CITY COUNCIL AGENDA
PORTERVILLE, CALIFORNIA
OCTOBER 4, 2005 6:00 P.M.

Call to Order
Roll Call

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

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

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

Pledge of Allegiance Led by Mayor Pro Tem Cameron Hamilton
Invocation

PRESENTATION
Employee of the Month - M’chelle Powers

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 July 19, 2005 and August 16, 2005

2. Budget Adjustments for the 2005/2006 Fiscal Year
   Re: Accepting revised budget projections to reflect (VLF) Gap Loan proceeds and Prop 1A Loan Repayment proceeds are one-in-the-same.

3. Assistance to Firefighters’ Grant Program 2005 - Negotiated Bids
   Re: Authorizing purchase of firefighting equipment through negotiated bid process with grant award of $44,909.

4. Acceptance of the Porterville Heritage Center
5. **Acceptance of Sludge Bed Expansion Project**  
Re: Accepting the Project by Kaweah Construction Company for the construction of four new soil-cement lined sludge drying beds west of the Porterville Airport.

6. **Acceptance of the Mitigation Well Project**  
Re: Accepting the Project by Johnson Drilling Company for the construction of a water well to irrigate Elderberry bushes and associated plant habitat on the City’s Headgate Property, located generally between Highway 190 and the Tule River, east of the southerly prolongation of Page Street.

7. **Scheduling a Public Hearing for the Revised Disadvantaged Business Enterprise (DBE) Program**  
Re: Setting December 6, 2005 as the date for a public hearing to hear testimony regarding a proposed goal of 11%.

8. **Approval of Relocation Claim for Rental Assistance or Down Payment Assistance for Property Located at APN 261-093-019 Tenants Jose C. Molina and Santos Carranza Gonzales**  
Re: Approving Claim of $12,600 plus moving payment of $1,650 for relocation costs associated with Date Avenue Reconstruction Project, and authorizing advance payment of $2,100.

9. **Intent to Set a Public Hearing for Reimbursement Agreements for Concrete Improvement Construction by the City - Williford Drive Street Reconstruction and Drainage Project**  
Re: Setting public hearing for October 18, 2005 for the establishment of the concrete reimbursement fee, pursuant to the Municipal Code §§ 20-40.1 through 20-40.8.

10. **CALHOME Program Application**  
Re: Approving submittal of funding application in the amount of $500,000 for activities including: 1) First-Time Homebuyer Mortgage Assistance; 2) Owner-Occupied Rehabilitation; and 3) Homeownership Project Development Loans.

11. **Approval for Community Civic Event Porterville Unified School District Butterfield History Day - October 21, 2005**  
Re: Approving educational event to take place at Zalud Park on Friday, October 21, 2005 from 6:00 a.m. to 4:00 p.m. with partial street closure of El Granito Street from Grand to the end of the cul-de-sac.

12. **Downtown Holiday Decorations**  
Re: Considering options for holiday tree decorations, including: hiring Christmas Decor by Kaylor Landscaping of Porterville to prune Gardner Tree adjacent to City Hall and install new decorations; or purchasing “Tree of Lights” or “Garland Tree” for installation at Centennial Park.

13. **Information on Status of Curbside Recycling**  
Re: Update on status of proposals for the Processing of Residential Recyclables and Residual Disposal Services.

14. **Update on Johnson Controls Project**  
Re: Update on the status of energy audits at City facilities conducted by the firm of Johnson Controls.

Re: Considering Resolution in opposition to the recent Court ruling regarding the Pledge of Allegiance.

16. Resolution Regarding the Adverse Economic Impacts of the Friant Water Users Issue Diverting Water from Tulare County Agriculture to Fishery Restoration
Re: Considering adopting resolution opposing court ruling regarding U.S. Bureau of Reclamation’s diversion of water from the San Joaquin River, and supporting continued operations of the Friant Division of the Central Valley Project.

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

PUBLIC HEARINGS
17. Sunrise Villa Phase 2 & 3
Re: Approving Tentative Subdivision Map to divide a vacant 11.3± acre parcel into 46 single family residential lots in two (2) phases, generally located on the south side of Mulberry Avenue between the prolongation of Howland and Shadowood Streets.

18. Consideration of Draft Regulations Limiting Continuous and Cumulative Occupancy of Hotels, Motels and Motor Hotels
Re: Considering Ordinance limiting continuous occupancy of hotels, motels and motor hotels unless certain development standards were met, and requiring maintenance of records and regulation postings.

Re: Authorizing use of funds in the approximate amount of $100,000 to offset costs for full-time sworn officer, community services officer, and all necessary training, equipment and overtime costs.

SCHEDULED MATTERS
20. Consideration of Farm Management Agreement Termination
Re: Considering termination of Agreement with Robert Nuckols.

21. 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: Consideration of adopting Resolution of Necessity to acquire property from Hermosa Tierra, Inc.

22. Request to Address Concerns in Regard to Property Located At 379 N. Hockett Street
Re: Considering options available to property owner Mary McClure to resolve parking issue.

23. Environmental Review of the City of Porterville Downtown Parking Project - Phase 2
Re: Approving Project consisting of addition of 11 parking stalls for users of City Transit Center, and closure and abandonment of Oak Avenue between Division and Main Streets for conversion to pedestrian mall.

24. Consideration of Draft Ordinance Addressing Neglect of Real Property
Re: Considering ordinance which would expand the City’s ability to require maintenance of neglected and unsightly real property.

25. Eliminating Truck Parking Along Olive Avenue, Plano Street and Westwood Street
Re: Discussion of City’s intent to prohibit truck and/or commercial trailer parking along Olive Avenue, Plano Street and Westwood Street and solicitation of alternative arrangements for parking.
26. Jaye Street Corridor Improvement Project (COP Refinance)
   Re: Approving refinance of Certificates of Participation to generate approximately $3.2 Million in new funds, without increasing annual debt service payments, to finance infrastructure improvements.

27. Appointment of Two (2) Additional Members to the General Plan Advisory Committee
   Re: Authorizing appointment of Mr. Eric Borba and Mr. Paul Paulin of the Tulare County Farm Bureau to expand Committee to include representatives from the Agricultural industry.

28. Consideration of Rescheduling Remaining MAXIMUS Fee Schedule Public Hearings Regarding Building, Recreation, and All Other Fees
   Re: Setting November 15, 2005 as the date to hold a public hearing to consider the Planning and Building Division Fees and setting December 6, 2005 as the date to hold a public hearing to consider Recreation and all remaining fees and schedules.

29. Adoption of Resolution Requesting the Cooperation of the San Joaquin Valley Air Pollution Control District and the Building Industry of Tulare and Kings Counties
   Re: Consideration of resolution regarding the debate between the parties pertaining to Rule 9510 and Rule 3180.

30. Financial Authorization For a Study Group to Travel to Carson, NV to Look at the Super Wal-Mart
   Re: Authorizing travel by members of the Council to study Super Wal-Mart.

31. Consideration of Field Trip to View Hillside Development
   Re: Considering study session/field trip to Southern California with consultant Mark Rogers with TRG Land on October 31, 2005 on chartered bus.

**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 October 18, 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.
Call to Order: 6:00 p.m.
Roll Call: Council Member Irish, Mayor Pro Tem Hamilton, Council Member Stadtherr, Mayor West
Absent: Council Member Martinez

ORAL COMMUNICATIONS
None

CLOSED SESSION:
A. Closed Session Pursuant to:
   1- Government Code Section 54956.9(a) - Conference with Legal Counsel - Litigation: Greene v. City of Porterville.
   2- Government Code Section 54956.9(b) - Conference with Legal Counsel - Anticipated Litigation: Three Cases.
   3- Government Code Section 54956.9(c) - Conference with Legal Counsel - Anticipated Litigation: Two Cases.

7:00 P.M. RECONVENE OPEN SESSION

REPORT ON ANY ACTION TAKEN IN CLOSED SESSION

Pledge of Allegiance Led by Council Member Stadtherr
Invocation - One individual participated.

PROCLAMATIONS
• Marlene Marquez
  Mayor West read and presented the Proclamation to Ms. Marquez.
• Porterville Kid’s Day 2005
  Council Member Stadtherr read and presented the Proclamation.

PRESENTATIONS
Certificates of Appreciation - National Guard Returnees
The Council honored the following soldiers who had recently returned from Iraq:
• SSG Thomas Pauley
• SPC Kyrt Lane
• SPC Sandro Mungia
• SPC Jesus Hernandez-Guerrero
• SPC Manuel Magdaleno-Diaz
• SPC Juan Vega
• SPC Eric Camarillo
• SPC Floyd Oliphant
• SPC Lindsey Trent
• SPC Gregory Shirk
• 1st Lt David Silva
• SPC Dario M. Davalos
SPC Jose Puga  
SPC Christopher Thornton  
SPC Sigifredo Chavez  
SPC Michael Gonzalez  
SPC Jason Carney  
SPC David Villegas

Outstanding Business Honoree - Royalty Carpets
• Community Development Director Brad Dunlap offered a presentation on the accomplishments of Royalty Carpets and presented the business with the award. Mr. Dennis Johnson accepted the award on behalf of Royalty Carpets.

City Manager’s Featured Projects for June, 2005
• Williford Street Reconstruction Project
  Public Works Director Baldo Rodriguez offered a presentation on the project.

ORAL COMMUNICATIONS
• Greg Shelton, 888 North Williford Drive, thanked the Council and staff for the Williford Drive project.
• Joe Guerrero, 332 South F Street, on behalf of Porterville Feed, thanked the Council and staff for patching the potholes in the alleyway behind Porterville Feed.
• April Tolson, 246 South Chestnut, informed the Council that students from Civics classes from Granite Hills High, Porterville High and Monache High Schools were in attendance.
• Dick Eckhoff, 180 North Main Street, requested that he have an opportunity to speak on Items 26 and 27.
• Dorothy Broome, 863 South Crystal, confirmed that Williford Drive had flooded during the 1970s.
• Armando Love, Leadership Porterville Class of 2005, came forward to fulfill a class challenge.
• Donette Silva-Carter, Porterville Chamber of Commerce President, invited everyone to the taping of Channel 24’s “On the Road Show” to take place at the Cookie Cottage on July 27th between 5:00 a.m. and 7:00 a.m.
• Jessie Vasquez, 477 West Union, a Porterville High School student, questioned when his street would be paved, to which staff pointed out he currently resided in a County island.

CONSENT CALENDAR
1. CITY COUNCIL MINUTES OF JUNE 10, 2005
   Recommendation: That the Council approve the City Council Minutes of June 10, 2005.
   Documentation: M.O. 01-071905
   Disposition: Approved.

2. BUDGET ADJUSTMENTS FOR THE 2005/2006 FISCAL YEAR
   Recommendation: That the City Council approve the budget adjustments to increase appropriation in the amount of $35,510 in the Capital Project Account for the construction of Centennial Park Plaza to allow for expenditure of all donated funds.
   Documentation: M.O. 02-071905
   Disposition: Approved.
4. Authorization to Advertise for Bids - Scenic Heights Waterline Relocation Project

Recommendation: That the City Council:
1. Approve the Plans and Project Manual; and
2. Authorize staff to advertise for bids on the Project.

Documentation: M.O. 03-071905
Disposition: Approved.

6. Award of Contract - Subdivision Plan Checking Services

Recommendation: That the City Council:
1. Authorize the Mayor to execute the “Service Agreement” for Subdivision Plan Checking Services, to the firm of Quad-Knopf, Inc. at an agreed fee of $125.00 per lot and within the guidelines of the Scope of Services;
2. Authorize staff to impose a 7.5% administrative fee to Quad-Knopf Services; and
3. Authorize staff to request payment prior to the City Council accepting the Final Map.

Documentation: M.O. 04-071905
Disposition: Approved.

9. City Easement Conveyance to Southern California Edison Company

Recommendation: That the City Council:
1. Accept SCE’s request to have the City convey an easement for the installation of an underground electrical supply system;
2. Authorize the Mayor to sign the Grant of Easement; and
3. Authorize the City Clerk to record the Easement Deed with the County Recorder’s Office.

Documentation: Resolution 98-2005
Disposition: Approved.

10. Intent to Vacate Public Temporary Turn Around, Concrete Truck Wash Out Area and Storm Drain Pipeline Easements Related to the Development of New Expressions, Phase Four Subdivision (Ennis Land Development, LLC)

Recommendation: That the City Council:
1. Pass a Resolution of Intent to Vacate easements dedicated to the City of Porterville described in Document No. 2004-0005740, recorded January 21, 2004, in the Office of the Tulare County Recorder; and
2. Set the Council Meeting of August 16, 2005, or as soon thereafter, as the time and place for a public hearing.

Documentation: Resolution 99-2005
11. THIS ITEM HAS BEEN REMOVED.

13. REQUEST APPROVAL OF LAND LEASE AT PORTERVILLE MUNICIPAL AIRPORT - WAYNE SPEARS, LOT 60

Recommendation: That the City Council:
1. Approve the Lease for Lot 60 at the Porterville Municipal Airport to Wayne Spears; and
2. Authorize the Mayor to sign on behalf of the City.

Documentation: M.O. 05-071905
Disposition: Approved.

14. APPROVAL FOR COMMUNITY CIVIC EVENT - CITY OF PORTERVILLE - PORTERVILLE COMMUNITY HOMECOMING FESTIVAL

Recommendation: That the Council approve the Community Civic Event Application and Agreement from the City of Porterville, subject to the Restrictions and Requirements contained in application, agreement and Exhibit “A” of the Community Civic Event forms.

Documentation: M.O. 06-071905
Disposition: Approved.

15. ALTERNATIVE STAFFING FOR THE PARKS AND LEISURE SERVICES DEPARTMENT/LIBRARY DIVISION

Recommendation: That the City Council approve the draft Resolution amending the Employee Pay and Benefit Plan to reflect the proposed allocations, and approve the job descriptions as presented.

Documentation: Resolution 100-2005
Disposition: Approved.

16. CHART OF ACCOUNTS MODIFICATION FOR GREATER DETAIL IN THE COUNCIL BUDGET

Recommendation: That the Council approve the modifications to the chart of accounts covering the City Council budget.

Documentation: M.O. 07-071905
Disposition: Approved.

17. CONSIDERATION OF A RESOLUTION OF THE PORTERVILLE CITY COUNCIL PLEDGING NOT TO USE EMINENT DOMAIN FOR ECONOMIC DEVELOPMENT PURPOSES

Recommendation: This Item has been presented by a Member of the Council and the staff has no specific recommendation.
3. PURCHASE OF SPECIALIZED EQUIPMENT

Recommendation: That the Council authorize purchase by negotiation of the specialized equipment itemized below and authorize payment for said equipment upon satisfactory delivery.

<table>
<thead>
<tr>
<th>Department</th>
<th>Description</th>
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<tbody>
<tr>
<td>FS/Solid Waste</td>
<td>Automated Containers</td>
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<tr>
<td></td>
<td>Three Sideloaders &amp; One Recycling Rolloff</td>
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<tr>
<td>FS/Water Quality</td>
<td>Lab Equipment Upgrade</td>
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<tr>
<td></td>
<td>Chlorine Generation Equipment Upgrade</td>
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<tr>
<td>FS/Streets</td>
<td>Pneumatic Roller</td>
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<td></td>
<td>Utility Bodies</td>
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<td>Police</td>
<td>Patrol Vehicles</td>
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<tr>
<td>Engineering</td>
<td>Hybrid Vehicle</td>
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<tr>
<td>Parks</td>
<td>Playground Equipment &amp; Pool Slide</td>
</tr>
<tr>
<td></td>
<td>Tandem Trailer</td>
</tr>
</tbody>
</table>

Council Member Stadtherr confirmed with staff that the Council would receive the estimated costs for each of the items listed on the equipment list.

COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Mayor Pro Tem Hamilton that the Council authorize purchase by negotiation of the specialized equipment contained in the staff report and authorize payment for said equipment upon satisfactory delivery.

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

Disposition: Approved.

5. AUTHORIZATION TO ADVERTISE FOR BIDS - SKATEBOARD PARKING LOT PROJECT

Recommendation: That the City Council:
1. Approve the Plans and Project Manual;
2. Authorize staff to advertise for bids on the Project; and
3. Direct the preparation of a budget adjustment for the park impact funds at the time that the parking lot bid award is considered.

City Manager John Longley presented the item.

In response to a question posed by Council Member Irish regarding the number of parking stalls, staff indicated that the “base” project included 24 parking stalls, and the “add alternate” included 7 additional parking stalls. It was stated that the parking lot, including the additional 7 stalls, would not only serve the Skate Park, but the entire Veterans Park, where parking was a premium. A discussion ensued as to the number of stalls originally planned, during which it was pointed out that the environmental document anticipated more than 23 parking stalls.

Council Member Irish voiced disappointment with the late addition of 7 more stalls at a cost of $25,000 while at the same time the City was reducing the Library’s hours. He also voiced concern with the carryover of $25,000 in the Parks & Leisure Services budget.

In response to a question posed by Mayor West, it was clarified that the $15,000 pledged by the Noon Rotary Club was for the Skate Park itself, and not the parking lot.

Mayor Pro Tem Hamilton commented that he understood Council Member Irish’s concerns regarding the Library, but stated that the parking lot was to be funded by Impact Fees from Parks, which could not be applied toward the Library.

Council Member Stadtherr moved to approve staff’s recommendation.

Mayor Pro Tem Hamilton seconded the motion and voiced agreement with Council Member Irish’s concerns that in the future, staff needed to bring such items to Council’s attention much sooner.

Council Member Stadtherr concurred with Mayor Pro Tem Hamilton’s comments.

COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Mayor Pro Tem Hamilton that the Council approve the Plans and Project Manual; authorize staff to advertise for bids on the project; and direct the preparation of a budget adjustment for the park impact funds at the time that the parking lot bid award is considered.

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

Disposition: Approved.

7. AWARD OF CONTRACT - TULE RIVER PARKWAY LANDSCAPE MAINTENANCE

Recommendation: That the City Council:
1. Award the contract for landscape maintenance for the Tule River Parkway to CSET of Visalia, California, in the annual amount of $15,813 and authorize monthly payment upon satisfactory performance; and
2. Authorize annual contract extensions upon mutually agreeable terms.
City Manager John Longley presented the item.

Council Member Irish commented on the disparity between the two bids and questioned staff as to potential reasons. It was stated that both bids were in order.

Mayor West questioned whether the City was satisfied with CSET’s performance in the past and voiced concerns with potential problems in the future. It was stated that CSET was attempting to get better established in providing youth training in Porterville, and that the contract at hand was basic landscape maintenance.

COUNCIL ACTION: MOVED by Council Member Irish, SECONDED by Mayor Pro Tem Hamilton that the Council award the contract for landscape maintenance for the Tule River Parkway to CSET of Visalia, California, in the annual amount of $15,813 and authorize monthly payment upon satisfactory performance; and authorize annual contract extensions upon mutually agreeable terms.

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

Disposition: Approved.

8. AWARD OF CONTRACT - MEDIAN ISLANDS LANDSCAPE MAINTENANCE

Recommendation: That the City Council:
1. Award the contract for landscape maintenance for the City’s median islands to Ray’s Landscape of Sanger, California, in the annual amount of $48,672 and authorize monthly payment upon satisfactory performance; and
2. Authorize annual contract extensions upon mutually agreeable terms.

City Manager John Longley presented the item.

In response to questions posed by Mayor Pro Tem Hamilton, staff indicated that the bid process began approximately one month prior and RFPs had been sent to all known landscape maintenance providers. It was stated that at least two of the firms had indicated the scope was beyond their capabilities due to safety concerns in working in medians. A discussion ensued as other work Ray’s Landscape currently provided the City, during which it was pointed out that the subject contract was more expansive in scope.

Mayor Pro Tem Hamilton voiced concern with a “one-person bid” and suggested that the Council send the contract back to bid.

Council Member Irish agreed with Mayor Pro Tem Hamilton’s concerns and requested legal clarification as to the process.

City Attorney Julia Lew indicated that the Council could reject the bid and re-bid the project.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Stadtherr that the Council reject the bid submitted by Ray’s Landscape of Sanger in the annual amount of $48,672; and direct staff to re-bid the project.
AYES: Irish, Hamilton, Stadtherr, West
NOES: None
ABSTAIN: None
ABSENT: Martinez

Disposition: Motion to re-bid approved.

12. ANNUAL ENGINEER’S REPORT AND ASSESSMENTS FOR LANDSCAPE AND LIGHTING MAINTENANCE DISTRICTS

Recommendation: That the City Council adopt the Resolution ordering the preparation of an Engineer’s Report for the Landscape and Lighting Maintenance Districts for Fiscal Year 2005-2006.

City Manager John Longley presented the item and indicated that staff had requested that the item be removed from Consent Calendar.

Mr. Perrine indicated that he had requested that the item be pulled so that the Council could consider adoption of a second resolution to officially set a date for the public hearing, which staff recommended take place on August 2, 2005. He informed the Council that the draft resolution had been provided to them under separate cover prior to the Council Meeting.

In response to a question posed by Council Member Irish regarding how the Landscape and Lighting Maintenance Districts were inspected, Mr. Perrine indicated that contractors inspected all of the Districts to ensure maintenance work was routinely performed. It was stated that inspections were scheduled according to the complexity of the District. A discussion ensued as to the varying materials and designs utilized by different Districts thereby affecting the degree of required maintenance.

Council Member Irish requested a copy of the Inspection Form utilized during inspections. He voiced support for having some type of standards that were equally applied. It was confirmed by staff that if a form was not readily available, something would be created and provided to the Council.

Mayor Pro Tem Hamilton confirmed with staff that while each District had been created somewhat differently, the Districts also had some common elements. It was then stated that the second resolution provided to the Council that evening was similar to the resolution passed the prior year, with the exception of the addition of any new Districts and the language regarding the fact that the Engineer’s Report had not yet been completed.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Stadtherr that the Council adopt the Resolution ordering the preparation of an Engineer’s Report for the Landscape and Lighting Maintenance Districts for Fiscal Year 2005-2006, and adopt the Resolution Declaring the City’s Intention to Levy and Collect Assessments for Fiscal Year 2005-2006 in Landscape and Lighting Maintenance Assessment Districts, Declaring the Work to be of More Than Local or Ordinary Public Benefit, Specifying the Exterior Boundaries of the Areas Within the Landscape Maintenance Districts and to be Assessed the Cost and Expense thereof, Designating Said District as Landscape and Lighting Maintenance Districts, Determining That These Proceedings Shall be Taken Pursuant to the Landscaping and Lighting Act of 1972, and Offering a Time and Place for Hearing Objections Thereto.
AYES: Irish, Hamilton, Stadtherr, West
NOES: None
ABSTAIN: None
ABSENT: Martinez

Disposition: Approved.

PUBLIC HEARING
18. ZONING ORDINANCE AMENDMENT 1-2005

Recommendation: That the City Council:
1. Approve the proposed Zoning Ordinance Amendment and give first reading to the draft ordinance; and
2. Waive further reading of the draft ordinance approving Zoning Ordinance Amendment 1-2005, and order it to print.

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

The public hearing opened at 7:58 p.m.

- Pete McCracken, 657 Village Green, voiced concerns with future zone changes and the potential effects on the proposed Amendment.
- Jim Winton, business address at 150 West Morton Avenue, informed the Council of BIA President Bob Keenan’s absence that evening due to illness, and spoke against the Amendment as proposed citing concerns with a lack of fairness and problems with making schools comply.
- Greg Shelton, 888 North Williford Drive, noted the dynamic nature of zoning and spoke against the Amendment as proposed.
- Dennis Townsend, business address at 633 N. Westwood Street, voiced concerns with the proposed Amendment.
- Greg Woodard, 1055 W. Morton Avenue, echoed the concerns raised by Mr. Winton.
- Dorothy Broome, address on record, came forward and made general comments regarding the importance of citizen involvement.
- Pete McCracken, address on record, voiced concerns with the proposed Amendment, citing issues with church properties in residential neighborhoods.
- Dick Eckhoff, address on record, voiced concerns with the proposed Amendment and suggested that the landowner creating the impact should be required to construct the wall.

The public hearing closed at 8:22 p.m.

Council Member Irish commented that the Amendment had been a work in progress and that the goal was to protect residential properties from commercial properties. He noted that, as was typical, the exceptions were always what caused the problems. He then acknowledged everyone’s involvement and efforts to date and suggested that meetings between the development community, staff and Council representatives continue until such time as a mutually agreeable resolution was reached.

Mayor Pro Tem Hamilton clarified for everyone that in situations involving church properties abutting residential, the matter could be handled via a Conditional Use Permit. He acknowledged Mr. Winton’s comments
regarding Special Use Permits and commented that the Council could use that mechanism as a tool. He then agreed that the Council was trying to protect residential properties, adding that the other use should bear any costs. He commented that he would like to see the item brought back.

Council Member Stadtherr agreed that the item should be brought back.

Mayor West questioned how other communities handled such situations. He then noted that block walls were more cost effective in the long term, due to their lack of required maintenance.

The Council concurred that the item should be brought back before the Council at a later date.

Mr. Dunlap requested clarification as to the Council’s direction, noting that with the elimination of the school issue, the parties were fairly close.

Council Member Irish commented that he would like to see one more meeting between staff, the building industry and Council representatives, adding that he did not wish for the item to drag on for another six months.

Mayor Pro Tem Hamilton requested information from staff regarding the capping of wooden fences, such as a location where he could view that practice. It was confirmed by staff that a schematic drawing of the proposed cap could be provided to the Council for clarification. Mayor Pro Tem Hamilton then agreed that with regard to the school sites, there was not much the Council could do.

Mayor West commented that in situations in which block walls were constructed adjacent to wooden fences, in most cases, the wooden fence was removed. A discussion ensued regarding possible dates to bring the item back before the Council, during which August 16, 2005 was selected.

Disposition: Continued to August 16, 2005.

19. ZONE CHANGE 3-2005 (MRS. NEAL DAYBELL)

Recommendation: That the Council:

1. Adopt the draft resolution approving a Negative Declaration for Zone Change 3-2005; and
2. Adopt the draft ordinance approving Zone Change 3-2005.

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

The public hearing opened at 8:47 p.m.

- Carolyn Daybell, the applicant, commented on the positive aspects of the proposed project, requested that the Council approve the proposed Zone Change, and thanked everyone for their time.

The public hearing closed at 8:49 p.m.

Mayor Pro Tem Hamilton commented that he believed that the proposed project was a good project and that the requested Zone Change complied with the area to the west of the subject site.
COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Stadtherr that the Council adopt the draft Resolution approving a Negative Resolution 104-2005 Declaration for Zone Change 3-2005 and approve the draft ordinance.

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

M.O. 12-071905 MOVED by Council Member Stadtherr, SECONDED by Mayor Pro Tem Hamilton that the Council read the Ordinance by title only, waive further reading, and order the Ordinance to print, being an ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE APPROVING ZONE CHANGE 3-2005 BEING A CHANGE OF ZONING FROM CITY C-3 (HEAVY COMMERCIAL) TO R-4 (MULTIPLE FAMILY RESIDENTIAL) FOR THOSE EIGHT (8) LOTS LOCATED ON THE WEST SIDE OF NORTH “E” STREET EXTENDING SOUTH OF WILLOW AVENUE.

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

Disposition: Approved.

20. ZONE VARIANCE 2-2005 (DALE DOTY)

Recommendation: That the City Council adopt the draft resolution approving the Zone Variance 2-2005.

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

The public hearing opened at 8:52 p.m.

• Jim Winton, address on record, came forward on behalf of the applicant and spoke in favor of the proposed Zone Variance.

The public hearing closed at 8:54 p.m.

Mayor Pro Tem Hamilton commented that the street was in need of repair and questioned whether it would be widened at the time the 12 foot dedication was accepted by the City.

Public Works Director Baldo Rodriguez indicated that widening the street might be a condition of a permit, but that further investigation into the situation would need to take place.

COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Mayor Pro Tem Hamilton that the Council adopt the draft resolution approving Zone Variance Resolution 105-2005 2-2005.
AYES: Irish, Hamilton, Stadtherr, West
NOES: None
ABSTAIN: None
ABSENT: Martinez

Disposition: Approved.

21. VACATION OF A PORTION OF CLEVELAND AVENUE AND AN ALLEY WITHIN THE MORTON GARDENS SUBDIVISION (SIERRA VIEW DISTRICT HOSPITAL)

Recommendation: That the City Council:
1. Adopt the Resolution Ordering the Vacation of improved segments of Cleveland Avenue and a northerly connecting alley between Pearson Drive and Villa Street; and
2. Authorize the City Clerk to record the Resolution of Abandonment with the County Recorder.

Noting a conflict of interest, Council Member Irish recused himself and left the Council Chambers.

Council Member Stadtherr also indicated that he had a conflict of interest.

City Attorney Julia Lew stated that she had discussed the conflict of interest issue with Council Member Irish and Council Member Stadtherr. She stated that Council Member Irish had a direct financial conflict of interest. She indicated that Council Member Stadtherr had an appearance issue due to his service on the Board of Sierra View’s Foundation, which she noted was a non-profit entity separate from the hospital itself. Ms. Lew pointed out that at least three Council Members were needed to comprise a quorum, and that three affirmative votes would also be needed to pass the proposed resolution. Ms. Lew then invoked the Rule of Necessity so as to allow one of the Council Members to remain in Chambers. She noted that since a clear distinction had been made between the conflicts, she indicated that Council Member Stadtherr would remain and Council Member Irish would recuse himself.

Mayor Pro Tem Hamilton noted a potential conflict of interest, stating that he might own property within 500 feet of the subject location. It was then confirmed by staff that Mayor Pro Tem Hamilton’s residence was outside of that 500 foot requirement.

City Attorney Julia Lew noted that the direct financial conflict of interest would remain the greater conflict.

City Manager John Longley presented the item, and Public Works Director Baldo Rodriguez presented the staff report.

The public hearing opened at 8:58 a.m.

- Kelly Morgan, CEO of Sierra View District Hospital, 465 West Putnam Avenue, spoke in favor of the proposed vacation and thanked the Council for their consideration.
- Ron Wyatt, Sierra View District Hospital, offered the Council a PowerPoint presentation detailing the Hospital’s expansion plans, and requested that the Council approve the proposed vacation.
• Steve Pearson, questioned the future of the alleyway, to which City Engineer Mike Reed clarified that access through the alley would remain.

The public hearing closed at 9:07 p.m.

Council Member Stadtherr clarified with staff the number of parking stalls proposed for the project.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Stadtherr that the Council adopt the Resolution Ordering the Vacation of Improved Resolution 106-2005 Segments of Cleveland Avenue and a Northerly Connecting Alley Between Pearson Drive and Villa Street; and authorize the City Clerk to record the Resolution of Abandonment with the County Recorder.

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

Disposition: Approved.

SCHEDULED MATTERS
22. REQUEST FOR PROPOSALS (RFP) FOR CURBSIDE RECYCLING

Recommendation: That the Council:
1. Approve Option No. 1 and authorize staff to advertise for Processing and Residual disposal as detailed in the official RFP that incorporates any comments provided by Council;
2. Appoint the City Attorney and City Auditor to the Curbside Recycle Selection Committee; and
3. Authorize that the bids be processed through the selection committee with a recommendation to be returned to City Council for consideration.

City Manager John Longley presented the item and indicated that Public Works Director Baldo Rodriguez would present the staff report.

Council Member Irish commented that since the issue of curbside recycling was quite significant, he did not feel comfortable proceeding without a full Council.

Mayor Pro Tem Hamilton suggested that the Council could hold off on the vote but could continue with the discussion so as to determine each other’s views. He added that there were individuals present that would like to address the Council and that he would like to hear what they had to say. Mayor Pro Tem Hamilton then stated that he did not believe hearing the staff report was necessary.

City Manager John Longley requested the opportunity to allow staff to provide a summarized version of the staff report. Mr. Rodriguez proceeded with presenting the staff report, which included the following options:

Option No. 1: Direct staff to advertise the RFP for Processing and Residual Disposal, process bids through the selection committee, and provide City Council with the committee’s recommendation.
Option No. 2: Direct staff to advertise both the RFP for Processing and Residual Disposal and the RFP for Collection of Residential Recyclables at the same time. For there to be an accurate and competitive bid, staff will have to select a processor from which to build a collection and processing proposal.

Mayor Pro Tem Hamilton commented that if the Council was not proceeding further that evening, he would hold his rebuttal.

Public comments were next invited by the Council.

- John Mohoff, General Manager of Sunset Waste of Visalia, came forward and voiced support for one RFP for collection, processing and disposal. He indicated that one RFP would encourage greater competition and offer a more expeditious process. He added that a two-RFP process would limit collectors to one site and thereby eliminate creativity and the ability to internalize profits.

Mayor West commented that the only goal was to get the best deal for the taxpayers of the City of Porterville.

Mr. Rodriguez spoke of the detail involved in the RFP process, which he stated ensured that all bidders bid on the same thing, with no hidden numbers. He summarized that the greater the information the City could glean from the process, the better. He then confirmed that the same information could be gleaned from a one-RFP process, but suggested that a one-RFP process might eliminate some haulers who were interested in hauling, yet not in the processing portion, and/or visa versa.

Mayor Pro Tem Hamilton commented that the City was one bidder that would be affected, to which staff responded that the City would submit a bid either way.

City Manager John Longley spoke in favor of a two-RFP process, stating that unless the hauling distances and costs were known, a responsive hauling RFP would prove challenging. A discussion ensued as to which processors might be utilized, during which it was stated that Visalia or Fresno were likely locations, yet not known for certain.

Council Member Stadtherr commented that being paid for recyclables was the City’s main priority. He suggested that perhaps the matter was being broken down into more steps than was necessary.

Mayor West noted that in the building industry, separate service providers allowed for more cost efficiency.

Council Member Irish reiterated his comments about the matter being complex and again voiced his desire to continue the matter until a full Council could review the matter. He added that the Council might glean more information in a two-RFP process.

Mayor Pro Tem Hamilton agreed the matter could be continued. He then commented that he thought that staff had put forth options that would benefit the City as a potential bidder, adding that if the City proceeded with two RFPs, the first one should be for processing, and the second should be for processing and hauling together. He then noted the importance of complying with AB939 and spoke of the potential benefits to Tulare County if the waste stream could be diverted outside of the County.
Mr. Longley informed the Council that staff had proposed a two-RFP process at the Council’s previous direction, noting that proceeding with two-RFPs would provide more control over the process. He indicated that because the recycling process was driven by diversion rates, transparency to that process was key to ensuring that maximum diversion rates were attained. He stated that the more knowledgeable the City was as to the waste stream, the greater the likelihood contamination could be controlled, thereby affecting the return from the processing facility.

Mayor Pro Tem Hamilton questioned if the City would then have somebody at the processing plant to ensure the objective diversion rates. He commented that the City would be at the processor’s mercy. A discussion ensued during which it was stated that the RFP for processing included specific reporting requirements.

Mayor West commented that he would hate for the public to think that the Council was slanted towards the City, and that he supported a level playing field.

Council Member Irish commented that he didn’t mind the process being slanted towards the City if the City would ultimately save the taxpayers money. He stated that he needed more information to ensure that this would be what happened, adding that the more information gleaned in the process, the better. He stated that two separate RFPs might provide more information, and that in the end, the Council might return to one RFP.

Mayor Pro Tem Hamilton commented that he was not complaining about two RFPs, but that the second RFP should not just be for hauling. He commented that the experts in the field should be allowed to bid on hauling and processing at the same time. He stated that if the Council did not like what it saw, the matter could be placed on hold. He then warned of “muddying the water” with two RFPs.

- John Mohoff, Sunset Waste, came forward and stated that if the City altered the RFP process, in the second RFP, the City would have a partner to bid with against the other haulers. He stated that the City could use its fixed location to bid in an open market situation against outside haulers and processors.

Mayor Pro Tem Hamilton voiced concern with using City trucks to haul materials to Visalia and/or Fresno and having to pay tipping fees.

It was decided that the matter would be brought back before the Council on August 2, 2005.

Disposition: Continued to August 2, 2005

23. HOME INVESTMENT PARTNERSHIP PROGRAM (HOME) APPLICATION

Recommendation: That the City Council:
1. Approve the submittal of a HOME Investment Partnership Program (HOME) funding application for an amount not to exceed $4,000,000 for a Rental New Construction Project to the California Department of Housing and Community Development;
2. Authorize the Mayor to execute all documents pertaining to the HOME program; and
3. Authorize the Community Development Director to execute, in the name of the City of Porterville, project drawdown requests, and all other administrative documents required by the California Department of Housing and Community Development.
Development or the U.S. Department of Housing and Urban Development for administration of the HOME program.

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

A discussion ensued regarding the rental units constructed on Date Street and how that project differed from the project proposed on South E Street.

Mayor Pro Tem Hamilton voiced concern with creating a situation that might increase criminal activities similar to the situation on Date Street.

Mr. Dunlap indicated that the developers of the tax-credit projects were extremely experienced in the industry and active owners/managers of their properties. He stated that three other tax-credit projects existed in the City where no problems had occurred. He added that the proposed project on South E Street was to be of lower density.

**COUNCIL ACTION:** MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Irish that the Council approve the submittal of a HOME Investment Partnership Resolution 107-2005 Program (HOME) funding application for an amount not to exceed $4,000,000 for a Rental New Construction Project to the California Department of Housing and Community Development; authorize the Mayor to execute all documents pertaining to the HOME program; and authorize the Community Development Director to execute, in the name of the City of Porterville, project drawdown requests, and all other administrative documents required by the California Department of Housing and Community Development or the U.S. Department of Housing and Urban Development for administration of the HOME program.

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

Disposition: Approved.

24. THIS ITEM HAS BEEN REMOVED.

25. PARKS & LEISURE SERVICES COMMISSION VACANCY REPORT

**Recommendation:** That City Council give consideration and accept the report and extend the appointment to allow time for a press release announcing the Parks & Leisure Services Commission vacancy, and set the City Council meeting of August 2, 2005 for making the appointment.

City Manager John Longley presented the item, and Parks & Leisure Services Director Jim Perrine presented the staff report. Mr. Perrine indicated that subsequent to the compilation of that evening’s Agenda, his Department had received two additional Requests for Appointment: one from Mr. Tom O’Sullivan, and one from Mr. Daniel Hoffman. Mr. Perrine then noted that applicant Mr. Joshua D. Kittrell was ineligible at the present time as he currently resided outside of the City limits.
Mayor Pro Tem Hamilton commented that he would prefer to fill the vacancy that evening, and moved that Mr. Tom O’Sullivan be appointed.

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

Council Member Stadtherr suggested that applicants should be required to provide a resume or the like. Mayor Pro Tem Hamilton agreed with Council Member Stadtherr’s comments and stated that at the least, the applicants should provide a paragraph or two about their qualifications.

Council Member Irish warned that standards would need to be set if the Council required applicants to provide a resume.

A discussion ensued as to information provided by each applicant, during which Mr. Longley confirmed that all future Committee and/or Commission applicants would be required to complete a detailed application similar to that required by Council candidates.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Irish that the Council accept the Parks & Leisure Services Commission Vacancy Report M.O. 13-071905 and appoint Tom O’Sullivan to serve on the Commission.

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

Disposition: Approved.

26. CONSIDER ADOPTION OF A NOISE ORDINANCE (CONTINUED)

Recommendation: That the City Council:
1. Direct Staff on how to proceed with the outlined issues;
2. Set a public hearing for the adoption of the draft noise ordinance with amendments on August 16, 2005.

City Manager John Longley introduced the item and the staff report.

Council Member Stadtherr commented that while he wished that common courtesy would alleviate such a need, the Council should move forward with pursing a noise ordinance.

Mayor West voiced support for a noise ordinance, citing problems with noise on weekend evenings in his neighborhood.

At the request of Mayor Pro Tem Hamilton, the item was continued to an unspecified date so as to allow time for him to re-write the draft ordinance.

Disposition: Continued.

27. CONSIDERATION OF RESIDENCY REQUIREMENTS FOR APPOINTMENT TO CITY COMMITTEES AND COMMISSIONS
Recommendation: That the Council provide direction to staff.

City Manager John Longley presented the item and the staff report.

Council Member Irish commented that he did not have a problem with individuals that resided outside of the City’s limits serving on committees or commissions, but that residents should have the majority, and non-residents should be a minority. He suggested a 60/40 or 70/30 split. He added that non-residents should at least be within the sphere of influence. A discussion ensued as to ways in which a “sphere of influence” could be defined.

Council Member Stadtherr suggested that rather than solely basing eligibility on residency, a nexus with the City could be identified. He stated that such a nexus could be established through residency or employment.

Mayor West agreed with Council Member Irish’s statement that a majority of committee members should be residents, such as the suggested 70/30 split. He then voiced support for the establishment of a nexus through business ownership in Porterville and not merely by employment in Porterville.

A discussion ensued as to ways in which a resident-only majority could be defined, during which it was suggested a simple majority requirement could be established.

Mayor Pro Tem Hamilton spoke of the Council typically appointing only individuals they knew and of the importance of getting the word out to attract new individuals for committees. He voiced support for Porterville residents holding a larger majority and commented that a nexus should only be established through residency or business ownership within Porterville.

Council Member Irish commented that he would always likely appoint individuals that he knew, rather than individuals that he did not.

Dick Eckhoff, Downtown Porterville Association President, and owner of Sierra Trophies, 197 N. Main, came forward and voiced support for the establishment of a nexus through business ownership in Porterville and/or residency in the area, not only Porterville. He stated that the Council ultimately voted on issues, whereas committee and commission members did not.

Council Member Irish moved that the Council require all future appointments to City committees and/or commissions, unless otherwise governed by Charter, be eligible for appointment through a nexus established by either residency or business ownership within Porterville, with residents holding the majority by a 70/30 split. He noted that such a majority split could be modified in the future if needed.

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

Council Member Stadtherr questioned whether or not rental property ownership constituted business ownership, to which Council Member Irish responded that he believed it did and Mayor Pro Tem Hamilton stated that he believed it did not.

COUNCIL ACTION: MOVED by Council Member Irish, SECONDED by Mayor Pro Tem Hamilton that the Council direct staff to proceed with the appropriate documentation to require that eligibility for all future appointments to City committees and/or commissions, unless otherwise specified by Charter, be based on a nexus established by either residency or business ownership within the City of Porterville, with residents holding the majority by a 70%/30% split.
AYES: Irish, Hamilton, Stadtherr, West
NOES: None
ABSTAIN: None
ABSENT: Martinez

City Attorney Julia Lew indicated that she would research the appropriate mechanism for establishing the eligibility requirement. It was confirmed that once the documentation was drafted, the item would return to the Council for approval on Consent Calendar.

Disposition: Approved.

28. RESPONSE TO GRAND JURY FINAL REPORT OF MOSQUITO ABATEMENT IN TULARE COUNTY

Recommendation: That the City Council:
1. Review the Tulare County Grand Jury Final Report and Letter of Response; and
2. Authorize the Mayor to execute the Letter of Response, which will be forwarded by the City Manager’s Office to the Tulare County Grand Jury.

City Manager John Longley presented the item and the staff report.

Mayor Pro Tem Hamilton commented that he had yet to see a County in the United States with a Mosquito Abatement Program that had not had cases of West Nile Virus.

Council Member Stadtherr voiced approval of the draft letter.

COUNCIL ACTION: MOVED by Council Member Irish, SECONDED by Council Member Stadtherr that the Council authorize the Mayor to execute the Letter of Response, which will be forwarded by the City Manager’s Office to the Tulare County Grand Jury.

Disposition: Approved.

29. OFF-HIGHWAY VEHICLE IMPROVEMENT GRANT

Recommendation: Receive informational update.

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

Mayor Pro Tem Hamilton commented that he had spoken with several individuals at the OHV Park who had voiced interest in the City proceeding with fencing and grand stand areas first, prior to lighting. He then stated that staff had indicated grants for lighting would be sought.

Council Member Stadtherr commented that when lighting for the OHV park was sought, those efforts should be mindful of the Airport.

Disposition: Informational report only.

30. AIRPORT HANGAR PURCHASE - ACCEPTANCE OF LOAN
Recommendation: That the City Council:
1. Authorize the acceptance of the loan from Caltrans;
2. Authorize the Mayor to sign all necessary documents;
3. Authorize staff to begin escrow, with the City paying normal and customary escrow fees;
4. Authorize staff to make payment to Art Coulter in the amount of $118,000, less customary fees;
5. Authorize staff to record all documents with the County Recorder; and
6. Authorize staff to pay excess principle on the note as funds are available thereby trying to achieve the standard mortgage amortization schedule.

City Manager John Longley presented the item.

Council Member Irish commented that he had requested that the item be brought to Council and that presentation of the staff report was not necessary as his questions had been answered.

COUNCIL ACTION: MOVED by Council Member Irish, SECONDED by Mayor Pro Tem Hamilton that the Council authorize the acceptance of the loan from Caltrans, authorize the Mayor to sign all necessary documents; authorize staff to begin escrow, with the City paying normal and customary escrow fees; authorize staff to make payment to Art Coulter in the amount of $118,000, less customary fees; authorize staff to record all documents with the County Recorder; and authorize staff to pay excess principle on the note as funds are available thereby trying to achieve the standard mortgage amortization schedule.

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

Disposition: Approved.

31. APPLICATION FOR CHARITABLE CAR WASH PERMITS

Recommendation: That the Council:
1. Approve the application for charitable car wash permits as provided; and
2. Set the date of August 2, 2005 as the date and time for the public hearing to establish the application fee for processing charitable car wash applications.

City Manager John Longley presented the item, and Deputy City Manager Darrel Pyle presented the staff report. Mr. Pyle noted the full Agenda for the August 2, 2005 Council Meeting and requested that the recommendation be amended to set August 16, 2005 as the date for the public hearing.

Mayor Pro Tem Hamilton noted that as currently written, the application required a $25 fee for every car wash. He questioned whether organizers would be required to pay the $25 fee every time they wished to hold a car wash, to which staff indicated that some consideration of fee waiver could be given.

Council Member Irish questioned whether the proposed $25 application fee would be waived if the organization held their car wash in a compliant commercial car wash location. It was explained that the proposed
$25 fee was designed to cover the cost of processing the application, maintenance of the data base, confirming property owner approval, verification of non-profit status, etc.

City Attorney Julia Lew stated that the $25 fee applied to everyone that applied for a permit, regardless of the location of the proposed car wash.

Council Member Stadtherr suggested that perhaps the application could allow applicants the choice of applying for more than one car wash on one application, thereby eliminating subsequent applications fees. A discussion ensued as to whether the Council should allow one applicant to tie up a particular location for multiple car washes, which might prevent other organizations from utilizing that location.

Mayor Pro Tem Hamilton commented that the process was new, and moved that the Council approve the application as written, pointing out that it could always be revised at a later date.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Stadtherr that the Council approve the application for charitable car wash M.O. 17-071905 permits as provided, and set the date of August 16, 2005 as the date and time for the public hearing to establish the application fee for processing charitable car wash applications.

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

Council Member Stadtherr requested that staff research possibly offering the application online.

Mr. Pyle indicated that staff was currently looking into making permits like the car wash application, as well as building permit applications and activities, accessible from the City’s website. He noted that currently employment applications were downloadable off of the website, and that staff would like to progress towards making the website more interactive.

Disposition: Approved.

32. QUARTERLY PORTFOLIO SUMMARY

Recommendation: That City Council accept the quarterly Portfolio Summary in accordance with SB 564 and SB 866.

City Manager John Longley suggested, and the Council agreed, that Items 32 and 33 be combined and presented together. Deputy City Manager presented both staff reports.

In response to a question posed by Mayor Pro Tem Hamilton, Mr. Pyle clarified that the historical data provided at the bottom of the Portfolio Summary referred to fiscal quarters, not calendar quarters. A discussion ensued as to the Bloomberg Market Price versus Purchase Price figures reflected on the Summary.

Mayor Pro Tem Hamilton commented that in the future he would like to see current market value also provided on the Portfolio Summary.
Mr. Pyle indicated that the Bloomberg Market Price was currently available to the City at no cost as was generally accepted in the market as an accurate index for current market values.

COUNCIL ACTION: MOVED by Council Member Irish, SECONDED by Mayor Pro Tem Hamilton that the City Council accept the quarterly Portfolio Summary in accordance with M.O. 18-071905 SB 564 and SB 866; and accept the Interim Financial Status Report for the 4th Fiscal Quarter ended June 30, 2005.

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

Disposition: Approved.

33. INTERIM FINANCIAL STATUS REPORT

Recommendation: That Council accept the interim financial status reports as presented.

(Note: This item was combined with Item No. 32.)

Documentation: M.O. 18-071905
Disposition: Approved.

ORAL COMMUNICATIONS

• Greg Shelton, address on record, voiced satisfaction with the Williford Drive Reconstruction Project; voiced concerns with Item No. 27; and spoke against spending an additional $25,000 on the Skate Park Parking Lot, while the City had reduced the Library’s hours.

• Dick Eckhoff, address on record, suggested that the Fair Grounds also be addressed in the proposed Noise Ordinance.

• Pete McCracken, 657 Village Green, noted his Subdivision currently had a pocket park and invited Council and staff to visit it.

• Joe Guerrero, address on record, clarified with staff that renters in Porterville would also be eligible for committee appointments. He then requested a copy of the proposed noise ordinance. Mr. Longley informed Mr. Guerrero that a copy could be obtained from the City Clerk’s Office.

• Felipe Martinez, 195 West Putnam, suggested that lack of proper lighting on Date Avenue was contributing to criminal activity, and then referred the Council and staff to a section of Date Avenue that was in need of improvements.

OTHER MATTERS

• Mayor Pro Tem Hamilton reported to the Council on the recent trip to La Quinta to inspect a Super WalMart.

• Council Member Stadtherr noted the importance of proper infrastructure to support a Super WalMart; and reported on the Police Ride-Along in which he and Mayor West participated on Friday. He thanked the officers for their hard work.
ADJOURNMENT
The Council adjourned at 10:49 a.m. to the meeting of August 2, 2005 at 6:00 p.m.

__________________________________________  Patrice Hildreth, Deputy City Clerk

SEAL

______________________________
Kelly West, Mayor
Call to Order: 6:00 p.m.

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

ORAL COMMUNICATIONS
None

CLOSED SESSION:

A. Closed Session Pursuant to:
   1- Government Code Section 54956.9(a) - Conference with Legal Counsel - Existing Litigation: Patrick Greene v. City of Porterville.
   2- Government Code Section 54956.9(b) - Conference with Legal Counsel - Anticipated Litigation: One Case.
   3- Government Code Section 54956.9(c) - Conference with Legal Counsel - Anticipated Litigation: Four Cases.

7:00 P.M. RECONVENE OPEN SESSION

REPORT ON ANY ACTION TAKEN IN CLOSED SESSION

The City Attorney reported no action was taken.

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

PRESENTATION
City Manager’s Featured Projects for August, 2005
The Porterville Heritage Center was the featured project.

ORAL COMMUNICATIONS
• Charmaye McDarmott, with the Tule River Tribal Council, P.O. Box 589, invited the Council to the Tule River Indian Tribal Council Porterville Powwow 2005 on September 23-25, 2005.
• Pete McCracken, 657 Village Green, spoke regarding loud noise from Merle Stone Chevrolet; recycling and diversions; and, the sales tax measure approved by Council for the November 8, 2005 ballot.

• Dot Broome, 862 Crystal, questioned public works contractors; insurance claims going up; and the sales tax measure going to the voters.

CONSENT CALENDAR

Item No. 10 was removed to be heard after Item No. 28, and Item No. 12 was removed due to conflicts of interest for Mayor West and City Manager Longley.

1. CLAIM - SALVADOR LEDESMA

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

Documentation: M.O. 01-081605
Disposition: Approved.

2. CLAIM - DESIREE LOGAN

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

Documentation: M.O. 02-081605
Disposition: Approved

3. CLAIM - ISMAEL TALAVERA

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

Documentation: M.O. 03-081605
Disposition: Approved

4. CLAIM - SAMUEL WYATT

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

Documentation: M.O. 04-081605
Disposition: Approved
5. CLAIM - SALVADOR GURROLA

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

Documentation: M.O. 05-081605
Disposition: Approved

6. CLAIM - NELIDA CORDERO

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

Documentation: M.O. 06-081605
Disposition: Approved

7. CLAIM - PORTERVILLE UNIFIED SCHOOL DISTRICT

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

Documentation: M.O. 07-081605
Disposition: Approved

8. BUDGET ADJUSTMENTS FOR THE 2005/06 FISCAL YEAR; CONSIDERATION OF ADOPTED CITY COUNCIL BUDGET STRATEGY AND EARLY REPAYMENT OF STATE OF CALIFORNIA VLF GAP LOAN

Recommendation: Consistent with the adopted Budget strategy, receive the gap loan monies as revenue, recognize the Budget as balanced by the 2005/06 Fiscal Year and revise the projected available (exclusive of “Lock Box”) General Fund Balance to be $1,420,070 (equivalent to 6.8% of General Fund spending).

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

Documentation: M.O. 08-081605
Disposition: Approved

9. AUTHORIZATION TO REJECT ALL BIDS AND RE-ADVERTISE SCENIC HEIGHTS WATERLINE RELOCATION PROJECT

Recommendation: That City Council reject the sole bid for construction of the Scenic Heights Waterline Relocation Project. Further, that Council authorize staff to re-advertise for bids.
11. APPROVAL OF RELOCATION PLAN FOR PROPERTY LOCATED AT APN 261-093-019 - OWNER JOE M AND EVALINA B CRUZ - DATE AVENUE STREET PROJECT

Recommendation: That City Council approve the relocation plan for property located at APN 261-093-019.

Documentation: M.O. 10-081605
Disposition: Approved

13. SUNRISE VILLA PHASE 2&3, TENTATIVE SUBDIVISION MAP

Recommendation: Receive and File

Disposition: Filed

14. PROPOSED COMMUNITY DEVELOPMENT FEE ADJUSTMENTS

Recommendation: That the Council set the date of Tuesday, September 6, 2005 as the date for a Public Hearing to consider modifications to the fee schedule as it relates to fees associated with the Department of Community Development.

Documentation: M.O. 11-081605
Disposition: Approved

15. INTENT TO VACATE PORTIONS OF SCRANTON AVENUE AND HOLCOMB STREET WITH THE PORTERVILLE DEVELOPMENTAL CENTER (STATE OF CALIFORNIA)

Recommendation: That the City Council:
1. Pass a resolution of intent to vacate a portion of Scranton Avenue and Holcomb Street; and
2. Set the meeting of September 6, 2005, as the time and place for a public hearing.

Documentation: Resolution 125-2005
Disposition: Approved

16. CHANGE IN THE TABLE OF ORGANIZATION–PUBLIC WORKS DEPARTMENT/FIELD SERVICES DIVISION

Recommendation: That the City Council approve the change in the Table of Organization in the Water Section of the Field Services Division; and the modification to the
Employee Pay and Benefit Plan Position Allocation Schedule to reflect 24 Field Services Worker II positions and seven Field Services Worker III positions.

Documentation: M.O. 12-081605
Disposition: Approved

17. APPROVAL OF COMMUNITY CIVIC EVENT - TULE RIVER INDIAN TRIBAL COUNCIL PORTERVILLE POWWOW 2005 SEPTEMBER 23-25, 2005

Recommendation: That the Council approve the Community Civic Event Application and Agreement submitted by the Tule River Indian Tribal Council, subject to the stated requirements contained in the Application, Agreement and Exhibit “A”.

Documentation: M.O. 13-081605
Disposition: Approved

18. PORTERVILLE AIR ATTACK BASE JETTISON AREA

Recommendation: Staff requests Council approve the proposed agreement and authorize the Mayor to sign on behalf of the City.

Documentation: M.O. 14-081605
Disposition: Approved

19. SPECIAL ASSESSMENT AUTHORIZATION, COMPLIANCE CERTIFICATION AND HOLD HARMLESS STATEMENT

Recommendation: That the City Council authorize the City Manager to sign the Tulare County Auditor-Controller Special Assessment Change Authorization sheet, as well as the Compliance Certification and Hold Harmless Statement on behalf of the City.

Documentation: M.O. 15-081605
Disposition: Approved

20. APPROVAL OF ANNUAL TRANSPORTATION AGREEMENT WITH TULARE COUNTY

Recommendation: That the City Council enter into an Agreement with the County of Tulare for FY 2005-2006 to provide service to County residents within the Service Area Boundary Map, and authorize the Mayor to execute the Agreement on behalf of the City.

Documentation: M.O. 16-081605
Disposition: Approved
21. SELECTION OF CITY VOTING DELEGATE TO LEAGUE OF CALIFORNIA CITIES MEETING

Recommendation: That Council select the Mayor as the voting delegate and the Mayor Pro Tem as the voting alternate to represent the City at the League of California Cities’ Meeting, October 8, 2005, authorize the City Manager to attest to same, and direct staff to notify the League.

Documentation: M.O. 17-081605
Disposition: Approved

22. HIRING FREEZE UPDATE

Recommendation: (1) That the Council authorize the City Manager to fill current previously frozen vacant positions, and maintain the freeze for future vacancies, and (2) That the Council authorize the City Manager to bring back an update on the status of the hiring freeze in the month of November.

Documentation: M.O. 18-081605
Disposition: Approved

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Martinez that the Council approve Items 1 through 9, 11, and 13 through 22.

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

12. CLERICAL MODIFICATIONS FOR RESOLUTIONS APPROVING NEGATIVE DECLARATIONS AND ANNEXATIONS (RATIFICATION)


Mayor West left the dais due to a conflict of interest for Project Area No. 1.

COUNCIL ACTION: MOVED by Council Member Martinez, SECONDED by Council Member Irish that the Council ratify approval of Resolution 111-2005, Negative Declaration for Annexation 446 and Zone Change 4-2005.

M.O. 19-081605

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

M.O. 20-081605

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

City Manager Longley left the room due to a conflict of interest for Project Area No. 4.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Irish that the Council ratify approval of Resolution 117-2005, Negative Declaration for Annexation 458 and Zone Change 8-2005.

M.O. 21-081605

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

Disposition: Approved

PUBLIC HEARINGS

23. ANNUAL LANDSCAPE AND LIGHTING MAINTENANCE DISTRICT ASSESSMENTS

Recommendation: That the City Council:
1. Reopen the public hearing on the 2005-2006 Assessments for the Landscape and Lighting Maintenance Districts to take comments or receive protests on the proposed assessments; and
2. Adopt the Resolution ordering the continued maintenance of Landscape and Lighting Maintenance Districts and confirming the Engineer’s Report and Assessments for the 2005-2006 fiscal year.

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

Mayor West opened the public hearing at 7:26 p.m. and closed the hearing at 7:27 p.m. when no one came forward to speak.

Council Member Irish made a motion to approve all the Districts except No. 14, Wisconsin Manor, which he wished to discuss later.
Staff clarified that if a District was not approved this evening it would not be assessed for the current year.

City Manager Longley stated that staff could look into that District further and review it and bring it back even if it was approved that evening. Council Member Irish withdrew his motion.

COUNCIL ACTION: MOVED by Council Member Irish, SECONDED by Mayor Pro Tem Hamilton that the Council adopt the Resolution ordering the continued maintenance of Landscape and Lighting Maintenance Districts and confirming the Engineer’s Report and Assessments for the 2005-2006 Fiscal Year.

Resolution 126-2005

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

Disposition: Approved

24. ESTABLISHMENT OF AN APPLICATION FEE FOR CHARITABLE CAR WASH PERMITS

Recommendation: That the City Council:
• Conduct the public hearing and receive comments on the establishment of a $25 application fee for processing Charitable Car Wash permits; and
• Adopt a resolution establishing that application fee.

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

Mayor West opened the public hearing at 7:30 p.m. and closed the hearing at 7:31 p.m. when no one came forward to speak.

COUNCIL ACTION: MOVED by Council Member Irish, SECONDED by Mayor Pro Tem Hamilton that the Council adopt the Resolution establishing that application fee.

Resolution 127-2005

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

Disposition: Approved

25. CONDITIONAL USE PERMIT 5-2005 (TERRY SHULER)
Recommendation: That the City Council adopt the draft resolution approving Conditional Use Permit 5-2005.

The City Manager presented the item and Community Development Director Brad Dunlap presented the staff report for the seven unit apartment complex on a 27,228± square foot vacant lot extending east and west located on the west side of Plano Street, approximately 210± feet south of Kanai Avenue.

Mayor West opened the public hearing at 7:33 p.m.

Terry Schuler, 11015 Road 256, Terra Bella, came forward and spoke in favor of the application and stated that he was available for comments and questions on the item.

Dot Broome, 863 South Crystal, questioned staff about the location of the property.

Mayor West closed the public hearing at 7:37 p.m. when no one else came forward to speak.

Council Member Irish stated that they needed to start looking at R-2 and R-3 development for landscape maintenance districts.

Mr. Dunlap clarified for Council that a Conditional Use Permit contained requirements for landscaping that had to be maintained.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Irish that the Council adopt the Resolution approving Conditional Use Permit 5-2005.

Resolution 128-2005

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

Disposition: Approved

26. ZONING ORDINANCE AMENDMENT 1-2005 - REQUIRING MASONRY FENCES NEXT TO RESIDENTIAL USES

Recommendation: That the City Council:
1. Approve the proposed Zoning Ordinance Amendment and give first reading to the draft ordinance.
2. Waive further reading of the draft ordinance approving Zoning Ordinance Amendment 1-2005 and order to print.

The City Manager presented the item and Community Development Director Brad Dunlap presented the staff report on the General Zoning Ordinance Amendment to require the construction of a masonry block wall between residential and non-residential uses.
Mayor West opened the public hearing at 7:47 p.m.

Dennis Townsend, 633 North Westwood, came forward and spoke in favor of this item. He commended staff for putting it together and making changes to the ordinance. He stated that he was happy with the conclusion.

Dick Eckhoff, 197 North Main Street, came forward and asked about mitigation circumstances for smaller walls, such as berms or sloping hillsides, or such. He asked about commercial projects that had high faces that could create light or sound problems, or possibly hillside construction where one development was substantially higher than the one next to it, which could create a higher type of break.

Mr. Dunlap stated that now with non-residential there was a six foot wall requirement, and they have to comply with noise mitigation.

Jim Winton, 150 West Morton, commended staff for the work on the draft ordinance and meeting the concerns of various groups.

Greg Shelton, 888 North Williford, stated that if Jim liked it, he liked it.

Mayor West closed the public hearing at 7:52 p.m. when no one else came forward to speak.

Mr. Dunlap clarified that any action by staff was could be appealed to the City Council.

**COUNCIL ACTION:** MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Irish that the Council approve the proposed Zoning Ordinance Amendment, give first reading to the draft ordinance, waive further reading of the ordinance, and order the ordinance to print, being 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.

Ordinance 1678

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<tr>
<td>ABSENT:</td>
<td>Stadtherr</td>
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</table>

The City Manager read the ordinance by title only.

Disposition: Approved and Ordered to Print.

27. ZONING ORDINANCE AMENDMENT 2-2005

Recommendation: That the City Council:
1. Approve the proposed Zoning Ordinance Amendment and give first reading to the draft ordinance.
2. Waive further reading of the draft ordinance approving Zoning Ordinance Amendment 2-2005, and order to print.

The City Manager presented the item and Community Development Director Brad Dunlap presented the staff report on the General Zoning Ordinance Amendment to conditionally allow “indoor building material sales” as an allowable use in the C-2 Zone, Central Commercial District, with a Conditional Use Permit.

Mayor West opened the public hearing at 7:58 p.m. and closed it at 7:52 p.m. when no one came forward to speak.

Mr. Dunlap clarified that this would give the Council more control.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Martinez that the Council approve the proposed Zoning Ordinance Amendment, give first reading to the draft ordinance, waive further reading of the ordinance, and order the ordinance to print, being 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.

Ordinance 1679

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

The City Manager read the ordinance by title only.

Disposition: Approved and Ordered to Print.

28. VACATE PUBLIC TEMPORARY TURN AROUND, CONCRETE TRUCK WASH OUT AREA AND STORM DRAIN PIPELINE EASEMENTS RELATED TO THE DEVELOPMENT OF NEW EXPRESSIONS, PHASE 4 SUBDIVISION (ENNIS LAND DEVELOPMENT, LLC)

Recommendation: That the City Council:
1. Conduct a Public Hearing; and
2. Authorize the City Clerk to execute the vacation of easements dedicated to the City of Porterville described in Document No. 2004-0005740, recorded January 21, 2004, in the Office of the Tulare County Recorder, by signing the appropriate statement on the Final Map.

The City Manager presented the item and Public Works Director Baldo Rodriguez presented the staff report.
Mayor West opened the public hearing at 8:03 p.m.

Pete McCracken, 633 Village Green, asked about Item No. 10 and was informed that it would be considered after this item, if it was approved.

Mayor West closed the public hearing at 8:04 p.m. when no one else came forward to speak.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Irish that the Council authorize the City Clerk to execute the vacation of easements dedicated to the City of Porterville described in Document No. 2004-0005740, recorded January 21, 2004, in the Office of the Tulare County Recorder, by signing the appropriate statement on the Final Map.

M.O. 22-081605

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

Disposition: Approved

29. 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 this Public Hearing to September 20, 2005, to consider moving into Phase III of the Water Conservation Plan.

The City Manager presented the item and Public Works Director Baldo Rodriguez presented the staff report.

Mayor West opened the public hearing at 8:06 p.m.

Dot Broome, 863 South Crystal, came forward and spoke regarding water conservation.

Mayor West closed the hearing to the public at 8:08 p.m.

Mayor Pro Tem Hamilton stated that he was pleased with what he was seeing and felt the water conservation plan was working.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Irish that the Council continue this Public Hearing to September 20, 2005, to consider moving into Phase III of the Water Conservation Plan

M.O. 23-081605

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


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

Recommendation: That the City Council continue the public hearing and reschedule this matter before the City Council on September 6, 2005.

The City Manager presented the item and Community Development Director Brad Dunlap presented the staff report.

Mayor West continued the public hearing until September 6, 2005.

Disposition: Public Hearing continued until September 6, 2005.

10. ACCEPTANCE OF FINAL SUBDIVISION MAP - NEW EXPRESSIONS, PHASE FOUR SUBDIVISION (ENNIS LAND DEVELOPMENT, LLC)

Recommendation: That City Council:
1. Approve the final map of New Expressions, Phase Four 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.

The City Manager presented the item and Community Development Director Brad Dunlap presented the staff report.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Martinez that the Council approve the final map of New Expressions, Phase Four 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.

M.O. 24-081605

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

Disposition: Approved.

SCHEDULED MATTERS
31. AMENDMENT TO TRAFFIC RESOLUTION NO. 10-2001 - INTERSECTION SAFETY IMPROVEMENT - DESIGNATION OF OLIVE AVENUE AND MATHEW STREET AS A 4-WAY STOP INTERSECTION

Recommendation: That City Council:
1. Pass a resolution amending Traffic Resolution No. 10-2001, designating Olive Avenue and Mathew Street as a 4-way stop intersection;
2. Authorize the City Engineer to notify the public, by any effective means, of the application of a traffic control device, namely a 4-way stop, at the intersection of Olive Avenue and Mathew Street; and
3. Authorize the City Engineer to install traffic control devices, namely 4-way stop signs, at the intersection of Olive Avenue and Mathew Street, contingent upon the completion of the Mathew Street public improvements, south of Olive Avenue.

The City Manager presented the item and Public Works Director Baldo Rodriguez presented the staff report.

Mayor Pro Tem Hamilton questioned whether the speed limit would warrant being lowered with the opening of a school.

The City Manager stated that staff would get back to Council on the 25 mph speed limit.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Martinez that the Council adopt the resolution amending Traffic Resolution No. 10-2001, designating Olive Avenue and Mathew Street as a 4-way stop intersection

Resolution 129-05
AYES: Irish, Martinez, Hamilton, West
NOES: None
ABSTAIN: None
ABSENT: Stadtherr

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Martinez that the Council authorize the City Engineer to notify the public, by any effective means, of the application of a traffic control device, namely a 4-way stop, at the intersection of Olive Avenue and Mathew Street; and, authorize the City Engineer to install traffic control devices, namely 4-way stop signs, at the intersection of Olive Avenue and Mathew Street, contingent upon the completion of the Mathew Street public improvements, south of Olive Avenue.

M.O. 25-081605
AYES: Irish, Martinez, Hamilton, West
NOES: None
ABSTAIN: None
ABSENT: Stadtherr
Disposition: Approved.

32. MAIN STREET AND HENDERSON AVENUE MEDIAN LANDSCAPE RENOVATION

Recommendation: That the City Council accepts the sole source proposal for the improvements of the median at Main Street and Henderson Avenue, authorize staff to proceed with the project, and schedule the necessary budget adjustment.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Martinez that the Council authorize the City Engineer to notify the public, by any effective means, of the application of a traffic control device, namely a 4-way stop, at the intersection of Olive Avenue and Mathew Street; and, authorize the City Engineer to install traffic control devices, namely 4-way stop signs, at the intersection of Olive Avenue and Mathew Street, contingent upon the completion of the Mathew Street public improvements, south of Olive Avenue.

M.O. 26-081605

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

Disposition: Approved.

33. CONSIDERATION OF A REQUEST FOR LEGISLATION TO EXTEND THE PERIOD FOR PROCESSING ISLAND ANNEXATIONS BEYOND JANUARY 1, 2007

Recommendation: To be determined by Council.

The City Manager presented the item wherein a member of the City Council has asked that consideration be provided to request from the City’s legislators the introduction of a bill to extend the processing date beyond January 1, 2007.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Irish Martinez that the Council approve the request that the City’s State legislators introduce a bill to extend the processing date for Processing Island Annexations beyond January 1, 2007.

M.O. 27-081605

AYES: Irish, Martinez, Hamilton, West
NOES: None

ABSTAIN: None
ABSENT: Stadtherr
Disposition: Approved.

34. SCHEDULE STUDY SESSION - MODEL CONSTRUCTION AND DEMOLITION RECYCLING ORDINANCE

Recommendation: That City Council set a study session on Tuesday, September 13, to review the Consolidated Waste Management Authority’s model Construction and Demolition Recycling Ordinance.

Council stated that staff should bring this back and they would consider the ordinance at a public hearing.

Disposition: No action.

35. SCHEDULE STUDY SESSION REGARDING GOLF COURSE MANAGEMENT OPTIONS

Recommendation: That the City Council set a study session to review options for operational management or conversion of the Municipal Golf Course, and request the Parks and Leisure Services Commission to participate.

Council directed the matter back to the Parks and Leisure Services Commission for them to study and provide a recommendation to the Council.

ORAL COMMUNICATIONS
• Art Cordero, 1040 Cleveland, No. 6, asked to continue the Cordero claim.
• Irene Cordero, 1040 W. Cleveland, came forward and spoke regarding the claim on Faustino Coronado and her desire to prove that her brother did not commit suicide.
• Dot Broome, 863 South Crystal, questioned where the Porterville Air Attack Base jettison area was located.
• Dick Eckhoff, 197 North Main Street, spoke regarding big rigs and trailers parking on Morton and Olive, and the discussions with County regarding the parking.
• Joe Guerrero, 332 S.”F” Street, asked about the noise ordinance.

OTHER MATTERS
• Mayor Pro Tem Hamilton suggested that Council look at the farming contract on the effluent line.

The City Manager stated that his secretary would call all the Council Members and coordinate the date for a Study Session as soon as possible.

• Mayor West spoke on the tragedy of Mr. Coronado’s death.

ADJOURNMENT
The Council adjourned at 8:47 p.m. to the meeting of September 6, 2005.
SUBJECT: BUDGET ADJUSTMENTS FOR THE 2005-06 FISCAL YEAR

SOURCE: Administration

COMMENT: At the City Council Meeting of August 16, 2005, staff prepared a budget adjustment to account for the receipt of the Vehicle License Fee (VLF) Gap Loan repayment. This receipt, under initial review, was understood to be an addition to the Proposition 1A loan repayment anticipated in fiscal year 2006-07. The recommendation was to hold this money in reserve until receipt of the Prop 1A money, as projected in the budget document, was confirmed.

Staff continued to research the source of the proceeds, and now understand that the VLF Gap Loan proceeds received in August and the Prop 1A Loan Repayment anticipated in 2006-07 are one-in-the-same. No additional proceeds are anticipated to be received in the 2006-07 fiscal year. The conservative approach to reserving the proceeds allowed time to reformulate the projections on future budget years. Staff has reformulated the out-year projections for Council consideration.

RECOMMENDATION: That Council accept the revised budget projections for fiscal years 2006-07 and 2007-08.

ATTACHMENT: Revised Budget Forecast.
## CITY OF PORTERVILLE
### ANNUAL BUDGET
#### 2005-2006

### GENERAL FUND SUMMARY

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### Unrestricted

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### Total Revenues and Transfers

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</tr>
</thead>
<tbody>
<tr>
<td>Factor for Adjustment to Annual Appropriations</td>
<td>3,605</td>
<td>3,605</td>
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</table>

### Appropriations for:

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<tr>
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<tbody>
<tr>
<td>Legislation</td>
<td>207,392</td>
<td>224,107</td>
<td>310,392</td>
<td>224,107</td>
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<tr>
<td>Administration</td>
<td>432,252</td>
<td>552,066</td>
<td>540,487</td>
<td>567,083</td>
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<tr>
<td>Finance</td>
<td>1,152,825</td>
<td>1,248,621</td>
<td>1,277,220</td>
<td>1,279,023</td>
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<tr>
<td>City Attorney</td>
<td>179,697</td>
<td>154,069</td>
<td>149,030</td>
<td>145,000</td>
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<tr>
<td>Police Services</td>
<td>5,169,240</td>
<td>5,727,353</td>
<td>5,736,937</td>
<td>6,104,622</td>
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<tr>
<td>Fire Services</td>
<td>2,439,965</td>
<td>2,766,500</td>
<td>2,792,719</td>
<td>2,885,454</td>
</tr>
<tr>
<td>Community Development</td>
<td>364,836</td>
<td>529,549</td>
<td>529,549</td>
<td>550,028</td>
</tr>
<tr>
<td>Public Works</td>
<td>1,445,938</td>
<td>1,737,345</td>
<td>1,737,345</td>
<td>1,846,364</td>
</tr>
<tr>
<td>Parks and Leisure Services</td>
<td>3,192,832</td>
<td>2,830,277</td>
<td>3,567,887</td>
<td>3,451,796</td>
</tr>
<tr>
<td>Parks and Leisure Services - grant prog</td>
<td>104,796</td>
<td>611,650</td>
<td>76,451</td>
<td>163,800</td>
</tr>
<tr>
<td>General Government</td>
<td>354,000</td>
<td>458,000</td>
<td>662,549</td>
<td>1,626,850</td>
</tr>
<tr>
<td>Debt repayment</td>
<td>836,820</td>
<td>836,820</td>
<td>804,764</td>
<td>836,820</td>
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<tr>
<td>Debt repayment From Muni Franchise</td>
<td>998,180</td>
<td>998,180</td>
<td>998,180</td>
<td>998,180</td>
</tr>
<tr>
<td>Zulu Estate</td>
<td>10,000</td>
<td>10,000</td>
<td>10,000</td>
<td>10,000</td>
</tr>
<tr>
<td>General Fund Golf Support</td>
<td>46,434</td>
<td>74,000</td>
<td>74,000</td>
<td>74,000</td>
</tr>
<tr>
<td>General Fund Airport Support</td>
<td>41,000</td>
<td>105,622</td>
<td>105,622</td>
<td>105,622</td>
</tr>
<tr>
<td>Factor for Real &amp; Non Programmed Exp.</td>
<td>0</td>
<td>0</td>
<td>2,000</td>
<td>2,000</td>
</tr>
<tr>
<td>Transfer to Equipment Replacement</td>
<td>0</td>
<td>0</td>
<td>870,517</td>
<td>555,451</td>
</tr>
<tr>
<td>Transfer to COP Coverage</td>
<td>0</td>
<td>0</td>
<td>458,721</td>
<td>555,451</td>
</tr>
<tr>
<td>Adjustment</td>
<td>-180,648</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Reservations &amp; Non Programmed Expenses</td>
<td>0</td>
<td>0</td>
<td>344,357</td>
<td>354,688</td>
</tr>
<tr>
<td>Total</td>
<td>16,970,560</td>
<td>19,315,711</td>
<td>20,698,064</td>
<td>21,769,057</td>
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</table>

### Annual Balance

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<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>Total</td>
<td>1,137,251</td>
<td>-1,214,221</td>
<td>-1,314,490</td>
<td>-985,988</td>
</tr>
</tbody>
</table>

### Unrestricted cash

<table>
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<tr>
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</thead>
<tbody>
<tr>
<td>Available balance, end of year</td>
<td>3,611,985</td>
<td>2,174,396</td>
<td>3,928,989</td>
<td>2,638,953</td>
</tr>
<tr>
<td>Total</td>
<td>1,651,965</td>
<td>649,319</td>
<td></td>
<td></td>
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</tbody>
</table>
## GENERAL FUND SUMMARY

<table>
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<tr>
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</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Actual</td>
<td>Estimate</td>
<td>Original</td>
<td>Revised</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Estimate</td>
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<td>Estimate</td>
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<tr>
<td></td>
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<td>Estimate</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Unrestricted</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Available balance, from prior year</td>
<td>2,473,844</td>
<td>3,611,995</td>
<td>3,611,995</td>
<td>3,028,989</td>
</tr>
<tr>
<td>Adjustment (modified accrual to cash)</td>
<td>0</td>
<td>-222,478</td>
<td>-222,478</td>
<td>24,454</td>
</tr>
<tr>
<td>Adjusted balance, beginning of year</td>
<td>2,473,844</td>
<td>3,389,617</td>
<td>3,389,617</td>
<td>3,053,443</td>
</tr>
</tbody>
</table>

| Add: | | | | |
| Revenues from: | | | | |
| Property Taxes | 1,570,042 | 1,689,497 | 1,711,223 | 1,273,000 |
| ERAF Exchange for VLF Baddill | 2,201,431 | 2,298,765 | 2,367,719 | 2,438,751 |
| ERAF return for Tnicle Flipp | 1,143,000 | 1,053,074 | 1,084,667 | 1,187,006 |
| Additional ERAF loss for State Bail Out | 0 | -340,000 | 0 | 0 |
| Repayment of VLF Loan (One-Time) | 0 | 711,643 | 0 | 0 |
| Other Taxes | 9,006,865 | 9,581,180 | 8,642,977 | 10,293,061 |
| Loss of 14% Bradley-Burns Sales Tax | 0 | -1,143,000 | 0 | -1,248,626 |
| Permits | 688,201 | 269,020 | 668,036 | 339,000 |
| Other agencies | 2,545,216 | 559,245 | 1,537,490 | 1,948,450 |
| Invested assets | 59,774 | 68,000 | 130,742 | 85,000 |
| Fines | 31,792 | 24,700 | 55,770 | 24,700 |
| Charges for services | 2,480,807 | 3,541,883 | 2,660,878 | 2,662,500 |
| Revenue contingencies | 0 | -970,000 | 0 | 0 |
| Other revenues | 97,951 | 97,951 | 255,944 | 97,951 |

| Total | 16,490,758 | 16,714,852 | 19,746,552 | 19,009,367 |
| Transfers from: | | | | |
| Special Gas Tax | 769,574 | 336,000 | 363,511 | 359,000 |
| Special Gas Tax for Debt Service | 399,235 | 400,000 | 400,000 | 400,000 |
| Community Development Block Grant | 138,260 | 137,609 | 134,059 | 130,000 |
| Traffic Safety Fund | 84,894 | 85,000 | 131,491 | 85,000 |
| Airport Operations | 27,500 | 51,500 | 27,500 | 27,500 |
| Transportation/Park Development | 407,078 | 335,986 | 375,932 | 380,000 |
| Building Construction Fund | 88,021 | 50,000 | 50,831 | 50,000 |
| Adjustment | -282,010 | | | |

| Total | 1,617,053 | 1,386,038 | 1,491,924 | 1,445,200 |

| Total Revenues and Transfers | 18,107,811 | 18,101,490 | 21,238,456 | 20,454,567 |

| Less: | | | | |
| Factor for Adjustment to Annual Appropriations | | | | |
| Appropriations for: | | | | |
| Legislation | 207,392 | 224,107 | 310,392 | 224,107 |
| Administration | 325,421 | 569,086 | 540,486 | 567,603 |
| Finance | 1,182,952 | 1,248,621 | 1,277,223 | 1,279,023 |
| City Attorney | 179,608 | 145,000 | 145,000 | 145,000 |
| Police Services | 5,760,429 | 5,727,353 | 5,736,978 | 6,104,622 |
| Fire Services | 2,430,985 | 2,788,500 | 2,792,719 | 2,885,454 |
| Community Development | 364,955 | 529,584 | 529,546 | 550,028 |
| Public Works | 1,445,933 | 1,737,345 | 1,737,345 | 1,848,345 |
| Parks and Leisure Services | 3,192,832 | 2,630,277 | 3,567,087 | 3,451,780 |
| Parks and Leisure Services - grant prog | 104,738 | 811,659 | 76,451 | 163,800 |

| Total | 14,669,774 | 16,374,496 | 16,713,031 | 17,217,867 |

| General Government | 354,000 | 458,500 | 662,549 | 1,266,200 |
| Lock Box Target | 175,000 | 0 | 0 | 0 |
| Debt repayment | 836,820 | 636,820 | 804,794 | 836,820 |
| Debt repayment From Muni Franchise | 988,180 | 988,180 | 988,180 | 988,180 |
| Zadlah Estate | 10,000 | 10,000 | 10,000 | 10,000 |
| General Fund Golf Support | 46,434 | 74,000 | 74,000 | 74,000 |
| General Fund Airport Support | 41,000 | 105,522 | 105,522 | 105,522 |
| Factor for Reser & Non Programmed Exp. | | | | |
| Transfer to Equipment Replacement | 0 | 0 | 0 | 0 |
| Transfer to COF Coverage | 0 | 406,721 | 406,721 | 0 |
| Adjustment | -180,645 | 0 | 0 | 0 |
| Reservations & Non Programmed Expense | 0 | 0 | 0 | 344,597 |

| Total | 2,280,786 | 2,941,243 | 3,064,253 | 4,551,190 |
| Total appropriations | 16,670,580 | 19,315,711 | 20,668,084 | 21,769,057 |

| Annual Balance | 1,137,251 | -1,214,221 | 540,372 | -1,314,490 |
| Available balance, end of year | 3,611,995 | 2,174,396 | 3,928,989 | 2,638,953 |

| 1,651,965 | 649,319 |
SUBJECT: Assistance to Firefighters Grant Program 2005
          Negotiated Bids

SOURCE: Fire Department

COMMENT: On April 19, 2005, Council authorized staff to apply for and accept a grant under the Federal Emergency Management Administration’s Assistance to Firefighters Grant Program. The City’s application was approved and we have been awarded a grant for $44,909 which is 90% of the total $49,898 program costs. These funds are dedicated to purchase fire fighting equipment, including fire hose, fire pumps, fire communication equipment and fire shelters. Because this equipment is extremely technical and highly specialized, the Department is requesting permission to purchase the equipment under the negotiated bid process.

RECOMMENDATIONS: That the City Council:

1) Authorize staff to purchase firefighting equipment under the negotiated bid process for all purchases subject to the terms and conditions of the Grant funding.

Attachments: None

Dir. Funded Approp.
C. M. Î

Item No. 3
SUBJECT: ACCEPTANCE OF THE PORTERVILLE HERITAGE CENTER

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: Zumwalt Construction, Inc. has completed construction of the Porterville Heritage Center per plans and specifications. The project consisted of the construction of a 10,037 square foot community center, parking lots, and associated landscaping.

City Council authorized expenditure of $2,971,000. Final construction cost is $2,769,155.43.

Zumwalt Construction, Inc., requests that the City accept the project as complete. Staff reviewed the work and found it acceptable.

RECOMMENDATION: That City Council:

1. Accept the project as complete;

2. Authorize the filing of the Notice of Completion; and

3. Authorize the release of the 10% retention thirty-five (35) days after recordation, less any funds that may be due to the City as part of a settlement agreement, and provided no stop notices have been filed.

ATTACHMENT: Locator Map
SUBJECT: ACCEPTANCE OF THE SLUDGE BED EXPANSION PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: Kaweah Construction Company has completed construction of the Sludge Bed Expansion Project per plans and specifications. This project consisted of the construction of four new soil-cement lined sludge drying beds west of the Porterville airport. This project was required under the City’s Cease and Desist Order issued by the Regional Water Quality Control Board.

City Council authorized expenditure of $911,900. Final construction cost is $780,223.77.

Kaweah Construction Company requests that the City accept the project as complete. Staff reviewed the work and found it acceptable.

RECOMMENDATION: That City Council:

1. Accept the project as complete;

2. Authorize the filing of the Notice of Completion; and

3. Authorize the release of the 10% retention thirty-five (35) days after recordation, provided no stop notices have been filed.

ATTACHMENT: Locator Map
SUBJECT: ACCEPTANCE OF THE MITIGATION WELL

SOURCE: Public Works Department - Engineering Division

COMMENT: Johnson Drilling Company has completed construction of the Mitigation Well Project per plans and specifications. This project consisted of the construction of a water well that irrigates the Elberberry bushes and other associated plant habitat for the Valley Elderberry Longhorn Beetle (VELB). The mitigation site is located on what is known as the City's Headgate Property, which is generally located between Highway 190 and the Tule River, east of the southerly prolongation of Page Street.

City Council authorized expenditure of $82,329.23. Final construction cost is $47,074.41.

Johnson Drilling Company requests that the City accept the project as complete. Staff reviewed the work and found it acceptable.

RECOMMENDATION: That City Council:

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

ATTACHMENT: Locator Map
COUNCIL AGENDA: OCTOBER 4, 2005

SUBJECT: SCHEDULING A PUBLIC HEARING FOR THE REVISED DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

SOURCE: Public Works Department - Engineering Division

COMMENT: In order to continue to secure Federal Highway Administration (FHWA) funds, the California Department of Transportation (Caltrans) requires that Porterville adopt a revised Disadvantaged Business Enterprise (DBE) Program by October 1, 2005.

The model DBE Program was prepared by Caltrans for all Counties and Cities. The model DBE Program must contain a specific DBE goal for all FHWA-funded projects. Porterville’s current goal is 11%. The DBE goal, as calculated by Staff and accepted by Caltrans is the same, 11%

RECOMMENDATION: That the City Council:

1. Schedule December 6, 2005, as the date for a Public Hearing to hear testimony regarding the proposed new 11% goal.

ATTACHMENT: Revised DBE Program
PREAPPROVED DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

City of Porterville, County of Tulare

I Definitions of Terms

The terms used in this program have the meanings defined in 49 CFR §26.5.

II Objectives/Policy Statement (§§26.1, 26.23)

The City of Porterville (hereinafter referred to as "City") has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The City has received Federal financial assistance from the DOT, and as a condition of receiving this assistance, the City will sign an assurance that it will comply with 49 CFR Part 26.

It is the policy of the City to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy:

1. To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT-assisted contracts; and
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

The Public Works Director has been delegated as the DBE Liaison Officer. In that capacity, the Public Works Director is responsible for implementing all aspects of the DBE Program. Implementation of the DBE Program is accorded the same priority as compliance with all other legal obligations incurred by the City in its financial assistance agreements with the California Department of Transportation (Caltrans).

The City has disseminated this policy statement to the City Council and all the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts by publishing this statement in general circulation, minority-focused and trade association publications.
III  Nondiscrimination (§26.7)

The City will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin.

In administering its DBE Program, the City will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program with respect to individuals of a particular race, color, sex, or national origin.

IV  DBE Program Updates (§26.21)

Methodology

The City elected to use the California Department of Transportation (CalTrans) database to determine the number of ready, willing and able businesses available within a five countywide area. A list of all certified DBEs from these five counties was compiled. A dollar amount was calculated based on the anticipated work that will be performed by the DBEs and this figure was divided by the total funds the City expects to receive from FHWA. The “Base Figure” computation enclosed herein as Exhibit ‘A’ reflects a “weighted” analysis to better reflect anticipated DBE involvement. Exhibit ‘B’ enclosed herein represents the actual data used in computing the weighted overall DBE goal. No adjustment to the “Base Figure” of 11% was made due to the City’s past experience which indicates that an 11% DBE is realistic.

Breakout of Estimated Race-Neutral and Race-Conscious Participation

Of the overall annual 11% goal for DBE participation, the City of Porterville projects meeting 1% of the goal utilizing race-neutral methods. These methods include efforts to assure that bidding and contract requirements facilitate participation by DBEs and other small businesses; unbundling large contracts to make them more accessible to small businesses; encouraging prime contractors to subcontract portions of the work that they otherwise perform themselves; and providing technical assistance and other support services to facilitate consideration of DBEs and other small businesses. The remaining 10% of the goal is anticipated to be accomplished through race-conscious measures. These measures include establishing contract specific goals on contracts with contracting possibilities, when needed, to meet the City of Porterville’s overall annual DBE goal.

V  Quotas (§26.43)

The City will not use quotas or set asides in any way in the administration of this DBE Program.
VI  DBE Liaison Officer (DBELO) (§26.45)

The City has designated the following individual as the DBE Liaison Officer: Baldomero Rodriguez, 291 N. Main St., Porterville, CA, 93257, (559) 782-7462, brodriguez@ci.porterville.ca.us. In that capacity, Mr. Rodriguez is responsible for implementing all aspects of the DBE Program and ensuring that the City complies with all provisions of 49 CFR Part 26. This is available on the Internet at www.osdbuweb.dot.gov/main.cfm. The DBE Liaison Officer has direct, independent access to the City Manager concerning DBE Program matters. The DBELO has a staff of 3 professional employees assigned to the DBE Program on a full-time basis. An organization chart displaying the DBELO's position in the organization is found in Attachment A to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE Program, in coordination with other appropriate officials. Duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitor results.
6. Analyzes the City’s progress toward goal attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the CEO/governing body on DBE matters and achievement.
9. Chairs the DBE Advisory Committee.
10. Participates with the legal counsel and project director to determine contractor compliance with good faith efforts.
11. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
12. Plans and participates in DBE training seminars.
13. Provides outreach to DBEs and community organizations to advise them of opportunities.


The City will sign the following assurance, applicable to all DOT-assisted contracts and their administration as part of the program supplement agreement for each project:

The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and
administration of DOT-assisted contracts. The recipient’s DBE Program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

VIII DBE Financial Institutions

It is the policy of the City to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions.

Information on the availability of such institutions can be obtained from the DBE Liaison Officer. The Caltrans Disadvantaged Business Enterprise Program may offer assistance to the DBE Liaison Officer.

IX Directory (§26.31)

The City will refer interested persons to the DBE directory available from the Caltrans Disadvantaged Business Enterprise Program website at www.dot.ca.gov/hq/bep.

X Over Concentration (§26.33)

The City has not identified any types of work in DOT-assisted contracts that have an over concentration of DBE participation. If in the future the City identifies the need to address over concentration, measures for addressing over concentration will be submitted to the DLAE for approval.

XI Business Development Programs (§26.35)

The City does not have a business development or mentor-protégé program. If the City identifies the need for such a program in the future, the rationale for adopting such a program and a comprehensive description of it will be submitted to the DLAE for approval.

XII Require Contract Clauses (§§26.13, 26.29)

Contract Assurance

The City ensures that the following clause is placed in every DOT-assisted contract and subcontract:
The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as recipient deems appropriate.

Prompt Payment

The City ensures that the following clauses or equivalent will be included in each DOT-assisted prime contract:

Prompt Progress Payment to Subcontractors

A prime contractor or subcontractor shall pay to any subcontractor no later than 10 days of receipt of each progress payment in accordance with the provision in Section 7108.5 of the California Business and Professions Code concerning prompt payment to subcontractors. The 10 days is applicable unless, a longer period is agreed to in writing. Any delay or postponement of payment over 30 days may take place only for good cause and with the agency’s prior written approval. Any violation of Section 7108.5 shall subject the violating contractor or subcontractor to the penalties, sanctions and other remedies of that Section. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the contractor or subcontractor in the event of a dispute involving late payment, or nonpayment by the contractor, or deficient subcontractor performance, or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

Prompt Payment of Withheld Funds to Subcontractors

No retainage will be held by the agency from progress payments due the prime contractor. Any retainage kept by the prime contractor or by a subcontractor must be paid in full to the earning subcontractor in 30 days after the subcontractor’s work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the City’s prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the prime contractor or subcontractor in the event of a dispute involving late payment, or nonpayment by the contractor, or deficient subcontractor’s performance, or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.
XIII Monitoring and Enforcement Mechanisms (§26.37)

The City will assign a Resident Engineer (RE) or Contract Manager to monitor and track actual DBE participation through contractor and subcontractor reports of payments in accordance with the following:

After Contract Award

After the contract award the City will review the award documents for the portion of items each DBE and first tier subcontractors will be performing and the dollar value of that work. With these documents the RE/Contract Manager will be able to determine the work to be performed by the DBEs or subcontractors listed.

Preconstruction Conference

A preconstruction conference will be scheduled between the RE and the contractor or their representative to discuss the work each DBE subcontractor will perform.

Before work can begin on a subcontract, the local agency will require the contractor to submit a completed “Subcontracting Request,” Exhibit 16-B of the "Local Assistance Procedures Manual" (LAPM), or equivalent. When the RE receives the completed form it will be checked for agreement of the first tier subcontractor and DBEs. The RE will not approve the request when it identifies someone other than the DBE or first tier subcontractor listed in the previously completed “Local Agency Bidder DBE Information,” Exhibit 15-G of the LAPM. The “Subcontracting Request” will not be approved until any discrepancies are resolved. If an issue cannot be resolved at that time, or there is some other concern, the RE will require the contractor to eliminate the subcontractor in question before signing the subcontracting request. A change in the DBE or first tier subcontractor may be addressed during a substitution process at a later date.

Suppliers, vendors, or manufacturers listed on the “Local Agency Bidder DBE Information” will be compared to those listed in the completed Exhibit 16-I of the LAPM or equivalent. Differences must be resolved by either making corrections or requesting a substitution.

Substitutions will be subject to the Subletting and Subcontracting Fair Practices Act (FPA). Local agencies will require contractors to adhere to the provisions within Subletting and Subcontracting Fair Practices Act (State Law) Sections 4100-4144. FPA requires the contractor to list all subcontractors in excess of one half of one percent (0.5%) of the contractor’s total bid or $10,000, which ever is greater. The statute is designed to prevent bid shopping by contractors. The FPA explains that a contractor may not substitute a subcontractor listed in the original bid except with the approval of the awarding authority.
The RE will give the contractor a blank Exhibit 17-F, “Final Report Utilization of Disadvantaged Business Enterprises,” and will explain to them that the document will be required at the end of the project, for which payment can be withheld, in conformance with the contract.

**Construction Contract Monitoring**

The RE will ensure that the RE’s staff (inspectors) know what items of work each DBE is responsible for performing. Inspectors will notify the RE immediately of apparent violations.

When a firm other than the listed DBE subcontractor is found performing the work, the RE will notify the contractor of the apparent discrepancy and potential loss of payment. Based on the contractor’s response, the RE will take appropriate action: The DBE Liaison Officer will perform a preliminary investigation to identify any potential issues related to the DBE subcontractor performing a commercially useful function. Any substantive issues will be forwarded to Caltrans Disadvantaged Business Enterprise Program. If the contractor fails to adequately explain why there is a discrepancy, payment for the work will be withheld and a letter will be sent to the contractor referencing the applicable specification violation and the required withholding of payment.

If the contract requires the submittal of a monthly truck document, the contractor will be required to submit documentation to the RE showing the owner’s name; California Highway Patrol CA number; and the DBE certification number of the owner of the truck for each truck used during that month for which DBE participation will be claimed. The trucks will be listed by California Highway Patrol CA number in the daily diary or on a separate piece of paper for documentation. The numbers are checked by inspectors regularly to confirm compliance.

Providing evidence of DBE payment is the responsibility of the contractor.

**Substitution**

When a DBE substitution is requested, the RE/Contract Manager will request a letter from the contractor explaining why substitution is needed. The RE/Contract Manager must review the letter to be sure names and addresses are shown, dollar values are included, and reason for the request is explained. If the RE/Contract Manager agrees to the substitution, the RE/Contract Manager will notify, in writing, the DBE subcontractor regarding the proposed substitution and procedure for written objection from the DBE subcontractor in accordance with the Subleasing and Subcontracting Fair Practices Act. If the contractor is not meeting the contract goal with this substitution, the contractor must provide the required good faith effort to the RE/Contract Manager for local agency consideration.

If there is any doubt in the RE/Contract Manager’s mind regarding the requested substitution, the RE/Contract Manager may contact the DLAE for assistance and direction.

Effective 10-01-05
Record Keeping and Final Report Utilization of Disadvantaged Business Enterprises

The contractor shall maintain records showing the name and address of each first-tier subcontractor. The records shall also show:

1. The name and business address, regardless of tier, of every DBE subcontractor, DBE vendor of materials and DBE trucking company.
2. The date of payment and the total dollar figure paid to each of the firms.
3. The DBE prime contractor shall also show the date of work performed by their own forces along with the corresponding dollar value of the work claimed toward DBE goals.

When a contract has been completed the contractor will provide a summary of the records stated above. The DBE utilization information will be documented on Exhibit 17-F and will be submitted to the DLAE attached to the Report of Expenditures. The RE will compare the completed Exhibit 17-F to the contractor’s completed Exhibit 15-G and, if applicable, to the completed Exhibit 16-B. The DBEs shown on the completed Exhibit 17-F should be the same as those originally listed unless an authorized substitution was allowed, or the contractor used more DBEs and they were added. The dollar amount should reflect any changes made in planned work done by the DBE. The contractor will be required to explain in writing why the names of the subcontractors, the work items or dollar figures are different from what was originally shown on the completed Exhibit 15-G when:

- There have been no changes made by the RE.
- The contractor has not provided a sufficient explanation in the comments section of the completed Exhibit 17-F.

The explanation will be attached to the completed Exhibit 17-F for submittal. The RE will file this in the project records.

The local agency’s Liaison Officer will keep track of the DBE certification status on the Internet at www.dot.ca.gov/hq/bep and keep the RE informed of changes that affect the contract. The RE will require the contractor to act in accordance with existing contractual commitments regardless of decertification.

The DLAE will use the PS&E checklist to monitor the City's commitment to require bidders list information to be submitted to the City from the awarded prime and subcontractors as a means to develop a bidders list. This monitoring will only take place if the bidders list information is required to be submitted as stipulated in the special provisions.

The City will bring to the attention of the DOT through the DLAE any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g. referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in
§26.109. The City also will consider similar action under our own legal authorities, including responsibility determinations and future contracts.

XIV Overall Goals (§26.45)

Amount of Goal

The City’s overall goal for the Federal fiscal year FY 2005/2006 is the following: 11% of the Federal financial assistance in FHWA-assisted contracts. This overall goal is broken down into 10% race-conscious and 1% race-neutral components.

Process

Starting with the Federal fiscal year 2003, the amount of overall goal, the method to calculate the goal, and the breakout of estimated race-neutral and race-conscious participation will be required annually by June 1 in advance of the Federal fiscal year beginning October 1 for FHWA-assisted contracts. Submittals will be to the Caltrans' DLAE. An exception to this will be if FTA or FAA recipients are required by FTA or FAA to submit the annual information to them or a designee by another date. FHWA recipients will follow this process:

Once the DLAE has responded with preliminary comments and the comments have been incorporated into the draft overall goal information, the City will publish a notice of the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the City's principal office for 30 days following the date of the notice, and informing the public that City comments will be accepted on the goals for 45 days following the date of the notice. Advertisements in newspapers, minority focus media, trade publications, and websites will be the normal media to accomplish this effort. The notice will include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

The overall goal resubmission to the Caltrans' DLAE, will include a summary of information and comments received during this public participation process and the City's responses. This will be due by September 1 to the Caltrans' DLAE. The DLAE will have a month to make a final review so the City may begin using the overall goal on October 1 of each year.

XV Contract Goals (§26.51)

The City will use contract goals to meet any portion of the overall goal the City does not project being able to meet by the use of race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of the overall goal that is not projected to be met through the use of race-neutral means.
Contract goals will be established only on those DOT-assisted contracts that have subcontracting possibilities. Contract goals need not be established on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work). The contact work items will be compared with eligible DBE contractors willing to work on the project. A determination will also be made to decide which items are likely to be performed by the prime contractors and which ones are likely to be performed by the subcontractor(s). The goal will then be incorporated into the contract documents. Contract goals will be expressed as a percentage of the total amount of a DOT-assisted contract.

XVI  Transit Vehicle Manufacturers (§26.49)

If DOT-assisted contracts will include transit vehicle procurements, the City will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on transit vehicle procurements, to certify that it has complied with the requirements of 49 CFR Part 26, Section 49. The City will direct the transit vehicle manufacturer to the subject requirements located on the Internet at http://osdbuweb.dot.gov/programs/dbe/dbe.htm.

XVII  Good Faith Efforts (§26.53)

Information to be Submitted

The City treats bidders'/offerors' compliance with good faith effort requirements as a matter of responsiveness. A responsive proposal is meeting all the requirements of the advertisement and solicitation.

Each solicitation for which a construction contract goal has been established will require the bidders'/offerors' to submit the following information to the City no later than 4:00 p.m. on or before the fourth day, not including Saturdays, Sundays and legal holidays, following bid opening:

1. The names and addresses of DBE firms that will participate in the contract;
2. A description of the work that each DBE will perform;
3. The dollar amount of the participation of each DBE firm participation;
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor’s commitment; and
6. If the contract goal is not met, evidence of good faith efforts.
Demonstration of Good Faith Efforts

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26 which is attached.

The following personnel are responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive: City Engineer, DBELO.

The City will ensure that all information is complete and accurate and adequately documents the bidders/offeror’s good faith efforts before a commitment to the performance of the contract by the bidder/offeror is made.

Administrative Reconsideration

Within 10 days of being informed by the City that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official: Bradley D. Dunlap, AICP, Community Development Director, 291 N. Main Street, Porterville, CA 93257, bdunlap@ci.porterville.ca.us. The reconsideration official will not have played any role in the original determination that the bidder/offeror did not make document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with the reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. The City will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to Caltrans, FHWA or the DOT.

Good Faith Efforts when a DBE is Replaced on a Contract

The City will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. The prime contractor is required to notify the RE immediately of the DBE’s inability or unwillingness to perform and provide reasonable documentation.

In this situation, the prime contractor will be required to obtain the City's prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good
faith efforts. If the contractor fails or refuses to comply in the time specified, the City's contracting office will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for default proceeding.

XVIII Counting DBE Participation (§26.55)

The City will count DBE participation toward overall and contract goals as provided in the contract specifications for the prime contractor, subcontractor, joint venture partner with prime or subcontractor, or vendor of material or supplies. See the Caltrans' Sample Boiler Plate Contract Documents previously mentioned. Also, refer to XIII “After Contract Award.”

XIX Certification (§26.83(a))

The City ensures that only DBE firms currently certified on the Caltrans’ directory will participate as DBEs in our program.

XX Information Collection and Reporting

Bidders List

The City will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts. The bidders list will include the name, address, DBE/non-DBE status, age, and annual gross receipts of firms.

Monitoring Payments to DBEs

Prime contractors are required to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the City, Caltrans or FHWA. This reporting requirement also extends to any certified DBE subcontractor.

Payments to DBE subcontractors will be reviewed by the City to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

Reporting to Caltrans

The City - Final utilization of DBE participation will be reported to the DLAE using Exhibit 17-F of the Caltrans’ LARM.
Confidentiality

The City will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local laws.

_________________________
Kelly West, Mayor

Date:____________________

This Preapproved Disadvantaged Business Enterprise Program is accepted by:

_________________________
[Signature of Caltrans' District Local Assistance Engineer]

Date:____________________
APPENDIX A TO PART 26 – GUIDANCE CONCERNING GOOD FAITH EFFORTS

I When, as a recipient, you establish a contract goal on a DOT-assisted contract, a bidder must, in order to be responsible and/or responsive, make good faith efforts to meet the goal. The bidder can meet this requirement in either of two ways. First, the bidder can meet the goal, documenting commitments for participation by DBE firms sufficient for this purpose. Second, even if it doesn't meet the goal, the bidder can document adequate good faith efforts. This means that the bidder must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.

II In any situation in which you have established a contract goal, part 26 requires you to use the good faith efforts mechanism of this part. As a recipient, it is up to you to make a fair and reasonable judgment whether a bidder that did not meet the goal made adequate good faith efforts. It is important for you to consider the quality, quantity, and intensity of the different kinds of efforts that the bidder has made. The efforts employed by the bidder should be those that one could reasonably expect a bidder to take if the bidder were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal. Mere pro forma efforts are not good faith efforts to meet the DBE contract requirements. We emphasize, however, that your determination concerning the sufficiency of the firm's good faith efforts is a judgment call: meeting quantitative formulas is not required.

III The Department also strongly cautions you against requiring that a bidder meet a contract goal (i.e., obtain a specified amount of DBE participation) in order to be awarded a contract, even though the bidder makes an adequate good faith efforts showing. This rule specifically prohibits you from ignoring bona fide good faith efforts.

IV The following is a list of types of actions which you should consider as part of the bidder's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

A. Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The bidder must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.
B. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.

C. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.

D. (1) Negotiating in good faith with interested DBEs. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.

(2) A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

E. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.

F. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.

G. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
H. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

V In determining whether a bidder has made good faith efforts, you may take into account the performance of other bidders in meeting the contract. For example, when the apparent successful bidder fails to meet the contract goal, but others meet it, you may reasonably raise the question of whether, with additional reasonable efforts, the apparent successful bidder could have met the goal. If the apparent successful bidder fails to meet the goal, but meets or exceeds the average DBE participation obtained by other bidders, you may view this, in conjunction with other factors, as evidence of the apparent successful bidder having made good faith efforts.
Disadvantaged Business Enterprise (DBE) Program
Reporting Structure/Support Staff

CITY MANAGER

PUBLIC WORKS DIRECTOR

PUBLIC WORKS INSPECTOR

RESIDENT ENGINEER

CONSTRUCTION INSPECTOR

Duties of:

Public Works Director: DBE Liaison Officer and General Administrator of the DBE Program. DBE Program(s) Compliance Officer. Compliance Officer reviews all matters related to contractor's adherence to the City's DBE Program.

Resident Engineer and Public Works Inspector: Verifies and documents field conditions related to contractor's adherence to minority hiring policies.

Construction Inspector: Assists the Resident Engineer.
CITY COUNCIL AGENDA: OCTOBER 4, 2005

SUBJECT: APPROVAL OF RELOCATION CLAIMS FOR RENTAL ASSISTANCE OR DOWN PAYMENT ASSISTANCE FOR PROPERTY LOCATED AT APN 261-093-019 TENANTS JOSE C. MOLINA AND SANTOS CARRANZA GONZALES

SOURCE: PUBLIC WORKS DEPARTMENT

COMMENT: On August 16, 2005 City Council approved the Relocation Plan for the property located at APN 261-093-019, for the Date Avenue Reconstruction Project. At this time, the tenants have submitted a Claim for Rental Assistance or Down Payment Assistance for necessary deposits or down payments in order to secure replacement housing, and also to assist with moving costs.

In the Relocation Plan, the established maximum Rental Assistance Payment this family is eligible to receive is $12,600.00 and a fixed moving payment of $1,650.00. The advance payment requested is for $1,400.00 move-in cost, and $700.00 for an additional month’s rent for a total of $2,100.00.

As per Paragon Partners Ltd., the City’s relocation consultant, this is common practice for displaced persons to request an advance on their benefits to assist them with moving expenses.

RECOMMENDATION: That City Council:

1. Approve the Claim for Rental Assistance or Down Payment Assistance; and
2. Authorize staff to make an advance payment in the amount of $2,100.00 to Jose C. Molina and Santos Carranza Gonzales, tenants.

ATTACHMENTS: 1. Claim for Rental Assistance or Down Payment Assistance

APPROPRIATED/FUNDED CM ITEM NO. 8
CLAIMS FOR RENTAL ASSISTANCE OR DOWNSPAYMENT ASSISTANCE

Name of Agency: City of Porterville
Project Name of Number: Avenue Improvement Project
Case Number: APN: 261-093-019

Instructions: This claim form is for the use of families and individuals applying for rental or downspayment assistance. The Agency will help you complete the form. If the full amount of your claim is not approved, the Agency will provide you with a written explanation for the reason. If you are not satisfied with the Agency's determination, you may appeal that determination. The Agency will explain how to make an appeal.

1. Your Name(s)
   (You are the Claimant(s))
Jose C. Molina & Santos Carranza Gonzales

2a. Have all members of the household moved to the same dwelling? Yes No

2b. Do you (or will you) receive a Federal, State, or local housing program subsidy at the dwelling you moved to? Yes No

3. Unit That You Move From
   Address: 307 "B" Street, Porterville, CA 93257
   When Did You Rent This Unit? 6/10/02

4. Unit That You Moved To
   Address: 2414 Mauro Street, Porterville, CA 93257
   When Did You Move To This Unit? TBD

5. Computation of Payment: Complete Items 13 and 14 on the back of this form before completing this section. If you are filing for downspayment assistance, check this box [ ] and skip line 1.

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Monthly Rent and Average Utility Cost for Unit That You Moved To (From line 8, Column a, Item 13)</td>
<td>$ 731.00</td>
</tr>
<tr>
<td>2. Monthly Rent and Average Monthly Utility Costs for Comparable Replacement Dwelling (From line 8, Column a, Item 13)</td>
<td>$ 681.00</td>
</tr>
<tr>
<td>3. Total of line (1) or (2) (If claim is for downspayment assistance, enter amount from line (2))</td>
<td>$ 681.00</td>
</tr>
<tr>
<td>4. Monthly Rent and Average Utility Cost for Unit That You Moved From (From line 8, Column a, Item 13)</td>
<td>$ 381.00</td>
</tr>
<tr>
<td>5. 30% of Average Gross Monthly Household Income (From line 4, Column a, Item 14)</td>
<td>N/A**</td>
</tr>
<tr>
<td>6. Lessor of Line (4) or (5)</td>
<td>$ 381.00</td>
</tr>
<tr>
<td>7. Monthly Need (Subtract line 6 from line (5))</td>
<td>$ 300.00</td>
</tr>
<tr>
<td>8. Amount of Payment Claim (amount on line (7) multiply by 42)</td>
<td>$ 12,600.00</td>
</tr>
<tr>
<td>9. Amount Previously Received (if any)</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>10. Amount Requested (Subtract line (5) from line (6))</td>
<td>$ 1,100.00</td>
</tr>
</tbody>
</table>

6. Certification by Claimant(s): I certify that this claim and supporting information are true and complete and that I have not been paid for these expenses by any other source.

Signature(s) of Claimant(s) & Date: Santos Gonzalez 09-20-05

Warning: The Agency will prosecute individuals for false claims and statements. Conviction may result in criminal and/or civil penalties (18 U.S.C. 1001, 1010, 1012.3 and 3729, 3729).

To be Completed by the Agency:
7. Effective date of eligibility for relocation assistance: 11/24/04
8. Date of referral to comparable replacement dwelling: 8/26/05
9. Date replacement dwelling inspected and found decent, safe and sanitary: 9/14/05

Payment To Be Made In: [ ] Lump Sum [ ] Monthly Installments [ ] Other (Specify in the Remarks Section)

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<thead>
<tr>
<th>Payment Action</th>
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<th>Signature</th>
<th>Name (Type or Print)</th>
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<td>11. Recommended</td>
<td>$ 2,100.00</td>
<td>Jesse Perg</td>
<td>Paragon Partners Ltd</td>
<td>9/20/05</td>
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<tr>
<td>12. Approved</td>
<td>$</td>
<td></td>
<td></td>
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</table>

Footnotes:
**N/A** Not Applicable

Date: 09-20-05

Page 30-18
SUBJECT: INTENT TO SET A PUBLIC HEARING FOR REIMBURSEMENT AGREEMENTS FOR CONCRETE IMPROVEMENT CONSTRUCTION BY THE CITY - WILLIFORD DRIVE STREET RECONSTRUCTION AND DRAINAGE PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: The concrete improvements for the Williford Drive Street Reconstruction & Drainage Project are complete. City Council accepted this project during the August 2, 2005 City Council meeting. Section 20-40.1 of the Municipal Code stipulates that these improvements, once constructed, shall be reimbursed to the City of Porterville upon the issuance of a new building permit. Section 20-40.2 of the Municipal Code also stipulates that remodeling permits exceeding a $15,000 valuation will also trigger the reimbursement.

The City has complied with Section 20-40.8 of the Municipal Code on the Williford Drive Street Reconstruction Project by notifying affected property owners and holding Public Hearings addressing the City’s intentions to seek reimbursement for the concrete improvements constructed by this project. Section 20-40.8 requires that City Council hold at least one additional Public Hearing prior to the establishment of a fee. Once the fee is established, the City will record a general notice of “reimbursement fee” with the office of the Tulare County Recorder. The recorded document will officially notify the current owner and potential buyers that the property is subject to a concrete reimbursement fee.

Staff has calculated the cost of the concrete improvements constructed along the frontages of undeveloped properties and/or developed properties that lacked these public improvements for the Williford Drive Street Reconstruction and Drainage Project. The calculations are based on actual costs incurred by the City. A map of affected properties, owners list and the associated concrete reimbursement fee is attached for Council’s reference.

RECOMMENDATION: That the City Council:

1. Set a Public Hearing for October 18, 2005, according to the Mitigation Fee Act, for the establishment of the concrete reimbursement fee; and

2. Authorize staff to notify all affected property owners of the Public Hearing, via certified mail, including the concrete reimbursement amount.

ATTACHMENTS: Locator Map
Fee Spreadsheet

Item No. 9
**EXHIBIT "B"**

Williford Drive Street Reconstruction & Drainage Project
Reimbursement for City Installed Improvements

<table>
<thead>
<tr>
<th>APN</th>
<th>Owner</th>
<th>Owner Address</th>
<th>City</th>
<th>Curb/Gutter Sewer</th>
<th>Water</th>
<th>Total</th>
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<td>Montgomery, Sharon E</td>
<td>862 N. Second Street</td>
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<td>248033007</td>
<td>Hicks, Jack L. &amp; Sharon K</td>
<td>24211 Avenue 184</td>
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<td>248033008</td>
<td>Miller, Kathy M.</td>
<td>2216 W. Roby Avenue</td>
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<td>Gray, Dean Edward &amp; Deborah L.</td>
<td>722 E. Henderson Avenue</td>
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<td>248033012</td>
<td>Borrego, John &amp; Antonia</td>
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<td>Neece, Dana H.</td>
<td>P.O. Box 334</td>
<td>Porterville, CA 93258</td>
<td>$475.20</td>
<td>No</td>
<td>$475.20</td>
</tr>
<tr>
<td>248043001</td>
<td>Avila, Florentino</td>
<td>944 N. Second Street</td>
<td>Porterville, CA 93257</td>
<td>$189.93</td>
<td>No</td>
<td>$189.93</td>
</tr>
<tr>
<td>248043002</td>
<td>Avila, Florentino</td>
<td>1331 N. Cloverleaf #B</td>
<td>Porterville, CA 93257</td>
<td>$742.50</td>
<td>No</td>
<td>$742.50</td>
</tr>
<tr>
<td>248043003</td>
<td>Morris, Jeffrey S.</td>
<td>4784 Charters Avenue</td>
<td>Los Angeles, CA 90042</td>
<td>$742.50</td>
<td>No</td>
<td>$742.50</td>
</tr>
<tr>
<td>248043004</td>
<td>Thomas, George C. &amp; Carolyn J.</td>
<td>1849 E. Crabtree Avenue</td>
<td>Porterville, CA 93257</td>
<td>$742.50</td>
<td>No</td>
<td>$742.50</td>
</tr>
<tr>
<td>248043005</td>
<td>Borrego, John &amp; Antonia</td>
<td>1583 N. Cobb Street</td>
<td>Porterville, CA 93257</td>
<td>$742.50</td>
<td>No</td>
<td>$742.50</td>
</tr>
<tr>
<td>248043007A</td>
<td>Hall, Theodore T. &amp; Carol A.</td>
<td>5930 E. Los Arcos Street</td>
<td>Long Beach, CA 90815</td>
<td>$3,148.20</td>
<td>No</td>
<td>$3,148.20</td>
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<tr>
<td>248043007B</td>
<td>Hall, Theodore T. &amp; Carol A.</td>
<td>5930 E. Los Arcos Street</td>
<td>Long Beach, CA 90815</td>
<td>$3,979.80</td>
<td>No</td>
<td>$3,979.80</td>
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<tr>
<td>248043008A</td>
<td>Shelton, James Gregory</td>
<td>888 N. Williford Drive</td>
<td>Porterville, CA 93257</td>
<td>$2,524.50</td>
<td>$2,119.76</td>
<td>$6,640.26</td>
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<td>248043009B</td>
<td>Shelton, James Gregory</td>
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<td>$2,465.70</td>
<td>$2,119.76</td>
<td>$6,408.96</td>
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**TOTAL**  $30,908.27
SUBJECT: CALHOME PROGRAM APPLICATION

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: The California Department of Housing and Community Development (HCD) has issued a Notice of Funding Availability (NOFA) for funds under the CalHome Program with funding provided by Proposition 46, the Housing and Emergency Shelter Trust Fund Act of 2002. This is the final round of funding for this program allocated from Proposition 46. This program is a homeownership program designed to make funds available to cities, counties, and nonprofit corporations to support existing homeownership programs aimed at low-and very low-income households and operated by the local public agency or the nonprofit corporation. The City has previously utilized $500,000 in CalHome funding for the First Time Low Income Homebuyer Program.

Eligible activities for CalHome funding include: 1) First-Time Homebuyer Mortgage Assistance, 2) Owner-Occupied Rehabilitation, and 3) Homeownership Project Development Loans.

City staff is preparing a CalHome Program application for $500,000 which is the maximum individual program or aggregate program application amount for all activities. The City proposes to apply for $500,000 for continuation of the City-wide First Time Low Income Homebuyer Loan Program. Together these funds will assist approximately 14 homebuyers to purchase or rehabilitate a home within the city limits of Porterville. No local match is required.

The application to HCD is due October 12, 2005. Award of funds is expected to be made in December 2005, with the execution of a Standard Agreement with HCD several months later. The term of the Standard Agreement shall be for 36 months from the date of the award letter.

The CalHome Program requires that the loans to the homebuyers through this program must have principal and interest payments deferred for the 30 year term of the loan and that the applicants must attend at least eight hours of homebuyer education.

A governing board resolution granting authority to make application to HCD for a funding commitment from the CalHome Program is a requirement of the application. As stated above, no match is required besides the cost of administration of the program.
In applying for these CalHome Program funds, the City is once again taking measures to implement programs outlined in the City’s Housing Element, 2005 Five Year Consolidated Plan, and the Redevelopment Implementation Plan.

RECOMMENDATION: That the City Council:

1. Adopt the draft resolution approving the submittal of a CalHome Program funding application to the California Department of Housing and Community Development;

2. Authorize the Mayor to execute all documents pertaining to the CalHome Program; and

3. Authorize the Community Development Director to execute, in the name of the City of Porterville, project drawdown requests, and all other administrative documents required by the California Department of Housing and Community Development for administration of the CalHome Program.

Attachment: Draft Resolution
RESOLUTION NO.____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AUTHORIZING THE SUBMITTAL OF AN APPLICATION TO THE CALIFORNIA STATE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT FOR FUNDING UNDER THE CALHOME PROGRAM; THE EXECUTION OF A STANDARD AGREEMENT IF SELECTED FOR SUCH FUNDING AND ANY AMENDMENTS THERETO; AND ANY RELATED DOCUMENTS NECESSARY TO PARTICIPATE IN THE CALHOME PROGRAM

WHEREAS: The City of Porterville, a political subdivision of the State of California, wishes to apply for and receive an allocation of funds through the CalHome Program; and

WHEREAS: The California Department of Housing and Community Development (hereinafter referred to as “HCD”) has issued a Notice of Funding Availability (“NOFA”) for the CalHome Program established by Chapter 84, Statutes of 2000 (SB 1656 Alarcon), and codified in Chapter 6 (commencing with Section 59650) of Part 2 of Division 31 of the Health and Safety Code (the “statute”). Pursuant to the statute, HCD is authorized to approve funding allocations utilizing monies made available by the State Legislature to the CalHome Program, subject to the terms and conditions of the statute and the CalHome Program Guidelines adopted by HCD on August 15, 2003; and

WHEREAS: The City of Porterville wishes to submit an application to obtain from HCD an allocation of CalHome funds in the amount of $500,000.

NOW, THEREFORE BE IT RESOLVED: That the City Council of the City of Porterville, State of California, hereby approve the submittal to the Department of Housing and Community Development of an application to participate in the CalHome Program in response to the NOFA issued on August 10, 2005 to request $500,000 for the First-Time Homebuyer Mortgage Assistance Program ($500,000) to be used within the city limits of Porterville. If the application for funding is approved, the City of Porterville hereby agrees to use the CalHome funds for eligible activities in the manner presented in the application as approved by HCD and in accordance with program guidelines cited above. It also may execute any and all other instruments necessary or required by HCD for participation in the CalHome Program.

BE IT FURTHER RESOLVED: The City of Porterville authorizes the Mayor to execute in the name of the City of Porterville, the application, the Standard Agreement and all other documents required by HCD for participation in the CalHome Program, and any amendments thereto and that the City of Porterville authorizes the Community Development Director to execute in the name of the City of Porterville project drawdown requests, and all other administrative documents required by the California Department of Housing and Community Development for administration of the CalHome Program.

______________________________
Kelly West, Mayor

ATTEST:

______________________________
John Longley, City Manager
COUNCIL AGENDA: OCTOBER 4, 2005

SUBJECT: APPROVAL FOR COMMUNITY CIVIC EVENT
PORTERVILLE UNIFIED SCHOOL DISTRICT
BUTTERFIELD HISTORY DAY - OCTOBER 21, 2005

SOURCE: Administrative Services, Finance Division

COMMENT: Porterville Unified School District is requesting approval to hold an educational event, Butterfield History Day, at Zalud Park on Friday, October 21, 2005, from 6:00 a.m. to 4:00 p.m. PUSD is requesting partial street closure of El Granito Street from Grand to the end of the cul-de-sac, use of the Zalud Park parking lots on El Granito Street and Henderson Avenue and partial sidewalk closures of Grand Avenue and El Granito.

This request is being made under Community Civic Event Ordinance No. 1326, as amended. The application has been routed according to the ordinance regulations and reviewed by all the departments involved. All requirements are listed on the application, agreement and attached Exhibit “A.” The application, agreement, Exhibit “A,” vendor list and request for street closures/parking lots are attached.

RECOMMENDATION: That the Council approve the Community Civic Event Application and Agreement from Porterville Unified School District, subject to the Restrictions and Requirements contained in the application, agreement and Exhibit “A.”

ATTACHMENT: Community Civic Event Application, agreement, vendor list, request for closures, Exhibit “A,” outside amplifier permit application.

DD _____ Appropriated/Funded ☑️ CM _____ Item No. 11
CITY OF PORTERVILLE
APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A
COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

Application date:    Sept 6, 2005       Event date:  Oct 21, 2005

Name of Event:  Butterfield History Day

Sponsoring organization:  Porterville Unified School/Parks; Leisure Services
Address:  100 West Street, Porterville
Authorized representative:  Harry Augurahm
Phone: 793-2451
Address:  100 West Street, Porterville

Event chairperson:  Harry Augurahm
Phone: 793-2451

Location of event (location map must be attached):  Zalel Park - Entire Facility

Type of event/method of operation:  Educational exhibit relating to
early California & Tulare County History

Nonprofit status determination:  Yes - Public School

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

- Barricades (quantity):  50 DELINERATORS
- Street sweeping:  Yes ☑ No □
- Police protection:  Yes ☑ No □
- Refuse pickup:  Yes ☑ No □
- Other:  DUMPSTER NEED TO BE EMPTIED AT THE END OF THE EVENT 2:00 PM

Parks facility application required:  Yes ☑ No □
Assembly permit required:  Yes ☑ No □

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

<table>
<thead>
<tr>
<th>Approve</th>
<th>Deny</th>
</tr>
</thead>
<tbody>
<tr>
<td>______</td>
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</tr>
<tr>
<td>______</td>
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<td>______</td>
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<td>______</td>
<td></td>
</tr>
<tr>
<td>______</td>
<td></td>
</tr>
</tbody>
</table>

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

Pick up following event; Porta Potties is necessary
CITY OF PORTERVILLE

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

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

City Code requirements:

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

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

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

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

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

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

Porterville Unified Schools  
(Signature)  
9/6/05  
(Name of organization)  
(Date)
CITY OF PORTERVILLE

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

Name of event: **Butterfield History Day**

Sponsoring organization: **Porterville Unified Schools**

Location: **Zalewski Park**
Event date: **October 21, 2005**

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

<table>
<thead>
<tr>
<th>Vendor name</th>
<th>Address</th>
<th>Telephone</th>
<th>Type of Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Educational event - No Vendors</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

3 of 4
CITY OF PORTERVILLE

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

Name of event: Buttefield History Day

Sponsoring organization: Porterville Unified Schools

Event date: Friday, Oct 21, 2025

Hours: 6 AM - 4 PM

ATTACH MAP MARKING AREAS TO BE CLOSED OR USED

<table>
<thead>
<tr>
<th>Street Name</th>
<th>From</th>
<th>To</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>CLOSED MONITORED BY CADETS</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>PARK</td>
</tr>
</tbody>
</table>

Facility of Zalud Park to be used exclusively

<table>
<thead>
<tr>
<th>Street Name</th>
<th>From</th>
<th>To</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>El Granito</td>
<td>Grand</td>
<td>Cul De Sac</td>
<td>Bus Drop off</td>
</tr>
<tr>
<td></td>
<td>8:00 AM</td>
<td>3:00 PM</td>
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</table>

Sidewalks

<table>
<thead>
<tr>
<th>Street Name</th>
<th>From</th>
<th>To</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grand</td>
<td>8:00 AM</td>
<td>3:00 PM</td>
<td>Loading &amp; Unloading Zone</td>
</tr>
<tr>
<td>El Granito</td>
<td>8:00 AM</td>
<td>3:00 PM</td>
<td>Staging Stations</td>
</tr>
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</table>

Parking lots and spaces

<table>
<thead>
<tr>
<th>Location</th>
<th>Activity</th>
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</thead>
<tbody>
<tr>
<td>Zalud Park</td>
<td>Parking in Zalud Park area only</td>
</tr>
<tr>
<td>Zalud Park</td>
<td>Upper on Henderson</td>
</tr>
<tr>
<td>Zalud Park</td>
<td>Lower on El Granito</td>
</tr>
<tr>
<td>Zalud Park</td>
<td>Bus Parking &amp; Departure</td>
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<tr>
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<td>Loading &amp; Unloading Buggy Ride</td>
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# REQUIREMENTS FOR COMMUNITY CIVIC EVENT

PORTERVILLE UNIFIED SCHOOL DISTRICT

BUTTERFIELD HISTORY DAY

OCTOBER 21, 2005

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<th>Role</th>
<th>Requirement</th>
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<tbody>
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<tr>
<td>S. Perkins</td>
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<tr>
<td>Public Works Director:</td>
<td>No comments.</td>
</tr>
<tr>
<td>B. Rodriguez</td>
<td></td>
</tr>
<tr>
<td>Community Development Director:</td>
<td>Obtain City Council approval for use of park.</td>
</tr>
<tr>
<td>B. Dunlap</td>
<td></td>
</tr>
<tr>
<td>Field Services Manager:</td>
<td>No comments.</td>
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<tr>
<td>B. Styles</td>
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</tr>
<tr>
<td>Fire Chief:</td>
<td>No comments.</td>
</tr>
<tr>
<td>F. Guyton</td>
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</tr>
<tr>
<td>Parks and Leisure Services Director:</td>
<td>Pick up following event, Porta Potties are necessary.</td>
</tr>
<tr>
<td>J. Perrine</td>
<td></td>
</tr>
<tr>
<td>Police Chief:</td>
<td>No conditions.</td>
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<tr>
<td>S. Rodriguez</td>
<td></td>
</tr>
<tr>
<td>Risk Manager:</td>
<td>See attached.</td>
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<tr>
<td>D. Pyle</td>
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REQUIREMENTS FOR COMMUNITY CIVIC EVENT

Sponsor: Porterville Unified School District
Event: Butterfield History Day
Event Chairman: Gary Ingram
Location: Zalud Park
Date of Event: October 21, 2005

RISK MANAGEMENT: Conditions of Approval

That the Porterville Unified School District 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.

EXHIBIT “A,” Page 2
This application must be submitted 10 days prior to the date of the event. A copy of this permit must be at the operating premises of the amplifying equipment for which this registration is issued.

1. Name and home address of the applicant:
   Porterville Unified Schools
   1000 W. Land Ave
   Phone # 783-2457

2. Address where amplification equipment is to be used:
   Phone #

3. Names and addresses of all persons who will use or operate the amplification equipment:
   Phone #

4. Type of event for which amplification equipment will be used:
   Phone #

5. Dates and hours of operation of amplification equipment:
   Phone #

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

[Signature]
Applicant

9/4/05
Date

Siler Rodriguez
Chief of Police

9-19-2005
Date

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

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

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

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

cc: __________________________________________

___________________________________________

___________________________________________

3/27/01
SUBJECT: DOWNTOWN HOLIDAY DECORATIONS

SOURCE: Parks & Leisure Services Department

COMMENT: Staff has received proposals from three vendors to trim and decorate the Gardner Tree, the large Deodar Cedar adjacent to City Hall, in preparation for the upcoming holiday season.

West Coast Arborists, Inc., corporate office located in Anaheim, with a regional office located in Fresno submitted a proposal for $4,000.00. Cut-A-Tree, a locally owned company proposal totaled $2,310.00. The scope service for each of these businesses includes pruning of the tree, plus removal of debris; removal of existing inoperative lights from the tree; install new lights around the tree; and removal of the lights following the holiday season. In each of these proposals the City would have to provide the lights to be installed, which would be an additional $3,650.00.

A third proposal was received by the Downtown Association from Christmas Décor by Kaylor Landscape, a locally owned business for a total of $3,984.56. The scope of service provided by Christmas Décor would entail pruning and debris removal of the tree; removal of inoperative lights from the tree; installation of the new lights; removal of the lights following the holiday season; plus the inclusion of the lights. The above price will increase by 20% if ample time is not allotted to complete the project prior to November.

Two alternatives to decorating the Deodar Cedar adjacent to City Hall, were also considered. The first alternative is the purchase of a Tree of Lights to be erected in the Centennial Plaza Park. A Tree of Lights may be customized or the purchase of a standard design may be considered. The cost of the Tree of Lights ranges between $1,000.00 to $10,000.00, dependent upon the style preferred. The Tree of Lights are made of solid steel frames draped with C-9 or C-7 long life lamps. The trees have a six (6) year warranty on the frames and a one (1) year warranty on all electrical components; warranty does not apply to light bulbs or light strands. These pole mount displays are designed to withstand up to 40 mph winds with no ice load. The pole is included with the display of lights. The recommended height is a minimum of thirty (30) feet and a maximum of fifty (50) feet. The foundation, or base upon which the pole is erected, must be separately designed and provided.
An additional alternative is the Garland Tree. The Garland Tree can be customized to any size ranging from sixteen (16) to thirty (30) feet. The Garland Trees come with the lights attached to the weather resistant UV treated foliage. The trees are structured of corrosion resistant material and fabricated in stackable cone frames for compact storage. The cost of the Garland Trees begins at approximately $6,000.00 for a sixteen-foot tree to $20,000.00 for a thirty-foot tree, without ornaments or a tree topper. An approximate cost of a customized twenty-foot tree with ornaments and a topper is approximately $19,000.00 delivered. Erection of either the Tree of Lights or The Garland Tree can be accomplished with standard city equipment and crews.

No budgetary provisions have been anticipated for the decoration expenses.

**RECOMMENDATION:** Retain Christmas Décor by Kaylor Landscape to prune the tree, remove inoperative lights, furnish and install new lights as well as removal of the lights after the holiday season. Cost of the tree pruning is to be charged to Street Tree Maintenance with the Parks and Leisure Services Department and the balance is to be charged to City Council Community Promotions.

**ATTACHMENTS:**

1) Written proposals for installation of lights on the Deodar Cedar.
2) Illustrated examples of the Tree of Lights.
3) Illustrated example of the Garland Tree.
9/6/05

City of Porterville  
C/o Dick Eckoff

Bid for Deodar Tree in Front of City Hall

<table>
<thead>
<tr>
<th>Service</th>
<th>Regular Price</th>
<th>20% Early Discount</th>
</tr>
</thead>
<tbody>
<tr>
<td>800 C-9 Lights</td>
<td>$1,664.00</td>
<td>$1,331.20</td>
</tr>
<tr>
<td>Boom Truck W/Climber</td>
<td></td>
<td>$1,080.00</td>
</tr>
<tr>
<td></td>
<td>Install Total</td>
<td>$2,411.00</td>
</tr>
<tr>
<td>Takedown of Lights</td>
<td></td>
<td>$723.36</td>
</tr>
<tr>
<td>Prune Tree by Cut A Tree</td>
<td></td>
<td>$850.00</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>$3,984.56</td>
</tr>
</tbody>
</table>

***Note: 5 – 15 Amp power sources will be needed.***

Please call with any questions. We appreciate your consideration.

Thank You,

Chris Kaylor  
*Christmas Décor by Kaylor Landscape*
# Proposal

**CUT A TREE**  
540 Scarlet Oak Ave.  
Porterville, CA 93257  
(559) 359-9881  
Fax (559) 782-3037  
gilmachum@sbcglobal.net  
CA Contractors Lic.# 839878

**JOB NAME:** Christmas Tree/Trim Porterville  
**DATE:** 9-14-04  
**CUSTOMER:** 291 N. Main  
**HOME:** 782-7519  
**FAX:** 782-8937  
**WORK SITE:** City Hall

Below is the recommendations for the care of your trees:

<table>
<thead>
<tr>
<th>ITEM #</th>
<th>TREE/PLANT</th>
<th>SERVICE DESCRIPTION</th>
<th>COST</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Remove</td>
<td>Christmas Lights</td>
<td>425 $u</td>
</tr>
<tr>
<td>1</td>
<td>Deodar Cedar</td>
<td>Trim, Shape, Clean up</td>
<td>695 $u</td>
</tr>
<tr>
<td>1</td>
<td>Install</td>
<td>Christmas Lights</td>
<td>695 $u</td>
</tr>
<tr>
<td>1</td>
<td>Remove</td>
<td>Christmas Lights</td>
<td>495 $u</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td></td>
<td>2310 $</td>
</tr>
</tbody>
</table>

*Note:* City to provide all lights and cards.

If you would like me to do the work please sign below.

Thank You,
Gil Meachum  
Owner/Operator

---

If you have any questions please call me.  
Estimates include hauling of debris from the removal or trimming of tree unless price specifically states for “take down only.” Stump grindings are raked into hole only. The above prices, specifications and conditions are satisfactory and hereby accepted. Cut A Tree Inc. is authorized to do the work as described above. Payments are due upon completion of work as we like to provide “Quality work at Budget prices” for all of our customers. Not responsible for underground pipes. Prices are good for 30 days.
# PROPOSAL FOR TREE MAINTENANCE SERVICES

<table>
<thead>
<tr>
<th>CUSTOMER:</th>
<th>CITY OF PORTERVILLE</th>
<th>CONTACT:</th>
<th>MILT STOWE</th>
</tr>
</thead>
<tbody>
<tr>
<td>ADDRESS:</td>
<td>291 N. MAIN ST.</td>
<td>PHONE:</td>
<td>(559) 782-7461</td>
</tr>
<tr>
<td></td>
<td>PORTERVILLE, CA 93257</td>
<td>FAX:</td>
<td>(559) 791-7854</td>
</tr>
<tr>
<td>JOB LOCATION:</td>
<td>City Hall</td>
<td></td>
<td></td>
</tr>
<tr>
<td>JOB DESCRIPTION:</td>
<td>Tree Pruning and Light installation/Removal</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ITEM DESCRIPTION</th>
<th>CITY</th>
<th>UNIT</th>
<th>PRICE</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prune 100 ft. Deodar Cedar and remove lights</td>
<td></td>
<td>Lamp Sum</td>
<td>$2,000.00</td>
<td>$2,000.00</td>
</tr>
<tr>
<td>Place lights in Deodar Cedar</td>
<td></td>
<td>Lamp Sum</td>
<td>$1,200.00</td>
<td>$1,200.00</td>
</tr>
<tr>
<td>Remove lights from Deodar Cedar after 12/25/05</td>
<td></td>
<td>Lamp Sum</td>
<td>$800.00</td>
<td>$800.00</td>
</tr>
</tbody>
</table>

**TOTAL:** $4,000.00

**COMMENTS:**

**ESTIMATED BY:** STEVE HUNT  
**DATE:** 9/15/2005  
**ACCEPTED BY:**  
**DATE:**
Tree of Lights

Ideal for nighttime illumination! They stand as a beacon of light on rooftops, landscapes or any other application. Includes a steel frame with C-0 or C-7 long-life lamps. They reach into the sky as high as 50' and are available in our sculptured designs or our slimline designs.

$999.00

Select Tree Size and Bulb Color

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South Coast Web
Tree of Lights

Our beautiful Tree of Lights takes decorating to new heights or should we say lights! These trees are ideal for nighttime illumination and stand as a beacon of light on rooftops, landscapes, or any custom application. The Tree of Lights includes a solid steel frame with C-9 or C-7 long life lamps. They reach the sky as high as 50 feet and are available in our Standard or Sculptured designs.

Custom Tree of Lights  Sculptured Tree of Lights  Sculptured Tree of Lights w/Garland Branches  Pop Up Garland w/Star

CLICK HERE TO ORDER  CLICK HERE TO ORDER  CLICK HERE TO ORDER  CLICK HERE TO ORDER

$5,595.00  $8,595.00  $1,235.00

Tree of Lights  Flag Pole Conversion  Luminous Tree

CLICK HERE TO ORDER  CLICK HERE TO ORDER

$999.00  $2,595.00

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South Coast Web

Custom Programs

http://www.dekra-lite.com/Custom_Programs.htm
Sequoia Collection

Our larger collection trees are structured of corrosion resistant material and fabricated in stackable metal cone frames for compact storage. The weather resistant foliage is UV treated for exterior use.

$5,853.00

Select Size and Lights

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SUBJECT: INFORMATION ON STATUS OF CURBSIDE RECYCLING

SOURCE: Public Works Department - Engineering Division

COMMENT: On September 22, 2005, staff received two proposals for the "Processing of Residential Recyclables and Residual Disposal Services. The firms submitting proposals for City consideration are Sunset Waste Paper, Inc. and Tulare County Recycling. On September 27, staff forwarded the two proposals to the office of Ms. Julia Lew, City Attorney, for review and analysis by the "selection committee". It is staff's intent to prepare a staff report for the November 1, 2005 Council Meeting with specific recommendations based on the selection committee's evaluation of the proposals.

RECOMMENDATION: Information Only
SUBJECT: UPDATE ON JOHNSON CONTROLS PROJECT

SOURCE: Administration

COMMENT: City staff has been working with representatives from the firm of Johnson Controls to conduct energy audits at City facilities. Other elements under investigation include water meters and waste water treatment plant systems.

As of this date, staff has received an initial report identifying opportunities for energy savings, and with that, budget savings in a few areas of City operations. The single largest element of savings identified was at the waste water treatment plant. Upon staff’s review of the findings, some crossover may exist with the efforts previously undertaken to meet the demands of the Regional Water Quality Control Board for treatment plant operations. These improvements previously identified have been funded through the financing under the California Infrastructure and Economic Development Bank (CIEDB) and would need to be removed from the findings developed by Johnson Controls.

Staff is continuing to work with Johnson Controls to ensure that savings identified in the CIEDB financing do not get counted twice. Staff will return to Council with a revised report from Johnson Controls, and recommendations for levels of program implementation as soon as the reports are revised.

RECOMMENDATION: That Council accept the update on the Johnson Controls project.
SUBJECT: RESOLUTION OPPOSING THE DECISION IN NEWDOW v. CONGRESS OF THE UNITED STATES (E.D. CAL. 2005), NO. CIV. S-05-17

SOURCE: CITY ATTORNEY

COMMENT: In a string of decisions by the 9th Circuit Court of Appeals in 2002 and 2003, with regard to an action brought by plaintiff Michael Newdow against his daughter’s school district (among other defendants), the 9th Circuit determined that the Pledge of Allegiance, as set forth by statute with the inclusion of the words “under God,” violated the Establishment Clause of the First Amendment. The U.S. Supreme Court granted certiorari of the case and reversed the 9th Circuit, determining that Michael Newdow did not have standing to bring his claims. The Supreme Court, however, declined to address the merits of his claims. Subsequently, Mr. Newdow, this time along with additional plaintiffs, brought a new action in Federal Eastern District Court in California, alleging claims similar to those of his prior action.

In the present decision (a lower federal court decision), the court found that Mr. Newdow lacked standing, in accordance with the U.S. Supreme Court decision. However, the court did uphold rights of the other plaintiffs to assert their claims. With regard to the merits, the court did not engage in any new analysis of the constitutional issues, and instead found that while the 9th Circuit had been reversed on the standing issues, its prior decision(s) that the District’s policy of recitation of the Pledge of Allegiance violated the Constitution remained intact. The lower court did, however, uphold the District Defendants’ policy of recitation of the Pledge of Allegiance at its public agency board meetings.

The attached Resolution opposing the recent decision is brought to the City Council at the request of at least one Council Member.

RECOMMENDATION: That the City Council consider the attached Resolution opposing the recent federal court decision.

RESOLUTION NO. ______-2005

A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF PORTERVILLE OPPOSING THE DECISION IN
NEWDOW v. CONGRESS OF UNITED STATES
(E.D. CAL. 2005), NO. CIV. S-05-17

WHEREAS, 4 U.S.C. Section 4, sets forth the words of the Pledge of Allegiance as follows: "I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all";

WHEREAS, California Education Code Section 52720 requires that public elementary schools in the State “conduct appropriate patriotic exercises” at the beginning of the school day, and that “the giving of the Pledge of Allegiance to the Flag of the United States of America shall satisfy the requirements of this section”;

WHEREAS, in a string of decisions by the 9th Circuit U.S. Court of Appeals, with regard to a suit brought by Michael Newdow against the Elk Grove Unified School District and others, the 9th Circuit held that the federal statute setting forth the Pledge of Allegiance with the words “under God,” and the school district’s policy of teacher-led recitation of the Pledge of Allegiance at the beginning of the school day, violated the Establishment Clause of the First Amendment of the U.S. Constitution;

WHEREAS, subsequent to a decision by the U.S. Supreme Court, in Elk Grove Unified School Dist. v. Newdow (2004) 542 U.S. 1, wherein the Supreme Court ruled that plaintiff Michael Newdow lacked standing to assert his constitutional claims with regard to recitation of the Pledge of Allegiance in the classroom, Michael Newdow and additional plaintiffs have brought a new action in Federal District Court (Eastern District) alleging claims similar to those brought in his prior action;

WHEREAS, in Newdow v. Congress of the United States, et al. (E.D.Cal. 2005), No. Civ. S-05-17, in an opinion issued by Lawrence Karlton, Senior District Judge, on September 14, 2005, the federal district court held that Ninth Circuit’s conclusions in the prior Newdow case(s), finding that the school district’s policy of teacher-led recitation of the
Pledge of Allegiance is unconstitutional and coerces a religious act, serves as binding precedent notwithstanding the ruling by U.S. Supreme Court in 2004; and

WHEREAS, the Porterville City Council strongly supports the recitation of the Pledge of Allegiance to the Flag of the United States of America, as authorized in its current form, both at the beginning of the day in the classroom by those students wishing to participate, as well as at the beginning of City Council meetings and other public agency board meetings by those in attendance who wish to participate.

NOW, THEREFORE, the City Council of the City of Porterville hereby opposes the Opinion by the Federal Eastern District Court in Newdow v. Congress of United States (2005), which holds that the School Districts' policies of utilizing the “Pledge of Allegiance” for recitation in the elementary classroom, in accordance with the California State Education Code provisions, and the federal statutes providing for the Pledge of Allegiance in its present form (per 4 U.S.C. Section 4, with the inclusion of the words “under God”), violate the Establishment Clause of the First Amendment of the U.S. Constitution.

BE IT FURTHER RESOLVED that the City Council of the City of Porterville supports the recitation of the Pledge of Allegiance by students and citizens alike, as set forth in 4 U.S.C. Section 4.

Adopted and approved this 4th day of October, 2005.

__________________________________________
Kelly E. West, Mayor

ATTEST:

John Longley, City Clerk

By: ________________________________
Georgia Hawley, Chief Deputy City Clerk
SUBJECT: RESOLUTION REGARDING THE ADVERSE ECONOMIC IMPACTS OF THE FRIANT WATER USERS ISSUE DIVERTING WATER FROM TULARE COUNTY AGRICULTURE TO FISHERY RESTORATION

SOURCE: Administrative Services Department/City Clerk Division

COMMENT: A member of the City Council has asked that this matter be considered by the City Council. In a decision with ramifications for millions of Californians, in August 2004 a federal judge in Sacramento has ruled that the U.S. Bureau of Reclamation illegally dried up California’s second longest river, the San Joaquin. The ruling means that the bureau will have to release water from Friant Dam near Fresno for the first time in 55 years. A coalition of 13 conservation and fishing groups sued the Bureau over its operation of the federally-owned dam and the renewal of water supply contracts for the Friant Water Users Authority, which represents irrigation districts on the east side of the San Joaquin Valley. The suit charged the bureau with violating Section 5937 of the California Fish and Game Code, which requires that "[t]he owner of any dam shall allow sufficient water to pass over, around or through the dam, to keep in good condition any fish that may be planted or exist below the dam.” The lawsuit was first filed in 1988, making it one of California’s longest running water disputes.

February 14, 2006, is the trial date to determine how much water goes down the San Joaquin River for the restoration of fisheries. If the benefit is permitted to stand and be implemented during a “remedy phase” before the court, the ruling has the potential to create drastic reductions in water supply quantities and reliability that are crucial to the well being of the citizens, businesses, farms, agencies, and economic and social activity that occurs in and around communities throughout the Central Valley, including Porterville and Tulare County.

RECOMMENDATION: That City Council adopt the proposed resolution and authorize the transmittal of the document to all appropriate parties.

Item No. 110

Funded C/M
Approp.
RESOLUTION NO. ___-2005

A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OR PORTERVILLE REGARDING RIVER FLOW AND
RELEASE ISSUES RAISED IN A RECENT
U.S. DISTRICT COURT RULING

WHEREAS, litigation against the United States Bureau of Reclamation was initiated in 1988
by an environmental coalition headed by the Natural Resources Defense Council (NRDC),
challenging the renewal of water service contracts in the Central Valley Project’s Friant Division
within the southern San Joaquin Valley of California; and

WHEREAS, said litigation has evolved over time to include claims by the NRDC coalition that
Friant operations, including releases of water into the San Joaquin River at Friant Dam, are in
violation of Section 5937 of the State Fish and Game Code, related to maintenance of a fishery
downstream from a dam; and

WHEREAS, as part of a ruling on August 27, 2004, the court assessed liability to the U.S. Bureau
of Reclamation. U.S. District Judge Lawrence K. Karlton broadly interpreted Section 5937 to
require restoration and maintenance of “historic fisheries” in existence prior to construction of any
dam; and

WHEREAS, Judge Karlton’s opinion appears to conclude Section 5937 of the State Fish and Game
Code amounts to a statewide judicially-mandated balancing of beneficial uses giving fish a priority
over all other uses of water throughout California; and

WHEREAS, the opinion not only creates a situation under which fish come first—businesses,
communities and their residents come second to fulfill restoration of historic fisheries that existed
before dams were constructed long ago; and

WHEREAS, any actions by the courts, state and/or federal government should take into
consideration the social, cultural and economic impact of adjusting water supplies businesses,
communities and industry have relied upon for a significant number of years;

WHEREAS, Judge Karlton’s decision raises fundamental questions involving and threatening the
long established and recognized water rights system of the State of California; and

WHEREAS, if permitted to stand and be implemented during a “remedy phase” before the court,
Judge Karlton’s ruling has the potential to create drastic reductions in water supply quantities and
reliability that are crucial to the well being of the citizens, businesses, farms, agencies, and economic
and social activity that occurs in and around communities throughout the Central Valley; and

WHEREAS, such a fundamental shift in beneficial utilization of the State of California’s water to
the detriment of human uses thereof would inevitably create widespread economic, social and
NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Porterville finds that due to the damaging effect on the Porterville area economic base, it must respond to the grave circumstances and potential consequences created by this decision; and,

BE IT FURTHER RESOLVED, that the City of Porterville publicly acknowledges our concerns regarding threats to the area’s water supply, and the significant economic impact upon the Porterville area agriculture, and encourage other local communities to join in encouraging local, state and federal government officials to address the water use and rights issues raised by Judge Karlton’s ruling; and,

BE IT FURTHER RESOLVED, that it is the position of the City of Porterville that the U.S. Bureau of Reclamation should be allowed to continue to operate the Friant Division of the Central Valley Project in a manner consistent with the historic commitments made by the federal government to the communities of the Central San Joaquin Valley to provide economical and reliable water supplies to agricultural, municipal and industrial water and power users and to achieve a reasonable balance among all competing interests for use of all water supplies.

 Adopted this 4th day of October, 2005.

______________________________
Kelly West, Mayor

ATTEST:

John Longley, City Clerk

______________________________
by: Georgia Hawley, Chief Deputy City Clerk
PUBLIC HEARING (CONTINUED)

SUBJECT: SUNRISE VILLA PHASE 2 & 3

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: The applicant is requesting approval of the Sunrise Villa Phase 2 & 3 Tentative Subdivision Map to divide a vacant 11.3± acre parcel into 46 single family residential lots in two (2) phases. The proposed site is zoned City R-1 (One-Family Zone), with the exception of Lots 13-20 (easterly portion of the subdivision) which are located in the County and zoned R-1 - 217 (Single Family Residential- 5 acre minimum). The subject site is generally located on the south side of Mulberry Avenue between the prolongation of Howland and Shadowood Streets.

Phase 3 consists of those lots mentioned above located in the County. The remaining lots located in the City will be developed in Phase 2.

A condition of approval for Phase 3 (County) will read as follows:

“The developer/applicant shall cause this area to be annexed to the City of Porterville prior to reviewing Phase 3 improvement plans.”

The subdivision has been designed with lots facing out of the development to integrate the development into the existing residential neighborhood. The concept of a perimeter wall and landscaping, such as the design typically found in the Landscape Maintenance District, was discussed but staff believes that type of design would be generally detrimental to creating a cohesive neighborhood.

An alternative to the typical Landscape Maintenance District was discussed that would have provided for a widened parkway adjacent to back of curb with the sidewalk separated from the curb. This area would have been incorporated into a Landscape Maintenance District to ensure the area would be cohesively maintained, however, due to a lack of City Standards requiring this type of design and a number of logistical/maintenance issues, Staff is recommending approval of the standard city cross-section (including parkway).

ITEM NO. 17
As an alternative to the standard street cross-section, the applicant has proposed a variation of the parkway design that Staff had previously proposed. The difficulty in this or Staff’s design lies in the maintenance/liability issues. The Council could approve the applicant’s parkway design without the Landscape Maintenance District (LMD) as the LMD creates challenges with design of irrigation system, cost to separate irrigation systems, inconsistency of maintenance between the parkway and larger yard areas, and liability for sidewalk maintenance/ trip hazards if trees are planted in the parkway. Attached are exhibits showing existing City Standards. Staff proposed LMD design and applicant’s compromise. Under the City alternative, or the applicant’s alternative, the City would assume the liability for sidewalk maintenance and fixing trip hazards.

A condition has been added to address the backing of vehicles on to Villa Street from Lots 3, 9, 24, 25 and 41. Lots 4, 5, 6, 7, 8, and 42 will not be restricted to Villa Street due to subdivision design.

Since no Landscape Maintenance District (LMD) is proposed, Condition 13 of the approval resolution has been modified to require prior approval of improvement plans for the Lighting Maintenance District only. The subdivision will have to be placed in the Lighting Maintenance District at the time the final map is approved.

On July 15, 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 individual property owners within 300 feet of the subject site. The twenty (20) day review period ran from July 19, 2005 to August 9, 2005.

The public hearing date for Sunrise Villa Phase 2 & 3 was scheduled before the City Council on August 16, 2005. It was brought to Staff’s attention, that one or more of the property owners were not notified due to an incomplete property owners list submitted to Staff. As a result, Staff pulled the item to allow for re-noticing. A re-notice of the public hearing for a 20 day review period ran from August 12, 2005 to September 2, 2005 rescheduling the public hearing before the City Council on September 6, 2005. The only agencies that responded were San Joaquin Valley Air Pollution Control District and Southern California Gas Company. Additional letters from a Ruth E. Smith and a Herbert and Eleanor Foerster who live within 300 feet of the subject site were received. The comments regarding environmental concerns have been addressed in the Mitigation Monitoring Plan Exhibit “A” of the environmental resolution. On September 6, 2005, the City Council opened the public hearing. At the request of the applicant, the public hearing was to be continued until September 20, 2005. However, since one of the Council members could not attend that meeting, the City Council recommended that the item be brought back to Council on October 4, 2005.
RECOMMENDATION: That the City Council:

(1) Adopt the draft resolution approving the Negative Declaration for Sunrise Villa Phase 2 & 3 Tentative Subdivision Map; and;

(2) Adopt the draft resolution approving Sunrise Villa Phase 2 & 3 Tentative Subdivision Map.

ATTACHMENT:

1. Complete Staff Report
PUBLIC HEARING (CONTINUED) - STAFF REPORT

TITLE: SUNRISE VILLA PHASE 2 & 3

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

APPLICANT: Zenz & O’Sullivan
P.O. Box 1927
Porterville, CA 93258

AGENT: James Winton & Associates
150 W. Morton Avenue
Porterville, CA 93257

PROJECT LOCATION: Generally on the south side of Mulberry Avenue between the prolongation of Howland and Shadowood Streets.

SPECIFIC REQUEST: The applicant is requesting approval of the Sunrise Villa Phase 2 & 3 Tentative Subdivision Map to divide a vacant 11.3± acre parcel into 46 single family residential lots in two (2) phases.

PROJECT DETAILS: The proposed site is zoned City R-1 (One-Family Zone), with the exception of Lots 13-20 (easterly portion of the subdivision) which are located in the County and zoned R-1 - 217 (Single Family Residential- 5 acre minimum).

Phase 3 consists of those lots mentioned above located in the County. The remaining lots located in the City will be developed in Phase 2.

A condition of approval for Phase 3 (County) will read as follows:

“The developer/applicant shall cause this area to be annexed to the City of Porterville prior to reviewing Phase 3 improvement plans.”

The subdivision has been designed with lots facing out of the development to integrate the development into the existing residential neighborhood. The concept of a perimeter wall and landscaping, such as the design typically found in the Landscape Maintenance District, was discussed but staff believes that type of design would be generally detrimental to creating a cohesive neighborhood.
An alternative to the typical Landscape Maintenance District was discussed that would have provided for a widened parkway adjacent to back of curb with the sidewalk separated from the curb. This area would have been incorporated into a Landscape Maintenance District to ensure the area would be cohesively maintained; however, due to a lack of City Standards requiring this type of design and a number of logistical/maintenance issues, Staff is recommending the approval of the standard city cross-section (including parkway).

As an alternative to the standard street cross-section, the applicant has proposed a variation of the parkway design that Staff had previously proposed. The difficulty in this or Staff’s design lies in the maintenance/liability issues. The Council could approve the applicant’s parkway design without the Landscape Maintenance District (LMD) as the LMD creates challenges with design of irrigation system, cost to separate irrigation systems, inconsistency of maintenance between the parkway and larger yard areas, and liability for sidewalk maintenance/ trip hazards if trees are planted in the parkway. Attached are exhibits showing existing City Standards, Staff proposed LMD design and applicant’s compromise. Under the City alternative, or the applicant’s alternative, the City would assume the liability for sidewalk maintenance and fixing trip hazards.

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

North: City - Mulberry Avenue and existing single family residential dwellings.
East: County - Single family residential dwellings
South: City - Developed single family residential subdivision.
West: City - Sunrise Villa Phase I (developing single family residential subdivision) and Cottage Street.

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 July 19, 2005 to August 9, 2005. As of this date, no agencies have responded.

- San Joaquin Valley Air Pollution Control District: August 8, 2005
- Resources Management Agency- Long Range Planning: No response
- Resources Management Agency- Engineering/Flood/Traffic Division: No response
- Tulare County Health and Human Services Agency: No response
- Department of Fish and Game: No response
- California Regional Water Quality Control Board: No response
- Tulare County Association of Government: No response
- District Archaeologist: No response
- Charter Communications: No response
- Southern CA Edison: No response
- Postmaster: No response
- SBC Communications: No response
- Southern CA Gas: July 28, 2005
- Porterville Unified School District: No response
- Pioneer Irrigation District: No response
- Tulare County Farm Bureau: No response

The Subdivision Review Committee, on August 3, 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.

STAFF ANALYSIS: The proposed subdivision was designed in accordance with early consultation with Staff recommendations during the first part of the year. Since then, the issue of pocket parks has been a priority for new subdivision activity. Since the proposed subdivision is small in scale, and due to the aforementioned, Staff has not requested a pocket park for this project.

The proposed subdivision is an in-fill of existing residential uses in the area. All properties fronting on Mulberry have vehicular access to Mulberry Avenue. In most cases, new subdivisions are required to construct a six (6) foot tall block wall and landscaping along arterial and collector streets but this design is not applicable in this subdivision. Those areas are also required to be placed in a Landscape Maintenance District.
Parcels 1, 2, 3, 44, 45 and 46 all have vehicular access to Mulberry Avenue. Construction of a six (6) foot block wall and landscaping along the Mulberry frontage would have required a redesign of the subdivision to prohibit access for those lots fronting on Mulberry Avenue. Additionally, the property (labeled as not a part) located between proposed Parcel 3 and 44 and the property (labeled as not a part) to the west of proposed Parcel 46 to include the two (2) remaining lots west of this site would not have required a block wall. The end result, would have been two (2) sections of block wall along Mulberry Avenue restricting vehicular access of six (6) parcels to Mulberry Avenue and the rest of the properties fronting on Mulberry Avenue in this area having vehicular access to the street. For these reasons, Staff is not requiring a six (6) foot block wall and landscaping to be placed along the frontage of Mulberry Avenue for the proposed parcels fronting on Mulberry Avenue.

The proposed site is zoned City R-1 (One-Family Zone), with the exception of Lots 13-20 (easterly portion of the subdivision) which are located in the County and zoned R-1 - 217 (Single Family Residential - 5 acre minimum).

Phase 3 consists of those lots mentioned above located in the County. The remaining lots located in the City will be developed in Phase 2.

A condition of approval for Phase 3 (County) will read as follows:

"The developer/applicant shall cause this area to be annexed to the City of Porterville prior to reviewing Phase 3 improvement plans."

Based on the above, the proposal to divide vacant 11.3± acre parcel into 46 single family residential lots in two (2) phases is consistent with the General Plan’s Low Density Residential land use designation.

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.

ALTERNATIVES TO THE PROJECT AND THEIR EFFECT:

1. No project. The site would remain undeveloped until an amended development plan is approved.

2. Approve the project. Conditional approval of the proposed tentative subdivision map would allow the site to be developed in conformance with its current General Plan land use designation while contributing additional housing units towards the City’s Fair Share Regional Housing Goal as identified by the General Plan Housing Element.
ENVIRO**MENTAL:** On July 15, 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:** August 3, 2005.

**DATE ACCEPTED AS COMPLETE:** August 3, 2005

**RECOMMENDATION:** That the City Council:

1. Adopt the draft resolution approving the Negative Declaration for Sunrise Villa Phase 2 & 3 Tentative Subdivision Map; and

2. Adopt the draft resolution approving Sunrise Villa Phase 2 & 3 Tentative Subdivision Map.

**ATTACHMENTS:**

1. Sunrise Villa Phase 2 & 3 Tentative Subdivision Map
2. Exhibit “A”, Exhibit “B” and (“C”) applicant’s proposal
3. Negative Declaration
4. Environmental Initial Study
5. Letter dated August 8, 2005, from the San Joaquin Valley Air Pollution Control District
7. Letter dated August 4, 2005 from a Ms. Ruth Smith
8. Letter dated August 26, 2005 from a Herbert and Eleanor Foerster
9. Draft Environmental Resolution
10. Draft Resolution of Approval
PEDESTRIAN EASEMENT IN FAVOR OF THE CITY OF PORTERVILLE

PEDESTRIAN EASEMENT IN FAVOR OF THE CITY OF PORTERVILLE

6' UTILITY EASEMENTS

P.C.C. CURB & INTEGRAL GUTTER PER STD. PLAN C-1

SIDEWALK PER CITY STD. C-8

EXHIBIT "B"

BEL AIRE LANE, SHADOWOOD COURT
AND HOWLAND COURT
VILLA STREET - NORTH OF BEL AIRE
NOT TO SCALE

MULBERRY AVENUE
NOT TO SCALE

EXHIBIT "C" APPLICANT'S PROPOSAL
NEGATIVE DECLARATION

LEAD AGENCY: City of Porterville
291 North Main Street
Porterville, California 93257

PROJECT APPLICANTS: Zenz & O’Sullivan
P.O. Box 1927
Porterville, CA 93258

PROJECT TITLE: Sunrise Villa Phase 2 & 3 Tentative Subdivision Map

ADDRESS/LOCATION: South side of Mulberry Avenue between the prolongation of Howland and Shadowood Streets.

PROJECT APPLICANT: Zenz & O’Sullivan

PROJECT DESCRIPTION: The Tentative Subdivision Map for Sunrise Villa Phase 2 & 3 proposes to divide a vacant 11.3± acre parcel into 48 single family residential lots in two (2) phases. The proposed site is zoned City R-1. (One Family Residential) Zone, with the exception of Lots 13-20 (easterly portion of the subdivision) which are located in the County and Zoned R-1. 217 (Single Family Residential - 5 acre minimum). Phase three (3) consists of those lots precisely mentioned located in the county. The remaining lots located in the City will be developed in Phase two (2). A condition of approval for Phase three (3) will require the developer/applicant to annex this area into the City of Porterville prior to reviewing Phase Three (3) improvement plans.

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

On July 15, 2005, the Environmental Coordinator of the City of Porterville determined that the above project will have no significant effect on the environment described herein and has found that this project will have no significant impact on the environment for the following reasons:

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

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

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

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

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

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: July 15, 2005

Approved:
Bradley D. Dunlap, Environmental Coordinator

Word: Negative: Sunrise Villa Phase 2 & 3

ATTACHMENT
ITEM NO. 3
CITY OF PORTERVILLE

ENVIRONMENTAL CHECKLIST FORM

1. Project Title: Sunrise Villa Phase 2 & 3

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

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

4. Project Location: Generally on the south side of Mulberry Avenue between the prolongation of Howland and Shadowood Street.

5. Project Sponsor’s Name and Address: Zenz & O’Sullivan
   P.O. Box 1927
   Porterville, CA 93257

6. General Plan Designation: Low Density Residential

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

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

The subdivision of a vacant 11.3± acre parcel into 46 single family residential lots in two (2) phases. The proposed site is zoned City R-1 (One-Family Zone), with the exception of Lots 13-20 (easterly portion of the subdivision) which are located in the County and zoned R-1 - 217 (Single Family Residential- 5 acre minimum).

Phase three (3) consists of those lots mentioned above located in the County. The remaining lots located in the City will be developed in Phase two (2).

A condition of approval for Phase three (3) (County) will read as follows:

“The developer/applicant shall cause this area to be annexed to the City of Porterville prior to reviewing Phase three (3) improvement plans”.

ATTACHMENT ITEM NO. 4
The site extends east and west parallel with Mulberry Ave. A cul-de-sac is proposed on the west side and the east side of the interior of the subdivision. Access to these two (2) cul-de-sacs will be from an internal street allowing access to Villa Street proposed in the middle of the subdivision extending north and south. Proposed Villa Street will intersect with Mulberry Avenue to the north and connect with the existing street (Villa Street) to the south located in a developed single family residential subdivision.

The subject site has not been utilized for agricultural crops and seasonal weeds have been plowed down regularly. An on-site inspection was conducted by Staff. No known endangered plants or animals are present on the site.

North:  City - Mulberry Avenue and existing single family residential dwellings.
East:   County - Single family residential dwellings
South:  City - Developed single family residential subdivision.
West:   City - Sunrise Villa Phase One (developing single family residential subdivision) and Cottage Street.

10. Other public agencies whose approval is required (e.g. permits, financing approval, or participation agreement). None

11. The Environmental Initial Study will focus on all proposed lots to include those lots identified as being in the County.
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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<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>
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<td>Recreation</td>
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<tr>
<td>X Water</td>
<td>Noise</td>
<td></td>
<td>Mandatory Findings of Significance</td>
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<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:

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<tbody>
<tr>
<td><strong>I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.</strong></td>
<td><strong>X</strong></td>
</tr>
<tr>
<td><strong>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.</strong></td>
<td></td>
</tr>
<tr>
<td><strong>I find that the proposed project MAY have a significant effect(s) on the environment, but the effect(s) (1) have/have been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) have been addressed by mitigation measures based on the earlier analysis as described on attached sheets. If the effect is a &quot;Potentially Significant Impact&quot; or &quot;Potentially Significant Unless Mitigated&quot; and will not be mitigated. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.</strong></td>
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<tr>
<td><strong>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.</strong></td>
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<td><strong>I find the proposed project could have a significant effect on the environment. Action to be determined by the Environmental Review Committee.</strong></td>
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</table>

Signature: Bradley D. Dunlap, AICP
Printed Name: Bradley D. Dunlap, AICP
Date: July 15, 2005
City of Porterville
For: City of Porterville
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 proposed subdivision (11.3± acres) will be developed at approximately 4.07 d.u. per acre. The project as proposed is consistent with the polices and guidelines set forth in the Land Use Element and Circulation Element of the General Plan.

Lots 13-20 (easterly portion of the subdivision) are located in the County and zoned R-1 - 217 (single Family Residential- 5 acre minimum).

Phase three (3) consists of those lots mentioned above located in the County. The remaining lots located in the City will be developed in Phase two (2).

A condition of approval for Phase three (3) (County) will read as follows:

"The developer/applicant shall cause this area to be annexed to the City of Porterville prior to reviewing Phase three (3) improvement plans".

The project as proposed is consistent with the Zoning Ordinance. Upon annexation to the City of Porterville, Lots 13-20 will be zoned City R-1 (One Family Residential) which will also be consistent with the Land Use Element and Circulation Element of the General Plan and 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 is not currently used for agricultural operations. The proposed site is surrounded by developed residential subdivisions on all sides. Therefore, the proposed project will not affect any agricultural resources or operations.

Source: 1 & 30

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

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

Source: 1 & 30

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: The proposed project will facilitate development envisioned by the General Plan and Zoning Ordinance. Additional growth in the vicinity of the subject site is constrained by the location of the City boundary and developed subdivisions.

Source: 1 & 3

c. Displace existing housing, especially affordable housing?

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

Source: 1, 3 & 30
3. GEOLOGIC PROBLEMS -- Would the proposal result in or expose people to potential impacts involving:

a. Fault rupture?  
   ![Table with options for potentially significant impact, less than significant with mitigation incorporation, less than significant impact, and no impact]
   
   Discussion: No faults are known to exist in this area. Therefore, the project will not expose people to hazards from fault rupture.
   
   Source: 7

b. Seismic ground shaking?  
   
   Discussion: No faults are known to exist in this area. Therefore, the project will not expose people to hazards from seismic ground shaking.
   
   Source: 7

c. Seismic ground failure, including liquefaction?  
   
   Discussion: No faults are known to exist in this area. Therefore, the project will not expose people to hazards from seismic ground failure.
   
   Source: 7

d. Seiche, tsunami, or volcanic hazard?  
   
   Discussion: The City of Porterville is not located in an area subject to Seiche, tsunami, or volcanic hazards. Therefore, no impact will occur.
   
   Source: 7

e. Landslides or mudflows?  
   
   Discussion. The subject site is flat. Therefore, the project will not create or expose people to landslides or mudflows.
   
   Source: 7

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

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

   Source: 7
g. Subsidence of the land? ______  ______  ______  ______  X

Discussion: Future development of the site with a residential subdivision will not effect the subsurface soil structure and therefore will not contribute to any subsidence of land.

Source: 4 & 7

h. Expansive soils? ______  ______  ______  X

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

Source: 4, 22 & 29

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:

a. Changes in absorption rates, drainage patterns, or the rate and amount of surface runoff? ______  ______  ______  ______  ______  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 lines will prevent any future drainage problems in this area.

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

Source: 1 & 4

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

Discussion: The FIRM Community Panel Number 060407 0010 D, October 15, 1985 Map indicates that the subject site is located in Flood Plan Zone B (Areas between limits of the 100-year and 500-year flood)

Mitigation: Compliance with the City Flood Hazard Reduction Ordinance, which requires elevation certificates or flood resistant construction for all buildings may or will be required. This will reduce the potential impact to less than significant levels.

Source: 1, 4 & 26
c. Discharge into surface waters or other Alteration of surface water quality (e.g. temperature, dissolved oxygen or turbidity)?

Discussion: The site is within the boundaries of the City's Master Plan for Storm Drainage (2001). Consequently, the storm water generated from future development of the site has been anticipated by the plan. Water quality could be affected by chemicals (oil based residues) conveyed by storm water runoff from streets, driveways and other impervious surfaces. Demands on the City's water supply from the unconfined aquifer will be commensurate with the magnitude and type of future development occurring on the 11.3± 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 11.3± acre site, as described, will significantly deplete groundwater supplies or reduce public water supply from the City's unconfined groundwater aquifer.

Source: 4, 7 & 26

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

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

Source: 4, 17 & 22

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

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

Source: 4, 7 & 26

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

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

It is anticipated that any future development of the site with 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
g. Altered direction or rate of flow of groundwater?

Discussion: Future development of the site with residential uses would not require any cuts or excavations other than minor grading, therefore, the quality of groundwater will not be impacted.

Source: 1 & 4

h. Impacts to groundwater quality?

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.

Source: 1 & 4

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

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

Source: 1 & 4

5. AIR QUALITY -- Would the proposal:

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

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 from buildout as proposed by the General Plan is discussed in the Environmental Impact Report certified upon adoption of the current Land Use Element of the General Plan.

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

MITIGATION THROUGH CONSTRUCTION MANAGEMENT:

1. The City will implement Regulation VIII of the SJVAPCD including:

a. The prevention of dust from leaving the construction site during clearing, grading and excavation will be accomplished through regular truck spraying with water, sprinkling systems or emulsion sprays.

b. Watering or spraying will be required to be done in the late morning and again at the end of the work day, with increased frequency throughout the day whenever wind is sustained or gusting at speeds in excess of 10 mph. If winds or gusting exceed 20 mph, vehicular activity will be required to cease.
<table>
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<tr>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
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</table>

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.**

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

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

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

9. **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?  

Discussion: The proposed site has City developed residential subdivisions surrounding the site on three (3) sides with County residential uses to the east. 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?

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

Source: 24

d. Create objectionable odors?

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

Source: 24

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

a. Increased vehicle trips or traffic congestion?

Discussion: Development of the 46 lot single family residential subdivision is anticipated to result in additional daily trips. Based on the ITE Trip Generation Manual, 9.57 daily trips would be generated per unit, for a total of 440.22 ADT.

Mulberry Avenue (60 foot wide local street) intersects with Cottage Street (60 foot wide local) to the west. Cottage Street meanders through a developed residential subdivision to the south which intersects with Henderson Avenue (4 lane divided arterial 84’ wide). Mulberry to the west of Cottage Street intersects with a Indiana Street (4 lane divided arterial 84’ wide). Proposed Villa Street will intersect with Mulberry Avenue to the north and extend south and connect with the existing Villa Street located in the subdivision to the south and will continue to Henderson Avenue.

No recent traffic counts have been conducted in the area of the subject site. The Circulation Element of the Porterville General Plan indicates that two lane collector streets (60 foot wide) have the capacity of 12,500 ADT. As mentioned above, Cottage and Mulberry are developed to 60 feet even though they are not considered collector streets. Additionally, 4 lane divided major arterials have the capacity of 30,000 ADT. It is not anticipated that the additional traffic generated by the proposed development should reduce the performance of the aforementioned streets/avenues since they have been designed to handle the additional traffic in this area. Therefore, the impact is less than significant.

Source: 1, 2, & 34
### Hazard Analysis Table

<table>
<thead>
<tr>
<th>Impact</th>
<th>b. Hazards to safety from design features (e.g. sharp curves or dangerous intersections or incompatible uses (e.g. farm equipment))</th>
<th>c. Inadequate emergency access or access to nearby uses?</th>
<th>d. Insufficient parking capacity on-site or off-site?</th>
<th>e. Hazards or barriers for pedestrians or bicyclists?</th>
<th>f. Conflicts with adopted policies supporting alternative transportation (e.g. bus turnouts, bicycle racks)?</th>
<th>g. Rail, waterborne or air traffic impacts?</th>
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<tr>
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**Discussion:** Required improvements of the proposed street will be designed and improved to City Standards which are intended to avoid hazardous situations. Therefore, the impact is less than significant.

*Source: 1 & 2*

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

*Source: 1, 2 & 12*

**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*

**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 bicyclists will diminish.

*Source: 1, 2 & 12*

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

*Source: 1, 2 & 31*

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

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

   Discussion: *City staff conducted an on-site inspection. The subject site is vacant which 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.*

   Source: 4, 5, 15 & 30

   ![No Impact]

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

   Discussion: *Discussion: City staff conducted an on-site inspection. The subject site is vacant which has been regularly disced for weed control. No natural habitat was observed. As such, no impact to locally designated species will occur.*

   Source: 4, 5, 15 & 30

   ![No Impact]

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

   Discussion: *Discussion: City staff conducted an on-site inspection. The subject site is vacant which has been regularly disced for weed control. No natural habitat was observed. As such, no impact to locally designated natural communities will occur.*

   Source: 4, 5, 15 & 30

   ![No Impact]

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

   Discussion: *City staff conducted an on-site inspection. The subject site is vacant which has been regularly disced for weed control. No natural habitat was observed. As such, no impact to wetland habitat will occur.*

   Source: 4, 5, 15 & 30

   ![No Impact]

   e. Wildlife dispersal or migration corridors?

   Discussion: *City staff conducted an on-site inspection. The subject site is vacant which has been regularly disced for weed control. No natural habitat was observed. As such, no impact to locally wildlife dispersal or migration corridors will occur.*

   Source: 4, 5, 15 & 30

   ![No Impact]
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
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<tr>
<td>d. Exposure of people to existing sources of potential health hazards?</td>
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**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?

| | | | X |

**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
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<tr>
<td>c. Schools?</td>
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Discussion: Due to the small scale of the project, it is anticipated that only a modest increase in enrollment within the Porterville Unified School District will occur. School fees will be collected to assist in the funding of future capital improvements that may become necessary. However, the potential impact on enrollment from 46 additional single family residences is less than significant.

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

d. Maintenance of public facilities, including roads?

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

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

e. Other governmental services?

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

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

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

a. Power or natural gas?

Discussion: Electricity and natural gas exists at the site.

Source: 1 & 3

b. Communications systems?

Discussion: Telephone lines exist at the site.

Source: 1 & 3

c. Local or regional water treatment or distribution facilities?

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

Source: 21 & 28
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d. Sewer or septic tanks?

Discussion: A six (6") sewer line exists in Cottage Street. An eight (8") sewer line exists in Mulberry Avenue.

In 1994, the Waste Water Treatment Plant increased it's capacity from 4 million gallons per day to 8 million gallons per day. Current use is 4.6 million gallons per day. At this rate, sufficient capacity is available to handle a population of 71,300 (22 years at 2.5% growth per year).

Source: 17, 20 & 21

e. Storm water drainage?

Discussion: Storm water from this site will be channeled along curbs and gutters into drop inlets which will discharge this water into the storm drain system.

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?

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

Source: 17, 20 & 21

g. Local or regional water supplies?

Discussion: An 8" municipal water line exists in Mulberry Avenue. A 6" municipal water line exists in Cottage Street.

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? _______ _______ X _______ _______ _______ _______ _______

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

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

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

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

Source: 1, 5 & 12

14. CULTURAL RESOURCES -- Would the proposal:

a. Disturb paleontological resources? _______ _______ _______ _______ X

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

Source: 4 & 30.
b. Disturb archaeological resources?

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

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

Source: 4 & 30

c. Affect historical resources?

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

Source: 4 & 30

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

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

Source: 4 & 30

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

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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?

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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: 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.

   Source: 1 & 33

   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 programmed into each of these documents to accommodate the incremental effects of any future development of the site with single family residential uses.

Source: 1 & 33

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

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

Source: 1 & 33

17. EARLIER ANALYSES (See Attached).

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

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

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

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

Authority: Public Resources Code Sections 21083 and 21087.

18. SOURCE REFERENCES

1 Land Use Element of the Porterville General Plan (1998)
2 Circulation Element of the Porterville General Plan (1999)
3 Housing Element of the Porterville General Plan (1992)
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 XII 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. 060407 0010D October 15, 1985
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
August 8, 2005

Bradley D. Dunlap
City of Porterville
291 N. Main Street
Porterville, CA 93257

Subject: Sunrise Villa Phase 2 and 3 Tentative Subdivision Map – Initial Study and Proposed Negative Declaration

Dear Mr. Dunlap,

The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the project referenced above and offers the following comments:

The entire San Joaquin Valley Air Basin is designated non-attainment for ozone and particulate matter (PM10 and PM2.5). This project would contribute to the overall decline in air quality due to increased traffic and ongoing operational emissions. Preliminary analysis indicates that this project alone would not generate significant air emissions. However, the increase in emissions from this project, and others like it, cumulatively reduce the air quality in the San Joaquin Valley. A concerted effort should be made to reduce project-related emissions as outlined below:

Regulation VIII (Fugitive PM10 Prohibitions) - Regulation VIII (Rules 8011-8081) is a series of rules designed to reduce PM10 emissions (predominantly dust/dirt) generated by human activity, including construction, road construction, bulk materials storage, landfill operations, etc. A compliance assistance bulletin has been enclosed for the applicant.

For Residential Sites:

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


Rule 4102 (Nuisance) applies to any source operation that emits or may emit air contaminants or other materials. In the event that the project or construction of the project creates a public nuisance, it could be in violation and be subject to District enforcement action.

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

Rule 4601 (Architectural Coatings) limits volatile organic compounds from architectural coatings. This rule specifies architectural coatings, storage, cleanup, and labeling requirements.
Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations). If asphalt paving will be used, then paving operations of this project will be subject to Rule 4641. This rule applies to the manufacture and use of cutback asphalt, slow cure asphalt and emulsified asphalt for paving and maintenance operations.

Rule 4901 (Wood Burning Fireplaces and Wood Burning Heaters) limits PM10 and PM2.5 emissions from residential development. Construction plans for residential developments may be affected by section 5.3, specifically:

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

More information about Rule 4901 can be found at our website- www.valleymair.org. For compliance assistance, please contact Mr. Wayne Clarke, Air Quality Compliance Manager, at (559) 230-5968.

Rule 4902 (Residential Water Heaters) limits emission of NOx from residential developments.

The District encourages innovation in measures to reduce air quality impacts. There are a number of features that could be incorporated into the design/operation of this project to provide additional reductions of the overall level of emissions. (Note: Some of the measures may already exist as City development standards. Any measure selected should be implemented to the fullest extent possible.) The suggestions listed below should not be considered all-inclusive and remain options that the agency with the land-use authority should consider:

- Trees should be carefully selected and located to protect the buildings from energy consuming environmental conditions, and to shade paved areas. Trees should be selected to shade paved areas that will shade 50% of the area within 15 years. Structural soil should be used under paved areas to improve tree growth. A brochure has been included for the applicant.
  For Structural Soil see http://www.hort.cornell.edu/uhi/outreach/csc/
  For Tree Selection see http://www.ufei.org/

- If transit service is available to the project site, improvements should be made to encourage its use. If transit service is not currently available, but is planned for the area in the future, easements should be reserved to provide for future improvements such as bus turnouts, loading areas, route signs and shade structures. Appropriations made to facilitate public or mass transit will help mitigate trips generated by the project.

- Sidewalks and bikeways should be installed throughout as much of the project area as to encourage walking and bicycling. Connections to nearby public uses and commercial areas should be made as direct as possible to promote walking for some trips. Pedestrian and bike-oriented design reduces motor vehicle usage and their effects on air quality. Sidewalks and bikeways should be designed to separate pedestrian and bicycle pathways from vehicle paths. Sidewalks and bikeways should be designed to be accommodating and appropriately sized for anticipated future pedestrian and bicycle
use. Such pathways should be easy to navigate, designed to facilitate pedestrian movement through the project, and create a safe environment for all potential users (pedestrian, bicycle and disabled) from obstacles and automobiles. Pathways through the project should be built in anticipation of future growth/development.

As many energy conserving and emission reducing features as possible should be included in the project. Energy conservation measures include both energy conservation through design and operational energy conservation. Examples include (but are not limited to):

- Increased energy efficiency (above California Title 24 Requirements)
  
  See http://www.energy.ca.gov/title24/
- Energy efficient windows (double pane and/or Low-E)
- Use Low and No-VOC coatings and paints. See South Coast’s site for No-VOC Coatings at http://www.acmd.gov/prdas/brochures/paintguide.html
- High-albedo (reflecting) roofing material. See http://eetd.lbl.gov/coolroof/
- Cool Paving. “Heat islands” created by this and similar projects contribute to the reduced air quality in the valley by heating ozone precursors. See http://www.harc.edu/harc/Projects/CoolHouston/, http://eande.lbl.gov/heatisland/
- Radiant heat barrier. See http://www.eere.energy.gov/consumerinfo/refbriefs/bc7.html
- Energy efficient lighting, appliances, heating and cooling systems. See http://www.energystar.gov/
- Install solar water-heating system(s)
- Install photovoltaic cells
- Install geothermal heat pump system(s)
- Programmable thermostat(s) for all heating and cooling systems
- Awnings or other shading mechanism for windows
- Porch, patio and walkway overhangs
- Ceiling fans, whole house fans
- Utilize passive solar cooling and heating designs (e.g. natural convection, thermal flywheels)
  
  See http://www.eere.energy.gov/RE/solar_passive.html
- Utilize daylighting (natural lighting) systems such as skylights, light shelves, interior transom windows etc. See http://www.advancedbuildings.org
- Electrical outlets around the exterior of the unit(s) to encourage use of electric landscape maintenance equipment
- Pre-wire the unit(s) with high speed modem connections/DSL and extra phone lines
- Natural gas fireplaces (instead of wood-burning fireplaces or heaters)
- Natural gas lines (if available to this area) and electrical outlets in backyard or patio areas to encourage the use of gas and/or electric barbecues
- Low or non-polluting incentives items should be provided with each residential unit (such items could include electric lawn mowers, reel mowers, leaf vacuums, gas or electric barbecues, etc.)
- Exits to adjoining streets should be designed to reduce time to re-enter traffic from the project site


The applicant should implement measures to reduce the amount of vehicle traffic to and from the project area that further reduce air pollution in the valley. This could include providing an information center for residents to coordinate carpooling. Check out the “Spare the Air” section of our website www.valleyair.org

The project should include as many clean alternative energy features as possible to promote energy self-sufficiency. Examples include (but are not limited to): photovoltaic cells, solar thermal electricity systems, small wind turbines, etc. Rebate and incentive programs are offered for alternative energy equipment. More information can found at: http://www.dsireusa.org/, http://rredc.nrel.gov/, http://www.energy.ca.gov/renewables/

Construction activity mitigation measures include:
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent
- Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site
- Install wind breaks at windward side(s) of construction areas
- Suspend excavation and grading activity when winds exceed 20 mph
- Limit area subject to excavation, grading, and other construction activity at any one time
- Use catalyst equipped diesel construction equipment.
- Limit the hours of operation of heavy duty equipment and/or the amount of equipment in use
- Replace fossil-fueled equipment with electrically driven equivalents (provided they are not run via a portable generator set)
- Curtail construction during periods of high ambient pollutant concentrations, this may include ceasing of construction activity during the peak-hour of vehicular traffic on adjacent roadways, and “Spare the Air Days” declared by the District.
- Implement activity management (e.g. rescheduling activities to reduce short-term impacts)
- During the smog season (May through October), lengthen the construction period to minimize the number of vehicles and equipment operating at the same time
- Construction equipment should have engines that are Tier II (if available as certified by the Air Resources Board). Engines built after 1998 are cleaner Tier II engines. Tier I and Tier II (2.5 gram) engines have a significantly less PM and NOx emissions compared to uncontrolled engines. To find engines certified by the Air Resources Board, see http://www.arb.ca.gov/msprog/offroad/cert/cert.php
- Off road trucks should be equipped with on-road engines when possible.
- Light Duty Cars and Trucks should be alternative fueled or hybrids.
- Minimize obstruction of traffic on adjacent roadways.

District staff is available to meet with you and/or the applicant to further discuss the regulatory requirements that are associated with this project. If you have any questions or require further information, please call me at (559) 230-5800.

Sincerely,

Debbie Johnson
Air Quality Specialist
Central Region

c. File
July 28, 2005

City of Porterville
291 North Main Street
Porterville, California 93257

Attention: Bradley D. Dunlap

Subject: Tentative Subdivision Sunrise Villa Phases 2 & 3

This is in response to your Notice of Public Hearing August 16, 2005, requesting our review of the subject project. Southern California Gas Company has no objection to the approval of this development.

We recommend that any private streets or common areas be dedicated for public utility use and/or that a six-foot frontage strip in all lots facing the streets be dedicated as a public utility easement. This will enable utility companies to serve the development without obtaining individual rights of way.

To apply for natural gas, please have the developer submit a set of plans to the attention of, New Business Project Manager, 404 N. Tipton St., Visalia, California 93292. You can contact the New Business Project Manager, Alan Suhovy at (559) 739-2238 regarding maps and contracts. Furthermore, we require parcel maps and street development plans to be e-mailed to our mapping department at the following e-mail site, SCGMapping@SempraUtilities.com, or you can visit our website at http://www.socalgas.com/construction/electronicdatatransfer.shtml.

Should you have any questions or require additional information, please contact me at (559) 739-2316.

Sincerely,

Louise Lankford
Pipeline Planning Assistant

xc: Larry Jacquez
    Alan Suhovy, w/attachments
August 4, 2005

re: Sunrise Villa Phases 2 and 3

Sir:

I would like to comment on the Notice of Intent to Adopt a Negative Declaration of Environmental Impact for Sunrise Villa Phases 2 and 3.

3. Limit engine idling at site. This was not done in Phase 1. I could hear trucks and heavy equipment from my house!
   1. What assurance will there be that there will not be such engine idling when Phases 2 and 3 are developed?

4. Water. The increase in the number of families will certainly impact ground water use. In addition ground water will be degraded by the runoff from storm drains, gutters and pavement instead of soaking into a plowed field. This is NOT “No impact”

5. A - Traffic, air pollution. The increase in traffic will certainly increase air pollution and there will be a major increase in traffic with the addition or more than double the number of families now on Theta.
   The mitigation states that car pooling and public transit will be promoted.
   1. Is there a plan to run the bus system to this new development?
   2. Are bike lanes planned?
   3. What specific “encouragement” will there be to use “non-motorized transport modes”?

   C. There will certainly be an increase in temperature when buildings and asphalt replace a plowed field. It may be “Less than significant impact” be it is certainly not “No impact”.

6. A. Traffic “Less than significant” depends on where you live! I live on Theta Avenue and there has been a significant increase in traffic on Theta following the development on Cottage - both the recent Phase 1 and the earlier development. Cottage was opened and, the promised to be closed back to a 1 lane road, that was never done! Cars race down Villa and whip onto Theta and have almost hit me as I back out of my driveway. The EIR states that there has been no recent traffic count. I recommend that one be done! You cannot double the number of people and state there will be no significant increase in traffic!
10. **Noise** - There will be a **significant increase in noise** in our area. It won’t be significant to those in City Hall but it will to those of us who live in the vicinity of the development. There has been an empty field to the North between Theta and Mulberry. The development of Cottage has added: traffic noise, car stereos, night parties, and illegal fireworks. To state that adding 46 homes with children, cars, parties, radios and outside noise will not be a significant increase in noise is completely deceptive.

12g. **Local water supply** - Will be most assuredly be impacted. Your own figures state that current water production capacity is 15,331 gpu and current maximum use is 14,000 gpu. You cannot add 46 families with their landscaping and household use without significantly reducing the amount of water available to those who already reside here.

1. What provision will be made to supply the water needed?

13 C. **Create Light or glare** - “No detectable glare shall be permitted”. This was NOT adhered to in Phase 1. **A flood light from the construction site shone into my bedroom window at night for several weeks.** I presume this was some sort of security light but I did not appreciate it!

1. What will be done to eliminate that light pollution?

\[Signature\]  
Ruth E. Smith
Date: August 26, 2005

To: City Council of the City of Porterville
    John Longley, City Manager
    Brad Dunlap, City Planner
    Tom O'Sullivan, Builder

From: Herb/Eleanor Foerster 559-784-2200
       606 West Mulberry Ave.

Re: Application for Sunrise Villa, Phases 2 and 3, Tentative Subdivision Maps

We support a subdivision that is safe and keeps the integrity of the surrounding neighborhood. Please consider driving north on Villa from Olive or from further south on Union and imagine residents exiting and parking onto Villa in the proposed subdivision.

Concerns:

1. Safety: For People and Traffic and Parking
   Facts: There is an existing pattern on Villa Street from Olive to Theta of parallel east/west streets and cul-de-sacs. Residents exit onto these residential/local streets (i.e. Bellevue, Kanai, Grand, Memory Lane, Fairhaven, Oakmont, Dexter, McComb, Theta, Bel Air) and then drive to Villa for further access to streets such as Olive, Putnam, Morton and Henderson where traffic is controlled by stop lights. Currently 8 homes back onto Villa from Grand to Theta (7 blocks). The proposed plan has 10 lots facing Villa from Theta to Mulberry. We see a safety and traffic issue here - also a huge parking problem on Villa Street for the proposed 10 lots facing Villa.
   Suggestion: Redesign the subdivision so none of the lots exit onto Villa Street. Perhaps create a new east/west street/cul-de-sac north of the proposed Bel Air or extend proposed cul-de-sacs so the Villa lots have another exit. Circular driveways along Villa will still impact the traffic circulation.

2. Alignment of Villa Street: What is the Master plan for Villa north of Mulberry to Pioneer?
   Facts: Villa is a "collector" street from Olive to Henderson with four stop lights. There is a segment of Villa north from Westfield to Pioneer. Undeveloped land, some in the county, exists between Mulberry and Westfield that could complete Villa from Pioneer to Union. The "Educational Complex" on Pioneer (remodeled Rockwell) owned by Porterville School District is nearing completion and traffic circulation will use north highway 65 or Villa south from Pioneer or jog through Milo and Westfield to Indiana.
   Suggestions: Update the city's general traffic circulation plan in this area before approving any subdivisions in this area of Porterville. There would then be a policy in place that could guide subdivision designs and decisions. If Villa is not to be completed as a "collector" street then perhaps Villa could end in a cul-de-sac of its own in this proposed subdivision, either exiting toward Henderson or Mulberry.

3. Landscaping/park design:
   Fact: There are few shaded sidewalks or child oriented parks in this area except for Hayes Baseball Field.
   Suggestion: Consider using water basins for young children's parks - could have slides and other play equipment on the steep sides of the basins. Consider pocket parks and "City Repair" in Portland, Oregon. Mandate individual home owners in new subdivisions to plant front yard trees from an approved list at a prescribed distance from the sidewalk and let them take care of what they plant. Keep city landscaping responsibilities along walls not in front yards.

We look forward to your responses and are available to meet with you. We wish this to be a successful project that is safe for people and traffic!

/Herb Foerster

ATTACHMENT
ITEM NO. 8
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 SUNRISE VILLA PHASE 2 & 3 TENTATIVE SUBDIVISION MAP FOR THAT 11.3± ACRE VACANT SITE GENERALLY LOCATED ON THE SOUTH SIDE OF MULBERRY AVENUE BETWEEN THE PROLONGATION OF HOWLAND AND SHADOWOOD STREETS.

WHEREAS: On July 15, 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 individual property owners within 300 feet of the subject site. The twenty (20) day review period ran from July 19, 2005 to August 9, 2005; and

WHEREAS: The public hearing date for Sunrise Villa Phase 2 & 3 was scheduled before the City Council on August 16, 2005. It was brought to Staff’s attention, that one or more of the property owners were not notified due to an incomplete property owners list submitted to Staff. As a result, Staff pulled the item to allow for re-noticing. A re-notice of the public hearing for a 20 day review period ran from August 12, 2005 to September 2, 2005 rescheduling the public hearing before the City Council on September 6, 2005. The only agencies that responded were San Joaquin Valley Air Pollution Control District and Southern California Gas Company. Additional letters from a Ruth E. Smith and a Herbert and Eleanor Foerster who live within 300 feet of the subject site were received. The comments regarding environmental concerns have been addressed in the Mitigation Monitoring Plan Exhibit “A” of the environmental resolution. On September 6, 2005, the City Council opened the public hearing. At the request of the applicant, the public hearing was to be continued until September 20, 2005. However, since one of the Council members could not attend that meeting, the City Council recommended that the item be brought back to Council on October 4, 2005; and

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of September 6, 2005, conducted a continued public hearing to consider approval of Sunrise Villa Phase 2 & 3 Tentative Subdivision Map, being a division of a vacant 11.3± acre parcel into 46 single family residential lots in two (2) phases for that site generally located on the south side of Mulberry Avenue between the prolongation of Howland and Shadowood Streets; and

WHEREAS: The proposed site is zoned City R-1 (One-Family Zone), with the exception of Lots 13-20 (easterly portion of the subdivision) which are located in the County and zoned R-1 - 217 (Single Family Residential- 5 acre minimum).

Phase 3 consists of those lots mentioned above located in the County. The remaining lots located in the City will be developed in Phase 2.

ATTACHMENT ITEM NO. 9
A condition of approval for Phase 3 (County) will read as follows:

"The developer/applicant shall cause this area to be annexed to the City of Porterville prior to reviewing Phase 3 improvement plans", 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 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.

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

4. That the Negative Declaration prepared for this project was made available for public review and comment. The 20 day review period was from July 19, 2005 to August 9, 2005. A re-notice of the public hearing for a 20 day review period ran from August 12, 2005 to September 2, 2005.

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 39 in the proposed resolution of approval for Sunrise Villa Phase 2 & 3.

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.

City staff conducted an on-site inspection. The subject site is vacant and has been regularly disked 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 Sunrise Villa Phase 2 & 3 Tentative Subdivision Map as described herein.

__________________________
Kelly West, Mayor

ATTEST:

John Longley, City Clerk

By ________________________
Georgi[a] 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 (2001) and requirements relative to grading, the Uniform Building Code, etc., will be required.</td>
<td>Conformance with the City Storm Drain Master Plan (2001) and requirements relative to grading, the Uniform Building Code, etc., will be required.</td>
<td>City of Porterville</td>
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<tr>
<td>Water</td>
<td>Compliance with Federal, State and local regulations requiring that storm water runoff be monitored and maintained free of heavy concentrations of pollutants will mitigate this potential impact to a level of insignificance (NPDES standards).</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 (NODES standards).</td>
<td>City of Porterville</td>
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<tr>
<td>4.a</td>
<td>Changes in absorption rates, drainage patterns or the rate and amount of surface runoff.</td>
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<td>4.b</td>
<td>Exposure of people or property to water related hazards such as flooding.</td>
<td>The subject site is located in Flood Plan Zone B (areas between limits of the 100 year and 500 year flood).</td>
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<td>Compliance with the City Flood Hazard Reduction Ordinance which requires elevation certificates of flood resistant construction for all buildings may or will be required.</td>
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<td>Air Quality</td>
<td>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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<tr>
<td><strong>Air Quality</strong></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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<td>2. Require construction equipment to be equipped with catalysts/particulate traps to reduce particulate and Nox emissions.</td>
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<tr>
<td>Air Quality</td>
<td>3. Limit engine idling at the project site.</td>
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<td>5. a (continued)</td>
<td>4. Trees should be carefully selected and located to shade the structures during the hot summer months. This measure should be implemented on southern and western exposures. Deciduous trees should be considered since they provide shade in the summer and allow the sun to reach the residences during the cold winter months.</td>
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<td>5. As many energy-conserving features as possible should be included in the design/construction of the new dwellings. Examples include (but are not limited to) increased wall and ceiling insulation (beyond building code requirements), energy efficient lighting, high efficiency appliances and solar-assisted water heating.</td>
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<td>6. Electric or low nitrogen oxide (NOX) emitting gas-fired water heaters should be installed.</td>
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<td>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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</table>
| Air Quality 5.a (continued) | 8. Electrical outlets should be installed around the exterior of the units to encourage the use of electric landscape maintenance equipment.  
9. 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.  
10. 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.  
11. Sidewalks and bikeways should be installed throughout as much of the project as possible to encourage walking and bicycling.  
12. With the purchase of any house, included Air Quality incentive items is natural gas barbecues and electric lawnmowers. |            |                    |
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<td>13. Any gas-fired</td>
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<td>5.a (continued)</td>
<td>appliances should be low nitrogen oxide (NOX) emitting gas-fired appliances complying with California NOX Emission Rule #1121.</td>
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<td>14. House units should be oriented to maximize passive solar cooling and heating when practicable.</td>
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<td>15. 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.</td>
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<tr>
<td></td>
<td>a. In new residential developments with a density greater than two (2) dwelling units per acre, no person shall install a wood-burning fireplace.</td>
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<td>b. In new residential developments with a density equal to or greater than three (3) dwelling units per acre, no person shall install more than two (2) EPA Phase II Certified wood burning heaters (wood stove, pellet stove or wood-burning insert) per acre.</td>
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<td>c. No person shall install more than one (1) wood burning fireplace or wood burning heater in each new dwelling unit.</td>
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<td>Air Quality 5.a (continued)</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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| Utilities and Service Systems 12.e Storm water drainage. | The site is within the boundaries of the City's Master Plan for Storm Drainage (2001). 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 (NODES 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. | The City of Porterville and the effected utility companies. | The City of Porterville and the effected utility companies.
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<td>Aesthetics</td>
<td>The installation of low profile exterior lighting will be directed away from adjacent properties, as required by the City Zoning Ordinance, and will reduce the impact of outside lighting. Minimal glare is anticipated from street lights and on-site lighting facilities accruing from the site’s eventual development. This will serve to reduce potential hazards for autos, bicyclists, and pedestrians, as well as provide a secure environment for the occupants.</td>
<td>Section 2618 F (Glare) of the Porterville Zoning Ordinance will be enforced.</td>
<td>City of Porterville</td>
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RESOLUTION NO. ____________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS AND CONDITIONS IN SUPPORT OF APPROVAL FOR SUNRISE VILLA PHASE 2 & 3 TENTATIVE SUBDIVISION MAP FOR THAT 11.3± ACRE VACANT SITE GENERALLY LOCATED ON THE SOUTH SIDE OF MULBERRY AVENUE BETWEEN THE PROLONGATION OF HOWLAND AND SHADOWOOD STREETS.

WHEREAS: The public hearing date for Sunrise Villa Phase 2 & 3 was scheduled before the City Council on August 16, 2005. It was brought to Staff’s attention, that one or more of the property owners were not notified due to an incomplete property owners list submitted to Staff. As a result, Staff pulled the item to allow for re-noticing. A re-notice of the public hearing for a 20 day review period ran from August 12, 2005 to September 2, 2005 rescheduling the public hearing before the City Council on September 6, 2005. The only agencies that responded were San Joaquin Valley Air Pollution Control District and Southern California Gas Company. Additional letters from a Ruth E. Smith and a Hébert and Eleanor Foerster who live within 300 feet of the subject site were received. The comments regarding environmental concerns have been addressed in the Mitigation Monitoring Plan Exhibit “A” of the environmental resolution. On September 6, 2005, the City Council opened the public hearing. At the request of the applicant, the public hearing was to be continued until September 20, 2005. However, since one of the Council members could not attend that meeting, the City Council recommended that the item be brought back to Council on October 4, 2005; and

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of September 6, 2005, conducted a continued public hearing to consider approval of Sunrise Villa Phase 2 & 3 Tentative Subdivision Map, being a division of a vacant 11.3± acre parcel into 46 single family residential lots in two (2) phases for that site generally located on the south side of Mulberry Avenue between the prolongation of Howland and Shadowood Streets; and

WHEREAS: The proposed site is zoned City R-1 (One-Family Zone), with the exception of Lots 13-20 (easterly portion of the subdivision) which are located in the County and zoned R-1 - 217 (Single Family Residential- 5 acre minimum).

Phase 3 consists of those lots mentioned above located in the County. The remaining lots located in the City will be developed in Phase 2.

A condition of approval for Phase 3 (County) will read as follows:

“The developer/applicant shall cause this area to be annexed to the City of Porterville prior to reviewing Phase 3 improvement plans”; and

WHEREAS: On July 15, 2005, the Environmental Coordinator made a preliminary determination that a Mitigated Negative Declaration would be appropriate for the proposed project; and

ATTACHMENT
ITEM NO. 10
WHEREAS: The Subdivision Review Committee on August 3, 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 4.07 d.u./acre.

The site extends east and west parallel with Mulberry Ave. A cul-de-sac is proposed on the west side and the east side of the interior of the subdivision. Access to these two (2) cul-de-sacs (50 feet wide) will be from an internal street (Villa Street 60 feet wide) proposed in the middle of the subdivision extending north and south. Proposed Villa Street will intersect with Mulberry Avenue to the north and connect with the existing street (Villa Street) to the south located in a developed single family residential subdivision.

Development of the 46 lot single family residential subdivision is anticipated to result in additional daily trips. Based on the ITE Trip Generation Manuel, 9.57 daily trips would be generated per unit, for a total of 440.22 ADT. Based on proposed street system, the projected trips will be distributed east and west on Mulberry and south on Villa.

Mulberry Avenue (60 foot wide local street) intersects with Cottage Street (60 foot wide local) to the west. Cottage Street meanders through a developed residential subdivision to the south which intersects with Henderson Avenue (four lane arterial 84 feet wide). Mulberry to the west of Cottage Street intersects with Indiana Street (four lane arterial 84 feet wide). Proposed Villa Street will intersect with Mulberry Avenue to the north and extend south and connect with the existing Villa Street located in the subdivision to the south and will continue to Henderson Avenue.
No recent traffic counts have been conducted in the area of the subject site. The Circulation Element of the Porterville General Plan indicates that two lane collector streets (60 foot wide) have the capacity of 12,500 ADT. As mentioned above, Cottage and Mulberry are developed to 60 feet even though they are not considered collector streets. Additionally, four lane major arterials have the capacity of 30,000 ADT. It is not anticipated that the additional traffic generated by the proposed development should reduce the performance of the aforementioned streets/avenues since they have been designed to handle the additional traffic in this area.

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

The site is generally level. The subject site has medium to coarse textured soils with a high water infiltration rate. 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, are not likely to cause substantial environmental damage. Condition 39 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 is surrounded by developed single family residential subdivisions on all sides. 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 Sunrise Villa Phase 2 & 3 Tentative Subdivision Map subject to the following conditions:

1. The required twelve (12) foot side yard setback for all reverse corner lots shall be shown on the final map. As currently designated, Lot 3 and Lot 41 are reverse corner lots.

2. The developer/applicant shall provide a minimum of one (1) tree for every lot and an additional tree for every corner lot.

3. The following regulations of the San Joaquin Valley 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 development 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.


5. 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.
6. The developer/applicant shall dedicate right-of-way adequate for a street width, including
disabled ramp(s) (C.C. Sec. 21-23), 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 Mulberry Avenue right-of-way adequate
for a minimum of two lanes of traffic and on-street parking, on the south side, adjacent to the
boundaries of the proposed subdivision. Curb, gutter and paveout will be required for those
parcels designated as “Not a Part” if necessary to drain storm water away from the Mulberry
Avenue/Villa Street intersection and Lot 46.

7. The developer/applicant shall fully develop Villa Street along the “Not A Part” property with
pavement, curb and gutter on the west side and curb, gutter and sidewalk on the east side.

8. Part of the proposed development, Phase 3, lies within an unincorporated area of Tulare
County. The developer/applicant shall cause this area to be annexed prior to reviewing
Phase 3 improvement plans.

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

10. The developer/applicant shall cause all unnecessary easement to be vacated prior to or in
conjunction with the Final Map processing.

11. 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.

12. The developer/applicant shall relinquish access rights to Villa Street from Lots 3, 9, 24, 25
and 41.

13. Prior to approval of the improvement plans, the developer/applicant shall have a completed
and approved lighting improvement plan, legal description, etc. The developer/applicant
shall petition, on a form provided by the City, to have said subdivision placed in a Lighting
Maintenance District at the time the final map is approved. 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: (i) Lighting, (ii) Temporary on-site
drainage reservoir, if any, etc.

14. 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.

15. 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.

16. 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.

17. 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.

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.

18. 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.).

19. 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.).
20. 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 (NBUs) are to be used, construct sidewalks in a timely manner to facilitate NBU installation.

21. 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.).

22. The developer/applicant shall assure compliance with applicable San Joaquin Valley 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.

23. 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.

24. 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 recommendations 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. The Storm Drain Master Plan illustrates the installation of a pipeline along Mulberry Avenue generally between Drainage Reservoir No. 53 (Hayes Field) and "G" Street.

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 (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 proponent 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. The developer/applicant shall provide a circulation pattern that will serve the partially developed easterly contiguous property.
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 street lights 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. 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 (2) 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 shall have a Civil Engineer design a water system that will provide a fire flow at each fire hydrant of 1,000 g.p.m. with 20 p.s.i. residual pressure for a dwelling less than 3,600 square feet and 1,500 g.p.m. with 20 p.s.i. residual pressure for a dwelling unit greater than 3,600 square feet.

37. 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 bona fide bidders. The bids must be approved by the City prior to construction.
38. The developer/applicant shall comply with all requirements of the Porterville Zoning Ordinance, the Porterville Municipal Code, the latest adopted Building Codes, and all other applicable laws and ordinances.

39. 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.

__________________________
Kelly West, Mayor

ATTEST:

John Longley, City Clerk

By _______________________
Georgia Hawley, Chief Deputy City Clerk
PUBLIC HEARING

SUBJECT: CONSIDERATION OF DRAFT REGULATIONS LIMITING CONTINUOUS AND CUMULATIVE OCCUPANCY OF HOTELS, MOTELS AND MOTOR HOTELS

SOURCE: CITY ATTORNEY/COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: Per direction from the City Council at the September 6, 2005, City Council Meeting, the attached ordinance is presented for public hearing and consideration of approval and first reading.

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) Fireproof safety deposit boxes be available to all occupants, 2) in room telephone services be available, 3) the rooms receive maid and other certain services daily, 4) there must be a restaurant on or abutting the property, and 5) guest room entrances must be from enclosed interior halls or from an enclosed courtyard. A prior requirement in the draft ordinance submitted in September, which required the hotel/motel to have at least 75 rooms to be eligible for a conditional use permit exceeding these time limitations, has been removed on the recommendation of the Community Development Department. Lodging establishments would also be required to maintain daily records and post these regulations.

This office and City staff are requesting that the City Council hold a public hearing, consider these draft regulations, and approve the ordinance for first reading.

Item No. 18
RECOMMENDATION: The City Attorney and staff recommend that the City Council hold the public hearing, consider the draft ordinance and approve and give first reading to the ordinance.

Attachment: 1) 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
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 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. Fireproof safety deposit boxes must be available to all of the occupants of the hotel, motel or motor hotel.

2. In room telephone services shall be available to all of the occupants of the hotel, motel or motor hotel.

3. Each guest room shall be serviced daily with central maid, mail, and room services.

4. The hotel, motel or motor hotel must have a restaurant on the property or on abutting property.

5. 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
PUBLIC HEARING

SUBJECT: BUDGET ADJUSTMENT/CITIZENS' OPTION FOR PUBLIC SAFETY (COPS) PROGRAM FUNDING

SOURCE: Police Department

COMMENT: In the past few years, the City of Porterville has annually received funding from the State of California through the Citizens' Option for Public Safety (COPS) Grant Program. The amount we are approved to receive this year from this grant is approximately $100,000. In the past, the Police Department has used these funds in support of a full-time sworn police officer, a community services officer, and all necessary training, equipment, and overtime costs. The expenditure of these funds in this manner is in proper adherence with the requirements as specified in the Assembly Bill.

RECOMMENDATION: That City Council:

1. Conduct the public hearing to receive public comment, and

2. Authorize use of these funds to offset costs for the full-time sworn officer, the community services officer, and all necessary training, equipment, and overtime costs, and

3. Approve an increase to the Police Department's 2005-2006 budget, in the amount of $100,000.

ATTACHMENT: Draft Resolution
RESOLUTION NO. ____-2005

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
ACCEPTING CITIZENS’ OPTION FOR PUBLIC SAFETY (COPS) GRANT
FUNDS AND APPROVING A BUDGET ADJUSTMENT TO THE POLICE
DEPARTMENT BUDGET

BE IT HEREBY RESOLVED by the City Council of the City of Porterville as follows:

1. That the City of Porterville accept the 2005/2006 Citizens' Option for Public
   Safety (COPS) Grant Funds; and

2. That the Police Department appropriation be increased by the amount of the
   grant from COPS Funds received for Fiscal Year 2005/2006 to allow for the
   expenditure of those Grant Funds in support of a full-time Sworn Officer and a
   Community Services Officer and their operational costs.

ADOPTED this 4th day of October 2005.

______________________________
Kelly West, Mayor

ATTEST:

John Longley, City Clerk

______________________________
By Georgia Hawley, Deputy City Clerk
SUBJECT: CONSIDERATION OF FARM MANAGEMENT AGREEMENT TERMINATION

SOURCE: Public Works Department

COMMENT: At the September 6, 2005 City Council Study Session, staff presented a report on the City's Farm Management Agreement with Robert Nuckols. During this meeting, Council directed staff to return this issue to a regular Council Meeting for consideration, with independent audits in November.

At the September 20th City Council Meeting, the Council agreed to consider terminating the Farm Management Agreement contract with Robert Nuckols at the October 4th meeting.

The City anticipated at the time they negotiated the lease purchase and farm management agreement some loss because the purpose of the agreement is to dispose of wastewater.

As reported at the September 6th City Council Study Session, it was presented that:

- 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.

- Of this amount, approximately $100,000 are deficiencies related to the production aspects of the farming operation. The remainder consists of leases, testing and custom services.

- Staff indicated some modifications to the agreement seemed necessary.

- The City anticipated a loss at the time the lease/purchase and farm management agreement was negotiated. The basic purpose for the agreements was to dispose of the treated effluent in a manner consistent and satisfactory to the RWQCB.
Options presented at the September 6th Study Session:

1) Continue with the existing contract for the remaining years left on the contract.

2) Contract with the current farm manager with modifications and/or adjustments to the present agreement.

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

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

Direction:
As outlined above, it was Staff’s understanding that the direction from City Council was to complete the audit of the operation and then work on modifications to the current contract. An aspect of this would be to separate farming versus non-farming activities from the farming budget to more clearly identify the true farming operation costs.

Status - Staff is currently working on modifications to the agreement and operation that will be beneficial to the City. Some examples are to drop the dry farming operation and to switch to acreage rates instead of hourly rates on equipment rentals. The Farming Audit is progressing for 04/05 with an estimated completion in late October.

The audit, modifications to the agreement and the separation of farming vs. non-farming costs are scheduled for the November 15th City Council Meeting.

Farming Agreement:

90 day notification - The Farm Management Agreement commenced December 1, 2002 and the term is for 5 years. The agreement contains a provision that allows the City to terminate the agreement after 3 years with a ninety (90) day written notification.

We have reached the point in the time line of the agreement that allows the City to give notification to terminate the agreement in 90 days. The City can utilize this option now, or at any future point, until the end of the 5 year term.

RWQCB Requirement for Cease and Desist - The Cease and Desist Order issued by the Regional Water Quality Control Board (RWQCB) states that the RWQCB must be notified if a change in the farming
operation results in less farming acreage.

Staff does not believe that a change in farm management will result in less farming acreage, but will closely scrutinize the existing contract for any limitations. Nevertheless, it is important that the City continue its excellent relationship with the RWQCB and should consult with this body prior to making any changes relative to the lease/purchase and farm management agreements.

RECOMMENDATION: That the City Council:

1. Direct Staff to complete the Audit of the Farming operation; and

2. Provide recommendations at the November 15, 2005 City Council Meeting to modify the existing Farm Management Agreement to benefit the City.
September 29, 2005

To: Baldo Rodriguez - Public Works Director

From: John Baker - WWTF Supervisor

Subject: Preliminary Analysis of Farming Operation

You asked that I provide detailed information for City Council's review to better understand the Nuckols' contract as it pertains to farming City controlled land. I have spent some time since Council's last direction on developing a review of the operations and options to modify the Nuckols Contract for the betterment of the City. The review is still in progress and will completed the week before the November 15, 2005 City Council meeting.

The financial audit is in progress and will also be completed before the November 15th Council meeting. My efforts on this project are not complete and additional information is still being gathered. To date, the information still has to be reviewed and critiqued to satisfy not only me but all who have an interest in this matter. In my preliminary review I have found problems with balancing quantities and other issues that must be resolved prior to submitting my work for management review and use.

I have however concluded the following:

The "FARMING BUDGET" is only one part of a much larger activity. The budget covers three activities within the reclamation area.

1) Percolation pond, development, operations and maintenance have been budgeted with no income stream,

2) The development of new land into irrigation from some other state, such as a permanent crop of plums, was budgeted for but, the cost was expected to be borne from farming revenues and;

3) Farming of both dry land and irrigated lands.

Farming is the only source of income, beyond the sewer fund, to offset the cost of all three activities described above and the activities are consistently operating in the red when taken as a whole. My conclusion, and I hope correctly, is that the dry farming operation is a financial loser. Based on this assumption, senior staff all agreed to stop dry farming and Mr. Bob Nuckols was informed and directed to cease this operation.

The financial evaluation of the dry farming operation has not begun in any great detail. However, the evaluation will be completed before the November 15, 2005 City Council meeting.

The City's collective interest and attention has been on getting all land available to the sewer enterprise into irrigated production, annexed into the City, and that the WDR and CD & O conditions were met on a timely and continuous basis. This goal we have achieved in fits and starts since 1998 when I came to work for the City. I have worked to get additional land into irrigation and worked to add new properties.

We have added 160 acres at Westwood and Scranton to the inventories, and lost 60 acres to the Sports Park, and will soon lose 80 acres on a sale for industrial development. After the sale of fields 11 & 15, a net gain of only 20 acres into the irrigated land inventory will be realized instead of 160 acres.
Baldo, as you are aware we are working with the consulting firm of Dee Jasper & Associates to put into percolation ponds another 40 acres. This new acreage will not produce an income stream and will obviously not pay its way to maintain it. In addition, secondary land leveling costs are incurred on all first time converted lands which will be the case for the Underhill 160 and the Hunsaker 160.

I believe it is unfair and unrealistic to think that the farming operation can, or should support the other activities that on first glance look like farming but have no income to support them. The conversion of land from dry land to irrigated land is very expensive. The necessary follow up work is also very expensive but must be done to achieve the goals required of us to meet the CD & O prior to 2007 when we will likely reach or exceed the 5.3 MGD allowed in our permit.

Lastly, I strongly recommended that we protest in the proper manner, any attempt to accelerate the evaluation process prior to the November 15, 2005 Council Meeting. If we fail, the likely result will be a decision that is not in the best long term interest of the development and management of the RECLAMATION AREA.

CC: P:\pubworks\Baldo Rodriguez\Revised Baker Memo _Nuckols Operation wpd
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. The City Attorney has prepared the attached Resolution of Necessity for adoption by City Council. The County of Tulare has adopted Resolution No.2005-0599 ratifying and consenting to the City of Porterville acquisition of portions of properties, including this particular portion, located in unincorporated territory of the County. The statutory offer and summary of the basis for just compensation, pursuant to Government Code Sections 7267.1 and 7267.2(a) have been sent to the owners. The City Attorney has also notified the above owners, in writing via certified mail, and more than 15 days prior to the Council meeting, that this matter would be on the City Council Meeting Agenda. As of today, no written request to be heard has been received by the City from the property owners. The matter was originally set for the September 6, 2005, Council Meeting. However, the City Attorney was notified that Mr. Richardson's attorney would be out of town and unable to be at the meeting. Additionally, further documentation was needed from the County in order to proceed.

In adopting a Resolution of Necessity, the City Council must find that the public interest and necessity require the project, that the project is planned or located in the manner that will be most compatible with the greatest public good and least private injury, and that the property sought to be acquired is necessary for the project.
RECOMMENDATION: That City Council:

1. Hear testimony from the owners and/or their representative(s), if they appear at the hearing and request to be heard;

2. Adopt the attached Resolution of Necessity; and

3. Authorize the City Attorney to take all appropriate action necessary to acquire said property on behalf of the City of Porterville.

Attachment:

1. Locator Map
2. City Attorney’s Letter/ Notice of Hearing
3. Resolution of Necessity
4. Tulare County Resolution No. 2005-0599
August 8, 2005

[VIA CERTIFIED MAIL WITH RETURN RECEIPT REQUESTED]

John C. Richardson
Hermosa Tierra, Inc.
27349 Avenue 138
Porterville, California 93257

Re: Notice of Hearing regarding Adoption of a Resolution of Necessity to Acquire Property by Eminent Domain [California Code of Civil Procedure 1245.235]

Dear Mr. Richardson:

I am the City Attorney for the City of Porterville, and this matter has been forwarded to my office. The City of Porterville has made numerous attempts to negotiate the purchase of a portion of your property, described below, and has been unable to reach an agreement with you. Consequently, the City now finds it necessary to ask the Council to adopt a Resolution of Necessity to acquire the portion of your property by eminent domain.

1. Notice of Intent of City of Porterville to Adopt a Resolution of Necessity. The City Council of the City of Porterville intends to consider the adoption of a Resolution of Necessity on September 6, 2005, which, if adopted, will authorize the City to acquire the property described herein by eminent domain for the proposed Traffic Signal No. 8 Project, and specifically for the installation of a ramp for access by the disabled. A description of the property being considered for acquisition is attached to this Notice and is marked "Exhibit A". Also attached is a map showing the property being considered (Exhibit B).

2. Notice of Your Right to Appear and Be Heard. Please take notice that the City Council of the City of Porterville, at a regular meeting to be held on Tuesday, September 6, 2005, at 7:00 p.m., or as soon thereafter as the matter may be heard, at City Hall, 291 North Main Street, Porterville, California, will hold an hearing on whether such Resolution of Necessity should be adopted, as required by California Code of Civil Procedure Section 1245.220 for the commencement of an eminent domain proceeding to acquire real property.
You have the right to appear and be heard before the City Council at the above scheduled hearing on the following matters and issues, and to have the City Council give judicious consideration to your testimony prior to deciding whether or not to adopt the proposed Resolution of Necessity:

a. Whether the public interest and necessity require the proposed project;
b. Whether the proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
c. Whether the property sought to be acquired by eminent domain and described in the Resolution of Necessity is necessary for the proposed project;
d. Whether the offer required by Government Code Section 7267.2(a), and the summary of the basis for the amount established as just compensation, was actually made to you and whether said offer and summary were sufficient pursuant to Government Code Section 7267.2(a);
e. Whether the City of Porterville has complied with all conditions and statutory requirements necessary to exercise the power of eminent domain (the right to “take”) to acquire the property described herein, as well as any other matter regarding the right to take said property by eminent domain; and
f. Whether the City has the authority to acquire the property by eminent domain.

A copy of the proposed Resolution of Necessity will be available, upon your request, for inspection at the office of the Clerk of the City Council of the City of Porterville at City Hall ten (10) days prior to the hearing.

Your name (Hermosa Tierra Inc., with you listed as the agent for service of process) appears on the last equalized Tulare County assessment roll and as Owner in our preliminary title report of the property required for the proposed project.

The statutes which authorize the City of Porterville to acquire the property by eminent domain for this proposed project include Code of Civil Procedure Section 1240.010, Streets and Highways Code Sections 5100 et seq., and Government Code Section 37350.5.

3. Failure to File a Written Request to Be Heard within Fifteen (15) Days After the Notice Was Mailed Will Result in Waiver of the Right to Appear and Be Heard. If you desire to be heard, please be advised that you must file a written request with the clerk of the governing board. You must file your request to be heard with the
City Clerk, Porterville City Hall, 291 N. Main Street, Porterville, California 93257. California Code of Civil Procedure Section 1245.235(b)(3) provides that “failure to file a written request to appear and be heard within fifteen (15) days after the Notice was mailed will result in waiver of the right to appear and be heard” on the above matters and issues which are the subject of the hearing.

The date of Mailing appears at the end of this Notice.

If you elect not to appear and be heard in regard to compensation, your nonappearance will not be a waiver of your right to claim greater compensation in a court of law. The amount to be paid for the property will not be considered by the City Council at this hearing.

If you elect not to appear and not to be heard, your failure to appear will be a waiver of your right to later challenge the right of the City of Porterville to take the property by eminent domain.

This Notice is not intended to foreclose future negotiations between you and the representatives of the City of Porterville on the amount of compensation to be paid for your property.

If you elect not to appear and not to be heard, you will only be foreclosed from raising in a court of law the issues which are the subject of this noticed hearing and which are concerned with the right to take the property by eminent domain.

If the City Council elects to adopt the Resolution of Necessity, then within six months of the adoption of the Resolution, the City of Porterville will commence eminent domain proceedings in Superior Court. In that proceeding, the Court will determine the amount of compensation to which you are entitled.

Dated and mailed on August 8, 2005.

Very truly yours,

Julia M. Lew

Enclosure

cc: Baldo Rodriguez, Public Works Director
City of Porterville
EXHIBIT "A"
LEGAL DESCRIPTION

That portion of the Southwest quarter of Section 24, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the County of Tulare, State of California, according to the Official Plat thereof, described as follows:

BEGINNING at the Southeast corner of Lot 52 of the Pioneer Land Co’s First Subdivision, according to the map thereof recorded in Volume 3 of Maps, Page 34, Tulare County Records; thence West along the South line of said Lot 52 and parallel with and 25.00 feet North of the South line of the North half of the Southwest quarter of said Section 24, a distance of 13.83 feet; thence Northeasterly, a distance of 18.46 feet more or less to a point on the East line of said Lot 52, said point being 40.00 feet West of the East line of the Southwest quarter of said Section 24 and 12.27 feet North of the Point of Beginning; thence South along the East line of said Lot 52, a distance of 12.27 feet to the POINT OF BEGINNING.

Containing 85 square feet, more or less.
EXHIBIT "B"

PIONEER LAND COMPANY'S FIRST
SUBDIVISIONRecordedinVol
3 of WAPS, PG 34.

LOT 52
APN: 248-010-005

POINT OF BEGINNING

S.E. COR OF THE N. 1/2 OF
THE S.W. 1/4 SEC. 24 21/27

MULBERRY AVENUE

INDICATES AREA TO BE DEEDED TO
THE CITY OF PORTERVILLE FOR
PUBLIC STREET PURPOSES.
AREA = 85 FT.
OWNER: HERMOSA TIERRA, INC., A
CALIFORNIA CORPORATION
APN: 248-010-005

SCALE 1" = 20'

CITY OF PORTERVILLE - PLANNING AND DEVELOPMENT SERVICES

FIRM NAME: DIXON & ASSOC.
ADDRESS: 55 SHAW #215
CLOVIS, CA 93612
SURVEYOR: GARY J. DIXON
L.S. NO. 5277
TELEPHONE: (559) 297-4200

PORTION OF THE SOUTHWEST QUARTER
OF SECTION 24, TOWNSHIP 21 SOUTH,
RANGE 27 EAST, MOUNT DIABLO BASE
AND MERIDIAN, TO BE DEEDED TO THE
CITY OF PORTERVILLE FOR PUBLIC
STREET PURPOSES

F.B. No. __________
Dr. By: __________
Ch. By: __________
Date: __________
SCALE: 1" = 20'

REVISED 04-08-04

GARY J. DIXON
LS 5277
EXP. 12-31-05

LICENSED LAND SURVEYOR
STATE OF CALIFORNIA
<table>
<thead>
<tr>
<th>SENDER: COMPLETE THIS SECTION</th>
<th>COMPLETE THIS SECTION ON DELIVERY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</td>
<td>A. Signature: [Signature]</td>
</tr>
<tr>
<td>Print your name and address on the reverse so that we can return the card to you.</td>
<td>□ Agent: [Printed Name]</td>
</tr>
<tr>
<td>Attach this card to the back of the mailpiece, or on the front if space permits.</td>
<td>□ Addressed</td>
</tr>
</tbody>
</table>

1. Article Addressed to:

JOHN RICHARDSON,  
TIERRA HERMOSA, INC.  
27349 Ave. 138  
Porterville, Ca 93257

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<tr>
<th>COMPLETE THIS SECTION ON DELIVERY</th>
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<tbody>
<tr>
<td>B. Received by (Printed Name): [Printed Name]</td>
<td>Date of Delivery: [Date]</td>
</tr>
</tbody>
</table>
| D. Is delivery address different from item 1?  
If YES, enter delivery address below: | □ Yes  
□ No |

2. Article Number  
(Transfer from service label): 7004 0750 0000 9439 2010

PS Form 3811, February 2004  
Domestic Return Receipt
**Certified Mail Receipt**

**Postage** $0.83
**Certified Fee** $0.80
**Return Receipt Fee** 1.75
**Restricted Delivery Fee** 0.00
**Total Postage & Fees** $4.88

**Date** 8-8-05

**To:**

**JULIA C. RICHARDSON**
27349 AVENUE 138
PORTERVILLE, CA 93257

**Sender:**

**John C. Richardson**
HERMOSA ARCH, INC.
27349 AVENUE 138
PORTERVILLE, CA 93257

**Signature**

**3. Service Type**

- Certified Mail
- Registered
- Insured Mail
- C.O.D.

**4. Restricted Delivery? (Extra Fee)**

- Yes

**Data of Delivery**

- Yes

**Number** 7003 0500 0003 5217 7437

**PS Form 3811, August 2001**

**Domestic Return Receipt**
CITY COUNCIL, CITY OF PORTERVILLE
COUNTY OF TULARE, STATE OF CALIFORNIA

RESOLUTION NO. ______

RESOLUTION OF NECESSITY REQUIRING THE EXERCISE OF
THE POWER OF EMINENT DOMAIN PERTAINING TO THE ACQUISITION OF
PROPERTY FOR USE BY THE CITY OF PORTERVILLE FOR THE TRAFFIC SIGNAL
NO. 8 PROJECT IN COMPLIANCE WITH THE REQUIREMENTS OF SECTION 1245.210
ET SEQ. OF THE CODE OF CIVIL PROCEDURE OF THE STATE OF CALIFORNIA

WHEREAS, the City of Porterville intends to construct a traffic signal project (entitled
the “Traffic Signal No. 8 Project”), which involves construction of traffic signal and the
installation of a ramp for access by the disabled.

WHEREAS, after notice and opportunity have been given to the property owner(s)
at issue, the City Council of the City of Porterville hereby finds and determines as follows:

1. The City of Porterville intends to construct the aforementioned Project, a
public use, together with related improvements to carry out and make effective the principal
purpose pursuant to Code of Civil Procedure Section 1240.120(a), and in connection
therewith, acquire interest in certain real property. Said public use is a function of the City
of Porterville.

2. The City of Porterville is authorized to acquire the portion of the parcel
described in Appendix 1 herein and exercise the power of eminent domain for the public
use set forth herein in accordance with the California Constitution and the California
Eminent Domain Law, Code of Civil Procedure Section 1230.010 et seq. and pursuant to
Government Code Section 37350.5, Streets and Highways Code Section 5100 et seq., and
Sections 3 and 4 of the Charter of the City of Porterville.

3. The property to be acquired consists of a portion of one parcel and is
generally located at the northwest corner of Plano Street and Mulberry Avenue. The
property to be acquired is more particularly described in Appendix 1, attached hereto and incorporated herein by reference together with a map thereof.

4. On August 8, 2005, there was mailed a Notice of Hearing on the intent of the City of Porterville to adopt a Resolution of Necessity for acquisition by eminent domain of the real property described in Appendix 1 herein, which Notice of Hearing is attached hereto as Appendix 2 and is incorporated herein by this reference. Said Notice of Hearing was mailed to all persons whose names appear on the last equalized County Assessment Roll as having an interest in the property described in Appendix 1, and to the situs address appearing on said Roll. Said Notice advised said persons of their right to be heard on the matters referred to therein on the date and at the time and place stated therein. Said persons received the Notice of the Hearing. The hearing was continued to October 4, 2005.

5. The hearing set out in said Notice was held on October 4, 2005, at the time and place stated therein, and all interested parties were given an opportunity to be heard. The hearing was closed.

Based upon the evidence presented, this City Council by vote of two-thirds or more of its members, further finds, determines, declares, and resolves each of the following:

a. The public interest and necessity require the proposed project.

b. The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

c. The property described herein in Appendix 1 is necessary for the proposed project.

d. The offer required by Section 7267.2(a) of the Government Code, and the summary of the basis for the amount established as just compensation, was made to the owner or owners of record.
e. All conditions and statutory requirements necessary to exercise the power of eminent domain ("the right to take") to acquire the property described herein have been complied with by the City of Porterville.

f. A portion of the property described in Appendix 1 may be acquired for a more necessary public use pursuant to Code of Civil Procedure Section 1240.610. The City Council further finds and determines that insofar as and to the extent that said parcel has heretofore been dedicated to a public use for telephone and/or electric utility purposes, the acquisition and use of said parcel by the City of Porterville for the public use described above is for a more necessary public use than the use to which the property has already been appropriated.

6. The City Attorney is hereby AUTHORIZED and EMPOWERED:

a. To acquire in the name of the City of Porterville, by condemnation, the property described in Appendix 1, attached hereto and incorporated herein by this reference in accordance with the provisions of the California Eminent Domain Law and the Constitution of California;

b. To acquire the property in fee simple unless a lesser estate is described in Appendix 1, herein;

c. To prepare or have prepared and to prosecute or to retain counsel to prosecute in the name of the City of Porterville such proceedings in the proper court as are necessary for such acquisition;

d. To deposit the probable amount of compensation, based on an appraisal, and to apply to said court for an order permitting the City of Porterville to take immediate possession and use of said property for said public uses and purposes.

Mayor Kelly West,
City of Porterville

ATTEST:

John Longley, City Clerk

By: Georgia Hawley, Chief Deputy City Clerk
BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA

IN THE MATTER OF GRANTING CONSENT )
TO THE CITY OF PORTERVILLE TO ACQUIRE ) RESOLUTION NO. 2005-0599
RIGHT OF WAY IN THE COUNTY FOR A )
CITY STREET PROJECT )

UPON MOTION OF SUPERVISOR Cox , SECONDED BY
SUPERVISOR Ishida , THE FOLLOWING RESOLUTION WAS ADOPTED AT A
REGULAR MEETING OF THE BOARD OF SUPERVISORS, HELD THIS 20TH DAY OF
SEPTEMBER, 2005, BY THE FOLLOWING ROLL CALL VOTE:

AYES: Supervisors Ishida, Conway, Cox, Worthley and Maples

NOES: None

ABSTAIN: None

ABSENT: None

ATTEST: C. BRIAN HADDIX
County Administrative Officer/
Clerk of the Board of Supervisors

By ________________________________
Deputy Clerk

**********

Granted consent, pursuant to Streets and Highways Code Section 1810, to the city of Porterville
to acquire 85 square feet of right of way located in the County at the northwest corner of Plano
Street and Mulberry Avenue.

RMA
CAO

DAY
9/20/05
STATE OF CALIFORNIA  
COUNTY OF TULARE  
BOARD OF SUPERVISORS  

RESOLUTION NO. 2005-0599  

I, C. BRIAN HADDIX, Clerk, Board of Supervisors, do hereby certify under penalty of perjury that I have caused a full, true and correct copy of an original order, filed in the office of the Clerk of the Board of Supervisors on September 20, 2005, as the same appears of record. Witness my hand and seal of said Board of Supervisors on this 20th day of September, 2005.

ATTEST.  

Clerk  
County Administrative Officer/ Clerk, Board of Supervisors

BY:  

Deputy Clerk
COUNCIL AGENDA: OCTOBER 4, 2005

SUBJECT: REQUEST TO ADDRESS CONCERNS IN REGARD TO PROPERTY LOCATED AT 379 N. HOCKETT STREET

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: On September 12, 2005, Ms. Mary McClure, property owner of 379 N. Hockett Street, submitted a letter (Attachment 1) requesting response to her letter dated February 2005. The focus of the letter is addressing her concern over denial of a City Business License and parking issues. Ms. McClure also addressed the Council during the September 20, 2005 City Council meeting requesting a response to the parking issues related to her property at the above noted address. The City Council directed Staff to include an item at the October 4, 2005 City Council meeting to identify concerns and options.

The original request by the property owner was to allow for the conversion of the existing residential dwelling into a professional office on the bottom floor consisting of 1,320 square feet, with the second floor remaining as a residential use for the site located at 379 N. Hockett Street. A ratio of one (1) parking space per 200 square feet, for a total of seven parking spaces is required. If use of the building is restricted to non-medical office uses, the ratio would be one space per 300 square feet of building area. This would result in a requirement for five (5) spaces. Staff met with property owner (December 22, 2004) and proposed an alternative to bring property into compliance for medical office/residential use. At the meeting staff addressed the parking requirements and proposed the most logical option that would require the westerly wall of the two-car garage be removed to allow for vehicles to access via the alley to the rear and Hockett Street to the front. During the meeting, Staff made copies of the Section 2202 A-1 (Parking Requirements in the PO Zone) for the property owner, owner’s realtor, and prospective buyer. Correspondence summarizing the meeting was forwarded (December 23, 2004) to the property owner. The property owner stressed that “healing arts” have a different parking ratio. In the past, the property owner has insisted that she wanted Staff to respond with a letter that said what was allowed in the PO Zone. She was told that the aforementioned section addressed the allowed uses.

One prospective use considered by the owner was a spa. As a result of the ambiguity, regarding salons and spas in a PO Zone, the Council on September 6, 2005 has determined that such uses are now allowed in the PO Zone. As a result, this use (Healing Arts) would be allowed at 379 N. Hockett Street. Since these type of uses require appointments for their customers, and not a high volume of traffic is generated by such uses, Staff could make the assumption that the ratio of parking for this type of use would justify the one (1) parking for every 300 square feet of floor space. At this ratio, the 1,320 square feet of the bottom floor would require five (5)
parking spaces, which have been provided at 379 N. Hockett Street. However, parking for a medical office in this building would require a total of seven (7) parking spaces.

With regard to the property owner’s reference to denial of a business license, it is unclear if the denial was for a spa use prior to the change in the uses within a PO zone to allow for this type of business, or if the denial was due to the parking conditions.

During the September 20, 2005 City Council meeting, the property owner questioned why the Church at the northeast corner of Harrison and Hockett uses the City-owned public parking lot to the east of the church, just south of 379 N. Hockett Street, and why she is not allowed to use the lot to meet her parking ratio demand. During research of this matter it was found that the Church of Science located at the northeast corner of Harrison and Hockett was constructed in 1937. Currently the Church is recognized as the Church of Religious Science with limited hours of operation, 3pm-9pm on Tuesdays and 9am to 3pm on Wednesdays through Friday. Sunday services are very limited from 10am until noon. The Church is considered a “Legal Non-Conforming Use” and does not possess a “For-Profit” or “Non-Profit” business license. On site, the Church has unimproved parking to the east of the building where up to four (4) vehicles are able to park at an angle. Along the street four (4) vehicles are able to park immediately along side the building.

RECOMMENDATION: That City Council direct Staff to provide the property owner with the following options for resolution of the matter:

1. Continue enforcement of the City Standards for PO use at the 379 N. Hockett Street, which would allow non-medical uses with the existing number of parking spaces.

2. Provide property owner with the option to remodel garage to allow access to/from the alley. This action may require improvements to alley per City Standards.

3. Lease two (2) public parking lot spaces to property owner at rate determined to be fair market value for construction of a parking space and with an annual lease rate to cover on-going maintenance of the parking spaces to bring property into compliance with parking standards. (Note: It is estimated that current fair market value per space is $2,021.40.)

ATTACHMENTS:
1. Letter from Ms. Mary McClure (dated September 12, 2005)
2. Locator Map showing Subject Site
3. Zoning Ordinance 2202 A-1
Sept. 12, 2005

Please place 379 N Hockett on the next Council meeting. As I have never had a response from the City as to all work being finished from letter back Feb 2005. All work was done and walked through was done. Still declined business license yet you have let Dot and the 80 Zone have bowling - hair nails in the zoning. The city has sold a sale of property and also lease on the property. No response as of now.

Maureen Oliver
280-6335
2. In cases of churches, provided no addition is made to the auditorium seating capacity.

3. Any reconstruction permitted under this provision must be completed within one (1) year following the removal of such existing building, or within six (6) months after the adoption of this Ordinance, whichever is the latter.

SECTION 2202: Number of Spaces Required.

A. The number of off-street parking spaces required for different uses shall be not less than as follows:

<table>
<thead>
<tr>
<th>Use</th>
<th>Parking Spaces Required</th>
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<tbody>
<tr>
<td>1. Business and Professional Offices.</td>
<td>One (1) for each two hundred (200) square feet of gross floor area for Medical-Dental Offices (Healing arts), banks, savings and loans, credit unions, and other similar financial institutions (medical/dental offices shall have a minimum of five (5) spaces). Other business and professional offices shall have (1) parking space per three hundred (300) square feet of gross floor area with a minimum of three spaces.</td>
</tr>
<tr>
<td>2. Bowling Lanes.</td>
<td>Five (5) for each lane.</td>
</tr>
<tr>
<td>3. Churches.</td>
<td>One (1) for each five (5) seats (in the main auditorium only).</td>
</tr>
<tr>
<td>4. Dance Halls and Cabarets.</td>
<td>One (1) for each four (4) seats, but in any case, not less than one (1) for each fifty (50) square feet used for dancing.</td>
</tr>
<tr>
<td>5. Single-family dwellings, dwelling unit in any district, including owner-occupied residential Planned Unit Development, Condominiums, mobile homes, or trailers.</td>
<td>Two (2) spaces for each dwelling unit in an enclosed garage or appropriate carport, as provided herein.</td>
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</table>
SUBJECT: ENVIRONMENTAL REVIEW OF THE CITY OF PORTERVILLE
DOWNTOWN PARKING PROJECT – PHASE 2

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: City Staff, in conjunction with the City’s on-call transit consulting team, have completed the preparation of a combined CEQA Initial Study/Negative Declaration and NEPA Categorical Exclusion for the City of Porterville Downtown Parking Project-Phase 2. The project will be funded with “Section 5307” Federal Transit funds programmed by the City and therefore must be authorized by the Federal Transit Authority (FTA), and comply with the National Environmental Policy Act (NEPA). The document has been transmitted to FTA for approval of the Categorical Exclusion.

The project will involve the demolition of an existing building on additional City-owned property (adjacent to the Phase 1 lot) and the reconstruction of said property with more public parking to facilitate convenience of use by public transit users at the adjacent City Transit Center. The proposed project consists of two primary elements:

1. Expansion of the Phase 1 parking lot through the addition of eleven (11) parking spaces for users of the adjacent City Transit Center.

2. Closure and abandonment of Oak Avenue between Division and Main Streets for conversion to a pedestrian mall, along with intersection improvements at Oak Avenue and Hockett Street, and Oak Avenue and Division Street to provide safer pedestrian connections to Main Street (downtown uses) for transit users.

Element No. 1 involves the redevelopment of a City-owned retail lot adjacent to Oak Avenue and Division Street (known as Assessor Parcel Number APN 252-200-20) to facilitate designated parking for transit users. This parcel contains an existing building (approximately 7,200 ± sq. ft) that will be demolished and redeveloped with 20 additional parking spaces that will integrate with the existing Phase 1 parking lot. Eleven (11) of the stalls within Phase 2 (under the building footprint) will be exchanged with 11 of the most westerly Phase 1 stalls, in order to designate parking stalls closest to the Transit Center to best serve transit users. Appropriate signage will be used to denote spaces for transit use only. The redevelopment will also involve removal of building debris, site preparation for paving and installation of parking (such that traffic circulation integrates with the adjacent Phase 1 lot), signs, landscape planters (including irrigation), sidewalk and curbs, and vintage lighting.
In addition, Element No. 1 will include on-street improvements on Oak Avenue. The segment of Oak Avenue between Hockett and Division Streets is a 60 ± ft. wide, two-way street with on-street parallel parking on both sides of the street. The proposed improvements along this section will include replacement of parallel parking with diagonal parking along the north side of Oak Avenue, curb, gutter and sidewalk improvements along the north side (improvements along the south side of the street were completed as part of Phase 1), and intersection improvements at all street crossings to improve pedestrian use and safety. Decorative street pavers or stamped concrete will be utilized to designate pedestrian crossings and the strategic placement of landscape planters will be used as necessary to help direct pedestrian flow to designated crosswalks. All street crossings will be designed to integrate with the existing paved crossing located on the western leg of the Oak Avenue/Hockett Street intersection. Landscape planters (including irrigation), vintage lighting and street furniture will also be installed along this segment.

Element No. 2 involves the closure and abandonment of the portion of Oak Avenue between Division Street and Main Street for conversion to a pedestrian mall. The segment of Oak Avenue between Division and Main Streets is a sub-standard width at 33 ft. (according to Assessor Map), but functions as a two-way local street without on-street parking. There are many safety issues associated with this street segment. Blind corners, associated with narrow street widths, lack of adequate sidewalk widths, and adjacent structures, force vehicles traveling westbound on Oak Avenue to creep out into the intersection with Division before visibility is provided. Also, Oak Avenue west of Main Street does not align itself with Oak Avenue east of Main Street, creating a short jog. Short jogs are inherently problematic with regards to traffic circulation. This particular short jog is bisected by a cross walk, creating further hazards with regards to pedestrian safety. The project proposes to close and abandon this portion of Oak Avenue to vehicular traffic and convert it to a pedestrian mall, in order to alleviate traffic hazards and to provide pedestrians with better and safer access to Main Street.

The pedestrian mall will be at street grade and will include provisions for drainage, landscaping (with irrigation) for shade, signage, vintage lighting, benches, trash receptacles and physical controls (bollards) to prohibit vehicle access at Main Street and Division Street. The design of the pedestrian mall will mimic the standards set forth in the Downtown Porterville Architectural Design Guidelines for the Redevelopment Project Area No. 1, which was the guiding plan for the Main Street streetscape improvement project. Alternative 2-way access between Division and Main Streets is available via Mill Avenue, located 340+- feet north of Oak Avenue.

Hockett Street is a two-lane, one-way, northbound local street between Olive Avenue on the south and Oak Avenue on the north, with widths varying between 52 and 80 ft. according to the APN map. Street parking is not permitted within this segment. The north-bound left lane of Hockett ends just south of the Transit Center where it becomes a left turn only lane, directing traffic to an alley running just south of the City Transit Center. North of Oak Avenue, Hockett becomes a two-way street. Division Street
(within the project vicinity) is a two-way north/southbound alley that functions primarily as an access road to adjacent properties. Due to its narrow width of 32 ± ft. on-street parking is not permitted on Division Street. No modification is intended for this street.

Since the most controversial aspect of this project has been the closure of Oak Avenue between Main Street and Division Street, the Council has the option to approve Element No. 1 without approving Element No. 2 (Oak Avenue conversion to pedestrian mall). The recommendations provided for in this report account for this option.

The combined CEQA Initial Study/NEPA Categorical Exclusion prepared for the project concluded that the proposed project, if allowed, will result in beneficial effects to aesthetics, air quality, land use and planning, and transportation/traffic. In addition, the proposed project will not have any significant adverse effects, or will have less than significant adverse effects, on the environment. Due to the lack of significant environmental impacts to the project site from the proposed action, no mitigation measures are required.

Notice of the proposed action has been sent to all interested agencies and otherwise distributed as required by law. Responses were received from the Tulare County Association of Governments (TCAG), the California Regional Water Quality Control District, the San Joaquin Valley Air Pollution Control District (SJVAPCD), the Downtown Porterville Association, and Richard and Jennett Huddleston. TCAG voiced their support for the City's efforts to make Porterville a "more walkable community". The California Regional Water Quality Control Board and the San Joaquin Valley Air Pollution Control District noted requirements to comply with existing regulations. The SJVAPCD also commended the City for "providing improvements that facilitate and encourage both pedestrian and transit usage". The Downtown Porterville Association noted current safety issues within the project area, voiced concerns of downtown business owners, provided suggestions for additional project features, and provided overall project support. Richard and Jennett Huddleston commented on the proposed closure of Oak Avenue. These comments are herein noted.

Through public comment and outreach meetings with the Downtown Merchants the following features have been added to the project scope: signage to be located on Main Street, listing businesses located within the pedestrian mall, and additional signage along Main Street directing both northbound and southbound traffic to additional parking east and west of Main Street. The project promotes public safety and security and will foster an atmosphere conducive to public gatherings and outdoor events in the downtown area while focusing on long-term planning and the best future uses of the downtown area.

The Draft Resolution approving the Negative Declaration includes findings acknowledging the City's regulatory responsibilities and intent to comply.
On July 22, 2005, the Environmental Coordinator made a preliminary determination that a Negative Declaration and Categorical Exclusion would be appropriate for the proposed project. The combined Initial Study/Categorical Exclusion has been transmitted to interested agencies, groups, individuals and the State.

That the City Council:

1. Adopt the attached resolution approving a Negative Declaration for the City of Porterville Downtown Parking Project—Phase 2.
2. Direct Staff to proceed with working drawings and specifications in preparation for the award and construction of this project; or
3. Direct Staff to prepare an agenda item requesting approval of a Resolution of Intent to Abandon a portion of Oak Avenue, and set a public hearing in relation thereto; and
4. If Council should decide against the abandonment and closure of Oak Avenue, direct Staff to proceed with working drawings and specifications in preparation for the award and construction of Element No. 1 of this project (parking lot improvements), as well as intersection and street improvements along Oak Avenue between Hockett and Division Streets.

ATTACHMENTS:

1. Letter dated August 8, 2005, from the Tulare County Association of Governments
2. Letter dated August 24, 2005, from the California Regional Water Quality Control Board
3. Letter dated August 24, 2005, from the San Joaquin Valley Air Pollution Control District
4. Letter dated September 9, 2005, from the Downtown Porterville Association
5. Letter dated June 25, 2005, from Richard and Jennett Huddleston
6. Draft Environmental Resolution
7. Draft Initial Study and Notice of Intent to Adopt a Negative Declaration and Categorical Exclusion, available for public review at the City of Porterville - Community Development Department.
Linda Clark, Administrative Analyst
City of Porterville
291 North Main Street
Porterville, CA 93257

Re: Downtown Parking Project – Phase 2

Dear Ms. Clark:

The Tulare County Association of Governments (TCAG) has reviewed the initial study and environmental assessment for the above referenced project. TCAG supports the City of Porterville’s effort to make the City a more “walkable community. Should you have any questions regarding our comments, please give me a call.

Sincerely,

Scott Cochran
Regional Planner, TCAG

SC:ke
24 August 2005

Bradley D. Dunlap
City of Porterville
291 North Main Street
Porterville, CA 93257

PROPOSED NEGATIVE DECLARATION AND ENVIRONMENTAL ASSESSMENT, DOWNTOWN PARKING PROJECT – PHASE 2, SCH# 2005081032, PORTERVILLE, TULARE COUNTY

Your request for comments on the Proposed negative Declaration and Environmental Assessment for the Downtown Parking Project – Phase 2 was received on 10 August 2005. The proposed project includes redevelopment of a City-owned retail lot southwest of Oak Avenue and Division Street to add an additional 20 parking spaces to the Phase 1 parking project. The expansion will require removal of a vacated retail building. The proposed project includes the closure of Oak Avenue between Division and Main Streets for conversion to a pedestrian mall.

Regulations published in the Federal Register on 8 December 1999 expanded the storm water program to include small municipal separate storm sewer systems (MS4) (serving a population of less than 100,000 and located in an urbanized area). Such small MS4s must obtain an NPDES Phase II municipal permit by March 2003 and comply with its terms for storm water management and control. The Phase II storm water minimum requirements include public education and outreach, public involvement and participation, illicit discharge detection and elimination, pollution prevention and good housekeeping in municipal operations, construction site urban runoff control, and post-construction management in new development and redevelopment. Since the City of Porterville has submitted an application to obtain an NPDES Phase II permit, these minimum requirements should be incorporated into development projects as appropriate.

If construction associated with the project will disturb one acre or more, compliance with the National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002 for Discharges of Storm Water Associated With Construction Activity will be required for potential discharges to surface waters, including ephemeral and intermittent drainages. Before construction begins, the City must submit a Notice of Intent (NOI) to comply with the permit, a site map, and an appropriate fee to the State Water Resources Control Board and a Storm Water Pollution Prevention Plan (SWPPP) must be prepared. The SWPPP must contain at a minimum all items listed in Section A of the General Permit including descriptions of measures 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, riparian buffers, etc.) best
management practices (BMPs) that will be implemented to prevent pollutants from discharging with storm water into waters of the United States.

Thank you for the opportunity to comment on this Proposed Negative Declaration and Environmental Assessment. If you have any questions regarding our comments, please call me at (559) 445-6046.

[Signature]

LISA GYMER
Environmental Scientist

cc: State Clearinghouse, Sacramento
Project Title: City of Porterville downtown Parking Project-Phase 2
Lead Agency: City of Porterville  Contact Person: Bradley G. Dunlap, Community Development Director
Street Address: 201 W. Main St.
Phone: (559) 722-7466
City: Porterville, CA  ZIP: 93257
County: Tulare

Project Location:
County: Tulare
City: Porterville

Document Type: RECEIVED
Received Date: Aug 8, 2005

STATE CLEARING HOUSE

Development Type:
Residential: 100 acres
Commercial: 100 acres
Industrial: 100 acres
Recreational: 100 acres

Project Focus:
Reconstruction of additional parking spaces, closure of a street and addition of landscaping, vintage lighting and street furniture.

State Clearinghouse Contact:
(916) 445-0613
State Review Began: 8-8-2005
SCH Compliance Date: 9-6-2005

Please note State Clearinghouse Number (SCH#) on all Comments:
SCH#: 2005081032
Please forward late comments directly to the Lead Agency
AQMID/AFCD 37
(Resources: 8/13)

Project Sent to the following State Agencies:
- Resources
- Boating & Waterways
- Coastal Comm
- Colorado Rvr Bd
- Conservation
- Fish & Game #4
- Delta Protection Comm
- Forestry & Fire Prot
- Historic Preservation
- Parks & Rec
- Recreational Board
- Bay Cons & Dev Comm
- DWR
- OES (Emergency Svcs)
- Bus Transp Hous
- Aviation
- GHP
- Caltrans #6
- Trans Planning
- Housing & Comm Dev
- Food & Agriculture

State/Consumer Svcs
- General Services
- Cal EPA
- ARB - Airport Projects
- ARB - Transportation Projects
- ARB - Major Industrial Projects
- Integrated Waste Mgmt Bd
- SWRCB: Class Wq Prog
- SWRCB: Wq Rights
- Reg. WQCB #57
- Toxic Sub Ctr-Ctc
- Yeh/Cdr Corr
- Independent Comm
- Energy Commission
- NARC
- Public Utilities Comm
- State Lands Comm
- Tahoe Rfl Plan Agency
August 24, 2005

Ms. Linda A. Clark
Administrative Analyst
291 North Main Street
Porterville, CA 93257

Subject: City of Porterville Downtown Parking Project – Phase 2
         Negative Declaration/Environmental Assessment

Dear Ms. Clark,

The staff of the San Joaquin Valley Air Pollution Control District (District) have reviewed the City of Porterville Downtown Parking Project – Phase 2 Negative Declaration/Environmental Assessment (Project). As noted in the Negative Declaration/Environmental Assessment (ND/EA) certain aspects of the project will require compliance with District rules and regulations. As the entire San Joaquin Valley Air Basin is designated non-attainment for ozone and fine particulate matter (PM10 and PM2.5), a concerted effort should be made to reduce project-related emissions as outlined below:

1. **Rule 4002 (National Emission Standards for Hazardous Air Pollutants).** As noted in the ND/EA, one existing building will be demolished; therefore, this activity will be subject to Rule 4002. Prior to any demolition activity, an asbestos survey of existing structures on the project site may be required to identify the presence of any asbestos-containing building material (ACBM). Any identified ACBM having the potential for disturbance must be removed by a certified asbestos-removal contractor in accordance with CAL-OSHA requirements. If you have any questions concerning asbestos-related requirements, please contact Mr. Brian Dodds at (559) 230-5962, or contact CAL-OSHA at (559) 454-1295. An Asbestos Requirements Bulletin has been enclosed.

2. **Regulation VIII (Fugitive PM10 Prohibitions).** is a series of rules (Rules 8011-8081) designed to reduce PM10 emissions (predominantly dust/dirt) generated by human activity, including construction, demolition, road construction, bulk materials storage, earthmoving operations, etc. Current District rules can be found at http://www.valleyair.org/rules/1ruleslist.htm. If a non-residential site is 1.0 to less than 5.0 acres, an owner/operator must provide written notification to the District at least 48 hours prior to his/her intent to begin any earthmoving activities (see section 6.4.2). A template of the District’s Dust Control Plan is available at: http://www.valleyair.org/busind/comply/PM10/forms/DCP-Form%20-%2010-14-2004.pdf

3. **Rule 4101 (Visible Emissions).** This rule prohibits emissions of visible air contaminants to the atmosphere and applies to any source operation that emits or may emit air contaminants. The City of Porterville should contact the District’s Small Business Assistance Office at (559) 230-5888 to receive additional information/instructions.

4. **Rule 4102 (Nuisance).** Applies to any source operation that emits or may emit air contaminants or other materials. In the event that the project or construction of the project creates a public nuisance, it could be in violation and be subject to District enforcement action.

ATTACHMENT
ITEM NO. 3
5. **Rule 4641** (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations).
   If asphalt paving will be used, then paving operations of this project will be subject to Rule 4641. This rule applies to the manufacture and use of cutback asphalt, slow cure asphalt and emulsified asphalt for paving and maintenance operations.

6. To determine if the project is subject to permit requirements or for further information, the City of Porterville is encouraged to contact the District's Small Business Assistance Office at (559) 230-5888.

There are a number of measures that can be incorporated into the construction phase of the project to provide additional reductions to construction emissions. The measures listed below should not be considered all-inclusive and remain options that the project proponent should consider:

From Table 6-4 of the District's *Guide to Assessing and Mitigating Air Quality Impacts 2002* (GAMAQI) which can be found at: http://www.valleyair.org/transportation/ceqa_guidance_documents.htm:

**Use of Alternative fueled or catalyst equipped diesel construction equipment.**
- The City of Porterville should identify a minimum of catalyst-equipped diesel construction equipment that will be used for this project. Low-sulfur diesel should be used in place of regular diesel when possible. Alternative fuel may not be readily available in the project area. If biodiesel is used, the City or its contractor(s) should use only CARB certified fuels as not all biodiesels or biodiesel blends will result in reduced NOx emissions. According to the EPA's website, biodiesel use generally results in an increase in NOx emissions. The California Air Resources Board (CARB) has certified specific biodiesels for NOx reduction. Only biodiesels that have been certified by CARB should be used. For more information on biodiesel or other types of alternative fuels, please call Mr. Chris Acree, Air Quality Specialist, at (559) 230-5829. The applicant should calculate the associated emission reductions from implementing this mitigation measure.

**Minimize idling time (e.g., 10 minute maximum)**
- City of Porterville could require a contractor to institute idling limits to prevent unnecessary diesel emissions. Engines should be shut off when not in use, including during breaks and lunches.

**Limit the hours of operation of heavy duty equipment and/or the amount of equipment in use**
- The City of Porterville should specify the conditions of reduced hours or reduced amount of equipment. Hours can be reduced under certain circumstances such as during levels of high ambient air pollution or during peak travel on nearby roads.

**Construction equipment should have engines that are Tier II (if available as certified by the Air Resources Board).**
- The City of Porterville could require a contractor to utilize Tier I and Tier II (2.5 gram) engines which have significantly less PM and NOx emissions compared to uncontrolled engines. Onsite equipment should be equipped with 1998 or newer engines. Engines built after 1998 are cleaner Tier II engines. To find engines certified by the Air Resources Board, see http://www.arb.ca.gov/msprog/offroad/cert/cert.php. This site lists engines by type, then manufacturer. The "Executive Order" shows what Tier the engine is certified as. For more information on heavy-duty engines, please contact Mr. Kevin McCaffrey, Air Quality Specialist, at (559) 230-5831.

- Off road trucks should be equipped with on-road engines when possible.

- Light Duty Cars and Trucks should be alternative fueled or hybrids.
See www.fueleconomy.gov, http://www.eere.energy.gov/cleancities/index.html (Clean Cities Program) and www.driveclean.ca.gov as resources to find alternative fueled or hybrid vehicles.

Lastly, we commend the City of Porterville for providing improvements that facilitate and encourage both pedestrian and transit usage. District staff is available to meet with you to further discuss the regulatory requirements that are associated with this project. If you have any questions or require further information, please call me at (559) 230-5820 and provide the reference number at the top of this letter.

Sincerely,

Hector R. Guerra
Senior Air Quality Planner
Central Region

c: file
September 9, 2005

To: Porterville City Council

Re: Singer Parking Project

Gentlemen:

Although currently there is enough parking in Downtown Porterville for all businesses, the location of available parking relative to need is poor. The area bounded by Division, Mill, Second and Garden has the lowest ratio of spaces to need. The problem in this area is exacerbated by the presence of Good Shepherd and the Glenwood Hotel. Downtown Porterville is solidly in favor of additional parking in this area.

Oak Avenue from Division to Main is possibly the most dangerous block in Downtown. The offset intersection with Main, compounded by the three crosswalks across Main, (two marked and legal, one not), creates a traffic hazard. The substandard width sidewalks, with lack of handicap access, and the high curbs and blind corners on Division create an extremely dangerous pedestrian situation.

Despite this, some Downtown business owners have reservations regarding the conversion of Oak Avenue between Division and Main.

The first concern is the increased circling distance caused by the closure. The Downtown Board feels that the additional parking spaces and improved pedestrian safety more than balance that increase. In addition, if Downtown and the City can work with the owners of the Glenwood to require the residents to use the back lot parking, these additional spaces will be effectively transferred to Main Street, which will minimize the circling.

The second is the possibility of loitering and litter in and general fouling of the walkway. Properly maintained high visibility landscaping, nighttime lighting, increased patrols by the Police Department, and rapid response to complaints regarding the area can keep that under control.
The conversion of this stretch of Oak to a pedestrian walkway will increase the "pedestrian friendliness" of the area, a situation imperative to the rejuvenation of Downtown. It will add an additional green spot to Downtown Porterville, complementing the Centennial Park across from City Hall. It will provide a second location for activities during Downtown promotions and can be used alone for a variety of mini events.

In closing, Downtown Porterville Association encourages the following provisions be included in the Oak Avenue conversion:

- Provide adequate trash receptacles in the Walkway
- Provide and maintain Walkway landscaping conducive to easy observation
- Provide for increased police patrols to minimize loitering, littering and vandalizing
- Provide signage areas on Main Street for the use of businesses located on the Walkway
- Work with the owners of the Glenwood to require their tenants to utilize off-street parking
- Provide signage on Main Street indicating location of off-street parking
- Create a streamlined procedure for approval of mini events in the Walkway

Downtown Porterville Association feels that the advantages of converting Oak Avenue between Division and Main greatly outweigh any disadvantages, and encourages the City of Porterville to proceed.

Sincerely,

[Signature]

Dick Eckhoff, Chairman
Downtown Porterville Association, Inc.
To the City of Fort Worth,

Re: closing of Oak Street

I am opposed to Oak Street becoming a park situation. I believe it would hinder businesses located in this area. The only street would be quiet for access to main st. (nier bt. on the north & oliver on the south).

Hence, I think it might even cause allow more graffiti on this side street - where the police cannot patrol our area.

Also if I believe it would encourage gang vandalism.

I really think it would be very destructive to our businesses.

Thank

Richard & Jennifer Muddleston

PS. I am unable to attend the meeting because I cannot close the store in the middle of the work day.
RESOLUTION NO. _______

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS IN SUPPORT OF APPROVAL OF A NEGATIVE DECLARATION FOR THE CITY OF PORTERVILLE DOWNTOWN PARKING PROJECT – PHASE 2

WHEREAS: On July 29, 2005, the City of Porterville circulated an Initial Study and Notice of Intent to Adopt a Negative Declaration pursuant to CEQA and Categorical Exclusion pursuant to NEPA; and

WHEREAS: Comments regarding the project were received from three agencies, prior to the close of the public comment period and from two public groups/individuals during the project development process, none of which identified significant environmental impacts; and

WHEREAS: Following the close of the public comment period for the proposed project, the Environmental Coordinator made a preliminary determination that a Negative Declaration would be appropriate for the project; and

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of September 20, 2005 considered the potential environmental impact of the proposed City of Porterville Downtown Parking Project—Phase 2; and

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

1. That the Initial Study was prepared in accordance with the California Environmental Quality Act.

2. That the subject project will not create adverse environmental impacts. The approved Negative Declaration and Categorical Exclusion was evaluated in light of the prepared environmental Initial Study, with comments from interested parties and the public, as well as responses to written comments received during the review period. It was determined that no significant impacts are associated with the proposed project.

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

4. That the Negative Declaration and Categorical Exclusion prepared for the City of Porterville Downtown Parking Project—Phase 2 was transmitted to the State Clearinghouse and interested agencies, groups and individuals for review and comment. The review period ran for thirty (30) days from July 29, 2005 to August 29, 2005.

5. That the Tulare County Association of Governments, the California Regional Water Quality Control Board, the San Joaquin Valley Air Pollution Control District, the Downtown Porterville Association, and Richard and Jennett Huddleston provided
written comments with regards to the project. The Tulare County Association of Governments voiced their support for the City’s efforts to make Porterville a “more walkable community”. The California Regional Water Quality Control Board noted the requirement to comply with National Pollutant Discharge Elimination System (NPDES) permit requirements for storm water management (including potential discharges of storm water associated with construction activities). The San Joaquin Valley Air Pollution Control District (SJVAPCD) noted the requirement to comply with District Regulation VIII (construction management to reduce fugitive dust), Rule 4002 (asbestos identification and removal), Rule 4101 (applies to visible emissions), Rule 4102 (applies to public nuisance), and Rule 4641 (applies to cutback, slow cure, and emulsified asphalt, paving and maintenance operations). The SJVAPCD also commended the City for “providing improvements that facilitate and encourage both pedestrian and transit usage”. The Downtown Porterville Association noted current safety issues within the project area, voiced concerns of downtown business owners, provided suggestions for additional project features, and provided overall project support. Richard and Jennett Huddleston commented on the proposed closure of Oak Avenue.

The City of Porterville will comply with Regulation VIII of the San Joaquin Valley Air Pollution Control District, and all applicable air quality and storm water requirements associated with this project.

6. That the Initial Study prepared for the project supporting the Negative Declaration reflects the independent judgment 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 prepared for the City of Porterville Downtown Parking Project-Phase 2.

________________________
Kelly West, Mayor

ATTEST:

John Longley, City Clerk

By ________________________
Georgia Hawley, Chief Deputy City Clerk
CEQA INITIAL STUDY (IS)/ NEGATIVE DECLARATION (ND)

AND

NEPA ENVIRONMENTAL ASSESSMENT (EA)/ CATEGORICAL EXCLUSION (CE)

PROJECT:
DOWNTOWN PARKING PROJECT—PHASE 2

June 2005

Prepared for the
City of Porterville
291 North Main Street
Porterville, California 93257
559.782.7448

Prepared by
TPG Consulting, Inc.
222 North Garden Street, Suite 100
Visalia, California 93291
559.739.8072
PROJECT TITLE

The proposed project is the Downtown Parking Project—Phase 2.

LEAD AGENCY/PROJECT APPLICANT AND CONTACT PERSONS

The Lead Agency for the preparation of this combined CEQA Initial Study (IS)/Negative Declaration (ND) and NEPA Environmental Assessment (EA)/Categorical Exclusion is the City of Porterville. The key contact persons are as follows:

Lead Agency/Project Applicant:

City of Porterville
291 North Main Street
Porterville, CA  93257
(559) 782-7448
Contact: Linda A. Clark, Administrative Analyst

Environmental Consultants:

TPG Consulting, Inc.
222 N. Garden Street, Suite 100
Visalia, CA 93291
(559) 739-8072
Contact: Charles F. Clouse, Principal
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INTRODUCTION

The proposed Downtown Parking Project—Phase 2 is proposed to be funded with “Section 5307” Federal Transit funds programmed by the City and therefore must be authorized by the Federal Transit Authority. This project also requires a discretionary local action by the City of Porterville City Council. As such, the project is subject to both the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA). Therefore, the following evaluation has been prepared to satisfy the environmental review requirements of both CEQA and NEPA, and serves as a “combined CEQA/NEPA document” as allowed and encouraged under both acts. It is the finding of this combined evaluation that the proposed project qualifies for a “Negative Declaration” pursuant to CEQA, and a “Categorical Exclusion” pursuant to NEPA and FTA Regulations Section 771.117(d)(4) (Transportation corridor fringe parking facilities).

The purpose of the Downtown Parking Project—Phase 2, is to expand a previously-built public parking lot, hereafter referred to as “Phase 1”, for use by those using the public transit services at the adjacent City Transit Center, and to create a pedestrian mall with intersection/cross-walk improvements along Oak Avenue between Hockett Street and Main Street. The purpose of the pedestrian mall and intersection improvements is to facilitate better/safer pedestrian access to the downtown area by those individuals who have come to Porterville via public transit.

The City Transit Center is an inter-modal center providing City bus service (Porterville Transit), connections to County bus service (Tulare County Transit) and connections to Regional bus service provided by Orange Belt Stages. The existing Phase 1 parking lot, adjacent to the City Transit Center across Hockett Street, was funded and built in 2003-04 by the City Redevelopment Agency, with State grant money. As such, a Negative Declaration has already been prepared and adopted pursuant to CEQA for that parking lot. The proposed Downtown Parking Project—Phase 2 will involve the demolition of an existing building on additional City-owned property (adjacent to the Phase 1 lot) and the reconstruction of said property with more public parking to facilitate convenience of use by public transit users at the adjacent City Transit Center. The Phase 2 project has been designed so that it will be a functional extension of the existing Phase 1 public parking lot and be immediately proximate to the Transit Center. The Phase 2 project also includes the closure to vehicular traffic of Oak Avenue between Division Street and Main Street to facilitate a pedestrian friendly connection for transit users to their downtown origins and destinations.

The attached Environmental Checklist discusses the probable environmental effects of the proposed Phase 2 project. Preparation of this combined CEQA Initial Study/NEPA Environmental Assessment was based on information contained in numerous documents. References to these documents are identified in this report. All comments received on potential environmental issues through the Initial Study/Environmental Assessment process, will receive full consideration.

PROJECT BACKGROUND

PROJECT LOCATION

The project site is located in the downtown central business district of the City of Porterville. The project vicinity is shown in Figure 1-Vicinity Map. The City of Porterville is located in Tulare County, California, which is located in the San Joaquin Valley, approximately 165 miles north of Los Angeles, 254 miles south of San Francisco, and 171 miles east of the Pacific Coast; Porterville is 65 miles north of Bakersfield and 30 miles southeast of Visalia. The City was incorporated on May 7, 1902.
Figure 1 – Vicinity Map
The City operates under a council-manager form of government and provides a wide range of municipal services, including police and fire protection. The City currently has a land area of 14.8 square miles and a population of 43,150.

The project site includes a roughly 7,200 sq. ft. City-owned parcel, shown as Assessor Parcel No. 252-200-20 on attached Figure 2-Assessor’s Maps, is located at the southwest corner of Oak Avenue and Division Street and contains an existing vacant building, previously used for a bus depot, ceramics store and bookstore (all businesses have vacated the premises). The building lies east of the City Transit Center across Hockett Street and is immediately adjacent east and north of the Phase 1 parking area.

The area immediately surrounding the project site is currently comprised of public and commercial uses (see Figure 3 – Zoning & Land Use Map). The public uses consist of the City’s Transit Center and public parking lots. The commercial uses consist of a mixture of general commercial, retail, and medical office.

**PROJECT DESCRIPTION**

The Proposed Downtown Parking Project—Phase 2 consists of two primary elements. These are depicted in Figure 4-Site Plan:

1. Expansion of the Phase 1 parking lot through the addition of eleven (11) parking spaces for users of the adjacent City Transit Center.
2. Closure of Oak Avenue between Division and Main Streets for conversion to a pedestrian mall, along with intersection improvements at Oak Avenue and Hockett Street, and Oak Avenue and Division Street to provide safer pedestrian connections to Main Street (downtown uses) for transit users.

Element No. 1 involves the redevelopment of a City-owned retail lot adjacent to Oak Avenue and Division Street (known as Assessor Parcel Number APN 252-200-20) to facilitate designated parking for transit users. This parcel contains an approximately 7,200 ± sq. ft building. This building will be vacated, demolished, all services will be capped off, and the site redeveloped with 20 additional parking spaces that will be designed and constructed to functionally integrate with the existing Phase 1 parking lot. Eleven (11) of the stalls within Phase 2 (under the building footprint) will be exchanged with 11 of the most westerly Phase 1 stalls, in order to designate parking stalls closest to the Transit Center to best serve transit users (see Figure 4-Site Plan). Signs and markings will be used to denote these spaces for transit use only. The redevelopment will involve removal of building debris, site preparation for paving and installation of parking (such that traffic circulation integrates with the adjacent Phase 1 lot), signs, landscape planters (including irrigation), sidewalk and curbs, and vintage lighting. Examples of selected elements are shown in Figure 5-Photo Log.

Element No. 2 involves the closure of the portion of Oak Avenue between Division Street and Main Street for conversion to a pedestrian mall, and construction of vehicular and pedestrian improvements along the portion of Oak Avenue between Hockett and Division Streets.

The segment of Oak Avenue between Division and Main Streets is a sub-standard width at 33 ft. (according to Assessor Map), but functions as a two-way local street without on-street parking. The project proposes to close this portion of Oak Avenue to vehicular traffic and convert it to a pedestrian mall. Alternative 2-way access between Division and Main Streets is available via Mill Avenue, located 340+/- feet north of Oak Avenue (see Figure 1 – Vicinity Map). The pedestrian mall will be at street grade and will include provisions for drainage, landscaping (with irrigation) for shade, signage, vintage
Figure 2 – Assessor’s Maps
Figure 3 – Zoning & Land Use Map
lighting, benches, trash receptacles and physical controls (bollards) to prohibit vehicle access at Main Street and Division Street. The design of the pedestrian mall will mimic the standards set forth in the Downtown Porterville Architectural Design Guide for the Redevelopment Project Area No. 1. This document was adopted by the Porterville Redevelopment Agency in May of 1994, and was the guiding plan for the Main Street streetscape improvement project.

The segment of Oak Avenue between Hockett and Division Streets is a 60 ± ft. wide, two-way street with on-street parallel parking on both sides of the street. The proposed improvements along this section will include replacement of parallel parking with diagonal parking along the north side of Oak Avenue, curb, gutter and sidewalk improvements along the north side (improvements along the south side of the street were completed as part of Phase 1), and intersection improvements at all street crossings to improve pedestrian use and safety. Decorative street pavers or stamped concrete will be utilized to designate pedestrian crossings and the strategic placement of landscape planters will be used as necessary to help direct pedestrian flow to designated crosswalks. All street crossings will be designed to integrate with the existing paved crossing located on the western leg of the Oak Avenue/Hockett Street intersection (see corresponding photo in Figure 5-Photo Log). Landscape planters (including irrigation), vintage lighting and street furniture will also be installed along this segment.

Hockett Street is a two-lane, one-way local street between Olive Avenue on the south and Oak Avenue on the north, with widths varying between 52 and 80 ft. according to the APN map. Traffic flows to the north along this section of Hockett, and street parking is not permitted. The north-bound left lane of Hockett ends just south of the Transit Center where it becomes a left turn only lane, directing traffic to an alley running just south of the City Transit Center. North of Oak Avenue, Hockett becomes a two-way street. Division Street (within the project vicinity) is a two-way alley that functions primarily as an access road to adjacent properties. Due to its narrow width of 32 ± ft. on-street parking is not permitted on Division Street. No modification is intended for this street.

**PROJECT NEED & OBJECTIVES**

The need for and objectives of the Downtown Parking Project—Phase 2 are as follows:

- Improve transit rider parking availability proximate to the Transit Center.
- Eliminate dangerous vehicular-pedestrian safety/interface issues proximate to the Transit Center.
- Facilitate safer, convenient walking access to downtown for transit users.
- Reduce dependency on automobile transportation.

**CONSISTENCY WITH PLANS AND POLICIES**

The existing Phase 1 parking lot was found by the City Redevelopment Agency to be consistent with the City of Porterville’s General Plan and Zoning Code. The proposed project site is designated in the City’s General Plan for General Commercial (GC) and is currently zoned C-2, Central Commercial, as are the surrounding areas. The proposed project will expand availability of public parking proximate to the City Transit Center area and is infill development. As such, the project will implement the City’s General Plan policy to promote infill development. The developer/applicant shall design and improve the parking lot in conformance with Section 2206 and 2211 (Exhibit A) of the Zoning Ordinance. In addition, the facility shall be constructed, maintained and operated in compliance with all applicable federal, state, and local laws, ordinances and regulations.
Figure 5 – Photo Log

Light Standards & Lamps (Main Street)

Bollards & Landscape Planter (Main Street)

Bollards, Trash Receptacles & Sidewalk Pavers (Main Street)

Intersection Pavers (Oak & Hockett-existing)
ALTERNATIVES

The three alternatives considered to the proposed action include the following: 1) the No Action Alternative, 2) Alternative Locations, and 3) the Proposed Action.

1.) NO ACTION ALTERNATIVE

Inclusion of the No Action Alternative is prescribed by the Council on Environmental Quality (CEQ) regulations as the benchmark against which Federal actions are evaluated. Under the No Action Alternative, the City would maintain the current building on the project site and either utilize it for city functions or make it available for continuing retail use through lease or rent. There would be no changes or improvements made to the area, leaving pedestrian safety issues unmitigated. The opportunity to provide additional parking proximate to the Transit Center to better encourage transit use would also not be achieved. Existing parking lots already adjacent to the City Transit Center are commonly at capacity or are restricted to private use; therefore the No Action Alternative would result in a loss of potential transit patrons for the Transit Center.

There would be no environmental impacts associated with this alternative.

2.) ALTERNATIVE LOCATIONS

The prospect of alternative locations for parking at and around the Downtown Transit Center was considered. However, there were no surrounding lots suitable and available for this use. Given the need for ancillary transit parking with convenient access to the Transit Center, only sites adjacent to the Transit Center were considered acceptable for the purpose of meeting project objectives.

A prior Initial Study/Environmental Assessment was completed on the lot directly to the south of the Transit Center (see Figure 2-Assessor’s Maps – parcels 31, 39, and 53) to be used for transit related public parking. This location would require the acquisition of parcels 31 and 39 (see Figure 2-Assessor’s Maps) by the City, from private ownership (Smith Enterprises, Inc.). The study revealed no potential adverse environmental impacts associated with the project. However, the City was unable to negotiate acceptable acquisition terms for the Smith property, and the location was thus eliminated from further consideration.

The parcels located directly north of Oak Avenue both contain structures which are currently utilized for commercial uses. These parcels are not owned by the City, and were therefore not considered for this project. Parcels to the east contain retail/commercial businesses which front on Main Street and are not adjacent to the Transit Center and therefore are not suitable alternative sites for the project. Parcels to the west are already being utilized for the City Transit Center, other public and private parking, and enterprises along the Union Pacific Railroad, and similarly are not suitable or available sites for the project.

No other locations exist proximate to the Transit Center which would provide direct pedestrian access between the Transit Center and the downtown area; therefore no other locations were considered for development of the pedestrian mall.

The potential environmental impacts associated with the above mentioned locations would be expected to be similar to those associated with the preferred alternative, given their similar character and location.
3.) PROPOSED ACTION-PREFERRED ALTERNATIVE

The subject site was chosen for two primary reasons: 1) its proximity to the Transit Center and the Downtown Area; and 2) it is currently owned by the City. The proposed site is the most feasible and efficient alternative. The Proposed Action would improve downtown parking with the least disruption to existing businesses, and utilization of this site would be more cost effective than acquiring and developing a non-City owned lot.

The potential environmental impacts associated with this alternative are evaluated in the attached Environmental Checklist.

ENVIRONMENTAL CONDITIONS

ENVIRONMENTAL SETTING

Porterville is located in the southeast portion of the San Joaquin Valley, at the base of the Sierra Nevada foothills in southern Tulare County. Tulare County is characterized by moderate, wet winters and hot, dry summers. The annual mean temperature is 78.1 degrees Fahrenheit, and winds prevail from the Northwest.

The proposed project site elevation is approximately 455 feet above sea level and lacks any distinct topographical features; the topography of the project site, and surrounding area, is flat. The site currently consists of a vacant retail commercial building and developed public roadways. The project site is therefore void of vegetation. No bodies of water are present on or adjacent to the project site. The surrounding area is fully urbanized.

POTENTIAL/PROBABLE ENVIRONMENTAL IMPACTS

The proposed project involves the demolition of a vacant building. Such demolition, as noted in the attached Environmental Checklist, is subject to State-regulated and permitted abatement requirements, administered through the San Joaquin Valley Air Pollution Control District (SJVAPCD). Prior to demolition, and in accordance with state-mandated inspection procedures, it must be determined whether the building contains asbestos. In the event asbestos is found to exist within the building, the City will be subject to the APCD permit and abatement process and requirements as described in the attached checklist.

The proposed project, if allowed, will result in beneficial effects to aesthetics, air quality, land use and planning and transportation/traffic.

MITIGATION MEASURES AND LEVEL OF SIGNIFICANCE

According to the attached Environmental Checklist, the proposed project will not have any significant adverse effects, or will have less than significant adverse effects, on the environment. Due to the lack of significant environmental impacts to the project site from the proposed action, no mitigation measures are required.
ENVIRONMENTAL CHECKLIST

The attached Environmental Checklist includes responses to areas of potential/probable environmental concern. A discussion is provided for each area of potential concern, or reasons for dismissing an area of concern as clearly insignificant.

DOCUMENTS, PERSONS & AGENCIES CONSULTED


City of Porterville, Planning Department. Personal communication with Randall S. Rouda, Associate Planner. February 2005.

City of Porterville, Engineering Department. Oak Avenue traffic counts (between Main Street and Hockett Street). May 2005.

Consolidated Testing Laboratories, Inc. Phase 1 Environmental Site Assessment of Proposed Transit Terminal Site at the Southeast Corner of North D Street and West Oak Avenue Porterville, CA. January 15, 2001.


ENVIRONMENTAL DETERMINATION

This Initial Study/Environmental Assessment and the attached Environmental Checklist contain detailed evaluations of the potential/probable areas of impacts associated with this project. The evaluations conclude that no potential adverse environmental impacts will result regarding those categories of impacts specified under NEPA (reference “Categorical Exclusion (NEPA)” below), nor to the categories of impacts specified under CEQA (aesthetics, agriculture resources, air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, noise, population and housing, public services, recreation, transportation/traffic, or utilities and service systems).

Therefore, the preparation and adoption of a combined Negative Declaration/Categorical Exclusion is recommended pursuant to this Initial Study/Environmental Assessment in compliance with State CEQA and Federal NEPA regulations.
Negative Declaration—ND (CEQA)

The California Public Resources Code Division 13: Environmental Quality, Section 21064 identifies a Negative Declaration as “a written statement briefly describing the reason that a proposed project will not have a significant effect on the environment and does not require the preparation of an environmental impact report.”

The California Public Resources Code Division 13: Environmental Quality, Section 21080(c) states, “If a lead agency determines that a proposed project, not otherwise exempt from this division, would not have a significant effect on the environment, the lead agency shall adopt a negative declaration to that effect.”

Categorical Exclusion—CE (NEPA)

The Code of Federal Regulations Title 40: Protection of Environment, Section 1508.4 identifies a Categorical Exclusion (CE) as “a category of actions which do not individually or cumulatively have a significant effect on the human environmental and which have been found to have no such effect in procedures adopted by [FTA] and for which, therefore, neither an environmental assessment nor an environmental impact assessment is required.”

An agency may wish to go beyond the minimum requirements of NEPA and prepare an EA for actions that qualify as categorically excluded (40 CFR 1501.3(b), 1508.4), when the agency wishes to provide additional details about the action’s environmental effects.

The proposed project is consistent with Code of Federal Regulations Title 23: Section 771.117(d)(4) Categorical Exclusion for “transportation corridor fringe parking facilities.” Section 771.117(a) states that “Categorical Exclusions (CEs) are actions which meet the definition contained in 40 CFR 1508.4, and, based on past experience with similar actions do not involve significant environmental impacts. They are actions which: do not induce significant impacts to planned growth or land use for the area; do not require the relocation of significant numbers of people; do not have a significant impact on any natural, cultural, recreational, historic or other resource; do not involve significant air, noise, or water quality impacts; do not have significant impacts on travel, patterns; or do not otherwise, either individually or cumulatively, have any significant environmental impacts.”

Section 771.117(d) states that additional actions which meet the criteria for a CE in 1508.4 and 771.117(a) may be designated as CEs only after Administration approval.

PROPOSED ACTIONS

The City of Porterville seeks to take the following actions with respect to this environmental document:

1. Adoption of a Negative Declaration for the Downtown Parking Project—Phase 2

The City determines that this combined Initial Study/Environmental Assessment prepared and circulated for public review and comment is in compliance with the California Environmental Quality Act (CEQA) and the State and local Guidelines implementing the Act, and certifies that the document is adequate pursuant to CEQA and that the document and public comments received thereon have been considered before making the final decision on the project. Based upon the record, the City finds that there are no significant impacts associated with this project, and hereby directs that a Negative Declaration be prepared.
II. Adoption of a Categorical Exclusion for the Downtown Parking Project—Phase 2

The City determines that this combined Initial Study/Environmental Assessment prepared and circulated for review and comment by FHWA and the public is in compliance with the National Environmental Policy Act (NEPA) and the Federal and FHWA Guidelines implementing the Act, and certifies that the document is adequate pursuant to NEPA and that the document and public comments received thereon have been considered before making the final decision on the project. Based upon the record, the City finds that there are no significant impacts associated with this project, and hereby directs that a Categorical Exclusion be prepared.
ENVIRONMENTAL DOCUMENTATION

On the basis of this initial evaluation:

X I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION (CEQA)/CATEGORICAL EXCLUSION (NEPA) will be prepared.

__ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described on the attached sheet have been added to the project. A MITIGATED NEGATIVE DECLARATION (CEQA)/MITIGATED FINDING OF NO SIGNIFICANT IMPACT (NEPA) will be prepared.

__ I find the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT (CEQA)/ENVIRONMENTAL IMPACT STATEMENT (NEPA) is required.

__________________________________________   ___________________
City of Porterville Representative     Date
Signature

__________________________________________
City of Porterville Representative
Printed Name

__________________________________________
Title
ENVIRONMENTAL CHECKLIST FORM

Project Title: Downtown Parking Project—Phase 2  
Lead Agency: City of Porterville, 291 North Main Street, Porterville, CA, 93257, (559)782-7448  
Project Number: TUL03-012 Porterville  
Project Location: APN 252-200-20 consisting of 7,200 +/- sq. ft. lying south of Oak Avenue between Hockett Street and Division Street, as well as the stretch of Oak Avenue bound by Hockett Street on the west and Main Street on the east, in the City of Porterville.  
General Plan Designation: GC, General Commercial  
Zoning: C-2, Central Commercial  
Project Description: Redevelopment of a retail lot to include demolition of an existing building, redevelopment as an expansion of an existing public parking lot, closure of a substandard portion of a public street with conversion to a pedestrian mall, and enhancement of the remaining portion for improved on-street parking and intersection pedestrian crosswalks.

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<tr>
<th>Issues (and Supporting Information Sources):</th>
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<th>Less Than Significant Impact</th>
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<tr>
<td><strong>I. AESTHETICS</strong> Would the project:</td>
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<tr>
<td>a) Have a substantial adverse effect on a scenic vista?</td>
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<tr>
<td>Discussion: No scenic vistas are present within, or surrounding, the project area; therefore no impact will occur.</td>
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<td>b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?</td>
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<tr>
<td>Discussion: The project is not within a state scenic highway; therefore no impact will occur.</td>
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<tr>
<td>c) Substantially degrade the existing visual character or quality of the site and its surroundings?</td>
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<tr>
<td>Discussion: The project site and its surroundings lie within the downtown central business district. The project area is surrounded by commercial and retail development. The conversion of the site from its current state will enhance the visual and economic revitalization of the area; therefore the project will not degrade the existing visual character or quality of the site and its surroundings. No impact will occur.</td>
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<td>d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?</td>
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<tr>
<td>Discussion: The project will add some light and glare to the area through installation of new light posts. All lighting will be hooded or directed in accordance with City standards. The new light source will not be substantial, and will not adversely affect day or nighttime views in the area; therefore the impact will be less than significant.</td>
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#### II. AGRICULTURAL RESOURCES
Would the project:

- **a)** Convert Prime Farmland, Unique Farmland, or Farmland of Statewide importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

  **Discussion:** The project site is located within the central business district, which does not contain any prime or unique farmland, or farmland of statewide importance. Development of the project site will not involve the acquisition of farmland, nor will it indirectly lead to the conversion of farmland for non-agricultural use; therefore no impact will occur.

- **b)** Conflict with existing zoning for agricultural use, or a Williamson Act contract?

  **Discussion:** The project site is designated in the City’s General Plan for General Commercial. The site is currently zoned C-2, Central Commercial; therefore the project will not conflict with existing zoning for agricultural use, or a Williamson Act contract. No impact will occur.

- **c)** Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?

  **Discussion:** The project site is located within the central business district, which does not contain any farmland; therefore, the project will not result in conversion of farmland to non-agricultural use. No impact will occur.

#### III. AIR QUALITY
Would the project:

- **a)** Conflict with or obstruct implementation of the applicable air quality plan?

  **Discussion:** The City of Porterville General Plan does not identify any air quality plan in place within Porterville. The project does not conflict with, or obstruct, implementation of the San Joaquin Valley Air Pollution Control District’s (SIVAPCD) air quality plan; therefore the project will not have an impact on an air quality plan.

  The pedestrian mall aspect of this project will encourage easy accessibility from the transit station and nearby parking to the downtown via walking, thereby reducing dependency on vehicle use in the downtown. Similarly the parking lot provides additional parking in close proximity to the Transit Center and downtown, also facilitating more walking instead of driving. The building demolition aspect of the project will be subject
### Issues (and Supporting Information Sources):

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<td>to the San Joaquin Valley Air Pollution Control District’s “Asbestos Requirements for Demolitions and Renovations”. The District has regulations which require compliance with the asbestos demolition and renovation requirements developed by the United States Environmental Protection Agency (EPA) in the National Emission Standards for Hazardous Air Pollutants (NESHAP) regulation, 40 CFR, Part 61, Subpart M. If, following a required inspection of the building by or under the direction of a Cal-OSHA certified consultant, asbestos-containing materials (ACM) are discovered, they must be removed according to APCD, Cal-OSHA and Cal-EPA requirements, including removal by an authorized contractor (registered with the Asbestos Contractors Registration Unit and the Contractor’s State License Board) under a Demolition Permit Release form signed by the APCD and subject to any applicable fees, pursuant to APCD Rule 3050. Said building demolition and asbestos removal, if required, must be completed pursuant to all applicable inspection, notification, abatement and recycling or waste disposal rules of the governing agencies.</td>
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<tr>
<td>b) Violate any air quality standard or contribute to an existing or projected air quality violation?</td>
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<tr>
<td>Discussion: According to the California Air Resources Board, the project lies within a non-attainment area for failing to meet National Ambient Air Quality Standards (NAAQS) for ozone and particulates. However, given the scope and scale of the project it is not anticipated that the project will cause or contribute to any new localized carbon monoxide (CO) or particulate matter (PM) violations, or increase the frequency or severity of any existing CO or PM; therefore no impact will occur. Because the project will provide additional parking more proximate to the Transit Center and the downtown, the project has the potential to result in an incremental reduction of pollutant generation as parking may be easier to find, and drivers can more easily and safely walk to the downtown.</td>
</tr>
<tr>
<td>c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?</td>
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<tr>
<td>Discussion: The project qualifies as a Small Project Analysis Level (SPAL) project under the San Joaquin Valley Unified Air Pollution Control District’s (SJVAPCD) Guide for Assessing and Mitigating Air Quality Impacts, Table 5-2. According to the SJVAPCD, SPAL projects have no possibility of exceeding quantitative emissions thresholds.</td>
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*TPG Consulting, Inc.*
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<td>d) Expose sensitive receptors to pollutants?</td>
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<td>Discussion: There are no sensitive receptors such as residential subdivisions, schools, or hospitals in, or surrounding, the project area; therefore no impact will occur.</td>
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<td>c) Create objectionable odors?</td>
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<tr>
<td>Discussion: The project will not create objectionable odors and is not located near existing sensitive receptors; therefore no impact will occur.</td>
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**IV. BIOLOGICAL RESOURCES** Would the project:

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<tr>
<td>a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?</td>
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<td>Discussion: Given the site location in the central business district, past history, and a site inspection, it is indicated that the project does not contain any animal habitat; therefore no impact will occur.</td>
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<td>b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or US Fish and Wildlife Service?</td>
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<tr>
<td>Discussion: Given the site location in the central business district, past history, and a site inspection, it is indicated that there are no water resources within or immediately adjacent to the project area; therefore the project will not have a substantial adverse effect on any riparian habitat or other sensitive natural communities.</td>
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<td>c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?</td>
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<tr>
<td>Discussion: Given the site location in the central business district, past history, and a site inspection, it is indicated that there is no potential for wetlands within the project area. The project will not involve any work in, or adjacent to, a wetlands area; therefore the project will not have a substantial adverse effect on any federally protected wetlands.</td>
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<tr>
<td>d)</td>
<td>Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?</td>
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**Discussion:** Given the scope of the project and a site inspection, it has been determined that the project will not interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites; therefore no impact will occur.

| e) | Conflict with any local policies or ordinances protecting biological resources, such as a tree preserve policy or ordinance? | ☐ | ☐ | ☐ | ☒ |

**Discussion:** The project would not conflict with any local policies or ordinances protecting biological resource; therefore no impact will occur.

| f) | Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? | ☐ | ☐ | ☐ | ☒ |

**Discussion:** The project would not conflict with any Habitat Conservation Plan, Natural Community Conservation Plan or other approved local, regional, or state habitat conservation plan in the project area.

### V. CULTURAL RESOURCES

Would the project:

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<tbody>
<tr>
<td>a)</td>
<td>Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?</td>
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</table>

**Discussion:** According to the City of Porterville General Plan, there are no properties within the immediate project area listed on the National Register of Historic Places; therefore no impact will occur.

| b) | Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5? | ☐ | ☐ | ☐ | ☒ |

**Discussion:** No known archaeological resources are present within the project area; therefore no impact will occur.

| c) | Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? | ☐ | ☐ | ☐ | ☒ |

**Discussion:** No known paleontological resources or unique geologic features are present within the project area; therefore no impact will occur.
### Issues (and Supporting Information Sources):

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Potentially Significant Unless Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>d) Disturb any human remains, including those interred outside of formal cemeteries?</td>
<td>☐</td>
<td>☒</td>
<td>☒</td>
<td>☒</td>
</tr>
</tbody>
</table>

**Discussion:** No known human remains are present within the project area; therefore no impact will occur.

### VI. GEOLOGY AND SOILS

Would the project:

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<thead>
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<th></th>
<th>Potentially Significant Impact</th>
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<th>Less Than Significant Impact</th>
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</thead>
<tbody>
<tr>
<td>a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:</td>
<td>☐</td>
<td>☐</td>
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</tbody>
</table>

| i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology special Publication 42. | ☐ | ☒ | ☒ | ☒ |

**Discussion:** The City of Porterville General Plan states that, “Alquist-Priolo Special Studies Zones are not found within the City of Porterville Urban Area Boundary due to the absence of potentially active faults”; therefore no impact will occur.

| ii) Strong seismic ground shaking? | ☐ | ☒ | ☒ | ☒ |

**Discussion:** Porterville is located in a seismic zone which is sufficiently far from known faults, and consists primarily of a stable geologic formation. According to the California Geologic Survey, seismic hazard zones are not found within the City of Porterville’s Urban Area Boundary; therefore no impact will occur.

| iii) Seismic ground failure, including liquefaction? | ☐ | ☒ | ☒ | ☒ |

**Discussion:** Porterville is located in a seismic zone which is sufficiently far from known faults, and consists primarily of a stable geologic formation such that the potential for seismic ground failure is considered to be very low; therefore no impact will occur.

| iv) Landslides or mudflows? | ☐ | ☒ | ☒ | ☒ |

**Discussion:** According to the City of Porterville General Plan, no portions of the Porterville planning area are susceptible to landslides; therefore no impact will occur.
### Issues (and Supporting Information Sources):

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</thead>
<tbody>
<tr>
<td>b)</td>
<td>Result in substantial soil erosion or the loss of topsoil?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>Discussion:</td>
<td>The project site is currently a paved and built environment. The proposed project would involve resurfacing of the existing paved/built surface; therefore no impact is anticipated.</td>
<td></td>
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</tr>
<tr>
<td>c)</td>
<td>Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project and potentially result in on-or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>Discussion:</td>
<td>According to the Natural Resource Conservation Service (NRCS) the soil underlying the project area is a loamy, well-drained soil, suitable for building site development; therefore no impact will occur.</td>
<td></td>
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<tr>
<td>d)</td>
<td>Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
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</tr>
<tr>
<td>Discussion:</td>
<td>According to the Natural Resource Conservation Service (NRCS) the soil underlying the project area has a low shrink/swell behavior and a high water capacity. The underlying soil is not expansive soil; therefore no impact will occur.</td>
<td></td>
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<tr>
<td>e)</td>
<td>Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
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</tr>
<tr>
<td>Discussion:</td>
<td>The project will not involve the use or modification of septic tanks or wastewater disposal systems; therefore no impact will occur.</td>
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</table>

### VII. HAZARDS AND HAZARDOUS MATERIALS

Would the project:

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<th>Potentially Significant Impact</th>
<th>Potentially Significant Unless Mitigation Incorporated</th>
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</thead>
<tbody>
<tr>
<td>a)</td>
<td>Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>Discussion:</td>
<td>The project will not involve the routine transport or use of hazardous materials. The demolition of the on-site building may require the abatement of asbestos; however, such abatement is regulated by the APCD, Cal-OSHA and Cal-EPA and permits for the inspection, removal, and disposal are required to reduce potential impacts to less than significant; therefore no impact will occur. Please refer to additional discussion above in III.a.</td>
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<tr>
<td>Issues (and Supporting Information Sources):</td>
<td>Potentially Significant Impact</td>
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<tr>
<td>b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td></td>
</tr>
<tr>
<td>Discussion: The project will not involve the use of hazardous materials. The release of hazardous materials into the environment is avoided to the greatest extent reasonably and feasibly possible through the asbestos abatement rules and requirements as discussed above in III.a. Therefore no impact will occur.</td>
<td></td>
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<tr>
<td>c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td></td>
</tr>
<tr>
<td>Discussion: The project will not emit hazardous emissions or handle hazardous materials within one-quarter mile of an existing or proposed school; therefore no impact will occur.</td>
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<tr>
<td>d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65692.5 and, as a result, would it create a significant hazard to the public or the environment?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td></td>
</tr>
<tr>
<td>Discussion: Consultation with the Tulare County Environmental Health Department confirmed that the project area is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65692.5. Prior use of the parcel directly to the west (current site of the City’s Transit Center) included a car wash and gas station. The station was removed sometime before 1988. According to the Tulare County Environmental Health Department, the gas tanks were removed in 1988 and soil samples were tested. The lab analysis of the soil indicated no significant soil contamination.</td>
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<tr>
<td>e) For a project located within an airport land use plan or, where such a plan had not been adopted, within two miles of a public use airport, would the project result in a safety hazard for people residing or working on the project area?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td></td>
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<tr>
<td>Discussion: The project is not within the City of Porterville 1990 Airport Master Plan; therefore no impact will occur.</td>
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<tr>
<td>f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td></td>
</tr>
<tr>
<td>Discussion: The project is not within the vicinity of a private airstrip; therefore no impact will occur.</td>
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</table>
### Issues (and Supporting Information Sources):

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<tr>
<th>Issues</th>
<th>Description</th>
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<tr>
<td>g)</td>
<td>Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td></td>
<td><strong>Discussion:</strong> The project does not interfere with an adopted emergency response plan or emergency evacuation plan; therefore no impact will occur.</td>
<td></td>
<td></td>
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<tr>
<td>h)</td>
<td>Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td></td>
<td><strong>Discussion:</strong> The project is not in the vicinity of any wildlands; therefore no impact will occur.</td>
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</table>

### VIII. HYDROLOGY AND WATER QUALITY

Would the project:

<table>
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<tr>
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<th>Description</th>
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<th>No Impact</th>
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</thead>
<tbody>
<tr>
<td>a)</td>
<td>Violate any water quality standards or waste discharge requirements?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td></td>
<td><strong>Discussion:</strong> The proposed project would not add pollutants to the water supply which would exceed water quality standards or waste discharge requirements. All drainage will be integrated into the City’s existing drainage system. The project will comply with City policies and standards related to water quality and drainage. No impact will occur.</td>
<td></td>
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<tr>
<td>b)</td>
<td>Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td></td>
<td><strong>Discussion:</strong> The project will not interfere with groundwater supplies or interfere with groundwater recharge; therefore no impact will occur.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>c)</td>
<td>Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td></td>
<td><strong>Discussion:</strong> The project would not substantially alter the existing drainage pattern of the site or area, or alter the course of a stream or river, in a manner that would result in substantial erosion or siltation on- or off site; therefore no impact will occur.</td>
<td></td>
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</table>
### Issues (and Supporting Information Sources):

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</thead>
<tbody>
<tr>
<td>d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
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</tbody>
</table>

**Discussion:** The project would not substantially alter the existing drainage pattern of the site or area, or alter the course of a stream or river, in a manner that would result in flooding on- or off site; therefore no impact will occur.

| e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff? | ☐ | ☐ | ☐ | ☒ |

**Discussion:** The project will not create or contribute to runoff water in excess of existing storm water drainage systems nor will it provide additional sources of polluted runoff. All drainage will be integrated into the City’s existing drainage system; therefore no impact will occur.

| f) Otherwise substantially degrade the water supply? | ☐ | ☐ | ☐ | ☒ |

**Discussion:** The project will not interfere with or degrade the water supply. All water supplies to the existing building will be properly capped upon demolition; therefore no impact will occur.

| g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? | ☐ | ☐ | ☐ | ☒ |

**Discussion:** According to the Federal Emergency Management Agency (FEMA), the project site is located in Zone C, Community Panel No. 060407, Map No. 0010 D, dated October 15, 1985. Zone C is described as, “Areas of minimal flooding”. The project will not place housing within a 100-year flood hazard area; therefore no impact will occur.

| h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? | ☐ | ☐ | ☐ | ☒ |

**Discussion:** According to the Federal Emergency Management Agency (FEMA), the project site is located in Zone C, Community Panel No. 060407, Map No. 0010 D, dated October 15, 1985. Zone C is described as, “Areas of minimal flooding”. The project will not place structures within a 100-year flood hazard area; therefore no impact will occur.
Issues (and Supporting Information Sources):

<table>
<thead>
<tr>
<th>i)</th>
<th>Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Discussion:</td>
<td>According to the Federal Emergency Management Agency (FEMA), the project site is located in Zone C, Community Panel No. 060407, Map No. 0010 D, dated October 15, 1985. Zone C is described as, “Areas of minimal flooding”. Furthermore, the project site is located in the downtown central business district; no levees or dams are in the immediate vicinity of the project site. The project will not increase the risk of loss as a result of flooding in the area; therefore no impact will occur.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>j)</th>
<th>Inundation by seiche, tsunami, or mudflow?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Discussion:</td>
<td>The City of Porterville is not in an area that is affected by, or subject to, seiches, tsunamis or mudflows; therefore no impact will occur.</td>
</tr>
</tbody>
</table>

IX. LAND USE AND PLANNING Would the project:

<table>
<thead>
<tr>
<th>a)</th>
<th>Divide an established community?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Discussion:</td>
<td>The project would not result in the division of an established community. The project will not involve a taking for right of way; no new right of way or temporary/permanent easements will be required. Proposed development will occur only on the project site. No impact will occur.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>b)</th>
<th>Conflict with any applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Discussion:</td>
<td>The project site is designated in the City’s General Plan for General Commercial. The site is currently zoned C-2, Central Commercial. The proposed use is consistent with the City of Porterville’s General Plan and Zoning Code. The developer/applicant shall design and improve the parking lot in conformance with Sections 2206 and 2211 (Exhibit A) of the Zoning Ordinance; the facility shall be constructed, maintained and operated in compliance with all applicable federal, state and local laws, ordinances and regulations. The project will not conflict with any applicable land use plan, policy or regulations of an agency with jurisdiction over the project. The project will not induce significant impacts to planned growth or land use for the area; therefore no impact will occur.</td>
</tr>
</tbody>
</table>
Issues (and Supporting Information Sources):

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<tr>
<th></th>
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<th>Less Than Significant Impact</th>
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<tbody>
<tr>
<td>c) Conflict with any applicable habitat conservation plan or natural community conservation plan?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

**Discussion:** The project would not conflict with any habitat conservation plan or natural community conservation plan; therefore no impact will occur.

**X. MINERAL RESOURCES** Would the project:

a) 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:** According to the City of Porterville General Plan there are no known mineral resources that would be of future value to the region and the residents of the State located in the project area; therefore no impact will occur.

b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

**Discussion:** The City of Porterville General Plan does not delineate any mineral resource recovery sites; therefore no impact will occur.

**XI. NOISE** Would the project:

a) Result in exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

**Discussion:** The primary sources of noise will be construction noise and operational noise. Construction noise is largely a function of the construction equipment used, the location and sensitivity of nearby land uses, and the timing and duration of the noise-generating activities. Construction noise levels would vary depending on construction phase, equipment type and duration of use, distance between noise source and receptor, and presence or absence of barriers between noise source and receptor. All noise generating construction activities will be conducted in accordance with City noise policies. Moreover, operational noise impacts from the existing land uses will not increase as a result of the proposed project.

b) Result in exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?

**Discussion:** The project will not expose persons to, nor generate, excessive groundborne vibration; no impact will occur.
**Issues (and Supporting Information Sources):**

<table>
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<tr>
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</thead>
<tbody>
<tr>
<td>c) Result in a substantial or permanent increase in ambient noise levels in the project vicinity above levels existing without the project?</td>
<td>☑</td>
<td>☑</td>
<td>☑</td>
<td>X</td>
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</table>

*Discussion:* The conversion of the project site from its current use is not expected to change existing ambient noise levels within the project vicinity; therefore no impact will occur.

| d) Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? | ☑ | ☑ | ☑ | X |

*Discussion:* The construction phase of the project will produce a temporary increase in ambient noise levels in the project vicinity. However, this increase will be short-term in duration, will be carried out in accordance with City regulations, will only occur during business hours, and will only affect the downtown central business district; therefore the impact will be less than significant.

| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? | ☑ | ☑ | ☑ | X |

*Discussion:* The project is not within an airport land use plan, or within two miles of a public or public use airport; therefore no impact will occur.

| f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? | ☑ | ☑ | ☑ | X |

*Discussion:* The project is not within the vicinity of a private airstrip; therefore no impact will occur.

**XII. POPULATION AND HOUSING** Would the project:

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</thead>
<tbody>
<tr>
<td>a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?</td>
<td>☑</td>
<td>☑</td>
<td>☑</td>
<td>X</td>
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</table>

*Discussion:* The project will implement the City’s General Plan for growth in this area of Porterville; therefore no impact will occur.

| b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? | ☑ | ☑ | ☑ | X |

*Discussion:* The project will not displace existing housing or necessitate the construction of new housing; therefore no impact will occur.
### Issues (and Supporting Information Sources):

<table>
<thead>
<tr>
<th>Impact Level</th>
<th>Mitigation Required</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
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<tbody>
<tr>
<td>c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?</td>
<td>☑</td>
<td>☑</td>
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</tbody>
</table>

**Discussion:** The project will not displace people; therefore no impact will occur. The project will not require the relocation of significant numbers of people.

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### XIII. PUBLIC SERVICES

Would the project:

#### a) Result in substantial adverse physical impacts associated with the provision of or need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

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<tr>
<th>Impact Level</th>
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<th>No Impact</th>
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<tbody>
<tr>
<td>i) Fire protection?</td>
<td>☑</td>
<td>☑</td>
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</table>

**Discussion:** Fire protection will be provided to the site through existing City of Porterville fire services. The project does not require additional fire protection resources; therefore no impact will occur.

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<th>Impact Level</th>
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<th>Less Than Significant Impact</th>
<th>No Impact</th>
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<tbody>
<tr>
<td>ii) Police protection?</td>
<td>☑</td>
<td>☑</td>
<td>☑</td>
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</table>

**Discussion:** Police protection will be provided to the site through existing City of Porterville police services. The project does not require additional police protection; therefore no impact will occur.

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<th>Impact Level</th>
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</thead>
<tbody>
<tr>
<td>iii) Schools?</td>
<td>☑</td>
<td>☑</td>
<td>☑</td>
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</tbody>
</table>

**Discussion:** The project does not require additional schools; therefore no impact will occur.

<table>
<thead>
<tr>
<th>Impact Level</th>
<th>Mitigation Required</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>iv) Parks?</td>
<td>☑</td>
<td>☑</td>
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</tbody>
</table>

**Discussion:** The project does not require additional parks in the City of Porterville; therefore no impact will occur.

<table>
<thead>
<tr>
<th>Impact Level</th>
<th>Mitigation Required</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>v) Other governmental services?</td>
<td>☑</td>
<td>☑</td>
<td>☑</td>
</tr>
</tbody>
</table>

**Discussion:** The project does not require other government services beyond those currently provided to the area; therefore no impact will occur.
<table>
<thead>
<tr>
<th>Issues (and Supporting Information Sources):</th>
<th>Potentially Significant Impact</th>
<th>Potentially Significant Unless Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>XIV. RECREATION</strong> Would the project:</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>Discussion: The project would not increase the use of existing neighborhood parks or recreational facilities; therefore no impact will occur.</td>
<td></td>
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<tr>
<td>b) Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>Discussion: The project does not include recreational facilities or require the construction or expansion of recreational facilities; therefore no impact will occur.</td>
<td></td>
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<tr>
<td><strong>XV. TRANSPORTATION/TRAFFIC</strong> Would the project:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e. result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>Discussion: The proposed project will not, in itself, increase traffic in or around the downtown area. The new parking spaces afforded by the building demolition (Element No. 1) are intended to be reserved for transit riders, who would not be traveling by car in the downtown area. Furthermore, the incorporation of 20 additional parking spaces to the area will serve to alleviate traffic loads on the surrounding street system. Element No. 2 of the project, conversion of the Oak Avenue connector (between Division and Main streets) to a convenient, safe, pedestrian mall, will result in the shifting of vehicular trips currently accessing Main Street via Oak Avenue to other streets such as Mill Avenue. Traffic counts conducted on Oak Avenue (between Main Street and Hockett Street) by the City of Porterville Engineering Dept. in May of 2005 indicated an average daily total of 770 vehicular trips. The shifting of these trips to surrounding streets will not increase traffic loads beyond the capacity of the existing street system. Furthermore, this element of the project will serve to decrease through traffic near the Transit Center (thus alleviating pedestrian dangers) and induce foot travel to the downtown area. The project will not cause an increase in traffic or adversely affect travel patterns; therefore no impact will occur.</td>
<td></td>
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<tr>
<td>Issues (and Supporting Information Sources):</td>
<td>Potentially Significant Impact</td>
<td>Potentially Significant Unless Mitigation Incorporated</td>
<td>Less Than Significant Impact</td>
<td>No Impact</td>
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<td>---------------------------------------------</td>
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</tr>
<tr>
<td>b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
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</tbody>
</table>

**Discussion:** As described above (XVa), the project will not affect the existing level of service. The project will not exceed a level of service standard established by the county congestion management agency; therefore no impact will occur.

| c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that result in substantial safety risks? | ☐ | ☐ | ☐ | ☒ |

**Discussion:** The project has no bearing on air traffic patterns. The project will not result in a change in air traffic patterns that would result in substantial safety risks; therefore no impact will occur.

| d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? | ☐ | ☐ | ☐ | ☒ |

**Discussion:** The project will not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses. Furthermore, the proposed pedestrian mall component of the project will help to alleviate potential vehicle hazards on the narrow section of Oak Avenue between Division and Main streets; therefore no impact will occur.

| e) Result in inadequate emergency access? | ☐ | ☐ | ☐ | ☒ |

**Discussion:** The project will maintain existing emergency access; therefore the project would not result in inadequate emergency access and no potential impacts would occur.

| f) Result in inadequate parking capacity? | ☐ | ☐ | ☐ | ☒ |

**Discussion:** The proposed project will add 20 new parking spaces to a public parking lot, facilitated by the proposed demolition of an existing structure. Additionally, six (6) standard diagonal parking spaces will be marked on the north side of Oak Avenue, between Hockett and Division streets in place of the 3 parallel spaces.

There is currently no parking permitted on Oak Avenue between Division and Main streets, so parking capacity will not be affected by the proposed pedestrian mall.

The project will not result in inadequate parking capacity; therefore no impact will occur.
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?

**Discussion:** The project is included in the Tulare County Association of Governments’ (TCAG) Federal Transportation Improvement Program. The project involves the addition of parking facilities and pedestrian connections to facilitate Transit Center users; therefore no impact will occur.

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<tr>
<th>Issues (and Supporting Information Sources):</th>
<th>Potentially Significant Impact</th>
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</thead>
<tbody>
<tr>
<td>g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?</td>
<td>☐</td>
<td>☐</td>
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</table>

### XVI. UTILITIES AND SERVICE SYSTEMS

Would the project:

<table>
<thead>
<tr>
<th>Would the project:</th>
<th>Potentially Significant Impact</th>
<th>Potentially Significant Unless Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
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</tr>
<tr>
<td><strong>Discussion:</strong> No intensification of land uses is associated with the implementation of this project; therefore no impact will occur.</td>
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<tr>
<td>b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td><strong>Discussion:</strong> The project will not require additional water or sewer connections, and thus will not result in the construction of new water or wastewater treatment facilities or expansion of existing facilities; therefore no impact will occur.</td>
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<tr>
<td>c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?</td>
<td>☐</td>
<td>☐</td>
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<td>☒</td>
</tr>
<tr>
<td><strong>Discussion:</strong> The proposed project will not increase the amount of impervious surface on the site. All drainage will be integrated into the City’s existing drainage system, and will not require or result in the construction of new storm water drainage facilities or expansion of existing facilities; therefore no impact will occur.</td>
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<tr>
<td>d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?</td>
<td>☐</td>
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</tr>
<tr>
<td><strong>Discussion:</strong> The project will require irrigation for landscape planters, but the existing infrastructure is adequate to supply the needed water demands. No new water entitlements or resources will be required in order to serve the project; therefore no impact will occur.</td>
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</table>
Issues (and Supporting Information Sources):

e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments?

Discussion: The project is limited to surface repaving, building demolition and site improvements such as parking stalls, pavers and landscaping, and does not involve wastewater or wastewater treatment facilities; therefore no impact will occur.

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</table>

f) Be served by a landfill with sufficient permitted capacity to accommodate the project’s solid waste disposal needs?

Discussion: Project operations will generate solid waste from public trash receptacles, which would be collected and transported to an appropriate landfill by the City’s solid waste collection company. There is sufficiently permitted landfill capacity to accommodate the project’s solid waste disposal needs. In addition, project construction will comply with all applicable solid waste regulations.

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g) Comply with federal, state and local statutes and regulations related to solid waste?

Discussion: The project complies with federal, state and local statutes related to solid waste; therefore no impact will occur.

<table>
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XVII. MANDATORY FINDINGS OF SIGNIFICANCE

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: Given the site location in the central business district, past history of the site, and a site inspection, it is indicated that the project does not contain any significant plant species, animal habitat or fish populations. Also, according to the City of Porterville General Plan, there are no properties within the immediate project area listed on the National Register of Historic Places. 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.

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### Issues (and Supporting Information Sources):

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<tbody>
<tr>
<td><strong>b)</strong> Does the project have impacts that are individually limited, but cumulatively considerable?</td>
<td>☑</td>
<td>☑</td>
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</tr>
<tr>
<td><strong>Discussion:</strong> The project involves reconstruction of an existing parking lot and pedestrian improvements; therefore no new impacts associated with land use are anticipated. Furthermore, the project will have independent utility; no future construction will be required to fully utilize the design capabilities included in the proposed project. Given the scope of the project no impacts that are individually limited, but cumulatively considerable are anticipated.</td>
<td></td>
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<tr>
<td><strong>c)</strong> Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?</td>
<td>☑</td>
<td>☑</td>
<td>☑</td>
<td>☑</td>
</tr>
<tr>
<td><strong>Discussion:</strong> This project will provide a public service to the central business district for Porterville and outlying area residents. The project is not anticipated to create any public controversy. The proposed project will not have any significant environmental effects that will cause substantial adverse effects on human beings; therefore no impact will occur.</td>
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**Authority:** Public Resources Code Sections 21083 and 21087.

COUNCIL AGENDA: OCTOBER 4, 2005

SUBJECT: CONSIDERATION OF DRAFT ORDINANCE ADDRESSING NEGLECT OF REAL PROPERTY

SOURCE: CITY ATTORNEY

COMMENT: The City, per its current regulations, lacks the ability to enjoin property owners from neglect of real property. Under the present regulations, requiring maintenance of neglected and unsightly property is problematic, unless the problems amount to structural deficiencies or fire hazards.

The attached draft ordinance would permit the City Council to declare that neglected property is a public nuisance, expanding the City’s ability to require that property owners remedy the problems. Pursuant to the draft regulations “Neglect” includes deteriorated, unsightly, and defective conditions, buildings that appear to be abandoned and/or left in a state of partial construction (for a period of over 90 days), excessive trash and debris visible from a public street or sidewalk, outside storage of household items customarily located inside dwellings (such as major appliances and furniture), and other conditions that can result in the diminution of surrounding adjacent properties.

RECOMMENDATION: The City Attorney recommends that the City Council review the draft ordinance and provide any additional input, and direct that the ordinance be brought back to the Council on October 18, 2005 for consideration and first reading.

Attachment: 1) Ordinance of the City Council of the City of Porterville Adding Section 18-26 to Article 18 of the Porterville Municipal Code, Concerning Neglect of Real Property
DRAFT

ORDINANCE NO. ____________

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ADDING
SECTION 18-26 TO ARTICLE 18 OF THE PORTERVILLE MUNICIPAL CODE
CONCERNING NEGLECT OF REAL PROPERTY

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

SECTION 1: Chapter 18, Offenses—Miscellaneous, Article I, In General, Section 18-26.
Reserved, is hereby amended to read as follows:

Sec. 18-26. Neglect of Real Property.
(a) Purpose. The City hereby finds and determines that the regulation all
real property, which is neglected, is necessary to promote the health, safety, and
general welfare of the people in that neglected real properties can have a
detrimental effect upon surrounding property values and upon the attitude,
mentality, and productivity of the general public.

(b) Definitions. For purposes of this Section only, the following definitions
shall apply:

1. Real Property shall mean all land and accompanying structures,
whether attached to the land or mobile, for commercial or
residential use.

2. Neglected shall mean the maintenance (or lack thereof) of any real
property in such a manner as to cause or allow the real property to
become defective, unsightly, or in such other condition of
deterioration or disrepair. This includes, but is not limited to, the
following:

a. Any improvement on the real property, including but not
limited to buildings, garages, carports, or roofs or gutters
when the condition of the patio, curtilage, stucco, siding, or
other exterior coating has become so deteriorated as to
permit decay, weathered appearance, peeling paint,
excessive inspection, cracking, broken windows, or warping,
rendering the building unsightly and in a state of disrepair.

b. Buildings or structures, which are abandoned, boarded up,
partially destroyed, or left in a state of partial construction or
repair for an unreasonable time; a period of ninety (90) days
shall serve as the standard in determining whether an unreasonable time has elapsed.

c. Abandoned or broken equipment or machinery, visible from a public street or sidewalk or from adjoining property.

d. Property with excessive trash and debris, visible from a public street or sidewalk from adjoining property.

e. Storage of household items customarily used inside a dwelling area including, but not limited to, appliances and furniture in any front yard setback or driveway area.

f. Storage or placement of equipment, construction materials or machinery upon public property or public right-of-way except during necessary work or repair.

g. The maintenance of real property so out of harmony or conformity with the adjacent or surrounding properties as to cause diminution of the enjoyment, use, or value or such properties.

(c) Failure to Properly Maintain Property. Neglect of real property, as defined by this section, shall result in a detailed notice from the city requiring conformity to this section within ninety (90) days. Failure to conform to the requirements of this section within ninety (90) days may result in a declaration by Council of the real property as a public nuisance and summary abatement as provided in Section 1-10 of this Code, civil injunction, and/or any other remedies permitted by law.

SECTION 2: This ordinance shall be in full force and effect thirty (30) days after its passage, adoption and approval.
SUBJECT: ELIMINATING TRUCK PARKING ALONG OLIVE AVENUE, PLANO STREET AND WESTWOOD STREET

SOURCE: Public Works Department - Engineering Division

COMMENT: There is an interest in the community to prohibit commercial truck parking and/or the stationing of commercial trailers along the Olive Avenue, Plano Street and Westwood Street corridors. A recent change in the City Traffic Ordinance already prohibits the stationing of a commercial trailer along a City street unless parked under a permit issued by the Chief of Police (Sec.17-8.11). It should be noted that some of the truck and trailer parking observed along Olive Avenue is in the County. The City Traffic Engineer does not have the authority to prohibit this type of parking in the County without Board of Supervisor approval.

Historically, the City has allowed commercial truck parking along arterial streets that front commercial zoned property. Until recently, commercial parking was allowed along arterial streets fronting residential zoned property provided a solid masonry block wall separated the residential housing from the street.

Obviously, some if not all, of the trucks parked along the above mentioned corridors are owned by Porterville citizens. To eliminate all commercial parking along City arterials without providing parking alternatives, may lead to an increase in truck parking in residential areas. It is staff’s opinion that prior action on staff’s part be taken before modifying the City Traffic Ordinance prohibiting commercial truck parking along the corridors mentioned in this report.

RECOMMENDATION: That City Council direct the Public Works Director to:

1. Advertise in the local paper informing interested parties that a meeting will be held to discuss the City’s intent to prohibit parking along the Olive Avenue, Plano Street and Westwood Street corridor, and that the City welcomes input on alternative parking arrangements;

2. Transmit a formal letter requesting the Tulare County Board of Supervisor’s approval to prohibit commercial truck parking and the stationing of trailers along that portion of Olive Avenue located in the County; and

3. Prepare a staff report with recommendations related to commercial truck parking along the Olive Avenue, Plano Street and Westwood Street corridors based on input received at the above mentioned public meeting and based on the response received from the Tulare County Board of Supervisors.
SUBJECT: JAYE STREET CORRIDOR IMPROVEMENT PROJECT (COP Refinance)

SOURCE: Administration

COMMENT: At the Council Meeting of July 05, 2005, staff presented the issues relating to the street infrastructure improvements for the Jaye Street and Highway 190 area. In total, roughly $11.5 million in projects were identified, with approximately $9.5 million directly related to the project area.

During the discussions of the funding options for these infrastructure improvements, approximately $1.7 million was identified as potentially new money that could be generated from a refinancing of the existing $20 million Certificates of Participation (COPs). At the conclusion of the item, the City Council authorized staff to move forward with the process of refinancing the COPs, and to bring back the remaining options at the appropriate time.

After initial efforts to establish a time table for the refinance, current market information indicates that a refinance would generate approximately $3.2 million in new money, without increasing the annual debt service payments from the General Fund. The growth in the estimate is based on using a surety bond in lieu of a cash reserve fund as used in the original issuance.

Attached is a draft calendar of events that could produce project funding by December 1, 2005. Staff continues to explore options to leverage transportation impact fees that would be generated from development in the area, and will return to the Council with recommendations in the near future.

RECOMMENDATION: That the Council approve the attached financing schedule, and authorize staff to move forward with the refinancing.

ATTACHMENT: Financing Schedule and Distribution List.
City of Porterville
Infrastructure Financing Program
Discussion Paper
September 9, 2005

Need
$15 million for New Development Infrastructure

Solution

- Refund 1998 COP and extend maturity to 2036
  Keep existing annual debt service at $1,289,500
  New money generated for infrastructure: $3,200,000
    (Assumes new issue has surety bond for reserve fund)

- Refund 1998 COP, extend maturity to 2036 and maximize new money
  New money generated range:
  $11,000,000 on low side to $17,300,000 on high side
  New debt service range from $1.8 to $2.2 million per year
  Function of available funds to cover debt service
  Security is General Fund, subject to annual appropriations, with
  pledge of gas tax as backup to lease payments

- Additional Source: Five year Revenue Anticipation Note (RAN) payable from
developer impact fees as they come in from development

Recommendation

- Proceed with refunding the 1998 COP and extending maturity
- Determine level of debt service acceptable for General Fund
- Work with AMBAC to maximize new money for infrastructure
- Keep RAN as a fall back for new money
Fitzgerald Public Finance
Financial Advisor and Underwriter to Local Government
A Division of Wulff, Hansen & Co., Established 1931
545 South Figueroa Street, Suite 1234
Los Angeles, California 90071
(213) 955-5977
Fax (213) 955-5992
fitzgeraldreport@aol.com

$29,50,000 (Estimated)
CITY OF PORTERVILLE
(2005 Infrastructure Financing Project)
Certificates of Participation
2005 Series A

Financing Schedule
(as of September 12, 2005)

<table>
<thead>
<tr>
<th>DATE</th>
<th>ACTIVITY</th>
<th>PARTY</th>
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<tbody>
<tr>
<td>09/09/05</td>
<td>Organization meeting</td>
<td>City, U</td>
</tr>
<tr>
<td>10/04/05</td>
<td>Council authorizes staff to proceed with COP issue</td>
<td>City</td>
</tr>
<tr>
<td>10/06/05</td>
<td>Distribute drafts of legal documents and POS</td>
<td>BC/DC</td>
</tr>
<tr>
<td>10/12/05</td>
<td>Receive comments on legal documents and POS</td>
<td>BC/DC</td>
</tr>
<tr>
<td>10/25/05</td>
<td>Distribute legal documents and POS to Council clerk for November 1 meeting</td>
<td>BC/DC</td>
</tr>
<tr>
<td>11/01/05</td>
<td>City Council approves financing and authorizes distribution of POS and City Manager or Deputy City Manager to sign purchase agreement</td>
<td>City</td>
</tr>
<tr>
<td>11/03/05</td>
<td>Print and mail POS</td>
<td>BC/DC, U</td>
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<tr>
<td>11/08/05</td>
<td>Receive AMBAC commitment</td>
<td>U</td>
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<tr>
<td>11/14/05</td>
<td>Price issue</td>
<td>U, City</td>
</tr>
<tr>
<td>11/15/05</td>
<td>Sign purchase agreement</td>
<td>City, U</td>
</tr>
<tr>
<td>11/30/05</td>
<td>Pre close at bond counsel office in San Francisco</td>
<td>All</td>
</tr>
<tr>
<td>12/01/05</td>
<td>Close</td>
<td>BC, T, U</td>
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</table>

Council Meets 1st and 3rd Tuesdays

PARTIES
City
BC/DC
U
T
City of Porterville (Issuer)
Quint & Thimmig (Bond and Disclosure Counsel)
Fitzgerald Public Finance, a Division of Wulff, Hansen & Co. (Underwriter)
US Bank (Trustee)
$29,500,000 (Estimated)  
CITY OF PORTERVILLE  
(2005 Infrastructure  
Financing Project)  
Certificates of Participation  
2005 Series A  

DISTRIBUTION LIST  
As of September 12, 2005  

ISSUER  
John Longley, City Manager  
Darrel Pyle, Deputy City  
Manager  
559-782-7431  
661-362-4008 FAX  
Dpyle@ci.porterville.ca.us  

BOND AND DISCLOSURE  
COUNSEL  
Quint & Thimmig LLP  
1 Embarcadero Center, Suite  
2420  
San Francisco, CA 94111- 
3737  
Brian Quint, Esq.  
415-765-1550  
415-765-1555 FAX  
Bquint@qtlp.com  

UNDERWRITER  
Fitzgerald Public Finance, a  
division of Wulf, Hansen &  
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CITY COUNCIL AGENDA: OCTOBER 4, 2005

SUBJECT: APPOINTMENT OF TWO (2) ADDITIONAL MEMBERS TO THE GENERAL PLAN UPDATE ADVISORY COMMITTEE

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: On November 16, 2004, the City Council authorized the distribution of a Request For Proposal (RFP) for consulting services to update the City’s General Plan. In addition, the Council approved the establishment of a General Plan Update Advisory Committee (GPUAC) to provide public input throughout the update process. Staff identified a number of organizations that are stakeholders in the community and represent a broad cross-section of the community. The GPUAC was envisioned to be advisory to the process and the City Council, and would be represented by individuals appointed by the organizations, not suggested or recommended by staff or the Council.

At the April 19, 2005 City Council meeting, Council approved the GPUAC.

At the Committee’s initial meeting on August 8, 2005, it was noted there were no representatives from the Agricultural industry. The Tulare County Farm Bureau was contacted and they recommended two members who are District Directors for the Porterville area: Mr. Eric Borba and Mr. Paul Paulin.

RECOMMENDATION: That the City Council appoint the additional two individuals to the General Plan Update Advisory Committee as proposed.
SUBJECT: CONSIDERATION OF RESCHEDULING REMAINING MAXIMUS, INC. OVERHEAD COST ANALYSIS AND FEE STUDY PUBLIC HEARINGS REGARDING BUILDING, RECREATION, AND ALL OTHER FEES

SOURCE: Administrative Services Department/City Clerk Division

COMMENT: During the City Council meeting of July 8, 2005, the City Council set a schedule to conduct public hearings to consider the MAXIMUS, Inc. Overhead Cost Analysis and Fee Study schedules as follows:

<table>
<thead>
<tr>
<th>Date</th>
<th>Division</th>
</tr>
</thead>
<tbody>
<tr>
<td>September 6, 2005</td>
<td>Planning Division</td>
</tr>
<tr>
<td>October 4, 2005</td>
<td>Building Division</td>
</tr>
<tr>
<td>November 1, 2005</td>
<td>Recreation</td>
</tr>
<tr>
<td>December 6, 2005</td>
<td>All remaining schedules</td>
</tr>
</tbody>
</table>

The September 6, 2005 public hearing for the Planning Division Fees was held, but resulted in being continued in order to obtain input from the Building Industry Association, local planners and engineers, and all other interested parties.

As a result, the Building Division Fees have not been noticed for hearing at this meeting as originally planned. Direction is being sought from the Council on the grouping of the fees for consideration, and the time frame.

At this time, in order to address the concerns of the various parties, staff is recommending that the Planning and Building Division fees be advertised and heard together on November 15, 2005. It is proposed that the Recreation and All remaining schedules be advertised and heard together on December 6, 2005.

RECOMMENDATION: That the Council set November 15, 2005 as the date to hold a public hearing to consider the Planning and Building Division Fees, and set December 6, 2005 as the date to hold a public hearing to consider the Recreation and All remaining Fees and Schedules.

Item No. 28
CITY COUNCIL AGENDA: OCTOBER 4, 2005


SOURCE: City Manager

COMMENT: Council Member Richard Stadtherr has made a request to consider the adoption of a resolution regarding the debate between the San Joaquin Valley Air Pollution Control District and the Building Industry of Tulare and Kings Counties as pertains to Rule 9510 and Rule 3180.

Recommendation: To be determined by Council.

Attachment: Draft Resolution
Rule 3180
Rule 9510

Funded:  C/M
Approp.:  

Item No.  29
RESOLUTION NO.____-2005


WHEREAS, the San Joaquin Valley Air Pollution Control District ("District") has proposed two regulations (Rule 9510 and Rule 3180) to which the Building Industry of Tulare and Kings Counties has expressed objections; and

WHEREAS, the City of Porterville recognizes the important contribution made in terms of growth, development and employment by the local building industries; and

WHEREAS, the City of Porterville also recognizes the burden placed upon our area by its poor air quality and the monumental task that is being asked of the District in improving our air quality; and

WHEREAS, the City of Porterville realizes that long-term, workable solutions are best achieved when agencies work together in a spirit of cooperation – not confrontation,

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Porterville, that the City of Porterville desires that the San Joaquin Valley Air Pollution Control District and the Building Industry of Tulare and Kings Counties enter negotiations to come up with an air quality plan, and a method for funding it, that is acceptable to both parties. The Council concludes that this issue is too important, both in terms of local economic considerations and local air quality, and will require the combined efforts of both organizations working together.

ADOPTED this 4th day of October, 2005.

________________________________________
Kelly West, Mayor

ATTEST:

John Longley, City Clerk

________________________________________
by Georgia Hawley,
Chief Deputy City Clerk
RULE 3180  ADMINISTRATIVE FEES FOR AIR IMPACT ASSESSMENT APPLICATIONS

1.0 Purpose

The purpose of this rule is to recover District’s costs for administering the requirements of District Rule 9510 (Decreasing Emissions’ Significant Impact from Growth and New development).

2.0 Applicability

2.1 This rule applies to development projects subject to the requirements of Rule 9510.

3.0 Application Filing Fee:

When a developer submits an air impact application in accordance with the provisions of District Rule 9510, the developer shall pay a non-refundable application filing fee according to the following fee schedule:

- Residential projects $400
- Commercial, institutional, industrial and/or mixed use projects $600

4.0 Application Evaluation Fee

4.1 Every developer who files an air impact application in accordance with the provisions of District Rule 9510 shall pay an evaluation fee for the development and/or review of the air quality analysis and the determination of the necessary offsite mitigation amount. The fee shall be calculated using the staff hours expended and the prevailing weighted labor rate. No applicant shall be charged for staff hours associated with staff training or correction of staff errors. All filing fees paid shall be credited towards the evaluation fee.

4.2 All time spent by the District application processing staff on the project, beginning with pre-application meeting through issuance of the final decision, must be logged on a "Application Processing Time" log. Upon formal request by an applicant, the District shall provide a current status of actual time expenditure, broken down by major application processing steps.

5.0 Administrative Fees for Mitigation Projects

5.1 Each developer that is subject to the air impact mitigation fees under District Rule 9510 shall pay to the District an administrative fee equal to four percent (4%) of the required mitigation fee for the District’s cost of administering the offsite mitigation program as outlined in Rule 9510.

5.2 Notification of Fee Amount and Payment: The project applicant will be notified of the administrative fees for air impact assessment applications as outlined in
District Rule 9510. The administrative fees for mitigation projects shall be paid at the same time as the air impact mitigation fees.

5.3 Refund of Administrative Fees for Mitigation Projects

If a project is terminated or is cancelled, the building permit or use permit expires, is canceled, or is voided, no construction has taken place, and the use has never occupied the site, the applicant is entitled to a refund of the administrative fees for mitigation projects and the air impact mitigation fee paid less the administrative costs incurred by the District. The applicant must provide written request of refund, with proof of termination within thirty (30) days of termination, such as confirmation from local agency of permit cancellation.

6.0 Fee Penalty

If payment of any charges levied under this rule are not received by the District within 60 days of the invoice date, the charges shall be increased in accordance with the schedule provided in Rule 3010 Section 11.0 (Late Fees).
RULE 9510  DECREASING EMISSIONS' SIGNIFICANT IMPACT FROM GROWTH AND NEW DEVELOPMENT (Adoption Date)

1.0  Purpose

The purposes of this rule are to:

1.1  Assist the District in attaining the state and federal ambient air quality standards for ozone and particulate matter.

1.2  Provide a mechanism for mitigating emissions from the construction of, and the emissions generated from the use of, development projects through design features and on-site measures.

1.3  Provide a mechanism for mitigating emissions from the construction of, and the emissions generated from the use of, development projects through off-site measures.

2.0  Applicability

2.1  This rule shall apply to any developer that seeks to gain a final discretionary approval for a development project, or any portion thereof, which upon full build-out will include any one of the following:

   2.1.1  50 residential units,
   2.1.2  2,000 square feet of commercial space,
   2.1.3  25,000 square feet of industrial space,
   2.1.4  20,000 square feet of medical office space,
   2.1.5  39,000 square feet of general office space,
   2.1.6  9,000 square feet of educational space,
   2.1.7  10,000 square feet of government space,
   2.1.8  20,000 square feet of recreational space, or
   2.1.9  9,000 square feet of space not identified above.

2.2  This rule shall apply to any transportation project where construction emissions results in a total of two (2.0) tons of NOx and PM10 combined.

2.3  Projects on Contiguous or Adjacent Property
2.3.1 Residential projects with contiguous or adjacent property under common ownership of a single entity in whole or in part, that is designated and zoned for the same development density and land use, regardless of the number of tract maps, and has the capability to accommodate more than fifty (50) residential units are subject to this rule.

2.3.2 Nonresidential projects with contiguous or adjacent property under common ownership of a single entity in whole or in part, that is designated and zoned for the same development density and land use, and has the capability to accommodate development projects emitting more than two (2.0) tons per year of NOx and PM10 are subject to this rule. Single parcels where the individual building pads are to be developed in phases must base emissions on the potential development of all pads when determining the applicability of this rule.

3.0 Definitions

3.1 APCO: as defined in Rule 1020 (Definitions).

3.2 APCO-Approved Model: any computer model that meets the following:

3.2.1 Estimates construction, area source and/or operational emissions of NOx and PM10 from potential land uses, using the most recent approved version of relevant ARB emissions models and emission factors; and estimates emissions reductions; and has been approved by the APCO for use; or

3.2.2 The latest version of URBEMIS, as approved by the APCO for use in the San Joaquin Valley Air Basin.

3.3 Air Resources Board (ARB or CARB): as defined in Rule 1020 (Definitions).

3.4 Area Source: any multiple non-mobile emission sources such as water heaters, gas furnaces, fireplaces, wood stoves, landscape equipment, architectural coatings, consumer products, that are individually small but can be significant when combined in large numbers.

3.5 Baseline Emissions: the NOx and PM10 emissions, including area source and operational emissions, calculated by the APCO-approved model, for the first year that the project or any phase thereof is fully constructed.

3.6 Construction: any excavation, grading, demolition, vehicle travel on paved or unpaved surfaces, or vehicle exhaust that occurs for the sole purpose of building a development project.
3.7 Construction Emissions: any NOx or PM10 emissions resulting from the use of internal combustion engines related to construction activity, which is under the control of the developer through either ownership, rental or lease agreements.

3.8 Contiguous or Adjacent Property: a property consisting of two or more parcels of land with a common point or boundary, or separated solely by a public roadway or other public right-of-way.

3.9 Developer: any person or entity that undertakes a development project.

3.10 Development Project: any project, or portion thereof, that is subject to a discretionary approval by a public agency, and will ultimately result in the construction or reconstruction of a building, facility, or structure.

3.11 Discretionary Approval: a decision by a public agency, that requires the exercise of judgment or deliberation when the public agency or body decides to approve or disapprove a particular development project, which commits the public agency to a definite course of action in regard to a project intended to be carried out. Examples include but are not limited to any approval of a tract map, Planned Unit Development (PUD), Conditional Use Permit (CUP), Site Plan Review, or Zone Change.

3.12 District: the San Joaquin Valley Unified Air Pollution Control District as defined in Rule 1020 (Definitions).

3.13 Indirect Source: any facility, building, structure, or installation, or combination thereof, which attracts or generates mobile source activity that results in emissions of any pollutant, or precursor thereof, for which there is a state ambient standard, as specified in Section 1.1.

3.14 Land Use: any facility, building, structure, installation, activity, or combination thereof, and the purpose, for which it is arranged, designed, intended, constructed, erected, moved, altered or enlarged on, or for which it is or may be occupied or maintained. Land use can be identified in the following categories:

3.14.1 Commercial: any facility, building, structure, installation, activity or combination thereof, that offers goods and services for sale. This can include but is not limited to wholesale and retail stores, food establishments, hotels or motels, and gas stations.

3.14.2 Educational: any facility, building, structure, installation, activity or combination thereof, whose purpose is to develop knowledge, skill, and character. This can include but is not limited to: schools, day care centers, libraries, and churches.
3.14.3 General Office: any facility, building, structure, installation, activity or combination thereof, where the affairs of a non-medical business are carried on.

3.14.4 Governmental: any facility, building, structure, installation, activity or combination thereof, where the affairs of an entity that exercises authority over a country, or any subdivision thereof, are carried on.

3.14.5 Industrial: any facility, building, structure, installation, activity or combination thereof that creates, collects, extracts, packages, modifies, and/or distributes goods.

3.14.6 Medical Office: any facility, building, structure, installation, activity or combination thereof, where the affairs of a business related to the science and art of diagnosing, treating, and preventing diseases are carried on.

3.14.7 Recreational: any facility, building, structure, installation, activity or combination thereof, where individuals may relax or refresh the body or the mind. This can include but is not limited to: parks, fitness clubs, golf courses, and movie theaters.

3.14.8 Residential: any facility, building, structure, installation, activity or combination thereof, which provides a living space for an individual or group of individuals.

3.15 Mitigation Measure: any activity taken or conditions incorporated in a project to avoid, minimize, reduce, eliminate, or compensate emissions estimated to occur from new development projects.

3.15.1 On-site Mitigation Measure: any feature, activity, device, or control technology of a project, which is incorporated into the design of that project or through other means, which will avoid, minimize, reduce or eliminate the project’s emissions.

3.15.2 Off-site Mitigation Measure: any feature, activity, or emission reduction project used undertaken or funded to compensate for a project’s emissions that is not part of the development project.

3.16 NOx: any oxides of nitrogen.

3.17 Operational Emissions: a term used by the URBEMIS model to identify indirect source emissions; primarily emissions from motor vehicles.

3.18 Phase: a defined portion on a map, of a development project.

3.19 PM10 (or PM-10): as defined in Rule 1020 (Definitions).
3.20 Public Agency: any federal, state, local, or special agency that exercises discretionary powers on development activities within the San Joaquin Valley Air Basin.

3.21 San Joaquin Valley Air Basin (SJVAB): as defined in Rule 1020 (Definitions).

3.22 Transit: any passenger transportation service, local, metropolitan or regional in scope, that is available to any person who pays a prescribed fare. Transportation by bus, rail, or other conveyance, either publicly or privately owned, which is provided to the public or specialty service on a regular or continuing basis. Also known as “mass transit,” “mass transportation,” or “public transportation.”

3.23 Transportation Projects: any project whose sole purpose is to create a new paved surface that is used for the transportation of motor vehicles, or any structural support thereof. Examples of transport projects include: streets, highways and any related ramps, freeways and any related ramps, and bridges. This does not include developments where traffic surfaces are a portion of the project.

3.24 URBEMIS: a computer model that is owned and modified by the local air pollution control districts and air quality management districts in the State of California; estimates construction, area source and operational emissions of NOx and PM10 from potential land uses, using the most recent approved version of relevant ARB emissions models and emission factors and/or District-specific emission factors; and estimates emissions reductions; and is published on the internet by the South Coast Air Quality Management District or on URBEMIS.com.

3.25 Vehicle Trip: a trip by a single vehicle regardless of the number of persons in the vehicle, which is one way starting at one point and ending at another. A 'round trip' is counted as two separate trips.

4.0 Exemptions

4.1 The following shall be exempt from the requirements of this rule:

4.1.1 Transportation Projects that consist of:

4.1.1.1 Paving unpaved traffic surfaces for the sole purpose of complying with District Rule 8061, or

4.1.1.2 Are included in a transportation control measure in a District air attainment plan.

4.1.2 Transit Projects
4.1.3 Reconstruction of any development project that is damaged or destroyed and is rebuilt to essentially the same use and intensity.

4.1.4 A development project, whose primary source of emissions are from stationary sources that are subject to Rule 2201 (New and Modified Stationary Source Review Rule) or Rule 2010 (Permits Required), including but not limited to the following industries:

4.1.4.1 Oil Production and Processing,

4.1.4.2 Natural Gas Production and Processing,

4.1.4.3 Catalytic Gas Liquids Processing as defined in District Rule 4306,

4.1.4.4 Refineries,

4.1.4.5 Glass Plants,

4.1.4.6 Energy Production Plants,

4.1.4.7 Product Coating Manufacturing, or

4.1.4.8 Wastewater Separation Plants.

4.1.5 Housing projects directly assisted, in whole or in part, by federal, State, or local housing funds.

4.2 Development projects that have a mitigated baseline below two (2.0) tons per year for NOx and PM10 each shall be exempt from the requirements in Sections 6.0-7.0.

4.3 Transportation projects shall be exempt from the requirements in Sections 6.2 and 7.1.2.

5.0 Application Requirements

Any developer subject to this rule shall submit an Air Impact Assessment (AIA) application no later than 30 calendar days after receiving a final discretionary approval with the public agency. Nothing in this rule shall preclude a developer from submitting an AIA application prior to filing an application for a final discretionary approval with the public agency. It is preferable that the developer submits an AIA application as early as possible in the process for that final discretionary approval. The AIA application shall contain all of the following information:

5.1 Developer name and address,
5.2 Detailed project description including anticipated project schedule,

5.3 Air Impact Assessment (AIA): An AIA produced for or by the developer, or the information necessary for the ACPO to produce the AIA. The AIA shall meet the following requirements:

5.3.1 Quantify NOx and PM10 emissions, at minimum, from construction, area sources, and operational sources associated with the project;

5.3.2 The analysis of the proposed project shall be conducted according to the information provided in the application;

5.3.3 Use an APCO-approved model and include detailed documentation and reasons for all changes to the default input values;

5.3.4 Use an APCO-approved construction emissions calculator, and include a printout of the estimated construction emissions, baseline emissions and the mitigated emissions in total tons, for the development project as a whole, or for each phase thereof;

5.3.5 If the AIA is conducted by or for the developer, an electronic copy of all APCO-approved model runs, conducted for the project and each phase thereof, shall be submitted; and

5.3.6 Include any other information that supports the calculation of emissions and emissions reductions.

5.4 On-site Mitigation Checklist:

5.4.1 The Mitigation Checklist shall identify measures selected by the developer and how those measures will be enforced. Enforcement mechanisms can include:

5.4.1.1 Applicable local ordinance or section of a regulation that requires the measure, if any,

5.4.1.2 Show that a Community Service District or other mechanism will be in place to manage long-term maintenance, and/or

5.4.1.3 Refer to a MMRP, as identified in Section 5.5 below.

5.4.2 The Mitigation Checklist shall also include justification for those mitigation measures not selected.

5.5 Mitigation Monitoring and Reporting Program (MMRP):
A proposed MMRP shall outline how the mitigation measures not subject to public agency zoning or development standards and that were identified as on-site mitigation measures will be implemented, and will include, at minimum, the following:

5.5.1 A list of mitigation measures included,

5.5.2 Standards for determining compliance, such as funding, recordkeeping, reporting, and/or contracting,

5.5.3 A reporting schedule,

5.5.4 Identification of the responsible entity for inspection and reporting, and

5.5.5 Provisions for failure to comply, such as stop work authority, permit revocation, civil enforcement, and/or administrative repeal, and

5.5.6 Developers proposing mitigation measures that require ongoing funding, shall provide evidence in the Proposed MMRP of continued funding, including, but not limited to:

5.5.6.1 Bonds, or

5.5.6.2 Community Service Districts, or

5.5.6.3 Contracts.

5.6 Air Impact Mitigation Fee Deferral Schedule (FDS):

A developer may propose a FDS if the payment schedule provides assurance that reductions from off-site mitigation can be obtained reasonably contemporaneous with emissions increases associated with the project and shall, at minimum, include the following:

5.6.1 Identification of the person or entity responsible for payment,

5.6.2 Billing address,

5.6.3 Total emissions needing to be mitigated off-site for the development project and any phase thereof,

5.6.4 Year of build-out and any applicable milestones,

5.6.5 Payment schedule not to exceed or go beyond the issuance of a building permit,

5.6.6 The cost of reductions corresponding to the payment schedule, and
5.6.7 Applicable project termination and delay clauses.

6.0 General Mitigation Requirements

6.1 Construction Equipment Emissions

6.1.1 The exhaust emissions for construction equipment greater than fifty (50) horsepower used or associated with the development project shall be mitigated and reduced by the following amounts from the statewide ARB average:

6.1.1.1 20% of the NOx emissions, and

6.1.1.2 45% of the PM10 emissions.

6.1.2 A developer may mitigate construction emissions on-site by using less polluting construction equipment, which can be achieved by utilizing add-on controls, cleaner fuels, or newer lower emitting equipment.

6.2 Operational and Area Source Emissions

6.2.1 NOx Emissions

Developers are to reduce or mitigate 33.3%, of the project’s first-year area source and operational baseline NOx emissions over a period of ten years as quantified in the approved AIA as specified in Section 8.3.3. This amount of mitigation nominally represents the cumulative emissions in excess of 50% of the project’s first-year baseline emissions from the operational start of the project until the project’s baseline emissions reach 50% of the project’s first-year baseline emissions, which is approximately 10 years.

6.2.2 PM10 Emissions

Developers are to reduce or mitigate of 50% of the project’s first-year area source and operational baseline PM10 emissions over a period of ten years as quantified in the approved AIA as specified in Section 8.3.3.

6.3 The requirements listed in Sections 6.1 and 6.2 above can be met through any combination of on-site or off-site mitigation.

7.0 Off-site Mitigation Calculations and Fee Schedules

7.1 Off-site Mitigation Calculations

7.1.1 Construction Activities
7.1.1.1 NOx Emissions

Developer shall pay to the District a monetary sum necessary to mitigate the required construction NOx emissions not mitigated on-site. The air impact mitigation fee shall be calculated as follows:

\[ CN \text{ AIMF} = \sum_{i=1}^{n} [AEE \text{ } i - (0.8 \times SEE \text{ } i)] \times CNR \text{ } i \]

Where,

CN AIMF = Construction NOx Air Impact Mitigation Fee, in Dollars

i = each phase

n = last phase

AEE = Actual Estimated Equipment NOx Emissions, as documented in the APCO approved Air Impact Assessment application, in total tons

SEE = Statewide average Equipment NOx Emissions, as calculated by the APCO, in total tons

CNR = Cost of NOx Reductions identified in Section 7.2.1 below, in Dollars per ton. For projects with an approved FDS, the cost of reductions shall be based on the year each payment is made.

7.1.1.2 PM10 Emissions

The developer shall pay a monetary sum necessary to mitigate the required construction PM10 exhaust emissions not mitigated on-site. The air impact mitigation fee shall be calculated as follows:

\[ CPM \text{ AIMF} = \sum_{i=1}^{n} [AEE \text{ } i - (0.55 \times SEE \text{ } i)] \times CPR \text{ } i \]

Where,

CPM AIMF = Construction PM10 Air Impact Mitigation Fee, in Dollars
i = each phase  

n = last phase  

AEE = Actual Estimated Equipment PM10 Emissions, as documented in the APCO approved AIA application, in total tons  

SEE = Statewide average Equipment PM10 Emissions, as calculated by the APCO, in total tons  

CPR = Cost of PM10 Reductions identified in Section 7.2.2 below, in Dollars per ton. For projects with an approved FDS, the fees shall be based on the year each payment is made.  

7.1.2 Operational and Area Source Activities  

7.1.2.1 NOx Emissions  

The developer shall pay a monetary sum necessary to mitigate the excess NOx emissions not mitigated on-site. The air impact mitigation fee shall be calculated as follows:  

\[ \text{NOxAIMF} = \sum_{i=1}^{n} \left( \frac{E_{BE_i} \times 7.5}{3} \right) - \left( E_{BE_i} \times 7.5 \times APM_i \right) \times \text{CNR} \]  

Where,  

AIMF = Air Impact Mitigation Fee, in Dollars  

i = each phase  

n = last phase  

E_{BE} = Estimated Baseline Emissions, of NOx, as documented in the APCO approved AIA application, in tons per year  

APM = Actual Percent Mitigation, as documented in the APCO approved air impact assessment application, as a fraction of one  

CNR = Cost of NOx Reductions, identified in Section 7.2.1 below, in Dollars per ton. For projects with an approved FDS, the cost of reductions shall be based on the year each payment is made.  

7.1.2.2 PM10 Emissions
The developer shall pay a monetary sum necessary to mitigate the excess PM10 emissions not mitigated on-site for a period of ten years. The air impact mitigation fee shall be calculated as follows:

\[
PM\, 10\, AIMF = \sum_{i=1}^{n} [(MBE - 0.5\, EBE\, i)(10\,)] \times CPR\, i
\]

Where,

AIMF = Air Impact Mitigation Fee, in Dollars

i = each phase

n = last phase

EBE = Estimated Baseline Emissions, of PM10, as documented in the APCO approved AIA application, in tons per year

MBE = Mitigated Baseline Emissions, as documented in the APCO approved AIA application, in tons per year

CPR = Cost of PM10 Reductions, identified in Section 7.2.2 below, in Dollars per ton. For projects with an approved FDS, the fees shall be based on the year each payment is made.

7.2 Fee Schedules

7.2.1 The costs of NOx reductions are as follows:

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<th>Year</th>
<th>Cost of NOX Reductions ($/ton)</th>
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<tr>
<td>2010 and beyond</td>
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7.2.2 The costs of PM10 reductions are as follows:

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<th>Cost of PM10 Reductions ($/ton)</th>
</tr>
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</tr>
<tr>
<td>2010 and beyond</td>
<td>$13,850.00</td>
</tr>
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7.3 The developer shall pay the Air Impact Mitigation Fees in full by the invoice due date within sixty (60) calendar days after the AIA application is approved or in accordance to the schedule contained in the APCO approved FDS.

7.4 The developers shall receive credit for any off-site mitigation measures that have been completed and/or paid for, prior to the adoption of this rule, if the following conditions have been met:

7.4.1 The prior off-site mitigation measures were part of an air quality mitigation agreement with the APCO; or

7.4.2 The developer demonstrates to the satisfaction of the APCO that the mitigation measures result in real and surplus reduction in emissions.

7.5 Refund: If a project is terminated or is cancelled, the building permit or use permit expires, is cancelled, or is voided, no construction has taken place, and the use has never occupied the site, the applicant is entitled to a refund of the unexpended air impact mitigation fees paid less any administrative costs incurred by the APCO. The applicant must provide a written request for the refund, with proof of the project termination, within thirty (30) calendar days of the termination. Proof of project termination can include a confirmation from a local agency of permit cancellation.

8.0 Administrative Process

8.1 Completeness of the AIA application: The APCO shall determine whether the application is complete and contains the necessary information no later than ten (10) calendar days after receipt of the application, or after such longer time as agreed to by both the applicant and the APCO.
8.1.1 Should the application be deemed incomplete, the APCO shall notify the developer in writing of the decision and shall specify the additional information required. Resubmittal of any portion of the application begins a new ten (10) day calendar period for the determination of completeness by the APCO.

8.1.2 Completeness of an application or resubmitted application shall be evaluated on the basis of the information requirements set forth in the District Rules and Regulations as they exist on the date on which the application or resubmitted application is received.

8.1.3 The APCO shall notify the developer in writing that the application is deemed complete.

8.2 Public Agency Review of the Proposed MMRP: The APCO shall forward a copy of the proposed MMRP to the relevant public agencies for review and approval. The public agencies shall have thirty (30) calendar days in which to review and comment on the provisions of the MMRP. The comments received shall be forwarded to the developer. If any changes result from their comments, the APCO shall make the appropriate changes and provide a revised Air Impact Mitigation Fee estimate. The Proposed MMRP may be modified, if necessary, based on the input and approval from the public agency. Once the draft has been finalized, the developer and the APCO shall enter into a binding MMRP.

8.3 APCO Evaluation of the AIA Application: The AIA application shall be evaluated for content.

8.3.1 If the developer submits an AIA, the APCO will evaluate the modeling inputs and calculations.

8.3.2 The APCO may, during the evaluation of the application, request clarification, amplification, and any correction as needed, or otherwise supplement the information submitted in the application. Any request for such information shall not count towards the time the APCO has to provide notice of approval or disapproval. The clock shall resume once the APCO has received the requested information.

8.3.3 The APCO shall notify the developer in writing of its decision regarding the AIA application and its contents within thirty (30) calendar days after determination of an application as complete.

8.4 Air Impact Mitigation Fee Estimate: After the APCO approves the AIA application and its contents; the APCO shall provide the developer with an estimate for the projected air impact mitigation fees.
8.5 Air Impact Mitigation Fee Estimate Acceptance: Once the Air Impact Mitigation Fee estimate is provided, the developer may amend the original application and propose additional mitigation measures necessary to reduce the estimated emissions and/or air impact mitigation fees, or inform the APCO that the estimate is acceptable. If the developer does not respond, the APCO shall not proceed.

8.6 Fee Deferral Schedule: In the event that the developer had not previously submitted FDS in the AIA application, but desires one, the developer shall ensure that the proposed FDS is submitted to the APCO no later than fifteen (15) calendar days after receipt of the AIA Approval. The District shall have fifteen (15) calendar days to approve the FDS request.

8.7 In the event the developer significantly changes the AIA application or any portion thereof during the Administrative Process, the APCO shall re-start the evaluation process pursuant to Section 8.3.

8.8 Final Action: Within ninety (90) calendar days after the acceptance of an application that has been deemed complete, the APCO shall take final action on the application and provide the following in writing to the developer, the public agency, and all interested parties as identified by the developer:

8.8.1 The required Air Impact Mitigation Fee if applicable,

8.8.2 A statement of tentative rule compliance,

8.8.3 A copy of the final MMRP, and

8.7.3 An approved fee deferral agreement, if applicable.

9.0 Changes to the Project

9.1 Changes Proposed By The Developer

9.1.1 The developer may substitute equivalent or more effective on-site mitigation measures upon written approval from the APCO and the public agency.

9.1.2 Changes in the project or to the build-out schedule that increase the emissions associated with the project shall require submission of a new AIA application. A new AIA shall be conducted and the air impact mitigation fees shall be recalculated in accordance with the applicable provisions of this rule. The APCO shall notify the applicant of the new air impact mitigation fees, the difference of which shall be payable by the due date specified on the billing invoice.
9.2 Changes Required By The Public Agency or Any Court Of Law

9.2.1 Project changes that result in an increase in the emissions shall require submission of a new AIA application. A new AIA shall be conducted and the air impact mitigation fees shall be recalculated in accordance with the applicable provisions of this rule.

10.0 APCO Administration of the Mitigation Funds

10.1 The District shall establish and maintain separate mitigation accounts for NOx and for PM10 for funds collected under this rule. Any mitigation fees collected by the District shall be deposited into these accounts.

10.2 The District shall utilize monies from the mitigation accounts to fund quantifiable and enforceable mitigation projects that reduce surplus emissions of NOx and PM10 in an expeditious manner.

10.2.1 The District shall ensure that the emission reductions calculations for the mitigation project are accurate.

10.2.2 If the mitigation project involves the replacement of existing equipment, the District shall inspect the existing equipment.

10.2.3 The District shall enter into a binding contract with the applicant of the mitigation project, which will, at minimum, require an annual report from the applicant that includes information necessary to ensure that emissions reductions are actually occurring.

10.2.4 The District shall conduct inspections on the mitigation project to verify that the project is installed or implemented and operating for the life of the contract.

10.3 Any interest that accrues in the mitigation account(s) shall remain in the account, to be used in accordance with Section 10.2 above.

10.4 The District shall prepare an annual report that will be available to the public regarding the expenditure of those funds, and shall include the following:

10.4.1 Total amount of Mitigation Fees received,
10.4.2 Total monies spent,
10.4.3 Total monies remaining,
10.4.4 Any refunds distributed,
10.4.5 A list of all projects funded,
10.4.6 Total emissions reductions realized, and

10.4.7 The overall cost-effectiveness factor for the projects funded.

11.0 Appeals

A developer may petition the Hearing Board in accordance with the provisions of Regulation V (Procedures Before the Hearing Board).

12.0 Effective date of this rule: The provisions of this rule shall become effective on February 1, 2006.
SUBJECT: FINANCIAL AUTHORIZATION FOR A STUDY GROUP TO TRAVEL TO CARSON, NV TO LOOK AT THE SUPER WAL-MART

SOURCE: City Manager

COMMENT: A member of the City Council has made a request for the Council to consider approving financial authorization for a possible trip to Carson, Nevada by members of the Council to study a Super Wal-Mart. If the authorization is approved, and perimeters set at this time, then should Council members decide to make the trip, it could be scheduled and accomplished without further consideration.

Recommendation: To be determined by Council.
SUBJECT: Consideration of Field Trip to View Hillside Development

SOURCE: Hillside Committee via City Manager’s Office

At the most recent meeting of the Hillside Committee the importance of scheduling in the near future a trip to Southern California to view hillside development was discussed. Tentatively, a date of Monday, October 31, 2005 was set.

The City Attorney is currently reviewing the matter and will have a report at the council meeting.

The transportation manager is currently investigating the availability of transit for the activity and a report of estimated cost will be available before the City Council meeting.

The activity is proposed to be a special meeting of the Council for the sole purpose of reviewing how other communities have managed hillside development.

The consultant Mark Rogers with TRG Land would be the group leader for the activity.

RECOMMENDATION:

Based on factors of cost and availability, schedule a special study session for hillside development on Monday, October 31, 2005. Budget the monies available to support the consultant and the chartered bus.

Appropriation ___  

Agenda Item No. 31