CITY COUNCIL AGENDA
PORTERVILLE, CALIFORNIA
MARCH 1, 2005 6:00 P.M.

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 Section 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

Pledge of Allegiance Led by Council Member Kelly West
Invocation

PRESENTATION
Employee of the Month - Mark Azevedo

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 8, 2005

2. Budget Adjustments for the 2004/2005 Fiscal Year
   Re: Approval of budget adjustments increasing the revenue estimates and appropriations in the General Fund by $1,000 to account for donation received from the Rotary Club for Literacy; and by $125,250 to account for grant award of the Pedestrian Safety Program Grant for lighted crosswalks.

3. Authorization to Accept Donated and Discount Priced Materials and Services Arranged by Home Depot for Centennial Plaza
   Re: Accepting donated and discount priced materials and services arranged by Home Depot for the project.
4. **Authorization to Advertise for Bids - Lighted Pedestrian Crossings**
   Re: Approving the Plans and Project Manual for installation of lighted crossings where the Rails to Trails
   Project intersects Olive Avenue, Putnam Avenue, Morton Avenue and Henderson Avenue.

5. **Authorization to Advertise for Bids - Water Main (F - Gibbons - Main) Project**
   Re: Approving the Plans and Project Manual for installation of water main and related appurtenances in
   the area generally located at “F” Street, Gibbons Avenue and Main Street for connection to Well No. 28.

6. **Authorization to Advertise for Bids - Putnam Reconstruction Project**
   Re: Approving the Plans and Project Manual for lowering the “hump” of roadway where the former Tulare
   Valley Railroad Company rails cross Putnam Avenue between Henrahan Street and Fourth Street.

7. **Authorization to Negotiate Contract for On-Call Consultant for Preparation of Grant Applications**
   Re: Authorizing staff to negotiate a contract with Applied Development Economics of Berkeley for on-call
   consulting services for feasibility studies and grant applications for an Airport Industrial Park Business
   Services Center.

8. **Acceptance of the Porter Slough Ditch Piping Project**
   Re: Accepting the project from Halopoff & Sons, Inc. of piping the Porter Slough Ditch, generally located
   on south side of Henderson Avenue between Mathew Street and Patsy Street.

9. **Approval of Relocation Plan For Property Located at APN 245-040-017 - Owner Manuel A. Galvez -
    Henderson Avenue Street Project**
   Re: Approving relocation plan to complete purchase of right of way property.

10. **Resolution Rescinding Resolution No. 3-3-2005, Re-Authorizing the Objection to Sale of Tax Defaulted
    Properties, and the Execution of an Agreement with the County of Tulare to Purchase Tax-Defaulted
    Properties with a Revised Exhibit “A.”**
    Re: Approving revisions to the Agreement with Tulare County for the purchase of tax-defaulted properties
    to remove properties whose owners have since redeemed their taxes thereby avoiding tax sale, and removing
    those properties that have been deemed unsuitable as potential water well sites.

11. **Amendments to Employee Pay and Benefit Plan, Employee Benefit Trust Fund, Employee Retirement
    System, 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 Porterville Police Officers’ Association (“PPOA”) pertaining to wages, benefits,
    and working conditions.

12. **Renewal of Personnel Examining Services Contract between the City of Porterville and Cooperative
    Personnel Services**
    Re: Approving contract renewal with Cooperative Personnel Services (“CPS”) of Sacramento for evaluative
    testing tools for the personnel screening and selection process.

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

**PUBLIC HEARING**

13. **Zone Change 7-2004 (Ennis) (A Change of Zone from R-1 to R-3 and R-1 to R-2 for Separate Portions of
    21.05± Acres Generally Located at the Southwest Corner of Henderson Avenue and Newcomb Street)**
    Re: Adopting draft resolution approving a Negative Declaration and adopting draft ordinance approving
    Zone Change 7-2004.
SECOND READINGS
14. Ordinance 1661, Concerning the Use of Skateboards
   Re: Adopting the Ordinance placing additional restrictions and enforcement remedies on the use of
   skateboards within the City.

15. Ordinance 1662, Peddlers, Solicitors and Canvassers (Door-to-Door Sales)
   Re: Adopting the Ordinance repealing Chapter 8 of the City’s regulations and replacing it with new
   provisions regulating peddlers, solicitors, and canvassers.

16. Ordinance 1663, Parking - Commercial Vehicles in Residential Districts
   Re: Adopting the Ordinance revising Traffic Ordinance 1162, 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.

17. Ordinance 1664, Special Fireworks Permit
   Re: Adopting the Ordinance approving the special fireworks permit for the Exchange Club of Porterville
   for Calendar Year 2005.

SCHEDULED MATTERS
18. Legislative Invocations
   Re: Consideration and discussion of options for legislative invocations.

19. Interpretation of Ambiguity - Mobile, Temporary and Permanent Structures
   Re: Proposing statements of interpretation addressing: permanent commercial buildings with exceptions
   for food vending booths and approved temporary buildings; non-standard development as accessory use;
   time limit requirement and development standards for non-standard development; temporary building
   permits; and Conditional Use Permits for street vending.

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 15, 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.
PORTERVILLE CITY COUNCIL MINUTES
ADJOURNED MEETING - FEBRUARY 8, 2005
CITY HALL CONFERENCE ROOM
6:00 P.M.

Roll Call: Council Member West, Mayor Pro Tem Irish, Council Member Hamilton, Council Member Stadtherr, Mayor Martinez

Pledge of Allegiance by Council Member West
Invocation by Mayor Martinez

ORAL COMMUNICATIONS
_____None

SCHEDULED MATTER
1. STUDY SESSION FOR CONSIDERATION OF MODIFICATIONS TO CITY COUNCIL PROCEDURAL HANDBOOK

Recommendation: That the City Council:

1. Review the proposed modifications;
2. Provide direction to staff regarding any additional modifications; and
3. Direct staff to prepare a draft resolution amending the City Council Procedural Handbook for Council’s review and bring the item back to Council.

Mayor Martinez opened up the discussion and questioned whether anyone had any specific questions or comments as to the Handbook.

City Manager John Longley referred Council to Page 13, Section VIII - Conflict of Interest, A (2) Disqualification of Participation (Conflict of Interest). He questioned whether the reference to 2,500 feet should actually read “500 feet.”

City Attorney Julia Lew confirmed that the standard was actually 500 feet, but that the Council could increase the distance to 2,500 feet if it chose to. It was then discussed that the “2,500 feet” might have been a typographical error, or merely outdated. It was then agreed that the figure should be changed to 500 feet.

Mayor Martinez requested that all references to Council Members be changed so they are not gender specific, pointing to the “he” and “his” references in that same paragraph. He suggested that references such as “he” be changed to “he/she,” or “his” be changed to “his/her.”

A discussion then ensued regarding Section I - Meetings of Council, Subsection D - Order of Business. It was confirmed that this Section would need to be updated in the event changes were made pertaining to the Invocation portion of the meeting. Mr. Longley suggested that there was likely an ordinance or resolution that would also need to be changed.
City Attorney Julia Lew pointed out that another option would be to remove the Order of Business in its entirety from the Handbook. Ms. Lew then reviewed the City Code and confirmed that the Code stated that the “order of business shall be established by resolution.” She suggested that the resolution could provide for some flexibility. It was then pointed out that a discussion as to the invocation portion of the order of business would take place during Closed Session.

As to Page 8, Section IV - Council Member Requests to Staff, Subsection C, Mayor Pro Tem Irish requested clarification as to how Council should proceed, particularly with constant concerns regarding staff time. He suggested that if a Council Member wished to add an item to the Agenda, the Council Member should bring the item up during the Other Matters segment of a Council Meeting. It was pointed out that currently, if the request was presented to the City Manager on the Monday a week prior to the Council Meeting, the requested item would be placed on the Agenda. It was discussed and decided that this procedure would remain in effect, however, the Council would as a common courtesy propose the item during the Other Matters portion of a Council Meeting so as to inform the other Council Members of his intent.

City Manager John Longley clarified that he understood that Council did not wish to change the Handbook, but that each would agree as a courtesy to bring the item up at a Council Meeting. However, Mr. Longley pointed out that if pressed, he would be required to place an item on the Agenda if such request had been submitted pursuant to the procedure set forth in the Handbook. The Council Members acknowledged that to be the case.

Mayor Pro Tem Irish next referred everyone to Page 17, Section IX - General Items, and suggested that the Council consider adding a standardized form for use in evaluating both the City Manager and the City Attorney. He stated that this would assist the Council in the evaluation process. It was pointed out that determining the proper content of the form might constitute somewhat of a process, which would delay the adoption of the Handbook. In order to avoid such delay, it was determined that language referencing an Appendix to be added later could be included at the end of Section IX.

Mayor Martinez referred everyone to Page 6, the last paragraph in Section III (A)(3). He pointed out that technically, the reference to “any one else” meant that a Council Member could request that an excessive amount of copies of an informational item be generated and distributed to any number of people, which was not a good use of staff time. He suggested that “anyone else” be changed to limit its scope. After a discussion on who should be copied, it was determined that “anyone else” would be stricken and replaced with “…to the other Council Members and the City Manager or other Directors…”

A discussion then ensued as to each Council Member’s rights to respond to a constituent’s letter as a Council Member. City Attorney Julia Lew pointed out that each Council Member needed to be careful when responding so as not to give the appearance of responding on behalf of the City, rather than responding as an individual Council Member. She emphasized however that this type of correspondence should not be stifled in anyway.
Mayor Martinez next pointed to Page 9, Section V(B) and questioned whether the reference to “written communication” needed to be removed since that segment of the Council Meetings had been removed. It was determined that since the Council still received written communications, that language should remain.

Mayor Pro Tem Irish referred everyone to Page 16, Section IX(B), and questioned if the compensation of $30 per every Redevelopment Meeting had been set forth in the Charter or by resolution. City Attorney Julia Lew clarified that the compensation had likely been set forth by resolution, and that it was not included in the Charter.

City Manager John Longley summarized the changes to the Handbook to be as follows:

1. Page 6, “anyone else” should be stricken and replaced with “to the other Council Members and the City Manager or Department Directors...”;
2. Page 13, “2,500 feet” should be changed to “500 feet”; and
3. Page 17, an Appendix containing an standardized evaluation form for the City Manager and the City Attorney should be referenced to be added at a later date.

Council Member Hamilton pointed to Page 14, Section VIII and questioned whether $2,000 was the current amount in determining if a conflict of interest existed. Mr. Longley requested that Ms. Lew review the Section to ensure it complied with the current requirements of the State Code. A discussion then ensued during which it was pointed out that the FPPC was the body that enforced the Political Reform Act, which was State law.

On Page 1, Mayor Martinez suggested that Paragraph 2 of Section I(A) should be removed as being redundant. He pointed out that since the time and place of regular meetings had been set out by ordinance – as stated in the first paragraph of Section I – it need not be set out again in Section I(A)(2). It was agreed that Section I(A), Paragraph 2 would be removed from the Handbook. A discussion then ensued as to the limitations – pursuant to the Code – of Council’s ability to hold Council Meetings at locations other than City Hall.

Mr. Longley noted for the record that he understood the Council had decided on the following changes:

1. Page 6, “anyone else” should be stricken, and replaced with “to the other Council Members and the City Manager or Department Directors...”;
2. Page 13, “2,500 feet” should be changed to “500 feet”;
3. Page 17, an Appendix containing an standardized evaluation form for the City Manager and the City Attorney should be referenced to be added at a later date; and
4. Page 1, Section I(A), Paragraph 2 should be stricken.

The Council convened to Closed Session at 7:05 p.m.
CLOSED SESSION:
2. Closed Session Pursuant to 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.

The Council reconvened at 7:45 p.m. with no action to report.

ADJOURNMENT
The Council adjourned to the meeting of February 15, 2005, 6:00 p.m.

__________________________________________

Patrice Hildreth, Deputy City Clerk

SEAL

__________________________________________

Pedro R. Martinez, Mayor
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.
<table>
<thead>
<tr>
<th>FUND</th>
<th>NO.</th>
<th>DESCRIPTION</th>
<th>FUNDING SOURCE</th>
<th>DOLLAR AMOUNT</th>
<th>REVISED EDOY FUND CASH BALANCE</th>
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<tbody>
<tr>
<td>General Fund</td>
<td>30</td>
<td>Increase the revenue estimate in the Geneal Fund to account for a donation received from the Rotary Club of Porterville for Literacy.</td>
<td>Rotary Club of Porterville Donation</td>
<td>$1,000</td>
<td>$1,119,838</td>
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<tr>
<td>General Fund</td>
<td>31</td>
<td>Increase the appropriation in the Library Budget to allow for the expenditure of donations to the Literacy program from Rotary Club of Porterville.</td>
<td>Rotary Club of Porterville Donation</td>
<td>$1,000</td>
<td>$1,118,838</td>
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<td>General Fund</td>
<td>32</td>
<td>Increase the revenue estimate in the General Fund to account for the grant award of the Pedestrian Safety Program Grant.</td>
<td>Cal Trans Pedestrian Safety Grant</td>
<td>$125,250</td>
<td>$1,244,088</td>
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<tr>
<td>General Fund</td>
<td>33</td>
<td>Increase the appropriation in the General Fund to allow for the expenditure of the Pedestrian Safety Program Grant for lighted crosswalks.</td>
<td>Cal Trans Pedestrian Safety Grant</td>
<td>$125,250</td>
<td>$1,118,838</td>
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</table>
SUBJECT: AUTHORIZATION TO ACCEPT DONATED AND DISCOUNT PRICED MATERIALS AND SERVICES ARRANGED BY HOME DEPOT FOR CENTENNIAL PLAZA

SOURCE: Parks & Leisure Services Department

COMMENT: Home Depot, through the local store Manager, Mr. Brandon Wright, has offered to assist with the construction efforts for Centennial Plaza. They have indicated that donated labor, donated rental of equipment, and materials provided without retail price markup will all be made available to the project. Local store staff have utilized the construction plans to compile material lists, and have discussed the materials needs with suppliers.

The City has $20,000 currently available from monetary donations received from the Breakfast Rotary Club and the Bank of the Sierra. The exact cost of materials is still being assembled as Home Depot works with suppliers for further discounts or donations. The worse case projection of cost for the irrigation system, electrical conduits, and sod is estimated at $13,000. Cost information for the performance stage foundation is also yet to be determined, but is believed to be in the range of $15,000. Other cost items, such as the construction fencing and landscape materials, could approach $10,000.

Staff wishes to keep the project moving forward by utilizing the donations and discount priced materials supplied through Home Depot. Priority efforts are being given to the underground systems and turf. The second priority will be for the performance stage foundation, with the trees and shrubbery being the third priority. Efforts to obtain further sponsorships are ongoing.

RECOMMENDATION: Authorize the acceptance of donated and discount priced materials and services arranged by Home Depot for the Centennial Plaza project in an aggregate amount of expenditure not to exceed the donated funds available.

ITEM NO.: 3
SUBJECT: AUTHORIZATION TO ADVERTISE FOR BIDS - LIGHTED PEDESTRIAN CROSSINGS

SOURCE: Public Works Department - Engineering Division

COMMENT: The Plans and Project Manual have been prepared for the installation of lighted pedestrian crossings where the Rails to Trails Project intersects Olive Avenue, Putnam Avenue, Morton Avenue and Henderson Avenue. The trail alignment follows the old Tulare Valley Railroad between Henrahan Street and Fourth Street.

LED flashing yellow lights will be installed on the pavement at intervals not to exceed eight (8) feet along each side of a painted crosswalk. These lights are activated by a manual push button or an automatic activation system, alerting motorists that the crosswalk is in use. The automatic activation system includes bollards with sensor circuitry placed on each side of the trail. The Plans and Project Manual are available for review in the Public Works Department - Engineering Division.

The Lighted Pedestrian Crossings are funded by a State of California Pedestrian Safety Program Grant with no local fund matching requirements. The total grant amount is $125,250 and these funds are to be spent by October 1, 2005.

Due to the escalating cost of construction materials, staff has determined that the grant will not fully fund all of the intersections. Staff has prepared a unique bidding package that will allow some flexibility when executing the contract. The Bid Proposal includes two (2) Base Bid Proposals, Base Bid Proposal “A” with an add Alternate Bid (A-1) and Base Bid Proposal “B”, with two add Alternate Bids (B-1 & B-2).

Base Bid Proposal “A” includes the crossings at Olive Avenue, Morton Avenue and Henderson Avenue, and asks for solar powered crossings that are manually activated. The add alternate for this Base Bid Proposal is Putnam Avenue and will be constructed if funding is available. The Estimate of Probable Cost for Base Bid Proposal “A” is $108,570.

Base Bid Proposal “B” includes the crossings at Morton Avenue and Henderson Avenue, and asks for solar powered crossings that are automatically activated when pedestrians interrupt the infrared beam transmitted between bollards on each side of the trail. The add alternates for the Base Bid Proposal are B-1) Olive Avenue and B-2) Putnam Avenue, and will be awarded in the order listed, to the extent that budgeted funds will allow. The Estimate of Probable Cost for Base Bid Proposal “B” is $93,786.

Dir Appropriated/Funded Item No. 4
Spreadsheets for both estimates are attached for Council’s review.

Staff is working on a separate project that will lower Putnam Avenue, where the Rails to Trails route intersects with the street. By eliminating the "hump," this project will create a safer crossing for both motorists and pedestrians.

In addition, by lowering Putnam Avenue, east bound motorists will have a better view of the flashing LED lights. The "Putnam Avenue Street Lowering" project will run concurrently with the Lighted Pedestrian Crossing Project. If the bids are favorable, the alternate bid for Putnam Avenue will be awarded and installed after the Putnam Avenue crossing is lowered.

RECOMMENDATION: That City Council:

1. Approve the Plans and Project Manual; and
2. Authorize staff to advertise for bids on the project.

ATTACHMENTS: Locator Map
               Engineer’s Estimate
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TOTAL | $108,570.00

CERTIFICATION:

[Signatures and dates]
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<th>UNIT PRICE</th>
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<td>A-1 ALTERNATE BID TOTAL</td>
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Project Manager: [Signature] 2/23/05
Public Works Dir.: [Signature] 2/23/05
City Manager: [Signature] 2/4/05
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<td>Powered Pedestrian Crossing including striping, signs and all other incidental items of work shown on the construction plans @ Morton Ave. (Fully Automated)</td>
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<td>TOTAL</td>
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CERTIFICATION:

Project Manager: [Signature] 2/3/05

Public Works Dir.: [Signature] 2/3/05

City Manager: [Signature] 2/3/05
## LIGHTED PEDESTRIAN CROSSING

Estimate of Probable Cost
Alt. Base Bid Proposal "B-1"

<table>
<thead>
<tr>
<th>ITEM</th>
<th>QTY.</th>
<th>UNIT</th>
<th>DESCRIPTION</th>
<th>UNIT PRICE</th>
<th>MARKUP</th>
<th>AMOUNT</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>1</td>
<td>L.S.</td>
<td>Installation of Solar Powered Pedestrian Crossing including striping, signs and all other incidental items of work shown on the construction plans @ Olive Ave. (Fully Automated)</td>
<td>$33,495.00</td>
<td>1.4</td>
<td>$46,893.00</td>
</tr>
</tbody>
</table>

**B-1 ALTERNATE BID TOTAL**

$46,893.00

---

**CERTIFICATION:**

*Michael Kildow*  2/23/05  
Project Manager  Date

*B. Rodriguez*  2/23/05  
Public Works Dir.  Date

*City Manager*  2/25/05  
Date
<table>
<thead>
<tr>
<th>ITEM</th>
<th>QTY.</th>
<th>UNIT</th>
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<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1</td>
<td>L.S.</td>
<td>Installation of Solar Powered Pedestrian Crossing including striping, signs and all other incidental items of work shown on the construction plans @ Putnam Ave. (Fully Automated)</td>
<td>$33,485.00</td>
<td>1.4</td>
<td>$46,893.00</td>
</tr>
<tr>
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<td></td>
<td></td>
</tr>
</tbody>
</table>

B-2 ALTERNATE BID TOTAL

$46,893.00

CERTIFICATION:
Project Manager: Rodriquez, 2/23/05
City Manager: 2/26/05
SUBJECT: AUTHORIZATION TO ADVERTISE FOR BIDS - WATER MAIN (F ST.-GIBBONS AVE. - MAIN ST.) PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: The Plans and Project Manual have been prepared for the Water Main (F St.-Gibbons Ave. - Main St). Project. The project consists of the installation of approximately 1,635 lineal feet of 16-inch water main, 717 lineal feet of 12-inch water main and related appurtenances in “F” Street, Gibbons Avenue and Main Street. The purpose of the project is to connect Well No. 28, which is currently under construction, to the City’s water system.

The Plans and Project Manual are available for review in the Public Works Department - Engineering Division.

The estimated probable cost for this project is $209,236. Funding was approved in the 04/05 Annual Budget from Water Replacement funds.

Recommendation: That City Council:

1. Approve the Plans and Project Manual; and

2. Authorize staff to advertise for bids on the project.

Attachment: Locator Map
Engineer’s Estimate

P:\pub\works\Engineering\Council Items\Authorization to Advertise for Bids - Water Main [F-Gibbons-Main].wpd

Item No. 5
<table>
<thead>
<tr>
<th>Item</th>
<th>Quantity</th>
<th>Description</th>
<th>Unit Cost</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1652</td>
<td>16&quot; Class 165 PVC (AWWA C-905) or Class 50 Ductile Iron Pipe, including Tracing Wire</td>
<td>$46</td>
<td>$75,992.00</td>
</tr>
<tr>
<td>2</td>
<td>724</td>
<td>12&quot; Class 150 PVC (AWWA C-900) or Class 50 Ductile Iron Pipe, including Tracing Wire</td>
<td>$41</td>
<td>$29,684.00</td>
</tr>
<tr>
<td>3</td>
<td>7</td>
<td>16&quot; Gate Valve</td>
<td>$2,250</td>
<td>$15,750.00</td>
</tr>
<tr>
<td>4</td>
<td>3</td>
<td>12&quot; Gate Valve</td>
<td>$1,800</td>
<td>$5,400.00</td>
</tr>
<tr>
<td>5</td>
<td>2</td>
<td>16&quot; x 12&quot; Tee</td>
<td>$1,500</td>
<td>$3,000.00</td>
</tr>
<tr>
<td>6</td>
<td>1</td>
<td>16&quot; Cross</td>
<td>$1,850</td>
<td>$1,850.00</td>
</tr>
<tr>
<td>7</td>
<td>1</td>
<td>12&quot; Tapping Sleeve &amp; Valve</td>
<td>$3,600</td>
<td>$3,600.00</td>
</tr>
<tr>
<td>8</td>
<td>1</td>
<td>12&quot; Hot Tap</td>
<td>$2,000</td>
<td>$2,000.00</td>
</tr>
<tr>
<td>9</td>
<td>1</td>
<td>12&quot; Blow Off Assembly per City Std. Plan W-5</td>
<td>$3,500</td>
<td>$3,500.00</td>
</tr>
<tr>
<td>10</td>
<td>2376</td>
<td>Trench Patch</td>
<td>$22.5</td>
<td>$53,460.00</td>
</tr>
<tr>
<td>11</td>
<td>L.S.</td>
<td>Traffic Control</td>
<td>$10,000</td>
<td>$10,000.00</td>
</tr>
<tr>
<td>12</td>
<td>L.S.</td>
<td>All Other Appurtenant Construction Items Shown on the Plans and not included in Bid Items 1 through 11</td>
<td>$5,000</td>
<td>$5,000.00</td>
</tr>
</tbody>
</table>

**TOTAL**                                                                 $209,236.00

**CERTIFICATION:**  

**Michael L. Reed**  
Project Manager/City Engineer  

**B. Rodriguez**  
Public Works Director  

**J.**  
City Manager  

**Date**

2/23/05  

2/23/05  

2/24/05
COUNCIL AGENDA: MARCH 1, 2005

SUBJECT: AUTHORIZATION TO ADVERTISE FOR BIDS - PUTNAM AVENUE RECONSTRUCTION PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: The Plans and Project Manual have been prepared for the Putnam Avenue Reconstruction Project. There is a raised section ("hump") of roadway where the former Tulare Valley Railroad Company rails crossed Putnam Avenue between Henrahan Street and Fourth Street. The project will lower the "hump" which will create a safer crossing for motorists and a safer crossing for pedestrians who will utilize the Rails to Trails and the lighted pedestrian crossing.

In addition, by lowering Putnam Avenue, east bound motorists will have a better view of the flashing LED lights. The "Putnam Avenue Street Lowering" project will run concurrently with the Lighted Pedestrian Crossing Project.

The project also includes the removal of railroad rails, arms, poles, curb, gutter, sidewalk, disabled ramps and other items necessary for the proper connection of the Rails to Trails project to each side of the road. New improvements include disabled ramps, curbs, gutters and new street structural section.

The Estimate of Probable Cost for this project is $28,471.28.

RECOMMENDATION: That City Council:

1. Approve the Plans and Project Manual; and

2. Authorize staff to advertise for bids on the project.

ATTACHMENTS: Locator Map
Estimate of Probable Cost

P:\putworks\Engineering\Council Items\Authorization to Advertise for Bids - Rails to Trails - Putnam Ave. Reconstruction Project.wpd

Dir Appropriated/Funded CM Item No. 10
<table>
<thead>
<tr>
<th></th>
<th></th>
<th>Description</th>
<th>Rate 1</th>
<th>Rate 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>113</td>
<td>C.Y. Roadway Excavation Including Saw Cutting and other Incidental items of work shown on the plans</td>
<td>$28.75</td>
<td>$3248.75</td>
</tr>
<tr>
<td>2</td>
<td>981</td>
<td>S.F. Concrete Removal</td>
<td>$2.30</td>
<td>$2,256.30</td>
</tr>
<tr>
<td>3</td>
<td>1</td>
<td>L.S. Removal of Existing Railroad Rails, Arms/Poles, R.R. Utility Box &amp; 6&quot; S.D. Pipe</td>
<td>$5,750.00</td>
<td>$5,750.00</td>
</tr>
<tr>
<td>4</td>
<td>122</td>
<td>L.F. Saw Cutting Existing AC Paving &amp; Concrete</td>
<td>$2.30</td>
<td>$280.60</td>
</tr>
<tr>
<td>5</td>
<td>75</td>
<td>L.F. Install Curb &amp; Gutter</td>
<td>$23.00</td>
<td>$1,725.00</td>
</tr>
<tr>
<td>6</td>
<td>75</td>
<td>L.F. Install Concrete Sidewalk</td>
<td>$5.75</td>
<td>$431.25</td>
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<tr>
<td>7</td>
<td>1</td>
<td>Ea. Install Concrete Drive Approach</td>
<td>$575.00</td>
<td>$575.00</td>
</tr>
<tr>
<td>8</td>
<td>2</td>
<td>Ea. Install Curb &amp; Handicap Ramps</td>
<td>$2,875</td>
<td>$5,750.00</td>
</tr>
<tr>
<td>9</td>
<td>35</td>
<td>C.Y. Asphalt Concrete</td>
<td>$60.18</td>
<td>$2,106.28</td>
</tr>
<tr>
<td>10</td>
<td>69</td>
<td>C.Y. Class II Aggregate Base</td>
<td>$92.00</td>
<td>$6,348.00</td>
</tr>
</tbody>
</table>

**TOTAL**                                           |        | $28,471.18 |

**CERTIFICATION:**

Project Manager:  
City Engineer:  
Public Works Director:  
City Manager:  

Date: 2-23-05  
Date: 2-23-05  
Date: 2-23-05  
Date: 2-24-05
SUBJECT: AUTHORIZATION TO NEGOTIATE CONTRACT FOR ON-CALL CONSULTANT FOR PREPARATION OF GRANT APPLICATIONS

SOURCE: Community Development Department

COMMENT: On December 21, 2004, City Council authorized staff to advertise for on-call consulting services for preparation of feasibility studies and grant applications. On February 4, 2005, staff received three proposals for the advertised services. The proposals were rated in accordance with the revised and adopted “Policy for Selecting Professional Services”. The results were as follows:

<table>
<thead>
<tr>
<th>RANK</th>
<th>FIRM</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Applied Development Economics (ADE) Berkeley, CA</td>
</tr>
<tr>
<td>2</td>
<td>Chabin Concepts Chico, CA</td>
</tr>
<tr>
<td>3</td>
<td>Williams-Kuebelbeck &amp; Associates, Inc. Millbrae, CA</td>
</tr>
</tbody>
</table>

Upon receipt of a signed contract for services, staff will arrange for the consultant to prepare an Economic Development Administration Technical Assistance Grant Application for a feasibility study for an Airport Industrial Park Business Services Center, which will include a business incubator component. Funding for this grant preparation is from a one-time reduction of the City’s Local Agency Formation Commission (LAFCO) fees.

RECOMMENDATION: That the City Council:

1. Authorize staff to negotiate a contract with Applied Development Economics (ADE) for on-call consulting services for feasibility studies and grant applications, with fees for services not to exceed those rates quoted in the proposal;

2. Authorize staff to negotiate a contract with the next highest ranked firm (Chabin Concepts) in the event a contract cannot be negotiated with ADE;

3. Authorize the Mayor to sign all contract documents; and

4. Authorize staff to make payments up to 100% upon satisfactory completion of the work.
SUBJECT: ACCEPTANCE OF THE PORTER SLOUGH DITCH PIPING PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: Halopoff & Sons, Inc. has completed the Porter Slough Ditch Piping Project per plans and specifications. The project consisted of the piping of the Porter Slough Ditch adjacent to the south side of Henderson Avenue in 36" reinforced concrete pipe. This work was part of the Henderson Avenue Reconstruction Project. Piping the Porter Slough Ditch now allows for the relocation of the high transmission Edison poles, relocation of Mr. Lombardi's irrigation structure and the future widening of Henderson Avenue.

City Council authorized expenditure of $281,461.07. Final construction cost is $271,436.23.

Halopoff & Sons, Inc. requests that the City accept the project as complete. Staff has reviewed the work and found it acceptable.

RECOMMENDATION: That the City Council:

1. Accept the Porter Slough Ditch Piping 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.

ATTACHMENT: Locator Map

P:\pub\work\Engineering\Council Items\Acceptance of the Porter Slough Ditch Piping Project.wpd

Dir Appropriated/Funded **CM** Item No. 8
CITY COUNCIL AGENDA: MARCH 1, 2005

SUBJECT: APPROVAL OF RELOCATION PLAN FOR PROPERTY LOCATED AT APN 245-040-017 – OWNER MANUEL A. GALVEZ – HENDERSON AVENUE STREET PROJECT

SOURCE: PUBLIC WORKS DEPARTMENT

COMMENT: To complete the purchase of right of way for property located at APN 245-040-017, a relocation plan was required. Paragon Partners, Ltd., the City’s relocation consultant, completed the relocation plan and copies were distributed for comments to the Mayor, City Council Members, City Manager, City Attorney, Community Development Department, and Public Works Department. A copy of the relocation plan was also provided to the property owner and copies were made available to the public for review and comment.

The required 30-day Public Notice period began on January 24, 2005, and ended on February 23, 2005. As of this date, no comments have been received.

For Council’s information, excerpts of the relocation plan are attached. A copy of the full relocation plan is in the City Clerk’s office for review.

RECOMMENDATION: That City Council:

1. Approve the relocation plan for property located at APN 245-040-017.

ATTACHMENTS: 1. Locator Map
2. Excerpts of the Relocation Plan

DD B8Z APPROPRIATED/FUNDED CM ITEM NO. 9
HENDERSON AVENUE RECONSTRUCTION PROJECT
CITY OF PORTERVILLE, CALIFORNIA

Prepared For

THE CITY OF PORTERVILLE

Prepared By

Paragon Partners Ltd.

January 2005
1.0 INTRODUCTION

The City of Porterville ("Agency") has identified the need to improve a portion of Henderson Avenue within the city limits (the "Project"). Henderson Avenue will be widened to arterial standards from Newcomb Street to Westwood Street. This includes an 84-foot right-of-way width with two lanes of traffic in each direction. Curb, gutter and sidewalks will be installed on both sides of the street. Master plan utilities including storm drain, water and sewer will be installed. The existing Porter Slough bridge will be demolished and an 84-foot wide reinforced concrete box culvert constructed in its place. Street lighting also is included along the entire Project route.

The Project will require the acquisition of additional right-of-way. As a result, one household will have to be permanently displaced for this Project to go forward.

Paragon Partners Ltd. has prepared and will administer this Relocation Plan (this "Plan"), under the direction of and involvement with the City of Porterville. This Plan provides the results of a needs assessment survey, a housing resource study and details of Agency’s proposed relocation program. This Plan sets forth policies and procedures necessary to conform with statutes and regulations established by California Relocation Assistance Law, California Government Code section 7260 et seq. (the "CRAL") and the California Relocation Assistance and Real Property Acquisition Guidelines, Title 25, California Code of Regulations, chapter 6, section 6000 et seq. (the "Guidelines"). No displacement activities will take place prior to the required reviews and approval of this Plan.

2.0 PROJECT AREA

2.1 Regional Location (See Exhibit "A")

The Project Regional Area is Southwestern Tulare County, East of State Route 99. Tulare County is one of the largest counties in the fertile San Joaquin Valley, encompassing 4,863 square miles and a growing population of 360,000. Geographically it is situated at the center of California. The southwestern area of the county is a level and fertile plain. This extensively cultivated plain has allowed Tulare County to become the second-leading producer of agricultural commodities in the United States and the largest agricultural-producing county in the world. In addition to substantial packing and shipping operations, light and medium manufacturing plants are increasing in number and are becoming an important factor in the County’s total economic picture.

The City of Porterville is situated along the Tule River in Southwestern Tulare County. It covers an area of 14.8 square miles and has a population of 43,150. Porterville, lying along the foothills of the Sierra Mountains at an elevation of 455 feet, is located at the intersection of State Route 65 and State Route 190, which connect with State Route 99 traveling to Los Angeles and San Francisco. The City has a strategic central location to major markets and a ready access to major transportation routes.
The City of Porterville is the center of a large farming area noted especially for citrus and livestock. Agriculture supplemented by the Central Valley Water Project has been the major source of economic growth in the area. Additionally, industry has become a significant factor in the development of the community and several large public facilities also are located in Porterville.

The City of Porterville’s logo is “The Good Life” and the City is proud to maintain a quality of life valued by its residents. The City’s unique vitality thrives in its pursuit of industrial diversity for a sound economic base, active community support of youth, education from preschool through Community College levels, careful land use planning through a comprehensive General Plan, and consolidation of the urban area through annexation.

Overall, the economic trend in Porterville is relatively stable. Demand for housing is on the rise. The City of Porterville embraces a wide spectrum of housing types including single-family homes, cluster housing, apartments, and mobile home spaces. New home building permit activity has increased over the last several years.

2.2 Project Area Description (See Exhibit “B”)

The segment of Henderson Avenue the Agency proposes to improve is approximately one-half mile in length between Newcomb Street and Westwood Street and is located in the western area of the City of Porterville. The Project site is in a residential neighborhood and is zoned single-family residential (R-1). The residences fronting Henderson Avenue are predominantly single-family structures.

Schools, shopping, and services are within reasonable proximity to the Project area. Commercial businesses serving Porterville are primarily in the downtown central business district, along the Henderson Ave./Hwy. 65 intersection and the Olive Ave. commercial strip. City services and the majority of governmental offices are in the downtown, central business district.

3.0 ASSESSMENT OF RELOCATION NEEDS

Interviews were conducted with the affected owner and tenants in December 2004 to obtain information necessary for this Plan. Occupants were encouraged to respond to ensure that their comments would be included in this Relocation Plan. General survey questions included assessment of existing conditions, type of occupancy, mortgage/rent and income information, family composition, and relocation needs (i.e. preferences to school, shopping, & transportation).

The Tenants expressed a preference for a replacement property large enough to raise small barnyard animals such as goats and chickens and to cultivate vegetables. One or both of the Tenants have medical concerns and proximity to medical care is a significant factor. The tenants would prefer to buy a replacement property rather than rent.
3.1 Field Survey Data

A. Residential: There are five residential occupants residing in one home that have been identified as affected as a result of Project acquisitions.

B. Business: No business displacements have been identified or proposed.

The following table identifies the characteristics of the subject occupants:

<table>
<thead>
<tr>
<th>Occup. Date</th>
<th>Family Composition</th>
<th>Bedrooms/Baths of Displaced Property</th>
<th>Replcmnt Bed/Bath Rooms Required</th>
<th>Current Rent Pymt.</th>
<th>House-hold Income (Monthly)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1994</td>
<td>3 Adult Males</td>
<td>3 Br/1 bath</td>
<td>3Br/1bath</td>
<td>None</td>
<td>$958</td>
</tr>
<tr>
<td></td>
<td>1 Adult Female</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>1 Male Child</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

4.0 RELOCATION RESOURCES

Paragon Partners Ltd. staff conducted an inspection of the impacted residential unit in the Project area to assess the potential needs for a replacement location. Additionally, Paragon Partners Ltd. staff has engaged in preliminary investigations through Internet searches, review of classified advertisements, and communication with local real estate brokers to determine the general availability of rental and sale listings in the City of Porterville.

4.1 Residential Property

For Sale Properties: The survey identified residential replacement sites for sale. The listing prices range between $75,000 - $95,000 for 3 bedroom/1 bath dwellings and $99,950 - $170,000 for 3 bedroom/2 bath dwellings. The sample described below is representative of the housing market for the City of Porterville area most likely to be available to the displaced; however, there is more evidence of available housing in the relocation consultant's files.

Price for Properties for Sale

<table>
<thead>
<tr>
<th>Size</th>
<th>No. of Units Identified</th>
<th>Price</th>
<th>Average Price (Rounded)</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 bedroom/1 Bath</td>
<td>3</td>
<td>$75,000 - $95,000</td>
<td>$86,400</td>
</tr>
<tr>
<td>3 bedroom/2 Bath</td>
<td>4</td>
<td>$99,950 - $170,000</td>
<td>$126,000</td>
</tr>
</tbody>
</table>

Information researched January 10 and 19, 2005- See Exhibit "D"

For Rent Properties: The survey identified residential rental replacement sites for rent. The rents vary between $750 - $800 for 3 bedroom/1 bath dwellings and $800 - $995 for 3 bedroom/2 bath dwellings. The sample listed below is representative of the rental housing market for the City of Porterville area most likely to be available to the
displacees; however, there is more evidence of available housing for rent in the relocation consultant’s files.

Price for Properties for Rent

<table>
<thead>
<tr>
<th>Size</th>
<th>No. of Units Identified</th>
<th>Rent/Mo.</th>
<th>Average Rent/Mo. (Rounded)</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 bedroom/2 Bath</td>
<td>3</td>
<td>$750 - $800</td>
<td>$770</td>
</tr>
<tr>
<td>3 bedroom/2 Bath</td>
<td>8</td>
<td>$800 - $995</td>
<td>$915</td>
</tr>
</tbody>
</table>

Information researched January 10, 2005—See Exhibit “E”

4.2 Results of Survey

The investigation indicated that, based on the current housing market, comparable housing for residential occupants is not available within the statutory $5,250 payment limits for 90-day occupants. As a result, the Agency will have to resort to the administrative process of Last Resort Housing (See Exhibit “C,” Section 3, “Last Resort Housing”).

Within those parameters, there are an adequate number of replacement units available to accommodate the needs of the displaced residential occupants in the Project area. Based on the results of this survey, it appears feasible that the displaced tenants in the Project area will have an adequate supply of available replacement units from which to select. There is no anticipated need for temporary housing; however, should such a need arise, the Agency will respond appropriately and in conformance with all applicable laws and requirements.

5.0 RELOCATION ASSISTANCE SERVICE

The Agency will implement its Relocation Assistance Program in compliance with the standards and provisions of California Government Code Section 7260 et seq. and Title 25, Chapter 6 of the California Code of Regulations. Relocation resources will be available to all displaced without discrimination (See Exhibit “C”).

5.1 Program Assurances, Standards and Objectives

Pursuant to applicable guidelines, Relocation Assistance Program objectives will be as follows:

1. To fully inform eligible Project area occupants of the nature of and procedures for obtaining relocation assistance and benefits.
2. To provide an adequate number of referrals to comparable residential sites within a reasonable time prior to displacement and assure that no occupant will be required to move without a minimum of 90 days written notice to vacate.

3. To provide current and continuously updated information concerning residential listings.

4. To provide assistance ensuring the relocation process does not result in different or separate treatment on account of race, color, religion, national origin, sex, marital status or other arbitrary circumstances.

5. To supply information concerning federal and state residential housing programs and other governmental programs providing assistance to displaced persons.

6. To assist each eligible person to complete claims for payments and benefits.

7. To make relocation benefit payments in accordance with all aforementioned guidelines, as applicable.

8. To inform all eligible persons subject to displacement of Agency's policies with regard to eviction and property management.

9. To establish and maintain a formal grievance procedure for use by displaced persons seeking administrative review of Agency's decisions with respect to relocation assistance.

10. To assist eligible persons to become established in residential housing.

11. To provide other advisory assistance to eligible displaced persons in order to minimize the hardship of relocation.

In addition, before displaced occupants are required to move, they will receive: 1.) all required information regarding the Agency's Relocation Assistance Program at least ninety days prior to the date they must move, and 2.) ninety days' written notice prior to the date they must move.

5.2 Citizen Participation

This Plan will be provided to each displaced household, neighborhood groups in the affected neighborhood, if any, and will be made available to the public for the mandatory 30-day review period, and interested parties will be invited to submit written or oral comments and objections.

Additionally, the Agency will provide full and timely access to all documents relevant to the Relocation Assistance Program and technical assistance necessary to interpret elements of the Relocation Plan and other pertinent materials.
Upon expiration of the 30-day review period and receipt of public comments, the Agency will present the Relocation Plan for adoption by the City of Porterville City Council. Comments to this Plan will be included as a Plan addendum prior to submission for approval before the City of Porterville City Council.

5.3 Relocation Advisory Assistance

An important element of the relocation assistance program is to provide all potential displacees with technical and advisory assistance. The following specific activities will be undertaken:

1. Each potential residential occupant will be personally interviewed to gather appropriate information to determine needs and preferences with regard to residential locations.

   Inquiries made of residential needs by relocation personnel will focus on family composition, requirements and needs. See Exhibit "G" for a representative sample of a Relocation Questionnaire Form.

2. Printed Notice of Eligibility letters will be personally delivered to all displaced persons. Signed acknowledgements will be obtained to verify receipt of that letter.

3. Transportation will be provided, if necessary, for any displaced occupant to inspect replacement sites within the local area.

4. Eligible residential owners and tenants will receive referrals to replacement sites that match, as closely as possible, the requirements and preferences of each family with regard to size, cost, and location.

5. Relocation staff will assist residential occupants in preparing for the physical move of personal property and act as a liaison with appropriate agencies.

6. Assistance will be offered to all displacees in connection with arrangements for the purchase of real property, the filing of claim forms to request relocation benefits from the Agency, and to obtain services from other public agencies.

7. For the purposes of scheduled meetings with occupants of the Project, Agency offices will be made available at displacee request at Agency offices located at Porterville City Hall, 291 N. Main St., Porterville, California 93257.

5.4 General Information on Payment of Relocation Benefits

Relocation benefit payments will be made in a timely manner following the submission of appropriate claims. Claims and supporting documentation for claims must be filed with the Agency within eighteen (18) months from (a) the date the claimant moves from the
acquired property or (b) the date on which final payment for the acquisition of real property is made, whichever is later.

The procedure for preparing and filing claims and the processing and delivery of payments will be as follows:

1. Claimant(s) will provide all necessary documentation to substantiate eligibility for assistance and payments.

2. Relocation staff in consultation with claimant(s) will determine assistance amounts and prepare required claim forms.

3. Relocation staff will submit to the Agency the original signed claim forms and appropriate supporting documentation with recommendations for payment.

4. The Agency will review and approve claims for payment.

5. The Agency will prepare warrants and issue them to relocation staff for distribution.

6. Relocation staff will personally deliver payments unless circumstances dictate otherwise. When payments cannot be personally delivered, they will be sent by certified mail, return receipt requested.

7. Receipts of payment will be obtained by relocation staff and maintained in the case file.

8. Unless otherwise instructed by the Agency, relocation staff will not deliver final payments until the claimant(s) have vacated the Project area premises and actual occupancy at new quarters has been verified.

9. The appeals policy will follow the standards described in the Guidelines. Briefly stated, the displaced household will have the right to ask for review when there is a complaint regarding any of its rights to relocation and relocation assistance, such as a determination as to eligibility, the amount of payment, or the failure to provide a comparable replacement housing referral.

5.5 Relocation Tax Consequences

In general, relocation payments are not considered income for tax purposes. Benefit payments are made subject to the provisions of Title 24 of the Code of Federal Regulations and Chapter 16 of the California Government Code. The above statements on tax consequences are not intended to be tax advice by the Agency. Displaceses are encouraged to consult with the Tulare County Tax Assessor's Office concerning Claims for Base Year Value Transfer – Acquisition by Public Entity and to consult their own tax advisors concerning the tax consequences of relocation payments.
5.6 **Eviction Policy**

Under State guidelines, eviction is permissible only as a last resort. Relocation records must be documented to reflect the specific circumstances surrounding the eviction.

Eviction will be undertaken only for one or more of the following reasons:

1. Failure to pay rent, except in those cases where the failure to pay is due to the lessor's failure to keep the premises in habitable condition, is the result of harassment or retaliatory action, or is the result of discontinuation or substantial interruption of services;

2. Performance of a dangerous or illegal act on the premises;

3. Material breach of the rental agreement and failure to correct the breach within 30 days of notice;

4. Maintenance of a nuisance and failure to abate within a reasonable time following notice; or

5. The eviction is required by state or local law and cannot be prevented by reasonable efforts on the part of the public entity.

Those who remain in the Project area will be obliged to honor the terms and conditions of rental agreements provided by the Agency. Failure to abide by the terms of the rental agreement may result in eviction.

5.7 **Projected Dates of Displacement**

The Agency anticipates acquiring the subject property in January or February of 2005 and plans to take possession of the property in the second Quarter of 2005. The displaced household will receive a 90-day notice to vacate before it is required to move, which notice is expected to be issued on or about March 2, 2005.

5.8 **Estimated Relocation Costs**

The total budget estimate for relocation assistance payments for the Project is $37,000.00.

6.0 **SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS**

In summary, the Data Sheet and Recommendation Summary (Exhibit "F") reflects the total number of eligible displaced residences. All residential households in the Project area were personally interviewed. Based on the information obtained from the interview
and site inspection, all occupants of property in the Project area appear to be eligible for relocation assistance due displaced residential owners and tenants.

The displacement period is projected to begin in the second quarter of 2005. Therefore, reasonable and adequate time is being allowed for proper planning of the relocation program and notification to the affected residences.

At this time the Agency does not propose to have a re-rent policy. As of the writing of this document, the Agency does not intend to re-rent any of the properties in the subject Project area.

Due to the limited number of affected residential occupants being displaced by the Project and due to the fact that the Agency has offices within a reasonable distance from the Project area, a site office will not be required for this Project.

At this time, there has been no request for consideration of a hardship acquisition.

According to a survey of available and suitable replacement units in and adjacent to the Porterville area, there appears to be an adequate number of replacement properties available to accommodate the displaced residential tenants and homeowners in the Project area.
COUNCIL AGENDA: March 1, 2005

SUBJECT: RESOLUTION RESCINDING RESOLUTION NO 3-2005, RE-AUTHORIZING THE OBJECTION TO SALE OF TAX DEFAULTED PROPERTIES, AND THE EXECUTION OF AN AGREEMENT WITH THE COUNTY OF TULARE TO PURCHASE TAX-DEFAULT PROPERTIES WITH A REVISED EXHIBIT ‘A’.

SOURCE: Parks and Leisure Services Department

COMMENT: The City Council approved Resolution No. 3-2005 objecting to the County Tax Collector sale of certain tax-default properties and authorizing the execution of an Agreement to purchase the same properties. Several of the tax-default property owners have since redeemed their property taxes, thereby avoiding tax sale or City acquisition for the tax value. Two other parcels originally screened for possible water well sites have now been determine unsuitable by Public Works staff for that purpose.

It would be appropriate at this time to adopt a new Resolution to amend the previous action and eliminate the unsuitable and tax-redeemed parcels from the purchase Agreement exhibit.

RECOMMENDATION: Adopt the Resolution rescinding Resolution No. 3-2005, Re-Authorizing the Objection to Sale, and Approving a Revised Exhibit ‘A’ to the Agreement with the County of Tulare for Purchase of Tax-default Properties.

ATTACHMENTS: Resolution Amending Resolution No. 3-2005 Revised Exhibit ‘A’ for Agreement to Purchase Tax-default Properties
Resolution No. 3-2005

ITEM NO.: 10
RESOLUTION NO. ____-2005


WHEREAS, the City of Porterville (the "City") is a charter city organized and existing pursuant to the Constitution of the State of California; and

WHEREAS, in accordance with the California Revenue and Taxation Code, the City Council of the City of Porterville wishes to enter into a purchase agreement(s) to purchase the tax-defaulted properties as identified for the specified prices, and to be used for the public purposes described, in the list of properties attached to this Resolution as Exhibit "A."

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF PORTERVILLE DOES RESOLVE AS FOLLOWS:

1. Resolution No. 3-2005 of the City Council of the City of Porterville is hereby rescinded.

2. The City of Porterville hereby objects to the Tax Collector’s Public Auction Sale of the tax-defaulted properties identified in Exhibit “A,” as is required by the appropriate provisions of the California Revenue and Taxation Code.

3. The City of Porterville hereby authorizes the City to submit an Application to the County of Tulare to purchase the specified tax-defaulted properties from the County, authorizes the Mayor to a sign an agreement with the County to purchase the above-described properties, and authorizes the Mayor to execute all
other documents necessary to effectuate the transaction(s).

ATTEST:

Mayor Pedro Martinez,
City of Porterville

John Longley, City Clerk,
City of Porterville
Exhibit A
Tax-default Properties of Interest to City of Porterville

<table>
<thead>
<tr>
<th>#</th>
<th>APN</th>
<th>Property Address</th>
<th>Title to be Acquired</th>
<th>Price **</th>
<th>Public Purpose</th>
</tr>
</thead>
<tbody>
<tr>
<td>097</td>
<td>243-150-067</td>
<td>no situs address</td>
<td>Fee</td>
<td>$17,600</td>
<td>Storm drainage basin</td>
</tr>
<tr>
<td>110</td>
<td>261-052-019</td>
<td>no situs address</td>
<td>Fee</td>
<td>$1,500</td>
<td>Street improvement</td>
</tr>
<tr>
<td>112</td>
<td>261-280-002</td>
<td>662 S. Plano</td>
<td>Fee</td>
<td>$11,000</td>
<td>Water well, street improvement &amp; recreational trail</td>
</tr>
</tbody>
</table>

** This reflects the base price. The actual price for each property will additionally include the administrative costs of the sale.
## Agreement between City of Porterville and County of Tulare for Purchase of Tax Defaulted Properties

### Exhibit “A” (revised 3/1/05)

<table>
<thead>
<tr>
<th>Description</th>
<th>First Year Delinquent</th>
<th>Default Number</th>
<th>Purchase Price**</th>
</tr>
</thead>
<tbody>
<tr>
<td>243-150-067-000</td>
<td>June 30, 1996</td>
<td>963188</td>
<td>$17,600</td>
</tr>
</tbody>
</table>

The “Remainder” parcel of Parcel Map No. 4025, in the County of Tulare, State of California, as per Map recorded in Book 41, of Parcel Maps, Page 29, In the office of the Recorder of said County.

<table>
<thead>
<tr>
<th>Description</th>
<th>First Year Delinquent</th>
<th>Default Number</th>
<th>Purchase Price**</th>
</tr>
</thead>
<tbody>
<tr>
<td>261-052-019-000</td>
<td>June 30, 1999</td>
<td>993624</td>
<td>$1,500</td>
</tr>
</tbody>
</table>

That portion of Lot 14 of Price Garden Acres, in the County of Tulare, State of California, as per map recorded in Book 17, Page 20 of Maps, Tulare County Records, and that portion of Poplar Avenue, described as follows: Beginning at the intersection of the Southerly prolongation of the West line of said Lot with the South line of Section 36, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the County of Tulare, State of California, according to the Official Plat thereof, said intersection bears along said South line, South 89°55'04" East, 717.41 feet from the Southwest corner of said Section, said Southwest corner being at coordinates Y-261 388.19 feet and X-1 995 154.21 feet; thence (1) along said Southerly prolongation and said West line, North 2°22'26" West, 152.37 feet to the North line of the South half of said Lot; thence (2) along said North line South 89°02'31" East, 75.71 feet to the East line of the West half of said lot; thence (3) along said East line, South 1°55'11" East, 126.15 feet to the South line of said lot; thence (4) at right angles from last said South line, South 0°04'56" West 26.16 feet; thence (5) along a line parallel with and 93 feet Northerly measured at right angles from the centerline of the Department of Public Works Survey from 0.6 miles West of Route of 129 (now Route 65) to Hospital Road, Road VI-TUL 127-B (now 06-TUL-190), South 89°22'30" West 76.60 feet to said Southerly prolongation of said West line; thence (6) along said Southerly prolongation, North 2°22'26" West, 2.07 feet to the point of beginning. Excepting any interest in and to that portion of Poplar Avenue lying Westerly of the above described course (1) which would be appurtenant to said Lot 14.

<table>
<thead>
<tr>
<th>Description</th>
<th>First Year Delinquent</th>
<th>Default Number</th>
<th>Purchase Price**</th>
</tr>
</thead>
<tbody>
<tr>
<td>261-280-002-000</td>
<td>June 30, 1998</td>
<td>983259</td>
<td>$11,000</td>
</tr>
</tbody>
</table>

That portion of the Southwest quarter of the Southeast quarter of Section 36, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the County of Tulare, State of California, according to the Official Plat of the survey of said land on file in the Bureau of Land Management at the date of the issuance of the Patent thereof, described as follows: Beginning at a point located as follows: Commencing at the Southwest corner of the Southeast quarter of said Section 36; thence South 89°53'40" East 82.0 feet measured along the South line thereof; thence North 1°23'50" East 886.00 feet to the true point of beginning; thence South 89°53'40" East 1,207.57 feet more or less to a point in the East line of the Southwest quarter of the Southeast quarter located 884.85 feet North of the Southeast corner of said Southwest quarter of the Southeast quarter; thence North along the East line thereof 111.65 feet more or less to a point 313.50 feet South of the North line of the Southwest quarter of the Southeast quarter; thence North 89°50'05" West 280 feet more or less to a point located 1,027.80 feet East of the West line of the Southwest quarter of the Southeast quarter; thence North 74°19'55" West 950 feet more or less to a point in the East line of a County Road right of way recorded in Book 1541, Page 304 of Official Records; thence Southerly 370 feet, more or less to the true point of beginning.

**Purchase price reflects the base minimum bid; final price will include administrative costs of sale.
RESOLUTION NO. 3-2005


WHEREAS, the City of Porterville (the "City") is a charter city organized and existing pursuant to the Constitution of the State of California; and

WHEREAS, in accordance with the California Revenue and Taxation Code, the City Council of the City of Porterville wishes to enter into a purchase agreement(s) to purchase the tax-defaulted properties as identified for the specified prices, and to be used for the public purposes described, in the list of properties attached to this Resolution as Exhibit "A."

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF PORTERVILLE DOES RESOLVE AS FOLLOWS:

1. The City of Porterville hereby objects to the Tax Collector’s Public Auction Sale of the tax-defaulted properties identified in Exhibit "A," as is required by the appropriate provisions of the California Revenue and Taxation Code.

2. The City of Porterville hereby authorizes the City to submit an Application to the County of Tulare to purchase the specified tax-defaulted properties from the County, authorizes the Mayor to sign an agreement with the County to purchase the above-described properties, and authorizes the Mayor to execute all other documents necessary to effectuate the transaction(s).

ATTEST:

Pedro Martinez, Mayor, City of Porterville

John Longley, City Clerk, City of Porterville
### Exhibit A
Tax-default Properties of Interest to City of Porterville

<table>
<thead>
<tr>
<th>#</th>
<th>APN</th>
<th>Property Address</th>
<th>Title to be Acquired</th>
<th>Price **</th>
<th>Public Purpose</th>
</tr>
</thead>
<tbody>
<tr>
<td>097</td>
<td>243-150-067-000</td>
<td>no situs address</td>
<td>Fee</td>
<td>$17,600</td>
<td>Storm drain</td>
</tr>
<tr>
<td>103</td>
<td>251-102-009</td>
<td>549 Douglas Street</td>
<td>Fee</td>
<td>$7,900</td>
<td>Water well</td>
</tr>
<tr>
<td>106</td>
<td>260-114-016</td>
<td>148 S. Chess Terrace</td>
<td>Fee</td>
<td>$2,600</td>
<td>Water well</td>
</tr>
<tr>
<td>110</td>
<td>261-052-019-000</td>
<td>no situs address</td>
<td>Fee</td>
<td>$1,500</td>
<td>Street improvement</td>
</tr>
<tr>
<td>112</td>
<td>261-280-002</td>
<td>662 S. Plano</td>
<td>Fee</td>
<td>$11,000</td>
<td>Water well, street improvement &amp; recreational trail</td>
</tr>
<tr>
<td>115</td>
<td>262-210-007-000</td>
<td>no situs address</td>
<td>Fee</td>
<td>$4,500</td>
<td>Recreation trail</td>
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<tr>
<td>117</td>
<td>263-200-008-000</td>
<td>no situs address</td>
<td>Fee</td>
<td>$3,600</td>
<td>Valley Elderberry Longhorn Beetle (V.E.L.B.) Mitigation</td>
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<tr>
<td>118</td>
<td>263-210-001</td>
<td>1853 E. Springville Dr.</td>
<td>Fee</td>
<td>$4,000</td>
<td>V.E.L.B. Mitigation</td>
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<tr>
<td>119</td>
<td>263-210-002</td>
<td>no situs address</td>
<td>Fee</td>
<td>$2,100</td>
<td>V.E.L.B. Mitigation</td>
</tr>
<tr>
<td>120</td>
<td>268-051-017</td>
<td>1170 W. Brown Ave.</td>
<td>Fee</td>
<td>$1,900</td>
<td>Water well</td>
</tr>
</tbody>
</table>

** This reflects the base price. The actual price for each property will additionally include the administrative costs of the sale.
SUBJECT: AMENDMENTS TO EMPLOYEE PAY AND BENEFIT PLAN, EMPLOYEE BENEFIT TRUST FUND, EMPLOYEE RETIREMENT SYSTEM, 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 Porterville Police Officers’ Association (PPOA), representing the Police Series Employees, and a written Memorandum of Understanding (M.O.U.) has been executed with representatives of the PPOA. 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. Additionally, Safety Management, which are not represented, are also covered by the attached Resolution which 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, 2005-06 and 2006-07, the Employee Benefit Trust Fund, the Employee Retirement System, 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. 11
RESOLUTION NO. _____-2005

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
AMENDING THE EMPLOYEE PAY AND BENEFIT PLAN, THE EMPLOYEE
HEALTH PLAN DOCUMENT, THE EMPLOYEE RETIREMENT SYSTEM,
AND THE PERSONNEL SYSTEM RULES AND REGULATIONS

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 Porterville Police Officers’ Association 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 represented by the aforementioned recognized employee organization, and for unrepresented safety management employees, 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 position of Police Officer 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 position of Police Officer by 1%.

The base pay rate for the position of Police Officer will not be adjusted effective 07-01-06.

II. EMPLOYEE PAY AND BENEFIT PLAN AND EMPLOYEE HEALTH PLAN.

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 Police Series employees’ dependent monthly contribution rate for medical coverage, and the employee will pay 25% of said costs.

Police 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 for all Police Series employees as follows:
5. Monthly Contribution Rates

<table>
<thead>
<tr>
<th></th>
<th>City Pays</th>
<th>Employee Pays</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee/Single coverage</td>
<td>$300.00</td>
<td>-0-</td>
<td>$300.00</td>
</tr>
<tr>
<td>Employee + 1</td>
<td>$450.00</td>
<td>$150.00</td>
<td>$600.00</td>
</tr>
<tr>
<td>Employee + 2 or more</td>
<td>$675.00</td>
<td>$225.00</td>
<td>$900.00</td>
</tr>
<tr>
<td>Retiree/Single coverage</td>
<td>$90.00</td>
<td>$210.00</td>
<td>$300.00</td>
</tr>
<tr>
<td>Retiree + Spouse</td>
<td>$180.00</td>
<td>$420.00</td>
<td>$600.00</td>
</tr>
</tbody>
</table>

III. CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM (CalPERS).

a.) Effective 07-01-04 the City of Porterville will pay the same portion of the employee’s share of the monthly retirement contribution of CalPERS for unrepresented Safety Management employees as other Public Safety 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 Series employees and unrepresented Police Management employees with the 3% @ 55 Full Formula 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.

Employees represented by the Porterville Police Officers’ Association and the City agree that they have met and consulted on the proposed Employer-Employee Relations Resolution in compliance with the Meyers-Milias Brown Act.

V. PERSONNEL SYSTEM RULES AND REGULATIONS.

A. ADVISORY ARBITRATION OF GRIEVANCES.

The City agrees to amend the City of Porterville Personnel System Rules and Regulations, Rule XIV - Complaint and Grievance Procedure, for all Police Series Employees, to wit:
4. **Grievance Procedure:**
Any employee in the City Service shall have the right to grieve any action as defined in Rule XIV, Section 2., C, “Definition of Grievance”.

_____

**Step 1:** The employee shall inform his/her supervisor of the grievance and relevant facts within fifteen (15) calendar days after the employee knew, or in the exercise of reasonable diligence should have known, of the events giving rise to the grievance. Failure to complete this procedure shall bar further consideration of the grievance. At least one conference shall be held between the employee, his/her union representative, and his/her immediate supervisor within seven (7) calendar days after the employee has experienced the grievance. The immediate supervisor shall advise the employee of his/her decision within seven (7) calendar days following the conference. If the grievance is not resolved by the conference, the employee may proceed to Step 2. If the immediate supervisor is not available during this seven (7) calendar day period, the employee should meet with the next level of supervision.

_____

**Step 2:** In the event the grievance is not resolved in Step 1, the employee and his/her union representative shall put the grievance in writing and submit copies to his/her immediate supervisor, department head, and the Personnel Officer, not later than seven (7) calendar days. All parties willing, a conference time may be mutually agreed upon to explore the matter further within seven (7) calendar days of receipt of the written decision. At this conference, both parties may be accompanied by a representative.

_____

**Step 3:** Should the matter remain unresolved, the grievance may be submitted within seven (7) calendar days after written receipt of the department head’s decision to the Personnel Officer.

_____

**Step 4:** Upon receiving the grievance, the Personnel Officer or his/her designated representative shall discuss the grievance with the employee, his/her union representative, and all other appropriate persons. The Personnel Officer may appoint a fact-finding committee or an officer, not in the normal line of supervision, to investigate and advise him concerning the grievance. The Personnel Officer shall render a decision in writing to the employee within fifteen (15) calendar days after receiving the grievance.

_____

**Step 5:** In the event the Grievant or the Association is not satisfied with the result at Step 4, it may, within fifteen (15) calendar days of completion of the Step 4 proceedings, submit the grievance to advisory arbitration. The arbitration proceedings shall follow the provisions of the Voluntary Labor Arbitration Rules of the American Arbitration Association. If the grievant is satisfied with the result at Step 4, or another prior level, the Union (Association) is barred from instituting the arbitration procedures under this Agreement. If the parties do not agree on a particular arbitrator, the parties shall request a list of seven (7) arbitrators from the California State Mediation and Conciliation Services who are familiar with City Government. The parties shall alternately strike names until only one name remains. The order of striking shall be determined by a toss of a coin.
The arbitration shall be limited solely to the interpretation and application of this Agreement to the precise issue(s) submitted for arbitration. The arbitrator shall not determine any other issue(s) to the extent that the language of the Memorandum of Understanding is the same as the language of the statutory or regulatory provision. The arbitrator shall not apply an interpretation to the Memorandum of Understanding that is different from the meaning of the statutory or regulatory language, in the absence of clear bargaining history indicating that a different meaning was mutually intended.

The arbitrator shall have no power or authority to hear cases challenging any of the following:
1. The termination of services or failure to re-employ a probationary employee.
2. The placement of an employee on probationary status.
3. The termination of services or failure to re-employ any employee in a position for which extra compensation is received.
4. The contents of the employee's evaluation.
5. The City's promulgation of rules, policies.
6. A decision, action, or inaction of the City if such is required by a state and federal regulatory body or court.
7. Any grievance occurring before the effective date of this Agreement or after the expiration of this Agreement.

The arbitrator shall, as soon as possible, have a hearing on the merits of the grievance and render a written decision on the precise issue or issues submitted to arbitration by the parties.

1. If the parties cannot agree upon a submission agreement, the arbitrator shall determine the issues for the parties by referring to the written grievance and the answers thereto at each step of the grievance.
2. Where the City has made a judgment involving the exercise of discretion, the arbitrator shall review such decision solely to determine whether the decision has violated the Agreement and shall not substitute the arbitrator's judgment for that of the City.
3. The arbitrator shall not issue statements of opinion or conclusions not essential to the determination of the precise issue(s) submitted to arbitration.
4. Where there is an issue of arbitrability, the arbitrator shall hear the matter and render a decision for the parties before hearing the merits of the grievance.
5. The arbitrator shall not add to, subtract from, amend, modify, or alter any provisions or procedures contained in this Memorandum of Understanding.
6. The arbitrator's advisory award may include restitution, financial reimbursement or other proper remedy.
7. The award of the arbitrator will be submitted to the parties in writing and will set forth the findings of fact, reasoning, and conclusions on the precise issues submitted. The decision shall be rendered within thirty (30) calendar days to the City and the Association following the submission of closing briefs, unless mutually agreed otherwise by the parties to this Memorandum of Understanding and the arbitrator during the arbitration proceeding.
8. The decision of the arbitrator shall be advisory upon the parties and shall be reviewed by both parties. Each party shall be responsible for the cost of presenting its own case to the arbitrator. The costs for the services of the arbitrator, including per diem expenses, if any, travel and subsistence expenses, the cost of a hearing room and any transcript costs will be equally shared between the parties. All other costs will be borne by the party incurring them.

Step 6: If the employee or the City does not agree with the decision reached by the Advisory Arbitrator, either party may present the grievance to the Grievance Appeals Board by a written request to the Personnel Officer. Such Grievance Appeals Board shall consist of one (1) Councilperson selected by the City Council, one (1) City employee appointed by the aggrieved employee and/or his/her union representative, and one (1) member of the public at large selected by mutual agreement between the member selected by the City Council and the applicable employee organization. The term of office for members of the Grievance Appeals Board shall be for the duration of the grievance. The Grievance Appeals Board shall discuss the grievance with the employee and all other appropriate persons. The Grievance Appeals Board shall determine their own hearing procedure and scheduling. The decision of the Grievance Appeals Board shall be final.

5. General Provisions
   A. No retribution or prejudice shall be suffered by employees making use of the grievance or complaint procedures by reason of such use.
   B. Forms for filing and processing grievances and other documents necessary under these procedures shall be available from the Personnel Office. All documents, communications, and records dealing with the process of grievances shall be filed separately from personnel files.
   C. Failure at any step of this procedure to communicate the decision on the grievance within specified time limits shall permit the aggrieved employee to proceed to the next step.
   D. The grievant shall be entitled to be present at all steps of the procedure.
   E. Beginning with Step 1, either party may be represented by a representative of his/her choosing.
   F. Failure at any step of this procedure to appeal a decision on a grievance within specified time limits shall be deemed acceptance of the decision rendered and shall constitute an irrevocable waiver of any further appeal.
   G. The time limits specified at any step in this procedure may be extended by mutual agreement.
   H. Written notices to employees, at the option of the City, may be delivered personally or by mail addressed to the employee’s last residence of record with the City.
   I. All grievances and complaints should be treated as confidential by all parties concerned, until after the final decision has been rendered.
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
COUNCIL AGENDA: March 1, 2005

SUBJECT: RENEWAL OF PERSONNEL EXAMINING SERVICES CONTRACT BETWEEN THE CITY OF PORTERVILLE AND COOPERATIVE PERSONNEL SERVICES

SOURCE: Administrative Services/Human Resources

COMMENT: In order for the City to continue to participate in the written testing programs offered through Cooperative Personnel Services, the attached contract agreement must be approved by the City Council. This agreement is a vital personnel tool in the evaluation process for screening and selecting qualified persons for employment. For the specific test services that the City utilizes, there is no increase in fees since our last agreement.

RECOMMENDATION: That the City Council approve the attached resolution authorizing renewal of a contract agreement with Cooperative Personnel Services, and authorize the City Manager or his designee to sign on behalf of the City.

ATTACHMENTS: 1) Contract Agreement
2) Resolution

DCM  Appropriated/Funded  CM  Item No. 12
TEST SECURITY AGREEMENT

This Test Security Agreement ("Agreement") is by and between Cooperative Personnel Services, dba CPS Human Resource Services, a California joint powers authority ("CPS"), with offices at 241 Lathrop Way Sacramento, CA 95815 and City of Porterville ("Agency," hereafter referred to as "Client"), and is effective as of March 1, 2005 (the "Effective Date").

SECTION I - PURPOSE OF AGREEMENT AND DEFINITIONS

A. Purpose. This agreement defines CPS' test security policies and procedures. It also explains how CPS test security standards are designed to protect the mutual interests of all Clients that use test materials, as well as the interests of applicants who take such tests. In order that no person may gain special advantage by having improper access to the material, CPS requires that all users sign this agreement and fulfill its terms.

B. Definitions of Various Types of Tests

1. Stock Test; Supplement: A standardized test or supplement for a specific job classification common to many public agencies. Each stock test has been validated through a content-oriented procedure. Prior to use by an agency, a stock test undergoes agency review to ensure its job relatedness.

2. Semi-Stock Test; Specialized Item Set: A test developed from items selected by the agency from two or more stock tests. Content validity is established through the agency's completion of a job analysis workbook and the selection of items that match the agency's job requirements.

3. Semi-Custom Test; Supplement: A test developed from items developed by CPS specifically for the Client. Content validity is established through the agency's completion of a job analysis workbook and the selection of items that match the agency's job requirements.

4. Agency Test: A semi-stock test, semi-custom test, or other special printing of a test produced for repeat rental by the agency.

5. Third Party Test: Tests that are wholly owned by a party other than CPS.

6. CPS Tests: CPS tests, as used herein, shall refer to any of the above tests, including related test materials, such as questions and answer sheets, created and owned by CPS.
SECTION II – CPS POLICIES AND PROCEDURES

A. Preparation of Semi-Stock and Semi-Custom Tests

1. Information Required from Clients. If CPS agrees to prepare semi-stock or semi-custom tests for Client, Client is responsible for furnishing to CPS a written description of the work to be performed in the job classification for which a test is desired; the knowledge, skills and abilities required to perform the duties of the job classification; and special working conditions, shifts, location of the job, required licenses or certificates, salary and shift differential, if any.

2. Proprietary Rights in Semi-Stock and Semi-Custom Tests. For each job classification for which an examination has been requested and agreed upon by CPS and the Client, CPS shall construct a semi-stock or semi-custom written test, based on the information furnished by the Client. Such tests shall not be considered works made for hire, as that term is defined under U.S. Copyright Law. CPS shall own all rights, title and interest, including the copyright, in any test it creates for the Client. Therefore, Client shall only be allowed to use such tests in accordance with the terms of this Agreement. Ownership of individual test questions supplied by Client, if any, shall be governed by a separate agreement between CPS and Client.

B. Ordering Stock and Semi-Custom Tests

1. Scheduling of Examinations. When requesting test rental services, Client shall notify CPS sufficiently in advance of the specific date on which testing services are requested (“Test Date”) to allow time for scheduling and preparation. Expedited service may involve additional charges. Client shall direct all test rental service requests to:

   Test Rental Unit
   CPS Human Resource Services
   241 Lathrop Way
   Sacramento, CA 95815
   916-263-1800 or
   1-866-867-5272

2. Client Notification to CPS of Number of Candidates. Not less than two weeks prior to the test date, Client shall notify CPS of the total number of candidates in each job classification to be tested. Client shall rent one test booklet per candidate to be tested.

3. Transmittal of Test Materials. CPS shall provide Client with instructions for administering the test, if necessary, and with sufficient test booklets and such other material as CPS may deem necessary. Stock tests are prepackaged and are available only in packages of ten booklets. For each unopened package of test booklets returned to CPS pursuant to paragraph II.B.(4) below, CPS will apply a credit toward Client’s current STOCK test order. See Exhibit C for the current credit per unopened test package.

4. Client Administration of Test and Return of Test Materials. Client shall administer the test in accordance with instructions provided by CPS and, immediately following the test, shall return to CPS all Test Materials (except that in such cases as provided in paragraphs II.B (7) and II.B (8) time extensions may be granted by CPS). For purposes of this Agreement, “Test Materials” means any and all materials furnished by CPS for the test administration, including, but not limited to, all used and unused test booklets, proctor’s instructions, proctor’s manuals, scoring instructions, key sheets, key overlays, keyed booklets, scoring keys, instructions, and any other
materials generated at the test administration, such as completed answer sheets, scratch paper, note paper and the like.

5. **Re-Use of Test Materials.** Client shall not reuse the tests on the Test Date or on any other date but shall return Test Materials to CPS immediately after the Test Date, pursuant to paragraph II.B(4) above, whether or not the test was administered.

6. **Scoring of Tests.** CPS will score all scannable answer sheets, at no cost to the Client. At the discretion of CPS, responsibility for the scoring of standardized stock tests may be granted to the Client. Semi-stock, semi-custom, and agency tests may be scored by the Client.

7. **Test Materials Inspection.**

(a) **Stock and Semi-Stock Tests** - NO INSPECTION SHALL BE ALLOWED OF STANDARDIZED TEST MATERIALS, OR OF TESTS PRE-DUPLICATED AS STOCK TESTS OR SEMI-STOCK TESTS.

(b) **Semi-Custom Tests** - If the Client has an officially adopted rule or established policy regarding a candidate’s privilege of inspecting a keyed copy of a semi-custom test or answer sheet(s) following the test, this rule or policy must be submitted in writing to CPS at least two weeks prior to the first test scheduled under this agreement for which such inspection is desired. CPS shall comply with such officially adopted rule or established policy, once CPS has reviewed such policy and approved it. Approval shall be at CPS' sole discretion.

-If the Client (i) has no officially adopted rule or established policy regarding a candidate’s privilege of inspecting a keyed copy of a test or answer sheet(s) following the test, (ii) wishes to allow such an inspection privilege, and (iii) notifies CPS of (i) and (ii), above, at least two weeks prior to the Test Date, the following CPS policy shall govern:

-Inspection of a keyed copy of the test book, for the purpose of requesting a review of such items as the candidate may believe are incorrect or improperly keyed, will be allowed following a test. However, requests for a keyed copy of the test book must be made within five working days of the test.

-During test inspection by a candidate, a representative of Client's Personnel or Administrative office must be present to assure that no candidate takes, duplicates, or transmits any Test Materials or notes regarding a test question from the test inspection.

-Applied request of Client, CPS will analyze written candidate protests resulting from such review and recommend the action to be taken by Client.

8. **Answer Sheet(s) Hand Scoring and Inspection.**

(a) **Hand Scoring.** CPS offers hand scoring of a candidate’s answer sheet(s), upon request by Client, within a 14-calendar-day period immediately following the notification to the candidate of test results. See Exhibit C for the charge for this service.

(b) **Inspection of Semi-Custom Tests** - Inspection of a candidate's own answer sheet(s) for the purpose of detecting whether any clerical or other error has been made in the scoring of the answer sheets shall be allowed, upon request by the Client, for a 14-calendar-day period immediately following the notification to the candidate of test results.
Candidates are not allowed to review the question booklet during this inspection period.

-Not more than one hour will normally be allowed for answer sheet(s) review.

-A representative of Client's Personnel or Administrative office shall be present to assure that no changes or marks of any kind are made by the candidate on the answer sheet(s) or keyed answer sheet.

9. **Examination Charges.** In consideration of CPS' performance of the testing services set forth in Exhibit C of this Agreement, Client agrees to pay CPS in accordance with the "Written Test Price List" in effect at the time of the rental arrangements. Client acknowledges and understands that the prices set forth in Exhibit C are only effective as of the date shown on Exhibit C and are subject to change. CPS shall bill Client at the billing address provided in Exhibit B, attached hereto.

10. **Canceled or Postponed Tests.** Client shall be billed for any work done on a canceled or postponed test up to the time CPS is notified of such cancellation or postponement. Under certain circumstances and in CPS' sole discretion, credit may be given for work already performed, if the test is rescheduled.

C. **Client Responsibilities and Indemnification**

1. The Client shall perform all parts of the testing process which have not specifically been requested of and agreed to by CPS.

2. Client shall assume responsibility for the conformity of the testing process to any applicable laws, rules or ordinances, and for the test as a whole. Under the federal Uniform Guidelines on Employee Selection Procedures, the Client as test user is responsible for the results of the selection process, and Client understands and acknowledges that it must be prepared to demonstrate that the process is valid and meets other testing standards if it adversely affects groups protected by fair employment laws.

3. Client shall indemnify, defend and hold harmless CPS and CPS' officers and employees from and against any and all claims, actions, losses, costs and liabilities based on any claims by third parties relating to or arising from a test or the administration of a test.

**SECTION III - SECURITY OF TEST MATERIALS**

A. **Ownership of CPS Tests.** Client understands and acknowledges that CPS owns all rights, title and interest, including copyrights, in all CPS Tests. Thus, all CPS Tests that are provided under this agreement are the property of CPS and shall remain the property of CPS, even while in the custody of Client.

B. **Test Security.** Client understands and acknowledges that the confidentiality of all Test Materials that CPS supplies is crucial to the continued usefulness of such Test Materials. Therefore, Client shall be responsible for the security of all Test Materials supplied for a test administration. Client shall hold and store the Test Materials in a manner that will prevent unauthorized persons from having access to them. In addition, **Client shall not reproduce test booklets or test questions under any circumstances.**
C. Legal Proceedings Involving Test Materials. If any Test Materials obtained from CPS should become involved in legal proceedings by a court or other body vested with legal authority, CPS and/or Client will take appropriate measures to safeguard the confidentiality of the Test Materials, including answer sheets, such as by motion or protective order.

SECTION IV – RESPONSIBILITY FOR COMPLIANCE WITH AGREEMENT

A. Test Administrators. Client represents and warrants that it shall ensure that each person who orders and/or receives Test Materials and/or supervises Test Administrations on Client’s behalf (“Test Administrator”) will do so in accordance with the terms of this Agreement. For Clients who sign paper copies of this Agreement, (i) all Test Administrators and (ii) the representative of Client who signs this Agreement on Client’s behalf must sign the “Test Administrator Acknowledgement” set forth in Exhibit A (“Acknowledgement”). For On-line Subscribers, the representative of Client who accepts the Agreement on Client’s behalf shall, using his or her passcode, submit the names of Test Administrators to CPS on-line (“On-line Submission”), thereby representing (i) that the client has authorized these Test Administrators to handle tests and (ii) that the Test Administrators have been made aware of the terms of this Agreement and shall handle the tests in accordance with such terms. During the term of this initial Acknowledgement or On-line Submission is made. CPS is not obligated to accept orders or to release Test Materials to persons for whom it has not received a fully signed Acknowledgement or an On-line Submission.

B. Client’s Responsibility for Compliance with Agreement. Client represents and warrants that it shall ensure that all persons that handle Test Materials in any capacity, including both Test Administrators and proctors that simply assist with Test Administration, shall do so in compliance with this Agreement.

SECTION V – TERM AND TERMINATION OF AGREEMENT

A. Term. The term of this Agreement is one year from its Effective Date.

B. Immediate Termination upon Material Breach. Each party may terminate this Agreement immediately upon any material breach by the other party. For purposes of this Agreement, but without limiting the meaning of material breach, any breach of the test security provisions of Section III, however minor, shall be considered a material breach. Client understands and acknowledges that immediate termination by CPS may result in the withholding or recall of Test Materials.

C. Termination without Cause. CPS and Client may terminate the Agreement without cause upon thirty days written notice to the other party.

D. Return of Test Materials. Upon termination of the Agreement, Client shall immediately return to CPS any Test Materials that it possesses.

SECTION VI – EQUITABLE RELIEF AND LIQUIDATED DAMAGES

A. Equitable Relief. Client acknowledges that breach of this Agreement will result in irreparable harm to CPS for which damages would be an inadequate remedy and, therefore, in the event of a breach, in addition to its rights and remedies otherwise available by law, CPS shall be entitled to equitable relief, including injunction.
B. Liquidated Damages. Client shall reimburse CPS, according to Exhibit D, attached hereto, for a portion or all of the replacement costs for Test Materials which, while in the custody of the Client, were lost or were compromised, such that in CPS' sole discretion the value of the testing materials was destroyed.

SECTION VII - MISCELLANEOUS

A. Notices. Any notice to the parties required or permitted under this Agreement shall be given in writing. Notice shall be deemed given at the following times: (a) on the date of service if served personally on the party to whom notice is to be given; (b) on the first day after transmission if transmitted by telex or electronic facsimile; (c) on the second day after deposit if deposited with an overnight express courier service; or (d) on the second day after mailing if mailed to the party to whom notice is to be given by first class mail, postage prepaid, addressed to the party at the party's principal place of business.

B. Jurisdiction, Venue and Governing Law. The validity, interpretation and performance of this Agreement and the parties' rights and liabilities under this Agreement shall be controlled by and construed under the laws of the State of California, excluding its conflicts of laws rules. The exclusive jurisdiction and venue of any legal proceedings arising out of this Agreement shall be the state or federal courts located in Sacramento, California. Each party agrees not to request the Sacramento-based federal court to transfer any litigation to a federal court located elsewhere.

C. Attorneys' Fees. If any legal action or arbitration or other proceeding is brought to enforce or construe the term of this Agreement or because of an alleged dispute, breach or default in connection with any provision of this Agreement, the successful or prevailing party shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action, arbitration or proceeding in addition to any other relief to which it may be entitled.

D. Waiver. The failure of any party at any time or times to require performance of any provisions of this Agreement shall in no manner affect its right to enforce such provision at a later time. Nor shall the waiver by either party of a breach of any provision of this Agreement be taken or held to be a waiver of the provision itself. No waiver shall be enforceable unless made in writing and signed by the party granting the waiver.

E. Entire Agreement; Modifications. This Agreement constitutes the entire agreement between the parties regarding the subject matter hereof and supersedes all other agreements, representations and warranties. All modifications and supplements to this Agreement must be in writing and signed by both parties.

F. Counterparts; Facsimile Signature; Electronic Signature. This Agreement may be executed in any number of counterparts. If this Agreement or any counterpart is signed and then faxed, the faxed copy bearing the signature shall be as good as the original, wet-ink signed copy for all intents and purposes. This Agreement may also be accessed and signed on-line through CPS' website – www.cps.ca.gov. By clicking the button "I accept," which appears at the bottom of the on-line agreement, the Client shall electronically sign the Agreement and be bound by its terms. This electronic signature shall be as good as a written signature for all intents and purposes.
G. Authority to Sign. The person signing this Agreement on behalf of the Client (the "Principal Signer") represents that he or she is the head of the agency and duly authorized to sign this Agreement and to bind the Client.

PRINCIPAL SIGNER (Head of the agency, i.e., HR Director, Fire Chief, Police Chief, etc.)

Darrel L. Pyle, Deputy City Manager
Name and Title (Print)

Signature

dpyle@ci.porterville.ca.us
Email

City of Porterville
Agency
291 N. Main Street
Street Address
Porterville, CA 93257
City, State, Zip

(559) 782-7444 (559) 782-7444
Phone Number Fax Number

March 1, 2005
Date

COOPERATIVE PERSONNEL SERVICES DBA CPS HUMAN RESOURCE SERVICES, A CALIFORNIA JOINT POWERS AUTHORITY

Mike Willihnganz
Senior Manager Test Development/Test Rental
Exhibit A

TEST ADMINISTRATOR ACKNOWLEDGEMENT

By signing below, I represent that I will order and handle CPS Test Materials in accordance with the terms of the CPS Test Security Agreement.

<table>
<thead>
<tr>
<th>Name and Title (Print)</th>
<th>Signature</th>
<th>Email</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sheryl White, Human Resources Analyst</td>
<td></td>
<td><a href="mailto:swhite@ci.porterville.ca.us">swhite@ci.porterville.ca.us</a></td>
</tr>
<tr>
<td>Josie Castaneda, Human Resources Asst.</td>
<td></td>
<td><a href="mailto:jcastaneda@ci.porterville.ca.us">jcastaneda@ci.porterville.ca.us</a></td>
</tr>
<tr>
<td>Wendy Miller, Payroll Technician</td>
<td></td>
<td><a href="mailto:wmlller@ci.porterville.ca.us">wmlller@ci.porterville.ca.us</a></td>
</tr>
</tbody>
</table>

Principal Signer's Acknowledgement of Authority

By signing below, I represent that the above-named person(s) is (are) authorized to handle CPS Tests on Client's behalf and shall handle the CPS Test Materials in accordance with the terms of the CPS Test Security Agreement currently in effect.

Darrel L. Pyle, Deputy City Manager

Name and Title (Print)

Signature

City of Porterville

Agency

March 1, 2005

Date
### Exhibit B

#### CLIENT BILLING INFORMATION

<table>
<thead>
<tr>
<th>Agency Name:</th>
<th>City or Porterville</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department:</td>
<td>Human Resources</td>
</tr>
<tr>
<td>Address:</td>
<td>291 N. Main Street</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>City:</th>
<th>County:</th>
<th>State/Province:</th>
<th>Zip:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Porterville</td>
<td>Culare</td>
<td>CA</td>
<td>93257</td>
</tr>
</tbody>
</table>

Attention To: Name  
Sheryl White

Title and Email Address:  
**Human Resources Analyst:** swhite@ci.porterville.ca.us

<table>
<thead>
<tr>
<th>Telephone Number:</th>
<th>Fax Number:</th>
</tr>
</thead>
<tbody>
<tr>
<td>(559) 782-7444</td>
<td>(559) 782-7509</td>
</tr>
</tbody>
</table>
### Exhibit C

**CPS Test Services Rates (Effective July 1, 2004)**

*NOTE: Prices are Subject To Change*

<table>
<thead>
<tr>
<th></th>
<th>STOCK TESTS</th>
<th>SEMI-STOCK TEST*</th>
<th>SEMI-CUSTOM TESTS*</th>
<th>AGENCY TESTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Base Fee</td>
<td>$295.00</td>
<td>$415.00</td>
<td>$850.00</td>
<td>$415.00</td>
</tr>
</tbody>
</table>

**REVIEW COPIES AVAILABLE UPON REQUEST AT NO CHARGE**

**Per Booklet/Candidate Fee**

<table>
<thead>
<tr>
<th>Numbers of Books or Candidates</th>
<th>Stock Fee</th>
<th>Semi-Stock Fee</th>
<th>Semi-Custom Fee</th>
<th>Agency Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 - 100 Books or Candidates</td>
<td>$8.50</td>
<td>$13.00</td>
<td>$14.50</td>
<td>$10.00</td>
</tr>
<tr>
<td>101 - 500 Books or Candidates</td>
<td>$8.00</td>
<td>$12.00</td>
<td>$13.50</td>
<td>$9.50</td>
</tr>
<tr>
<td>501+ Books or Candidates</td>
<td>$7.50</td>
<td>$11.00</td>
<td>$12.50</td>
<td>$9.00</td>
</tr>
<tr>
<td>Cancellation Fee</td>
<td>$200.00</td>
<td>$200.00</td>
<td>$300.00</td>
<td>$200.00</td>
</tr>
<tr>
<td>Pick Up/Handling</td>
<td>5%</td>
<td>5%</td>
<td>5%</td>
<td>5%</td>
</tr>
<tr>
<td>2 - Day Shipping</td>
<td>10%</td>
<td>10%</td>
<td>10%</td>
<td>10%</td>
</tr>
<tr>
<td>Overnight Shipping</td>
<td>15%</td>
<td>15%</td>
<td>15%</td>
<td>15%</td>
</tr>
<tr>
<td>Canadian Shipping 2 - Day</td>
<td>15%</td>
<td>15%</td>
<td>15%</td>
<td>15%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Entry Law/Fire Candidate Preparation Manuals</th>
<th>Structured Interview Packages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Quantity Per Booklet/Candidate Fee</td>
<td>Base Fee: $400.00</td>
</tr>
<tr>
<td>10 - 100</td>
<td>Per Candidate Fee:</td>
</tr>
<tr>
<td>$4.00</td>
<td>$5.00 if used with a CPS written test</td>
</tr>
<tr>
<td>101 - 500</td>
<td>$7.50 if used without a CPS written test</td>
</tr>
<tr>
<td>$3.00</td>
<td>$2.50</td>
</tr>
</tbody>
</table>

Stock tests are prepackaged and are available only in packages of ten booklets. CPS will apply a credit of $35.00 for each UNOPENED package of test booklets to your agency's current STOCK test order. Clients with 49 candidates or less are billed at the number ordered or the number actually tested, whichever is greater.

*ALL REQUIRE JOB ANALYSIS WORKBOOKS*

### SPECIAL SERVICES

<table>
<thead>
<tr>
<th>Service</th>
<th>Fee Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stock Supplements</td>
<td>$2.00 per book when ordered with a Stock test</td>
</tr>
<tr>
<td>Writing Proficiency Exam</td>
<td>$350.00 Base Fee + $15.00 per candidate (Professional Scoring included)</td>
</tr>
<tr>
<td>Custom Supplement</td>
<td>$100.00 Base Fee + $5.00 per booklet when used with CPS tests</td>
</tr>
<tr>
<td>Cover Change of Stock or Agency Test</td>
<td>$100.00 + $0.50 per book</td>
</tr>
<tr>
<td>Scoring Services (Non-CPS Tests)</td>
<td>$75.00 plus $1.00 per candidate</td>
</tr>
<tr>
<td>Scoring Stencil (Plastic Overlay)</td>
<td>$10.00 per stencil</td>
</tr>
<tr>
<td>Faxing of Test Results</td>
<td>$10.00</td>
</tr>
<tr>
<td>Re-Scoring/Hand-Scoring of Answer Sheet</td>
<td>$25.00 (Requested directly by Agency, payable by money order only)</td>
</tr>
<tr>
<td>Non-specified special services</td>
<td>CALL FOR DETAILS (Billed at applicable hourly rate)</td>
</tr>
</tbody>
</table>
Exhibit D

LOST OR COMPROMISED TEST PRICING

- For each lost test (excluding Police, Fire, and Corrections), there will be a base charge of $5,000. For each additional copy (test) of the same test that is lost, there will be a $75 charge with a maximum total charge of $20,000 per test.

- For each lost Police, Fire, or Corrections test, there will be a base charge of $10,000. For each additional copy (test) of the same test that is lost, there will be a $75 charge with a maximum total charge of $20,000 per test.

- For each lost Agency, Custom, Semi-Stock, or Specialized test, there will be a base charge of $10,000. For each additional copy (test) of the same test that is lost, there will be a $75 charge with a maximum total charge of $20,000 per test.
RESOLUTION NO. ___-2005

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE TO RENEW THE PERSONNEL EXAMINING SERVICES CONTRACT BETWEEN THE CITY OF PORTERVILLE AND COOPERATIVE PERSONNEL SERVICES

WHEREAS, the previous contract for personnel examining services with Cooperative Personnel Services has expired; and

WHEREAS, such an agreement is a vital personnel tool in the evaluation process for selecting qualified persons for certain key positions.

NOW, THEREFORE, BE IT RESOLVED that the Porterville City Council does hereby authorize the City Manager or his designee to enter into and sign an agreement with Cooperative Personnel Services, for the purpose of performing examining services for the City of Porterville.

______________________________
Pedro R. Martinez, Mayor

ATTEST:

______________________________
Georgia Hawley, Chief Deputy City Clerk
PUBLIC HEARING

TITLE: ZONE CHANGE 7-2004 (Ennis)

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: The subject site is a 21.05± acre vacant parcel located generally at the southwest corner of Henderson Avenue and Newcomb Street.

On September 2, 1986, the Porterville City Council approved General Plan Amendment 2-86 by City Council Resolution 100-86. This amendment to the Land Use and Circulation Element of the General Plan changed the designation for ten (10) different areas. The subject site was part of this amendment which changed the previous General Plan Designation of the site from Low Density Residential to its present designation of Medium Density Residential and High Density Residential designations.

Zone Change 7-2004 proposes to change the northerly portion of the 21.05± acre vacant site from R-1 (One Family Residential) Zone to R-3 (Multiple Family) Zone. The northerly portion of the vacant site (approximately 10± acres) is located on the south side of Henderson Avenue approximately 518± feet west of Newcomb Street and extends west 906.92± feet and south approximately 485± feet (see Attachment No. 1).

Zone Change 7-2004 also proposes to change the southerly portion of the 21.05± acre vacant site from R-1 (One Family Residential) Zone to R-2 (Four Family) Zone. The southerly portion of the vacant site (approximately 11± acres) is located on the west side of Newcomb Street approximately 370± feet south of Henderson Avenue and extends west 1210.13± feet and north approximately 308± feet.

The proposed Zone change brings the zoning into consistency with the General Plan. No development proposal has been submitted at this time.

ENVIRONMENTAL: On January 3, 2005, the Environmental Coordinator made a preliminary determination that a Mitigated Negative Declaration would be appropriate for the proposed project. The Initial Study and proposed Mitigation Measures have been transmitted to interested agencies, groups, and individuals for a twenty (20) day review period from January 27, 2005 to February 17, 2005. As of this date, the San Joaquin Valley Air Pollution Control District was the only agency that responded. Those comments have been incorporated into the Mitigation Monitoring Program Attachment A of the draft environmental resolution.
RECOMMENDATION: That the City Council:

1. Adopt the draft resolution approving a Negative Declaration for Zone Change 7-2004.

2. Adopt the draft ordinance approving Zone Change 7-2004.

ATTACHMENT:

1. Complete Staff Report
CITY COUNCIL AGENDA: MARCH 1, 2005

PUBLIC HEARING - STAFF REPORT

TITLE: ZONE CHANGE 7-2004

APPLICANT: Ennis Commercial Properties
643 N. Westwood
Porterville, CA 93257

PROJECT LOCATION: The vacant 21.05± acre site located generally at the southwest corner of Henderson Avenue and Newcomb Street.

SPECIFIC REQUEST: The applicant is requesting a change of zone from City R-1 (One Family Residential) to R-2 (Four Family) and City R-1 (One Family Residential) to R-3 (Multiple Family).

PROJECT DETAILS: Zone Change 7-2004 proposes to change the northerly portion of the 21.05± acre site from R-1 (One Family Residential) Zone to R-3 (Multiple Family) Zone. The northerly portion of the vacant site (approximately 10± acres) is located on the south side of Henderson Avenue approximately 518± feet west of Newcomb Street and extends west 906.92± feet and south approximately 485± feet.

Zone Change 7-2004 also proposes to change the southerly portion of the 21.05± acre site from R-1 (One Family Residential) Zone to R-2 (Four Family) Zone. The southerly portion of the vacant site (approximately 11± acres) is located on the west side of Newcomb Street approximately 370± feet south of Henderson Avenue and extends west 1210.13± feet and north approximately 308± feet.

GENERAL PLAN LAND USE DESIGNATION: Medium Density Residential and High Density Residential.

SURROUNDING AREA ZONING AND LAND USE:

North: City R-1- Henderson Avenue and developed single family residential subdivisions.
South: City R-1- Developed single family residential subdivisions.
East: City R-1, C-2 D- Church, vacant property, Newcomb Street and City Park.
West: City R-1- Vacant land developed single family residential subdivision.
STAFF ANALYSIS: On September 2, 1986, the Porterville City Council approved General Plan Amendment 2-86 by City Council Resolution 100-86. This amendment to the Land Use and Circulation Element of the General Plan changed the designation for ten (10) different areas. The subject site was part of this amendment which changed the previous General Plan Designation of the site from Low Density Residential to its present designation of Medium Density Residential and High Density Residential designations.

The General Plan designation of Medium Density Residential and High Density Residential land uses will allow for the proposed zone change to be in conformity with the long standing plan for development of the site.

Development of the site as proposed will provide needed housing in conformance with the City’s General Plan Land Use and Housing Elements and requirements of the State Subdivision Map Act and local ordinances. The Housing Element adopted in 2004 included the subject site in the analysis of available sites for multiple family residential uses.

Development of the northerly 10+ acres with multiple family residential uses (R-3 Zoning) fronting on Henderson Avenue is anticipated to result in additional daily vehicle trips. The General Plan allows for a maximum of 43 units per acre. Based of the Circulation Element of the General Plan, 6.47 daily trips would be generated per unit. Maximum buildout of 430 units would generate a total of 2,782 ADT.

Development of the southerly 11+ acres with multiple family residential uses (R-2 Zoning) fronting on Newcomb Street is anticipated to result in additional daily vehicle trips. The General Plan allows for a maximum of 15 units per acre. Based of the Circulation Element of the General Plan, 6.47 daily trips would be generated per unit. Maximum buildout of 165 units would generate a total of 1,068 ADT.

Henderson Avenue presently is a two (2) lane divided arterial with a capacity to handle 12,500 ADT. Upon completion of the Henderson Avenue Widening Project, Henderson will be developed to an 84 foot wide four (4) lane arterial street, capable of handling 25,000 ADT. The additional traffic generated by the proposed development will not reduce the performance of these streets since they will be designed to handle the additional traffic in this area. Therefore, the impact is less than significant.

Newcomb Street is a developed 4 lane Arterial Street with a capacity of 25,000 ADT. No recent traffic counts have been conducted in this location, however, no traffic congestion has been reported. Due to the design of both Henderson Avenue and Newcomb Street, the impact is less than significant.

ALTERNATIVES TO THE PROJECT AND THEIR EFFECT:

1. No Project. Denial of the proposed zone change would result in the vacant site to remain zoned R-1(One Family Residential).
2. Approve the project. Approval of the proposed zone change to R-2 and R-3 would allow the subject site to be developed in conformance with the General Plan.

ENVIRONMENTAL: On January 3, 2005, the Environmental Coordinator made a preliminary determination that a Mitigated Negative Declaration would be appropriate for the proposed project. The Initial Study and proposed Mitigation Measures have been transmitted to interested agencies, groups, and individuals for a twenty (20) day review period from January 27, 2005 to February 17, 2005. As of this date, the San Joaquin Valley Air Pollution Control District was the only agency that responded. Those comments have been incorporated into the Mitigation Monitoring Program Attachment A of the draft environmental resolution with the exception of one comment.

COMMENT: The entire San Joaquin Valley Air Basin is classified non-attainment for ozone and fine particulate matter (PM10 & PM2.5). This project exceeds the District’s Small Project Analysis Level (SPAL), as defined in the Guide for Assessing and Mitigating Air Quality Impacts (GAMMQI). The district recommends the preparation of an Air Quality Impact Assessment (AQIA) and a Traffic Impact Study to determine impacts when projects are of this size, unless an analysis has been accomplished for a recent previous approval such as a general plan amendment. Please indicate to the district if the project has been analyzed and what the results were from any previous study.

RESPONSE: On September 2, 1986, the Porterville City Council approved General Plan Amendment 2-86 by City Council Resolution 100-86. This amendment to the Land Use and Circulation Element of the General Plan changed the designation for ten (10) different areas. The subject site was part of this amendment which changed the previous General Plan Designation of the site from Low Density Residential to its present designation of Medium Density Residential and High Density Residential designations. The potential cumulative environmental impacts for high density residential and medium density residential uses were fully considered with the 1986 General Plan Amendment. This project merely completes the action undertaken at that time.

DATE FILED FOR PROJECT REVIEW COMMITTEE PROCESSING: August 11, 2004

DATE ACCEPTED AS COMPLETE: January 3, 2005
RECOMMENDATION: That the City Council:

1. Adopt the draft resolution approving a Negative Declaration for Zone Change 7-2004.

2. Adopt the draft ordinance approving Zone Change 7-2004.

ATTACHMENTS:

1. Zoning/Land Use Map
2. Zone Change Application
3. Negative Declaration
4. Environmental Initial Study
5. Letter dated February 16, 2005 from the San Joaquin Valley Air Pollution Control District
6. Draft Resolution approving Negative Declaration for Zone Change 7-2004
7. Draft Ordinance approving Zone Change 7-2004
LAND USE

= SINGLE FAMILY DWELLING
VAC = VACANT

ZONING

= LOW DENSITY RESIDENTIAL
= MEDIUM DENSITY RESIDENTIAL
= HIGH DENSITY RESIDENTIAL
= NEIGHBORHOOD NODE

CONDITIONAL USE
PERMIT # 7-2004

ATTACHMENT 1
APPLICATION FOR CHANGE OF ZONE NO. ________

TO THE PORTERVILLE CITY PLANNING COMMISSION:

We, the owners of real property set opposite our respective names, hereby petition to have Ordinance No. 707 amended by reclassifying from Zone _R1_ To Zone _R2 & R3_, the property described hereon and shown in colored cross-hatching on the attached map which, together with the Property Owner's List, also attached hereto, are made a part of this petition.

The property is situated on the _SOUTH_ Side _____ Of _HENDERSON_ Street.

Between __NEWCOMB____ Street and __BELMONT___ Street.

Exact legal description of said property being __PARCEL 4 OF PARCEL MAP No. 2806 RECORDED IN BOOK 29, PAGE 7 OF PARCEL MAPS__

1. Does public necessity require the proposed change? Is there a real need in the community for more of the types of uses permitted by the Zone requested than can be accommodates in the areas already zoned for such uses? (Fully explain your answer, considering the surrounding property as well as the property proposed to be reclassified.)

YES - BASED UPON THE CITY HOUSING ELEMENT, THERE IS NOT AN EXCESS AND MAY BE A SHORTAGE OF MULTI-FAMILY ZONED PROPERTY.

2. Is the property involved in the proposed reclassification more suitable for the purposes permitted in the proposed classification than for the purposes permitted in the present classification? (Answer completely; give all reasons for your answer.)

YES - THE REQUESTED ZONE CLASSIFICATIONS ARE CONSISTENT WITH THE CITY GENERAL PLAN.

3. Would the uses permitted by the proposed zone be detrimental in any way to surrounding property? (Explain reasons supporting your answer.)

NO - THE CITY GENERAL PLAN DESIGNATIONS IN THE AREA PROVIDE FOR COMPATIBLE TRANSITIONS BETWEEN LAND USE DESIGNATIONS.

4. What were the original deed restrictions, if any, concerning the type and class of uses permitted on the property involved? Give the expiration date of these restrictions. (You may attach a copy of these restrictions, after properly underscoring the portions that are in answer to this question.)

NÔNE

ATTACHMENT
ITEM NO. 2
The following spaces are for signatures of owners whose properties lie within the radius of 300 feet of the property proposed to be reclassified and who approve of the change. (Not required (See item 2, Page 4))
(Attach extra sheets if necessary)

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We, the undersigned property owners, herewith request that our respective properties which are included in the reclassification petitioned for, be reclassified and for the reasons herein enumerated.
(This space is for signatures of owners of property actually included in the proposed reclassification. Attach extra sheets if necessary.)

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OWNER'S DECLARATION

STATE OF CALIFORNIA

COUNTY OF TULARE

I, ________________, being duly sworn, declare and say that I am the owner of part (or all) of the property involved and that this application has been prepared in compliance with the requirements of the Porterville City Planning Commission as printed herein and that the foregoing information thoroughly and completely, to the best of my ability, presents the argument in behalf of the application herewith submitted 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 ________________

This __________ Day of November, 2004

Signed ____________________________

Telephone Number 761-2700

Mailing Address

JAMES WINTON & ASSOCIATES
150 W. MORTON AVE
PORTERVILLE, CA 93257

This is to certify that the foregoing application has been inspected by me and found to be complete and acceptable for filing with the Porterville City Planning Commission.

Received ____________________________

Receipt No. ____________________________

By ____________________________

For The Porterville City Planning Commission
LEAD AGENCY: City of Porterville
291 North Main Street
Porterville, California 93257

PROJECT APPLICANTS: Ennis Commercial Properties
643 N. Westwood Street
Porterville, CA 93257

PROJECT TITLE: Zone Change 7-2004

ADDRESS/LOCATION: Generally the vacant 21.05 ± acre site located generally at the southwest corner of Henderson Avenue and Newcomb Street, in the City of Porterville, County of Tulare.

PROJECT APPLICANT: Ennis Commercial Properties

PROJECT DESCRIPTION: Zone Change 7-2004 proposes to change the northerly portion of the 21.05 ± acre site from R-1 (One Family Residential) Zone to R-3 (Multiple Family) Zone. The northerly portion of the vacant site (approximately 10 ± acres) is located on the south side of Henderson Avenue approximately 519 ± feet west of Newcomb Street and extends west 906.92 ± feet and south approximately 485 ± feet.

Zone Change 7-2004 also proposes to change the southerly portion of the 21.05 ± acre site from R-1 (One Family Residential) Zone to R-2 (Four Family) Zone. The southerly portion of the vacant site (approximately 11 ± acres) is located on the west side of Newcomb Street approximately 370 ± feet south of Henderson Avenue and extends west 1210.13 ± feet and north approximately 308 ± feet.

CONTACT PERSON: Bradley D. Dunlap (559) 782-7460

Per Resolution No. 92-2004, adopted on July 20, 2004, the Environmental Coordinator of the City of Porterville made a preliminary determination that a Mitigated Declaration would be appropriate for the proposed project described herein and has found that this project will have no significant impact on the environment for the following reasons:

1. The project does not have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory.

2. The project does not have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals.

3. The project does not have possible environmental effects which are individually limited but cumulatively considerable, "Cumulatively considerable" means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

4. The environmental effects of a project will not cause substantial adverse effects on human beings, either directly or indirectly.

5. Mitigation measures X were, were not made a condition of the approval of the project.

On January 3, 2005, the Environmental Coordinator of the City of Porterville determined that the above projects will have no significant effect on the environment.

Copies of plans and other documents relating to the subject project may be examined by interested parties at the City Planning Division, 291 North Main Street, Porterville, California.

Dated: January 3, 2005
Word: NegtocZoneChange7-2004

Approved: Bradley D. Dunlap, Environmental Coordinator

ATTACHMENT ITEM NO. 3

291 N. Main St., Porterville, CA 93257 PHONE 559.782.7460 FAX 559.781.6437
CITY OF PORTERVILLE
ENVIRONMENTAL CHECKLIST FORM

1. Project Title: Zone Change 7-2004

2. Lead Agency Name and Address: City of Porterville
   291 North Main Street
   Porterville, CA 93257

3. Contact Person and Phone Number: Bradley D. Dunlap (559) 782-7460

4. Project Location: The vacant 21.05± acre site located generally at the southwest corner of Henderson Avenue and Newcomb Street.

5. Project Sponsor's Name and Address: Ennis Commercial Properties
   643 N. Westwood Street
   Porterville, CA 93257


7. Zoning: City R-1(One Family Residential) Zone.

8. Description of the Project: (SEE ATTACHED LOCATOR MAP 3b).

Zone Change 7-2004 proposes to change the northerly portion of the 21.05± acre site from R-1 (One Family Residential) Zone to R-3 (Multiple Family) Zone. The northerly portion of the vacant site (approximately 10± acres) is located on the south side of Henderson Avenue approximately 518± feet west of Newcomb Street and extends west 906.92± feet and south approximately 485± feet.

Zone Change 7-2004 also proposes to change the southerly portion of the 21.05± acre site from R-1 (One Family Residential) Zone to R-2 (Four Family) Zone. The southerly portion of the vacant site (approximately 11± acres) is located on the west side of Newcomb Street approximately 370± feet south of Henderson Avenue and extends west 1210.13± feet and north approximately 308± feet.

9. Surrounding Land uses and Setting:

   North: City R-1- Henderson Avenue and developed single family residential subdivisions.
   South: City R-1- Developed single family residential subdivisions.
   East: City R-1, C-2 D- Church, vacant property, Newcomb Street and City Park.
   West: City R-1- Vacant land developed single family residential subdivision.

10. Related Projects:

On July 15, 2003, the City Council of Porterville, by Resolution 92-2003, approved a Negative Declaration (SCH 2003051145) for potential environmental impacts for the Henderson Avenue and Westwood Street Reconstruction Project. The Negative Declaration addressed environmental impacts and provided mitigation associated with urban development resulting from potential growth inducing projects such as the increased traffic carrying capacity of the proposed project. The project consisted of the following:

ATTACHMENT ITEM NO. 4
The City proposes to widen a portion of Henderson Avenue from 2-lanes in the current 60 foot right-of-way to 4 lanes in an 84 foot right-of-way. The project extends westward along Henderson Avenue from the west side of Newcomb Street for 5,276 feet to Westwood Street. Along Westwood, the project extends north approximately 2,642 feet to the south side of the intersection with Westwood Street and Westfield Avenue. Westwood, will be widened to an 84 foot right-of-way.

The project includes right-of-way acquisitions along Henderson Avenue and along the east side of Westwood Street. The project adds curbs, gutters, sidewalks and street lighting along portions of Henderson Avenue and along the east side of Westwood Street north to Westfield Avenue. The project also includes installation of a 12" water main as called for in the City's Master Plan.

11. Other public agencies whose approval is required (e.g. permits, financing approval, or participation agreement).

Porterville City Council
ENVIRO\NMENTAL FACTORS POTENTIAL\NLY AFFECTED:

The environmental factors checked below would be potentially affected by this project.

<table>
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<tr>
<th>Land use and Planning</th>
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<td>Transportation and Circulation</td>
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<td>Utilities and Service Systems</td>
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DETERMINATION: (To be completed by the Lead Agency).

On the basis of this initial evaluation:

I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described on an attached sheet have been added to the project. A NEGATIVE DECLARATION will be prepared.

I find that the proposed project MAY have a significant effect(s) on the environment, but the effect(s) (1) has/have been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. If the effect is a "Potentially Significant Impact" or "Potentially Significant Unless Mitigated" and will not be mitigated. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

I find that although the proposed project could have a significant effect on the environment, there WILL NOT be a significant effect in this case because all potentially significant effects (1) have been analyzed in an earlier EIR or Negative Declaration pursuant to applicable standards and (2) have been avoided or mitigated pursuant to that earlier EIR or Negative Declaration, including revisions or mitigation measures that are imposed upon the proposed project.

I find the proposed project could have a significant effect on the environment. Action to be determined by the Environmental Review Committee.

----------
Signature
Bradley D. Dunlap, AICP
Printed Name

City of Porterville
For

1/3/05 Date
EVALUATION OF ENVIRONMENTAL IMPACTS:

1. A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources cited for each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).

2. All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

3. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect is significant. If there are one or more "Potentially Significant Impact" entries that will not be mitigated by incorporation of mitigation in the project when the determination is made, an EIR is required.

4. "Potentially Significant Unless Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section 17, "Earlier Analysis," may be cross-referenced).

5. Earlier analysis may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063 (c) (3) (D). Earlier analyses are discussed in Section 17 at the end of the checklist.

6. Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated. A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
CHECKLIST

1. LAND USE AND PLANNING — Would the proposal:

a. Conflict with general plan designation or zoning?

Discussion: Porterville’s General Plan designates the subject area for Medium Density Residential uses (7 to 15 d.u. per acre) and High Density Residential uses (15 to 43 d.u. per acre). The proposed zone change to R-2 and R-3 is supported by the General Plan. The project as proposed complies with existing polices.

Source: 1 & 12

b. Conflict with applicable environmental plans or policies adopted by agencies with jurisdiction over the project?

Discussion: The project as proposed will not conflict with any applicable environmental plans or policies adopted by agencies with jurisdiction over the project. Therefore, no impact will occur.

Source: 1, 3 & 4

c. Be incompatible with existing land use in the vicinity?

Discussion: The proposed project will allow for development as supported by the General Plan and Zoning Ordinance. Therefore, the project will not be incompatible with the existing land uses in the vicinity.

Source: 1, 2, & 30

d. Affect agricultural resources or operations (e.g. impact to soils or farmlands, or impacts from incompatible land uses)?

Discussion: The subject vacant site has not been used for agricultural operations for several years. The proposed site is surrounded by residential uses on all sides with the exception of the existing church, and City park on the east and vacant land to the west. Therefore, the proposed project will not affect any agricultural resources or operations.

Source: 1 & 30

e. Disrupt or divide the physical arrangement of an established community (including a low-income or minority community)?

Discussion: The project as proposed will not disrupt or divide the physical arrangement of the established community in this area.

Source: 1 & 30
### POPULATION AND HOUSING -- Would the proposal:

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<tr>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
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<tr>
<td>a. <strong>Cumulatively exceed official regional or local population projections?</strong></td>
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*Discussion: Based on the historical growth pattern, it is expected that Porterville's population will continue to grow at about 2.5% annually. The project as proposed will not cause any substantial increase in local population projections.*

*Source: 1 & 3*

| b. **Induce substantial growth in an area either directly or indirectly (e.g. through projects in an undeveloped area or major infrastructure)?** | | | X | |

*Discussion: The proposed project will facilitate development envisioned by the General Plan and Zoning Ordinance. Additional growth in the vicinity of the subject site is constrained by developed residential uses, City park and a church. The vacant land to the west has an approved conditional use permit to allow for a church. An additional conditional use permit, to allow for another church, to be located between the approved conditional use permit and the subject site, is scheduled for public hearing before the City Council.*

*Source: 1 & 3*

| c. **Displace existing housing, especially affordable housing?** | | | | X |

*Discussion: The subject site is vacant, therefore no displacement of affordable housing will occur.*

*Source: 1, 3 & 30*

### GEOLOGIC PROBLEMS -- Would the proposal result in or expose people to potential impacts involving:

| Fault rupture? | | | | X |

*Discussion: No faults are known to exist in this area. Therefore, the project will not expose people to hazards from fault rupture.*

*Source: 7*

| Seismic ground shaking? | | | | X |

*Discussion: No faults are known to exist in this area. Therefore, the project will not expose people to hazards from seismic ground shaking.*

*Source: 7*
c. Seismic ground failure, including liquefaction?

Discussion: No faults are known to exist in this area. Therefore, the project will not expose people to hazards from seismic ground failure.

Source: 7

d. Seiche, tsunami, or volcanic hazard?

Discussion: The City of Porterville is not located in an area subject to Seiche, tsunami, or volcanic hazards. Therefore, the project will not create any seiche, tsunami or volcanic hazard to this area.

Source: 7

e. Landslides or mudflows?

Discussion: The subject site is flat. Therefore, the project will not create any landslides or mudflows.

Source: 7

f. Erosion, changes in topography or unstable soil conditions from excavation, grading or fill?

Discussion: Development of the site with multiple family residential uses will result in ground disturbance through leveling, grading, etc., and absent proper control measures, could contribute to minor soil erosion during construction. Additionally, development on previously undisturbed soil with high expansion potential would create areas of impermeability which will contribute to increased storm water runoff.

Mitigation: Mitigation measures include the enforcement of a site development plan or other development related conditions of approval requiring erosion control plans and the conservation of vegetation, with soil disturbances to be limited to dry seasons. In addition, conformance with the City Storm Drain Master Plan, and requirements relative to grading, the California Building Code, etc., will be required.

Source: 7

g. Subsidence of the land?

Discussion: Development of the site with multiple family residential uses will not effect the subsurface soil structure and therefore will not contribute to any subsidence of land.

Source: 4 & 7

h. Expansive soils?

Discussion: The subject site has medium to coarse textured soils with a high water infiltration rate. As a result, future development of the site will not be effected by expansive soils.

Source: 4, 22 & 29
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<tr>
<td>i. Unique geologic or physical features?</td>
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Discussion: There are no unique geological or physical features in this area, therefore, the proposed project will have no impact.

Source: 4, 7 & 30

4. WATER — Would the proposal result in:

a. Changes in absorption rates, drainage patterns, or the rate and amount of surface runoff?

Discussion: Such patterns change incrementally as streets, gutters and pipelines are installed to handle additional surface drainage resulting from the development of impervious surfaces such as building and paving. The rate and amount of runoff will increase as these aforementioned features are constructed. The installation of the curbs, gutters and drop inlets to allow water to be channeled into the existing storm drain line will prevent any future drainage problems in this area.

Mitigation: Compliance with Federal, State and local regulations requiring that storm water runoff monitored and maintained free of heavy concentrations of pollutants will mitigate this potential impact to a level of insignificance (NPDES standards).

Source: 1 & 4

b. Exposure of people or property to water related hazards such as flooding?

Discussion: The FIRM Community Panel Number 060407 0010 D, October 15, 1985, Map indicates that the subject site is located within Flood Zone C (Areas of minimal flooding). No specific flood mitigation measures are required in this zone.

Source: 1, 4 & 26

c. Discharge into surface waters or other Alteration of surface water quality (e.g. temperature, dissolved oxygen or turbidity)?

Discussion: The site is within the boundaries of the City’s Master Plan for Storm Drainage (2001). Consequently, the storm water generated from future development of the site has been anticipated by the plan. Water quality could be affected by chemicals (oil based residues) conveyed by storm water runoff from streets, driveways and other impervious surfaces. Demands on the City’s water supply from the unconfined aquifer will be commensurate with the magnitude and type of future development occurring on the 21.05± acre site.

MITIGATION

Compliance with Federal, State and local regulations requiring that storm water runoff monitored and maintained free of heavy concentrations of pollutants will mitigate this potential impact to a level of insignificance (NPDES standards).
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The installation of storm drain lines in conformance with Federal, State, and local environmental protection requirements and the City's Storm Drainage Master Plan will be required.

It is not anticipated that the ultimate development of the 21.05± acre site, as described, will significantly deplete groundwater supplies or reduce public water supply from the City's unconfined groundwater aquifer.

*Source: 4, 7 & 26*

d. Changes in the amount of surface water in any water body?

Discussion: Drainage from the subject site will not be directed to any water body. Therefore, no impact will occur.

*Source: 4, 17 & 22*

e. Changes in currents, or the course or direction of water movements?

Discussion: Drainage from the subject site will not be directed to any water body. Therefore, no impact will occur.

*Source: 4, 7 & 26*

f. Change in the quantity of ground waters, either through direct additions or withdrawals, or through interception of an aquifer by cuts or excavations or through substantial loss of groundwater recharge capability?

Discussion: The site is within the boundaries of the City of Porterville’s Water Master Plan. Development of the site was anticipated and adequate water supplies have been identified.

It is anticipated that development of the site as proposed should not substantially reduce the amount of water otherwise available for public water supplies. Therefore, no change in the quantity of ground water or the substantial loss of groundwater recharge capability will occur.

*Source: 4, 7 & 26*

g. Altered direction or rate of flow of groundwater?

Discussion: Development of the site as proposed will not require any cuts or excavations other than minor grading, therefore, the direction of flow of groundwater will not be altered.

*Source: 1 & 4*
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<tr>
<td>h. Impacts to groundwater quality?</td>
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*Discussion: Development of the site as proposed will not require any cuts or excavations other than minor grading. No uses are proposed which could cause the discharge of pollutants into the groundwater.*

*Source: 1 & 4*

| i. Substantial reduction in the amount of groundwater otherwise available for public water supplies? |                                |                                                   | X                           |          |

*Discussion: Ultimate development of the site is not anticipated to significantly deplete groundwater supplies or reduce public water supply from the City's unconfined groundwater aquifer, therefore, the impact is less than significant.*

*Source: 1 & 4*

### 5. AIR QUALITY — Would the proposal:

| a. Violate any air quality standard or contribute to an existing or projected air quality violation? |                                | X                         |                             |          |

*Discussion: Future development of the site with multiple family residential uses will require equipment to be utilized in regard to the project and vehicular trips will be generated by construction crews during the construction stage of the project. Overall impacts to air quality form buildout as proposed by the General Plan is discussed in the Environmental Impact Report certified upon adoption of the current Land Use Element of the General Plan.*

*Mitigation: Mitigation of the effects resulting from increased vehicle trips must be accomplished through proper vehicle smog inspections and related efforts to reduce petroleum fueled transit. Additional mitigation measures include adequate circulation of vehicles to lessen concentrations of carbon monoxide in the area, promotion of car pooling and public transportation in the area, and the encouragement of non-motorized transportation modes (i.e./ bicycles and walking).*

**MITIGATION THROUGH CONSTRUCTION MANAGEMENT:**

1. **The City will implement Regulation VIII of the SJVAPCD including:**
   a. The prevention of dust from leaving the construction site during clearing, grading and excavation will be accomplished through regular truck spraying with water, sprinkling systems or emulsion sprays.
   b. Watering or spraying will be required to be done in the late morning and again at the end of the work day, with increased frequency throughout the day whenever wind is sustained or gusting at speeds in excess of 10 mph. If winds or gusting exceed 20 mph, vehicular activity will be required to cease.
c. One or more of the following means of dust control should be employed after the completion of earth grading operations:
   
i. Seeding and watering of new vegetation.
   ii. Hydro mulching or spreading of soil binders.
   iii. Maintenance of the site's soil surface crust through repeated soakings.

2. Require construction equipment to be equipped with catalysts/particulate traps to reduce particulate and NOx emissions.

3. Limit engine idling at the project site.

4. Trees should be carefully selected and located to shade the proposed buildings during the hot summer months. This measure should be implemented on southern and western exposures. Deciduous trees should be considered since they provide shade in the summer and allow the sun to reach the residences during the cold winter months.

5. As many energy-conserving features as possible should be included in the design/construction of the buildings. Examples include (but are not limited to) increased wall and ceiling insulation (beyond building code requirements), energy efficient lighting, high efficiency appliances and solar-assisted water heating.

6. Electric or low nitrogen oxide (Nox) emitting gas-fired water heaters should be installed.

7. Natural gas lines and electrical outlets should be installed in the patio areas to encourage the use of gas and/or electrical barbecues.

8. Electrical outlets should be installed around the exterior of the buildings to encourage the use of electric landscape maintenance equipment.

9. Awnings or other shading mechanism for windows should be installed.

10. Ceiling fans should be installed.

11. Energy efficient windows (double pane and/or coated) should be installed.

12. High-albedo (reflecting) roofing material should be installed.

Source: 24

b. Expose sensitive receptors to pollutants? _____ _____ X _____

Discussion: Developed residential uses are located to the north, and south. A church and City park are located to the east. Vacant land and a developed single family residential are located to the west. The mitigation measures identified above will provide adequate protection for these residential uses.

Source: 24
c. Alter air movement, moisture, or temperature, or cause any change in climate?

Potentiallly Significant Impact | Less Than Significant with Mitigation Incorporation | Less Than Significant Impact | No Impact
--- | --- | --- | ---

Discussion: The project as proposed, will not alter air movement, moisture, temperature and change in the climate will not occur.

Source: 24

d. Create objectionable odors?

Discussion: The project as proposed, will not create any objectionable odors.

Source: 24

6. TRANSPORTATION/CIRCULATION -- Would the proposal result in:

a. Increased vehicle trips or traffic congestion?

Discussion: Development of the northerly 10± acres with multiple family residential uses (R-3 Zoning) fronting on Henderson Avenue is anticipated to result in additional daily vehicle trips. The General Plan allows for a maximum of 43 units per acre. Based of the Circulation Element of the General Plan, 6.47 daily trips would be generated per unit. Maximum buildout of 430 units would generate a total of 2,782 ADT.

Development of the southerly 11± acres with multiple family residential uses (R-2 Zoning) fronting on Newcomb Street is anticipated to result in additional daily vehicle trips. The General Plan allows for a maximum of 15 units per acre. Based of the Circulation Element of the General Plan, 6.47 daily trips would be generated per unit. Maximum buildout of 165 units would generate a total of 1,068 ADT.

Mitigation: As mentioned previously, the City proposes to widen a portion of Henderson Avenue (Arterial Street) from 2-lanes in the current 60 foot right-of-way to 4 lanes in an 84 foot right-of-way. The project extends westward along Henderson Avenue from the west side of Newcomb Street for 5,276 feet to Westwood Street. Along Westwood, the project extends north approximately 2,642 feet to the south side of the intersection with Westwood Street and Westfield Avenue. Westwood, will be widened to an 84 foot right-of-way.

The project includes right-of-way acquisitions along Henderson Avenue and along the east side of Westwood Street. The project adds curbs, gutters, sidewalks and street lighting along portions of Henderson Avenue and along the east side of Westwood Street north to Westfield Avenue. The project also includes installation of a 12" water main as called for in the City’s Master Plan.

Henderson Avenue presently is a two (2) lane divided arterial with a capacity to handle 12,500 ADT. Upon completion of the Henderson Avenue Widening Project, Henderson will be developed to an 84 foot wide four (4) lane arterial street, capable of handling 25,000 ADT. The additional traffic generated by the proposed development will not reduce the performance of these streets since they will be designed to handle the additional traffic in this area. Therefore, the impact is less than significant.

Newcomb Street is a developed 4 lane Arterial Street with a capacity of 25,000 ADT. No traffic counts have been conducted, however, no traffic congestion has occurred on this street. Due to the design of both Henderson Avenue and Newcomb Street, the impact is less than significant.

Source: 1, 2, & 35
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<td>b. Hazards to safety from design features (e.g. sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)?</td>
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Discussion: As mentioned previously, the City proposes to widen a portion of Henderson Avenue from 2-lanes in the current 60 foot right-of-way to 4 lanes in an 84 foot right-of-way. The project extends westward along Henderson Avenue from the west side of Newcomb Street for 5,276 feet to Westwood Street. Along Westwood, the project extends north approximately 2,642 feet to the south side of the intersection with Westwood Street and Westfield Avenue. Westwood, will be widened to an 84 foot right-of-way.

The project includes right-of-way acquisitions along Henderson Avenue and along the east side of Westwood Street. The project adds curbs, gutters, sidewalks and street lighting along portions of Henderson Avenue and along the east side of Westwood Street north to Westfield Avenue. The project also includes installation of a 12" water main as called for in the City’s Master Plan.

Newcomb Street is a developed 4 lane Arterial Street with curb, gutter and sidewalk on both sides.

The additional traffic generated by the future development will not reduce the performance of these streets since they will be designed to handle the additional traffic in this area. Therefore, the impact is less than significant.

Source: 1, 2 & 35

c. Inadequate emergency access or access to nearby uses?

Discussion: The subject site and adjacent uses have access to public streets for emergency access.

Source: 1, 2 & 12

d. Insufficient parking capacity on-site or off-site?

Discussion: Eventual development of the site will require on-site parking in conformance with the Porterville Zoning Ordinance. Therefore, no impact will result in insufficient parking capacity on-site.

Source: 1, 2 & 12

e. Hazards or barriers for pedestrians or bicyclists?

Discussion: Careful design of the site’s future development circulation patterns and conformance to the City’s development standards and Circulation Element of the General Plan will provide partial mitigation. Subsequent development will be required to design and install proper and necessary traffic circulation facilities for both vehicular and pedestrian traffic. Therefore, hazards or barriers for pedestrians or bicyclist will diminish.

Source: 1, 2 &12
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<td>f. Conflicts with adopted policies supporting alternative transportation (e.g. bus turnouts, bicycle racks)?</td>
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Discussion: The project as proposed will not conflict with adopted policies supporting alternative transportation.

Source: 1, 2 & 31

g. Rail, waterborne or air traffic impacts? | ______ | ______ | ______ | X |

Discussion: The project as proposed will not impact any rail, waterborne or air traffic since they do not exist in this area.

Source: 1 & 2

7. BIOLOGICAL RESOURCES -- Would the proposal result in an impact on:

a. Endangered, threatened or rare species or their habitats (including but not limited to plants, fish, insects, animals or birds)? | ______ | ______ | ______ | X |

Discussion: City staff conducted an on-site inspection. The subject site has not been utilized for agricultural crops and seasonal weeds have been plowed down regularly. No natural habitat was observed. As such, no endangered, threatened or rare species or habitats exist and no impact will occur.

Source: 4, 5, 15 & 30

b. Locally designated species (e.g. heritage trees)? | ______ | ______ | ______ | X |

Discussion: City staff conducted an on-site inspection. The subject site has not been utilized for agricultural crops and seasonal weeds have been plowed down regularly. No natural habitat was observed. As such, no impact to locally designated species will occur.

Source: 4, 5, 15 & 30

c. Locally designated natural communities (e.g. oak forest, coastal habitat, etc.)? | ______ | ______ | ______ | X |

Discussion: City staff conducted an on-site inspection. The subject site has not been utilized for agricultural crops and seasonal weeds have been plowed down regularly. No natural habitat was observed. As such, no impact to locally designated natural communities will occur.

Source: 4, 5, 15 & 30
d. Wetland habitat (e.g. march, riparian and vernal pool)?

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Discussion: Porter Slough Ditch used for irrigation water extends across the full frontage of the northerly boundary of the subject site. As mentioned previously, the Henderson Avenue project will pipe this ditch. As of this date, the placement of the pipe in the ditch has been completed.

On July 15, 2003, the City Council of Porterville, by Resolution 92-2003, approved a Negative Declaration (SCH 2003051145) for potential environmental impacts for the Henderson Avenue and Westwood Street Reconstruction Project. It was determined that no wetland habitat existed along the Porter Slough Ditch. As such, no impact to wetland habitat will occur.

Source: 4, 5, 15, 35

e. Wildlife dispersal or migration corridors?

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Discussion: City staff conducted an on-site inspection. The subject site has not been utilized for agricultural crops and seasonal weeds have been plowed down regularly. As such, no impact to locally wildlife dispersal or migration corridors will occur.

Source: 4, 5, 15 & 30

8. ENERGY AND MINERAL RESOURCES -- Would the proposal:

a. Conflict with adopted energy conservation plans?

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Discussion: The project as proposed will not conflict with adopted energy conservation plans. Therefore, no change to exiting conservation plans and policies is proposed.

Source: 4

b. Use non-renewable resources in a wasteful and inefficient manner?

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Discussion: The project as proposed will not directly require any non-renewable resources. Appropriate energy conservation measures as required by the California Building Code will apply, therefore, no impact will occur.

Source: 4

c. Result in the loss of availability of a known mineral resource that would be of future value to the region and the residents of the State?

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Discussion: There are no known mineral resources of value on the subject site, therefore, no impact will occur.

Source: 4
9. **HAZARDS** -- Would the proposal result in:

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a. A risk of accidental explosion or release of hazardous substances (including, but not limited to: oil, pesticides, chemicals or radiation)?

Discussion: No hazardous substances are known to exist on the subject site and none are expected to be stored in association with the anticipated project as proposed.

Source: 7

b. Possible interference with an emergency response plan or emergency evacuation plan?

Discussion: The project as proposed will not interfere with an emergency response plan or emergency evacuation plan. Therefore, no impact will occur.

Source: 7
c. The creation of any health hazard or potential health hazard?

Discussion: All uses and future uses on the site must be in conformance with the Porterville Zoning Ordinance. The project as proposed will not create a potential health hazard. Therefore, no impact will occur.

Source: 7
d. Exposure of people to existing sources of potential health hazards?

Discussion: All uses and future uses on the site must be in conformance with the Porterville Zoning Ordinance. The project as proposed will not create an potential health hazard. Therefore, no impact will occur.

Source: 7
e. Increased fire hazard in areas with flammable brush, grass or trees?

Discussion: All uses and future uses on the site must be in conformance with the Porterville Zoning Ordinance and must comply with the City of Porterville weed abatement program. Therefore, no impact will occur.

Source: 7
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10. NOISE -- Would the proposal result in:

a. Increase in existing noise levels?  
   X

Discussion: Future development of the site with multiple family residential uses will create some noise during the construction stage. This noise would cease once the construction is completed. However, some noise will be generated once the site is fully developed as proposed. A modest increase in noise will also occur due to the additional traffic generated by the proposed project. Additionally, compliance with Section 3.3.2 of the Noise Element of the General Plan will be required. Therefore, the impact is less than significant.

Source: 6

b. Exposure of people to severe noise levels?  
   X

Discussion: Future development of the site with multiple family residential uses will create some noise during the construction stage. This noise would cease once the construction is completed. However, some noise will be generated once the site is fully developed as proposed. A modest increase in noise will also occur due to the additional traffic generated by the proposed project. Additionally, compliance with Section 3.3.2 of the Noise Element of the General Plan will be required. Therefore, the impact is less than significant.

Source: 6

11. PUBLIC SERVICES -- Would the proposal result in impacts to:

a. Fire protection?  
   X

Discussion: The subject site is within the service area of the Porterville Fire Department. Sufficient capacity exists to serve the area.

Source: 1, 2, 3, 5, 7 & 8

b. Police protection?  
   X

Discussion: The subject site is within the service area of the Porterville Police Department. Sufficient capacity exists to serve the area.

Source: 1, 2, 3, 5, 7 & 8

c. Schools?  
   X

Discussion: Future development of the site with multiple family residential uses has the potential to increase enrollment within the Burton Elementary Schools District and the Porterville Unified School District. School fees will be collected to assist in the funding of future capital improvements that may become necessary within those school districts, however, the potential impact on enrollment from 590 additional multiple family residences is less than significant.

Source: 1, 2, 3, 5, 7 & 8
d. Maintenance of public facilities, including roads?

Discussion: The proposed streets and public facilities will be maintained by the City Field Services Division. There is currently sufficient capacity to account for such maintenance, therefore, no impact will occur.

Source: 1, 2, 3, 5, 7 & 8

e. Other governmental services?

Discussion: The project will not require the need for any additional governmental services.

Source: 1, 2, 3, 5, 7 & 8

12. UTILITY AND SERVICE SYSTEMS – Would the proposal result in a need for new systems or supplies, or substantial alterations to the following utilities:

a. Power or natural gas?

Discussion: Electricity and natural gas exists at the site.

Source: 1 & 3

b. Communications systems?

Discussion: Telephone lines exist at the site.

Source: 1 & 3

c. Local or regional water treatment or distribution facilities?

Discussion: Water supply and distribution systems are designed to accommodate development of the subject site.

Source: 21 & 28

d. Sewer or septic tanks?

Discussion: In 1994, the Water Treatment Plant increased it’s capacity from 4 million gallons per day to 8 million gallons per day. Current use is 4.6 million gallons per day. At this rate, sufficient capacity is available to handle a population of 71,300 (22 years at 2.5% growth per year). The project as proposed will not create additional demands on the Water Treatment Plant. Therefore, no impact will occur.

Source: 17, 20 & 21
e. Storm water drainage?

Discussion: The site is within the boundaries of the City's Master Plan for Storm Drainage (2001). Consequently, the storm water generated from future development of the site has been anticipated by the plan. Periodic future increases in the amount of water that will be generated into the drainage system will, therefore, occur as the site ultimately develops as proposed due to the creation of many acres of impervious surfaces. Water quality could be affected by chemicals (oil based residues) conveyed by storm water runoff from streets, driveways and other impervious surfaces.

As part of the Henderson Avenue project, an 18" storm drain line will be installed at the intersection of Mathew Street and Henderson Avenue extending west to Westwood Street. The subject site is located approximately 600± feet east of the intersection. Runoff from this site will be channeled along curb and gutter to a drop inlet located at Mathew Street and Henderson Avenue.

An existing 18" storm drain line exists in front of the site in Newcomb Street. The existing storm water in front of the site is channeled west to a drop inlet located at the southeast corner of south west corner of Henderson Avenue and Newcomb Street. This water is then flows into an existing retention basin located on the City of Porterville Corporation Yard. It is not anticipated that any future development of the site with multiple family residential uses will require additional extension of a storm drain line(s) to the site.

Mitigation: On site Compliance with Federal, State and local regulations requiring that storm water runoff be monitored and maintained free of heavy concentrations of pollutants will mitigate this potential impact to a level of insignificance (NPDES standards). Therefore, the impact is less than significant with mitigation measure incorporated.

Source: 17, 20, 21 & 35

f. Solid waste disposal?

Discussion: The subject site is within the service area of the Porterville refuse service area. Sufficient capacity exists to serve the area. Therefore, no impact will occur.

Source: 17, 20 & 21

g. Local or regional water supplies?

Discussion: Current water production capacity is 15,331 gpm. The current demand during the highest use month is approximately 14,000 gpm.

The City adopted an addendum EIR for the City's Water Master Plan in February 2001 which called for the construction of seven new wells with a 1,000 gpm capacity each by the end of 2005. Based on the City's adopted Water Master Plan, mitigation measures have been addressed. One of those wells was constructed in 2002. Two more wells are currently under preliminary review for construction. The project as proposed will not create additional demands on the local or regional water supplies demands

Continued implementation of the adopted Sewer and Water Master Plans will insure adequate service as development occurs with the Urban Development Boundary. Therefore, the project as proposed is less than significant.

Source: 1, 4 & 21
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13. **AESTHETICS -- Would the proposal:**

a. Affect a scenic vista or scenic highway? ______ ______ ______ X

*Discussion: There are no scenic vistas or scenic highways in the vicinity of the subject site.*

*Source: 1 & 5*

b. Have a demonstrable negative aesthetic effect? ______ ______ ______ X

*Discussion: Development of the subject site is expected to commensurate to surrounding developed areas. No negative aesthetic effects will occur.*

*Source: 1 & 5*

c. Create light or glare? ______ X ______ ______ ______

*Discussion: New sources of light and glare will result from subsequent street lighting and lighting in the parking area subsequent to development of the subject site with multiple family residential uses.*

*Mitigation: Future development of the subject site will require the installation of low profile exterior lighting which will be directed away from adjacent properties, as required by the City Zoning Ordinance, and will reduce the impact of outside lighting. Minimal glare is anticipated from street light and on-site lighting facilities accruing from the site’s eventual development. This will serve to reduce potential hazards for autos, bicyclists, and pedestrians, as well as provide a secure environment for the occupants.*

*Section 2618 F (Glare) of the Porterville Zoning Ordinance will be enforced as follows:*

“No direct or reflected glare, whether produced by flood light, high temperature processes such as combustion or welding, or other processes, so as to be visible from any boundary line of property on which the same is produced shall be permitted. Sky reflected glare from buildings or portions thereof shall be so controlled by such reasonable means as are practical to the end that the said sky reflected glare will not inconvenience or annoy persons or interfere with the use and enjoyment of property in and about the area where it occurs."

*Source: 1, 5 & 12*

14. **CULTURAL RESOURCES -- Would the proposal:**

a. Disturb paleontological resources? ______ ______ ______ X

*Discussion: No paleontological sites, or resources are known to exist on the site and it is unlikely that such will be discovered at the time of any future construction.*

*Source: 4 & 30*
b. Disturb archaeological resources? |  |  | X |  

Discussion: No archeological or historical sites, structures, objects or buildings are known to exist on the site and it is unlikely that such will be discovered at the time of any future construction; as previously conducted surveys indicate that Native American habitation sites were located in the eastern sector of the City’s urban area along the base of the Sierra Nevada foothills.

Should such resources be uncovered during subsequent construction, work will be halted and the requirements of Supplementary Document “J” of the California Environmental Quality Act Guidelines shall be implemented.

Source: 4 & 30

c. Affect historical resources? |  |  |  | X

Discussion: No archeological or historical sites, structures, objects or buildings are known to exist on the site and it is unlikely that such will be discovered at the time of any future construction; as previously conducted surveys indicate that Native American habitation sites were located in the eastern sector of the City’s urban area along the base of the Sierra Nevada foothills.

Source: 4 & 30

d. Have the potential to cause a physical change which would affect unique ethnic cultural values? |  |  |  | X

Discussion: No archeological or historical sites, structures, objects or buildings are known to exist on the site and it is unlikely that such will be discovered at the time of any future construction.

Source: 4 & 30

e. Restrict existing religious or sacred uses within the potential impact area? |  |  |  | X

Discussion: No religious or sacred sites, structures, objects or buildings are known to exist on the site and it is unlikely that such will be discovered at the time of any future construction; as previously conducted surveys indicate that Native American habitation sites were located in the eastern sector of the City’s urban area along the base of the Sierra Nevada foothills.

Source: 4 & 30
### 15. RECREATION -- Would the proposal:

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Increase the demand for neighborhood or regional parks or other recreational facilities?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

Discussion: City parks and other recreation facilities will be sufficient to accommodate the recreational needs stemming from subsequent residential development of the site with development of Master Planned facilities. However, the following mitigation measures will ultimately be necessary to accommodate City growth in the aggregate as future development occurs.

In order to provide a park and recreation system to meet the needs of the public, the City has adopted a Parks and Recreation Element of the General Plan. The Element defines the adopted goals and policies that are currently in place and being utilized. The Element's goals are:

1. Establish a system of parks and recreation facilities sufficiently diverse in design to effectively serve the needs and desires of all the citizens of Porterville.

2. Provide park and recreation facilities within close proximity to the residents they are designed to serve.

Additionally, policy guidelines are defined in sufficient detail to ensure that future development of the subject site will be such that its impact on the quality and quantity of existing recreational opportunities will be properly addressed.

Source: 5 & 8

b. Affect existing recreational opportunities? | | | X |

Discussion: The subject site is not currently used for recreational activities.

Source: 5 & 8

### 16. MANDATORY FINDINGS OF SIGNIFICANCE -- Would the proposal:

a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

Discussion: City staff conducted an on-site inspection. The subject site has not been utilized for agricultural crops and seasonal weeds have been plowed down regularly. No natural habitat was observed. As such, no endangered, threatened or rare species or habitats exist and no impact will occur.

Source: 1 & 33
<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
</tbody>
</table>

**Discussion:** Future development of the site with multiple family residential uses will allow for the implementation of development as designated by the General Plan and anticipated by a variety of master plans and other associated documents. As such, no impact will occur.

*Source: 1 & 33*

b. Does the project have the potential to achieve short-term, to the disadvantage of long-term, environmental goals?

c. Does the project have impacts that are individually limited, but cumulatively considerable? (*Cumulatively considerable* means that the incremental effects of a project are considerable when viewed in connection with the effects of the past projects, the effects of other current projects, and the effects of probable future projects.)

*Discussion:* Development of the subject site is anticipated in the Land Use Element, Circulation Element, Water, Sewer, Storm Water Mater Plans. Appropriate infrastructure has been programed into each of these documents to accommodate the incremental effects of any future development of the site with single family residential uses.

*Source: 1 & 33*

d. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

*Discussion:* Future development of the subject site will be required to comply with the standards of the Porterville Zoning Ordinance which is designed to ensure compatible development and adequate protection to neighboring land uses.

*Source: 1 & 33*

17. EARLIER ANALYSES (See Attached).

Earlier analysis may be used where, pursuant to the tiering, program EIR, or other CEQA process, one or more effects have been adequately analyzed in an earlier EIR or Negative Declaration. Section 15063 (c) (3) (D). In this case a discussion should identify the following items:

a) **Earlier analysis used.** Identify earlier analyses and state where they are available for review.

b) **Impacts adequately addressed.** Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.

c) **Mitigation measures.** For effects that are "Less than Significant with Mitigation Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions of the project.
Authority: Public Resources Code Sections 21083 and 21087.

18. SOURCE REFERENCES

1. Land Use Element of the Porterville General Plan (1998)
2. Circulation Element of the Porterville General Plan (1999)
3. Housing Element of the Porterville General Plan (1992)
5. Open Space Element of the Porterville General Plan (1998)
7. Safety Element of the Tulare County General Plan (1998)
9. Airport Master Plan (1990)
10. Porterville Strategic Plan (1992)
15. Porterville Urban Area Boundary Biotic Survey (Hansen 1988)
16. Porterville Redevelopment Housing Strategic Plan (1994)
17. City of Porterville Storm Drainage Master Plan (2001)
20. City of Porterville Sewer Master Plan (2001)
21. City of Porterville Water Master Plan (2001)
23. San Joaquin Valley Air Pollution Control District Attainment Plan
24. San Joaquin Valley Unified Air Pollution Control District Regulation VII
25. Aerial photo records - City of Porterville
27. 1990 Census Data/Tract and Block Group Maps
28. Existing Infrastructure and Facilities Capacity
30. On-site field inspection
31. City of Porterville Transit Development Plan
32. Emergency Services Plan - Tulare County Operational Area
33. City of Porterville Urban Water Management Plan
35. Resolution 92-2003, Negative Declaration (SCH2003051145) for Henderson Avenue and Westwood Street Reconstruction Project.
February 16, 2005

Attn: Mr. Bradley Dunlap
City of Porterville
291 North Main Street
Porterville, California 93257

RE: IS and ND for Zone Change 7-2004

Dear Mr. Dunlap:

The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the documentation provided and has the following comments:

The entire San Joaquin Valley Air Basin is classified non-attainment for ozone and fine particulate matter (PM10 & PM2.5). This project exceeds the District’s Small Project Analysis Level (SPAL), as defined in the Guide for Assessing and Mitigating Air Quality Impacts (GAMAQI). The District recommends the preparation of an Air Quality Impact Assessment (AQIA) and a Traffic Impact Study to determine impacts when projects are of this size, unless an analysis has been accomplished for a recent previous approval such as a general plan amendment. Please indicate to the District if the project has been analyzed and what the results were from any previous study.

Based on the information provided, the proposed project will be subject to the following District rules. The following items are rules that have been adopted by the District to reduce emissions throughout the San Joaquin Valley, and are required. This project may be subject to additional District Rules. To identify additional rules or regulations that apply to this project, or for further information, the applicant is strongly encouraged to contact the District’s Small Business Assistance Office at (661) 326-6969. Current District rules can be found at http://www.valleyair.org/rules/1ruleslist.htm.

**Regulation VII** (Fugitive PM10 Prohibitions)- Regulation VIII (Rules 8011-8081) is a series of rules designed to reduce PM10 emissions (predominantly dust/dirt) generated by human activity, including construction, road construction, bulk materials storage, landfill operations, etc.

The District’s Governing Board approved amendments to Regulation VIII that became effective on October 1, 2004. If a residential project is 10.0 or more acres in area, a

Executive Director/Air Pollution Control Officer
Dust Control Plan must be submitted as specified in Section 6.3.1 of Rule 8021. If a residential site is 1.0 to less than 10.0 acres, an owner/operator must provide written notification to the District at least 48 hours prior to his/her intent to begin any earthmoving activities (see section 6.4.1). A template of the District’s Dust Control Plan is available at:

Rule 4103 (Open Burning) regulates the burning of agricultural material. Agricultural material shall not be burned when the land use is converting from agriculture to nonagricultural purposes. In the event that the project burned or burns agricultural material, it would be in violation of Rule 4103 and be subject to District enforcement action.

Rule 4901 (Wood Burning Fireplaces and Wood Burning Heaters) and Rule 4902 (Residential Water Heaters) limit the emissions of PM10 and NOx in residential developments. On July 17, 2003, the District’s Governing Board adopted amendments to Rule 4901. Construction plans for residential developments may be affected by section 5.3, specifically:

§5.3 Limitations on Wood Burning Fireplaces or Wood Burning Heaters in New Residential Developments.

Beginning January 1, 2004,
5.3.1 No person shall install a wood burning fireplace in a new residential development with a density greater than two (2) dwelling units per acre.
5.3.2 No person shall install more than two (2) EPA Phase II Certified wood burning heaters per acre in any new residential development with a density equal to or greater than three (3) dwelling units per acre.
5.3.3 No person shall install more than one (1) wood burning fireplace or wood burning heater per dwelling unit in any new residential development with a density equal to or less than two (2) dwelling units per acre.

More information about Rule 4901 can be found at our website- www.valleyair.org. For compliance assistance, please contact Mr. Wayne Clarke, Air Quality Compliance Manager, at 230-5968.

This project may be subject to additional District Rules not enumerated above. To identify additional rules or regulations that apply to this project, the applicant is strongly encouraged to contact the District’s Small Business Assistance Office at (661) 326-6969.

The District encourages innovation in measures to reduce air quality impacts. There are a number of measures that could be incorporated into the design/operation of this project to provide additional reductions of the overall level of emissions. (Note: Some of the measures may already exist as City/County development standards. Any measure selected should be implemented to the fullest extent possible.) The measures listed below should not be considered all-inclusive and remain options that the project proponent should consider:
From Table 6-3 of the District's Guide to Assessing and Mitigating Air Quality Impacts 2002 revision (GAMAQI)
- Install Sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent
- Install wheel washers for all exiting trucks, or was off all trucks and equipment leaving the site
- Install wind breaks at windward side(s) of construction areas
- Limit area subject to excavation, grading, and other construction activity at any one time

From Table 6-4 of the GAMAQI:
- Use of Alternative fueled or catalyst equipped diesel construction equipment.
- The project applicant should identify the construction equipment that can feasibly be switched from conventional to alternative-fueled or catalyst-equipped diesel equipment. The project applicant should identify a minimum of alternative fueled or catalyst-equipped diesel construction equipment that will be used for this project. As an example of alternative fuels, not all biodiesels or biodiesel blends will result in reduced NOx emissions. According to the EPA’s website, biodiesel use generally results in an increase in NOx emissions. The California Air Resources Board (CARB) has certified specific biodiesels for NOx reduction. Only biodiesels that have been certified by CARB should be used. For more information on biodiesel or other types of alternative fuels, please call Mr. Chris Acree, Air Quality Specialist, at (559) 230-5829. The applicant should calculate the associated emission reductions from implementing this mitigation measure.
- Limit the hours of operation of heavy-duty equipment and/or the amount of equipment in use
- The project applicant should specify the conditions of reduced hours or reduced amount of equipment. Will operation hours be reduced under certain circumstances such as during levels of high ambient air pollution or high temperatures? Will the amount of equipment in use be reduced during peak travel on nearby roads? To what degree is it anticipated that this mitigation measure will be implemented?
- Implement activity management (e.g. rescheduling activities to reduce short-term impacts)
  - The applicant should specify what measures will be implemented.
- Curtail construction during periods of high ambient pollutant concentrations; this may include ceasing of construction activity during the peak-hour of vehicular traffic on adjacent roadways
  - The project applicant should state the criteria for curtailing construction activities, and the steps that will be taken to reduce emissions. For curtailment during periods of high ambient pollutant concentrations, the criteria should be set in terms of the Air Quality Index. See the table below for more information on the Air Quality Index.

http://www.epa.gov/airnow/aqi.html#good
<table>
<thead>
<tr>
<th>Air Quality Index Levels of Health Concern</th>
<th>Numerical Value</th>
<th>Meaning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Good</td>
<td>0-50</td>
<td>Air quality is considered satisfactory, and air pollution poses little or no risk.</td>
</tr>
<tr>
<td>Moderate</td>
<td>51-100</td>
<td>Air quality is acceptable; however, for some pollutants there may be a moderate health concern for a very small number of people who are unusually sensitive to air pollution.</td>
</tr>
<tr>
<td>Unhealthy for Sensitive Groups</td>
<td>101-150</td>
<td>Members of sensitive groups may experience health effects. The general public is not likely to be affected.</td>
</tr>
<tr>
<td>Unhealthy</td>
<td>151-200</td>
<td>Everyone may begin to experience health effects; members of sensitive groups may experience more serious health effects.</td>
</tr>
<tr>
<td>Very Unhealthy</td>
<td>201-300</td>
<td>Health alert: everyone may experience more serious health effects.</td>
</tr>
<tr>
<td>Hazardous</td>
<td>&gt; 300</td>
<td>Health warnings of emergency conditions. The entire population is more likely to be affected.</td>
</tr>
</tbody>
</table>

Additional Mitigation Measures:
- When feasible, construction activity should occur during early morning, late evening, and night time hours. Ozone formation is directly related to temperature and sunlight. If the project emits short-lived ozone precursors during cooler hours, the project's local impact will be reduced.
- Pave haul roads in the project area.
- Construction equipment should have engines that are at least Tier I (as certified by the Air Resources Board). Tier I and Tier II engines have a significantly less PM and NOx emissions compared to uncontrolled engines. To find engines certified by the Air Resources Board, see [http://www.arb.ca.gov/msprog/offroad/cert/cert.php](http://www.arb.ca.gov/msprog/offroad/cert/cert.php). This site lists engines by type, then manufacturer. The "Executive Order" shows what Tier the engine is certified as.
• Trees should be carefully selected and located to protect the building(s) from energy consuming environmental conditions, and to shade paved areas. Trees should be selected to shade paved areas that will shade 50% of the area within 15 years. Structural soil should be used under paved areas to improve tree growth. A brochure has been included for the applicant.
For Structural Soil see http://www.hort.cornell.edu/uhi/outreach/csc/
For Tree Selection see http://www.ufei.org/
For Urban Forestry see http://www.coolcommunities.org

• If transit service is available to the project site, improvements should be made to encourage its use. If transit service is not currently available, but is planned for the area in the future, easements should be reserved to provide for future improvements such as bus turnouts, loading areas, route signs and shade structures. Appropriations made to facilitate public or mass transit will help mitigate trips generated by the project. Direct pedestrian access to the main entrance of the project from existing or potential public transit stops and provide appropriately designed sidewalks. Such access should consist of paved walkways or ramps and should be physically separated from parking areas and vehicle access routes.
  • Specifically: Bus turnout(s) should be planned near the entrance(s) of the development for school bus loading to accommodate school-age children.

• Sidewalks and bikeways should be installed throughout as much of the project as possible and should be connected to any nearby existing and planned open space areas, parks, schools, residential areas, commercial areas, etc. to encourage walking and bicycling. Connections to nearby public uses and commercial areas should be made as direct as possible to promote walking for some trips. Pedestrian and bike-oriented design reduces motor vehicle usage and their effects on air quality. Sidewalks and bikeways should be designed to separate pedestrian and bicycle pathways from vehicle paths. Sidewalks and bikeways should be designed to be accommodating and appropriately sized for anticipated future pedestrian and bicycle use. Such pathways should be easy to navigate, designed to facilitate pedestrian movement through the project, and create a safe environment for all potential users (pedestrian, bicycle and disabled) from obstacles and automobiles. Pedestrian walkways should be created to connect all buildings throughout the project. The walkways should create a safe and inviting walking environment for people wishing to walk from one building to another.

• As many energy-conserving features as possible should be included in the project. Energy conservation measures include both energy conservation through design and operational energy conservation. Examples include (but are not limited to):
  • Increased energy efficiency (above California Title 24 Requirements)
  • See http://www.energy.ca.gov/title24/.
  • Increased wall and ceiling insulation (beyond building code requirements)
  • Energy efficient windows (double pane and/or Low-E)
  • High-albedo (reflecting) roofing material. See http://eetd.lbl.gov/coolroof/
  • Cool Paving. "Heat islands" created by this and similar projects contribute to the reduced air quality in the valley by heating ozone precursors. See http://www.harc.edu/harc/Projects/CoolHouston/, http://eande.lbl.gov/heatisland/
  • Radiant heat barrier. See http://www.eere.energy.gov/consumerinfo/refbriefs/bc7.html
- Energy efficient lighting, appliances, heating and cooling systems. See http://www.energystar.gov/
- Install solar water-heating system(s)
- Install photovoltaic cells
- Install geothermal heat pump system(s)
- Programmable thermostat(s) for all heating and cooling systems
- Awnings or other shading mechanism for windows
- Porch, patio and walkway overhangs
- Ceiling fans, whole house fans
- Orient the unit(s) to maximize passive solar cooling and heating when practicable
- Utilize passive solar cooling and heating designs. (e.g. natural convection, thermal flywheels)
- See http://www.eere.energy.gov/RE/solar_passive.html
- Utilize day lighting (natural lighting) systems such as skylights, light shelves, interior transom windows etc. See http://www.advancedbuildings.org
- Electrical outlets around the exterior of the unit(s) to encourage use of electric landscape maintenance equipment
- Low or non-polluting landscape maintenance equipment (e.g. electric lawn mowers, reel mowers, leaf vacuums, electric trimmers and edgers, etc.)
- Pre-wire the unit(s) with high speed modem connections/DSL and extra phone lines
- Natural gas fireplaces (instead of wood-burning fireplaces or heaters)
- Natural gas lines (if available to this area) and electrical outlets in backyard or patio areas to encourage the use of gas and/or electric barbecues
- Low or non-polluting incentives items should be provided with each residential unit (such items could include electric lawn mowers, reel mowers, leaf vacuums, gas or electric barbecues, etc.)
- Exits to adjoining streets should be designed to reduce time to re-enter traffic from the project site

More information can be found at:

District staff is available to meet with you and/or the applicant to further discuss the regulatory requirements that are associated with this project. If you have any questions or require further information, please call me at (661) 326-6980.

Sincerely,

Heather Ellison
Air Quality Planner
Southern Region
RESOLUTION NO.________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
CONTAINING FINDINGS IN SUPPORT OF APPROVAL OF A NEGATIVE
DECLARATION OF ENVIRONMENTAL IMPACT FOR ZONE CHANGE 7-2004 BEING A
CHANGE OF ZONING FROM R-1 (ONE FAMILY RESIDENTIAL) TO R-2 (FOUR FAMILY
RESIDENTIAL) AND R-1 (ONE FAMILY RESIDENTIAL) TO R-3 (MULTIPLE FAMILY
RESIDENTIAL) FOR THE VACANT 21.05± ACRE SITE LOCATED GENERALLY AT THE
SOUTHWEST CORNER OF HENDERSON AVENUE AND NEWCOMB STREET

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting
of March 1, 2005, conducted a public hearing to consider Zone Change 7-2004, being a change of
zone from R-1 (One Family Residential) to R-2 (Four Family) and R-1 (One Family Residential) to
R-3 (Multiple Family) for the vacant 21.05± acre site located generally at the southwest corner of
Henderson Avenue and Newcomb Street; and

WHEREAS: On September 2, 1986, the Porterville City Council approved General Plan
Amendment 2-86 by City Council Resolution 100-86. This amendment to the Land Use and
Circulation Element of the General Plan changed the designation for ten (10) different areas. The
subject site was part of this amendment which changed the previous General Plan Designation of the
site from Low Density Residential to its present designation of Medium Density Residential and
High Density Residential designations; and

WHEREAS: Zone Change 7-2004 proposes to change the northerly portion of the 21.05±
acre site from R-1 (One Family Residential) Zone to R-3 (Multiple Family) Zone. The northerly
portion of the vacant site (approximately 10± acres) is located on the south side of Henderson
Avenue approximately 518± feet west of Newcomb Street and extends west 906.92± feet and south
approximately 485± feet; and

WHEREAS: Zone Change 7-2004 also proposes to change the southerly portion of the
21.05± acre site from R-1 (One Family Residential) Zone to R-2 (Four Family) Zone. The southerly
portion of the vacant site (approximately 11± acres) is located on the west side of Newcomb Street
approximately 370± feet south of Henderson Avenue and extends west 1210.13± feet and north
approximately 308± feet; and

ATTACHMENT
ITEM NO. 6
WHEREAS: On January 3, 2005, the Environmental Coordinator made a preliminary determination that a Mitigated Negative Declaration would be appropriate for the proposed project. The Initial Study and proposed Mitigation Measures have been transmitted to interested agencies, groups, and individuals for a twenty (20) day review period from January 27, 2005 to February 17, 2005. As of this date, the San Joaquin Valley Air Pollution Control District was the only agency that responded. Those comments have been incorporated into the Mitigation Monitoring Program Attachment A of the draft environmental resolution with the exception of one comment.

COMMENT: The entire San Joaquin Valley Air Basin is classified non-attainment for ozone and fine particulate matter (PM10 & PM2.5). This project exceeds the District's Small Project Analysis Level (SPAL), as defined in the Guide for Assessing and Mitigating Air Quality Impacts (GAMAQI). The district recommends the preparation of an Air Quality Impact Assessment (AQIA) and a Traffic Impact Study to determine impacts when projects are of this size, unless an analysis has been accomplished for a recent previous approval such as a general plan amendment. Please indicate to the district if the project has been analyzed and what the results were from any previous study.

RESPONSE: On September 2, 1986, the Porterville City Council approved General Plan Amendment 2-86 by City Council Resolution 100-86. This amendment to the Land Use and Circulation Element of the General Plan changed the designation for ten (10) different areas. The subject site was part of this amendment which changed the previous General Plan Designation of the site from Low Density Residential to its present designation of Medium Density Residential and High Density Residential designations. The potential cumulative environmental impacts for high density residential and medium density residential uses were fully considered with the 1986 General Plan Amendment. This project merely completes the action undertaken at that time.

WHEREAS: The City Council considered the following findings in its review of the environmental circumstances for this project:

1. That a Negative Declaration was prepared in accordance with the California Environmental Quality Act.

2. That the subject project will not create adverse environmental impacts.

The proposed Negative Declaration was evaluated in light of the prepared environmental initial study, comments from interested parties and the public, as well as responses to written comments received during the review period. It was determined that potential impacts associated with the proposed project could be mitigated to a less than significant level through the implementation of the attached mitigation measures.

3. That the City Council is the decision-making body for the project.
4. That the Negative Declaration prepared for this project was made available for public review and comment for a twenty (20) day review period from January 27, 2005 to February 17, 2005. As of this date, no agencies have responded.

5. That the mitigation measures contained in the Negative Declaration were incorporated into a Mitigation Monitoring Program attached hereto as Attachment A.

6. That review of the environmental circumstances regarding this project indicates that no adverse impacts would accrue to wildlife resources from implementation of this project.

City staff conducted an on-site inspection. The subject site is vacant and has been regularly disced for weed control. No natural habitat was observed. As such, no endangered, threatened or rare species or habitats exist and no impact will occur.

7. That the project may proceed subsequent to approval and/or conditional approval of the State Department of Fish and Game relative to said State Department’s consideration of a “de minimis impact” pursuant to Section 711.2 et. Seq. of the Fish and Game Code.

8. That the environmental assessment and analysis prepared for this project supporting the Negative Declaration reflects the independent judgement of the City of Porterville.

9. The developer/applicant shall comply with all mitigation measures adopted as a component of the approval of the Mitigated Negative Declaration for this project. The developer/applicant will be required to sign a document committing to comply with the adopted mitigation measures prior to any construction on the site.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve the Negative Declaration prepared for Zone Change 7-2004, and that the mitigation measures defined in Attachment A shall be implemented by the applicant or his/her successors with project implementation.

__________________________
Pedro R. Martinez, Mayor

ATTEST:
John Longley, City Clerk

By ____________________________
Georgia Hawley, Chief Deputy City Clerk
### Attachment A

#### Mitigation Monitoring Program

<table>
<thead>
<tr>
<th>Potential Impact</th>
<th>Mitigation Measures</th>
<th>Monitoring</th>
<th>Agency Responsible</th>
</tr>
</thead>
<tbody>
<tr>
<td>Population and Housing</td>
<td>The proposed project will facilitate development envisioned by the General Plan and Zoning Ordinance. Additional growth in the vicinity of the subject site is constrained by developed residential uses, City park and a church. The vacant land to the west has an approved conditional use permit to allow for a church. An additional conditional use permit, to allow for another church, to be located between the approved conditional use permit and the subject site, is scheduled for public hearing before the City Council.</td>
<td>The City of Porterville will continue to allow only those uses that are allowed pursuant to the General Plan and Zoning Ordinance Policies.</td>
<td>City of Porterville</td>
</tr>
<tr>
<td>3.f Geologic Problems</td>
<td>Mitigation measures include the enforcement of site development plan or other development related conditions of approval requiring erosion control plans, and the conservation of vegetation, with soil disturbances to be limited to dry seasons. In addition, conformance with the City Storm Drain Master Plan, and requirements relative to grading, the Uniform Building Code, etc., will be required.</td>
<td>Conformance with the City Storm Drain Master Plan (2001) and requirements relative to grading, the Uniform Building Code, etc., will be required.</td>
<td>City of Porterville</td>
</tr>
</tbody>
</table>

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<table>
<thead>
<tr>
<th>Potential Impact</th>
<th>Mitigation Measures</th>
<th>Monitoring</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Water</td>
<td>Compliance with Federal, State and local regulations requiring that storm water runoff be monitored and maintained free of heavy concentrations of pollutants will mitigate this potential impact to a level of insignificance (NPDES standards). The installation of storm drain lines in conformance with Federal, State, and local environmental protection requirements and the City’s Storm Drainage Master Plan will be required. It is not anticipated that the ultimate development of the 21.05± acre site, as described, will significantly deplete groundwater supplies or reduce public water supply from the City’s unconfined groundwater aquifer.</td>
<td>Compliance with Federal, State and local regulations requiring that storm water runoff be monitored and maintained free of heavy concentrations of pollutants will mitigate this potential impact to a level of insignificance (NPDES standards). The installation of storm drain lines in conformance with Federal, State, and local environmental protection requirements and the City’s Storm Drainage Master Plan will be required.</td>
<td>City of Porterville</td>
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<td><strong>Air Quality</strong></td>
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<td>5.a &amp; b Violate any air quality standard or contribute to an existing or projected air quality violation.</td>
<td>Future development of the site with multiple family residential uses will require equipment to be utilized in regard to the project and vehicular trips will be generated by construction crews during the construction stage of the project. Overall impacts to air quality form buildout as proposed by the General Plan is discussed in the Environmental Impact Report certified upon adoption of the current Land Use Element of the General Plan. Mitigation of the effects resulting from increased vehicle trips must be accomplished through proper vehicle smog inspections and related efforts to reduce petroleum fueled transit. Additional mitigation measures include adequate circulation of vehicles to lessen concentrations of carbon monoxide in the area, promotion of car pooling and public transportation in the area, and the encouragement of non-motorized transportation modes (i.e./ bicycles and walking).</td>
<td>The State of California, California Air Resources Board (CARB) and San Joaquin Valley Unified Air Pollution Control District (SVJUAPCD) are expected to maintain their commitment to this program.</td>
<td>State of California CARB, SJVUAPCD, City of Porterville</td>
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| Air Quality 5. a & b (continued) | MITIGATION THROUGH CONSTRUCTION MANAGEMENT:  
1. The City will implement Regulation VIII of the SJVAPCD including:  
a. The prevention of dust from leaving the construction site during clearing, grading and excavation will be accomplished through regular truck spraying with water, sprinkling systems or emulsion sprays.  
b. Watering or spraying will be required to be done in the late morning and again at the end of the work day, with increased frequency throughout the day whenever wind is sustained or gusting at speeds in excess of 10 MPH. If winds or gusting exceed 20 MPH, vehicular activity will be required to cease.  
c. One or more of the following means of dust control should be employed after the completion of earth grading operations:  
   i. Seeding and watering of new vegetation.  
   ii. Hydromulching or spreading of soil binders.  
   iii. Maintenance of the site's soil surface crust through repeated soakings. |            |                    |
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<td>Air Quality</td>
<td>2. Require construction equipment to be equipped with catalysts/particulate traps to reduce particulate and NOx emissions.</td>
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<td>5. a &amp; b (continued)</td>
<td>3. Limit engine idling at the project site.</td>
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<td>4. Trees should be carefully selected and located to shade the structures during the hot summer months. This measure should be implemented on southern and western exposures. Deciduous trees should be considered since they provide shade in the summer and allow the sun to reach the residences during the cold winter months.</td>
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<td>5. As many energy-conserving features as possible should be included in the design/construction of the new dwellings. Examples include (but are not limited to) increased wall and ceiling insulation (beyond building code requirements), energy efficient lighting, high efficiency appliances and solar-assisted water heating.</td>
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<td>6. Electric or low nitrogen oxide (NOx) emitting gas-fired water heaters should be installed.</td>
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<td>Air Quality 5. a &amp; b (continued)</td>
<td>7. Natural gas lines and electrical outlets should be installed in the patio areas to encourage the use of gas and/or electrical barbeques. 8. Electrical outlets should be installed around the exterior of the units to encourage the use of electric landscape maintenance equipment. 9. Awnings or other shading mechanism for windows should be installed. 10. Ceiling fans should be installed. 11. Energy efficient windows (double pane and/or coated) should be installed. 12. High-albedo (reflecting) roofing material should be installed. 13. The following regulations of the San Joaquin Air Pollution Control District (Rule 4901 - Wood Burning Fireplaces and Wood Burning Heaters) will apply to this project: a. In new residential developments with a density greater than two (2) dwelling units per acre, no person shall install a wood-burning fireplace.</td>
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<td><strong>Air Quality</strong></td>
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<td>5. a &amp; b (continued)</td>
<td>b. In new residential developments with a density equal to or greater than three (3) dwelling units per acre, no person shall install more than two (2) EPA Phase II Certified wood burning heaters (wood stove, pellet stove or wood-burning insert) per acre.</td>
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<td>c. No person shall install more than one (1) wood burning fireplace or wood burning heater in each new dwelling unit.</td>
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<td>d. A new residential development is defined as any single or multiple family housing unit for which construction begins on or after January 1, 2004. Construction has begun when the foundation for the structure is constructed.</td>
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<td><strong>Transportation/Circulation</strong></td>
<td>Subsequent development will be required to design and install proper and necessary traffic circulation facilities for both vehicular and pedestrian traffic. Additional mitigation measures include the development of existing and future contiguous streets to their full right-of-way widths, installation of curb, gutter and sidewalks, the provision of traffic signals, if necessary, and the installation of median islands and turn lanes.</td>
<td>Careful design of the site’s development circulation patterns and conformance to the City’s Development Standards and Circulation Element of the General Plan will provide partial mitigation.</td>
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<td>Noise</td>
<td>Compliance with Section 3.3.2 of the Noise Element of the General Plan.</td>
<td>The City of Porterville will continue to implement the Noise Element of the General Plan.</td>
<td>City of Porterville</td>
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<td>10.a Increase in existing noise levels.</td>
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<td>Public Services</td>
<td>The installation of fire hydrants, street lighting, surface infrastructure, etc., will assist in mitigating potential impacts accruing from future development.</td>
<td>Maintenance of new and improved streets resulting from future development of the area would be absorbed by the City Field Services Division.</td>
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<td>11.a Fire protection.</td>
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<td>11.b Police protection.</td>
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<td>11.c Schools.</td>
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<td>11.d Maintenance of public facilities, including roads.</td>
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<td>11.e Other governmental services.</td>
<td>Future development of the site with multiple family residential uses has the potential to increase enrollment within the Burton Elementary Schools District and the Porterville Unified School District.</td>
<td>School fees will be collected to assist in the funding of future capital improvements that may become necessary within those school districts, however, the potential impact on enrollment from 590 additional multiple family residences is less than significant</td>
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<td>Public Services 11.a through 11.e (continued)</td>
<td>The City of Porterville provides general government services to residents in the incorporated area of the community. The City maintains staff for General Administration, Finance, Parks and Leisure Services and Community Development.</td>
<td>City of Porterville</td>
<td>City of Porterville</td>
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<td>Utilities and Service Systems</td>
<td>12.a Power or natural gas. The installation of new utility services would require approval by the City of Porterville and affected utility companies. Solid waste pick - up would be absorbed by the City of Porterville Field Services Division. This potential impact will, therefore, be reduced to a level of insignificance. Future storm drainage and sanitary sewer services, as well as the rest of the infrastructure and utility services needs mentioned, accruing from the development of the site, will be installed incrementally, or in total, as part of any subsequent residential development (s). Public utility services will be provided commensurate with the needs of future development.</td>
<td>The City of Porterville and the affected utility companies.</td>
<td>The City of Porterville and the affected utility companies.</td>
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<td>Utilities and Service Systems 12.a through 12.g (continued)</td>
<td>Continued implementation of the adopted Sewer and Water Master Plans will insure adequate service as development occurs with the Urban Development Boundary.</td>
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<td>Aesthetics 13.c Create light and glare.</td>
<td>The installation of low profile exterior lighting will be directed away from adjacent properties, as required by the City Zoning Ordinance, and will reduce the impact of outside lighting. Minimal glare is anticipated from street lights and on-site lighting facilities accruing from the site’s eventual development. This will serve to reduce potential hazards for autos, bicyclists, and pedestrians, as well as provide a secure environment for the occupants.</td>
<td>Section 2618 F (Glare) of the Porterville Zoning Ordinance will be enforced.</td>
<td>City of Porterville</td>
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<td>Cultural Resources 14.b Disturb archaeological resources.</td>
<td>Should such resources be uncovered during subsequent construction, work will be halted and the requirements of supplementary document “J” of the California Environmental Quality Act Guidelines shall be implemented.</td>
<td>City of Porterville will conduct construction inspections throughout the construction process. In the event any discovery is made, Supplementary Document “J” of the Environmental Quality Act Guidelines will be used by the City.</td>
<td>City of Porterville</td>
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<td>Recreation</td>
<td>City parks and other recreation facilities will be sufficient to accommodate the recreational needs stemming from subsequent residential development of the site with development of Master Planned facilities. However, the following mitigation measures will ultimately be necessary to accommodate City growth in the aggregate as future development occurs.</td>
<td>In order to provide a park and recreation system to meet the needs of the public, the City has adopted a Parks and Recreation Element of the General Plan. The Element defines the adopted goals and policies that are currently in place and being utilized. The Element’s goals are: 1. Establish a system of parks and recreation facilities sufficiently diverse in design to effectively serve the needs and desires of all the citizens of Porterville. 2. Provide park and recreation facilities within close proximity to the residents they are designed to serve. Additionally, policy guidelines are defined in sufficient detail to ensure that future development of the subject site will be such that its impact on the quality and quantity of existing recreational opportunities will be properly addressed.</td>
<td>City of Porterville</td>
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ORDINANCE NO. ______

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE APPROVING ZONE CHANGE 7-2004 BEING A CHANGE OF
ZONE FROM R-1 (ONE FAMILY RESIDENTIAL) TO R-2 (FOUR FAMILY
RESIDENTIAL) AND R-1 (ONE FAMILY RESIDENTIAL) TO R-3 (MULTIPLE FAMILY
RESIDENTIAL) FOR THE VACANT 21.05± ACRE SITE LOCATED GENERALLY AT THE
SOUTHWEST CORNER OF HENDERSON AVENUE AND NEWCOMB STREET

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting
of March 1, 2005, conducted a public hearing to consider Zone Change 7-2004, being a change of
zone from R-1 (One Family Residential) to R-2 (Four Family) and R-1 (One Family Residential) to
R-3 (Multiple Family) for the vacant 21.05± acre site located generally at the southwest corner of
Henderson Avenue and Newcomb Street; and

WHEREAS: On September 2, 1986, the Porterville City Council approved General Plan
Amendment 2-86 by City Council Resolution 100-86. This amendment to the Land Use and
Circulation Element of the General Plan changed the designation for ten (10) different areas. The
subject site was part of this amendment which changed the previous General Plan Designation of
the site from Low Density Residential to its present designation of Medium Density Residential and
High Density Residential designations.

WHEREAS: Zone Change 7-2004 proposes to change the northerly portion of the 21.05±
acre site from R-1 (One Family Residential) Zone to R-3 (Multiple Family) Zone. The northerly
portion of the vacant site (approximately 10± acres) is located on the south side of Henderson
Avenue approximately 518± feet west of Newcomb Street and extends west 906.92± feet and south
approximately 485± feet; and

WHEREAS: Zone Change 7-2004 also proposes to change the southerly portion of the
21.05± acre site from R-1 (One Family Residential) Zone to R-2 (Four Family) Zone. The southerly
portion of the vacant site (approximately 11± acres) is located on the west side of Newcomb Street
approximately 370± feet south of Henderson Avenue and extends west 1210.13± feet and north
approximately 308± feet; and

WHEREAS: The City Council of the City of Porterville, after proceedings duly had and
taken, and after due and legal notice having been given, as prescribed by Ordinance 1198 of the City
of Porterville, and the laws of the State of California, has determined that the public interest would
best be served by approval of the proposed Zone Change 7-2004; and
WHEREAS: The City Council made the following findings in support of the approval of Zone Change 7-2004:

1. The Land Use Element of the General Plan designates the northerly portion of the site fronting on Henderson Avenue as High Density Residential. The southerly portion of the site is designated as Medium Density Residential.

2. That the proposed zoning to R-2 (Four Family) and to R-3 (Multiple Family) for the vacant 21.05± acre site is consistent with the General Plan.

3. That all uses listed in Article 2, Article 3 and Article 4 of the Porterville Zoning Ordinance will be allowed in the R-2 (Four Family) and to R-3 (Multiple Family) Zone.

4. That a Negative Declaration was approved for this project in accordance with the California Environmental Quality Act and mitigation measures incorporated into the approval will be precedent to project implementation.

5. That this zoning designations will ensure that any future development of the subject site will be in conformance with existing plans and policies and will not adversely impact the surrounding area.

NOW, THEREFORE, BE IT ORDAINED: That the City Council of the City of Porterville does ordain as follows:

Section 1: That the following described property in the City of Porterville, County of Tulare, State of California, known as Zone Change 7-2004, is hereby re-zoned from R-1(One Family Residential) to R-2 (Four Family) and R-1(One Family Residential) to R-3 (Multiple Family) for the vacant 21.05± acre site located generally at the southwest corner of Henderson Avenue and Newcomb Street, more particularly shown on the attached map, incorporated herein by this reference as Exhibit “A”; and

Section 2: It is further ordained that all records of the City of Porterville, together with the official zoning map of the City of Porterville, shall be changed to show that all of the above described real property is re-zoned from R-1(One Family Residential) to R-2 (Four Family) and R-1(One Family Residential) to R-3 (Multiple Family) for the vacant 21.05± acre site located generally at the southwest corner of Henderson Avenue and Newcomb Street; and
Section 3: 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, Chief Deputy City Clerk
CONDITIONAL USE PERMIT # 7–2004

PROPOSED CHANGE

= R–1 to R–2

= R–1 to R–3

CITY COUNCIL ORDINANCE NO. __________

EXHIBIT "A"
SUBJECT: SECOND READING - ORDINANCE NO. 1661, 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

SOURCE: Administrative Services Department/City Clerk Division

COMMENT: Ordinance No. 1661 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 was given First Reading on February 15, 2005, and has been printed.

RECOMMENDATION: That Council give Second Reading to Ordinance No. 1661, waive further reading, and adopt said Ordinance.

ATTACHMENT: Ordinance No. 1661

Item No. _____

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ORDINANCE NO. 1661

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 skateboard
also includes motorized skateboards.

18-63. Skateboarding Prohibited -- Public Property.

(A) The use of skateboards 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”

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 over the age of 18 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
SUBJECT: SECOND READING - ORDINANCE NO. 1662, 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)

SOURCE: Administrative Services Department/City Clerk Division

COMMENT: Ordinance No. 1662 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) was given First Reading on February 15, 2005, and has been printed.

RECOMMENDATION: That Council give Second Reading to Ordinance No. 1662, waive further reading, and adopt said Ordinance.

ATTACHMENT: Ordinance No. 1662
ORDINANCE NO. 1662

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.
8-1  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 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
SUBJECT: SECOND READING - ORDINANCE NO. 1663, AMENDING CHAPTER 17, ARTICLE XI, SECTION 17-11.7, PARKING - COMMERCIAL VEHICLES IN RESIDENTIAL DISTRICTS, OF THE CODE OF THE CITY OF PORTERVILLE

SOURCE: Administrative Services Department/City Clerk Division

COMMENT: Ordinance No. 1663 amending Chapter 17, Article XI, Section 17-11.7, Parking-Commercial Vehicles in Residential Districts, of the Code of the City of Porterville was given First Reading on February 15, 2005, and has been printed.

RECOMMENDATION: That Council give Second Reading to Ordinance No. 1663, waive further reading, and adopt said Ordinance.

ATTACHMENT: Ordinance No. 1663

Item No. _______
ORDINANCE NO. 1663


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
SUBJECT: SECOND READING - ORDINANCE NO. 1664, AMENDING CHAPTER 12, ARTICLE II, FIREWORKS, OF THE PORTERVILLE MUNICIPAL CODE

SOURCE: Administrative Services Department/City Clerk Division

COMMENT: Ordinance No. 1664 amending Chapter 12, Article II, Fireworks, of the Porterville Municipal Code was given First Reading on February 15, 2005, and has been printed.

RECOMMENDATION: That Council give Second Reading to Ordinance No. 1664, waive further reading, and adopt said Ordinance.

ATTACHMENT: Ordinance No. 1664
ORDINANCE NO. 1664

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
COUNCIL AGENDA: MARCH 1, 2005

SUBJECT: LEGISLATIVE INVOCATIONS

SOURCE: CITY ATTORNEY & CITY MANAGER

COMMENT: Due to the interest expressed at the City Council Meeting of February 15, 2005, as well as prior Council meetings, this office was directed to schedule an item concerning options for legislative invocations, for discussion and consideration by the Council. Some background is provided on the history of the case law as well as the City’s handling of the matter (and how the City handles law as interpreted by case precedent, generally).

With regard to Porterville’s own invocations practices, review of the City Council’s minutes shows that legislative invocations were given dating back to May 1, 1962, although the official Agenda Order of Business was not amended to include the Invocation until September 6, 1977. The language of the invocations themselves is not evident from the minutes; however in the more recent past sectarian references were made, and the City had no involvement with regard to the specific words used in the invocations given by individuals other than the Council Members. The City has been allowing volunteers from the Ministerial Association to provide the legislative invocations, and if no one from the Association is present, the Mayor (or presiding Council Member) delivers the invocation.

In 1983, the U.S. Supreme Court reviewed the issue of legislative invocations in the case of *Marsh v. Chambers* (1983) 463 U.S. 783. In that case the Court considered whether a state legislature could engage a paid chaplain who opened the Nebraska legislative sessions with an invocation. Until this case, the Supreme Court had only reviewed prayers given in the context of school activities, and through a complex body of law had put into place an extremely strict review of such activities, which has essentially resulted in prohibitions on any prayer (sectarian or nonsectarian) with regard to educational functions. Rather than applying the complicated and multi-part test used to scrutinize these prayer activities, the Court found that due to the history and tradition in this nation of opening legislative sessions with invocations, such a practice could continue so long as the prayer opportunity was not utilized to proselytize or advance a particular religion. The Supreme Court noted in this particular case, the legislative chaplain had at times in the past made sectarian references, but also noted that he had in fact removed all sectarian references after an objection by a legislator of the Jewish faith.
This was the one and only time the U.S. Supreme Court reviewed legislative prayer, specifically, although the Supreme Court has given little additional insight with regard to the *Marsh* case. The Supreme Court did provide some additional interpretation in *County of Allegheny v. Greater Pittsburgh ACLU* (1989) 492 U.S. 573:

"*Marsh* plainly does not stand for the sweeping proposition...that all accepted practices 200 years old and their equivalents are constitutional today...The history of this Nation, it is perhaps sad to say, contains numerous examples of official acts that endorsed Christianity specifically. Some of these examples date back to the Founding of the Republic, but this heritage of official discrimination against non-Christians has no place in the jurisprudence of the Establishment Clause. Whatever else the Establishment Clause may mean (and we have held it to mean no official preference even for religion over non-religion), it certainly means at the very least that government may not demonstrate a preference for one particular sect or creed (including a preference for Christianity over other religions). The clearest command of the Establishment Clause is that one religious denomination cannot be officially preferred over another. There have been breaches of this command throughout this Nation’s history, but they cannot diminish in any way the force of the command." 492 U.S. 573, 603-05.

The Court in *Allegheny* also provided, in response to the dissent’s perception of the majority opinion’s indifference toward religion,

"... the Constitution mandates that the government remain secular, rather than affiliate itself with religious beliefs or institutions, precisely in order to avoid discrimination among citizens on the basis or their religious faiths. A secular state, it must be remembered, is not the same as an atheistic or antireligious state. A secular state establishes neither atheism nor religion as its official creed." 492 U.S. 573.

The case most relevant to public entities within the State of California is *Rubin v. City of Burbank* (2002) 101 Cal.App.4th 1194. In this case, the Court found that a prayer given by a volunteer of the City Burbank’s ministerial association (under arrangements comparative to the City of Porterville’s past practice) violated the Establishment Clause of the First Amendment, due to the specific sectarian reference (in this particular prayer, to the name of Jesus Christ) at the end of the invocation. Although this particular reference was undoubtedly Christian, the Court found that any specific sectarian reference would be violative of the Constitution. The City petitioned for review of the decision to the California Supreme Court, which denied hearing of the case in February 2002. The City then petitioned the U.S. Supreme Court for review, and the U.S. Supreme Court denied review in May 2003. Because there are no other conflicting California Appellate cases, and there are no conflicting federal 9th
Circuit cases, the Court’s ruling is authority and the law which California public entities must abide by. Furthermore, this line of reasoning has been followed fairly consistently in other federal circuit court decisions.

When the *Rubin* decision was filed (and later when the U.S. Supreme Court denied review), the City received information concerning the decision. When it became clear that there was a sensitivity to this issue, the City Manager and the City Attorney, with the Council’s knowledge, attended a meeting of the Ministerial Association for the purpose of discussing the *Rubin* decision. At that meeting the status of the law was discussed, and the City Manager and Attorney encouraged the Association’s volunteers to comply. When cases are decided affecting City practices, the City’s administration adjusts those practices to the extent that it has the control to do so. It is not necessary for the City Council to take action by Resolution in order to make those changes, unless the City Council directs such action. This is because the City and its officials are tasked with following the laws of this Nation and the State of California, as those laws are interpreted by the Courts.

The task of following these laws becomes difficult when there are strong differences of opinion over the interpretation of those laws, especially when fundamental rights are at issue. Therefore, the Council has directed that options be presented for consideration. The options attached are, by no means, an exhaustive list.

Option 1: Moment of Silence. Many Cities have instituted this policy, and many had this practice prior to the *Rubin* decision. This option most likely carries the least risk with regard to City/Council liability.

Option 2: Legislative Invocations in conformity with *Rubin*. This option formally institutes a policy that mirrors the City of Burbank’s policy in light of the Court decision. If followed, this practice is justifiable under the current status of the law.

Option 3: “Free Prayer.” This option is untested with the courts, and in formulating this option the City has tried to allow the free exercise of religious expression, while acknowledging the current Establishment Clause constitutional limitations as defined by the Courts.

Option 4: Language Circulated by Community Members to the City Council. The Resolution language of the information previously circulated by a community member has been inserted verbatim. Given the status of the law, and the direction of most of the cases decided in the wake of *Marsh v. Chambers*, the City Attorney cannot recommend this particular option. Furthermore the City Manager has budgetary concerns with regard to this particular policy, as defending this course of action could be costly.

Resolutions pertaining to each of these options are attached.
RECOMMENDATION: This information is presented to the City Council for its consideration. The Council may, but is not required to, take action.

Attachment: 1) Resolution Adopting “Moment of Silence”
2) Resolution Adopting Policy on Legislative Invocations
3) Resolution Adopting Policy of “Free Prayer”
4) Resolution Adopting [Reestablishing] Legislative Invocations
RESOLUTION NO. ____-2005

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ADOPTING A “MOMENT OF SILENCE” IN LIEU OF A LEGISLATIVE INVOCATION

WHEREAS, the City of Porterville (the "City") is a charter city organized and existing pursuant to the Constitution of the State of California; and

WHEREAS, in Rubin v. City of Burbank (2002) 101 Cal.App.4th 1194 (review denied February 18, 2002, cert. denied May 19, 2003 538 U.S. 1034), the Court found the inclusion of sectarian prayer during the invocation periods of city council meetings violates the Establishment Clause of the United States Constitution, and that prohibiting such invocations does not constitute censorship or viewpoint discrimination under the Free Speech and Free Exercise Clauses of the First Amendment;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF PORTERVILLE DOES RESOLVE AS FOLLOWS:

1. The City Council of the City of Porterville hereby adopts, in lieu of any legislative invocation, a “Moment of Silence,” to be held prior to conducting City business at the City Council Meetings.

2. The Moment of Silence portion of the meeting shall provide an opportunity for quiet reflection with regard to the decisions to be considered at the particular meeting as well as with regard to any other issues affecting the community.

3. The Council will continue to allow any individual to exercise his or her Free Speech Rights as set forth pursuant to the First Amendment of the Constitution of the United States of
America, during the Oral Communications period of the City Council Meeting Agendas, consistent with Federal, State, and Local laws.

This Resolution was passed by the City Council members of the City of Porterville at a regularly scheduled meeting thereof on the 1st day of March, 2005, by the following vote:

AYES:

NOES:

ABSENT:

__________________________________
Mayor Pedro Martinez,
City of Porterville

ATTEST:

__________________________________
John Longley, City Clerk,
City of Porterville
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ADOPTING POLICY CONCERNING LEGISLATIVE INVOCATIONS

WHEREAS, the City of Porterville (the "City") is a charter city organized and existing pursuant to the Constitution of the State of California; and

WHEREAS, in Rubin v. City of Burbank (2002) 101 Cal.App.4th 1194 (review denied February 18, 2002, cert. denied May 19, 2003 538 U.S. 1034), the Court found the inclusion of sectarian prayer during the invocation periods of city council meetings violates the Establishment Clause of the United States Constitution, and that prohibiting such invocations does not constitute censorship or viewpoint discrimination under the Free Speech and Free Exercise Clauses of the First Amendment;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF PORTERVILLE DOES RESOLVE AS FOLLOWS:

1. The City Council of the City of Porterville hereby adopts the policy attached as Exhibit "A" for allowing legislative invocations before commencing city business at the City Council Meetings.

2. The Council will continue to allow any individual to exercise his or her Free Speech Rights pursuant to the First Amendment of the Constitution of the United States of America, during the Oral Communications period of the City Council Meeting Agendas, consistent with Federal, State, and Local laws.
This Resolution was passed by the City Council members of the City of Porterville at a regularly scheduled meeting thereof on the 1st day of March, 2005, by the following vote:

AYES:

NOES:

ABSENT:

__________________________________________
Mayor Pedro Martinez,
City of Porterville

ATTEST:

__________________________________________
John Longley, City Clerk,
City of Porterville
EXHIBIT A

1. The Invocation shall be listed as the first item on the City Council Agenda, prior to the flag salute and roll call. Next to the item will be the following sentence: “The Courts have concluded that sectarian prayer as part of City Council meetings is not permitted under the Constitution.”

2. Volunteers from the Ministerial Association may, on a rotational basis, provide the invocation, in compliance with No. 1 above. The City may designate other individuals or associations, so long as those individuals/associations agree to comply with the above restriction.

3. In the event that a member of the Ministerial Association is not available for a particular meeting’s invocation, the invocation shall be given by the Mayor, or the Council Member presiding over the particular meeting, and shall be given in compliance with No. 1 above.

4. In the event that an invocation is given by an individual that does not comply with No. 1, above, it will be noted on the record, and the individual may not be permitted to give another invocation during a subsequent legislative invocations period of a City Council Meeting.

5. Nothing in the above standards shall be construed as a prohibition or restriction on individuals’ Free Speech and Free Exercise Rights under the First Amendment of the Constitution of the United States of America, in particular with regard to views expressed during the oral communications period of the City Council meeting, consistent with Federal, State, and Local laws.
RESOLUTION NO. ___-2005

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ADOPTING POLICY PROVIDING FOR FREE PRAYER IN LIEU OF LEGISLATIVE INVOCATION

WHEREAS, the City of Porterville (the "City") is a charter city organized and existing pursuant to the Constitution of the State of California; and

WHEREAS, in *Rubin v. City of Burbank* (2002) 101 Cal.App.4th 1194 (review denied February 18, 2002, cert, denied May 19, 2003 538 U.S. 1034), the Court found the inclusion of sectarian prayer during the invocation periods of city council meetings violates the Establishment Clause of the United States Constitution, and that prohibiting such invocations does not constitute censorship or viewpoint discrimination under the Free Speech and Free Exercise Clauses of the First Amendment; and

WHEREAS, the City Council of the City of Porterville desires to balance the Free Exercise Rights of Individuals under the First Amendment with the purpose and import of the Establishment Clause of that Same Constitutional provision;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF PORTERVILLE DOES RESOLVE AS FOLLOWS:

1. The City Council of the City of Porterville hereby adopts the policy attached as Exhibit "A" for allowing "Free Prayer" prior to the commencement of the City Council Meetings.

2. The Council will continue to allow any individual to exercise his or her Free Speech Rights pursuant to the First Amendment of the Constitution of the United
States of America, during the Oral Communications period of the City Council Meeting Agendas, consistent with Federal, State, and Local laws.

This Resolution was passed by the City Council members of the City of Porterville at a regularly scheduled meeting thereof on the 1st day of March, 2005, by the following vote:

AYES:

NOES:

ABSENT:

____________________________
Pedro Martinez, Mayor
City of Porterville

ATTEST:

____________________________
John Longley, City Clerk,
City of Porterville
1. The "Free Prayer" period shall precede the City Council Meeting and shall be listed prior to the Roll Call on the agenda.

2. Anyone present for the “Free Prayer” period shall be permitted to participate. All who are present shall be respectful of any and all views expressed, and respectful of the differences in the views and opinions that may be held by those that are present.

3. The time and place for the period shall be scheduled with the Council Members and reasonable notice shall be provided so that any community members wishing to participate will have the opportunity to do so.

4. In the event a quorum of the Council Members is present for the free prayer, the Council Members shall be prohibited from discussing City business, in accordance with the Brown Act.
RESOLUTION NO. ____-2005

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE PROVIDING FOR LEGISLATIVE INVOCATIONS

WHEREAS, the City of Porterville (the "City") is a charter city organized and existing pursuant to the Constitution of the State of California; and

WHEREAS, in *Rubin v. City of Burbank* (2002) 101 Cal.App.4th 1194 (review denied February 18, 2002, cert. denied May 19, 2003 538 U.S. 1034), the Court found the inclusion of sectarian prayer during the invocation periods of city council meetings violates the Establishment Clause of the United States Constitution, and that prohibiting such invocations does not constitute censorship or viewpoint discrimination under the Free Speech and Free Exercise Clauses of the First Amendment; and

WHEREAS, the City Council of the City of Porterville believes that the above ruling does in fact violate the Free Speech and Free Exercise Clauses of the First Amendment, and furthermore that such ruling should not be controlling with regard to the City of Porterville;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF PORTERVILLE DOES Resolve as follows:

1. In upholding both the long-standing American tradition of opening legislative meetings with invocations offered by local clergy and the First Amendment to the Bill of Rights, the City Council of the City of Porterville hereby reinstates its policy of inviting a local ministerial association to provide clergy which will voluntarily offer invocations during the opening ceremonies of the City Council’s open sessions.

2. The Council further resolves to refrain from providing or restricting the content of these invocations in any way, thus complying with the intent and letter of this nation’s Constitution.
This Resolution was passed by the City Council members of the City of Porterville at a regularly scheduled meeting thereof on the 1st day of March, 2005, by the following vote:

AYES:

NOES:

ABSENT:

__________________________________________
Mayor Pedro Martinez,
City of Porterville

ATTEST:

__________________________________________
John Longley, City Clerk,
City of Porterville
SUBJECT: INTERPRETATION OF AMBIGUITY – MOBILE, TEMPORARY AND PERMANENT STRUCTURES

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: On October 12, 2004, the City Council discussed the status of a variety of non-standard building types (see attached). The various Code Sections that apply to non-standard building types were discussed and a variety of potential ambiguities or inconsistencies were described. The development type receiving the most comment was a proposal to place a trailer with retractable wheels on a commercial property to serve as a drive-up coffee kiosk. Council comments with regard to these buildings fell primarily into two categories.

The first set of comments essentially reiterated the longstanding position of Council that the policies of the City of Porterville should be designed and applied in a manner that welcomes and encourages commercial activity. Council inquired as to the method of calculating impact fees, the degree of site improvement that would be required, etc.

The second set of comments primarily focused on questions of consistency and fairness in the process. Several City Council members asked how the installation of a retractable-wheeled trailer would differ from other similar activities, such as the operation of a catering truck at a fixed location, the installation of modular offices, or the opening of a food stand closely associated with a large retail establishment. Questions were directed to the proposed developer of the trailer regarding its status as “temporary” or “permanent” with follow-up discussions as to the implications of either answer, particularly in light of the difficulty in achieving this classification. (At one point, the use was described as “permanent – until it is removed.”)

Ambiguity in the current City Code occurs first when determining whether a particular development type is acceptable as a “stand-alone” proposal, or only as an accessory to more standard development. Secondly, ambiguity may arise in determining whether a use is an “outdoor” use which is typically only permitted in the C-3 Zone. Finally, ambiguity occasionally arises with regard to the classification of a proposal among the three development types contemplated by the Zoning Ordinance and City Code, as follows:

[Signature]  Appropriated/Funded  CM  Item No. 19
1) Permanent Development – permitted upon securing a building permit and, where required, a Design overlay Site Review. Development of a building requires site development improvements in compliance with City Code. Such improvements include parking, landscaping, sidewalks, streetlights, etc. Development standards and impact fees are set by code and adopted resolutions.

2) Temporary Development – Permitted only in times of business stress or emergency, or in conjunction with a construction project. Applications for such development are referred to the City Council. This type of development has typically been approved for one to two years. (In some cases, enforcement of the time limits imposed has not been effective.)

3) Street Vendors on Private Property (more than five days) – Permitted upon approval of a Conditional Use Permit by City Council. This section is rarely applied in practice; however, it could be used to permit catering trucks, etc., to locate on a site on a permanent or semi-permanent basis.

In addition to the provisions of the Zoning Ordinance and City Code which were described in the October 12, 2004 City Council agenda, the following may be helpful:

OUTDOOR COMMERCIAL USES

In the C-1 (Neighborhood Commercial), any business, store, shop or office is required to be conducted within a building, enclosed on all sides, excepting “uses customarily conducted in the open.” In the C-2 (Central Commercial) Zone, all uses are required to be conducted wholly within a building enclosed on all sides excepting a short list of uses (notably including drive-in restaurants) and “other similar uses customarily conducted in the open.” The C-3 (Heavy Commercial) Zone has no restrictions on outdoor commercial activity. Under this standard, drive-up coffee kiosks, drive-through only restaurants, etc., would be prohibited in the C-1 Zone, permitted as an allowed outdoor use in the C-2 Zone, and permitted generally in the C-3 Zone.

Based on the principles expressed by City Council regarding fairness, consistency and support of commercial activity, Staff recommends the following clarifications, and statements of Council intent.
1) **Permanent Commercial Buildings:** In order to be considered a "permanent" commercial building, subject only to securing a building permit, a structure must be affixed to the ground through a foundation, foundation system or other similar means, except as described below. By this standard, shipping containers, catering trucks, and trailers would not be considered "permanent" commercial buildings. Modular buildings, sheds, pre-fabricated buildings, etc., may be considered to be permanent buildings provided they are affixed to foundations. Full development standards as required by City Code would apply in such cases.

2) **Permanent Commercial Buildings – Exception for Food Vending Booths:** Food vending booths, food or coffee kiosks, "hot-dog" stands etc. without a foundation may be considered to be "permanent" provided the following conditions are met.

   a) The type and location of the use is permitted by the Zoning Ordinance.

   b) The type, location, and intensity of the use are included in all calculations of site improvement requirements, including parking calculations, etc.

   c) The development is clearly accessory to the primary use of the site, and its hours of operation are limited to those of the primary use.

   d) The development fully complies with adopted building codes, including fire protection and the requirements of State and Local Public Health authorities.

3) **Permanent Commercial Buildings – Exception for Approved Temporary Buildings:** Modular and similar buildings, whether on permanent foundations or not, may be approved by the City Council as temporary buildings. Site development standards for such cases shall be determined as described below.

4) **Non-Standard Development as Accessory Use:** Except for on-farm produce stands, non-standard development will only be approved as an accessory to standard, permanent development on the same site, or on an adjacent related site. This will help to ensure that minimum site improvements are provided for commercial uses.
5) **Time Limits Required for Non-Standard Development**: Non-standard development may be approved by the City Council as either a "Temporary Building" or a "Street Vendor" as appropriate. In all such cases, approval will be for a limited period of time. The approval period will not typically exceed the reasonable period of time necessary to secure a permanent replacement. In some cases, a reasonable period of time may be granted to allow for market testing, "proof-of-concept", etc. Site improvement standards for such development shall be determined by the City Council on a case-by-case basis using guidelines as established below.

6) **Development Standards – Non-Standard Development**: All non-standard development requires approval by the City Council with appropriate Conditions of Approval. Such development may require site improvements that differ from those required for permanent development. Staff reports for such proposals should identify both the proposed site improvements and the improvements that would be required for similar, permanent development.

7) **Temporary Building Permits – Effect on Standards for Existing Conforming Development**: Temporary buildings may be approved only with clear time limits, and with a finding by City Council that the development is to accommodate a time of business stress or emergency or a construction project. For this reason, the City Council may authorize such uses in circumstances that would cause an existing, conforming development to become non-conforming for the duration of the use. For example, a temporary modular building could be authorized to occupy required parking spaces in a commercial development. It is the intent of City Council to weigh such modifications against both the need and duration of the temporary building. Except in extra-ordinary cases, the City Council would not expect to authorize a permit that creates a non-conforming circumstance for a period longer than 90 days.

8) **Conditional Use Permits for “Street Vending” – Effect on Standards for Existing Conforming Development** - Conditional Use Permits for “Street Vending” for periods longer than five days do not require a finding of business stress or emergency. For that reason, such uses will not be permitted to cause an existing conforming development to become non-conforming.
9) **Standards of Review – Non-standard Development:** It is the intent of City Council to consider the impact that proposed Temporary Building Permits and Conditional Use Permits for longer term street vending will have on other similar businesses. Such uses are intended to offer flexibility under unusual circumstances and will not be encouraged as a means to compete with businesses in permanent buildings by avoiding development standards that would otherwise apply.

10) **Compliance with Zoning Ordinance and City Code – Non-Standard Development:** None of the above shall be construed to permit non-standard development to violate the Zoning Ordinance or other provisions of City Code. No use may be authorized by a Temporary Building Permit or as a Conditional Use Permit for street vending that is not permitted by the underlying Zoning Classification. Such restriction includes limitations on outdoor sales where applicable.

As proposed, these standards would allow Staff and the development community to have clear guidelines to follow in contemplating future development. In general, flexibility is permitted where needed, however, there is a clearly stated preference for development that meets adopted City standards. The only exceptions to the requirement to follow all City Standards would occur in cases in which the City Council has adopted findings of business stress or emergency, or upon approval of a Zone Variance. This helps to preserve the value in the existing development stock, as well as to encourage ongoing improvements in the overall quality of commercial development.

**RECOMMENDATION:** That the City Council adopt the proposed resolution of ambiguity and statements of City Council intent with regard to mobile, temporary, and permanent structures.

**Attachments:**

1. Draft Resolution Adopting Interpretations of Ambiguity and Statements of City Council Intent.
2. City Council Agenda Item – October 12, 2004
RESOLUTION NO. ______

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
ADOPTING INTERPRETATIONS OF AMBIGUITY AND
STATEMENTS OF CITY COUNCIL INTENT WITH REGARD TO
TEMPORARY, MOBILE AND PERMANENT DEVELOPMENT

WHEREAS: On October 12, 2004, and March 1, 2005, the City Council considered the status of a variety of non-standard building types including temporary buildings, long-term street vending, drive-through restaurant kiosks, etc.; and

WHEREAS: The City Council has determined that the City Code and the Zoning Ordinance allow for potential ambiguity in the interpretation of such issues as the appropriate application of the City Code provisions for Temporary Building Permits, the Zoning Ordinance provisions for a Conditional Use Permit for Street Vending for more than five days at a single location, and the appropriate development standards to apply to each; and

WHEREAS: The City Council intends to provide guidance to City Staff and the development community with regard to the approved interpretation of such ambiguity in the City Code and Zoning Ordinance and to give an indication as to the likely standards of review and intent of City Council in considering future development proposals.

NOW THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby adopt statements of interpretation of ambiguity and statements of City Council intent as follows:

1) **Permanent Commercial Buildings:** In order to be considered a “permanent” commercial building, subject only to securing a building permit, a structure must be affixed to the ground through a foundation, foundation system or other similar means, except as described below. By this standard, shipping containers, catering trucks, and trailers would not be considered “permanent” commercial buildings. Modular buildings, sheds, pre-fabricated buildings, etc., may be considered to be permanent buildings provided they are affixed to foundations. Full development standards as required by City Code would apply in such cases.

2) **Permanent Commercial Buildings – Exception for Food Vending Booths:** Food vending booths, food or coffee kiosks, “hot-dog” stands etc. without a foundation may be considered to be “permanent” provided the following conditions are met.

   a) The type and location of the use is permitted by the Zoning Ordinance.
b) The type, location, and intensity of the use are included in all calculations of site improvement requirements, including parking calculations, etc.

c) The development is clearly accessory to the primary use of the site, and its hours of operation are limited to those of the primary use.

d) The development fully complies with adopted building codes, including fire protection and the requirements of State and Local Public Health authorities.

3) **Permanent Commercial Buildings — Exception for Approved Temporary Buildings:** Modular and similar buildings, whether on permanent foundations or not, may be approved by the City Council as temporary buildings. Site development standards for such cases shall be determined as described below.

4) **Non-Standard Development as Accessory Use:** Except for on-farm produce stands, non-standard development will only be approved as an accessory to standard, permanent development on the same site, or on an adjacent related site. This will help to ensure that minimum site improvements are provided for commercial uses.

5) **Time Limits Required for Non-Standard Development:** Non-standard development may be approved by the City Council as either a "Temporary Building" or a "Street Vendor" as appropriate. In all such cases, approval will be for a limited period of time. The approval period will not typically exceed the reasonable period of time necessary to secure a permanent replacement. In some cases, a reasonable period of time may be granted to allow for market testing, "proof-of-concept", etc. Site improvement standards for such development shall be determined by the City Council on a case-by-case basis using guidelines as established below.

6) **Development Standards — Non-Standard Development:** All non-standard development requires approval by the City Council with appropriate Conditions of Approval. Such development may require site improvements that differ from those required for permanent development. Staff reports for such proposals should identify both the proposed site improvements and the improvements that would be required for similar, permanent development.
7) **Temporary Building Permits – Effect on Standards for Existing Conforming Development:** Temporary buildings may be approved only with clear time limits, and with a finding by City Council that the development is to accommodate a time of business stress or emergency or a construction project. For this reason, the City Council may authorize such uses in circumstances that would cause an existing, conforming development to become non-conforming for the duration of the use. For example, a temporary modular building could be authorized to occupy required parking spaces in a commercial development. It is the intent of City Council to weigh such modifications against both the need and duration of the temporary building. Except in extra-ordinary cases, the City Council would not expect to authorize a permit that creates a non-conforming circumstance for a period longer than 90 days.

8) **Conditional Use Permits for “Street Vending” – Effect on Standards for Existing Conforming Development** - Conditional Use Permits for “Street Vending” for periods longer than five days do not require a finding of business stress or emergency. For that reason, such uses will not be permitted to cause an existing conforming development to become non-conforming.

9) **Standards of Review – Non-standard Development:** It is the intent of City Council to consider the impact that proposed Temporary Building Permits and Conditional Use Permits for longer term street vending will have on other similar businesses. Such uses are intended to offer flexibility under unusual circumstances and will not be encouraged as a means to compete with businesses in permanent buildings by avoiding development standards that would otherwise apply.

10) **Compliance with Zoning Ordinance and City Code – Non-Standard Development:** None of the above shall be construed to permit non-standard development to violate the Zoning Ordinance or other provisions of City Code. No use may be authorized by a Temporary Building Permit or as a Conditional Use Permit for street vending that is not permitted by the underlying Zoning Classification. Such restriction includes limitations on outdoor sales where applicable.

_________

Pedro R. Martinez, Mayor

ATTEST:

John Longley, City Clerk

By ___________________

  Georgia Hawley, Chief Deputy City Clerk
CITY COUNCIL AGENDA: OCTOBER 12, 2004

SUBJECT: INTERPRETATION OF AMBIGUITY – MOBILE, TEMPORARY AND PERMANENT STRUCTURES

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: Over the past several months, City Staff has been presented with a variety of challenges with regard to non-standard building types. Several creative approaches have been proposed and research into these proposals has uncovered potential ambiguities or inconsistencies regarding more traditional non-standard approaches to development. Staff’s intent with regard to this item is to describe the range of activities existing or proposed, seek Council input in determining how to categorize some of the proposals. Staff also seeks to resolve uncertainties and inconsistencies either by resolution of the City Council or by receiving direction to amend the Municipal Code or Zoning Ordinance:

The uses under discussion are the following:

CATERING TRUCKS (TRAVELLING)

Although not well defined in the Municipal Code and Zoning Ordinance, for purposes of this discussion catering trucks should be considered to be self-propelled vehicles, registered with the Department of Motor Vehicles (DMV), and intended for the preparation and sale of food. The regulation of catering trucks with regular routes (or which are stationary for five days or less each month) falls under the Business License section of the Municipal Code. The City Attorney has been reviewing these regulations as a component of the review of the regulation of peddlers and solicitors. Under current regulations, a catering truck may establish a route with stops on private property (or on public streets in residential zones) with only a business license for review.

CATERING TRUCKS (STATIONARY)

In some cases, operators of catering trucks have requested permission to operate indefinitely from a fixed location. If the use will continue for more than five days, the Zoning Ordinance requires a Conditional Use Permit. Only a small number of such permits have been requested, and then, most typically in conjunction with existing businesses which provide paved parking areas, access to utilities and sanitary facilities, etc. It is likely that Staff would recommend full site improvements (curb, gutter, sidewalks, parking, landscaping, etc.) as a condition of approval for such a use on an otherwise undeveloped parcel. In some locations, Staff may recommend denial of such a Conditional Use Permit.

DD _____ Appropriated/Funded _____ CM ______ Item No. ______
SEASONAL FOOD TRAILERS (HAWAIIAN ICE STANDS)

Staff has occasionally been asked to consider the temporary placement of trailers in shopping center parking lots for the sale of seasonal foods (such as Hawaiian ice). Such units are not self-propelled, but are registered by the DMV. Staff has treated such requests in the same manner as catering trucks, above. To date, no applications for Conditional Use Permits for such a use have been processed. When placed in an existing parking lot, Staff would expect to recommend conditions of approval limiting the duration of the use and ensuring that required parking was unobstructed.

TEMPORARY BUILDINGS (MODULAR OFFICES)

Occasionally, unusual circumstances will cause a business to need additional space for operations on a temporary basis while permanent solutions are being pursued. Chapter 7 of the Municipal Code gives City Council the authority to issue permits for temporary structures in cases of "business stress or emergency" or in other, similar circumstances. Such permits are typically issued for a period of one or two years. Continued requests for renewal have tended to lead to increased scrutiny and requests to expedite a permanent solution. The City Council has the authority to impose conditions of approval. Full site improvements are not typically required, however, compliance with ADA and Building Codes is required. If parking is available at the business, additional parking has not typically been required to accommodate the temporary building. Modular buildings are inspected for code compliance at the time and place of manufacture and receive a certificate from the International Conference of Building Officials (ICBO).

PRODUCE (STRAWBERRY) STANDS

Several local farmers have continued a long-standing practice of siting produce stands either at their farm fields or on otherwise underutilized properties during harvest seasons. Such stands are most typically transported to their location on trailers, and remain on the trailers throughout their use, which relieves them from compliance with Building Codes. As the stands are seen by many to be part of the fabric of the local farming culture, Planning staff has not taken an aggressive enforcement stance with such uses. However, they do appear to fall under the temporary structure section of the Municipal Code and should apply for permits from the City Council. If such a permit were requested, Staff would likely recommend full site improvements to be consistent with requirements that apply to other businesses.
CATERING TRAILERS (RETRACTABLE WHEEL)

Recently, a local businessman has presented two proposals to the Project Review Committee (PRC) for the installation of catering trailers on a permanent or semi-permanent basis in commercial zones. The intent is to use the trailers as drive-up kiosks for milk and coffee based drinks and related cold and hot foods. The trailers are manufactured with retractable wheels that can be elevated to leave the trailer flush to the ground. Unless they are attached to a permanent foundation, such trailers are not subject to most Building Code regulations, although some health code regulations apply to any business selling food.

SHIPPING CONTAINERS (SEA-TRAINS)

Several businesses have used, or asked to use, shipping containers as additional on-site storage. Some recycling businesses use shipping containers as their primary place of business. All shipping containers used for storage require building permits and must comply with Building Codes. However, when the containers are less than 400 square feet, and placed on a paved surface, they do not require a permanent foundation. Various fire codes apply to such units, limiting their placement in close proximity to property lines, buildings, or other shipping containers. The most extensive use of shipping containers is at the Wal-Mart store on Henderson Avenue. As many as 50 to 60 containers may be in use during the Holidays. During off-peak seasons, 30 or more containers are typically maintained on the site.

SEMI-TRUCK TRAILERS

Occasionally businesses will park semi-truck trailers on a site and use them for supplementary storage. In at least one case, a recycling business operates by parking a trailer on a developed commercial site each day and removes it each night. Again, trailers are regulated by the DMV and are not subject to Building Codes.

Staff will present a slide show at the City Council meeting showing examples of several of the above non-standard building types.

Among the items to consider are the following:

1) Under what circumstances should site improvements be required?
2) Is there a concern that temporary, mobile or other non-standard structures would have an inequitable advantage by artificially lowering operating expenses, avoiding improvement standards, property tax liabilities, utility impact fees, or other costs?

3) For which uses should business operators seek an amendment to an approved Design Overlay Site Review or Planned Development Specific Plan?

4) For which uses should business operators seek a "Temporary Structure Permit" and how does the requirement that they show a business stress or emergency apply?

5) What time limits are likely to be appropriate for the various types of use?

RECOMMENDATION: That the City Council review and discuss the above information and provide additional direction to Staff.