pedestrian travel in the area bounded by Morton and Olive and Second and “D” Streets.

(B) The City Council may, by resolution, prohibit the riding of skateboards, as defined in Section 18-61, on public streets, sidewalks, parking lots, and other public property over which it has jurisdiction when it is determined to be necessary to protect the health, safety, and welfare of pedestrians, motorists, or persons operating said skateboards on said streets and sidewalks. The riding of skateboards shall be prohibited upon any public property when such property is posted pursuant to this Article.
18-64. Skateboarding Prohibited -- Private Property.

No person shall skateboard on any privately owned property which is posted with "No Skateboarding" signs as required by this Article, without the express consent of the property owner or property manager/agent. Private property owners and/or their managers or agents are authorized to post or erect signs, at their own expense, prohibiting the riding of skateboards in or on those premises for which such a request has been made to, and approved by, the Chief of Police or his or her designee.

18-65. Posting of No Skateboarding Signs.

(A) The City Manager, or his or her designee, is hereby authorized to post or erect, or cause to be posted or erected, signs prohibiting skateboarding or the use of skateboards on public streets, sidewalks, or facilities so designated by resolution of the City Council.

(B) A property owner shall post or erect, or cause to be posted or erected, at the property owner’s sole cost and expense, signs that are readily visible to the general public. Authorized signs shall be a minimum of seventeen (17) inches by twenty-two (22) inches, with one inch letters, posted adjacent to the entrances to the subject property. These signs may be erected in such a position to prevent vandalism or theft. The property owner, or manager, shall have on file with the police department a signed consent form authorizing the police to enforce said ordinance.

Example Sign: “Skateboards Prohibited on Posted Property by CPMC Section 18-64, Porterville Police Department 782-7400”


No person shall use a skateboard in a manner that creates a danger to others or in a manner that creates a nuisance.


The provisions of this Article shall not be deemed to make punishable an act or acts which are prohibited by any statute of the State of California.

18-68. Enforcement and Penalties.

(A) A person who violates Section 18-63(A) shall be guilty of a misdemeanor.

(B) Any violation of the provisions of this chapter shall be deemed to be an infraction, and punishable as such, notwithstanding the fact that at the discretion of the City or District Attorney, the violation of any section of this Article may be filed as a misdemeanor. The complaint charging such violation shall specify whether the violation is a misdemeanor or an infraction. Each day a violation of any provision of this Article shall continue, it shall constitute a new and separate violation.
(C) A violation of any of the provisions of this Article shall constitute a nuisance and may be abated by the City through a civil process by means of restraining order, preliminary or permanent injunction, or in any manner provided by law for the abatement of such nuisances. With regard to violations committed by minors, the parent or legal guardian having control or custody of the minor whose conduct violates this section shall be jointly and severally liable with the minor for all penalties and/or costs and fees.


Notwithstanding the police department’s ability to confiscate a skateboard as an instrumentality or evidence of a violation of this Article, and in addition to the enforcement provisions of the preceding section, the City may seize and hold the skateboard at the time an individual is cited for any violation of any provisions of this Article for the second time within a one year period. Any time a violator’s property is confiscated pursuant to this section, the City shall provide the violator with a receipt and notice of a time and location for an automatic hearing in front of the City’s designated administrative hearing officer no later than ten (10) days from confiscation of the skateboard. The violator shall be entitled to the return of the skateboard either 180 days from the date of the confiscation, or at the time as determined at the conclusion of the hearing.

18-70. Severability.

It is declared to be the intention of the City Council that the subsections, paragraphs, sentences, clauses, and phrases of this Article are distinct and severable and, in the event that any subsections, paragraphs, clauses and/or phrases are declared to be unconstitutional, invalid, or unenforceable by any court of competent jurisdiction, such unconstitutionality, invalidity, or unenforceability shall not affect any of the remaining subsections, paragraphs, clauses, or phrases of this Article.

SECTION 3. This ordinance shall be in full force and effect thirty (30) days after its passage, adoption and approval.

ADOPTED, SIGNED AND APPROVED this ______ day of ____________, 2005.

________________________________________
President of the Council and Ex-Officio
Mayor of the City of Porterville

ATTEST:

________________________________________
Chief Deputy City Clerk and Clerk
of the Council of the City of Porterville
ORDINANCE NO. __________

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE DELETING SECTION 20-1.1 OF CHAPTER 20, OF ARTICLE 1, OF THE PORTERVILLE MUNICIPAL CODE, AND ADDING CHAPTER 18, ARTICLE IV, CONCERNING THE USE OF SKATEBOARDS

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PORTERVILLE, AS FOLLOWS, TO WIT:

SECTION 1. Section 20-1.1 of Chapter 20, Article 1 is hereby deleted in its entirety.

SECTION 2. Article 4 (Sections 18-60 through 18-70) is hereby added to Chapter 18 of the City Code and shall read as follows:

18-60. Purpose and Intent.

The City Council finds and declares that the purpose of this chapter is to promote the public peace, morals, safety, and general welfare of persons in the city by regulating the activity of skateboarding on certain public property and on certain private property which is accessible to the general public.


"Skateboard" means any vehicle, device, or contrivance with any number of wheels, with a riding surface of any design, upon which a person may place one or more feet, and which is designed to be, or can be propelled by human power, and which is not defined as a bicycle by the California Vehicle Code. The term skateboard also includes motorized skateboards.

18-63. Skateboarding Prohibited -- Public Property.

(A) The use of skateboard is prohibited on any sidewalk, walkway, crosswalk or other area designed primarily for pedestrian travel in the area bounded by Morton and Olive and Second and Hockett Streets.

(B) The City Council may, by resolution, prohibit the riding of skateboards, as defined in Section 18-61, on public streets, sidewalks, parking lots, and other public property over which it has jurisdiction when it is determined to be necessary to protect the health, safety, and welfare of pedestrians, motorists, or persons operating said skateboards on said streets and sidewalks. The riding of skateboards shall be prohibited upon any public property when such property is posted pursuant to this Article.
18-64. **Skateboarding Prohibited -- Private Property.**

No person shall skateboard on any privately owned property which is posted with “No Skateboarding” signs as required by this Article, without the express consent of the property owner or property manager/agent. Private property owners and/or their managers or agents are authorized to post or erect signs, at their own expense, prohibiting the riding of skateboards in or on those premises for which such a request has been made to, and approved by, the chief of police of his or her designee.

18-65. **Posting of No Skateboarding Signs.**

(A) The City Manager, or his or her designee, is hereby authorized to post or erect, or cause to be posted or erected, signs prohibiting skateboarding or the use of skateboards on public streets, sidewalks, or facilities so designated by resolution of the City Council.

(B) A property owner shall post or erect, or cause to be posted or erected, at the property owner’s sole cost and expense, signs that are readily visible to the general public. Authorized signs shall be a minimum of seventeen (17) inches by twenty-two (22) inches, with one inch letters, posted adjacent to the entrances to the subject property. These signs may be erected in such a position to prevent vandalism or theft. The property owner, or manager, shall have on file with the police department a signed consent form authorizing the police to enforce said ordinance.

Example Sign: “Skateboards Prohibited on Posted Property by CPMC Section 18-64, Porterville Police Department 782-7400”

18-66. **Skateboarding -- Nuisance.**

No person shall use a skateboard in a manner that creates a danger to others or in a manner that creates a nuisance.

18-67. **Exception -- State Law.**

The provisions of this Article shall not be deemed to make punishable an act or acts which are prohibited by any statute of the State of California.

18-68. **Enforcement and Penalties.**

(A) A person who violates Section 18-63(A) shall be guilty of a misdemeanor.

(B) Any violation of the provisions of this chapter shall be deemed to be an infraction, and punishable as such, notwithstanding the fact that at the discretion of the City or District Attorney, the violation of any section of this Article may be filed as a misdemeanor. The complaint charging such violation shall specify whether the violation is a misdemeanor or an infraction. Each day a violation of any provision of this Article shall continue to be a new and separate violation.
(C) A violation of any of the provisions of this Article shall constitute a nuisance and may be abated by the City through a civil process by means of restraining order, preliminary or permanent injunction, or in any manner provided by law for the abatement of such nuisances. With regard to violations committed by minors, the parent of legal guardian having control or custody of the minor whose conduct violates this section shall be jointly and severally liable with the minor for all penalties and/or costs and fees.


Notwithstanding the police department’s ability to confiscate a skateboard as an instrumentality or evidence of a violation of this Article, and in addition to the enforcement provisions of the preceding section, the City may seize and hold the skateboard at the time an individual is cited for any violation of any provisions of this Article for the second time within a one year period. Any time the violator’s property is confiscated pursuant to this section, the City shall provide the violator with a receipt and notice of a time and location for an automatic hearing in front of the City’s designated administrative hearing officer no later than ten (10) days from confiscation of the skateboard. The violator shall be entitled to the return of the skateboard either 180 days from the date of the confiscation, or at the time as determined at the conclusion of the hearing.

18-70. Severability.

It is declared to be the intention of the City Council that the subsections, paragraphs, sentences, clauses, and phrases of this Article are distinct and severable and, in the event that any subsections, paragraphs, clauses and/or phrases are declared to be unconstitutional, invalid, or unenforceable by any court of competent jurisdiction, such unconstitutionality, invalidity, or unenforceability shall not affect any of the remaining subsections, paragraphs, clauses, or phrases of this Article.

SECTION 3. This ordinance shall be in full force and effect thirty (30) days after its passage, adoption and approval, or on the date of the opening of the City’s skateboard park, whichever date occurs later.

ADOPTED, SIGNED AND APPROVED this ________ day of ____________, 2005.

[Signature]
President of the Council and Ex-Officio
Mayor of the City of Porterville

ATTEST:

_________________________
Chief Deputy City Clerk and Clerk
of the Council of the City of Porterville

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3
CITY COUNCIL AGENDA: FEBRUARY 15, 2005

PUBLIC HEARING

SUBJECT: CONDITIONAL USE PERMIT 1-2005 TO UPGRADE AN EXISTING TYPE 20, BEER AND WINE OFF-SALE LICENSE TO A TYPE 21, BEER, WINE AND DISTILLED SPIRITS OFF-SALE LICENSE AND LETTER OF PUBLIC CONVENIENCE OR NECESSITY FOR AN EXISTING MINI-MART LOCATED AT 809 EAST PUTNAM AVENUE (MOUNIB DAKHIL)

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: The applicant is requesting approval of Conditional Use Permit 1-2005 to allow for the upgrade of an existing Type 20, beer and wine off-sale license to a Type 21, beer, wine and distilled spirits off-sale license and a Letter of Public Convenience or Necessity for an existing mini-mart located at 809 East Putnam Avenue.

Conditional Use Permit 8-82 allowed for approval of a PD(R)-(Planned Development Residential Subdivision) for Hacienda Heights which also included two (2) small commercial parcels. Both parcels have an existing 6 foot stucco wall separating those parcels from the multiple family units located to the south and east. Approval of Phase One of Conditional Use Permit 8-82 allowed for the construction of the existing mini-mart and fuel dispensing island. On or about July, 1983, the mini-mart was built. The existing market began selling alcoholic beverages (beer and wine) prior to the adoption of Article 21 of the Porterville Zoning Ordinance which requires a Conditional Use Permit for alcohol sales.

Section 2100 D of the Porterville Zoning Ordinance states the following:

Any use involving the sale of alcoholic beverages under an off-sale license within 600 linear feet of the nearest property line of any sensitive use as defined in this article shall be subject to obtaining approval of a Conditional Use Permit.

Any duly licensed off-sale liquor establishment in operation on July 20, 2004 shall be subject to the provisions of Article 25, of the ordinance.

DD 00  APPROPRIATED/FUNDED  SS CM  ITEM NO. 14
Under the regulations of the Business and Professions Code, whenever the ratio of off-sale licenses to population in a census tract exceeds the average ratio for the county, an “undue concentration” of licenses is determined to exist. In such circumstances, no additional licenses may be granted by the ABC unless the City Council determines that there is a public convenience or necessity in the community for the (subject) alcoholic beverage licensed establishment.

The subject site is located in Census Tract 30.01. Based on the population of this census tract, a maximum of eight (8) off-sale alcohol licenses may be allowed without creating an “undue concentration.” Currently there are 10 (to include the existing off-sale of beer and wine license at 809 E. Putnam Avenue).

The Porterville Police Department has indicated that very few service complaints in regard to alcohol related incidences have been registered at this location. As a result, the Police Department has no objection to the proposal.

The applicant has agreed to not advertise alcohol facing Leggett Street and the Municipal Golf Course. However, the applicant is requesting to be allowed to continue the outside advertising of alcohol facing Putnam Avenue. As a condition of approval, Staff is recommending that no alcohol advertising shall be displayed on the outside of the proposed building.

This project is Categorically Exempt pursuant to “General Rule” Exception - 14 Ca. Admin. Code 15061 (b) (3) - Permit regulating operation of an existing mini-mart.

RECOMMENDATION: That the City Council:

1. Adopt the Draft Resolution conditionally approving Conditional Use Permit 1-2005; and

2. Authorize the Mayor to sign a Letter of Public Convenience or Necessity.

ATTACHMENT:

1. Complete Staff Report
CITY COUNCIL AGENDA: FEBRUARY 15, 2005

PUBLIC HEARING - STAFF REPORT

TITLE: CONDITIONAL USE PERMIT 1-2005

APPLICANT: Mounib Dakhil
809 East Putnam Avenue
Porterville, CA 93257

SPECIFIC REQUEST: The applicant is requesting approval of Conditional Use Permit 1-2005 to allow for the upgrade of an existing Type 20, beer and wine off-sale license to a Type 21, beer, wine and distilled spirits off-sale license and a Letter of Public Convenience or Necessity for an existing mini-mart located at 809 East Putnam Avenue.

PROJECT DETAILS: Conditional Use Permit 8-82 allowed for approval of a PD(R)-(Planned Development Residential Subdivision) for Hacienda Heights which also included two (2) small commercial parcels in which both parcels have an existing 6 foot stucco wall separating those parcels from the multiple family units located to the south and east. Approval of Phase One of Conditional Use Permit 8-82 allowed for the construction of the existing mini-mart and fuel dispensing island. On or about July, 1983, the mini-mart was built. The existing market began selling alcoholic beverages (beer and wine) prior to the adoption of Article 21 of the Porterville Zoning Ordinance which requires a Conditional Use Permit for alcohol sales.

Section 2100 D of the Porterville Zoning Ordinance states the following:

Any use involving the sale of alcoholic beverages under an off-sale license within 600 linear feet of the nearest property line of any sensitive use as defined in this article shall be subject to obtaining approval of a Conditional Use Permit.

Any duly licensed off-sale liquor establishment in operation on July 20, 2004 shall be subject to the provisions of Article 25, of the ordinance.

Under the regulations of the Business and Professions Code, whenever the ratio of off-sale licenses to population in a census tract exceeds the average ratio for the county, an “undue concentration” of licenses is determined to exist. In such circumstances, no additional licenses may be granted by the ABC unless the City Council determines that there is a public convenience or necessity in the community for the (subject) alcoholic beverage licensed establishment.

The subject site is located in Census Tract 30.01. Based on the population of this census tract, a maximum of eight (8) off-sale alcohol licenses may be allowed without creating an “undue concentration.” Currently there are 10 (to include the existing off-sale of beer and wine license at
809 E. Putnam Avenue. The majority of the licenses are located in the commercial areas along Plano Street and Date Avenue. Two (2) of those businesses are licensed to sell distilled spirits, as is the Big “D” Liquor Store on the east side of Plano Street located in Census Tract 41.01.

GENERAL PLAN AND ZONING: The General Plan designates the site as Low Density Residential. The subject site is zoned City PD(R) (Planned Development Residential).

SURROUNDING ZONING AND LAND USE:

North: City R-1- West Putnam Avenue and developed single family residential subdivision.
South: City PD(R)- Multiple family residential uses and development single family residential subdivision (Hacienda Heights).
East: City PD(R) - Vacant lot and multiple family residential uses.
West: City OA- Municipal Golf Course.

STAFF ANALYSIS:

Conditional approval to allow the upgrade of an existing off-sale of beer and wine license, to include distilled spirits, will allow the existing mini-mart to provide extended services to its customers. Additionally, approval of the CUP will bring the existing off-sale of beer and wine, to include the upgrade to distilled spirits, into conformity with Article 21 and 29 of the Zoning Ordinance.

The Porterville Police Department has indicated that very few service complaints in regard to alcoholic related incidences have been registered at this location. As a result, the Police Department has no objection to the proposal.

The applicant has agreed to not advertise alcohol facing Leggett Street and the Municipal Golf Course. However, the applicant is requesting to be allowed to continue the outside advertising of alcohol facing Putnam Avenue. As a condition of approval, Staff is recommending that no alcohol advertising shall be displayed on the outside of the proposed building.

ALTERNATIVES TO THE PROJECT AND THEIR EFFECT:

1. No project. Denial of the proposed use permit would allow the applicant to continue selling beer and wine off-sale under an existing license as a “legal Non-Conforming Use”.

2. Approve the project: Approval of the proposed use permit would allow the existing sale of beer and wine to be in conformance with Article 21 and additionally allow for the upgrade for the off-sale of beer and wine to include the off-sale of distilled spirits.

3. Approval as described in alternative 2 would require the authorization of the Mayor to sign a Letter of Public Convenience or Necessity.

4. Approval of the use permit to allow for the off-sale of beer and wine only would bring the “legal Non-Conforming Use” into conformity with Section 2100 D of the Porterville Zoning Ordinance.
ENVIRONMENTAL: This project is Categorically Exempt pursuant to “General Rule” Exception - 14 Ca. Admin. Code 15061 (b) (3) - Permit regulating operation of an existing mini-mart. Under the Permit Streamlining Act (Section 65950 of the Government Code), the City has 60 days from the date the project was accepted as complete to reach a determination regarding this project.

DATE FILED FOR PROJECT REVIEW COMMITTEE PROCESSING: September 15, 2004

DATE ACCEPTED AS COMPLETE: January 31, 2005

RECOMMENDATION: That the City Council:


2. Authorize the Mayor to sign a Letter of Public Convenience or Necessity.

ATTACHMENTS:

1. Locator/Land Use/Zoning Map
2. Census Tract Map 39.01
3. Site Plan, interior layout, elevations and pictures of existing site
4. Applicant’s letter
5. Application
6. Notice of Exemption
7. Draft Resolution
8. Letter of Public Convenience or Necessity
TYPE 20 - OFF-SALE OF BEER AND WINE
TYPE 21 - OFF-SALE OF BEER AND WINE & DISTILLED SPIRITS
TYPE 40 - ON-SALE OF BEER AND WINE
TYPE 41 - ON-SALE OF BEER AND WINE & DISTILLED SPIRITS - IN CONJUNCTION WITH SERVING MEALS

EXISTING COUNTY

CENSUS TRACT BOUNDARY

CENSUS TRACT 39.01
REQUEST APPROVAL

- Shell requires 2/3 windows unobstructed

- Agree not to advertise alcohol facing Leggett or distilled spirit on outside anywhere.

- Would like to continue to advertise beer & wine facing Putnam

we appreciate all the help we can get

Sincerely

______

Owner:
Mounib Dakhil

Date: 12-2-2004

Sunnyside Handy Market
809 E. Putnam
Porterville, CA 93257
(559) 784-9079
APPLICATION FOR CONDITIONAL USE PERMIT

(See Page 3 of this form for information on preparing and filing this application)

The Applicant(s) Mouni B DAHILL is/are the owner(s) or possess(s) of property situated at 809 E PUTNAM AV
between PUTNAM AV Street/Avenue and
Leavett Street/Avenue. Exact legal
description of said property being (Use separate sheet if necessary)

As applicable, a Plot Plan and 300' radius property owners map, and corresponding mailing list are hereto attached and made a part of this application (See detailed instructions on Page 3 of this form).

(A) Above described property is owned by Mouni B DAHILL
Date acquired FEB 2001

(B) If applicant is the lessee, give date property was leased:

(C) List below the original deed restrictions, if any, that were placed on the property which pertain to the type of improvements permitted.
Give date said restrictions expire N/A
(You may attach copy of original printed restrictions in answer to this question after property underlining those features controlling the type and class of uses permitted thereby).

(D) REQUEST: The applicant requests a Conditional Use Permit to

USE the above described property for the following purposes:

(Use this space ONLY to state exactly what is intended to be done, on or, with the property).

The Request is to allow "Sunny Side Handy Mark" to sell liquor
The basic purpose of the Conditional Use Permit Article of The City Zoning Ordinance is to assure that the design and subsequent operation of a conditional use will be reviewed in order to carry out the purposes of the Ordinance and to protect the public health, safety and welfare, due to the unique and special characteristics of such uses.

1. State how the proposed use will not be materially detrimental to the public welfare or injurious to property or improvements in such vicinity and zone in which the use is proposed to be located.

   Consumption of alcoholic beverages is not allowed on the premises and will not be sold to minors.

2. Principal requirements of intended use (Please answer the following statements, if applicable):

   (a) Total number of people that the building (or grounds if the use is not conducted in a building) can accommodate at one time (Seating Capacity).

      \[ 35 + \]

   (b) Total number of employees that will work on the property.

      5

   (c) Total number of off-street parking spaces provided or planned.

      \[ 23 \quad \text{Twenty Three Parking Spaces} \]

   (d) Maximum height of buildings or structures.

   (e) If the application is not intended to be for a permanent conditional use, state the length of time for which it is requested.

      N/A
We, the undersigned OWNERS of ADJACENT PROPERTY as shown upon the map attached to the application, hereby certify that we have read the foregoing petition and agree that the facts stated correctly and completely present the conditions surrounding the property involved in the application, and believe the application SHOULD BE GRANTED (Add additional sheets where necessary. These signatures are desirable but not required).

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**APPLICANT'S DECLARATION**

STATE OF CALIFORNIA )
COUNTY OF TULARE )

I (we), ___________ MOUNT B. DAHL, being duly sworn, declare and say that I am (we) the owner (lessee or agent) of property involved in this application and that I (we) have completed this application and all other documents and maps required hereby to the best of my (our) ability and that the statements and information above referred to are, in all respects, true and correct, except, as to the matters stated to be on my information and belief.

I declare under penalty of perjury that the foregoing is true and correct, executed at ___________ PORTERVILLE, CALIFORNIA this ___________ day of ___________, 2004.

Telephone No. (559) 784-9079

Signature

809 E. PUCKETT AVE PORTERVILLE, CA 93257

Mailing Address

This is to certify that the foregoing application has been inspected by me and has been found to be thorough and complete in every particular and to conform to the rules and regulations of the City of Porterville governing the filing of such application.

By ________________________________

Date Received __________________________
NOTICE OF EXEMPTION

TO: Office of Planning and Research  X Tulare County Clerk
     1400 Tenth Street, Room 121  County Civic Center
     Sacramento, CA 95814  Visalia, CA 93291

FROM: City of Porterville  Mounib Dakhil
      291 N. Main Street  809 East Putnam Avenue
      Porterville, California 93257  Porterville, CA 93257

Conditional Use Permit 1-2005
Project Title

809 East Putnam Avenue
Project Location (Specific)

City of Porterville  Tulare
Project Location (City)  Project Location (County)

A Conditional Use Permit to allow for the upgrade of an existing off sale beer and wine license to include distilled spirits to be sold in conjunction with a Mini-mart and gas station.
Description of Nature, Purpose, and Beneficiaries of Project

City of Porterville
Name of Public Agency Approving Project

Mounib Dakhil, 809 East Putnam Avenue, Porterville, Ca, 93257
Name of Person or Agency Carrying Out Project

Exempt Status: (Check One)

   Ministerial (Section 15073)
   Declared Emergency (Section 15071 (a) )
   Emergency Project (Section 15071 (b) and (c) )
   Categorical Exemption. State type and section number: 15332 Class 32
   "General Rule" Exemption - 14 Ca. Admin. Code 15061 (b) (3)

Permit regulating operation of an existing Mini-mart
Reasons why project is exempt

Bradley D. Dunlap, Community Development Director
Contact Person
If Filed by Applicant:
1. Attached certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the
   projected? Yes:______ No:______

Date Received for filing:__________

Signature

Community Development Director
Title

ATTACHMENT
ITEM NO. 6
RESOLUTION NO. __________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS AND CONDITIONS IN SUPPORT OF APPROVAL OF CONDITIONAL USE PERMIT 1-2005 TO ALLOW THE UPGRADE OF AN EXISTING TYPE 20, BEER AND WINE OFF-SALE LICENSE TO A TYPE 21, BEER, WINE AND DISTILLED SPIRITS OFF-SALE LICENSE AND LETTER OF PUBLIC CONVENIENCE OR NECESSITY FOR AN EXISTING MINI-MART LOCATED AT 809 EAST PUTNAM AVENUE

WHEREAS: The City Council of the City of Porterville, at its regularly scheduled meeting of February 15, 2005, conducted a public hearing to consider Conditional Use Permit 1-2005, being a request to allow the upgrade of an existing Type 20, beer and wine license to a Type 21, beer, wine and distilled spirits off-sale license and a Letter of Public Convenience or Necessity for an existing mini-mart located at 809 East Putnam Avenue; and

WHEREAS: The City Council received testimony from all interested parties relative to said Conditional Use Permit; and

WHEREAS: The City Council made the following findings:

1. That the proposed project is consistent with the General Plan, zoning and land use for the site.

   Conditional Use Permit 8-82 allowed for approval of a PD(R)-(Planned Development Residential Subdivision) for Hacienda Heights which also included a small commercial parcel. Approval of Phase One of Conditional Use Permit 8-82 allowed for the construction of the existing mini-mart and fuel dispensing island. On or about July, 1983, the mini-mart was built. The existing market has been selling alcoholic beverages (beer and wine) prior to the adoption of Article 21 of the Porterville Zoning Ordinance.

2. That the proposed location of the project and the conditions under which it will be operated or maintained will not be detrimental to the public health, safety, welfare, or materially injurious to properties or improvements in the vicinity.

Conditions of approval are included to ensure adequate development standards are met.
3. Section 2100 D of the Porterville Zoning Ordinance states the following:

Any use involving the sale of alcoholic beverages under an off-sale license within 600 linear feet of the nearest property line of any sensitive use as defined in this article shall be subject to obtaining approval of a Conditional Use Permit.

Any duly licensed off-sale liquor establishment in operation on July 20, 2004 shall be subject to the provisions of Article 25, of the ordinance.

4. State Law requires that if a license location is changed or the type of license is upgraded or downgraded (to increase or decrease privileges), a Letter of Public Convenience or Necessity is required.

5. The subject site is located in Census Tract 30.01 which allows a maximum of eight (8) off-sale alcohol licenses. Currently there are 10 (to include the existing off-sale of beer and wine license at 809 E. Putnam Avenue).

6. Under the regulations of the Business and Professions Code, whenever the ratio of off-sale licenses to population in a census tract exceeds the average ratio for the county, an “undue concentration” of licenses is determined to exist. In such circumstances, no additional licenses may be granted by the ABC unless the City Council determines that there is a public convenience or necessity in the community for the (subject) alcoholic beverage licensed establishment.

7. This project is Categorically Exempt pursuant to “General Rule” Exception - 14 Ca. Admin. Code 15061 (b) (3) - Permit regulating operation of an existing mini-mart.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Conditional Use Permit 1-2005 subject to the following conditions:

1. That any future change in operation which substantially alters the condition or nature of the subject business will require approval by the City Council if such modification involves the sale of alcoholic beverages.

2. That consumption of alcoholic beverages shall be prohibited at all locations on the subject property.

3. Upon approval of the Conditional Use Permit, any future violations of regulations of the codes relating to the sales or consumption of alcohol, and/or excessive service calls to the Police Department resulting from the sales of alcohol will result in revocation of the Conditional Use Permit.

4. That a Letter of Public Convenience or Necessity will require approval by the Porterville City Council.
5. A loading space(s) shall be required in accordance with Section 2400 and 2401 of the Zoning Ordinance.

6. A barrier curb or other physical barrier acceptable to the Community Development Director between the developed portion of the site and the undeveloped lot to the east. No parking or vehicular circulation is allowed on unpaved portions of the site.

7. The developer/applicant shall install security lighting on the exterior of the building and/or in the parking lot sufficient to allow reasonable surveillance of the parking area to the satisfaction of the Porterville Police Department.

8. No alcohol advertising shall be displayed on the outside of the proposed building.

9. At all times, the facility shall be operated and maintained to comply with State Law, the City of Porterville Zoning Ordinance, adopted Building Codes and all other applicable laws and ordinances.

10. Unless an extension of time is granted by the City Council, the Conditional Use Permit shall expire one (1) year after the date of approval if the up-grade of the off-sale Type 21, beer, wine and distilled spirits license has not been granted by the Department of Alcoholic Beverage Control Board.

Pedro R. Martinez, Mayor

ATTEST:

John Longley, City Clerk

By __________________________
  Georgia Hawley, Chief Deputy City Clerk
February 16, 2005

California Alcoholic Beverage Control Board
Fresno District Office
3640 East Ashlan
Fresno, CA 93726

Attention Joyce Knodel:

RE: Sunnyside Handy Market - 809 East Putnam Avenue

Dear Ms. Knodel:

The City Council of the City of Porterville conditionally approved Conditional Use Permit 1-2005 to allow the upgrade of an existing off-sale of beer and wine license to include distilled spirits. Approval of the use permit now brings the existing off-sale of beer and wine to include the upgrade to distilled spirits into conformity with Article 21 and 29 of the Zoning Ordinance for an existing min-mart located at 809 East Putnam Avenue.

The City Council of the City of Porterville has voted to approve submittal of this letter regarding the public convenience or necessity to be served through issuance for the upgrade of an existing Type 20 beer and wine off-sale license to a type 21, beer, wine and distilled spirits off-sale license for the existing min-mart located at 809 East Putnam Avenue.

The proposed upgrade of the existing off-sale of beer and wine license to include distilled spirits of the off-sale license represents a viable economic asset to the community which will contribute tax revenues to the local economy. The majority of the alcohol sales from the mini mart are to be in small quantities in conjunction with the purchase of food and other supplies. Furthermore, there are several blocks of residences also located on the south side of East Putnam. Being located on the south side allows patrons to walk to the store without the need to cross East Putnam Avenue and Leggett Street.

For these reasons, the City Council of the City of Porterville supports the issuance for the upgrade of an existing Type 20 beer and wine off-sale license to a type 21, beer, wine and distilled spirits off-sale license for the existing min-mart located at 809 East Putnam Avenue.

Sincerely,

Pedro R. Martinez,
Mayor
BF:bf

ATTACHMENT
ITEM NO. 8
PUBLIC HEARING

SUBJECT: ORDINANCE PERTAINING TO DOOR-TO-DOOR SALES

SOURCE: CITY ATTORNEY

COMMENT: Pursuant to the City Council’s direction at the January 18, 2005, City Council meeting, attached is the proposed Ordinance repealing Chapter 8 of the City’s regulations and replacing it with new provisions regulating peddlers, solicitors, and canvassers. As directed at that meeting, additional language in Section 8-12 provides that charitable and/or nonprofit organizations shall submit evidence of their not-for-profit or charitable status.

RECOMMENDATION: It is recommended that the Council hold the public hearing, consider the proposed regulations, and give first reading to the ordinance.

Attachment: 1) January 18, 2005 Agenda Report
2) Ordinance Repealing Chapter 8 in its Entirety and Replacing it with New Provisions of Chapter 8 Concerning Peddlers, Solicitors and Canvassers (Door-to-Door Sales).
SUBJECT: ORDINANCE PERTAINING TO DOOR-TO-DOOR SALES

SOURCE: CITY ATTORNEY

COMMENT: At a Study Session held on October 12, 2004, the City Council reviewed the City's existing regulations concerning vendors. As a result of the study session, the Council directed this office to prepare an ordinance modifying the City's regulations concerning door-to-door sales. Primary areas of concern for the Council included additional accountability from business entities and individuals wanting to engage in door-to-door sales, limiting the time of day and evening when such sales can occur, allowing an exemption for temporary fundraisers by nonprofit organizations, and ensuring that solicitations do not occur where properties are posted. The attached draft ordinance, which repeals and replaces Chapter 8 of the Code, attempts to address these concerns. The enforcement portion of the Chapter has also been expanded to allow the City a variety of remedies, including permit suspension/revocation, monetary penalties, potential inability to obtain a future permit, criminal violations, and civil remedies including injunctive relief.

As a result of the October 12, 2004, meeting, the Council also directed that an Ordinance providing for more stringent penalties and enforcement concerning other types of vending activities be developed. This ordinance, which will cover enforcement of municipal code violations concerning other types of vending activities including street vending, will be presented at the next meeting.

RECOMMENDATION: It is recommended that the Council review the sample ordinance and provide any further direction. Upon additional direction and comments, a finalized ordinance can be brought back for consideration for public hearing and first reading.

Attachment: 1) Ordinance Repealing Chapter 8 in its Entirety and Replacing it with New Provisions of Chapter 8 Concerning Peddlers, Solicitors and Canvassers (Door-to-Door Sales).
ORDINANCE NO. ________

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE REPEALING CHAPTER 8 OF THE PORTERVILLE MUNICIPAL CODE IN ITS ENTIRETY AND REPLACING IT WITH NEW PROVISIONS OF CHAPTER 8 CONCERNING PEDDLERS, SOLICITORS AND CANVASSERS (DOOR-TO-DOOR SALES)

Whereas, the City Council of the City of Porterville finds that the City has had past problems with door-to-door sales occurring late at night and that this presents a threat to the safety of those that are solicited as well as those than engage in peddling and soliciting activities as defined below;

Whereas, such sales are at times misrepresented as being made by or on the behalf of charitable nonprofit organizations, and that the proposed modifications would help prevent fraud;

Whereas, the public safety and convenience necessitates the exercise of police power through the enactment and enforcement of the provisions proposed; and

Whereas, these provisions are not intended to limit any persons from exercising their constitutional right to solicit funds, picket, protest, proselytize, or engage in other constitutionally protected activity.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PORTERVILLE, ASFollows, TO WIT:

SECTION 1. Chapter 8 is hereby repealed and replaced by the provisions of a new Chapter 8 (Peddlers, Solicitors, and Canvassers), Sections 8-1 through 18-18 as follows:

CHAPTER 8 PEDDLERS, SOLICITORS AND CANVASSERS
(DOOR-TO-DOOR SALES)

PERMIT REQUIREMENTS, RELATED PROVISIONS,
AND REGULATION OF PEDDLERS, CANVASSERS AND SOLICITORS
(DOOR-TO-DOOR SALES)

8-1 Legislative Findings
8-2 Peddlers/Solicitors --Defined.
8-3 Permit required.
8-4 Application for permit.
8-5 Contents of application.
8-6 Other information
8-7 Application fees.
8-8 Photograph required.
8-9 Fingerprint required.
8-10 Investigation--Character and business responsibility.
8-11 Permit and identification card to be carried on person.
8-12 Exemption - Temporary Nonprofit Fundraising.
8-13 Conditions and regulations.
8-14 Enforcement.
8-15 Appeals to city council.
8-16 Unlawful where "No Peddlers/Solicitors" sign posted.
8-17 Distribution of handbills—excluded.
8-18 Severability.

8-1 LEGISLATIVE FINDINGS.

The City Council of the City of Porterville finds that the City has had past problems with door-to-door sales that are conducted in a manner detrimental to its community members’ safety. This includes but is not limited to such sales occurring late at night, posing a threat to the safety of those that are solicited as well as those that engage in peddling and soliciting activities as defined below. Additionally, such sales are at times misrepresented as being made by or on the behalf of charitable nonprofit organizations, and these provisions will help deter such fraudulent conduct by requiring additional accountability from those engaged in door-to-door sales. The public safety and convenience necessitates the exercise of police power through the enactment and enforcement of the provisions proposed. However, these provisions are not intended to limit any persons from exercising their constitutional right to solicit funds, picket, protest, proselytize, or engage in other constitutionally protected activity.

8-2 PEDDLERS, SOLICITORS AND CANVASSERS DEFINED.

"Peddler," "Solicitor," and/or "Canvasser" (hereinafter referred to collectively in this Chapter as "Peddlers") includes "Peddlers" as defined pursuant to Section 15-1(r) and "Solicitors or Canvassers" as defined pursuant to Section 15-1(y), and means any person who goes from house to house, or from place to place in the City selling or taking orders for, or offering to sell or take orders for goods, wares and merchandise for present or future delivery, or for services to be performed immediately or in the future, whether or not such person has, carries or exposes a sample of such goods, wares and merchandise, and whether or not he is collecting advance payments on such sales.

8-3 PERMIT REQUIRED.

It is unlawful for any person to act as a Peddler within the City without having first obtained a permit issued pursuant to this chapter. This permit is required in addition to any licenses required under Chapter 15 of the Municipal Code. The employees, agents, solicitors or representatives of any firm, irrespective of the form of organization, may be covered under a single business license under Chapter 15 of this Code (if allowed under that Chapter); however, each individual shall be required to obtain a permit pursuant to Section 8-4 unless exempt pursuant to Section 8-12 or under any other provision of law.

8-4 APPLICATION FOR PERMIT.

Applicants for a permit under this chapter shall file with the Finance Officer an application in writing on a form to be prescribed by the finance officer.

8-5 CONTENTS OF APPLICATION.

The application shall contain the following information:

A. The permanent home address and full local address of the Peddler or Solicitor;
B. The name and address of the person, firm or corporation by whom the Peddler/Solicitor is employed;

C. The length of service of each Peddler/Solicitor with such employer;

D. The place of residence and nature of the employment of the Peddler/Solicitor with such employer during the last preceding year;

E. The nature or character of the goods, wares, merchandise or services to be offered by the Peddler/Solicitor;

F. A personal description of the Peddler/Solicitor; including height, weight, eye color and hair color.

G. The length of time for which the right to do business is desired.

H. The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time such application is filed, and the proposed method of delivery.

I. Photographs pursuant to Section 8-7.

J. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, the date of such crime or violation, the nature of the offense, and the punishment or penalty assessed therefor.

K. The time of day and/or evening during which the solicitation/sales activities will be taking place.

L. Any applicable State or Federal permitting licensing information, when such a permit or license is required for the type of business or activity.

8-6 OTHER INFORMATION.

Such information shall be accompanied by such credentials and other evidence of good moral character and identity of each Peddler/Solicitor as may be reasonably required by the finance officer.

8-7 APPLICATION FEES.

A. The application fee, replacement application, and identification card fees shall be set by resolution.

B. Fees and investigations as used in this section refer solely to individuals and not to firms.

8-8 PHOTOGRAPHS REQUIRED.

Each application for a permit as required by this chapter must be accompanied by two prints of a recent photograph of the Peddler/Solicitor, which photographs shall not exceed two inches square in size and shall be full front views of the face and head only of such Peddler/Solicitor.
8-9 FINGERPRINTS REQUIRED.

At the time of making the application for a permit, each Peddler/Solicitor shall present him/herself at the office of the Chief of Police of the City for the purpose of being fingerprinted and supplying routine information required on the fingerprinting forms provided without expense by the City, including the physical characteristics of each person, identifying marks or scars, age, name, address and signature. Such fingerprint records are to be taken in triplicate and each individual so presenting him/herself is advised that the City reserves the right to retain one of such fingerprint records in its files for permanent safekeeping, and to send one such fingerprint record to the Federal Bureau of Investigation of the Department of Justice at Washington, D.C., and to the Criminal Investigation Department of the California Department of Justice at Sacramento, California, for the purpose of filing. No fingerprint records will be returned in the event the permit applied for is not issued or is subsequently suspended or revoked.

8-10 INVESTIGATION--CHARACTER AND BUSINESS RESPONSIBILITY.

The original copy of the application shall promptly be referred to the Chief of Police, who shall promptly make an investigation of the applicant’s character and business responsibility. If the applicant’s character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application the Police Chief’s disapproval and the reason therefor and return the application to the Finance Officer. The Finance Officer shall notify the applicant that the application is disapproved and that no permit will be issued. If the Chief of Police finds that the applicant’s character and business responsibility are satisfactory, the Police Chief shall approve the application and return it to the Finance Officer, who shall promptly issue the permit and identification card. The City may refuse to issue a permit to an applicant that has previously violated any provision of this Chapter or Chapter 15 of the Municipal Code.

8-11 PERMIT AND IDENTIFICATION CARD TO BE CARRIED ON PERSON.

Each Peddler/Solicitor issued a permit and identification card must be in possession of the permit and identification card at all times when engaged in the business so permitted within the City. The Peddler/Solicitor must produce and show the permit and identification card on the demand of any person solicited or of any police officer or official of the City. No person issued a permit or an identification card shall alter, remove or obliterate any entry made upon such permit or card, or deface such permit or card in any way. Each permit and card shall be personal and not assignable or transferable, nor shall any permit or card be used by any person other than the permit or the person for whom the identification card is issued. The Peddler/Solicitor must wear the permit so that it is visible at all times.

8-12 EXEMPTION -- TEMPORARY NONPROFIT FUNDRAISING.

The prescribed permit requirements shall not apply to nonprofit organizations which conduct occasional house-to-house retail sales of packaged wares when the individuals are soliciting on behalf of such organizations, so long as prior to engaging in the activity, the organization submits an application to the Finance Department, indicating the dates, time period and length of the temporary fundraising activity. The organizations and individuals shall be subject to all other conditions of this Chapter, including but not limited to the applicable conditions set forth in Section 8-13.
8-13 CONDITIONS AND REGULATIONS.

The following conditions and regulations shall also apply in addition to those set forth in other parts of this chapter or elsewhere in this code.

A. Shouting--calling wares. No person acting under authority of any permit issued under this chapter shall shout or call the person's wares in a loud, boisterous or unseemly manner, or to the disturbance of residents in the City.

B. Identification by comparing signature with that on permit. Every Peddler/Solicitor, upon the request of any police officer or official of the City, shall sign the Peddler/Solicitor's name for comparison with the signature upon the permit or card or the signature upon the permit application.

C. Order to be written in duplicate. Any person acting under authority of any permit issued under this chapter who solicits orders for future delivery shall write each order at least in duplicate, plainly stating the quantity of each article or commodity ordered, the price to be paid therefor, the total amount ordered and the amount to be paid on or after delivery. One copy of such order shall be given to the customer.

D. Every Peddler/Solicitor shall, upon request of any person solicited, provide his/her name, business address and telephone number and the name, business address and telephone number of the person, organization, or entity on whose behalf solicitation is being made.

E. The time of day and/or evening during which the activities will occur shall be set at the time of application for the permit, and under no circumstances will such activities occur before 7:00 a.m. or after 9:00 p.m.

8-14 ENFORCEMENT.

A. A permit issued under this chapter may be suspended or revoked by the Chief of Police for any of the following causes:

1. Fraud, misrepresentation or false statement contained in the application for permit;

2. Fraud, misrepresentation or false statement made in the course of carrying on the business as Peddler/Solicitor;

3. Any violation of this chapter.

4. Conviction of any crime or misdemeanor involving moral turpitude;

5. Conducting the business of soliciting or of canvassing in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

This section shall be self-executing and the suspension or revocation shall be effective immediately. The City Clerk shall give notice of the suspension or revocation of the permit and sufficient notice shall be given if mailed or delivered to the permittee at the permittee's last known local address.
B. The City may refuse to issue a permit to an applicant that has previously violated any provision of this Chapter or Chapter 15 of the Municipal Code.

C. Any person subject to the permit requirements of this Chapter who conducts the activities described in this Chapter without first having obtained the prescribed permit required under this Chapter, in a case where the City decides to issue such a permit, may be required to pay a fee for such permit equal to up to double the amount of the fee for said permit.

D. Activities conducted in violation of any of the provisions of this Chapter shall constitute and be punishable as an infraction.

E. Activities conducted in violation of any of the provisions of this Chapter shall constitute a nuisance and shall be subject to civil enforcement, including but not limited to injunctive relief.

F. Violators of this and any other Chapter of this Code shall also be subject to any other applicable enforcement provisions set forth in this Code.

G. All applicable remedies set forth in this Code are deemed to be cumulative.

8-15 PERMIT -- APPEALS TO CITY COUNCIL.

In the event that any applicant or permittee desires to appeal from any order, revocation or other ruling of the Finance Officer, the Chief of Police or any other official of the City, made under the provisions of this chapter, such applicant or any other person aggrieved shall file written notice of such appeal with the City Clerk and such matters shall be heard at the next regular meeting of the City Council, at which time the City Council shall hear and receive evidence, written and oral upon all matters involved. The decision of the City Council shall be final upon all parties concerned.

8-16 PEDDLING/SOLICITING UNLAWFUL WHERE SIGN POSTED.

It is unlawful for any person described in Section 5.01.010 of this chapter to perform or attempt to perform the acts described in such section by ringing the doorbell or knocking at the door or otherwise calling attention to the person’s presence of or at any residence whereon a sign bearing the words "No Peddlers", "No Solicitors" or words of similar import is painted or affixed so as to be exposed to public view, and no person, described in Section 8-2 shall perform or attempt to perform any of the acts described in such section in any building, structure or place of business wherein a sign prohibiting the activities, is painted or affixed so as to be exposed to public view.

8-17 DISTRIBUTION OF HANDBILLS--EXCLUDED.

Nothing in this chapter shall prohibit persons from distributing handbills door-to-door within the City without a permit, nor shall the chapter prohibit individuals from engaging in anonymous religious or political speech. However, such activities shall be prohibited if a sign has been posted by the property or business owner or manager that clearly prohibits such activities, and such activities can be legally prohibited at the site under those circumstances.
8-18 SEVERABILITY.

It is declared to be the intention of the City Council that the subsections, paragraphs, sentences, clauses, and phrases of this Chapter are distinct and severable and, in the event that any subsections, paragraphs, clauses and/or phrases are declared to be unconstitutional, invalid, or unenforceable by any court of competent jurisdiction, such unconstitutionality, invalidity, or unenforceability shall not affect any of the remaining subsections, paragraphs, clauses, or phrases of this Chapter.

SECTION 2. This ordinance shall be in full force and effect thirty (30) days after its passage, adoption and approval.

ADOPTED, SIGNED AND APPROVED this ______ day of ____________, 2005.

__________________________
President of the Council and Ex-Officio
Mayor of the City of Porterville

ATTEST:

__________________________
Chief Deputy City Clerk and Clerk
of the Council of the City of Porterville
ORDINANCE NO. __________

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE REPEALING CHAPTER 8 OF THE PORTERVILLE MUNICIPAL CODE IN ITS ENTIRETY AND REPLACING IT WITH NEW PROVISIONS OF CHAPTER 8 CONCERNING PEDDLERS, SOLICITORS AND CANVASSERS (DOOR-TO-DOOR SALES).

Whereas, the City Council of the City of Porterville finds that the City has had past problems with door-to-door sales occurring late at night and that this presents a threat to the safety of those that are solicited as well as those than engage in peddling and soliciting activities as defined below;

Whereas, such sales are at times misrepresented as being made by or on the behalf of charitable nonprofit organizations, and that the proposed modifications would help prevent fraud;

Whereas, the public safety and convenience necessitates the exercise of police power through the enactment and enforcement of the provisions proposed; and

Whereas, these provisions are not intended to limit any persons from exercising their constitutional right to solicit funds, picket, protest, proselytize, or engage in other constitutionally protected activity.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PORTERVILLE, AS FOLLOWS, TO WIT:

SECTION 1. Chapter 8 is hereby repealed and replaced by the provisions of a new Chapter 8 (Peddlers, Solicitors, and Canvassers), Sections 8-1 through 18-18 as follows:

CHAPTER 8 PEDDLERS, SOLICITORS AND CANVASSERS (DOOR-TO-DOOR SALES)

PERMIT REQUIREMENTS, RELATED PROVISIONS, AND REGULATION OF PEDDLERS, CANVASSERS AND SOLICITORS (DOOR-TO-DOOR SALES)

8-1 Legislative Findings
8-2 Peddlers/Solicitors --Defined.
8-3 Permit required.
8-4 Application for permit.
8-5 Contents of application.
8-6 Other information
8-7 Application fees.
8-8 Photograph required.
8-9 Fingerprint required.
8-10 Investigation--Character and business responsibility.
8-11 Permit and identification card to be carried on person.
8-12 Exemption - Temporary Nonprofit Fundraising.
8-13 Conditions and regulations.
8-14 Enforcement.
8-15 Appeals to city council.
8-16 Unlawful where “No Peddlers/Solicitors” sign posted.
8-17 Distribution of handbills—excluded.
8-18 Severability.

8-1 LEGISLATIVE FINDINGS.

The City Council of the City of Porterville finds that the City has had past problems with door-to-door sales that are conducted in a manner detrimental to its community members’ safety. This includes but is not limited to such sales occurring late at night, posing a threat to the safety of those that are solicited as well as those than engage in peddling and soliciting activities as defined below. Additionally such sales are at times misrepresented as being made by or on the behalf of charitable nonprofit organizations, and these provisions will help deter such fraudulent conduct by requiring additional accountability from those engaged in door-to-door sales. The public safety and convenience necessitates the exercise of police power through the enactment and enforcement of the provisions proposed. However, these provisions are not intended to limit any persons from exercising their constitutional right to solicit funds, picket, protest, proselytize, or engage in other constitutionally protected activity.

8-2 PEDDLERS, SOLICITORS AND CANVASSERS DEFINED.

“Peddler,” “Solicitor,” and/or “Canvasser” (hereinafter referred to collectively in this Chapter as “Peddlers”) includes “Peddlers” as defined pursuant to Section 15-1(r) and “Solicitors or Canvassers” as defined pursuant to Section 15-1(y), and means any person who goes from house to house, or from place to place in the city selling or taking orders for, or offering to sell or take orders for goods, wares and merchandise for present or future delivery, or for services to be performed immediately or in the future, whether or not such person has, carries or exposes a sample of such goods, wares and merchandise, or not and whether or not he is collecting advance payments on such sales or not.

8-3 PERMIT REQUIRED.

It is unlawful for any person to act as a Peddler within the city without having first obtained a permit issued pursuant to this chapter. This permit is required in addition to any licenses required under Chapter 15 of the Municipal Code. The employees, agents, solicitors or representatives or any firm, irrespective of the form of organization, may be covered under a single business license under Chapter 15 of this Code (if allowed under that Chapter); however each individual shall be required to obtain a permit pursuant to Section 8-4 unless exempt pursuant to Section 8-12 or under any other provision of law.

8-4 APPLICATION FOR PERMIT.

Applicants for a permit under this chapter shall file with the finance officer an application in writing on a form to be prescribed by the finance officer.
8-5 CONTENTS OF APPLICATION.

The application shall contain the following information:

A. The permanent home address and full local address of the Peddler or Solicitor;
B. The name and address of the person, firm or corporation by whom the Peddler/Solicitor is employed;
C. The length of service of each Peddler/Solicitor with such employer;
D. The place of residence and nature of the employment of the Peddler/Solicitor with such employer during the last preceding year;
E. The nature or character of the goods, wares merchandise or services to be offered by the Peddler/Solicitor;
F. A personal description of the Peddler/Solicitor; including height, weight, eye color and hair color.
G. The length of time for which the right to do business is desired.
H. The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time such application is filed, and the proposed method of delivery.
I. Photographs pursuant to Section 8-7.
J. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, the date of such crime or violation, the nature of the offense, and the punishment or penalty assessed therefor.
K. The time of day and/or evening during which the solicitation/sales activities will be taking place.
L. Any applicable State or Federal permitting licensing information, when such a permit or license is required for the type of business or activity.

8-6 OTHER INFORMATION.

Such information shall be accompanied by such credentials and other evidence of good moral character and identity of each Peddler/Solicitor as may be reasonably required by the finance officer.

8-7 APPLICATION FEES.

A. The application fee, replacement application, and identification card fees shall be set by resolution.
B. Fees and investigations as used in this section refer solely to individuals and not to firms.
8-8 PHOTOGRAPHS REQUIRED.

Each application for a permit as required by this chapter must be accompanied by two prints of a recent photograph of the Peddler/Solicitor, which photographs shall not exceed two inches square in size and shall be full front views of the face and head only of such Peddler/Solicitor.

8-9 FINGERPRINTS REQUIRED.

At the time of making the application for a permit, each Peddler/Solicitor shall present him/herself at the office of the chief of police of the city for the purpose of being fingerprinted and supplying routine information required on the fingerprinting forms provided without expense by the city, including the physical characteristics of each person, identifying marks or scars, age, name, address and signature. Such fingerprint records are to be taken in triplicate and each individual so presenting him/herself is advised that the city reserves the right to retain one of such fingerprint records in its files for permanent safekeeping, and to send one such fingerprint record to the Federal Bureau of Investigation of the Department of Justice at Washington, D.C., and to the Criminal Investigation Department of the California Department of Justice at Sacramento, California, for the purpose of filing. No fingerprint records will be returned in the event the permit applied for is not issued or is subsequently suspended or revoked.

8-10 INVESTIGATION--CHARACTER AND BUSINESS RESPONSIBILITY.

The original copy of the application shall promptly be referred to the chief of police, who shall promptly make an investigation of the applicant's character and business responsibility. If the applicant's character or business responsibility is found to be unsatisfactory, the chief of police shall endorse on such application the police chief's disapproval and the reason therefor and return the application to the finance officer. The finance officer shall notify the applicant that the application is disapproved and that no permit will be issued. If the chief of police finds that the applicant's character and business responsibility are satisfactory, the police chief shall approve the application and return it to the finance officer, who shall promptly issue the permit and identification card. The City may refuse to issue a permit to an applicant that has previously violated any provision of this Chapter or Chapter 15 of the Municipal Code.

8-11 PERMIT AND IDENTIFICATION CARD TO BE CARRIED ON PERSON.

Each Peddler/Solicitor issued a permit and identification card must be in possession of the permit and identification card at all times when engaged in the business so permitted within the city. The Peddler/Solicitor must produce and show the permit and identification card on the demand of any person solicited or of any police officer or official of the city. No person issued a permit or an identification card shall alter, remove or obliterate any entry made upon such permit or card, or deface such permit or card in any way. Each permit and card shall be personal and not assignable or transferable, nor shall any permit or card be used by any person other than the permit or the person for whom the identification card is issued. The Peddler/Solicitor must wear the permit so that it is visible at all times.

8-12 EXEMPTION -- TEMPORARY NONPROFIT FUNDRAISING.

The prescribed permit requirements shall not apply to nonprofit organizations which conduct occasional house-to-house retail sales of packaged wares when the individuals are soliciting on behalf of such organizations, so long as prior to engaging in the activity, the organization submits
an application to the Finance Department, indicating the dates, time period and length of the
temporary fundraising activity, and evidence of the organization’s not-for-profit or charitable status.
The organizations and individuals shall be subject to all other conditions of this Chapter, including
but not limited to the applicable conditions set forth in Section 8-13.

8-13 CONDITIONS AND REGULATIONS.

The following conditions and regulations shall also apply in addition to those set forth in other parts
of this chapter or elsewhere in this code.

A. Shouting--calling wares. No person acting under authority of any permit issued under this
chapter shall shout or call the person’s wares in a loud, boisterous or unseemly manner,
or to the disturbance of residents in the city.

B. Identification by comparing signature with that on permit. Every Peddler/Solicitor, upon the
request of any police officer or official of the city, shall sign the Peddler/Solicitor’s name for
comparison with the signature upon the permit or card or the signature upon the permit
application.

C. Order to be written in duplicate. Any person acting under authority of any permit issued
under this chapter who solicits orders for future delivery shall write each order at least in
duplicate, plainly stating the quantity of each article or commodity ordered, the price to be
paid therefor, the total amount ordered and the amount to be paid on or after delivery. One
copy of such order shall be given to the customer.

D. Every Peddler/Solicitor shall, upon request of any person solicited, provide his/her name,
business address and telephone number and the name, business address and telephone
number of the person, organization, or entity on whose behalf solicitation is being made.

E. The time of day and/or evening during which the activities will occur shall be set at the time
of application for the permit, and under no circumstances will such activities occur before
7:00 a.m. or after 9:00 p.m.

8-14 ENFORCEMENT.

A. A permit issued under this chapter may be suspended or revoked by the chief of police for
any of the following causes:

1. Fraud, misrepresentation or false statement contained in the application for permit;

2. Fraud, misrepresentation or false statement made in the course of carrying on the
business as Peddler/Solicitor;

3. Any violation of this chapter.

4. Conviction of any crime or misdemeanor involving moral turpitude;

5. Conducting the business of soliciting or of canvassing in an lawful manner or in
such a manner as to constitute a breach of the peace or to constitute a menace to
the health, safety or general welfare of the public.
This section shall be self-executing and the suspension or revocation shall be effective immediately. The city clerk shall give notice of the suspension or revocation of the permit and sufficient notice shall be given if mailed or delivered to the permittee at the permittee's last known local address.

B. The City may refuse to issue a permit to an applicant that has previously violated any provision of this Chapter or Chapter 15 of the Municipal Code.

C. Any person subject to the permit requirements of this Chapter who conducts the activities described in this Chapter without first having obtained the prescribed permit required under this Chapter, in a case where the City decides to issues such a permit, may be required to pay a fee for such permit equal to up to double the amount of the fee for said permit.

D. Activities conducted in violation of any of the provisions of this Chapter shall constitute and be punishable as an infraction.

E. Activities conducted in violation of any of the provisions of this Chapter shall constitute a nuisance and shall be subject to civil enforcement, including but not limited to injunctive relief.

F. Violators of this and any other Chapter of this Code shall also be subject to any other applicable enforcement provisions set forth in this Code.

G. All applicable remedies set forth in this Code are deemed to be cumulative.

8-15 PERMIT -- APPEALS TO CITY COUNCIL.

In the event that any applicant or permittee desires to appeal from any order, revocation or other ruling of the finance officer, the chief of police or any other official of the city, made under the provisions of this chapter, such applicant or any other person aggrieved shall file written notice of such appeal with the city clerk and such matters shall be heard at the next regular meeting of the city council, at which time the city council shall hear and receive evidence, written and oral upon all matters involved. The decision of the city council shall be final upon all parties concerned.

8-16 PEDDLING/SOLICITING UNLAWFUL WHERE SIGN POSTED.

It is unlawful for any person described in Section 5.01.010 of this chapter to perform or attempt to perform the acts described in such section by ringing the doorbell or knocking at the door or otherwise calling attention to the person's presence of or at any residence whereon a sign bearing the words "No Peddlers", "No Solicitors" or words of similar import is painted or affixed so as to be exposed to public view, and no person, described in Section 8-2 shall perform or attempt to perform any of the acts described in such section in any building, structure or place of business wherein a sign prohibiting the activities, is painted or affixed so as to be exposed to public view.

8-17 DISTRIBUTION OF HANDBILLS--EXCLUDED.

Nothing in this chapter shall prohibit persons from distributing handbills door-to-door within the city without a permit, nor shall the chapter prohibit individuals from engaging in anonymous religious or political speech. However, such activities shall be prohibited if a sign has been posted by the
property or business owner or manager that clearly prohibits such activities, and such activities can be legally prohibited at the site under those circumstances.

8-18 SEVERABILITY.

It is declared to be the intention of the City Council that the subsections, paragraphs, sentences, clauses, and phrases of this Chapter are distinct and severable and, in the event that any subsections, paragraphs, clauses and/or phrases are declared to be unconstitutional, invalid, or unenforceable by any court of competent jurisdiction, such unconstitutionality, invalidity, or unenforceability shall not affect any of the remaining subsections, paragraphs, clauses, or phrases of this Chapter.

SECTION 2. This ordinance shall be in full force and effect thirty (30) days after its passage, adoption and approval.

ADOPTED, SIGNED AND APPROVED this ______ day of ____________, 2005.

__________________________________________
President of the Council and Ex-Officio
Mayor of the City of Porterville

ATTEST:

__________________________________________
Chief Deputy City Clerk and Clerk
of the Council of the City of Porterville
CITY COUNCIL AGENDA: FEBRUARY 15, 2005

PUBLIC HEARING

TITLE: CONDITIONAL USE PERMIT 2-2005 (NATE WOBROCK)

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: The applicant is requesting approval of Conditional Use Permit 2-2005 to allow for the construction of a 7,688± square foot building to be utilized for a preschool (Hoops Preschool) for that .63± acre vacant site located on the south side of Henderson Avenue, approximately 145± feet east of “G” Street.

The main entrance to the building will face the parking area to the north. The building itself will have a covered porch located at the entrance, an attached covered patio area on the east end of the building, four (4) major classrooms, office facilities, break room, storage and restrooms. A playground will be located on the south side of the building. The design of the building will have non-standard windows, square, circular and triangular in shape. The siding on the building will be constructed of aluminum siding. The north side of the building will have a color scheme of blue, green, tan and red. The remaining three (3) sides of the building will have an earth tone color.

The circulation pattern for the site will provide one (1) entrance and one (1) exit from Henderson Avenue. The entrance located to the west of the parking area will allow vehicles to pull up to the front of the building, drop-off the student and exit through the parking lot onto Henderson. Stacking of vehicles will accommodate up to seven (7) vehicles in the parking lot in addition to twenty-four (24) parking stalls.

ENVIRONMENTAL: This project is Categorically Exempt pursuant to Section 15332 of the CEQA Guidelines - construction of in-fill development. Under the Permit Streamlining Act (Section 65950 of the Government Code), the City has 60 days from the date the project was accepted as complete to reach a determination regarding this project.

RECOMMENDATION: That the City Council:

1. Adopt the draft resolution approving Conditional Use Permit 2-2005

ATTACHMENT:

1. Complete Staff Report

DD 50 APPROPRIATED/FUNDED CM

ITEM NO. 16
CITY COUNCIL AGENDA: FEBRUARY 15, 2005

PUBLIC HEARING - STAFF REPORT

TITLE: Conditional Use Permit 2-2005

APPLICANT: Nathan Wobrock
1451 Median Ct.
Porterville, CA 93257

APPLICANT’S AGENT: Roberts Engineering
342 N. Second Street
Porterville, CA 93257

PROJECT LOCATION: South side of Henderson Avenue, approximately 145± feet east of “G” Street.

SPECIFIC REQUEST: The applicant is requesting approval of Conditional Use Permit 2-2005 to allow for the construction of a 7,688± square foot building to be utilized for a preschool (Hoops Preschool) for that .63± acre vacant site located on the south side of Henderson Avenue, approximately 145± feet east of “G” Street.

PROJECT DETAILS: The main entrance to the building will face the parking area to the north. The building itself will have a covered porch located at the entrance, an attached covered patio area on the east end of the building, four (4) major classrooms, office facilities, break room, storage and restrooms. A playground will be located on the south side of the building. The design of the building will have non-standard windows, square, circular and triangular in shape. The siding on the building will be constructed of aluminum siding. The north side of the building will have a color scheme of blue, green, tan and red. The remaining three (3) sides of the building will have an earth tone color.

The circulation pattern for the site will provide one (1) entrance and one (1) exit from Henderson Avenue. The entrance located to the west of the parking area will allow vehicles to pull up to the front of the building, drop-off the student and exit through the parking lot onto Henderson. Stacking of vehicles will accommodate up to seven (7) vehicles in the parking lot in addition to twenty-four (24) parking stalls.
STAFF ANALYSIS:

No recent traffic counts have been conducted on Henderson Avenue in this area. Henderson Avenue is designated Arterial street (84' wide) consisting of four (4) lanes. The Land Use and Circulation Element of the General Plan indicates that four (4) lane arterial streets have the capacity of 25,000 ADT.

The attached chart outlines the activity of drop-off and pickup time for students. The information was provided by the applicant, based on observations at a similar facility. The time from 7:30 a.m. to 8:45 a.m. is the major activity time for drop-off. It is anticipated that 47 drop-offs will occur at this time. Conservatively estimating 5 minutes per drop-off and pick-up, the area for the staking of seven (7) vehicles appears to be adequate. However, during the most intense activity, up to half of the parking lot may also be used for this purpose. A condition of approval is recommended to give community Development Director authority to require staggered arrival and departure schedules in the event traffic encroaches onto Henderson Avenue.

As mentioned above, the circulation pattern for the site will provide one (1) entrance and one (1) exit off of Henderson Avenue. The entrance located to the west of the parking area will allow for vehicles to pull up to the front of the building, drop-off the student and exit through the parking lot onto Henderson. Stacking of vehicles will accommodate up to seven (7) vehicles in the parking lot that will prove twenty-four (24) parking stalls.

Based on the number of drop-offs and pickups of students, the provided parking and staking for unloading and dropping off students should accommodate the traffic on-site. It is anticipated that due to the small scale of the project, additional traffic entering and leaving the site will not increase the load of traffic being generated on Henderson Avenue.

GENERAL PLAN LAND USE DESIGNATION: PO (Professional Office)

EXISTING ZONING: City PO (Professional Office)

SURROUNDING AREA ZONING AND LAND USE:

North: City - Henderson Avenue and commercial uses.
South: City - Zalud Park and a developed single family residential subdivision.
East: City - Zalud Park parking lot.
West: City - Professional office and “G” Street.

ALTERNATIVES TO THE PROJECT AND THEIR EFFECT:

1. Denial of the proposed project would prohibit the use of the site for a pre-school.

2. Approval of the conditional use permit would allow for the existing vacant site to be developed as proposed.
ENVIRONMENTAL: This project is Categorically Exempt pursuant to Section 15332 of the CEQA Guidelines - construction of in-fill development. Under the Permit Streamlining Act (Section 65950 of the Government Code), the City has 60 days from the date the project was accepted as complete to reach a determination regarding this project.

DATE FILED FOR PROJECT REVIEW COMMITTEE PROCESSING: November 17, 2004

DATE ACCEPTED AS COMPLETE: January 31, 2005

RECOMMENDATION: That the City Council:

1. Adopt the draft resolution approving Conditional Use Permit 2-2005.

ATTACHMENTS:

1. Locator Map
2. Conditional Use Permit Application
3. Chart indicating drop-offs and pickups of students
4. Draft resolution approving Conditional Use Permit 2-2005 to include Exhibit “A” - Site Plan, interior layout, elevation and rendering
CONDITIONAL USE PERMIT # 2-2005

HENDERSON AVE.

"G" ST.

SUBJECT SITE

LOCATOR MAP

ATTACHMENT ITEM NO. 1
APPLICATION FOR CONDITIONAL USE PERMIT
(See Page 3 of this form for information on preparing and filing this application)

The Applicant __NATE WOBROCK__ is the owner of property situated at __South side of West Henderson___ Avenue and __East side of North “G” Street. Exact legal description of said property being __SEE ATTACHED LEGAL DESCRIPTION__

As applicable, a Plot Plan and 300’ radius property owners map, and corresponding mailing list are hereto attached and made a part of this application (see detailed instructions on Page 3 of this form).

1. Above described property is owned by __Nate Wobrock________
   Date acquired ___August, 2004__

2. If applicant is the lessee, give date property was leased: __Not applicable____

3. List below the original deed restrictions, if any, that were placed on the property which pertain to the type of improvements permitted.
   Give date said restrictions expire _______________ __Not applicable__
   (You may attach a copy of the original printed restrictions in answer to this question after properly underlining those features controlling the type and class of uses permitted thereby).

   There are no known deed restrictions.

4. REQUEST: The applicant requests a Conditional Use Permit to USE the above described property for the following purposes:
   (Use this space ONLY to state exactly what is intended to be done on, or with, the property).

   The applicant is requesting a conditional use permit to construct a pre-school facility to include classrooms, office, kitchen, and storage areas.
NOTE: The basic purpose of the Conditional Use Permit Article of the City Zoning Ordinance is to assure that the design and subsequent operation of a conditional use will be reviewed in order to carry out the purposes of the Ordinance and to protect the public health, safety and welfare, due to the unique and special characteristics of such uses.

1. State how the proposed use will not be materially detrimental to the public welfare or injurious to property or improvements in such vicinity and zone in which the use is proposed to be located.

The proposed use will allow the construction of a pre-school facility including parking areas and landscaping on a parcel of land which is now vacant and has been for many years.

2. Principal requirements of intended use (Please answer the following statements, if applicable):

(a.) Total number of people that the building (or grounds, if the use is not conducted in a building) can accommodate at one time (seating capacity).

The proposed facility will provide training and day care for a maximum enrollment of 110 students, approximately.

(b.) Total number of employees that will work on the property.

The proposed pre-school will employ approximately 10 employees.

(c.) Total number of off-street parking spaces provided or planned.

24 spaces for the facility are proposed.

(d.) Maximum height of buildings or structures.

25 feet

(e.) If the application is not intended to be a permanent conditional use, state the length of time for which it is requested.

Not applicable. Use will be permanent.
We the undersigned OWNERS OF ADJACENT PROPERTY as shown upon the map attached to the application, hereby certify that we have read the foregoing petition and agree that the facts stated correctly and completely present the conditions surrounding the property involved in the application, and believe the application SHOULD BE GRANTED. (Add additional sheets where necessary. These signatures are desirable but not required).

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**APPLICANT'S DECLARATION**

STATE OF CALIFORNIA) ss.
COUNTY OF TULARE )

I/We, _Donna Shamley_ being duly sworn, declare and say that I am (we are) the owner(s), lessee(s), or agent of property involved in this application and that I (we) have completed this application and all other documents and maps required hereby to the best of my (our) ability and that the statements and information above referred to are, in all respects, true and correct, except, as to the matters stated to be on my information and belief.

I declare under penalty of perjury that the foregoing is true and correct, executed at Porterville, CA this 10th day of December, 2004.

Signature:  

Donna Shamley, agent
Roberts Engineering
P. O. Box 908, Porterville, CA 93258
(559) 784-6326

This is to certify that the foregoing application has been inspected by me and has been found to be thorough and compete in every particular and to conform to the rules and regulations of the City of Porterville governing the filing of such application.

By:  

Date Received:  

3 of 4
| Time          | Row 1 | Row 2 | Row 3 | Row 4 | Row 5 | Row 6 | Row 7 | Row 8 | Row 9 | Row 10 | Row 11 | Row 12 | Row 13 | Row 14 | Row 15 | Row 16 | Row 17 | Row 18 | Row 19 | Row 20 | IN  | OUT | TOTAL |
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| 7:30-7:35 am | X     | X     | X     | X     | X     |       |       |       |       |        |        |        |        |        |        |        |        |        |        | 6   | 6   |       |
| 7:36-7:40 am |       |       |       |       |       |       |       |       |       |        |        |        |        |        |        |        |        |        | 6   | 6   |       |
| 7:41-7:45 am | X     | X     | X     | X     | X     |       |       |       |       |        |        |        |        |        |        |        |        |        |        | 6   | 12  |       |
| 7:46-7:50 am | X     | X     | X     | X     |       |       |       |       |       |        |        |        |        |        |        |        |        |        |        | 5   | 17  |       |
| 7:51-7:55 am | X     |       |       |       |       |       |       |       |       |        |        |        |        |        |        |        |        |        | 2   | 19  |       |
| 7:56-8:00 am | X     | X     | X     | X     | X     | X     |       |       |       |        |        |        |        |        |        |        |        |        |        | 7   | 26  |       |
| 8:01-8:05 am | X     |     X |     X |     X |     X |     X |     X |     X |     X |        |        |        |        |        |        |        |        |        | 5   | 31  |       |
| 8:06-8:10 am | X     |     X |     X |     X |     X |     X |     X |     X |     X |        |        |        |        |        |        |        |        |        | 7   | 38  |       |
| 8:11-8:15 am | X     |     X |     X |     X |     X |     X |     X |     X |     X |        |        |        |        |        |        |        |        |        | 13  | 51  |       |
| 8:16-8:20 am | X     |     X |     X |     X |     X |     X |     X |     X |     X |        |        |        |        |        |        |        |        |        | 8   | 59  |       |
| 8:21-8:25 am | X     |     X |     X |     X |     X |     X |     X |     X |     X |        |        |        |        |        |        |        |        |        | 11  | 70  |       |
| 8:26-8:30 am | X     |     X |     X |     X |     X |     X |     X |     X |     X |        |        |        |        |        |        |        |        |        | 15  | 85  |       |
| 8:31-8:35 am | X     |     X |     X |     X |     X |     X |     X |     X |     X |        |        |        |        |        |        |        |        |        | 9   | 94  |       |
| 8:36-8:40 am | X     |     X |     X |     X |     X |     X |     X |     X |     X |        |        |        |        |        |        |        |        |        | 7   | 101 |       |
| 8:41-8:45 am | X     |     X |     X |     X |     X |     X |     X |     X |     X |        |        |        |        |        |        |        |        |        | 6   | 107 |       |
| Total from 8:00 to 8:45 |     |     |     |     |     |     |     |     |     | 81   |       |        |        |        |        |        |        |        |     |     |       |
| 8:46-8:50 am |       |       |       |       |       |       |       |       |       |        |        |        |        |        |        |        |        |        | 1   | 108 |       |
| 8:51-8:55 am |       |       |       |       |       |       |       |       |       |        |        |        |        |        |        |        |        |        | 1   | 109 |       |
| 8:56-9:00 am |       |       |       |       |       |       |       |       |       |        |        |        |        |        |        |        |        |        | 1   | 110 |       |
| 9:01-9:05 am |       |       |       |       |       |       |       |       |       |        |        |        |        |        |        |        |        |        | 1   | 111 |       |

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RESOLUTION NO. _______

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS IN SUPPORT OF CONDITIONAL USE PERMIT 2-2005 TO ALLOW THE CONSTRUCTION OF A 7,688± SQUARE FOOT BUILDING TO BE UTILIZED FOR A PRESCHOOL (HOOPS PRESCHOOL) FOR THAT .63± ACRE VACANT SITE LOCATED ON THE SOUTH SIDE OF HENDERSON AVENUE, APPROXIMATELY 145± FEET EAST OF “G” STREET

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of February 15, 2005, conducted a public hearing to consider Conditional Use Permit 2-2005, being a request to allow for the construction of a 7,688± square foot building to be utilized for a preschool (Hoops Preschool) for that .63± acre vacant site located on the south side of Henderson Avenue, approximately 145± feet east of “G” Street; and

WHEREAS: This project is Categorically Exempt pursuant to Section 15332 of the CEQA Guidelines - construction of in-fill development. Under the Permit Streamlining Act (Section 65950 of the Government Code), the City has 60 days from the date the project was accepted as complete to reach a determination regarding this project.

WHEREAS: The City Council made the following findings with respect to the subject project:

1. The General Plan designates the subject site as Professional and Office.

The subject site is zoned PO (Professional Office) which is supported by the General Plan. The proposed use is allowed pursuant to approval of a Conditional Use Permit.

2. That the site is physically suitable for the type of development proposed.

The site is generally level. The soil is not highly expansive and therefore will not create any barriers to conversion of the existing single family dwelling to a church.

3. That the design of the project or the proposed improvements are not likely to cause substantial environmental damage.

The subject site is vacant and absent of any vegetation due to weed control. An on-site inspection was conducted by staff. No natural habitat was observed. As such, no endangered, threatened or rare species or habitats exist and no impact will occur.
4. That the proposed location of the project and the conditions under which it will be operated and maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.

Conditions of approval are included to ensure adequate development standards are met.

5. That the standard of population density, site area dimensions, site coverage, yard spaces, height of structures, distance between structures, off-street parking facilities, and landscaped areas will produce an environment of stable and desirable character consistent with the objectives of the Zoning Ordinance.

6. The project as proposed complies with all design standards of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Conditional Use Permit 2-2005, subject to the following conditions:

1. Submit a site plan drawn to scale and fully dimensioned along with city fees at the time of submittal for building permits.

2. Prior to the issuance of building permits, the developer/applicant shall submit a Lot Line Adjustment to remove the lot line.

3. A minimum of one tree for every thirty-five (35) linear feet of street frontage along the Henderson Avenue property line(s). Automatic irrigation systems for all landscaping will be required.

4. The developer/applicant shall design and improve the parking lot in conformance with Section 2206 and 2211 (Exhibit A) of the Zoning Ordinance.


6. The developer/applicant shall pay all applicable fees according to the Municipal Code and State law. The developer/applicant is hereby notified that you have the right to pay fees, dedications, reservations or other exactions, under protest, pursuant to Government Code Section 66020(a). You have 90 days from the date fees are paid to file a written protest.
The developer/applicant shall follow Appendix Chapter 33 of the California Building Code including provision of a grading and drainage plan signed by a licensed civil engineer or architect. The developer/applicant shall comply with City Retaining Wall Standards (adopted by City Council January 3, 1989) at lot lines where such standards are applicable.

The developer/applicant may drain the site to Zalud Park via a bubble up structure, wherever it is impractical to drain to the site to Henderson Avenue. If any portion of the site drains to Zalud Park, the pad elevation shall be designed to comply with City Standard D-8 (2 feet above the high water mark).

The developer/applicant shall construct street, curb, gutter, six (6) foot wide sidewalk, etc. along the full frontage of the parcel except where they exist and are in good condition in the opinion of the City Engineer (Ord. No. 1306).

The developer/applicant shall construct drainage facilities as required to serve the property (Ord. No. 1306).

The developer/applicant shall dedicate right-of-way for a street width that matches the ultimate width in the adopted Land Use and Circulation Element and/or the width established by the City Council, and dedication of required property for disabled ramp(s).

The developer/applicant shall move existing utility structures (For example, poles, splice boxes, vaults, etc.) to a position that provides a minimum of four feet (4') of clear space in the sidewalk area and a minimum of two feet (2') of clear space from the curb face to the structure, unless they are below grade (Title 24 OSA).

The developer/applicant shall, under City inspection, remove all existing abandoned and unnecessary items, to the satisfaction of the City Engineer, before the issuance of a certificate of occupancy (For example, foundations, septic tanks, irrigation pipes, etc.).

The developer/applicant shall abandon existing wells, if any, after first getting an abandonment permit from the County Department of Environmental Health, and providing the City Engineer with proof of compliance with County regulations before performing any grading or issuance of the building permit, whichever comes first.

The developer/applicant shall install a refuse container enclosure according to City standards. The developer/applicant shall also sign a waiver of liability for refuse truck damage to the parking lot if the refuse container location requires refuse trucks to travel on the parking lot.

The developer/applicant shall construct the pipe connecting to on-site fire hydrants to City water main standards and shall provide easements for maintenance to the on-site water mains.
17. The developer/applicant shall comply with the City Flood Damage Prevention Ordinance No. 1397, and the requirements of the State Reclamation Board, where applicable. In all areas of special flood hazards (i.e., Zones A, AO, A1-A30, AE, A99 or AH) the following conditions are required: All building plans and grading plans shall recognize that the site is within a Zone A flood hazard area with a Base Flood Elevation of 444.0 feet above mean sea level. A registered professional engineer or surveyor shall certify the final floor elevation by delivering an elevation certificate to the local administrator. The elevation certificate shall be on file prior to the issuance of a Certificate of Occupancy.

18. The developer/applicant shall comply with City standard for “backflow” prevention pursuant to Resolution No. 9615.

19. The developer/applicant is hereby notified that the installation of an additional water meter, servicing the irrigation system would be beneficial for monitoring actual water usage. The City will monitor actual water usage for one year and will bill the owner the impact fees based on the actual water usage.

20. The proposed preschool is considered E-1 occupancy. Upon submittal of a building permit the following will be required:

21. Submit three (3) complete sets of plans, signed by a licensed Architect or Engineer, to include two (2) sets of energy calculations and structural calculations.

22. Compliance with access laws (both State and Federal) is required.

23. Compliance with all applicable codes is required.

24. Plan check fees are required at the time of building permit submittal.

25. Soils compaction test will be required.

26. School Development fees and all other City fees are due at the time of building permit issuance.

27. Approval from the Tulare County Health Department will be required prior to issuance of the building permit.

28. The developer/applicant shall pay all applicable fees according to the Municipal Code and State Law.

29. Based on the occupancy classification, a fire sprinkler and/or fire alarm may be required.
30. When a fire sprinkler system is required all valves controlling the water supply for automatic sprinkler systems and water-flow switches on all sprinkler systems shall be electrically monitored where the number of sprinklers are:
   a. Twenty or more in Group I, Divisions 1.1 and 1.2 Occupancies.
   b. One hundred or more in all other occupancies.
31. Submit 2 complete sets of sprinkler and/or fire alarm plans to Fire Department for review prior to installation.
32. When any portion of the building to be protected is in excess of 150 feet from a water supply on a public street, there shall be installed on-site fire hydrants capable of supplying the required flow.
33. Depending on the location of the existing fire hydrant(s), additional fire hydrants will be required.
34. Fire hydrants spacing shall be as follows: In Commercial development, one hydrant shall be installed at every 300 feet intervals.
35. Access roads shall be provided for every facility, building or portion of a building, when any portion of the facility or portion of an exterior wall is located more than 150 feet from a fire apparatus access as measured by an approved route around the exterior of the building.
36. All dead-ends access roads in excess of 150 feet must be provided with a approved turn-around complying with City Standards.
37. Project must meet minimum fire flow requirements per table in appendix III-A & III-B of the California Fire Code. The fire flow for this project as proposed is 2250 GPM and will require a minimum of two hydrants.
38. Areas identified as “Fire Lanes” must be identified as such by red painted curbs and identified per requirements set forth in the California Vehicle Code Sec. 22500.1.
39. A Knox box will be required. Application may be obtained from the Fire Department.
40. In the event that stacking of cars on the site is demonstrated to be imposing traffic on Henderson Avenue, the Community Development Director shall have the authority to mandate staggered arrival and departure times for students.
41. Any cooling or heating unit to be mounted on the roof will be required to be screened from public view.

42. At all times, the facility shall be constructed, operated and maintained to comply with State Law, the City of Porterville Municipal Code, adopted Building Codes and all other applicable laws and ordinances.

43. That the subject site will be developed in accordance with the site plan and elevation plans labeled EXHIBIT “A”.

44. The Conditional Use Permit shall become null and void if not undertaken and actively and continuously pursued within one (1) year.

______________________________
Pedro R. Martinez, Mayor

ATTEST:

John Longley, City Clerk

By _____________________________
Georgia Hawley, Chief Deputy City Clerk
COUNCIL AGENDA: FEBRUARY 15, 2005

PUBLIC HEARING

SUBJECT: PARKING COMMERCIAL VEHICLES IN RESIDENTIAL AREAS

SOURCE: Public Works Department - Engineering Division

COMMENT: This is the time and place set for the public hearing to take comment and discuss the modification of Section 17-11.7 of the City of Porterville Traffic Ordinance “Parking of Commercial Vehicles In Residential Area.”

The purpose for the request to modify the City’s ordinance stems from the Police Department’s difficulty in enforcing no parking of commercial vehicles in residential areas due to differences between the City’s ordinance and the California Vehicle Code (CVC). Traffic Ordinance 1162, Section 17-11.7, prohibits the parking of any commercial vehicle of over two (2) tons load capacity in a residential area. Section 22507.5(a) of the CVC states in part that the City may, by ordinance, prohibit the parking or standing, on any street or portion thereof, in a residential district, of commercial vehicles having a manufacturer’s gross vehicle weight rating of 10,000 pounds or more.

The major distinction between the City ordinance and the vehicle code is the description of a commercial vehicle. Whereas, the City ordinance describes a commercial vehicle as having a load capacity of two tons, the vehicle code identifies a commercial vehicle as having a manufacturer’s gross weight rating of 10,000 pounds or more. The distinction is significant to the Police Department. Police Officers, by virtue of the vehicle make and model, can easily confirm in the field the gross vehicle weight of any commercial truck. Identifying a vehicle by its load carrying capacity is more of a challenge.

Therefore, it is recommended herein that Section 17-11.7 be revised in part to read, “Except as noted below, no person shall park any commercial vehicle having a manufacturer’s gross vehicle weight rating of 10,000 pounds or more, in whole or in part, on any roadway adjacent to any property zoned R-1, R-2, R-3, R-4, O-A or P-O in the City of Porterville. Such violation shall be an infraction”. A complete reading of the modified section is attached for Council’s complete review.

Also brought to the Engineering Division’s attention is the fact that an ordinance prohibiting the parking of commercial vehicles in a residential area shall not apply until signs or markings giving adequate notice have been placed (CVC, Sec. 22507.6). The City does not currently have any such posting but will move forth to correct this deficiency.
RECOMMENDATION: That City Council:

1. Approve the proposed Ordinance amendment;

2. Give first reading to the Ordinance amending Chapter 17, Article XI, Section 17-11.7, Parking - Commercial Vehicles in Residential Districts, in the City Code; and

3. Direct the City Engineer to make the appropriate changes in the posted signs when the ordinance becomes effective.

ATTACHMENT: Revised Section 17-11.7
ORDINANCE NO. ____________


THE COUNCIL OF THE CITY OF PORTERVILLE DOES ORDAIN AS FOLLOWS:

A. That Section 17-11.7, Parking - Commercial Vehicles in Residential Districts (Ord. 1390 for whole Section), of the Code of the City of Porterville is hereby amended as follows:

Except as noted below, no person shall park any commercial vehicle having a manufacturer’s gross vehicle weight rating of 10,000 pounds or more, in whole or in part, on any roadway adjacent to any property zoned R-1, R-2, R-3, R-4, O-A or P-O in the City of Porterville. Such violation shall be an infraction.

Exceptions:

(a) While loading or unloading property. This exception shall apply only while such work is actually in progress and those in control of the vehicle are on the scene.

(b) While parked in connection with, and in the aid of, the performance of a service to or on a property in the block in which such vehicle is parked. This exemption shall apply only while such work is actually in progress and those in control of the vehicle are on the scene.

(c) When the vehicle has experienced mechanical failure along an authorized route of travel for such vehicles and only while repair or towing services are actually enroute to, or repairing/towing said vehicle. This exemption shall apply only while the person in control of the vehicle is on the scene. (Ord. 1390)
B. This ordinance and code amendment shall be in full force and effect thirty (30) days from and after its publication and passage.

________________________________________
Pedro R. Martinez, Mayor

ATTEST:
John Longley, City Clerk

________________________________________
By: Georgia Hawley, Chief Deputy City Clerk
CITY COUNCIL AGENDA: FEBRUARY 15, 2005

STAFF REPORT

TITLE:       AD ZONE SITE REVIEW 1-2005

SOURCE:     COMMUNITY DEVELOPMENT DEPARTMENT- PLANNING DIVISION

APPLICANT:  Gary Day
            Dayco Construction, Inc.
            881 W. Morton Avenue
            Porterville, CA 93257

PROJECT LOCATION: Generally on the northwest corner of South Newcomb Street and Hope Avenue (Porterville Airport).

SPECIFIC REQUEST: The applicant is requesting approval of an AD (Airport Development) Zone Site Review to allow for the construction of a 18,000 square foot metal building public parking and enclosed parking for Forest Service vehicles.

The 18,000 square foot metal building will contain offices, conference room and reception area. Access to the site will be off of South Newcomb Street. Public parking will be located at the front (east end), along the south side and west side of the proposed building. An enclosed (screened) parking area for Forest Service vehicles will be located along the north side of the building. The metal roof will have a greenish tint, and the building will consist of earth tone colors. The landscaped area is intended to give the site a mountain type atmosphere.

On February 2, 2005, the Porterville Parcel Map Committee by Resolution 491 approved a City initiated Tentative Parcel Map 1 - 2005, to divide a 12.33± acre vacant site as follows:

Parcel 1 - 2.85± acres   Remainder Parcel - 9.48± acres

The proposed 18,000 square foot building and parking area will be located on Parcel 1. Close of escrow for Parcel 1 is subject to recordation of a final parcel map. The applicant is anxious to obtain a building permit and proceed with the construction of the facility in order to meet Sequoia National Forest Service contract deadlines. In an effort to facilitate the applicant’s progress of the project, staff will work with the City Attorney to provide the appropriate language for a right of entry to allow construction while the property remains in escrow.
The site is within the AD/AS (Airport Development/Airport Safety Overlay) Zone. Within the AS Zone, there are six (6) types of aviation related zones to ensure safe operation of the airport. The subject site is within the H (Horizontal) Zone which imposes a 150 foot height limit. Notification of the proposed project has been sent to the FAA. Prior to issuance of a building permit, approval from the FAA will be required.

ENVIRONMENTAL: Pursuant to Section 15332 Class 32 (In-Fill Development Projects) of the California Environmental Quality Act, the proposed project is categorically exempt.

RECOMMENDATION: That the City Council:

1. Adopt the draft resolution with findings and conditions approving AD Zone Site Review 1-2005.

2. Authorize the Mayor to sign the right of entry or other document to facilitate construction while the property is in escrow as recommended by the City Attorney.

ATTACHMENT:

1. Complete Staff Report
CITY COUNCIL AGENDA: FEBRUARY 15, 2005

STAFF REPORT

TITLE: AD ZONE SITE REVIEW 1-2005

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT- PLANNING DIVISION

APPLICANT: Gary Day
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On February 2, 2005, the Porterville Parcel Map Committee by Resolution 491 approved a City initiated Tentative Parcel Map 1-2005, to divide a 12.33± acre vacant site as follows:

    Parcel 1 - 2.85± acres          Remainder Parcel - 9.48± acres

The proposed 18,000 square foot building and parking area will be located on Parcel 1. Close of escrow for Parcel 1 is subject to recordation of a final parcel map. The applicant is anxious to obtain a building permit and proceed with the construction of the facility in order to meet Sequoia National Forest Service contract deadlines. In an effort to facilitate the applicant’s progress of the project, staff will work with the City Attorney to provide the appropriate language for a right of entry to allow construction while the property remains in escrow.
The site is within the AD/AS (Airport Development/Airport Safety Overlay) Zone. Within the AS Zone, there are six (6) types of aviation related zones to ensure safe operation of the airport. The subject site is within the H (Horizontal) Zone which imposes a 150 foot height limit. Notification of the proposed project has been sent to the FAA. Prior to issuance of a building permit, approval from the FAA will be required.

GENERAL PLAN DESIGNATION: Industrial

SUBJECT SITE ZONING AND LAND USE: The site is within the AD/AS (Airport Development/Airport Safety Overlay) Zone. Within the AS Zone, there are six (6) types of aviation related zones to ensure safe operation of the airport. The subject site is within the H (Horizontal) Zone which imposes a 150 foot height limit. Notification of the proposed project has been sent to the FAA.

SURROUNDING AREA ZONING AND LAND USE:

NORTH: City AD-AS - Southern California Gas Company.
SOUTH: City AD-AS - Vacant site, Hope Avenue (entrance into the airport).
EAST: County - South Newcomb Street and a nursery.
WEST: City AD-AS - Remainder parcel and an airport related development.

ENVIRONMENTAL: Pursuant to Section 15332 Class 32 (In-Fill Development Projects) of the California Environmental Quality Act, the proposed project is categorically exempt.

STAFF ANALYSIS: The proposed development is consistent with the requirements of the AD/AS (Airport Development/Airport Safety Overlay) Zone, other Zoning Ordinance Sections and the Airport Master Plan.

Prior to issuance of a building permit, approval from the FAA will be required and Tentative Parcel Map 1-2005 shall be recorded.

ALTERNATIVES TO THE PROJECT AND THEIR EFFECT:

1. No project. Denial of the proposed use permit would not allow for the project as proposed to be developed.

2. Approve the project. Approval of the request would result in the applicants being conditionally allowed to develop the project as proposed.

DATE FILED FOR PROJECT REVIEW COMMITTEE PROCESSING: December 22, 2004

DATE ACCEPTED AS COMPLETE: December 30, 2004
RECOMMENDATION: That the City Council:

1. Adopt the draft resolution with findings and conditions approving AD Zone Site Review 1-2005.

2. Authorize the Mayor to sign the right of entry or other document to facilitate construction while the property is in escrow as recommended by the City Attorney.

ATTACHMENTS:

1. Locator map
2. Notice of Exemption
3. Draft Resolution of Approval (Site plan, floor plan, and elevations - Exhibit “A” of Approval Resolution)
NOTICE OF EXEMPTION

TO: Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

FROM: City of Porterville
291 North Main Street
Porterville, CA 93257

Sequoia National Forest Service
900 W. Grand Ave.
Porterville, CA 93257

X Tulare County Clerk
County Civic Center
Visalia, CA 93291

AD (Airport Development) Zone Site Review 1-2005.
Project Title

Generally the northwest corner of South Newcomb Street and Hope Avenue (Porterville Airport).
Project Location (Specific)

City of Porterville
Tulare
Project Location (City)
Project Location (City)

Approval of AD Site Review 1-2005 would allow for the construction of a 18,000 square foot metal building which will contain offices for the Forest Service, public parking and enclosed parking for the Forest Service vehicles.

Description of Nature, Purpose, and Beneficiaries of Project

City of Porterville
Name of Public Agency Approving Project

Sequoia National Forest Service, 900 W. Grand Avenue, Porterville, CA 93257
Name of Person or Agency Carrying Out Project

Exempt Status: (Check One)

— Ministerial (Section 15073)

— Declared Emergency (Section 15071 (a) )

— Emergency Project (Section 15071 (b) and (c) )

X Categorical Exemption. State type and section number: Section 15332

In-fill development.
Reasons why project is exempt

Bradley D. Dunlap, Community Development Director
Contact Person

If Filed by Applicant:

1. Attached certified document of exemption finding.

2. Has a Notice of Exemption been filed by the public agency approving the projected? Yes: ☐ No: ☰

Date Received for filing:

Signature
Community Development Director
Title

Un:NoticeExemptionADsite1-2005
RESOLUTION NO.________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF PORTERVILLE APPROVING AD ZONE SITE REVIEW 1-2005 TO ALLOW THE
CONSTRUCTION OF A 18,000 SQUARE FOOT METAL BUILDING, PUBLIC PARKING
AND ENCLOSED PARKING FOR FOREST SERVICE VEHICLES TO BE LOCATED
GENERALLY AT THE NORTHWEST CORNER OF SOUTH NEWCOMB STREET AND
HOPE AVENUE (PORTERVILLE AIRPORT)

WHEREAS: The City Council of the City of Porterville, at its regularly scheduled meeting
of February 15, 2005, considered AD Zone Site Review 1-2005 to allow for the construction of a
18,000 square foot metal building, public parking and enclosed parking for Forest Service vehicles
generally located at the northwest corner of South Newcomb Street and Hope Avenue (Porterville
Airport); and

WHEREAS: On February 2, 2005, the Porterville Parcel Map Committee by Resolution 491
approved a City initiated Tentative Parcel Map 1- 2005, to divide a 12.33± acre vacant site as
follows: Parcel 1 - 2.85± acres Remainder Parcel - 9.48± acres

The proposed 18,000 square foot building and parking area will be located on Parcel 1. In an effort
to facilitate the applicant’s progress of the project, staff will work with the City Attorney to provide
the appropriate language for a right of entry to allow construction while the property remains in
escrow.

WHEREAS: It is the determination of the Porterville City Council that the subject
development proposal as submitted by the applicant for the non-aviation oriented industrial building
is not likely to disrupt the balance of airport uses.

NOW THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville
does hereby approve Airport Development Zone Site Review 1-2005 subject to the following
conditions:

1. Prior to issuance of a building permit, approval from the FAA will be required.

2. The proposed construction will be required to comply with the standards for development
within the Airport Industrial Park.

3. Although precise calculations have not yet been made, the developer/applicant should be
aware that traffic impact fees will apply to this project. The current rate for Professional
Office development is $2,172 per 1,000 sq. ft. All development impact fees may be financed
for five years at 0% interest at the option of the developer/applicant.
4. A minimum of one tree for every thirty-five (35) linear feet of street frontage along the Newcomb Street property line and an automatic irrigation systems for all landscaping will be required.

5. The developer/applicant shall design and improve the parking lot in conformance with Section 2206 and 2211 (Exhibit A) of the Zoning Ordinance.

6. A loading space(s) is required to be provided in accordance with Section 2400 and 2401 of the Zoning Ordinance.


8. The developer/applicant shall pay all applicable fees in accordance with the Municipal Code and State law. The developer/applicant is hereby notified that you have the right to pay fees, dedications, reservations or other exactions, under protest, pursuant to Government Code Section 66020(a). You have 90 days from the date fees are paid to file a written protest.

9. The developer/applicant shall comply with Appendix Chapter 33 of the California Building Code including provision of a grading and drainage plan signed by a licensed civil engineer or architect. The developer/applicant shall comply with City Retaining Wall Standards (adopted by City Council January 3, 1989) at lot lines where such standards are applicable.

10. The developer/applicant shall construct and/or repair any curb, gutter, etc. along the full frontage of the parcel except where they exist and are in good condition in the opinion of the City Engineer (Ord. 1306).

11. The developer/applicant shall construct drainage facilities as required to serve the property (Ord. 1306).

12. The developer/applicant shall dedicate right-of-way for a street width that matches the ultimate width in the adopted Land Use and Circulation Element and/or the width established by the City Council and shall provide dedication of property required for disabled ramp(s). The City’s Circulation Element has designated Newcomb Street to be an arterial. An Irrevocable Offer of Dedication is an acceptable alternative.

13. The site plan shall reflect the planned Newcomb Street width of 84 feet. Current public improvements are consistent with collector street standards. Therefore, the widening of existing Newcomb Street improvements is not a requirement of this proposed development.
14. The developer/applicant shall relocate existing utility structures (e.g., poles, splice boxes, vaults, etc.) to a position that provides a minimum of four feet (4') of clear space in the sidewalk area and a minimum of two feet (2') of clear space from the curb face to the structure, unless they are below grade (Title 24 OSA).

15. The developer/applicant shall provide street lights on Marbelite poles complying with Southern California Edison Company specifications as approved by the City Engineer. Use of wood poles is prohibited without prior written approval of the City Engineer. 9500 lumen street lights shall be installed at 320 foot intervals along Newcomb Street, if none exist.

16. The developer/applicant shall, under City inspection, remove all existing abandoned and unnecessary items, to the satisfaction of the City Engineer, prior to the issuance of a certificate of occupancy (e.g., foundations, septic tanks, irrigation pipes, etc.).

17. The developer/applicant shall abandon existing wells, if any, after first obtaining an abandonment permit from the County Department of Environmental Health and shall provide the City Engineer with proof of compliance with County regulations prior to performing any grading or the issuance of a building permit, whichever comes first.

18. The developer/applicant shall comply with the City standard for "backflow" prevention pursuant to Resolution No. 9615.

19. The developer/applicant shall comply with Ordinance No. 1288 regarding Waste Water Discharge requirements and shall complete and submit the following:

   a. Wastewater Discharge Permit Application, Part “A”; and

      If monitoring is required, based on the responses to questions in Part “A” of the Wastewater Discharge Permit, then the developer/applicant shall complete and submit the remainder of the application along with the Permit Fee, and provide monitoring facilities to allow inspection, sampling, and flow measurement of the flows in the sewer and drainage system.

20. The developer/applicant shall construct the pipe connecting to on-site fire hydrant(s) to City water main standards and shall provide easements for maintenance of on-site fire hydrants.

21. The developer/applicant shall comply with City standard for "backflow" prevention pursuant to Resolution No. 9615.

22. The developer/applicant is hereby notified that the installation of an additional water meter servicing the irrigation system would be beneficial for monitoring actual water usage. The City will monitor actual water usage for one year and will bill the owner the impact fees based on the actual water usage.
23. The proposed office is considered a “B” occupancy. Upon submittal of a building permit the following will be required:
   a. Submit three (3) complete sets of plans, signed by a licensed Architect or Engineer, to include two (2) sets of energy calculations and structural calculations.
   b. Compliance with access laws (both State and Federal) is required.
   c. Compliance with all applicable codes is required.
   d. Plan check fees are required at the time of building permit submittal.
   e. Soils compaction test will be required.
   f. School Development fees and all other City fees are due at the time of building permit issuance.
   g. Signs require a separate permit.
   h. The developer/applicant shall pay all applicable fees according to the Municipal Code and State Law.

24. Comply with latest applicable codes.

25. When a fire sprinkler system is required, all valves controlling the water supply for automatic sprinkler systems and water-flow switches on all sprinkler systems shall be electrically monitored where the number of sprinklers are:
   a. Twenty or more in Group I, Divisions 1.1 and 1.2 Occupancies.
   b. One hundred or more in all other occupancies.

26. Submit 2 complete sets of sprinkler and/or fire alarm plans to Fire Department for review prior to installation.

27. When any portion of the building to be protected is in excess of 150 feet from a water supply on a public street, there shall be installed on-site fire hydrants capable of supplying the required flow.

28. Depending on the location of the existing fire hydrant(s), additional fire hydrants will be required. Hydrants must be installed in locations approved by the Fire Department.

29. Fire hydrants spacing shall be as follows: In Commercial development, one hydrant shall be installed at every 300 feet intervals.

30. The City will test and maintain all fire hydrants in the City whether on private property or not. An "easement" is required from the owner.
31. Project must meet minimum fire flow requirements per table in appendix III-A & III-B of the California Fire Code. The required fire flow for this project as proposed is 4,000 GPM. An allowance in reduction will be granted for this project if a fully automatic sprinkler system is installed. An allowance of 50% in fire flow will be given.

32. Areas identified as “Fire Lanes” must be identified as such by red painted curbs and identified per requirements set forth in the California Vehicle Code Sec. 22500.1.

33. A Knox box will be required for the building. A Knox override will be required for the gate. Application may be obtained from the Fire Department.

34. Emergency access to all exterior areas of the building must be provided.

35. The developer/applicant shall install a refuse container enclosure according to City standards. Enclosure location to be approved by City prior to issuance of building permit. The developer/applicant shall also sign a waiver of liability for refuse truck damage to the parking lot if the refuse container location requires refuse trucks to travel on the parking lot.

36. At all times, the facility shall be operated and maintained to comply with State Law, the City of Porterville Zoning Ordinance, adopted Building Codes and all other applicable laws and ordinances.

37. That the site will be developed pursuant to the site plan, elevation and floor plans (EXHIBIT "A").

__________________________
Pedro R. Martinez, Mayor

ATTEST:
John Longley, City Clerk

__________________________
Georgia Hawley, Chief Deputy City Clerk
CITY COUNCIL AGENDA: FEBRUARY 15, 2005

SUBJECT: REQUEST TO SCHEDULE A STUDY SESSION TO DISCUSS VARIOUS PENDING GENERAL PLAN AMENDMENTS

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: Over the past several months the City has received applications for a number of unrelated General Plan Amendments (GPA). On November 17, 2004, the majority of the pending GPA’s were presented to the Council for an update and to determine whether it was advisable to prioritize the GPA’s, combine any of them, and/or to defer any of the proposals to the comprehensive update the City is currently embarking on.

At the November 17, 2004, meeting the Council provided direction to Staff regarding certain GPA’s and requested that Staff bring the matter back to the Council in the form of a study session for further discussion.

RECOMMENDATION: That the City Council set a study session to discuss the processing of proposed General Plan Amendments.
SUBJECT: REQUEST FOR SPECIAL FIREWORKS PERMIT

SOURCE: FIRE DEPARTMENT

COMMENT: On May 1, 2001, the City Council did adopt Ordinance No. 1601 revising Chapter 12, Article II, Fireworks, to allow for the sale of Safe and Sane Fireworks within the City of Porterville. At the March 19, 2002 City Council meeting, Council determined that eligible non-profit organizations may be instrumental in presenting the public fireworks displays for the benefit of the community as a whole. The Exchange Club of Porterville guaranteed all proceeds from their fireworks sale would be used to conduct a public fireworks display at minimum cost to the public in exchange for an eleventh (11) permit outside the regular lottery process.

For Calendar Year 2002, 2003, and again in 2004, the City Council authorized the Exchange Club of Porterville to participate in the sale of safe and sane fireworks within the City of Porterville as the eleventh (11) permitted organization.

The Exchange Club of Porterville has a long history of supporting and conducting the 4th of July fireworks show at Jamison Stadium. The Exchange Club of Porterville has secured Jamison Stadium for this year’s public fireworks show and is again requesting the issuance of a special fireworks permit for Calendar Year 2005.

RECOMMENDATION: That the City Council approve the request for a special fireworks permit to the Exchange Club of Porterville for Calendar Year 2005, give First Reading to the draft ordinance, and order it to print.

ATTACHMENT: 1 - Draft Ordinance
2 - Letter from Bill Graves, Board Member Exchange Club of Porterville
ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
PORTERVILLE AMENDING CHAPTER 12, ARTICLE II,
FIREWORKS, OF THE PORTERVILLE MUNICIPAL CODE

Whereas, on May 1, 2001, the City Council did adopt Ordinance No. 1601 revising Chapter 12,
Article II, Fireworks, to allow for the sale of Safe and Sane Fireworks within the City of Porterville; and

Whereas, The City Council has determined that eligible non-profit organizations may be instrumental
in presenting the public fireworks displays for the benefit of the community as a whole; and

Whereas, the City Council has determined that for Calendar Year 2005 the Exchange Club of
Porterville shall be granted a permit without participation in the lottery;

THEREFORE THE CITY COUNCIL OF THE CITY OF PORTERVILLE DOES ORDAIN AS
FOLLOWS:

Section 1. For Calendar Year 2005, the following eligible organization shall be granted a permit to sell
safe and sane fireworks, in addition to those permits issued by the lottery pursuant to Section
12.2.5., within the City of Porterville:

The Exchange Club of Porterville

This organization must adhere to all other rules and requirements set forth in Chapter 12,
Article II, in order to receive their permit.

Section 2. This ordinance shall be in full force and effect thirty (30) days from and after its publication
and passage.

_____________________________
Pedro R. Martinez, Mayor

ATTEST:

John Longley, City Clerk

By_________________________
Georgia Hawley, Deputy
January 24, 2005

Fire Chief Frank Guyton  
40 West Cleveland  
Porterville, CA 93257

Dear Chief Guyton:

The Exchange Club of Porterville is requesting that the City of Porterville give us a special permit to have the 11th booth to sell fireworks according to City Ordinance 12.2.4.1.

The Exchange Club of Porterville agrees to comply with all rules and regulations pursuant to Chapter 12.

All proceeds from the sale of the fireworks will go towards the expenses in producing the annual fireworks show at Jamison Stadium on July 4, 2005.

Please call me if you have any questions: 539-0715.

Very truly yours

Bill Graves
Fireworks Program Chairman
Board Member
COUNCIL AGENDA - FEBRUARY 15, 2005

SUBJECT: DISCUSSION ON INTERSECTION DESIGN STANDARDS

SOURCE: City Manager

COMMENT: A member of the Council has requested a discussion on intersection design standards to be held at this meeting.

RECOMMENDATION: As directed by Council.
SUBJECT: UPDATE ON BAT HOUSE PROJECT

SOURCE: City Manager

COMMENT: On January 18, 2005, the City Council directed staff to allocate $1,000 from the City Council’s budget for the purchase of materials to produce bat houses. Staff was directed to coordinate the charitable contribution of materials and labor. Attached is a memo from Council Member Richard Stadtherr setting forth the progress that has been made on this project.

RECOMMENDATION: For Council information, no action required.

Attachment: February 7, 2004 Memo from Richard Stadtherr Re: Update on Bat House Project
interoffice memo

Date: 2/7/2005
To: Mayor and City Council
Cc: City Manager
From: Richard Stadtherr
RE: Update on bat house project

Funding: In addition to the $1,000 approved by the Council we have received private donations and pledges of donations totaling $535.00

Participating Organizations: In addition to the Porterville Sheltered Workshop (construction facilities) we have received offers to provide volunteer labor by the Porterville Breakfast Lions, the Porterville Leadership Class of 2005 and the California Department of Forestry Explorer Scouts.

Participating Vendors: Home Depot has agreed to provide most of the major materials at a price less than retail. Wally's Hardware is providing the balance of the construction materials. Southern California Edison has agreed to provide and install surplus utility poles on which the houses can be mounted.

Important Dates:

February 12: Cutting and milling of all house components 8:00 a.m.
February 18: Press event 10:00 a.m. (press unable to come Saturday 2/19)
February 19: Construction and painting of houses 8:00 a.m.

All three events will take place at the Porterville Sheltered Workshop facilities at 1900 S. Newcomb, across from the Porterville Municipal Airport.