STUDY SESSION - 5:00 p.m.
Call to Order
Roll Call

ORAL COMMUNICATIONS
This is the opportunity to address the Council on any matter of interest, whether on the agenda or not.

SCHEDULED MATTER
1. Farm Management Agreement
   Re: Study Session for review and discussion of the City’s Farm Management Agreement with Robert Nuckols pertaining to disposal of treated effluent in conformance with the Regional Water Quality Control Board’s Cease and Desist Order.

Adjourn

CLOSED SESSION - 6:00 p.m.

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.
   2- Government Code Section 54956.9(c) - Conference with Legal Counsel - Anticipated Litigation: One Case.
   3- Government Code Section 54956.9(a) - Conference with Legal Counsel - Existing Litigation: Patrick Greene v. City of Porterville.

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

Pledge of Allegiance Led by Council Member Richard Stadtherr
Invocation

PRESENTATIONS
   Employee of the Month - Paul Sewell
   Richard Tree - Sierra Management
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 July 5, 2005 and August 26, 2005

2. Budget Adjustments for the 2005/06 Fiscal Year
   Re: Approving increase in appropriation in Solid Waste Fund, Graffiti Removal Division, to allow for the expenditure of $2,800 in donations received in “Paint the Town” Project.

3. Proposal for Heritage Center Tot Lot and Associated Landscaping Design
   Re: Approving Service Agreement with Sierra Design, Inc. of Visalia in an amount not to exceed $6,815 for the design of playground and associated landscaping at the Heritage Center.

4. Acceptance of Porterville Civic Development Foundation Loan
   Re: Considering accepting Loan Agreement in an amount not to exceed $65,000, for a term of 6 years, bearing no interest for the first 3 years, and 7% per annum for the last 3 years, to complete environmental studies, grading plan and parcel map preparation to attract development of 74 acres of City-owned land zoned Industrial located along West Street near Teapot Dome.

5. Request for a One (1) Year Extension of Time for Two (2) Temporary Modular Units for the Porterville Evangelical Free Church
   Re: Approving one-year extension commencing September 16, 2005 and terminating September 16, 2006 so as to allow applicant to pursue needed right of way from railroad for secondary emergency access.

6. Property License Agreement and Agreement Concerning Rights and Obligations with Senior Citizen Agencies
   Re: Approving one-year Agreement, effective October 15, 2005, at the cost of $800 per month, pertaining to relocating and establishing senior citizen nutrition, health and wellness services from Porterville Community Center on East Putnam Avenue to the Santa Fe Depot.

7. Airport Lease - Lot 32C
   Re: Approving assignment of Lease Agreement for hangar between the City of Porterville and Mr. Wayne Ross to Mr. John Loomis, contingent upon Mr. Loomis providing verification of insurance within 10 days of Council action.

8. Porterville Transit Promotions
   Re: Authorizing promotion of “Free” Transit Days promotion published in Porterville Recorder targeting students with an offer for a free ride to and from school on September 21, which will assist staff in analyzing effectiveness of transit advertising.
9. Approval of the REMOVE II Program - Class II Bicycle Lane Agreement  
Re: Approving Agreement for $50,000 REMOVE II Grant for bicycle lane striping along the  
Morton Avenue corridor from Westwood Street, east to Main Street, then south to College  
Avenue, terminating at Porterville College.

10. Amendment of Administrative Policy II-E-1, Travel and Conference Expenses  
Re: Approving amendment to include authorization for air travel, mileage reimbursement,  
payment of a stipend should overnight stay be avoided, and the requirement that conference and  
meeting attendees request room sales tax waivers when applicable.

11. This item was removed.

11a. Approval for Community Civic Event Downtown Porterville Association Nuestro Pride Show,  
September 25, 2005  
Re: Approving annual event to take place from 6:00 a.m. to 7:00 p.m. in the area bounded by  
Olive Ave. to the south, Second St. to the west, Oak St. to the north, and Third St. to the east.

PUBLIC HEARING

12. Interim Urgency Ordinance of the City of Porterville for the Protection of the Hillside Area of  
the Community Defining Process and Criteria for the Development of Hillside Properties with  
the City of Porterville Urban Development Boundary  
Re: Adopting Interim Urgency Ordinance defining a process and establishing criteria for hillside  
development.

13. Canyon Springs Estates Tentative Subdivision Map (Contour Development Inc.)  
Re: Considering approval of Tentative Subdivision Map to divide a 67.42± acre vacant parcel  
zoned City R-1 (One-Family Zone) into a 230± lot single-family residential subdivision to be  
developed in 2 phases for the site located on the northeast corner of Morton Avenue and  
Hillcrest Street.

Communications Towers  
Re: Adopting Interim Urgency Ordinance to temporarily prohibit installation of wireless  
communication towers for six month period while staff studies issues and develops permanent  
standards.

15. Vacation of Portions of Scranton Avenue and Holcomb Street within the Porterville  
Developmental Center (State of California)  
Re: Adopting Resolution of Vacation to allow for expansion of PDC, and authorizing City Clerk  
to record Resolution and Mayor to execute Quitclaim Deed relinquishing all rights, title and  
interest.

16. Consideration of Modifications to the Fee Schedule as it Pertains to Planning Services  
Re: Considering modifications to Planning Division Fee Schedule based on recommendations of  
17. Sunrise Villa Phase 2 & 3 Tentative Subdivision Map
Re: Opening public hearing and continuing it until the Council Meeting of September 20, 2005 so as to allow applicant time to meet with staff to address concerns re street alignment and driveway access.

SECOND READING
18. Ordinance 1678, Zoning Ordinance Amendment 1-2005
Re: Giving Second Reading to the Ordinance Amending the Zoning Ordinance Pertaining to Block Wall Requirements Separating Residential and Non-Residential Uses.

19. Ordinance 1679, Zoning Ordinance Amendment 2-2005
Re: Giving Second Reading to the Ordinance Amending the Zoning Ordinance Pertaining to C-2 Uses in the Central Commercial District.

SCHEDULED MATTERS
20. Resolution of Necessity Pertaining to the Acquisition of a Portion of Property (Approximately 85 Square Feet of Property) Located at the Northwest Corner of Mulberry Avenue and Plano Street (APN #248-010-005) for the Proposed Traffic Signal No. 8 Project
Re: Opening the public hearing and continuing it until the Council Meeting of September 20, 2005.

21. Consideration of Draft Regulations Limiting Continuous and Cumulative Occupancy of Hotels, Motels and Motor Hotels
Re: Considering draft Ordinance limiting continuous occupancy and requiring certain development standards, and setting October 4, 2005 as the time for a public hearing on the Ordinance.

22. Request for Resolution of Ambiguity Regarding Salons and Spas in the Professional Office (PO) Zone
Re: Considering Resolution of Ambiguity to clarify whether spas and salons fit within the professional business and uses section of the PO Zone (Section 601 A.1).

23. Resolution Requiring Residency or Business Ownership Nexus with Regard to Members of Commissions, Legislative Committees and Other Boards or Commissions upon Which the City Council Has Appointive Authority
Re: Approving resolution requiring the composition of any committee/board be at least 70% registered voters in the City, with the remaining 30%, if not Porterville residents, being business owners in City.

24. Consideration of Surplusing City Water Tender and Making It Available to La Barca, Jalisco, Mexico
Re: Consideration of surplusing the 1955 Diamond Rio 6x6 water tender with the 1,000 gallon water tank and 35 horse power tank, and making it available to La Barca, subject to their ability to transport the vehicle.

25. Consideration of Retaining A Consultant to Assist with State Local Governmental Affairs
Re: Considering retention of consultant, California Consulting, LLC of Fresno, for a 6 month trial period, at a cost of $2,000 per month, to assist the City with locating and securing grant funding on priority projects.
26. Consideration of Support for the Porterville Pow Wow  
   Re: Considering Resolution recognizing the Tule River Indian Tribe and the Tule River Tribal  
   Pow Wow and discussing ways in which the City can further indicate its support.

27. Consideration of Designating an Area Commemorating City Councils  
   Re: Considering designation of area outside of the Council Chambers to commemorate past,  
   present and future City Councils.

28. Consideration of Wireless Computer Access for the City Council  
   Re: Considering lap top computers with wireless access for Council Members at a cost not to  
   exceed $15,000.

29. Consideration of Reimbursement of Administrative Expense to Council Members  
   Re: Considering reimbursement of expenses and reviewing City of Visalia’s reimbursement  
   policy.

Adjourn to a Meeting of the Porterville Redevelopment Agency.

PORTERVILLE REDEVELOPMENT AGENCY AGENDA
   September 6, 2005

Roll Call

WRITTEN COMMUNICATIONS

ORAL COMMUNICATIONS

SCHEDULED MATTER
PRA-1. Approval for Community Civic Event Downtown Porterville Association Nuestro Pride Show,  
   September 25, 2005  
   Re: Approving annual event to take place from 6:00 a.m. to 7:00 p.m. in the area bounded by  
   Olive Ave. to the south, Second St. to the west, Oak St. to the north, and Third St. to the east.

Adjourn the Redevelopment Agency Meeting.

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 September 20, 2005

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.
SUBJECT: STUDY SESSION - FARM MANAGEMENT AGREEMENT

SOURCE: Public Works Department - Engineering Division

COMMENT: On August 16, 2005, Council directed staff to schedule a study session for September 6, 2005 to review and comment on the City’s Farm Management Agreement with Robert Nuckols.

History:

In December 2002, the City found itself in a situation where the Regional Water Quality Control Board placed conditions on the way the City disposed of its treated effluent. The City implemented a five (5) year “transitional” agreement that allowed the City to continue disposing of treated effluent in conformance with the Regional Water Quality Control Board’s (RWQCB) Cease & Desist Order. The specific goal was to make the transition under the Cease & Desist Order as seamless as possible.

Purpose of Farm Operation:

The basic purpose of the farming operation has been to:

• Distribute the City’s treated effluent over the reclamation area.

• Meet the Cease & Desist Order’s “Waste Discharge Requirements (WDR)”.

To accomplish the above the City maintains control of most farming activities.

Purpose For Specific Controls In Current Agreement:

• City can direct which crops are grown to maximize water and nutrient utilization.

• Minimize ground water impacts.

• High application rates potentially reduce crop yield and soil condition.

• The City must expand its irrigable acreage to about 700 acres by developing recently purchased lands.
Cost of Farm Operation:

As indicated above, the transitional agreement allowed the City to continue disposing effluent at the reclamation area in a manner consistent with the requirements set by the RWQCB. The agreement included a “cancellation at three years” clause in the event compelling circumstances dictated an early termination of the contract.

After 2 ½ years of experience with the management agreement and the losses the City has experienced, it is staff’s opinion that some modifications are needed. Farming expenditures have exceeded farm revenue each year by more than $250,000. Staff expects farm expenditures in FY 2005/2006 to exceed farm revenue by approximately $220,000.

Not all of the expenditures noted above can be attributed to typical farming operations. In FY 2004/2005, approximately $534,159 was spent in the “farming” operation which generated approximately $275,509 in revenue.


Based on pre-Audit numbers a cost center evaluation for items outside typical farming operations are as follows:

<table>
<thead>
<tr>
<th></th>
<th>Actual 04/05</th>
<th>Budget 05/06</th>
</tr>
</thead>
<tbody>
<tr>
<td>Farming Costs -</td>
<td>$(534,159)</td>
<td>$(512,578)</td>
</tr>
<tr>
<td>Revenue -</td>
<td>$ 275,509</td>
<td>$ 290,050</td>
</tr>
<tr>
<td>Gross Profit/(Loss)</td>
<td>$(258,650)</td>
<td>$(222,528)</td>
</tr>
</tbody>
</table>

Items outside typical farming operations:

1. Airport/Underhill Dry Farming loss- $ 59,489 $ 48,141
2. Cost of Lease for irrigated land $ 17,856 $ 18,214
3. Percolation Pond Management cost- $ 8,500 $ 8,500
4. Special Requested Activities, non farm weed, Land Leveling & Imp. cost- $ 46,500 $ 45,442
5. Lab testing cost- $ 6,000 $ 6,000

Subtotal $ 138,345 $ 126,297

Gross Profit/(Loss) $(258,650) $(222,528)

Loss in Revenue vs. Actual Farming Op. Costs: $(120,305) $(96,231)
Staff offers the following options for Council’s consideration along with the Pros & Cons on each:

1. **Continue with the existing contract for the remaining years left on the contract.**
   
   Pros:
   
   a) Farm manager is familiar with the operation and is familiar with the expectations of the Cease & Desist Order.
   
   b) Continuity in operation and no loss in time restructuring the current contract.
   
   Cons:
   
   a) Profit Loss each year in amounts of about $220,000.
   
   b) Existing farm agreement structure may be contributing to some loss in revenue.

2. **Lease the land to the current farm manager with modifications and/or adjustments to the present agreement.**
   
   Pros:
   
   a) Continuity of operation. Structure agreement to improve City revenues and at the same time, leaves necessary controls in place.
   
   b) Farm manager is aware of City concerns, has complies with the Cease & Desist Order, and has agreed contract modifications are needed with tighter cost control.
   
   Cons:
   
   a) Farmer manager may not want to lease the land.
   
   b) Restructured agreement may not provide enough profit margin for manager to succeed.

3. **Prepare and distribute RFPs for a new contract after modifications/adjustments have been made to the present agreement.**
Pros:

a) Opens bidding to all qualified farm managers including the current farm manager encouraging competition and new ideas.

b) Agreement is structured to improve City revenues and at the same time, leaves necessary controls in place.

Cons:

a) Potential loss in continuity of operation and continued expenditure over revenue loss.

b) Problems of cooperation with former manager, as City still utilizes his property, which has a flow easement.

4. Prepare and distribute RFPs to lease the land under an alternative farm agreement which removes City managerial controls.

Pros:

a) City is out of the Municipal Farm business.

b) May turn a profit through the lease of the land and profit sharing on crop yield.

Cons:

a) City loses day to day managerial control which may undermine meeting the Cease and Desist Order.

b) Potential loss in continuity.

RECOMMENDATION: That City Council provide staff direction.

ATTACHMENTS: Map
Contract Evaluation Matrix
Budget Analysis
<table>
<thead>
<tr>
<th><strong>Elements of Contract</strong></th>
<th><strong>City of Porterville</strong></th>
<th><strong>North Kern San. Dist.</strong></th>
<th><strong>City of Bakersfield</strong></th>
<th><strong>City of Lancaster</strong></th>
<th><strong>City of Tulare</strong></th>
<th><strong>Comments</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Irrigation rate restrictions, yes no</strong></td>
<td>1</td>
<td>yes</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no</td>
</tr>
<tr>
<td><strong>Nitrogen/fertilizer controls, yes no</strong></td>
<td>1</td>
<td>yes</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no</td>
</tr>
<tr>
<td><strong>Cropping options, restrictions, yes on</strong></td>
<td></td>
<td>yes</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no</td>
</tr>
<tr>
<td><strong>Irrigation management &gt;70% effect, yes no</strong></td>
<td>2</td>
<td>yes</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no</td>
</tr>
<tr>
<td><strong>Percolation Ponds Oper./maint for 6 mo./yr</strong></td>
<td>2</td>
<td>yes</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no</td>
</tr>
<tr>
<td><strong>Land preparation required, yes no</strong></td>
<td></td>
<td>Special</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no</td>
</tr>
<tr>
<td><strong>Degree of management oversight, &gt; &lt;</strong></td>
<td>yes</td>
<td>minimal</td>
<td>minimal</td>
<td>minimal</td>
<td>minimal</td>
<td></td>
</tr>
<tr>
<td><strong>Crop testing frequent, yes no</strong></td>
<td>1</td>
<td>yes</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no</td>
</tr>
<tr>
<td><strong>Soil testing &amp; Management, frequent yes no</strong></td>
<td>yes</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no</td>
</tr>
<tr>
<td><strong>Bio-solids application's, yes no</strong></td>
<td>1</td>
<td>intended yes</td>
<td>yes</td>
<td>yes</td>
<td>no</td>
<td>Kern County bio-solids use allowed. Annexion of irrigated lands must be done prior to spreading in Tulare Co. Leasing the Airport dry land to hold for the option to spread sludge when circumstances allow.</td>
</tr>
<tr>
<td><strong>Set-back restriction maintenance, yes no</strong></td>
<td>1</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Road way and drainage areas maintenance</strong></td>
<td>1</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>N/A</td>
<td></td>
</tr>
</tbody>
</table>

1. Right of way roads drainage maintenance required 5-01-103, C. Reclamation Specifications C, 1-8

2. As part of the meeting of the provisions of "C. Reclamation Specifications" the City and CRWQB staff agreed to the following:

   1) Reasonable agronomic rates mean the irrigation rates will not exceed 5.5 acft/ac/yr.
   2) Reasonable agronomic rates for fertilizer (all forms of nitrogen) will not exceed the crops capacity for utilization according to the "Western Fertilizer Handbook" second edition.
   3) Irrigation efficiency will be at least 70% (effective). Is used in part of the calculation for acft/ac of applied water per season.
   4) That the City would limit the effluent disposed of in the percolation ponds to < 50% of our total annual flow.
City of Porterville  
2004-2005  
Farming Operations  
Budget Analysis

<table>
<thead>
<tr>
<th>Revenues</th>
<th>03-04 Actual</th>
<th>04-05 Budget</th>
<th>04-05 Actual</th>
<th>05-06 Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>218,542</td>
<td>212,160</td>
<td>275,509</td>
<td>290,050</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Expenses</th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>TOTAL 23 -Services</td>
<td>359,207</td>
<td>204,913</td>
<td>358,894</td>
<td>361,744</td>
</tr>
<tr>
<td>TOTAL 26 - Rent</td>
<td>50,365</td>
<td>49,234</td>
<td>51,331</td>
<td>56,861</td>
</tr>
<tr>
<td>TOTAL 34 - Materials</td>
<td>105,934</td>
<td>77,595</td>
<td>101,371</td>
<td>88,973</td>
</tr>
<tr>
<td>TOTAL 42 - Utilities</td>
<td>4,022</td>
<td>5,000</td>
<td>6,275</td>
<td>5,000</td>
</tr>
<tr>
<td>TOTAL 62 - Debt</td>
<td>15,300</td>
<td>154,235</td>
<td>16,288</td>
<td>0</td>
</tr>
<tr>
<td>Total Expenses</td>
<td>534,828</td>
<td>490,977</td>
<td>534,159</td>
<td>512,578</td>
</tr>
<tr>
<td>Gross Profit</td>
<td>-316,286</td>
<td>-278,817</td>
<td>-258,650</td>
<td>-222,528</td>
</tr>
</tbody>
</table>
Call to Order: 6:00 p.m.
Roll Call: Council Member Irish, Council Member Martinez, Mayor Pro Tem Hamilton, Council Member Stadtherr, Mayor West

ORAL COMMUNICATIONS
None

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

7:00 P.M. RECONVENE OPEN SESSION
REPORT ON ANY ACTION TAKEN IN CLOSED SESSION
No action reported.

Pledge of Allegiance Led by Mayor Kelly West
Invocation - one individual participated.

PROCLAMATION
• Recognition of Howard Smith
  Council Member Irish read and presented the Proclamation to Mr. Smith.
• Recognition of Patrick Hayes
  Council Member Martinez read and presented the Proclamation to Mr. Hayes.

PRESENTATION
Employee of the Month - Wendy Miller

ORAL COMMUNICATIONS
• Ben Harvey, 99 S. Ohio Street, voiced concern with the alleged lack of enforcement of the City’s vendor ordinance, and questioned the need for a noise ordinance.
• Jennifer Lindgren, 1123 E. Jasmine, spoke in opposition to Subdivision as proposed in Item No. 11, and commented on the positive public response to supporting literacy in the sales tax measure.
• Denise Marchant, 114 W. Sandra Court, informed the Council of the recent performance of the Porterville Combined High School Orchestra at Carnegie Hall in New York City, presented the Council with a Playbill, and thanked them for their support.
• Isaac Nunez, 1375 W. La Vida, Leadership Porterville Class of 2005, came forward and updated the Council on the recent activities of the Class.
• David Coy, 934 W. Henderson Avenue, came forward as a member of Leadership Porterville Class of 2005.
• Paul Mauney, 2207 W. Wall Court, came forward as a member of Leadership Porterville Class of 2005.
• Mbete Kiamba, 1040 W. Grand Avenue, came forward as a member of Leadership Porterville Class of 2005.
• Julie Ream, 1266 San Lucia, came forward as a member of Leadership Porterville Class of 2005.
• Ann Jacobs, 1349 E. Roby, came forward as a member of Leadership Porterville Class of 2005.
• Michelle Cruz, 367 S. Hockett, came forward as a member of Leadership Porterville Class of 2005.
• Steve Schnars, 1994 W. Wall, came forward as a member of Leadership Porterville Class of 2005.
• Dick Eckhoff, Downtown Porterville Association, 180 N. Main Street, spoke regarding Item 10, summarizing the Advisory Board’s Annual Report.
• Felipe Martinez, 195 W. Putnam, informed the Council of the Exchange Club’s successful fireworks presentation and thanked them for their support.
• Megan Hanson, Leadership Porterville Class of 2004 came forward to fulfill a class challenge.

CONSENT CALENDAR

1. CITY COUNCIL MINUTES MAY 10, 2005, MAY 17, 2005, AND JUNE 7, 2005


Documentation: M.O. 01-070505
Disposition: Approved.

3. AMENDMENT TO TRAFFIC RESOLUTION NO. 10-2001 - INTERSECTION SAFETY IMPROVEMENT - TEMPORARY DESIGNATION OF MORTON AVENUE AND MATHEW STREET AS A 4-WAY STOP INTERSECTION

Recommendation: That the City Council:
1. Pass a resolution amending Traffic Resolution No. 10-2001, designating Morton Avenue and Mathew Street as a temporary 4-way stop intersection;
2. Authorize the City Engineer to notify the public, by any effective means, of the application of a traffic control devise, namely a temporary 4-way stop, at the intersection of Morton Avenue and Mathew Street;
3. Authorize the City Engineer to install or cause to be installed stop signs at
the Morton Avenue and Mathew Street intersection to create a 4-way
stop intersection when the Henderson Avenue Reconstruction Project
begins; and
4. Upon City Council’s acceptance of the completion of the Henderson
Avenue Reconstruction Project, remove the stop sings on Morton Avenue
for east and west bound traffic at Mathew Street.

Documentation: Resolution 89-2005
Disposition: Approved.

4. REIMBURSEMENT FOR CONSTRUCTION OF MASTER PLAN FACILITIES -
HOLY CROSS CHURCH

Recommendation: That the City Council approve the reimbursement to Holy Cross Church per

Documentation: M.O. 02-070505
Disposition: Approved.

6. HOMELAND SECURITY GRANTS/M.O.U.

Recommendation: That the City Council authorize the Mayor to sign the Memorandum of
Understanding.

Documentation: M.O. 03-070505
Disposition: Approved.

7. ADOPTION OF ANNUAL APPROPRIATION LIMIT

Recommendation: That the City Council approve the draft resolution adopting the appropriation
limit of $34,813,941 for the 2005/2006 Fiscal Year.

Documentation: Resolution 90-2005
Disposition: Approved.

8. AIRPORT LEASE - LOT 46A

Recommendation: That the City Council approve the assigning of the Lease Agreement between the
City of Porterville and Mr. and Mrs. Swenson to Mr. Robert Baranek.

Documentation: M.O. 04-070505
Disposition: Approved.
9a. AUTHORIZATION TO NEGOTIATE FOR SITE CLEANUP AT 216 EAST ORANGE AVENUE

Recommendation: That the City Council authorize the Public Works Director to negotiate with Bowen Engineering and Robert Volmer Excavation for the asbestos removal, demolition and cleanup at 216 East Orange Avenue for a cost not to exceed $10,000.

Documentation: M.O. 05-070505
Disposition: Approved.

COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Council Member Martinez that the Council approve Item Nos. 1, 3, 4, 6 through 8, and 9a. The motion carried unanimously.

Deputy City Manager Darrel Pyle indicated that Item No. 2 would be presented during Scheduled Matters.

5. RATIFICATION OF CONGESTION MITIGATION AIR QUALITY (CMAQ) PROJECTS

Recommendation: That the City Council:
1. Authorize the Mayor to execute the attached resolution formally ratifying the projects presented in the staff report;
2. Direct the Public Works Director to transmit the executed resolution to the Tulare County Association of Governments; and
3. Direct the Public Works Director to prepare and submit a formal application for each project for the purpose of securing the necessary funds to design and construct the projects identified.

At Council’s request, Deputy City Manager Darrel Pyle presented the item, and Public Works Director Baldo Rodriguez presented the staff report.

Mr. Rodriguez indicated the replacement projects were as follows:

1. Traffic Signal at Olive Avenue and Mathew Street
   Construction Cost: $285,000
2. Traffic Signal at Newcomb Street and Westfield Avenue
   Design, Right of Way and Construction Costs: $272,000
3. Roundabout at Main Street and College Avenue
   Design, Right of Way and Construction Costs: $125,000
4. Newcomb Street Shoulder Stabilization (Sidewalk)
   Design and Construction Costs: $200,000
Mayor Pro Tem Hamilton suggested that each of the four projects be discussed and ratified separately.

Council Member Stadtherr clarified with staff that the four projects, which costs totaled approximately $770,000, served as merely a place marker with CMAQ. It was explained that in the application, the City would need to prove that each of the projects improved the air quality, and if a particular project was not approved, the City would be given some leeway to change the project.

A discussion ensued during which Mr. Rodriguez indicated that he would like the opportunity to have TCAG affirm in writing that if any of the proposed projects did not meet TCAG’s approval, the City would be able to substitute another project. Mr. Rodriguez stated that it was his understanding that the projects discussed that evening would act as place holders to secure the $770,000.

Mayor Pro Tem Hamilton requested that staff elaborate, for the record, on the reason behind the pursuit of Project No. 1, being the Traffic Signal at Olive Avenue and Mathew Street.

Mr. Rodriguez stated that approximately 3 years before, the City Engineer had made a determination that the intersection met the criteria for deserving a traffic signal. He explained that a traffic signal had been designed for that intersection, but that it had been shelved due to the City’s inability to gain right of way and for lack of funding for the project. He added that now, with the development of the school, proceeding with some type of controlled intersection was even more crucial.

Mayor Pro Tem Hamilton confirmed with staff that the School District was to have been the responsible party for installing the traffic signal, as well as widening Mathew Street, prior to occupying the school.

**COUNCIL ACTION:** MOVED by Council Member Stadtherr, SECONDED by Mayor Pro Tem Hamilton that the Council ratify the June 2, 2005 submission to TCAG of Resolution 91-2005. The motion carried unanimously.

Resolution 92-2005 MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Martinez that the Council ratify the June 2, 2005 submission to TCAG of Project No. 2. The motion carried unanimously.

Council Member Stadtherr moved that the Council ratify the June 2, 2005 submission to TCAG of Project No. 3.

Mayor Pro Tem Hamilton seconded the motion.

Council Member Irish requested further discussion, and voiced concern with the safety of pedestrians and bicyclists in roundabouts. He pointed out that the intersection was near Porterville College which had pedestrian and bicycle traffic during school hours and also on Saturdays during the Flea Market. He questioned whether roundabouts were conducive to this type of traffic. He then suggested that a 3-way stop light might work better, such as the situation at Olive Avenue and Highway 65.
Mr. Rodriguez responded that while he was not an expert on roundabouts, he had reviewed the materials provided him and, according to the literature, roundabouts worked very well with pedestrian and bicycle traffic. As to a 3-way traffic signal, Mr. Rodriguez commented that such a signal would be awkward, due to many things happening at that particular location. He stated that it was his opinion that a traffic signal would not help the situation. He then pointed to the Jaye Street corridor and anticipated improvements, adding that if Poplar Avenue was extended to Main Street, CalTrans would likely require a controlled intersection at that location, which would ultimately affect the intersection under discussion. As to the 3-way traffic signal at Olive Avenue and Highway 65, Mr. Rodriguez indicated that the City had received several complaints regarding that intersection, but that it did function. He added that it was his opinion that a roundabout would work at the intersection at hand and pointed to the $125,000 cost for a roundabout, versus $200,000 or $250,000 for a traffic signal.

Council Member Irish confirmed with Mr. Rodriguez that staff would return to Council and provide information on the dangers roundabouts posed to pedestrians and bicyclists, prior to moving forward on roundabouts. He then stated that according to research online, he understood that bicycle/vehicle collisions were approximately 14% to 16% higher in a roundabout.

A discussion ensued as to a timeline with respect to submitting the projects and securing the $770,000 of CMAQ funds. It was stated that TCAG had reviewed the projects, accepted them as legitimate, and requested ratification by the Council so as to avoid multiple revisions in the future.

Mayor Pro Tem Hamilton stated that Council Member Irish’s concerns should be addressed.

**COUNCIL ACTION:** MOVED by Council Member Stadtherr, SECONDED by Mayor Pro Tem Hamilton that the Council ratify the June 2, 2005 submission to TCAG of Project No. 3.

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

Resolution 94-2005 MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Stadtherr that the Council ratify the June 2, 2005 submission to TCAG of Project No. 4. The motion carried unanimously.

Disposition: Approved.

9. AUGUST 2, 2005 CITY COUNCIL MEETING TO BE HELD AT PORTERVILLE MEMORIAL AUDITORIUM, FRANK “BUCK” SHAFFER THEATRE

Recommendation: That the City Council ratify the location change to the Porterville Memorial Auditorium, Frank “Buck” Shaffer Theatre for the August 2, 2005 City Council Meeting at the standard time.
Council Member Irish stated that there was no way of knowing how many people would participate and confirmed with staff that the cost to rent the Auditorium was $575. He commented that he believed spending that money was a waste, considering the level of public participation was unknown.

COUNCIL ACTION: MOVED by Council Member Irish, SECONDED by Council Member Martinez that the Council direct staff to set City Hall Council Chambers M.O. 06-070505 as the location for the August 2, 2005 City Council Meeting. The motion carried unanimously.

Disposition: Approved denial of request.

PUBLIC HEARING


Recommendation: That the City Council:
1. Conduct a public hearing to receive comments on the report of the Advisory Board; and
2. Adopt a resolution confirming the report of the Advisory Board which shall constitute the levy of an assessment for the Fiscal Year 2005/2006.

Deputy City Manager Darrel Pyle presented the item and the staff report.

The public hearing opened at 7:50 p.m.

• Dick Eckhoff, Downtown Porterville Association, 180 North Main Street, updated the Council on the Association’s activities and successes.

The public hearing closed at 7:55 p.m.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Stadtherr that the Council adopt the resolution confirming the report of the Resolution 95-2005 Advisory Board which shall constitute the levy of an assessment for the Fiscal Year 2005/2006. The motion carried unanimously.

Disposition: Approved.

11. CANYON SPRINGS ESTATES TENTATIVE SUBDIVISION MAP (CONTOUR DEVELOPMENT INC.)

Recommendation: That the City Council:
1. Adopt the draft resolution approving the Negative Declaration for Canyon Springs Estate Tentative Subdivision Map; and
2. Adopt the draft resolution approving Canyon Springs Estates Tentative Subdivision Map.

Deputy City Manager Darrel Pyle presented the item, and Community Development Director Brad Dunlap presented the staff report.

The public hearing opened at 8:01 p.m.

- David Store, a resident of Folsom, California, came forward as a representative of the Applicant and requested that the Council approve the item.
- Jennifer Lindgren, address on record, spoke in opposition to the Subdivision as proposed, voicing concerns with the density and quality of the project.
- Karen Torres, 1193 E. Jasmine, spoke against the proposed Subdivision and reiterated the concerns voiced by Ms. Lindgren.
- Dorothy Broome, 863 South Crystal, requested clarification as to the location and developer of the proposed project, and cited flooding as a potential issue.
- Dick Eckhoff, address on record, voiced concerns with half-width roads as proposed on the Map.
- Tony Sung, 1110 E. Jasmine, spoke against the proposed Subdivision, voicing concerns with the quality and density of the project affecting values of Jasmine Ranch homes. He then suggested CC&Rs might prove beneficial.
- Joe Guerrero, 332 South F Street, suggested the addition of more access roads for emergency personnel in the proposed design.

The public hearing closed at 8:16 p.m.

Council Member Irish commented that the hillsides of Porterville were precious, pointing out that other major cities in Tulare County did not have them. He commented that he believed the proposed plan lacked vision. He stated that it was a maximum build-out, likely with minimum standards. He commented that he would like to see hillside development move toward even being a better asset for the City of Porterville. He then voiced support for directing the developer to return to the Council with revised Plans.

Council Member Irish moved that the Council direct staff to work with the Developer to revise the Plan.

Mayor Pro Tem Hamilton seconded Council Member Irish’s motion and commented that he would like to see the inclusion of more greenery or a pocket park in the revised design.

Council Member Stadtherr commented that he did not believe one pocket park was enough for the proposed Subdivision.

A discussion ensued as to the inclusion of more green areas and trails in the design, during which Council Member Irish agreed that more than one pocket park should be included.
Mr. Store came forward and requested more specific direction for staff, commenting that while the developer believed it had met all of the minimum requirements, they would be more than happy to work with staff on meeting the identified requirements. He then requested citations from the Municipal Code addressing the inclusion of parks and green areas, or in the alternative, more specific direction from the Council as to what was required.

Mayor Pro Tem Hamilton suggested that the Council representatives from the Hillside/Eastside Committee meet with staff and the developer to discuss specific requirements.

At the request of City Attorney Julia Lew, Council Member Irish amended his earlier motion to include continuing the public hearing to August 16, 2005.

Mayor Pro Tem Hamilton seconded Council Member Irish’s amended motion.

Community Development Director Brad Dunlap noted for the record that Developer representative David Store had nodded his head in the affirmative as to again meeting with staff and continuing the public hearing to August 16, 2005.

COUNCIL ACTION: MOVED by Council Member Irish, SECONDED by Mayor Pro Tem Hamilton that the Council continue the public hearing to August 16, 2005 so as to allow staff to meet with the Developer to revise the Map. The motion carried unanimously.

Disposition: Continued with direction provided to staff.

The Council recessed for ten minutes.

12. VACATE PUBLIC SANITARY SEWER PIPELINES, DOMESTIC WATER PIPELINES, STORM DRAIN PIPELINES AND PUBLIC STREET ACCESS EASEMENTS RELATED TO THE DEVELOPMENT OF MEADOW BREEZE, PHASE TWO SUBDIVISION (NICHOLSON & SMEE, LLC)

Recommendation: That the City Council:
1. Conduct a public hearing; and

Deputy City Manager Darrel Pyle presented the item, and Public Works Director Baldo Rodriguez presented the staff report.

The public hearing opened at 8:40 p.m. and closed at 8:41 p.m. when nobody came forward.
COUNCIL ACTION: MOVED by Council Member Irish, SECONDED by Council Member Martinez that the Council authorize the City Clerk to execute the vacation of M.O. 08-070505 Parcel C of Document No. 2000-0037339, recorded June 14, 2000 and Document No. 2002-0069651, recorded September 13, 2002, in the Office of the Tulare County Recorder, by signing the appropriate statement on the Final Map. The motion carried unanimously.

Disposition: Approved.

13. REIMBURSEMENT AGREEMENTS FOR CONCRETE IMPROVEMENTS CONSTRUCTED BY THE CITY - ORANGE AVENUE RECONSTRUCTION PROJECT

Recommendation: That the City Council:
1. Open the public hearing, take public comments, concerns and questions;
2. Approve the resolution implementing Development Charges for Construction of Curbs, Gutters, Sidewalks, Drive Approaches, and Water Services; and
3. Authorize staff to record a general notice of “Reimbursement Fee” with the Office of the Tulare County Clerk-Recorder.

Deputy City Manager Darrel Pyle presented the item, and Public Works Director Baldo Rodriguez presented the staff report.

The public hearing opened at 8:43 p.m. and closed at 8:44 p.m. when nobody came forward.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Irish that the Council Approve the resolution implementing development resolution 96-2005 charges for construction of curbs, gutters, sidewalks, drive approaches, and water services; and authorize staff to record a general notice of “Reimbursement Fee” with the Office of the Tulare County Clerk-Recorder.

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

Disposition: Approved.

14. REIMBURSEMENT AGREEMENT FOR CONCRETE IMPROVEMENTS CONSTRUCTED BY THE CITY - INDIANA STREET RECONSTRUCTION PROJECT

Recommendation: That the Council:
1. Open the public hearing, take public comments, concerns, and questions;
2. Approve the resolution Implementing Development Charges for Construction of Curbs, Gutters, Sidewalks, and Drive Approaches; and
3. Authorize staff to record a general notice of “Reimbursement Fee” with the office of the Tulare County Clerk-Recorder.

Deputy City Manager Darrel Pyle presented the item, and Baldo Rodriguez, Director of Public Works, presented the staff report.

The public hearing opened at 8:45 p.m. and 8:46 p.m. when nobody came forward.

COUNCIL ACTION: MOVED by Council Member Irish, SECONDED by Council Member Stadtherr that the Council approve the resolution implementing development charges for construction of curbs, gutters, sidewalks, and drive approaches; and authorize staff to record a general notice of “Reimbursement Fee” with the office of the Tulare County Clerk-Recorder. The motion carried unanimously.

Council Member Irish noted for the record that the current Council increased the trigger from $7,500 to $15,000, which he pointed out benefitted a lot of people.

Disposition: Approved.

15. WATER CONSERVATION PHASE II, WATER SYSTEM STATUS

Recommendation: That the City Council:
1. Continue with Phase II of the Water Conservation Plan; and
2. Continue the public hearing to August 2, 2005, to consider moving into Phase III of the Water Conservation Plan.

Deputy City Manager Darrel Pyle presented the item, and Public Works Director Baldo Rodriguez presented the staff report. Mr. Rodriguez noted that staff had amended the staff report to recommend continuance of the public hearing to August 16, 2005, rather than August 2, 2005.

The public hearing opened at 8:48 p.m.

- Pete McCracken, address on record, came forward as president of the Village Green Homeowners’ Association and requested an official City letter be sent to the Association outlining Phase II requirements to assist in encouraging conservation efforts.

Council Member Irish questioned the number of Homeowners’ Associations in the City of Porterville and suggested that letters be sent to all of them.

Council Member Stadtherr thanked Mr. McCracken for his proactive efforts in water conservation.
Mayor Pro Tem Hamilton observed that the City was using less water than it had in 2003, and also had more water available.

The public hearing closed at 8:51 p.m.

COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Council Member Irish that the Council continue the public hearing to August 16, 2005, to consider moving into Phase III of the Water Conservation Plan.

Disposition: Approved.

SECOND READINGS
16. ORDINANCE 1654, ZONE CHANGE 4-2004 (TERRY SCHULER)

Recommendation: That the Council give Second Reading to Ordinance 1654, waive further reading, and adopt said Ordinance.

Deputy City Manager Darrel Pyle presented the item and the staff report.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Stadtherr that the Council give Second Reading to Ordinance 1654, waive further reading, read by title only, and adopt said Ordinance.

Mr. Pyle read the Ordinance by title only.

Disposition: Approved.

SCHEDULED MATTERS
17. CONSIDER ADOPTION OF A NOISE ORDINANCE

Recommendation: That the City Council direct staff on how to proceed and set a public hearing for the adoption of the draft ordinance with amendments on August 16, 2005.

Deputy City Manager Darrel Pyle presented the item.

Mayor Pro Tem Hamilton requested that the item be brought back to Council at a later date so as to allow time for him to review the item and work on details.

Disposition: Continued.

2. ACCEPTANCE OF FINAL SUBDIVISION MAP - MEADOW BREEZE, PHASE TWO SUBDIVISION (NICHOLSON & SMEE, LLC)

Recommendation: That the City Council:
1. Approve the final map of Meadow Breeze, Phase Two Subdivision;
2. Accept all offers of dedication and vacation shown on the final map; and
3. Authorize the City Clerk to file said map with the County Recorder.

Deputy City Manager Darrel Pyle presented the item, and Public Works Director Baldo Rodriguez presented the staff report.

Mr. Pyle explained that staff had removed the item from Consent Calendar so as to correct the order in which Items 2 and 12 were considered.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Stadtherr that the Council approve the final map of Meadow Breeze, Phase M.O. 10-070505 Two Subdivision; accept all offers of dedication and vacation shown on the final map; and authorize the City Clerk to file said map with the County Recorder. The motion carried unanimously.

Disposition: Approved.

18. HOMELESS ISSUES WHITE PAPER

Recommendation: Discussion item only.

Deputy City Manager Darrel Pyle presented the item, and Community Development Director Brad Dunlap introduced Development Associate Denise Marchant who presented the staff report.

Disposition: Information only.

19. STREET INFRASTRUCTURE IMPROVEMENTS FOR THE JAYE STREET AND STATE HIGHWAY 90 AREA

Recommendation: That the City Council:

1. Direct staff to refinance the existing Certificates of Participation to extend funding for the underfunded projects;
2. Direct staff to scope out the cost of a new Certificates of Participation Issuance for additional infrastructure improvements described in the staff report; and
3. Authorize staff to move forward with the analysis of using a roundabout as the preferred mitigation strategy for the Jaye Street and South Poplar connection, with Alternative No.1 and the second option.

In terms of addressing traffic challenges, staff proposed the following 3 options:

1. Rerouting Poplar Avenue to the South immediately east of Lone Oak Estates and extending it to Montgomery Avenue where it would elbow to the east and connect to Jaye Street. Existing Poplar Avenue would be converted to a cul-de-sac at the service Station.
2. This alternative would generally be the same as number one, but instead of elbowing to the east at Montgomery, it would extend south to a point approximately parallel with the northerly edge of the WalMart Distribution Facility and then elbow to the east to connect to Jaye Street.

3. The third alternative would be to construct a roundabout at the connection between Montgomery Avenue and Jaye Street. This would accommodate the various roads connecting in one location and would allow Poplar Avenue to continue to tie into Jaye Street with all vehicles routed to the south into the traffic circle and then redirected to the north to queue into the Jaye Street/SH 190 intersection.

Funding options included in the staff report were as follows:

1. Refinance of the current Certificates of Participation – This would generate approximately $1,700,000 and maintain the current level of debt service.

2. Transportation Impact Fees (TIF) – The approximate amount of TIF generated from Riverwalk Market Place, and Porterville Commercial Center will be $2,950,000, that generated from newly proposed subdivisions along Gibbons, Jaye, and Indiana will be $250,500, and that from the Holiday Inn Express will be $167,900 for a total of $3,368,400. The TIF generated from these projects could be directed to specific capital projects, however, it is unlikely that all the fees will be paid at one time or even during the same fiscal year. Timing would be difficult but certain projects may be viable. Also, the City would need to restrict participation in the development fee payment plan if resources are to be directed to improvements in the project area.

3. Certificates of Participation (COP) – Lease financing for major public improvements, which involve the sale of bonds or COP’s to raise funds to do the projects, which are still secured by a lease with the city. The last COP issuance was at a variable interest rate between 4.40% and 6.00% and generated more than $20,000,000 with an annual debt service of approximately $1,300,000.

4. California Infrastructure & Economic Development Bank (CIEDB) – Issue tax-exempt bonds to provide financing for public infrastructure that promotes economic growth. The sewer CIEDB issuance was at a fixed rate of 2.98%.

Deputy City Manager Darrel Pyle presented the item, and Community Development Director Brad Dunlap presented the staff report.

Council Member Irish stated that the City was limited in the ways in which it could gain funds. He voiced concern with the Council identifying projects that might never get completed due to lack of funding. He spoke of concerns regarding the effects of inflation and timing related to the issuance of new COPs and emphasized the importance of assurances that the borrowed funds be applied
towards the projects identified as priorities. He then commented that he wished to proceed expeditiously, however moving in small steps with details provided to the Council along the way.

Mr. Dunlap stated that if the Council chose to move forward with a new COP issuance, the best way to proceed would be to identify the projects, after which the City would initiate the environmental document for those projects. Mr. Dunlap indicated that by proceeding with the environmental document, the City would then be able to initiate the acquisition of needed right of way. He continued that pursuing one environmental document would provide cost effectiveness and time efficiency by allowing early commencement of right of way acquisitions. He summarized that this would be a more streamline approach and thereby accommodate some of the concerns raised by Council Member Irish. He then confirmed that Consultants would be needed in the endeavor.

Mayor Pro Tem Hamilton agreed with Council Member Irish’s comment that more information was needed, however he emphasized the importance of getting infrastructure in place so that the growth that Porterville was seeking could be achievable. He voiced support for moving forward.

Council Member Martinez moved that the Council accept staff recommendation.

Council Member Stadtherr seconded Council Member Martinez’s motion.

Council Member Irish voiced support, with the caveat that staff keep the Council updated on a milestone basis.

In response to a request from Council, Mr. Dunlap offered a brief update on the state of negotiations with the various agencies involved, including the railroad, Army Corps of Engineers, and Department of Fish and Game. Mr. Dunlap explained that the City had a solid working relationship with the railroad and stated that generally when an agency attempted to acquire a crossing, the railroad required one be given up. He commented that staff had been researching the issue and had some ideas that would be brought before the Council once additional information and criteria had been gained from the railroad. With respect to the Army Corps of Engineers and the Department of Fish and Game, Mr. Dunlap indicated that the City also had a working relationship with these agencies, and their involvement would relate to the low water crossing at Indiana. He stated that both agencies had offered verbal information as to their requirements.

COUNCIL ACTION: MOVED by Council Member Martinez, SECONDED by Council Member Stadtherr that the Council direct staff to refinance the existing Certificates of Participation to extend funding for the underfunded projects; direct staff to scope out the cost of a new Certificates of Participation Issuance for additional infrastructure improvements described in the staff report; authorize staff to move forward with the analysis of using a roundabout as the preferred mitigation strategy for the Jaye Street and South Poplar connection, with Alternative No.1 and the second option; and keep the Council updated on a milestone basis. The motion carried unanimously.

Disposition: Approved.
ORAL COMMUNICATIONS
• Pete McCracken, address on record, suggested that some L.E.D. traffic signals throughout town required maintenance.
• Joe Guerrero, address on record, advised the Council of potholes at Date Avenue south of F Street, and in the alley behind Porterville Feed. Mr. Guerrero then voiced concern with restricting the City’s youth by banning loud car stereos, instead suggesting “zones” in which loud music could be played.
• Dick Eckhoff, address on record, spoke against allowing such a zone on Main Street, as was proposed by Mr. Guerrero.

OTHER MATTERS
• Council Member Irish invited Aaron Burgin, the new reporter for the Porterville Recorder, to come forward.
• Aaron Burgin, came forward and introduced himself to everybody.
• Mayor West questioned whether the last Oral Communications segment on the Council Agenda was necessary. After some discussion, the Council agreed that all Oral Communication segments were necessary and should remain.
• Council Member Martinez requested that a congratulatory letter, signed by all Council Members, be sent to the Porterville Combined High School Orchestra members that performed at Carnegie Hall.

ADJOURNMENT
The Council adjourned at 9:40 p.m. to the meeting of July 8, 2005 at 8:30 a.m.

Patrice Hildreth, Deputy City Clerk

SEAL

Kelly E. West, Mayor
PORTERVILLE CITY COUNCIL MINUTES  
SPECIAL MEETING - AUGUST 26, 2005  
CITY HALL MIKKABI ROOM  
291 N. MAIN ST. - 1:30 P.M.

Call to Order: 1:30 p.m.
Roll Call: Council Member Martinez, Mayor Pro Tem Hamilton, Council Member Stadtherr, Mayor West
Absent: Council Member Irish

Pledge of Allegiance Led by Mayor Pro Tem Cameron Hamilton
Invocation - One person participated.

ORAL COMMUNICATIONS
Jim Maples, Tulare County Fifth District Supervisor, thanked the Council for the courtesy of hearing this matter. He then introduced Cheryl Perkins, Administrator of Health and Human Services.

SCHEDULED MATTER

1. REQUEST FOR TWO (2) TEMPORARY MOBILE UNITS AT 303 E. OLIVE AVENUE (PORTERVILLE HEALTH CARE CENTER)

Recommendation: That the City Council approve the two (2) temporary mobile units for the period between September 6, 2005 through October 10, 2005 pursuant to the submitted plan.

City Manager John Longley presented the item and Brad Dunlap, Community Development Director, presented the staff report. Mr. Dunlap also requested that staff be granted the ability to approve an up to 30 day extension, if necessary.

Julia Lew, City Attorney, stated for the record that Council Member Irish was not present due to a financial conflict of interest. Ms. Lew clarified that neither Council Member Martinez or Council Member Stadtherr had an actual conflict that would restrict their being able to participate in voting on this issue.

COUNCIL ACTION
MOVED by Council Member Martinez, SECONDED by Council Member Stadtherr that Council approve the two (2) temporary mobile units for the period between September 6, 2005 through October 10, 2005 pursuant to the submitted plan, and authorize staff to grant one thirty day extension if necessary.

Min. Ord. 01-082605
AYES: Martinez, Hamilton, Stadtherr, West
NOES: None
ABSTAIN: None
ABSENT: Irish
Disposition: Approved.

**ORAL COMMUNICATIONS**

Jim Maples thanked the Council and asked Ms. Perkins to share some plans for the facility. Ms. Perkins briefly spoke on the layout of the mobile unit and their plans to have their facility open on October.

**ADJOURNMENT**

The Council adjourned at 1:40 p.m. to the meeting of September 6, 2005 at 6:00 p.m.

Georgia Hawley, Chief Deputy City Clerk

SEAL

Kelly West, Mayor
SUBJECT: BUDGET ADJUSTMENTS FOR THE 2005-06 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.

The budget adjustment proposed represents donations from individuals and organizations for the purpose of supporting the “Paint the Town” event. The current balance in the account established to track these contributions is $2,800.00.

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 EOY FUND CASH BALANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Solid Waste Fund</td>
<td>1</td>
<td>Increase the appropriation in the Solid Waste Fund, Graffiti Removal Division, to allow for the expenditure of donations received for the &quot;Paint the Town&quot; project.</td>
<td>Donations</td>
<td>$2,800</td>
<td>-$409,458</td>
</tr>
</tbody>
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Modification No: 03-05/06
SUBJECT: PROPOSAL FOR HERITAGE CENTER TOT LOT AND ASSOCIATED LANDSCAPING DESIGN

SOURCE: Parks and Leisure Services Department

COMMENT: Parks and Leisure Services received a proposal for design services for the Heritage Center Tot Lot and landscape improvement from Sierra Design, Inc. A Visalia based company, Sierra Design's staff has worked closely with our department in the past and is very familiar with many of our projects.

Accompanying this report is the proposed scope of work, fees and project schedule for the design. Staff feels that the scope and fees are appropriate and recommend approval of the service agreement. The design work is anticipated to be completed approximately six weeks from the date of authorized signing of the agreement. The total cost of services is not to exceed $6,815. Funding for the project will come from community development block grant, section 108 loan.

Sierra Design, Inc. has extensive landscaping design experience. They are well respected by all landscape architects throughout the area and will provide the City of Porterville with a design that will benefit our needs.

RECOMMENDATION: Approve the Service Agreement with Sierra Design, Inc. for the design of the Heritage Center Tot Lot and landscape improvements.

ATTACHMENTS: Service Agreement with Project Fees and Scope of Work.

ITEM NO: 3
Sierra Design, inc.
landscape architecture • planning

August 29, 2005

Jim Perrine and Milt Stowe
City of Porterville, Department of Parks and Leisure Services
291 N. Main St.
Porterville, CA 93258

Dear Jim and Milt:

Thank you for inviting us to propose on the landscape improvements and playground at the Porterville Heritage Center. Please review our agreement and if this is acceptable to you, sign and return a copy of this contract to us.

Services Included:

See attached Scope of Work.

Fee for Services:
Fee for Construction Documents: $4,975.00
Fee for Bid Services: $225.00
Fee for Construction Administration: $1,615.00

Total fee: $6,815.00

It is anticipated that the following marked consultants may be utilized for the successful completion of your plans, unmarked consultants may be added in later phases:

Architect
Horticultural Soils Lab
Compaction Testing Lab
Biologist / Botanist

Structural Engineer
Civil Engineer
Surveyor
Arborist

Sierra Designs, inc will perform the Design Services noted above on a hourly basis, excluding reimbursables except as noted in the scope of services. The individual portions of the fee are estimates and Sierra Designs, inc reserves the right to utilize the fee allocations as best suits the project, and to accomplish completion within the proposed Anticipated Fee. Sierra Designs, inc anticipates completion of the 95% Construction Documents in the approximate time frame of 6 weeks from date of your signing the Authorization to Proceed Contract. You will be notified of any unforeseen items that would require a modification of the anticipated fee or necessary time extensions. Services not indicated above may be added directly to this agreement as the project progresses by entering the appropriate fee and both parties initial and dating those line items.
Sierra Designs, inc will provide you with Professional Design Services at the following rates:

**RATES**

<table>
<thead>
<tr>
<th>Service</th>
<th>Rate</th>
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</thead>
<tbody>
<tr>
<td>Landscape Architect</td>
<td>$ 75.00/hr.</td>
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<tr>
<td>Landscape Architect, Design Manager</td>
<td>$ 65.00/hr.</td>
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<tr>
<td>Landscape Designer, CADD</td>
<td>$ 45.00/hr.</td>
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<tr>
<td>CADD Drafter</td>
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<td>Office</td>
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**REIMBURSABLE EXPENSES**

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<th>Rate</th>
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<tr>
<td>Blue Prints 24x36</td>
<td>$ 2.00/ea.</td>
</tr>
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<td>Cadd Plots 24x36</td>
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<td>Postage &amp; Overnight Services</td>
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<td>Testing Labs</td>
<td>Cost + 20%</td>
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<tr>
<td>Mileage</td>
<td>$ .49/mi.</td>
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Exclusions: Items not specifically noted in this agreement are excluded as part of these services, and can be provided as “Additional Services” on oral and/or initial direction from you to be followed by written verification from Sierra Designs, inc, or by separate written authorization.

Payments: Payment for invoices shall be within 10 days of invoice date. Invoices are generally present on a “Work in Progress” manner, generally, as individual phases are completed or bimonthly, whichever occurs first. Payments not received within 30 days of invoice shall be subject to the maximum interest allowable by state law. If litigation is required to enforce the terms of this agreement, the prevailing party shall be entitled to court costs, reasonable administrative fees associated with the suit, and attorney’s fees.

Per California Business and Professions Code, Chapter 3.5 of Div. 3, Section 5815(e):
LANDSCAPE ARCHITECTS ARE REGULATED BY THE CALIFORNIA BOARD OF LANDSCAPE ARCHITECTS. ANY QUESTIONS MAY BE REFERRED TO THE FOLLOWING BOARD AT:
LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE
400 R STREET, SUITE 4020
SACRAMENTO, CALIF. 95814
916 445-4954

Sierra Designs, inc landscape architects appreciates your trust in our firm to provide you with outstanding design service. We look forward to the opportunity to work together towards the successful development of this project.

Respectfully,

Kay Hutmacher
Principal Landscape Architect
Cal. Reg. No. 2544

Authorized to Proceed

Signature & Date
SCOPE OF WORK

PORTERVILLE HERITAGE CENTER PLAYGROUND AND ASSOCIATED LANDSCAPE

PART ONE:
Base Plan

• Set up base plans for site
• Site inventory

PART TWO:
95% Construction Documents

• Refine Site Plan, adjust turf edges/mow edge.
• Resolve gap under fence and gate issues
• Planting and irrigation plans for tot lot and area between community center and school, including planter in front of Multi-Purpose room.
• Construction Details
• Technical Specifications
• Architect's Estimate and Preliminary Bid Sheet

Deliverables:
• Progress set by September 31 for presentation to Recreation Commission
• Meeting in Porterville approximately October 6th to review 95% plans. Deliver one set of plans and specs for City Review.

PART THREE:
100% Construction Documents and Bid Set

• Incorporate City revisions/comments
• Finalize technical specifications and add City boilerplate, create Project Manual
• Finalize Architect's Estimate and Bid Sheet

Deliverables:
• One set plans
• One copy Project Manual
• Present at City Council Meeting October 18 for authorization for bid.

PART FOUR:
Bid Services
• Answer Bidders' questions

Deliverables:
• One addendum, if required

PART FIVE:
Construction Administration

• Review shop drawings
• 4 site observations and reports

Deliverables:
• Issue Bulletin if required.
• Issue 2 progress reports, Substantial Completion punch list and Final Completion report.
SUBJECT: ACCEPTANCE OF PORTERVILLE CIVIC DEVELOPMENT FOUNDATION LOAN

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: As the business attraction arena becomes more competitive, Staff has seen that companies are principally seeking sites that have completed the environmental process and have adequate infrastructure in place. As land costs across the nation climb, more and more companies are looking to the Central Valley of California as potential sites for their facilities. The City of Porterville is the owner of approximately 74 acres of land for industrial development located along West Street, near Teapot Dome, which is currently being marketed to these new and expanding companies. However, as companies are seeking “shovel ready” sites, environmental studies, grading plan, and parcel map need to be prepared to make this property more competitive. Funding for these activities has not been identified in the 2005-2006 budget.

The Porterville Civic Development Foundation (“Foundation”) realizes the need for industrial inventory to further Porterville’s economic development activities of business attraction and expansion. To assist the City with these activities, the Foundation has offered to provide a loan in an amount not to exceed $65,000.00 for the environmental studies, grading plan, and parcel map preparation. Terms of the proposed agreement are as follows:

- The work will begin within 60 days of execution of the Agreement.
- The work is to be completed within eight (8) months after execution of the Agreement.
- Funds will be disbursed within five (5) working days as the work is invoiced from the service provider.
- The Note shall not bear interest for a period of three (3) years after execution. Thereafter the unpaid principal balance shall accrue interest at 7% per annum.
- Payment of $2,500.00 will be made against the principal and interest, if any, of the loan upon the sale, lease, or transfer of any property at the site.
- The entire unpaid portion of the Note, including accrued interest, if any, shall be due and payable six (6) years from the date of execution of the Note.

Staff has reviewed the terms of the agreement and believe that the entire amount provided by the Foundation may be paid in full from the first sale
of property at the site. Staff has requested the Foundation to consider utilizing the Local Agency Investment Fund (LAIF) interest rate, adjusted annually, in lieu of the 7% per annum interest rate as noted in the draft agreement. The Foundation will be considering both the Agreement and the requested adjustment in the interest rate during their Annual Meeting scheduled for September 8, 2005.

RECOMMENDATION: That the City Council:

1) Adopt the Resolution approving the Loan Agreement and Unsecured Promissory Note in the amount not to exceed $65,000,000 from the Porterville Civic Development Foundation;

2) Authorize staff to continue negotiation for an interest rate not to exceed 7% per annum;

3) Authorize the Mayor to sign all documents to complete the transaction.

ATTACHMENTS: 1) Draft Resolution
2) Draft Loan Agreement and Unsecured Promissory Note
RESOLUTION NO. ______-2005

A RESOLUTION OF THE PORTERVILLE CITY COUNCIL FOR ACCEPTANCE OF A LOAN FROM THE PORTERVILLE CIVIC DEVELOPMENT FOUNDATION

WHEREAS, the Porterville City Council recognizes the need to provide industrial land for economic development projects; and

WHEREAS, the City of Porterville is the owner of property located along West Street which is suitable for industrial development; and,

WHEREAS, the Porterville City Council and the Porterville Civic Development Foundation acknowledge that by preparing the City-owned property along West Street for development with a completed environmental impact report, grading plan, and parcel map preparation will position the City more favorably within the highly competitive business attraction arena; and

WHEREAS, the Porterville Civic Development Foundation has offered a loan of funds for preparation of environmental studies, grading plan, and parcel map;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Porterville hereby agrees to accept the terms of the Loan Agreement and Unsecured Promissory Note as presented by the Porterville Civic Development Foundation, with the exception of any modification that may be negotiated for the utilization of the Local Agency Investment Fund to establish the loan interest rate, for the reimbursement of costs for preparation of environmental studies, grading plan, and parcel map for City-owned property along West Street.

ADOPTED this 6th day of September, 2005.

____________________________________
Kelly West, Mayor

ATTEST:

____________________________________
John Longley, City Clerk
LOAN AGREEMENT AND
UNSECURED PROMISSORY NOTE

Porterville, California

For value given, the receipt of which is hereby acknowledged by the undersigned obligor, the
City of Porterville (hereinafter “City”) promises to pay to the Porterville Civic Development
Foundation, a non-profit California Corporation (“Foundation”) or holder at C/O McKinley, Searcy
CPA, 108 E. Mill Street, Porterville, California 93257, the sum of $65,000.00, or such lesser amount
as may actually be disbursed to it by the Foundation under the terms of this Note.

The loan proceeds given pursuant to this Note shall be used for preparation of an environment
impact report, grading plan, proposed parcel map, and similar preliminary studies to be done by
Knopf, <correct Name + Address> California or such similar provider selected
by the City for development of a 75 acre site in Porterville, California described as
<Site Description>. Loan proceeds shall be disbursed to the
City and/or at the City’s request to the payee for the above-described work, upon the City’s copying
appropriate invoicing from the service provider to the Foundation with an approval endorsed thereon by
the City. The amount disbursed by Foundation shall not exceed $65,000.00. The amount due under
this Note shall only be the amount that Foundation in fact disburses.

In order to be entitled to access the loan proceeds, the work described in the prior paragraph
must begin within 60 days of the City’s execution of this Note, and must be completed within 8 months
after execution of the Note. The Foundation is not required to disburse any funds if the 60
day start date is not complied with. The Foundation is not required to disburse any further funds after 8 months after execution of this Note by the City.

There shall be no interest for a period of 3 years after execution of this Note. Thereafter, the unpaid principal balance shall accrue interest at 7% per annum.

Payment shall be due as follows:

a) For every acre, or part thereof of the site described above that is leased, sold, transferred or otherwise given to a third party to occupy or use, $2,500.00 of principal and/or interest shall be paid by the City to the Holder within 30 days of the creation of the right of the third party in such lease, sale, transfer, use or occupancy.

b) The entire remaining unpaid balance of principal, interest or other charges shall all be due and payable 6 years from the date of execution of this Note.

Attorneys’ Fees: In the event of the Holder is required to use the services of an attorney to enforce its rights or in the event of litigation or legal action of any kind arising from default in performance of any of the provisions of this Note by the City, the prevailing party in such matter, litigation or legal action shall be entitled to receive, in addition to any other relief obtained, reasonable attorneys’ fees as well as costs of suit.

Should default be made in payment of any installment of principal or interest when due the whole sum of principal and interest shall become immediately due at the option of the Holder of this Note. Interest after default shall continued at the rate stated above. Principal and interest payable in lawful money of the United States.

The undersigned individuals executing this document on behalf of the City of Porterville state
that the entering into this Note, all of its terms of this Note, and the borrowing of this money has been
duly authorized by the City under all applicable laws.

Dated: ________________________

CITY OF PORTERVILLE

By: ____________________________

Title: __________________________

By: ____________________________

Title: __________________________
CITY COUNCIL AGENDA: SEPTEMBER 6, 2005

SUBJECT: REQUEST FOR A ONE (1) YEAR EXTENSION OF TIME FOR TWO (2) TEMPORARY MODULAR UNITS FOR THE PORTERVILLE EVANGELICAL FREE CHURCH

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: The Porterville Evangelical Free Church, is requesting a one (1) year extension of time for the two (2) existing modular units which are being utilized as Sunday school classrooms located at 1091 West Linda Vista Avenue. The church is currently trying to obtain a secondary emergency access to this facility. Once this has been accomplished, plans for a permanent structure will be submitted. The request for the one (1) year extension of time will allow for the church to pursue the right of way from the railroad.

HISTORY: The Porterville City Council, on September 16, 2003, by City Council Resolution 120-2003 approved a temporary use to allow for the placement of one (1) modular unit to be located at 1091 West Linda Vista Avenue.

The Porterville City Council, on June 15, 2004, by City Council Resolution 73-2004 allowed for the placement of an additional modular unit to be located at 1091 West Linda Vista Avenue. The letter of request indicated the church has outgrown their existing classroom space on Sunday mornings and is in need of immediate space. The church has purchased two (2) contiguous lots and is currently in the design process for a permanent building to meet their facilities needs. They anticipate that within two (2) years the new building(s) should be completed. The temporary modular structure will be located to the south of the parking lot currently utilized for church parking.

As a result of the above, City Council Resolution 73-2004 combined the two temporary uses into one. Condition 1 of that resolution stated:

"That the temporary modular structure shall be allowed for a period not to exceed two (2) years from the date of City Council approval and that said modular structure shall no longer be allowed on the site at the close of said two (2) year period unless an extension of time is granted by the City Council".
Section 7-3.3 of the City Code empowers the City Council to conditionally approve temporary structures. Section 7-3.3 also provides the City Council the discretion to determine the type and location of the structure, period of time that the structure will be allowed, and other conditions deemed pertinent by the City Council.

RECOMMENDATIONS: That the City Council:

1. Adopt the draft resolution approving a one (1) year extension of time commencing on September 16, 2005 and terminating on September 16, 2006.

ATTACHMENTS:

1. Letter of request
2. Site plan
3. City Council Resolution 120-2003
4. City Council Resolution 73-2004
5. Draft Resolution
August 14, 2005

To whom it may concern:

This letter is pursuant to my recent meeting with Brad Dunlap regarding the expansion of our church's facilities. Due to the fact that our temporary conditional use permit is about to expire and we have been unable to complete our facility expansion we are requesting an extension of the conditional use permit for our modular buildings for a period of 1 year. When we added the 2 additional units last year the city put them on the same use permit as the original modular building. We were told at that time that, should we need the additional time to complete our project, that an extension should not be a problem.

One of the main reasons we were unable to have the project closer to completion was the fire marshals request for a secondary access before he would give a recommendation of acceptance of our project to the city council. We now believe we have come to an agreement that should permit us to continue with the process while we still pursue the right of way from the railroad. In 2000 we sought information about using the land directly behind the main facility for additional parking and we received a letter a few months ago, 2005, telling us that we can proceed with the process of the request to use the land.

Respectfully Submitted

[Signature]

Timothy W. Hurt
Facilities Manager

Tim Hurt
Facilities Manager

ATTACHMENT
ITEM NO. 1
RESOLUTION NO. 120-2003

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE APPROVING A TEMPORARY MODULAR STRUCTURE FOR THE PORTERVILLE EVANGELICAL FREE CHURCH LOCATED AT 1091 WEST LINDA VISTA AVENUE

WHEREAS: The Porterville City Council, on September 16, 2003, conducted a public meeting to consider a request to place a temporary modular structure on the south side of the existing parking lot utilized by the Porterville Evangelical Free Church located at 1091 West Linda Vista Avenue; and

WHEREAS: The proposed temporary 60' x 23.8' modular structure is intended to be utilized for two (2) classrooms; and

WHEREAS: The letter of request indicates the church has outgrown their existing classroom space on Sunday mornings and is in need of immediate space; and

WHEREAS: The church has purchased two (2) contiguous lots and is currently in the design process for a permanent building to meet their facilities needs. They anticipate that within two (2) years the new building(s) should be completed; and

WHEREAS: The time requested for the proposed temporary modular structure at this location is anticipated to be no more than two (2) years; and

WHEREAS: Chapter 7, Section 7-3.3 of the City Code empowers the City Council to approve temporary structures in conjunction with residential, commercial or industrial development or in times of stress or emergency; and

WHEREAS: The City Council has thoroughly reviewed and examined the request for temporary structures;

NOW, THEREFORE, BE IT RESOLVED: By the City Council of the City of Porterville that the request for the temporary modular structure to be utilized for two (2) classrooms located on the south side of the parking lot utilized for the church located at 1091 West Linda Vista Avenue be approved subject to the following conditions:

1. That the temporary modular structure shall be allowed for a period not to exceed two (2) years from the date of City Council approval and that said modular structure shall no longer be allowed on the site at the close of said two (2) year period unless an extension of time is granted by the City Council.
I, JOHN LONGLEY, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing is a full, true and correct copy a resolution passed and adopted by the Council of the City of Porterville at a regular meeting of the Porterville City Council duly called and held on the 16nd day of September, 2003.

THAT said resolution was duly passed adopted by the following vote:

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<th>WEST</th>
<th>MARTINEZ</th>
<th>HAMILTON</th>
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JOHN LONGLEY, City Clerk

[Signature]

by Georgia Hawley, Deputy City Clerk
RESOLUTION NO. 73-2004

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE APPROVING TWO (2) TEMPORARY
MODULAR STRUCTURES FOR THE PORTERVILLE EVANGELICAL FREE CHURCH
LOCATED AT 1091 WEST LINDA VISTA AVENUE

WHEREAS: The Porterville City Council, on June 15, 2004, conducted a public
meeting to consider a request to place two (2) temporary modular structures on the south side of the
existing parking lot utilized by the Porterville Evangelical Free Church located at 1091 West Linda
Vista Avenue; and

WHEREAS: The proposed temporary 24' x 40' modular structures are intended to be
utilized for classrooms; and

WHEREAS: The letter of request indicates that Wednesday night youth and children’s
programs are continuing to grow. As a result, existing classrooms are reaching maximum capacity;
and

WHEREAS: The church is currently trying to obtain a secondary emergency access to this
facility. Once this has been accomplished, plans for a permanent structure will be submitted; and

WHEREAS: On September 16, 2003, the Porterville City Council approved a Temporary
Use Permit for a 60' x 23.8' modular unit for a period not to exceed two (2) years at this location. The
proposed modular structures will be located to the east and west of the existing temporary structure;
and

WHEREAS: That the two (2) temporary modular structures shall be allowed for a period
of time expiring on September 16, 2005. Any additional time after this date would require an
extension of time to be granted by the City Council; and

WHEREAS: Chapter 7, Section 7-3.3 of the City Code empowers the City Council to
approve temporary structures in conjunction with residential, commercial or industrial development
or in times of stress or emergency; and

WHEREAS: The City Council has thoroughly reviewed and examined the request for
temporary structures;
NOW, THEREFORE, BE IT RESOLVED: By the City Council of the City of Porterville that the request for the two (2) temporary modular structures to be utilized for classrooms located on the south side of the parking lot utilized for the church located at 1091 West Linda Vista Avenue be approved subject to the following conditions:

1. The two (2) temporary modular structures shall be allowed for a period of time expiring on September 16, 2005. Any additional time after this date would require an extension of time to be granted by the City Council.

2. The developer/applicant shall install a refuse container enclosure according to City standards. Enclosure location to be approved by City prior to issuance of building permit. The developer/applicant shall also sign a waiver of liability for refuse truck damage to the parking lot if the refuse container location requires refuse trucks to travel on the parking lot.

3. The proposed classroom is considered B occupancy. Upon submittal of a building permit the following will be required:

   a. Submit three (3) complete sets of plans, signed by a licensed Architect or Engineer, to include three (3) sets of energy calculations and structural calculations.
   b. Compliance with access laws (both State and Federal) is required.
   c. Compliance with all applicable codes is required.
   d. Plan check fees are required at the time of building permit submittal.
   e. Soils compaction test may be required.
   f. School Development fees and all other City fees are due at the time of building permit issuance.
   g. Signs require a separate permit.
   h. Federal and or State listing of coach is required.

Pedro R. Martinez, Mayor

ATTEST:
John Longley, City Clerk

By Georgia Hawley, Deputy
STATE OF CALIFORNIA  
CITY OF PORTERVILLE  
COUNTY OF TULARE  

I, JOHN LONGLEY, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing is a full, true and correct copy a resolution passed and adopted by the Council of the City of Porterville at a regular meeting of the Porterville City Council duly called and held on the 15th day of June, 2004.

THAT said resolution was duly passed adopted by the following vote:

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JOHN LONGLEY, City Clerk

[Signature]

by Georgia Hawley, Deputy City Clerk
RESOLUTION NO. ________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE APPROVING A ONE YEAR EXTENSION OF TIME FOR TWO (2) TEMPORARY MODULAR UNITS FOR THE PORTERVILLE EVANGELICAL FREE CHURCH LOCATED AT 1091 WEST LINDA VISTA AVENUE

WHEREAS: The Porterville City Council, on September 6, 2005, conducted a public meeting to consider a request for a one (1) year extension of time for two (2) temporary modular units to be utilized for Sunday school classrooms located on the south side of the parking lot utilized for the church for the Porterville Evangelical Free Church located at 1091 West Linda Vista Avenue; and

WHEREAS: The letter of request states that the church is currently trying to obtain a secondary emergency access to this facility. Once this has been accomplished, plans for a permanent structure will be submitted. The request for the one (1) year extension of time will allow for the church to pursue the right of way from the railroad.

WHEREAS: The Porterville City Council, on September 16, 2003, by City Council Resolution 120-2003 approved a temporary use to allow for the placement of one (1) modular unit to be located at 1091 West Linda Vista Avenue; and

WHEREAS: The Porterville City Council, on June 15, 2004, by City Council Resolution 73-2004 allowed for the placement of an additional modular unit to be located at 1091 West Linda Vista Avenue; and

WHEREAS: As a result of the above, City Council Resolution 73-2004 combined the two temporary uses into one. Condition 1 of that resolution stated:

"That the temporary modular structure shall be allowed for a period not to exceed two (2) years from the date of City Council approval and that said modular structure shall no longer be allowed on the site at the close of said two (2) year period"; and

WHEREAS: Chapter 7, Section 7-3.3 of the City Code empowers the City Council to approve temporary structures in conjunction with residential, commercial or industrial development or in times of stress or emergency; and

WHEREAS: The City Council has thoroughly reviewed and examined the request for temporary structures;
NOW, THEREFORE, BE IT RESOLVED: By the City Council of the City of Porterville that the request for the one (1) year extension of time for the two (2) temporary modular units to be utilized for Sunday school classrooms located on the south side of the parking lot utilized for the church located at 1091 West Linda Vista Avenue be approved subject to the following conditions:

1. That all conditions outlined in City Council Resolution 73-2004 be adhered to.

2. That the temporary modular structures shall be allowed for a period not to exceed one (1) year of time commencing on September 16, 2005 and terminating on September 16, 2006 or upon completion of the permanent structure if sooner.

3. Any future extension of time will require City Council approval.

__________________________
Kelly West, Mayor

ATTEST:
John Longley, City Clerk

By _________________________
Georgina Hawley, Chief Deputy City Clerk
SUBJECT: PROPERTY LICENSE AGREEMENT AND AGREEMENT CONCERNING RIGHTS AND OBLIGATIONS WITH SENIOR CITIZEN AGENCIES

SOURCE: Department of Parks & Leisure Services

COMMENT: The Kings/Tulare Area Agency on Aging has been providing nutrition, health and wellness services for local senior citizens. Under a long-standing relationship, these services have been made available four days a week at the Porterville Community Center, located on East Putnam Avenue. With the completion of the new Heritage Community Center the City is in the process of relocating programs and activities out of the East Putnam facility. The new Heritage Center does not provide adequate space for the senior citizen programs. City staff has endeavored to identify a new location and assist with the relocation for the continuance of the Area Agency on Aging services.

The former Santa Fe Depot facility is available to the City for senior citizen services. This facility is leased by the City from the Tulare County Housing Authority with restrictions that it be used solely for senior programs and activities. The City subleases the Santa Fe Depot to the Porterville Senior Council for management and coordination of senior programs. The Housing Authority has consented that the Area Agency on Aging services are a fully authorized use.

City staff has negotiated an Agreement with the Porterville Senior Council and the Kings/Tulare Area Agency on Aging to accomplish the relocation of the senior citizen nutrition, health and wellness services. The Agreement provides a one-year term and establishes the days, hours, and areas of the Santa Fe Depot, which are to be made available for conducting the Area Agency on Aging services. It is the intent of the parties to extend the term of the Agreement beyond the one-year limit, but the initial year is needed to ensure that the arrangements are adequate and fair to all parties. The Agreement provides for the new service location to be effective on October 1, 2005.

The City is to provide $800 per month to the Porterville Senior Council to support the utility and maintenance requirements in operating the Santa Fe Depot. This is an increase of $300 per month over the current $500 per month city support. The City support is accommodated by the Parks and Leisure Services Department operations budget.

RECOMMENDATION: Approve the Agreement, authorizing and directing its signing and implementation.

ATTACHMENT: Property License Agreement and Agreement Concerning Rights and Obligations of the Parties

ITEM NO: 6
PROPERTY LICENSE AGREEMENT
AND
AGREEMENT CONCERNING RIGHTS AND OBLIGATIONS
OF THE PARTIES

Parties

1. This License agreement is entered into by and between the Porterville Senior Council ("Licensor"), sub-lessee of the Porterville Santa Fe Depot, and the Kings/Tulare Area Agency on Aging ("Licensee"), and with the consent of the City of Porterville ("City"), lessee/sublessor of said property.

Description of Property

2. Licensor is rightful possessor of certain real property situated in the city of Porterville, and more particularly described as the Porterville Santa Fe Depot ("Depot").

Grant of License

3. In consideration for and in accordance with the terms and conditions of this agreement, Licensor and the City grant to Licensee a License ("the License") to perform the following acts on the Property:

   a. The Licensee shall have exclusive use of the lower level of the Santa Fe Depot on the Monday, Wednesday, Thursday, and Friday of each week between the hours of 8:30 a.m. and 2:30 p.m. for senior programs.
   b. The large dining room and kitchen area will be available to the Licensee for food services and programs.
   c. The Licensee will be permitted to place a refrigerator in the east alcove of the large dining room.
   d. The Licensee shall have exclusive use of the kitchen cupboards above and below the pass-thru counter.
   e. The small room at the south end of the building will be available for Licensee activities; the Licensee may place a lockable desk and file cabinets in the southeast
corner of this room for office and counseling purposes and may install partition walls to enclose said area. Exclusive use, by the Licensee, of this room and office space may continue until 4:30 p.m. on the days provided for under term 3(a).

f. The east-side ticket booth will be available exclusively to the Licensee for storage; the adjacent, east-side exterior covered storage area will also be available for shared use between the Licensor and Licensee.

**Incidental Rights and Obligations**

4. The following incidental rights and obligations accompany the License and the use of the property:

a. The Licensee shall provide regular senior citizen meal programs and services commensurate with services provided elsewhere in the Kings/Tulare Area Agency on Aging service area.

b. The Licensee shall have full and exclusive management authority over the program areas during the times of program use, and shall assume full responsibility for the timely cleaning of all areas used after all Licensee activities.

c. The Licensee shall assume full responsibility for refuse service and pest control of the entire Santa Fe Depot.

d. The Licensee shall be permitted to install telephone services and assume all responsibility for installation, control of use, and service cost.

e. The Licensee and the Licensor shall each provide an insurance certificate naming all above-mentioned parties as additional insured.

f. The Licensor shall also provide facility management oversight, routine building and grounds maintenance, utility services, and schedule use of the building.

g. The City shall provide $800 monthly to the Licensor to be used for fulfillment of its obligations under terms 4(e) and 4(f).

h. The Licensee will be responsible for interior modifications, up to $1,500 in cost, for the removal of partitions and installation of handicap grab bars in the lower-level restrooms, as well as installation of lever door operating hardware for the lower restroom doors, lower hallway door, and kitchen door.
In exercising these rights and obligations, Licensee must use reasonable care and may not unreasonably increase the burden on the Property.

License Non-assignable

5. This License is personal to the Licensee and shall not be assigned. Any attempt to assign the License shall automatically terminate it. No legal title or leasehold interest in the Property is created or vested in Licensee by the grant of this License.

Term of License

6. This License shall be for a term of one year, commencing on October 1, 2005, and terminating on October 1, 2006. The parties may agree to extend this Agreement, with the terms of said Agreement to be reviewed and adjusted as the parties deem to be appropriate prior to renewal.

Termination of Occupancy

7. On or before the termination date for this License specified in paragraph 6 of this agreement, Licensee shall remove all of Licensee’s personal property from the Property and shall surrender possession of the Property to the Licensor in good order and repair to the satisfaction of the Licensor, normal wear and tear excepted.

Default

8. In the event Licensee fails to comply with any of the terms of this Agreement, in addition to any and all other remedies available under the law, this License may be revoked by Licensor or the City, upon Licensee’s receipt of written notice of the violation to the parties and its failure to cure within ten (10) days. More time may be granted for the cure of any violations if agreed to in writing by the parties.

Termination

9. The parties understand that the City and Licensor have let/sublet the premises, and said lease and sublease are not scheduled to expire during the term of this Agreement. However, in the event the property is no longer available to the City or Licensor, the License herein granted shall lease to be in effect, and the parties’ obligations to each other under this Agreement also lease.
Attorney’s Fees

10. If any legal action or proceeding arising out of or relating to this Agreement is brought by either party to this Agreement, the prevailing party shall be entitled to receive from the other party, in addition to any other relief that may be granted, the reasonable attorney’s fees, costs, and expenses incurred in the action or proceeding by the prevailing party.

Entire Agreement

11. This Agreement constitutes the entire agreement between Licensor and Licensee relating to the License. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. Any amendment to this Agreement shall be of no force and effect unless it is in writing and signed by all parties named above.

Executed on ____________________________, 2005 at Porterville, California.

PORTERVILLE SENIOR COUNCIL, LICENSOR


KINGS/TULARE AREA AGENCY ON AGING, LICENSEE


CITY OF PORTERVILLE


RICHARDBJuali/SantaFeAgreement.doc
SUBJECT: Airport Lease – Lot 32C

SOURCE: Fire Department / Airport Division

COMMENT: Wayne Ross currently owns a hangar on lot 32C at the Porterville Municipal Airport. He has extended a purchase option of his private hangar to Mr. John Loomis, Jr. Mr. Loomis, Jr. is requesting Council authorization to assume the existing lease between the City of Porterville and Mr. Ross dated February 20, 2002.

RECOMMENDATIONS:

1) That the City Council approve the assigning of the lease agreement between the City of Porterville and Mr. Wayne Ross to Mr. John Loomis, Jr.

2) Approval is also contingent upon Mr. Loomis, Jr. providing verification of insurance within ten (10) days of Council action.

Attachment: 1) Locator Map
2) Assignment of Lease Agreement
3) Lessor's Consent to Assignment of Lease Agreement
4) Request to Transfer Letter from Mr. Wayne Ross
5) Request to Transfer Letter from Mr. John Loomis, Jr.
ASSIGNMENT OF LEASE  
(PORTERVILLE MUNICIPAL AIRPORT)

THIS AGREEMENT, made this 6th day of September, 2005, by and between Mr. Wayne Ross, 18376 B Rd. 248, Porterville, California, owner of the hangar on lot 32C at the Porterville Municipal Airport, as the Assignor, and Mr. John Loomis Jr., 148 S. “H” Street, Porterville, California, as the Assignee.

In consideration of the mutual covenants herein contained, each act to be performed hereunder, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Effective September 6, 2005, Assignor hereby assigns, transfers and conveys to Assignee all of their right, title, and interest as Lessee, in, to and under a certain Lease Agreement dated February 20, 2002 (hereinafter "Lease"), executed by and between the City of Porterville, as Lessor, and Mr. John Loomis, Jr., as Lessee, providing for the letting of certain premises located at the Porterville Municipal Airport, Porterville, California, being more particularly described as follows:

An airport hangar known as No. 32C, and containing a total area of approximately 2,100 square feet, and establishing an original lease terminating September 30, 2011.

2. Effective September 6, 2005, Assignee hereby accepts and assumes all of the obligations, responsibilities and liabilities of Assignor under said Lease, and agrees to perform said Lease Agreement according to its terms, covenants and conditions, without exception, and Assignee understands and agrees that Landlord makes no warranty or representation that either Assignor or Assignee would be given an exclusive use in the Porterville Municipal Airport for the use thereof by Assignor and/or Assignee, except as provided in the Lease.

3. Upon execution of this Assignment of Lease and Landlord's consent hereto, Assignee's Noticed Address and Assignee's Billing Address shall be as set forth herein above.

4. Assignor hereby covenants said Lease as valid and existing and Landlord is not default as of the date of this Assignment.

5. This Assignment shall be binding upon and shall inure to the benefit of the respective parties, their successors and assigns.

6. There is a $150 transfer/assumption fee.

7. Approval is also contingent upon Mr. Loomis Jr. providing verification of insurance within ten (10) days of Council action.

IN WITNESS WHEREOF, the parties hereto have executed this Assignment of Lease as of the date first above written.

ASSIGNOR:

BY: [Signature]
Mr. Wayne Ross

ASSIGNEE:

BY: [Signature]
Mr. John Loomis, Jr.
LESSOR'S CONSENT TO ASSIGNMENT OF LEASE AGREEMENT  
(PORTERVILLE MUNICIPAL AIRPORT)

The City of Porterville, a municipal corporation of the State of California, being the Landlord under the Lease described in the foregoing Assignment, hereby consents to the foregoing Assignment of Lease upon the expressed condition, however, that there shall be no further assignment without the prior written consent of the Landlord.

Dated this 6th day of September 2005.

City of Porterville

By: ________________________________
    Kelly West
    Mayor, City of Porterville

    "LESSOR"

Attest: ______________________________
        John Longley, City Clerk

Approved as to Form:

By: ________________________________
    Julia Lew, City Attorney
September 1, 2005

CONTRACT TO SELL  HANGER #10, ON PLOT 32C

Through myself as agent, I Wayne D. Ross hereby do offer to sell an aircraft hanger known as lot 32C Hanger #10, located at the Porterville Municipal Airport for the price of $25,000 payable as follows:

- $5,000 deposit as earnest money to be deposited with seller by September 1, 2005 along with first and last payment of $2,500 per month. Total of $27,500.

Term of purchase of 180 months at $275.50 per month to repay $3,279.00 interest beginning October 1, 2005.

First installment of County of Tulare taxes has been paid by seller. Buyer will be responsible for second installment.

Buyer may pay off balance of purchase at any time without penalty.

If buyer defaults on monthly payment for 60 days, buyer forfeits hanger back to seller and purchase of hanger is null and void.

This sale is subject to approval by the City of Porterville to the transfer of the existing lease.

Wayne D. Ross, Seller

Date
September 1, 2005

Frank Guyton
Manager
Porterville Municipal Airport
City of Porterville
40 W. Cleveland Avenue
Porterville, CA 93257

RE: Purchase of Hanger #10 Located on Lot 32 C

Dear Mr. Guyton:

I have recently negotiated the purchase of Hanger #10-32C, Hanger Road, Porterville Municipal Airport, Porterville, California to John Loomis, Jr. and previously owned by Wayne D. Ross and the City of Porterville.

Please accept this letter as my request for the transfer of the lease dated after September 1, 2005.

Enclosed you will find a letter of release from Wayne D. Ross.

If you have any questions, please feel free to contact me: John Loomis, Jr., 148 So. "H" Street, Porterville, California. Telephone # 789-9345.

Sincerely,

[Signature]

John Loomis, Jr.

cc: Wayne D. Ross

John Loomis, Jr.
COUNCIL AGENDA: September 6, 2005

SUBJECT: PORTERVILLE TRANSIT PROMOTIONS

SOURCE: Administration (Transit)

COMMENT: In an ongoing effort to increase transit ridership on the Fixed Route system, several new programs and advertising techniques are being analyzed and implemented, one of which is sponsoring “Free” Transit Days targeting specific groups. The first promotion would be for Students now back in school.

Staff has prepared an article for publication in the Porterville Recorder targeting school students, with an offer to ride Porterville Transit free, to and from school on September 21, at no charge. However, in order to have the free fare honored, students must submit the coupon ad to be published in the Porterville Recorder. In addition to providing the students with the free fare for one day only, the returned coupon will assist staff in analyzing the effectiveness of transit advertising and the return on investment.

If the school promotion goes well, additional promotions will be evaluated such as a Senior Day and special Trolley promotion, once the new trolley has arrived and becomes available for operation.

As an additional update to the City Council, staff has been advised that two bus advertisements have been secured, both of which should be finalized around the first part of September. The Visalia Home Expo has secured a 25-day King ad ($290 per month); and a one-year contract is pending with Tucoemas Federal Credit Union for a Full Tail ad ($290 per month). Other leads are being followed, and we will keep the Council informed with periodic updates.

Staff is requesting that Council authorize special transit promotions, as staff deems advisable and appropriate in promoting public transportation.

RECOMMENDATION: That the City Council:

1. Approve the implementation of a “Free” Transit Day for students on September 21, 2005; and

2. Authorize Staff to utilize the “Free” Transit Day concept for additional targeted groups, as staff deems advisable and appropriate in promoting public transportation.

Appropriated/Funded

Item No. 8
SUBJECT: APPROVAL OF THE REMOVE II PROGRAM - CLASS II BICYCLE LANE AGREEMENT

SOURCE: Public Works Department - Engineering Division

COMMENT: The San Joaquin Valley Air Pollution Control District (SJVAPCD) recently notified the City of its successful application to the District for a $50,000 REMOVE II Grant. The grant is for Class II Bicycle Lane Striping along the Morton Avenue corridor to begin at Westwood Street and proceed east to the Main Street corridor, then proceed south to College Avenue and terminate at Porterville Junior College.

SJVAPCD requires the attached agreement, from the Bicycle Infrastructure Incentive Component of the REMOVE II Program, to be approved, signed and returned in order to expedite its completion.

RECOMMENDATION: That City Council:

1. Approve the attached agreement; and
2. Authorize the Public Works Director to sign the agreement on behalf of the City of Porterville.

ATTACHMENT: Agreement No. R-024

P:\pub\work\Engineering\Council Items\Approval of the REMOVE II Grant Agreement.wpd
AGREEMENT

This Agreement is made and entered into this ___ day of ____________, 2005, by and between the SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT, a unified air pollution control district formed pursuant to California Health and Safety Code section 40150 et seq. (District), and CITY OF PORTERVILLE (Contractor).

WITNESSETH:

WHEREAS, the California Clean Air Act (CCAA) requires local air pollution control districts to reduce emissions from motor vehicles;

WHEREAS, SB 709, codified in California Health and Safety Code section 40605, authorizes districts to impose a fee of up to One Dollar ($1) upon certain registered motor vehicles within the district, and the governing board of the District has imposed said fee;

WHEREAS, said legislation requires District to use said funds for activities related to reduce air pollution from motor vehicles and for related planning, monitoring, enforcement, and technical studies necessary for the implementation of the California Clean Air Act of 1988; and

WHEREAS, on April 22, 2005, District began accepting applications to approve for funding those projects deemed to be most suitable for vehicle license fee funding; and

WHEREAS, Contractor has proposed a project that meets the eligibility criteria of District that has been approved by District for funding; and

WHEREAS, Contractor represents that it is willing and able to perform the activities set forth herein.

NOW, THEREFORE, based on their mutual promises, covenants, and conditions, the parties hereby agree as follows:

/ / /
FIFTY THOUSAND DOLLARS ($50,000.00).

Contractor shall obtain through other sources sufficient additional monies to fund the total cost of the project as outlined in Exhibit A. Satisfactory written evidence of such funding commitments shall be provided to District prior to the release by District of any funds under this Agreement. In the event funding from other sources for the total cost of the project as outlined in Exhibit A is not received by Contractor, District reserves the right to terminate or re-negotiate this Agreement. In that event, if requested by District, Contractor shall return any District funds advanced.

A. Payments: Advance payments shall not be permitted. Payments will be permitted only at which time equivalent services have been satisfactorily rendered. District shall reimburse Contractor after receipt and verification of a properly support financial claim and inspection by District staff. Claims and all supporting documentation shall be submitted to San Joaquin Valley Unified Air Pollution Control District, Emission Reduction Incentive Program.

Payment shall be made to Contractor by District upon submission and evaluation of Contractor’s invoice or claim that shall set forth the work completed pursuant to this Agreement.

District will issue payment to Contractor within thirty (30) calendar days of receipt of proper documentation and verification that Contractor has satisfactorily completed the work for which compensation is sought.

The amount to be paid to Contractor under this Agreement includes all sales and use taxes incurred pursuant to this Agreement, if any, including any such taxes due on equipment purchased by Contractor. Contractor shall not receive additional compensation for reimbursement of such taxes and shall not decrease work to compensate therefore.

Concurrently with the submission of any claim for payment, Contractor shall certify (through copies of invoices issued, checks, receipts, and the like) that complete payment has been made to any and all subcontractors as provided.
B. **Surplus Funds:** Any compensation, which is not expended by Contractor pursuant to the terms and conditions of this Agreement by the project completion date, shall automatically revert to District. Only expenditures incurred by Contractor in the direct performance of this Agreement will be reimbursed by District. Allowable expenditures under this Agreement are specifically established and included in Exhibit A attached hereto and incorporated herein.

C. **Closeout Period:** Contractor shall submit all final claims within sixty (60) days following the final month of activities for which payment is claimed. No action will be taken by District on claims submitted beyond the 60-day closeout period.

4. **NON-ALLOCATION OF FUNDS**

The terms of this Agreement and the services to be provided thereunder are contingent on the approval of funds by the appropriating government agency. Should sufficient funds not be allocated, the services provided may be modified or this Agreement terminated at any time by giving Contractor thirty (30) days' prior written notice.

5. **INDEPENDENT CONTRACTOR**

In performance of the work, duties, and obligations assumed by Contractor under this Agreement, it is mutually understood and agreed that Contractor, including any and all of Contractor's officers, agents, and employees, will at all times be acting and performing as an independent contractor and shall act in an independent capacity and not as an officer, agent, servant, employee, joint venture, partner, or associate of District. Furthermore, District shall have no right to control or supervise or direct the manner or method by which Contractor shall perform its work and function. However, District shall retain the right to administer this Agreement so as to verify that Contractor is performing its obligations in accordance with the terms and conditions thereof. Contractor and District shall comply with all applicable provisions of law and the rules and regulations, if any, of governmental authorities having jurisdiction over matters the subject thereof.
Because of its status as an independent contractor, Contractor shall have absolutely no right to employment rights and benefits available to District employees. Contractor shall be solely liable and responsible for providing to, or on behalf of, itself all legally required employee benefits. In addition, Contractor shall be solely responsible and save District harmless from all matters relating to payment of Contractor’s employees, including compliance with social security, withholding, and all other regulations governing such matters. It is acknowledged that during the term of this Agreement, Contractor may be providing services to others unrelated to District or to this Agreement.

6. TERMINATION

A. Breach of Agreement: District may immediately suspend or terminate this Agreement, in whole or in part, where in the determination of District there is:

1. An illegal or improper use of funds;
2. A failure to comply with any term of this Agreement;
3. A substantially incorrect or incomplete report submitted to District; or
4. Improperly performed services.

In no event shall any payment by District constitute a waiver by District of any breach of this Agreement or any default, which may then exist on the part of Contractor. Neither shall such payment impair or prejudice any remedy available to District with respect to the breach or default. District shall have the right to demand of Contractor the repayment to District of any funds disbursed to Contractor under this Agreement which in the judgment of District were not expended in accordance with the terms of this Agreement. Contractor shall promptly refund any such funds upon demand.

In addition to immediate suspension or termination, District may impose any other remedies available at law, in equity, or otherwise specified in this Agreement.
B. **Without Cause:** Either party may terminate this Agreement at any time upon giving the other party at least thirty (30) days' advance written notice of intention to terminate. In such case, Contractor shall, subject to paragraph 3, be paid the reasonable value of all services satisfactorily rendered and actual, reasonable costs incurred up to the time of the termination. Upon such termination, all the work produced by Contractor shall be promptly delivered to District.

7. **MODIFICATION**

Any matters of this Agreement may be modified from time to time by the written consent of all the parties without in any way affecting the remainder.

8. **NON-ASSIGNMENT**

Neither party shall assign, transfer, or subcontract this Agreement, nor their rights or duties under this Agreement, without the prior express, written consent of the other party.

9. **INDEMNIFICATION**

Contractor agrees to indemnify, save, hold harmless, and at District's request, defend District, its boards, committees, representatives, officers, agents, and employees from and against any and all costs and expenses (including reasonable attorneys' fees and litigation costs), damages, liabilities, claims, and losses (whether in contract, tort, or strict liability, including, but not limited to, personal injury, death, and property damage) occurring or resulting to District which arises from any negligent or wrongful acts or omissions of Contractor, its officers, agents, subcontractors, or employees in their performance of this Agreement.

10. **INSURANCE**

A. Without limiting District's right to obtain indemnification from Contractor or any third parties, Contractor, at its sole expense, shall maintain in full force and effect the following insurance policies throughout the term of this Agreement:

1) Commercial general liability insurance with
minimum limits of coverage in the amount of One Million Dollars ($1,000,000) per occurrence;

2) Commercial automobile liability insurance which covers bodily injury and property damage with a combined single limit with minimum limits of coverage in the amount of One Million Dollars ($1,000,000) per occurrence;

3) Workers' compensation insurance in accordance with California law.

B. Such insurance policies shall name District, its officers, agents, employees, individually and collectively, as additional insured (except workers' compensation insurance), but only insofar as the operations under this Agreement are concerned. Such coverage for additional insured shall apply as primary insurance, and any other insurance maintained by District, its officers, agents, and employees, shall be excess only and not contributing with insurance provided under Contractor's policies herein. This insurance shall not be canceled or changed without a minimum of thirty (30) days' advance, written notice given to District.

C. Prior to the commencement of performing its obligations under this Agreement, Contractor shall provide certifications of insurance on the foregoing policies, as required herein, to District, stating that such insurance coverages have been obtained and are in full force; that District, its officers, agents, and employees will not be responsible for any premiums on the policies; that such insurance names District, its officers, agents, and employees, individually and collectively, as additional insured (except workers' compensation insurance), but only insofar as the operations under this Agreement are concerned; that such coverage for additional insured shall apply as primary insurance and any other insurance maintained by District, its officers, agents, and employees, shall be excess only and not contributing with insurance provided under Contractor's policies herein. This insurance shall not be canceled or changed without a minimum of thirty (30) days' advance, written notice given to District.
D. In the event Contractor fails to keep in effect at all times insurance coverage as herein provide, District may, in addition to other remedies it may have, suspend or terminate this Agreement upon the occurrence of such event.

E. If Contractor is a government entity, then it may self-insure such of those risks identified in paragraphs 10.A.1-10.A.3 of this Agreement, provided, however, that:

1) District, its officers, agents, and employees, individually and collectively, shall be named as additional insured (except for workers' compensation insurance) on Contractor's self-insurance plans, but only insofar as the operations under this Agreement are concerned;

2) Such self-insurance plans shall be reasonably satisfactory to District; and

3) All those provisions identified in subparagraph 10.C of this Agreement concerning the relationship of Contractor's primary and District's excess insurance to each other, the requirement of Contractor delivering a certificate of insurance or other suitable evidence to District, and the cancellation/change of insurance requirements shall apply to such self-insurance plans.

11. AUDITS AND INSPECTIONS

Contractor shall at any time during regular business hours, and as often as District may deem necessary, make available to District for examination all of its records and data with respect to the matters covered in this Agreement. Contractor shall, upon request by District, permit District to audit and inspect all such records and data necessary to ensure Contractor's compliance with the terms of this Agreement.

Contractor shall be subject to an audit by District or its authorized representative to determine if the revenues received by Contractor were spent for the reduction of pollution as provided in SB 709 and to determine whether said funds were utilized as provided by law and this Agreement. If, after audit District makes a determination that funds provided Contractor pursuant to this Agreement were not
spent in conformance with this Agreement or SB 709 or any other applicable
provisions of law, Contractor agrees to immediately reimburse District all funds
determined to have been expended not in conformance with said provisions.

Contractor shall retain all records and data for activities performed under
this Agreement for at least two (2) years from the date of final payment under this
Agreement or until all state and federal audits are completed for that fiscal year,
whichever is later.

Because this Agreement exceeds Ten Thousand Dollars ($10,000),
Contractor shall be subject to the examination and audit of the auditor general for a
period of two (2) years after final payment under contract (Government Code §
10532).

12. NOTICES

The persons and their addresses having authority to give and receive
notices under this Agreement are as follows:

CONTRACTOR

Baldomero Rodriguez  
Public Works Director  
City of Porterville  
291 N. Main Street  
Porterville, CA 95202

DISTRICT

David L. Crow  
Executive Director/APCO  
San Joaquin Valley Unified APCD  
1990 East Gettysburg Ave.  
Fresno, CA 93726

Any and all notices between District and Contractor provided for or
permitted under this Agreement or by law shall be in writing and shall be deemed duly
served when personally delivered to one of the parties, or in lieu of such personal
service, when deposited in the United States mail, postage prepared, addressed to
such party.

13. POLITICAL ACTIVITY PROHIBITED

None of the funds, materials, property, or services provided under this
Agreement shall be used for any political activity, or to further the election or defeat of
any candidate for public office contrary to federal or state laws, statutes, regulations,
rules, or guidelines.
14. LOBBYING PROHIBITED

None of the funds provided under this Agreement shall be used for publicity, lobbying, or propaganda purposes designed to support or defeat legislation before the Congress of the United States of America or the Legislature of the State of California.

15. CONFLICT OF INTEREST

No officer, employee, or agent of District who exercises any function or responsibility for planning and carrying out the services provided under this Agreement shall have any direct or indirect personal financial interest in this Agreement. Contractor shall comply with all federal and state conflict of interest laws, statutes, and regulations, which shall be applicable to all parties and beneficiaries under this Agreement and any officer, agent, or employee of District.

16. GOVERNING LAW

This Agreement shall be governed in all respects by the laws of the State of California. Venue for any action arising out of this Agreement shall only be in Fresno County, California.

17. BINDING ON SUCCESSORS

This Agreement, including all covenants and conditions contained herein, shall be binding upon and inure to the benefit of the parties, including their respective successors-in-interest, assigns, and legal representatives.

18. TIME IS OF THE ESSENCE

It is understood that for Contractor's performance under this Agreement, time is of the essence. The parties reasonably anticipate that Contractor will, to the reasonable satisfaction of District, complete all activities provided herein within the time schedule outlined in the attachments to this Agreement, provided that Contractor is not caused unreasonable delay in such performance.

19. DATA OWNERSHIP

Upon termination or expiration of this Agreement, all data which is
received, collected, produced, or developed by Contractor under this Agreement shall become the exclusive property of District, provided, however, Contractor shall be allowed to retain a copy of any non-confidential data received, collected, produced, or developed by Contractor under this Agreement subject to District's exclusive ownership rights stated herein. Accordingly, Contractor shall, if requested, surrender to District all such data which is in its possession (including its subcontractors or agents), without any reservation of right or title, not otherwise enumerated herein.

District shall have the right at reasonable times during the term of this Agreement to inspect and reproduce any data received, collected, produced, or developed by Contractor under this Agreement. No reports, professional papers, information, inventions, improvements, discoveries, or data obtained, prepared, assembled, or developed by Contractor, pursuant to this Agreement, shall be released or made available (except to District) without prior, express written approval of District while this Agreement is in force.

20. **NO THIRD-PARTY BENEFICIARIES**

Notwithstanding anything else stated to the contrary herein, it is understood that Contractor's services and activities under this Agreement are being rendered only for the benefit of District, and no other person, firm, corporation, or entity shall be deemed an intended third-party beneficiary of this Agreement.

21. **SEVERABILITY**

In the event that any one or more of the provisions contained in this Agreement shall for any reason be held to be unenforceable in any respect by a court of competent jurisdiction, such holding shall not affect any other provisions of this Agreement, and the Agreement shall then be construed as if such unenforceable provisions are not a part hereof.

22. **SPECIAL CONDITIONS**

The entire proposed project must be completed within one (1) year of contract execution. No contract extensions will be granted. Funds may not be used
to meet Americans with Disabilities Act (ADA) requirements.

23. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between Contractor and District with respect to the subject matter hereof and supersedes all previous negotiations, proposals, commitments, writings, advertisements, publications, and understandings of any nature whatsoever unless expressly included in this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first hereinabove written.

CONTRACTOR
CITY OF PORTERVILLE

By ____________________________
Baldomero Rodriguez
Public Works Director

Tax I.D. No.

Recommended for approval:
San Joaquin Valley Unified Air Pollution Control District

David L. Crow
Executive Director/APCO

Approved as to accounting form:
San Joaquin Valley Unified Air Pollution Control District

Roger W. McCoy
Director of Administrative Services

DISTRICT
San Joaquin Valley Unified Air Pollution Control District

By ____________________________
Supervisor Thomas W. Mayfield,
Governing Board Chair

Approved as to legal form:
San Joaquin Valley Unified Air Pollution Control District

Philip M. Jay
District Counsel

For accounting use only:
Program: ____________________________
Accounting No.: ____________________________
EXHIBIT A

REMOVE II Program Agreement

Project # R-024

City of Porterville
# BICYCLE INFRASTRUCTURE INCENTIVE COMPONENT
## REMOVE II PROGRAM APPLICATION

## A. APPLICANT INFORMATION

<table>
<thead>
<tr>
<th>Field</th>
<th>Details</th>
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<tbody>
<tr>
<td>Organization</td>
<td>City of Porterville</td>
</tr>
<tr>
<td>Contact name</td>
<td>Baldomero Rodriguez</td>
</tr>
<tr>
<td>Person with contract signing authority</td>
<td>Baldomero Rodriguez</td>
</tr>
<tr>
<td>Street/mailing address</td>
<td>291 N. Main Street</td>
</tr>
<tr>
<td>City</td>
<td>Porterville</td>
</tr>
<tr>
<td>State</td>
<td>CA</td>
</tr>
<tr>
<td>Zip code</td>
<td>93257</td>
</tr>
<tr>
<td>Phone</td>
<td>(559) 782-7460</td>
</tr>
<tr>
<td>Fax</td>
<td>(559) 781-6437</td>
</tr>
<tr>
<td>E-mail</td>
<td><a href="mailto:brodriguez@ci.porterville.ca.us">brodriguez@ci.porterville.ca.us</a></td>
</tr>
<tr>
<td>Mobile Phone</td>
<td>()</td>
</tr>
<tr>
<td>Geographic area served by organization</td>
<td>Southeast Tulare County - City of Porterville</td>
</tr>
<tr>
<td>Geographic area to be served by bicycle facility or linkage project (if different than above):</td>
<td>Same as above</td>
</tr>
</tbody>
</table>

I hereby certify that all information provided in this application and any attachments are true and correct to the best of my knowledge, and that I have read the separate Guidelines, Policies and Procedures document for this program component.

<table>
<thead>
<tr>
<th>Printed Name of Responsible Party:</th>
<th>Title:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Baldomero Rodriguez</td>
<td>Public Works Director</td>
</tr>
<tr>
<td>Signature of Responsible Party: (Must sign in BLUE INK ONLY)</td>
<td>Date: 4-22-05</td>
</tr>
</tbody>
</table>

Approved 03/17/05

Exhibit A
**INFORMATION ABOUT THE BICYCLE INFRASTRUCTURE PROJECT**

All requested information below must be provided.

### B. INFORMATION ABOUT BICYCLE PROJECT

<p>| | |</p>
<table>
<thead>
<tr>
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<tbody>
<tr>
<td><strong>1.</strong> Funding dollars requested ($)</td>
<td><strong>2.</strong> Total project cost</td>
</tr>
<tr>
<td>$50,000</td>
<td>$55,000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>2.</strong> Location and description of bicycle project:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Morton Avenue Corridor and Main Street Corridor - see Exhibit ‘A’. Bicycle lanes with appropriate street markings and signage along Morton Avenue or adjacent streets beginning at Westwood Street east to Main Street or adjacent streets, then proceeding south to College Avenue terminating at Porterville Junior College.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>3.</strong> Project length in linear feet and miles:</th>
<th><strong>4.</strong> Class I Path or Class II Lane:</th>
</tr>
</thead>
<tbody>
<tr>
<td>35,000 feet, 6.5 miles</td>
<td>Class II Bike Lane</td>
</tr>
</tbody>
</table>

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<thead>
<tr>
<th><strong>5.</strong> Number of days (D) of use per year:</th>
<th><strong>6.</strong> Annual average daily traffic (ADT) on roadway parallel to project site (number of vehicle trips/day): Morton Avenue Corridor - 13,500 Main Street Corridor - 12,500</th>
</tr>
</thead>
<tbody>
<tr>
<td>250</td>
<td></td>
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<table>
<thead>
<tr>
<th><strong>7.</strong> The city population:</th>
<th><strong>8.</strong> Public university or college present (provide name and distance to project site):</th>
</tr>
</thead>
<tbody>
<tr>
<td>43,150</td>
<td>Porterville College (less than 1/4 mile)</td>
</tr>
</tbody>
</table>

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<tr>
<th><strong>11.</strong> List the different activity centers located near project site. Specify those within ¼ and those within ½ mile:</th>
</tr>
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<tbody>
<tr>
<td>See Exhibit ‘B’.</td>
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</table>

<table>
<thead>
<tr>
<th><strong>12.</strong> Additional funding sources and amounts, if available:</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
</tr>
</tbody>
</table>
BICYCLE INFRASTRUCTURE SUPPLEMENTAL PROJECT INFORMATION

1. Discuss how the bicycle infrastructure project will effectively contribute to a comprehensive alternative transportation network for daily bicycle commuters.

_This project will effectively contribute to a comprehensive alternative transportation network by serving as the local match funding for a $300,000 application for funds from the Bicycle Transportation Account. The current (1993) general plan calls for 17.2 miles of Class II bicycle lanes at an estimated 2004 cost of $272,000. The additional $78,000 ($50,000 REMOVE + $300,000 BTA = $350,000 total) is necessary for inflation from 2004 to time of construction plus side spurs into neighborhoods that were not considered during the 1993 general plan. Having a bicycle infrastructure backbone in place will also allow us to be more ambitious in bicycle planning during the next general plan update._

2. Describe the location of the bicycle infrastructure project and explain the necessary changes or improvements to the site for the benefit of commuter bicycling.

_The project will extend across the width of Porterville along the Morton Ave. corridor, one of three arterials in Porterville that pass under State Highway 65. No physical changes or improvements other than striping are anticipated._

3. Explain and provide the travel activity data for both vehicle and bicycle travel at the proposed bicycle project site, if available.

_Travel along the proposed bicycle corridor is expected to be predominately from westside residents commuting to business centers, shopping centers, downtown and the local junior college. These destination points are located along the proposed bicycle route. To date, bicycle travel data has not been collected._

4. Explain how the bicycle infrastructure project will increase commuter bicycling and reduce the number of vehicle miles traveled.

_Both the Burton and Porterville Unified School Districts have unanimously endorsed the concept of a network of bicycle lanes in the City of Porterville. The districts' focus is not only cleaner air but encouraging children to exercise more by riding bikes. Children riding bikes to school means fewer parent dropoffs and sets the stage for promoting bicycle riding among the general working population._

5. Describe how the bicycle infrastructure project will eliminate any barriers or gaps in the bicycle transportation network.

_Currently the City has received enough funding to stripe 2.5 miles of street parallel to downtown. There are no other bike lanes and no network. The planned portion is not enough to make a network self-sustaining. The requested project will allow a significant portion of the city's residential areas to access downtown via bicycles._

Exhibit A
6. Explain if the bicycle facility project will conform to Caltrans design standards. The ARB recommends bike lanes should meet Caltrans' full width standard depending on the street facility.

   The project will conform to CalTrans standards.

7. Describe the various activity centers (especially schools) in close proximity to the bicycle project site and explain how the facility will improve the accessibility and utilization for bicycle travel.

   The bicycle project site will pass directly adjacent to or within one city block of:
   - Four elementary schools
   - Three middle schools
   - Two high schools
   - Two public parks, including one containing the planned skate park
   - The Porterville Public Library
   - Porterville's two largest churches in terms of membership (RC & LDS)

   In addition the planned site will pass through the City's core, intersecting with Main Street (downtown) and the Rails-to-Trails Class I bikeway.

8. List other funding sources solicited by your organization that would contribute to the project's feasibility for completion.

   The City is also applying for $300,000 in Bicycle Transportation Account funds. REMOVE funds are needed to enable the City to fulfill the BTA funding match.

9. Discuss the one-year timeline for project completion in quarterly phases. Describe separately each phase of work to be performed and list tasks within each phase of work.

   Phase I, 2nd Quarter (Fall 2005) - Prepare plans and specifications for bicycle lane painting, street legends and signs.
   Phase II, 3rd Quarter (Winter 2005) - Advertise for construction bids.
   Phase III, 4th Quarter (Spring 2006) - Award contract, complete all bike lane related work.

10. Provide detailed information on the structural design, required materials and cost breakdown for the bicycle infrastructure project (provide supportive documentation such as diagrams, plans and invoices).

   The $1.50 per lineal foot includes the cost of appropriate signage and legends to be installed at approximately 500' intervals.

Exhibit A
SUBJECT: AMENDMENT OF ADMINISTRATIVE POLICY II-E-1, TRAVEL AND CONFERENCE EXPENSES

SOURCE: City Manager

COMMENT: The City’s current Administrative Policy on Travel and Conference Expenses does not take into consideration the use of private aircraft to facilitate City business by Council Members and/or City staff. To address the issue, staff is requesting the policy be updated.

As several city employees and a Council Member have access to private aircraft and have occasion to travel on City business, it is apparent that the policy on travel be reviewed. In the past, virtually all travel has been conducted by automobile and the City has a policy for reimbursing employees and Council Members for automobile travel.

On occasion it may be more advantageous to travel via airplane. The main example is the executive terminal in downtown Sacramento. Flying to Sacramento may enable a representative of the City to meet with officials at the State Capitol without incurring an overnight stay.

The following is a proposed policy for airplane usage that allows travel without unduly favoring one particular method of travel over another:

The reimbursement for airplane travel shall be as follows:

- Using Mapquest or a similar website, or using a pre-established mileage table, calculate the round-trip distance that would have been incurred had the trip been traveled by automobile. The number of miles, times the per-mile rate currently approved shall be allowed.

- If the one-way travel distance exceeds 150 miles, it will be deemed that an overnight stay has been avoided (assuming the traveler returns the same day) and an additional stipend of $100 shall be made. This amount will be adjusted each January 1 based on the current CPI used by the airport for land leases.
Trips to Sacramento under the above rules will actually cost the City less than driving. The hotel rule is more of a stipend than a reimbursement, as both the mileage reimbursement and stipend combined are insufficient to pay for the airplane costs.

Airplane travel is to be encouraged; also, for the reason that staff will be on the job the next morning instead of en-route on a return drive. This new policy will also encourage air travel for City business, saving the City in hotel and per diem costs.

Also, On May 17, 2005, Council approved a revision to the City Council Procedural Handbook, Section VII, Travel and Meetings, which read:

"When making hotel reservations to attend a conference or meeting, a request for a room sales tax waiver shall be made on behalf of the applicable Council member. If a prior room reservation request is not made, the Council member shall request a room sales tax waiver prior to payment for a room."

At this time staff is recommending that the Administrative Policy II-E-1, Travel and Conference Expenses, be amended to contain this clause for all City employees as State of California municipal employees. The attached policy has been amended to reflect this addition.

REQUEST FOR COUNCIL ACTION:

1- Request Council approve the draft resolution amending Administrative Policy II-E-1, Travel and Conference Expenses, to include authorization for air travel, mileage reimbursement, and a stipend should on overnight stay be avoided, and include the requirement that conference and meeting attendees request room sales tax waivers when applicable.

ATTACHMENTS: Draft Resolution
Administrative Policy II-3-1, with revisions
RESOLUTION NO. ____-2005

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING ADMINISTRATIVE POLICY II-E-1, TRAVEL AND CONFERENCE EXPENSES

WHEREAS, Council has determined that private airplane use should be encouraged for City business as it will save the City hotel and per diem costs, and will be a time-saving measure as relates to staff, and City officials, being away from job; and

WHEREAS, the City’s current Administrative Policy on Travel and Conference Expenses does not take into consideration the use of private aircraft to facilitate City business by Council Members and/or City staff; and

WHEREAS, On May 17, 2005, Council approved a revision to the City Council Procedural Handbook, Section VII, Travel and Meetings, in which Council stated that when making hotel reservations to attend a conference or meeting, a request for a room sales tax waiver should be made on behalf of the Council member. Council has determined that Administrative Policy II-E-1, Travel and Conference Expenses, should also be amended to contain this clause for all City employees as State of California municipal employees.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Porterville that the Administrative Policy II-E-1, Travel and Conference Expenses, is hereby amended and approved as attached hereto as Exhibit A.

Adopted this 6th day of September, 2005.

________________________________________
Kelly West, Mayor

ATTEST:

________________________________________
Georgia Hawley, Chief Deputy City Clerk
PURPOSE:

To establish standard procedures for obtaining authorization to travel on official City business and for reimbursement of costs employees incur during such travel.

PROCEDURE:

A. **Prior Authorization:** All travel for which reimbursement will be requested requires authorization by the City Manager prior to travel commencing except in cases of emergency. The top section of the "Travel Request and Expense Report" form is to be used for this purpose.

B. **Expenses allowed:**

1. The actual cost of public transportation (air, rail, bus, etc.) will be allowed, if supported by receipts.

2. The current IRS approved allowance* per mile will be paid if an employee’s personal vehicle, or private aircraft, is used. **Air mileage shall be calculated using Mapquest or a similar website, or using a pre-established mileage table, for the round-trip distance that would have been incurred had the trip been traveled by automobile. The number of miles, times the per-mile rate currently approved shall be allowed.**

3. Actual cost of employee’s meals, plus tips, are allowed, if supported by receipts or a "per diem" allowance can be received. When requesting reimbursement for the cost of meals for others, write the name(s) and business connections of the person(s) whose meals were paid for on the receipts.

4. Actual cost of lodging will be reimbursed, if supported by receipts. **When making hotel reservations to attend a conference or meeting, a request for a room sales tax waiver shall be made on behalf of the employee. If a prior reservation request is not made, the employee shall request a room sales tax waiver prior to payment for a room.**
When traveling in a private aircraft, if the one-way travel distance exceeds 150 miles, it will be deemed that an overnight stay has been avoided (assuming the traveler returns the same day) and an additional reimbursement of $100 shall be made. This amount will be adjusted each January 1 based on the current CPI used by the airport for land leases.

5. Miscellaneous costs such as parking, taxi, bridge tolls, telephone calls, tips, etc., will be reimbursed at cost. A receipt is not normally provided for these costs. Therefore, a "Certificate of Expense" form should be completed for each such expense and provided by the employee when requesting reimbursement.

C. Per-Diem Allowed: The Traveler may prefer receiving a daily "per diem" allowance for meals, tips and incidental expenses instead of accounting for each expense as described under Paragraph B 3 and B 5. The "per diem" amount is to be the "IRS approved tax free allowance"** as published by the Prentice Hall Payroll Manager's Letter. The "per diem" will be paid in advance and should be shown in Space 11, Line 21 and Space 30 of the Travel Request and Expense Report.

D. Registration fees: Registration fees are normally paid in advance by City check. If registration fees are paid at the conference or meeting, obtain a receipt and show the expense in Space 23 of the "Travel Request and Expense Report."

E. Use of Forms:

1. Travel Request and Expense Report form: This is a three-part form which is to be used prior to and after travel on City business. The top portion of the form (Spaces 1 thru 15) must be completed prior to departure. This part of the form includes the authorization of the department head and the City Manager for travel to take place. If an advance is being requested, the form, with approvals, must be turned in to the Finance Department at least ten days prior to the time money is needed. The Finance Department will remove Copy (3) of the form to support the check written for the cash advance and return the form to the traveler.

   The remainder of the form (Spaces 16 thru 31) is to be completed immediately upon returning from travel. After completion, it is to be signed and turned in, with all supporting documentation, to the appropriate department head for approval.
If a refund is due to the City, the refund should accompany the completed form. If money is due to the traveler, it will be paid with the next accounts payable check run.

Attachments: "Travel Request and Expense Report" form.
"Certificate of Expense" form.

* Information on file in Finance Department.
City of Porterville
CERTIFICATE OF EXPENSE

I hereby certify that the below described expense was incurred during the conduct of official City business.

<table>
<thead>
<tr>
<th>Purpose of expense:</th>
<th>Amount</th>
</tr>
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<tbody>
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<td>$_____</td>
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</table>

Signature Date
THIS ITEM HAS BEEN REMOVED FROM THE AGENDA.

Item No. 11
SUBJECT: APPROVAL FOR COMMUNITY CIVIC EVENT
DOWNTOWN PORTERVILLE ASSOCIATION
NUESTRO PRIDE CAR SHOW, SEPTEMBER 25, 2005

SOURCE: Administrative Services - Finance Division

COMMENT: Downtown Porterville Association is requesting approval to hold its annual Nuestro Pride Car Show on Sunday, September 25, 2005, from 6:00 a.m. to 7:00 p.m. The following are the street closures, sidewalks, and parking lot use requests:

Street closures:
Garden Avenue from Third Street to Second Street, Second Street from Garden Avenue to Olive Avenue and Second Street from Garden Avenue to Oak Avenue.

Sidewalk use:
Second Street from Oak Avenue to Olive Street and Garden Avenue from Second Street to Third Street.

Parking lots: City lot east of Bank of the Sierra on Garden Avenue and Second Street and Redevelopment Agency lot east of Second Street, between Garden Avenue and Olive Avenue.

This request is made under the Community Civic Events Ordinance No. 1326, as amended. The application has been routed according to the ordinance regulations and reviewed by all departments involved. The requirements are listed on the attached copy of the application, agreement and Exhibit "A," and a map indicating the desired street closures is included.

RECOMMENDATION: That the Council approve the attached Community Civic Event Application and Agreement submitted by the Downtown Porterville Association, subject to the stated requirements contained in Exhibit "A."

ATTACHMENT: Community Civic Event Application, Agreement, Request for street, sidewalk and parking lot closure/usage, Vendor list, Exhibit "A", Map.

DD Appropricated/Funded CM Item No. 11
REQUIREMENTS FOR COMMUNITY CIVIC EVENT
DOWNTOWN PORTERVILLE ASSOCIATION
NUESTRO PRIDE CAR SHOW
SEPTEMBER 25, 2005

Business License Supervisor:
S. Perkins
License required for all vendors.

Public Works Director:
B. Rodriguez
No comments.

Community Development Director:
B. Dunlap
Obtain City Council approval for use of City right of way.

Field Services Manager:
B. Styles
No comments

Fire Chief:
F. Guyton
Do not block fire hydrants.

Parks and Leisure Services Director:
J. Perrine
Please stay out of planters, clean up following event, Porta Potties required.

Police Chief:
S. Rodriguez
Ensure adequate barricades used for street closures to warn motorists. Need Council approval for street closure; need amplifier permit; no alcoholic beverages permitted; promptly clear roadway at conclusion of event.

Deputy City Manager:
D. Pyle
See attached.
REQUIREMENTS FOR COMMUNITY CIVIC EVENT

Sponsor: Downtown Porterville Association
Event: Nuestro Pride Car Show
Event Chairman: James N. Cone
Location: Main Street
Date of Event: September 26, 2004

RISK MANAGEMENT: Conditions of Approval

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

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

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

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: Over the course of the past year or so, the City of Porterville has received a number of subdivision map applications for development of hillside properties. In the meantime, City Staff and the Hillside Development Committee have been undertaking the establishment of a Hillside Development Ordinance to temporarily guide development on hillside properties while permanent standards can be developed and adopted. Under this interim measure, hillside properties are located in the north and east portions of the City and are separated into two distinct areas. The first area is generally bounded by Plano Street on the west, Morton Avenue on the south, Connor Street on the west and Olive Avenue on the south. The area would extend up into the hillside to the north and east of the referenced streets. The second area is that area bounded by Main Street on the west, Lime Street on the east, Reid Avenue on the north and the southerly terminus of Scenic Heights on the south.

While this interim measure aims at protecting the health, safety and general welfare of the community, it does not propose halting development entirely. The ordinance establishes a process and a set of guiding principles for development to adhere to, to ensure that appropriate accommodation of connectivity between development occurs, and that grading will be performed that is sensitive to the natural terrain and promotes sensitive grading design features such as limiting retaining walls, placing slopes on proposed parcels that promote the most logical ownership of slopes, etc.

All development proposals submitted during the period of the Interim Urgency Ordinance shall comply with the interim criteria for development as outlined in the attached ordinance.

City Staff is recommending that the Council consider interim measures for development of the hillside as the proposals submitted to date do not 1) adequately consider the topography of the properties proposed for development nor the surrounding hillside, 2) provide adequate information on the design of site grading and drainage, 3) provide for appropriate connectivity between the subject sites and adjacent properties, 4) provide amenities such as recreational facilities, transit accommodations (City and schools), and schools necessary to accommodate the needs of the future residents of the proposed developments.
Development of the hillside is a sensitive proposition and the current City regulations do not protect the public health, safety and general welfare of the community. The proposed Interim Urgency Ordinance is intended to provide time to develop permanent standards for Council consideration.

RECOMMENDATION: Staff recommends that the City Council hold a public hearing and adopt the attached Interim Urgency Ordinance defining a process and establishing criteria for hillside development as defined.

ATTACHMENT:
1. Letter dated August 31, 2005 from Abbott & Kindermann, LLP
2. Interim Urgency Ordinance
Via Facsimile and U.S. mail

Mr. Brad Dunlap, AICP
Planning Director
291 North Main Street
Porterville, CA 93257

Re: Canyon Springs Estates

Dear Mr. Dunlap:

This letter is submitted on behalf of Contour Development, Inc., applicant for the Canyon Springs project. My understanding is that the City is potentially considering a change to its development standards, and that this discussion has woven itself into the review of my client's project resulting in a potential denial or substantial project redesign. It is clear, based upon the City's actions to date, that the tentative map, as proposed, conforms to City development standards. The formal or informal application of new development requirements would violate Government Code section 66474.2, which directs that a City may only apply the standards in effect at the time the application was "deemed complete". "Deemed complete" status took place sometime this spring, and there is no evidence that any of the exceptions found in the state code section apply to this tentative map application. Accordingly, this letter serves as a written request to the City to comply with Section 66474.2 when acting on the submitted tentative map.

With respect to the proposed conditions of approval as set forth in the June 22nd staff report, I am requesting two modifications with respect to the drafted conditions. First, condition #10 calls for payment of fees prior to recording of final maps. This likely conflicts with the same condition of which requires that fees be paid in conformance with "State law". Government code section 66007 provides that fees applicable to residential projects need not be paid until such time as a final inspection or certificate of occupancy, whichever occurs first. As drafted, the condition conflicts with the Government Code. Second, condition #43 requires compliance with the "latest applicable codes". This requirement conflicts in part with Government Code section 66474.2 described above. The applicant requests that both conditions of approval be deleted.

In addition to the limitations of the Subdivision Map Act, Government Code section 65589.5 imposes an additional burden on the City if it disapproves or reduces the proposed density of the tentative map. A density reduction or denial must be accompanied by written findings, based upon substantial evidence in the record. Section 65589.5. There is no evidence anywhere in the record which would permit any of the required findings to be approved. The burden of proof rests with the City. Government Code Section 65589.6

I also understand that the City is considering a moratorium. First, in the long run, the moratorium, to the extent it suspends or slows processing of the Canyon Springs tentative map,
does not change the impact of section 66474.2. Traditionally, a moratorium is used as a first step towards adopting new general plan or development standards. Any new land use rules which may be adopted at the end of a moratorium will not apply to my client's tentative map as outlined above. Second, while the moratorium statute may be used to prohibit uses, it may not be used to freeze application processing. Building Industry Legal Defense Foundation v. Superior Court (1999) 72 Cal.App.4th 1410, 1420. Thus, the Canyon Springs applicant is entitled to review and action on the pending tentative map application.

By copy of this letter to the City Clerk, I am requesting that this letter be included as part of the City Council packet on both the Canyon Springs tentative map review as well as consideration of the moratorium.

Sincerely,

[Signature]

William W. Abbott

cc: City Clerk
City Attorney
Client
ORDINANCE NO. ______

AN INTERIM URGENCY ORDINANCE
OF THE CITY OF PORTERVILLE FOR THE PROTECTION
OF THE HILLSIDE AREA OF THE COMMUNITY

BE IT ORDAINED by the City Council of the City of Porterville, as follows, to wit:

SECTION 1: The City Council of the City of Porterville herewith finds that there is a current and immediate threat to the public health, safety, or welfare, arising from the lack of development standards to ensure that hillside development does not create a detrimental affect on the community through the establishment of grading and drainage problems, a disconnected system of streets and infrastructure, unduly limiting development opportunities on adjacent properties by extending streets in wrong locations in the event there are natural features on an adjacent site, lack of accessibility to proximately located parks and recreation areas.

SECTION 2: The City Staff is presently developing a hillside development ordinance that will set out policies that will set forth definitions, procedures, and standards concerning the zoning, permitting, and regulations of hillside development.

SECTION 3: The City of Porterville does further herewith find and determine that developing the hillside areas of the community is a matter of some sensitivity due to the grading, drainage, accessibility, public services, aesthetics and connectivity with surrounding uses and that the lack of adequate standards threatens the public health, safety or welfare of the community.

SECTION 4: That in order to protect the health safety and general welfare of the community, the City of Porterville does hereby ordain and adopt the interim criteria for hillside development outlined in Section 5 below:

SECTION 5: Concurrently with the processing and consideration of a tentative or vesting tentative subdivision map, proposed projects will require discretionary approval of a conditional use permit (CUP) to address factors related to protecting the public health, safety and general welfare of the community. In addition to the existing Municipal Code standards for development, the following criteria are intended to supplement the Code by addressing issues unique to hillside development within the community.

a. Comply with existing provision of the Municipal Code pertaining to residential development except as may be modified herein.

b. Proposed developments shall be designed in manner sensitive to the topography of the site by following the contours of the site when laying out proposed parcels, streets and infrastructure. Street layouts shall be designed to minimize grades of slope.
c. A comprehensive grading and drainage plan shall be prepared and submitted at the time of CUP and tentative subdivision map. The plan shall include existing topographic information, (existing structures, (including, fences, wells, septic tanks, etc.), and include the topographic and other features on adjacent properties. To the maximum extent practicable, the grading and drainage plan shall minimize the extent of grading activity and the use of retaining walls. Further, the plan shall minimize cross lot drainage.

d. The comprehensive grading and drainage plan shall identify the proposed pad elevations for each lot, street grades, and slope ratios on all slopes. Typical cross-sections may be required as deemed necessary by the City Engineer.

e. The site design shall consider the context of the site as it relates to other sites immediately surrounding the project site. An evaluation of context is necessary to address connectivity to, and consistency with surrounding properties.

f. Additional information may be required to be submitted for review by the City based on the unique characteristic of each site.

g. In addition to the subdivision design, the developer shall submit information on the type and/or design of the proposed residential units and amenities. The City will review the information based on context within surrounding developments and as it pertains to the number of units targeted for construction in the City’s certified housing element per target market audience.

SECTION 6: The preceding standards are established due to the significant number of tentative subdivision maps that have been submitted in the hillside areas of the community over the past several months. Over the course of the prior 12± months there have been approximately seven (7±) maps submitted for either conceptual or tentative map review within the hillside areas. During the course of these reviews it has become evident that the current City policies are not adequate, relative to the issues outlined in Sections 1 through 4 above, to preserve the health, safety and general welfare of the community.

SECTION 7: This Ordinance shall remain in full force and effect for a period of forty-five (45) days from and after its passage and adoption unless extended by the City Council.

SECTION 8: The City Council does herewith direct the City Staff to prepare and submit to the City Council, for consideration of approval and issuance by the City Council, a written report describing the measures taken and to be taken to alleviate the conditions which led to the adoption of this Ordinance; and that said report shall be submitted to the City Council at least 10 days prior to the expiration of this Ordinance.
SECTION 9: For the reasons set forth hereinafore, the City Council of the City of Porterville does herewith declare and determine that it is necessary to protect the public safety, health or welfare by adopting this Ordinance as an urgency measure to take effect immediately upon passage and adoption.

PASSED AND APPROVED this ___ day of __________, 2005.

_________________________
Kelly West, Mayor

ATTEST:

John Longley, City Clerk

By _______________________
Georgia Hawley, Deputy
PUBLIC HEARING (CONTINUED)

SUBJECT: CANYON SPRINGS ESTATES TENTATIVE SUBDIVISION MAP (CONTOUR DEVELOPMENT INC.)

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: On July 5, 2005, the Porterville City Council conducted a public hearing for Canyon Springs Estates Tentative Subdivision and continued the matter to the Council meeting of August 16, 2005, to allow time for the applicant to work with Staff to address some design issues. Prior to the August 16 meeting, the applicant’s engineer asked for another continuance to allow time to address some of the most recent design revisions. The Council granted the extension to the meeting of September 6, 2005. The applicant is requesting approval of the Canyon Springs Estates Tentative Subdivision Map to divide a 67.42± acre vacant parcel zoned City R-1 (One-Family Zone) into a 230± lot single-family residential subdivision to be developed in two (2) phases for that site located on the northeast corner of Morton Avenue and Hillcrest Street.

The site is irregularly shaped extending north and south. The south portion fronts on Morton Avenue. The west portion fronts on Hillcrest Street. The subject site has a gentle sloping hill extending upward from Hillcrest Street to the east with a grade up to 15%. The FIRM Flood Insurance Map 065066 0865 B, dated September 29, 1986, indicates the subject site is located in Flood Zone C (areas of minimal flooding).

All the interior streets within the proposed subdivision are designed to be 60 feet wide, with the exception of two (2) cul-de-sacs, which will be 50 feet wide. Ingress and egress from the north portion of the subject site will be from Henderson Avenue (a 3/4 street) extending west to Hillcrest Street (designated arterial street). Ingress and egress from the west portion of the site onto Hillcrest Street will be by two (2) local streets 60 feet wide. Ingress and egress from the south portion of the site onto Morton Avenue (developed four (4) lane arterial street) will be by a local street 60 feet wide.

Construction of a six (6) foot block wall and landscaping along the Morton Avenue, Hillcrest and Henderson Avenue frontages of the project will be required. Said area shall be placed in a Landscape Maintenance District. Particular attention shall be directed to provide a graffiti free design through the use of a combination of trees, shrubs and vines to be planted to screen the wall.

On May 24, 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 May 31, 2005 to June 21, 2005. The only
agencies that responded were the Tulare County Association of Governments and Porterville Unified School District.

Over the course of the past year or so, the City of Porterville has received a number of subdivision map applications for development of hillside properties. In the meantime, City Staff and the Hillside Development Committee have been undertaking the establishment of a Hillside Development Ordinance to temporarily guide development on hillside properties while permanent standards can be developed and adopted. Until the Hillside Development Ordinance can be adopted, City Staff is requesting that an Interim Urgency Ordinance defining a process and establishing criteria for hillside development be adopted defining the process and criteria for the development of hillside properties within the City of Porterville Urban Development Boundary.

While this interim measure aims at protecting the health, safety and general welfare of the community, it does not propose halting development entirely. The ordinance establishes a process and a set of guiding principles for development to adhere to, to ensure that appropriate accommodation of connectivity between development occurs, and that grading will be performed that is sensitive to the natural terrain and promotes sensitive grading design features such as limiting retaining walls, placing slopes on proposed parcels that promote the most logical ownership of slopes, etc.

Development of the hillside is a sensitive proposition and the current City regulations do not protect the public health, safety and general welfare of the community. The proposed Interim Urgency Ordinance is intended to provide time to develop permanent standards for Council consideration.

Based on the above described circumstances, Staff has outlined three options for the City Council to consider in determining an action on the proposed map as follows:

1. If Council does not approve the proposed interim urgency ordinance prior to hearing this matter, approve the Canyon Springs Tentative Subdivision Map.

2. If Council approves the proposed interim urgency ordinance prior to hearing this matter, deny the Canyon Springs Tentative Subdivision Map and direct the applicants, if they so wish to make application for a conditional use permit with any proposed changes to the current map that address the guiding principles.

3. Approve the tentative subdivision map as presented.

RECOMMENDATION: That the City Council:

(1) Adopt the draft resolution approving the Negative Declaration for Canyon Springs Estates Tentative Subdivision Map; and
(2) If the Interim Urgency Ordinance is not adopted, adopt the draft resolution approving Canyon Springs Estates Tentative Subdivision Map; and

(3) If the Interim Urgency Ordinance is adopted, deny the draft resolution approving Canyon Springs Estates Tentative Subdivision Map without prejudice.

(4) Approve the draft resolution approving Canyon Springs Estates Tentative Subdivision Map without prejudice.

ATTACHMENT:

1. Complete Staff Report
CITY COUNCIL AGENDA: SEPTEMBER 6, 2005

STAFF REPORT - (CONTINUED)

TITLE: CANYON SPRINGS ESTATES TENTATIVE SUBDIVISION MAP

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

APPLICANT: Brent Bailio
Contour Development, Inc.
14502 Brook Hollow
San Antonio, TX 78232

AGENT: Hal Lore
Peters Engineering Group
55 Shaw Avenue
Clovis, CA 93611

PROJECT LOCATION: The northeast corner of Morton Avenue and Hillcrest Street.

SPECIFIC REQUEST: The applicant is requesting approval of the Canyon Springs Estates Tentative Subdivision Map to divide a 67.42± acre vacant parcel zoned City R-1 (One-Family Zone) into a 230± lot single family residential subdivision to be developed in two (2) phases.

PROJECT DETAILS: The site is irregularly shaped extending north and south. The south portion fronts on Morton Avenue. The west portion fronts on Hillcrest Street. The subject site has a gentle sloping hill extending upward from Hillcrest Street to the east with a grade up to 15%. The FIRM Flood Insurance Map 065066 0865 B, dated September 29, 1986, indicates the subject site is located in Flood Zone C (areas of minimal flooding).

All the interior streets within the proposed subdivision are designed to be 60 feet wide, with the exception of two (2) cul-de-sacs, which will be 50 feet wide. Ingress and egress from the north portion of the subject site will be from Henderson Avenue (a 3/4 street) extending west to Hillcrest Street (designated arterial street). Ingress and egress from the west portion of the site onto Hillcrest Street will be by two (2) local streets 60 feet wide. Ingress and egress from the south portion of the site onto Morton Avenue (developed four (4) lane arterial street) will be by a local street 60 feet wide.

Construction of a six foot (6’) block wall and landscaping along the Morton Avenue, Hillcrest and Henderson Avenue frontages of the project will be required. Said area shall be placed in a Landscape Maintenance District. Particular attention shall be directed to provide a graffiti free design through the use of a combination of trees, shrubs and vines to be planted to screen the wall.

GENERAL PLAN DESIGNATION: Low Density Residential.
SURROUNDING ZONING LAND USE:

North: County - Rural residential uses.
South: City - Morton Avenue and vacant land.
East: City - Citrus trees and a hillside.
West: City - Hillcrest Street, City retention basin and Jasmine Ranch (single family residential subdivision).

SUBDIVISION REVIEW: Pursuant to Article 4 of the Subdivision Ordinance, the Initial Study and proposed Mitigation Measures were transmitted to public/private agencies for a 20 day review period from May 31, 2005 to June 21, 2005. As of this date, the following agencies responded.

San Joaquin Unified Air Pollution District
Resources Management Agency- Long Range Planning
Resources Management Agency- Engineering/Flood/Traffic Division
Tulare County Health and Human Services Agency
Department of Fish and Game
California Regional Water Quality Control Board
Tulare County Association of Government
District Archaeologist
Charter Communications
Southern CA Edison
Postmaster
SBC Communications
Southern CA Gas
Porterville Unified School District
Alta Vista Elementary School
Tulare County Farm Bureau

No response
No response
No response
No response
No response
June 14, 2005
No response
No response
No response
No response
June 21, 2005
No response

COMMENT: Tulare County Association of Governments

The Tulare County Association of Governments Traffic Impact Study Guidelines indicates that a focused traffic study is recommended if ether phase is developed. The Focused Traffic Study would analyze any impacts to the intersection along Henderson Avenue, Hillcrest Street, Morton Avenue and Grand Avenue.

STAFF RESPONSE:

The Environmental Initial Study has addressed the areas of transportation and circulation as follows:

6.a Eventual development of the complete 230± lot subdivision is anticipated to result in additional daily trips. Based of the Circulation Element of the General Plan, 9.55 daily trips would be generated per unit, for a total of 2,196.5 average daily trips.
All the interior streets within the proposed subdivision are designed to be 60 feet wide, with the exception of two (2) cul-de-sac streets, which will be 50 feet wide. Ingress and egress from the north portion of the subject site will be from Henderson Avenue (a 3/4 street) extending west to Hillcrest Street (designated arterial street). Ingress and egress from the west portion of the site onto Hillcrest Street will be by two (2) local streets 60 feet wide. Ingress and egress from the south portion of the site onto Morton Avenue (developed four (4) lane arterial street) will be by a local street 60 feet wide.

The Morton Avenue project recently reconstructed this street extending east to Conner Street (developed two (2) lane local street) and south to Olive Avenue (developed two (2) lane arterial). The Morton Avenue project also reconstructed this street to the west toward Leggett Street (developed two (2) lane collector street) and extended it further west to Plano Street (developed four (4) lane arterial street). At the intersection of Leggett Street and Morton Avenue, controlled signal lights have been installed.

The Porterville Circulation Element of the General Plan indicates the following:

Four (4) lane arterials have the capacity to carry 25,000 ADT. Two (2) lane arterials have the capacity to carry 12,500 ADT. Two (2) lane collectors have the capacity to carry 12,500 ADT.

No traffic counts have been conducted in this area. The additional traffic generated by the proposed development will not reduce the performance of these streets since they were originally designed to handle the additional traffic in this area. Therefore, the impact is less than significant.

6.b Required improvements along the Henderson Avenue and Hillcrest Street and the interior street will be required to be designed and improved to City Standards which are intended to avoid hazardous situations. Existing curb, gutter and sidewalk exist along the Morton Avenue frontage.

6.e 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.

Additionally, the Low Density Residential designation of the General Plan allows for a density of 2/7 family units per acre. The site will be developed to a density of 3.57 units per acre. Therefore, no Traffic Impact Study will be required.

COMMENT: Porterville Unified School District

1. The access for this development is designated to be off of Hillcrest Street. Bus access to this development will be very limited, as Hillcrest Street is currently not a through street and, thus, does not provide an adequate turn-around area for school bus transportation
vehicles. To pick up students from this development, school buses would have to either conduct a three-point turn around or drive through the development to eventually exit the area. For safety purposes, the School District takes every step possible to avoid school buses from having to back up, especially in potentially congested areas. Therefore, a three-point turn around would not be a desirable alternative. School buses driving through the development would require navigating small residential streets and having to drive additional distances, which would raise the cost of operation, as well as creating excessive engine emissions. One alternative to address this issue would be to create a traffic circle at the intersection of Contour Avenue and Hillcrest Street.

**Staff Response:**

The applicant/agent has agreed to provide a bus turnout along Morton Avenue. The construction of the turnout would allow for the bus to stop out of the lane of traffic. The lots designated for this turn out would be between Canyon Street and Hillcrest Street. The location will be determined based on the consensus of the school district and City Engineer. The location any closer to the Hillcrest and Morton Intersection may cause a traffic hazard.

A turn out could also be provided along Hillcrest Street. However, a traffic circle at the intersection of Contour Avenue and Hillcrest is not feasible. If the bus turnout was constructed on Hillcrest Street, the bus could still continue to Henderson Avenue and go north to a proposed temporary turnaround at the northwest corner of the proposed site, or turn on Geringer Street and proceed east through the proposed subdivision an exit on Contour Avenue, or Belleview Avenue to Hillcrest or Canyon Street and exit on Morton Avenue.

**COMMENT: Porterville Unified School District**

2. The lack of available city recreational facilities, such as local parks, would cause additional impact upon our existing school grounds for recreational purposes. Students generated from this development, based upon the proposed design, would not have facilities available and would be forced to go to the nearest schools (John J. Doyle Elementary School and Granite Hills High School) for their open-area recreational needs. This not only would impact the operational costs for school facility maintenance, but would, also, cause additional safety concerns for students having to travel this distance to meet their recreational needs.

**Staff Response:**

The City Council has expressed their desire to include “pocket parks” within new subdivisions. Since no ordinance has been established as of this date, Staff can only request that “pocket parks” be implemented in all new proposals. As a result, the applicant/agent has agreed to provide a “pocket park” for that area designated as Lot 77 and Lot 78. These two (2) lots will be included in the Landscape and Maintenance District. The negotiation to install the play equipment for a tot-lot will be required between the effected parties.
COMMENT: Porterville Unified School District

3. The impact on facilities to the School District generated from a development this size would be significant. The School District uses a generation factor of .7 students per new household. A development of 230 homes would generate 161 students. In accordance with the School District’s 2004 Developer Fee Justification Study, the cost of constructing facilities per new student is $13,607. This development would generate a need for $2,109,237 in school facilities. The School District currently assesses a fee of $2.24 per square foot for new development. Based upon the average home size of 1,500 square feet, income generated from this development would be $772,800, leaving a difference of $1,419,537 needed to adequately meet the needs of students this development is projected to generate.

Staff Response:

The comment has been noted.

STAFF ANALYSIS: 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 proposal to develop the 67.42± acre vacant parcel zoned City R-1 (One-Family Zone) into a 230± lot single family residential subdivision to be developed in two (2) phases with the General Plan’s Low Density Residential land use designation and R-1 (One-Family Residential) zoning classification for the site.

The Subdivision Review Committee, on June 22, 2005, discussed concerns and conditions that should be addressed before the City Council. Conditions developed as a result of this meeting and subsequent Staff review will be discussed with the applicant’s agent and incorporated into the draft resolution of approval.

Over the course of the past year or so, the City of Porterville has received a number of subdivision map applications for development of hillside properties. In the meantime, City Staff and the Hillside Development Committee have been undertaking the establishment of a Hillside Development Ordinance to temporarily guide development on hillside properties while permanent standards can be developed and adopted. Until the Hillside Development Ordinance can be adopted, City Staff is requesting that an Interim Urgency Ordinance defining a process and establishing criteria for hillside development be adopted defining the process and criteria for the development of hillside properties within the City of Porterville Urban Development Boundary.

While this interim measure aims at protecting the health, safety and general welfare of the community, it does not propose halting development entirely. The ordinance establishes a process and a set of guiding principles for development to adhere to, to ensure that appropriate accommodation of connectivity between development occurs, and that grading will be performed that is sensitive to the natural terrain and promotes sensitive grading design features such as
limiting retaining walls, placing slopes on proposed parcels that promote the most logical ownership of slopes, etc.

Development of the hillside is a sensitive proposition and the current City regulations do not protect the public health, safety and general welfare of the community. The proposed Interim Urgency Ordinance is intended to provide time to develop permanent standards for Council consideration.

ALTERNATIVES TO THE PROJECT AND THEIR EFFECT:

1. If Council does not approve the proposed interim urgency ordinance prior to hearing this matter, approve the Canyon Springs Tentative Subdivision Map.

2. If Council approves the proposed interim urgency ordinance prior to hearing this matter, deny the Canyon Springs Tentative Subdivision Map and direct the applicants, if they so wish to make application for a conditional use permit with any proposed changes to the current map that address the guiding principles.

3. Approve the tentative subdivision map as presented.

ENVIRONMENTAL: On May 24, 2005, the Environmental Coordinator made a preliminary determination that a Mitigated Negative Declaration would be appropriate for the proposed project recommending that the City Council adopt a Negative Declaration prepared for this project. Under the Permit Streamlining Act (Section 65950 of the Government Code), the City has 180 days from the date the application was accepted as complete to prepare a Negative Declaration. If necessary, an additional 60 days may follow certification of the Negative Declaration in order to make a determination regarding the project.

DATE FILED FOR SUBDIVISION REVIEW COMMITTEE PROCESSING: June 22, 2005

DATE ACCEPTED AS COMPLETE: June 22, 2005

RECOMMENDATION: That the City Council:

(1) Adopt the draft resolution approving the Negative Declaration for Canyon Springs Estates Tentative Subdivision Map; and

(2) If the Interim Urgency Ordinance is not adopted, adopt the draft resolution approving Canyon Springs Estates Tentative Subdivision Map; or
(3) If the Interim Urgency Ordinance is adopted, deny the draft resolution approving Canyon Springs Estates Tentative Subdivision Map without prejudice; or

(4) Approve the draft resolution approving Canyon Springs Estates Tentative Subdivision Map without prejudice.

ATTACHMENTS:

1. Canyon Springs Estates Tentative Subdivision Map
2. Conceptual grading plan
3. Conceptual turn around
4. Environmental Initial Study
5. Negative Declaration
6. Letter dated June 14, 2005 from the Tulare County Association of Governments
7. Letter dated June 21, 2005 from Porterville Unified School District
8. Letter received August 31, 2005 from Abbott & Kindermann, LLP
9. Draft Environmental Resolution
10. Draft Resolution of Approval
11. Draft Resolution of Denial
CITY OF PORTERVILLE

ENVIRONMENTAL CHECKLIST FORM

1. Project Title: Canyon Springs Estates

2. Lead Agency Name and Address: City of Porterville
   P.O. Box 432
   Porterville, CA 93258

3. Contact Person and Phone Number: Bradley D. Dunlap

4. Project Location: Generally the northeast corner of Morton Avenue and Hillcrest Street.

5. Project Sponsor's Name and Address: Contour Development Inc.
   14502 Brook Hollow
   San Antonio, TX 78232

6. General Plan Designation: Low Density Residential

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

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

   The subdivision of a 67.42± acre vacant parcel zoned City R-1 (One-Family Zone) into a 230± lot single family residential subdivision to be developed in two (2) phases (see page 3b).

9. Surrounding Land uses and Setting:

   North: County - Rural residential uses.
   South: City - Morton Avenue and vacant land.
   East: City - Citrus trees and a hillside.
   West: City - Hillcrest Street, City retention basin and Jasmine Ranch (single family residential subdivision).

   The subject site has been utilized for dry farming (oat hay). The site is rectangular in shape extending north and south. The south portion fronts on Morton Avenue. The west portion fronts on Hillcrest Street. The subject site has a gentle sloping hill extending from Hillcrest Street to the east with a grade of 1% to 15%. The FIRM Flood Insurance Map 065066 0865 B, dated September 29, 1986 indicates the subject site is located in Flood Zone C (areas of minimal flooding).

   The site has historically been used for agricultural purposes, mainly the growing of grains. As such, agricultural land use practices have relied on and depended on the utilization of cultivation, irrigation, and spraying operations, which means that the soils in this area have been frequently plowed, tilled, disced, or graded, and in some instances, excavated and ripped.

   Pesticides, insecticides, and rodenticides are commonly used for rodent, varmint, and pest control. Herbicides are also used to prevent weeds and grasses from competing for irrigation water. Over the years, these farming practices have eliminated and destroyed indigenous vegetation which might otherwise provide protective cover for wildlife. There are no known cultural, historical, archeological, or scenic aspects peculiar to the area of the project.

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

ATTACHMENT
ITEM NO. 4
ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

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

<table>
<thead>
<tr>
<th>Land use and Planning</th>
<th>Biological Resources</th>
<th>X</th>
<th>Aesthetics</th>
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<tbody>
<tr>
<td>Population and Housing</td>
<td>Energy and Mineral Resources</td>
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<td>Cultural Resources</td>
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<tr>
<td>X Geological Problems</td>
<td>Hazards</td>
<td></td>
<td>Recreation</td>
</tr>
<tr>
<td>X Water</td>
<td>Noise</td>
<td></td>
<td>Mandatory Findings of Significance</td>
</tr>
<tr>
<td>X Air Quality</td>
<td>Public Services</td>
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<tr>
<td>Transportation and Circulation</td>
<td>X</td>
<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. |
| X |
| 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: 

[Signature]

Date: 5/24/05

Bradley D. Dunlap, AICP
Printed Name

City of Porterville
For
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 Low Density Residential Uses (2 to 7 d.u. per acre) and the site is located within the R-1 (One Family Residential) Zone.

The project proposes the division of a vacant 67.42± acre parcel into a 230 lot single family residential subdivision in two (2) phases. The proposed subdivision would have a gross residential density of approximately 3.57 units/acre.

The subdivision as proposed is consistent with the policies and guidelines set forth in the Land Use Element and Circulation Element of the General Plan and the Zoning Ordinance. The project as proposed will not violate any of the 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 site has been used for dry land farming. The area to the north has rural residential uses. The area to the south is vacant. The area to the west has a retention basin and Jasmine Ranch (single family residential subdivision). The area to the east has citrus trees and a hillside. It is not anticipated the proposed project will affect the agricultural resources or operations of the site to the east. Therefore, the impact is less than significant.

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

2. POPULATION AND HOUSING -- Would the proposal:

a. Cumulatively exceed official regional or local population projections?

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)?

Discussion: Infrastructure is located in Hillcrest Street and Morton Avenue. The proposed project will facilitate development envisioned by the General Plan and Zoning Ordinance. Therefore, the project as proposed will not induce substantial growth in this area.

Source: 1 & 3

c. Displace existing housing, especially affordable housing?

Discussion: The project as proposed will not require the removal of any existing housing.

Source: 1, 3 & 30

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

a. Fault rupture?

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

Source: 7
<table>
<thead>
<tr>
<th></th>
<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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<tbody>
<tr>
<td>b. Seismic ground shaking?</td>
<td></td>
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<td>X</td>
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<tr>
<td>Discussion: No faults are known to exist in this area. Therefore, the project will not expose people to hazards from seismic ground shaking.</td>
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<td>Source: 7</td>
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<tr>
<td>c. Seismic ground failure, including liquefaction?</td>
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<td>X</td>
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<tr>
<td>Discussion: No faults are known to exist in this area. Therefore, the project will not expose people to hazards from seismic ground failure.</td>
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<td>Source: 7</td>
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<td>d. Seiche, tsunami, or volcanic hazard?</td>
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<td>X</td>
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<td>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.</td>
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<td>Source: 7</td>
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<tr>
<td>e. Landslides or mudflows?</td>
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<td>X</td>
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<td>Discussion: The subject site has a gently sloping hill extending from Hillcrest Street to the east with a grade varying from 1% to 15%. This is not sufficiently steep to cause a landslide or mudflow.</td>
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<tr>
<td>Mitigation: In general, downhill slopes shall be incorporated into the downhill lot as they are most affected by the maintenance of slopes. Vegetation, to include trees, shrubs, groundcover and/or other slope stabilization to the satisfaction of the City engineer shall be installed prior to the issuance of a certificate of occupancy for each residence.</td>
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<td>Source: 7</td>
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<td>f. Erosion, changes in topography or unstable soil conditions from excavation, grading or fill?</td>
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<td>X</td>
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<tr>
<td>Discussion: Future development of the site with single family residential uses would 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.</td>
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<tr>
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</table>
Additionally, the following condition will be added in the resolution of approval for the tentative map as follows:

The applicant/developer is hereby notified that an approved Conceptual Grading Plan is on file with the City of Porterville. Grading Plan(s) not following the scheme of the approved Conceptual Grading Plan require Public Works Department and Community Development Department approval dug the master plan development review. For the purposes of this condition, master plan development review is defined as a combined grading/improvement plan that illustrates lot grades, curb grades, pipeline inverts, fire hydrants, street light, etc. for full build out (all phases) of the proposed development.

Additional 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? _________ _________ _________ X

Discussion: Development of the site with a single family residential subdivision will not affect the subsurface soil structure and therefore will not contribute to any subsidence of land.

Source: 4 & 7

h. Expansive soils?

Discussion: The subject site contains highly expansive soils. Development in this area may be subject to significant stresses which must be addressed in design to prevent damage to public & private improvements.

MITIGATION:

Mitigation measures include the enforcement of the 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, etc., will be required.

Depending on the soils report, an engineered foundation design would be required. As an alternative, the removal of native soil could be replaced with non-expansive material.

Source: 4, 22 & 29

i. Unique geologic or physical features? _________ _________ _________ X

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:**

<table>
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<tr>
<th>Potentially Significant Impact</th>
<th>Less Than Significant</th>
<th>Less Than Significant with Mitigation Incorporation</th>
<th>No Impact</th>
</tr>
</thead>
</table>

a. Changes in absorption rates, drainage patterns, or the rate and amount of surface runoff? [Mark: X]

*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. Based on the topography, construction of streets and drainage will be required for each phase pursuant to the scheme of the approved Conceptual Grading Plan. Mitigation: Mitigation measures include the enforcement of a site development plan or the development related conditions of approval requiring erosion control plans and the conservation of vegetation, with soil disturbance 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. Additional mitigation will require compliance with federal, State and local regulation requiring that storm water runoff monitored and maintained free of heavy concentration of pollutants will mitigate this potential impact to a level of insignificance (NPDES standards). Drainage patterns shall account for the steep slope, as well as the capture of all uphill storm water. Storm drains and basins shall be sized to accommodate for all anticipated drainage. Source: 1 & 4* |

b. Exposure of people or property to water related hazards such as flooding? [Mark: X]

*Discussion: The site is rectangular in shape extending north and south. The south portion fronts on Morton Avenue. The west portion fronts on Hillcrest Street. The subject site has a gentle sloping hill extending from Hillcrest Street to the east with a grade varying from 1% to 15%. The FIRM Flood Insurance Map 065066 0865 B, dated September 29, 1986 indicates the subject site is located in Flood Zone C (areas of minimal flooding). In general, downhill slopes shall be incorporated into the downhill lot as they are most affected by the maintenance of slopes. Vegetation, to include trees, shrubs, groundcover and/or other slope stabilization to the satisfaction of the City engineer shall be installed prior to the issuance of a certificate of occupancy for each residence. Therefore, no impact will occur. Source: 1, 4 & 26* |

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

*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 67.42± 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).

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 67.42± acre site, as described, will not 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 any future development of the site for residential uses 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
<table>
<thead>
<tr>
<th>g. Altered direction or rate of flow of groundwater?</th>
<th></th>
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<th>X</th>
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</thead>
<tbody>
<tr>
<td>Discussion: Future development of the site with residential uses would not require any cuts or excavations other than minor grading, therefore, the direction of flow of groundwater will not be altered.</td>
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<tr>
<td>Source: 1 &amp; 4</td>
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<tr>
<td>h. Impacts to groundwater quality?</td>
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<td></td>
<td>X</td>
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<td>--------------------------------------------------</td>
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</tr>
<tr>
<td>Discussion: Future development of the site with residential uses would not require any cuts or excavations other than minor grading. No uses are proposed which could cause the discharge of pollutants into the groundwater.</td>
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<tr>
<td>Source: 1 &amp; 4</td>
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<tr>
<td>i. Substantial reduction in the amount of groundwater otherwise available for public water supplies?</td>
<td></td>
<td></td>
<td>X</td>
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<tr>
<td>--------------------------------------------------</td>
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</tr>
<tr>
<td>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.</td>
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<td></td>
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<tr>
<td>Source: 1 &amp; 4</td>
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</table>

5. **AIR QUALITY -- Would the proposal:**

<table>
<thead>
<tr>
<th>a. Violate any air quality standard or contribute to an existing or projected air quality violation?</th>
<th></th>
<th>X</th>
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</thead>
<tbody>
<tr>
<td>Discussion: Future development of the site with 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.</td>
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<tr>
<td>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 carpooling and public transportation in the area, and the encouragement of non-motorized transportation modes (i.e./bicycles and walking).</td>
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</table>

**MITIGATION THROUGH CONSTRUCTION MANAGEMENT:**

1. The Developer 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.
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</thead>
</table>

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 residential 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.**

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.**

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

6. **Natural gas lines and electrical outlets should be installed in the backyard or patio areas to encourage the use of gas and/or electrical barbeques.**

7. **Electrical outlets should be installed around the exterior of the units to encourage the use of electric landscape maintenance equipment.**

8. **Awnings or other shading mechanism for windows should be installed.**

9. **Ceiling fans should be installed.**

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

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

12. **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.

   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.**
c. No person shall install more than one (1) wood burning fireplace or wood burning heater in each new dwelling unit.

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.

Source: 24

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

Discussion: The proposed site has a portion of a developed single family residential subdivision to the west (Jasmine Ranch) and a single family residential dwelling to the southeast. 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?  ------  ------  ------  ------  X

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?  ------  ------  ------  X

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?  ------  ------  ------  X  ------

Discussion: Eventual development of the complete 230 ± lot subdivision is anticipated to result in additional daily trips. Based of the Circulation Element of the General Plan, 9.55 daily trips would be generated per unit, for a total of 2,196.5 average daily trips.

All the interior streets within the proposed subdivision are designed to be 60 feet wide, with the exception off two (2) cul-de-sac streets which will be 50 feet wide. Ingress and egress from the north portion of the subject site will be from Henderson Avenue (a 3/4 street) extending west to Hillcrest Street (designated arterial street). Ingress and egress from the west portion of the site onto Hillcrest Street will be by two (2) local streets 60 feet wide. Ingress and egress from the south portion of the site onto Morton Avenue (developed four (4) lane arterial street) will be by a local street 60 feet wide.

The Morton Avenue project recently reconstructed this street extending east to Conner Street (developed two (2) lane local street) and south to Olive Avenue (Developed two (2) lane arterial). The Morton Avenue project also reconstructed this street to the west toward Leggett Street (developed two (2) lane collector street) and
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extended it further west to Plano Street (developed four (4) lane arterial street). At the intersection of Leggett Street and Morton Avenue, controlled signal lights have been installed.

The Porterville Circulation Element of the General Plan indicates the following:

Four (4) lane arterials have the capacity to carry 25,000 ADT. Two (2) lane arterials have the capacity to carry 12,500 ADT. Two (2) lane collectors have the capacity to carry 12,500 ADT.

No traffic counts have been conducted in this area. The additional traffic generated by the proposed development will not reduce the performance of these streets since they were originally designed to handle the additional traffic in this area. Therefore, the impact is less than significant. (designated

Source: 1, & 2

b. Hazards to safety from design features (e.g. sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)?

Discussion: Required improvements along the Henderson Avenue and Hillcrest Street and the interior street will be required to be designed and improved to City Standards which are intended to avoid hazardous situations. Existing curb, gutter and sidewalk exist along the Morton Avenue frontage. Therefore, the impact is less than significant.

Source: 1 & 2

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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<tr>
<td>f. Conflicts with adopted policies supporting alternative transportation (e.g. bus turnouts, bicycle racks)?</td>
<td>__________</td>
<td>__________</td>
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</table>

**Discussion:** The project as proposed will not conflict with adopted policies supporting alternative transportation.

**Source:** 1, 2 & 31

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<tbody>
<tr>
<td>g. Rail, waterborne or air traffic impacts?</td>
<td>__________</td>
<td>__________</td>
<td>__________</td>
<td>X________</td>
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</table>

**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:**

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</tr>
</thead>
<tbody>
<tr>
<td>a. Endangered, threatened or rare species or their habitats (including but not limited to plants, fish, insects, animals or birds)?</td>
<td>__________</td>
<td>__________</td>
<td>__________</td>
<td>X________</td>
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**Discussion:** The site has historically been used for agricultural purposes, mainly the growing of wheat and grain. As such, agricultural land use practices have relied on and depended on the utilization of cultivation, irrigation, and spraying operations, which means that the soils in this area have been frequently plowed, tilled, disced, or graded, and in some instances, excavated and ripped.

Pesticides, insecticides, and rodenticides are commonly used for rodent, varmint, and pest control. Herbicides are also used to prevent weeds and grasses from competing for irrigation water. Over the years, these farming practices have eliminated and destroyed indigenous vegetation which might otherwise provide protective cover for wildlife. There are no known cultural, historical, archeological, or scenic aspects peculiar to the area of the project.

City staff conducted an on-site inspection. No endangered, threatened or rare species or habitats were observed. As such, no endangered, threatened or rare species or habitats exist and no impact will occur.

**Source:** 4, 5, 15 & 30

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<tr>
<td>b. Locally designated species (e.g. heritage trees)?</td>
<td>__________</td>
<td>__________</td>
<td>__________</td>
<td>X________</td>
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</table>

**Discussion:** The site has historically been used for agricultural purposes, mainly the growing of grains. As such, agricultural land use practices have relied on and depended on the utilization of cultivation, irrigation, and spraying operations, which means that the soils in this area have been frequently plowed, tilled, disced, or graded, and in some instances, excavated and ripped.

Pesticides, insecticides, and rodenticides are commonly used for rodent, varmint, and pest control. Herbicides are also used to prevent weeds and grasses from competing for irrigation water. Over the years, these farming practices have eliminated and destroyed indigenous vegetation which might otherwise provide protective cover for wildlife.
City staff conducted an on-site inspection. There are no known designated species (e.g. heritage trees) existing on this site. As such, no endangered, threatened or rare species or habitats exist and no impact will occur.

Source: 4, 5, 15 & 30

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<tr>
<td>c. Locally designated natural communities (e.g. oak forest, coastal habitat, etc.)?</td>
<td>_____</td>
<td>_____</td>
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</tr>
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</table>

Discussion: The site has historically been used for agricultural purposes, mainly the growing of grains. As such, agricultural land use practices have relied on and depended on the utilization of cultivation, irrigation, and spraying operations, which means that the soils in this area have been frequently plowed, tilled, disced, or graded, and in some instances, excavated and ripped.

Pesticides, insecticides, and rodenticides are commonly used for rodent, varmint, and pest control. Herbicides are also used to prevent weeds and grasses from competing for irrigation water. Over the years, these farming practices have eliminated and destroyed indigenous vegetation which might otherwise provide protective cover for wildlife.

City staff conducted an on-site inspection. No endangered, threatened or rare species or habitats were observed. As such, no impact to locally designated natural communities will occur.

d. Wetland habitat (e.g. march, riparian and vernal pool)?

| _____ | _____ | _____ | X |

Discussion: The site has historically been used for agricultural purposes, mainly the growing of grains. As such, agricultural land use practices have relied on and depended on the utilization of cultivation, irrigation, and spraying operations, which means that the soils in this area have been frequently plowed, tilled, disced, or graded, and in some instances, excavated and ripped.

Pesticides, insecticides, and rodenticides are commonly used for rodent, varmint, and pest control. Herbicides are also used to prevent weeds and grasses from competing for irrigation water. Over the years, these farming practices have eliminated and destroyed indigenous vegetation which might otherwise provide protective cover for wildlife. There are no known cultural, historical, archeological, or scenic aspects peculiar to the area of the project.

City staff conducted an on-site inspection. No endangered, threatened or rare species or habitats were observed. As such, no impact to wetland habitat will occur.

Source: 4, 5, 15 & 30

e. Wildlife dispersal or migration corridors?

| _____ | _____ | _____ | X |

Discussion: The site has historically been used for agricultural purposes, mainly the growing of grains. As such, agricultural land use practices have relied on and depended on the utilization of cultivation, irrigation, and spraying operations, which means that the soils in this area have been frequently plowed, tilled, disced, or graded, and in some instances, excavated and ripped.
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North: County - Rural residential uses.
South: City - Morton Avenue and vacant land.
East: City - Citrus trees and a hillside.
West: City - Hillcrest Street, City retention basin and Jasmine Ranch (single family residential subdivision).

As a result of the aforementioned uses in this area, it is not anticipated that any wildlife dispersal or migration corridors exist in this area. As a result of the proposed project, will not disrupt any wildlife dispersal or migration corridors in this area.

*City staff conducted an on-site inspection. No endangered, threatened or rare species or habitats were observed. 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?  

   *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?  

   *Discussion: The project 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?  

   *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:**

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 residential development.

   **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 an 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
10. **NOISE** -- Would the proposal result in:

a. Increase in existing noise levels? [X]

*Discussion: Future development of the site with residential uses will create some noise during the construction stage of the project. This noise would cease once the construction is completed. Additionally, compliance with Section 3.3.2 of the Noise Element of the General Plan will be required. A modest increase in noise will also occur due to the additional traffic generated by the proposed subdivision. 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 residential uses will create some noise during the construction stage of the project. This noise would cease once the construction is completed. Additionally, compliance with Section 3.3.2 of the Noise Element of the General Plan will be required. A modest increase in noise will also occur due to the additional traffic generated by the proposed subdivision. 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: The proposed residential project has the potential to increase enrollment within 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 230 additional single family residences is less than significant. therefore, the impact is less than significant."

*Source: 1, 2, 3, 5, 7 & 8*
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<tr>
<td>d. Maintenance of public facilities, including roads?</td>
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</table>

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? | | | X |

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? | | | X |

Discussion: Electricity and natural gas exists at the site.

Source: 1 & 3

b. Communications systems? | | | X |

Discussion: Telephone lines exist at the site.

Source: 1 & 3

c. Local or regional water treatment or distribution facilities? | | | X |

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

Source: 21 & 28

d. Sewer or septic tanks? | | | X |

Discussion: A 10" sewer line exists in Morton Avenue and Hillcrest Street.

In 1994, the Water Treatment Plant increased its 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).

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

Discussion: An 18" storm drain line exists at the corner of Morton Avenue. A drop inlet is located on the north side of Morton Avenue approximately 300± feet east of Hillcrest Street.
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 with single family residential uses, 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.

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: 17, 20 & 21

f. Solid waste disposal? ________ ________ ________ ________ X

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? ________ ________ ________ X ________

Discussion: A 16" water line exists in Hillcrest Street and Morton Avenue. 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.

Continued implementation of the adopted Sewer and Water Master Plans will insure adequate service as development occurs with the Urban Development Boundary.

Source: 1, 4 & 21

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? 

Discussion: New sources of light and glare will result from subsequent street lighting, and residential dwellings to be installed/developed.

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? 

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, 35 & 36

b. Disturb archaeological resources? 

Discussion: 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, 35 & 36

c. Affect historical resources? 

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, 35 & 36
d. Have the potential to cause a physical change which would affect unique ethnic cultural values?

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, 35 & 36

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

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:

a. Increase the demand for neighborhood or regional parks or other recreational facilities?

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?

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: The site has historically been used for agricultural purposes, mainly the growing grains. As such, agricultural land use practices have relied on and depended on the utilization of cultivation, irrigation, and spraying operations, which means that the soils in this area have been frequently plowed, tilled, disced, or graded, and in some instances, excavated and ripped.

Pesticides, insecticides, and rodenticides are commonly used for rodent, varmint, and pest control. Herbicides are also used to prevent weeds and grasses from competing for irrigation water. Over the years, these farming practices have eliminated and destroyed indigenous vegetation which might otherwise provide protective cover for wildlife.

City staff conducted an on-site inspection. As such, no endangered, threatened or rare species or habitats exist and no impact will occur.

Source: 1, 30 & 35

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

Discussion: The proposed residential subdivision 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
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 prograred 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*

<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>
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<td>X</td>
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</table>

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)
4  Conservation Element of the Porterville General Plan (1998)
5  Open Space Element of the Porterville General Plan (1998)
6  Noise Element of the Porterville General Plan (1988)
7  Safety Element of the Tulare County General Plan (1998)
8  Parks and Recreation Element of the Porterville General Plan (2000)
9  Airport Master Plan (1990)
10  Porterville Strategic Plan (1992)
11  City of Porterville Subdivision Ordinance (1988)
12  City of Porterville Zoning Ordinance (1998)
13  City of Porterville Local Guidelines for Administering CEQA (1992)
14  Chapter 7, Article XIII of the Porterville City Code (1998)
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)
18  California Building Code (2001)
19  Tulare County Congestion Management Program (1998)
20  City of Porterville Sewer Master Plan (2001)
21  City of Porterville Water Master Plan (2001)
22  City of Porterville Standard Plans and Specifications (1996)
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
26  FEMA Flood Insurance Panels No. 065066 0865 B, September 29, 1986
27  1990 Census Data/Tract and Block Group Maps
28  Existing Infrastructure and Facilities Capacity
29  Soils Conservation Service Maps - Tulare County (1982)
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
NEGATIVE DECLARATION

LEAD AGENCY: City of Porterville
PROJECT APPLICANTS: Contour Development Inc.

291 North Main Street
14502 Brook Hollow
Porterville, California 93257
San Antonio, TX 78232

PROJECT TITLE: Canyon Springs Estates Tentative Subdivision Map

ADDRESS/LOCATION: Northeast corner of Hillcrest Street and East Morton Avenue.

PROJECT APPLICANT: Contour Development Inc.

PROJECT DESCRIPTION: The Tentative Subdivision Map for Canyon Springs Estates to divide a 67.42± acre vacant parcel zoned City R-1 (One Family Residential) Zone into 230 single family residential lots in two (2) phases.

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

On May 24, 2005, the Environmental Coordinator of the City of Porterville determined that the above project will have no significant effect 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.

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: May 24, 2005

Approved:

Bradley D. Dunlap, Environmental Coordinator

Word: Negdec Canyon Springs

ATTACHMENT
ITEM NO. 5
June 14, 2005

Bradley Dunlap  
Community Development Director  
City of Porterville  
291 North Main Street  
Porterville, CA  93257  

RE: Canyon Springs Estates  

Dear Mr. Dunlap:  

Thank you for the opportunity to comment on the above referenced project. The project description discloses that the application is for the subdivision of approximately 67.42 acres into a 230 lot single-family residential subdivision to be developed into two phases.  

The Tulare County Association of Governments *Traffic Impact Study Guidelines* indicates that a focused traffic study is recommended if either phase is developed. The focused traffic study would analyze any impacts to the intersections along Henderson Avenue, Hillcrest Street, Morton Avenue, and Grand Avenue.  

Should you have any questions regarding this matter, please give me a call.  

Sincerely,  

[Signature]  

Scott Cochran  
TCAG Planner  

SC:ke
June 21, 2005

Brad Dunlap, City Engineer
City of Porterville
291 No. Main Street
Porterville, CA 93257

RE: Canyon Springs Estates Development

Dear Mr. Dunlap:

We are in receipt of Notice of Intent to Adopt a Negative Declaration of Environmental Impact for Canyon Springs Estates Tentative Subdivision Map located at the northeast corner of Morton Avenue and Hillcrest Street.

After reviewing the site plan and checklist, the Porterville Unified School District must raise concerns with this development and its impact upon the operation of the School District. Upon initial review, there appears to be three areas of concern:

1. The access for this development is designed to be off of Hillcrest Street. Bus access to this development will be very limited, as Hillcrest Street is currently not a through street and, thus, does not provide an adequate turn-around area for school bus transportation vehicles. To pick up students from this development, school buses would have to either conduct a three-point turn around or drive through the development to eventually exit the area. For safety purposes, the School District takes every step possible to avoid school buses from having to back up, especially in potentially congested areas. Therefore, a three-point turn around would not be a desirable alternative. School buses driving through the development would require navigating small residential streets and having to drive additional distances, which would raise the cost of operation, as well as creating excessive engine emissions. One alternative to address this issue would be to create a traffic circle at the intersection of Contour Avenue and Hillcrest Street.

2. The lack of available city recreational facilities, such as local parks, would cause additional impact upon our existing school grounds for recreational purposes. Students generated from this development, based upon the proposed design, would not have facilities available and would be forced to go to the nearest schools (John J. Doyle Elementary School and Granite Hills High School) for their open-area recreational needs. This not only would impact the operational costs for school facility maintenance but would, also, cause additional safety concerns for students having to travel this distance to meet their recreational needs.

3. The impact on facilities to the School District generated from a development this size would be significant. The School District uses a generation factor of .7 students per new household. A development of 230 homes would generate 161 students. In accordance with the School District’s 2004 Developer Fee Justification Study, the cost of constructing facilities per new student is $13,607. This development would generate a need for $2,192,337 in school facilities. The School District currently assesses a fee of $2.24 per square foot for new development. Based upon the average home size of 1,500 square feet, income generated from this development would be $772,800, leaving a difference of $1,419,537 needed to adequately meet the needs of students this development is projected to generate.
The Porterville Unified School District requests that the developer of this project address these three areas prior to approval of this subdivision map by the City of Porterville.

Should you have any questions, I may be reached at 793-2455.

Sincerely,

[Signature]

John Shavely, Ed.D.
Superintendent
Via Facsimile and U.S. mail

Mr. Brad Dunlap, AICP
Planning Director
291 North Main Street
Porterville, CA 93257

Re: Canyon Springs Estates

Dear Mr. Dunlap:

This letter is submitted on behalf of Contour Development, Inc., applicant for the Canyon Springs project. My understanding is that the City is potentially considering a change to its development standards, and that this discussion has woven itself into the review of my client's project resulting in a potential denial or substantial project redesign. It is clear, based upon the City's actions to date, that the tentative map, as proposed, conforms to City development standards. The formal or informal application of new development requirements would violate Government Code section 66474.2, which directs that a City may only apply the standards in effect at the time the application was "deemed complete". "Deemed complete" status took place sometime this spring, and there is no evidence that any of the exceptions found in the state code section apply to this tentative map application. Accordingly, this letter serves as a written request to the City to comply with Section 66474.2 when acting on the submitted tentative map.

With respect to the proposed conditions of approval as set forth in the June 22nd staff report, I am requesting two modifications with respect to the drafted conditions. First, condition #10 calls for payment of fees prior to recording of final maps. This likely conflicts with the same condition of which requires that fees be paid in conformance with "State law". Government code section 66007 provides that fees applicable to residential projects need not be paid until such time as a final inspection or certificate of occupancy, whichever occurs first. As drafted, the condition conflicts with the Government Code. Second, condition #43 requires compliance with the "latest applicable codes". This requirement conflicts in part with Government Code section 66474.2 described above. The applicant requests that both conditions of approval be deleted.

In addition to the limitations of the Subdivision Map Act, Government Code section 65589.5 imposes an additional burden on the City if it disapproves or reduces the proposed density of the tentative map. A density reduction or denial must be accompanied by written findings, based upon substantial evidence in the record. Section 65589.5. There is no evidence anywhere in the record which would permit any of the required findings to be approved. The burden of proof rests with the City. Government Code Section 65589.6

I also understand that the City is considering a moratorium. First, in the long run, the moratorium, to the extent it suspends or slows processing of the Canyon Springs tentative map,
does not change the impact of section 66474.2. Traditionally, a moratorium is used as a first step towards adopting new general plan or development standards. Any new land use rules which may be adopted at the end of a moratorium will not apply to my client's tentative map as outlined above. Second, while the moratorium statute may be used to prohibit uses, it may not be used to freeze application processing. Building Industry Legal Defense Foundation v. Superior Court (1999) 72 Cal.App.4th 1410, 1420. Thus, the Canyon Springs applicant is entitled to review and action on the pending tentative map application.

By copy of this letter to the City Clerk, I am requesting that this letter be included as part of the City Council packet on both the Canyon Springs tentative map review as well as consideration of the moratorium.

Sincerely,

[Signature]

William W. Abbott

cc: City Clerk
    City Attorney
    Client
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
CANYON SPRINGS ESTATES TENTATIVE SUBDIVISION MAP FOR THAT 67.42±
ACRE VACANT SITE LOCATED ON THE NORTHEAST CORNER OF MORTON
AVENUE AND HILLCREST STREET

WHEREAS: On July 5, 2005, the Porterville City Council conducted a public hearing for Canyon Springs Estates Tentative Subdivision. The applicant is requesting approval of the Canyon Springs Estates Tentative Subdivision Map to divide a 67.42± acre vacant parcel zoned City R-1 (One-Family Zone) into a 230± lot single family residential subdivision to be developed in two (2) phases for that site located on the northeast corner of Morton Avenue and Hillcrest Street.

WHEREAS: Due to concerns raised at that public hearing, City Council continued the public hearing and directed Staff and the applicant/engineer to work out modifications regarding the tentative map, and bring this matter back to the City Council on September 6, 2005; and

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of September 6, 2005, at the continued public hearing considered approval of Canyon Springs Estates Tentative Subdivision Map to divide a 67.42± acre vacant parcel zoned City R-1 (One-Family Zone) into a 230± lot single family residential subdivision to be developed in two (2) phases for that site located on the northeast corner of Morton Avenue and Hillcrest Street; and

WHEREAS: On May 24, 2005, the Environmental Coordinator made a preliminary determination that a Mitigated Negative Declaration would be appropriate for the proposed project; and

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 for the project in accordance with the California Environmental Quality Act.

2. That the Negative Declaration prepared for this project was made available for public review and comment. The 20 day review period was from May 31, 2005, to June 21, 2005. The only agencies that responded were the Tulare County Association of Governments and Porterville Unified School District.
3. That the proposed 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.

4. That the City Council is the decision-making body for the project.

5. That the mitigation measures contained in the Negative Declaration were incorporated into a Mitigation Monitoring Program attached hereto as Attachment A and included as Condition 50 in the proposed resolution of approval for Canyon Springs Estates Tentative Subdivision Map.

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

The site has historically been used for agricultural purposes, mainly the growing of grains. As such, agricultural land use practices have relied on and depended on the utilization of cultivation, irrigation, and spraying operations, which means that the soils in this area have been frequently plowed, tilled, disced, or graded, and in some instances, excavated and ripped.

Pesticides, insecticides, and rodenticides are commonly used for rodent, varmint, and pest control. Herbicides are also used to prevent weeds and grasses from competing for irrigation water. Over the years, these farming practices have eliminated and destroyed indigenous vegetation, which might otherwise provide protective cover for wildlife. There are no known cultural, historical, archeological, or scenic aspects peculiar to the area of the 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.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve the Negative Declaration for Canyon Springs Estates Tentative Subdivision Map as described herein.

__________________________
Kelly West, 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>
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<tbody>
<tr>
<td>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. Depending on the soils report, an engineered foundation design would be required. As an alternative, the removal of native soil could be replaced with non-expansive material.</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>
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<tr>
<td>Potential Impact</td>
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<td>Water</td>
<td>Mitigation measures include the enforcement of a site development plan or the development related conditions of approval requiring erosion control plans and the conservation of vegetation, with soil disturbance 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. Additional mitigation will require compliance with Federal, State and local regulation 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).</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).</td>
<td>City of Porterville</td>
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4. a Changes in absorption rates, drainage patterns or the rate and amount of surface runoff.
<table>
<thead>
<tr>
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<tr>
<td>Air Quality</td>
<td>The developer/applicant shall assure compliance with applicable San Joaquin Valley Unified Air Pollution Control District Rules (e.g., Numbers 8010, 8020 and 8030), regarding fugitive dust, as well as Section 7-8, Project Site Maintenance of the Standard Specifications. The developer/applicant shall provide a street sweeper as necessary to comply. 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 SJVUAPCD including:</td>
<td>The State of California, California Air Resources Board (CARB) and San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) are expected to maintain their commitment to this program.</td>
<td>State of California CARB, SJVUAPCD, City of Porterville</td>
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<td>Potential Impact</td>
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<tr>
<td>Air Quality</td>
<td>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.</td>
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<td>5. a (continued)</td>
<td>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.</td>
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<td>c. One or more of the following means of dust control should be employed after the completion of earth grading operations:</td>
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<td>i. Seeding and watering of new vegetation.</td>
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<td>ii. Hydromulching or spreading of soil binders.</td>
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<td>iii. Maintenance of the site’s soil surface crust through repeated soakings.</td>
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| Air Quality      | 2. 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.  
3. 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.  
4. Electric or low nitrogen oxide (NOX) emitting gas-fired water heaters should be installed.  
5. Natural gas lines and electrical outlets should be installed in the backyard or patio areas to encourage the use of gas and/or electric barbecues. | | |
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<td>Air Quality</td>
<td>6. Electrical outlets should be installed around the exterior of the units to encourage the use of electric landscape maintenance equipment.</td>
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<td>5.a (continued)</td>
<td>7. Natural gas lines and electrical outlets should be installed in the backyard or patio areas to encourage the use of gas and/or electric barbecues.</td>
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<td>8. Limit engine idling at the project site.</td>
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<td>9. 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, appropriate easements should be reserved to provide for future improvements such as bus turnouts, loading areas and shelters.</td>
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<td>10. Sidewalks and bikeways should be installed throughout as much of the project as possible to encourage walking and bicycling.</td>
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<td>11. With the purchase of any house, included Air Quality incentive items is natural gas barbecues and electric lawnmowers.</td>
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<tr>
<td>Air Quality 5.a (continued)</td>
<td>12. Any gas-fired appliances should be low nitrogen oxide (NOX) emitting gas-fired appliances complying with California NOX Emission Rule #1121. 13. House units should be oriented to maximize passive solar cooling and heating when practicable. 14. 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. 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. 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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<tr>
<td>Potential Impact</td>
<td>Mitigation Measures</td>
<td>Monitoring</td>
<td>Agency Responsible</td>
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<tr>
<td>Air Quality</td>
<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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<tr>
<td>5.a (continued)</td>
<td></td>
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<tr>
<td>Utilities and Service</td>
<td>The site is within the boundaries of the City’s Master Plan for Storm Drainage (2001).</td>
<td></td>
<td>The City of Porterville and the affected utility companies.</td>
</tr>
<tr>
<td>Systems</td>
<td></td>
<td></td>
<td>The City of Porterville and the affected utility companies.</td>
</tr>
<tr>
<td>12.e Storm water drainage.</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).</td>
<td></td>
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<td></td>
<td>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></td>
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<tr>
<td>Potential Impact</td>
<td>Mitigation Measures</td>
<td>Monitoring</td>
<td>Agency Responsible</td>
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<tr>
<td>Aesthetics 13.c</td>
<td>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>
</tr>
</tbody>
</table>
RESOLUTION NO.____________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS AND CONDITIONS IN SUPPORT OF APPROVAL FOR CANYON SPRINGS ESTATES TENTATIVE SUBDIVISION MAP FOR THAT 67.42± ACRE VACANT SITE LOCATED ON THE NORTHEAST CORNER OF MORTON AVENUE AND HILLCREST STREET

WHEREAS: On July 5, 2005, the Porterville City Council conducted a public hearing for Canyon Springs Estates Tentative Subdivision. The applicant is requesting approval of the Canyon Springs Estates Tentative Subdivision Map to divide a 67.42± acre vacant parcel zoned City R-1 (One-Family Zone) into a 230± lot single family residential subdivision to be developed in two (2) phases for that site located on the northeast corner of Morton Avenue and Hillcrest Street.

WHEREAS: Due to concerns raised at that public hearing, City Council continued the public hearing and directed Staff and the applicant/engineer to work out modifications regarding the tentative map, and bring this matter back to the City Council on September 6, 2005; and

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of September 6, 2005, at the continued public hearing considered approval of Canyon Springs Estates Tentative Subdivision Map to divide a 67.42± acre vacant parcel zoned City R-1 (One-Family Zone) into a 230± lot single family residential subdivision to be developed in two (2) phases for that site located on the northeast corner of Morton Avenue and Hillcrest Street; and

WHEREAS: On May 24, 2005, the Environmental Coordinator made a preliminary determination that a Mitigated Negative Declaration would be appropriate for the proposed project; and

WHEREAS: The Subdivision Review Committee on June 22, 2005, reviewed and discussed concerns and conditions that should be addressed before the City Council. Conditions developed as a result of this meeting and subsequent Staff review have been discussed with the applicant’s agent and incorporated into the draft resolution of approval; and

WHEREAS: The City Council received testimony from all interested parties relative to the proposed tentative subdivision map; and

WHEREAS: The City Council made the following findings:

1. That the design and improvements of the proposed project are consistent with the General Plan.

The Land Use Element of the General Plan designates the site for Low Density Residential development (2-7 d.u./acre). The proposed subdivision will be developed to a density of 3.57 d.u./acre.

ATTACHMENT
ITEM NO. 10
All the interior streets within the proposed subdivision are designed to be 60 feet wide, with the exception of two (2) cul-de-sac streets, which will be 50 feet wide. Ingress and egress from the north portion of the subject site will be from Henderson Avenue (a 3/4 street) extending west to Hillcrest Street (designated arterial street). Ingress and egress from the west portion of the site onto Hillcrest Street will be by two (2) local streets 60 feet wide. Ingress and egress from the south portion of the site onto Morton Avenue (developed four (4) lane arterial street) will be by a local street 60 feet wide.

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

The vacant site is rectangular in shape extending north and south. The south portion fronts on Morton Avenue. The west portion fronts on Hillcrest Street. The subject site has a gentle sloping hill extending upward from Hillcrest Street to the east with a grade up to 15%. The FIRM Flood Insurance Map 065066 0865 B, dated September 29, 1986, indicates the subject site is located in Flood Zone C (areas of minimal flooding).

The subject site contains highly expansive soils. Development in this area may be subject to significant stresses, which must be addressed in design to prevent damage to public and private improvements. Therefore, no barriers to development will occur.

3. That the Negative Declaration prepared for this project is in compliance with the California Environmental Quality Act indicating that such will not have a significant effect on the environment.

4. That the design of the project, or proposed improvements, is not likely to cause substantial environmental damage. Condition 50 of this resolution requires the developer/applicant to comply with all Mitigation Measures contained in the Mitigation Monitoring Program attached to the resolution.

5. The Initial Study prepared for this project indicates that all potential impacts will be mitigated to less than significant levels. Through the implementation of the mitigation measures contained in the Mitigation Monitoring Program, the result in impacts addressed will be less than significant.

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

The General Plan designates the site for Low Density Residential uses. The site has rural residential uses to the north, a partially developed single family residential subdivision to the west, orange grove to the east and vacant land to the
south. Conditions of approval are included to ensure adequate development standards are met.

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

The proposed project complies with all the requirements of the Subdivision Ordinance. The development standards of the R-1 (One Family Residential) Zone including lot sizes, site coverage, parking, etc., will apply to the site.

NOW, THEREFORE, BE IT RESOLVED: That the Porterville City Council does hereby approve Canyon Springs Estates Tentative Subdivision Map subject to the following conditions:

1. The required improvements for Hillcrest Street and Henderson Avenue will be required to continue as off-site improvements to the Hillcrest/Henderson intersection.

2. The site grading plan shall be designed so that slopes between Lots shall be a part of the downhill lot. Vegetation, to include trees, shrubs, groundcover and/or other slope stabilization to the satisfaction of the City engineer shall be installed prior to the issuance of a certificate of occupancy for each residence.

3. The developer/applicant shall provide a minimum of one (1) tree for every lot and an additional tree for every corner lot, or payment in lieu.

4. All concrete block walls shall match one of the colors in the color palate approved by the City Council and maintained by the Community Development Department.

5. Construct a wall and provide landscaping along the Morton Avenue, Hillcrest and Henderson Avenue frontages of the project. If the subdivision is not redesigned as described, similar improvements shall be provided along Grand Avenue as well. Said area shall be placed in a Landscape Maintenance District. Particular attention shall be directed to provide a graffiti free design through the use of a combination of trees, shrubs and vines to be planted to screen the wall. The wall(s) shall meet the following standards:
   a. The wall(s) shall match one of the colors in the color palate approved by the City Council and maintained by the Community Development Director.
   b. Unless another standard is proposed and approved, the wall(s) shall include articulation at intervals of approximately 160 feet except where such articulation is precluded by design constraints. In no case shall a wall exceed 320 feet without articulation. Methods of articulation may include the following:
      i. A minimum of a 24 inch change of plane.
      ii. A minimum of an 18 inch change in height.
      iii. A section of semi-open fence, except where such a feature would interfere with required sound protection.
      iv. A change of material and/or color.
6. The required twelve (12) foot side yard setback for all reverse corner lots to include six (6) foot fences shall be shown on the final map. As currently designed, Lots 138, 167, and 205 are reverse corner lots.


8. The developer/applicant shall pay all applicable fees in accordance with the Municipal Code and State law, prior to approval of the final map by City Council. Fees are subject to change annually. The developer/applicant is hereby notified that you have the right to pay fees, dedications, reservations or other exactions, under protest, pursuant to Government Code section 66020(a). You have 90 days from the date fees are paid to file a written protest.

9. The developer/applicant shall dedicate right-of-way adequate for a street width that matches the ultimate width in the adopted Land Use and Circulation Element and/or the width established by City Council. The developer/applicant shall dedicate and improve a right-of-way adequate for a minimum of two lanes of traffic and on-street parking on streets adjacent to the property lines as well as dedication of property required for disabled ramp(s) (C.C. Sec. 21-23). The Circulation Element has designated Hillcrest Street as an arterial street (right of way width = 84 feet). Twenty-four (24) feet of additional right of way shall be dedicated to the City of Porterville along the development’s westerly boundary, where it fronts Jasmine Ranch Subdivision. A transitional dedication from 24 feet to 17 feet is necessary for that portion of the proposed development south of Jasmine Ranch Subdivision. Seventeen (17) feet of additional right of way shall be dedicated along the remainder of the proposed development south of the transition. Transitional designs shall be curvilinear in accordance with the AASHTO geometric design policies.

10. The developer/applicant shall dedicate and improve a right-of-way adequate for a minimum of two lanes of traffic and on-street parking along the south side of Henderson Avenue between Hillcrest Street and the easterly boundary of the proposed development. (C.C. Sec. 21-23). Off-site dedications will be necessary to construct these improvements. The City may exercise eminent domain procedures, if necessary, to acquire the off-site right of way.

11. The developer/applicant shall provide and show all required utility easements on the Final Map.

12. The developer/applicant shall cause all unnecessary easement to be vacated prior to or in conjunction with the Final Map processing.
13. The developer/applicant shall dedicate a one foot (1') limitation of access strip at locations where, in the opinion of the City Engineer, it is undesirable to allow access.

14. "Prior to approval of the improvement plans, the developer/applicant shall have completed and approved, trail alignment, landscaping, irrigation, pocket park, drainage systems and lighting improvement plans, legal descriptions, etc. The developer/applicant shall petition, on a form provided by the City, to have said subdivision placed in a Lighting and Landscape Maintenance District at the time of the final map is approved. Trail alignment, landscape, irrigation, pocket park, drainage systems and lighting improvements shall be completed and accepted concurrently with the other improvements in the subdivision. The following shall be included in said annex to the district: (1) Lighting, (2) 20' wide pedestrian & equestrian trail with associated landscaping along the Morton Avenue, Hillcrest Street, and Henderson Avenue frontages, (3) Landscape and irrigation between the back of walk and trail along the Hillcrest Street frontage, (4) Landscape and Irrigation system in the non-buildable area along the east boundary of the subdivision between Grand Avenue and Henderson Avenue, (5) 10' wide pedestrian and equestrian trail (grading only), (6) Pocket park between Grand Avenue and Kanai Avenue, adjacent to Hillcrest Street, (7) 20' wide pedestrian & equestrian trail with associated landscaping shall meander through the middle of the development beginning at the pocket park and eventually connecting to the trail at the easterly boundary, (8) Public masonry fences along the Morton Avenue, Hillcrest Street and Henderson Avenue frontages (9) Drainage systems specifically benefitting the development, (10) Temporary on-site drainage reservoir, if any, etc."

15. The developer/applicant shall comply with Chapter 7, Article XIII of the City Code and Appendix Chapter 33 of the California Building Code and provide a Preliminary Soils Report (C.C. Sec. 7-126 & Res. 4997) including results of "R-Value" tests and recommendations regarding construction of public improvements that address City Standard C-13, satisfactory to the City Engineer, prior to the approval of the improvement plans or start of grading, whichever comes first. Additional reporting requirements are as indicated below:
   a. Final Grading, Drainage and Soils Report, prior to issuance of building permits (C.C. Sec. 7-133);
   b. Erosion Control Plan in conformance with the California Storm Water Best Management Practice Handbook for Construction Activity, prior to start of grading (CBC Appendix chapter 33). The provisions of the approved Erosion Control Plan shall be incorporated into the Improvement Plans;
   c. Soils Report(s) in accordance with Chapter 18 of the California Building Code. Specific to this development is the necessity to address slope stability, prior to approval of the improvement plans. Said report shall be prepared in accordance with Guidelines for Evaluating and Mitigating Seismic Hazards in California.

16. The developer/applicant shall comply with City Retaining Wall Standards (adopted by City Council January 3, 1989) at lot lines where such standards are applicable.
17. In accordance with Section 21-51 of the Subdivision Ordinance, the developer/applicant shall enter into an agreement that provides for completion of improvements within twelve (12) months.

18. Prior to start of grading on any unit, the developer/applicant shall abandon and cap existing wells that are no longer in service. Prior to approval of the improvement plans, the developer/applicant shall obtain an abandonment permit from the County Department of Environmental Health. Prior to acceptance of improvements, the developer/applicant shall provide the City Engineer with proof of completion in compliance with County regulations. Developer/applicant shall comply with City standard for “backflow” prevention pursuant to Resolution No. 9615 for all wells that will remain in service. Show all existing wells on the Tentative Subdivision Map and designate which well or wells will remain in service upon full development.

19. The developer/applicant shall replace or provide surety for replacement of irrigation pipes in the right-of-way, if, in the opinion of the City Engineer, replacement is warranted. The developer/applicant shall provide easements for irrigation pipes across lots created, if pipes will continue in use. The developer/applicant shall also cure leaks in any irrigation pipe that will continue in use.

20. Prior to recording the final map, the developer/applicant shall provide surety for off-site improvements and provide easements, permits, calculations, etc. if, in the opinion of the City Engineer, they are needed for the proper functioning or phasing of the subdivision (e.g. water, sewer, drainage, etc.).

21. The developer/applicant shall coordinate with the U.S. Postal Service regarding the kind of mail facilities that will be utilized. If neighborhood box units (NBU's) are to be used, construct sidewalks in a timely manner to facilitate NBU installation.

22. The developer/applicant shall obtain a City demolition permit prior to approval of the improvement plans and, under City inspection, remove all existing, abandoned and unnecessary items, to the satisfaction of the City Engineer, prior to acceptance of the improvements (e.g. buildings, foundations, septic tanks, irrigation pipes, etc.).

23. The developer/applicant shall assure compliance with applicable San Joaquin Valley Unified Air Pollution Control District Rules (e.g., Numbers 8010, 8020 and 8030), regarding fugitive dust, as well as Section 7-8, Project Site Maintenance of the Standard Specifications. The developer/applicant shall provide a street sweeper as necessary to comply. During grading operations the "Supervising Civil Engineer" shall be responsible for enforcing the dust control provisions of Section 7-8 or the developer/applicant shall pay inspection fees on the grading cost to compensate the City for dust control inspection. The improvement plans shall show a designated wash out area for concrete trucks, and a sign designating it as such. The developer/applicant shall remove and properly dispose of waste concrete deposited in this area.
24. The developer/applicant shall construct or provide surety for construction of curb, gutter, sidewalk, water, sewer, street paving to the center of the street (if necessary), pavement lane transitions (offsite), traffic safety marking and signs, etc. along the full frontage of all proposed subdivision lots except where they exist to City standards and are in good condition in the opinion of the City Engineer. The developer/applicant shall stub improvements to the property line if, in the opinion of the City Engineer, they will be needed for connection to development on the adjacent property.

25. Building or foundation permits shall not be issued until all of the following items are accepted as complete:
   a. The storm drain system is functional so that it will accept water from fire hydrant and/or water main flushing;
   b. The water system, is functional from the source of water past the lots on which permits are being requested (i.e. all services and the sampling station, if required, are installed, valves are functional and accessible, bacteria testing is completed, etc.);
   c. Street base rock for accessibility by the public safety officials and building inspectors;
   d. Lots are graded in accordance with the approved grading plan. Prior to receipt of the Final Grading, Drainage and Soils Report a letter from the "Supervising Civil Engineer" is required validating that the grading has been done in accordance with the approved grading plan and in accordance with the recommends contained in the Preliminary Soils Report;
   e. Lot corners are marked;
   f. Fire hydrants are accepted by the Fire Department and the Engineering Division.

26. The developer/applicant shall construct all drainage facilities that the City Engineer determines are necessary to comply with the intent of the Storm Drain Master Plan. Dedicate a drainage easement across each lot requiring an easement, unless all lots are graded to drain to the street (C.C. Sec. 21-50). The developer/applicant shall construct concrete drainage swales, approved by the City Engineer, if necessary, to transport storm water across adjacent subdivision lots to reach a City drainage system.

27. The developer/applicant is advised that he is obligated to comply with the National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002 for discharge of Storm Water Associated with construction activity will be required (except operations that result in disturbance of less than five acres of total land area and which are not a part of a larger common plan of development or sale). Before construction begins, the proponent must submit a Notice of Intent (NOI) to comply with the permit, a site map, and appropriate fee to the State Water Resources Control Board (SWRCB). The proponent must also prepare a Storm Water Pollution Prevention Plan (SWPPP) for the entire project before construction begins. The SWPPP must contain at a minimum all items listed in Section A of the permit, including descriptions of measures to be taken to prevent or eliminate unauthorized non-storm water discharges and both temporary (e.g., fiber rolls, silt fences, etc.) and permanent (e.g., vegetated swales, detention basins, etc.) best management practices that will be implemented to prevent pollutants from
discharging with storm water into water of the United States. If portions of the project area are to be sold off before the entire project is completed, the proponent must submit to the California Regional Water Quality Control Board a change of information form identifying the new owners along with a revised site map clearly depicting those portions that were sold and those that are remaining. The developer/applicant is also responsible for informing each new owner of their responsibility to submit their own NOI, site map, and appropriate fee to the SWRCB and to prepare their own SWPPP.

28. To accommodate refuse vehicles and street sweepers, the developer/applicant shall dedicate and improve, to City standards, temporary turn-arounds at the end of dead-end streets.

29. The developer/applicant shall construct all weather alternative vehicular access road equipped with a double 2.5" pipe security gate with Knox padlock to accommodate emergency service vehicles at such time that phased development of the subdivision results in creation of dead end cul-de-sac streets in excess of 600 feet long.

30. The developer/applicant shall cause all regulatory and street name signs to be installed prior to occupancy of any house located where its occupants will utilize a street that does not have them.

31. The developer/applicant shall construct two (2) City standard barricades at the end of all dead end streets.

32. The developer/applicant shall cause the sewer system to be completed, tested, and accepted by the City prior to residential occupancy of any house in the subdivision.

33. The developer/applicant shall move existing utility structures (For example, poles, splice boxes, vaults, etc.) to a position that provides a minimum of four feet (4') of clear space in the sidewalk area and a minimum of two feet (2') of clear space from the curb face to the structure, unless they are below grade (Title 24 DSA) or provide surety in lieu of (Section 2616.1 of the Zoning Ordinance).

34. Prior to acceptance of improvements, the developer/applicant shall provide streetlights on Marbelite poles complying with Southern California Edison Company specifications as required by the City Engineer. Use of wood poles is prohibited without prior written approval of the City Engineer. 16000 lumen streetlights along the east side of Hillcrest Street are required and 5800 lumen streetlights are required along the internal subdivision streets. Street light spacing shall be at 160 foot intervals, staggered throughout the proposed subdivision.

35. The developer/applicant shall construct the water system in a maximum of two sections for each phase of the subdivision: One section for the model homes and one section for the remainder of the phase. The number of model homes shall not exceed one for each 10 lots in the subdivision or four, whichever is greater. The model homes shall be clustered.
36. The developer/applicant is hereby notified that proposed subdivision, in accordance with the Water Master Plan, lies within two (2) water system pressure zones. The master plan defines Rocky Hill Zone 1 as those areas between the 520 and 580 contours, which encompasses the westerly portion of the proposed tentative subdivision map. The area between 580 and 640 contours is Rocky Hill Zone 2, which is the central part of the proposed tentative subdivision map. The developer/applicant has various options available to service the proposed development. Some of those options are as follows:
   a. Construct City Water Master Plan improvements necessary to supply all pressure zones of the proposed development. These improvements are reimbursable in accordance with C.C. Section 25-32.3.
   b. Construct and dedicate a community booster pump system that will serve the proposed development only.
   c. Construct booster pump system that will draw water from the proposed Rocky Hill Zone 1 Tanks, which is scheduled for construction during the summer of 2005, to supply the entire development. In this option, some or all of the booster pump system may be reimbursable, if it becomes an integral part of the City’s Master Plan.

37. The water system, in whatever capacity it may be, shall be capable of providing: 1) 1,000 g.p.m. fire flow at each hydrant with 20 p.s.i. residual pressure for a dwelling unit less than 3,600 square feet; 2) 1,500 g.p.m. fire flow at each hydrant with 20 p.s.i. residual pressure for a dwelling unit greater than 3,600 square feet; and 3) provide normal operating pressures between 45 psi and 80 psi. Pressure zones shall be isolated with pressure reducing valves, where applicable or individual pressure regulating systems as necessary, to meet the normal operating pressures. The water system shall be designed by a Civil Engineer.

38. It should be noted that the City is currently seeking consultant services to design the proposed Rocky Hill Zone 1 Tanks. A task associated with the design services is to review all proposed eastern hillside developments on file with the City and determine the most feasible method of implementing the Water Master Plan.

39. The developer/applicant shall comply with the City Flood Damage Prevention Ordinance No. 1397, and the requirements of the State Reclamation Board where applicable. In all areas of special flood hazards (i.e., Zones A, AO, A1-A30, AE, A99 or AH), the following conditions are required: The proposed development is in a Zone B, exempt from the special flood hazard requirements. However the ditch running through a portion of the property has been identified on the FEMA maps and must be addressed by installing pipe through the subdivision or by some other means approved by the City Engineer. Implementation of the Storm Drain Master Plan will resolve this issue.

40. The developer/applicant is hereby notified that reimbursement for Master Plan facilities is made when funds are available and is contingent upon the work being done by the approved low bidder of at least two (2) bona fide bidders. The bids must be approved by the City prior to construction.
41. Comply with latest applicable codes.

42. When any portion of a building to be protected is in excess of 150 feet from a water supply on a public street, there shall be installed on-site fire hydrants capable of supplying the required flow.

43. The City will test and maintain all fire hydrants in the City whether on private property or not. An "easement" is required from the owner.

44. Fire hydrants spacing shall be as follows: In Residential development, one (1) hydrant shall be installed at every 500 feet intervals.

45. All dead-end access roads in excess of 150 feet must be provided with an approved turnaround complying with City Standards.

46. Project must meet minimum fire flow requirements per table in appendix III-A & III-B of the California Fire Code.

47. "The applicant/developer is hereby notified that an approved Conceptual Grading Plan is on file with the City of Porterville. Grading Plan(s) not following the scheme of the approved conceptual Grading Plan require Public Works Department and Community Development Department approval during the master plan development review for the purposes of this condition, master plan development review is defined as a combined grading/improvement plan that illustrates lot grades, curb grades, pipeline inverts, fire hydrants, street lights, etc. for full build out (all phases) of the proposed development”.

48. The developer/applicant shall comply with all mitigation measures adopted as a component of the approval of the Mitigated Negative Declaration for this project. Prior to recording the final map, the developer/applicant shall submit a signed document committing to comply with the adopted mitigation measures.

49. Install fire hydrants at the following locations:
   a. At the corner or Lot 72
   b. Between Lots 56 & 57
   c. Corner of Lot 223
   d. Between Lots 130 & 131
   e. Corner of Lot 135
   f. Between Lots 143 and 144
   g. Between Lots 180 & 181
50. The developer/applicant shall dedicate and improve a right-of-way adequate for the construction of a single lane roundabout at the intersection of Hillcrest Street and Jasmine Drive. Bus circulation in and out of the proposed development is the purpose of the roundabout. Additional right of way dedication shall come from the east side of Hillcrest Street, creating an off-site roundabout. Additional right of way dedication for the roundabout approaches shall also come for the property east of Hillcrest Street. Roundabout designs shall conform to the guidelines established by FHWA. A turn around may be implemented into the pocket park to be next to the pedestrian and equestrian trail along Hillcrest Street as an alternative means of providing bus circulation. AASHTO geometric design policies shall be the guide for designing bus turning movements in and out of the pocket park. That construction of the improvements shall be constructed concurrently with the first phase of development and accepted by the City Engineer prior to occupancy on any residential units.

51. That Baillio Street as shown on the tentative map shall be changed to Canyon Street on the final map.

________________________
Kelly West, Mayor

ATTEST:

John Longley, City Clerk

By ______________________
Georgia Hawley, Chief Deputy City Clerk
RESOLUTION NO.________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
CONTAINING FINDINGS IN SUPPORT OF DENIAL FOR CANYON SPRINGS
ESTATES TENTATIVE SUBDIVISION MAP FOR THAT 67.42± ACRE VACANT SITE
LOCATED ON THE NORTHEAST CORNER OF MORTON AVENUE AND
HILLCREST STREET

WHEREAS: On July 5, 2005, the Porterville City Council conducted a public
hearing for Canyon Springs Estates Tentative Subdivision. The applicant is requesting
approval of the Canyon Springs Estates Tentative Subdivision Map to divide a 67.42± acre
vacant parcel zoned City R-1 (One-Family Zone) into a 230± lot single family residential
subdivision to be developed in two (2) phases for that site located on the northeast corner of
Morton Avenue and Hillcrest Street.

WHEREAS: Due to concerns raised at that public hearing, City Council continued
the public hearing and directed Staff and the applicant/engineer to work out modifications
regarding the tentative map, and bring this matter back to the City Council on September 6,
2005; and

WHEREAS: The City Council of the City of Porterville at its regularly scheduled
meeting of September 6, 2005, at the continued public hearing considered approval of
Canyon Springs Estates Tentative Subdivision Map to divide a 67.42± acre vacant parcel
zoned City R-1 (One-Family Zone) into a 230± lot single family residential subdivision to be
developed in two (2) phases for that site located on the northeast corner of Morton Avenue
and Hillcrest Street; and

WHEREAS: The City Council received testimony from all interested parties
relative to said Canyon Springs Tentative Subdivision; and

WHEREAS: The City Council made the following findings:

1. Over the course of the past year or so, the City of Porterville has received a
number of subdivision map applications for development of hillside
properties. In the meantime, City Staff and the Hillside Development
Committee have been undertaking the establishment of a Hillside
Development Ordinance to temporarily guide development on hillside
properties while permanent standards can be developed and adopted. Until the
Hillside Development Ordinance can be adopted, City Staff is requesting that
an Interim Urgency Ordinance defining a process and establishing criteria for
hillside development be adopted defining the process and criteria for the
development of hillside properties within the City of Porterville Urban
Development Boundary.
While this interim measure aims at protecting the health, safety and general welfare of the community, it does not propose halting development entirely. The ordinance establishes a process and a set of guiding principles for development to adhere to, to ensure that appropriate accommodation of connectivity between development occurs, and that grading will be performed that is sensitive to the natural terrain and promotes sensitive grading design features such as limiting retaining walls, placing slopes on proposed parcels that promote the most logical ownership of slopes, etc.

Development of the hillside is a sensitive proposition and the current City regulations do not protect the public health, safety and general welfare of the community. The proposed Interim Urgency Ordinance is intended to provide time to develop permanent standards for Council consideration.

2. Due to the approval of the Interim Urgency Ordinance, interim measures for development of the hillside as the proposals submitted to date do not 1) adequately consider the topography of the properties proposed for development nor the surrounding hillside, 2) provide adequate information on the design of site grading and drainage, 3) provide for appropriate connectivity between the subject sites and adjacent properties, 4) provide amenities such as recreational facilities, transit accommodations (City and schools), and schools necessary to accommodate the needs of the future residences of the proposed developments.

3. That due to the Interim Urgency Ordinance, to approve Canyon Springs Tentative Subdivision would further facilitate a precedence of allowing future subdivisions to be approved without the measures mentioned above.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby deny Canyon Springs Tentative Subdivision.

______________________________
Kelly West, Mayor

ATTEST:

John Longley, City Clerk

By ___________________________
Georgia Hawley, Chief Deputy City Clerk
SUBJECT: INTERIM URGENCY ORDINANCE PROHIBITING CONSTRUCTION, OPERATION AND MAINTENANCE OF WIRELESS COMMUNICATIONS TOWERS

SOURCE: CITY ATTORNEY

COMMENT: Due to recent interest in the installation of wireless communications towers in the City, City staff has become aware of the need to develop regulations and procedures for determining the appropriateness of locations for wireless communications towers (e.g. the proximity of these towers to residential neighborhoods), and the need for the determination of appropriate and necessary conditions upon the location and operation of these towers.

This interim ordinance would temporarily prohibit this use until staff has had time to study and address these issues and develop permanent standards for Council consideration. City staff understands the growing need for these wireless communications services and intends to introduce permanent standards to the City Council within approximately the next six months.

RECOMMENDATION: The City Attorney and staff recommend that the City Council hold a public hearing and adopt the attached Interim Urgency Ordinance Prohibiting the Use of Land for Construction, Operation, and Maintenance of Towers for Wireless Communications

Attachment: 1) Interim Ordinance of the City of Porterville Prohibiting the Use of Land for the Construction, Operation, and Maintenance of Towers for Wireless Communications
ORDINANCE NO. _____

AN INTERIM ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF PORTERVILLE PROHIBITING THE USE OF LAND FOR THE
CONSTRUCTION, OPERATION AND MAINTENANCE OF NEW
TOWERS FOR WIRELESS COMMUNICATIONS

BE IT ORDAINED by the City Council of the City of Porterville, as follows, to wit:

SECTION 1: The City Council of the City of Porterville herewith finds that there is
a current and immediate threat to the public health, safety, or welfare, arising from the lack
of procedures for determining the appropriateness of locations for wireless
communications towers, and from a lack of sufficient authority and controls to allow the City
to impose appropriate and necessary conditions and regulations upon wireless
communications towers within the City of Porterville.

SECTION 2: The City Planning staff and City Attorney are presently studying the
potential and appropriate City zoning locations, procedures and policies for the approval
of the use of land for the purpose of constructing, operating and maintaining new wireless
communications towers, and are developing proposed ordinances concerning the zoning,
permitting, and regulation of wireless communications towers.

SECTION 3: This City of Porterville does further herewith find and determine that
allowing the use of land for the purpose of constructing, maintaining and operating a new
wireless communication tower prior to the adoption of procedures concerning the zoning
and regulation of wireless communications towers will result in that threat to public health,
safety or welfare being exacerbated.

SECTION 4: That the City of Porterville does further herewith find and determine
that there are significant public health, safety or welfare concerns relating to issues
concerning:

(a) Appropriate locations for wireless communications towers;

(b) Appropriate availability of sites for the development of wireless
communications towers;

(c) Appropriate procedures to provide for public input and comment on the
siting of wireless communications towers;

(d) Appropriate mechanisms being in place to impose appropriate and
necessary conditions upon wireless communications towers; and

(e) Appropriate opportunities for the public, Planning Commission, and the City
Council to consider and address all impacts upon the immediate
neighborhood and the community at large resulting from wireless
communications towers.
All of which gives rise to a need to complete the study, within a reasonable time, of the potential and appropriate City zoning procedures and policies for approving the use of land for the purpose of constructing and operating a wireless communications tower, and in order to protect the public safety, health or welfare it is necessary to prohibit the use of land for the purpose of constructing and operating a wireless communications tower until such time as said study is completed and the City Council has determined, what new and additional, if any, procedures and policies are necessary and appropriate to put in place.

SECTION 5: This Ordinance shall remain in full force and effect for a period of forty-five (45) days from and after its passage and adoption.

SECTION 6: The City Council does herewith direct the City staff to prepare and submit to the City Council, for consideration of approval and issuance by the City Council, a written report describing the measures taken and to be taken to alleviate the conditions which led to the adoption of this Ordinance; and that said report shall be submitted to the City Council at least 10 days prior to the expiration of this Ordinance.

SECTION 7: For the reasons set forth hereinabove, the City Council of the City of Porterville does herewith declare and determine that it is necessary to protect the public safety, health or welfare by adopting this Ordinance as an urgency measure to take effect immediately upon passage and adoption.

PASSED, ADOPTED AND APPROVED this ___ day of ______________, 2005.

______________________________
President of the Council and
Mayor of the City of Porterville

______________________________
ATTEST: Chief Deputy City Clerk and
Clerk of the Council of the
City of Porterville
PUBLIC HEARING

SUBJECT: VACATION OF PORTIONS OF SCRANTON AVENUE AND HOLCOMB STREET WITHIN THE PORTERVILLE DEVELOPMENTAL CENTER (State of California)

SOURCE: Public Works Department - Engineering Division

COMMENT: This is the time and place set for the hearing on the proposed vacation of portions of Scranton Avenue and Holcomb Street, which are unimproved roads situated within the Porterville Developmental Center.

These roads were dedicated for public highways as a part of the Mentz Second Subdivision, recorded December 6, 1909. The City has authority to vacate a portion of Scranton Avenue and Holcomb Street under Section 8320 & Section 8331, Part 3, Division 9 of the Streets and Highways Code of the State of California.

The State of California represents the proprietary interest to all the fronting property of the proposed road vacations and is the requesting party. Staff believes that there are no problems with any other reversionary rights. The vacation is necessary for the orderly development of the Porterville Developmental Center expansion project.

Staff has followed all notification procedures outlined by said Streets and Highways Code and the utility companies have not responded, indicating that there are no utilities within these road segments. Therefore, the typical reservation easements will not be retained for the utility companies.

RECOMMENDATION: That City Council:

1. Adopt the Resolution of Vacation, excluding reservations, for portions of Scranton Avenue and Holcomb Street; and

2. Authorize the City Clerk to record the Resolution of Vacation with the County Recorder;

3. Authorize the Mayor to execute a Quitclaim Deed, relinquishing all rights, title and interests in and to those portions of Scranton Avenue and Holcomb Street.

ATTACHMENTS: Locator Maps
Resolution & Quitclaim Deed
RESOLUTION NO. ______

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE ORDERING THE VACATION AND CLOSING TO PUBLIC USE
PORTION OF SCRANTON AVENUE, WHICH IS AN UNIMPROVED ROAD WITHIN THE
PORTERVILLE DEVELOPMENTAL CENTER

WHEREAS, by Resolution No. 125-2005, passed on August 16, 2005, the Council of
the City of Porterville declared its intention to vacate unimproved segments of Scranton
Avenue and Holcomb Street generally located within the Northeast quarter of Section 7,
Township 22 South, Range 28 East, hereinafter more particularly described, and set the hour
of 7:00 p.m. on the 6th day of September, 2005, in the Council Chambers of said City as the
time and place for hearing all persons objecting to the proposed vacation; and

WHEREAS, such public hearing has been held at said time and place, and there were
no protests, oral or written, to such vacation;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Porterville as
follows:

SECTION 1: The Council hereby finds, from all the evidence submitted, that the road
right of way hereinafter described is unnecessary for present or prospective right of way, and
the City Council hereby makes its order vacating portion of Holcomb Street, which is described
in the legal description attached hereto, marked Exhibit "A" and by reference made a part
hereof.

SECTION 2: The Council hereby finds, from all the evidence submitted, that the road
right of way hereinafter described is unnecessary for present or prospective right of way, and
the City Council hereby makes its order vacating portion of Scranton Avenue, which is
described in the legal description attached hereto, marked Exhibit "B" and by reference made a part
hereof.

SECTION 3: The City Clerk shall cause a copy of this resolution to be recorded in the
office of the County Recorder of Tulare County, California.

SECTION 4: The City Clerk shall certify to the passage and adoption of this resolution
and it shall thereupon take effect and be in force.

________________________
Kelly West, Mayor

ATTEST:

John Longley, City Clerk

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

Legal Description

Those portions of Holcomb Street shown on Mentz Second Subdivision, in the City of Porterville, County of Tulare, State of California, per map filed in Volume 9 of Maps, at page 21 in the office of the County Recorder of said County, situated in Northeast quarter of Section 7, Township 22 South, Range 28 East, Mount Diablo Base and Meridian, more particular described as follows:

That portion of the East 25 feet of the Northeast quarter of said Section 7, bounded by the easterly prolongation of north line of Lot 32 of said Mentz Second Subdivision and the easterly prolongation of the south line Lot 31 of said Mentz Second Subdivision.

END OF DESCRIPTION
EXHIBIT "B"

Legal Description

Those portions of Scranton Avenue shown on Mentz Second Subdivision, in the City of Porterville, County of Tulare, State of California, per map filed in Volume 9 of Maps, at page 21 in the office of the County Recorder of said County, situated in Northeast quarter of Section 7, Township 22 South, Range 28 East, Mount Diablo Base and Meridian, more particularly described as follows:

That portion of the North 20 feet of the Northeast quarter of said Section 7, bounded by the northerly prolongation of west line of Lot 17 of said Mentz Second Subdivision and the East line of said Section 7.

END OF DESCRIPTION
STATE OF CALIFORNIA  
Department of General Services  
Real Estate Services Division, Due Diligence Unit  
707 Third Street, 5th Floor  
West Sacramento, CA 95605

OFFICIAL STATE BUSINESS – EXEMPT FROM RECORDING FEES  
PURSUANT TO GOVT. CODE SECTION 27383 AND DOCUMENTARY TRANSFER TAX PURSUANT TO REVENUE AND TAXATION CODE SECTION 11922  

QUITCLAIM DEED  

APN: Portions of 271-100-01 Tulare County  

The CITY OF PORTERVILLE, a municipal corporation, does hereby QUITCLAIM to the STATE OF CALIFORNIA all its rights, title and interest in and to the real property situated in the State of California, County of Tulare, being a portion of those lands as shown in the Map of Mentz Second Subdivision recorded in Volume 9 of Maps, Page 21, Tulare County Records, and as more particularly described in Exhibit A, consisting of one page, and Exhibit B, consisting of one page, attached hereto and incorporated herein by this reference.  

Date: ____________________________  

CITY OF PORTERVILLE  
a municipal corporation  

By: ____________________________  
Kelly E. West, Mayor  

ATTEST:  

John Longley, City Clerk  

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

Legal Description

Those portions of Holcomb Street shown on Mentz Second Subdivision, in the City of Porterville, County of Tulare, State of California, per map filed in Volume 9 of Maps, at page 21 in the office of the County Recorder of said County, situated in Northeast quarter of Section 7, Township 22 South, Range 28 East, Mount Diablo Base and Meridian, more particularly described as follows:

That portion of the East 25 feet of the Northeast quarter of said Section 7, bounded by the easterly prolongation of north line of Lot 32 of said Mentz Second Subdivision and the easterly prolongation of the south line Lot 31 of said Mentz Second Subdivision.

END OF DESCRIPTION
EXHIBIT "B"

Legal Description

Those portions of Scranton Avenue shown on Mentz Second Subdivision, in the City of Porterville, County of Tulare, State of California, per map filed in Volume 9 of Maps, at page 21 in the office of the County Recorder of said County, situated in Northeast quarter of Section 7, Township 22 South, Range 28 East, Mount Diablo Base and Meridian, more particularly described as follows:

That portion of the North 20 feet of the Northeast quarter of said Section 7, bounded by the northerly prolongation of west line of Lot 17 of said Mentz Second Subdivision and the East line of said Section 7.

END OF DESCRIPTION
COUNCIL AGENDA: SEPTEMBER 06, 2005

PUBLIC HEARING

SUBJECT: CONSIDERATION OF MODIFICATIONS TO THE FEE SCHEDULE AS IT PERTAINS TO PLANNING SERVICES

SOURCE: Administration

COMMENT: This is the time and place noticed for the Public Hearing for consideration of modifying the fee schedule as it pertains to Planning services.

On Friday, July 8, 2005, the City Council held a study session at which staff presented a draft report regarding user fees, copies of which are available for review in the Office of the City Clerk. Council awarded a contract to the firm of Maximus to prepare this city-wide user fee study. The last such study was conducted by the City in 1988. Since that time, several changes have taken place in the area of service delivery, and it was determined that costs were no longer being recuperated under the old fee schedule.

After several hours of discussion on the subject, the Council directed staff to bring back recommendations regarding the implementation of the proposed user fees. Staff was directed to bring back fees for consideration on a department by department basis, with Planning fees being first on the list. The level of subsidy identified by the study could provide additional resources in the Planning Department that could allow for additional staffing to more quickly process planning requests and increase service levels.

At the request of the Building Industry Association, a copy of the entire User Fee Study was delivered to Mr. Bob Keenan, Executive Director of the Tulare/Kings Building Industry Association more than fifteen days prior to the hearing.

RECOMMENDATION: (1) That the Council open the Public Hearing to take testimony regarding the proposed modifications to the fee schedule as it pertains to Planning services, and

(2) Adopt the attached draft resolution implementing the proposed fees for Planning services.

ATTACHMENT: Draft Resolution.

Item No. 16
RESOLUTION NO. ___-2005

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ADOPTING COMMUNITY DEVELOPMENT/PLANNING DIVISION FEES

WHEREAS, the City Council of the City of Porterville ordered the preparation of a City-wide User Fee Study for the City of Porterville to be prepared by Maximus. The City Council has conducted a public hearing for the first component of the Study, which was Community Development Planning Fees;

NOW, THEREFORE, be it resolved by the City Council of the City of Porterville that the Community Development/planning Division Fees ans Charges, as established in the City of Porterville Cost Allocation Plan and User Fee Study Report, dated May 2005, and prepared by MAXIMUS, Inc., is hereby adopted as follows, with said fees to be effective October 7, 2005:

<table>
<thead>
<tr>
<th>Fee Service Name / Description</th>
<th>Current Fee</th>
<th>Recommended Fee</th>
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<tbody>
<tr>
<td>Airport Development Zone Review (AD Zone) Fees</td>
<td>400</td>
<td>3,376</td>
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<tr>
<td>Airport Master Plan</td>
<td>2</td>
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<tr>
<td>Annexation Fees</td>
<td>2,000</td>
<td>11,848</td>
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<td>CEQA Compliance Notice of Exemption</td>
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<tr>
<td>Certificate of Compliance Fees</td>
<td>150</td>
<td>956</td>
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<tr>
<td>Conceptual Development Plan Review Fees (PUD)</td>
<td>850</td>
<td>5,096</td>
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<tr>
<td>Conditional Use Permit Fees</td>
<td>700</td>
<td>3,758</td>
</tr>
<tr>
<td>Design Overlay (D-Overlay) Site Review Fees</td>
<td>700</td>
<td>3,949</td>
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<tr>
<td>Environmental Assessment Fees (RECOMMEND ELIMINATING)</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>CEQA Compliance EIR (consultant cost plus..)</td>
<td>-</td>
<td>6,752</td>
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<tr>
<td>Final Parcel Map Fees</td>
<td>150</td>
<td>191</td>
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<tr>
<td>Final Subdivision Map Fees</td>
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<td>255</td>
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<tr>
<td>Final Subdivision Map Fees plus per lot fee</td>
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<td>64</td>
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<tr>
<td>Flood Plain Review Fees</td>
<td>85</td>
<td></td>
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<tr>
<td>Minor General Plan Amendment (&lt; 5 acres)</td>
<td></td>
<td></td>
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<tr>
<td>(RECOMMEND ELIMINATING)</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>General Plan Amendment Fees</td>
<td>500</td>
<td>4,905</td>
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<tr>
<td>Hazardous Waste Conditional Use Permit</td>
<td>20,000</td>
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<tr>
<td>Home Occupation Permit Fees</td>
<td>-</td>
<td></td>
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<tr>
<td>Industrial Development Bond (IDB) Project Development</td>
<td></td>
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<tr>
<td>Application Fees</td>
<td>50</td>
<td></td>
</tr>
<tr>
<td>Lot Line Adjustment Fees</td>
<td>125</td>
<td>1,338</td>
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<tr>
<td>Lot Line Merger and Unmerger Fees</td>
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<td>1,338</td>
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<tr>
<td>Negative Declaration Environmental Assessment</td>
<td>500</td>
<td>3,567</td>
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<tr>
<td>New Mobile Home Park (Non Sub.) Approval Fees</td>
<td>400</td>
<td></td>
</tr>
<tr>
<td>(RECOMMEND ELIMINATING)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Description</td>
<td>Amount1</td>
<td>Amount2</td>
</tr>
<tr>
<td>----------------------------------------------------------------------------</td>
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<td>---------</td>
</tr>
<tr>
<td>New Mobile Park Subdivision Approval Fees</td>
<td>900</td>
<td></td>
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<tr>
<td>(RECOMMEND ELIMINATING)</td>
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<td></td>
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<tr>
<td>New Mobile Park Subdivision Approval Fees (plus per space fee)</td>
<td>20</td>
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<td>(RECOMMEND ELIMINATING)</td>
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<tr>
<td>Parking District Fees (Vehicle Parking Dist)</td>
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<td>Preliminary Project Site Fees (PRC)</td>
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<td>Specific Development Plan Approval Fees (PUD)</td>
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<td>Temporary Structure Permit Fees</td>
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<td>2,038</td>
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<tr>
<td>Temporary Use of Right-of-Way Permit Fee</td>
<td>145</td>
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<tr>
<td>Tentative Parcel Map Fees</td>
<td>1,000</td>
<td>2,994</td>
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<tr>
<td>Tentative Parcel Map Fees (per lot fee)</td>
<td>25</td>
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<tr>
<td>(RECOMMEND ELIMINATING)</td>
<td></td>
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<tr>
<td>Parcel Map waiver fees</td>
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<td>Tentative Subdivision Map Fees</td>
<td>1,000</td>
<td>4,077</td>
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<tr>
<td>Tentative Subdivision Map Fees (per lot fee)</td>
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<td>127</td>
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<tr>
<td>Major subdivision map fee (&gt;100 lots)</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>(RECOMMEND ELIMINATING)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Major subdivision map fee (&gt;100 lots) - per lot</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>(RECOMMEND ELIMINATING)</td>
<td></td>
<td></td>
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<tr>
<td>Subdivision ordinance exceptions</td>
<td>-</td>
<td>382</td>
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<tr>
<td>Time Extension Fees (Subdivision)</td>
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<td>1,019</td>
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<tr>
<td>Time Extension Fees (Parcel Map)</td>
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<td>764</td>
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<tr>
<td>Zone Change Fees (Including Pre-Zone)</td>
<td>850</td>
<td>3,567</td>
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<tr>
<td>Zone Variance Fee</td>
<td>400</td>
<td>3,312</td>
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<tr>
<td>Zone/Sub-Division Ordinance Amendment Fees</td>
<td>400</td>
<td>3,312</td>
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<tr>
<td>Zoning Maps</td>
<td>2</td>
<td></td>
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<tr>
<td>Zoning Ordinance (book)</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>Zoning Complaince letter</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>General Research in excess of 30 minutes</td>
<td>-</td>
<td></td>
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<tr>
<td>Zoning administrator permits</td>
<td>-</td>
<td></td>
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<tr>
<td>Review of state permits (ABC and HCD)</td>
<td>-</td>
<td></td>
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<tr>
<td>Project Review Committee Application</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>(RECOMMEND ELIMINATING)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fee 53</td>
<td>-</td>
<td></td>
</tr>
</tbody>
</table>

APPROVED AND ADOPTED this 6th day of September, 2005.

__________________________
Kelly West, Mayor

ATTEST:

John Longley, City Clerk

__________________________
by Georgia Hawley, Chief Deputy City Clerk
PUBLIC HEARING

SUBJECT: SUNRISE VILLA PHASE 2 & 3

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: This is the time and place noticed for the Public Hearing on the Sunrise Villa Phase 2 & 3 development. Property owners within 300 feet and other interested parties have been notified.

At the request of the applicant, staff is requesting that the Public Hearing be opened and continued until the Council Meeting of September 20, 2005. This request was made by the applicant to allow for additional discussion with staff regarding concerns of street alignment and driveway access. This continuance should provide adequate time to make the desired modifications to the project prior to the September 20 hearing date.

RECOMMENDATION: That the Mayor open the Public Hearing and continue it until the Council Meeting of September 20, 2005
COUNCIL AGENDA - SEPTEMBER 6, 2005

SUBJECT: SECOND READING - ORDINANCE 1678, ZONING ORDINANCE AMENDMENT NO. 1-2005

SOURCE: Administrative Services Department/City Clerk Division

COMMENT: Ordinance No. 1678, amending the Zoning Ordinance of the City of Porterville pertaining to block wall requirements separating residential and non-residential uses, was given First Reading on August 16, 2005, and has been printed.

RECOMMENDATION: That Council give Second Reading to Ordinance No. 1678 and waiving further reading, and adopt said ordinance.

Attachment: Ordinance No. 1678

Item No. 18
ORDINANCE NO. 1678

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING THE ZONING ORDINANCE PERTAINING TO BLOCK WALL REQUIREMENTS SEPARATING RESIDENTIAL AND NON-RESIDENTIAL USES

WHEREAS, on January 18, 2005, the City Council of the City of Porterville requested Staff to prepare a General Zoning Ordinance Amendment requiring the construction of a masonry block wall between residential and non-residential uses and that the masonry wall; and

WHEREAS, the City Council of the City of Porterville at its regularly scheduled meeting of May 3, 2005, conducted a public hearing to consider General Zoning Ordinance Amendment 1-2005, but continued the hearing to May 17, 2005, in order to provide staff the time to meet with the Building Industry Association (BIA) and address their concerns regarding the proposed amendment; and

WHEREAS, the City Council of the City of Porterville at its regularly scheduled meeting of May 17, 2005, conducted a public hearing on Zoning Ordinance Amendment 1-2005, but continued the public hearing to June 7, 2005, to allow Staff time to adequately prepare a report to the Council on the suggestions of the BIA and possible solutions.

WHEREAS, the City Council of the City of Porterville at its regularly scheduled meeting of June 7, 2005, conducted a public hearing on Zoning Ordinance Amendment 1-2005, but continued the public hearing to July 19, 2005, to allow Staff additional time to adequately prepare a report to the Council after renewed discussions & recommendations from the BIA for possible solutions.

WHEREAS, the City Council of the City of Porterville at its regularly scheduled meeting of July 19, 2005, conducted a public hearing on Zoning Ordinance Amendment 1-2005, but continued the public hearing to August 16, 2005, to allow Staff additional time to adequately prepare a report to the Council after working out the final concerns with the BIA and conducting a survey of local cities to determine how their zoning ordinance dealt with fencing requirements between residential and non-residential uses.

NOW THEREFORE BE IT ORDAINED, that the City Council of the City of Porterville does hereby amend Article 33 - Section 3302 and Article 22 – Section 2206, Article 26 - Section 2606 C, and Article 26, Section 2617 A, B, D, and E as follows:
SECTION 1: Article 33 is hereby amended as follows:

SECTION 3302: Definitions and Construction

A. The following definition shall be used to clarify terms and words used within the context of this Ordinance:

(68) Non-Residential Uses
Any building utilized for purposes other than a place of permanent residential habitation such as a family unit and those uses identified in Sections 600, 700, 800, 900, 1000, 1100 and 1200 (P-O, C-1, C-2, C-3, H-C, M-1 and M-2). For the purpose of this Code, non-residential includes institutional uses such as, but not limited to, convalescent homes, rest homes, nursing homes, sanitariums, independent living and assisted living care facilities. While primarily residential in nature, the aforementioned uses require auxiliary services and provide special needs to its residents/inhabitants. Any governmental entity not subject to purview by the City is exempt from this definition.

Numbers (68) through (95) are hereby renumbered (6) through (96).

SECTION 2: Article 22 is hereby amended as follows:

SECTION 2206: Design and Improvements; Parking Lots Generally.

A. Access: Each parking lot or area shall be provided with suitable drives or aisles, and safe exit and entrances to and from a public street or thoroughfare. Access to parking spaces from aisles or drives shall be such as not to interfere with the use of other required parking spaces on the lot and no parking area, except for residential uses normally permitted in R-1 and R-2 zoned districts, shall be located so as to require or encourage the backing of automobiles or other vehicles across any front or side lot line adjacent to a dedicated street to effect egress from the places of parking.

B. Surfacing: The parking area, aisles and access drives shall be surfaced with an asphalt concrete surfacing of 2" minimum thickness on a 4" untreated, compacted rock base. The subgrade shall be compacted to a minimum relative compaction of 95%. The minimum slope of asphalt-paved surface in the direction of drainage shall be 1.5 feet per 100 feet and the minimum slope of concrete gutters shall be 0.20 feet per 100 feet. Parking lot structural section designs shall be based on Caltrans’ criteria with a minimum traffic index of 4.0. On major developments, service roads shall be designed to carry the traffic loads anticipated.

SECTION 3: Article 26 is hereby amended as follows:

SECTION 2617: Fence Requirements for Separation of Residential Uses from Non-residential Uses.

A. A masonry block wall six (6) feet in height shall be constructed and maintained on the side and/or rear lot line where a non-residential use abuts a residential use or zone where there is no alley. If the residential use develops prior to the non-residential use, a six (6) foot high wood fence may be constructed. The masonry wall footing, when constructed, shall comply with City Standard Plan B-1b. The narrow offset portion of the masonry wall footing shall abut the existing wood fence posts, or close thereto. The gap between the fence shall be sealed with a top rail approved by the City Engineer. A condition of approval may be imposed upon the developer of the non-residential use to work with the adjacent property owner to eliminate the abutting and parallel wood fence. Said wall shall be constructed concurrently with the non-residential development. Those uses subject to a CUP (Article 29 of this Ordinance) may be evaluated to determine applicability of the wall requirement.

B. In locations where a residential use is being developed adjacent to an existing non-residential development, the residential development shall construct a wall with the residential development if one does not already exist. The property line between residential
and non-residential use shall be developed with a six (6) foot high masonry block wall. Subject masonry block wall shall step down to 42" in height from the side property line intersecting the front property line to a depth equal to the required front or side yard set back of the abutting residential use in order to provide for safe line of sight for vehicular traffic. The design of such improvements shall be approved by the City Engineer.

C. Where a residential use abuts State Highway rights-of-way or State Highway frontage road rights-of-way, a masonry block wall at least eight feet (8') in height from finished grade shall be installed along that frontage, unless an acoustical analysis verifies that an appropriate height greater or lesser than the eight (8) feet is warranted, subject to the approval of any conditional use permit, parcel or subdivision map or any applicable development identified in Section 2619 A-3 of this chapter. The design of such improvements shall be approved by the City Engineer.

D. Wall height separating residential uses from non-residential uses and public right-of-ways may be increased in height to accommodate adequate sound attenuation as required through the findings of an acoustical analysis prepared by an acoustical professional. The design of such improvements shall be approved by the City Engineer.

E. Regardless of whether site design allows access to an alley, a block wall may be required based on the site design of the proposed parking lot, service area, or when other noise, light and glare generating uses are oriented toward a residential use. The wall design shall be approved as part of the project by the City Engineer to ensure that adequate line of sight distance is provided.

F. The City Engineer may approve new wall/fencing materials that become available in the future for use as an alternative to a masonry block wall based on its proven comparable properties for durability, sound, light, and glare attenuation. Topography, berming, and other alternative methods of mitigating the nuisance of noise and light might be considered at time of project review.

SECTION 4: This ordinance shall be in full force and effect thirty (30) days from and after its publication and passage.

__________________________
Kelly West, Mayor

ATTEST:

John Longley, City Clerk

By ___________________________
   Georgia Hawley, Deputy
SUBJECT: SECOND READING - ORDINANCE 1679, ZONING ORDINANCE AMENDMENT NO. 2-2005

SOURCE: Administrative Services Department/City Clerk Division

COMMENT: Ordinance No. 1679, amending the Zoning Ordinance of the City of Porterville pertaining to C-2 Uses in the Central Commercial District, was given First Reading on August 16, 2005, and has been printed.

RECOMMENDATION: That Council give Second Reading to Ordinance No. 1679 and waiving further reading, and adopt said ordinance.

Attachment: Ordinance No. 1679

Item No. 19
ORDINANCE NO. 1679

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
AMENDING THE ZONING ORDINANCE PERTAINING TO C-2 USES IN THE
CENTRAL COMMERCIAL DISTRICT

WHEREAS, on June 29, 2005, the Community Development Department was requested by CEI
Engineering Associates, Inc. to prepare a General Zoning Ordinance Amendment to allow “indoor building
material sales” under the C-2 Zone, Central Commercial District, with a Conditional Use Permit.

WHEREAS, Staff reviewed Zoning Ordinance Section 801 Uses (C-2 Zone), in its entirety, and
believes that it would benefit the City to re-evaluate all of the current allowable uses in the C-2 zone. This
amendment would allow some flexibility in considering currently allowed uses as well as new uses of retail
and commercial activities emerging in the marketplace today. Those uses which have the potential of having
a greater impact on the central commercial district environment would be subject to review by the City
Council under the Conditional Use Permit process. All other existing uses would remain the same.

WHEREAS, the City Council of the City of Porterville at its regularly scheduled meeting of August
16, 2005, conducted a public hearing on Zoning Ordinance Amendment 2-2005 to consider those uses that
would continue to be allowed in a C-2 zone and those uses that would be allowed in a C-2 zone with a
Conditional Use Permit.

NOW THEREFORE BE IT ORDAINED, that the City Council of the City of Porterville does
hereby amend Article 8, Section 801A 1-44, and Article 8, Section 801.5A 1-16 as follows:

SECTION 1: Article 8 is hereby amended as follows:

SECTION 801: Uses (C-2 Zone)

A. In a C-2 zone, the following uses only are permitted. Any such use involving an off-sale
license for alcoholic beverages shall be subject to the provisions of Section 2100 C and
D of this Ordinance.

(1) Any use permitted in the C-1 Zone except that office, business and professional, is
not limited to five thousand (5,000) square feet in size per lot or integrated
commercial development.

(2) Accessory buildings and uses customarily incidental to any of the uses herein when
located on the same or parcel of land.

(3) Antique store.

(4) Auto supply store.

(5) Bird or pet shop.

(6) Blueprinting and photocopying.
(7) Christmas tree sales, provided all pertinent temporary and mobile structures are removed from the subject site by January 15 of each year.

(8) Dancing instruction.

(9) Department store.

(10) Drive-in restaurant or open-air restaurant not serving alcoholic beverages.

(11) Dwellings, provided that no such use shall be on the ground floor of any Structure.

(12) Electrical appliance store and incidental repairs.

(13) Electrical distribution substations, microwave facilities and communication equipment buildings.

(14) Furniture or household appliance store.

(15) Interior decorating shop.

(16) Meat, retail sales, no limitation on number of employees.

(17) Music or vocal instruction.

(18) Printing shop and newspaper publishing.

(19) Public or private parking, subject to other provisions contained herein.

(20) Radio and television store and repair service.

(21) Radio or television studio.

(22) Restaurants or cafes which do not provide dancing, entertainment, or alcoholic beverages.

(23) Secretarial services.

(24) Signing, subject to the stipulations of article twenty of this appendix.

(25) Sporting goods.

(26) Supermarket.

(27) Temporary auto sales subject to approval by the Zoning Administrator as described in Article 33 of this appendix.

(28) Toy store.

SECTION 801.5 Uses Allowed in C-2 Zone with a Conditional Use Permit

A. The following uses may be allowed upon approval of a Conditional Use Permit and the provisions of Section 2100B of this Ordinance.

(1) Automobile and motorcycle dealerships conducted wholly within a building enclosed on all sides including the display, storage, repair, and reconditioning of vehicles, subject to the provisions of Article 26 of this Ordinance.

(2) Auction yards or sales.
(3) Bar and night club. Any such use involving the serving of alcoholic beverages under an on-sale license shall be subject to the provisions of 2100B of this Ordinance.

(4) Billiard & Pool Hall, bowling lanes. Any such use involving the serving of alcoholic beverages under an on-sale license shall be subject to the provisions of Section 2100B of this Ordinance.

(5) Bus depot and taxi terminal, no repair or storage on site.

(6) Call Center.

(7) Church.

(8) Commercial recreation, including but not limited to arcades. Any such use involving the serving of alcoholic beverages under an on-sale license shall be subject to the provisions of Section 2100 B of this Ordinance.

(9) Drive-In Theater.

(10) Gymnasium.

(11) Large Retail over 50,000 sq. ft.

(12) Nursery, flower or plant and commercial greenhouse; provided that the fertilizer and soil conditioners shall be stored and sold in packaged form only.

(13) Restaurant or café which includes dancing and/or entertainment. Any such use involving the serving of alcoholic beverages under an on-sale license shall be subject to the provisions of Section 2100B of this Ordinance.

(14) Service Station.

(15) Theater or auditorium.

SECTION 2: This ordinance shall be in full force and effect thirty (30) days from and after its publication and passage.

__________________________
Kelly West, Mayor

ATTEST:

John Longley, City Clerk

By _________________________
Georgia Hawley, Deputy
SUBJECT: RESOLUTION OF NECESSITY PERTAINING TO THE ACQUISITION OF A PORTION OF PROPERTY (APPROXIMATELY 85 SQUARE FEET OF PROPERTY) LOCATED AT THE NORTHWEST CORNER OF MULBERRY AVENUE AND PLANO STREET (APN #248-010-005) FOR THE PROPOSED TRAFFIC SIGNAL NO. 8 PROJECT

SOURCE: City Attorney's Office

COMMENT: Staff has been working with the owner of the subject property, John C. Richardson as the agent for Hermosa Tierra, Inc., to acquire the above-referenced portion of property. This small portion of the property needs to be acquired in order to commence construction for the Traffic Signal No. 8 project, and particularly for the installation of ramp for access by the disabled. While there have been recent discussions between the parties’ attorneys, the City and property owner have not yet been able to reach an agreement. While there does not appear to be issues regarding the price offered for the property, the property owner is concerned about potential run-off from flood irrigation activities, a corresponding potential liability issues.

Staff is asking City Council to adopt a Resolution of Necessity, as the plans for the proposed project are complete and the City wishes to commence construction work. However, City staff has notified this office that it is waiting for the documents from the County verifying the City's authority to commence condemnation proceedings, given that this particular portion is located in the County. Additionally, the City Attorney has been notified that Mr. Richardson's attorney will be out of town and unable to attend the September 6 meeting. Therefore, it is requested that this hearing be opened and continued to the following meeting (September 20).

RECOMMENDATION: That the City Council open and continue the hearing until September 20, 2005.
SUBJECT: CONSIDERATION OF DRAFT REGULATIONS LIMITING CONTINUOUS AND CUMULATIVE OCCUPANCY OF HOTELS, MOTELS AND MOTOR HOTELS

SOURCE: CITY ATTORNEY/COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: City staff have been searching for ways to ensure that the hotel, motels and motor hotels within the City continue to be used for transient lodging in the manner originally intended, and to ensure that adequate transient lodging remains available within the City. While the City's regulations never intended to allow transient lodging to become de facto housing, staff is aware that this has become a problem and needs to be addressed. Staff is also very concerned about the living conditions of such de facto housing. Consequently, this office has researched ordinances in other Cities and has drafted proposed regulations for consideration. The draft ordinance is modeled after regulations in the City of Buena Park which successfully withstood legal challenge.

The draft ordinance limits continuous occupancy for 30 or more consecutive days, or for more than 60 total days in any 180 consecutive day period, unless certain development standards are complied with and a Conditional Use Permit is granted. These standards require that 1) there be a minimum of 75 guest rooms, 2) Fireproof safety deposit boxes be available to all occupants, 3) in room telephone services be available, 4) the rooms receive maid and other certain services daily, 5) there must be a restaurant on or abutting the property, and 6) guest room entrances must be from enclosed interior halls or from an enclosed courtyard. Lodging establishments would also be required to maintain daily records and post these regulations.

As this is the first time these issues are being presented to the City Council, this office and City staff are requesting that the City Council consider these draft regulations and provide any additional input, and then set a public hearing for the first meeting in October for consideration and first reading of an ordinance.
RECOMMENDATION: The City Attorney and staff recommend that the City Council review these draft regulations and provide additional input, and set a public hearing October 4, 2005, for consideration and first reading of an ordinance adding new regulation limiting continuous and cumulative occupancy of hotels, motels and motor hotels.

Attachment: 1) Draft Ordinance of the City Council of the City of Porterville Adding Section 2626 to Article 26 of the Porterville Zoning Ordinance (Porterville Municipal Code, Appendix A), Concerning Limitation on Continuous Occupancy of Hotels, Motels, and Motor Hotels

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DRAFT  
ORDINANCE NO. __________

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE  
ADDING SECTION 2626 TO ARTICLE 26 OF THE PORTERVILLE ZONING  
ORDINANCE (PORTERVILLE MUNICIPAL CODE, APPENDIX A), CONCERNING  
LIMITATION ON CONTINUOUS AND CUMULATIVE OCCUPANCY OF HOTELS,  
MOTELS AND MOTOR HOTELS

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

SECTION 1. Section 2626 is hereby added to Article 26 of the Porterville Zoning Ordinance  
(Porterville Municipal Code, Appendix A), as follows:

2626. Hotels, Motels, and Motor Hotels.

A. Purposes and Findings. The purpose of this Section is to ensure the continued  
availability of transient lodging within the City of Porterville and to ensure the  
continued use of hotels, motels and motor hotels in the manner intended at the time  
of adoption of the Zoning Ordinance of the City Porterville.

B. Limitation on Continuous and Cumulative Occupancy of Hotels, Motels and Motor  
Hotels. It shall be unlawful for any hotel, motel or motor hotel to rent or let, or  
otherwise provide, any room therein to any person, firm, partnership, corporation,  
association or other business entity for thirty (30) or more consecutive days, or for  
more than sixty (60) total days in any one hundred and eighty (180) consecutive day  
period, unless such hotel, motel, or motor hotel complies with all development  
standards set forth in Subsection C of this section and a conditional use permit has  
been obtained pursuant to Section 2900 et seq. of the Zoning Ordinance. It is the  
intent of this section that if a room is rented, let or otherwise provided to any party  
for either of the maximum time periods allowed by this section, then such room may  
not again be rented, let or otherwise provided to that same party or to any individual,  
firm, or entity that was a member of said party.

(1) Each hotel, motel and motor hotel shall maintain daily written records  
reflecting the renting, letting, or other provision of any of its rooms, including  
but not limited to, check-in and check-out dates of each person who rents,  
lets, or is otherwise provided a room. Unless payment for the room is made  
by check or credit card, such records shall also include the name and home  
or business address and telephone number of each such person. The  
required records shall be maintained for no less than one year, or for such  
longer period as may be prescribed by law, and shall be available for review  
by City representatives during normal business hours.

(2) Except as otherwise provided by law, each hotel, motel, and motor hotel  
shall post a legible copy of the text of this Section 2626 in an open and  
conspicuous place within the public lobby area, and in an open and  
conspicuous place where other postings are required by law, in each room  
available for rent.
(3) Any property left in a room by a person or party that has checked out shall be removed by the operator of the hotel, motel, or motor hotel and stored or otherwise disposed of in accordance with applicable laws.

C. Development Standards. Any hotel, motel or motor hotel applying for a conditional use permit to meet or exceed the thirty (30) or sixty (60) day occupancy limit set forth in Subsection B of this section shall comply with all of the following development standards:

(1) The hotel, motel or motor hotel must have a minimum of 75 guest rooms.

(2) Fireproof safety deposit boxes must be available to all of the occupants of the hotel, motel or motor hotel.

(3) In room telephone services shall be available to all of the occupants of the hotel, motel or motor hotel.

(4) Each guest room shall be serviced daily with central maid, mail, and room services.

(5) The hotel, motel or motor hotel must have a restaurant on the property or on abutting property.

(6) Entrances to all guest rooms within the hotel, motel or motor hotel must be from completely enclosed interior halls or from a courtyard that is enclosed on all four sides by guest rooms and/or lobby area.

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
REQUEST FOR RESOLUTION OF AMBIGUITY REGARDING SALONS AND SPAS IN THE PROFESSIONAL OFFICE (PO) ZONE

COMMUNITY DEVELOPMENT - PLANNING DIVISION

Staff has had recent inquiries regarding the establishment of spas/salons in the PO Zone areas of the City. The Code currently allows for “professional offices and uses, including but not limited to the practice of medicine, dentistry, law, accounting, engineering, architecture, planning, insurance, real estate (but excluding veterinarians). The applicant is requesting to conduct a therapeutic massage and reflexology business at the location of 347 North “D” Street which is located in the PO (Professional Office ) zone.” The C-1 Zone provides for barber shops and beauty parlors which does not automatically preclude them from the PO Zone.

Staff is evaluating a request to establish a business in the PO Zone that provides skin care therapy, therapeutic massage and reflexology. Providers of these services, as well as hair, nails and esthetician services are required to be licensed by the state and undergo periodic inspections by the state. Staff has historically interpreted the Code to allow massage therapy in the PO Zone but has not allowed salons. Due to the nature of modern salons and spas, the majority are primarily by appointment and function similarly to other professional offices (i.e. scheduling an appointment with a doctor, lawyer, accountant, etc.). In fact, the average stay at a salon or spa may actually be as long or longer than many professional offices. Salons and spas may also serve as an amenity to other office uses that benefit from convenient access to this type of service like they would café’s, dry cleaners, pharmacies and the like that may be allowed in the PO Zone when ancillary to a primary use.

For the purposes of this interpretation of ambiguity, salons and spas provide a combination of services including hair, nails, skin care treatments, massage and electrolysis.

In a letter dated August 25, 2005, the applicant’s attorney (letter attached) requested staff to reconsider their original determination that the use is not a permitted use in the PO Zone based on past practice. However, when looking at the function of these uses, Staff believes it appropriate to seek the Council’s direction on the matter. Staff is seeking clarification from the City Council on whether spas and salons fit within the professional business and uses section of the PO Zone (Section 601 A.1).

RECOMMENDATION: That the City Council adopt the proposed resolution of ambiguity.
ATTACHMENTS:

1. Draft Resolution clarifying ambiguity
2. Article 6 of the Porterville Zoning Ordinance
3. Letter dated August 16, 2005 from Dana Ramirez
4. Letter dated August 18, 2005, sent by Staff
5. Letter dated August 25, 2005 from Gregory Gillett
RESOLUTION NO. ______________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ADOPTING AN INTERPRETATION OF AMBIGUITY WITH REGARD TO SALONS AND SPAS IN THE PROFESSIONAL OFFICE (PO) ZONE

WHEREAS: On September 6, 2005, the City Council considered whether salons and spas constitute professional offices or uses; and

WHEREAS: The City Council has determined that the Zoning Ordinance allows for potential ambiguity in the interpretation of what constitutes professional offices and uses; and

WHEREAS: For the purposes of this resolution of ambiguity salons and spas provide a combination of services including hair, nails, skin care treatments, massage and electrolysis. It does not include nail parlors.

WHEREAS: The City Council intends to provide guidance to City Staff and the business community with regard to the approved resolution of ambiguity in the City’s Zoning Ordinance; and

NOW THEREFORE BE IT RESOLVED: That the City Council of the City of Porterville does hereby adopt this resolution of ambiguity indicating that spas and salons are allowed uses in the Professional Office (PO) Zone.

__________________________
Kelly West, Mayor

ATTEST:

John Longley, City Clerk

By ________________________
Georgia Hawley, Chief Deputy City Clerk
ARTICLE SIX

PROFESSIONAL OFFICE ZONE

SECTION 600: P-O Zone (Professional Office Zone)

The following regulations shall apply in the P-O, Professional Office Zone, unless otherwise provided in this Ordinance.

SECTION 601: Uses

A. In a P-O Zone, the following uses only are permitted:

(1) Professional offices and uses, including but not limited to the practice of medicine, dentistry, law, accounting, engineering, architecture, planning, insurance, real estate (but excluding veterinarians).

(2) Prescription pharmacies wherein merchandise offered for sale will be restricted to drugs, chemicals, and household sick room supplies intended for the use in the care, mitigation, treatment and prevention of disease in man.

(3) Hospitals (excluding veterinaries and animal hospitals).

(4) Rest homes, nursing homes, independent living retirement facilities and assisted living retirement/residential care facilities.

(5) Public and private schools, including music; dancing and trade schools.

(6) Multiple-family residences, subject to the requirements of the R-4 zone, including setbacks, building height, lot area and coverage with approval of a Conditional Use Permit.

(7) Accessory buildings and uses subject to the provisions of Section 2606.

(8) Signing, subject to the stipulations of Article 20.

B. For General Provisions and Exceptions, see Article 26.

SECTION 602: Height
A. No building shall exceed a height of fifty (50) feet except general acute care hospitals which shall be limited to a maximum height of sixty (60) feet.

B. For General Provisions and Exceptions, see Article 26.

SECTION 603: Front Yard

A. Every lot shall have a front yard with a minimum depth of ten (10) feet which shall be fully landscaped.

SECTION 604: Side Yard

A. Every side yard shall be a minimum of five (5) feet in width; when buildings are in excess of twenty-five (25) feet in height from finished grade and adjacent to any R-1 or R-2 District, such interior side yard shall increase one (1) foot in width for every ten (10) feet increment in building height in excess of twenty-five (25) feet.

B. Corner lots shall be subject to the same yard requirements as interior lots.

C. Reversed corner lots shall have side yards as follows:

(1) Street side yard width shall be a minimum of twelve (12) feet or the required front yard requirement of the lot in the rear (key lot), whichever is less.

(2) The other (interior) side yard shall be subject to the same yard requirements as interior lots.

(3) No accessory building on a reversed corner lot shall project beyond the extension of the required front yard line of the lot in the rear key lot.

(4) The regulations of this paragraph shall not be construed to reduce the buildable width to less than twenty-eight (28) feet in cases of reversed corner lots created on or before June 7, 1949, after providing the minimum side interior yard required of interior lots.

D. See Section 2605 for additional provisions

SECTION 605: Rear Yard
A. A rear yard depth of ten (10) feet shall be required when a P-O zoned parcel is not located on an alley and adjacent to an "R" district, otherwise none, excepting therefrom residential structures permitted in subparagraph (6) of Section 601(A) of this article.

B. Where the building on the lot is in excess of thirty-five (35) feet in height, the rear yard shall be increased one (1) foot in depth for each additional ten (10) feet, or fraction thereof, above thirty-five (35) feet.

C. For General Provisions and Exceptions, see Article 26.

SECTION 606: Buildable Area

A. The buildable area, or percentage of a lot which may be occupied by any and all buildings, shall not exceed sixty percent (60%) for any and all residential structures.

B. See Section 2603, Area

SECTION 607: Lot Area and Width

A. There shall be a minimum lot area of six thousand (6,000) square feet.

B. There shall be a minimum lot width of sixty (60) feet.

SECTION 608: Off-Street Parking and Loading Space Requirements

A. See Article 22 - Off-Street Parking.

B. See Article 24 - Loading Space.

Z01: ART-6
August 16, 2005

Dear Mr. Dunlap, Ms. Moore and Mr. Frazier,

Please allow me to introduce myself and my professional occupation. My name is Dana Ramirez and I am a Licensed Skin Care Therapist under the State Board of California. I work on skin care conditions such as rosacea, acne vulgaris, and other related skin care conditions.

When I previously spoke to Mr. Frazier he stated professional office zoning did not allow for my specific occupation. I believe there was a misunderstanding in the terminology used. I believe we do qualify under the conforming use. The products that will be retailed will be incidental to the skin conditions I treat. Only: Acne, dehydration, premature aging, rosacea, folliculitis, sensitive skin, etc. There will be no toxic waste generated in the performance of our business. My proposed business is skin care therapy, therapeutic massage and reflexology. Reflexology benefit patient’s health in both chronic and other ailments. Reflexology is a form of massage that corresponds to all functions of the body.

There will be three therapists working at the proposed location. Doctors and Dermatologists often refer patients to our staff of professionals for fibromyalgia, traffic accidents, tendonitis, sciatica, and chronic and medical skin conditions.

Thank you for your reconsideration in this matter. I can be reached at the following phone numbers: 310-2126 or 783-3013.

Sincerely,

Dana Ramirez,

[Signature]

RECEIVED
AUG 16 2005

ATTACHMENT
ITEM NO. 3
August 18, 2005

Mr. & Mrs. George Ramirez
20113 Ave. 176
Porterville, CA 93257

Dear Mr. & Mrs. Ramirez:

On August 15, 2005, I talked to Mr. Ramirez regarding your desire to open a therapeutic massage business at the location of 347 North “D” Street. I told Mr. Ramirez that the subject site is located in a PO (Professional Office) Zone. Only those uses listed in Article 6 (Professional Office Zone) of the Porterville Zoning Ordinance are allowed. Due to the type of use you were proposing, I requested a letter to further identify exactly what the therapeutic massage business would entail.

On August 16, 2005, when both of you contacted me and submitted your letter, I told you that Mr. Bradley D. Dunlap, Community Development Director and I would review your letter and make a determination as to what would be allowed pursuant to your intended use.

Your letter in brief states (see attached):

“My proposed business is skin care therapy, therapeutic massage and reflexology. Reflexology benefit patient’s health in both chronic and other ailments. Reflexology is a form of massage that corresponds to all functions of the body”.

As a result of that review by Mr. Dunlap and I, the uses that you have described are consistent with Article 6 (Professional Office Zone) of the Porterville Zoning Ordinance with the exception of skin care therapy.

Facials, manicures and pedicures for skin care therapy is not allowed and will not be allowed in the PO Zone.

Respectfully,

Bubba Frasher, Assistant Planner

ATT: Letter dated August 16, 2005

CC: Bradley D. Dunlap, Community Development Director
    Gregory Francisco Gillet, Attorney at Law
    Julia Lew, City Attorney

zone-vif9347NdRamirez
August 25, 2005

Brad Dunlap
Community Development Director
City of Porterville
291 N. Main Street
Porterville, CA 93257

RE: Dana’s Skin Radiance

Mr. Dunlap:

After our discussion yesterday I reviewed the decision of the city staff and determined that the decision was based on a misinterpretation of the letter from my client. Thus, I am requesting that the preliminary review be redone by you taking into account the clarified and additional information herein.

Mr. Frasher states in his letter:

“Facials, manicures, and pedicures for skin therapy is not allowed and will not be allowed in the PO Zone.” (emphasis in the original)

However, my Client made no mention of or connection to pedicures & manicures. The therapeutic skin care she undertakes is to prevent and care for skin ailments. As I mentioned to you, I believe this interpretation to be based on bias; bias that disabled Mr. Frasher from making a professional and objective decision.

This aside, I would like you to provide an approval based on the same information given your office with that clarification. I have also attached a letter from Doctor Pearson testifying to the professional nature of her work.

To be clear, Mrs. Ramirez is not practicing cosmetology. Her profession is to use modern and aggressive topical skin treatments to prevent and combat medical ailments such as acne, acne vulgaris, rosacea, folliculitis, sensitive skin, etc. She is highly recommended and consistently referred by many Dermatologist, including the astute Dr. Pearson. She is certified by the State Board of California. Her status as a professional is well above that of a massage therapist, an approved use, due to her certification, references, and treatment of ailments.

My client has invested tens of thousands of dollars to renovate her office. Her goal is to contribute to the professional neighborhood as well as the
business community as a whole. I request that you make the determination that skin care therapy be permitted use for the zone. I would be happy to provide you with any further information you require.

I hope your determination is provided in order to avoid extra cost to my client, an appeal to the city council, and additional action. Please contact me at your earliest opportunity if review is possible. Thank you for your time.

With Kind Regards,

[Signature]

Gregory Francisco Gillett

GFG/a

cc: client

Julia Lew
August 16, 2005

To Whom It May Concern

RE: Dana Ramirez and her work as an Esthetician

Dear Sirs,

Even though estheticians are often considered to strictly do cosmetic work such as a cosmetologist, many of them are hired by dermatologists and plastic surgeons to assist in their practice. Estheticians are beneficial to dermatologic patients in many ways. They have studied the skin and have the ability to counsel patients on the care of their skin both in regards to common medical problems such as acne and prevention of skin cancer by counseling patients on sun protection.

I personally have considered having Ms Ramirez work in my office, however at the same time I am trying to recruit another dermatologist to the area. We do have a shortage of dermatologists in the entire Valley. When Ms Ramirez was informed that she would have to find another place to work if I were to find another dermatologist she felt it would be better for her to find a different place to work initially rather than to move later which is very understandable.

At the same time, I feel that Ms Ramirez would be a great asset to the area primarily because there is a shortage of dermatologists and the fact that she can help care for the simpler medical problems of acne and often decrease the need for patients to seek out a dermatologist. I have many times referred patients to estheticians especially for electrolysis and facials knowing that many patients feel that periodic facials help keep acne under better control.

I would definitely consider Ms Ramirez to be in the professional category and not strictly a cosmetologist doing cosmetic work. Again I would have her in my office if I was not looking for another dermatologist at the same time.

I hope you will take this information into consideration in allowing her to work within a professional office zoning.

Sincerely,

Earl S. Pearson, M.D.
COUNCIL AGENDA: SEPTEMBER 6, 2005

SUBJECT: RESOLUTION REQUIRING RESIDENCY OR BUSINESS OWNERSHIP NEXUS WITH REGARD TO MEMBERS OF COMMISSIONS, LEGISLATIVE COMMITTEES AND OTHER BOARDS OR COMMISSIONS UPON WHICH THE CITY COUNCIL HAS APPOINTIVE AUTHORITY

SOURCE: CITY ATTORNEY

COMMENT: At the July 19, 2005, City Council meeting, the City Council directed this office to prepare a resolution requiring that at least 70% of committee, commission and board members appointed by the City Council be registered voters of the City of Porterville, and that the remaining 30%, if not City residents, be owners of businesses within the City. Per the direction from Council, attached is a Resolution setting forth these requirements. These requirements would apply with regard to the committees, etc., upon which the City Council has appointive authority (therefore excluding temporary administrative committees). These provisions would also apply unless there are specific local or other regulations to the contrary. Finally, some flexibility has been built in, in the event a waiver in a particular circumstance is warranted given the nature or purpose of the particular committee.

RECOMMENDATION: The City Attorney recommends that the City Council consider adoption of the Resolution Requiring Residency or Business Ownership Nexus with regard to Members of Commissions, Legislative Committees, and Other Boards or Commissions Upon Which the City Council has Appointive Authority.

Attachment: 1) Resolution of the City Council of the City of Porterville Requiring Residency or Business Ownership Nexus With Regard to Members of Commissions, Legislative Committees, and Other Boards or Commissions Upon Which the City Council has Appointive Authority

APPROPRIATED/FUNDED ☐ ☐ ☑ Item No. 23
RESOLUTION NO. ___-2005

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE REQUIRING RESIDENCY OR BUSINESS OWNERSHIP NEXUS WITH REGARD TO MEMBERS OF COMMISSIONS, LEGISLATIVE COMMITTEES, AND OTHER BOARDS OF COMMITTEES UPON WHICH THE CITY COUNCIL HAS APPOINTEE AUTHORITY

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

WHEREAS, the City’s current regulations and charter provisions give the City Council the authority to appoint members to commissions, legislative committees, and other boards or committees;

WHEREAS, with the exception of the Library Board and the Parks and Leisure Services Commission Board, which require the commission and board members to be residents of the City, the City’s regulations are silent as to residency or any other nexus requirements; and

WHEREAS, the City Council finds that it would be beneficial to the City for all members of any commissions, committees, or other boards upon which the City Council has appointive authority, to either be registered voters of the City or own a business within the City limits;

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

1. At least seventy percent (70%) of all members of any commission, committee or other board, upon which the City Council has appointive authority, shall be required to be a registered voter of the City of Porterville.

2. The remaining thirty percent (30%) of all members of any commission, committee or other board, upon which the City Council has appointive authority, shall be required to own a business (or a substantial portion thereof) within the City of Porterville.
3. The residency and nexus requirements shall not apply where there are specific local regulations, or applicable federal or state regulations, to the contrary.

4. These requirements shall not apply to temporary administrative committees, upon which administrative officers have appointive authority.

5. The City Council may waive or modify these requirements, in the event that it finds that the requirements should not apply given the specific nature or purpose of the committee, commission or board.

ADOPTED this 6th day of September, 2005.

__________________________________________
Kelly West, Mayor

ATTEST:

John Longley, City Clerk

__________________________________________
By: Georgia Hawley, Chief Deputy City Clerk
CITY COUNCIL AGENDA

SUBJECT: Consideration of Surplusing City Water Tender and Making It Available to La Barca, Jalisco, Mexico

SOURCE: City Manager’s Office

A request has been received from the Sister City Committee to surplus a City water tender and to make it available to Porterville’s Sister City, La Barca in the State of Jalisco, Mexico.

A memorandum from the Fire Chief indicates that should the City Council approve the request from the Sister City Committee, that it should be subject to La Barca’s ability to transport the water tender to Mexico on a transport vehicle as the tires are not legal on California roadways. The cost of the tire replacement is estimated to be about $1,800.

RECOMMENDATION:

Surplus the 1955 Diamond Rio 6 x 6 water tender with the 1,000 gallon water tank and the 35 horse power tank, and make it available to La Barca, Jalisco, Mexico subject to their transportation of the vehicle from Porterville to Mexico.
June 22, 2005

John Longley, City Manager
City of Porterville
291 No. Main Street
Porterville, CA 93257

Dear Mr. Longley:

Recently, in a brief conversation, it was mentioned that a city water truck has become surplus property and is no longer used by the City of Porterville.

Porterville’s Sister City, LaBarca, Mexico, would be interested in obtaining this water truck for use in LaBarca.

They would obtain possession in Porterville and be responsible for delivery to LaBarca. We believe this would be of value to the people living in LaBarca and would appreciate your consideration of donating this property to our Sister City.

Best regards,

Ted Ensslin, Chairman
Sister City Committee

195 W. Putnam
Porterville, CA
784-5300
PORTERVILLE FIRE DEPARTMENT

MEMORANDUM

DATE: August 31, 2005

TO: John Longley, City Manager

FROM: Frank Guyton, Fire Chief / Airport Manager

SUBJECT: La Barca’s Request for Surplus Equipment

Our sister City of La Baca, Mexico has made a request to acquire our surplus tanker truck. The tanker vehicle in question is a 1955 Diamond Rio 6 x 6 with a 1,000 gallon water tank and a 35 hp pump. The vehicle was removed from reserve status two years ago and housed at the airport fire station. The basic vehicle structure, tank and pump are sound. However, the tires do not meet California standards, the carburetor is bad, and the batteries are very poor. I would venture to say it will not start at this time. The vehicle no longer meets the needs of the City of Porterville Fire Department and is available for surplus. It was technically replaced in 1988 and was held in reserve as long as it was financially appropriate.

Should the City Council approved the request from the City of La Barca, I would recommend it be subject to La Barca’s ability to transport it to Mexico on a transport vehicle as the tires are not legal on California roadways. To replace the tires in California would cost approximately $1,800.
City representatives have discussed with California Consulting LLC, the benefits of representation regarding State Agency contacts. The main benefit is to be aware of grant opportunities to support local efforts.

The Council has expressed a strong desire to undertake a number of projects which are currently not funded. Grants do offer opportunities for funding within certain limitations. The major limitation with grant work is organizational capacity.

The City currently has around 100 projects in process. While the City has controlled staffing levels in light of State imposed revenue reductions, it has at the same time maintained a consistent pace with program and project implementation.

**The Project Development & Funding Process:** Non-routine projects, grant and loan funded projects normally involve the following elements of capacity.

- Personnel and services to formulate and define projects (project framing)
- Personnel to search for funding sources (grants, loans, bonds, COPs, fund balances)
- Personnel and services to prepare funding applications
- Personnel and services to prepare plans & specs, contract documents, and manage construction
- Personnel, supplies, and services to operate and maintain the projects

**Time Requirements for Components of Grant Process:** Each element of capacity normally involves different levels of commitment. For example, framing a project may be achieved in 8 to 12 hours. Developing an application (grant writing) for funding often involves 100 to 140 hours of effort. Design and contract documents, may take up to 500 hours to prepare.
depending on project complexity. **Construction management** may involve 4 to 8 hours per day during the course of a project. For a 180 day project, this could well involve an additional 500 hours.

**The operation and maintenance of projects and programs** are the major elements of cost and commitment. Often they are not considered, so as a result funding is taken from other operations to “backfill” new projects. Over time, this can result in substandard service delivery and the deterioration in facility due to a lack of maintenance and rehabilitation.

**Normal Agents in Grant Process:** In normal course, the effort to frame projects comes from the City Council and staff members. If there is not an abundance of project and program activity within the organization, staff is normally used to prepare grants. If staff is committed to projects, then often-times consultants are used to write grants. This may well create additional cost.

Construction management has had various approaches in the organization. For construction management, staff specialists, general administrative, and consultants have been used. Normally, we would try to schedule projects so that staff construction specialists can manage them.

This background defines the issues related to managing grant projects and programs. Receiving and implementing grants often creates difficulties by requiring the organization to cope and in some cases, sub-optimize because of an over commitment of staff capacity.

**Rationale to Pursue Grants:** The reason they are pursued, however, is that City Council’s wish to be effective in improving City services and facilities. Often time, grants are the single method that this can be achieved. Therefore, it is important to consider an approach to pursue additional grant opportunities.

**Need to Define “Need List” to Pursue for Project Funding:**

The caveat the City Manager proposes to this is that efforts to achieve grant funding should only be for projects or programs that the Council has defined in advance to be a priority.

A “fishing” effort to locate grants will undoubtedly result in grant offers to the City, but this activity may well take the City off its plan and, in fact, may diminish or frustrate services to priorities which have been defined by the City Council.

The City Manager has polled Departmental Directors regarding priority projects that grant offers would facilitate. It is intended that the projects/programs defined are consistent with City Council priorities.

*Purchase of Electric Vehicles for Code Enforcement*
*Comprehensive Zoning Ordinance Update*
*Code Enforcement Program Implementation Funding*
*Homeless Housing Assistance Program*
Facade Renovation Monies
Incubator Business Program Funding (Airport/Downtown)
Performing Arts Facility
Henderson Reconstruction, Indiana to Main
Indiana Low Water Crossing
Plano Reconstruction, Henderson to Mulberry
Three New Water Wells
PCE Well Head Treatment for Private Water Companies/City
1,500 GPM Surface Water Treatment Facility
Construction of Two New Fire Stations
Two Class 1 Fire Pumpers
Airport Slurry Seal Machine
Elevator to make Fire Station 1 Fully ADA Compliant
Two Units for Rescue Operations and Equipment
Interrupter System to Management Traffic Lights during Emergency Response
Lighter OHV Facility
Lighted Softball Fields
Additional Monies to Complete Rails to Trails Project
Ballpark Bleachers
Playground Equipment
Monies to Support Building Maintenance Projects: Roof replacement, etc.
Monies to support Park Land & Facility Planning & Development
Security Improvements at Police Facility - 350 North "D" Street
Improved Emergency Radio Communications Capabilities
Upgrade of City’s Emergency Operations Center
Addition of Police Department Precinct Station
Improved Police Department Firing Range
Deploy Remote Control Surveillance Cameras in Various High Crime Areas

These projects and programs are not exclusive, but they represent needs within the City that are currently without funding. Undoubtedly, important projects have been missed from the City Manager’s operational review, and the Council should add these to the list, while taking from the list any project that is not viewed as consistent with Council priorities.

**Cost for Program:** The City has defined that to provide an adequate “trial” a time period of 6 months should be defined. A cost amount of $2,000 per month has been defined. As outlined above, finding grants is an initial aspect of the process. Considerable time and effort is required to prepare applications, manage construction, operate and maintain facilities. It is suggested that staff or consultants will prepare applications. (If consultants prepare the application, some additional appropriations may be required to fund consultant efforts) 1The cost of construction management should be found in the grant if possible and the City should have a specific plan, in advance, for the operations and maintenance of the facility.
There is not a specific line item in the current budget to fund this program. It is suggested, however, that allocations of cost can be made against the general and enterprise funds. This allocation would come from reserves or increase deficits. In any case, this could be returned at the next meeting for consideration. The intention of the program, however, is to recover significantly more than the expenditure to support projects and programs. The six month “trial” period will provide the Council with the likelihood to assess potential outcomes.

**Options for City Council Consideration:** The following options present themselves for Council consideration.

- Hire California Consulting on the contract which has been presented to undertake an effort to pursue grants in the project/program areas outlined above.

- Prepare and disseminate an RFP to solicit potential consultants to pursue grants in the project/program areas outlined above.

- Do not retain a grant search consultant and focus on the completion of current project and pursue grants and loans in the normal course of business through organizational contacts, announcements and publications.

**Recommendation:** Consider retaining a Legislative representative. Conduct appropriate background and research.
GOVERNMENT AFFAIRS CONSULTING AGREEMENT

DATED: September 6, 2005

PARTIES: California Consulting, LLC, a California limited liability Client (hereinafter the “Consultant”); and City of Porterville (hereinafter the “Client”)

AGREEMENT:

The undersigned hereby agree to the following terms and conditions:

Section 1. **Duties of Consultant.** During the term of this Agreement, Consultant shall provide the Client with federal, state and local governmental affairs consulting and advice as is reasonably requested by the Client. It is understood and acknowledged by the parties that the value of the Consultant’s advice is not readily quantifiable, and that Consultant shall render advice upon request of the Client, in good faith, but shall not be obligated to spend any specific or pre-set amount of time in so doing. Consultant’s duties may include, but will not necessarily be limited to:

a. Offering Client general advice on matters involving federal, state and local governmental issues and affairs;

b. Communicating with key persons in the federal government, state agencies (non-Legislature), local government, community leaders, community organizations, and business persons to further the goals of Client; and,

c. Arranging and/or attending meetings on behalf of the Client and for the furtherance of the stated goals of the Client. Assisting client with issues, problems, and concerns that arise regarding state and federal agencies.

Section 2. **Consulting Services Limitation.** Notwithstanding any other provision of this Agreement, and pursuant to the requirements of California Government Code Section 87406, for a period of one year after Steven N. Samuelian leaves office as a assembly member of the California Legislature (the “Legislature”) representing the 29th District, Consultant shall not provide any advice, counsel, assistance, services or information or representation on behalf of and for the benefit of Client concerning the Legislature, or any committee or subcommittee thereof, or concerning any member, officer or employee thereof, for purposes of influencing legislative action. The limitation set forth in this Section shall not prevent Consultant from providing consulting services, counsel, assistance, information and representation to, on behalf of and for the benefit of Client concerning any other statewide or state level public agency.

Section 3. **Time for Performance of Duties.** Notwithstanding any other term or condition of this Agreement, Client specifically acknowledges that Consultant has other
clients and/or outside employment. Consultant shall have control over the time and manner of performing its duties described in Section 1, and shall make available such time as it, in its sole discretion, shall deem appropriate for the performance of its duties under this Agreement.

Section 4. **Term of the Agreement:** The effective date of this Agreement is September 6, 2005, and the agreement shall remain in effect until March 6, 2006 at which time it will expire.

Section 5. **Compensation.** Client shall pay Consultant $2,000 per month as compensation for Consultant’s federal, state and local government affairs consulting services. Client shall pay Consultant on the 1st day of each month, without the need for Consultant providing a written invoice. No amount of this compensation, in whole or in part, will be for lobbyist services as defined by Government Code 82039 unless Client has specifically requested Consultant to perform such services requiring Consultant to register Client as a “Lobbyist Employer” pursuant to Government Code sections 82039.5, and 86100 et seq.

Section 6. **Expenses.** The Client agrees to reimburse the Consultant for reasonable out of pocket expenses related to performing services on behalf of client. These reasonable out of pocket expenses shall be limited to mileage and packing expenses. Consultant shall provide Client with a receipt and description of the expense. Client shall reimburse Consultant within Thirty (30) calendar days of Consultant providing the receipt and description of services to Client.

Section 7. **Relationship.** Consultant shall perform its services hereunder as an independent contractor and not as an employee of the Client or an affiliate thereof. It is expressly understood and agreed to by the parties hereto that Consultant shall have no authority to act for, represent or bind the Client or any affiliate thereof in any manner, except as may be agreed to expressly by the Client in writing from time to time.

Section 8. **Confidentiality.** Except in the course of the performance of its duties hereunder, each party agrees that it shall not disclose any trade secrets, know-how, or other proprietary information not in the public domain learned as a result of this Agreement. Similarly, the parties agree that they shall not disclose or divulge this Agreement, or any of its term or conditions to third parties, except as is necessary to perform the terms and conditions stated herein.

Section 9. **Indemnification.** The Client agrees to indemnify and hold harmless the Consultant, its members, officers, directors, employees and each person who controls Consultant or any of its affiliates from and against any losses, claims, damages, liabilities and expenses whatsoever (including reasonable costs of investigation or defending any action) to which they or any of them may become subject under any applicable law arising out of Consultant’s performance under this Agreement and will reimburse Consultant for all expenses (including counsel fees) as they are incurred. Consultant maintains liability insurance in the amount of one million dollars.

Section 10. **Assignment.** This Agreement shall not be assignable by either party; provided however, that Consultant shall have the discretion to allocate its duties hereunder to owners, affiliates, or employees of Consultant.

Section 11. **No Guaranteed Result.** Client acknowledges and agrees that Consultant does not have control over third party decision makers, and therefore Consultant
makes no representations, warranties or guarantees that it can achieve any particular results. Consultant, however, shall act in good faith toward the performance of its duties described above.

Section 12. **Prior Agreements.** There are no prior agreements between the parties, and this Agreement represents the sole and only agreement between them. This Agreement may only be modified by a writing signed by both parties.

Section 13. **Governing Law.** This Agreement shall be deemed to be a contract made under the laws of the State of California and for all purposes shall be construed in accordance with the laws of said State.

Section 14. **Attorneys Fees.** The prevailing party in any action filed that arises out of this Agreement shall be entitled to recoup their reasonable attorneys fees and costs from the other party.

Section 15. **Notices.** All notices will be sent via certified mail or overnight courier such as Federal Express, to:

Consultant at: California Consulting, LLC
1530 East Shaw Ave., Suite 114
Fresno, CA. 93710

Client at: City of Porterville

Section 16. **Termination.** This Agreement may be terminated by either party for any reason not in violation of federal and/or California state law upon Thirty (30) days written notice to the other party. Client shall compensate Consultant for all services rendered prior to the date of termination. There shall be no liquidated damages in the event of termination under this provision.

IN WITNESS THEREOF, this Agreement is executed on the dates set forth below and effective on the date first set forth above.

“CONSULTANT”
California Consulting, LLC
(A California limited liability company)

By:
Steven N. Samuelian, Manager

“CLIENT”

Printed Name: ____________________

- 3 -
SUBJECT: Consideration of Support for the Porterville Pow Wow

SOURCE: City Manager's Office

For the past several years, a tradition has been re-established in the Porterville Community. During the early Fall, the Tule River Yokuts have presented a Pow Wow at the Porterville Fair Grounds.

Each year, the City has adopted a proclamation indicating the Council's support for the Pow Wow. This year, the document is prepared in the form of a Resolution, which has been established.

The Council may also wish to discuss other ways it can indicate its support for the activity.

RECOMMENDATION:

Adopt the resolution of support as presented.

Provide direction to the staff regarding other activities in support of the Pow Wow.
RESOLUTION NO. ____-2005

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE RECOGNIZING THE TULE RIVER INDIAN TRIBE AND THE TULE RIVER TRIBAL POW WOW

Whereas, the indigenous Yokuts Tribe, located along the Tule River in Tulare County, is a major part of the history and culture in the Porterville area and in the San Joaquin Valley; and

Whereas, the social life of the Yokuts Tribe included celebrations of singing and dancing, and these celebrations of singing and dancing, now popularly known as “pow wows,” have echoed on the banks of the Tule River near the hills of the Sierra for millennia, and have become a part of local tradition in the Porterville area in 1989. This tradition has continued at various locations in the Southeastern Tulare County areas since 1989; and

Whereas, in honor of the varied and rich Indian tribes and cultures in California, Ronald Reagan, during his term as Governor, established California Indian Days during the final days of September of each year; and

Whereas, the Tule River Tribal Council, along with the Eagle Mountain Casino, Owens Valley Career Development Center, City of Porterville, Porterville Fair, and the Porterville Unified School District, have established an organizing committee for a Porterville - Tule River Pow Wow on September 23, 24 and 25, 2005;

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Porterville that the City Council does hereby recognize and support the Tule River Tribe
and Tribal Council and the "PORTERVILLE - TULE RIVER POW WOW DAYS" to be held September 23 through September 25, 2005, at the Porterville Fairgrounds. The Council urges the citizens of this community to join in this period of festivity in celebration of the Yokuts’ culture and their traditions, and the traditions of this community.

ADOPTED this 6th day of September, 2005.

________________________________________
Kelly E. West, Mayor

______________________________  ______________________________
Ronald L. Irish,                  Cameron J. Hamilton,
Council Member                    Mayor Pro Tem

______________________________  ______________________________
Richard M. Stadtherr,            Pedro R. Martinez,
Council Member                   Council Member
SUBJECT: CONSIDERATION OF DESIGNATING AN AREA COMMEMORATING CITY COUNCILS

SOURCE: City Manager

COMMENT: A Member of the Council has made a request to commemorate the past, the present, and future City Councils by having engraved plates, or plaques, mounted outside the Council Chamber—either on the outside wall of the Chamber, or on the south wall facing the Council Chamber.

At this time there are approximately forty-six plates required based on each Mayor and Council since the Charter of 1926. If the Council authorizes the display, staff will provide a cost and estimated completion date based on the configuration and size of the individual plates.
CONSIDERATION OF WIRELESS COMPUTER ACCESS FOR THE CITY COUNCIL

SOURCE: Administration

COMMENT: With advances in technology, staff is developing a test environment to allow wireless access to computer resources. This access would be two-pronged. The first would be a wireless hub located in City Hall. This hub would allow for untethered access to various computer data resources. The second element of the test environment would be a service contract with “Clearwire” for wireless computer access outside the confines of City Hall.

At this time, staff could develop lap top computers for City Council use that could take advantage of these wireless resources. This could improve communications with Council Members while away on City business. The nature of the test environment would allow staff to explore the necessary security measures to ensure the safety of the City’s computer infrastructure before the environment would be expanded.

The program for the lap top computers could be developed as follows:

(1) A lap top computer will be made available to Council Members and the City Manager with appropriate software.
(2) The cost of the hardware and software will be amortized over the remainder of the term of office or contract.
(3) If an individual resigns and wishes to retain the computer, they will pay the remaining unamortized amount.
(4) The City will establish the internet connection. This will be used for information and notification. (It is critical that Brown Act limitations be observed so there are no virtual meetings.)
(5) The budget for this program will be established as part of a future budget adjustment once the parameters are identified, with an estimate not to exceed $15,000.

RECOMMENDATION: That the Council authorize staff to establish the program outlined in this report.
SUBJECT: Consideration of Reimbursement of Administrative Expense to Councilmembers

SOURCE: City Manager’s Office

A member of the Council has requested that an item appear on the Agenda regarding the reimbursement of administrative expenses. A request was also made to outline the reimbursement of such expense by the city of Visalia for their councilmembers.

The information we received is that the city of Visalia has a payment for Council Meeting, per diems, and request for reimbursements. According to the information staff received, Visalia receives $500 per month for meetings and $60 per month stipend. They have discretionary account items of $2,000 per councilmember. This money can be used for contributions to charitable purposes and other related expenses allowable as general fund costs. In addition, they get mileage reimbursement, but they have to file mileage reports. They also have a purchasing card to pay for meeting expenses. The City also reimburses for other governmental, reimbursable expenses including travel and conference costs.

Appropriation

Agenda Item No. 29
SUBJECT: APPROVAL FOR COMMUNITY CIVIC EVENT
DOWNTOWN PORTERVILLE ASSOCIATION NUESTRO PRIDE CAR SHOW, SEPTEMBER 25, 2005

SOURCE: Administrative Services, Finance Division

COMMENT: Downtown Porterville Association is requesting approval to hold its annual Nuesto Pride Car Show on Sunday, September 25, 2005, from 6:00 a.m. to 7:00 p.m. The use of the Redevelopment Agency parking lot on Second Street from Garden Avenue to Olive Avenue is requested:

This request is made under the Community Civic Events Ordinance No. 1326, as amended. The application has been routed according to the ordinance regulations and reviewed by all departments involved. The requirements are listed on the attached copy of the application, agreement and Exhibit "A," and a map indicating the desired street closures is included.

RECOMMENDATION: That the Agency approve the use of the parking lot on Second Street, from Garden to Olive, in conjunction with the attached Community Civic Event Application and Agreement from Downtown Porterville Association, subject to the stated requirements contained in Exhibit "A."

ATTACHMENTS: Community Civic Event Application, Agreement, Request for street, sidewalk and parking lot closure/usage, Vendor list, Exhibit "A", Map.
REQUIREMENTS FOR COMMUNITY CIVIC EVENT

DOWNTOWN PORTERVILLE ASSOCIATION

NUESTRO PRIDE CAR SHOW

SEPTEMBER 25, 2005

Business License Supervisor: S. Perkins
License required for all vendors.

Public Works Director: B. Rodriguez
No comments.

Community Development Director: B. Dunlap
Obtain City Council approval for use of city right of way.

Field Services Manager: B. Styles
No comments.

Fire Chief: F. Guyton
Do not block hydrants.

Parks and Leisure Services Director: J. Perrine
Please stay out of planters, clean up following event, Porta Potties required.

Police Chief: S. Rodriguez
Ensure adequate barricades used for street closures to warn motorists. Need Council approval for street closure; need amplifier permit; no alcoholic beverages permitted; promptly clear roadway at conclusion of event.

Risk Manager: D. Pyle
See attached.
REQUIREMENTS FOR COMMUNITY CIVIC EVENT

Sponsor: Downtown Porterville Association
Event: Nuestro Pride Car Show
Event Chairman: James N. Cone
Location: Downtown Porterville
Date of Event: September 25, 2005

RISK MANAGEMENT: Conditions of Approval

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

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

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